



Law Society of Kenya

ANNUAL REPORT
2020 - 2021



Law Society of Kenya

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2020 - 2021

NOTICE

Law Society of Kenya



TO:
ALL MEMBERS OF THE
ADVOCATES' BENEVOLENT ASSOCIATION

Lavington, opp Valley Arcade, Gitanga Road
P.O Box 72219-00200 Nairobi, Kenya
Dropping Zone -149 Embassy House Basement
Tel: +254 709 087000/720 904983
Website: www.lsk.or.ke
Email: lsk@lsk.or.ke

Our Ref: ABA/AGM

Date: 18th March 2022

AMENDED NOTICE IS HEREBY GIVEN, pursuant to Rule 21 of the Advocates' Benevolent Association Rules, that the **ANNUAL GENERAL MEETING** of the Association shall be held, **both physically & virtually** at the **Baraza Hall, Bomas of Kenya, along Langata Road, Nairobi Parklands Sports Club, along Ojijo Road, Nairobi** on **Friday, 25th March, 2022** at **8:00 a.m.**

AGENDA

1. Secretary to read the Notice convening the Meeting.
2. Adoption of the Agenda.
3. Silent tribute to Departed Members.
4. Confirmation of the Minutes of the General Meeting held on Saturday, 27th March, 2021 virtually through the Microsoft Teams Platform.
5. Matters Arising.
6. The Report of the Board of Management for the year ended 30th December, 2021.
7. Presentation of the Accounts and Balance Sheet for the year ended 30th December, 2021.
8. Notices of Motion, if any.
9. ABA Election Results Announcement.
10. Taking of Oath of New Board members.
11. Any other Business.

To register, kindly follow the link <https://bit.ly/3sQ3iKQ>. Upon registration and approval, registrants will receive the login credentials on the email address indicated at the point of registration. Members are required to use their official names. In the event of any challenges, kindly reach out to cpd@lsk.or.ke for assistance.

BY ORDER OF THE BOARD

FLORENCE W. MUTURI
Ag. SECRETARY/CEO

NOTICE

Law Society of Kenya



TO ALL MEMBERS OF THE
LAW SOCIETY OF KENYA

Lavington, opp Valley Arcade, Gitanga Road
P.O Box 72219-00200 Nairobi, Kenya
Dropping Zone -149 Embassy House Basement
Tel: +254 709 087000/720 904983
Website: www.lsk.or.ke
Email: lsk@lsk.or.ke

Our Ref: G /2

Date: 18th March 2022

AMENDED NOTICE IS HEREBY given pursuant to Section 30 (1), Section 32 of the Law Society Act 2014, Regulations 74 and 75 (1) & 2 (a) of the Law Society of Kenya (General) Regulations 2020, that an **ORDINARY GENERAL MEETING** of the Law Society of Kenya is convened for and shall be held, **both physically & virtually** on **Friday, 25th March 2022**, at **11:00am** at **Baraza Hall, Bomas of Kenya, along Langata Road, Nairobi Parklands Sports Club, along Ojijo Road, Nairobi.**

AGENDA

1. Secretary to read the Notice convening the Meeting.
2. Adoption of the Agenda.
3. Silence in tribute to members departed.
4. Confirmation of Minutes of the Ordinary General Meeting (AGM) held virtually/ in person on 23rd July 2020 at the Law Society of Kenya Grounds and the Minutes of the Special General Meeting held virtually on 27th January 2022.
5. Matters Arising.
6. Report of the Council (2020-2021) pursuant to Section 30 (2) of the Law Society of Kenya Act and Regulation 24 of the Law Society of Kenya (General) Regulations, 2020.
7. Presentation of the Accounts and Balance Sheets for the year ending 31st December 2020 and the year ending 31st December 2021, pursuant to Section 38(1) & (2) of the Law Society of Kenya Act and the appointment of the Society's Auditors Pursuant to Regulation 52 (1) & (2) of the Law Society of Kenya (General) Regulations, 2020.
8. Presentation of the Forensic Audit Report for the financial statement for the year ending 31st December 2019, pursuant to a resolution of the Annual General Meeting held on 23rd July 2020.
9. Election of the Law Society of Kenya Representatives to the Committee on Senior Counsel, pursuant to the Advocates (Senior Counsel Conferment and Privileges) Rules, 2011.
10. Ratification of the decisions made by the Branch Chairs Caucus pursuant to the consolidated Judgment by **Justice A.C Mrima in High Court Constitutional Petition. No 22/2022, Petition No E.260/2021 and Petition No E.379/2021.**



NOTICE

11. Notice of Motion by members given to the Secretary (if any).
12. Pursuant to Section 21 (1) of the Law Society of Kenya Act, the Chairperson Branch Chairs Caucus to declare duly elected members of the Council, Advocates Disciplinary Committee and the Law Society of Kenya Female Representative to Judicial Service Commission.
- 13. Election of the members of the Law Society of Kenya Budget and Finance Committee, pursuant Section 40 (2) and Section 23 of the Law Society of Kenya Act.**
14. Any other business which may be admitted.

To register, kindly follow the link <https://bit.ly/3sQ3iKQ>. Upon registration and approval, registrants will receive the login credentials on the email address indicated at the point of registration. Members are required to use their official names. In the event of any challenges, kindly reach out to cpd@lsk.or.ke for assistance.

BY ORDER OF THE CAUCUS

FLORENCE W. MUTURI

Ag. SECRETARY/CEO

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COUNCIL MEMBERS

NO	NAME	POSITION
1	Havi Nelson Andayi	President
2	Daudi Carolyne Kamende	Vice President
3	Odede Roseline Adhiambo	Council Member- At least 25 years standing
4	Emukule Linda Riziki	Council Member- Coast Representative
5	Kabita Herine Akoth	Council Member- General Member
6	Okenyo George Omwansa	Council Member- General Member
7	Ingati Aileen Aluso	Council Member- Nairobi Representative
8	Muthiani Carolyne Mutheu	Council Member- Nairobi Representative
9	Odhiambo Faith Mony Aoko	Council Member- Nairobi Representative
10	Adero Esther Ang'awa	Council Member- Upcountry Representative
11	Kipkoech Bernhard Ng'etich	Council Member- Upcountry Representative
12	Kinyili Damaris Ndinda	Council Member- Upcountry Representative
13	Michoma Beth Kemunto	Council Member- Upcountry Representative

Vision

A Society that promotes quality and robust legal practice and the rule of law.

Mission

To empower the legal profession with quality member services and promote the rule of law, through advocacy and good governance.



Andayi Nelson Havi
President



Okenyo George Omwansa
Council Member - General Member



Kipkoech Bernhard Ng'etich
Council Member - Upcountry Representative



Daudi Carolyne Kamende
Vice President



Odede Roseline Adhiambo
Council Member - At least
25 years standing



Emukule Linda Riziki
Council Member -
Coast Representative



Kabita Herine Akoth
Council Member - General
Member



Ingati Aileen Aluso
Council Member - Nairobi
Representative



Muthiani Carolyne Mutheu
Council Member - Nairobi
Representative



Odhiambo Faith Mony Aoko
Council Member - Nairobi
Representative



Adero Esther Ang'awa
Council Member - Upcountry
Representative



Kinyili Damaris Ndinda
Council Member - Upcountry
Representative



Michoma Beth Kemunto
Council Member - Upcountry
Representative



Mercy K. Wambua
Secretary/CEO

INTRODUCTION

Like never before, our institution's enduring mission and strategies were put to test by the COVID-19 Pandemic. Despite the incidental and phenomenal ravages, the annual programs of the Law Society of Kenya paddled through the uncharted waters and registered unparalleled milestones. We literally went virtual in all our engagements. Despite the stagnation at the storming stage of the team building, the Council of the Law Society made unequalled scores through litigation advocacy - leading to legal services being declared essential services by the High Court.

The Council was also able to mount a cutting edge advocacy through partnership with FORD Foundation by running a virtual debate on the state of constitutionalism and the rule of law - post promulgation of the 2010 constitution. Worth noting - is the precipitate of the constitutional advocacy over the two thirds gender rule which culminated in LSK petition to the Chief Justice to advise the President of the Republic of Kenya to dissolve Parliament for failure to discharge its constitutional obligation by ensuring that they put in place legislation to ensure 2/3rd Gender Rule was realized in Parliament.

The Law Society unfortunately, was not spared by the unprecedented incidents of the pandemic - these included loss of sources and means of livelihood to many- loss of business and sadly loss of life by members and their loved ones to the pandemic. We pray for the departed souls.

ASSUMPTION OF OFFICE BY COUNCIL MEMBERS

Section 21 of the Law Society of Kenya Act, 2014 provides that the President, Vice President and Council members ought to assume office immediately after the Ordinary General Meeting of the Society following an election of members. The new Council was expected to assume office on 28th March, 2020 immediately after the Annual/ Ordinary General Meeting. However, due to the Covid-19 Pandemic and the Governments' directives to suspend all public gatherings, and considering the threat to health and life, the Ordinary General Meeting scheduled for 28th March, 2020 was postponed indefinitely.

ORDINARY GENERAL MEETING

Consequently, in order to avoid a vacuum and in the best interest of the membership and the public, the President, Mr. Nelson Andayi Havi, Vice President, Ms. Carolyne Kamende and Council members assumed office on 24th March, 2020 upon the expiry of the term of the Council led by Mr. Allen Waiyaki Gichuhi. In order to comply with the law and pursuant to a Council motion, Members ratified the manner in which the Council assumed office during the Annual General Meeting later held on 23rd July, 2020. The Law Society of Kenya Ordinary General Meeting was initially scheduled to be held on 28th March, 2020 in line with the Law Society of Kenya Act, 2014. However, the AGM was put off until further notice due to the Covid-19 global pandemic and subsequent Government restrictions banning holding of public gatherings towards containment of the spread of Covid-19 virus.

The Council of Law Society of Kenya in its meeting held on 11th May, 2020, resolved to hold the Ordinary General Meeting virtually. As a result, the Council filed Nairobi High Court Misc. Application, HCCOMMMISC/ E729/2020(OS) which was allowed on 16th June, 2020 granting that the Society leave to hold the AGM through an online platform.

Pursuant to the court order, the AGM was held on Thursday 23rd July, 2020 virtually via Zoom platform, with over 4,000 active members in attendance. The Council briefed members on the activities that were undertaken by the previous Council during the preceding year. Members also presented and deliberated on various motions. Equally, the incoming Council members were ultimately sworn in. The newly elected Council comprised the following members;

NO	NAME	POSITION
1	Havi Nelson Andayi	President
2	Daudi Carolyne Kamende	Vice President
3	Odede Roseline Adhiambo	Council Member - At least 25 years standing
4	Emukule Linda Riziki	Council Member - Coast Representative
5	Kabita Herine Akoth	Council Member - General Member
6	Okenyo George Omwansa	Council Member - General Member
7	Ingati Aileen Aluso	Council Member - Nairobi Representative
8	Muthiani Carolyne Mutheu	Council Member - Nairobi Representative
9	Odhiambo Faith Mony Aoko	Council Member - Nairobi Representative
10	Adero Esther Ang'awa	Council Member - Upcountry Representative
11	Kipkoech Bernhard Ng'etich	Council Member - Upcountry Representative
12	Kinyili Damaris Ndinda	Council Member - Upcountry Representative
13	Michoma Beth Kemunto	Council Member - Upcountry Representative

ASSUMPTION OF OFFICE BY THE BRANCH CHAIRS CAUCUS

The Branch Chairs Caucus took charge of the role of the Council of the Law Society of Kenya (LSK), with effect from 11th January, 2022. This was pursuant to the consolidated Judgement by Justice A.C Mrima in High Court Constitutional Petition. No 22/2022, Petition No E.260/2021 and Petition No E.379/2021. Hon. Justice Mrima in a judgment delivered on the 20th December 2021 made an order that the Council of the Law Society of Kenya shall within 21 days convene and hold its meeting (whether an ordinary or extra-ordinary meeting either in person and/or virtually) with a view of attending to the affairs of the Law Society of Kenya. The 21-day window expired on the 10th January, 2022.

Subsequently, the Caucus held its first Extra-Ordinary Meeting on 13th January, 2022. In their meeting, the Caucus received confirmation from the LSK Secretariat that the former president of the Law Society of Kenya, Mr. Nelson Andayi Havi had failed to convene a meeting in compliance with the directions given by the court. In default thereof and pursuant to the said decision, the Branch Chairs Caucus with effect from the 11th January 2022 took charge of the role of the Council for the remainder of the term of the Council.

During the said meeting, it was noted that Ms. Mercy K. Wambua the Secretary/CEO of the Law Society of Kenya had requested to proceed on Leave, pending the expiry of her statutory term as the CEO/Secretary of the Law Society of Kenya, a position she had held for Six Years. The Branch Chairs Caucus also took into consideration the decision by Justice Mrima that once the Caucus took over the role of the Council none of the

current of the Council including the Secretary shall in any manner whatsoever deal with any of the affairs of the Law Society of Kenya in their respective capacities as members of the Council and or Secretary as the case may be.

Subsequently, the Caucus resolved to appoint **M/s Florence W. Muturi, Deputy Secretary and Director Compliance & Ethics Directorate** as the **Acting Secretary/CEO of the Law Society of Kenya**, with immediate effect.

The Caucus appreciated the need to sustain the smooth running of the operations of the Secretariat and to ensure delivery of services to members and also put in place adequate arrangements and necessary measures to conduct the LSK Council Elections 2022, Elections of the Members of the Advocates Disciplinary Tribunal and the Elections of the LSK Female Representative to the Judicial Service Commission in compliance with the Law.

It is on the same day, the 13th of January 2022 that the Caucus issued a press statement on the assumption of the office and urged members to remain united and focused. Further, the Caucus resolved to hold a Special General Meeting on 27th January 2022 in order to seek ratification of it's various resolutions from members.

The Special General Meeting was held on 27th January 2022 where various resolutions by the Caucus were ratified. Subsequently, the Society successfully held it's elections on 10th March 2022. The term of the former Council lapsed on 24th March 2022 and the Caucus hands over office to the newly elected Council today, 25th March 2022.



LAW SOCIETY OF KENYA BRANCH CHAIRS' CAUCUS



Linda Kiome Gakii
Chairperson Branch Chairs Caucus
Mt. Kenya Branch



Mathew Nyabena
Coast Branch



Henry Kenei
North Rift Branch



Eric Theuri
Nairobi Branch



Susy Rauto
West Kenya Branch



Ochang Ajigo
Rift Valley Branch



Wilkins Ochoki
South West Kenya Branch



Justus Mutia
South Eastern Branch



Florence Muturi
Ag. CEO

HIGHLIGHTS OF COUNCIL MAJOR ACTIVITIES IN YEAR 2020 - 2021

1. PROTECTING THE LAW PRACTICE ENVIRONMENT & WELFARE OF MEMBERS

A. PRACTICE ENVIRONMENT

In fulfilment of the strategic objective of providing transformative member and welfare services, the Law Society of Kenya continued to handle matters touching on practice with a view to representing, protecting and assisting members of the legal profession in Kenya in matters relating to the condition of practice and welfare. LSK has the mandate to ensure that advocates maintain professionalism in legal practice and ascertain that consumers of legal services are protected.

I. Provision of Legal Services in the Covid-19 Pandemic Environment

In November 2019, the first case of Corona Virus was reported in Wuhan, Hubei Province in China, Kenya reported its first case of Covid-19 on 13th March 2020. Consequently, the Government embarked on putting in place various measures in an attempt to halt the spread of the virus in the country. The Government imposed a night curfew through Legal Notice No.36 – the Public Order (State Curfew), Order, 2020 under the Public Order Act, Cap 56 on 30th March 2020. To enforce the order, the police used force on Kenyans leading to ugly scenes of police brutality in various parts of the country especially in Mombasa.

The Council through the Public Interest and Human Rights Committee chaired by Ms. Faith Mony Odhiambo, Council member filed *Constitutional Petition No. 120 of 2020 Law Society of Kenya V Hillary Mutyambai Inspector General National Police Service, Kenya National Commission On Human Rights & 3 Others (Interested Parties) [2020] EKLR.*

The Council sought for declaratory orders that the Public Order (State Curfew) Order, 2020 dated 26th March 2020 was unconstitutional and of no legal effect. In addition, the Council sought declaratory orders that the use of unreasonable force in enforcing the curfew was unconstitutional and a declaration that legal services are essential services among others.

In his Judgement issued on 16th April, 2020, Justice W. Korir made the following Orders:

1. A declaration be and is hereby issued that the 1st Respondent's unreasonable use of force in enforcing the Public Order (State Curfew) Order, 2020 is unconstitutional.
2. An order of mandamus is issued compelling the 2nd Respondent to amend, within five days from the date of this judgement, the schedule to the Public Order (State Curfew) Order, 2020, so as to include the 3rd Interested Party (IPOA) and the members of petitioner in the list of "services, personnel or workers" exempted from the provisions of the Public Order (State Curfew) Order, 2020.

Consequently, in order to facilitate members to be able to move across the country to offer legal services and in line with the Judgement by Justice W. Korir, the Law Society of Kenya issued members with Online Essential Services Card. The card was made available online to all members with current practicing certificate free of charge.



A sample of Essential Service Provider Identification Card

The card also acted as an Essential Service Provider Identification Card that enabled Advocates to travel countrywide to offer unhindered legal services to clients around the clock. In addition, upon request from members, the Society issued members with a Movement pass (Letters) to facilitate their movement.

II. Mitigating the Closure of Physical Courts and Introduction of Virtual Courts

To address the challenges facing the dispensation of justice with the closure of the Courts due to Covid-19, an Ad-hoc Inter-Agency Committee -comprised of stakeholders in the justice sector -was established to advise the National Council on Administrative Justice (NCAJ), on further precautionary measures to be taken

in light of the peculiar circumstances occasioned by the Covid-19 pandemic. As a key stakeholder, the Law Society of Kenya was represented in the Inter-Agency Committee. As a result of deliberations and consultations within the Inter-Agency Committee, on 21st April, 2020, the NJAC through the Chief Justice, moved to upscale justice delivery, through increased use of technology and adoption of use of virtual courts.

The Council has continued to engage the NJAC and the office of the Chief Justice with a view to intensify upscaling of court services.

III. Virtual Courtesy Call on the Hon. Chief Justice Hon. David Maraga

The Council paid a courtesy call on the Chief Justice Hon. David Maraga on Friday 29th May, 2020. The Council raised concerns on matters affecting practice across the country during the virtual meeting:

a. Upscaling of Court operations

Since the closure of courts on March 15th 2020, the Council voiced concerns over seeking for the re-opening of the courts. The Council noted that other arms of Government were on course and observed several measures to combat the spread of the pandemic. The Council also raised concerns on the need for the Judiciary to upscale its operations within the Ministry of Health directions. It was reported that the Judiciary had engaged the Ministry of Health to undertake an evaluation of all court premises with a view to advising on the necessary Covid-19 protocols to be observed on re-opening of physical courts. It was agreed that the Chief Justice would share the report of the Ministry of Health with the Law Society of Kenya which formed a basis for reconsideration of upscaling of Court Operations.

b. Execution of Decrees

The Council raised concerns on practice directions that had been issued by the Hon. Chief Justice on the closure of Courts and specifically the directions on the umbrella stay of execution of Court Orders. It was agreed that the Chief Justice shall give directions on the execution of Decrees.

c. Automation of the Court Process

The meeting discussed a proposal by the Court Fees Assessment Committee formed on 13th September, 2017 by the Chief Registrar of the Judiciary and mandated to

harmonize Court fees collection and develop directions to guide stations in assessment and collection of court fees. It was agreed that the Society would circulate the same to members for comments before submission to Parliament for approval. The same was shared with the members and the views collated.

IV. Development of Law Society of Kenya Guidelines for Virtual and Online Court Sessions (VOCS), 2020

With the scaling up of the operations of the Courts through the use of Virtual court sessions, it became necessary for the Council to issue guidelines to the membership for Virtual Courts and Meetings. Towards this end, through the Practice Standards Committee Chaired by Mr. George Omwansa, Council Member, the Council developed draft guidelines for Virtual/ Online court sessions and meetings. The draft guidelines were shared with members for input after which revised guidelines were developed. The guidelines covered the following areas;

General Provisions

- Visibility and audibility
- Muting of microphones
- Conduct of Parties
- Use of official names
- Use of signs
- Shared documentation
- Dress code
- Etiquette
- Eating and drinking
- Stable internet connectivity, among others.

Members are encouraged to familiarize themselves with the guidelines.

V. Updating members on various Guidelines and Cause Lists issued by the Courts and Government Departments

During the first months of closure of courts and use of virtual courts, members experienced challenges of receiving updates, circulars, directions and cause lists from various court stations across the country. To assist members, the Law Society of Kenya in collaboration with the Judiciary collated all important notices, directions and cause lists from various courts across the country and circulated the same to members through emails and social media platforms.

VI. Promotion of a Safe Work Environment Free From Sexual Harassment and Bullying for Advocates

In line with its mandate to promote and assist its members on matters touching on practice and in line with the Law Society of Kenya Sexual Harassment and Anti-Bullying Policy, the Council through the Gender Committee Chaired by Ms. Beth Michoma, Council Member undertook various activities aimed at creating awareness against Sexual Harassment and Anti-Bullying. Among the activities undertaken included the following;

► Hosting a Free Webinar on Sexual Harassment and Bullying in the Legal Profession

The Law Society of Kenya through its Gender Committee organized a Free Webinar on Sexual Harassment and Bullying in the legal profession which focused on the Sexual Harassment and Bullying Policy 2019. The webinar was held on Thursday, 1st October, 2020 from 2pm – 3.30 pm. The Panelists were Mr. Ambrose Weda, Esq. MBS and Ms. Teresa Omondi –Adeitan, Deputy Executive Director and Head of Programmes, Forum for African Women Educationalists (FAWE).

► Setting Up of a Gender Desk at The Secretariat

In light of increase in reported cases of sexual harassment and bullying in the legal profession and in view of the Society's zero tolerance policy for sexual harassment and bullying, the Society seeks to ensure such violations are addressed and eliminated in the legal profession. Towards this end, the Society established a gender desk at the Secretariat. The Gender desk is manned by a trained Program Assistant who is responsible for provision of gender related support to our members including receiving and processing of any Sexual Harassment and Bullying complaints in line with the Law Society of Kenya's Sexual Harassment and Anti-Bullying Policy, 2019.

► Issuing a Call on Victims of Sexual Harassment and Bullying to Report Cases – Anti Sexual Harassment and Bullying Campaign

The Council through its Gender Committee ran a campaign on anti-sexual harassment and bullying. The Committee provided a platform for reporting of such cases through the Gender Desk established at the Secretariat and in addition, issued a call on any victim(s) or witness(es) of sexual harassment and bullying to report any such incidents. The Committee designed and provided a complaint form to members. All complaints

received through the Gender Desk are treated with utmost confidentiality.

VII. Capacity Building of Advocates on the Law on Inheritance and Islamic Law – Free Webinar held on 3rd December 2020

Article 170 of the Constitution establishes and gives jurisdiction to the Kadhi's Court, to hear and determine disputes relating to personal status, marriage, divorce and inheritance in proceedings, which all the parties profess Islam and submit to the jurisdiction of the court. There has been exponential growth in the number of litigants seeking legal representation on succession disputes before the Kadhi's Court. This being an emerging area of practice, the Law Society of Kenya through the Young Lawyers Committee chaired by Ms. Riziki Emukule, Council Member held a Free Webinar on **3rd December 2020**. The Panel discussion was led by Honorable Abdul Jabar Hussein, Senior Resident Kadhi who took members through the topic on *inheritance in Islamic Law: The Principles, Procedures & Practice*.

VIII. Six (6) Month Campaign to Trace, Weed Out Quacks And Imposters In The Legal Profession

The Council through the Practice Standards Committee Chaired by Mr. George Omwansa, Council Member, launched a 6-month campaign aimed at tracing, weeding out and charging all persons unlawfully conducting themselves as advocates and who are not authorized to practice law within the Country. Members of the Practice Standards and Ethics Committee conducted visits in Meru and Thika and held meetings with Branch representatives to map out, carry out impromptu inspections and arrest masqueraders/quacks as part of the ongoing campaign. Through the Practice Standards directorate, the Committee issued approximately 30 letters to the Directorate of Criminal Investigations (DCI) for investigations, 10 letters of Notice to Show Cause to Advocates in Meru and Thika who were allowing quacks to practice in their offices and 10 accompanying statements to the DCI.

The Council through the Committee continues to monitor practice standards and issue guidance to members on matters touching on practice rules. In addition, the Council negotiated and two (2) investigating officers from the National Police Service, have been seconded to the Secretariat to assist in investigating and arresting quacks on a need basis.

IX. The 3rd Edition of The Annual “In-House Counsel Caucus

The Council through its Corporate (In-House & Public Sector) Committee chaired by Ms. Ndinda Kinyili, Council Member organized the 3rd Edition of the Annual “In-House Counsel Caucus”, held virtually on 4th December, 2020 under the theme, “*Leadership in Times of Crisis*”. The turbulent times experienced at the height of the Covid-19 Pandemic proved a tough nut to crack especially for corporate practitioners which informed the need to have this Webinar and discussions amongst Counsel with a view to finding appropriate strategies to advise their clientele and lead their organizations.

The Following topics were discussed

1. *Contract Management and Enforcement during the Covid-19 Pandemic*, by **Mr. Fred Waithaka, Head of Legal at Safaricom Ltd;**
2. *Accountability of In-house Counsel in the Procurement Process*, by **Ms. Diana Sawe, Corporation Secretary at Insurance Regulatory Authority;** and
3. *Role of In-house Counsel in guiding public institutions to deliver efficient and effective services during the Covid-19 Pandemic*, by **Mr. Andrew Wamicwe, Regulatory Director (Airtel Africa) & Former Legal Counsel (Central Bank of Kenya)**

The Webinar attracted over 400 attendees and provided a chance for the panelists moderated by Ms. Soila Kigera Advocate to discuss on measures to employ in assisting Counsel especially corporate practitioners navigate and lead their institutions amidst the Covid-19 Pandemic.

Ms. Diana Sawe of Insurance Regulatory Authority led the discussions on “*Accountability of In-house Counsel in The Procurement Process*”, where she outlined among others the role of In-House Counsel and the professional practice and ethical conduct. In the words of Professor Gillian Triggs, she remarked that, in-house counsels have a wider role; they have a duty to their client and their company but it is a duty trumped always by the higher duty of the rule of law and to act in an ethical way. Mr. Fred Waithaka, Head of Legal at Safaricom Ltd. took members through a discussion on *Contract Management and Enforcement* during the Covid-19 Pandemic. He noted that hardly was the pandemic anticipated and there was the need to converse on how among others, the doctrines of *Force Marjeure* and frustration have played out in the year.

On his part, Mr. Andrew Wamicwe, Regulatory Director at Airtel Africa led discussions around, *Role of In-house Counsel in Guiding Public Institutions to Deliver Efficient and Effective Services During The Covid-19 pandemic*. At the end of the three-hour forum, members expressed their gratitude to the panelists and the hosts for organizing the Caucus.

X. The Place of National Tribunals in Sports Arbitration.’ Webinar By The Young Lawyers Committee;

The world has increasingly adopted arbitration in resolving sports disputes in the contemporary society. Many international sports organizations have subscribed to the jurisdiction of the Court of Arbitration for Sports. Moreover, Countries have established National Sports Tribunals that resolve local sports-related disputes. Taking cognizance of Sports Arbitration as an emerging area of law, the Council of the Law Society of Kenya through its Young Lawyers Committee, chaired by Ms. Riziki Emukule, Council Member organized a **Free** webinar to dissect and analyze the ‘**The Place of National Tribunals in Sports Arbitration.**’ on 2nd September, 2020.

XI. Induction Training of Newly Admitted Advocates

On 11th December 2020, the Law Society of Kenya inducted approximately 300 newly admitted Advocates. Due to the Covid-19 pandemic, the Continuing Professional Development Committee organized the induction seminar virtually through the Zoom/Webinar platform during which the following was presented on; The role of the Law Society of Kenya as well as the Advocates Benevolent Association to Advocates.

XII. Tackling Challenges in Intellectual Property Practice in Kenya

In order to build the capacity of members on Intellectual Property Law and practice in Kenya, the Law Society of Kenya (LSK) through its ICT/IP Committee chaired by **Ms. Aluso Ingati** and **Ms. Esther Ang’awa, Council Members**, held a free webinar for members on **The Challenges in Intellectual Property Law Practice in Kenya** held on **18th December, 2020**. The webinar was organized in partnership with Kenya Industrial Property Institute (KIPI). KIPI is a parastatal under the Ministry of Industry, Trade and Cooperatives. Its main functions include; to administer industrial property Rights, provision of technological information to the public, promotion of inventions in Kenya and provision of training on industrial property.

Members were requested to forward the various challenges that they were facing in intellectual property practice in Kenya in advance. The facilitators of the day included the Chairperson of KIPI Mr. Ahmed Issack Hassan, the Law Society of Kenya Representative to the Board Mr. Manesses Mwangi Kabui and the Head Legal and Board Secretary Ms. Eunice Njuguna.

The facilitators took members through the various challenges facing legal practice in the area of Industrial Property in Kenya and highlighted possible solutions. These challenges included delays in handling of matters as a result of the use of manual filing process. It was noted that KIPI was in the process of setting up an online filing system. Other challenges included dealing with cases of forgery of KIPI's letterheads including by advocates and reduced human resource as a result of loss of several staff members and others moving to other organizations.

It was noted that there was a new Bill, 2020 drafted by the Ministry of Industry and Trade bringing on board several changes which included the introduction of Kenya Intellectual Property Authority. It was noted that the Law Society of Kenya needed to play a key role during the citizen participation on the Bill in order to protect its position in KIPI. In order to advance jurisprudence in the area of Intellectual Property and ease access of judgements, it was agreed that KIPI would reach out to Kenya Law to ensure that decisions of the Tribunal would be uploaded in the Kenya Law website for ease of reference by advocates and members of public.

XIII. Virtual Continuous Professional Development (CPD) Seminars

The Council through the Continuing Professional Development (CPD) Committee chaired by Ms. Esther Ang'awa, Council Member launched the inaugural online seminars (webinars). This was necessitated by the Covid-19 pandemic and subsequent Government restrictions on public gatherings which necessitated the suspension of holding of physical CPD Seminars. The online CPD Seminars were offered through the Zoom –Webinar Platform which was integrated with the Society's Enterprise Resource Planning (ERP) System to enable, booking, registration, payment, logging in and uploading of CPD points into the members' portal.

Increased visibility and awareness of CPD events- Notices for upcoming CPD seminars were sent to the membership via email and posted on LSK social media platforms. Monthly notices were also sent to

the members and weekly reminders through the LSK e-newsletter.

XIV. Promotion of use of Alternative Dispute Resolution Mechanism

The Council through the Alternative Dispute Resolution (ADR) Committee chaired by **Mr. John Ohaga SC** and **Ms. Mutheu Carolyne**, Council member as the vice-chairperson was involved in activities aimed at promoting the use of ADR mechanisms, processes in conflict/dispute resolution and in the administration of justice in Kenya. The committee also raise awareness of the benefits of ADR amongst the members of the Society and the public at large.

To achieve its objectives, the Council through the ADR Committee was involved in the:

► Policy and Legislative Framework

Formulation of Draft Law Society of Kenya Arbitration Rules.

The Draft LSK Arbitration Rules provides for the procedure and process of commencement of arbitration, appointment of arbitral tribunal, disclosures by tribunal, emergency relief, expedited procedure, arbitral proceedings, and determination of language to be used during arbitration, pleadings, amendment of pleadings, virtual proceedings, hearing and award.

The Draft rules also provide for model clauses that parties to a contract who wish to have any future disputes referred to arbitration under the Law Society of Kenya Arbitration Rules can adopt. In addition, the Draft Rules provide for fees payable to the Arbitrator(s) on an hourly basis.

The Draft Guidelines were circulated for member's participation and feedback before the same can be adopted for implementation through the framework established under the Statutory Instruments Act.

In addition, the Council through the ADR Committee is engaged in the;

- a) Formulation of Draft Law Society of Kenya Mediation Rules.

Through its Mediation Sub-Committee, the ADR Committee is in the process of formulating draft guidelines on Mediation; "The Law Society of Kenya, Mediation Guidelines". The guidelines will among others; direct the Law Society of Kenya on the appointment of mediators, regulate the operation and conduct of LSK

mediators, provide guidelines on party conduct; and provide regulations for conduct of mediation process. Notably, the Law Society is a nominating body for mediators and generally ADR practitioners as and when called upon. Therefore, the guidelines shall come in handy seeing that matters being referred to mediation under the auspices of the Law Society of Kenya, shall have the guiding framework establishing the process and procedure.

- b) Formulation of Draft Law Society of Kenya Virtual ADR Practitioners Guidelines.

The Use of Technology Sub-Committee of the ADR Committee formulated the “Law Society of Kenya Online Dispute Resolution Guidelines”. This was necessitated noting that with the pandemic, most of the ADR matters otherwise held in the practitioners chambers would not proceed for among other reasons, the need to protect the users as well as the practitioners from Covid. In light of the foregoing, a handful of users resulted to shifting the ADR practice from physical meetings to online participation. That came with its share of challenges key among them, testimony taking, and the danger of the dispute resolution taking place in the absence of the actual disputants. These challenges were taken up by the Committee which sought, through the guidelines drawn from best practices globally, to provide a framework on which matters would proceed online. The guidelines shall be shared with the members for their input and feedback before they are finally launched by the committee.

► **Capacity Building of Members on Alternative Dispute Resolution**

The Council through the Alternative Dispute Resolution Committee has negotiated for training opportunities with various institutions/originations.

- a) Memorandum of Understanding between the Law Society of Kenya and Mediation Training Institute.

The objective of the partnership was to:

- Enable training to members in mediation and related areas through open enrolment or customized seminars and workshops
- Enable the 40- hour mediation course training to be done at subsidized rates
- Enable members who go through the training to be certified as professional mediators from MTI International East Africa
- Enable the members to go through the MTI mentorship program hence make it possible

for them to complete at least 3 mediations as required by the mediation accreditation committee

- b) Memorandum of Understanding between the Law Society of Kenya and the National Centre for International Arbitration. Upon approval and adoption of the MoU, Law Society of Kenya and National Centre for International Arbitration will collaborate on:

- **Policy and Legal Reforms** to improve the policy, legal and regulatory framework on ADR through constructive engagement with other stakeholders.
- **Alternative hearing and training facilities;** members will be able to use the NCIA’s hearing and training premises.
- **Sharing of Panel lists;** share on a reciprocal basis the NCIA & LSK Panel lists of mediators and arbitrators upon terms and conditions to be agreed.
- **Institutional case administrated process:** The use of NCIA dispute administrative services
- **Promotion of use of Alternative Dispute Resolution mechanisms** through constructive engagement with other stakeholder’s.
- Reciprocal recognition.

XV. Engagements with The Ministry of Lands and Physical Planning- Environment Land & Conveyancing Matters

The Council through the Environment Land, Natural Resources and Conveyancing Committee chaired by Mr. Peter Mwangi Advocate, engaged the Ministry of Lands and Physical Planning on various matters touching on and affecting conveyancing in the country;

► **Public Notice on Closure of the Lands Registries Countrywide**

With the spread of the Covid-19 pandemic the Cabinet Secretary, Ministry of Lands issued a public notice on closure of land registries countrywide with effect from 17th March, 2021. The Council through the Committee took the following measures;

1. On 12th February 2021, the Society wrote to the Cabinet Secretary Ms. Farida Karoney raising concerns over the blanket closure of all land registries

without addressing statutory obligations that are time bound and could lead to serious infractions of legal rights and obligations. The Council proposed allowing for online submission of applications to ensure adherence to ranking of claims for interest in land, issuing of a gazette notice guidelines freezing statutory timelines for registration of documents and incurring of penalties for interrupted services until the land registries resumed operations.

2. Held a consultative meeting with the Cabinet Secretary Ms. Farida Karoney on 20th March 2021 to discuss among other issues the following;
 - i. The Management of critical land registration and administration functions during the period of closure.
 - ii. The annulment of the Land Registration (Electronic Land Transactions) Regulations 2019.
 - iii. The Community Land Act Regulations.
 - iv. The Involvement of the process for collection of Capital Gains Tax; its payment and application for exception.
 - v. The guidelines for private valuers to enable an efficient land valuation system as per the law.
 - vi. The cadaster program.
 - vii. The migration of land register in the land regulations.
 - viii. The improvement of land administration services in some select land registries such as Machakos.

Upon deliberations on the Covid-19 challenges it was agreed that;

1. The Ministry of Lands would issue a gazette notice or notices freezing statutory timelines for registration of documents and incurring of penalties for interrupted services until the land registries resumed operations
2. Allowing for online submission of applications to ensure adherence to ranking of claims for interest in land, issuing of a gazette notice guidelines freezing statutory timelines for registration of documents and incurring of penalties for interrupted services until the land registries resumed operations
3. In addition, the Council wrote to the CS on 14th April, 2020 advising that in lieu of the extension of the closure of the lands offices, the Ministry could allow the operation of the land registries and provision

of the following limited services including; court orders, valuation, stamp duty, transfers, discharge and charges, without compromising the health of the public servants or the legal rights obligations and health of the general public. The Council advised the Ministry to publish rules of engagement that would ensure that the services are offered within the relevant health protocols.

XVI. Addressing Concerns over the Constant and Irregular Issuing of Moratoriums and Non-Payment of Claims by Insurance Companies

► Engagement with Insurance Regulatory Authority

The Council of the Law Society of Kenya having noted with concern the continued violation of rights by numerous insurance companies through the withholding, refusal and/or inordinate delay in settlement of claims, party and party costs and legal fees even after determination of matters, moved to Court via Constitutional & Human Rights Division *Petition No. 44 of 2018, Law Society of Kenya-Versus- Insurance Regulatory Authority & Three Others*, to challenge the statutory provisions of Section 67 of the Insurance Act and the abuse of the High Court powers to extend moratoriums on insurance companies thereby depriving members of the public, policy holders, creditors and other affected persons the right to access justice, right to a fair hearing, right to property and right to fair administrative action as guaranteed under Articles 48 and 50(1) of the Constitution.

As the matter proceeded in court, the Council invited the Insurance Regulatory Authority (IRA) to a meeting held on Monday 13th January, 2020. During the meeting which was attended by the Commissioner of Insurance, Mr. Godfrey Kiptum, the Society submitted a memorandum on insurance companies' moratoriums and also held cogent discussions on the general state of the insurance sector pertaining to practitioners and the members of the public. The meeting resolved as follows:

- i. With regard to instances of non-payment of claims and/or legal fees by liquid insurance companies and refusal to honour claims, it was resolved that members be notified to inform the IRA directly. A notice to this effect was issued to the membership.
- ii. IRA to submit a Memorandum to the Council containing proposals on review of the Insolvency Act as well as recommendations on how to address prevailing challenges in the sector.

► **Council courtesy call on the Hon. Chief Justice David Maraga**

In addition, the Council paid a courtesy call on the Hon. Chief Justice and raised concern over the delay in conclusion of matters touching on insurance cases. The Council sought to have a Judge appointed to fast-track hearing of the moratorium cases on a priority basis.

► **Policy and Legislative Review Initiatives**

The Society will continue to engage IRA and all relevant stakeholders towards resolving the prevailing challenges in the sector. The Law Society held a series of meetings with the Insurance Regulatory Authority management and legal teams to deliberate on the underlying problems in the Public Service Vehicles (PSV) Insurance Sector, particularly the legal framework under which the statutory management of financially unstable insurance companies is carried out. A policy paper was developed and submitted highlighting the statement of the problem particularly on Section 67 of the Insurance Act– its inadequacy, ambiguity and broadness. Secondly, the paper elaborated on the Act’s practical implementation problems and demonstrated how the provisions are inimical to various rights including access to justice, consumer rights and property rights amongst others.

► **Participation in Public Interest and Litigation**

The Council participated in various Public Interest cases touching on the issue of the extension of moratoriums even as the advocacy efforts continued. Several cases were filed by insurance companies where the Law Society of Kenya sought and enjoined as interested parties and successfully set aside advance orders issued exparte. A detailed report of the cases can be found on the chapter on cases in this report.

- a) **High Court Civil Case No 55 of 2020 Invesco Assurance Company Ltd VS-Auctioneers Licensing Board,**
- b) **HCC E 303 of 2020 In the Matter of Xplico Insurance Ltd**
- c) **Petition No. 4 of 2020 Invesco Assurance Company Ltd and another Vs Attorney General, Official Receiver & Liquidator**

XVII. Courtesy Call Meetings

► **Courtesy Call On The Chief Justice, Hon. Lady Justice Martha Koome, EBS**

The Council of the Law Society of Kenya paid a courtesy

call on the Chief Justice, Honourable Lady Justice Martha Karambu Koome, EBS on the 16th of June, 2021 at her chambers. In the meeting, the Council highlighted issues of concerns to the membership collated pursuant to a call made requesting for comments and feedback from the members, in furtherance of the Council’s mandate in assisting the courts in administration of justice.

The meeting attended by Council Members; Mr. Kipkoech Bernard, Mr. George Omwansa, Ms. Carolyne Mutheu, Ms. Faith Odhiambo, Ms. Ndinda Kinyili, Ms. Beth Michoma, Ms. Riziki Emukule, as well as Ms. Mercy K. Wambua, Secretary/CEO and Mr. Gichohi Waweru, Program Assistant at the LSK Secretariat engaged the Chief Justice on key discussion points including inter alia;

- Recruitment of Judicial Officers,
- Judicial independence, disobedience of Court Orders,
- Practice at the Tribunals, information communication and technology and virtual courts,

On her part, the Honourable the Chief Justice committed to ensure that;

- The Judiciary would gazette the practice rules developed by the commercial courts as well reformulation of the same for use across the courts divisions,
- Source for funds for the completion of all stalled court projects,
- Recommend to the Taskforce on Children Matters the need to provide screens in court to protect the children,
- Follow-up on funds for mediators under the Court Annexed Mediation as well as funds for advocates taking up pauper briefs,
- Opening of Judiciary fund,
- There is the establishment of the Judiciary Service Desk Counters, “Huduma desks”, at all the Huduma Centres to increase access to justice for all, with emphasis on Self-Represented Litigants (SRL) who have limited access to digital platforms.

Additionally, the Chief Justice challenged the membership of the Law Society of Kenya to submit any specific issues concerning any Court or Judicial Officer

to assist in containing the errant members of the Bench. Notably, she recommended the Council to implore its members to join the various Court Users Committees at the courts, and use them as vehicles to channel their concerns.

It was agreed that such consultative meetings between the Law Society of Kenya and the Office of the Chief Justice shall be held periodically to evaluate the gains, the milestones, the challenges and to further review the strategies, towards achieving the institutions collective mandate.



► **Courtesy Call On The President Of Court Of Appeal, Hon. Justice Daniel Musinga**

The Council paid a courtesy call on the President of the Court of Appeal Hon. Justice Daniel Musinga on 25th June 2021, by the Honourable Justice Daniel Musinga upon his assumption of office. In line with its mandate, the Council engaged the Court of Appeal leadership on matters touching practice of members and various issues on the Court of Appeal (COA) including among others;

- Backlog of Cases- suggestions for reduction,
- E-filing- benefits and challenges,
- Urgent applications,
- Case conference and directions,
- Service of applications and hearing notices,
- Submissions, and
- Future periodical engagements

Noting the Memorandum previously submitted to the Chief Justice on the Courts generally, the Council took the view that in furtherance of the approach the Chief Justice would give in handling of matters at the Appellate Court, within its powers, the COA stood a great chance in complementing efforts to make the appellate court serve within its full mandate.



► **Honourable Lady Justice Martha Karambu Koome Is Appointed As The Chief Justice And President Of The Supreme Court.**

The Council of the Law Society of Kenya through the CEO, Ms. Mercy K. Wambua, OGW congratulated Honourable Lady Justice Martha Karambu Koome on her appointment as the Chief Justice of the Republic of Kenya and President of the Supreme Court of Kenya, pursuant to Gazette Notice No. 4705 dated 19th May 2021.

The Council noted that the appointment of Honourable Lady Justice Martha Karambu Koome as the Country's first female Chief Justice is a historic milestone. This demonstrates the commitment by the Country to ensure the attainment of Kenya's constitutional gender equality and one of the seventeen Sustainable Development Goals established by the United Nations in 2015.

She further noted that the Law Society of Kenya expects more interdependence amongst all the three arms of the Government and institutional accord which will enhance smooth operations of the Judiciary, adequate funding through an entrenched Judiciary Fund without compromising the functional and institutional mandate of the Judiciary.

Ms. Wambua concluded by extending hearty congratulations to the Honourable Justice William Ouko on his appointment as a Judge of the Supreme Court. She said that Honourable Justice William Ouko's appointment as a judge of the Supreme Court would certainly enrich the jurisprudence emanating from the highest court in Kenya.

► **LSK CEO Attends 5th Graduation and Prize Giving Ceremony At KSL**



On 30th June 2021, the CEO of the Law Society of Kenya Ms. Mercy Kalondu Wambua attended the 5th Graduation and Prize - Giving Ceremony for the Awards of Postgraduate Diploma in Law and Diploma in Law at the Kenya School of Law.

The following were the top candidates:

1. Overall Top Candidate

Kyalo Faith Kavenge

The parameter used by Council in making the determination is that the candidate must have sat the nine units (9) of the ATP examination for the first time.

Best candidate (s) in each of other nine (9) units

UNIT	CANDIDATE (S) NAME
ATP 100- Civil Litigation	Jacqueline Chepngeno
ATP 101- Criminal Litigation	Jacqueline Chepngeno
ATP 102- Probate & Administration	Omari Valerie Alice
ATP 103- Legal Drafting & Writing	Gabula Norman Muule Pamba Evans Ouma
ATP 104- Trial Advocacy	Mbaluto Joyce Waeni
ATP 105- Professional Ethics	Onyango Risper Achieng'
ATP 106- Legal Practice Management	Timamy Mohammed Issa
ATP 107- Conveyancing	Mwanzia Mark Mutisya
ATP 108- Commercial Transaction	Korir Davis

XVIII. Engagement With Partners

► **Memorandum of Understanding between the Nairobi Centre for International Arbitration and the Law Society of Kenya.**



In line with its mandate, The Council of the Law Society of Kenya through the Alternative Dispute Resolution Committee chaired by Mr. John M. Ohaga, SC, Dipl. C.Arb, FCI Arb and Ms. Carolyne Mutheu Council Member as the Vice Chairperson signed a Memorandum of Understanding with the Nairobi Centre for International Arbitration on 21st April, 2021. The same culminates the lengthy deliberations between the two organizations which sought to collaborate and work together in areas inter alia;

- i. Policy and Legal Reform
- ii. Alternative hearing and Training Facilities
- iii. Sharing of Panel list
- iv. Promotion of Alternative Dispute Resolution
- v. Institutional Case Administered Process.

At the Signing Ceremony, held at the Law Society of Kenya Secretariat Grounds, Nairobi, the Centre for International Arbitration (NCIA) was represented by Mr. Arthur Igeria, Director NCIA, Mr. Lawrence Muiruri Ngugi, NCIA Registrar/CEO and Ms. Sarah M. Wambua, Senior Communications & Marketing Officer.

► **Notice On Long Term Leases Published In The Dailies On 9th May 2021 By The Cabinet Secretary, Ministry Of Lands And Physical Planning (Molpp).**

The Law Society of Kenya held a meeting with the Ministry of Lands and Physical Planning (MOLPP) on 11th May, 2021. The meeting was necessitated by concerns emanating from the

Notice on Long Term Leases published in the Dailies on 9th May, 2021 by the Cabinet Secretary, MOLPP.

The Society was represented by a team led by the Chairperson of the Conveyance, Land and Natural Resources Committee Mr. Peter Mwangi, Advocate and the LSK Nairobi Branch Chairperson Mr. Eric Theuri while the MOLPP was represented by a team led by Hon. Alex Mwiru, Chief Administrative Secretary, MOLPP.

XIX. Committee on Young Lawyers Unveils Free Mentorship Webinars

The Law Society of Kenya (LSK) through its Committee on Young Lawyers organized three free Webinars under its Mentorship Programme. The Committee – chaired by Council Member Ms. Riziki Emukule - organized the three Webinars which, were also streamed live on the LSK Facebook Page between late April and May 2021.

Mr. Richard Omwela, Advocate facilitated a Webinar on *Setting Up and Management of a Modern Law Firm* on 20th April 2021. He noted that if you choose to practice law, you could either set up a law firm alone, together with others or join an existing law firm and the target clientele should be able to reach you with ease, which may inform your location of choice. He further noted that if one runs a small bespoke advisory practice for limited clientele, then one may choose to be in a building out of the Central Business District (CBD). Omwela said. He further noted that running a busy practice with a large number of walk-in clients would require an office in the heart of the CBD for convenient access.

Separately, Ms. Judy Thongori Senior Counsel presented a paper on *Recent Jurisprudence on Family Law – Presumption of Divorce* on Thursday 6th May 2021 at a Webinar on *Family Law*. She indicated that the recent Judgment by the High Court sitting in Malindi has opened a new chapter on presumption of divorce which was new to our family law.

The Committee also organized a Webinar on Professional Ethics on Tuesday 25th May 2021 where Mr. Charles BG Ouma, Advocate presented a paper titled *Collective Image as a Restraint on Personal Choice: Why 'My-Life-My-Choice' is Not Always an Option for the Legal Professional*. Mr. Ouma noted that an Advocate of the High Court must uphold high professional standards and avoid putting the legal profession to disrepute. He underscored the importance of adhering the Code of Standards of Professional Practice and Ethical Conduct published by the Law Society of Kenya in June 2016. He cautioned that Advocates who

engage other professions, businesses or occupations concurrently with the practice of law and further noted that advocates must not jeopardize their professional integrity, independence, competence or standing of the legal profession.

Council Member Ms. Riziki Emukule thanked the Speakers and members who attended the three Webinars and encouraged more member to attend other webinars organized towards mentorship of Young Lawyers.

The Council appreciates all the advocates who participated in the three seminars and encourage all the young advocates to register and participate in the upcoming activities organised by the Young Lawyers Committee



B. WELFARE OF MEMBERS

The Council assumed office at a time when Kenya as the rest of the world grappled with the effects of the Novel Corona Virus, Covid-19. The members of the Society were not spared by the effects following the temporary closure of courts, containment orders, dusk to dawn curfew, rethought arrests and prosecution procedures laid down by the ODPP as represented in the NCAJ and the closure of land registries. Advocate's bread and butter was greatly threatened. As a result, law firms took measures in keeping with the effects of the pandemic, some closed down, others sent their associates on unpaid leave, or even termination. There are some that closed down, unable to pay rent, salaries and general maintenance costs.

1. Waiver of Payment of Practicing Certificate Back fees

The Council in its meeting held on 16th April, 2020, resolved to extend a waiver for payment of back fees to Advocates applying for Practicing Certificates under Section 25(1) (a) of the Advocates Act, Cap 16. Essentially, members who had ceased to hold Practicing Certificates for 12 months or more and wished to apply for a certificate for the year 2020 were advised to take advantage of the waiver and make their application through issuance of a Notice of Intention to practice under Section 25 (1) (a) of the Advocates Act, Cap 16.



The Acting Chief Justice Philomena Mwili posing for a group photo after the admissions.

The admissions were held in line with the Ministry of Health guidelines and protocols following the Covid-19 pandemic.

2. Mental Health Management During the Covid-19 Pandemic

The Council through its Committee on Continuing Professional Development organized a Free CPD Webinar on Mental Health Management during the Covid-19 Pandemic on Tuesday 19th May 2020 with **Mr. Evans Oloo**, Consultant Psychologist and **Ms. Wandia Maina** as the facilitators. Various topics were deliberated on which included; recognizing signs of pandemic stress reaction, dealing with relationships and practical strategies to improve on Mental Health during the Covid-19 Pandemic.

3. Admission of New Members to the Bar

Due to Covid-19 restrictions, the admissions of advocates to the Roll of Advocates was suspended indefinitely. In order to assist the young lawyers and to reduce the anxiety and economic hardship caused by the pandemic coupled with lack of jobs, the Council negotiated with the Hon. Chief Justice to hold admission ceremonies while observing Covid-19 restrictions. The request was accepted by the Hon. Chief Justice and saw over 1,200 new advocates get admitted to the bar.

In order to facilitate faster acquisition of the Law Society of Kenya services by the newly admitted advocates, the Secretariat offered biometric registration of the newly admitted advocates after signing the Role on the admission day.

4. Launch of the Advocates Hotline No. (0800 720 434) Advocates' (Branch) Toll Free Lines

The Council of the Law Society of Kenya through its Lawyer – Police Relations Committee, chaired by Vice President, Ms. Carolyne Kamende Daudi launched the **Advocates' (Branch) Toll Free Lines** for use by all the eight (8) LSK Branches. Each Branch got a unique toll free number, through which advocates could reach out to report incidents of harassment encountered in the course of their professional duties.



A section of the LSK Council after launching the Branch Toll free lines.

In order to offer support to the branches, the Council procured handsets and hotlines which have been operated at the Branch level. The numbers are as indicated below;

BRANCH		TOLL FREE LINE
1.	Nairobi Branch	0800720703
2.	West Kenya Branch	0800720704
3.	Coast Branch	0800720705
4.	South Eastern Branch	0800720706
5.	South West Kenya Branch	0800720707
6.	Rift Valley Branch	0800720708
7.	North Rift Branch	0800720709
8.	Mt. Kenya Branch	0800720710

During the first phase of the project, the Council launched the National Toll Free Line ***0800 720 434*** and the same has been in active use since the 23rd June, 2020 and consequently members have been calling to report various challenges experienced with regard to harassment in the course of duty.



The Vice President, Carolyne Kamende and LSK CEO. Ms. Mercy K. Wambua. OGW pose for a photo at the launch of the advocates' hotline.

5. Law Society of Kenya Members Group Medical Cover

The Society continued to partner with Mega Health Agencies and various companies including Madison Insurance and AAR to provide members with comprehensive medical cover for themselves, their families, members of staff working in their law firms and their dependants.

Currently the Scheme comprises of:

1. LSK Madison Scheme.
2. AAR Wakili- with additional benefits such as Professional Indemnity and Personal Accident Cover.
3. Young Lawyers Medical Scheme under Madison Insurance.

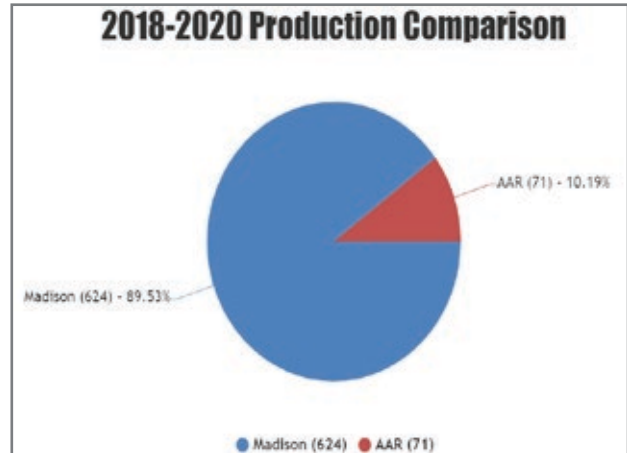
Special features of the Scheme:

- a) No medical examination required.
- b) General waiting periods are waived for AAR apart from maternity for all the schemes.
- c) Discounted medical premium
- d) Covers prematurity/congenital conditions
- e) Pre-existing/newly diagnosed conditions are covered.

The Medical Schemes have been ongoing since the year 2018. As at December 2020, the following are the members who were covered under the various schemes;

NAME OF SCHEME	NUMBER OF ADVOCATES COVERED
LSK Madison Scheme.	110
AAR Wakili	38
Young Lawyers Medical Scheme under Madison Insurance	134
Total Number of Advocates Covered	282

Members are encouraged to familiarize themselves with the various medical covers and subscribe in order to protect themselves and their families against financial liabilities occasioned by huge hospital bills that may be incurred as a result of ill health. The Young Lawyers Committee is currently engaging Mega Health Insurance and Madison Insurance with a view to reviewing the Young Lawyers Medical Scheme to offer Young Lawyers various affordable option.



The figure above depicts production comparison of the different medical cover providers for the years 2018 to 2020.

6. Admission held in 2021

Karibuni Kwenye Bar- Advocates Admission To The Bar

The Secretary/CEO, Ms. Mercy K. Wambua, OGW attended the Admission to the Bar Ceremony, on behalf of the Council, in the event held at the Supreme Court of Kenya Building on 13th September, 2021. She commended the newly admitted advocates for the spirited efforts that culminated in their admission to the Roll. She also encouraged the “Youngest Learned Friends” that in their quest to earn a living and growth in the profession, to consider giving back to the community in the form of taking up pro- bono briefs. *“If you stand up for those down on their knees, and lend a voice to those who cannot speak, if you shine a little light and give sight, to those who’ve lost their way, there’s place for people like you”- Ms. Wambua said, quoting Gramps Morgan.*



Her Ladyship, Honourable Chief Justice, Martha Koome, urged the newly admitted Advocates to be part of the solution to the problem of case backlog and delayed

delivery of justice by ensuring they abandon the age-old practices of unnecessary adjournments that delay the hearing of cases. She added that they should embrace the constitutionally envisaged shift to focusing on the merit of cases rather than unnecessary interlocutory and technical applications that have contributed to the delay in resolution of cases.

Welcome To The Bar

On the 22nd and 23rd November, 2021, The Honourable the Chief Justice, Lady Justice Martha Karambu Koome, EBS admitted a total of 510 lawyers into the Bar in events held at the Chief Justice Gardens at the Supreme Court in Nairobi. The Law Society of Kenya was represented at the by its President, Mr. Nelson Havi, Vice-President, Ms. Carolyne Kamende, Council Member Faith Odhiambo, the Secretary/CEO Ms. Mercy K. Wambua, OGW and the Deputy Secretary, Ms. Florence Muturi.

The Chief Justice, urged the advocates to go the extra mile to ensure the vulnerable in our society such as victims of gender-based violence, children, persons living with disabilities, and persons from minority and marginalized communities are enabled to access justice. On his part, the LSK President, Mr. Nelson Andayi Havi congratulated the youngest members of the Bar for having successfully argued their first hearing before the Courts. He added that the practice of law is a vocation, a noble profession that requires dedication to serve.

The newly admitted advocates were also informed that the Law Society of Kenya would host induction seminars for the young lawyers, to among others discuss on the ethics and conduct of Advocates, the legal practice, continuous professional development and compliance for its members. In addition to the compulsory induction seminars, the Society pioneered a Free Webinar on Members' Services to newly admitted advocates to assist them appreciate the working and the procedures at the Secretariat of the Law Society allowing for smooth applications and eased assimilation into the Society.

7. File Closing Ceremony For Departed Senior Counsel

The Honourable Chief Justice, Martha Koome, EBS on Thursday, 18th November, 2021 presided over a Special Ceremony in honour of departed colleagues in the legal profession, being Senior Counsel. The event themed, "Closing of file proceedings' honoured three departed Senior Counsels, Omparkash Nagpal, SC - P.105/1066/55, Mohammed Zahir Malik, SC - P.105/127/55 and Nzamba Kitonga, SC - P.105/1066/79" sought to officially pay tribute of the long service our departed colleagues.

In attendance were representatives drawn from across the Bar and the Bench, Judges of the Supreme Court, Court of Appeal, High Court, Magistrate Courts and Kadhi's Court. The ceremony was also attended by the Senior Counsel Bar and other guests drawn from state and non-state agencies and the Judiciary. Immediate family members of the departed too were in attendance. Present too to witness were immediate family members of the departed.

At the event, colleagues and family members took time to journey through the lifelong careers, accomplishment and dedicated service of the departed Senior Counsel who with a combined practice period of 166 years, the three SC contributed immensely to the growth of the Legal Profession and the Nation as a whole. Though as a Society we had continued to mourn them, we remain grateful that our late colleagues served in their tenure with so much to give and learn from for a longer time than they lived.

8. Newly Admitted Advocates Attend Pioneer Webinar On Members' Services

Newly admitted members of The Law Society of Kenya (LSK) attended a free pioneer Webinar on LSK Members' Services, held virtually on 23rd September, 2021. The LSK Secretary/CEO Ms. Mercy K. Wambua, OGW congratulated and welcomed the 96 new members to the professional body. She said that the objective of the pioneer Webinar titled *LSK Members' Services* was to take the newly admitted Advocates through the operations of the Secretariat and to make them understand operations of the Secretariat while demonstrating how to access various members' services.

The Secretary/CEO encouraged the Advocates to also attend the Continuing Professional Development (CPD) Webinar on *The Induction Course* on 10th December 2021 (from 2pm to 3.15). She noted that the Induction Course was compulsory for all newly admitted Advocates as there will be presentations on The Role of LSK, Advocates Benevolent Association (ABA) and Professional Ethics amongst others.

The LSK Deputy CEO and Director (Compliance & Ethics) Ms. Florence Muturi encouraged the newly admitted Advocates to uphold professional ethics. She noted that it was important to uphold professional integrity as respected members of our Honourable profession.

The Director of Practice Standards Ms. Mary Kitonga took the participants through requirements and the process of registration of a law firm, consultancies and

letters of no objection. She stated that no person shall be qualified to act as an advocate unless he or she been admitted as an Advocate and has a valid Practicing Certificate for the current year.

Mr. Harold Ayodo, CPD Director underscored the importance of Continuing Professional Development activities for compliance by stating that as newly admitted Advocates, one is exempted from the requirement of CPD compliance before applying for your initial Practicing Certificates. The CPD Programme Assistant Ms. Vanessa Tabut took the members through the online process of booking and payment of CPD Webinars.

The Public Interest and Litigation (PIL) Programme Officer Ms. Wangari Kagai encouraged the members to undertake *pro bono* matters towards aiding access to justice. She further informed the advocates that the LSK will this year hold its *Legal Awareness Week* from 25th to 29th October 2021 and encouraged all of them to participate.

ICT Officer Mr. Geoffrey Karani made a presentation in which he took participants through the process of application of Practicing Certificates online while the Chief Accountant Mr. Owen Kibunja made a presentation on how to make payments for the several LSK online services.

The Advocates' Benevolent Association (ABA) Programme Officer Ms. Esther Muriuki took the members through the operations of the Association by noting that the ABA has several programmes aimed towards improving the welfare of Advocates and their families in case a member unfortunately passes on.

9. LSK Member Service Week



The Law Society of Kenya held a Members' Service Week which started on Wednesday 10th March 2021 at the LSK Secretariat grounds and run till Wednesday 17th March 2021.

The first three days of the Members' service week saw over 100 advocates/ representatives being served at LSK Grounds with a majority of members showing up to pick their certificates and IDs while others following their CPD status, certificate of good standing and general inquiries amongst others.

During the service week, the Secretariat offered the following services to the membership. Collection of practicing certificates for the following years 2021, 2020, 2019 and 2018 for advocates practicing within Nairobi and its environs, (Chapters; Kiambu and Thika) while those advocates that practice in branches outside Nairobi and its environs were required to collect their practicing certificates at their respective branch Secretariat offices.

C. STRENGTHENING GOVERNANCE STRUCTURES OF THE LAW SOCIETY OF KENYA.

1. Council Induction, Training on Corporate Governance and Team Building

Increasing global competitiveness has created a need for good corporate governance practices that can ensure accountability, fairness and transparency in business processes and dealings. For an organization like LSK to achieve sustained growth, its corporate governance practices must be in line with internationally acceptable standards. To achieve this, the Council members held a two-day Induction Retreat at Enashipai Resort, Naivasha. They gained an understanding of the respective roles and responsibilities of Council Members and Management to the Society's stakeholders, accounting and auditing as support and control functions.



Council members pose for a group photo with the facilitators during the Council Retreat.

The training facilitated by Mr. James Kihara and Prof. Kiarie Mwaura was aimed at equipping the new Council members with tools and insights to enable them fulfil their professional goals as well as expectations of stakeholders. Council members were equipped with skills to shape effective corporate governance and responsible practices in the Society, and move towards sustainable management of the profession.

The Induction covered the following topics:

- Introduction to corporate governance/best practices
- Performance management (governance audit, board evaluation & performance contracting)
- Specific case studies in corporate governance
- Actualization of the vision of LSK & effective governance in LSK
- Leadership and strategic management for effective and efficient service delivery
- Role of the Council, Committees & Management
- Role of the President and Secretary/CEO
- Accountability, audit, internal controls & risk management

- Leadership and strategic management for effective and efficient service delivery
- Managing stakeholder expectations
- Managing board conflicts

Team Building & Leadership Effectiveness

In addition, during the Induction the Council undertook a team building and leadership effectiveness workshop facilitated by Solutions Africa. The training took place on Saturday 29th August 2020 at the Enashipai Resort and Spa - Naivasha. Twelve Council Members and the CEO attended the training aimed at onboarding new members of the Council as a high performing team. The training was necessary to enable the team to develop stronger cohesion and coalesce around a set of leadership principles to spur leadership effectiveness and to enable the members understand each other's personality preferences to be able to act as one.

The objectives of the team and leadership effectiveness training included;

- Enable the Council members to undertake personality preference profiling in order to get to know themselves and others around them better.
- Elevate the leadership skills of Council members.
- Create cohesiveness within the Council.

The one-day workshop was built on Insights Discovery solutions which starts with self-awareness and others' consciousness. This created the foundation for greater cohesiveness through bonding activities and trust building breakthrough conversations. Additionally, through use of short video clips that stimulated discussion, the delegates were able to strengthen their leadership capabilities and to self-identify what is working and what needs to be improved at both the



Council members during the team building session.

- Expand leaders' application of self-awareness and a deeper understanding of their leadership, communications, and decision-making and how they interact with others to be effective leaders.
- To elevate the Council's ability to lead in a crisis and to enhance the resilience of its members.
- To build better working relationship within the Council and between the Council and the Secretariat.
- Cultivate practical approaches to further develop team skills such as conflict resolution, problem solving and decision making.

personal and Council level. Under the theme, *Towards a High Performing Council Team*, the workshop program included the following phases.

Phase 1: Council completing the Insights psychometric evaluator.

This is the gateway into one's individual Insights profile and a journey into self-awareness and personal leadership effectiveness. Council members completed the Insights Discovery Preference Evaluator after which a personalized profile report was printed for each member. The report covered each participant's personal preferences in leadership styles, communication styles, decision making and how one interacts with others. It

also included the value each brings to the team, strengths and weaknesses, ideal working environment, blind spots, how to deal with people thought to be difficult to work with and suggestions for development. In a few cases, members also got insights into their transformational leadership competences and selling and influencing capabilities.

Phase 2: Discovering Personal Effectiveness Session

A facilitated interactive session to learn the basics of the Insights Model and concepts of personality and perception; and how they impact relationships, teams and leadership was conducted. These concepts were explored and applied to the context of the Council and its prevailing challenges to enable each member to understand themselves better and others through the 21-page personal profile. Through a series of activities, members discussed a wide range of issues including team communication, conflict management, overusing one's preferences, the need to demonstrate empathy and relationship building. The session provided the foundation for leadership, self-awareness and equipped members with the skills to adapt to each other's leadership style in order to be more cohesive and to function as a team.

Phase 3: Leading in a Crisis and Board Effectiveness

This session, focused on skilling the Council members on how to leverage their newfound self-awareness to be better leaders especially in the context of change, complexity, and crisis. They discussed bad-day behaviour and the importance of looking at multiple perspectives before jumping to conclusions. Using the Insights Discovery Team Effectiveness model and group exercises including colorful line-ups to reveal the intensity of preferences in the team, the members were able to discuss sticky issues that diminish effectiveness during board meetings. Through discussion and practice, the members appreciated that by embracing diversity rather than wanting to change everyone into their own preferences, and understanding and adapting to each other's styles and preferences, they achieve more and minimize conflict. Interactive games and exercises were incorporated in the retreat to allow bonding, collaboration and a fun learning environment.

2. STRENGTHENING OF LAW SOCIETY OF KENYA BRANCHES

Section 15 of the Law Society of Kenya Act, 2014 established Branches as organs of the Society. Branches are tasked with the mandate of dealing with practice

matters falling within their centers and addressing issues relating to the welfare of the members practicing in their centers; The Council through the Devolution Committee chaired by Mr. Bernhard Ng'etich, Council Member continued to support branches and monitor compliance of branch executives in line with the various compliance guidelines and checklist before disbursement of devolution funds. In the Year 2020, the Council undertook various key activities towards strengthening of the Branches;

a) Joint Meeting between the Council Committee on Devolution and Members of all the Eight Branch Executives

The Council through the Committee organized for the inaugural joint meeting between the Council, the Branch executive and leaders of all the chapters falling under each of the branches.

During the virtual meeting held on 22nd June 2020, the members of the Branch executives and Chapter leaders were inducted on the various governance and accountability changes brought by the Law Society of Kenya (General) Regulations 2020 and other Compliance check lists established by the Council.

Presentations on the following topics were made during the joint meeting;

1. Audit Presentation on Accountability
2. Presentation on Checklist Compliance
3. Management of Chapters (Account Opening)
4. Presentation on the LSK Act, 2014 and LSK Regulations, 2020
5. Summary of Disbursement of Funds to Branches, 2019

The Council will continue to hold engagement forums to enhance Branch interactions and to monitor the established branch and chapter structures across the country in line with the Law Society of Kenya (General) Regulations, 2020.

b) Strengthening Accountability Mechanisms

In an effort to ensure accountability on funds released to Branches, the Council continues to demand compliance and transparency from Branches. In fulfilling the pre-conditions set out prior

to disbursement of funds to Branches, the Society through the Devolution Committee and the Internal Audit Department, conducts periodic audits. Upon consideration of the recommendation in the Internal Auditor's report on compliance, the Council issues various directions including release of funds to the Branches.

c) Overseeing the Establishment of Branches and Conduct of Elections for Branch Executive

Establishment of the Rift Valley Branch of the Law Society of Kenya:

Historically, Rift Valley Branch operated as the Rift Valley Law Society. The Rift Valley Law Society was registered as an association whose membership comprised of advocates practicing in Nakuru only. With the enactment of the Law Society of Kenya Act, 2014, it was required that Rift Valley Branch be properly constituted and to comprise of advocates practicing within the following practice canters;

- Nakuru,
- Kericho,
- Naivasha,
- Laikipia,
- Kabarnet,
- Maralal,
- Bomet,
- Narok,
- Nyahururu,
- Molo; and
- Sotik

The Society oversaw the formulation of a Charter to operationalize the Rift Valley Branch. Further, the Charter stipulated the formulation of the Branch leadership. In order to ensure a successful transition from the Rift Valley Law Society to the Rift Valley Branch, the Council through the Devolution Committee held several consultative meetings with the leadership of the Rift Valley Law Society and various practice centers within the Rift Valley. The deliberations culminated in the holding of elections which saw the setting-up of Rift Valley Branch Executive. The Council through the Devolution Committee held engagement meetings with members practicing in the Rift Valley and the elections board in preparations for the elections. On 26th – 29th June, 2020, the Branch held its inaugural

Branch elections, electronically. Mr. Ochang' Ajigo was elected as the Chairperson of the Rift Valley Branch.

d) Resolution of Disputes within Branches;

The Council continued to assist the branches to resolve various disputes in leadership as and when they arose;

Mediation of the Bomet Charter Representative Stand Off:

The Council through the Devolution Committee was notified of a dispute on representation of the Bomet Centre in the Rift Valley Branch Executive. The Centre elected Mr. Geoffrey Kipng'etich Korir to be the Bomet Centre Rep. Subsequently he vied to be the Secretary General of the Branch, where he was elected unopposed. He relinquished his position as a Centre Representative. Subsequently, the Centre elected Ms. Carolyne Chemutai as their Representative. However, Ms. Carolyne Chemutai was initially not sworn in for the reason that the Secretary General would double up as Bomet Centre Representative. The Devolution Committee intervened and resolved the standoff which saw Ms. Carolyne Chemutai sworn in as the Bomet Centre Representative to the Rift Valley Branch Executive.

e) Consultative Engagement between the Council and the Branch Executives

On 2nd July, 2020 the Council through the Devolution Committee organized and held a virtual engagement forum with Branch Executives. During the meeting, several issues were canvassed which include Audit presentation on accountability, Presentation on checklist compliance, Management of chapters (account opening), Presentation on the LSK Act and LSK Regulations 2020 and Summary of disbursement of funds to branches, 2019.

f) Building the Capacity of the Members of the Eight Branch Executives on Financial Reporting

With increased funding through the devolution funds, the Society needs to ensure that finances devolved to the Branches are properly utilized and accounted for. Upon the undertaking of periodic internal audits of the finances of the Branches, it was noted that there was need to capacity build of the Branches Executives and on the Branch

secretariat staff on book keeping, accounting and preparation of financial reports. In this regard, the Council through the Devolution Committee has organized for trainings of all the Secretary Generals of the various branches on preparation of financial reports.

g) Ensuring Financial Sustainability by the Branches

The Devolution Committee is mandated to approve disbursement of funds to Branches, in line with the LSK (General) Regulations. The Committee, prior to disbursement of funds stresses on strict compliance with the set out conditions, which include but are not limited to strict adherence to the set compliance checklist, submitting a budget and Branch Audits. Further, in the event of non-compliance, the Committee has recommended that monies be withheld until compliance is met. With stringent measures in place, the Council continues to witness an improvement in Branch accountability. This has ensured more vibrant Branches.

h) Establishment of Law Society of Kenya, County Attorneys and County Assembly Forum

In order to strengthen its networks with the 47 Counties and to undertake its mandate of assisting the Government of all matters relating to the Law, the Council established a joint forum with the leadership of the County Attorneys and County Assembly Lawyers. Through the Devolution Committee, the Council has embarked on formulating a memorandum of understanding to operationalize the forum. Through the forum, the Council will address concerns and challenges facing advocates working for counties.

a) Opening of the Law Society of Kenya Mount Kenya Branch Secretariat Offices

On 27th October, 2020, the Council joined the leadership of the Mount Kenya Branch, its members amongst them His Excellency Hon. Kiraitu Murungi (Governor) and Hon. Florence Kajuju (Ombudsman) in the official opening of the Branch Secretariat and the unveiling of the plaque in Meru Town. The Branch Chairlady Ms. Linda Kiome and Chapter Chairmen: Jeremiah Mbuthia, Samuel Ngigi, Duncan Okwaro, Charles Karweru, Amos Chweya, Kirimi Muturi and Ken Muriuki were also present.



A Section of the LSK Council led by the President, Mr. Nelson Havi pose for a photo after the official opening of the Mt. Kenya Secretariat Offices.



The plaque of the official opening of the Mt. Kenya Branch Secretariat Offices.

The Law Society of Kenya Mount Kenya Branch Secretariat office will serve members of public and advocates practicing in Meru, Nyeri, Maua, Nanyuki, Embu, Kerugoya, Karatina, Othaya, Muranga, Chuka and Isiolo practice centres. Members practicing within these practice centers are encouraged to visit the Branch offices and to liaise with the Branch executive on matters touching on welfare and practice matters.

3. FORMATION AND RECONSTITUTION OF THE COMMITTEES OF THE LAW SOCIETY OF KENYA

Pursuant to Section 40 of the Law Society of Kenya Act, the Council of the Law Society of Kenya undertook a detailed analysis of the constitution of the Society's Committees, with a view to ensuring that they work effectively and efficiently. Towards this end, the Council reconstituted the Committees and set up new ones



to deal with emerging matters. Subsequently, the Council issued a call to members to express interest for appointment to serve in the various committees of the Society for the period 2020- 2022.

The following Committees were established for the period 2020- 2022.

NO	NAME OF COMMITTEE	CHAIRPERSON
1	Development and Investment	Mr. Patrick Ochwa Okoth
2	Gender Committee	Ms. Beth Michoma
3	Practice Standards and Ethics Committee	Mr. George Omwansa
4	Audit Committee	Mr. George Omwansa
5	Editorial Committee	Dr. Lois Musikali
6	Public Procurement Committee	Ms. Aluso Ingati
7	Ad-Hoc Advocates Remuneration Order Committee	Mr. Ben Musau
8	Information Communication Technology /Intellectual Property (ICT/IP) Committee	Ms. Aluso Ingati Co- chair Ms Esther Ang'awa
9	Continuing Professional Development (CPD)	Ms. Esther Ang'awa
11	Public Interest, Human Rights and Legal Aid Committee	Ms. Faith Odhiambo
12	Welfare & Medico-Legal	Ms. Carolyne Kamende
15	Budget and Finance Committee	Mr. Munzala Javier
16	LSK Committee on Senior Counsel	Mr. Ahmednasir Abdulahi, SC.
17	In- House Counsel Committee	Ms. Ndinda Kinyili
18	Land, Conveyancing, Environment and Natural Resources Committee	Mr. Peter Mwangi
19	LSK Criminal Justice Committee	Mr. Wilfred Nderitu
20	Building Bridges Initiative Committee	Ms. Roseline Odede
21	Committee on Lawyer-Police Relations	Ms. Carolyne Kamende
22	Young Lawyers Committee	Ms. Riziki Emukule
23	Alternative Dispute Resolution Committee	Mr. John Ohaga
24	Law Reform and Constitutional Implementation Committee	Ms. Herine Kabita
25	Tax Adhoc Committee	Mr. Daniel Ngumy
26	WIBA Committee	Mr. Justus Mutia
27	Immigration Law Committee	Ms. Esther Ang'awa
28	Child Law Practitioners	Ms. Roseline Odede and Ms. Emukule Riziki
29	Taskforce on Law Reform	Gathii Irungu

N.B Comprehensive reports on the mandate of each of the Committee and the achievements made in the year 2020 is provided for under the Chapter on Committee Reports.

In addition to the Society's Committees established under Section 40, of the Law Society of Kenya Act, the Council established Council Committees comprising of only members of the Council members;

The Council Committees include

1. Staff Finance and Budget Committee Chaired by Vice President Ms. Carolyne Kamende;
2. Devolution Committee Chaired by Mr. Bernhard Kipkoech, Council Member;
3. Communications Committee, Chaired by the President Mr. Nelson Andayi Havi;
4. Programmes Committee, Chaired by the President, Mr. Nelson Andayi Havi.

4. CONSTITUTIONALISM, RULE OF LAW, PUBLIC INTEREST AND ADVOCACY.

In line with its mandate to uphold the Rule of Law, protect and assist the members of the public in Kenya in matters relating to, ancillary or incidental to the law, the Council through the Public Interest and Human Rights Committee undertook strategic public interest litigation, legal aid and collaborative advocacy;

i. Obedience to Court Orders;

The Council is committed to supporting the promotion of the rule of law, especially the protection of the dignity and independence of the Judiciary. There seemed to be an increase in the rate of disobedience to court orders especially by the Executive and otherwise curtailing of the Judicial Independence in 2020. To this end, the Council initiated a drive to collate from advocates and members of public information relating to court orders that the Government failed to honour.

The Council continued to mount pressure and putting the Government to task, more so in honoring court orders and protection of the Constitution. In its meeting held on 12th June, 2020 the Council resolved to move a motion in the Ordinary General Meeting of the Law Society to be held on 23rd July 2020, to expel the Attorney General and the Solicitor General from being members of the Society for subverting the rule of law, and misadvising the President of the Republic on obedience to court orders and specifically failing to advise the President of the Republic of Kenya properly on the appointment of Judges in line with the recommendation by the Judicial Service Commission and in compliance with various court orders. However, the motion was not considered during the Ordinary General Meeting held on 23rd July, 2020 due to court orders issued restraining the Council and the General Membership from discussing the matter pending hearing and determination of a case filed in Court by the Attorney General and Solicitor General.

ii. Willie Kimani Commemoration, "The Purple Ribbon Campaign"-

Four years since the disappearance and murder of Willie Kimani Advocate, Joseph Muiruri and Josephat Mwenda, The Law Society of Kenya, the International Justice Mission and International Commission of Jurists organized a commemorative webinar held **on Tuesday 23rd June 2020**, which brought together practitioners from the legal and human rights fraternity.



Ms. Hannah Kimani, Willie Kimani's widow signing the visitors book during the 4th commemoration ceremony of Willie Kimani. Looking on is the LSK CEO, Ms. Mercy Wambua, OGW and Ms. Carolyne Mutheu, Council Member.

On this day, Council Members, the victims' lawyers and the widow of Willie Kimani, Hannah Kimani joined members in commemorating the 4th anniversary of the departed member Willie Kimani. The Council urged the Judiciary to expedite the hearing of the case filed against the suspects arrested over the killing of lawyer Willie Kimani, his client and driver.

The Council through the Lawyer Police Relations Committee launched the **LSK toll free line 0800-720434** which is available for use by members to report on cases of harassment of Advocates by law enforcers. Through the Lawyer Police Relations Committee led by the Vice-President, Ms. Carolyne Kamende, the Council committed to coming up with ways, policies and means which shall among others bring to end such atrocities meted on colleagues in the course of their duties.

The commemorative ceremony was followed by a webinar which held discussions on enforced disappearance and advancing accountability in Kenya. The webinar brought together practitioners from the legal and human rights fraternity which included the following speakers; Mr. Noordin Haji, ODPP, Ms. Li Fung from OHCHR, Mr. Victor Kamau from KNHCR, Ms. Wamaitha Kimani from IJM and Mr. Hussein Khalid from Haki Africa as well as members of the public as participants.

Members were urged to don purple ribbons throughout the **Purple Ribbon Campaign Week** in remembrance of our fallen heroes.



The Vice President, Ms. Carolyne Kamende (left), Ms. Hannah Kimani (center) and LSK President, Mr. Nelson Havi (left) pose for a photo after the commemoration ceremony.

iii. **Petition to the Hon. Chief Justice and President of the Supreme Court of Kenya for Dissolution of Parliament.**

On the 17th July, 2020, the Council petitioned the Hon. Chief Justice and President of the Supreme Court of Kenya for dissolution of Parliament pursuant to Article 26(7) of the Constitution for blatant failure to enact the 2/3rds gender rule, nine (9) years after the promulgation of the Constitution and way forward beyond the constitutional timelines under Schedule 5 of the Constitution. Parliament is in contravention of the Constitution by neglecting, refusing and/or failing to perform its constitutionally imposed obligation to realize the 2/3rds gender rule encapsulating the principle that not more than 2/3rds of the National Assembly and the Senate shall be of the same gender.

The petition prepared by the Gender Committee in collaboration with the Public Interest & Human Rights and Law Reform and Constitutional Committee was based on the grounds that;

- ▶ Parliament as currently constituted does not meet the Constitutional gender threshold; and

That the Parliament failed to fulfil its constitutional obligation of enacting legislation to realize the 2/3rds gender rule according to Article 27(6) and Article 27(8) of the Constitution despite several Court Orders compelling it to do so.

Pursuant to the Petition by the Law Society of Kenya and upon hearing submissions from all the parties, on 21st September, 2020, the Hon. Chief Justice issued an advisory opinion to the President of the Republic of

Kenya advising him to dissolve the Parliament. Upon service with the advisory, the Parliament moved to Court seeking to quash the advisory by the Hon. Chief Justice.

iv. **Law Society of Kenya 1st Conference on Article 81(A) of the Constitution of Kenya- 2/3rd Gender Rule Conference**

The Council through its Gender Committee chaired by Ms. Beth Michoma, Council Member organized and coordinated a live stream conference on Article 81(b) of the Constitution of Kenya (the Two -Thirds Gender Rule) that was held on Friday 14th August 2020 at the LSK Secretariat. The conference was streamed live on the Society's Twitter, Facebook and YouTube accounts and attracted over 500 members in attendance through the three panel discussions spread out across the day.

The conference was held in a three-part panel discussion by speakers with knowledge on the topic of discussion. The panel discussion highlighted the following areas;

- The Case for Gender equality in Kenya and the Ruling on the Advisory Opinion No. 2 of 2012, In the Matter of the Principle of Gender Representation in the National Assembly and the Senate,
- The journey towards implementation of the Two-thirds Gender Rule in Kenya and;
- The steps taken by Parliament to enact legislation to operationalize the Two-thirds Gender Rule and the petition by the Law Society of Kenya and other actors to the Chief Justice of the Republic of Kenya to advice the President of the Republic of Kenya to dissolve Parliament.

The Conference was sponsored by the **Supporting Inclusive Resource Development (SIRD)** through the Global Affairs Canada (GAC). The SIRD in East Africa project is a five-year project funded by Global Affairs Canada and implemented by the Canadian Bar Association working with the East Africa Law Society, the Law Society of Kenya, the Uganda Law Society and the Tanganyika Law Society



The Chairperson of the Gender Committee Ms. Beth Michoma with Participants posing for a group photo after the 2/3rd Gender Rule Conference.

Protest March Against the Parliament “Occupy Parliament”

Upon the issuance of the Advisory opinion by the Hon. Chief Justice on the dissolution of Parliament, the Law Society of Kenya President, Mr. Nelson Andayi Havi led a march with a delegation of lawyers- from the Supreme Court to Parliament buildings on 12th October 2020, to protest against the continued operation of Parliament as the same was considered to be illegitimate.

The delegation was granted entry at Parliament and held a meeting with the Clerk of the National Assembly in the Speaker’s Boardroom where they raised concerns over the continued operation of Parliament despite the advisory opinion by the Hon. Chief Justice. It was the position of the Law Society of Kenya that Parliament had become illegitimate upon the issuance of the advisory opinion by the Chief Justice. Parliamentarians did not require President Uhuru Kenyatta to dissolve Parliament but should have vacated peacefully. In addition, Parliament had also failed to oversight and sanction President Uhuru Kenyatta in appointments of Cabinet Secretaries in disregard of Two-thirds Gender Rule and failure to appoint judges in line with recommendation by the Judicial Service Commission.

v. Introduction of Law Society of Kenya Discourse Webinar Series

The Council through the Communications Committee introduced for the first time in the Society’s history public discourse/ Online talks on emerging issues that impact on legal and societal development. The series referred to as the **Law Society of Kenya Discourse** were offered as follows:

1. **Session 1:** Held on 21st May 2020 under the theme **“Third World by Choice Positioning Africa in the Global Context”**. Talk by Dr. Auma Obama.
2. **Session 2:** Held on 9th June 2020 under the theme **“A conversation with Women of Kenya”**. The Speakers were Ms. Daisy Amdany and Ms. Jerotich Seii.
3. **Session 3:** Held on 14th July 2020 under the theme **“The Good, the Bad & the Dictum - Exorcizing the Ghost of Anarita Karimi v Republic”**. The Speakers were Muthomi Thiankolu, Prof Githu Muigai, Prof Winnie Kamau and Elisha Ongoya.

4. **Session 4:** Held on Monday 31st August 2020 from 2:00pm- 4:00pm. Under the Theme **“The Transformation into and Endurance of a Hybrid Constitution in Kenya”**. The speakers were: Duncan Okubasu, Advocate, Theunis Roux- University of New South Wales, Prof. Patricia Kameri Mbote, Mark Tushnet- Harvard Law School, and Tom Ginsburg-University of Chicago School of Law, Justice Kathurima M'Inoti- Judge Court of Appeal and Dr. Tom Daly- Melbourne University School of Government.
5. **Session 5:** Held on 4th September 2020 from 3:00-5:00 pm under the theme **“Public Procurement of Essential Medical Supplies in Kenya: Emerging Legal, Constitutional and Ethical Issues”**. The Speakers were Muthomi Thiankolu, Advocate, Dr. Elizabeth Gitau- CEO, Kenya Medical Association and Ibrahim Kitoo, Advocate.

All the sessions were public sessions drawing participants from the general membership and moderated by Ms. Valentine Khaminwa, Advocate. The recordings can be found on the Law Society of Kenya social media pages.

vi. Prioritizing Policy and Legislative Reforms

COMMEMORATION OF THE 10TH ANNIVERSARY OF THE PROMULGATION OF THE CONSTITUTION OF KENYA – KATIBA DAY

As part of advocacy on constitutionalism, and in partnership with the Ford Foundation, the Law Society of Kenya, through the Law Reform & Constitutional Reforms Committee chaired by Ms. Herine Kabita, Council Member organized a series of activities in commemoration of the 10th Anniversary of the promulgation of the Constitution of Kenya on 27th August, 2020.

• Commemoration Church Service/Ceremony

In conjunction with the Kenya Christian Professionals Forum, the Council, organized and held a Commemoration Church Service/Ceremony at the Nairobi, Holy Family Basilica during the 10th Anniversary of the Promulgation of the Constitution where members of the Law Society of Kenya, members of the Kenya Christian Professional Forum and members of public participated in a church service in commemoration of the 10th Anniversary



Council members and participants pose for a group photo after the commemoration of the 10th anniversary of the promulgation of the Constitution of Kenya – Katiba Day

of the promulgation of the Constitution of Kenya. During the service, the Constitution of Kenya was dedicated to God and copies shared with members of public.

- **Commemoration Conference**

In conjunction with the Kenya Christian Professionals Forum and with the support of the Ford Foundation, the Council, held a Commemoration Conference at the Law Society of Kenya Secretariat Grounds and online through Zoom Webinar Platform. This was a regional debate bringing on board regional constitutional experts, members of civil society and legal practitioners.

There was a panel discussion on, the implementation status of the Constitution, the challenges and the prospects for the future were held during the Conference. The Conference panelists included;

- The late Mr. Nzamba Kitonga, SC (rip)- Former Chair, Committee of Experts on Constitutional Review (CoE).
- Ms. Atsango Chesoni – Former vice Chair, Committee of Experts on Constitutional Review (CoE).
- Mr. Kamotho Waiganjo – Former Member, Committee of Experts on Constitutional Review (CoE).
- Dr. Gichuki Njaramba – Lecturer, University of Nairobi

The discussion was moderated by Mr. Duncan M. Okubasu, Advocate of the High Court of Kenya and Lecturer, Public Law, Moi University and Ms. Neddie Akello, Managing Partner, Strategy MAMRA SITACUS Advocates LLP.

- ▶ **Signing of a Proclamation to Safeguard the Constitutional Gains by Defending and Upholding the Constitution by Professional Bodies**

Members of different professional bodies signed a proclamation titled, **“Proclamation by Kenyan Professionals to Promote Constitutional Values and to Commemorate Katiba Day.”**

By signing the proclamation, the different professionals in different professional bodies and associations in Kenya — acknowledged the supremacy of the Almighty

God of all creation, His leadership over our country, its laws and people, honored the Constitution of Kenya, 2010, its promulgation on 27th August 2010 and its continued direction and guidance in our beloved Country, Kenya over the last ten (10) years and committed to uphold and defend the Constitution of Kenya, 2010 as well as the values enshrined therein.

- ▶ **Declaration of 27th August as Katiba Day- Constitutional Day**

In addition, the different professional bodies in Kenya, declared and set aside 27th August as the Constitutional Day (**Katiba Day**) by all professionals and Kenyans of goodwill and committed to recognize and appreciate the said promulgation every year and to uphold the spirit and letter of the Constitution of Kenya, 2010.

The Professional Bodies, committed to recognizing and promoting the values embraced in the Constitution and to jointly and severally advocate to have them upheld and defended in our beloved country, Kenya. It was noted that the proclamation does not intend to mark or set aside 27th August as a public holiday.

The professional bodies and associations included; Law Society of Kenya, Kenya Christian Professionals Forum; The Association of Professional Societies in East Africa , Institute of Certified Public Accountants of Kenya, Institute of Certified Secretaries of Kenya , The Chartered Institute of Arbitrators, Institute of Human Resource Management, Kenya Union of Post-Primary Teachers, Kenya National Union of Teachers, Kenya Private Sector Alliance, Nursing Council of Kenya, Institution of Engineers of Kenya, Architectural Association of Kenya, Institute of Quantity Surveyors of Kenya, Kenya Association of Project Managers, The Association of Construction Managers of Kenya, The Kenya Union of Journalists, Public Relations Society of Kenya, Marketing Society of Kenya and Kenya Institute of Supplies Management. The day's events were streamed live on the Society's Twitter, Facebook and YouTube accounts.

D. PUBLIC INTEREST, HUMAN RIGHTS AND AWARENESS

Law Society of Kenya Legal Awareness Week – 12th to 16th September 2020

The Council of the Law Society of Kenya through the Public Interest and Litigation Committee Chaired by Ms. Faith Odhiambo, Council Member observed the 2020 Legal Aid Week from 12th - 16th October, 2020. The Legal Awareness Week was held under the theme "**Securing**

Legal Aid Clinics

Through PIL Committee and the eight branches, the Council organized legal aid clinics across the country. Branch chairpersons and branch executives oversaw the implementation of the conceptualized activities at various venues in strict conformity with the Ministry of Health Covid-19 guidelines.



Ms. Faith Mony Odhiambo, (Second on the Right), Council member Ms. Carolyne Mutheu and Mr. George Omwansa, Ms. Aluso Ingati and participants pose for a group photo during the Legal Awareness Week launch.

Constitutionalism & the Rule of Law: Reflection on 10 years of the Kenyan Constitution" comprised of various activities geared towards promoting access to justice, advancing *pro bono* legal services and Legal Aid. The activity was implemented countrywide amidst the Covid- 19 pandemic but whilst adhering with the Covid -19 health restrictions. The Legal Awareness week was launched on the 12th October 2020 at the Emara Ole Sereni Hotel in Nairobi.

The Advocates involved in legal aid and human rights work had an opportunity to offer free legal aid services during the week. The advocates engaged with members of the public with a view to promote a better understanding of the role they play in the advancement of legal literacy, advocacy and access to justice. In Nairobi, Legal Aid Clinics were held at the Milimani Law Courts and Supreme Court Grounds.



Members of the public receiving legal advice at the Milimani Law Courts.

Hybrid Panel Discussions on Securing Constitutionalism and the Rule of Law: Reflection on 10 years of the Kenyan Constitution”.

Alongside the legal aid clinics organized across the country, the Council held five- day panel discussions under the theme *Securing Constitutionalism and the Rule of Law: Reflection on 10 years of the Kenyan Constitution*”. The Panel discussions (hybrid) were hosted from Olesereni Hotel and virtually via the Zoom/ Webinar platform. Various eminent speakers were invited and made presentations on various topical sub-themes.

► **A comprehensive analysis of the Constitution as a whole; Gains and gaps with regard to the Bill of Rights & Economic and Social Council (ECOSOC) rights as a whole.**

This topic was divided into three panel with each panel discussing various aspects as below;

► **A comprehensive analysis of the Constitution of Kenya as a whole: Gains and gaps with regards to the Bill of Rights and ECOSOC rights**

The 1st panel interrogated the topic on, *A Comprehensive analysis of the Constitution of Kenya as a Whole: Gains and Gaps with regards to the Bill of Rights and ECOSOC rights as a Whole*. The speakers were Prof. Kameri Mbote, Prof. Tom Ojienda, Dr. Duncan Ojwang, Mr. Evans Monari, Mr. Maurice Makoloo, Ms. Catherine Mumma and Prof. Kivutha Kibwana. The discussions were moderated by Dr. Collins Odote, Advocate and Mr. Sam Alosa, Advocate.

► **The gains and challenges on access to justice and rule of law in counties.**

The 2nd panel interrogated the topic on, *The Gains and Challenges on Access to Justice and Rule of Law in counties*. The speakers were; Mr. Ahmendnafir Abdullahi, SC, Mr. Chacha Odera, Dr. Njaramba Gichuki, Mr. Happy Olal and Mr. Cyrus Maweu. The discussion was moderated by Mr. Evans Ogada, Advocate and Ms. Barbara Malowa, Advocate.

The 3rd panel interrogated the topic on, *the gains of Alternative Dispute Resolution and new frontiers under the Constitution*. The speakers were; Ms. Njeri Kariuki, Ms. Eunice Lumallas, Ms. Makena Okiro, Ms. Jackline Waihenya and Ms. Victoria Kigen. The discussions were moderated by Ms. Riziki Emukule, Council Member and Mr. Gichohi Waweru who stood in for Ms. Carolyne Mutheu, Council member.

► **Children’ rights, perspectives in the current context of rise in teenage pregnancies and rights of children in conflict with the law.**

The speakers were Hon. Millie Odhiambo, MP, Ms, Emma Mumma, Mr. Michael Wasonga, Ms. Evelyn Samba and Ms. Maureen Mwadime. The discussions were moderated by Mr. Mwaura Kabata, Advocate and Mr. Brian Odongo, Advocate.

► **A Focus on Devolution.**

This panel was graced by the Hon. Eugene Wamalwa, EGH, CS for Devolution, Mr. Elijah Ambasa, Ms. Rosemary Njaramba and Mr. Eric Theuri. The discussion was moderated by Mr. Bernhard Ng’etich and Ms. Herine Kabita, Council Members.

► **Women and Persons with Disabilities.**

The panel discussion was graced by Hon. Esther Passaris, OGW, Hon. Peter Kaluma, Ms. Anne Ireri, Dr. Anettee Mbogo, Ms. Roseline Odede, Mr. Clement Kemboi, Mr. Kizito Ouma, Comm. Praxedes Tororey, Ms. Wanja Maina and Mr. Otieno Aluoka. The discussions were moderated by Ms. Beth Michoma and Mr. George Omwansa, Council Members.

► **Youth and Access to Justice through the Use of Information Communication and Technology (ICT).**

The discussions were interrogated by Ms. Linda Bonyo, Hon. Elizabeth Tanui, Mr. Christopher Wanyonyi, Ms. Jacinta Nyamosi, Mr. Stanley Mwangi and Ms. Janet Othero. The discussions were moderated by Ms. Aluso Ingati and Ms. Ndinda Kinyili, Council Members.



The panel discussion on Children’ rights, perspectives in the current context of rise in teenage pregnancies and rights of children in conflict with the law led by Hon. Millie Odhiambo.

Various partners' involved in legal work also joined the LSK during the Legal Awareness Week where they showcased their services with a view of promoting a better understanding by the public of the role lawyers play in the advancement of legal literacy and advocacy. The objective of the Legal Awareness Week is to promote the mandate of the Law Society of Kenya by extending legal literacy and awareness to members of the public.

The activity was impactful and the indicators were;

- Over 1200 litigants assisted countrywide
- Over 20 participating organizations
- Feedback from Members of the public and Advocates
- Number of audience logged in to the webinars, twitter, Facebook and YouTube live
- Active participation by Kenyans in Twitter (KOT) with trending conversations on discussions under the hash tag #LSKLegalawareness2020
- Media coverage by members of the press

► **Support to Community in Kwale County – Covid 19 Pandemic**

The Law Society of Kenya through the **Supporting Inclusive Resource Development (SIRD)** Project has been at the forefront in providing public legal education, community sensitization campaigns, trainings, pro-bono legal aid clinics and supporting women led advocacy activities in Kwale County, for the past three years. The LSK SIRD project felt that it was necessary to stand with community members in villages of the county, through the preparation and distribution of care packages, while at the same time, share with community members, basic knowledge on available preventative and protective measures that they can take to protect themselves and their families.

LSK- SIRD representative in Kwale County distributed the care package to 45 households which consisted of reusable/washable masks; five liter jerricans of hand-wash liquid soap; five kilogram maize meal bags; sanitary towels and umbrellas. Additionally, the project also provided masks, hand washing water bins, umbrellas and liquid soap to the Msambweni Police, Sub County headquarters; Msambweni County Sub-County office and the Chief's Office.

During the distribution exercise in each of the five villages, Government officials including Public health officers, nurse in charge, police - gender desk, police - crime desk and the Assistant County Commissioner

were present and assisted in coordinating the distribution to community members and participated in sensitizing the community on preventative measures, government directives in place to prevent the spread of the virus, reporting mechanisms and organizations and helpline numbers available to assist in matters of gender based violence or sexual gender based violence.

In April, 2020 the Law Society prepared and circulated an E-handbook titled, **“Safeguarding Basic Rights During Covid-19 Pandemic”**. The E-book was prepared in conjunction with partners of the LSK including, FIDA-Kenya, NGEK, KNHCR, GVRC, Wangu Kanja Foundation among others and sought to champion the basic and fundamental rights, creating awareness and informing members of the general measures that had been taken by the Society in furtherance of its agenda to protect and inform the public.

E. PUBLIC INTEREST MATTERS

Updates on missing Person- Benson Njau Kayai, Advocate

On the 16th of June, 2021, the Council represented by Council Members; Mr. Kipkoech Bernard, Mr. George Omwansa, Ms. Carolyne Mutheu, Ms. Ndinda Kinyili, Ms. Beth Michoma, as well as Ms. Mercy K. Wambua, Secretary/CEO and Mr. Gichohi Waweru Advocate called on the Langata Police Station, Criminal Investigation Department and the OCPD Langata. The engagement sought to find out the status of investigations into the case of our colleague Mr. Benson Njau Kayai Advocate.



Accompanied by Mr. Stephen Ongaro Advocate, Counsel watching brief for the Law Society of Kenya in the suit before court, the Council had deliberations with the OCPD and the DCI on the best approach to proceed with the matter seeing that no arrests had been made, and orders previously issued by the Court had not been complied with.

Further, Hon. Wangari, MP Gilgil had raised the question before the National Assembly and requested the Inspector General of Police and the Director of the Criminal Investigation Department to report as to the status of the investigation on the case of our missing colleague. The officers from Langata informed the Council that they had filed their responses with the IGP and the DCI Director for tabling before the National Assembly.

F. IMPROVING ADMINISTRATIVE AND POLICY STRUCTURES AT THE SECRETARIAT

► Effects of Covid-19 Restrictions on Secretariat Operations

In order to adhere to the Covid-19 containment restrictions issued by the Government in the first quarter of the year the Secretariat downsized its operations. Employees were allowed to work from home while others worked on rotation. The Council ensured that sufficient Covid-19 containment measures were installed and adhered to including the following:

1. Installation of automatic hand sanitizer machines at designated points at the Secretariat offices.
2. Purchase of hand washing stations placed at strategic places within the Secretariat offices and grounds.
3. Purchase and supply of hand sanitizers
4. Purchase and supply of Personal Protective Equipment (PPE) for Covid-19 i.e face masks and hand gloves.
5. Purchase of thermometer guns
6. Frequent sanitization and fumigation of the offices.

In addition to ensuring that the staff members using the offices were protected against exposure to the Corona Virus, staff members with underlying medical conditions were allowed to work from home as well as those falling under the age of 58 years and above. Although the operations of the Secretariat offices were downsized, the office was never closed. The Secretariat quickly adopted ICT systems that allowed members to continue receiving services;

- a) Members continued to apply for practicing certificates through the online platform.
- b) Members were allowed to submit scanned copies of application and supporting documents for practicing certificate through email as opposed to submission of hardcopies at the Secretariat.
- c) The Secretariat availed soft copies of practicing certificates for the year 2020 online by uploading them on the members' individual online portal. This ensured that members were able to access copies of the Practicing Certificate by downloading them from the online portal. In addition, the Secretariat scanned and emailed members their copies of practicing certificates, letters of good standing and other letters of enquiries on request.
- d) Use of Zoom and Webinar platform to host Council and Committee meetings. The Secretariat effectively facilitated the holding of meetings through the use of zoom and webinar platform. Some of the meetings took the hybrid model- (Both physical and virtual)
- e) Online Advocates Disciplinary Committee Sittings- the Secretariat facilitated the holding of weekly Advocates Disciplinary Committee sittings. The use of Information, Communication and Technology (ICT) systems effectively ensured that the operations of the Committee were revived after a few months of downscaling that saw some of the matters being removed from the cause list. The virtual sittings have so far proven to be an effective mode of holding the sittings although majority of the complainants who are self-representing face challenges of unstable or no internet supply.

WEBINAR EVENT ON - THE REPORT CARD 'COUNCIL'S 100 DAYS IN OFFICE

July, 1st 2020 effectively marked 100 days since the Council took over office on the 24th March, 2020. On this day, during a panel discussion chaired by Ms. Valentine Khaminwa, Advocate, Mr. Nelson Andayi Havi, the LSK President updated members and the general public on the work that the Council had done in the first 100 days in office.

The highlight of the 100 days covered the Presidents' three-point agenda, on monitoring legislation, protecting the practice environment and defending the rule of law. The hybrid event was held through the Zoom/Webinar platform.



The LSK President, Mr. Nelson Havi and Vice President, Carolyn Kamende giving members an update on the work that the Council had done in the first 100 days in office.



REPORTS OF THE LAW SOCIETY OF KENYA COMMITTEES

COMMITTEE ON DEVELOPMENT AND INVESTMENT

The Committee on Development and Investment is chaired by **Mr. Patrick Ochwa Okoth**. The members are Nelson Havi (LSK President), Carolyne Kamende (LSK Vice President), Charles Njiru Kanjama, Dennis Sang Kipkoech, Flavian Mulama, Betty Koech Chepng'eno, Athanas Mwita Kerario, Gladys Kemunto Magara, Peter Mogaka Ondati, Morris Mutua Kimuli and Stella Wangui Muraguri.

The Committee held its first Meeting on 17th September, 2020 to deliberate on the possible construction of the **Wakili Plaza** at Gitanga Road following a Resolution passed by members at the virtual Annual General Meeting (AGM) held on 23rd July 2020. The AGM mandated the Council to appoint members to the Committee on Development and Investment to advise, steer and deliver the necessary process leading to development of the Law Society of Kenya properties.

The Meeting resolved to form three sub-committees to deliberate on several aspects of the proposed Wakili Plaza.

LSK Development and Investment sub-committees and their tasks are listed below:

Sub Committee I:

The sub-committee was tasked to:

- Deliberate to ensure that all necessary approvals and statutory requirements have been met to facilitate the development of **Wakili Plaza** on L.R. No. 3734/16 along Gitanga Road in Lavington – Nairobi.
- Come up with funding options for the development of **Wakili Plaza** on L.R.No.3734/16 (Gitanga Road).

Members:

1. Mr. Nelson Havi, LSK President
2. Mr. Patrick Ochwa, Chairman
3. Mr. Morris Kimuli
4. Ms. Caroline Mutheu
5. Mr. Flavian Mulama
6. Mr. Collins Odhiambo – **Secretariat**

Sub Committee II:

The sub-committee was tasked to:

- Deliberate on how to advertise, prequalify and appoint through a transparent and accountable process, suitable architects, engineers and developers to propose appropriate and creative development plans, architectural plans, suitable and sustainable financing options to fund the proposed development and present a report for members consideration and approval at a Special General Meeting (SGM) that will be convened for that purpose.
- Deliberate on how the architectural plan shall take into consideration, among other factors, the need for a multi-purpose facility that will host the Secretariat, Continuing Professional Development, Advocates Disciplinary Tribunal, Advocates Benevolent Association and other LSK activities, meeting rooms and retail spaces for commercial use.

Members:

1. Mr. Nelson Havi, LSK President
2. Ms. Carolyne Kamende, LSK Vice President
3. Mr. Patrick Ochwa, Chairman
4. Mr. Charles Kanjama
5. Mr. Davis Sang
6. Ms. Betty Koech
7. Mr. Harold Ayodo – **Secretariat**

Sub Committee III:

The sub-committee was tasked to:

- Deliberate on how to present an online quarterly progress report to Branches and members on the progress of the project to keep them updated and engaged.
- Deliberate on how the Council, with the advice of the Development and Investment Committee shall consider how best to utilize the South C plot and submit a report to the members for consideration and approval in a Special General Meeting (SGM).

Members:

1. Mr. Charles Kanjama – Chairman
2. Mr. Peter Ondati
3. Mr. Mwita Kerario
4. Ms. Stella Muraguri
5. Ms. Gladys Magara
6. Mr. Michael Chege – Secretariat

Pursuant to advise by the Committee, the Council opened a bank account with the Standard Chartered Bank “**Wakili Plaza Account**” for purposes of depositing any funds received from members and well-wishers to develop and construct the Wakili Plaza.

GENDER COMMITTEE 2020-2022

Section 15 (1) of the Law Society of Kenya, The Council may from time to time appoint committees or subcommittees consisting of members of the Society; and may, except as otherwise expressly provided by this Act or by any regulations made under this Act, delegate to any such committee or subcommittee all or any of the powers of the Council. Gender being one of the Committee appointed by The Council.

Responsibilities of the Committee:

1. Advise council and the law society membership on all matters gender.
2. Promote principles of equity and equality in Participation of members in the legal profession
3. Promote the concerns of both male and female Lawyers within the society and in the legal profession.
4. Mainstream gender in all aspects of the legal fraternity.
5. Foster cooperation and partnerships touching on Gender issues with other institutions at local, regional or international levels.

Successes of the Committee**1. Petition on two-thirds gender principle and representation in Parliament.**

LSK petitioned the Court for dissolution of Parliament on grounds that it has failed to enact the necessary and/ or required law to achieve the two-thirds gender rule including deliberate attempts to circumvent their duty to make and pass laws.

The Chief Justice advised the President of the Republic of Kenya to dissolve Parliament.

2. Conference on article 81(b) of the constitution of Kenya (the two-thirds gender rule).

The Conference focused on gender equality, the journey and the steps taken by Parliament towards implementation of the two-thirds gender rule.

The event was geared towards discourse on gender equality, the journey towards implementation of the two-thirds gender rule and the Petition by the Law Society of Kenya to the Honourable Chief Justice of the Republic of Kenya to advise the President of the Republic of Kenya to dissolve Parliament.

The Committee sought video submissions to be part of a collection of posts aimed at publicising the journey to the implementation of the two thirds gender rule.

Video submissions was integrated into our live streamed gender conference held on the 15th of August 2020 and featured on main and social media in the period leading to the conference.

3. Sexual Harassment and Anti-Bullying Policy and reporting tool

The Committee created a gender desk and an email address genderreporting@lsk.or.ke that is responsible for receiving confidential complaints on sexual harassment, bullying and inappropriate behavior in the workplace.

4. Webinar on Sexual Harassment and Bullying in the legal profession

Sexual Harassment has been conceptualized as a form of gender-based abuse and bullying emerging as a significant challenge in the workplace and has substantial effects on complainants. It is a source of humiliation or intimidation in the work place and may either be physical, verbal or written.

The legal profession is not spared from the scourge of sexual harassment and bullying in the workplace. To this end, the Law Society of Kenya through its Gender Committee organised a Webinar on Sexual Harassment and Bullying in the legal profession which will focus on the Sexual Harassment and Bullying Policy 2019

The webinar aimed at understanding and implementing the Sexual Harassment and Anti-bullying Policy.



5. Webinar on Equity, Inclusion and Diversity.

The panel discussion aimed at ensuring Equality and inclusion at the Bar while promoting our diversity.

This was a panel discussion followed by a plenary session. The panel encompassed a representative from the women advocates, upcountry representatives, a Person with Disabilities representative, young lawyers, senior bar and in-house representative.

The discussion centered on inclusion of each member of the Society; focus on addressing obstacles that hinder progression within the profession and ensures fair treatment and opportunity for all.

6. Draft Constitution of Kenya (Amendment) Bill, 2020 and Webinar on the Draft Constitution of Kenya (Amendment) Bill, 2020

Members submitted Comments on the Draft Constitution of Kenya (Amendment) Bill, 2020 and Webinar on the Draft Constitution of Kenya (Amendment) Bill, 2020. The Committee reviewed the Bill on the gains and/ or losses of women and girls and persons living with disability in the proposed amendments.

The memorandum addressed the concerns raised and contributions made by members of the Law Society of Kenya and like-minded members of the society, academia and the public at large engaged. Through a webinar held under the auspices of the Gender Committee of the Law Society of Kenya in a bid to get views on tangible measures advocated by the initiative in building the gender bridge and the broader impact on all special interest groups.

7. Submission of Comments on the draft East African Community Gender Equality and Development Bill, 2017

On the 17th Ordinary meeting of the EAC Heads of State Summit which was held on 2nd March 2016 decided that all Bills which are due for presentation to the Summit for assent must have been submitted to the partner States at three months prior to an ordinary meeting of the Summit and to which the Heads of State have given no objection.

The general comment in the final submitted document was that promotion of equality between women and men is a task for the EAC, in all its activities, required by

the Treaties. Gender equality is a core value of the EAC and a fundamental human right that cannot be ignored by partner states.

8. Recognizing the international women day

The Gender Committee designated March 2021 as "LSK Women's History Month" by uploading interviews and profiles on our Social Media pages celebrating the Women of the Bar and the Bench on whose shoulders we stand and to those who make up our future.

On March 2022, the Gender Committee reminded members that **Advocates are custodians of the law**; this title gives us the responsibility and gravitas to spearhead the fight for gender equality and ensure equality and the empowerment of all Women and Girls towards a sustainable future.

9. Webinar on addressing the pay gap in the legal profession and tips for pay negotiation.

The discussion addressed the fiscal matters that affect women in law firms, pay disparities and how to negotiate a good remuneration package.

The issues discussed were, one must consider market value, skill level, expertise, education, geographic location, potential, urgency, long vs. short term needs, company culture, organizational size and growth, competition, the economy, pay equity with current staff, etc. so they work in salary "ranges and parameters" to find just the right compensation.

The goal is win-win. They want good employees to stay and be productive and you want equitable and fair compensation.

10. Sensitization training of Sexual Harassment at the Kenyatta National Hospital.

Gender Committee partnered with the Kenyatta National Hospital to conduct the training on sensitization of Sexual Harassment at the Workplace.

The work environment is made up of various people who experience challenges that are recognized and dealt with. There is, however, a disconnect when it comes to dealing with matters touching on sexual harassment. This burden eventually ends up being the victim's problem other than the harasser. The Law Society of Kenya therefore undertook to partner with the Kenyatta National Hospital (KNH) to sensitize its members on sexual harassment.

The training centered on:

- a. Designing a working environment that is free of sexual harassment and establishing a platform for addressing these issues without retaliation or discrimination;
- b. Overview and creating awareness at the workplace on Sexual Harassment;
- c. Guidance on implementation, actualization of the Sexual Harassment Policy and management of Sexual Harassment at the workplace; and
- d. Significance of structures for addressing complaints that are efficient and legal processes involved.

11. The working group on review of Sexual Offences Act and Gender Based Violence 2022

The Working Group on the review of the Sexual Offences Act and Gender Based Violence was formally reconstituted on 29th October 2021 during the NCAJ Council Meeting. The Committee held a workshop for further discussion for its activity planning as well as formulates resources strategies.

The members in the Workshop agreed to formulate a taskforce to review the Sexual Offences Act, map and review laws on Gender Based Violence.

Work In Progress

1. Maternity Mentoring scheme

The scheme will match mentors and mentees on maternity mentoring scheme based on work, family and life to avoid overlapping with other mentorship programs resulting to a database and mentorship booklet.

PRACTICE STANDARDS AND ETHICS COMMITTEE

The Practice Standards and Ethics Committee is chaired by **Mr. George Okenyo Omwansa** and the committee's mandate is to monitor and keep under review the ethical values, professional principles and standards regulating and governing advocates, their organizations and their areas of practice, and in particular:

- I. Develop proposals for best practice and changes to professional principles, values and standards for submission to the Law Society of Kenya;

- II. Respond to consultations on changes to professional principles, values and standards promoted by the Law Society of Kenya and other regulators;
- III. Provide support and advice on interpretation, management, and best practices in relation to ethical values, professional principles and standards as appropriate; and
- IV. Report to the Council of the Law Society of Kenya, and seek its approval for policy proposals and for major responses to consultations so that they are able to comply with their responsibilities to act in the public interest, with integrity, objectivity, professional competence, due care, confidentiality, and in compliance with all relevant laws and regulations.

The committee has undertaken several activities during the year as listed below:

1. Reviewing of the previous committees' drafts of various guidelines with a view of finalizing the drafts as listed below:
 - a. The LLP/Generic names/Consultancy Practice Guidelines.
 - b. The Guidelines on the Establishment of the Inspectorate Unit.
 - c. The Back Fees Practice Guidelines /policy on the Issuance of Practicing Certificates to Judicial Officers.
 - d. The Social Media Guidelines.
2. Developing a draft Code of Conduct for Virtual Court Sessions (VOCS-2020); the committee came up with a draft and organized a webinar stakeholder engagement to collect views and input from the membership. The committee finalized the draft VOCS-2020 for consideration by the Council.
3. Addressing the issue of the shrinking legal market in Kenya; members discussed this matter at length during the inaugural meeting. It was agreed that this has become a big issue and the setting up of an inspectorate unit at the Secretariat as provided by LSK Regulations, 2020 is urgent. The convener has been pursuing the matter with the Council as committee members' research on the possible structure and guidelines for the inspectorate unit. The Council wrote to the Inspector General of Police requesting for police officers to be seconded to the Secretariat to assist with the investigating and

arresting of masqueraders. A meeting was held with the 2 police officers who have been seconded to assist the Society. It was agreed that a structure of the inspectorate unit would have to be set up and would require substantive funding that would also cater for the police officers' allowance/fees.

4. Campaign to weed out masqueraders/quacks: The committee has been pursuing the arrest of masqueraders and has undertaken going around the Branches to weed them out. So far, the committee has liaised with Meru Branch officials and Thika Branch officials and visited both Meru and Thika to collect evidence of a number of unauthorized/unqualified persons practicing as advocates.
5. The committee was requested by Council to offer an advisory opinion based on submitted legal opinions on the combination of local law firms with international law firms or group of law firms and the use of generic names by local law firms.
6. The committee was requested to draft a Memorandum on Court Fees Structure 2020 that was forwarded to the Judiciary.

The Committee successfully undertook the following activities within the year:

1. Three sub-committees were formed to work on draft guidelines on specific practice areas. The committee finalized- the Social Media Guidelines which have undergone public participation.
2. The committee drafted and finalized the Memorandum on Court Fees Structure 2020.
3. The committee held a webinar on 14th July, 2020 to analyze and discuss the Draft LSK Guidelines for Virtual and Online Court Sessions, 2020. The committee finalized the draft Code of Conduct for Virtual Court Sessions- (VOCS) 2020.
4. The committee undertook the campaign to weed out masqueraders/quacks which is still ongoing. The committee has received many reports from the membership with regard to quacks. The reports have been compiled and are being followed up.
5. The committee visited Meru Branch and Thika Branch and reported the quacks who are operating in those areas through issuing of letters and statements to the DCI who are investigating the individuals. The matters are ongoing. The committee together with

the Practice Standards Directorate issued Notice to Show Cause letters to Advocates who are harboring quacks and allowing them to practice within their law firms in Meru and Thika areas. The committee prepared a budget for the campaign which was tabled before the Council for approval. Once the budget is approved, the committee can proceed to visit the remaining Branches.

6. The committee through the Practice Standards Directorate engaged the Business Registration Services (BRS) in a bid to collaborate to develop the register of law firms.

The committee plans to proceed with the following activities in the coming year:

- I. Developing a compendium on professional misconduct cases in collaboration with the Advocates Disciplinary Committee.
- II. Establishing the inspectorate/compliance unit in line with the LSK, Regulations 2020 to deal with quacks and masqueraders.
- III. Developing a register of law firms pursuant to the 2020 LSK Regulations.

PRACTICE STANDARDS AND ETHICS COMMITTEE-2021

Terms of Reference

The Committees' mandate is to monitor and keep under review the ethical values, professional principles and standards regulating and governing advocates, their organizations and their areas of practice, and in particular:

- I. Develop proposals for best practice and changes to professional principles, values and standards for submission to the Law Society of Kenya;
- II. Respond to consultations on changes to professional principles, values and standards promoted by the Law Society of Kenya and other regulators;
- III. Provide support and advice on interpretation, management, and best practices in relation to ethical values, professional principles and standards as appropriate; and

- IV. Report to the Council of the Law Society of Kenya, and seek its approval for policy proposals and for major responses to consultations so that they are able to comply with their responsibilities to act in the public interest, with integrity, objectivity, professional competence, due care, confidentiality, and in compliance with all relevant laws and regulations.

Activities & Achievements

7. Reviewing of the previous committees' drafts of various guidelines with a view of finalizing the drafts as listed below:
 - a. The LLP/Generic names/Consultancy Practice Guidelines.
 - b. The Guidelines on the Establishment of the Inspectorate Unit.
 - c. The Back Fees Practice Guidelines /policy on the Issuance of Practicing Certificates to Judicial Officers.
 - d. The Social Media Guidelines.
8. Continuing Campaign to weed out masqueraders/quacks: The committee has been pursuing masqueraders in collaboration with the LSK Branches and have made various reports to the police to investigate.
9. The committee undertook a webinar in May 2021 on analyzing and discussing the 'Advocates Draft Guidelines on Registration of Law Firms, Limited Liability Partnerships & Use of Generic Names by Law Firms, 2021'.
10. The committee undertook a webinar in November, 2021 on the topic of 'Taxation Regimes for Law Firms in Kenya.' The webinar was well received by the membership.

AUDIT COMMITTEE

The Internal Audit and Risk Committee is chaired by **Mr. George Omwansa Okenyo, Council member** and is responsible for reviewing the Society's internal controls and risk management systems. The Committee was supported by the Internal Audit Department and the management in undertaking their role.

The Committee consists of eight members, three Council members and five members from the general membership. A total of four meetings were convened

during the year on 11th August 2020, 18th September 2020, 5th October 2020 and 23rd October 2020. During the meetings, various findings were tabled before the committee by the internal audit department and recommendations adopted for management implementation. The Committee identified potential improvements on governance, risk management, and control practices that were communicated to the management for implementation.

AUDIT COMMITTEE- 2021

The Internal Audit and Risk Committee is tasked with a responsibility of reviewing the Society's internal controls and risk management systems. The Committee is supported in its task by the Internal Audit Department and the management.

The committee consists of eight members, three Council members and five members from the general membership. The committee is chaired by **Counsel George Omwansa Okenyo**. During the year, the committee engaged with the management virtually through the internal audit department. During the virtual engagements, deliberations and consultations were made and recommendations and advisory communicated to the management for implementation.

Special General Meeting of the Law Society of Kenya

In its Council Meeting held on 17th December 2021, the Council resolved, to hold a Special General Meeting (SGM) on 18th January 2021 to discuss five specific agenda items. Consequently, on 18th December 2020, a notice informing members of the Special General Meeting with 5 specific agenda items namely;

- a) To approve the appointment of Grant Thornton as the Society's external auditor for purposes of auditing the accounts of the Society for the period 1st January, 2020 to 31st December, 2020 pursuant to Regulation 52 of the Law Society of Kenya (General) Regulations, 2020"
- b) Elections of six members to serve in the Elections Board for the election of the Female Member Representative of the Judicial Service Commission;
- c) Elections of six members to serve in the Elections Board for the election of Members of the Advocates Disciplinary Committee;

- d) To consider and approve the Independent Electoral and Boundaries Commission (IEBC) as the electoral body to conduct by, secret ballot, the Elections for the Female Member representative of the Law Society of Kenya to the Judicial Service Commission (JSC) and members of the Advocates Disciplinary Committee to be held on 25th March 2021;
- e) To make a resolution indicating the law firm, law firms, or lawyer to appear for the Law Society of Kenya in Petition No. E087 of 2020 and Petition No. E090 of 2020 pursuant to the Court order made on 17th December, 2020 by Mr. Justice James Rika.

The Special General Meeting was held on 18th January, 2021 during which the Agenda was amended on the floor to include the appointment of Parker Randall as the Auditors to undertake forensic audit of the accounts of the Law Society of Kenya among other amendments. The SGM was held both physically and virtually. After the SGM several members filed cases seeking inter alia the setting aside of the processes undertaken at the SGM held on 18th January, 2021 and the Resolutions thereto on the basis that no polls were taken in passing the Resolutions and that the members who joined the meeting virtually were not given opportunity to participate in the meeting and decision making. These cases include:

1. **High Court Petition No. E025 of 2021; Adrian Kamotho Njenga vs. Nelson Andayi Havi and Others**, seeking inter alia the setting aside of the processes undertaken at the SGM held on 18th January 2021. Vide a Ruling dated 3rd February 2021 Hon. Justice Korir ordered the suspension and staying of all the impugned resolutions and decisions of the Special General Meeting of the Law Society of Kenya held on 18th January 2021 pending the hearing and determination of the said Petition. The aforesaid Ruling is subject of appeal at the Court of Appeal christened **Civil Appeal No. E044 of 2021, Nelson Havi & 3 Others vs. Adrian Kamotho & 10 others** in which the Applicant herein seeks to set aside the decision of the High Court, the matter is scheduled to come up for hearing of the substantive Appeal on 30th March 2021.
2. **Judicial Review No. E005 of 2021; Lempaa Suiyanka & others vs. Adrian Kamotho & 10 others**, Six members of the Law Society of Kenya filed a Judicial Review seeking for Prohibition restraining the Respondents and their subordinates or agents from implementing any of the Resolutions

passed at the Special General Meeting of 18th January 2021, orders of certiorari to bring to this court and to quash the proceedings of the Special General Meeting of 18th January 2021 in their entirety, orders of mandamus compelling the Respondents to place the agenda from the Special General Meeting of 18th January, 2021 before the members of the Society at the statutory Annual General Meeting scheduled for March 2021 per Section 30 of the Law Society of Kenya Act, 2014 or at a properly convened and fairly conducted Special General Meeting, as the case may be and that the Respondents be further compelled to facilitate online polling on all agenda items and decisions at the meeting.

Hon. Justice Ngaah Njairus in a Ruling made on 26th February, 2021 granted the applicants leave to apply for Judicial Review orders as stated above despite Section 9 of the Fair Administrative Action Act, 2015. The matter is scheduled to be heard on 26th March, 2021.

PUBLIC PROCUREMENT COMMITTEE

The Committee is convened by **Ms. Aluso Ingati** deputized by **Ms. Ndinda Kinyili**, both Council Members. It was established in July, 2020 with the following core mandates;

1. Monitoring legislation in the public procurement and asset disposal space.
2. Adoption of a multi-disciplinary approach to standardizing procurement procedures in the public sector.
3. Ensuring that law firms run by advocates in the youth category are catered for in all procurement and asset disposal proceedings.
4. Incorporate mentorship of the firms in clause 3 above by making it mandatory for large firms to work with a small firm in all their projects.
5. Get an inventory of all the law firms in clause 3 above.
6. Capacity building for members on public procurement and asset disposal legislations.

The Committee has so far had 2 meetings and the following is the work that is currently ongoing:

1. **Petition on some provisions of the Public**

Procurement and Asset Disposal Act 2015 and Public Procurement and Asset Disposal Regulations 2020

The Committee filed a Petition in the High Court in Nairobi seeking to address the Constitutionality of **Sections 167 (2)** and **175 (2)** of the Public Procurement and Asset Disposal Act No. 33 of 2015 and the Public Procurement and Asset Disposal Regulations, 2020. The counsel representing the petitioner is Mr. Innocent Muganda of Sagana Biriq Advocates.

MoU between LSK and Public Procurement Regulatory Authority (PPRA)

The Society through the PPC is in the process of formulating an MoU with PPRA to push for standardization of tenders for provision of legal services to give the upcoming lawyers opportunity to participate in the procurement proceedings and be awarded contracts. It is evident that public Procuring Entities (PEs) discriminate upcoming Advocates by setting the Bar too high which technically locks out the less experienced Advocates for example the **Kenya Mortgage Refinance Company - Tender no. KMRC/038/2020**

The committee has made the following accomplishments:

1. Training

Through this Committee, the Society entered into a Memorandum of Understanding (MoU) with the Kenya School of Law (KSL) for various training courses on matters to do with public procurement, at negotiated rates.

Under the year in subject, the committee has facilitated one training with KSL with the following training focus:

1. Ability to apply the Public Procurement and Asset Disposal Act and Regulations.
2. Equip the participants with the skills to help the public in preventing or resolving disputes arising out of the public procurement process.
3. Improve the skills of participants in litigation before the Public Procurement Administrative Review Board (PPARB).
4. Enhance the rule of law through sensitizing the public on the essentials of an effective public procurement regime.

5. Provide an opportunity for legal practitioners to extend the frontier of their fields of practice.
 - Participants acquired 3 CPD points; and
 - There is another training coming up in January 2021.

PUBLIC PROCUREMENT COMMITTEE - 2021

Mr. Boniface Kivuva is the head of the procurement department. The department is responsible for the provision of technical leadership on all matters to do with sourcing, policy development, and illuminating the staff on procurement systems and processes taking cognizant of the emerging issues in the field with a view of amplifying efficacy in the Society's operations.

Below are some of the departmental objectives;

- a. Cost leadership through cost-benefit analysis approach.
- b. Enhanced operational efficiency and effectiveness
- c. Optimum and prudent utilization of available scarce resources
- d. Responsible sourcing
- e. Developing robust strategic alliances/partnerships
- f. Supply Chain value creation and additions.

The procurement department is nexus to the supply chain management processes which involve both upstream and downstream operations which include logistics management, sourcing, acquisition, product value addition amongst other pivotal supply chain activities. This has been achievable through synergy creation and building rapport between the procurement function and the user departments which together constitute a supply chain management team. Additionally, the department provides technical support and serve as the Secretariat to the Public Procurement Committee (PCC)

In support of the Society's goals and objectives, the Unit has continuously developed sourcing strategies that support the overall Society's strategies; such as the development of Key Performance Indicators (KPIs), supporting the Society's procurement needs for a diverse and globally competitive supply base and development of supply options and contingency plans



that support Society's overall strategic plan of intending to move from transactional to a strategic approach.

The department has warranted a progressive enhancement of the cross-functional collaboration to streamline Society's procurement processes through the development of explicit and succinct technical specifications resulting in reduced procurement operational costs and enhanced ability to verify the conformity of the said technical specifications upon supply and delivery of the resulting product(s) thus achieving high-efficiency levels whilst at the same time enabling improved effectiveness and great customer service and experience.

The department developed Consolidated Annual Procurement Plan(CAPP) which emanated from the specific departmental procurement plans/work plans then rationalized and amalgamated. CAPP is an accounting document that is mapped with the overall Secretariat's budget estimates used to eradicate maverick purchasing whilst promoting strategic supply chain management and therefore an accounting tool.

The department has further developed a procurement service charter that helps to smoothen supply chain management operations and equally manage suppliers'/ service providers/contractors' and user departments' expectations in respect to procurement services and activities such as the delivery of products and services, standards of quality and conflict resolutions.

As the department toiled to deliver in its mandates, below are some of the challenges it faced;

- Sometimes it was an uphill task to strike a balance in all the factors of the Scope triangle (Cost, Quality, and Time) as they are inherent in all projects, and, either way, they must trade-off.
- Supply chain uncertainties and the current pandemic has caused global supply chain disequilibrium that affected the global, regional and local economy leading to products scarcity in the market resulting in a price surge, this ultimately affected the delivery of some of the departmental mandates.

EDITORIAL COMMITTEE

The Law Society of Kenya's Editorial Committee's Chairperson is **Dr. Lois Mwendu Musikali** while the Deputy Chairperson is Mr. Eliud Ngugi, Advocate.

The Committees mandate includes;

1. To consider, edit and recommend for publication, articles for the Journal and the Advocate Magazine.
2. In consultation with the Committee on Continuing Legal Education, consider papers delivered at the CLE seminar for publications in Journal and Advocates Magazine.
3. To advise on the strategies of improving the reading and legal writing culture among members.
4. Consider and advise on measures for income generating activities for the Law Society publication.

Some of the activities the committee has had include;

- The committee held its inaugural meeting on 12th June 2020 and have so far held 5 meetings.
- A Member Mr. Eliud Ngugi was nominated unopposed as the Deputy Chairperson.
- The Members generated a list that highlights their areas of specialty for ease of allocation of papers and articles for the Advocate Magazine and the LSK Journal respectively.
- The committee produced and published the LSK Advocate Magazine Special Issue which has been dispatched to members.
- The committee has expedited with the pending papers and fresh papers (received between 2019 to date) by allocating the papers whose authors expressed interest in pursuing their papers for publication with various editorial committee members for review. So far, there is no backlog of papers.

The committee has outlined the following planned activities for the coming year, 2021;

- The committee is finalizing on the publication of the draft LSK Journal Volume 16 (1) 2020 (with 5 articles) as was adopted and agreed upon by the previous Editorial Committee.
- Finalization of the Editorial Policy.
- The committee is also working on issuing a call for articles for the journals which will be hybrid meaning that there will be sections for example part A for the thematic area, part B may have general articles and part C for short submissions (case reviews etc)
- The committee is working on a call for articles for the Advocate Magazine, March Issue 2021.

EDITORIAL COMMITTEE- 2021

The Law Society of Kenya's Editorial Committee's Chairperson is Dr. Lois Mwendu Musikali, Advocate while the Deputy Chairperson is Mr. Eliud Ngugi, Advocate.

The Committees mandate includes;

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3. To advise on the strategies of improving the reading and legal writing culture among members.
4. Consider and advise on measures for income generating activities for the Law Society publication.

Some of the achievement the Committee has met include;

- The Committee published the LSK Journal Volume 16 (1) 2020 (with 5 articles) as was adopted and agreed upon by the previous Editorial Committee.
- The Members generated a list that highlights their areas of specialty for ease of allocation of papers and articles for the Advocate Magazine and the LSK Journal respectively.
- The Committee has expedited with the pending papers and fresh papers (received between 2019 to date) by allocating the papers whose Authors expressed interest in pursuing their papers for publication with various editorial committee members for review. So far, there is no backlog of papers.
- The Committee has finalized the Editorial Policy which is already in use. The same was shared with members during the call for articles for the LSK Journal which will be a hybrid in that there will be parts for example part A for the thematic area, part B may have general articles and part C for short submissions (case reviews etc)

The Committee has outlined the following planned activities for the coming year, 2022;

- Finalize and publish the LSK Journal Volume 17 (1) 2021 from the available papers shared by members.
- The Committee is working on a call for articles for the Advocate Magazine 2022.

AD-HOC COMMITTEE ON ADVOCATES REMUNERATION ORDER REPORT

The Ad-Hoc Advocates Remuneration Order Committee constitutes of 11 members drawn from all practice areas and chaired by **Mr. Benjamin Musau**. The principal mandate of the Committee is to amend the Advocates (Remuneration) Order, 2014 (ARO), the Court of Appeal Rules, 2010 and the Supreme Court Rules, 2012 in matters Pertaining to taxation and costs.

The committee has held several meetings and, in a retreat, held on the 30th January, 2020 – 1st February, 2020 developed a Roadmap to guide it in execution of its mandate. The committee also tasked its members to develop concept papers/drafts on why the ARO should be amended, and further to amend the schedules.

The amended schedules have been consolidated into an interim report, which comprises of a review of all Schedules of the Remuneration Order including the incorporation of new schedules which includes; proposed (new) Schedule 13 on Anti-Counterfeit Enforcement, Costs of Proceedings in Arbitration and other ADR Mechanisms and Costs of Proceedings in Criminal Cases. Additionally, the committee recommends to the respective rules committees to consider its proposals for amendments to the scale fees for Court of Appeal and Supreme Court matters.

Further, there is a proposal to harmonize the schedules by rearranging the current structure so as to bring about harmony in the ARO. Schedules 4 & 12 should be consolidated while schedules 8, 9, 11 & 12 should be arranged sequentially to make it easy for advocates, clients and the courts to make reference to them.

The committee has planned to undertake the following activities:

a. Briefing the Hon. Chief Justice

LSK President will seek an appointment to brief the Chief Justice on the work being undertaken by the committee so that His Lordship can be ready to receive the final report after the stakeholder engagements.



b. Regulation Impact Statement and Economist Engagement

The Committee is in the course of procuring the services of an RIS expert and an economist to advise on the impact of the proposed amendment to the ARO. The terms of reference for the two consultants have been forwarded to the procurement officer to enable him initiate the procurement process.

c. Circulation to Branches and Members

The reviewed report incorporating the views of the RIS expert and the economist shall thereafter be sent to all the members of the Law Society and to the branch chairs for them to hold consultations in line with the requirement of law on public participation within the respective 8 branches. The committee had initially recommended that these consultations be done in a half day CPD forum that will give members 1 CPD point for participation.

However, in an effort to comply with the ministry of health guidelines on curbing the spread of Covid -19, currently the CPD forums are held on Webinar platform and the committee awaits directions from the CPD Committee on how the consultations can be undertaken.

d. The Meeting of the Committee to Consolidate the Input From The Branches

The committee will hold a meeting to consolidate the input from the branches and to revise the draft.

e. Stakeholder engagements

The committee will invite representatives from stakeholders affected or likely to be affected by the instrument, to meetings to give their input about the draft. They include;

1. Judiciary and Tribunals
2. Parliament/Legislature
3. *Kenya Bankers Association* (KBA)
4. *The Association of Professional Societies in East Africa* (APSEA)
5. Kenya Private Sector Alliance (KEPSA)
6. Association of Kenya Insurers (AKI)
7. Federation of Kenya Employers (FKE)
8. Central Organization of Trade Unions (COTU)*
9. Consumers Federation of Kenya (COFEK)
10. Civil Society groups/NGOs

11. National Legal Aid Service (NLAS)

f. Retreat to Consolidate Stakeholders' Input

The committee agreed to hold a retreat to consolidate the input of the stakeholders, and to prepare the final draft of the report at the end of October this year, modalities to be discussed in a small committee meeting on where and how to do a retreat when the situation changes in the future.

g. Committee Consultation on the Final Report (Boardroom)

Committee consultation on final report is set to be held in early November.

h. Submission of the Report to Council

The Committee will thereafter submit the final Report to Council for onward transmission to the Chief Justice. (Dates to be confirmed).

AD-HOC COMMITTEE ON ADVOCATES REMUNERATION ORDER REPORT - 2021

The Ad-Hoc Advocates Remuneration Order Committee is chaired by **Mr. Benjamin Musau** and constitutes of 11 members drawn from all practice areas. The principal mandate of the Committee is to amend the Advocates (Remuneration) Order (ARO), 2014, the Court of Appeal Rules, 2010 and the Supreme Court Rules, 2012 in matters Pertaining to taxation and costs.

The Committee has amended the ARO schedules which have been consolidated into an interim Report, comprising of a review of all Schedules of the Remuneration Order including the incorporation of new schedules which includes; proposed (new) Schedule 13 on Anti-Counterfeit Enforcement, Costs of Proceedings in Arbitration and Other ADR Mechanisms and Costs of Proceedings in Criminal Cases. Additionally, the committee recommends to the respective rules committees to consider its proposals for amendments to the scale fees for Court of Appeal and Supreme Court matters.

Consequently, there is a proposal to harmonise the schedules by rearranging the current structure so as to bring about harmony in the ARO. Schedules 4 & 12 should be consolidated while schedules 8, 9, 11 & 12 should be arranged sequentially to make it easy for advocates, clients and the courts to make reference to them.

Pursuant to Section 20(A) of the Small Claims Court Act No. 2 of 2016, the Hon. Chief Justice of the Republic of Kenya, Hon. Lady Justice Martha Koome, setup a Committee to formulate an order prescribing and regulating remuneration of advocates appearing before the Small Claims Court. The aforementioned Committee comprising of among others, representatives of the Law Society of Kenya Ad-Hoc Committee on Remuneration Order, has come up with a Proposed Remuneration Schedule which has undergone public participation as required by law.

Planned Activities on amendment of the ARO;

a. LSK President to brief the Chief Justice

LSK President will seek an appointment to brief the Chief Justice on the work being undertaken by the committee so that Her Ladyship can be ready to receive the final report after the stakeholder engagements.

b. RIS and Economist engagement

The Committee is in the course of procuring the services of RIS expert and an economist to advice on the impact of the proposed amendment to the ARO. The terms of reference for the two consultants have been forwarded to the Procurement officer to enable him initiate the procurement process.

c. Circulation to branches and members

The reviewed report incorporating the views of the RIS expert and the economist shall thereafter be sent to all the members of the Law Society and to the branch chairs for them to hold consultations in line with the requirement of law on public participation within the respective 8 branches.

d. The meeting of the committee to consolidate the input from the branches

The Committee will hold a meeting to consolidate the inputs from the branches and to revise the draft.

e. Stakeholder Engagement

The Committee will invite representatives from stakeholders affected or likely to be affected by the instrument to meetings to have their inputs about the draft. They include; -Judiciary and Tribunals Parliament/Legislature, KBA, APSEA, KEPSA, AKI, FKE, COFEK, Civil Society groups/NGOs, NLAS.

f. Retreat to consolidate the stakeholders' input

The committee agreed to hold a retreat to consolidate the input of the stakeholders, and to prepare the final draft of the report.

g. Committee consultation on final report (Boardroom)

Committee consultation on final report is set to be held before submission to the Council.

h. Submission of the Report to Council

The Committee will thereafter submit the final Report to Council for onward transmission to the Chief Justice.

Challenges;

1. RIS and Economist engagement

The Committee is in the course of procuring the services of RIS expert and an economist to advice on the impact of the proposed amendment to the ARO. The terms of reference for the two consultants have been forwarded to the Procurement officer to enable him initiate the procurement process. However, the procurement process has stalled since last year due to financial challenges. The Committee requests the Council to consider facilitating it financially to enable it conclude the project.

2. Public Participation

The reviewed report incorporating the views of the RIS expert and the economist shall thereafter be sent to all the members of the Law Society and to the branch chairs for them to hold consultations in line with the requirement of law on public participation within the respective 8 branches. The committee had initially recommended that these consultations be done in a half day CPD forum that will give members 1 CPD point for participation.

The Committee through the Chairman engaged the CPD Convener through email on how the same could be undertaken but the Committee is yet to receive a response since last year. The Committee therefore requests if the forums could be availed to enable it conclude the project.

INFORMATION COMMUNICATION TECHNOLOGY / INTELLECTUAL PROPERTY (ICT/IP) COMMITTEE

The ICT/IP Committee is chaired by **Ms. Aluso Ingati and Ms. Esther Ang'awa** and successfully held five meetings in the year 2020. Members formed a WhatsApp group for ease of communication on matters relating to the committee.

The Committee held a special online meeting where views on the Intellectual Property Bill were discussed. The views together with other views submitted separately by members of the committee were forwarded to the LSK's Parliamentary Affairs department for submission to a memorandum to Parliament.

The Committee discussed the terms and conditions of the various social media platforms with the aim of writing a policy paper '*recommendation and influence of data protection legislation and protection of minors through parliament.*' Some of the platforms discussed include *Tiktok, Facebook, Instagram etc.* Conclusion of the policy paper recommendation is scheduled to be finalized in the first quarter of 2021.

The ICT/IP Committee has been following up on the legislative developments in order to advise the Society on bills that require its intervention or input.

In December 2020, the Committee in collaboration with KIPi (Kenya Industrial Property Institute) successfully held a Webinar to address the challenges that members face at KIPi.

The Committee submitted its views and concerns on the e-filing by the Judiciary through a meeting with the Judicial Officers including the Director of ICT.

INFORMATION COMMUNICATION TECHNOLOGY / INTELLECTUAL PROPERTY (ICT/IP) COMMITTEE- 2021

- The Committee interrogated and gave feedback on proposed/pending bills in Parliament touching on the ICT/IP.
- The Committee submitted comments on draft data protection regulations by the office of the Data Protection Commissioner.
- The Committee was represented in the Internet Governance & Content Moderation Summit by Africa Law Tech in July 2021.
- Some members of the committee published articles touching on data protection laws in the

major media houses in Kenya like the Business Daily and The People Daily.

- The ICT/IP Committee was involved in the assessment of Nairobi Branch Legal Awards.

Challenges

- Slowed support by service providers due to delayed payments led to Internet connection disruption, electric power cuts and telephone disconnection among others.
- Lack of a dedicated Member Services human resources leading to delayed responses at times.
- Lack of funding to implement planned activities.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD) COMMITTEE- 2020

The Chairperson of the Committee is **Ms. Esther Ang'awa** and the Vice Chairman is **Dr. Christopher Kenyariri**. The CPD Committee was reconstituted in the month of June 2020.

The CPD Rules 2014 establish the Continuing Professional Development Committee whose principal function is to implement the Continuing Professional Development programme in the country. The composition of the Committee is as appointed by the Council. The members serve for two years and are eligible for re-appointment for a further term of two years.

The Committee works in tandem with the CPD Department at the Secretariat. The Department coordinates the activities of the Committee and assists it in executing its mandate.

The responsibilities of the committee include:

1. The committee develops the curriculum and content of the program through its annual calendar of events.
2. Enforcement of CPD Rules. The CPD Regulations make it mandatory for all members to comply with the CPD Regulations every year by accruing five Units or to be exempted before renewing their Practicing Certificates. The CPD sub-committee on accreditation handled several applications for exemption and accreditation from members.
3. The committee provides policy direction to

the program and meets monthly to discuss any pertinent issues surrounding the CPD program.

4. The committee also accredits other institutions that facilitate sessions on professional development for lawyers.

The following are the activities the committee has undertaken successfully in the year:

1. The CPD Committee together with the CPD department launched the very first online seminars otherwise referred to as webinars. They were the first of their kind for the Society. This was necessitated by the Covid 19 pandemic and subsequent government restrictions on public gatherings. The committee organized a total of 46 online seminars. The webinars were also lauded for their convenience and ease of participation by members from anywhere and across the Kenya.
2. Streamlining of the webinar registration process- On recommendation of the CPD committee, the CPD department with the help of the ICT department came up with a functionality in the member's portal to easily enable participants get registration links for webinars.
3. Increased visibility and awareness of CPD events- Notices for upcoming CPD seminars were sent through fliers which are posted on LSK social media platforms and also circulated via WhatsApp. Monthly notices are also sent to the members and weekly reminders through the LSK newsletter as well as through text messages.
4. Reduced cost of CPD arising from the online trainings.
5. Participants appreciated the choice of speakers selected by the committee for CPD events.

The following webinars elicited good response:

1. Webinar on Highlights of the Tax Laws (Amendment) Act 2020
2. Webinar on Labour Relations in the Time of a Pandemic
3. Webinar on the Role of Overriding Interests in Property Law: Recent Developments and

Challenges to the Sanctity of Title (Paper) Owner Post 2010

Accreditation:

The Committee successfully monitored trainings offered by accredited institutions to ensure quality assurance. In this regard, the following organizations were accredited to offer courses in 2020:

Annual Subscription:

1. Kenya School of Law
2. Lawyers Hub
3. ALN Academy

One off subscription

1. Mediation Training Institute

Requests

Members have requested for diverse and interactive modes of offering trainings such as specialized seminars for small groups.

Compliance

Compliance with CPD requirements has continued to increase over the years as shown below:

Year	Compliant Advocates
2011	4685
2012	5263
2013	5751
2014	6206
2015	6827
2016	7818
2017	7501
2018	9476
2019	11020
2020	11,536

Work in progress

1. The CPD sub-committee on accreditation and quality assurance is in the process of developing the CPD guidelines on accreditation.
2. The committee is in the process of collating the second edition of the CPD digest.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD) COMMITTEE

The CPD Rules 2014 establish the Continuing Professional Development Committee whose principal function is to implement the Continuing Professional Development programme in the country.

The Council of the Law Society of Kenya (LSK) appoints members of the Committee who serve for two years. The members are eligible for re-appointment for a further term of two years.

The Committee works in tandem with the CPD Directorate at the Secretariat. The Directorate coordinates activities of the Committee and further assists in executing its mandate.

The CPD Committee was reconstituted in the month of June 2020. The Chairperson of the committee is Ms. Esther Ang'awa and Dr. Christopher Kenyariri is the Vice Chairman.

Responsibilities of the Committee:

1. The Committee develops the curriculum and content of the program through its annual calendar of events
2. Enforcement of CPD Rules. The CPD Regulations make it mandatory for all members to comply with the CPD Regulations every year by accruing five Units or to be exempted before renewing their Practicing Certificates. The CPD sub-committee on accreditation handled several applications for exemption and accreditation from members
3. The Committee provides policy direction to the program and meets monthly to discuss any pertinent issues surrounding the CPD program.
4. The Committee also accredits other institutions that facilitate sessions on professional development for lawyers.

Successes of the CPD Programme

1. A total of 90 CPD Webinars on various aspects of law were successfully organised and attended. Members lauded the Webinars for their convenience and ease of participation from any location.
2. Streamlining of the webinar registration process:

The CPD Directorate - with assistance of the ICT Department - came up with a functionality in the member's portal to enable them get registration links for webinars efficiently.

3. Reduced cost of CPD arising from the online trainings.
4. Participants appreciated the choice of Speakers/Facilitators who made presentations at the CPD Webinars.

Members have requested for diverse and interactive modes of offering trainings such as specialized seminars for small groups.

Compliance

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2017	7501
2018	9476
2019	11020
2020	11,536
2021	12,829

Work in progress

1. The CPD sub-committee on accreditation and quality assurance is in the process of developing the CPD guidelines on accreditation
2. The committee is in the process of collating the second edition of the CPD digest.

THE DISCIPLINARY COMMITTEE

The Disciplinary Committee is chaired by **Mr. William I. Maema** on behalf of the Attorney General and continues to adjudicate over complaints of professional misconduct against advocates. The Disciplinary Committee members include **Ms. Gladys Wamaitha**,

Prof. Michael Wabwile, Ms. Grace Okumu, Ms. Anna Konuche, Mr. Ochich George, Mr. Gathii Irungu and Ms. Florence Muturi (LSK Deputy Secretary and Director Compliance & Ethics) acting as the Secretary to the Disciplinary Committee.

The Law Society of Kenya is committed to ensuring the image of the legal profession is preserved and protected and has continued to serve its statutory role in the Disciplinary process.

The year 2020 witnessed a slight decrease in the number of new cases filed as compared to cases filed in 2019. A total of 41 new cases were filed in the year 2020 as compared to 197 complaints filed in year the 2019.

However, a further 151 cases have been admitted for plea and are pending filing before the Committee. The delay in filing, hearing and determination of cases was occasioned by Covid-19 Pandemic which necessitated the suspension of the physical sittings by the Committee. However, the Committee able to hold virtual sittings as from 16th June 2020.

The Committee finalized a total of 5 cases out of the 41 opened in the year 2020. Matters outstanding as at December 2020 stand at 632 cases which are matters occurring in the Disciplinary Committee cause list.

TABLE 1: Status of Disciplinary Causes: Statistics

STATUS OF DISCIPLINARY CAUSES: STATISTICS

YEAR	CAUSES OPENED	CAUSES CONCLUDED PREVIOUSLY	CAUSES CONCLUDED IN 2020	OUTSTANDING
2010	209	190	1	18
2011	207	188	1	18
2012	186	134	2	50
2013	232	182	4	46
2014	158	111	2	45
2015	191	136	8	47
2016	132	74	11	47
2017	187	65	29	99
2018	54	5	9	40
2019	197	0	11	186
2020	41	5	5	36
TOTALS	1,793	1,090	82	632

*Matters outstanding are 632.

*Matters concluded as at December 2020 are 1,090.

N.B: A matter is considered to be concluded after sentencing has been done.

The Committee upon hearing a matter before it may under Section 60 of the Advocates Act order the complaint to be dismissed or if of the opinion that the case of professional misconduct on the part of the advocate has been made, the Committee may order;

1. That such advocate be admonished.
2. That such advocate be suspended from practice for a specified period not exceeding five years.
3. That the name of such advocate be struck off from the *Roll of Advocates*.
4. That such Advocate to pay a fine not exceeding one million shillings.
5. That such advocate pays to the aggrieved person compensation or reimbursement not exceeding five million shillings.

The figure below represents the manner in which cases were finalized in 2020 (sanctions):

ANALYSIS

A closer analysis of the cases reveals that out of the 41 new matters filed in the year 2020; 73.17% of the matters were against advocates practicing as sole proprietors, 14.63% against advocates employed as associates while 12.20% was against advocates practicing in partnerships.

The analysis also revealed that 68.29% of the cases filed were by the Advocates Complaints Commission and 31.71% are cases filed as private prosecution. The Society acknowledges the pivotal role being played by the stakeholders towards attainment of justice.

A further analysis revealed that 90.24% of the new cases were against male advocates while 9.76% were against female advocates.

Capacity building of advocates on Professional Ethics

The Disciplinary Committee members have previously facilitated trainings on professional Ethics in Continuous Professional Development.

The work plan of the Disciplinary Committee (2021) has encompassed trainings and activities to sensitize advocates on the code of Standards of Professional Practice and Ethical Conduct and through the CPD committee, hold trainings on professional ethics.

Induction Seminar

Council and Committee elections were held in the month of February 2020; however, an induction Seminar for the 2 newly elected members of the Committee was interrupted by the Covid-19 pandemic. The induction is scheduled to take place in the 1st quarter of the year 2021.

Debriefing Session

Stakeholders debriefing session was held virtually on 7th December 2020. The forum was well attended by the Committee members, the Secretariat and the Advocates Complaints Commission. The Members got to an opportunity to recap on the activities of the Committee, acknowledge successes and challenges that faced the Committee during the year 2020.

THE DISCIPLINARY COMMITTEE- 2021

The Advocates Disciplinary Committee is tasked with the adjudication of complaints against advocates. At present, the Committee is chaired by **Mr. William I. Maema**, with **Mr. Ochich George** and **Mr. Gathii Irungu** being the only sitting members. **Ms. Florence Muturi** (LSK Deputy Secretary/Director, Compliance & Ethics) acts as the Secretary to the Committee, with the LSK being the Committee's Registry.

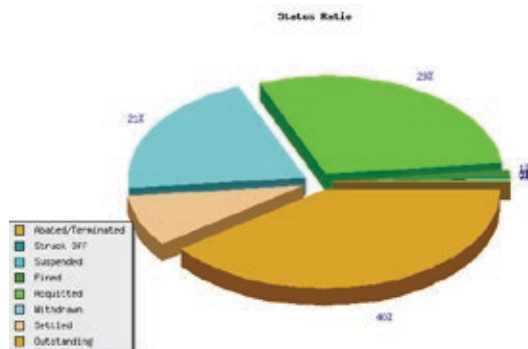
In comparison to the year 2020, the year 2021 has seen an increase on the number of new cases filed, heard and determined. In the year 2020 only 41 cases had been filed whereas in the year 2021, 159 cases have been filed. The Committee has fully embraced the use of technology with all Committee sittings being conducted virtually, with an estimated cause list of 40 files per sitting.

The Committee finalized a total of 10 cases of the 159 opened in the year 2021, and a further 22 matters were finalized from previous years. Matters outstanding as at December 2021 stand at 754 cases which are matters occurring in the Tribunal cause list while the matters concluded as at December 2021 stand at 998.

A matter can only be marked as concluded, when accused advocates settle the liquidated sums as ordered by the Committee and/or the Advocate is deceased.

TABLE 1: Status of Disciplinary Causes: Statistics

YEAR	CAUSES OPENED	CAUSES CONCLUDED PREVIOUSLY	CAUSES CONCLUDED IN YEAR 2021	OUTSTANDING
2011	207	188	0	18
2012	186	136	2	49
2013	232	186	0	46
2014	158	113	1	45
2015	191	144	3	45
2016	132	85	2	46
2017	187	94	2	91
2018	54	14	0	40
2019	197	11	5	183
2020	41	5	3	34
2021	159	22	10	157
	1,752	998	21	754

TABLE 2: The Pie chart represents the manner in which cases were finalized in 2021(Sanctions)

A closer analysis of the cases reveals that out of the 159 new matters filed in the year 2021; 67.52% of the matters were against advocates practicing as sole proprietors, 19.11% were complaints against advocates in partnerships while complaints against associates stood at 7.64%.

In addition, it is imperative to note that majority 67.52% of the complainants filed their cases through the Advocates Complaints Commission, while 32.48% of the cases were filed as private prosecution. Further,

84.34% of the new cases were against male advocates while 15.66% were filed against female advocates.

We cannot overemphasize the pivotal role our stakeholders have played, in the streamlining the legal profession.

Capacity Building of Advocates on Professional Ethics

In order to sensitize the membership on matters professional ethics and Disciplinary Committee procedures, Disciplinary Committee members continue to facilitate trainings on Professional Ethics during Continuous Professional Development seminars.

On 10th December, 2021, Mr. William Maema, Chairman Disciplinary Committee, made a presentation on professional ethics at the Induction Course for the newly admitted advocates.

Further, the Committee endeavors to continue to sensitize advocates on the Code of Standards of Professional Practice and Ethical Conduct through the CPD Committee.

Debriefing Session

Stakeholders debriefing session was held virtually on the 6th December 2021. The forum was well attended by the Committee members, the Secretariat and the Advocates Complaints Commission. The Members



got to an opportunity to recap on the activities of the Committee, acknowledge successes and challenges that faced the Committee during the year 2021.

LAW SOCIETY OF KENYA COMMITTEE ON SENIOR COUNSEL

This is one of the new Committee established by the Council in the year 2020, the Committee is chaired by **Mr. Ahmednasir Abdullahi, SC** and established under the Law Society of Kenya as a Committee of the Society. The members of the Committee comprise of the following;

- 1) Patricia Kameri-Mbote, SC
- 2) Joyce Majiwa, SC
- 3) Tom Ojienda, SC
- 4) The Late Nzamba Kitonga, SC

The members of the Committee were appointed during a meeting of the Senior Counsel convened by the President of the Law Society of Kenya on the 20th May 2020 attended by eight senior counsel.

The Committee is tasked with the responsibility of advising the Council on matter touching on Senior Counsel, to review the Advocates (Senior Counsel Conferment and Privileges) Rules 2011 as well as the Law Society of Kenya Act No. 21 of 2014 and recommend amendments necessary to guarantee fairness, integrity and transparency in the conferment of the rank and dignity of Senior Counsel.

At the meeting held on 20th May 2020, also appointed the following members to serve in the Statutory Committee on Senior Counsel Committee established under the Advocates Act.

- a. Mr. Ahmednasir Abdullahi, SC
- b. Ms. Patricia Kameri-Mbote, SC
- c. The Late Nzamba Kitonga, SC

The Committee held a meeting on 12th August 2020 at the LSK Secretariat with the following members present: Ahmednasir Abdullahi, SC (Chairman), Nelson Havi, LSK President, Nzamba Kitonga, SC, Patricia Kameri-Mbote, SC, Joyce Majiwa, SC, Belinda Akello, Moses Chelang'a and Professor Tom Ojienda, SC (*sent apologies*).

The Committee recommended that a notice calling for members to apply for consideration to conferment to the rank of senior counsel. The report of the Committee together with a draft notice/advertisement was presented to the Council for consideration. The Council resolved that the recommendation and notice calling

for applications for consideration to the rank of senior counsel needed to be considered by the Statutory Committee on Senior Counsel established under the Advocates Act.

Vide notices published in the *Daily Nation* dated **26th February, 2020**, the Law Society of Kenya invited members of the Society to submit their applications for consideration for conferment of the rank of Senior Counsel (SC). The LSK published a similar notice in the *Daily Nation* on **3rd September 2020** to enable members who did not meet the application deadline in the notice dated 26th February 2020, as a result of closure of the Secretariat due to the outbreak of the Covid-19 pandemic in March 2020, to do so. A total of 46 advocates put in their applications for consideration.

The Committee also resolved that it would consider an additional category of eligible persons who because of their designation and office may not apply to be considered for conferment. The persons included 9 Judicial officers and on senior member of the Law Society of Kenya.

Subsequent to the issuance of the Notice, a case was filed "**High Court Judicial Review No. E1100 of 2020, Allen W. Gichuhi versus Committee on Senior Counsel and Law Society of Kenya**" seeking to quash the notice on the ground that the same was issued by a Committee that lacked jurisdiction. The Court granted leave to operate as stay. The matter is pending in Court.

PUBLIC INTEREST, HUMAN RIGHTS AND LEGAL AID COMMITTEE

The Committee is convened by Ms. Faith Odhiambo, Council Member and has the following mandate;

- To promote the administration of justice and rule of law as per the Law Society of Kenya mandate.
- To propose legal reforms on matters relating to the protection of human rights and legal aid in Kenya.
- To mainstream the delivery of legal aid services within the membership of Law Society of Kenya.
- To assist in the implementation of LSK legal aid initiatives.
- To assist in the development of Human Rights Reports.

- To advise the Council on matters relating to legal aid and human rights which are of public interest.

The Committee convened six meetings. Robust discussions took place virtually per the committee's TORS'S on various thematic areas being Legal Aid, Emerging PIL, Human rights programs.

THE LEGAL AWARENESS WEEK.

The Committee under the able leadership of its convener **Ms. Faith Odhiambo** planned and implemented the Law Society of Kenya's annual Legal Awareness Week, which took place from 12th -16th September 2020 under the theme: **"Securing Constitutionalism & the Rule of Law: Reflection on 10 years of the Kenyan Constitution"**. The Legal Awareness Week comprised of various activities geared towards promoting access to justice, advancing *pro bono* legal services and Legal Aid.

Advocates involved in legal aid and human rights work had an opportunity to engage with members of the public with a view to promoting a better understanding of the role they play in the advancement of legal literacy, advocacy and access to justice. The activity was implemented countrywide and Branch chairs were invited to oversee the conceptualized activities at the various venues available to them in strict conformity with the Ministry of Health directives.

Under the overall theme, there were sub themes touching on different areas geared towards providing legal information through panel discussions throughout the week. The proceedings were streamed live throughout the week through all of the LSK'S Social media handles.

The activity was impactful and the indicators were;

- Over 1200 litigants assisted countrywide
- Over 20 participating organizations
- Feedback from Members of the public and Advocates
- No. of audience logged in to the webinars, twitter, Facebook and YouTube live
- Active participation by KOT with trending conversations on discussions under the hash tag #LSKLegalawareness2020
- Media coverage by members of the press

PARTNERSHIPS/PROGRAMS

In 2020, the Committee engaged in partnerships with over 20 organizations during the Legal Awareness week; they are listed as follows;

1. Nairobi Centre for International Arbitration
2. Nuclear Power and Energy Agency
3. Advocates Complaints Commission
4. Kenya National Commission on Human Rights
5. Insurance Regulatory Authority
6. Ethics Anti-Corruption Commission
7. Kenya school of law
8. Kenya Industrial Property Institute
9. Walker Kontos
10. Kituo Cha Sheria
11. IPOA
12. ICJ-KENYA
13. Anti-Counterfeit Agency
14. Centre for Right Education & Awareness
15. Njoroge Regeru & Co
16. Triple OK Law
17. Chartered Institute of Arbitrators (Kenya)
18. National Legal aid Services NLAS
19. CIARB
20. Witness Protection Agency

The Committee continues to seek engagements with partners and is carrying out consultations on various programs in collaboration with the following institutions and projects;

1. UNDP- Programme for Legal Aid and Empowerment Delivery (PLEAD)

As key and critical legal aid providers, PIL Committee collaborated with the UNDP under

Programme for Legal Aid and Empowerment Delivery (PLEAD) and conducted 8 trainings aimed at building the capacity of advocates and equip them with the knowledge and skills required to handle legal aid matters as well as ensure their capacity to train other advocates in legal aid provision.

The trainings were conducted in collaboration with the LSK Branches and Chapters. The Branch Chairpersons assisted in dispatching notices and identifying advocates to be trained at the Branch level. Over 200 advocates were identified and trained as Trainers of Trainers (ToT) on Legal Aid.

The trainings featured carefully selected panelists with expertise and vast experience in *pro bono* practice. Through this collaboration, the Society

successfully trained 200 young Advocates across 5 branches through the online free trainings.

2. **CREAW-** The Center for Rights Awareness under grants from various development partners is seeking a one-year partnership with Law Society of Kenya (LSK) to support the setting up of a phased a pro bono lawyers' scheme in 10 counties (Nairobi, Kisumu, Meru, Nyeri, Mombasa, Kilifi, Narok, Isiolo, Kericho, Bomet Counties of Kenya beginning with a pilot scheme in **Nairobi, Kilifi and Mombasa Counties**. Negotiations are ongoing.
3. **VANCE Center-** Vance Center is an international organization promoting Pro bono projects with international partners, particularly in Africa and the South Americas. They have proposed to partner in Pro bono training by international practitioners, collaborations in PIL Cases and inducting pro bono lawyers into fellowship programs. So far a series of meetings between the Public Interest Committee and an international consortium of pro bono firms and clearing houses, from South Africa, Columbia and the United States have been held, with the aim of comparative analysis on the pro bono trends developing in alignment to the Strategic Development Goal 16 on Development and access to justice.

4. **KARA- Kenya Alliance of Residents Associations**

The LSK signed a Memorandum of Understanding with Kenya Residents Association and agreed to collaborate on Joint initiatives on PIL matters facilitating development of Public Interest strategies, supporting public participation, information dissemination, civic education and promotion of alternative dispute resolution mechanisms. The rolling out of the activities is set to launch in 2021

5. **Independent Medico Legal Unit (IMLU)**

LSK collaborated with other stake holders along the Independent Medico Legal Unit to Shadow report in response to the fourth periodic report by Kenya to the Committee on International Covenant on Civil and Political Rights (2013-2020). The Law Society was tasked specifically on addressing Article 19 and 20 on the right to freedom of expression, freedom of the media, and the right to access to information.

The report was presented virtually on 9th March 2021 to the Human Rights Committee of the UN (Geneva)

6. **East Africa Law Society (EALS)**

PIL Committee collaborated with East Africa Law Society (EALS) and Advocates for International Development (A4ID) for a training session on Pro Bono Practice during the EALS Annual Conference on 24.11.2020. PIL Convener Faith Odhiambo facilitated the session, and shed insights on the legal aid scheme of the LSK, challenges and opportunities.

7. **DADA Digital**

The LSK partnered with Dada Digital in commemoration of International Women's day (2021) Activities of the event included: Free Legal Aid clinics A Dada soccer tournament, free medical checkups, free Breast and Cervical Cancer Screening, financial empowerment and advice, Sensitization on: Teenage pregnancies, FGM, Gender-based violence, family planning, Menstrual Health & Hygiene.

The Law Society of Kenya was offered a booth to provide Legal Aid on 7th and 8th Match at Embul bul Stadium and provided legal aid. Member Phannie Kwegah represented guest speaker **Council Member Faith Odhiambo** in and issued a speech on her behalf at the event.

DEVELOPMENT OF INFORMATION EDUCATION AND COMMUNICATION (IEC) MATERIALS

The PIL Editorial sub-committee developed three IEC materials both e and print versions titled;

1. **PIL Achievements-** highlighting on the landmark PIL cases that the Society has been involved in and informing members of the impact the matters have had on policy and legislation.
2. **Domestic Violence Reporting and protection-** a legal education material providing information on Domestic violence, its legal framework and reliefs existing for victims of it.
3. **A Question & Answer guide** for teens on access to contraceptives and sexual, reproductive health rights. A teen friendly legal aid material.

FUNDRAISING

The Committee through the advocacy and fundraising subcommittee shared concept notes with fifty law firms seeking support for the PIL Kitty. The funds were channeled into the Legal Awareness Week.

The Advocacy and fundraising subcommittee shared sponsorship packages proposals with 70 corporates for support towards the Legal Awareness week.

OPERATIONALIZATION OF THE PIL CODE, 2020

The PIL Code, 2020 was passed by general consensus during the AGM held in July 2020 and the same is in the process of operationalization.

The subcommittees shall be renamed to reflect their unique ToR's as would be required under the code. Quarterly reports shall be submitted by each of the subcommittees for performance and progress evaluation and work plans developed for each subcommittee indicating the activities to be undertaken and the budgets thereof.

PIL CASES/LITIGATION

The Committee through the Research and Litigation subcommittee continues to offer support to the society in PIL by identifying cases that warrant interventions and making case referrals to Advocates who handle the matters on pro bono basis. Full report attached. The cases are still in various stages, and members have been receiving updates periodically on progress through the newsletters

-ADVOCACY

The department has held a series of meetings with the Insurance Regulatory Authority management and legal teams to deliberate on the underlying problems in the Public Service Vehicles (PSV) Insurance Sector legal framework under which the Statutory Management of financially unstable insurance companies is carried out. A policy paper in support of the memorandum presented to CS Ukur Yatani on the same, and the advocacy is ongoing.

-RESEARCH

The department undertook research on various issues, and developed IEC Materials / board papers on;

1. Information education and communication material on safeguarding basic rights during the Covid -19 pandemic.
2. PIL Achievements- highlighting on the landmark PIL cases that the Society has been involved in and informing members of the impact the matters have had on policy and legislation.
3. Domestic Violence Reporting and protection- a

legal education material providing information on Domestic violence, its legal framework and reliefs existing for victims of it.

4. A Q&A guide for teens on access to contraceptives and sexual, reproductive health rights. A teen friendly legal aid material.
5. Liability for Police brutality
6. Consideration Of The Constitution Of Kenya (Amendment) Bill, 2020: Building Bridges Initiative (BBI)
7. Litigation By The Law Society Of Kenya On The Tax Laws (Amendment) Bill, 2020: Vat Corporate Tax, Income Tax, And Minimum Tax.

-COMMITTEE SUPPORT

Offering technical support to;

1. **PIL Human Rights and Legal Aid Committee**
2. **Lawyer Police Relations Committee**
3. **Building Bridges to Unity Ad hoc Committee**

1. PIL Human Rights and Legal Aid Committee

The Committee is convened by Ms. Faith Odhiambo, Advocate. The department provided administrative and technical support in restructuring of the committee and reviewing of the TOR's. Robust took place virtually per the committee's TORS'S on various thematic areas, being Legal Aid, Emerging PIL, Human rights programs. The department assisted the Committee in conceptualizing and preparing for the Legal Awareness Week.

PARTNERSHIPS/PROGRAMS

In 2021, the Society engaged in in partnerships with over 20 organizations during the Legal Awareness week

• Nairobi Centre for International Arbitration
• Nuclear Power and Energy Agency
• Advocates Complaints Commission
• Kenya National Commission on Human Rights
• INSURANCE REGULATORY AUTHORITY
• Ethics Anti-Corruption Commission
• Kenya school of law
• Kenya Industrial Property Institute
• Walker Kontos
• Kituo Cha Sheria
• IPOA

• ICJ-KENYA
• Anti-Counterfeit Agency
• Centre for Right Education & Awareness
• National Legal aid Services NLAS

There are ongoing continuing programs with;

1. **VANCE Center-** Pro bono training by international practitioners, collaborations in PIL Cases and Fellowship programs.
2. **KARA-** Joint initiatives on PIL matters involving residents
3. **IMLU-** ICCPR 4th periodic review implementation matrix.
4. **KNHCR-** Partnership Network brings together State and non-State agencies for the referral of public complaints.
5. **NLAS-** Development of the internship and pro bono programme that will instill a sense of duty and responsibility and inculcate the spirit of pro bono work to the upcoming advocates.

-Pro bono database-Case referrals

There has been an enhanced relationship and trust between the organization and the vulnerable in society due to Providence of pro bono interventions and redress on burning issues affecting communities.

In March, we called for expression of interest to pro bono advocates, and enlisted around 220 new and active Pro bono Advocates.

COUNCIL DEVOLUTION COMMITTEE

The Committee is chaired by **Mr. Bernhard Ng’etich Kipkeoch** and draws its membership from the Council of the Law Society of Kenya.

The Committee is mandated to advise the Council of the Law Society of Kenya on all matters Branches and Devolution pursuant to S. 24 of the Law Society of Kenya Act and the Law Society of Kenya (General) Regulations, 2020.

During the inaugural meeting of the Committee, members adopted the below terms of Reference:

- ▶ Compliance issues by the branches before disbursement of devolution funds
- ▶ Intra institutional homogeneity between branches and the Society at large to discourage duplication of responsibility i.e. how to relate with branches
- ▶ Devolution responsibilities and roles
- ▶ Intra institutional homogeneity- how to relate with each other and borrow ideas (encourage branches to fulfil mandate of S. 24)
- ▶ Dispute resolutions mechanism in Branches before escalation to other quarters or mediations
- ▶ Setting up oversight of infrastructures and systems within Branches
- ▶ Dealing with statutory and regulatory compliance by branches
- ▶ Empowering Branches to identify, undertake and carryout PIL Matters at the Branch level

ACTIVITIES

1. Consultative Meeting between the Council Committee on Devolution and Branch Executives and Meeting held on 22nd June, 2020

On 22nd June 2020, the Committee organized an engagement forum with all Branch Executives to address Branch Concerns. The meeting discusses among other things:

1. Audit Presentation On Accountability
2. Presentation On Checklist Compliance
3. Management of Chapters (Account Opening)
4. Presentation on the LSK Act and LSK Regulations, 2020
5. Summary of Disbursement of Funds to Branches, 2019

The Committee has since scheduled more engagement forums to enhance Branch interactions.

2. Branch Audits

In an effort to ensure accountability to funds released to Branches, the Society continues to demand compliance and transparency from Branches. In fulfilling the pre-conditions set out prior to disbursement of funds to Branches, the Society through the Internal Audit Department, conducts periodic Audits. Upon consideration of the recommendation in the Auditor’s audit report on compliance, monies are either disbursed or withheld to the various Branches.

3. Branch Disbursements

The Devolution Committee is mandated to approve disbursement of funds to Branches, in line with the LSK Regulations. The Committee, prior to disbursement of funds stresses on strict compliance with the set out conditions, which include but are not limited to strict adherence to the set compliance checklist, submitting a budget, Branch Audits. Further, in the event of non-compliance the Committee has recommended that monies be withheld until compliance is met. With stringent measures in place, we continue to witness an improvement in Branch accountability. This has ensured more vibrant Branches.

4. Disbursement of the Equalization Fund

In an effort to support Branches achieve their set mandate under Section 24 of the LSK Act, the National Office has set aside five (5) percent of the devolution fund, to be utilized as the equalization share. The Fund is established for the sole purpose of supporting less established Branches, so as to bring them to the same level, generally enjoyed by the rest of the Branches. A total of Kshs. 1,702,050/- was available for disbursement. The Committee sent out a call to Branches to submit applications elucidating various areas they needed support. After consideration, the Committee awarded the following Branches; Nairobi Branch, Coast Branch, South-West Kenya Branch and Mt. Kenya Branch.

5. Overseeing Branch Elections

The Committee continues to play an oversight role during Branch Elections. The Committee has overseen elections conducted in Rift Valley Branch and West Kenya Branch.

Constitution of the Rift Valley Branch: Historically, Rift Valley Branch operated as the Rift Valley Law Society. With the passing of the Law Society of Kenya Act, 2014, it was required that Branches be properly constituted. The Society formulated a Charter to operationalize the Rift Valley Branch. Further, the Charter stipulated the formulation of the Branch leadership.

In order to ensure a successful transition from the Rift Valley Law Society to the Rift Valley Branch, the Devolution held several consultative meetings with the Branch election board and candidates.

On 26th – 29th June, 2020, the Branch held its very first Branch elections, electronically. Mr. Ochang' Ajigo was elected as the Chairperson of the new Branch.

Resolution of the Bomet Charter Representative Stand Off: By a letter dated 13th July, 2020, the Devolution Committee was notified of a dispute on representation of the Bomet Centre. The Centre elected Mr. Geoffrey Kipng'etich Korir to be the Bomet Centre Rep. Subsequently he vied to be the Secretary General of the Branch, where he was elected unopposed. He relinquished his position as a Centre Representative. Subsequently, the Centre elected Ms. Carolyn Chemutai as their Representative. However, Ms. Carolyn Chemutai was initially not sworn in for the reason that the Secretary General would double up as Bomet Centre Representative. The Devolution Committee intervened and resolved the standoff which saw Ms. Carolyn Chemutai sworn in as the Bomet Centre Representative.

West Kenya Branch Elections: On 6th August, 2020, the Committee held a consultative meeting with the West Kenya Branch Election Board. The Branch held its elections on 7th August, 2020 with Ms. Susy Rauto being elected as the Branch Chairperson. The Committee oversaw the handing over from the outgoing Branch Executive to the incoming Branch Executive.

6. Devolution Committee meeting with Branch Executives

On 2nd July, 2020 the Committee held a virtual engagement forum with Branch Executives. During the meeting, several issues were canvassed which include Audit presentation on accountability, Presentation on checklist compliance, Management of chapters (account opening), Presentation on the LSK Act and LSK Regulations 2020 and Summary of disbursement of funds to branches, 2019. The Secretariat, through the office of the Internal Auditor and the Accounts Department has conducted a training incorporating Branch Secretariats on presentation of Audit reports.

SCHEDULED ACTIVITIES:

The following are the ongoing activities;

1. Activation of Branch Chapters Across all Branches

Pursuant to Regulation 64 of the LSK (General) Regulations, 2020 a branch executive may establish or recognize a chapter within a region or a practice centre falling under the branch to carry out any of the functions of the branch. The Committee in an effort to ensure that the Law Society of Kenya is impactful across the country has called upon Branches, to pursue recognition and enforcement of Chapters.

2. Committee County Attorneys and County Assembly Forum Lawyers Meeting

The Committee has since created a joint forum with County Attorneys and County Assembly Lawyers. The Committee has embarked on formulating a memorandum clearly stipulating concerns and challenges facing advocates working for counties. i.e. several county attorneys were being implicated and prosecuted in corruption cases. Thereafter, the Committee intends to hold an engagement forum to dissect the concerns and see how the Law Society of Kenya can find solutions.

3. Committee-Branch Executive Committees Meeting

Among the key objects Branches include to address issues relating to the welfare of the members practicing in their centre and to inform the Council of any matters that affect members within the branches that require the Council's engagement with other stakeholders on behalf of the branch. The Committee seeks to hold an engagement forum with Branch executives to deliberate on emerging issues particularly on practice matters specifically online filing, allocation of judges and magistrates, across Branches, Chapters and Centres.

4. Financial Empowerment

The Committee being alive to the financial challenges attributable to the COVID-19 pandemic, intends to hold trainings and sensitization forums on prudent money management skills.

LSK WELFARE & MEDICO-LEGAL COMMITTEE

The **Welfare & Medico-Legal Committee**, comprised of a membership of ten, is chaired by the LSK Vice President, **Ms. Carolyne Kamende Daudi**.

The Committee's mandate is as follows:

- To advise the Council on all matters touching on members' welfare including the development of national welfare policies.
- To establish and manage an endowment and emergency fund as well as a hotline to address members in distress.
- In collaboration with the Branch Leadership, identify emergency cases of members in distress that requires the intervention of the Council.

The Committee's achievements include:

1. Law Society of Kenya Trust Fund

The Committee is in the process of establishing a fund titled, "*Law Society of Kenya Emergency and Endowment Trust Fund*" whose objective is: *To Handle Needy Cases and Cushion Vulnerable Members*.

The Committee sought for nine representatives from various esteemed organisations and LSK committees as trustees to the fund. The following are the Trustees of the Fund:

1. The LSK President: **Mr. Nelson Havi**;
2. Three Representatives of the LSK Welfare & Medico-Legal Committee:
 - I. **Ms. Carolyne Kamende**,
 - II. **Ms. Christine Wangari**; and
 - III. **Ms. Mercy Mwinzi**;
3. Representative of the ABA Board of Management: **Ms. Angela Mwadumbo**;
4. Representative of the LSK Branch Chairs Caucus: **Mr. Eric Theuri**;
5. Representative of the LSK Senior Counsel Committee (3 years' tenure period); (awaiting receipt of the name of the representative);
6. Representative of the LSK Young Lawyers Committee: **Mr. Mohammed Sheikh**;
7. Representative of the LSK Sacco Society Ltd; **Mr. Justus Maithya**

Endowment Fund: The Committee sought for support from the Advocates Benevolent Association to provide seed money to the Fund. The Association has written to the Committee offering a pledge of Kshs 500,000/= to be paid upon the opening of the Fund account.

Trust Deed: The Committee finalized on a trust deed for Council's perusal and adoption.

The Committees planned activities include:

1. Sourcing of funds for the LSK Emergency and Endowment Trust Fund.
2. Providing a Resident Counsellor at the Law Society of Kenya.

LAW REFORM AND CONSTITUTIONAL IMPLEMENTATION COMMITTEE

The Committee's is convened by **Ms. Herine Kabita**, Council Member. The committee's mandate is to advise the Council on matters of Law reform as they relate to constitutionalism, rule of law, administration of justice

and legal practice. Through the technical assistance of the LSK Directorate of Public Interest, department of Parliamentary Affairs and Legislation and other specialized committees of the Council it conducts reviews, legal analysis and advocacy. It also conducts monitoring on legislative trends and does appropriate information sharing on the same.

The committee held monthly meetings with the following standing agenda – law reform, update with bills for review, calls for comments on bills by the parliament and any other advocacy issues that directly impact constitutionalism and public interest. The committee deliberated on the following parliamentary Bills to safeguard constitutionalism and advocate public interest:

Legislation/Bill	Memorandum	Summary of LSK position
The National Aviation Management Bill, 2020	Oral presentations were made by the President on behalf of the Society before the Parliamentary committee in charge of public transport.	LSK was opposed to the merger of KAA and KQ
Mediation Bill, 2020 August 2020	There was oral presentation virtually before the senate committee on Human Rights.	The LSK supported mediation to be anchored in the Judiciary
Reproductive Health Bill, 2020		Controversial Bill, LSK did not take either pro or anti-life positions
Statute Law (Miscellaneous Amendments) Bill, 2020	Oral presentations were made virtually before the senate committee on Human Rights.	LSK opposed the enactment of the Statute Law (Miscellaneous Amendments) Bill, 2020. It sought to amend a total of 36 statutes and some of its sections offending provisions of the Constitution.
Petition for dissolution of parliament to the Chief Justice and the President of the Supreme Court of Kenya.	Oral submissions were made by the president before the CJ as a notice of motion application.	Pursuant to Article 261 (7) of the Constitution for blatant failure to enact the two third Gender Rule ten years after the promulgation of the Constitution and way beyond the Constitutional time lines under Schedule five of the Constitution.
The Public Health (Prevention, Control and Suppression of Covid-19) rules, 2020	Written Memorandum to the Office of the Attorney General was presented and, consequently virtual oral submissions were made before the Standing committee on Human Rights at the senate.	The LSK opposed enactment of its sections as offending the Constitution and the Public Health Act.
Petition to parliament over amendment of the Workman Benefit and Injury Act (WIBA).	The committee has jointly developed a memorandum urging amendment to reintroduce the common law compensation regime option of injury compensation that WIBA removed, effectively forbidding counsels from pursuing injury course of their clients through the court. The court option was abandoned by WIBA- making it absolutely administrative.	The LSK seeks amendment to give injured workers the option of pursuing the course through a legal representative of their choice through the court.

Advocacy Activity on Securing Constitutionalism & the Rule of Law: Reflection On 10 Years of the Kenyan Constitution

Buoyed under the mandate in Section 4 of its constituting statute and with support from the Ford Foundation, under the theme of constitutionalism & access to justice, the Law Society of Kenya undertook two consecutive activities in celebration of Constitutionalism ten years post promulgation of the 2010 Constitution. The activities were undertaken in two phases, the first phase was a seminar held in commemoration of the date of promulgation. The second phase was celebrated through week long public empowerment through legal aid awareness activities.

27th August 2020 marked 10 years since the promulgation of the Constitution. The activities captured issues such as - *Has the country made significant strides in ensuring the implementation of the Bill of Rights? Is the government committed to the devolved system of governance? Has devolution provided a real solution to marginalization and grassroots development? Has it brought about enhanced service delivery? Are women, youth, children, persons with disabilities and older members of society on course to ensure greater inclusion? What challenges are being faced in implementing the Constitution 10 years on?*

Phase One: LSK Katiba Day Seminar in Celebration of Ten Years of the Constitution- Livestream

The Law Society undertook daylong of activities on the 27th August 2020 culminating into a debate to commemorate ten years under the 2010 constitution. The society invited experts among its rank to engage in this all-important constitutional discourse. The achieved objective of the commemoration activity was the candid assessment and evaluation of the level of adherence to the spirit and the letter of the constitution. The resultant scorecard informed the resolve that fidelity to the constitution especially by the executive should be engendered to improve the status of constitutionalism, rule of law, access and administration of justice in Kenya. The indicators were that the judiciary has been a true vanguard of the constitution, the legislature should tighten its vigilance and the executive should respect orders from the court. The Society and its likeminded partners bound themselves by signing a deed of proclamation to continue safeguarding and upholding the rule of law and constitutionalism.

The output for the commemoration activity was as follows:

- ▶ Advocacy activity on the constitution to keep constitutional issues alive with the public was undertaken through procession and signing of a proclamation deed.
- ▶ Participatory and interactive debate on progress with constitutionalism and the rule of law in Kenya was undertaken and a scorecard on performance by the three arms of the government as well as civil society was determined.
- ▶ Actors were able to assess the probable best way forward with law reform and impact litigation as we explore the province of engendering constitutional safeguards.

The outcome of this commemoration activity was a production of a report (audio visual) which will be a bank of knowledge and dissemination to stakeholders. In addition to the obvious outcome of intellectual exchange and development of law; the debate provided an opportunity for evaluating Constitutionalism and the rule of law post promulgation of 2010 Constitution. The debate provided resource through which lessons learnt can be used to improve the state of the rule of law and Constitutionalism - challenges and opportunities. Ultimately, we hope that this outcome shall provide a yardstick for determining the way forward with better constitutional governance in Kenya.

Phase Two: Promotion of Constitutionalism through Access to Justice and Legal Awareness

The Law Society of Kenya observed its annual Legal Awareness Week from 12th -16th 2020 under the theme: *"Securing Constitutionalism & the Rule of Law: Reflection on 10 years of the Kenyan Constitution."* The Legal Awareness Week comprised of various activities geared towards promoting access to justice, advancing pro bono legal services and legal aid. The legal awareness week 2020 sought to achieve the following:

1. Increase public awareness of the gains made in the implementation of the Constitution of Kenya.
2. Conduct legal aid to the general public.
3. Critically assess gains, challenges and opportunities in implementing economic and social rights and its impact to the special groups.

Advocates involved in legal aid and human rights work had an opportunity to engage with members of the public with a view to promoting a better understanding of the role they play in the advancement of legal literacy, advocacy and access to justice. The activity was implemented countrywide and Branch chairs were

invited to oversee the conceptualized activities at the various venues available to them in strict conformity with the Ministry of Health directives.

Under the overall theme, there were sub themes touching on different areas geared towards providing legal information through panel discussions throughout the week. The proceedings were streamed live throughout the week through all of the LSK's social media handles.

The outcome of the legal awareness week 2020 manifested through:

1. Increased understanding by the public on the progress of the implementation of the Constitution.
2. Provision of pro bono and legal aid by Advocates to the general public.

ENVIRONMENT LAND NATURAL RESOURCES AND CONVEYANCING COMMITTEE

The Committee is convened by **Mr. Peter Mwangi** and the Committee's mandate is to monitor, analyze advice and recommend current and proposed legislation with regard to matters of the environment, land and conveyance, advising the Council from time to time on practice issues emanating from land transactions.

The committee in its monthly meetings discussed the following critical issues to be considered by the Council:

1. Emerging Practice matters post Covid-19; and
2. Discussion on the draft Memorandum of the Law Society Conveyancing Committee on the various practice issues requiring Administrative and Statutory changes.

The Committee noted that the onset of the Covid-19 period had affected the delivery of services at the public registries and therefore presents new challenges necessitating the need for Guidelines to regulate the procedural changes without compromising the health and well-being of parties involved. The Committee noted the following challenges:

- **Execution of deeds** - It was noted that instruments for registration require a wet signature before a physically present witness and attestation by an authorized person. With the rules on social distancing, this presented a challenge and therefore the need to consider guidelines to allow authorized persons to witness signatures on documents by audio visual link (AVL) provided certain requirements are satisfied.

- **Third Party Certification** - It was noted that the introduction of e-Conveyancing should allow for robust provisions regarding certification of electronic instruments and clear Guidelines on how this will be done. The logical certifier should be an Advocate of the High Court. This would ensure integrity of documents generated online and ringfence the liability of the state arising from the indemnity it provides.

- **Customer Service Standards** - It was noted by the Committee that activities at the Land Registry had been scaled down and very few matters are concluded each day, there were long queues at the registry with few staff and in most cases, very limited access to the Lands Registry. It was further noted that documents were not being attended to as soon as they were submitted and correspondence with the Registry was rather poor. In addition, it was not possible to follow up on documents once submitted for registration.

- **Inaccessibility of Files** - The committee noted that the ongoing digitization has affected access to files and in tandem affected registration of instruments as most files had been moved to the 10th Floor. It was noted that there was need to ensure that the ongoing process does not affect cause delays and ensure access to files by members of the public.

- **Consents and Land Rates/Rent Clearance Certificates** - It was pointed out that although sections 38 and 39 had been deleted from the LRA, sections 55 (b) and 56 (4) which require production of a rent clearance certificate and consent to lease or charge prior to registration of leases and charges still remained in force. In addition, it was noted that most titles still require consents as part of the conditions which run with the instrument. The committee also noted that the requirement for consents on the LIMS platform had been removed and there is a misinterpretation by practitioners that consents have been done away with. It was therefore necessary to engage the team for ease of doing business to address this disparity in the LRA and in the titles, in order to clarify the applicable completion documents in respect of registration of instruments.

- **Common Seals** - It was noted that although common seals had been done away with, legal practitioners and officials at the lands office still require that common seals are affixed on the instrument at the time of execution by a company. Further, the Memorandum and Articles of Association of most companies still require that common seals are affixed at the time of execution. Therefore, there was need for clarity to effect this change in law.

• **Payment of Capital Gains Tax** – It was noted that progress had been made on the payment of Capital Gains Tax in that the requirement for an acknowledgement number was no longer necessary before payment of stamp duty. However, it was noted that there was need for Advocates to play a lead role in ensuring that their clients pay Capital Gains Tax to avoid any issues with the Kenya Revenue Authority.

- Circulation of the final Memorandum on the land practice issues requiring administrative action and statutory changes
- Sharing of information on development with the progress of the National Land Commission on the online tracking system that had begun some time back.

- ▶ Sharing of information on the Report on E-linking for the Conveyancing Committee on the LSK website which will entail a comparative analysis of what other jurisdictions have done.
- ▶ Sharing of information on the issues arising from litigation of land matters at the Environment and Land Court.
- ▶ Meeting with the Cabinet Secretary, Ministry of Lands and Physical Planning to discuss the practice land issues.
- ▶ Circulation of the gazetted Land Transactions (Electronic) Regulations, 2020.

Further to the discussion on the challenges affecting land and property administration, the following recommendations were proposed by the Committee for adoption by the Council:

Challenges	Recommendations
Execution of deeds	<ul style="list-style-type: none"> • The Cabinet Secretary to have Guidelines to allow a person to witness the signature of documents by audio visual link (AVL).
Third Party Certification	<ul style="list-style-type: none"> • Guidelines on certification of electronic instruments by Advocates detailing the role as well as the process of certification.
Customer Service Standards	<ul style="list-style-type: none"> • Recruitment of additional and qualified staff to handle documents at the Registry. • Special Counter for Lawyers and Accredited Legal Clerks for Submission of Applications. • Specialized desks – The Land Registries should have specialized desks with different staff handling different services to minimize delays. • An Online Tracking System for Documents where applicants are allocated an online tracking number which is constantly updated and which obviates the necessity for physical follow up. • Involvement of the National Land Commission to implement and oversee the online tracking system which the Commission had begun work on. • Written Correspondence - The Land Registries countrywide should commit to written correspondence and emails within 5 working days of an inquiry. • Online support using the e-Regulations to allow a number of functions to be conducted online. • Online Appointments - The Ministry should adopt a credible online appointment system where advocates and clerks and indeed members of the public can have time-based appointments which are adhered to. • Bar -coding to track documents when they move from one desk to another.
Inaccessibility of Files	<ul style="list-style-type: none"> • The Ministry should ensure that the ongoing digitization does not cause delays in dealings and registration of documents.
Consents/ Common seals	<ul style="list-style-type: none"> • Introduction of an omnibus Bill to address the disparity in the Land Registration Act and Law of Contract Act in relation to consents and common seals.
Payment of Capital Gains Tax	<ul style="list-style-type: none"> • Advocates should play a lead role in ensuring that their clients pay Capital Gains Tax. • Advocates to ensure that a Capital Gains Tax Acknowledgement slip should form part of completion documents.

The Committee mandated the convener to circulate and share the final memorandum on the land practice issues requiring administrative action and statutory changes which were be presented to the LSK Council for endorsement.

YOUNG LAWYERS COMMITTEE

The Committee chaired by Ms. Riziki Emukule, Council Member is tasked to among other things:

1. Advise the Council of the Law Society of Kenya on all issues relating to young lawyers in the context of the legal profession in Kenya.
2. Promote the participation of young lawyers in the legal profession and in particular, in the affairs of the Law Society of Kenya.
3. Promote the concerns of young lawyers within the Law Society of Kenya and in the legal profession.

Pursuant to the Committee's inaugural meeting, the following mandate was adopted:

DELIVERABLES: Promote young advocates welfare and this shall include but not be limited to the following areas;

Capacity building:

- ▶ Arbitration and adjudication in collaboration with the Chartered Institute of Arbitrators;
- ▶ Mediation in collaboration with the Mediation Training Institute of East Africa;
- ▶ Legal and Governance Audit in collaboration with the Kenya School of Law;
- ▶ Tax disputes resolution training in collaboration with the Kenya Revenue Authority and/or ICPAK;
- ▶ Lobbying for free CPDs for young lawyers during the coronavirus pandemic.

1. Mentorship program through LSK Mentorship Board.

2. Employment & Remuneration:

- ▶ Come up with recommendations on amendment to the Remuneration Order to provide remuneration for all categories of advocates.
- ▶ Lobbying for employment opportunities through LSK representative to the Judicial Commission

for employment of young lawyers as researchers, magistrates and adjudicators in the Small Claim Court.

- ▶ Lobbying for mediation work for young mediators advocates for court annexed mediation;
- ▶ Monitoring state agencies compliance with AGPO 30% requirement for legal services;
- ▶ Come up with recommendation for amendment of Companies Act to provide for incorporation of Companies by Advocates.

3. General Welfare:

- ▶ Medical insurance- lobbying for lower rates;
- ▶ Mental health;
- ▶ Investment opportunities through LSK Sacco;
- ▶ Discussion on the role of ABA on the welfare of young advocates;
- ▶ Sexual harassment;
- ▶ Fundraise for various projects that the Young Lawyers Committee may have in order to facilitate the various events and or projects.
- ▶ Inform young lawyers through the monthly Law Society of Kenya journal and Continuous Professional Development (CPD) events of the intended projects and or completed projects by the Young Lawyers Committee

Guided by the thematic areas identified, the committee has since formed four sub-committees;

1. Capacity Building and Trainings
2. Mentorship Program Through LSK Mentorship Board
3. Employment & Remuneration
4. General Welfare Issues

ACHIEVEMENTS:

Webinars: The Committee has conducted two webinars on relevant areas of law.

1. On 2nd September, 2020, the Committee held a free webinar on **'The Place of National Tribunals in Sports Arbitration.'** The Webinar attracted renowned panelists in the field of Sports: **Prof. Juan De Dios Crespo Pérez** of Ruiz Huerta & Crespo, **Ms. Janet Katisya**, Vice Chair, Independent Disciplinary Appeals Committee and **Mr. Rombo Edward Atiang of Rombo & Company, and Rtd. Professional Rugby Player.** The Webinar attracted one CPD Point.

- On 3rd December 2020, the committee organized a free webinar on Inheritance in Islamic Law: Principles, Procedure & Practice, facilitated by **Honourable Abdul Jabar Hussein, Senior Resident Kadhi**.

Training on Legal Compliance and Audit: The Committee in partnership with the Kenya School of Law held the first training on Legal Audit and Compliance between 11th and 14th January 2021. The Trainings have gained traction among young advocates, given the same is an untapped area of law. Further, the committee has negotiated the training fees, making it affordable for young advocates.

PLANNED ACTIVITIES

- A Revamp of the Young Lawyers Medical Cover.**
The Committee is in talks with Madison Insurance, to revamp the prior cover, to make it more affordable, especially to newly elected advocates.
- Practicing certificate payment through Flexi-Cheti:**
in order to enable young advocates, particularly those newly admitted, the Committee intends to negotiate with LSK Sacco, to see the revival and revamp of Practicing Certificate payment through Flexi-Cheti.
- Young Lawyers Committee Survey on the Working Conditions of Young Advocates:** The committee in its meeting held on 31st August, 2020 resolved to collect data and information from young lawyers, regarding their current working conditions including but not limited to remuneration, in order to allow the Committee, develop recommendations and/ or a policy paper on how the same can be remedied and/ or improved to safeguard the interests of young lawyers, through the Law Society of Kenya Council.
- Mentorship Program:** The committee is in talks with the Mentorship Board, to find ways of rolling out the program. The committee has since drafted Guidelines to guide the Program and awaits approval of the Mentorship Board.
- Planned Webinars:** The Committee has scheduled the following webinars:
 - ▶ **'A Guide on Accounting, Book-Keeping Practices, Tax Planning and Investments for Start-Ups'** had been settled upon, to especially assist young advocates gain the much-needed knowledge when starting out their law firms.

YOUNG LAWYERS COMMITTEE- 2021

The Committee is tasked to among other things:

- Advise the Council of the Law Society of Kenya on all issues relating to young lawyers in the context of the legal profession in Kenya
- Promote the participation of young lawyers in the legal profession and in particular, in the affairs of the Law Society of Kenya
- Promote the concerns of young lawyers within the Law Society of Kenya and in the legal profession.

Pursuant to the Committee's inaugural meeting, the following mandate was adopted:

DELIVERABLES:

Promote young advocates welfare and this shall include but not limited to the following areas;

Thematic areas identified;

- Capacity Building and Trainings
- Mentorship Program Through LSK Mentorship Board.
- Employments & Remuneration
- General Welfare Issues

On 6th May, 2021, the Committee held a free webinar on *'Recent Jurisprudence on Family Law- Presumption of Divorce'* presided by Ms. Judy Thongori, SC. The concept of presumption of divorce is relatively new and its application, limitedly understood by litigants. The speaker sought to analyze its application, recent case law and its place in our courts. the topic initiated a conversation and thought provoking questions.

PLANNED ACTIVITIES

- A Revamp of the Young Lawyers Medical Cover.**
The Committee is in talks with Madison Insurance, to revamp the prior cover, to make it more affordable, especially to newly elected advocates.
- Partnership with Advocates Benevolent Association:** The Committee noted that many advocates were struggling with issues mental health, especially due to the effects of COVID-19 i.e. loss of employment. It was proposed that there was need to liaise with counsellors, who would offer support to advocates. The Advocates Benevolent

Associating had partnered with the professional bodies on Counsellors and phycologists, to offer support to all advocates. Members noted that the Young Lawyers Committee could be best placed to partner with ABA, so as assist in rallying affected young advocates, the help that they very much needed.

3. Young Lawyers and Creating Investment Portfolios:

The Committee deliberated on the need to educate young advocates, on the need to commence investment as soon as they got into the profession. With the recent pandemic, it was imperative to offer civic education, through recurrent webinars, on investing. Further, the Committee sought to negotiate favourable terms and conditions, for young advocates, desirous of joining Saccos.

4. Trainings:

The Committee noted that members had been very receptive to the ongoing training on “Legal Audit and Compliance’ the brain child of the Young Lawyers Committee. Members noted that the said training in Partnership with the Kenya School of Law at a subsidize rate to accommodate young advocates had provided an emerging area of practice, which to say the least, was very lucrative. Members noted that there was need to negotiate additional trainings, in emerging areas of law, to expand the practice areas for young advocates.

IMMIGRATION LAW COMMITTEE

The Young Lawyers Committee is convened by Council Member, **Ms. Esther Ang’awa**. The committee is mandated to:

- To identify matters of public interest within existing immigration legislation for litigation
- To push for compliance of immigration decisions and judgments passed by courts
- To advise the Council on policy and legislative reforms touching on immigration
- To advise on capacity building initiatives for members on the immigration law

The Committee has identified the following thematic areas:

- ▶ Analyze the legislative framework governing Immigration and Refugee Law: this shall be done by identifying the gaps in the four main legislatures and fronting the proposals for further action:

- Constitution 2010
- Kenya Citizenship and Immigration (No. 12 of 2011)
- Kenya Citizenship and Immigration Regulations, 2012
- Kenya Citizens and Foreign Nationals Management Service (No. 31 of 2011)
- Special Economic Zones (No. 16 of 2015)
- Refugees Act, No.13 of 2006
- The Refugee Bill, 2019

- ▶ Commence the discussion on the establishment of an Immigration Court;
- ▶ Capacity building- The committee undertook to sensitize advocates, the Directorate of Immigration, the public and stakeholders on immigration laws and regulations; and
- ▶ Practical engagements with various stakeholders by offering support whenever called upon.

The Committee has since commenced the process of identifying gaps in the various pieces of legislature governing Immigration and Refugee Law.

AD-HOC COMMITTEE ON WORK INJURY BENEFITS ACT, 2017

The Committee is chaired by **Mr. Justus Mutia, Chairman of South Eastern Branch** and is mandated to undertake the following tasks:

1. Analyzing the Supreme Court Judgement and its import on access to justice and administration of justice.
2. Reviewing the Work Injury Benefits Act 2007 and the framework of handling WIBA cases before the Director of Occupational and Safety Services at the Ministry of Labour.
3. Collecting data from members and relevant stakeholders on the cases already filed before the Director of Occupational Safety and Health Services and the progress made in handling the cases.
4. Convening necessary meetings with relevant stakeholders with a view to finding a solution to the challenges facing the implementation of WIBA Act.
5. Establishing the number of claims pending in Court and outstanding fees owed to advocates from insurance companies and their clients.
6. Providing necessary recommendations to the Council.

The Committee has undertaken several activities in the year 2020 as listed below:

- ▶ The Committee re-issued the Notice to members requesting for information on WIBA matters through filling in of a questionnaire.
- ▶ The Committee collected and compiled all submitted questionnaires from members.
- ▶ Members held several meetings online and reviewed the Work Injury Benefits Act 2007 and the framework of handling WIBA cases.
- ▶ The Committee requested for official data on WIBA matters from court stations across the country.
- ▶ The Ad- Hoc Committee was requested by the Council to draft a Petition to the National Assembly proposing necessary law reform measures to address the challenges facing WIBA matters.
- ▶ The Ad-Hoc Committee on WIBA together with the Law Reform committee held several meetings and came up with a draft Petition.

The Committee intends to finalize the Petition and to include the data collected from various court stations. The final petition will be submitted to the Council for their consideration in 2021 and forwarded to the National Assembly.

LAWYER-POLICE RELATIONS COMMITTEE - 2020

The Committee is convened by **Ms. Carolyne Kamende, LSK Vice President** and its terms of reference are *inter alia*, to develop guidelines on police-advocate engagement and support administrative and institutional frameworks that should contribute to creating and consolidating a safe and enabling environment in which both legal practitioners and police are supported and empowered to carry out their professional duties and activities.

The Committee undertook the following activities in the year 2020:

Review of Terms of Reference (TORs)-In 2020, the Committee reviewed its TOR's to avoid duplication and overlap with the Nairobi Branch's Lawyer-Police Committee.

Meetings – the Committee held four meetings virtually, and robust discussions were carried out under various thematic areas, mainly focusing on Lawyer Police relations, enforced disappearances and extra judicial killings.

Purple ribbon campaign 23rd of June 2020-The Lawyer -Police Relations Committee planned the purple ribbon commemoration ceremony in honor of the late Mr. Willie Kimani advocate, and all advocates harassed and murdered while discharging professional duties. The commemoration ceremony which took place at the Secretariat grounds culminated to the launch of a Hotline no **0800 720 434** by President Nelson Havi, to enable affected parties to report Human rights violations on cases of excessive use of force, enforced disappearances and extrajudicial killings, particularly in the advent of curfew enforcement.

Launch of Branch Hotlines on 27th August 2020- The Lawyer -Police Relations Committee planned the launch of 7 Hotlines on 27th August 2020 during the Katiba Day Celebrations. Each Branch now has a unique toll number, through which Advocates can reach out to report on incidents of harassment, encountered in the course of their professional duties.

LSK BRANCH	TOLL FREE NUMBER
NAIROBI	0800720703
WEST KENYA	0800720704
COAST	0800720705
SOUTHEASTERN	0800720706
MT. KENYA	0800720707
RIFT VALLEY	0800720708
NORTH RIFT	0800720709
MT. KENYA	0800720710

Formulation of Draft National Advocate-Police guidelines - In 2020, the Lawyer-Police Relations Committee also embarked on formulating guidelines that will further augment its role in seeking to foster relations between the Advocates and Police, for the common good of enhancing the administration of justice.

BUILDING BRIDGES TO UNITY AD- HOC COMMITTEE

The Council of the Law Society of Kenya constituted an Ad hoc Committee to develop a memorandum on behalf of the Membership, touching on the areas within the 9-point agenda. The committee is chaired by **Ms. Roseline Odede**. The society's adherence to this call is anchored in section 4(e) LSK Act "to protect and assist

the public in Kenya in all matters touching, ancillary or incidental to the law."

The Building Bridges Initiative (BBI) Taskforce Report making several recommendations that require Constitutional and legislative interventions, was compiled and submitted to the Citizens for their consumption ahead of implementation (and or referendum).

The following are the activities of the committee:

Meetings- the BBI Ad- Hoc Committee of the Law Society of Kenya held three virtual meetings in 2020 where Members interrogated the report to identify areas that would warrant the Society's interventions.

Report- in 2020 the Committee developed a draft report to highlight some of the issues identified by its members as issues of concern captured in the BBI National report. They formulated recommendations to be tabled to Council for consideration.

Consultative forum- In 2020 the Committee organized a virtual consultative forum, aimed at inviting members to give additional views on the BBI taskforce report, which will build on the Committee's report before submission to the Council for adoption. The consultative forum was however postponed due to unavoidable circumstances.

CRIMINAL JUSTICE COMMITTEE

The Committee is chaired by **Mr. Wilfred Nderitu SC**, and co-chaired by **Mr. Kimathi Kamencu**. The 10-member committee is mandated to among others: discuss issues relevant to Kenyan penal law and procedure and the functioning of the courts with regard to criminal cases; issue reports and make recommendations for legislation or change to existing statutes; make proposals for prosecutorial and judicial reform and prepare "status" papers, charting and detailing the consequences of significant, new legislation or court rules affecting the criminal justice system.

In the reporting year, the convener Mr. Nderitu SC, alongside Ms. Juliet Nyangai, committee member, represented the larger membership of the society in the Brainstorming workshops by the Judiciary Training Institute in conjunction with the Judiciary on E-filing in criminal matters. The workshop sought to engage practitioners on their proposals towards enhancing service delivery electronically at a point in time

when the Judiciary was planning the migration. As a result, the Criminal E-filing system has received great commendation in Nairobi and the committee shall closely keep an eye even as the E-filing system is rolled out throughout the country.

Pursuant to the re-sentencing in the "*Muruatetu Case*", the Committee through its co-chair and secretary attended workshops on behalf of the larger committee and was hosted by Reprieve UK in partnership with Kenya National Human Rights Commission.

Though the courts have pronounced themselves on re-sentencing, the committee notes the non-uniformity in the application and further the lacuna created by lack of any guidelines as to how re-sentencing ought to be done. In the current partnership, the Law Society through the Committee has been listed in the National Steering Committee as a key stakeholder in the review taskforce which intends to among others, formulate guidelines in liaison with other criminal justice stakeholders in the country.

Seeing the challenges of pro-bono representation in criminal matters, the Committee plans to engage with the National Legal Aid Service and Bar Bench Committees on Criminal Justice in a move that would see an informed and structured framework for pro-bono representation in the Country. Further, the Committee plans to engage with the Police to address the increased cases of harassment of lawyers in the line of duty.

Through engagements with the Law Society of Kenya Branch Committees on Criminal Justice, the Committee aims at highlighting areas of grave concern which shall form majority of the output for the Committee in the 2021 reporting year. The practitioners shall have a way to collate their concerns that can be taken up with the help of the Council through the Committee.

Other planned activities include:

- i. Collaborations with National Committee on Criminal Justice Reforms and National Council on Administration of Justice on reforms in the Criminal justice sector
- ii. Engagements with Court Users Committees on Criminal Justice
- iii. Criminal Justice E-journal to update members on the recent and emerging trends in Criminal Justice

CORPORATE (IN-HOUSE) & PUBLIC SECTOR COUNSEL COMMITTEE

The Committee was constituted at the start of the Council's tenure in 2020 and is chaired by **Ms. Ndinda Kinyili**, Council member and co-convened by **Mr. Paul Ndungi Advocate**. The Committee is mandated to work closely with the Council of the Law Society of Kenya on policy advocacy and policy reviews and provide feedback to in-house counsel, to disseminate information of interest to in-house counsel. The Committee also acts as a common platform for the sharing of knowledge amongst in-house counsel through discussions and case studies in areas of expertise of in-house counsel among others all aimed at being a voice to the counsel in Government, corporate sector and otherwise in-house practitioners in the private sector.

During the reporting year, the Committee undertook and participated in events some of which are highlighted in this report:

► Training:

a). In-House Counsel Caucus 2020

The Committee held the 3rd Edition of the Annual "In-House Counsel Caucus", virtually on 4th December, 2020 themed, "*Leadership in times of crisis*". The Webinar attracted over 400 attendees and provided a chance for the panelists moderated by Ms. Soila Kigera Advocate to discuss the measures to employ in assisting counsel especially corporate practitioners navigate and lead their institutions amidst the Covid-19 Pandemic.

During the caucus, Ms. Diana Sawe of Insurance Regulatory Authority led the discussions on "*Accountability of In-house Counsel in The Procurement Process*", where she outlined among others the role of In-House Counsel and professional practice and ethical conduct. Mr. Fred Waithaka, Head of Legal at Safaricom Ltd on his part took members through a discussion on Contract Management and Enforcement during the Covid-19 Pandemic. Hardly was the pandemic anticipated and there was the need to converse on how among others, the doctrines of Force Majeure and frustration have played out in the year.

Mr. Andrew Wamicwe, Regulatory Director at Airtel Africa lead discussions around, "*The Role of In-house Counsel in Guiding Public Institutions to Deliver Efficient and Effective Services during the Covid-19 pandemic*". It is expected that the 4th Edition of the Caucus will be held in due course to allow members reflect on the same

theme and develop better strategies before the end of the 1st quarter of 2021.

b). Responsible Business Training

The Committee in conjunction with A4ID and the East Africa Law Society (EALS) designed a forum with the aim of peer-to-peer learning; to share best practices for advising businesses to make corporate decisions that do not adversely affect the human rights of their employees, supply chain stakeholders, or communities that interact with their business operations.

Through panel presentations and break-out discussions, the webinar examined the role of in-house counsel in advising CEOs and company boards on handling disruptions, management change and risk mitigation in times of crisis, as well as assess the challenges that COVID-19 posed to Kenya's private sector and how in-house counsel could help to mitigate any adverse impacts of the pandemic on responsible business practices.

c). 2nd Annual County Attorney's Forum Retreat

The Committee chair, Ms. Ndinda Kinyili represented the Committee at the 2nd Annual County Attorney's Forum Consultative Forum, alongside Ms. Beth Michoma Council Member and Ms. Riziki Emukule Council Member which was held from the 11th to the 13th November, 2020 in Kilifi, which sought to among others discuss "*Transition in reference to the Office of the County Attorney Act, 2020*," and "*Status of Non-Practice Allowance for In-House Counsel*."

In the panel discussions held, the Council members argued a case for better mechanisms being employed to give effect to the law and more-so to provide avenues through which advocates could be absorbed in these legal departments and have their welfare catered for under the laid procedures. Further, they reiterated the support of the LSK with regard to the transition through vehicles such as negotiations and/or litigation as seen in the "*NEMA Case*" currently before the Court of Appeal, for the benefit of this Constituency; the In-House Counsel.

The County Attorney's Forum shall in concert with the LSK continue to hold such forums not only to capacity build but also firmly protect and promote their activity.

► In - House Counsel Welfare

The Committee considered majority of the issues facing

the In-house generally and also with bias to certain current and emerging issues in the reporting year. The Committee has formulated:

- i. Draft Guidelines on the Conduct of Virtual Board Meetings;
- ii. Draft concept on Development and Certification of Tools for Conducting Legal Audits;
- iii. Draft concept on the Development of a Manual for in-house Legal Practice;
- iv. Draft position paper on the circular on the Presidential Directive on Delivery of State Programmes and Projects in the Fiscal Year 2020-2021.
- v. Draft In-House Counsel Mentorship Forum Concept Note.

It is expected that during this current year, the Committee will successfully launch the items indicated above most of which are concept notes. The mentorship program for In-house Counsel shall be a vehicle through which mentees will have a chance to interact with senior in-house practitioners which shall in the long run lead to enhanced outputs by In-House Counsel. Further the committee through the Council of the Law Society anticipates for more collaborative engagements in the current year to advance the welfare of in-house Counsel throughout the Country through its various sub-committees.

The following are the planned activities of the committee for the upcoming year:

- i. The Committee is organising a series of webinars tailor made for Corporate and In-House Practice Lawyers
- ii. There are plans of having more In-house Lawyers Caucuses in the year 2021 where in-house counsel shall get a chance to network albeit virtually as well as increase avenues for peer-to-peer learning
- iii. Launching of the Mentorship Program for In-House Counsel
- iv. Publication of the In-House Counsel E-Journal
- v. Devolution Conference for Counsel working in the County Governments in conjunction with County Attorney's Forum

- vi. Inaugural In-House Counsel Conference 2021
- vii. Engagements with Stakeholders such as SRC, National Executive, Office of the Attorney General on the welfare of In-House Counsel

CHILD LAW PRACTITIONERS COMMITTEE- 2020

The Committee is Co-chaired by **Ms. Riziki Emukule** and **Ms. Roseline Odede, Council Members** and is mandated to inter alia: propose and make recommendations to the Council on ways and means of improving the quality, fairness and effectiveness of the Children justice system nationally; propose recommendations for legislative reform to existing statutes on Children Justice system; prepare recommendations on the use of technology in administration of justice in order to ensure speedy trial and resolution of children cases and to meet and discuss Children law- international, regional and local as well as compliance practices and enforcement trends.

In line with its mandate, the Committee in the year 2020 at the height of Covid-19 pandemic and the challenges of closure of schools and increasing rate of teenage pregnancies, formulated a memorandum to cabinet on the re-opening of schools. The committee also engaged the Ministry of Social Protection, department of Children affairs, on rise in number of teenage pregnancies. The committee engaged various children departments in the counties and continues follow up with the developments.

Further, the Committee has engaged with stakeholders such as the National Adoption Committee on revisiting the moratorium that had been issued against registration of Adoption Agencies or granting of the permits for adoption, in light of the judgment as read by Justice Muchelule on 27th February, 2020 informing the status of adoption in Kenya.

On the emerging issues, the committee identified focus areas:

- i). Surrogacy (Bills before the National Assembly & the Senate)
- ii). Advocate for Intersex Children and their rights
- iii). Child Trafficking in Kenya- Internal Measures
- iv). Unaccompanied Refugee Minors
- v). Rules on International Adoptions
- vi). Consensual Child to Child Sexual Relations
- vii). Children's Act and Sexual Offenses Act Reviews
- viii). Safe Homes: Charitable Children Institutions
- ix). Mandatory Vaccine Testing

During the 2021 calendar year, the Committee shall continue to hold stakeholder engagements on the above fields as well as any other emerging issue brought to its attention in furtherance of its mandate. The Committee has also proposed to hold online Child Law Practitioners workshops to allow members to interact and channel areas of concern that need urgent address by the Council through the committee.

The Committee hopes to host the inaugural Child Law Practitioners conference in the year 2021 with participants drawn from East Africa member countries in a bid to share information as well as track the development of child law in the region. Further, the committee plans to commence its E-Journal on emerging trends in the area of Child Law practice, which shall be released quarterly.

ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

The Committee chaired by **Mr. John Ohaga SC** and **Ms. Mutheu Carolyne** as the vice-chairperson is mandated to promote the use of ADR mechanisms and the processes in conflict/dispute resolution and in the administration of justice in Kenya as well as to raise awareness of the benefits of ADR amongst the members of the Society and the public at large.

In the reporting year, the committee advanced its role through its subcommittees constituted in its maiden meeting. The key agenda of each of the sub-committees is to take responsibility of exploring what is happening in its landscape thereby continuously putting the committee on the cutting edge on matters ADR. So as to have progress to report on, the subcommittee agreed to meet once between the regular committee meetings. The subcommittees:

- a). Arbitration subcommittee
- b). Mediation subcommittee
- c). Use of technology in facilitating ADR subcommittee
- d). Law reforms subcommittee

Each of the sub-committee was tasked with a specific mandate based on the focus area. The small committees within the larger committee have proven to be a progressive tool towards the attainment of the overall mandate as seen in the committee's achievements for the year including:

► **Formulation of Draft Law Society of Kenya Mediation Rules.**

► **Formulation of Draft Law Society of Kenya Arbitration Rules.**

Through its Mediation Sub-Committee, the ADR Committee is in the process of formulating draft guidelines on Mediation; "The Law Society of Kenya, Mediation Guidelines". The guidelines will among others; direct the President of the Law Society of Kenya on the appointment of mediators, regulate the operation and conduct of LSK mediators, provide guidelines on party conduct; and provide regulations for conduct of mediation process. Notably, the Law Society is a nominating body for mediators and generally ADR practitioners as and when called upon. Therefore, the guidelines shall come in handy seeing that matters being referred to mediation under the auspices of the Law Society of Kenya, shall have the guiding framework establishing the process and procedure.

► **Formulation of Draft Law Society of Kenya Virtual ADR Practitioners Guidelines.**

The Use of Technology Sub-Committee of the ADR Committee has also formulated the "Law Society of Kenya Online Dispute Resolution Guidelines". The same has been necessitated noting that with the pandemic, most of the ADR matters otherwise held in the practitioners chambers would not ordinarily commence and run for among other reasons, the need to protect the users as well as the practitioners from covid. In light of the foregoing, a handful of users have resulted to shifting the ADR practice from physical meetings to online participation. That has come with its share of challenges key among them, testimony taking, and the danger of the dispute resolution taking place in the absence of the actual disputants. These challenges, have been taken up by the committee which now seeks through the guidelines drawn from best practices globally to provide a framework on which matters will proceed albeit online. The guidelines shall be shared with the members for their input and feedback before they are finally launched by the Committee.

The guidelines are currently in their final stages of adoption after which they will be tabled before the Council of the Law Society of Kenya and approved for use in the disciplines they represent. Further to the enactment of guidelines, the committee has managed to negotiate with stakeholders in the Alternative Dispute Resolution arena. As a result, a Memorandum

of Understanding between the Law Society of Kenya and Mediation Training Institute and a Memorandum of Understanding between the Law Society of Kenya and the National Centre for International Arbitration shall be tabled before the Council for adoption.

The MOUs provide for areas of general collaboration seeing that they closely deal with what is the crux of the mandate of the committee. Moreover, members of the Law Society of Kenya can take advantage of the negotiated packages in training and undergo training as Arbitrators and Mediators as offered by NCIA and MTI respectively.

The following are the planned activities of the Committee:

- The committee is exploring to conduct a project aimed at enhancing Dispute Resolution through use of Technology.
-
- Proposed collaboration between the Law Society of Kenya ADR Committee and the LSK Nairobi Branch Bar Bench Committees.
- Steering the amendments to the Arbitration Act.
- Public Awareness on ADR Mechanisms through application of digital strategies.
- Members of the Committee to speak in ADR related seminars offered by the LSK CPD Committee.
- Collaboration between the ADR Committee and the High Court and Court of Appeal Bar Bench Committees.
- Ensure that current Legislation have an ADR component to present opportunity to members to sit in different tribunals.

BUDGET & FINANCE COMMITTEE

The Chair of the Committee is **Mr. Javier Munzala**, Advocate and the current committee comprises of;

1. Sally Mukabana - **Vice chair**
2. Bernhard Ngetich - **Council Member**
3. Anthony Ouma - **Member**
4. Stephen Matagaro - **Member**
5. Apollo Hillary - **Member**
6. Collins Okello - **Member**
7. Owen Kibunja - **Secretariat** (taking minutes).

The Committee core mandates are;

1. **Budget mandate:**

The Committee to consider;

- a. Annual capital, income and expenditure budgets, together with proposals and variations thereof,
- b. Review financial performance against budget and plans and thereon make appropriate recommendations to the Council

2. **Finance mandate:**

- a. Consider, advice and make appropriate recommendations to the Council on all aspects of financial strategy, including financial regulations and procedures;
- b. Consider tender reviews, proposals for major capital expenditure, development projects;
- c. Give approval within agreed parameters established by the Council or financial regulations.

3. **Investment mandate entails;**

- a. To oversee the developing and implementing of the investment policy,
- b. Coordinates any updates to the Investment Policy, including soliciting input from the designated tax and legal advisers to the society,
- c. Identify a risk management structure applicable to investing
- d. Monitoring investment risks and reporting them.

In the year under review (2020), the committee deliberated and addressed the following issues;

Change of Committee membership and leadership.

Mr. Javier Munzala, Advocate was elected to be the Committee convener assisted by Ms. Sally Mukabana as the Vice convener. This was after the previous committee tenor came to the end.

The Committee was involved in the following activities for the year.

Review of Budget provisions 2020

The Committee reviewed the proposed LSK Budget for 2020 and made recommendations on harmonization of the budget to the society expected revenue for the year. This was to ensure that there is a healthy balance between the operational and capital commitments with the expected resources in view of promoting the going concern of the Society. The committee observed that the need for a seamless flow and linkage of strategic plan to the objectives and the procurement plan.

The meeting agreed that to boost society revenues, the society should take advantage of investment opportunities. This should be after evaluating risks and returns on the investment opportunities

The Committee also noted that an effective process of appreciating staff efforts during the year should be put in place.

This process should be agreed and communicated early enough with staff with clear expectations.

The Committee noted that a conservative increment of revenue lines was 10 % over the actual revenues of the previous year.

The committee noted that the revenue projected for the year was not sufficient to fund all the proposed expenditure items. Thus the committee insisted on prudence utilization of the generated revenues in line with targeting at minimum a zero budget.

It was noted that effective networking and partnerships will bring great leverage in pursuing strategic goals more so pertaining to program activities such as Public Interest Litigation. This would enhance generation of adequate funding that could help the society achieve some of its important programs. To this end, more resources should be used for networking and or marketing.

Challenges of Covid 19 pandemic

The Committee noted the challenges brought about by the Covid 19 pandemic and the effect of training program of the society. The committee noted that the Society did not have a credit card facility which made it difficult to renew zoom registration. To this end, the committee proposed that such a facility should be available to the Society with detailed controls and reporting of the same.

Matters arising from AGM 2020

The Committee took note of matters that emanated

from the Annual General Meeting held on 2020. These matters were;

- I. Report on International conference 2019

The committee supported the following;

- I. That the society president and CEO as has been the practise, may attend international conferences. However, where the president or CEO opts to nominate another person, this should be in writing and effectively communicated.
- II. Any other member who may wish to attend such conferences to make their conference arrangements.
- III. However, should there be a formal request for facilitation, such should be dealt on its merit and reimbursement should be done the earlier of three months or within the financial year.
- IV. Where the conference may be through program or project assignments, this should be clearly stated through such program/project proposals, and approved prior in the work plans.
- V. The committee also proposed establishment of a feedback framework mechanism on all conferences.

Financial Governance

The Committee was concerned about the financial governance of the Society resources. It noted that the signing mandates of financial transactions (bank account) is short of the best practice. To this end, the secretariat was tasked to draft a mandate that meets the best practice, address governance challenges and is effective on checks and controls. The committee proposed a more management involvement in Bank management in form of differentiated approval matrix with tiers and limits.

BUDGET & FINANCE COMMITTEE- 2021

The Finance and Administration directorate is headed by CPA Owen Kibunja (Chief Accountant) and supported by; CPA Michael Chege (Senior Accountant), CPA Titus Gitu (Accountant), Mr. Shadrack Musyoki (Accounts Assistant) Mr. Cleophas Nyanyuki (Accounts Clerk).

The year was productive despite challenges posed by the Covid-19 pandemic preventive and control measures and management of the banking transactions.

Management of LSK Revenue

To improve on the efficient and financial workflow, the department handled different financial transactions relating to different programs and projects such as,

- Continuous Professional Development (CPD) which were held virtually.
- Processing of annual and new practicing Certificate
- Disciplinary Tribunal Committee which were done virtually.
- Facilitation of Good standing certificate
- Facilitation of ABA back fees Payment.
- Management of program activities and funds
- Support ABA in financial management

Over 13,500 practicing certificate application payments were processed with most of the submission done online.

Improve Financial Management systems

The Enterprise Resource Planning (ERP) system is now up and running with well managed troubleshooting feedback mechanism. To improve the efficient of the work flow, the directorate is working closely with the ICT department to ensure that the ERP system is fully automated.

The directorate continues to improve on services to members on event booking platform. Management of CPD seminars and Practicing certificate application have been migrated to member self-service portal and this has made it a demand driven service. The directorate was able to address the increased Email Enquiries by members as a result of interruptions on telephone connectivity.

Institutionalizing Budget process

The directorate in conjunction with other directorates prepared and consolidated the Society year 2022 Annual budget estimates. This together with the annual work plan were presented to the Budget and Finance committee for review and prepare Management reports.

Ensure statutory compliance

The directorate has ensured that all the statutory requirements are complied with. However, it is regrettable that there was lapse on the payroll statutory compliance. The matter was beyond the directorate. Nevertheless, the issue was adequately reported for

further intervention.

Administrative Support-HR & General

The directorate have provided the necessary archer support to other arms of the Society as and when the need arises.

This include but not limited to; management of the Staff leave matrix, office logistics, management of line committees among others.

Enhance Financial Reporting

The Directorate continues to be guided by Finance and Accounting Policy Manual since it provides a comprehensive documentation of the Society's financial accounting and reporting procedures and processes and budget management in line with the new system development and other related International Reporting Financial Standards (IFRS) reporting requirements. As a statutory requirement, the directorate is finalizing on the end year Y2021 Audit.

STAFF FINANCE AND BUDGET COMMITTEE

The Staff Budget and Finance Committee is a Committee of the Council comprising of Council members only and Chaired by the **Vice President Ms. Carolyne Kamende**. The mandate of the Committee is to provide policy oversight on staff, finance and Budget. In the year 2020, the Council elected **Mr. Bernhard Kipkoech** as the Treasurer of the Society.

The Committee was engaged in provision of policy and guidance on administration of the Society, review of financial reports and the recruitment of members of staff to the following positions:

1. Program Assistant Public Interest and Human Rights
2. Program Assistant Legislation
3. Program Assistant ICT

The recruitment process of the Program Assistant Public Interest and Human Rights as well as Program Assistant ICT was concluded and what is remaining is the signing of the Contracts.

During the year 2020, the Council resolved that the financial accounts for the months of January- August 2021 would be included in the forensic audit to be undertaken on the financial accounts for the year 2019.

The Committee was involved in the following:

1. Consideration and approval of budget expenditure of various activities including supporting Branches to participate in the AGM held in July 2020
2. Consideration and approval of call for pre-qualification of suppliers, of goods, works and services in June 2020.
3. Consideration of staff matters including the issue of staff end of year bonus. It was decided that due to the Covid-19 challenges and effects, the Society could not pay staff members any bonuses in the year 2020.
4. The Committee considered the end of contract of employment of Ms. Irene Itoto Echakara, Programme Officer Parliamentary and Legislative Affairs Directorate and released her. Subsequently, the Employee filed a case in Court in **ELRC Civil Case No. Itoto Echakara -vs- Law Society of Kenya**. On 8th February, 2021, the Court dismissed an application by Ms. Echakara seeking to be reinstated and discharged interim orders stopping LSK from advertising and recruiting to fill in the vacancy. The case is pending in Court and LSK is represented by Mr. Emmanuel Wetangula Advocate on a pro bono basis.

SECRETARY/CHIEF EXECUTIVE OFFICER OF THE LAW SOCIETY OF KENYA.

The Council initiated the process of removal from office of the Chief Executive of the Society and Secretary to the Council, Ms. Mercy Kalondu Wambua through a Notice to Show Cause issued on the 14th September 2020 on alleged grounds of incompetence and gross misconduct. At the same time the CEO was suspended for a period of 30 days pending hearing and determination of the disciplinary proceedings. The CEO filed responses and hearing conducted after which the Council took a decision on the matter on the 16th October, 2020 and communicated to the CEO and members on the 19th October, 2020. By a majority of 9 to 3 members of the Council, the Council voted to dismiss all the charges levelled against the CEO/Secretary and reinstated her. The Vice President did not take a vote. Notwithstanding the decision of the Council, President Mr. Nelson Andayi Havi purported to dismiss and remove the CEO/

Secretary from office by a letter dated 19th October 2020 contrary to Section 26 of the Law Society of Kenya Act, 2014 which requires a vote of the two-thirds of members of the Council.

In addition, the President attempted to physically remove the CEO from Office on several occasions and undertaking other actions aimed at interfering with the CEO's duties e.g, attempting to lock the offices, giving instructions to the security firm not to allow the CEO's access to the office, giving instructions to the Society's Bank accounts and service providers that the CEO had been fired and putting an advertisement on social media and newspapers to the effect that the CEO was terminated and not allowed to act on behalf of the Law Society of Kenya.

On 23rd November, 2020, the President wrote to the Deputy Secretary, Mr. Collins Odhiambo directing him to make arrangements to the holding of a SGM on the 5th December 2020 based on notices served on the Society on 20th and 23rd November 202. Agenda three of the Notice convening the SGM provided **"Recruitment of a Secretary/Chief Executive Officer for the Law Society of Kenya."**

The CEO/Secretary filed **ELRC Petition E090/2020 Mercy K. Wambua Versus Nelson Andayi Havi and the Council of the Law Society of Kenya**. On 1st December, 2020, Justice Nzioki wa Makau issued; conservatory orders restraining the Respondents from enforcing the decision of the President dated 19th October, 2020 and his subsequent notice of alleged termination of employment of Mercy Kalondu Wambua, conservatory order of temporary injunction restraining the Respondents and or their servants from interfering with the CEO's role as the Secretary to the Law Society of Kenya and interfering with her performance of her duties as the CEO and Secretary of the Law Society of Kenya and from discussing, move to vote, or vote on matters about the CEO's appointment/tenure as the CEO and to recruit a CEO as further set out in Agenda number 3 of the Notice requisitioning a Special General Meeting scheduled to be convened on 5th December 2020 pending hearing and determination of the application inter partes.

The matter is pending in Court. The Court is scheduled to consider the issue of representation of the 2nd Respondent in the matter, 8 Council members appointed the firm of Ms. Murgor & Murgor Company Advocates while the President of the Law Society of Kenya appointed Mr. Moses Kurgat Advocate of Kurgat, Kabata,

Odogo & Alakonya Advocates LLP. On 17th December, 2020, Justice James Rika in a Ruling made in ELRC 087 of 2020 Murigi Kamande Versus Nelson Andayi Havi, Law Society of Kenya ruled that the LSK shall present to the Court a resolution of the General Meeting, indicating which Law Firms, or Lawyer shall represent the LSK in Petition No. E080 of 2020 and E090 of 2020. Pending the filing of the Resolution of the General Meeting, further proceedings are stayed in both matters and the Court ordered that the LSK President and the Council are in the meantime, encouraged to come together and explore voluntary settlement of the issues that are pulling them apart.

Further to the said Orders, the Council convened a Special General Meeting to among other agenda Items to, appoint a Law firm(s).

LEGAL EDUCATION AD-HOC COMMITTEE

The Committee is chaired by **Ms. Wangeci Esther Chege Advocate** and **Ms. Herine Kabata as the Council Representative**.

In light of the issues involving legal education in Kenya and particularly the Advocates Training Programme, the Law Society of Kenya established the Legal Education Standards (Advocates Training Program) Ad-hoc Committee in 2017, pursuant to the Judgment in **Daniel Ingida Aluvaala & another v Council of Legal Education & another [2017]eKLR**; The Committees' mandate is to deliberate and report back to the Council on the low pass rate at the Kenya School of Law with viable recommendations for onward transmission.

The Committee delved into the issue by undertaking in depth research interviews with several heads of professional bodies, senior advocates and the affected students in order to gain insight on the issue. The Committee's main focus was on how complaints around exams were handled by the professional bodies and this would inform the failure rates and how to address it.

After extensive consultations with various professional bodies which included the Kenya Medical, Pharmacy and Dentist Board, KASNEB, Office of the Director of Public Prosecution, Kenya National Examination Council, 5 Universities offering Law at the undergraduate level, Senior Advocates, the Kenya School of Law, and the Council of Legal Education, the following recommendations were given by the Committee:

1. Life skills be included as a unit in the ATP to enable the students cope with the rigors of the Program.
2. More time to be allocated between each of the examination papers.
3. Re-designing the pupillage experience possibly to incorporate Pupillage to be set before joining the KSL or have pupillage sessions interchangeably with class room sessions as the same would be beneficial for the students to gain practical experiences.
4. Oral and project marks be utilized in subsequent re-sits.
5. Abolishing the Ranking System or changing its display of the examination results.
6. Proposed decentralization of the ATP and/or establishment of more examination centers.
7. Competitive recruitment of lecturers and the adjunct faculty.

The Committee on 6th August, 2020 following an invitation from the Senate Standing Committee on Justice, Legal Affairs and Human Rights made presentations on behalf of the Law Society of Kenya on the issue of mass examination failure at the Kenya school of Law.

Noteworthy is that further to the presentations before the Senate Standing Committee, the Society was invited to a stakeholders meeting held by The Council of Legal Education in Naivasha on 12th - 14th October 2020, whose sole purpose was to amend the ATP Examinations Regulations & Policy to incorporate changes. The Committee was glad to report that some of the recommendations from the final Report were encompassed and the same awaits ratification together with other stakeholders' input.

The Committee now stands defunct with the completion of its mandate.

ADMINISTRATIVE STRUCTURE; SECRETARIAT

In order to comply with the Statutory provisions of the Law Society of Kenya Act No. 2014, the Council resolved to establish the Statutory Directorates. The establishments of the various Directorates will enhance and improve efficiency at the Secretariat. The following are the various Directorates that have been put in place. Other Directorates will be established progressively;

1. Continuing Professional Development Directorate
2. Compliance and Ethics Directorate
3. Public Interest and Legislative Directorate
4. Practice Standards Directorate

CONTINUING PROFESSIONAL DEVELOPMENT (CPD) DIRECTORATE- 2021

Mr. Harold Ayodo, Advocate is the Director of the Continuing Professional Development (CPD) Directorate. **Ms. Emily Tenge, Ms. Vanessa Jepchirchir, Advocate Ms. Florence Owoko** are also staff within the Directorate which ordinarily works with the Committee on CPD which provides policy direction for the Programme.

The Directorate is charged with the responsibility of ensuring continuous professional learning for all advocates and also responsible for:

- **Monitoring Compliance Status of Members**

All Advocates practicing in the country are required to attend Continuous Professional Development sessions and acquire five units before they become eligible to take out the Practicing Certificates.

The Department issues compliance certificates to members who have complied with the Regulations.

- **Implementation of the CPD Calendar of Events**

The Directorate handles training needs for members by contacting speakers who make presentations at CPD training.

- **Handling Applications for Exemption and Accreditation from Members**

The Directorate facilitates meetings of the CPD sub-committee on accreditation by placing all applications for both exemption and accreditation

from members before the committee and drafting correspondence communicating the committee's decisions.

- **General Administration**

The Directorate coordinates all the activities of the Committee by organizing meetings, taking minutes and writing reports.

The Directorate also facilitates partnerships with other organizations to offer trainings beneficial to members. The Directorate also assists walk in members and responds to telephone enquiries and emails on all matters relating to the program.

COMPLIANCE AND ETHICS DIRECTORATE- 2021

The Law Society of Kenya is mandated to among other things:

1. Ensure that all persons who practise law in Kenya or provide legal services in Kenya meet the standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide;
2. Set, maintain and continuously improve the standards of learning, professional competence and professional conduct for the provision of legal services in Kenya;
3. Determine, maintain and enhance the standards of professional practice and ethical conduct, and learning for the legal profession in Kenya; and
4. Represent, protect and assist members of the legal profession in Kenya in matters relating to the conditions of practice and welfare.

The Compliance & Ethics Directorate is overseen by the Law Society of Kenya Deputy Secretary, **Ms. Florence W. Muturi, Advocate** assisted by Assistant Program Officers **Angelica Mecha Advocate** and **Njeri E. Mutitu Advocate**. The Directorate's specific mandates include:

1. Monitoring and ensuring compliance of individual advocates
2. Liaison with Advocates Complaints Commission and other relevant stakeholders

3. Issuance of Certificates of Good Standing
4. Assist with the issuance of Letters of No Objections to facilitate opening up of new law firms
5. Handling general enquiries on advocates
6. Review Practicing certificates applications for members with Disciplinary issues for approvals and further directions under Section 25 of the Advocates Act
7. Sensitize advocates on the code of Standards of Professional Practice and Ethical Conduct
8. Plan and hold sensitization forums for members of the public on disciplinary issues and professional ethics
9. Facilitate Retreat for Disciplinary Committee members
10. General administration and Management of the Secretariat for the Disciplinary Committee
11. Fundraising for the LSK events and projects
12. Assisting the office of the CEO when required
13. Attending to walk-in complainants
14. General administration of relevant LSK Committees under the department:
 - I. LSK Retirement Benefit Scheme
 - II. The Devolution Committee
 - III. The Young Lawyers Committee
 - IV. The Immigration Committee
 - V. The Tax Committee
 - VI. The Legal Education Committee
 - VII. Staff Retirements & Pensions Scheme
 - VIII. LSK Staff Last Respect Scheme

Over the past year, the Directorate has witnessed a significant shift in giving member services. The Directorate has fully embraced the use of technology in a bid to limit physical interactions, amid the COVID-19 pandemic. Most if not all services are conducted via email, with the turn-around period being between three to four days for inquiries and a day for a Certificate/ Letter of Good Standing. It is imperative to note that Disciplinary Sitings are now conducted online.

In addition, the Directorate has handled 864 inquiries from both advocates and members of the public. Further, for the year 2021 we have processed approximately 600 certificates of good standings for both law firms and individuals.

The Directorate continues to work towards finalizing and/or fully integrating the Disciplinary Committee Database module onto the ERP system. The year has not been without its challenges.

The Directorate has continued to experience difficulties in the remittance and or release of client monies in Disciplinary Committee matters, due to the current challenges facing the society's bank operations, as a result of failure by one of the bank signatories to sign for such monies, belonging to complainants who are more often than not members of the public. The monies continue to be withheld in the LSK Bank accounts.

PUBLIC INTEREST AND ADVOCACY DIRECTORATE-2021

► Advocacy

The department has held a series of meetings with the Insurance Regulatory Authority management and legal teams to deliberate on the underlying problems in the Public Service Vehicles (PSV) Insurance Sector legal framework under which the Statutory Management of financially unstable insurance companies is carried out. A policy paper in support of the memorandum presented to CS Ukur Yatani on the same, and the advocacy is ongoing.

► Research

The department undertook research on various issues, and developed IEC Materials / board papers on;

Information education and communication material on safeguarding basic rights during the Covid -19 pandemic.

PIL Achievements- highlighting on the landmark PIL cases that the Society has been involved in and informing members of the impact the matters have had on policy and legislation.

Domestic Violence Reporting and protection- a legal education material providing information on Domestic violence, its legal framework and reliefs existing for victims of it.

A Q&A guide for teens on access to contraceptives and sexual, reproductive health rights. A teen friendly legal aid material.

► **Liability for Police brutality**

Consideration of The Constitution Of Kenya (Amendment) Bill, 2020: Building Bridges Initiative (BBI)

Litigation by The Law Society Of Kenya On The Tax Laws (Amendment) Bill, 2020: Vat Corporate Tax, Income Tax, And Minimum Tax.

► **Committee Support**

Offering technical support to;

- PIL Human Rights and Legal Aid Committee
- Lawyer Police Relations Committee
- Building Bridges to Unity Ad hoc Committee
- PIL Human Rights and Legal Aid Committee

The Committee is convened by Ms. Faith Odhiambo, Advocate. The department provided administrative and technical support in restructuring of the committee and reviewing of the TOR's. Robust took place virtually per the committee's TORS'S on various thematic areas, being Legal Aid, Emerging PIL, Human rights programs. The department assisted the Committee in conceptualizing and preparing for the Legal Awareness Week. f Kenya (LSK) Legal Awareness

► **Partnerships/programs**

In 2021, the Society engaged in in partnerships with over 20 organizations during the Legal Awareness week

- Nairobi Centre for International Arbitration
- Nuclear Power and Energy Agency
- Advocates Complaints Commission
- Kenya National Commission on Human Rights
- Insurance Regulatory Authority
- Ethics Anti-Corruption Commission
- Kenya School of Law
- Kenya Industrial Property Institute
- Walker Kontos
- Kituo Cha Sheria
- Independent Policing and Oversight Authority (IPOA)
- ICJ-KENYA
- Anti-Counterfeit Agency
- Centre for Right Education & Awareness
- National Legal Aid Services NLAS

There are ongoing continuing programs with;

- VANCE Center- Pro bono training by international practitioners, collaborations in PIL Cases and Fellowship programs.
- KARA- Joint initiatives on PIL matters involving residents
- IMLU- ICCPR 4th periodic review implementation matrix.
- KNHCR- Partnership Network brings together State and non-State agencies for the referral of public complaints.
- NLAS- Development of the internship and pro bono programme that will instill a sense of duty and responsibility and inculcate the spirit of pro bono work to the upcoming advocates.

Pro bono database-Case referrals

There has been an enhanced relationship and trust between the organization and the vulnerable in society due to Providence of pro bono interventions and redress on burning issues affecting communities.

In March, we called for expression of interest to pro bono advocates, and enlisted around 220 new and active Pro bono Advocates.

PRACTICE STANDARDS DIRECTORATE- 2021

The Law Society of Kenya Act 2014 under Section 28 (2) (a) provides that the Secretariat shall consist of the Practice Standards Directorate which shall be responsible for the promotion of excellence in practice, client care and the achievement of full compliance with the rules of good practice in the profession through advice, support and other forms of assistance to advocates and law firms.

Ms. Mary Mwathi Kitonga, Advocate is the Director of the Practice Standards Directorate which generally works together with the Practice Standards and Ethics Committee. The Directorate has other objectives that it has managed to satisfy to ensure the smooth running of the Secretariat this year. These include:

1. offer quality services to members
2. enhance standards of professional and ethical conduct for the legal profession in Kenya/ practice matters
3. promote the rule of law and improve practice standards

4. undertake project work
5. undertake departmental administrative work.

The Directorate has various responsibilities to maintain and to enhance the standards of professional and ethical conduct and to handle practice matters which arise within the legal profession. Since its establishment, the Directorate has made great advancements in improving the practice environment especially with regard to weeding out masqueraders/quacks. The Directorate continues to carry out its day-to-day activities to provide services to members. The following are some of the activities the Directorate has undertaken during the year:

1. Issuing letters of no objection
2. Dealing with practice matters and applications to the Council on practice issues
3. Managing complaints against advocates
4. Weeding out masqueraders/quacks
5. General Administrative work
6. Project work
7. Liaison with the Advocates Complaints Commission and other relevant stakeholders
8. Handling general enquiries on advocates
9. Sensitizing advocates on the Advocates Practice Rules
10. Plan and hold sensitization forums for advocates on practice matters
11. Assisting the office of the CEO when required
12. Attending to walk-in complainants

INTERNAL AUDIT- 2021

The Internal Audit department is headed by **CPA Joab Mbakaya**. The department plans its audit work on the basis of a risk assessment and a capacity analysis, as required by the internal audit Charter and the international standards which helps in ensuring efficient and effective implementation of the annual internal audit plan. The implementation of the audit plan is then regularly monitored and adjustments are made as necessary.

The 2021 plan contained 19 audit engagements (consisting of audits, reviews and consulting engagements, but excluding follow-ups). To contribute to the Society's performance-based culture and its greater focus on value for money, the Internal Audit Department carried

out two types of audits in 2021: performance audits and audits which include important performance aspects (comprehensive audits). In line with its methodology and best practice, the Internal Audit Department approached performance in an indirect way. This was done by examining whether and how management has set up control systems to assess and provide assurance on the performance (efficiency and effectiveness) of its activities.

As required by the Council, the Internal Audit Department issued an annual overall opinion on the Society's financial management report. This is based on the audit work in the area of financial management in the Society carried out by the Internal Audit Department during the year. It also takes into account information from other sources, namely the reports from the External Auditors. The overall opinion is issued in parallel to the external auditors report and covers the same year. As in the previous year, the 2021 overall opinion is unqualified.

The department reported to the Internal Audit and Risk Committee on the adequacy and effectiveness of the Society's systems of internal control. Reports were tabled to the Committee and management tasked to implement the various recommendations as adopted by the Committee. The department further reviewed the implementation of disbursements to the eight branches and made recommendations on improving the branch operations. Follow up with management on implementation of the previous recommendations were made and the status reports tabled before the Internal Audit and Risk Committee. The internal audit department engaged various departments during the year to offer consultancy and advisory services that proved vital in strengthening the Society's operations.

COMMUNICATIONS DEPARTMENT - 2021

The Communications Department's strategic objective is to provide transformative member service through raising LSKs visibility, improve professional competence, enhance engagement with stakeholders and improve accountability to members.

The department is currently manned by **Ms. Agnetta Rodi** who is the Programme Officer.

To achieve the strategic objective, the department undertook the various activities as highlighted below during the year 2021;

- Communication with LSK membership: The department is also charged with the responsibility of communicating to the over 18,000 advocates via notices and issuing updates on various issues affecting the membership.
- The Department enhanced the visibility of LSK by facilitating media coverage through the mainstream media for various LSK events/activities which included: Press conferences/briefings/statements on various issues including a call for action by government over increased insecurity and murder cases in the country, congratulatory message on the appointment of CJ Martha Koome and the disappearance and abduction of Prof. Wilson Nandwa Advocate and his client amongst others, the Legal Awareness Week and the purple ribbon week.
- The Weekly electronic newsletter: The department circulated over thirty issues of the LSK weekly e-newsletter to members on the LSK events, programs, activities and vacancies and trainings from stakeholders within the legal fraternity.
- Social Media and Website: The LSK social media sites and website are the main sources of information of the LSK's undertakings which provide up to-date information on all LSK activities, programmes and events to members, stakeholders, and the general public. The website and social media sites also provided engagements with members of the public on various aspects within law.
- The department developed a draft Communications Policy which will define how various forms of Law Society of Kenya communication will be dispersed by the Law Society of Kenya. The draft will be subjected to a series of meetings with the Communications Ad hoc Committee and Staff members and thereafter be presented to the Council for approval for implementation.
- In collaboration with various departments and committees, the department live streamed LSK events on the LSK social media pages. The events included various CPD webinars amongst others.
- Knowledge creation through publications: The department through the LSK Editorial Committee is currently working on publishing

the LSK Magazine and the LSK Journal.

- The department offered support to other departments by highlighting and reporting on their various activities/events to members through the LSK weekly newsletter.
- SMS Platform: The department also circulated over twenty Short Message Services (SMS) to members through the LSK bulk SMS platform on the various CPD Seminars, LSK events, programs, activities and trainings from stakeholders within the legal fraternity.
- Preparation of Information, Educational Communication (IEC) materials which includes an e- Frequently Asked Questions (FAQs): The department formulated an e- FAQ, a list of questions and answers in regards to departmental activities and uploaded the document on the website.

PROCUREMENT DEPARTMENT - 2021

Mr. Boniface Kivuva is the head of the procurement department. The department is responsible for the provision of technical leadership on all matters to do with sourcing, policy development, and illuminating the staff on procurement systems and processes taking cognizant of the emerging issues in the field with a view of amplifying efficacy in the Society's operations.

Below are some of the departmental objectives;

- Cost leadership through cost-benefit analysis approach.
- Enhanced operational efficiency and effectiveness
- Optimum and prudent utilization of available scarce resources
- Responsible sourcing
- Developing robust strategic alliances/partnerships
- Supply Chain value creation and additions.

The procurement department is nexus to the supply chain management processes which involve both upstream and downstream operations which include logistics management, sourcing, acquisition, product value addition amongst other pivotal supply chain activities. This has been achievable through synergy creation and building rapport between the procurement function and the user departments which together constitute a supply chain management team. Additionally, the department

provides technical support and serve as the Secretariat to the Public Procurement Committee(PCC).

In support of the Society's goals and objectives, the Unit has continuously developed sourcing strategies that support the overall Society's strategies; such as the development of Key Performance Indicators (KPIs), supporting the Society's procurement needs for a diverse and globally competitive supply base and development of supply options and contingency plans that support Society's overall strategic plan of intending to move from transactional to a strategic approach.

The department has warranted a progressive enhancement of the cross-functional collaboration to streamline Society's procurement processes through the development of explicit and succinct technical specifications resulting in reduced procurement operational costs and enhanced ability to verify the conformity of the said technical specifications upon supply and delivery of the resulting product(s) thus achieving high-efficiency levels whilst at the same time enabling improved effectiveness and great customer service and experience.

The department developed Consolidated Annual Procurement Plan(CAPP) which emanated from the specific departmental procurement plans/work plans then rationalized and amalgamated. CAPP is an accounting document that is mapped with the overall Secretariat's budget estimates used to eradicate maverick purchasing whilst promoting strategic supply chain management and therefore an accounting tool.

The department has further developed a procurement service charter that helps to smoothen supply chain management operations and equally manage suppliers'/ service providers/contractors' and user departments' expectations in respect to procurement services and activities such as the delivery of products and services, standards of quality and conflict resolutions.

As the department toiled to deliver in its mandates, below are some of the challenges it faced;

- ▶ Sometimes it was an uphill task to strike a balance in all the factors of the Scope triangle (Cost, Quality, and Time) as they are inherent in all projects, and, either way, they must trade-off.
- ▶ Supply chain uncertainties and the current pandemic has caused global supply chain disequilibrium that affected the global, regional and local economy leading to products scarcity in the market resulting

in a price surge, this ultimately affected the delivery of some of the departmental mandates.

FINANCE DIRECTORATE- 2021

The Finance and Administration directorate is headed by CPA Owen Kibunja (Chief Accountant) and supported by; CPA Michael Chege (Senior Accountant), CPA Titus Gitu (Accountant), Mr. Shadrack Musyoki (Accounts Assistant) Mr. Cleophas Nyanyuki (Accounts Clerk).

The year was productive despite challenges posed by the Covid-19 pandemic preventive and control measures and management of the banking transactions.

Management of LSK Revenue

To improve on the efficient and financial workflow, the department handled different financial transactions relating to different programs and projects such as,

- Continuous Professional Development (CPD) which were held virtually.
- Processing of annual and new practicing Certificate
- Disciplinary Tribunal Committee which were done virtually.
- Facilitation of Good standing certificate
- Facilitation of ABA back fees Payment.
- Management of program activities and funds
- Support ABA in financial management

Over 13,500 practicing certificate application payments were processed with most of the submission done online.

Improve Financial Management systems

The Enterprise Resource Planning (ERP) system is now up and running with well managed troubleshooting feedback mechanism. To improve the efficient of the work flow, the directorate is working closely with the ICT department to ensure that the ERP system is fully automated.

The directorate continues to improve on services to members on event booking platform. Management of CPD seminars and Practicing certificate application have been migrated to member self-service portal and this has made it a demand driven service. The directorate was able to address the increased Email Enquiries by members as a result of interruptions on telephone connectivity.



Institutionalizing Budget process

The directorate in conjunction with other directorates prepared and consolidated the Society year 2022 Annual budget estimates. This together with the annual work plan were presented to the Budget and Finance committee for review and prepare Management reports.

Ensure statutory compliance

The directorate has ensured that all the statutory requirements are complied with. However, it is regrettable that there was lapse on the payroll statutory compliance. The matter was beyond the directorate. Nevertheless, the issue was adequately reported for further intervention.

Administrative Support-HR & General

The directorate have provided the necessary archer support to other arms of the Society as and when the need arises.

This include but not limited to; management of the Staff leave matrix, office logistics, management of line committees among others.

Enhance Financial Reporting

The Directorate continues to be guided by Finance and Accounting Policy Manual since it provides a comprehensive documentation of the Society's financial accounting and reporting procedures and processes and budget management in line with the new system development and other related International Reporting Financial Standards (IFRS) reporting requirements. As a statutory requirement, the directorate is finalizing on the end year Y2021 Audit.

INFORMATION TECHNOLOGY- 2021

Online Member Services

The ICT department is head by **Mr. Geoffrey Karani**. The department was instrumental in ensuring availability of online member services like the online portal, online payment gateway, online application of Practicing Certificate and online booking of CPD Events.

The department supported members throughout the year replying to member queries in person, on email and through telephone calls.

The department continued with the support of the Essential Services Cards for members as well as activating of a functionality to upload member 2021 Practicing Certificates.

The department continually assisted in resolving of technical issues with the Enterprise Resources Planning System throughout the year while in consultation with the service providers. This led to continued service delivery to members.

To ensure smooth running of the online services, periodic system performance checks were conducted while applying the necessary measures to ensure data integrity and security.

Following a directive by the Council the department has enabled application for 2022 Practicing Certificate early to give members ample time to make the applications online.

Online Meetings and Webinars

The Department has continually assisted in setting up of the online meetings for various groups as well as conducting trainings on the online meetings.

Office Technical Support

The department ensured that there was network availability, availability of the email system, installation of security patches, installation and configuration of new computers, repair of minor faults, replacement of broken parts/equipment and user training.

The department supported the existing systems like the email system, ERP System, Biometric System, Bulk Email System and Telephone System throughout the year.

Technical support to the ABA and SIRD offices was continually undertaken.

Additionally, the department was involved in budget making and advisory of the technological needs of the Society.

LSK SECRETARIAT

Top Management



Mercy Wambua, Advocate -
Chief Executive Officer



Collins Odhiambo, Advocate
- Deputy Secretary and
Director Public Interest and
Legislation



Florence Muturi, Advocate -
Deputy Secretary - Director
(Compliance and Ethics)



Joab A. Mbakaya, Manager -
Audit and Risk



Owen Kibunja - Chief
Accountant



Harold Ayodo, Advocate,
Director - Continuing
Professional Development



Mary Kitonga, Advocate.
Director, Practice Standards



Joyce Wangari, Advocate -
Programme Officer, Public
Interest, Legal Aid and
Human Rights



Esther Muriuki, Advocate -
Programme Officer -
Advocates Benevolent
Association



Boniface Kivuva -
Procurement Officer



Agnetta Rodi, Programme
Officer - Communications



Geoffrey Karani -
Programme Officer, ICT

ADVOCACY AND PUBLIC POLICY ENGAGEMENTS

CANADIAN BAR ASSOCIATION-Supporting Inclusive Resource Development (SIRD)

Brief Project Report - 2021

The support Inclusive Resource Development in East Africa (SIRD) is a regional project implemented by the Law Society of Kenya, Uganda and Tanzania in partnership with the Canadian Bar Association (CBA) and funded by the Government of Canada through Global Affairs Canada (GAC). The projects ultimate aim is to increase sustainable economic growth for East Africans, in particular, women. The project has two expected intermediate Outcomes:

Increased engagement of East African law societies to advocate for law reform to reflect principles of transparency, gender sensitivity and accountability in the extractive industries.

Increased community participation, particularly women, in consultations, dialogue, negotiations, advocacy and other initiatives to advance their rights related to the extractive industries.

In 2021 the project undertook the following activities:

Marking International Women's Day

The Law Society of Kenya in partnership with the Canadian Bar Association and Global Affairs Canada held a workshop on women focused legal aid clinic, during International Women's Day in Msambweni, Kwale County. Some of the training conducted by LSK-SIRD included that of duty bearers on how to detect, prevent and report gender based violence cases (GBV). The Session was Facilitated by Emmanuel Mwangi Advocate. This training was held on the 8th of March in Msambweni, Kwale County.



Paralegal Training

The Law Society of Kenya's through Supporting Inclusive Resource Development (SIRD) Project with funding from Global Affairs Canada in collaboration with the International Commission of Jurists (ICJ) Kenya conducted a training programme for paralegals in Kwale county. The 2-day activity was held at the Jacaranda Indian Ocean Resort commenced today 24/3/2021 and concluded on 25/3/2021. The objectives of the training are as follows: -

- a) To build the capacity of the paralegal network in Kwale on the laws governing the extractive sector and how they can use them to enhance/protect the rights of the communities in the mining area.
- b) To enhance the capacity of the paralegal networks to more effectively respond to, advise and/or assist community members to secure the much-needed solutions to challenges affecting them.
- c) To ensure that trained Paralegals are properly sensitized and equipped to be able to reach out to and offer support to women community members seeking legal assistance through referring them to LSK-SIRD and ICJ Trained Pro-Bono Advocates via LSK-SIRD Partner CBO – Kwale Youth & Governance Consortium and/or through referring them to relevant duty bearers on LSK-SIRD Referral Pathway where they can receive assistance.

Day 1 Session 1 began with an overview of the topics on Human Rights and Access to Information. The session

was facilitated by Advocate Santana Simiyu, ICJ Program Officer. Participants were keen to know how and which information can be accessed, from which government institutions, organisations and companies it can be accessed and the steps and procedure to be followed for them to be able to access the information.

Geoffrey Odhiambo Advocate, Program Officer ICJ, and Advocate Mercy Wonanio jointly facilitated the topic - overview of the legal/policy frameworks governing the extractive sector with an emphasis on the role of community leaders.

Advocate Odhiambo gave an overview of the Mining Act 2016, while Advocate Wonanio presented on the Environmental Management Coordination Act (EMCA) and on Occupational, Health and Safety in Mining.



Marking International Widows Day

On 23rd June 2021, SIRD marked International Widows day in Kwale County. During this day, widows presented a petition on issues affecting them. They also got the opportunity to learn more about their rights. For example, the right to own land. Latter in the day, the women received free legal aid services from pro bono lawyers. In attendance was Sentienei Rotich the OCS, Siti Bajiji the County Development Officer, Mr. Hassan Vunga who is the Children's Officer and Nelly Siko the Gender Director, among other county officials.

SIRD National Advisory Committee Meeting

On the 21st of July 2021, the Law Society of Kenya through the SIRD project held its national advisory committee meeting at Ole Sereni Hotel. The purpose of the meeting was to discuss the work plan for the project year. The meeting was attended by the following NAC members: Mercy Wambua (LSK- CEO), Jennifer Johnson (CRFM), Job Mati (PO), Patricia Nyaundi (SIRD GEA), Charles Wanguhu (KCSPOG), Samuel Ngei (TI Kenya), Furaha Charo (KHRC), Rosemary Mwambui (State Department of Petroleum and Mining), Grace Wasike (Director at State Department for Gender Affairs), Daniel Muraguri

(LSK SIRD Accountant), Lynnet Onyango (Thomson Reuters Foundation), Brian Olang (KHRC), Surely Akinyi (KHRC) and Jasper Lubeto (Strathmore University).



Round Table Discussion with Chairperson of Mineral Rights Board

On the 28th of July 2021 at 2 PM, the Law Society of Kenya through the SIRD project held a round table with Stephen Kuria, who is the Chairperson of Mineral Rights Board at Mama Ashanti Restaurant. Present during the meeting was Jennifer Johnson who is the Canadian Regional Field Manager and Job Mati who is the project Officer. The purpose of the meeting was to explore areas of partnership with the Ministry of Mining. The team agreed to work together in the area of Artisanal Small Scale Miners.

Community Development Agreement Training

Law Society of Kenya through SIRD held a training with Community Development Agreement Committees (CDACs) from Msambweni, Lungalunga and Likoni from the 13th of September 2021 to the 17th of September 2021 at Leisure Lodge Resort in Kwale County. The main aim of the activity was to provide five day trainings for CDAC committees on; project management, alternative dispute resolutions mechanisms, environmental conservation, employment and local content, Procurement procedures. SIRD was able to train 43 persons.



Round Table Discussion with Global Affairs Canada

On 16th of September 2021 at 10 am the Law Society of Kenya through SIRD project in East Africa held its stakeholder meeting with its key partners from Global Affairs Canada (GAC) at Leisure Lodge Resort in Kwale County. The purpose of the meeting was to update GAC on the progress of the SIRD project in Kenya and by extension in East Africa. The Law Society of Kenya CEO Mercy Wambua welcomed the partners present to Kwale County. She also spoke of the projects achievements at the national level. Jennifer Johnson who is the CRFM gave a brief introduction of the SIRD project. While Job Mati the Project officer gave an outline of the lawyer training program. Hellen Oriaro (Senior Development Officer) Pana Africa Regional Development Program introduced the team from Global Affairs Canada. The team was led by Janine Cocker, Head of Cooperation. Others who were present for the GAC team included: Shermin Fakirani, First Secretary Development (Kenya Bilateral Program), Hanif Pabani – First Secretary Development (Pan Africa Regional Development Program). Other participant in the meeting included Jobwe Yusuf of KYGC, Caroline Katisya, Emmanuel Mwangi and Mercy Wanonio who are pro-bono lawyers. Nelly Yeri, who is a SIRD Woman Champion, Mr. Masai who is the Chairman of Farmers Association and Mwanasha Gaserego a SIRD Paralegal were also present. Janine Cocker commented the SIRD project for the great work it had done in Kwale County. The meeting came to an end at 12:20 pm.





Women Advocacy

The Law Society of Kenya through the SIRD project held a three-day training with women advocacy and community champions in Kwale county. The training started on the 6th to 8th of December 2021. Training was attended by 35 participants. Rashid Mbwiwa Advocate trained women on the importance of using mediation to resolve disputes. Mr. Mbijiwe the mining officer in Kwale County explained to women the need to have public participation before carrying out mining projects. Caroline Katsiya Advocate trained the women on the process land acquisition and prompt compensation. While Patricia Nyaundi spoke on the gender issues and need for access to justice for women.



Round Table Discussion with Para-Legals and Referral Pathway leader

On the 21st and 22nd of December 2021, the Law Society of Kenya through the SIRD project held a coordination meeting with para-legals and referral pathway leaders at the Jacaranda Indian Ocean Resort. The purpose of the meeting was to: To share past experiences on dealing with issues emanating from the mining activities within Kwale County; To carry out an assessment on some of the key cases that require LSK-SIRD intervention; To remind them of the need to Influence and advocate for inclusion of vulnerable groups and women in the mining activities; and To formulate and have a plan on how to continue working together with para-legal and referral pathway leaders for the greater good of the community. It is imperative to note that the meeting was a big success and we were able to document key stories of change and most significant change stories from roles and tasks undertaken by paralegals and community champions on the referral pathway.



CONFERENCE AND EVENTS

Law Society of Kenya (LSK) Legal Awareness Week 2021

The Council of the Law Society of Kenya through the Public Interest Committee chaired by **Ms. Faith Odhiambo** observed the 2021 Legal Awareness Week from **25th to 29th October 2021**. The event was observed at Milimani Court, Supreme Court, Kibera, and Makadara Court of Kenya and countrywide through the Law Society of Kenya branches.

The former Justice and Constitutional Affairs Minister volunteered to take on two matters (pro bono) which were among cases forming backlogs at the Court of Appeal.

“I will lead by example and take on two matters before the Court of Appeal to encourage other lawyers countrywide to do the same towards a reality of access to justice,” she said.



Martha Karua, SC who was the Chief Guest during the launch of the Law Society of Kenya (LSK) Legal Awareness Week at the Milimani Law Courts in Nairobi.

The theme of the Legal Awareness Week was *Sovereignty of the People and Access to Justice*. She called on the over 18,000 lawyers countrywide to take up more *pro bono* cases towards ensuring access to justice.



She encouraged the newly admitted Advocates of the High Court to also consider representing clients free of cost towards a promising legal career.

Deputy Solicitor General Christine Agimba who spoke on behalf of the Office of the Attorney General said that plans are at an advanced stage to promote legal aid.

“We are alive to the fact that Article 48 of the Constitution provides for justice for all. The Legal Aid Act facilitates access to justice and the Office of the Attorney General is working on a framework for legal aid in Kenya,” Agimba said.

JSC Commissioner Macharia Njeru, LSK Nairobi Branch Chairman Eric Theuri and LSK Council Member and Convener of the Public Interest Litigation Committee Faith Odhiambo encouraged lawyers to embrace legal aid.

Lawyers visited Kamiti YCTC prison on Tuesday and Industrial Area Remand and Allocation Prison on Wednesday.



The LSK Secretary/CEO extended appreciation organizations that sponsored and participated at the *Legal Awareness Week*. The organizations include Kenya National Commission on Human Rights, Legal Resources Foundation, Ethics and Anti-Corruption Commission, Kenya Copyright Board and Federation of Women Lawyers – Kenya.

International Commission on Jurists, CREAW, East Africa Court of Justice, Kenya Law Reports, Independent Police Oversight Authority, ACA, Kenya School of Law, Daystar and Riara University also participated.



The activity was also observed at the branches. Chief executive officer Mercy Wambua graced the South west Kenya branch event where she also added her voice in Condemning the lynching incident of four elderly Women over witchcraft claims. Speaking at Marani when she led a group of advocates from Kisii law courts, the LSK CEO Said that the constitution of Kenya has processes to be followed while solving disputes.

She noted that such incidents mostly target the elderly women in the society.

Chairman of LSK South West Wilkins Ochoki reiterated the sentiments as he also encouraged members of the public to turn up at High Courts countrywide to benefit from the legal aid clinics.

Purple Ribbon Campaign Week (8th- 12th November 2021)

The independence of lawyers is important to properly defend clients, including in their actions against the State, to protect lawyers from being identified with

their clients, to build trust between lawyers and their clients through the right to legal professional privilege, to preserve the rule of law and to fulfill the important and irreplaceable role to prevent the abuse of powers. Following the disappearances of Professor Hassan Nandwa and Mr. Benson Kayai, Advocate, the Council this year stressed on the importance for all lawyers to have the independence and freedom to carry out their professional duties without fear of reprisal, hindrance, intimidation or harassment in order to preserve the independence and integrity of the administration of justice and to maintain the rule of law.



Procession of the Purple Ribbon Campaign.

The **Purple Ribbon Campaign** was launched on Monday, 8th November, 2021 at a Stakeholder Engagement and Media Advocacy Symposium, held in partnership with other Human Rights Defenders.

As part of the Purple Ribbon Campaign, the Branch Leadership organized peaceful demonstrations across the Country towards the campaign for observance of constitutionalism, rule of law and end of enforced disappearances.

In Nairobi, a peaceful procession was held on Wednesday, 10th November, 2021 at 11.00 am. Ms. Faith Odhiambo made remarks on behalf of the Public Interest and Human Rights Committee urging duty bearers to end extrajudicial killings and enforced disappearances.

Members marched from the Supreme Court Grounds, to the Office of the Attorney General, then Parliament and finally to the Office of the Inspector General of Police, to present various petitions on enforced disappearances.

The Council of Bars and Law Societies of Europe (CCBE), which represents the bars and law societies of 45 countries, in solidarity with the Law Society Kenya expressed its serious concern over enforced disappearances of lawyers in Kenya. In a letter addressed to His Excellency the President Uhuru Kenyatta, President Magrete Von Galen urged him to ensure that a full and impartial investigation into his abduction is carried out, with a view to bringing those responsible to justice in accordance with international standards, since it is believed that his enforced disappearance is based on his legitimate activities as a lawyer. In addition, the CCBE called upon the country authorities to ensure that all lawyers carry out their professional duties without fear of reprisal, hindrance, intimidation or harassment in order to preserve the independence and integrity of the administration of justice and the rule of law.



The safety and protection of all lawyers is paramount and central to the independence of the legal profession. It is vital that the values and principles enshrined in the Constitution of Kenya on rights and fundamental freedoms are observed and maintained to the letter.

PUBLICATIONS OF THE LAW SOCIETY OF KENYA

Newsletters

The Weekly Electronic Newsletters were circulated to the membership with assorted information that include (but not limited to) LSK event reports, Council decisions, landmark court rulings, CPD seminars briefs, trainings, vacancies and legislations amongst others.

THE LAW SOCIETY OF KENYA
Weekly Newsletter 20th November 2020

2nd Annual County Attorney's Forum Retreat

Council members **Ms. Beth Michoma, Ms. Riziki Emukule and Ms. Ndinda Kinyili** attended the 2nd Annual County Attorney's Forum Consultative Forum, held from the 11th to the 13th November, 2020 in Kilifi, which sought to among others discuss "Transition in reference to the Office of the County Attorney Act, 2020", and "Status of Non-practice Allowance for In-House Counsel".

a bid to cement the office of County Attorney in law, the President of the Republic of Kenya signed into law the County Attorney's Office Act of 2020 in July this year. In order to deal with the implementation challenges of the Act, the County Attorney's Forum, chaired by [Read More >>](#)

Webinar on Equality, Inclusion and Diversity at the Bar

the Law Society of Kenya (LSK) through its Gender Committee chaired by Council Member, Ms. Beth

THE LAW SOCIETY OF KENYA
Weekly Newsletter 25th September 2020

SIRD Bulletin - Volume one Edition Five

The SIRD project in East Africa implementing team is excited to bring to you the 5th edition of the SIRD in East Africa Bulletin. In this edition we bring you coverage of SIRD project activities across East Africa for the past few months. While there has been a relative scaling down of activities occasioned by the global Corona Virus pandemic, several activities are still on and this edition will update you on their status.

Among the key areas covered by this edition is the support provided by SIRD towards combating the Corona Virus pandemic in East Africa with focus being placed on a toll-free help line created by the Law Society of Kenya to help vulnerable community members report human rights violations and support at community level in Kivale County in Kenya, Bulisa District in Uganda and Geta in Tanzania. The edition also explores the impact and potential post-pandemic impact of the virus on the East Africa extractive industry scene. Will the industry as a whole survive and grow at the pre-epidemic rate? Who will suffer the greatest brunt?...

For more information on the bulletin, please click on <https://lsk.co/ken08R5Vh7amea1>

Advocates' Benevolent Association (ABA) Newsletter

The object of the Association is to help

THE LAW SOCIETY OF KENYA
Weekly Newsletter 11th June 2020

Court Fee Assessment Committee: Notice to Submit Views on the Proposed to Revise Court Fees

The Court Fee Assessment Committee was formed on 12th September, 2017 by the Chief Registrar of the Judiciary, following resolutions of the Judiciary Management Retreat held in March, 2017. The Committee was formed following numerous audit reports which pointed out several weaknesses in Court Fee Assessment.

The Committee's mandate was to harmonize court fees collection and develop directions to guide stations in the assessment and collection of court fees. The Membership of the Committee was drawn from Registrars and representatives of Directorates of Finance, Accounts, Audit & Risk Management, ICT and Human Resource Management and Development.

Following a brainstorming session, the Committee reviewed various instruments and engaged internal and external stakeholders. After extensive consultation and deliberation, the Committee identified the challenges facing assessment and collection of court fees.

The Committee has since made several recommendations to address the identified challenges with the most transformative being a proposal to adopt a simplified fees schedule. The proposed **Court Fee Assessment Structure, 2020**. [Click Here](#), recommends a consolidated court fee schedule to replace the current fee structure which is scattered in various statutes and rules.

In this regard, the Committee requests all members to submit their views on the proposal for consideration and submit the same to **Ms. Evelyn Mathias** via email to evelyn.mathias@lsk.or.ke

This information should be received **on or before close of business on 22nd June, 2020**.

Dated: 11th June 2020
Merry K. Wanjau, OGW
Secretary/CEO

SIRD Bulletin

The SIRD project in East Africa implementing team is excited to bring to you the 4th edition of the SIRD in East Africa Bulletin. The Bulletin covers news of the SIRD in East Africa project and seeks to update our readers with current SIRD initiatives and activities, activity outcomes and plans for future activities.

Past issues of the LSK Weekly e-Newsletter

Editorial Committee

The Law Society of Kenya’s Editorial Committee’s Convener is Dr. Lois Musikali, Advocate while the Co-Convener is Mr. Eliud Ngugi, Advocate.

The Committees mandate includes;

1. To consider, edit and recommend for publication, articles for the Journal and the Advocate Magazine.
2. In consultation with the Committee on Continuing Legal Education, consider papers delivered at the CLE seminar for publications in Journal and Advocates Magazine.
3. To advise on the strategies of improving the reading and legal writing culture among members.
4. Consider and advise on measures for income generating activities for the Law Society publication.

The Committee published one edition of the LSK Advocate Magazine (Special Issue on Covid-19) and one LSK Journal issue (Volume 16 (1) 2020 which featured the following papers;

Okumu Maurice Juma Financial Devolution under the onstitution of Kenya 2010: The Quest for Equitable Distribution of Resources

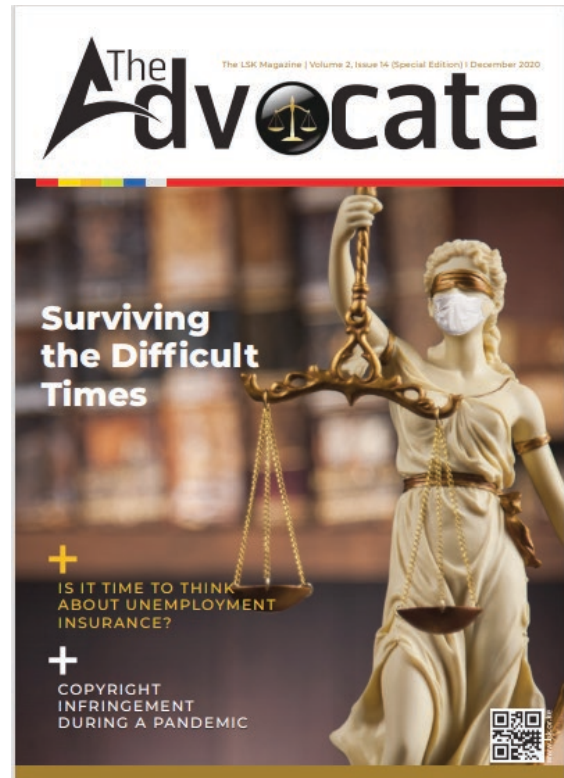
Irene Maithya & Benta Moige Human Rights Versus National Security: The Refugee Quagmire in Kenya

Daniel Achach From the Surgeon to the Mortician: The World Trade Organization Superintending the Death of Multilateralism in World Trade

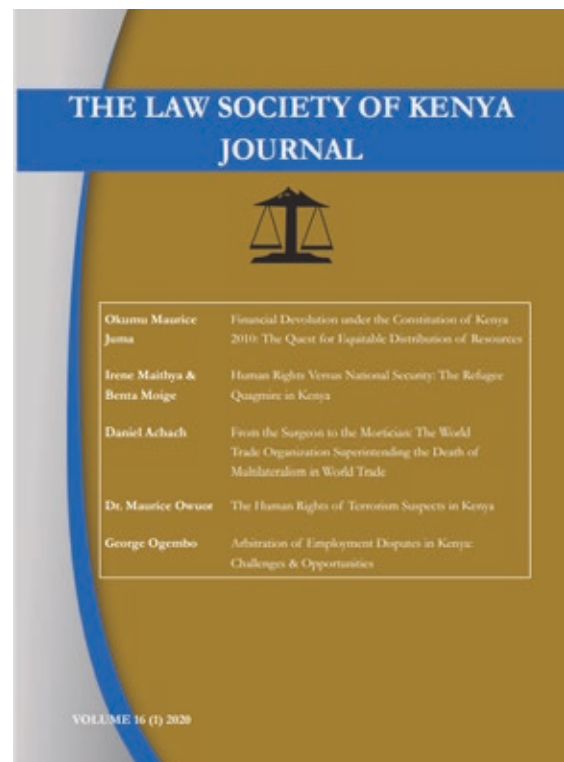
Dr. Maurice Owuor The Human Rights of Terrorism Suspects in Kenya

George Ogembo Arbitration of Employment Disputes in Kenya: Challenges & Opportunities

The Committee meets virtually every last Friday of the month and when necessary.



Past issue of the Advocate Magazine.



Past issue of the LSK Journal.

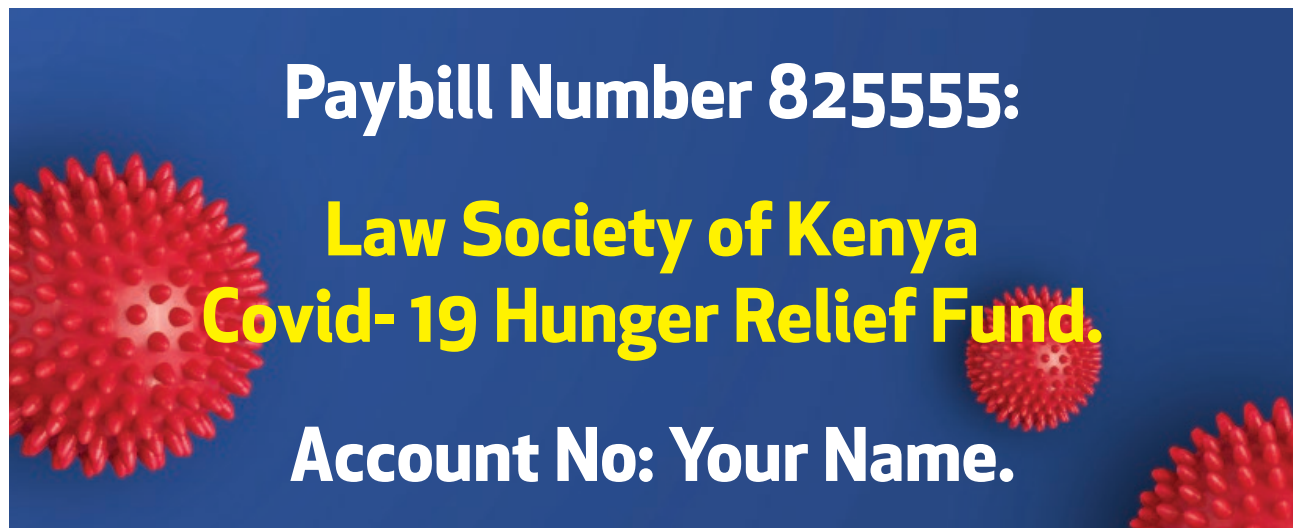
CORPORATE SOCIAL RESPONSIBILITY

Law Society of Kenya Covid- 19 Hunger Relief Fund Drive.

One of the mandates of the Law Society of Kenya (LSK) under Section 4 of the said Act is to protect and assist the members of the Public in matter relating to ancillary or incidental to the law. The Cabinet Secretary for Interior and Co-ordination of National Government *vide* Kenya Gazette Supplement No. 30 under legal Notice dated 26th March, 2020 issued Public Order (State Curfew) Order, 2020 restricting movement of members of the public save for those listed as providers of essential services on the Schedule thereto between 7:00pm and 5:00am daily.

LSK is alive to the economic hardships and havoc the novel Corona Virus pandemic has and continues to have on Kenyans particularly the poor and the marginalized members of the Public.

As part of our Corporate Social Responsibility (CSR), the Council of the Law Society of Kenya called upon its members, organizations and other well-wishers to assist in fundraising to support the most vulnerable members of the Public, specifically those living in the informal settlements through provision of relief food and other important necessities like water and hand washing detergents. The Society set up a paybill number (as stated below) where contributions can be channeled to;



Paybill Number 825555:

**Law Society of Kenya
Covid- 19 Hunger Relief Fund.**

Account No: Your Name.

In addition, several members of the Law Society of Kenya, in support of the call by the Council, offered individual support directly to the communities in the year 2020. The Council extends special appreciation to all the advocates who offered and continue to offer aid

in whatever form whether individual or collectively to assist members of public especially those living in the informal settlements in the Communities during the Covid-19 pandemic.



REPORTS OF REPRESENTATIVES OF THE LAW SOCIETY OF KENYA TO COMMITTEE AND VARIOUS INSTITUTIONS 2020

1. BOARD OF TRUSTEES OF THE LOCAL AUTHORITIES PENSION TRUST (LAPTRUST)

On the 12th September 2018, John Oscar Juma Advocate responded to an Expression of Interest sent out to members by the Law Society of Kenya inviting interested Advocates to apply to serve on the **Board of Trustees of LAPTRUST**. This followed the expiry and the term of the Society's former representative **Mr. Calvin Nyachoti**.

On 22nd day of October 2018, LSK nominated the undersigned together with two (2) other members and forwarded the names to LAPTRUST for consideration for appointment.

Vide Kenya Gazette Notice dated 22nd March 2019, the undersigned was appointed to serve on the Board of LAPTRUST by Honorable Eugene Wamalwa Cabinet Secretary for Devolution and ASALS under Legal Notice No.50 of 2007. The term of office of the undersigned therefore expires in March 2022.

Subsequently, John Oscar Advocate was elected by the LAPTRUST Board of Trustees as the Chair of the Procurement and Projects Oversight Committee.

The Board of LAPTRUST, is fully constituted. With representation from all nominating Bodies.

John Oscar Advocate has ably represented LSK at the LAPTRUST in line with the objects of the Society. The following are some of the highlights in regard to his mandate:

- a) Ensuring that Corporate Governance Tenets are strictly observed by LAPTRUST in the management of Pension Funds.
- b) Ensuring prudent investment and management of Pension Funds.

On 23rd September 2019, the County Governments Retirement Scheme Act (Act No.21 of 2019) was enacted. The Act had the following major provisions:

- a) It proposed to revoke The Local Authorities Pension Trust Rules, 2007 (Legal Notice No.50 of 2007) which creates LAPTRUST, within 5 years.

- b) The Act removes the representation of LSK and other independent professional Bodies from the Board of The County Governments Retirement Scheme, which effectively replaces LAPTRUST and LAPFUND.

The Board of LAPTRUST has considered that the new law is unconstitutional and lodged a challenge against the same in court. Interim orders stopping the implementation of the Act were obtained. Moreover, three (3) other suits have also been lodged by other parties challenging the law. These are:

- a) ELRC Petition No.213 of 2019.
- b) ELRC Petition No. 202 of 2019.
- c) ELRC Petition No.222 of 2019.

These suits have been consolidated and are still pending before court for determination. Interim orders issued still subsist. The LSK representative will keep the society fully updated on the progress of the existing litigation.

John Oscar Advocate vide letters dated 29/10/2019 and 26/11/2019 notified the LSK of the above developments and advised that The Society considers mounting a public interest suit on the matter.

LAPTRUST through CPF habitually sponsors the society in various activities such as the Annual Conference. The Board has also purposed to engage the LSK on matters of Pension and it is advisable that the secretariat pursues this initiative at all material times.

2. THE SELECTION PANEL FOR SELECTING SUITABLE CANDIDATES FOR THE POSITION OF MEMBER OF THE COMMUNICATIONS AND MULTIMEDIA APPEALS TRIBUNAL

The Law Society of Kenya is represented by Ms. Patricia Mundia Wanjiru in the selection panel for selecting suitable candidates for the position of Member of the Communications and Multimedia Appeals Tribunal.

Introduction

PANEL MEMBERS	INSTITUTION
Dr. Mbugua Njoroge (Chair)	Public Relations Society of Kenya
Ms. Patricia Mundia Wanjiru (Vice Chair)	Law Society of Kenya
Mr. Henry Ochieng	Consumer Federation of Kenya
Ms. Jamila Yeshe	Media Council of Kenya
Mr. Francis Ngokonyo	Institute of Engineers of Kenya
Mr. Ben Roberts	Kenya Private Sector Alliance
Mr. Hesbon Otieno	Kenya National Union of Teachers
Ms. Miriam Gitau	Ministry of ICT, Innovation and Youth Affairs
Mr. Chris Maina	Secretariat

The Kenya Information and Communication Act 2009 (the Act) establishes an Appeals Tribunal at section 102 to resolve complaints of persons aggrieved by:

- a) any publication by or conduct of a journalist or media enterprise;
- b) anything done against a journalist or media enterprise that limits or interferes with the constitutional freedom of expression of such journalist or media enterprise; or
- c) any action taken, any omission made or any decision made by any person under this Act.

Declaration of Vacancies, Membership and Terms of Service

- a) The Cabinet Secretary declared vacancies for the position of member of the Communications and Multimedia Appeals Tribunal and invited applications from qualified persons for the positions vide gazette notice and in the Daily Nation and Star newspapers on 6th November 2020. The applications were thereafter forwarded to the Selection Panel with a deadline of 13th November 2020.
- b) The membership and terms of service for the positions were enumerated as below:

Membership

Membership shall consist of:

- a) A chairperson nominated by the Judicial Service Commission, who shall be a person qualified for appointment as a judge of the High Court of Kenya and who shall also possess experience in communication policy and law;

- b) At least four (4) persons possessing knowledge and experience in media, telecommunication, postal, courier systems, radio communications, information technology or business practice and finance, and who are not in the employment of the Government, the Media Council or the Authority.

Terms of service

The members of the Tribunal shall hold office for a period of three (3) years and shall be eligible for re-appointment for another term subject to a maximum of two terms.

The Short-Listing Process

3.1 The Panel received **sixty-two (62)** applications for the positions at the deadline of submission of the applications as follows:-

- (i) **Fifty-five (55) Online Applications**
- (ii) **Seven (7) Manual Applications**

From the list of Applicants, the panel shortlisted Applicants for the position using the following criteria;

- a. Examining if Applicant had a minimum qualification of a Bachelors degree in any field.
- b. Examining if the Applicant had knowledge and experience of not less than seven (7) years;
- c. Examining if the Applicant had attached relevant documents requested in the advertisement for the post.
- d. Ascertaining that the Applicant was not a public officer in the employment of the Government, the Media Council or the Communications Authority of Kenya.

Consequently, the panel shortlisted twenty-six (26) Applicants for the position of member of the Communications and Multimedia Appeals Tribunal as provided in the table below:

The shortlisted candidates constituted the following:

Total: 27 (Kikuyu 12, Luhya 3, Luo 1, Kisii 3, Kamba 1, Kalenjin 3, Mijikenda 1, Samburu 1, Kuria 1, Other 1)

Male: 21

Female: 6

Youth: 5 (3 Male 2 Female)

Interviews

The shortlisted candidates appeared before the Selection Panel on the dates and times indicated. **The interviews were conducted at the Ministry of ICT, Innovation and Youth Affairs, Teleposta Towers, 9th Floor Boardroom.** The shortlisted candidates were also required to bring **ALL** the following documents: -

- I. Original Identity Card/Passport
- II. Original academic and professional certificates
- III. Original academic transcripts
- IV. Testimonials
- V. Clearances from-
 - Kenya Revenue Authority (KRA);
 - Higher Education Loans Board (HELB);
 - Ethics and Anti-Corruption Commission (EACC); and,
 - Criminal Investigations Department.

The panel agreed to give candidates with missing clearances be given a chance to explain why they did not produce them. Candidates missing some documents were interviewed and given until the close of business on 2nd December 2020 to avail the same with the Secretariat. Panelists unanimously agreed that candidates who did not tender all clearance documents would not be interviewed.

Conclusion and Recommendations

The Members are grateful for having served the people of the Republic of Kenya in the recruitment exercise.

The Final list of members was published on 31st December 2020 from the list of selected candidates by the Cabinet Secretary.

Recommendation:

1. LSK Members can be made more aware of the opportunities to apply for the positions over and above their publication in the local dailies.

3. REPORT OF PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

The Law Society of Kenya is represented by Ms. Irene Kashindi and Mr. Jackson Awele Advocates in the Public Procurement Administrative Review Board.

Pursuant to the nomination of the Law Society of Kenya's Council, for which are very grateful, we were appointed and gazetted as members of the Board by the Cabinet Secretary, National Treasury on 12th November 2020. We have thus been in office for barely two months.

1. Introduction

The main function of the Public Procurement Administrative Review Board (Review Board or PPARB) under the Public Procurement and Asset Disposal Act, 2015 (the Act) is to review, hear and determine tendering and asset disposal disputes. The period in review is 21st September, 2018 and 30th November, 2020.

The Public Procurement Administrative Review Board

The Public Procurement Administrative Review Board is established under Section 27 of the Act as a central independent procurement appeals review board. The Review Board is established to promote and uphold fairness, equitability, transparency, competitiveness and cost-effectiveness in the Public Procurement System through judicious, expeditious and impartial adjudication of matters arising from disputed procurement and asset disposal proceedings in order to increase accountability and public confidence.

The Review Board's objective is to determine tendering and asset disposal disputes arising from candidates and/or tenderers who claim to have suffered or risk suffering, loss or damage due to the breach of a duty imposed on a procuring entity by the Act and/or its attendant Regulations; and to perform any other function conferred to the Review Board by the Act, Regulations or any other written law.

2. Administrative Review

In the period of September, 2018 and September 2020, the Review Board presided over 336 cases. This covered

a period of three financial years as detailed in the table below:-

S/No.	Financial Year	Filed
1.	2018/2019	125
2.	2019/2020	171
3.	2020/2021	39
TOTAL		335

In the first Financial Year of the period in review i.e. Financial Year 2018/2019, the Review Board handled the cases quarterly as demonstrated in the figure below:-



This figure does not include cases handled in the month of July and August of the Financial Year. The First and Third quarters had the highest number of cases lodged.

In the subsequent Financial Year 2019/2020 the cases filed were quarterly distributed as follows:-

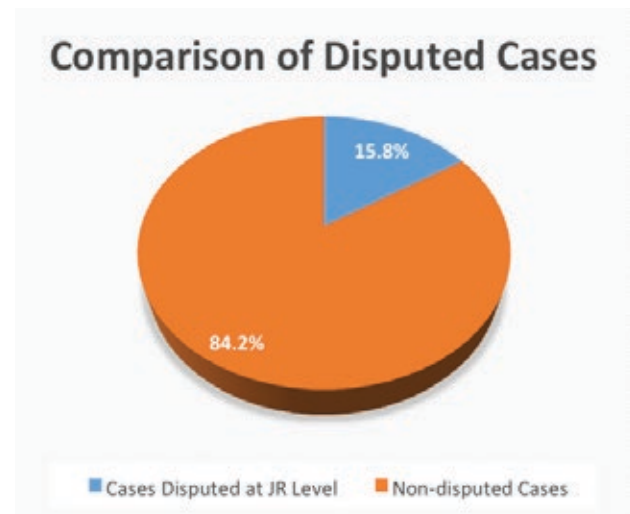


In this Financial Year, cases lodged were evenly distributed at an average of 46, except for the second quarter where only 33 cases were lodged.

In the Third Financial Year in review, i.e. Financial Year 2020/2021 only 39 cases were lodged as at 30th September, 2020. This covered one quarter of the Financial Year 2020/2021.

3. Judicial Review

In the period of review being 1st September 2018 to 30th September 2020, 53 out of the 335 number of cases heard were challenged by way of Judicial Review at the High Court of Kenya. This amounts to about 15.8% of all cases heard and determined by the Review Board as best demonstrated in the figure below:-



The above is a demonstration that 84.2% of all parties participating in cases heard and determined at the Review Board during the period in review, were satisfied with the decisions of the Review Board and they choose not to challenge the Board's decision.

Further, as at 30th September, 2020, 21 out of the 53 cases that proceeded for Judicial Review at the High Court had been heard and determined at the High Court. The outcome of the said 21 cases that proceeded for Judicial Review at the High Court are; 13 dismissals and 8 allowed. What this means is that the Judicial Review division of the High Court has upheld 62% of all cases filed for judicial review in favour of the Review Board.

4. Court of Appeal

1 out of the 8 Judicial Review cases that were allowed at the High Court proceeded on appeal at the Court of Appeal. Here, the Court of Appeal upheld the High Court Decision of quashing the Decision of the Review Board.

5. Conclusion

It is noteworthy that only eight decisions out of 335 decisions made by the Review Board in the period under review i.e. 1st September 2018 to 30th September 2020 have been quashed by the High Court and/or Court

of Appeal which translates to a paltry 1.8 % of all the decisions held by the Review Board during the period under review.



The upshot of this is that 98.2% of parties are satisfied with the decision work of the Review Board which has enhanced public confidence in the Public Procurement and increasingly became the forum of choice for all public tendering and asset disposal disputes.

We also wish to add the following;

1. From the onset of the COVID-19 pandemic in the first quarter of 2020 to date, the Board has heard matters virtually by way of written submissions. This has happened without challenges and the Board has continued to dispense its statutory mandate.
2. The **Public Procurement and Asset Disposal Regulations 2020** (the Regulations 2020) came into force on 2nd July 2020. The Regulations 2020 replaced and repealed the Public Procurement and Disposal Regulations, 2006 (the **2006 Repealed Regulations**) which had been made under the Public Procurement and Disposal Act, 2005 (now repealed). The new Regulations 2020 are intended to facilitate the implementation of the provisions of the current Public Procurement and Asset Disposal Act, 2015 (the Act), to fill certain gaps that were in the **2006 Repealed Regulations** and to generally provide further guidance in relation to various aspects of the procurement and asset disposal process under the Act.
3. There are currently pending two cases before the High Court challenging some of the Regulations 2020 on the basis that they impede access to justice. The cases are as follows;

a. Petition No 226 of 2020 Roads and Civil Engineering Contractors Association and Another v The Attorney General and Others

which challenges the Regulation 203 of the 2020 Regulations which require applicants to pay refundable deposits 15% of tender sum at the time of filing requests for review before the Board. The suit also challenges Regulation 222 which requires applicants to pay a refundable security fee of 3% of the tender sum, at the time of filing judicial review proceedings at the High Court. An interim order was issued on 27th July 2020 staying the implementation of the said Regulation.

b. Petition No. E322 of 2020 Jackson Wanjiru Ikuia v Attorney General and Others

which challenges Regulations 202(2)(d)- which relates to the Fifteenth Schedule of the Regulations that prescribe higher filing fees than had been prescribed in the **2006 Repealed Regulations**. An interim order was issued on 25th November 2020 staying the implementation of the new fees. The filing fees prescribed in the **2006 Repealed Regulations** apply in the meantime.

4. Save for the Regulations that have been stayed by the court as above, the Board continues to fulfil its mandate as per the Act and the 2020 Regulations.

4. COUNCIL OF LEGAL EDUCATION

The Law Society of Kenya (LSK) is represented in the Council of Legal Education (CLE) by Mrs. Diana S. Tanui and Mr. Eric Gumbo, Advocates. The two Advocates were competitively nominated by the Council of the LSK and have been serving from July 2018 and July 2020 respectively.

The CLE is a state agency established under the Legal Education Act with the mandate of:

1. Regulating legal education and training in Kenya offered by legal education providers;
2. Licensing legal education providers;
3. Supervising legal education providers;
4. Advising the Government on matters relating to legal education and training;
5. Recognizing and approving qualifications obtained outside Kenya for purposes of admission to the Roll; and

6. Administering such professional examinations as may be prescribed under the Advocates Act.

The CLE is responsible for setting and enforcing standards relating to the accreditation of legal education providers for the purposes of licensing, curricula and mode of instruction, including mode and quality of examinations. CLE also harmonizes legal education programmes and monitors and evaluates legal education providers.

In the year 2020, Mrs. Tanui and Mr. Gumbo diligently participated in CLE activities which led to the following outputs:

1. Development of the Advocates Training Policy and Regulations;
2. Operationalization of the Bar Examinations Loan Fund which is run by the Higher Education Loans Board (HELB);
3. Licensing and renewal of licenses for five (5) legal education providers;
4. Development of the CLE 2019-2023 Strategic Plan which was validated by stakeholders in November 2020;
5. Appointment of two substantive Directors, one in charge of Quality Assurance, Compliance and Licensing and the other in charge of Examinations;
6. Introduction of virtual inspection of licensed legal education providers;
7. Approval of CLE Human Resource Instruments by the State Corporations Advisory Committee (SCAC);
8. Selection of nominees for the National Legal Aid Services (NLAS) Board;
9. Initiation of collaboration with the Commission for University Education (CUE);
10. Conducted a customer satisfaction baseline survey with a view to continually improve service delivery to CLE stakeholders.
11. Research on and propose the viability of preparing for and conducting online training and administration of Bar examinations in keeping with the Covid-19 Ministry of health guidelines.
12. A consideration and guidance on the litigation on the mandate question between the Council for Legal Education and the Commission for University Education. This matter is still pending before the Court of Appeal and members are encouraged to read and acquaint themselves with it.

We have attached copies of the following documents for

your ease of perusal and record;

1. The Advocates Training policy and Regulations
2. The Report on licensing and renewal of licenses for the five legal education providers
3. The Draft C.L.E strategic plan as validated by the stakeholders
4. Report of the customer satisfaction baseline survey.

5. **DRAFTING COMMITTEE OF THE TRAINING MANUAL ON ACTIVE CASE MANAGEMENT (ACM) IN CRIMINAL CASES OF JUDICIARY.**

The Law Society of Kenya is represented by Ms. Jemimah Keli and Mr. Wilfred Nderitu in the Drafting Committee of the Training Manual on Active Case Management (ACM) in Criminal Cases.

The case management guidelines and directions for criminal cases were published by Chief Justice (Rtd) Mutunga in Gazette Notice Number 1340/2016 dated 4 March 2016, pursuant to the provisions of Article 159 and Article 161(2)(a) of the Constitution of Kenya; section 10 of the Judicature Act, which makes provisions for the Chief Justice to make rules of court for regulating the practice and procedure in the High Court; and pursuant to the Criminal Procedure Code.

The former Chief Justice of the Republic of Kenya, Hon. Justice (Dr.) Willy Mutunga put together the Active Case Management (ACM) Committee chaired by Hon. Mr. Justice (now retired) Anyara Emukule. The mandate was to introduce ACM as a model for realizing the goal of expeditious disposal of cases in the Judiciary. The task ahead for the Committee was on a back-drop of growing concern of delays in determination of cases. In January 2016 a pilot phase on Active Case Management (ACM) under the Criminal Justice project was launched in three court stations, namely **Mombasa** (including Tononoka and Shanzu), **Naivasha** and **Machakos**. The ACM in Criminal Justice project was conceptualized as a strategy to enhance efficient and speedy trials in the criminal justice system, which is a Constitutional imperative under Article 159 of the Constitution. It is expected that by involving all players in the criminal justice sector blame game in disposal of criminal cases will reduce.

The Committee is currently chaired by Lady Justice Pauline Nyamweya.

The guidelines guide the trial and appeals of criminal cases at the High Court and the Magistrates courts.

The committee with financial support of British High Commission and the UNODC and NCAJ and secretariat from JTI has since developed a manual for training on active case management of criminal cases and the guidelines.

Subsequently training of trainers using the manual has been conducted for persons drawn from the criminal justice sector players in groups at **Machakos, Mombasa, Kisumu** and **Nakuru** as the first step in the national roll out of the active case management in criminal cases. The members of the Committee facilitate the training. The participants in the trainings were drawn from all the criminal justice sector actors including the office of DPP, Judges, Magistrates, LSK, National Police service, DCIO, Probation, and the Department of children. LSK has had participants in all the training sessions.

Going forward, it is expected that the guidelines be rolled out in all court stations.

During the trainings it emerged that there is a challenge of acceptance of the guidelines by defense counsel and prosecutors demonstrated by lack of compliance with the Pre-trial conference directions. The non-compliance include failure by prosecutors to fully disclose and seeking of adjournments by defense counsel etc. The LSK Council is implored to sensitize its members on the guidelines for expeditious disposal of criminal cases.

6. KENYA CONSUMER PROTECTION ADVISORY COMMITTEE (KECOPAC)

The Law Society of Kenya is represented by Ms. Elizabeth Wangari Odhiambo, Advocate in the Kenya Consumer Protection Advisory Committee (KECOPAC).

The COVID-19 policy on working from home greatly affected the work of KECOPAC during the year 2020 and the committee did not meet between March and October 2020. In addition, the Executive order no. 1 of June 2020, erroneously excluded KECOPAC and no funds were designated to KECOPAC until December for the 2020/21 budget. The committee therefore has only jumpstarted its activities in January 2021. The output of the committee is therefore minimal:

Mandate: Article 46 of the Constitution of Kenya seeks to protect consumers against unfair trade practices and Parliament enacted the Consumer Protection Act no 46/2012 to fulfill this mandate. The Kenya

Consumer Protection Advisory Committee (KECOPAC) is established to execute this mandate which can be refined to six broad areas namely:

- i. Sensitization, education and advice to consumers
- ii. Support, strengthening and accreditation of consumer rights bodies to effectively protect consumers
- iii. Review of consumer protection laws, directives, standards and monitoring of trade and business practices to ensure consumer protection
- iv. Monitoring the effectiveness of regulatory bodies
- v. Establish dispute resolution mechanisms at County and National level, in collaboration with the Chief Justice
- vi. Issue advisories to the Government on the state of consumer protection at all times.

KECOPAC which is a committee within the Ministry of Industrialization comprises of representatives of professional bodies like the Law Society of Kenya and Kenya Medical Association, representatives of the Kenya Manufacturers Association and financial and insurance sectors, representatives from consumer organizations and representatives from government agencies like the office of the Attorney General and Kenya Bureau of Standards.

The first three-year term of KECOPAC ran from 2013 to 2016, while the second committee began its tenure in April 2018 due to end in April 2021.

Output for the year 2020:

1. Legal subcommittee: A draft consumer protection amendment bill 2019 which proposed amendments to the structure of the KECOPAC to that of an authority with a Tribunal had been presented to the Cabinet Secretary, and a draft policy crafted. The incoming PS Ambassador Weru recommended that the committee work with the Kenya Law Reform Commission to harmonize all the laws dealing with consumer protection to ensure that KECOPAC is a robust institution able to coordinate all consumer protection issues harmoniously by creating an ecosystem which ensures synergy and balance. Any amendments arising from that activity will then be included in the draft Amendment bill 2019, before presenting it to Parliament. This was welcomed development which should simplify the process of redress for consumers and practitioners alike.

2. Research on the state of consumer protection. The first report of its kind was due to be launched in mid-2020 but due to COVID-19, it was postponed. The research subcommittee are to organize a validation of this report to enable the CS to launch it. The report will be an important document giving a situational analysis of the state of consumer protection in the country, which sectors have performed well and which need to improve consumer protection measures.
3. Enhanced secretariate – since its inception KECOPAC which is largely composed of representatives from private sector, professional organizations and consumer protection bodies, with a representation from KEBS, Ministry of Trade has had two officers seconded to it on a partial basis which has hindered enforcement of its decisions due to these officers being engaged in other work. October 2020 the Ministry designated two officers on a full-time basis to KECOPAC which is positive as they will be able to be fully committed to working on the decisions and activities of the committee. This should go a long way in realizing the mandate of the committee.
4. Educating public on consumer rights: The Committee has also created a website, twitter handle and logo and have interacting with members of the public.

Recommendations to the Council of the Law Society of Kenya:

1. Once the proposed draft bill 2019 once it receives input from the Kenya Law Review Commission, LSK members should give inputs before the bill becomes a law.
2. Draft State of consumer protection report raises important areas for LSK members to address:
 - i. Lack of consumer education: 75% of consumers are not aware of consumer protection laws especially those above 55 years and the consumer bodies tasked with educating consumers lack funding.
 - ii. Redress mechanisms: despite the presence of consumer desks in supermarkets, consumers were not sure they could return products, not aware of warranties and not aware if their complaints were being addressed properly.

iii. Key sectors:

- **Employment:** Work related injuries - 55% of consumers felt that there were no regulations that govern this and 47% disagree that there are preventive measures.
- **Banking:** 71% of consumers lacked information on repayment of loans, 65% on charges, 53% on insurance overs related to loans.

3. Following the COVID-19 pandemic, consumers were exposed to information particularly in the health sector including advertising some of which was fake, promising protection from COVID-19 and many acted upon it. LSK members as good will citizens and public interest advocates should take up this plight by either filing a report to the committee or other regulatory bodies or lay the matter before the courts in the interests of consumers.

7. NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION BOARD OF DIRECTORS

The Law Society of Kenya is represented by Mr. James Muruthi Kihara, Advocate in the Nairobi Centre for International Arbitration.

Introduction

The Nairobi Centre for International Arbitration, also known by the acronym NCIA is a statutory body established by the Nairobi Centre for International Arbitration Act, No 26 of 2013 as a Centre for promotion and administration of international commercial arbitration and other forms of dispute resolution mechanism. The Centre offers a neutral venue for the conduct of international arbitration with commitment to providing institutional support to the arbitral process.

During the period ending December 2020, the NCIA has made certain strides in achievements of its statutory mandate. The following areas are of interest to the Law Society of Kenya.

Administration of Disputes

The case value by December 2020 had risen to Kenya Shillings twelve point nine billion (Kes. 12,900,000,000.00) equivalent to USD 129,000,000. The largest single claim recorded is equivalent to USD 50million.



From its first case in 2016, the Centre has hit now the Fifty (50) Case mark for disputes referred under the NCIA Arbitration Rules, representing an upward trend in referral of disputes in the four years since inception of the Rules.

Arbitration and Alternative Dispute Resolution Conferences & Events

On the national front and in keeping with the mandate of NCIA to promote the practice of international commercial arbitration and other forms of dispute resolution, the Centre hosted five webinar series on the following thematic areas:

- i. "Impact of Covid-19 on Arbitration and ADR processes – reshaping for the new normal"
- ii. "The Covid-19 Pandemic and The Contractual Force Majeure Landscape: Lessons for The Future"
- iii. "Mediation - Time to harness its effectiveness."
- iv. "The Art of Drafting Arbitration Clauses."
- v. "To adjudicate or not to adjudicate"

The webinars brought together hundreds of participants from across the world and ensured business continuity for the Centre during the new normal environment brought about by the COVID 19 Pandemic.

The Centre participated in the SOAS Sixth Arbitration in Africa Conference held in

Douala and co-hosted by CMAG. The Conference was themed "Legal Culture and Arbitration/ADR in Africa." The Centre was presented by Mr. James Kihara and the CEO Lawrence Muiruri who both participated as speakers on various topical issues. Attending the Conference further benefited the Centre in marketing and firming up the SOAS/NCIA Arbitration in Africa Conference conversation.

In the region Centre participated in the 8th East Africa International Arbitration Conference held on 27th-28th August 2020 and themed "Disruption in African Arbitration. Participation in the conference provided an opportunity for the Centre to participate in the thought provoking agenda and benefit from the thrilling networking opportunities that the Conference provides.

The Centre also participated in the 4th International Conference on how Africa is evolving and strengthening its practice of ADR hosted by the Chartered Institute of Arbitrators -Kenya on 18th – 20th November 2020. With the COVID-19 Pandemic, the Conference brought the

thought-provoking questions on how Africa is prepared to continue to grow and explore the ADR space in the regional and internationally. The conference brought together Practicing Arbitrators, and Institutions promoting and championing ADR including the NCIA. The conference provided an opportunity for the Centre to create awareness of its services for participants to learn about emerging issues in the realm of arbitration.

Training

The Centre launched its Training Calendar 2020 and leveraged on technology to expand the reach for skills development to grow a talent hub that is quintessential in supporting the arbitration ecosystem. The Training programme entails courses in Arbitration and Mediation running from introduction, Module 1, 2 and 3, with an emphasis on quality of content and excellence in delivery.

Development of a National Alternative Dispute Resolution (ADR) Policy

The Centre continued to collaborate with the National Steering Committee for the formulation of the National Alternative Dispute Resolution Policy in Kenya.

This collaboration culminated in the development of an expert proposed Alternative Dispute Resolution policy which forms the serve as a unified framework for implementation on ADR in Kenya and is anchored in the Constitution of Kenya 2010 (CoK).

The 2020 Arbitration in Africa Survey Report

The 2020 Arbitration in Africa Survey Report of top African arbitral Centres and seats ranked the NCIA among the top five best arbitral Centres in Africa regarding the quality of support facilities and administrative staff. The NCIA ranked 8th among the top ten arbitral Centres in Africa based on the number of arbitration cases administered and Memorandums of Understanding (MoUs) concluded with other arbitration Centres. The report also ranked NCIA among the top five arbitral Centres in Africa that users indicated they would recommend.

"The top five arbitral centres in Africa as chosen by the respondents are:

Arbitration Foundation of Southern Africa (AFSA), The Cairo Regional Centre for International Commercial Arbitration (CRCICA), Kigali International Arbitration Centre (KIAC), Lagos Court of Arbitration (LCA), and Nairobi Centre for International Arbitration (NCIA)"

“The top five arbitral centres with the best support facilities as chosen by the respondents are: AFSA, CRCICA LCA, NCIA, and Common Court of Justice and Arbitration (CCJA)”

“Users of African arbitral centres will recommend the following centres: CRCICA, AFSA, KIAC, NCIA, CCJA”

The NCIA was ranked 8th among the top ten Arbitral Centres in Africa based on the number of arbitration cases administered and the MoUs concluded with other arbitration centres.

RECOMMENDATIONS TO THE COUNCIL

The NCIA makes the following recommendations to the LSK Council;

- (1) The LSK partners with the NCIA to train its membership in international investment and commercial arbitration and mediation practice under the NCIA curriculum for counsel.
- (2) The LSK to encourage its membership to enlist on the growing list of NCIA panel of domestic and international Arbitrators and Mediators. This will provide visibility and opportunity for appointment in NCIA appointed arbitrations and mediations as well as across the network of cross-listing institutions.
- (3) The LSK catalogue inclusion of the NCIA Arbitration and Mediation Clauses in the ‘LSK Standard Agreements’. This will lead to an increase in case load and subsequently work for its panel members, most of whom are members of the Society.
- (4) The LSK partners with NCIA to provide periodic updates on emerging ADR trends domestic and international, arbitration jurisprudence, enactment & amendment to ADR laws and regulations for circulation to members through the LSK membership network, social media platforms and News-letter. This will enhance awareness creation amongst the LSK Members and encourage adoption of ADR as a viable means of client dispute settlement.
- (5) The LSK Council and the NCIA to sign a Memorandum of Understanding deepen the mutual knowledge and understanding of the two institutions and develop a positive and mutually beneficial relationship in the field of Arbitration and ADR.
- (6) The LSK to partner with NCIA on submission of ADR papers for publishing in the NCIA Journal.

8. THE STATE CORPORATIONS APPEAL TRIBUNAL (SCAT)

The Law Society of Kenya is represented by Mr. David N. Njoroge, FCI Arb in the State Corporations Appeal Tribunal

A. Introduction

The State Corporations Appeal Tribunal is established under the State Corporations Act Cap 446 as a quasi-judicial body to hear and determine appeals from persons aggrieved by the decision of Inspector of State Corporations. The Tribunal has powers to confirm vary or set aside the decision of the Inspector of State Corporations.

The Tribunal is composed of a Chairperson who is qualified to be a Judge of High Court of Kenya, appointed by the President; two Members appointed by the Cabinet Secretary for Finance each nominated by the Institute of Certified Public Accountants of Kenya (ICPAK) and the Law Society of Kenya (LSK); the Secretary is appointed by the Attorney General; and the Secretariat Staff.

Vide Gazette Notice No. 8386, the Cabinet Secretary for National Treasury and Planning appointed me for a term of Three years effective from 2nd September, 2019. Currently, the Tribunal is still waiting for the appointment of a Chairperson by the President, the appointment of the one Member enables the Tribunal to be fully constituted pursuant to Rule 3 of the State Corporations Appeal Tribunal Rules 2001.

B. Activities undertaken

1) Preparation of Draft Strategic Plan

Strategic Plan is a critical tool that guides the Tribunal towards realization of its statutory mandate, improves service delivery to its customers (litigants) and helps in resource mobilization.

On my appointment, the last strategic plan for the years (2013/14 -2018/19) had lapsed. As a Member of the Tribunal and hence key stakeholder, I embarked and spearheaded the process of development of the draft Strategic Plan (2019/20-2023/24) which is waiting for the Tribunal to be fully constituted for validation, adoption and implementation.

2) Approval of financial statement

The Tribunal had been receiving its funding from the parent ministry through the Judiciary. Members of the

Tribunals have a responsibility to approve annual financial estimates of the Tribunal for funding and supervision of the expenditures thereto.

3) Review of pending surcharge appeals

Members of the Tribunal preside over appeals lodged by litigants challenging the administrative action of the Inspector of State Corporations. Currently there are no pending appeals, all matters having been heard and determined.

4) Administrative meetings

These are periodical meetings with the Secretary of the Tribunal to be appraised on issues affecting the Tribunal as follows:-

- i. Review of operational status reports
- ii. New policy developments
- iii. Tribunal capacity to undertake its core mandate

Members may guide on the implementation of government circulars, policy and directives from time to time.

C. Recommendation

The Tribunal's mandate under Section 22(1) of the Act limits its jurisdiction to only appeals from the decision of the Inspectorate of State Corporations. As you are all aware this leaves out all the other disputes arising from the course of business of State Corporations which can be comprehensively be addressed by the Tribunal.

It is therefore my considered view that the Society should assist this Tribunal in seeking to amend its provisions to enhance its mandate and jurisdiction to deal with all disputes affecting the sector.

9. KENYA PRIVATE SECTOR ALLIANCE (KEPSA)

The Law Society of Kenya is represented by Mr. Allen Waiyaki Gichuhi EBS, C.Arb, and Director of KEPSA.

In line with KEPSA's critical role in business, economic and political reforms, KEPSA's legislative engagement included two Speaker's Roundtables (with National Assembly and the Senate), in addition to continued engagements with different Parliamentary Departmental Committees to provide input into Bills key to private sector.

BILLS

Key Bills and regulations that were enacted during the year with KEPSA input include:

1. Finance Bill 2020;
2. Tax Laws Amendment Bill 2020;
3. Business Laws Amendment Bill 2019;
4. The Special Economic Zones (Amendment) Regulations 2020;
5. The Crops (Tea Industry) Regulations) 2020

Bills pending enactment include:

6. Pandemic Response and Management Bill 2020;
7. Breastfeeding Mothers Bill 2019;
8. Nairobi City County Trade Pop up Markets and Street Vendors Bill, 2019
9. Income Tax Bill, 2018 (now withdrawn)
10. County Own Source Revenue Policy and the County Governments Revenue Raising Process Bill 2018 (lapsed).
11. Start Up Bill 2020

Other Bills that are still in the draft stage that KEPSA took part in formulating include:

12. National Waste Management Bill 2019 and Policy approved on 28th May 2020 by Cabinet, headed to Parliament;
13. Memorandum for review of the TVET Amendment Act 2013;
14. Kenya Customs Agents and Freight Forwarder Bill, 2020;
15. Draft Affordable Housing Bill
16. Paramedic Practitioners Bill 2019

PETITION TO SENATE ON CLOSURE OF LAND REGISTRY

KEPSA also filed a Petition at the Senate touching on Lands Registries Administration Issues, which culminated into a tripartite meeting between KEPSA, the CS Lands & Physical Planning and the Senate Committee on Lands, Environment and Natural Resources on the issues currently affecting the Lands Registries and Digitization of Land Records & Processes.

The Senate Committee directed the Cabinet Secretary to ensure that the e-filing regulations are also submitted to the Senate for scrutiny.

VIRTUAL AGMs

KEPSA moved the High Court of Kenya through Misc Civil Application No. E721 OF 2020, seeking orders to allow itself and its non-listed members to employ the use technology to hold their respective AGMs during the ongoing pandemic that prohibits any public gatherings. This was allowed and all companies could conduct their AGMs virtually.

AMENDMENTS TO THE EMPLOYMENT ACT

KEPSA is currently in the process of collating views from its members to inform a memorandum on amendments to the Employment Act 2007. A lot of concern has been raised by members about the colossal damages awarded by the Employment and Labour Relations Courts. We have been auditing the colossal pecuniary damages that the Employment and Labour Relations Court issues against employers and even asked for statistics from the Court of Appeal on the percentage of appeals emanating from the ELRC and the common reasons that lead to setting aside appeals.

It is no longer possible for legal advice to be rendered on employment disputes because judges do not apply the law uniformly. Some are notorious for being pro-employee with scant regard for the rights of the employer. Colossal court judgments are an impediment to sustainable business in Kenya and frustrate local and foreign investors.

Recommendations to Council

1. Team up with KEPSA on the proposed amendments to the Labour Acts so as to bring about positive reform to employment law. Council can bring to KEPSA's attention input from members on areas that need reform.
2. Cooperate on various issues affecting land transactions and improving efficiencies at the Ministry of Lands and Urban Planning.
3. Give input to KEPSA on matters affecting professional practice matters that KEPSA can also agitate when meeting with government and the legislature.
4. Recommend positive reforms on matters touching on devolution that affects businesses in the counties.

10. JOINT TECHNICAL TEAM TO DRIVE DEVELOPMENT GUIDEBOOKS (KENYA ASSOCIATION OF MANUFACTURERS) COMMITTEE

The Law Society of Kenya is represented by Ms. Wangui Kanairu and Mr. Jomo Nyaribo, Advocates in the Joint Technical Team to Drive Development Guidebooks (Kenya Association of Manufacturers) Committee.

On 26 April 2019, the Kenya Association of Manufacturers (KAM) together with the Magistrates and Kenya Magistrates and Judges Association (KMJA) asked the Law Society of Kenya (LSK) to participate in developing a Guidebook on the Companies Act and Insolvency Act. The Joint Technical Core Team held three sessions between January and March 2020 attended by stakeholders from the judiciary (judges, magistrates and registry staff), the office of the Official Receiver, Business Registration Services (BRS), KAM and KenInvest, among others. On 26 May 2020 after approximately 12 months of consultations and workshops involving various stakeholder groups, the Guidebook on Corporate and Insolvency Law was launched and a webinar featuring several attendees was held to wide acclaim.

The purpose of the Guidebook is to provide an accessible guide to judicial officers and other stakeholders and ensure a predictable environment conducive for investments. The LSK nominated two Technical Legal Experts (Wangui Kanairu and Jomo Nyaribo) as members of the Joint Technical Core Team developing the content for the Guidebook. The Guidebook includes a comprehensive review of the key principles of company law including formation, shareholder rights, and dissolution. The review of insolvency law covered the types of insolvency for natural persons and corporate entities and provided a summary of emerging jurisprudence on key issues in relation to the new regime including cases decided on various aspects of its enforcement.

LSK's successful participation in the preparation of this Guidebook is in line with the objects of the Society, which include assisting the courts in matters relating to legislation, administration of justice and the practice of law in Kenya. It is also in line with the LSK's strategic objectives in relation to promoting the implementation of the Constitution, the rule of law and the administration of justice.

The Council should continue its commendable role in supporting such multi stakeholder initiatives in order to ensure that stakeholders understand their rights and obligations under the law.



11. TOURISM TRIBUNAL

The Law Society of Kenya is represented by Mr. Thomas Ogola Ochieng, Advocate in the Tourism Tribunal. The Tourism Tribunal is however not yet active. As such, there was nothing substantive to be reported on in respect of the year 2020. Perhaps the LSK Council or the Secretariat to take up the matter because the nomination has not served any useful purpose so far.

12. ADOPTION COMMITTEE

The Law Society of Kenya is represented by Ms. Beatrice Chepkoech Sawe, Advocate in the Advocate Committee.

The Adoption Committee is established under Section 155 of the Children Act, 2001. The functions of the Committee as set out under Section 155 (2) as follows:

- a) Formulating the Governing policy in the matters adoption.
- b) Effecting liaison between adoption societies, the Government and Non- Governmental Organizations;
- c) Considering and proposing names of officers who may serve as Guardians Ad Litem;
- d) Monitoring adoption activities in the country; and
- e) Such other functions as are conferred on the Committee by the Act.

Other functions include registering and licensing of Adoption Societies and reviewing the license fees thereof.

Summary of important issues touching on the objects and principles of the Law Society

After successful inauguration and induction of the Committee, the first meeting of the Committee charted the way forward and identified areas of priority in its functions, in view of the fact that the previous Committee's tenure ended on 26th February 2019, a period of over one year before the current Committee took office.

The Law Society plays a crucial role in the adoption process and has been identified by the Committee as one of the stakeholders, especially in regard to Law Review/ Reform, sensitization and due process.

Advocates represent adoptive parents in the Court process of adoption.

The main areas so far dealt with by the Committee, which are of interest to the Society are;

1. Registration and licensing of the Adoption Societies. This is done as per Regulations and was prioritized in order to reopen local adoption and have children who are available for adoption taken up. This will reopen the area of practice to Advocates as well.

The Committee has since renewed the licenses of two Adoption Societies, namely: Buckner Kenya and Kenya Peace Initiative Adoption Societies.

Two other societies have made applications which are pending renewal.

2. The Committee has noted that the Children Bill is still pending and has called upon the National Council for Children Service to hasten the process. Once the bill is passed, the law on adoption is expected to be in tandem with the Constitution of Kenya 2010 and in conformity with the requirements of The Hague Convention, to which Kenya acceded in the year 2007. The Bill will also be in line with the Adoption Regulations, 2005.
3. The Committee has played a role in the making of the draft adoption SOPs which once validated and adopted, will guide and structure the adoption process from the beginning to the end (as part of the SOPs for Alternative Family Care Options)
4. The Moratorium against Inter- Country adoptions is in force indefinitely. While appreciating the purpose of the moratorium, the Committee noted that there are several cases pending in Court or in which adoption certificates were issued, but the children cannot leave the Country with the adoptive foreign parents while Moratorium is in place. Such Children have been left in the care of Guardians, hence the aim of the adoption has not been achieved.
5. Consideration and proposal of names of persons who may be appointed Guardian Ad Litem. Section 160 of the Children Act provides for the appointment of Guardian Ad Litem for purposes of any application for an adoption order.

The Committee is currently reviewing the draft criteria for identifying and considering persons who may be appointed as Guardian Ad Litem. The Guardian Ad Litem plays a very important role in the adoption process as the caretaker of the interest of the child.

6. It was noted by the Committee that many adoptive parents do not understand the difference between Local Adoption and Inter-country of foreign adoption. Hence, adoptive parents continue to file applications under foreign adoptions. It is worth noting that most of the applications are filed by Advocates. Some Courts have ordered for issuance of Certificate of conformity pursuant to adoptions made under Local adoption provisions, whereas the certificate can only be issued by the Committee, in respect of Inter-country adoptions conducted under The Hague Convention.

RECOMMENDATIONS TO COUNCIL

1. Make an inquiry on the status of Children's Bill.
2. Include adoption as a topic for discussion in the CPD courses/seminars.
3. Encourage members to take part in the Adoption Month, scheduled to take place in March 2021.
4. The Council in its capacity as a stakeholder can endeavor to engage the Government and other stakeholders with a view to understanding what standards need to be attained in order to enable removal of the moratorium and resume inter-country adoption.

13. KENYA INDUSTRIAL PROPERTY INSTITUTE – KIPI

The Law Society of Kenya is represented by Mr. Manasses Mwangi, Advocate in the Kenya Industrial Property Institute (KIPI).

Kenya Industrial Property Institute (KIPI) is Established Under the **Industrial Property Act, 2001**. KIPI is charged with the responsibility of administering Industrial Property rights and Trade Marks in Kenya, promoting inventiveness, enhancing commercialization of intellectual property rights. Through Government policy, KIPI has a further responsibility of promoting "The Big Four Agenda" of the government. Towards promoting commercialization of intellectual property rights, KIPI has advertised on its website multiple technologies that have fallen in public domain and members of the public can commercialize without infringing any intellectual property rights.

KIPI has been a self-reliant state corporation. It faces a few challenges that are a threaten to its performance in future. The board has resolve to confront these challenges head-on as set out hereunder.

Human Resource Development, Capacity Building and Succession Planning.

KIPI is currently understaffed thus affecting optimal performance and timely delivery of services. KIPI has 79 staff members against the required 175. The understaffing has affected service delivery, leading to backlog. This severe understaffing has been, aggravated by retirements of some senior staff members, and the demise of head of Trademark Department.

The board has successfully lobbied the parent ministry to unfreeze recruitment albeit partially. The Institute will recruit twelve (12) staff members to fill positions in technical fields as follows:-

- Trademark Examiners	- 6
- Patent Examiners	- 5
- Manager TradeMarks	- 1

Errors in the Trademarks Register.

The trademarks register has errors, these errors have persisted since 2004 and aggravated in 2012. The errors make the process of search tedious and length because staff has to refer to the physical file to verify data. The board has prioritized the register clean-up and it is exploring ways and means of cleaning up the trademarks register.

The board has also authorized removal of the 30,000 (thirty thousand) expired trademarks from the register while following the due process. The advocates are invited to be on the lookout for new work.

The board has approved that the more than Ten thousand (10,000) Trade Mark applications' that have remained in complete for over one (1) year be declared as abandoned in accordance with the Trade Marks' Rules, 2003. This exercise will also present work opportunities for advocates.

When time is ripe board shall request The Law Society of Kenya to assist in dissemination of information that may affect advocates one way or another.

Towards data clean-up KIPI has removed over 5000 Trademarks from the register. 2,700 Trademarks were published in KIPI special Journal of 15th June, 2020, and also 2,600 Trademarks embarked for renewal from the register were advertised in the KIPI special journal of 15th May, 2020.



LSK -KIPI Engagement on Challenges of IP Practice.

On 18th December, 2020, I coordinated a webinar hosted by the Law Society. At the webinar we enjoyed a healthy engagement and feedback session between KIPI and members of the Law Society of Kenya.

Intellectual property Bill,

On 16th May, 2020 we coordinated and hosted a forum where members of LSK gave their views on the contents of the proposed IP Bill (the drafting instructions). The drafting instructions together with the contents of the members were submitted to the Attorney General for drafting of the Bill.

14. NATIONAL COUNCIL OF ADMINISTRATION OF JUSTICE- SPECIAL TASKFORCE ON CHILDREN'S MATTERS

The Law Society of Kenya is represented by Ms. Marysheila Onyango- Oduor in the National Council of Administration of Justice- Special Taskforce on Children's Matters.

The mandate of the Taskforce as set out in the Gazette Notice was to;

1. To review and report on the status of children in the Administration of Justice.
2. Examine the operative policy and legal regimes as well as the emerging case law to identify the challenges and make appropriate recommendations.
3. Assess, review, report and recommend on the service standards of each of the justice sector institutions with respect to children matters.
4. Prepare draft rules of procedure for enforcement of fundamental rights of children.
5. Conduct a situation analysis of the existing infrastructure and equipment in the criminal justice system in regard to children matters and develop guidelines for the monitoring, supervision and inspections for holding facilities.
6. Develop guidelines for Child Protection Units and propose mechanisms for the establishment of child police unit in the national policer service.
7. Develop the Court Practice Directions on children cases.
8. Develop the diversion regulations

9. Develop a policy on mandatory Continuous Professional Development program on child rights for justice and examine, review the training curricula on children
10. Develop policies on re-integration of children accompanying imprisoned mothers.
11. Develop policies on separated cell for children
12. Development of the guidelines for children with special needs.
13. Develop guidelines for inclusion of children with special needs in the Juvenile Justice Actors procedure to be included in the practice guidelines.
14. Develop a coordinated sensitization and awareness strategy
15. Develop a form for presenting the P& C cases in court.
16. Improve coordination of the Juvenile Justice Actors at the National and County level.

While no timelines were set for the taskforce to report on its findings, a report was prepared and presented to the Chief Justice and the NCAJ on 20th November 2019 being the date of commemoration of 30 years of the United Nations Convention on the Rights of the Child.

The taskforce in the Report made 7 recommendations to the Chief Justice as follows;

1. The immediate enactment of the Children Bill 2018.
The Taskforce was involved in the drafting of the Children's Bill 2018 together with the National Council for Children's Services and indeed Ms. Onyango-Oduor represented the Society in the National Steering Committee for the Drafting of the Bill.
2. Establishment of a standing committee on Child Justice Policy Implementation and Quality Control by NCAJ with a 3 year reporting mandate to ensure implementation of the recommendations of the Task Force on Children's Matters. Membership of the Committee to be expanded to include the education and health sector, local administration, community leaders, Nyumba Kumi Initiative and the academia.
3. Adoption of the annual service month for children matters in November and service week protocols in all courts in Kenya by the Registrars of the Judiciary, and provision of the necessary budgetary allocation for hearing cases.

One of the key activities and achievements of the Taskforce was introducing and conducting service weeks in various courts in respect of Children's

matters and during which service weeks Ms. Onyango-Oduor participated as counsel as well as mediator. The proposal to adopt the annual service week is based on the positive achievements in case management of Children's cases from the various service weeks conducted country wide.

4. Provision of primary and secondary education and secondment of teachers to statutory children's institutions (rehabilitation schools, borstal institutions, remand homes) by the Ministry of Education in coordination with the Department of Children's services in compliance with the constitutional right of every child right to education and the decision of the Eldoret High Court ruling in **Eric Githua Kiarie v. Attorney General & 2 Others (2016) eKLR**.
5. Use of ADR (Alternative Dispute Resolution) mechanisms, court –annexed mediation, diversion and plea bargaining as critical tools for expending access to justice for children in Kenya, in order to ensure that detention of the child is a measure of last resort.
6. Strengthening of child rights institutions through adequate budgetary allocation, resources and oversight mechanism in order to improve the conditions of detention in children's holding facilities and institutions.
7. We call all public and private sector institutions and agencies at the national and county government level to report abuse of children to the Police, Courts and relevant authorities, and create safe spaces for children to report abuse, in accordance with their constitutional duty to safeguard child rights.

The taskforce has continued to undertake various activities and partner with various stakeholder's n the Child Justice System to provide advocacy, support and awareness on key issues to promote the best interest of the Minors.

It has become apparent from the activities as well as the Report of the Taskforce that members of the Society can continue to contribute to the Child Justice System particularly where Children are in conflict with the law at all stages as well as in light of Sections 77 and 187 of the Children's Act as well as the Legal Aid Act on provision of legal aid to Children.

Ms. Onyango- Oduor will continue to engage with members of the Taskforce on various matters as and when the need arises and will be available when called upon to support the Society in any matters necessary in addressing the above 7 points of actin or any issues related to Children within the Justice System. The immediate point of action by the Society is to champion members of the Society to provide Legal Aid to Children within the Justice System upon approval and support and to ensure a sustainable probono or legal aid programme countrywide.

The championing of the best interest of the Child as Ms. Onyango- Oduor has learnt is by various stakeholders including the Society and there continues to be need for the Society to participate and collaborate with the other stakeholders.

The Report of the Taskforce as referred above can be accessed on this link, <https://www.judiciary.go.ke/download/status-report-on-children-in-the-justice-system-in-kenya/>

15. RULES COMMITTEE OF THE JUDICIARY

Pursuant to the Statute Law (Miscellaneous Amendments) Act, 2018, the Law Society of Kenya through its eight branches nominated the following Advocates to represent each Branch to the Rules Committee of the Judiciary. The nomination letters were forwarded to the Chief Justice on 23rd April 2020.

NO	NAME	P.105/	BRANCH
1	Noel Inziani	P.105/5748/05	Coast Branch
2	Jacqueline Ingutiah	P.105/5898/06	West Kenya Branch
3	Kipseli Ledishah Jebichii	P.105/3424/97	North Rift Branch
4	Nyatundo Manono Dennis	P.105/3152/96	South West Kenya Branch
5	Morris Mutua Kimuli	P.105/6441/06	South Eastern Branch
6	Joseph Mwirigi Kaburu	P.105/7077/08	Mt. Kenya Branch
7	Aston Ongenge Muchela	P.105/6653/07	Rift Valley Branch
8	Kevin Dermont Mccourt	P.105/1652/87	Nairobi Branch

The year 2020 report is provided by Mr. Kevin McCourt and Ms. Noela Inziani Adagi, Advocates who participated in the activities of the Committee during this period.

A. INTRODUCTION

The Rules Committee of the Judiciary (RCJ) is established under Section 81 of the Civil Procedure Act, Cap 21 Laws of Kenya. The Committee is tasked with making rules consistent with the Civil Procedure Act or any other written law and to provide for any matters relating to the procedure before courts and tribunals. The Committee is also mandated with drafting all Rules, Regulations and Practice directions made within the Judiciary and other Committees or task force, but in some cases it is called upon to review and draft rules and guidelines that are required to be drafted by the Chief Justice or other Committees. In addition, the Committee is tasked with advising the Chief Justice on such rules as may be necessary under Section 81 of the Civil Procedure Act.

The Committee has so far played a pivotal role in development of rules for a number of legislation as part of the exercise of its mandate.

The Committee's composition is stipulated under Section 81(1) (i) of the Civil Procedure Act. The Chief Justice may elect to be a member of the Committee, in which case he or she shall be the Chairperson, but where he elects not to be a member, the Chief Justice shall appoint one of the other members to be the Chairperson. Members are drawn from:

1. The Court of Appeal, High Court, Environment and Land Court and the Employment and Labour Relations Court
2. The Magistrate's Courts
3. The Kenya Law Reform Commission
4. The Office of the Attorney General and;
5. The Law Society of Kenya.

The diversity allows for incorporation of comments from key stakeholders during the process of development, publication and finalization of procedural rules. The Committee may co-opt other persons whose knowledge and experience may assist the Committee in the discharge of its functions.

B. THE COMMITTEE'S MEMBERSHIP AS AT DECEMBER 2020 WAS AS FOLLOWS.

1. Justice David K. Maraga, Chief Justice-Chairman
2. Justice Daniel Musinga – Vice Chairman/Court of Appeal Judge

3. Justice George .V. Odunga –High Court Judge
4. Justice Grace Nzioka- High Court Judge
5. Honorable Moses Wanjala – Secretary to the Committee
6. Mr. Kevin McCourt –Representative of the Law Society of Kenya
7. Mr. Samson Maundu – Office of the Attorney General Representative
8. Ms. Noel I. Adagi –Coast Branch Representative of the Law Society of Kenya

The Committee's Secretariat comprises three designated Judiciary members of staff as below:

1. Ms. Jacklyne Wakoli
2. Ms. Cynthia Liavule Aswani
3. Ms. Diane Otieno

Just before Chief Justice David K. Maraga officially retired, he had appointed the following members to the Committee

1. Hon. Justice George .V. Odunga – Chairperson
2. Hon. Justice Kathurima M'Inoti – DJTI – Member
3. Hon. Justice Patrick Kiage – JA – Member
4. Hon. Lady Justice Linnet Ndolo – ELRC J – Member
5. Lady Justice Kossy Bor – ELC J – Member
6. Mr. Kevin McCourt – LSK Rep – Member
7. Ms. Noel I. Adagi – Coast LSK Rep – Member
8. Mr. Samson Maundu – AG's Rep – Member
9. Hon. Moses Wanjala – SPM – Secretary

The Committee holds meetings at least once every month to track progress of development, publication and finalization of procedural rules. A progress report including the activities of the Rules Committee in the year 2019-2020 is detailed in the subsequent part of the Report.

C. DEVELOPMENT AND FINALIZATION OF DRAFT RULES BY THE RULES COMMITTEE FOR THE YEAR 2019-2020

The committee has made commendable progress in the development and finalization of a number of procedural rules in the past year as below:

1. **Preparation of Quality Control Guidelines for Drafting for the Rules Committee of the Judiciary**

The Committee came up with and approved this as a blue print guide for its drafting of procedural rules to ensure

that quality and standards of development of rules as and when need arises.

2. **The Small Claims Court Rules, 2019 and the Code of Conduct for Adjudicators**

The Committee finalized on the rules and Code after conducting due public participation and validation. The rules and the Code were duly gazetted in August, 2019. The Small Claims Court Act has since been amended by parliament and the Rules will require slight amendments to align to the amended provisions. The procedural rules will contribute toward enhanced access to justice through operationalization of the courts.

The Committee has also prepared Amendment Rules pursuant to amendment to the Act in March 2020. The **Small Claims Amendment Rules, 2020** await gazette before operationalization of the courts.

3. **The Civil procedure (Amendment) Rules, 2020 and Index**

The Rules were gazette in February, 2020

4. **The Matrimonial Proceedings Rules, 2020**

The rules were finalized by the Committee and duly gazette in July, 2020.

5. **Practice Rules and Procedure for Kadhi Courts, 2020 and Bench Book.**

The Rules Committee in conjunction with the Judiciary Training Committee and Steering Committee formed in partnership with the International Development Law Organization (IDLO) finalized on the draft rules. The rules are at the Government's printer awaiting gazette. This is a milestone toward enhancing access to justice under Islamic Law.

6. **Protection Against Domestic Violence Rules, 2020**

The rules have been concluded and duly signed by the Hon. Chief Justice. They await gazette.

7. **Matrimonial Property Rules, 2020**

The rules have been finalized and forwarded to the Office of the Attorney General for review. The following sets of rules have drafts at advanced stages:

1. Mediation Rules
2. Court of Appeal (Amendment) Rules
3. Court of Appeal Organization Rules

4. Fair Administrative Action Rules
5. Practice Directions on virtual court sessions
6. HIV/AIDS Tribunal Rules
7. Sport Disputes Tribunal Rules

16. **NATIONAL LEGAL AID SERVICE**

The Law Society of Kenya is represented by Mr. Vincent Mutai Kiplangat, Advocate in the National Legal Aid Service.

I. **Introduction**

The National Legal Aid Service (NLAS) is a body corporate established by the Legal Aid Act 2016 to among other things provide for legal aid services to the indigent, marginalized and vulnerable. The board of directors of NLAS is drawn from representatives of State and Non-State Agencies which includes the Law Society of Kenya. This report contains the activities undertaken by NLAS during 2019/2020 financial year. It also contains the challenges experienced as well as the recommendations for better service delivery to 'Wanjiku'

II. **Activities**

i. **Provision of Legal Aid**

During the period under review, NLAS provided legal aid to **1,206,904** people. The services provided included legal advice, representation, assistance in resolving disputes through ADR, drafting of court documents, effecting service incidental to legal proceedings and creation of legal awareness through legal open days and media campaigns through radio.

ii. **Partnership with stakeholders**

NLAS partnered with a number of stakeholders in the justice sector. Through the partnership, NLAS is now a member of various stakeholders groups e.g. Court Users Committees, Complaint referral partnership and relevant NCAJ taskforces.

iii. **Capacity building**

NLAS has undertaken trainings to build the capacity of its clients on Court Self-representation, and stakeholders on alternative dispute resolution.

iv. Donor Supported Activities

a) Open Society Initiative for Eastern Africa (OSIEA)

OSIEA awarded a 2 year grant to NLAS through ICJ- Kenya. An MOU was signed between NLAS and ICJ detailing the activities to be undertaken. Through the grant, NLAS has sensitized legal aid providers on the Legal Aid Act 2016, Legal Aid (General) Regulations 2020. NLAS is also developing a curriculum for Paralegals.

b) Programme for Legal Empowerment and Aid Delivery (EU)

Through a Financing Agreement between European Union (EU) and the Government of Kenya, the EU committed to support NLAS through Programme for Legal Empowerment and Aid Delivery (PLEAD) in component one of the Programme to enhance access to justice to the poor and vulnerable through legal aid. During the reporting period, the Service has been able to undertake the following activities:

- a. obtain statistically reliable data and information on the legal aid needs and problems prevalent in each of the sampled counties;
- b. establish the legal aid provider's responses and challenges to these legal aid needs to enable more efficient and targeted programming and resource allocation;
- c. understand perceptions and levels of awareness of the availability and functions of different legal aid service providers;
- d. obtain information on the current accessibility of legal aid services to end users and to identify the primary barriers to accessibility;
- e. understand perceptions on the most preferred institutions for providing legal aid services and therefore access to justice by the end users of the justice system;
- f. establish perceived efficiency and effectiveness of legal aid services in addressing end users' legal problems to enable attending to the underlying obstacles to the services;
- g. establish baseline indicators to enable the monitoring and evaluation of the implementation progress of the Programme Estimates.

A. Recruitment of a Long Term Technical Assistant

In order to implement the said Programme, EU recruited a Short-Term Technical Assistant to develop a Programme Estimate (PE) which details the indicative implementation and financial plan for the Programme and sets out the estimated budget, financing and management arrangements, as well as a rationale for achieving objectives through the activities and sub-activities therein.

For the period under review, a long term technical assistant was appointed, and adopted the PE whose starting period is now set as 1st April 2020.

B. Baseline Survey on Legal Aid Needs

NLAS through the support of the EU commissioned a 'Needs Assessment Survey' and establishment of a 'Baseline' for the NLAS component of the PLEAD Programme. The survey was conducted in four urban counties of Nairobi, Nakuru, Uasin Gishu and Mombasa and four marginalized counties i.e. Garissa, Isiolo, Marsabit and Lamu. The Survey gathered data and information from the providers and users of legal aid services in the targeted counties in order to:

v. Categorization as a Semi-Autonomous Government Agency

With the support of the Directorate of Public Service Management, NLAS developed its human resource policy guidelines and standards i.e. Organizational Structure, Staff Establishment, Salary Structure, Human Resource Policy and Procedures Manual, and Career Progression Guidelines.

The documents were approved and forwarded to SCAC to enable categorization as a State Corporation. The Service is now categorized as a State Corporation under category PC3A.

vi. Internship programmes -

NLAS works closely with Universities offering law courses through which it offers internship opportunities and mentors law students. Over 1000 law students have been mentored.

vii. Dissemination of IEC materials

NLAS developed and disseminated over 1,500 I.E.C materials i.e. the Legal Aid Act 2016, Self-Representation Manual, National Action Plan 2017-

2022, Trainings of Trainers Manual on ADR, and simplified version of the Children's Act 2001.

viii. Appointment of NLAS Ag. Chief Executive Officer

On 20th February 2019, a director was appointed to steer the process of NLAS transition since a vacancy arose in September 2018.

III. Challenges

- a) Covid-19 Pandemic containment measures affected the provision of NLAS services to clients.
- b) The high staff turnover at NLAS.
- c) Lack of sufficient funds from GoK to realize NLAS mandates.
- d) Duplication of roles among stakeholders in the justice sector.
- e) Slow transition process at NLAS.
- f) Inadequate number of *pro bono* advocates willing to take up legal aid matters.

IV. Recommendations.

- a) NLAS recommends that LSK considers and implements innovative ways to incentivize *pro bono* advocates to take up matters e.g. recognition awards etc.
- b) NLAS recommends that LSK should lobby for utilization of technology by justice sector players in geographically difficult-to-access areas to enable willing members assist clients.
- c) NLAS recommends that the LSK sensitizes members on possible opportunities within NLAS for members upon finalization of key human resource policy documents.
- d) NLAS recommends that the Board and the Council lobby for additional funds to facilitate access to justice from GoK as a government mandate.

17. THE EMPLOYMENT AND LABOUR RELATIONS RULES COMMITTEE (ELRRC)

The Law Society of Kenya is represented by Ms. Irene Kashindi, Advocate in the Employment and Labour Relations Rules Committee (ELRRC/The Committee).

Pursuant to the nomination of the representative by LSK's Council, for which she is very grateful, the member was gazetted by the Chief Justice as a member of the Committee on 6th February 2020.

Kindly note that the Committee, unfortunately, did not have a meeting in 2020. This was majorly because the ELRC has been one of the busiest court during the COVID-19 pandemic and it was not possible for the Principal Judge of the court to set up a meeting of the Committee.

A meeting was however, set up for 21st January 2021, The meeting of 21st January 2021 noted that there are certain challenges and developments that have come to the fore during the COVID-19 pandemic that touch on the practice in the ELRC which call for the revision of the current Employment and Labour Relations Court (Procedure) Rules 2016 (hereinafter referred as to the "Rules").

The areas that were noted by the Committee that may call for revision of the Rules include the following;

- a. Virtual hearings.
- b. E-filing of pleadings.
- c. Pertinent matters relating to claims under Work Injury Benefits Act particularly on enforcement of decisions by the Director of Occupational Safety and Health Services.
- d. Application of the Rules to the Magistrates' courts.

The next Committee meeting is scheduled for March 2021. The Committee has requested the Law Society of Kenya (LSK) through the representative Ms. Kashindi, to call for comments from members on possible areas for amendment of the Rules to enable discussions during the meeting scheduled for March 2021.

REPORTS OF REPRESENTATIVES OF THE LAW SOCIETY OF KENYA TO COMMITTEE AND VARIOUS INSTITUTIONS 2021

BOARD OF TRUSTEES OF THE LOCAL AUTHORITIES PENSION TRUST (LAPTRUST)- 2021

On the 12th September 2018, Mr. John Oscar Juma, Advocate responded to an Expression of Interest sent out to members by the Law Society of Kenya inviting interested Advocates to apply to serve on the **Board of Trustees of LAPTRUST**. This followed the expiry and the term of the Society's former representative **Mr. Calvin Nyachoti**.

On 22nd day of October 2018, LSK nominated Mr. Juma together with two (2) other members and forwarded the names to LAPTRUST for consideration for appointment.

Vide **Kenya Gazette Notice dated 22nd March 2019**, the representative was appointed to serve on the Board of LAPTRUST by **Honourable Eugene Wamalwa Cabinet Secretary for Devolution and ASALS** under Legal Notice No.50 of 2007. The term of office of the undersigned therefore expires in March 2022.

Subsequently, the representative was elected by the LAPTRUST Board of Trustees as the Chair of the Procurement and Projects Oversight Committee.

The Board of LAPTRUST, is fully constituted. With representation from all nominating Bodies.

The representative ably represents LSK at the LAPTRUST in line with the objects of the Society. I may highlight the following in this regard:-

- a) Ensuring that Corporate Governance Tenets are strictly observed by LAPTRUST in the management of Pension Funds.
- b) Ensuring prudent investment and management of Pension Funds.

On 23rd September 2019, the **County Governments Retirement Scheme Act (Act No.21 of 2019)** was enacted. The Act had the following major provisions:

- a) **It proposed to revoke The Local Authorities Pension Trust Rules, 2007 (Legal Notice No.50 of 2007) which creates LAPTRUST, within 5 years.**

- b) **The Act removes the representation of LSK and other independent professional Bodies from the Board of the County Governments Retirement Scheme, which effectively replaces LAPTRUST and LAPPFUND.**

The Board of LAPTRUST has considered that the new law is unconstitutional and has lodged a challenge against the same in court. Interim orders stopping the implementation of the Act have been obtained. Moreover, three (3) other suits have also been lodged by other parties challenging the law. These are:

- a) ELRC Petition No.213 of 2019.
- b) ELRC Petition No. 202 of 2019.
- c) ELRC Petition No.222 of 2019.

These suits have been consolidated and are still pending before court for determination. Interim orders issued still subsist. The undersigned will keep the society fully updated on the progress of the existing litigation.

The undersigned vide letters dated 29/10/2019 and 26/11/2019 notified the LSK of the above developments and advised that The Society considers mounting a public interest suit on the matter.

LAPTRUST through CPF habitually sponsors the society in various activities such as the Annual Conference. The Board has also purposes to engage the LSK on matters of Pension and it is advisable that the secretariat pursues this initiative at all material times.

KENYA PRIVATE SECTOR ALLIANCE (KEPSA)- 2021

The Law Society of Kenya representative to the KEPSA Board is Mr. Allen Waiyaki Gichuhi, Advocate who also doubles up a Director. In line with KEPSA's critical role in business, economic and political reforms, KEPSA's legislative engagement includes two Speaker's Roundtables (with National Assembly and the Senate), in addition to continued engagements with different Parliamentary Departmental Committees and County Assemblies to provide input into Bills that affect private sector. The following **laws were enacted** during the year with KEPSA input:

- i. Business Laws (Amendment) Act No. 2 of 2021;

- ii. The County Outdoor Advertising Control Act, 2020;
- iii. Sectional Properties Act 2020;
- iv. The Tax Appeals Tribunal (Amendment) Act, 2021;
- v. The Central Bank of Kenya (Amendment) Act, 2021;
- vi. Public Private Partnerships Act, 2021.

Passage of the Start-Up Bill 2021 and the Prompt Payment Bill 2021 by SENATE

On 2nd December, 2021, the Senate passed these two Bills with proposed amendments: The Start-Up Bill 2021 and the Prompt Payment Bill 2021. The two Bills will now be forwarded to the National Assembly for concurrence before they can be sent to the President for assent.

The Prompt Payment Bill 2021 seeks to provide prompt payment for the supply of goods, works or services procured by the national government, county governments and private entities; while the Start Up Bill 2021 seeks to create a framework for a more favourable environment for innovation, so as to encourage growth and sustainable technological development & entrepreneurship. This is meant to attract Kenyan talent and capital.

KEPSA has championed for these two pieces of legislation from the year 2013 through various Presidential Roundtable Meetings, Ministerial Stakeholder forums, Senate and National Assembly Speaker's Roundtables.

KEPSA also engaged on the following **Bills that are pending enactment:**

- i. Certified Managers Bill, 2021;
- ii. The National Health Insurance Fund (Amendment) Bill 2021;
- iii. National Electronic Single Window System Bill, 2021;
- iv. The Landlord and Tenant Bill, 2021;
- v. The Higher Education Loans Board (Amendment) Bill, 2021;
- vi. The National Construction Authority (Amendment) Bill (NA Bill No. 45 of 2020);
- vii. The Public Procurement and Asset Disposal (Amendment) (No.3) Bill (NA Bill No. 49 of 2020) (*The Committee recommended that the Bill be deleted in its entirety as it will inhibit foreign investment in Kenya*);

- viii. The Sustainable Waste Management Bill (National Assembly Bill No. 22 of 2021);
- ix. The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 36 of 2021);
- x. The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 32 of 2021);
- xi. The County Licensing (Uniform Procedures) Bill (Senate Bills No. 32 of 2020);
- xii. The Petroleum Products' (Taxes and Levies) (Amendment) Bill, 2021;
- xiii. The Health (Amendment) Bill (Senate Bills No. 26 of 2020);
- xiv. The Investment Promotion (Amendment) Bill (Senate Bills No. 2 of 2021);
- xv. The Community Health Services Bill (Senate Bills No. 34 of 2020);
- xvi. The Coffee Bill (Senate Bills No. 22 of 2020) (*Now withdrawn*);
- xvii. The Natural Resources (Benefit Sharing) Bill (Senate Bills No. 25 of 2020);
- xviii. The Street Vendors (Protection of Livelihood) Bill, 2021;
- xix. The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021);
- xx. The County Vocational Education and Training Bill (Senate Bills No. 6 of 2021);
- xxi. The Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No. 53 of 2021);

Other draft Bills that KEPSA took part in formulating are **pending tabling in Parliament**, they include:

- i. County Government Revenue Raising Process Bill;
- ii. Draft Environmental Management and Coordination Bill 2021.

Regulations

KEPSA continues to push for the gazettment of Bribery Regulations are of interest to private sector as Section 9 of the Bribery Act 2016 gives both public and private entities a duty to have in place procedures for the prevention of bribery and corruption. The GUIDELINES TO ASSIST PUBLIC AND PRIVATE ENTITIES IN THE PREPARATION OF PROCEDURES FOR THE PREVENTION OF BRIBERY AND CORRUPTION were gazetted on 22nd October 2021.

Petitions

1. **Minimum Tax-** KEPSA members Kenya Association of Manufacturers (KAM), Law Society of Kenya (LSK), and the Retail Trade Association of Kenya (RETRAK) were part of Constitutional Petition No. E005 OF 2021 (Consolidated with Petition No. 1 Of 2021), a petition filed against operationalization of Minimum Tax. Justice G.V Odunga restrained Kenya Revenue Authority from further implementing or enforcing the provisions of Section 12D of the Income Tax Act on Minimum Tax, which was a huge reprieve for businesses.
2. **Building Bridges Initiative-** On 13th May, 2021, the 5-Judge High Court Bench, in a unanimous decision in PETITION E282, 397, E400, E401, E402, E416 & E426 OF 2020 & PETITION 2 OF 2021 (CONSOLIDATED), declared the Building Bridges Initiative sponsored Constitutional amendment Bill, 2020 unconstitutional. On Friday, 20th August, 2021, the Court of Appeal maintained that the Building Bridges Initiative process was unconstitutional.

KEPSA takes cognizance of the fate of a number of draft Bills under the Building Bridges Initiative (BBI) Taskforce report that were of interest to private sector. These include:

- i. The Prompt Payment Bill 2020 (*which has since been passed by Senate*).
 - ii. The Micro and Small Enterprises (Amendment) Bill 2020 that seeks to amend the Micro and Small Enterprises Act, 2012 to give youth-owned enterprises a seven-year tax break, and to establish business incubation centers across the country for the purposes of providing business advisory services, which includes access to capital and Government contracts. (*This has now been taken care of under the Start Up Bill 2021 passed by Senate and forwarded to the National Assembly for concurrence*).
3. **Concurrence on Bills in Parliament-** The Court of Appeal in CIVIL APPEAL NO. E084 OF 2021 overturned the High Court's decision in October 2020 voiding a total of 21 laws that the National Assembly had passed without the Senate's input. As the High Court decision had caused republication of a number of Bills, KEPSA will wait to be advised on the fate of pending Bills.

So far there are no any recommendations to the Council.

ADOPTION COMMITTEE- 2021

The Law Society of Kenya Representative is Beatrice Jepkoech Sawe, Advocate.

Introduction

The Adoption Committee is established under Section 155 of the Children Act, 2001.

The Functions of the Committee as set out under Section 155 (2) as follows:

- (a) Formulating the Governing policy in the matters adoption;
- (b) Effecting liaison between adoption societies, the Government and Non-Governmental Organizations;
- (c) Considering and proposing names of officers who may serve as Guardians Ad Litem;
- (d) Monitoring adoption activities in the country; and
- (e) Such other functions as are conferred on the Committee by the Act.

Other functions include registering and licensing of Adoption Societies and reviewing the license fees thereof.

Summary of Important Issues Touching on the Objects and Principles of the Law Society of Kenya

Due to unavoidable circumstances, the Adoption Committee held only two meetings in the year 2021, being in the months of January and February.

In the said meetings, the Committee continued to undertake its mandate covering some areas which are of interest to the law Society, including;

1. Registration and Licensing of the Adoption Societies Licensing of Adoption Societies for Local Adoptions continued. The Societies which have since been licensed and are in operation are:
 - i. Buckner Kenya
 - ii. Kenya Peace Initiative
 - iii. Little Angels Network (LAN)
 - iv. Kenya Children Home (KCH)
2. The list of stakeholders was updated and the objective of each stakeholder's interaction with the Adoption Committee was identified. The Law

Society of Kenya as stakeholder and the Adoption Committee's interaction has the objectives of: -

- i. Discussing the role of LSK in the adoption process;
 - ii. Discussing the role of LSK in development of Court Rules
3. The moratorium against foreign (inter-country) adoptions is still in place and continues to affect foreign prospective adoptive parents, including those who already have lived with the children for a long time, those who adopted Kenyan children before the Moratorium was pronounced and would like to adopt more children and those parents who have adopted children in Kenya but are unable to take them out of the country because the Moratorium prohibits the removal of Kenyan Children out of the country. These cases create challenges to members of the Law Society in their practice of Adoption law as they are unable to deliver for their clients.

4. Appointment of Guardian Ad Litem

The Committee has undertaken review of the criteria for identification and appointment of Guardian Ad Litem and the same is with the Secretariat for further action.

Recommendations to Council

1. Continue to pursue the passing of the Children's Bill
2. Continue to engage the Judiciary towards regular updating of court rules
3. Encourage members to engage more in local adoption cases on pro bono basis
4. Discuss with the Adoption, on the roles of the LSK in the adoption process and take action to give effect to those roles.

THE KENYA SCHOOL OF LAW BOARD

The Law Society of Kenya Representative to the Board is Ms. Jacqueline A. O. Manani, Advocate.

PART I: Introduction

a) Background information

The Kenya School of Law is established under section 3 of the Kenya School of Law Act, No. 26 of 2012. It is

the successor of the Kenya School of Law established under the Council of Legal Education Act (no. 9 of 1995). The Kenya School of Law Act provides that the principal objective of the school is to be a public legal education provider as an agent of the Government.

The School's main campus is located in Karen, Nairobi with a satellite campus located in the Central Business District.

The School is governed by a Board of Directors which is responsible for the general policy and strategic direction.

PART II: The School

1. The Core functions of the School

The core function of the School are provided in section 4 of the Kenya School of Law Act, which are:

- i. Training of advocates for entry into the legal profession,
- ii. Continuing professional legal development,
- iii. Provision of Para-legal training,
- iv. Provision of specialized and customized legal training in the public service, and
- v. Offering consultancy and research services

2. Key Activities

a) Academic Services

During the Financial Year 2020/2021, ATP academic program admitted 1833 students compared to 1732 students admitted in the Financial Year 2019/2020. This indicates a 10% increase in the number of students who enrolled for the ATP Programme in the 2020/2021 financial year. 330 students were undertaking the Diploma in Law (Paralegal Studies) Programme. Final examinations for the ATP students were administered in June 2021. Following the Covid-19 pandemic and the presidential directive to close educational institutions, the school has adopted the online learning method for continuity.

Orientation of the new cohort of ATP students was done virtually on May 13th 2021, the heads of departments enlightened the students on what to expect in the school.

The School continued to offer legal aid through collaboration with the Law Society of Kenya. The School also carried out pupillage supervision from July 2020 to January 2021. Graduation was held in the month of June 2021.

b) Continuing Professional Development

The financial year 2020-2021 began at a time the Covid-19 pandemic had broken out followed by Government restrictions on group meetings and travel. CPD Department was one of the most affected departments of the School, since most of its activities involve meetings. Despite the pandemic, the department opened up physical training in September 2020 and the subsequent months turned out to be the busiest, with the department delivering the highest number of courses since it was founded just over a decade ago.

The School successfully mounted thirty-two continuing professional development courses during the year in diverse fields of law, including: Introduction to New Land Regulations, Legal Audit and Compliance training for Young Lawyers (in collaboration with the Law Society of Kenya), Training of the Committee on Compliance Monitoring and Communication, Public Procurement Regulatory Authority, Public Procurement Law and Policies, Data Protection Law, Human Resource Legal Audit & Compliance, Monitoring and Management of Regulatory Compliance, Monitoring and Management of Regulatory Compliance, Board Operations & Processes, International Commercial Disputes Resolution, Public Policy & Legislative Process in Devolved Governments, Corporate Governance & the Law, Procurement and Financial Risk Management, Legislative Drafting and Andragogy for Law Lecturers.

During the year, the School organised its 2nd Annual Conference themed "Lawyers, Constitutionalism & Globalization in East Africa". The Conference which was held virtually, was well-attended, despite the challenges caused by Covid-19 pandemic. The Conference generated interest from scholars and legal practitioners, and the papers that were presented at the Conference were well researched on the thematic areas. It is hoped that the annual conferences would be a springboard to the School doing more research on matters of law.

c) Consultancies

The School also completed carrying out consultancy services to various organizations including: the Industrial & Commercial Development Corporation, the Kenya Maritime Authority, the Kenya Export Promotion and Branding Agency, the Kenya Roads

Board and the Agriculture Development Corporation. The School carried out substantial portions of legal audit work for the Kenya Reinsurance Corporation which would be concluded in the first quarter of the financial year 2021-2022. Towards the close of the financial year, the School signed consultancy agreements with the Sacco Societies Regulatory Authority, Kenya Accountants and Secretaries National Examinations Board, and the Nursing Council of Kenya, to undertake legal audits for them. The actual audit would be concluded early in the new financial year. Finally, regarding other types of consultancies, the School assisted the Kenya Dairy Board with respect to the new Dairy Regulations (2021) by carrying out regulatory impact assessment of the regulations.

During the year, the Board approved the CPD Policy which will guide the department in carrying out training, consultancies and research. The Policy, for the first time, sets out the approved rates for courses and consultancies undertaken by the School, and establishes a framework for assuring quality in the delivery of the services offered by the department.

The School offers conferencing facilities, including accommodation, for guests. The pandemic adversely affected the operations of the hospitality industry resulting in a drastic reduction in the number of guests and events that were hosted. The following institutions held workshops in the School:

State Law Office and Department of Justice, Co-operative University, Anti Counterfeit Authority, Kenyatta National Hospital, Council of Legal Education, Multimedia University, Nairobi Centre for International Arbitration and The Ombudsman.

d. Human Resources and Administration

During the year ended 30th June 2021, the school continued to implement the approved staff establishment by filling five (5) positions during the year, three (3) being new positions while two (2) were replacements. Also, the School engaged 15 interns and offered 19 students attachment opportunities.

In the same period, the following policies were developed; Overtime Policy, Bonus Policy, Conference & Retreat Center Policy and Sports Policy. Road Safety and Occupational Safety and Health policies were also drafted.

Within the year, the School implemented the Training Needs Assessment report concluded in the previous financial year, supporting a number of staff to attend training for skills development in addition to professional training for those who are members of recognized professional bodies.

Staff performed their duties while observing the MoH Guidelines on Covid-19, setting individual targets for the year and going through mid-year review and end of year appraisal.

Financial Performance

During the year the School received **Kshs 195.03 Million** as Government recurrent subvention against **Kshs 213.9 Million received** in the 2019/2020 financial year. This amount was in line with approved budget allocation. The School managed to raise **Kshs 294.6 Million** from its internal operations against **Kshs 336.7 Million** in 2019/2020 financial year. This represented a decrease of 12.5% and resulted mainly from reduced activity in hospitality and altering of the academic year due to the Covid-19 Pandemic. Student's fees income of **Kshs 233 Million** contributed the highest portion of this internally generated revenue representing 79%. Combined Hospitality and CPD activities generated **Kshs 55 Million** against **Kshs 45 Million** in 2019/2020 financial year representing an increase of 22%.

Part Iii: The Strategic Plan 2018-2022

KSL has 6 strategic pillars/ themes/issues and objectives within the current Strategic Plan for the FY 2018/19-2021/222. These strategic pillars/ themes/issues are as follows:

Pillar /theme/issue 1: Legal Education

Pillar/theme/issue 2: Continuing Professional Development

Pillar/theme/issue 3: Research, consultancies and projects

Pillar/theme/issue 4: Financial Sustainability and cost cutting

Pillar/theme/issue 5: Institutional Capacity/ Operational excellence

Pillar/theme/issue 6: Customer Focus

KSL develops its annual work plans based on the above 6 pillars/Themes/Issues. Assessment of the Board's performance against its annual work plan is done on a quarterly basis. The KSL achieved its performance targets set for the FY 2020/2021 period for its 6 strategic pillars, as indicated in the diagram below;

Strategic Pillar/ Theme/Issues	Objective	Key Performance Indicators	Activities	Achievements
Legal Education	To provide quality professional legal training for ATP and PTP	No. of students admitted and trained	Train 1500 students under ATP	Trained a total of 1718 lawyers under the Advocates Training and Paralegal
		No. of students admitted and trained	Train 190 students under ATP	Trained a total of 114 Students under the Paralegal Training Programmes
		No. of trainings undertaken	Train academic staff on teaching methodologies	Conducted one training on teaching methodologies for all the academic staff,
		Operational E-learning platform	Implement E-learning for both ATP and PTP	Successfully implemented E-learning for both programmes



Strategic Pillar/ Theme/Issues	Objective	Key Performance Indicators	Activities	Achievements
Continuing Professional Development CPD	To provide Practical Training for Continuing Professional Development	No. of courses delivered	Develop and Deliver CPD short courses	Delivered 28 CPD short courses
		Approved CPD policy	To develop the CPD policy	Policy developed and approved by the Board
Research, consultancies and projects:	To undertake Research, consultancies and projects:	No. of legal consultancies undertaken	Undertake legal consultancies	Three consultancies were awarded during the FY. i.e Nursing Council of Kenya, KASNEB, SASRA.
		No. of conferences held	Hold an annual conference	Held the The 2 nd Annual Conference
		No. of trainings undertaken	Train staff on project management and research skills	Staff were trained on <i>Project Management and Research Skills</i> by the Jomo Kenyatta University of Agriculture and Technology
Financial Sustainability and cost cutting	To enhance and broaden revenue streams and cut costs to achieve financial sustainability	No. of MOUs signed	Sign MOU with strategic partners	Signed MOUs with 2 strategic partners (HELB and LSK). The partnerships are aimed at enhancing resources.
		No. of officers recruited	Recruit staff in charge of marketing	Marketing officer was recruited to handle marketing activities in the School
Institutional capacity/ Operational Excellence	To strengthen institutional capacity for operational excellence	% implementation of TNA report	Implement Training Needs Assessment Report	A total of 47 staff members were trained on the TNA approved trainings
		% implementation of the ERP system	Implement an ERP system	Implementation of the ERP system is estimated at 98%
Customer Focus	To enhance customer satisfaction	Customer satisfaction index	Conduct a customer satisfaction survey	The School conducted a CSS and determined the CSS index of 69% showing an improvement from the 2018/2019 CSS
		Certification	Maintain the ISO 900:2015 Certification	School recertified by the KEBs who is the Schools Certification Body

The School aligns its annual Performance Contract targets with the Strategic Plan targets specifically under the Core mandate section which are under the Strategic Pillars 1,2 and 3. Therefore, an achievement of the 2020/2021 strategic plan activities as indicated above clearly demonstrates an achievement of the School's 2020/2021 signed Performance Contract.

Challenges

The School faced a number of challenges during the year under review. These included: Firstly, a reduction in exchequer funding especially with regard to the recurrent and development grant. This slowed the pace of completion of Ultra-Modern Library and Moot courts. Secondly, the school operations were adversely affected by Covid-19 pandemic but the school has reinvented ways to remain afloat despite the tough times by introducing the eLearning module.

Thirdly, despite a steady enrolment of students, quite a number are financially challenged which poses a challenge to the School in terms of collection of the fees.

Way Forward

The School looks forward to continued execution of its mandate with a view to delivering quality legal training services to its customers, stakeholders and the public. Both Management and Board will continue to diversify sources of revenue with a view to achieving financial self-sustainability. The School will also continue to adhere to laid down policies and procedures in management of its affairs and particularly ensure prudent use of allocated resources. Implementation of austerity measures and compliance with Government circulars will result to continual funding from the Government. With the clear strategic objectives and initiatives being undertaken, the future of the School is great.

THE AD HOC COMMITTEE ON CONFERMENT OF MUNICIPAL STATUS TO LUNGA-LUNGA AND KINANGO TOWNS

The Law Society of Kenya Representative to the Committee is Lucy Mwendu Waweru, Advocate.

Section 8 (3) of the Urban Areas and Cities Act provide for the composition of the Ad Hoc Committee as follows:

-

(3) The ad hoc committee shall comprise of relevant professionals in good standing nominated by the following institutions taking account of regional, ethnic and gender diversity and representation of persons with disability—

- The Institution of Surveyors of Kenya;
- The Kenya Institute of Planners;
- The Architectural Association of Kenya;
- The Law Society of Kenya;
- An association of urban areas and cities;
- The Institute of Certified Public Accountants of Kenya; and
- The business community.

Policy and Legal Context for The Conferment Of Towns To Municipal Status

New Urban Agenda

The new urban agenda recognizes the contribution of devolved governments in shaping the global urban landscape through addressing the way cities and human settlement are planned, designed, financed, developed, governed and managed. The process of upgrading the urban status of the towns seeks to address these issues in relation to urbanization process in Kwale.

Constitution of Kenya 2010

Article 184 of the constitution of Kenya 2010 mandated the parliament to provide the criteria for classifying areas as urban areas and cities, establishing the principles of governance and management of urban areas and cities and to provide for participation by residents in the governance of urban areas and cities prompting the enactment of the Urban Areas and Cities Act in 2011 and the County Governments Act in 2012.

The constitution further assigns the urban planning function which includes urban management to the County Governments. Therefore, the mandate to structure and govern urban centers is role to be played by the County Governments.

County Government Act No.17 of 2012

Section 48 of the County Governments Act, 2012 mandates the County Governments to decentralize the functions and provision of services to urban areas and cities within their jurisdiction as established in accordance with the Urban Areas and Cities Act (No. 13 of 2011)



Urban Areas and Cities Act No.13 of 2011

The Urban Areas and Cities Act, 2011 provides for the classification, governance and management of urban areas and cities. It further provides for the criteria of establishing urban areas, providing for the principles of governance and participation of residents in administration and management of the urban areas

Public Finance Management Act 2012

The act provides a mechanism for public finance management within urban areas and cities as public entities. It further details process for public revenue administration and financing of the urban units.

Physical and Land Use Planning Act

It provides for the general principle of local area planning including preparation and approval of plans for market centers, town, municipalities and cities as well as development control within the urban areas

Draft Kwale County Spatial Plan 2018-2028

The Kwale County Spatial Plan which is an economic and social development blueprint for the County has recognized Lunga-Lunga and Kinango towns as a potential first tier towns in the urbanization hierarchy. Such findings, advised the County Government to consider Lunga-Lunga and Kinango as strategic towns that can contribute immensely to the economic growth and social development of Kwale as a county.

The county spatial plan hence proposed that the two towns be conferred with municipality status.

Purpose of the report

The report has been compiled to initiate the process of upgrading the two urban areas to municipal status. It seeks to project an understanding of the state of affairs within the towns to allow the ad hoc committee responsible for recommending conferment to municipal status to have an insight concerning the proposal.

Objectives of The Report

- To examine the applicability of the criteria provided within the Law for upgrading the two towns to municipal status against the existing urban dynamics and potential of the urban areas to perform municipal functions.
- To examine the capacity to generate and collect revenue that supports the two urban areas to perform municipal function.

- To evaluate the capacity of the two urban areas to provide urban infrastructure and municipal services.
- To propose municipal boundaries of the proposed municipalities.
- To make recommendations on proposal to upgrade the two towns to municipal status.

Justification for the Upgrading provide structure

The process to upgrade the two urban areas has been initiated to respond to urban development opportunities and challenges available within the two towns. The up scaling of status is purposed to decentralized administration and governance by creating a local governance mechanism for management of the urban affairs of the residents in the two towns. Having local municipal administration is foreseen to facilitate easier and responsive delivery of urban services within the two towns which belong to the first tier of urbanization hierarchy in the county.

Model Towns

The two towns have the potential to become model municipalities given the availability of ample land for development which provide room for growth and expansion. This would only be possible if proper structures are put in place early enough to maximize on the opportunities.

Underperforming Economically

Lunga-Lunga and Kinango towns have locational advantage on available economic opportunities over other urban centers in Kwale. However; the vibrancy of the economic activities is currently low compared to other border and transit towns within the Republic of Kenya. It is anticipated that bringing municipal administration to the grassroots will facilitate investment in infrastructure which will consequently attract more people and business into the urban areas hence growing the local economy for the two towns.

Conclusion

The objective of the Ad Hoc Committee was to examine the economic statuses of Kinango and Lunga-Lunga Urban Centre's, to analyze the findings and advise the Hon. Governor on the proposal to confer municipal statuses to the two urban centers. The Ad Hoc Committee was guided by the parameters set out in the relevant legislation as captured in this report.

The following findings were made:

- That both Kinango and Lunga-Lunga towns rank as first tier urban centers, as per the classification of urban hierarchy done during the drafting and preparation of the County Spatial Plan 2018?
- That both Kinango and Lunga-Lunga towns are the main commercial and administrative centers for their respective regions.
- That both Kinango and Lunga-Lunga towns indicate a growing population, and as such there is need for further investment in infrastructural facilities.
- That Kinango and Lunga-Lunga regions have unexploited sources of revenue that if fully optimized, can contribute to the development of the County.
- That Lunga-Lunga's strategic location on the international border is important both as a transit and commercial hub.
- That Kinangos' both central location and convergence point for several intra and inter county roads makes it a vital commercial and transit center.
- That the boundaries demarcating current extents of either town do not have required threshold for conferment of municipality statuses.

Recommendations

The Ad Hoc Committee recommends the following:-

- Adopt the geographical boundaries of Lunga-Lunga and Kinango towns to the extents proposed in this report to achieve the population threshold as required by the Urban Areas and Cities Act, 13 of 2011.
- Confer municipality status to Lunga-Lunga town based on the adopted boundaries.
- Confer municipality status to Kinango town based on the adopted boundaries.

THE NATIONAL ENVIRONMENT TRIBUNAL

The Law Society of Kenya Representative to the Committee is Dr. Kariuki Muigua Advocate, Ph.D.

Introduction:

The LSK representative was appointed to the National Environment Tribunal for a second term. Thereafter, his name was gazetted on 25th January 2021 vide Kenya gazette Notice number 517.

i. The National Environment Tribunal: Establishment

The National Environment Tribunal (NET) is established under section 125 and Part XII of the Environmental Management and Coordination Act (EMCA), No. 8 of 1999 with its main mandate being to receive, hear and determine appeals arising from decisions of the National Environment Management Authority (NEMA) on issuance, denial or revocation of Environmental Impact Assessment (EIA) licenses, among other decisions. The main clientele of the Tribunal are advocates, civil society, real estate developers, construction industry and the general public.

Specifically, NET has jurisdiction to carry out the following:

a) Hearing of Appeals on Environmental Matters

EMCA, under section 129(1), permits any person who is aggrieved by—

- a. the grant of a licence or permit or a refusal to grant a licence or permit, or the transfer of a licence or permit, under this Act or its regulations;
- b. the imposition of any condition, limitation or restriction on the persons licence under this Act or its regulations;
- c. the revocation, suspension or variation of the person's licence under this Act or its regulations;
- d. the amount of money required to paid as a fee under this Act or its regulations; and
- e. the imposition against the person of an environmental restoration order or environmental improvement order by the Authority under this Act or its Regulations, to, within sixty days after the occurrence of the event against which the person is dissatisfied, appeal to the Tribunal in such manner as may be prescribed by the Tribunal.

b) Giving NEMA Directions on Complex Matters

Section 132(1) of EMCA provides that when any matter to be determined by NEMA under this Act appears to it to

involve a point of law or to be of unusual importance or complexity, it may, after giving notice to the concerned parties, refer the matter to the Tribunal for direction.

c) Power to Appoint Environmental Assessors

Sec. 131 of EMCA gives the Chairperson of the Tribunal the power to appoint any persons with special skills or knowledge on environmental issues which are the subject matter of any proceedings or inquiry before the Tribunal to act as assessors in an advisory capacity in any case where it appears to the Tribunal that such special skills or knowledge are required for proper determination of the matter.

d) Hearing and Determination of appeals on Forestry matters

Sec. 70 of the Forest Conservation and Management Act, 2016 empowers the Tribunal to hear appeals on any dispute that may remain un-resolved in respect of forest conservation, management, utilization or conservation from the lowest possible structure under the devolved system of government as set out in the County Governments Act, 2012.

e) Hearing and Determination of Appeals on Wildlife Matters

Sec. 25(6) of the Wildlife Conservation and Management Act 2013 allows any person who is dissatisfied with the award of compensation by either the County Wildlife Conservation and Compensation Committee or the Service to, within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal and on a second appeal to the Environment and Land Court. The Act (sec.26) also empowers the Tribunal to hear various appeals arising from the decisions made under this Act.

ii. Activities of the National Environment Tribunal for the year 2021

In the financial year 2020/2021, 42 appeals were filed before the Tribunal relating to different aspects of the environment. The Tribunal was able to conclude 35 appeals with 68 appeals pending before the Tribunal.

iii. Summary of important issues touching on the objects and principles of the Society

With regard the objectives of the LSK, including maintaining and promoting the rule of law in the Kenya by assisting the government and the courts in matters affecting legislation and the administration of justice in

Kenya as well as protecting and assisting the public in Kenya in all matters touching, ancillary or incidental to the law, the Tribunal has been instrumental in bridging the gap as far as access to justice in environmental matters is concerned. The tribunal has been expedient in promoting and protecting the rights and legitimate expectations of the business community as well as the general public when they feel aggrieved by the decisions of NEMA.

In order to efficiently discharge its mandate, the tribunal has strived to sit as frequently as possible and where necessary, carry out actual site visits.

The Tribunal has also ensured that there are fewer or no cases of members' absenteeism as part of ensuring that any member sitting to deliberate on appeals does so with the appreciation of the full facts of the matters and also give the parties the assurance that justice will be delivered.

iv. Recommendations to the Council

Despite the efforts by the Tribunal to discharge its statutory mandate efficiently, there have been challenges as far as funding is concerned. I would request that LSK Council weighs in on this issue to have the Government streamline the timely budgetary allocation and release to enhance the effectiveness of the Tribunal in delivering on its mandate.

THE NATIONAL LEGAL AID SERVICE (NLAS)- 2021

The Law Society of Kenya Representative to the Board is Mr. Vincent Mutai. The National Legal Aid Service (NLAS) is a body corporate established under the Legal Aid Act 2016. It is mandated to among other things facilitate the provision of legal aid services in a coordinated manner to the indigent, vulnerable and marginalized citizenry by ensuring that the services are accessible, affordable, accountable, transparent and efficient. In executing its mandate in the year under review; NLAS implemented the following activities;

1. Provision of legal aid services to indigent persons:

Majority of Kenyans in particular the vulnerable, marginalized and indigent persons, are limited in seeking access to justice due to many barriers in accessing justice inter alia cost charged by legal practitioners. To ensure the indigent persons access legal services, NLAS continues to offer free legal

aid services to the vulnerable, marginalized and indigent persons. Currently NLAS a presence in 5 counties (Nairobi, Mombasa, Kisumu, Nakuru and Eldoret) with a plan to roll its services in all the counties in Kenya. In 2020/2021 a total of **2,749,222** persons received legal aid services which included; legal advice, legal representation, self-representation training, awareness creation, mediation services, and psycho-social support. The achieved number was obtained through face to face sessions, radio talk shows, LSK legal awareness week and mediation sessions.

2. Development a standardized Paralegal training curriculum

Inadequate number of legal aid providers, particularly Advocates has hampered access to justice to the indigent persons. Further the geographical distributions of Advocates, who are mostly based in urban areas, have also compounded the challenges faced by the vulnerable, marginalized and indigent persons seeking their services. Paralegals are instrumental in bridging this gap by complementing the work done by Advocates and promoting the use of alternative methods of dispute resolution through mediation. However, despite the very crucial role that paralegals play in the administration of justice, guidelines on how to coordinate paralegals in Kenya remain a challenge.

It's against this background that NLAS through Internal Commission of Jurist (ICJ) - Kenya chapter and with the support of Open Society of Initiative of Eastern African (OSIEA) developed a standardized Paralegal training curriculum. The objective of the curriculum is to harmonize Paralegals training in Kenya. The curriculum was developed through a vigorous consultative process with the stakeholders i.e. Law Society of Kenya; Council for Legal Education as prescribed by the Legal Aid Act, Paralegals, civil society organizations, development partners and Community Based Organizations. NLAS is now in the process of disseminating the printed copies of curriculum after a successful launch of the same.

3. Review of NLAS Strategic Plan 2021-2025

Through the support of International Development Law Organization (IDLO), NLAS reviewed its first ever 5 years Strategic Plan. The strategic plan which has 7 strategic objectives provides a roadmap for NLAS in implementing its mandate under the Legal

Aid Act 2016. The said strategic plan is awaiting the launch this current FY year.

4. Training of legal aid providers

The Programme for Legal Aid Empowerment and Delivery in Kenya (PLEAD) is a five-year European Union funded programme that seeks to strengthen the rule of law by providing access to legal aid and assistance for the poor, marginalized and vulnerable. Through PLEAD-K, NLAS was able to sensitize the Court Users Committee (CUC) of its mandate, the role of different actors in the justice sector as provided for under the Legal Aid Act and regulations and introduce legal aid an agenda in the CUC. The counties trained included; Uasin Gishu, Nakuru, Kisumu, Mombasa, Nairobi, Garissa, Marsabit, Mandera, Wajir, Tana River, Lamu, and Isiolo. A total of 248 CUC members were trained.

5. Transitional of Legal Aid Act to English simplified Version, Kenya sign language, Kiswahili and braille

To discharge its mandate, NLAS adopts various legal aid delivery models. One of the models is creation of awareness through the provision of legal information and law related education as provided for in Section 2 of the Legal Aid Act. Creation of legal awareness through legal information, if easily accessible, is a valuable tool needed to achieve legal literacy and capacity thus improving access to justice especially by the poor, vulnerable and marginalized groups.

It is for this reason that NLAS through PLEAD support summarized the Legal Aid Act into a simplified English version then used the summary to translate into Kiswahili, Kenya sign language & braille. This is in line with Article 7 of the Constitution of Kenya, 2010 which recognizes Kiswahili as the national and official language of the Republic as well as Article 54(1) (d) which entitles persons with disabilities to use sign language, braille, or other appropriate means of communication.

By translating the Legal Aid Act, 2016, all Kenyans regardless of their status will be able to access information as provided in the act and are thus better equipped with knowledge of how to access legal aid services.



6. Development of Standard Operating Procedures For Mobile Legal Aid Clinics

To ensure access to justice in the grassroots where NLAS is yet to set up offices, NLAS seeks to launch Mobile Legal Aid Clinics as a means of mitigating the geographical barrier of accessing legal aid services. Through the mobile legal aid clinics, NLAS will be able to broaden its reach and ability to provide quality and accessible legal aid services to community members in remote areas of the counties that rarely have the opportunity to access legal aid services in any form. Mobile legal aid clinics therefore aim to offer free legal aid services to those in remote or harsh areas and terrains who either cannot travel to central location, or are unaware that legal aid services exist.

To this end, NLAS developed the standard operating procedures (SOPs) for the purpose of ensuring consistency and provide guiding principles for the implementation of mobile legal aid clinics.

7. Development of pro bono advocates and internship schemes

To motivate many Advocates and law students to provide legal aid services to the indigent persons, NLAS in partnership with Law Society of Kenya (LSK), Non- state actors in the justice sector in particular in the legal aid field, Office of the Attorney General and Department of Justice, developed a motivation and internship scheme. The developed schemes aim to award active legal aid providers and law students engaged to offer legal aid services to the vulnerable, marginalized and indigent persons.

8. Internship programmes

NLAS works closely with Universities offering law courses and promotes the establishment of university-based legal aid clinics. NLAS also promotes volunteerism among law students through internship and mentorship programmes. The Service through its mentorship programme offered internship and mentored 33 law students during the period under review.

9. Dissemination of IEC materials.

To enhance its visibility, NLAS has disseminated to citizens over 500 IEC materials. Materials disseminated included copies of the legal aid Act 2016, copies of legal aid (general) regulations 2020, fliers etc.

Challenges

- a) Covid 19 pandemic affected provision of legal aid services due to government restriction of movement and suspension of gatherings to curb its spread. This also brought rise of cases e.g. gender based violence, unlawful termination of employment etc.
- b) Inadequate funds: Inadequate funds make it difficult to plan and implement activities. The National Legal Aid Service is the least funded institution within the justice sector.
- c) Inadequate Human Resource: The Service lacks enough human resource to adequately handle the increasing number of Kenyans seeking legal aid services. This has negatively impacted on the provision of services.
- d) Slow transition of NLAS: Due to beaurocracy in government processes, the finalization of key policy documents has slowed down the transition of NLAS from a programme to a Service.
- e) Very few pro bono lawyers willing to take up legal aid matters.

Recommendations

- a) Fast track the finalization of key human resource policy documents in order to recruit and retain staff.
- b) Lobby for additional funds from GOK using evidence-based approach.
- c) Device innovative ways of giving incentives to pro bono advocates so that they can take up matters e.g. capacity building trainings, recognition awards etc.
- d) Innovation in service delivery e.g. toll free line, virtual engagements

Emerging Issue

Government Austerity measures have caused budget cuts thus affecting the discharge of the mandate of NLAS as provided for in its enabling instrument.

THE RECRUITMENT PANEL FOR THE POSITION OF CHAIRPERSON AND MEMBERS OF THE LAW REFORM COMMISSION.

Introduction

Ms. Mary M. Mutugi, Advocate was nominated to represent the law society of Kenya in the aforementioned selection panel as a representative of the Law Society of Kenya.

Gazettement and Swearing In

The selection panel was sworn in at the Public Service Commission on Wednesday 4th December 2019.

The panel was gazetted on 22nd January 2020 by special issue Gazette Notice VOL. CXXII- No. 14 for the selection of the Chairperson

The panel was also gazetted on 3rd February 2020 by special issue Gazette Notice VOL. CXXII- No. 23 for the selection of members of the Law Reform Commission.

Meetings and Conduct of Business

The selection panel met on 4th March 2020 and elected a Chair Dr. Vincent Nyangilo and Ms. Mary Mutugi as Vice Chair.

The selection panel approved for publication the advert attached to this email on 9th March 2020.

The Effect of Covid-19 on the Business of the Panel

However, as a result of government directives on Covid-19 measures, the panel was not able to meet and therefore the work was frustrated.

Following the Head of Public Service Circular Vide Ref. OP.CAB 39/1A dated 17th March 2020 on Presidential Directive Government Business Continuity as part of the Corona Virus Response measures, the chairman of the selection panel write to the Hon. Attorney General Seeking direction on the statutory limitations placed by the Kenya Law Reform Act under Section 11(3) and (4) on recruitment vis a vis Presidential Directives on Corona Virus. The letter to the AG Ref PSC/23 Vol. 1/(1) was sent on the 19th March 2020.

On 4th May 2020 Vide Ref AG/CONF/4/55/VOL (V) The Hon Attorney General recommended that the Selection Panel engage the Public Service Commission in the context of the flexibilities provided for in the Directive on the appropriate ways to proceed with the recruitment of the Chairperson and Member of the Kenya Law Reform

Commission within the required timelines.

Resumption of Business

Consequently, the selection panel reconvened under the prerequisite government directives and considered the list of applicants.

An examination of the list showed that;

The advert did not receive proper uptake from the market as there was only one applicant for Chairperson

The persons who had applied for member, did not provide a representative sample for recruitment as a result of (a) and

The number of persons who had applied would frustrate the provisions of Section 11 (4) (e) and (f) that requires the panel to nominate three (3) persons for the position of Chair and eight (8) persons for the position of members.

On 4th June 2020, the panel met and resolved to advertise the positions afresh.

The advert was put out on 23rd June 2020 and is attached to this report.

The list of interviewees was published in *My Gov* on 7th July 2020.

The panel met and agreed on the score sheet and commenced interviews on 20th to 24th July 2020

Conclusion

The panel faces challenges associated with COVID-19 directives on meetings. Further, that there was no uptake on the advertisement in the first instance which seemed to improve on the second instance.

The panel submitted three names for the position of chairperson and eight for the position of member of the commission to the Head of Public service for onward transmission to the Head of State.

The recruitment panel completed its work in August 2020.

REPORT ON THE SPECIAL WORKING GROUP THREE OF THE CAPITAL MARKETS MASTER PLAN (CMMP) (LEGAL AND REGULATORY ENVIRONMENT)

The Law Society of Kenya Representative to the Committee is Ms. Wanjiru Ngige, Advocate.

Introduction

There are four Working Groups in respect of the Capital Markets Master Plan – a ten-year plan for the strategic direction of the Kenyan Capital Markets. The Plan was launched on 21st November 2014 and a copy of it may be downloaded from <https://cma.or.ke/index.php/about-us/action-plans/capital-market-master-plan-2016>. The Terms of Reference of Working Group Three (Legal and Regulatory Environment) were drafted in January 2020 and include the following:-

- Liaising and consulting with various Government regulatory bodies, industry associations and participants, professional bodies and other stakeholders in the implementation of their action plans;
- Identifying matters requiring guidance from the Implementation Committee and presenting the same for consideration and guidance;
- Undertaking internal consultations within the constituency they represent and presenting the positions to the Working Group; and
- Ensuring that Master Plan Deliverables for the Working Group are up-to-date on real time basis.

The last meeting held by this Working Group 3 was in March 2020.

Since then, the Master Plan was reviewed (with a draft update on 30th August 2021) and a Capital Markets Master Plan Midterm Review Stakeholder Validation workshop held on 14th September 2021. Through the CEO of the LSK, feedback was sought on this draft updated Capital Markets Master Plan on or around 6th September 2021. A final Updated Capital Markets Master Plan was submitted on or around 14th September 2021.

The CMMP Implementation Plan has five objectives. Relevant to this Report (and to the representation of the LSK on the Working Group 3), one of the objectives is to strengthen the domestic legal and regulatory environment for the implementation of the CMMP. Bearing this objective in mind, the following recommendations are made to Council:

a. A committee be formed to deal with matters

of capital markets and financial services areas which are inter-linked. This will enable targeted dissemination of information and quick turnaround especially when it comes to seeking comments or facilitating participation in stakeholder fora;

- b. Given the cross-cutting issues arising in capital markets and financial services, the Council should consider co-opting members from Committees dealing with Law Reform, Competition, Tax and Information Communication Technology to advise on specific issues arising in this area;
- c. Create and maintain an up-to-date online repository for documents/reports received from these Working Groups and other relevant bodies for research and reference purposes;
- d. Increase the number of Continuous Professional Development units in this area for the sake of capacity building.

KISUMU COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

The Law Society of Kenya Representative to the Committee is Mr. Hunter Josiah Ogola, Advocate.

The Physical Land Use and Planning Act No. 13 of 2019 ('**PLUPA**') gives effect to Article 66 (1) of the Constitution which provides that the state may regulate the use of any land, or any interest in or right over any land, in the interest of defence, public safety, public order, public morality, public health, or land use planning. In addition, any regulation of land use and property must ensure that investments in property benefit local communities and their economies.

Under Section 77 of the PLUPA, the LSK is called upon to nominate an advocate to each County Physical and Land Use Planning Liaison Committee ('**County PLUP Liaison Committee**') to be the Chairperson, after which the county executive committee member ('**CECM**') responsible for matters relating to physical and land use planning will appoint and gazette the nominee. The LSK nominee's primary role is to ensure the various County PLUP Liaison Committees perform their legislative functions as enumerated in Section 78 of the PLUPA. Other members of the County PLUP Liaison Committees are:

- a) a representative from the National Land Commission ('**NLC**');

- b) a representative from the National Construction Authority ('NCA');
- c) a nominee from the Kenya Institute of Planners ('KIP');
- d) a nominee from the Architectural Association of Kenya ('AAK');
- e) a nominee from the Institute of Surveyors of Kenya ('ISK'); and
- f) two nominees from the local county chapter of the Kenya National Chamber of Commerce and Industry ('KNCCI').

The Council invited applications from members of the society for consideration for nomination to serve as the Chairperson of the Kisumu County Physical and Land Use Planning Liaison Committee ('**Kisumu County PLUP Liaison Committee**') on 8th September 2020. Mr. Hunter Josiah, Advocate, was subsequently nominated by the Council on 14th June 2021 for appointment as the Chairperson of the Kisumu County PLUP Liaison Committee, to serve for a period of three years.

The LSK forwarded the name of its nominee to the Kisumu CECM in charge of the Department of Lands, Housing, Physical Planning and Urban Development ('**Department**') on 24th June 2021, however, by the end of the year 2021 the CECM in charge of the Department was yet to appoint and gazette the LSK nominee or any other nominees/representatives to the Kisumu County PLUP Liaison Committee.

Implications

The delay in the establishment of the Kisumu County PLUP Liaison Committee creates the following two key legitimate concerns:

- a) Residents of and investors in Kisumu County are being denied an opportunity to seek cheaper and timely access to justice options. It should be noted that all disputes relating to physical and land use planning, before establishment of the Kisumu County PLUP Liaison Committee, must be heard and determined by the Environment and Land Court.
- b) With the support of the French Development Agency ('AFD'), Kisumu County is undertaking an ambitious urban development plan in the City of Kisumu that will guide the growth of the City of Kisumu and the wider Kisumu County for the next fifteen years. Various enforcement measures affecting property owners have already been issued by the County Government of Kisumu in the last

few years and development plans have been drawn up. Such an ambitious plan needs an independent group of professionals to advise the CECM on broad physical land use and planning policies, strategies and standards that affect the economic well-being of residents and investors in Kisumu.

Challenges

- a) Reorganization of the County Executive Committee by the Governor, Kisumu County, during the first quarter of the 2021/2022 financial year. As a consequence, the CECM of the Department, Mr. Dixon Obungu, exchanged roles with Prof. Judith Miguda-Attyang and this led to reengagement on pending issues including appointments to the Kisumu County PLUP Liaison Committee.
- b) Suspected arson attack at the Department offices on 5th September 2021 leading to destruction of records as well as a general slowdown in activities and priorities by officials in the Department.
- c) Uncertainty over budget allocation by the County Government of Kisumu for the establishment of the Kisumu County PLUP Liaison Committee secretariat.
- d) Lack of clear information on the status of other nominees/appointees to the Kisumu County PLUP Liaison Committee.
- e) Possible '*scrutiny*,' '*vetting*,' '*approval*' or '*disapproval*' of nominees/representatives prior to appointment by the CECM of the Department.

Recommendations

Kisumu County

Through continued engagement by the LSK nominee with County officials, it is hoped that the appointment and subsequent gazette of the members of the Kisumu County PLUP Liaison Committee will be done before the end of the first calendar quarter of the year 2022. If not LSK should consider possible legal action after a review of similar bottlenecks across the counties.

Countrywide

LSK to consider forming a Joint Working Group on the Implementation of the PLUPA ('**Joint PLUPA Working Group**') with KIP, AAK and ISK to ensure that:

- i. the Joint PLUPA Working Group is aware of the nomination of its professional members across the various County PLUP Liaison Committees;
- ii. there is timely nomination of professionals to the various County PLUP Liaison Committees, notwithstanding the lack of a specific request from the appropriate CECM;
- iii. a quorum is achieved within the various County PLUP Liaison Committees, notwithstanding a vacancy emanating from the lack of appointment of representatives from NLC, NCA and KNCCI.
- iv. reasonable pressure is applied on Governors and CECMs responsible for physical and land use planning to: (i) appoint and gazette members of the various County PLUP Liaison Committees; (ii) operationalize the various County PLUP Liaison Committees secretariats; (ii) make funding provisions in the County budgets.

THE NATIONAL ENVIRONMENTAL COMPLAINTS COMMITTEE

The Law Society of Kenya Representative to the Committee is Ms. Jane Masai, Advocate who was appointed to the National Environmental Complaints committee on 10th August, 2021. She has since been nominated as the Public Interest Litigation subcommittee chairperson and a member of the Investigations subcommittee.

The committee is in the process of amending the Environmental Management and Coordination Act and she sits in the multi sectoral taskforce team tasked to spearhead the said amendment. In the past 6 months she has been involved in the said exercise. The following is a brief report of the said on going task.

General Overview, Objectives and Activities of NECC

1. The National Environmental Complaints Committee (NECC) is established under Sections 31 to 36 of the Environmental Management and Co-ordination Act, 1999 (2015). Its mandate is to investigate allegations or complaints regarding the condition of the environment in Kenya, or on its own motion, suspected cases of environmental degradation, undertake public interest litigation on behalf of the citizens in environmental matters.
2. In carrying out its mandate under EMCA, NECC

has the following objectives:

- a) Investigation of environmental complaints and cases of environmental degradation;
- b) Prepare policy and other recommendations for consideration by the Cabinet Secretary;
- c) Offer an environmental dispute resolution mechanism at all levels of society;
- d) Environmental public interest litigation
- e) Research into the causes of, and possible solutions to, environmental challenges in Kenya;

A. Challenges That Affect Effective Discharge of the Mandate Of NECC

1. The following short comings in the EMCA law and practice limit the output of NECC:
 - a) Under section 31-35 NECC has been provided as a committee under NEMA hence subject to the party it ought to oversee.
 - b) The current law leaves the issue of NECC's autonomy to debate and interpretation
 - c) NECC's budget is inadequate and is channelled through the Ministry of Environment and Forestry
 - d) EMCA has not provided for enforcement mechanism from recommendations of NECC

B. Brief History Of Amendments To Emca, 1999

1. The Principal Act, Environment Management and Coordination Act (EMCA), 1999 established the National Environment Complaints Committee under the name Public Complaints Committee with the mandate to investigate complaints from the public or on its own motion concerning environmental degradation.
2. The name '**Public Complaints Committee**' did not capture the limitation of the mandate to investigate on matters environment. This led to a review and amendment of EMCA, 2015 with the intention of amending/changing the name from **Public Complaints Committee** (PCC) to the National Environmental Complaints Committee (NECC)
3. That the name was however wrongly captured in the Environment Management and Coordination Act (EMCA) 2015 and instead of the **National Environmental Complaints Committee**; the provisions read the **National**

Environment Department

4. In 2018 NECC sought to change its name through the Statute Law (Miscellaneous Amendments) Act, 2018. The Miscellaneous Amendments 2018 rectified the drafting error changing the name from **National Environment Department** to the **National Environment Complaints Committee**.
5. That from 2019, the National Environment Complaints Committee has been pursuing a review of EMCA, 1999. This is due to the need for autonomy (independence) of NECC from the National Environment Management Authority (NEMA)
6. That further the amendment does incorporate the provision for the establishment of a Secretariat for NECC.

C. Justification for NECC Amendments in EMCA, 1999.

1. With the enactment of the Constitution of Kenya in 2010, there was a need to review the laws to align them to the provisions in the Constitution. A review of the environmental management and coordination Act (EMCA) of 1999 was conducted and the Amendments suggested were passed in 2015.
2. The Ombudsman occupies a separate place alongside other government offices responsible for monitoring the environmental actions and inactions through investigation and public interest litigation and hence the need to establish its independence outside National Environment Management Authority (NEMA) as an independent body within EMCA.
3. During the alignment of laws to conform with the 2010 constitution, the NECC recommendations affecting the Committee were not incorporated, thereby leaving NECC at a disadvantaged position, as compared to the other institutions under EMCA, 1999. To address this, NECC has proposed amendments to the Act in order to remedy these lacunae as an environmental ombudsman and enhance its ability for effective and efficient service delivery to the citizenry.

4. As such, there is great need for a statutory instrument could provide for the establishment of NECC but not limited to;
 - i. provide for its power and functions in achieving its mandate of RESEARCH and PIL,
 - ii. Oversight authority by the board and or committee
 - iii. Provision of chief executive officer
 - iv. Provision of staff establishment through recruitment, retention and remuneration of officers and staff,
 - v. Acquisition of financial arrangements for the sources of its fund,
 - vi. including but not limited to appropriations by the Parliament, levying of modest fees for some of its services and grants.
5. For NECC to be able to discharge its mandate effectively, EMCA should be amended to enable NECC to attain its objectives taking into consideration the provisions of Art. 10 (2) (a) of the Constitution on the participation of the people and Art. 232 (1) (d) which invokes the involvement of the people in the process of policy making.

D. Effect of Policy Changes

1. A change in policy will therefore;
 - a) Establish NECC as a body corporate with complete autonomy. This is meant to enhance its independence as may be necessary in undertaking investigative and litigation functions
 - b) Enable the Committee to create its own establishment with a fully-fledged secretariat to address the complaints from all over the country
 - c) Improve service delivery by NECC through provision of autonomy to the institution which can therefore be able to regulate its own procedure. NECC cannot fully discharge its mandate while under NEMA.



Amendment Matrix

SECTION OF THE AMENDMENT BILL	PROVISION AS IT APPEARS IN THE AMENDMENT BILL	PROPOSED PROVISION	JUSTIFICATION
37(1)	There is hereby established a Committee under the Ministry to be known as the National Environmental Complaints Committee (hereinafter referred to as "NECC")	There is hereby established an Agency to be known as the National Environmental Complaints Agency (hereinafter referred to as "NECA")	This is meant to enhance its independence as may be necessary in undertaking investigative and public interest litigation functions.
37(1)(b)	The Principal Secretary of the Ministry for the time being responsible for matters relating to the environment or his representative appointed in writing by the Principal Secretary.	To be deleted	
37(1)(d)	An Advocate of the High Court of Kenya with a bias in Alternative Dispute Resolution mechanism, nominated by the Law Society of Kenya;	an Advocate of the High Court of Kenya nominated by the Law Society of Kenya;	Independent bodies should be able to practice autonomy in the nomination of a representative to the institution without dictation of terms
37(1)(g)	one member appointed by the Cabinet Secretary for his active role in environmental management.	two members appointed by the Cabinet Secretary for their active role in environmental management.	
38(7)	Terms and conditions of service for the employees of the NECC shall be determined by the Salaries and Remuneration Commission.	To be deleted	Anchored under section 47(2)
39(e)	The NECC shall give any person or the Authority against whom an adverse finding or recommendation is made, an opportunity to make representations concerning the finding or recommendation before the committee includes the findings in its report;	Delete the words " person or the Authority " and replace thereof with " Party "	Party encompasses persons, natural persons and institutions that don't fall under the definition of legal, natural or artificial persons
39(g)	Investigate complaints and where interventions by the Authority are necessary, immediately report the same to it for enforcement action	Investigate complaints and where interventions by the lead agencies are necessary, immediately report the same for enforcement action	Lead agencies to include other institutions

Recommendations

1. Change of Name

The ADHOC committee proposes that the name of NATIONAL ENVIRONMENTAL COMPLAINTS

COMMITTEE be changed to NATIONAL ENVIRONMENTAL COMPLAINTS AGENCY otherwise herein referred as the "Environmental Ombudsman"

LAW SOCIETY OF KENYA BRANCH REPORTS 2020

LSK SOUTH EASTERN BRANCH REPORT

INTRODUCTION

The current Council comprises of:

1. Mr. Justus Mutia- Chairman
2. Mr. Japheth K. Mwalimu- Vice Chairman
3. Mr. Mutua J. Makau- General- Secretary
4. Ms. Edith N. Mutuku- Vice Secretary
5. Ms. Priscillar M. Kioko- Organizing Secretary
6. Ms. Faith M. Katunga- Treasurer
7. Ms. Edith A. Onyango- Council Member
8. Mr. Muinde Kaluu- Council Member
9. Mr. Muaka E. Busu- Council Member
10. Mr. Evans M. Mochama- Council Member
11. Mr. Christopher K. Nzili- Council Member
12. Mr. Benjamin K. Kyalo- Council Member

1. CHAIRPERSON'S OFFICIAL MEETINGS

During the year, the Branch Chair engaged in several meetings on behalf of the Branch. The meetings were meant to address issues affecting practice and welfare of members. They included the following:

- a) Meetings with the Chief Justice and other Branch Chairs on 13th January 2020 and 26th May 2020.
- b) Branch Chairs Caucus Meetings on (Physical - 23/01/2020, 07/02/2020, 10/02/2020, 03/03/2020) & (Virtual - 15/05/2020, 18/06/2020).
- c) Meeting at Makueni Law Courts on 20/04/2020
- d) Press Statement on Appointment of Judges at Machakos Law Courts on 12/06/2020.
- e) Courtesy Meeting at Makueni Police Station on 8/10/2020.
- f) Visit to the Late Onesmus Masaku, Advocate, at Kenyatta National Hospital on 19/10/2020.
- g) Attendance of Kajiado Advocates' end of the year function at Kitengela on **27/11/2020**.

2. BRANCH EXECUTIVE'S RETREAT

In order to plan for the year 2020, the Branch Executive held a retreat on 25th January 2020 at Mada Hotels – Hunters Lodge, Kiboko. This was to enable them have time away from their daily practice routine and get to sit down in different environment and plan for the year on behalf of the Branch.



3. MACHAKOS REPRESENTATIVE ELECTIONS

Although the Branch had conducted her elections on December, 2019, the Representative for Machakos had not been elected. Two advocates, Mr. Muinde Kaluu, Advocate and Mrs. Edith Nzisa Muthini, Advocate offered themselves for the post. This led to an election which was held on 7th February 2020 in which, Mrs. Edith Nzisa Muthini, Advocate was elected as the representative for Machakos members in the Branch executive.

4. OFFICE OPENING

Since the Branch was chartered, it had been operating in a small rented premise in Machakos town until March 2019 when the Branch Executive managed to acquire a bigger space and hence relocated on the 1st day of March 2019. The office is now at Litka Square Building. It was officially opened by the CEO/Secretary – Law Society of Kenya, Ms. Mercy K. Wambua OGW, accompanied by several council members from the national office, on the 19th day of February 2020.



the Law Society of Kenya was held. The 4 presidential candidates, Mr. Charles Kanjama, Mr. Nelson Havi, Ms. Maria Mbeneka, and Ms. Harriet Chiggai participated in the debate.

This was the 1st debate to be held in the Branch. It gave members of the Branch an opportunity to interact with candidates who were aspiring not only for the presidential seat but other posts as well.

The Branch Executive was delighted to host the debate in its region.

5. BRANCH AGM

On the 19th day of February 2020, the Branch held its Annual General Meeting at The Kyaka Hotel. The AGM was preceded by the opening of the Branch offices. In attendance during the AGM were several council members and the CEO/Secretary - Law Society of Kenya Ms. Mercy K. Wambua, OGW, and members of the Branch. During the AGM the new officials of the Branch took over the office for a period of 2 years.



6. PRESIDENTIAL DEBATE

After the official business of the AGM, on 19th February 2020, a Presidential debate for the candidates who were seeking to be elected to the office of the President of

7. WELFARE ASSOCIATION

As mandated by the Law Society of Kenya Act, 2014, the welfare of the members of the Branch is one of the key mandates granted to the Branch. The Branch has in place a Welfare Association which deals with

welfare of members who are registered and active in the Association. The Association is led by a committee which sits from time to time when need arises. It handles issues relating to of sickness and bereavement of members. During the year five (5) were supported after being bereaved and one (1) was supported he became indisposed.

The Association held its AGM on 9th March 2020 at the Le Technish Restaurant, Machakos University.

9. ADVOCATES' INTERACTIVE MEETINGS

The Branch conducted meeting with members physically and virtually. The physical meetings were conducted while observing the Covid-19 MOH guidelines. They included the following:-

a. Orientation on Online Platforms

The Branch Executive organized for a training for its members on the 17/07/2020 in order to be oriented



8. BRANCH EXECUTIVE MEETINGS

The Branch Executive holds monthly meetings in the Office Boardroom at the Branch offices. However, because of Covid-19 outbreak as from April 2019 some meetings were held virtually. In the year 2019 the Branch Executive held the following meetings:

on how to navigate in the online platforms while doing virtual meetings and virtual court sessions. The training was as well conducted online where there was an IT specialist who guided members on how to navigate various platforms.

NO	DATE	VENUE	NO	DATE	VENUE
1	26/01/2020	Mada Hotels - Hunters Lodge	6	31/08/2020	Virtual
2	24/4/2020	Virtual	7	25/09/2020	Virtual
3	22/05/2020	Virtual	8	23/10/2020	The Kyaka Hotel, Machakos
4	26/06/2020	Virtual	9	25/11/2020	Virtual
5	30/07/2020	Virtual	10	11/12/2020	Branch Offices

b. **Mental Health Awareness**

It was at this time when everything from practice matters, business, daily activities, etc. had been brought almost to a standstill by the Covid-19 pandemic and many people had been affected not only economically but also psychologically. Due to this, the Branch Executive mobilized for a Mental Health Awareness for its members which was done virtually. It was led by the CAS for Ministry of Health, Dr. Mercy Mwangangi who brought with her some facilitators from her ministry on 24th July 2020.

c. **LSK AGM**

The Branch participated in the 2020 Law Society of Kenya Annual General Meeting which was held virtually on 23rd July 2020 via an online webinar. The Branch Chair had been tasked to get a venue where Covid-19 MOH guidelines would to be observed and have 15 members represent to participate in the AGM. This happened as planned at The Kyaka Hotel where the Branch Executive and representatives from across the Branch, with the help of an IT specialist, joined the other members in participating in the AGM.

d. **Luncheons**

The Branch Executive holds luncheons for its general membership often at different venues in order to collect views and comments from the members. The branch managed to hold one luncheon for its members at Machakos. The same was held on 13th November 2020 at the Kyaka Hotel – Machakos. During the luncheon, practice and welfare issues were discussed.

10. **BRANCH EXECUTIVE COURTESY CALLS**

Having conducted most of the court visits within the branch in the year 2019, in the year 2020 courtesy calls to courts were only done on need to need basis. The courtesy calls are used to discuss issues that affect practice in courts and land registries. The Executive conducted two courtesy calls as follows:-

- i. Kithimani Law Courts – 23/09/2020. The call was done by the Chairman and Ms. Priscillar Kioko. They discussed the operations at the courts with the HoS, Hon. Gilbert Shikwe.
- ii. Makindu Law Courts – 30/09/2020. The call was made by the Chairman, General Secretary, Ms. Edith Onyango, and Mrs. Elizabeth Isika. The HoS, Hon. Jared Magori and 2 magistrates participated in the meeting.

11. **LEGAL AWARENESS WEEK**

The Branch members participated in the Legal Awareness week which was held from 12th October, 2020 to 16th October 2020. The same was conducted at 5 stations; Machakos, Makueni, Makindu, Kitui & Kangundo Law Courts.

12. **FALLEN MEMBER'S SEND OFF AND FAREWELL EVENTS**

During the year, the Branch lost one of its young members, the late Mr. Onesmus Masaku who succumbed to injuries after being assaulted by a police officer in the month of October. The Branch members and members of LSK in general participated in the burial arrangements. The late was laid to rest on the 24th of October 2020 at his home village at Kangundo with the Branch playing a key role. The Branch has appointed an advocate, Mr.



Makundi, to lead the team holding a watch brief for the family in the murder trial which is going on at Machakos High Court. The case is Machakos High Court Criminal Case No.E06 of 2020; Republic v. Nancy Njeri. 7 Also, the Chairman attended the burial ceremony of the late Mr. Nzamba Kitonga, SC at Mutitu-Kitui County on 7th November 2020.

13. ACQUISITION OF PLOT FOR THE BRANCH

The Branch has started the process of acquiring a plot for the Branch. This was after the proposal being approved by the AGM of 2019. The Branch Executive managed to get a plot along Machakos Nairobi road being title number Machakos/Kiandani/4986 measuring 0.05HA. The same was sold to the Branch at KShs.4, 350,000.00. On 14.12.2020 the Branch Chair, the General Secretary, and the Treasurer, on behalf of the Branch, entered into an agreement with the owner and paid agreed deposit of KShs.2,000,000.00 on 15.12.2020. The balance is projected to be paid in the first quarter of 2021.

14. DINNER & DANCE

This was the last event of the Branch in 2020 which was held on 11th December. The Chairman addressed the members on the issues attended to during the year and the focus for 2021. Then the members wined, dined and danced as they closed the year.

NORTHRIFT BRANCH

Introduction

My council and I were elected in the year 2019 and we took office 29th November 2019 during the year's Annual General Meeting.

The Branch Officials as are follows;

1. Joshua Martim- Chairman
2. Karani Aggrey - Vice Chairman (Representing Kitale Chapter)
3. Henry Kenei - Secretary General
4. John Lelei- Treasurer
5. Loise Kuyaki- Assistant Secretary General

Our mandate is stated in section 24 of the Law Society of Kenya Act Laws of Kenya.

We dwell on two matters as a branch

- a) Practice matters
- b) Members welfare
- c) Liase with Council



Activities that took place in the Year 2019

1. Joint Prayer between the Judiciary and LSK

We had an end of Year joint prayer meeting with the Judiciary which took place outside the D.R. Office. It was presided over by Pastor Bittok of the Now Church.

2. Annual dinner 2019

On 13th December 2019 we had our annual dinner at Starbucks Hotel. We had an attendance of approximately 80 guests. The chief guest was Hon. Justice Chemitei.

Activities of the 1st Half of 2020

The year started well with numerous plans including visit to all our court stations, participate in the justice cup, attend the A.G.M and in the month of March all these plans were cut short due to the Covid-19 pandemic.

As part of our mandate were partnered with the judiciary in providing support towards the Covid-19 prevention.

We offered the following items to the Judiciary in our contribution to mitigate Covid-19 scourge;

- a) We donated a tent to the Court. I am pleased that some of the open court sessions are being held in the tent when the space inside the court especially the Environment and Land Court is small, and there are many litigants.
- b) In partnership with Stanbic Bank, the County Government of Uasin Gishu and the Rotary Club of Eldoret we were able to donate water tanks for hand washing stations.
- c) We also donated the 2 Thermo guns to assist in the screening of people getting into court.

You will remember court operations were suspended and we had our fair challenges in accessing the court premises.

Calls by members to have our courts re opened a meeting between the Eldoret Bench and appointed members of the bar was constituted. The talks were led by Mr. Nyairo Alfred. The standoff between the bar and the bench was resolved.

Let me take this opportunity to recognize and thank the members who participated in the negotiations;

1. Mr. Nyairo Alfred
2. Mr. Kalya Wilson
3. Mr. Mwinamo Delmas
4. Ms. Kuyiki Loise

BEREAVEMENTS

From the time we took office we have lost 3 advocates who practice our branch. They are;

1. ALUBALA ANDAMBI ABENAYO.

May his soul rest in peace. Mr. Kagunza Stanley of Kagunza Mukabane & Company Advocates was appointed to administer the firm on behalf of M/s Andambi & Company Advocates.

2. BIRECH KIPSANG PAUL

Mr. Birech died on **15th July 2020** may his soul rest. His firm is now administered by Mrs. Tum Tecla.

3. MR. KITUR KIPTONUI SIMON

Mr Kitur passed died 29. October. 2020. May his soul rest in peace. The advocate appointed to administer the firm is Mr. Yego Zephania Kipsang. The office is under Mr. Duncan Tallam as the substantive office administrator until the transition is completed.

PARTNERSHIPS

We have had a number of partnerships. The notable ones are;

1. Aquadent- Aquadent provided a free dental clinic at our High Court premises 28TH January 2020.
2. We have partnered with Whiterose dry cleaners to get dry cleaning services at a discounted rate.
3. Other partners include;
 - a) Kituo cha Sheria
 - b) Golf Tournament

COMPLAINTS AGAINST ADVOCATES

From the time we took office we have received a number of complaints from advocate. From the onset I would like to outline that the role of the branch in dealing with such complaints is to mediate on such matters.

We have resolved 90% of the matters placed before me. The common complaints are on;

- a) Breakdown in communication between the advocate and client.
- b) Expectations that are unattainable. There are clients who have expectations that cannot be met some are out rightly unreasonable while others are outside the law. For instance no advocate can guarantee success in court.

- c) Clients' money. We have had a few cases touching on this matter but they were resolved

We are positive that the issues before us will be resolved.

Masquerades

We are in receipt of a complaint against an individual by the name Silas Kandie. It be distinguished from our Mr. Kandie. This matter is before the police and the file has been completed it has been forwarded to the DCI after the

PROJECTS

Office Partition

When we took office we were privileged to have received an office that was fully paid for. The office was procured by the last council. The process of obtaining title still on going as the head title is still being worked on.

We started in earnest works for the partitioning and purposing the Secretariat to make it utilitarian. We created 3 offices;

- a) A board room
- b) Office
- c) The reception.

I am pleased to inform you that the secretarial is functional. We proceeded to recruit a secretary/ office administrator. The process was done competitively and Liz was hired for a 2 year term. Her term will extend slightly into the new council's office for providing continuity/ transition into the new term.

Other than the **hardware**

We have put in place the necessary structures for a proper office. We have procured our own domain www.lsknorthrift.or.ke with its mailing system, we have our branded SMS system, telephone, internet

REPORTS:

BAR BENCH MEETING

We had two bar bench meeting this year the first one was a virtual meeting when Corona struck 8th June 2020.

BAR MEETING

At the 20th Floor, Daima Towers a resolution was passed for the opening up of Courts in Eldoret station.

The 2nd meeting was a physical meeting that took place

on 5th October 2020 at the ELC Court Yard.

LEGAL AWARENESS WEEK

We had a successful legal awareness week in 3 of our centers

- a) Kapsabet 16 advocates participated
- b) Eldoret where 136 advocates participated
- c) Kitale 35 members participated in the awareness.

We were unable to organize a legal awareness Campaign in Lodwar and Kapenguria. We could not make proper logistical arrangements and we were also unable to get a critical number to enable us have a successful awareness week. Hopefully we will spread our tentacles all the way to Kakuma Law Courts.

THE ULTRA MODERN COURT BUILDING ELDORET

The Environment Impact Assessment team came to meet the Court Users Committee on 24th November 2020. They are building a 6 storey building. It will house 17 New Court buildings. The project is funded by the government of Kenya and it will be constructed on the Eldoret Law Courts Land (Next to Coca cola)

TOLL FREE LINE

The advocates/ police relations committee of the Law Society procured toll free lines to be used by advocates in distress. This is following the Willy Kimani incident. The Northrift line was in-operational and it was returned to the secretariat for re configuration. We will share the number once it is operationalized.

SINGLE BUSINESS PERMIT FOR PROFESSIONALS

We received concerns from our colleagues that staff members of the County Government had visited their offices to inspect if they had obtained Single Business permit this arose out of an advisory opinion from the Council of Governors to Kenya Medical Association. In liason with the County Attorney Uasin Gishu County we were able to put out the legal position in the matter and this matter came to rest.

Annual General Meeting

On 29th November 2020 we held a successful annual General meeting at Hotel Sirikwa. It was a physical meeting with a virtual link for members who wished to follow the meeting virtually. We had more than 140 members physically in attendance and a virtual presence

of 30 members attending through our zoom platform. The meeting was attended by 3 council members Betty Michoma, Ndinda Kinyili and Bernhard Kipkoech.

End of Year Party

Northrift end of year party took place on Thursday 17th December 2020 at the Eka Hotel Eldoret. The members of the legal fraternity danced the night away giving thanks to the almighty for the tough year that was plagued with a pandemic. We interacted freely under the dark sky with servings of grilled barbecue before proceeding to a formal dinner where we thanked the Lord for the year.

MT KENYA BRANCH

Introduction

The current Council comprises of:

1. Ms. Linda Kiome - Chairlady
2. Mr. Ramadhan Abubakar - Vice Chairperson
3. Mr. Rose Muthike - Secretary
4. Mr. Duncan Okwaro - Vice Secretary
5. Ms. Gladys Magara - Treasurer
6. Mr. Kaumba Kioga - Meru Representative
7. Mr. William Onwong'a - Nanyuki representative
8. Mr. Ngigi Gichoya - Kerugoya Representative
9. Ms. Janet Mwangi - Murang'a Representative
10. Ms. Sharon Muriuki - Embu Representative
11. Mr. Benson Kijaru - Chuka Representative
12. Mr. Hoses Mutembei - Maua Representative
13. Ms. Rosemary Wanjiru - Nyeri Representative
14. Mr. David N. Njoroge - Ex-Official

CPD-Continuing Professional Development

Circuit CPD Seminars

In addition to the already existing CPD seminars i.e., NANYUKI, MERU, EMBU, NYERI negotiated for additional seminars to be held in KERUGOYA & CHUKA however the same was short-lived after the emergence of COVID -19.

After the onset of the COVID -19 the CPD seminars changed to online seminars which have been continuing from the second quarter of the year.

Devolved Funds Grant to Chapters

Actualization of the Chapters and Devolved fund grants to support Chapter activities, the ripple effect is that chapters have been empowered to manage their affairs internally.

Accountability

Laid down proper working and long term internal mechanisms to support openness and accountability in the utilization of Branch funds. Strictly following the prescribed accounting procedures as advised by the National Office to prevent misuse or misappropriation of funds.

Secretariat Office

The new Branch Secretariat office is fully furnished and structured to promote accountability, continuity and succession. The office has been equipped with the newest in technology computers, projectors, Rotating Conference Camera and a Laptop which shall be used to ensure prompt and apt delivery of services to our members. The office is a true reflection of the noble profession

Branch Council Executives - Chapters Chairs Caucus

Initiated the Branch and Chapter Chairpersons caucus for interactive sessions to address practice issues and members welfare in the region. This has resulted in collective responsibility by the leaders.

Mentorship Programme

Established a Mentorship program for young advocates to learn best practices in the profession. Focus has been drawn on senior advocates from within the region to mentor the younger generation of legal eagles.

Quacks Menace

Have dealt with the rising menace of quacks as the complaints arise and still are advocating for more action by the independent chapters to deal with quacks in their practice areas.

Enhanced Digital Communication

The branch has enhanced use of digital communications platforms by establishing an official website and Facebook page for ease of communication to members. Members also have an opportunity to advertise themselves within the law, via the website through the LinkedIn platform.

Draft Constitution And Welfare Scheme

Set up a committee within the council and was able to secure a draft Constitution as well as draft Welfare Scheme which have since been forwarded to the members for their review, recommendations and proposals. We hope to get feedback on the drafts so that we can move on to the next stage.

Equity

Advocated for fair, equal and equitable distribution of the available resources within the region, throughout the Five Chapters indiscriminately.

Justice Cup Tournament 2019

The region DID NOT participate in any football games this year due to COVID-19.

Our team Mt. Kenya F.C under the leadership of the team manager Benson Kijaru and captain Calvin Otieno had been invited by Mombasa Branch to play inter branch games on the 19th of April 2020. Unfortunately, the same did not suffice.

Legal Awareness Week-2020

The legal awareness week was observed between 12th October -16th October, 2020 and I wish to state that all the chapters within the region participated

The list of all those who participated has been forwarded to the secretariat for awarding of one (1) CPD unit.

The chapters fully funded their activities during the week-long activity.

Devolution To Branches

This year we are glad to report that we have received a substantial amount of funds from LSK national office for utilization by the branches.

The branch with approval from the council has devolved funds to the five chapters i.e., Nyeri, Kerugoya, Embu, Nanyuki and Meru, each has been allocated Kshs 200,000 for use in the chapters. This amount is usually shared amongst the chapters upon meeting the laid down conditions on compliance for accountability and upon scrutiny by the council. All Chapters are now fully compliant and have all received their funds.

Practicing Certificates

Let all members take note of their respective chapter and

practice center representatives. Once the secretariat receives the PCs, we immediately disseminate the same to the Reps for onward transmission to the members.

Bar/Bench

It is highly unfortunate that the situation in Nyeri Law courts is still persisting. This has delayed the delivery of rulings and judgements in the ELC and the court of Appeal. We have through the Branch Chairs Caucus engaged the Chief Justice on bringing a court of Appeal service week in the region and had been scheduled in the last week of March 2020 just before the onset of the COVID-19. We applaud the Nyeri Chapter for taking the step to express their dissatisfaction with the situation. We shall offer our support until the courts are normalized.

Imposters, Quacks and Unqualified Advocates

The Chapters have been very instrumental in curbing the menace of quacks in our profession and have been very cooperative in ensuring that quacks have been arrested and charged in court. We also request all our members to forward a copy of their PCs payment receipts to their Chapter Chairs by the end of February to enable the chapters to share a list of the advocates who have paid for their pcs for ease of administration to all the court stations in the region.

Conclusion

I wish to thank the entire executive committee, the members of Mt. Kenya branch, the sponsors and all stakeholders who have always partnered with us in all our activities and the LSK HQs for their cooperation and support of all branch activities.

LAW SOCIETY OF KENYA (LSK) NAIROBI BRANCH

A. INTRODUCTION

The Law Society of Kenya Nairobi Branch comprises of the Council, Secretariat, Committees and the general membership through which it executes its functions. This Report covers the activities and programmes of LSK Nairobi Branch in the year 2020. It has been the tradition of the Branch that the Council holds a retreat at the beginning of every year to brainstorm on the Strategic Plan for the year. The Council held a retreat in January 2020 to discuss the establishment of sustainable programmes on practice and welfare issues. The Council

further had a retreat in January 2021, to formulate the calendar of events and strategy for implementing the Branch programmes effectively. The Council also discussed Branch Calendar and ways of improving practice and welfare matters of the membership.

B. THE BRANCH COUNCIL

The current Council comprises of:

1. **Mr. Eric Theuri:** Chair
2. **Ms. Helene Namisi:** Vice-Chair
3. **Ms. Rose Wanjala:** Secretary
4. **Mr. Wangila Waliaula:** Treasurer
5. **Mr. Colin Warutere:** Kiambu County Representative / Organizing Secretary
6. **Ms. Soila Kigera:** In - House Counsel Representative / Fundraising Secretary
7. **Mr. Stephen Saenyi:** Deputy Treasurer
8. **Mr. Kennedy Murunga:** Welfare Secretary
9. **Ms. Charles Mwalimu:** Communications Secretary
10. **Ms. Julia Wachira:** Deputy Organizing Secretary

The Council engaged members on Branch Charter and proposed amendments submitted during AGM in 2018. The final draft was thereafter reviewed by the Council and members at the AGM held on 24th May 2019. The Branch Charter was adopted subject to amendments. The Branch Charter was signed and deposited with the LSK National Office.

C. COUNCIL MEETINGS

The Branch Council met every month in 2019 to deliberate on matters of concern to legal practitioners and assess its progress in achieving its Agenda. The Council Meetings of the Branch were and still are the forum for exploration of proposals that the Council Members have regarding the Branch and how it should run guided by its mandate under Section 24 of the LSK Act 2014.

Corporate Governance Statement:

i. Attendance at Council Meetings January - June 2020 (Council 2018 - 2020)

Name	Council Meetings (2020)
Charles Kanjama	6/6
Paula Njuguna	6/6
Helene Namisi	6/6
Gad Gathu	6/6

Colbert Ojiambo	6/6
Catherine Kariuki	6/6
Catherine Ngunjiri	5/6
Wangila Waliaula	6/6
Carolyne Mutheu	5/6
Rose Wanjala	5/6

Attendance at Council Meetings June - December 2020 (Council 2020 - 2022)

Name	Council Meetings (2020)
Eric Theuri	7/7
Helene Namisi	7/7
Wangila Waliaula	7/7
Rose Wanjala	7/7
Soila Kigera	7/7
Colin Warutere	7/7
Stephen Saenyi	7/7
Charles Mwalimu	6/7
Kennedy Murunga	6/7
Julia Wachira	7/7

ii. Council Allowances and Reimbursement

Council members get a sitting allowance of Kshs.5,000.00 for attending every ordinary and special Council meeting. However, no allowances are paid for attending other events or meetings of the Branch.

D. BRANCH SECRETARIAT

The Branch Secretariat currently has the Head of Secretariat, Ms. Wendy Muganda, two Programme Officers, namely Alex Waweru and Edward Gachunga, one Programme Assistant, Leonora Arwa, one Administrative Assistant, Abraham Ngaira, one Office Assistant, Charles Agwata and four interns.

1. Location

The Branch office is located at Lower Hill Duplex, Suite No. 015, Upperhill Road opposite Upperhill School. Our office contacts are as follows:

Landline - 020 2711177

Mobile - 0707 256140

Emails - info@lsknairobi.or.ke and
lsknairobi@gmail.com

2. Functions

The Secretariat is in charge of running the Branch programmes. Each member of the Secretariat has been assigned specific programmes to handle as follows:

- a. **Wendy Muganda** – Council welfare, stakeholder engagement, overall management of the Secretariat, Social and Welfare, Commercial Practice, Law Reform and Devolution and Training programmes
- b. **Edward Gachunga** – Bar Bench, Legal Tech and Innovation and Legal Aid programmes
- c. **Alex Waweru** – Branch Communication, Nairobi Legal Awards
- d. **Leonora Arwa** – Mentorship programme, ICT programme, assists the Programme Officers in their respective programmes
- e. **Abraham Ngaira** – Implementing and monitoring financial policies, budget management, management of all physical and electronic records of the Branch and Human Resource functions
- f. **Charles Agwata** – Mans the reception desk of the office, performs general cleaning, maintains inventory of Branch property and delivers Branch correspondences
- g. **Interns** – Assist in coordination of the various programmes under the supervision of each Programme Officer

3. Communication

The Branch has access to updated details of the overall members' database held by the Law Society of Kenya National Office which has facilitated our ability to communicate effectively with all our members.

3.1 Website Revamping

The Branch has been managing its website at www.nairobilaw.or.ke. The Branch website has been revamped through:

- a. Creation of pages for all major events undertaken by the Branch;
- b. Improving the outlook by having borders on the page bearing Branch contacts and subscription information;
- c. Inclusion of all partner logos and improvement of general organization of the website; and
- d. Inclusion of social media icons to direct members to our social media pages.

3.2 Social Media

The Branch operates on five main social media platforms to communicate to members, namely, Facebook, Twitter, Instagram, WhatsApp and LinkedIn. Frequent posts are made on various Branch activities and Programmes on either or all the Platforms. The Branch has also successfully developed a WhatsApp Database for all Group Administrators of various advocates' WhatsApp groups to enhance communication to members. The Branch circulates event posters via broadcast list on WhatsApp.

3.3 Bulk Email & Mailing List; Bulk Sms

The Branch has recently upgraded from the use of the Atomic Mail Application to Mail Chimp Application to send out multiple emails simultaneously to all members on our mailing list. The Mailing List is also constantly and manually updated after every event and new engagement with members.

3.4 Weekly Newsletter

Regular communication of Committee progress and Branch activities is issued to members via the Branch Newsletter. We send out our weekly newsletters every Tuesday.

3.5 Wakili Magazine

The Wakili Magazine which where the Editor in Chief is **Wangila Waliaula** only had two editions published in the year 2020 due to the COVID-19 pandemic. The magazine is part of our fundraising initiatives where money is raised through advertisements placed by our sponsors and partners. The magazine will be published on a quarterly basis this year 2021.

The **2nd issue** of the magazine was published in February 2020 highlighting the campaign period of the candidates of LSK Elections which were held on **27th February 2020**, where some candidates advertised in the magazine. We made 500 physical copies of the same which were distributed to our stakeholders, firms within Nairobi and Kiambu counties and our sponsors.

The **3rd issue** of the magazine was published on **5th June 2020** highlighting the results of the LSK National Office elections and LSK Nairobi Branch Elections. We made 500 physical copies and distributed to our partners and stakeholders within Nairobi and Kiambu counties.

We intend to launch an **E - Magazine** taking the form of monthly bulletins. This will feature articles from

members on different areas of practice. We urge members to send us articles when the called upon to do so.

3.6 Mobile SOS Application

The Branch Council launched a mobile SOS App which would be used by Advocates practicing within Nairobi and Kiambu counties. The App has features of medical emergency, theft and arrest. The App has the Branch contact input permanently for all users. However, every user has an option to add one personal emergency contact. Plans are underway to ensure that the App can be rolled out to other Branches through the Branch Chairs.

We have received positive feedback regarding the App with over **1,000 downloads** within Nairobi. Currently, the App can only be hosted on Android platform only. The App will be upgraded so that IOS users can access it too.

3.7 CPDs Presentation

LSK National Office through the CPD Committee gave the Branch an opportunity to nominate one representative to give a 5-minute presentation during CPD events organized within Nairobi and Kiambu counties. This was done during the first quarter of 2020 before the covid-19 pandemic began.

E. THE FOURTH ANNUAL GENERAL MEETING OF LSK NAIROBI BRANCH

The Branch conducted its fourth Annual General Meeting in form of a hybrid meeting on **6th June 2020** at the Pride Inn, Lantana Suites and Zoom platform to accommodate virtual attendees, from 11:00am. The Agenda of the meeting began with the Secretary reading the Notice to convene the meeting. Members observed a moment of silence to pay tribute to members departed. Minutes of the last AGM held on 24th May 2019 were confirmed as some members proposed amendments to the minutes. The Annual Report for 2019, which had Financial Statements and Audit Reports, was presented at the meeting and members appointed the firm of O. M. Ngotho Associates as the Branch Auditors for the year 2020. The outgoing Branch Council handed over to the incoming Council, with the Chair emeritus, Charles Kanjama introducing new Council members to the membership. The next AGM is scheduled for **4th June 2021**.

F. BRANCH STRATEGIC PLAN 2017 – 2022

We have a Strategic Plan which has been effective since 2017. The Plan outlines our measurable goals, evaluates progress made and informs whether we need to change approaches in implementing the goals set out.

Vision & Mission

The main vision of the Branch is to be a premier Bar Association that advances legal practice and members' welfare. Our mission is to stay committed to advancing a conducive environment that enhances the professional and commercial interests of our members.

Core Values & Pillars

We are guided by responsiveness, relevance and efficiency as our core values in fulfilling our mandate. Our pillars are to engage members and key stakeholders of Nairobi Branch in addressing practice and welfare matters and strive to ensure accessible opportunities for active member participation.

G. BRANCH ENGAGEMENTS WITH KEY STAKEHOLDERS

The Branch has key stakeholders who assist in different capacities to improve practice and welfare of members. They include; Law Society of Kenya, Attorney General, Office of Director of Public Prosecutions, Judiciary. We have long-standing sponsors of the Branch who are also part of our stakeholders. We further have LSK affiliated agencies such as LSK SACCO, ABA and other LSK Branches who we principally engage through the LSK Council or, under the direction of Council, through the Secretariat.

1. The Branch organized a webinar focusing on mental health **"Depression: Triggers, Management and Role of Family in Management"** on **28th May 2020**. This was prompted by the emerging mental health concerns that had been brought by the covid-19 pandemic. Our guest speaker was **Margaret Njihia** who is a clinical psychologist a Family Wellness Centre and facilitated by **Wakesho Kililo**
2. The Branch in collaboration with **Kenya Revenue Authority** organized a virtual **Tax Forum** which was held on **5th June 2020** via Zoom platform. The training addressed dispute resolution and tax assessments, taxation of partnerships and sole proprietor firms, tax administration in the legal sector and the legal framework of revenue and tax laws.

3. The Secretariat had an **Engagement with the EALS Secretariat**, on **13th June 2020** to finalize on the proposed partnership as discussed and documented in a Memorandum of Understanding. The MOU was executed and a signing ceremony was held at the Branch offices. The partnership entails coordination of joint programmes to benefit members' practice concerns.
4. The Council had a **Consultative Engagement with the Deputy Registrar of Mediation on 16th June 2020** virtually via Zoom platform to discuss modalities of improving Court Annexed Mediation and how the Mediation BBC can play a role in addressing practice concerns in the division.
5. The Branch in collaboration with the **Judiciary** held a **Webinar on E - Filing Tutorial on 3rd July 2020** via Zoom. The webinar was facilitated by the Judiciary ICT team, who took members through the process of e - filing.
6. The Branch organized a **Webinar on E - Filing in High Court Civil Division** in collaboration with the **Judiciary**, held on **22nd July 2020** from 2.00pm. The Judiciary ICT team demonstrated to members how to proceed with matters through the e - filing platform.
7. The Branch Council had a **Consultative Meeting with the Retired Chief Justice Hon. David Maraga on 28th July 2020** to discuss e - filing concerns raised by members and to address system challenges.
8. The Branch in partnership with **East African Law Society** organized a virtual **Digital Forensics Training** which was done as a **3-part series**; first session was held on **6th August 2020**. This session focused on digital evidence and its admissibility in judicial proceedings. It also touched on the principles of best practice relating to the seizure and handling of digital evidence. The guest speaker was **Lawrence Dinga** who is a cybersecurity and digital forensics expert. The session was moderated by the Chair, **Eric Theuri** and **Barbara Malowa**.
9. The Branch was invited to attend a virtual training organized by **Business Registration Services** as capacity building for **Movable Property Security Rights Act and use of the electronic collateral registry**, held on **7th August 2020** and **11th August 2020**. This session was facilitated by **Wanyaga & Njaramba Advocates** who were contracted by the **World Bank Group**. The
10. The second session of the **Digital Forensics Training** was held on **13th August 2020**. This session the digital forensics process, common digital forensics practices, standards for digital forensics and digital evidence.
11. The Branch organized a **Bar Bench Committee Stakeholder and Conveners Seminar** held on **19th August 2020** via Zoom platform. The seminar introduced the incoming conveners to the workings of the Branch Committees and formulating Key Performance Indicators for the year 2020.
12. The Branch in collaboration with **Centonomy Ltd** organized a virtual training on **"Achieving Financial Security in the Legal Profession"** which was held on **19th August 2020** via Zoom platform. The guest speaker was Waithaka Gatumia, CEO of Centonomy Ltd.
13. The third session of the **Digital Forensics Training** was held on **20th August 2020**. This session focused on the role of digital forensic expert in judicial process and the recommended practices for the forensic expert when preparing for court.
14. The Branch Council had an **Engagement with Chiromo Mental Health Hospital** on possible partnership on **28th August 2020**, where members can get mental health services for free and set up a toll free line for use during mental breakdown emergencies.
15. The Branch was invited to attend **State Department for Trade and Enterprise Development Consultative Workshop** which was held virtually in **1st September 2020**. **Stephen Saenyi**, council member, represented the Branch in the workshop. Members discussed the then ongoing negotiations with the United States of America on the Kenya-US Bilateral Agreement.
16. The Branch in collaboration with the Chief Magistrate Criminal Division organized a webinar on **"Viability of Virtual Court Proceedings"**, held on **1st September 2020** and facilitated by the Chief Magistrate Hon. Francis Andayi. The webinar was attended by representatives from Office of Director of Public Prosecutions, Witness Protection Agency, Probation Service, Police, Anti-Terror Police Unit and Prisons Department.

17. The Branch in conjunction with the **High Court Family Division** and **Nairobi Children's Court** organized a virtual **E – Filing Training** held on **3rd September 2020** via Zoom platform. The Judiciary ICT team demonstrated to members how to do e-filing in the High Court Family Division and the Children's Court.
18. The Branch in collaboration with Chiromo Mental Health organized a webinar on **“Mental Health Psychological Care, Coping Mechanisms & Destigmatization For Covid-19 Positive Persons”**, held on **4th September 2020**. The guest speaker was **Dr. David Wairoto** who is a consultant psychiatrist and a member of NEC and Kenya Psychiatrist Association. The session was facilitated by **Grace Gachanja** who is a Clinical Psychologist and Mental Wellness Advocate.
19. The Branch participated in the **LSK Legal Awareness Week** which was held from **12th – 16th October 2020** at the Milimani Law Courts Parking. We set up a tent where the public and members could get information about the Branch programmes and activities, whilst offering legal aid to the public.
20. The Branch organized a second **Tax Forum** in collaboration with **Kenya Revenue Authority** touching on **Capital Gains Tax**. The forum was held virtually on **13th October 2020**.
21. The Branch was invited to attend the **Kiambu Chapter AGM** which was held on **16th October 2020** at Senior Members Club in Kiambu. The Chair, Kiambu Representative in the Council, and a few council members were in attendance.
22. The Branch in collaboration with the **Judiciary** organized a webinar on **E – Filing for Law Firm Court Clerks** which was held on **22nd October 2020** via Zoom. The training targeted the law firm clerks who previously assisted with filing of court documents in court. The session was well attended with the Judiciary ICT team facilitating the session.
23. The Branch Chair, Eric Theuri was invited to attend a **Stakeholder Engagement by the Ministry of Lands** which was held on **27th October 2020** at Survey of Kenya. Conveyancing practice concerns were tabled at the meeting and some interim resolutions reached to mitigate the said concerns. The Branch Chair has been at the forefront of pushing for effective service delivery in the Ministry of Lands while giving updates on pending land transactions.
24. The Branch Council had its **Chapter Visit in Kiambu Chapter** on **29th October 2020**. The Council paid courtesy calls to the judicial officers in the following Practice Centres: **Kikuyu, Limuru, Githunguri and Kiambu**. Members of the respective Practice Centres discussed the practice concerns affecting the respective courts. We had dinner with the membership at Kiambu Golf Club and donated a few boxes of face masks and sanitizers at each court station.
25. The Branch in conjunction with the High Court Family Division organized a second **E – Filing Training (Part 2)** held on **29th October 2020**. This was prompted due to popular demand.
26. The Branch Council paid a **courtesy call to the Police Regional Commander of Nairobi county** on **4th November 2020**. We discussed the lawyer police relations and how to improve the same. We also discussed how to merge some of our activities to foster better relations. Various heads of stations within Nairobi county attended the meeting. We donated a few boxes of masks and hand sanitizers to each head of station represented at the meeting.
27. In keeping up with the partnership between the Branch and Chiromo Mental Health Hospital, another webinar was organized on **“The Effects of Toxic Work Environment on Mental Health”**, which was held on **5th November, 2020**. The session was facilitated by **Lynn Etemesi** while the speakers were **Felicia Mburu**, Advocate at Validity NGO and **James Letoo**, psychologist at CBT Kenya.
28. The Branch Chair was invited to participate in the review of the **Draft High Court Practice Directions**. The Workshop was hosted by the Judiciary and held from **11th – 14th November 2020**.
29. The Branch was invited to attend workshop on **Review of Draft Criminal Appeals and Applications Practice Directions**. The workshop was held on **11th November 2020** at Sarova Stanley Hotel.
30. The Branch in collaboration with IDLO and FIDA Kenya organized a webinar on **“Biodiversity, Environmental Protection and Gender Perspectives”**. The webinar was held on **12th November 2020** via Zoom platform. We had **Dr. Collins Odote** from University of Nairobi, **Benson Ochieng** from Institute for law and Environmental Governance and **Mrinalini Rai**, a Director of Biodiversity.
31. The Branch participated in the **Review of Business Processes Reengineering**, hosted by the Business Registration Service and facilitated by the IFC of

World Bank Group. The session entailed reviewing the current processes of the company registry portal and proposing changes where necessary to ease business.

32. The Branch Council had its **Chapter Visit in Thika Chapter on 19th November 2020**. The Council paid courtesy calls to the judicial officers in the following Practice Centres: **Ruiru, Gatundu and Thika**. Members of the respective Practice Centres discussed the practice concerns affecting the respective courts. We had dinner with the membership at Eton Hotel and donated a few boxes of face masks and sanitizers at each court station.
33. The Branch Council paid a **Courtesy Call to Makadara Law Courts on 25th November 2020**. **Hon. H. M. Nyaga** hosted us as we discussed the practice concerns affecting the said court. We engaged other stakeholders who were present such as ODPP and Police. We also **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.
34. The Branch Council had an **Engagement with CPF Financial Services on Partnership** and had a signing ceremony to that effect on **25th November 2020**. The Chair, **Eric Theuri** and the CEO of CPF, **Hosea Kili** executed a Memorandum of Understanding. The partnership will see formulation of more welfare programmes at the Branch.
35. The Branch Council paid a **Courtesy Call to Kibera Law Courts on 26th November 2020**. **Hon. Joyce Gandani** hosted us as we discussed the practice concerns affecting the said court. We engaged other judicial officers as well. We **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.
36. The Branch Council paid a **Courtesy Call to City Law Courts on 26th November 2020**. We were given a tour of the City Court premises as we discussed the challenges relating to jurisdiction and management of the court. We **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.
37. The Branch Council had an **Engagement with Council of Governors on 30th November 2020** to discuss partnership on devolution matters. A secretariat was formed to handle the framework for engagement comprising of the Branch representatives and Council of Governors Secretariat.
38. The Branch hosted a debriefing session for the Nairobi Legal Awards on **14th December 2020**, in attendance were members of NLA Technical

Committee, NLA Jury, NLA Assessors and NLA Trustees.

39. The Branch in collaboration with the Kenya Christian Lawyers Fellowship organized for a virtual **Christmas Carol Service on 18th December 2020**, where **Pastor Ron Misiko** preached and Chair, **Eric Theuri** gave a special message to the members. We had performance from Wakili Sounds.

2021 UPDATE:

40. The Branch in collaboration with **Trial Advocacy Institute** held a virtual **Trial Advocacy Training** which was held from **18th – 29th January 2020**.
41. The Branch organized for a **Webinar on Beneficial Ownership** held virtually on **26th January 2021**, where members discussed the system challenges and got a brief overview of the Beneficial Ownership Guidelines.
42. The Branch was invited to the **Pre - launch Stakeholder Engagement Forum with members of LSK and Kenya Bankers Association on Implementation of the National Land Information Management System (NLIMS)**. The forum was held on **28th January 2021** at Survey of Kenya.

H. BRANCH COMMITTEE ENGAGEMENTS

The Branch reconstituted its committees after the new Council assumed office in June 2020. The current Committees are as follows;

1. Council Committees

The Branch has five main Practice Committees, which are:

- i. The Litigation Practice Committee, previously convened by **Colbert Ojiambo**, currently convened by **Charles Mwalimu**
- ii. The Social and Welfare Committee, previously convened by **Carolyn Mutheu**, currently convened by **Kennedy Murunga**
- iii. The Commercial Practice Committee, previously convened by **Catherine Kariuki**, currently convened by **Rose Wanjala**
- iv. The Devolution and Law Reform Committee, previously and currently convened by **Wangila Waliaula**
- v. Branch Legal Aid and Public Interest Litigation Committee, previously convened by **Gad Gathu** and currently convened by **Stephen Saenyi**



2. Bar – Bench Committees (BBCs)

Since establishment, the Branch has constituted and engaged with the Nairobi Courts in BBCs where issues specific to various courts have been discussed and solutions proposed and pursued. The Bar-Bench Committees of the Branch are;

- i. Supreme Court Bar BBC, previously convened by **Hon. Chief Justice David Maraga**
- ii. The Court of Appeal BBC, previously and currently convened by **Charles Kanjama**
- iii. High Court Family BBC, previously and currently convened by **Rose Mbanya**
- iv. Constitutional and Judicial Review BBC, previously convened by **John Chigiti** and currently convened by **Herman Owiti**
- v. High Court Commercial BBC, previously convened by **Nazima Malik** and currently convened by **Stella Muraguri**
- vi. The High Court Criminal, Anti-Corruption and Economic Crimes BBC, previously and currently convened by **Mercy Mathai**
- vii. Environment and Land Court BBC, previously and currently convened by **Ezra Makori**
- viii. Employment and Labour Relations BBC, previously and currently convened by **Cosima Wetende**
- ix. Milimani Court Annexed Mediation BBC, previously and currently convened by **Angela Mwadumbo**
- x. Milimani Chief Magistrates Criminal BBC, previously and currently convened by **Clarence Jumba**
- xi. Milimani Chief Magistrates Commercial Court BBC, previously and currently convened by **Paula Njuguna**
- xii. JKIA BBC, previously and currently convened by **Robert Asembo**
- xiii. Makadara BBC, previously and currently convened by **Robert Asembo**
- xiv. Kibera BBC, previously and currently convened by **Robert Asembo**
- xv. Kadhis BBC, convened by **Ali Mahmud**

3. Tribunal Committees

In 2018, the Branch Council resolved to set up Tribunal Committees for Tribunals with most legal work and about which members had expressed various practice

concerns. These are:

- i. The National Environment Tribunal Committee, previously and currently convened by **Charles Kanjama**
- ii. The Rent Restriction Tribunal Committee, previously convened by **Wangila Waliaula** and currently convened by **Julia Wachira**
- iii. The Business Premises Rent Tribunal Committee, previously convened by **Paula Njuguna** and currently convened by **Julia Wachira**
- iv. Co-operative Tribunal Committee, previously and currently convened by **Wangila Waliaula**
- v. Public Procurement Tribunal Committee, previously convened by **Njeri Ngunjiri** and currently convened by **Kiragu Kimani**

4. Liaison Committees

The Branch has also set up Liaison Committees specifically for the Companies Registry and the Nairobi Lands Registry and specific commercial practice areas to bring together lawyers with similar interests. These are:

- i. ICT and IP Liaison Committee, previously and currently convened by **Rose Wanjala**
- ii. Tax Liaison Committee, previously and currently convened by **Stephen Saenyi**
- iii. Nairobi Lands Registry Liaison Committee, previously convened by **Catherine Kariuki** and currently convened by **Eric Theuri**
- iv. Nairobi Companies Registry Liaison Committee, previously and currently convened by **Charles Kanjama**

5. Special Committees

Special Committees set up by the Branch include;

- i. Awards Committee previously and currently convened by **Charles Kanjama**
- ii. Internal Dispute Resolution Committee previously convened by **Charles Kanjama** and currently convened by **Eric Theuri**
- iii. Lawyer – Police Relations Committee previously and currently convened by **Wangila Waliaula**

Regular Communication of Committee progress is issued to members via the Branch Weekly Newsletter and Committee progress is updated on the Branch website Committee pages at <http://nairobi.or.ke/about/committees/>.

COMMITTEES	MEETING DATES	ACHIEVEMENTS
COUNCIL COMMITTEES		
Social and Welfare Committee	9 th October 2020	<ol style="list-style-type: none"> The Committee held a successful Quiz Night on 18th March and 23rd October 2020 The Committee organized Mental Health Series webinars during the peak of the covid-19 pandemic The Committee engaged stakeholders in the Welfare Management of members by getting into partnerships with CPF Financial Services and Chiromo Mental Health Hospital
Legal Aid and Public Interest Litigation Committee	2 nd September, 25 th November 2020	<ol style="list-style-type: none"> The Committee is planning to conduct Legal Aid through social justice centres in 2021. The Committee is managing the ongoing PIL matters have already been filed in Court. The Committee has filed new PIL matters such as HCJR/E010/2020 LSK Nairobi Branch v The Attorney General which granted and Order of Stay to the accounting officers and Cabinet Secretaries stopping them from barring procurement of external legal services.
Devolution and Law Reform Committee	27 th October 2020	<ol style="list-style-type: none"> The Committee has a liaison contact at Parliament who assists in review of legislation in collaboration with the Branch The Committee engaged Council of Governors and formed a sub-committee to formulate terms of engagement and devolution matters to be addressed. The Committee receives quarterly updates from Kenya Law which are shared by members through our communication channels
Litigation Practice Committee	28 th October 2020	<ol style="list-style-type: none"> The Committee is organizing a Training on Virtual Court Etiquette and litigation The Committee has been successful in organizing E-Filing Trainings for members
In – House Counsels Committee	7 th September 2020	<ol style="list-style-type: none"> The Committee was formed last year. They are in the process of organizing activities tailor made for in – house counsels The Committee has formed a sub-committee to look into and demystify in-house practice within Nairobi and Kiambu counties The Committee will have webinars every quarter or physical seminars to address various aspects of in-house practice
Commercial Practice Committee	11 th September 2020	<ol style="list-style-type: none"> The Committee is currently pursuing emerging commercial practice issues The Committee is in the process of making recommendations on the simplification of commercial procedures and practices through the representatives of the liaison committees
BAR – BENCH COMMITTEES		
Court of Appeal BBC	12 th June, 19 th November 2020 and 22 nd January 2021	<p>Various practice issues were discussed and Advocates were urged to take note of the following:</p> <ol style="list-style-type: none"> The need to improve the quality of submissions filed to the Court The narrowing down of issues raised especially during applications as this would hasten the process That Applications under Court of Appeal Rule 2(2) (b) should be filed together with the Record of Appeal An Inns of Court will be held during the 1st Term of the Court and members are encouraged to participate. The Committee is organizing for an Inns of Court



COMMITTEES	MEETING DATES	ACHIEVEMENTS
High Court Family BBC	20 th February, 24 th April, 29 th May 2020, 2 nd June, 29 th June, 29 th September, 26 th November, 10 th December 2020.	<ol style="list-style-type: none"> 1. The Committee organized for two E-filing Training sessions for members held on 3rd September and 29th October 2020 2. The Committee is actively engaged in a rallying call “To enhance justice through digitization”. 3. The Committee has formed a sub-committee to formulate proposals on how to actualize digitization of grants 4. The Committee is preparing a short handbook on Frequently Asked Questions (FAQs) to assist all stakeholders in handling processes 5. The Committee is organizing a Service Week to be held within the first quarter of 2021
Constitutional and Judicial Review BBC	6 th March and 7 th May, 26 th November, 30 th November 2020	<ol style="list-style-type: none"> 1. The Committee is planning to have an Inns of Court in 2021 2. The Committee is pushing for Practice Directions in the Division during the COVID-19 pandemic. In previous meetings, the Judges of the Division gave a brief on how the Court has been handling matters and members were asked to give suggestions on further upscaling. The Committee agreed on continued support of by all sides in the furtherance of justice 3. The Committee will have an E-Filing Training for the two Divisions in 2021.
High Court Civil BBC	22 nd July, 17 th June, 23 rd November and 1 st December 2020	<ol style="list-style-type: none"> 1. The Committee organized a training on E-Filing in the Civil Division held on 3rd July 2020 2. The Committee was engaged with the Rules Committee in proposing amendments to the Civil Procedure Rules, 2010 through a validation exercise 3. The Committee proposed use of Mediation, Service Weeks and expeditious hearing to clear case backlog. 4. The Branch was requested to encourage their members to be informing the Court whenever they change their physical address.
High Court Commercial BBC	12 th March, 5 th June, 25 th September, 11 th November 2020 and 25 th January 2021	<ol style="list-style-type: none"> 1. The Committee has been at the fore front on digitization of the Commercial and Tax Division. 2. The Committee has formed a subcommittee to formulate practice directions that will guide the Court on all virtual and physical hearings. 3. Members discussed reduce the number of Applications filed especially those that could be dealt with at the pre-trial stage.
High Court Criminal, Anti- Corruption and Economic Crimes BBC	12 th March, 10 th June, 29 th September, 1 st December 2020	<ol style="list-style-type: none"> 1. The Divisions raised concerns with regard to Plea-Bargaining agreements, Disclosure, Advocates not being supplied with committal bundles, Bond Processing and Re-sentencing. The Committee will prepare Practice Directions on re-sentencing , pre-trial and plea bargaining in 2021. 2. The Committee prepared a report on challenges encountered with pro bono briefs and whether the Advocates doing pro bono are being paid in time 3. The Committee has been creating awareness of plea bargaining by accused persons. 4. The Committee participated in the Review of Draft Criminal Appeals & Applications Practice Directions

COMMITTEES	MEETING DATES	ACHIEVEMENTS
Environment and Land BBC	19 th February, 10 th June, 25 th November 2020	<ol style="list-style-type: none"> 1. The Committee incorporated Institution of Surveyors of Kenya and the Auctioneers body as members of the CUC. 2. The Committee managed to coordinate with the Secretariat in informing members of judicial leave date in good time 3. The Committee has been pushing for fixing of dates for all matters in the Division 4. The Committee pushed for Appeals disposable through submissions to proceed virtually.
Employment and Labour Relations BBC	22 nd January, 28 th April 2020, 10 th June, 23 rd September 2020	<ol style="list-style-type: none"> 1. It was encouraged that more Advocates should be trained on mediation to help reduce backlog of cases. 2. The Committee has been publicizing the ELRC Rules and its enforcement during trial process. 3. The Committee has been at the forefront in trying to urge the Court to clear case backlog 4. The Committee is planning an Inns of Court in 2021. 5. During this COVID-19 pandemic, the Committee resolved that the Court should have their normal Cause List where all matters will be treated as mentions in the first instance where directions shall be given on how matters are to proceed. The Committee also agreed that Parties can liaise with Deputy Registrars on how to collect documents at the Court.
Kadhis BBC	13 th November 2020	<ol style="list-style-type: none"> 1. The Committee was formed recently and they intend to create awareness on the Kadhi's Court Rules and Procedures 2. The Committee is planning to have a joint meeting with High Court Family Division and the Children's Court to discuss issues of jurisdiction and practice in divorce, succession and children matters.
Milimani Mediation Committee	11 th February, 15 th June, 9 th September, 14 th September and 17 th November 2020	<ol style="list-style-type: none"> 1. The Committee has formed a sub-committee to come up with proposals on publicity and sensitization of Advocates on compliance with Court Annexed Mediation Agreements 2. The Committee will be submitting comments on ADR matters and pending legislation in Parliament related to the same.
Childrens' Court BBC	15 th June and 24 th November 2020.	<ol style="list-style-type: none"> 1. The Committee is making progress in engaging different actors and incorporating them into the Committee 2. The Committee has undertaken to review the guidelines for the Legal Aid Scheme and a sub – committee will look into Children's' Court Practice Guidelines and jurisprudence. 3. The Committee is pushing for a Children's Court Open Day in 2021 to deal with closing of old files, that is, 5 years and older.
Chief Magistrates Criminal BBC	20 th May, 11 th June (via Zoom), 12 th June, 23 rd June, 2 nd August, 17 th August, 25 th September, 30 th November,	<ol style="list-style-type: none"> 1. The Committee through the Chair, Hon. Francis Andayi will engage regional heads for provision of internet connectivity and equipment needed by respective stations for virtual court hearings 2. The Committee organized a training on E-Filing in the Division held on 1st September 2020 3. The Committee is in the process of finalizing the Non – Custodial Measures Pilot Project at Milimani in collaboration with Raoull Wallenberg Institute



COMMITTEES	MEETING DATES	ACHIEVEMENTS
Chief Magistrates Civil BBC	20 th May, 10 th June, 24 th September, 1 st December 2020	<ol style="list-style-type: none"> The Committee is pushing for a Standard Operating Procedures (SOPs) manual to guide the court processes The Committee has been addressing the jurisdiction of the Court with regards to matters arising out of the Work Injury Benefits Act (WIBA) The Committee made proposals relating to Judicial Service Commission on employment of more judicial officers to reduce case backlog The Committee addressed the enhanced jurisdiction of Magistrates Court to hear land matters and how to deal with cases transferred to these Courts. The Committee addressed various Advocates concerns on upscaling Court processes at the Court. The Committee resolved on the matters to be handled in the current Cause List, typing of Rulings and Judgments before delivery and filing procedures for urgent matters.
Kibera BBC	10 th June, 26 th November 2020	They discussed about the numerous adjournments due to unavailable police files, and poor time management. Members requested Magistrates to come up with guidelines to prevent inconsistencies in granting bail/bond terms.
JKIA BBC	5 th February 2020	The Committee discussed the issue of case backlog and proposed that the Branch should assist with sensitization of the same. The committee further discussed the need to increase the number of pro – bono Advocates for drug trafficking cases to those who cannot afford legal services
Makadara BBC	3 rd March, 25 th November 2020	The Committee agreed to adopt the LSK Nairobi Branch KPIs for 2020 with a particular focus on the following: <ol style="list-style-type: none"> Increasing the number of pro – bono Advocates accessible to litigants who cannot afford legal services such as the elderly, foreigners, children and the illiterate Eradication of masqueraders and quacks from the Courts Meetings in every quarter
TRIBUNAL COMMITTEES		
National Environment Tribunal Committee	18 th September 2020	<ol style="list-style-type: none"> The Committee resolved to set up strategic plan for the committee's term The Committee plans to engage the Tribunal actively in 2021
Rent Restriction Tribunal Committee	Not met in 2020	The Committee will be reconstituted and a Tribunals Open Day to be organized in 2021
Business Premises Rent Tribunal Committee	Not met in 2020	The Committee discussed in a previous meeting how to engage the relevant stakeholders not to disband the tribunal which would otherwise affect the practitioners and the clients they represent. The Committee did not meet in 2019 because the Chairperson of the Tribunal was not present.
Cooperative Tribunal Committee	28 th February 2020	The Committee pushed for deployment of judicial officers at the Tribunal by engaging JSC
Public Procurement Tribunal Committee	Not met in 2020	The Committee has recently been constituted. The purpose of the Committee is to address the practice concerns arising from adjudication of disputed procurement proceedings.

COMMITTEES	MEETING DATES	ACHIEVEMENTS
LIAISON COMMITTEES		
ICT and IP Liaison Committee	12 th March, 9 th October 2020	<ol style="list-style-type: none"> 1. The Committee is planning to host IP and ICT Training through partnership with Google 2. The Committee organized the first session of Digital Skills Training for Advocates on 29th January 2021 3. The Committee is planning for Nairobi Legal Innovation Week scheduled 19th – 23rd July 2021 4. There are sub - committees that are reviewing legislation in ICT and IP
Tax Liaison Committee	9 th September, 8 th October, 22 nd October 2020	<ol style="list-style-type: none"> 1. The Committee collaborated with KRA in organizing a Tax Forum addressing various tax issues, which were held on 5th June, 28th August and 13th October 2020 2. The Committee is liaising with KRA to have more tax trainings for members in Nairobi and Kiambu Counties
Nairobi Lands Registry Liaison Committee	28 th February, 22 nd June, 2 nd September, 23 rd September, 6 th October, 9 th November	<ol style="list-style-type: none"> 1. The Committee through the Chair, Eric Theuri has been part of the subcommittee reviewing the NLIMS processes to be launched in 2021 2. The Committee has been following up on pending applications at the registry and the Chair, Eric Theuri has been circulating updates on the same. 3. Land Registry Processes and Procedures Training. The Committee has pushed for efficiency of service delivery at the Lands registry. 4. The Committee has been liaising with the LSK Conveyancing Committee to ensure that the Lands Registry and Ministry of Lands adhere to the service charter and resolutions agreed during the joint liaison meetings
Nairobi Companies Registry Liaison Committee	12 th March, 16 th June, 30 th July, 24 th September, 19 th November, 2020	<ol style="list-style-type: none"> 1. The Committee has pushed for implementation of interim resolutions regarding service system concerns during meetings with the Registrar of Companies 2. The Committee has collaborated with BRS to organize trainings for members on the online system 3. The Committee organized for sensitization of members on Beneficial Ownership requirement 4. The Committee proposed an escalation mechanism which can be used by members in case of delay of services at the Companies' Registry 5. The Committee has formulated Practice Notes for use at the Companies Registry, which are currently on the BRS website. 6. The Committee is currently doing the business processes reengineering with the support of IFC of World Bank
SPECIAL COMMITTEES		
Awards Committee	28 th February 2020, 7 th March, 24 th August, 1 st September, 23 rd September, 7 th October, 23 rd October 2020	The Committee organized the 3rd edition of Nairobi Legal Awards . The Committee has been reconstituted and preparations are underway for the 3 rd edition of Nairobi Legal Awards
Lawyer – Police Relations Committee	15 th September 2020	The Committee is still pushing for adoption of the draft Lawyer Police Guidelines

I. PROGRAMMES

1. BAR – BENCH PROGRAMME

We are constantly managing challenges arising within the course of practice through interactions in the BBCs and CUCs which have proven efficient as there are direct interactions between the Bar and the Bench

1.1 Introduction

On **21st January 2020** at Crowne Plaza, Upper Hill, LSK Nairobi Branch held a Bar-Bench Conveners Seminar. Those in attendance, including Deputy Registrars, Conveners and members of the various Committees, agreed to set SMART targets for the various Bar-Bench Committees convened by the Branch.

The Key Performance Indicators (KPIs) enumerated below were formulated to guide the way in which Bar-Bench Committees shall be run, and furthermore be assessed, at the end of the year. One of the key mandates of the Branch is to enhance practice through key stakeholder engagement. Bar-Bench Committees, if seen as more than just meetings but as running programs, can be used as an avenue to enhance practice and access to justice. All Advocates are called to first to be officers of the Court before anything else. The KPIs set strongly rely upon the Bar Bench Committee Practice Guidelines, 2018 (attached) and seek to enhance these Guidelines.

Half way through the year the committees were reconstituted as new Council assumed office. The Branch organized a **Bar Bench Committee Stakeholder and Conveners Seminar** held on **19th August 2020** via Zoom platform. The seminar introduced the incoming conveners to the workings of the Branch Committees and formulating Key Performance Indicators for the year 2020. The next seminar is scheduled for **5th February 2021**.

The various Bar-Bench Committees have been asked to adopt these KPIs and set their own targets in actualization of these KPIs tailored to the Court in question.

1.2 Bar-Bench Committees KPI's 2020

The following are the KPIs set for all Bar Bench Committees in 2020:

1.21 Quarterly Meetings

- a) Each Bar-Bench Committee shall hold at least one meeting per quarter and the dates of

these meetings shall be set either during the committee meeting or at the beginning of each quarter.

- b) Members shall be notified of Bar-Bench Committee meetings in the following ways:-
 - By emails two weeks before the meeting;
 - By notices on the Notice Boards at Milimani Law Courts;
 - By text message 24 hours before the meeting; and
 - On the Cause List for a week before the meeting.

1.22 Membership

- a) Each Committee shall have fifteen permanent members and one of these members shall be the convener of the Committee.
- b) Permanent members are encouraged to attend all the meetings of the Committee and an attendance report shall be prepared at the end of the year.

1.23 Dissemination of Information

- a) Action points from the Bar-Bench Committee shall be shared to the members of the Committee one day after the meeting.
- b) A report of the Committee meeting shall be shared on the LSK Nairobi Branch website within one week of the date of the Committee meeting.
- c) Minutes of the Committee meeting shall be prepared within one week of the Committee meeting and shared with the Convener and Deputy Registrar(s) before onward transmission to the members of the Committee.

1.24 Inns of Court

- a) Each Committee is required to hold at least one Inns of Court within the year.
- b) Topics to be discussed in the Inns of Court should be agreed upon by the Committee and dates should be settled on at least three months in advance to allow for proper planning.

1.25 Sensitization

- a) Advocates shall be encouraged to join and attend Bar-Bench Committees during all CPD trainings and relevant LSK Nairobi Branch events.

1.26 Standing Agenda Items

- a) Each Bar-Bench shall have standing agenda items that shall be discussed and reports given during each meeting.
- b) The key standing agenda items shall include:-
 - **Reduction of Missing Files**
Bar-Bench Committees join in the Judiciary's goal of having 100% file availability. Each Deputy Registrar shall present a Missing File Report during each Bar-Bench Committee meeting.
 - **Reduction of Backlog**
A report on backlog shall be presented before the Bar-Bench Committee with the aim of having all matters concluded within 365 days of filing.
 - **Typed Proceedings**
Proceedings should be ready within 90 days of conclusion of the matter. A report of the same shall be presented by Deputy Registrars during each Bar-Bench Committee meeting.
 - **Embracing mediation**
Bar-Bench Committees shall be used as a means of encouraging and sensitizing members about mediation. A report of matters in mediation shall also be tabled.
 - **Digitization**
Deputy Registrars shall discuss with the Committee the progress made within the quarter with regards to digitization including the uptake of e-filing.
- c) Committees are encouraged to have sub-committees to deal with specific matters of concern to the Committee, which shall also report on the day of the meeting.

1.27 Complaints

Part X of the LSK Bar Bench Committee Practice Guidelines, 2018 provides for Bar-Bench

Committees to handle personal complaints. The Convener of the Bar-Bench Committees shall table a report of such complaints to the Committee.

Deputy Registrars shall also provide a report of written complaints sent to their office. Written complaints to Deputy Registrars will be replied to within seven days of receipt.

Note that these complaints are on matters welfare or on the personal conducts of Advocates and Judicial Officers.

1.28 Media engagements

Bar-Bench Committees are encouraged to enhance access to justice by choosing relevant legal topics relevant to the public in general and organizing, in conjunction with the Judiciary, for media engagement and present on the same at least once during the year.

1.3 Inns of Court

Unfortunately, due to covid-19 pandemic the Branch was not in a position to have Inns of Court. However, we intend to organize Inns of Court for all the Divisions on a rotational basis this year 2021.

1.4 Court Users Committee (CUCs) Meetings

The CUCs have a wider scope of engagement. Relevant stakeholders pertaining to each BBC attend the meeting to address practice matters and how to improve stakeholder relationships. Some of the most common stakeholders include; Office of Director of Public Prosecutions, Attorney General, KRA, Prisons Department, the Police, Witness Protection Agency and Probations Department.

1.5 Engagements with Judiciary and JSC

We engaged the JSC on appointment of Chair and Vice Chair of the Cooperative Tribunal. We also engaged JSC on recruitment of more judicial officers within Nairobi because Nairobi has the most legal work. A sub-committee was formed to formulate **High Court Practice Directions** in order to unify practice in all High Court stations. The zero draft is being reviewed for onward transmission to the Chief Justice, Hon. David Maraga.

1.6 Conclusion

It can be emphasized further, that Bar-Bench Committees have a mandate to do more than just meet. The Bar-

Bench Committees should work towards proposing amendment of statutes, enhancing practice, and act as tools for informal conflict resolution. The Judiciary can become more effective through the concerted joint efforts of the Bar and the Bench.

2. COMMERCIAL PRACTICE PROGRAMME

This programme is executed through various committees such as Tax Liaison, Companies Liaison, Lands Liaison and ICT/IP Liaison Committees. The Committees meet at least once a quarter or monthly on needs basis. It worth noting that the programme has led to establishment of other programmes such as the Legal Tech and Innovation programme which emanated from the need to embrace the growing field of legal technological advancements.

2.1 Commercial Practice Liaison Committee Meetings

We have managed to have consistent meetings with the Companies Registries. However, we are still pushing for more regular engagements with Lands Registry. We have also been having regular engagements with KRA and KIPi/KECOBO for the Tax Liaison Committee and ICT/IP Liaison Committee respectively.

2.2 Committee Meetings

We have set up cohorts for specialized practitioners. We have circulated articles relating to ICT and IP law and Tax Law via Weekly Newsletter. We are still in the process of compiling a database for the specialized practitioners.

2.3 Development of Commercial Practice Notes

The Companies Liaison Committee also formed a sub-committee to formulate **Companies' Registry Practice Notes**. This was prompted by the variations in service delivery at the Companies Registry.

The Branch has been part of the team formulating the **High Court Practice Directions**, which are yet to be adopted. The Bar Bench Committees are also coming up with Practice Directions for the respective Divisions.

The stakeholder various engagements with the Judiciary prompted the need to streamline service delivery within the Judiciary.

3. SOCIAL AND WELFARE PROGRAMME

3.1 Welfare Initiatives

3.1.1 Internal Dispute Resolution Committee

This Committee is tasked with resolving disputes amongst Advocates. There has been little feedback regarding complaints between Advocates. We received one complaint in 2020 which is under review.

3.1.2 Members Savings and Investment

The Law Society of Kenya in Partnership with LSK Sacco has entered into a MOU to encourage members of the Branch to increase their savings with the Sacco. In line with the MOU, a month long drive was run from **7th December 2019 to 6th February 2020**. The draw was held at the Quarterly Luncheon held on 6th February 2020. We had a further raffle draw done on **27th March 2020**. This will be an ongoing initiative as part of improving members' welfare. We encourage firms to also implement the check-off system to match up their employees' contribution to the SACCO. We will also have a special award during the Nairobi Legal Awards for the firms that encourage saving and investment for their employees.

We also have a partnership with LSK Sacco in offering a payment scheme for Practising Certificates for Young Lawyers. The payment plan is open to Young Lawyers all year round.

3.1.3 Improvement of Lawyer Police Relations

We have engaged the Regional Commander of Police Nairobi County and Directorate of Criminal Investigations on how to improve the relations between Advocates and the Police noting that both are officers of the Court. We came up with draft guidelines through the Lawyer Police Relations Committee. Two subcommittees were formed to work on the draft guidelines which are supposed to be presented to the DCI before adoption.

We engaged the Regional Commander on **4th November 2020** to fast tracking improvement of lawyer-police relations on the ground before the guidelines are adopted. The guidelines are still work in progress but we hope to finalize the matter in 2021.

3.1.4 Branch Partnerships

CS Certification of Advocates - The Branch ongoing partnership with Traction School of Governance and Business has led to improvement of members' skills. We are glad that members are taking up CS course a way of building their professional capacity. The partnership guarantees 10% discount to members on the tuition fees and full reimbursement from National Industrial Training Authority (NITA).

Partnership with Bountiful Safaris – The Branch has partnered with Bountiful Safaris to offer members discounted travel packages. We urge firms and corporates going on conferences or personal vacations to utilize the partnerships.

Partnership with Alumni Club – This partnership benefits Subscribed members who will be provided with a meeting room without paying any costs.

Partnership with CPF Financial Services – Structuring of the partnership is still ongoing. We are in the process of formulating welfare programmes.

3.1.5 Quarterly Luncheons

We had a Luncheon held on **6th February 2020** and the guest speakers were **Mr. Elisha Ongoya** and **Ms. Julie Soweto**. The theme was “Safeguarding the Rule of Law in Kenya: The Role of Lawyers in Constitutionalism”. This forum was used to launch the Nairobi Legal Awards 2020 and conduct the draw for LSK SACCO recruitment drive.

Unfortunately, we could not organize luncheons for the rest of year 2020 due to the covid-19 pandemic. The next luncheon is scheduled for **29th April 2021**.

3.2 Social Initiatives

3.2.1 Quiz Nights

The Branch has been organizing for Quiz Nights as a way of bringing together Advocates practising within Nairobi and Kiambu Counties. The Quiz Nights are interactive yet competitive sessions amongst different lawyers categorized into teams consisting of six participants each. We had quiz night on **13th March 2020** and a virtual test run quiz night with members of the Social and Welfare Committee on **23rd October 2020**. The events were hosted at The Irish Tavern in Westlands and on Zoom platform respectively.

W Winners of Quiz Night held on 13th March were: **Team Covid 19, Warriors in Suits and “A Team With No Name”**, in the respective order of winner to second runners up. We received sponsorship from **Traction School of Governance and Business, LJA Associates, Robson Harris and Co. Advocates** and **Mohammed Muigai Advocates**. The winner for the Quiz Night held on **23rd October 2020** was “Peep Candy”

3.2.2 LSK Nairobi Branch Sports Day (Incorporating Inter-Branch Football Match)

Unfortunately, due to covid-19 pandemic, we could not

organize a sports day in 2020. However, the next one is scheduled for **18th September 2021**. We intend to have quarterly fitness boot camps in 2021 and we urge members to turn up in large numbers.

3.2.3 Advocates’ Barbeque

Unfortunately, due to covid-19 pandemic, we could not organize an Advocates Barbeque in 2020. However, the next one is scheduled for **6th March 2021**.

4. MENTORSHIP PROGRAMME

The Branch initiated this programme in 2016, which has had impact on young lawyers. However, the programme is not limited to mentoring of young lawyers only. We also accept applications for mentorship on different aspects of practice such as law firm operations and transitional changes in one’s career path.

4.1 One-on-one Mentorship

Due to the outlined challenges faced by young lawyers in practice, we approached and requested senior Advocates equipped with the necessary skills and expertise, take up 2-5 mentees under their wing for mentorship purposes. The mentorship shall be structured to fit within a specific period of time (ideally one year) at the expiry of which the mentors will take up new mentees. It is at the mentors’ discretion to select one of the two options available, that is, one-on-one sessions or group sessions with the given set of mentees.

Currently, we have 40 mentees and 14 mentors signed up for the one-on-one mentorship. We hope to receive more applications from the membership.

4.2 Mentorship Forums

The quarterly Mentorship Forums bring together panels of eminent personalities within the profession who are then presented with an opportunity to give short presentation on a given thematic area which presentation is then followed by a plenary session. The guest speakers can number up to four and are drawn from various facets of practice.

Unfortunately, due to covid-19 pandemic, we postponed the Mentorship Forum which was previously scheduled for **18th March 2020**. However, we intend to have more of such in 2021 with the first one scheduled for **15th April 2021**.

4.3 Mentorship Video Podcasts

We have managed to feature a few senior Advocates in the YouTube video podcasts which are a form of mentorship. The Advocates give an overview of previous professional challenges and advise how to deal with them. So far, we have interviewed **Paul Muite, SC, John Ohaga, FCI Arb, Nelson Ashitiva, Commissioner Mercy Deche, Eunice Lumallas, Hon. Dr. Otiende Amollo, Hon. Mutula Kilonzo Junior, Mugambi Laibuta, Ribin Ondwari, Johnson Kariuki and Julie Soweto, SC.**

4.4 Young Lawyers Mentorship Guidelines

These are guidelines meant to improve and refine the Mentorship Programme. The objective is to improve the welfare and practice of young lawyers, ranging from exemplary mentorship programmes and better working conditions to improved and acceptable remuneration. The guidelines apply to all Advocates working within Nairobi and Kiambu Counties, must have been in practice for 5 years and below and those who have been admitted to the Advocates Training Programme (ATP) while undertaking their pupillage programme within Nairobi and Kiambu counties.

4.5 Mentorship General Code of Conduct

This Code defines the framework within which the mentors and mentees under the Programme operate during the Programme. It promotes utmost integrity, professionalism and ethical conduct. That said, embodying good conduct goes deeper than simply following a set of rules or policies – it is a way of life. However, we are aware that the document cannot spell out what's right and what's wrong in every situation, so the mentors and mentees are expected to exercise good personal judgment, integrity and a strong sense of personal accountability when making decisions during the Programme.

5. LAW REFORM AND DEVOLUTION PROGRAMME

5.1 Committee Meetings

We had a few meetings because of the covid-19 pandemic. The Committee engaged Council of Governors on boosting intervention of the devolution matters. The Committee formed a sub-committee in liaison with the Council of Governors secretariat to look into the terms of engagement and devolutions matters to address. The Committee will be receiving quarterly updates from Kenya Law which will be shared by members through our communication channels.

The Committee is currently preparing a Work Plan for 2021 in terms which laws to review and matters to deal with devolution.

5.2 Review of Legislation and Devolution Matters

The Branch participated in the Validation Exercise which took place on **11th November 2020** for the **Draft Criminal Appeals and Applications Practice Directions.**

6. TRAINING PROGRAMME

We have partnered with various firms in setting up practice series which can be beneficial to members dependent on the members' practice needs.

6.1 Mediation Training

We have had several Mediation Trainings in collaboration with Mediation Training Institute, we set up one specifically for lawyers of five years and above in practice. We had Mediation Training held on **20th – 24th January 2020** and **6th – 10th July 2020** (virtual)

6.2 Law Firm Management Series

The Branch in partnership with ALN Academy offered monthly trainings on different aspects of running a law firm. The ten-part series was completed in 2019 and could not be revisited due to the covid-19 pandemic. There are plans to begin another series in 2021. Topics covered include:

- i. The Need for Innovation and Process Improvement
- ii. Understanding Law Firm Finances and Drivers to Improve Profitability
- iii. Law Firm Business Development and Marketing
- iv. Law Firm People and Culture
- v. IT Infrastructure and Tools
- vi. Design Thinking and the Paperless Law Office
- vii. Digital transformation – what does it mean for your practice?
- viii. The Power of *Pro bono* Work for your Practice
- ix. Operational Processes and Implementation (Development of an Office Manual)
- x. Organization, People, Leadership – Defining and Building for your Success.

6.3 Oil and Gas Series

We have set up this series in collaboration with Ashitiva Advocates LLP noting that they have a robust Oil and

Gas Department. The six-part series began on **5th March 2020** with Session one covering the following topics:

- i. Legal and Regulatory Framework for Petroleum in Kenya
- ii. Recent Developments in the Legal Framework for Oil and Gas in Kenya
- iii. Key Features of Oil and Gas Operations
- iv. Overview of Oil and Gas Sector in Kenya
- v. Political Dynamics in Oil and Gas.

There are plans underway to continue with the series in 2021 after finalizing on the planning logistics.

6.4 Trial Advocacy Training

We partnered with Trial Advocacy Institute to offer Trial Advocacy Training in Nairobi. In 2020, the training initially scheduled for 30th March – 3rd April 2020 was postponed due to covid-19. We had the first training in 2021 being held from **18th – 21st and 25th – 29th January 2021**.

6.5 Legal Audit & Compliance

We are currently engaging Kenya School of Law in setting up this series which was expected to begin in March 2020. Unfortunately, it was postponed due to COVID – 19 pandemic and plans are underway to have it 2021.

6.6 Conveyancing Series

We partnered with Bowmans (Coulson Harney LLP) in having a six – part series on different aspects of Conveyancing. The series began on **25th July 2019** and ended on **14th November 2019**. Plans are underway to have another series in 2021. The topics covered included the following:

- i. Evolution of the legal regime in Kenya (including new land regulations)
- ii. LSK Conditions for Sale – 1989/2015
- iii. Registration (including digital registry processes)
- iv. Transaction structures (planning, DD Checklist and tax scheduling)
- v. Leveraging property for financing (key considerations) & property joint venture (overview and key considerations)
- vi. Foreign investments in Kenya (focus on land) & property ownership by regulated entities
- vii. REITS – How corporates can benefit from REITs as a legal vehicle for property ownership
- viii. NEMA

- ix. Planning/Development approvals (Charge & Extension of User/ Amalgamation)
- x. Challenges by practitioners – interactive session with Ministry of Lands & Physical Planning and Registry officials
- xi. Warranties and Indemnities
- xii. The less travelled frontiers in Property Law (Mining, Conservation and Community Land)
- xiii. Sectional Property, Leasing business premises – considerations prior to (as lessor and lessee)
- xiv. Dispute resolution in relation to property – risk mitigation & instituting or defending a suit

6.7 In-House Counsels Training

The Branch was invited to attend an in-house training organized by In-House Counsels Committee. The training was held on **16th October 2019** at Sanlam Towers. The training was focused on Corporate Governance. The guest speaker was **Carl Bates, Chief Executive Officer of Sirdar Group Global**. The Branch Chair represented the Branch at another in-house training organized by ILFA Elevate – Africa Legal Counsel Forum and In-House Counsels Committee. The training was held on **11th and 12th February 2020** at Radisson Blu. The topic was “Gaining Perspective – Enhancing the Effectiveness of African Corporate and Government Lawyers”.

With the recently constituted in-house counsel committee, we intend to have more defined in-house counsels training for members.

6.8 Tax Series with KRA

This is an ongoing partnership where KRA facilitates the logistics to have a Tax Forum where members can engage on tax related matters. We held a Tax Forum on **5th June, 28th August and 13th October 2020**.

6.9 Commercial Contracts Drafting Masterclass

This is an inaugural series in conjunction with Triple OK Law Advocates LLP. The first session was initially scheduled for **19th and 20th March 2020**. Unfortunately, it was postponed due to COVID – 19 pandemic and plans are underway to have this done in 2021.

6.10 ICT Trainings

The Branch is currently focusing on matters ICT and how it can improve practice through advocating for digitization and creating awareness on ICT solutions tailor made for Legal Practice. We had scheduled monthly ICT

trainings in 2020, however, some have been postponed due to COVID-19 Pandemic. Members are continuously informed on new ICT initiatives such as automation of the High Court Commercial Registry. Copies of manuals and practice directions can be accessed on our website. We also had a **Digital Skills Training for Lawyers** in partnership with Google held on **30th January 2020** and **29th January 2021**.

7. NAIROBI LEGAL AWARDS (NLA) PROGRAMME

The NLA was launched in 2018. This was done in recognition of the challenges noted with law practice in Nairobi and Kiambu Counties including the quality of client care and satisfaction, quality of legal services and engagement between members of the profession and other professional bodies. We had the 3rd Edition of NLAs in 2020 with the Awards Gala held on **4th December 2020** at Movenpick Hotel. The Awards Programme has been recognizing law firms/ legal departments and individual lawyers with outstanding standards of practice and legal service delivery in an effort towards encouraging excellence in practice. The criterion is based on globally recognized best practice in legal practice and service delivery.

In 2020, the Branch Council, led by the outgoing chair Mr Charles Kanjama, set up the Nairobi Legal Awards Trust with the aim of institutionalising the Nairobi Legal Awards Programme. The inaugural Trustees are:

1. Mr **Charles Kanjama** – Chair
2. Mr **Beuttah Siganga SC** – Member
3. Ms **Jacqueline Manani** – Member
4. Mr **Eric Theuri** – Member
5. Mr **Gad Gathu** – Member
6. Ms **Ndinda Kinyili** – Member

The Trustees, working in concert with the organs of the Trust that is the Technical Committee and The Awards Jury as well as the Branch Council and Branch Secretariat oversaw the execution of the 2020 Awards Cycle.

The Technical Committee for the Nairobi Legal Awards 2020 comprised:

Name Organization/Institution

1. Ms Ndinda Kinyili – Chair of Committee (LSK Council and EACC)
2. Ms Helene Namisi – LSK Nairobi Branch Council Vice Chair

3. Mr Gad Gathu – Mucheru Law LLP
4. Ms Dorcas Kitaa – D.S Kitaa & Co Advocates
5. Ms Cynthia Mathenge – First Chartered Securities Limited
6. Ms Venessa Lwila – Majanja Luseno & Co Advocates
7. Mr Amanya Cohen
8. Mr Oscar Litoro

The Awards Jury comprised the following reputable persons from various areas of Practice:

1. Mr. Beuttah Siganga SC – Chair of Jury
2. Justice Isaac Lenaola – Member
3. Mr Kiragu Kimani SC – Member
4. Mr Fred Waithaka – Member
5. Ms Jacqueline Manani – Member
6. Ms Diana Sawe – Member
7. Mr Charles Mutinda – Member
8. Mr Charles Kanjama – Member
9. Mr Eric Theuri – Member

The assessors were:

1. Ms Praxedes Tororey – IPOA
2. Mr Samuel Njeri – Kapa Oil Refineries
3. Ms Lornah Solopian – Kenafric Industries
4. Ms Salome Karei – Attorney General's office
5. Ms Juliette Jakalia – Wanjiru Kinyanjui Advocates LLP
6. Ms Meghan Muthoni – KRA
7. Mediatrix Akinyi – Ouma Onyango and Associates
8. Christine Simaloi – Muma and Kanjama
9. Racheal Wambu – Muma and Kanjama
10. Matthew Itonga – K. Itonga and Co Adv
11. Chris Maondo – Mulanya and Maondo

Members of the Branch Secretariat also assisted in the conducting of the assessments.

The Awards involved three processes:

- I. Invitation of and submission of entries by contenders and collection of data for the various Awards Categories based on a Tool formulated to encompass the above enumerated principles of

legal best-practice and statutory provisions. The Tools stipulate the various aspects to be assessed. Questions are formulated to assess the level of establishment and compliance with the various aspects. Data is to be provided by nominees through answering the various questions and providing evidence for the indicated practices/policies. The aspects are proportionately weighted.

- II. Data Assessment which entailed visits by trained Awards Assessors to the participating Firms/Organizations and interview of individual participants to verify the data provided and Evidence presented by the contenders
- III. Jury consideration of the data and selection of winning candidates

The key guests of the 3rd NLA Awards Gala were: **Chief Guest Prof Olive Mugenda (Commissioner JSC), Guests of honour: Solicitor General Mr Ken Ogetto, Ms Caroline Saroni (Chair of the Advocates Complaints Commission), Dr. Ceaser Mwangi (CEO, ICEA LION Group) and The LSK President Mr Nelson Havi.**

This year, the handling of the main ceremony was handed over to **Jurorbox Ltd**, who were in charge of conceptualizing and organizing the main Awards dinner.

Winners of the 3rd Edition of Nairobi Legal Awards are as follows:

- i. Lawyer of the Year – **John Ohaga, SC**
- ii. Large Law Firm of the Year – **ALN Kenya – Anjarwalla & Khanna**
- iii. Pupil Master of the Year – **John Ohaga, FCI Arb**
- iv. SME Law Firm of the Year – **Kiruti & Co. Advocates**
- v. Young Lawyer of the Year – **Johnson Kariuki**
- vi. Public Sector Lawyer of the Year – **Duncan Ondimu, OGW**
- vii. Civil Sector Lawyer of the Year – **Teresa Omondi**
- viii. Committed Service Award – **Eric Theuri**
- ix. Branch Chair's Award – **Kennedy Mwai**
- x. Public Legal Department of the Year – **National Council for Law Reporting**
- xi. Corporate Legal Department of the Year – **Safaricom PLC Legal Department**
- xii. Judicial Officer of the Year – **Hon. Lady Justice Hedwig Ong'udi**

The Awards would have not been possible without the financial support we received from our sponsors. We are very grateful for the support we received from: **LSK SACCO, KCB Bank, Juror Box, Traction School of Governance and Business and Paul Ngotho Arbitrator.**

We intended to have the 3rd edition of the Awards in 2020 in May 2020. However, due to COVID-19 pandemic, the awards process was postponed.

8. LEGAL TECH AND INNOVATION PROGRAMME

The Branch through its ICT and IP Liaison Committee set up an inaugural Legal Tech and Innovation Week which was held from **3rd – 5th July 2019**. The event recognized the challenges faced with legal tech practice within Nairobi and Kiambu counties. Participants showcased their legal innovations after which the best were selected and adjudged by a jury. The event ended with a Gala Dinner on **5th July 2019** at Intercontinental Hotel where winners were awarded. We set up a planning committee which will oversee the preparations for the 2nd edition of Legal Tech and Innovation Week which was initially scheduled for **15th – 19th June 2020**. Unfortunately, the event has been postponed due to COVID-19 pandemic.

Participants showcased their innovations to both the public and the panelists. We further had a session where the participants defended their justification for their respective innovations. The panelists who doubled as the key guests of the events: **Dr. Isaac Rutenberg, Elvine Opiyo, Faith Amatika and Wambui Kamau.**

We had an Awards Jury that was responsible for validating the scores awarded to the participants during the assessment period. Members of the Jury were: **Rose Wanjala, Collins Bush Wanjala, Augustine Kamau, Benard Momanyi Nyagaka and Sandrine Mpakao.**

Winners of the inaugural Nairobi Legal Tech and Innovation Week are as follows:

- i. Most Innovative Start Up of the Year – **Pronto Legal**
- ii. Best Innovation of the Year – **Patafile**
- iii. Technology Team of the Year – **Enfinite Solutions Ltd (Wakili CMS)**

We have also partnered with **PATAFILE** which won best Innovation of the Year. Patafile is a cloud, subscription based software which enhances legal practice through case management, document management, calendaring, billing, tasks management and auto generation of status reports.



The Legal Tech and Innovation Week could not be hosted in 2020 due to covid-19 pandemic. However, the next one scheduled for **19th -23rd July 2021**.

9. LEGAL AID PROGRAMME

The programme incorporates offering legal aid services and taking up public interest matters. We have organized several legal aid clinics in prisons within Nairobi. The Branch has also donated some utilities to the prisons and Milimani Chief Magistrate Criminal Division, to aid access to justice for remandees. We have filed the following public interest matters in Court. The matters are still in the initial stages and we hope to finalize in the soonest time possible;

- a. **HCJR/E010/2020 LSK Nairobi Branch v The Attorney General** which granted an Order of Stay to the accounting officers and Cabinet Secretaries stopping them from barring procurement of external legal services.
- b. **Petition on criminal cross – appeals** because the Criminal Procedure Code (CPC) does not provide for cross – appeal when applying for enhancement of a sentence, thus interfering with the right to a fair trial.
- c. **Petition to suspend the Small Claims Act**
- d. **Access to information** in liaison with Competition Authority regarding **JKIA take over by Kenya Airways**
- e. **Access to information on the Huduma Namba** addressed to the Ministry of Interior
- f. **Access to information** regarding the **Standard Gauge Railway(SGR)**
- g. **Petition on the equalization sharing of the national revenue** as required under Article 203 (2) of the Constitution of Kenya, 2010.
- h. Enter appearance as an interested party in the petition filed by Matatu Owners Association against NCAJ and the AG, **Petition 139 of 2020, relating to INVESCO Insurance** and Order of Stay in rem against all execution.
- i. Nairobi **ELRC Petition No.100 of 2020** consolidated with Petition No. 99 of 2020 Bernard Odero Okello vs Industrialization, Trade & Enterprise Development.

The Branch has set up a **Legal Aid Fund Trust** which will facilitate the Legal Aid Programme. We are in the process of getting more partners to aid in sustainability of the Fund.

J. CHALLENGES AND MEASURES TO RESOLVE THEM

1. Member Participation

The Branch is facing challenges in getting members to attend our events and activities. We request members to embrace Total Member Involvement (TMI) to enable us serve our mandate effectively. Getting member subscriptions has also been a great challenge despite all the enticing benefits we have created for subscribed members. We request members to take advantage of the benefits by paying the voluntary subscription fee of Kshs.1,500.00

The Branch is currently allowed to issue one (1) CPD point during Branch AGMs and we hope this will increase member participation.

2. Fundraising

The Branch key sources of income come from LSK National Office which include; Annual Grant, Devolution Fund and the Equalization Fund. We also raise income through the activities/events we organize, member subscriptions and donations.

We have had challenges in fundraising for our major programmes. We believe that this has been occasioned by stiff competition from other entities and cut-backs on traditional funding especially grants from corporates during the covid-19 pandemic.

We made a rallying call to members to give donations that could be used to curb the spread of covid-19 pandemic. We appreciate all the sponsors who heeded to our call and assisted us in purchasing boxes of sanitizers and face masks. The items were donated to stakeholders such as courts and police stations. We believe that this will go a long way in bolstering the existing relationship.

We came up with a Fundraising Strategy in October 2019, which is still in use. We hope that this will improve our fundraising efforts for 2021.

K. LSK NAIROBI BRANCH ELECTIONS 2020

1. Introduction

The 2020 LSK Nairobi Branch Elections were conducted digitally through the Institute of Certified Public Accountants of Kenya (ICPAK) platform under the supervision of the Independent Elections Committee (IEC) on **13th and 14th May 2020**. In the run-up to the elections, ICPAK conducted trainings to the Branch personnel who assisted in the elections by creating

profiles to act as the Polling Clerks since the elections were being conducted digitally.

The unique details that were used during the electoral process to confirm eligibility were the members' full names, P:105 Numbers, National Identity Card Numbers, email addresses and their telephone contacts. The P:105 Number and names were used to verify the practising status of the members within the database.

2. Elections Timelines

The Independent Elections Committee (IEC) set up an elections timeline which guided the entire electoral process. After the first verification process, some members requested for a change in the email address and telephone number or submitted one where there was none. The voting tokens were then sent to both the email address and telephone number provided. The Branch uploaded the voters' register onto its online platform for members to confirm if their eligibility status.

It is worth noting that most members did not adhere to the timelines and the Secretariat continuously received members' details for verification purposes until 6th May 2020 before the mock elections held on **7th May 2020**. Further verification was done from **8th May 2020 to 12th May 2020**, which was one day before the actual elections.

Notices were then sent out to members urging those whose names might have been erroneously left out of the register to send in their details to the Secretariat by **27th April 2020**, further extended to **6th May 2020**, finally extended to **12th May 2020 by 4:00pm**. This was in a bid to ensure that no eligible voter was locked out of the voting exercise. Therefore, members who did not submit their details in time, were not included in the voter register and thus did not vote. This was particularly instructive because there could be no addition of names into the register once voting process began. This is an inbuilt precautionary measure meant to exclude election tampering, thereby ensuring credibility of the elections.

3. Mock Election

The mock election was postponed to 7th May 2020 as the IEC had to have a meeting to appoint a Returning Officer (R.O.) first. It was necessary that a Returning Officer is present during the Mock Elections. The mock elections was conducted with the entire membership from 8:00am to 5:00pm

Felix Odhiambo was appointed as the R. O. effective 7th May 2020.

The mock election was held from 8:00am to 5:00pm on Thursday 7th May 2020. During the exercise, the IEC, in coordination with the Secretariat, issued several election updates to inform members of the contacts that acted as hotlines during the elections. The rapid response team was able to assist one hundred and sixty seven (167) members during the elections exercise.

4. Elections Communication

The Secretariat played a major role in dispatch of notices on elections to members. This was done via bulk email, bulk sms and social media platforms. The following are notices shared via bulk email;

- a. Call for Nominations dated the **13th December 2019**
- b. Revised call for Nominations dated the **17th December 2019**
- c. Reminder call for nominations through LSK National Office Newsletter dated **17th December 2019**
- d. Declaration of Nominated Candidates dated the **2nd March 2020**
- e. Resolutions of Electoral Committee meeting with candidates in the wake of the Covid-19 Pandemic dated the **31st March 2020**
- f. Update on Elections Timelines dated **21st April 2020**
- g. Reminder on Timelines dated **24th April 2020**
- h. Invitation to Inspect Voter Register dated **30th April 2020**
- i. Mock Elections announcement and outline of process dated **7th May 2020**
- j. Report on Mock Elections and final invitation to inspect voters register dated **10th May 2020**
- k. Outline on the procedure for elections dated **12th May 2020**
- l. Declaration of Election results **16th May 2020**

The following are notices shared via bulk sms;

- i. Notice of mock election and verification of members' details dated **5th May 2020**
- ii. Reminder of ongoing mock election and link to the voting guide dated **7th May 2020**
- iii. Notice of how to input P:105 Number in the system dated **7th May 2020**

- iv. Notice of actual elections and reminder of verification of details dated **11th May 2020**
 - v. Reminder of actual election dated **12th May 2020**
 - vi. Reminder of ongoing election urging members to vote dated **14th May 2020**
5. **The Independent Elections Committee**

Members of the IEC were appointed by the Council to include: **Njeri Ngunjiri (Chair), Catherine Kariuki, Nzamba Kitonga (Senior Counsel Committee nominee) Felix Odhiambo** and **Wendy Muganda (ex officio Secretary)**. Members of the IEC including the Chair of LSK Nairobi Branch, Charles Kanjama met with the shortlisted candidates on **26th March 2020** to discuss the election modalities. **Dennis Milgo** of ICPAK gave a presentation illustrating how the voting system would work electronically. The Committee met on several occasions to discuss the way forward in regards to the conduct of elections and ensured that the entire electoral process would be credible.

6. Election Dates

The Election kicked off at **7:00am on Wednesday 13th May 2020** and continued up to **4:00pm Thursday 14th May 2020**. During the exercise, the IEC, in coordination with the Secretariat, issued several election updates to inform members of the contacts that acted as hotlines during the elections. The rapid response team was able to assist eighty seven (87) members during the elections exercise.

Upon the successful conclusion of the voting exercise, the votes were then tallied. The tallying ceremony was held at Lexserve Boardroom, I&M Bank House, **4:30pm on Thursday 14th May 2020**. The Returning Officer, **Mr. Felix Odhiambo** conducted the tallying.

7. Outcome of the Contested Election

The final tallying was done after close of voting. The following are the final numbers of votes cast for each candidate during the election as follows:

Position of Chairperson	Voters	%
Eric Theuri Njeru	1,575	50.37%
Paula Nyaguthie Njuguna	1,414	45.22%
Ham Kiplimo Lagat	138	4.41%

8. Newly Elected Candidates

We had only one position in contestation, that is, Chair.

Nine members of Council were elected unopposed.

1. Eric Theuri Njeru – Chairman
2. Helene Rafaela Namisi – Vice Chairperson
3. Colin Warutere Munene – Kiambu County Representative
4. Soila Muciru Kigera – In-House Counsel Representative
5. Stephen Saenyi – Council Member
6. Charles Mathuva Mwalimu – Council Member
7. Wangila Waliaula – Council Member
8. Kennedy Murunga – Council Member
9. Julia Wanjiru Wachira – Council Member
10. Rose Wavinya Wanjala – Council Member

L. CHAPTERS REPORT

1. KIAMBU CHAPTER VISIT

The Branch Council's visit to Kiambu Chapter was held on **29th October, 2020**. The visit began a breakfast meeting with members of the Kikuyu Practice Centre and was concluded with dinner with the leadership and members of the Kiambu Chapter at Kiambu Golf Club.

a. Kikuyu Law Courts

The Council met with the head of the station, **Hon. D.N. Musyoka** and **Hon. Gichana**. One of the main challenges addressed during the meeting was the abuse or misuse of the Chief's Letter during Succession. The members of the bar and the judicial officers noted that some local Chiefs have been reluctant to issue letters and in some instances been included as beneficiaries in the filed documents. The Committee agreed that an active Court Users Committee should be the first instance of trying to resolve the problem before further escalation.

It was observed that there had been some masqueraders in Kikuyu town and the Practice Centre had successfully received a conviction of one such person. They requested for support from the compliance department of Law Society of Kenya (National Office) in ensuring that those Advocates opening branches of their firms do not allow pupils or secretaries to run those firms. The Senior Principal Magistrate, Kikuyu Law Courts, was commended for his good work during the Covid-19 pandemic, considering the challenges of the limited space causing crowding at the Court and the fact that one magistrate does not have a Court room. We **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.

b. Limuru Law Courts

In Limuru, the Council was welcomed by **Hon. Caroline Mugo** and **Hon. F.I. Koome** in one of the courtrooms. The Judicial officers appreciated the cordial relationship they have with the Advocates practising in that Court. They highlighted their need for increased infrastructure to support digitization such as a screen in one of their Courts. The Court in Limuru was commended for the upscaling after the Covid-19 shutdown.

The practice centre leadership noted that the constant engagement between them and the Court had assisted in sorting out issues faced by their members. They requested the Court for a Bar-Bench Committee meeting to be convened before the end of the year. We **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.

c. Githunguri Law Courts

The visit to Githunguri Law Courts began at the chambers of Senior Principal Magistrate, **Hon. Barbara Ojoo**. The members who practice in that Court commended the Senior Principal Magistrate for the way the Court has handled the challenges brought about by Covid-19. The Court had been able to successfully carry out an email filing process and during its upscaling, had been able to accept physical documents.

The main challenge faced in the Court was the clerks who assist litigants file documents and act as brokers. In one instance, it was noted by the Court that documents filed were in the name of a firm without the knowledge of the Advocate. The Court is trying to curb this vice by collecting the mobile numbers of the Advocates who file documents and sending them messages whenever pleadings are filed in their law firm's name. The Court has also formed an active Whatsapp group to allow for ease of interaction between the advocates and the Judicial officers. We **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.

d. Kiambu Law Courts

The Council arrived in Kiambu and was welcomed by **Hon. Rading** (Deputy Registrar) and **Hon. Orora** (Resident Magistrate).

The main challenge with Kiambu Law Courts is its reduced capacity leading to congestion at the registries and this has led to some instances of missing files.

The High Court at Kiambu highlighted the need to increase its capacity due to the increasing number of files. It was suggested that the High Court of Kiambu

has been in the process of acquiring land, but the main challenge has been the high value of land in Kimabu County. It was also noted that the Court requires at least one additional Judge to ensure that matters in that Court are disposed of expeditiously.

The holding of virtual Court sessions has also presented challenges for Kiambu Law Courts, because there is need for increased internet bandwidth which will enable the Court to handle multiple matters at the same time. Members commended the Judicial Officers at Kiambu Law Courts for assisting them in curbing masqueraders by confirming the P:105 numbers of each and every Advocate appearing before them.

In his conceding remarks, the Chair, LSK Nairobi Branch, stated that the bench and the bar are joint at the hip and the Branch would want to see practice in Kiambu Chapter flourish. We **donated audio visual equipment, sanitizers and face masks to Kiambu Law Courts** which will assist in conducting virtual hearings.

2. THIKA CHAPTER VISIT

The Branch Council visit to Thika Chapter was held on **19th November, 2020**. The Council, in an aim to reduce the spread of Covid-19 and encourage the re-opening of Courts, donated masks and sanitizers to all the Courts visited that day. At the end of the visit, the Branch Council hosted the Thika Chapter leadership as well as the members to a dinner that was held at Eton Hotel in Thika.

a. Ruiru Law Courts

The Council began the visit at the newly established Ruiru Law Courts and were warmly received by **Hon. Clara Atieno** (Head of station) and **Hon. Catherine Kisiangani**.

The members noted the efficiency in the Court filing process especially with E-filing which has improved case management. They also noted that the Court has taken great effort to finalize matters within 365 days.

The Judicial Officers reported that they had 5,543 filed matters in both their criminal and civil registries with most of their pending matters being civil cases. They expressed the need for an extra courtroom and technological infrastructure as the Court had only two laptops and one screen. They also wished that in the future they would have a power generator as the constant power outages were proving to be a challenge.

The Branch Chair commended the Court for the good work done. He stated that the Branch Council had already noted the infrastructural needs of the Court. We **donated sanitizers, face masks and audio visual equipment to Ruiru Law Courts** to assist the judicial officers in conducting virtual hearings.

b. **Gatundu Law Courts**

In Gatundu, the Branch Council met with **Hon. Wachira** (Chief Magistrate) and **Hon. Ng'ang'a** (Principal Magistrate). It was reported that the Court holds civil matters twice a week with virtual hearings carried out on Mondays. Their case backlog at the time of the Branch visit was 540 cases. The Chief Magistrate stated that they were actively trying to reduce the said backlog.

Hon. Wachira was concerned that the LSK Thika Chapter was not proactive on rooting out masqueraders as she had written a letter noting that there was a firm being operated by a clerk. She reported that she has taken the duty of confirming the identity of each Advocate appearing before her through the LSK online portal. The Chair of the Branch proposed that Court dates be issued early so that Advocates can have time to prepare and appear to avoid the holding of briefs by masqueraders.

The Thika Chapter Chair noted that the Court had an active Court Users Committee but did not have a Bar-Bench Committee. He requested the Court to allow for one to be convened allowing for more engagement to identify and resolve issues. We **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.

c. **Thika Law Courts**

Hon. Julius Nang'ea, the head of the station, welcomed the Council to Thika Law Courts. He highlighted the need to increase the judicial officers in Thika who would assist in relieving the case backlog.

The members of the Bar present expressed their concerns especially with the process of email filing of documents. It was agreed that the Court should do the following:-

- (i) Create separate email addresses for each sub-registry to enable faster responses;
- (ii) Allow for Advocates to present hard copies of pleadings for stamping to reduce the time taken for scanning; and
- (iii) Upon filing, Advocates may serve their counterparts with unstamped copies of pleadings as long as the receipt of payment is attached on the copies.

We **donated a few boxes of sanitizers and face masks** to curb the spread of covid-19.

3. **CONCLUSION AND APPRECIATION**

In conclusion, Branch Council Chapter Visits have proved to be an integral part in identifying the practice and welfare concerns of members in the specific practice centre. The interaction of the Branch Council and the Judicial Officers working in the various Courts will assist the Council in knowing what to escalate and how to assist the Judiciary

The meticulous planning done by the Branch Council Kiambu Chapter Representative, **Colin Warutere**, is commended as it ensured the success of both visits. He expressed his delight in seeing both events held and wished that the engagements may become more frequent.

Special appreciation is given to the Chair Kiambu Chapter, **Beth Gathoni** and the Chair Thika Chapter, **Daniel Gachau**. The Branch also gives thanks to the practice centre Chairpersons, **Mr. Njoroge (Kikuyu)**, **Mrs. Muhuhu (Limuru)**, **Mr. Gikenye (Githunguri)** and **Mr. Wakahu (Ruiru)**.

LSK SOUTH-WEST KENYA BRANCH

1. **Structures of leadership**

The Branch executive comprises of six officials namely;

1. Wilkins Ochoki- Chairperson
2. Nancy Nyarige- Vice Chairperson
3. Samuel Mainga- Secretary General
4. Bernard Gichana- Treasurer
5. Violet Moguche- Organizing Secretary
6. Brenda Nyaega- Deputy Organizing Secretary

2. **Council Meetings**

The Branch Council has been holding meetings at least once every month. The first meeting was dedicated to developing a strategic plan and calendar of events for the year 2020. The strategic plan was aligned to the objectives of the Law Society of Kenya. The other routine meetings are dedicated to planning events; assessing and reviewing the progress of previous activities. Most of the activities were however hampered by the Covid-19 pandemic.

3. **Secretariat Office**

The office is located in Kisii Town, at Masaba, on the 2nd floor along Ogembo Street.

4. **Ogembo Open Day**

The Branch had the honor to attend Ogembo Open Day on 30th January where various advocates were in attendance. This was in line with enhancing access to Justice through public awareness and education.

5. **Branch Press Conference on appointment of judges**

Members of the Branch held a press conference on 10th June at the Kisii Law Courts, where among other things they demanded that President Uhuru Kenyatta appoints the 41 judges recommended by the JSC for appointment. The members further supported the call by the council of the LSK to petition the National Assembly and the Senate to initiate a motion to impeach President Uhuru Kenyatta.

6. **Branch Election**

The Branch held its elections on 18/06/2020 in Kisii, Migori and Homabay High Courts. The exercise was a success as the following were elected as officials for a two years' term ending in April 2022.

1. Wilkins Ochoki- Chairperson
2. Nancy Nyarige- Vice Chairperson
3. Samuel Mainga- Secretary General
4. Bernard Gichana- Treasurer
5. Violet Moguche- Organizing Secretary
6. Brenda Nyaega- Deputy Organizing Secretary

7. **Facilitation of printing papers to Kisii Law Courts**

The Branch officials on 22nd July 2020 handed over printing papers to the Chief Magistrate, Hon. Nathan Lutta for purposes of facilitating the quick printing of pleadings sent electronically. Hon. Dorcas Mak'Andere was in attendance too.

8. **Farewell Luncheon for Judge Anthony Murimi**

On 28th August, 2020 the Migori Chapter held a farewell luncheon for Justice Anthony Murimi who had been serving as the Migori Judge and was moving to Nairobi. The Honorable Judge was thanked for his tremendous work at the station and members wished him well in his duties at his new station.

9. **Oyugis Law Courts Open Day**

On 7th September 2020 Chief Justice David Maraga visited the new Oyugis Law Courts and met with advocates, judicial staff and interacted with members of Public to get their feedback on the Law Court's services.

10. **Keroka CUC meeting**

The Branch was represented at Keroko CUC meeting which was held on the 15th of September 2020 at Hilltop Hotel. Several matters were discussed including the establishment of mobile court in Borabu and funding for internet connectivity.

11. **Etago Opening**

The Branch had the honor to attend Etago Open Day in Kisii County on 2nd Oct 2020 where the Chief Justice of Kenya David Maraga was in attendance. The CJ interacted with the advocates and members of the public who now had access to Etago Law Courts and didn't have to travel long distance to have access to Law Courts.

12. **Hon. Makila's Farewell Party**

On 2nd October 2020, the Branch held a farewell party for Lady Justice Makila at Dabs Hotel. Members thanked her for all the tremendous work she had done and wished her all the best at her next station.

13. **Legal Awareness Week**

The Branch organized and observed the LSK Legal Awareness week whose theme was; Enhancing access to Justice through public awareness and education from 19th – 23rd October 2020. Members of the bar offered free legal aid to members of the public at the Kisii, Homabay, Nyamira, Ogembo and Migori Court stations. Advocates attended to members of the public by answering their questions and giving the free legal advice.

The members extended the services to inmates and remandees at Kisii GK prison and also visited Manga Children's Home where they donated food staffs. The event enhanced and boosted access to justice for members of the public.

14. **Nyamira Bar- Bench Meeting**

Members attended the bar-bench meeting on 9th November whose main agenda was the overall performance of the court and management of Covid 19.



15. **Borabu Court Opening**

The Branch had the honour to attend the opening of the Borabu Law Courts by the Chief Justice David Maraga on the 13th November 2020. The CJ interacted with advocates and people from the local community who now had access to the court and didn't need to travel long distance to have access to Law Courts.

16. **Annual General Meeting (AGM)**

On 20th November 2020 the Branch held its Annual General Meeting at Dans Hotel Kisii. In attendance were members from Kisii, Homabay and Migori. Members engaged in matters concerning the profession, practice, welfare, the financial statements and the auditor's report.

17. **Manga Law Court Open Day**

On 7th December 2020, the Chief Justice opened the Manga Law Courts. A number of Branch members were present to witness the occasion led by Advocate George Masese. The CJ interacted with the advocates and members of the public who now had access to Manga Law Courts and didn't have to travel long distance to have access to Law Courts.

18. **Branch End Year Party**

The branch held its end party on 18th at Golden Rays at Homabay.

19. **Prison Visit**

Members of the branch joined Lady Justice Rose Ougo and Hon. D MacAndere in presenting gifts to prisoners being held at Kisii prison. The branch wished them a Merry Christmas and a prosperous year.

LAW SOCIETY OF KENYA COAST BRANCH

INTRODUCTION

Pursuant to the Charter of the Law Society of Kenya Coast branch, the Chairman at the Annual General Meeting shall present a report of the activities of the branch and set the agenda for the next year.

As you are aware a number of events are executed by the Chapters whilst a some are executed as events of the Branch. In this report, we will therefore report as hereunder:-

1. Events of the Branch.

2. Events of Mombasa Law Society.

3. Events of Malindi Law Society.

1. EVENTS OF THE LAW SOCIETY OF KENYA COAST BRANCH

a. ANNUAL GENERAL MEETING ON 20TH FEBRUARY 2020

The LSK Coast Branch held an Annual General Meeting on 8th December 2020.

The Chairman Mr. Nyabena informed the members that as per the provisions of the Charter Clause 3.5.3 both Malindi Law Society and Mombasa Law Society met and came up with the Council of the Coast Branch as follows:-

1. Chairman - Mathew Nyabena
2. Vice Chairman - Conrad Atiang
3. Secretary General - Mary Kiruriti
4. Treasurer - Ednah Metto
5. Organizing Secretary - Mary Kariuki
6. Council Members - Christine Kipsang (Mombasa)
 - Caroline Katisya (Mombasa)
 - Luqmaan Ahmed (Mombasa)
 - Mercy Aoko Otieno (Malindi)
 - Matini Vuhiru (Malindi)
 - Duncan Mwanyumba (Voi)

Ratification of adoption of the office bearers was adopted.

Issues discussed were:

- (i) Practice Issues.
- (ii) Issues of corruption and masqueraders.
- (iii) The need for amendment of regulations whereby when a member is opening an office the member should reach out to the branch in that region and report.
- (iv) Office space.

The Chairman informed the members that Council would come up with a strategic plan for the next 2-10 years that would ensure that matters of practice would be at the core. He also encouraged members of the Malindi Law Society to join the Mombasa Advocates Welfare Association.

b. TRAINING ON LEGAL AID AND EMPOWERMENT DELIVERY (PLEAD) ON 8TH OCTOBER 2020

The Law Society of Kenya partnered with the United Nations Development Programme (UNDP)/Amkeni Wakenya to undertake the PLEAD project whose main objective is to improve the provision of legal aid and create awareness amongst our members and the general public.

As key and critical legal aid providers the first training of Advocates took place on 8th October 2020 and aimed at building their capacity and equipping them with the knowledge and skills required to handle legal aid matters as well as to ensure their capacity to train other advocates in legal aid provision. Forty members were in attendance.

c. LSK LEGAL AWARENESS WEEK HELD ON 12TH TO 16TH OCTOBER 2020 IN MOMBASA

The LSK Coast branch observed its annual Legal Awareness Week on 12th to 16th October 2020 at the General Post Office along Digo road and was held under the theme: *"Securing Constitutionalism and the Rule of Law: Reflection on 10 years of the Kenyan Constitution"*.

The Legal Awareness Week comprised of various activities geared towards promoting access to justice, advancing *pro bono* legal services and Legal Aid. Advocates involved in legal aid and human rights work as well as other Institutions that provide legal aid had the opportunity to engage with members of the public with a view to promoting a better understanding of the role they play in the advancement of legal literacy, advocacy and access to justice.

The event was launched on Monday 12th October 2020 in Mombasa and Malindi.

The venue in Mombasa was the General Post Office along Digo road in Mombasa. The Chief Guest was Honourable Justice P.J. Otieno. Other guests of honour were:

- i. The Honourable Chief Magistrate Mombasa Law Courts - Hon. Evans Makori
- ii. LSK Coast Representative - Riziki Emukule
- iii. The Honourable Senator of Mombasa County – Hon Mohamed F. Khatib

The following Organizations were in attendance:

- i. Law Query Kenya
- ii. Human Rights Agenda
- iii. Haki Yetu

- iv. Haki Africa
- v. Kituo Cha Sheria
- vi. FIDA Kenya
- vii. Pwani Legal
- viii. Christian Lawyers Fellowship (CLEAR)
- ix. National Legal Aid Service (NLAS)
- x. The Mombasa County Attorney's Office
- xi. The Voice
- xii. Champions for Human Rights Education Mentorship and Advocacy

2. EVENTS OF THE MOMBASA LAW SOCIETY

d. PUBLIC PARTICIPATION PROCESS AND SENSITIZATION CAMPAIGN OF THE DRAFT OF THE INSOLVENCY (AMENDMENT) BILL, 2019 AND REGULATIONS 2019

The event was organized by the Office of the Attorney General and Department of Justice. Mombasa Law Society members participated and gave their opinions on the review of the Draft Insolvency (amendment) Bill and Insolvency Regulations, 2019.

e. PUBLIC FORUM DEBATE - LSK COAST REPRESENTATIVE DEBATE HELD ON 17TH JANUARY 2020 AT PRIDEINN PARADISE RESORT BEACH SHANZU

Mombasa Law Society organized a Public Forum Debate for the 4 candidates who were nominated to vie for the post of LSK Coast Representatives. The aim of the event was to create an environment where the candidates can face off and makes us aware of their position(s) on various matters or topical interest to Advocates and the public at large.

f. PUBLIC FORUM DEBATE - LSK PRESIDENTIAL DEBATE HELD ON 14TH FEBRUARY 2020 AT PRIDEINN PARADISE RESORT BEACH SHANZU

Mombasa Law Society organized a Presidential Debate on 14th February 2020 for the 3 nominated Presidential candidates'. The aim of the event was to create an environment where the candidates can face-off and makes us aware of their position(s) on various matters or topical interest to Advocates and the public at large.

g. ROLL OUT OF COURT ANNEXED MEDIATION BY TONONOKA COURT HELD AT SAROVA WHITESANDS BEACH HOTEL & LAUNCH OF COURT HELD ON 3RD AND 4TH MARCH 2020

The task force on ADR Court Annexed Mediation planned a rollout Court annexed mediation and on 4.3.2020 the rollout of Court annexed mediation was official launched at Tononoka Children's Court. The task force also had a series of meetings with stakeholders including the Mombasa Law Society Bar-Bench members. The rollout was a success.

h. 2ND NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION & ADR CONFERENCE HELD ON 4TH TO 6TH MARCH 2020 AT PRIDEINN PARADISE BEACH HOTEL SHANZU

The 2nd NCI International Arbitration & ADR conference was held in Mombasa on 4th to 6th March 2020. The aim of the event was to bring together the dispute resolution fraternity in Mombasa to be involved in the gathering of international practitioners and build networks and showcase the capacity to the global community.

i. CONSTRUCTION LAW & DISPUTE RESOLUTION HELD AT THE UNIVERSITY OF NAIROBI MOMBASA CAMPUS ON 11TH MARCH 2020

The Young Lawyers Committee of Mombasa Law Society organized a talk on Construction Law and Dispute Resolution on 11th March 2020. The event was successful.

j. PUPIL MASTER WORKSHOP HELD ON 13TH MARCH 2020 IN MOMBASA

The event was organized by the Kenya School of Law. The mandate of the School was to undertake practical training in law and other related disciplines for the professional development of lawyers and other actors in the legal sector in order to enhance good governance, rule of law and development.

k. JUSTICE STAKEHOLDERS PARTNERSHIP MEETING FOR MOMBASA AND KILIFI COUNTIES ON 7TH SEPTEMBER 2020

Mombasa Law Society participated in the above event. The event was organized by the Office of the Director of Public Prosecutions in conjunction with Haki Africa who implemented the collective resilience against extremism project with Mombasa and Kilifi Counties. The project is geared towards looking at existing platforms for state and non state partnerships with the justice system and

work with these to support building and access to justice for individuals and communities within the project counties.

EVENTS HELD ONLINE VIA ZOOM

Following the first case of Covid-19 in Kenya on 13.3.2020 the following events were held Online:

a. MLS INHOUSE COUNSEL ONLINE CAUCUS HELD ON 31ST MARCH 2020

The Inn House Committee of the Mombasa Law Society organized an In-house Counsel online Caucus on 31st March 2020.

The following topics were discussed:

- On Legal Impact of Covid-19 on Businesses
- On employment matters
- On contracts – invoking force majeure

b. ZOOM ONLINE TUTORIAL HELD ON 2ND APRIL 2020

The Mombasa Law Society's ICT and CPD Committee organized for an online discussions and tutorial for both Senior and Junior Advocates on how to use the zoom app.

Issues discussed were:

- What is expected online etiquette,
- How to deal with background interruptions and noise while working from home,
- How to prepare a room for an online meeting,
- How to schedule a meeting, how to chat and ask questions etc.

c. EMERGING LEGAL ISSUES SURROUNDING POST COVID – 19 HELD ON 3RD APRIL 2020

The Mombasa Law Society in conjunction with the Mombasa Law Courts organized the above session.

The following issues were discussed:

- Employment Law
- Force Majeure/Frustration of Contracts
- Sample definition of force majeure
- Protocol upon receipt of force majeure
- Checklist for inhouse Counsel
- Retaining relevance amid Covid-19
- Practice opportunities for law firms
- Zooming to court by ICT Mombasa Law Courts

d. COPING WITH COVID-19 LAWYERS PERSPECTIVE HELD ON 17TH APRIL 2020

The event was held on 17th April 2020. The presenters were Mr. Evans Oloo and Ms. Wandia Maina the Directors of Interpersonal Health (IPH). IPH is accredited to LSK to present on Life skills and Mental Health Issues

The following issues were discussed:

- Dealing with Financial challenges
- Managing stress, fear and anxiety
- Helping children understand pandemic
- Adjusting to family relations
- Coping with crisis and loss
- Preparing for post Coif-19
- When and where to get help

e. DIGITAL LAW FIRMS – DISCUSSIONS & INSIGHTS HELD ON 21ST APRIL 2020

The presenter was George Njoroge co-founder and CEO Enfinite Solutions Limited and our Vice Chair Christine Kipsang led members through the discussions and insights.

The following issues were discussed:

- Why do law firms need to embrace technology
- How to go about digitizing your law firm
- What do you need to do to be a digital law firm

f. MLS GAME NIGHT HELD ON 25TH APRIL 2020

The Mombasa Law Society hosted a game/quiz night on 25th April 2020. The event was successful.

g. MLS INTER-DENOMINATIONAL PRAYER DAY HELD ON 1ST MAY 2020

The Mombasa Law Society organized a prayer day for its members on 1st May 2020.

The facilitators were members of the Mombasa Law Society on various prayers e.g prayer for Families affected and infected by Covid-19, prayer for protection, prayer for the Country etc. The event was successful.

h. MLS, MOMBASA HIGH COURT & MOMBASA COURT USERS COMMITTEE SENSITIZATION SESSION ON COURT TEAMS SESSION HELD ON 22ND MAY 2020

Mombasa Law Society in conjunction with the Judiciary at Mombasa High Court and Mombasa Court Users Committee organized a sensitization session on Court teams.

The agenda for the meeting was:

- To get Feedback on the use of Microsoft teams from the Bar and Bench
- Etiquette in virtual Court session.
- Confirmation of when the Court session is to begin and when to log into the court session from the lobby
- Duration for advocates to be let into the court session from the lobby
- Confirmation on which platforms will Court use to conduct virtual Court.

i. LAW FIRM DIGITIZATION MADE EASY HELD ON 5TH JUNE 2020

The above event on 5th June 2020 and aimed at transforming law firms by use of digital technology.

j. LAUNCH OF MLS E-MAGAZINE ON 23RD JULY 2020

The Mombasa Law Society launched its first e-Magazine namely the Coast Jurist was on 23rd July 2020. The birth of Coast jurist during the Covid-19 season is a testimony that indeed good things happen during difficult times.

k. E-FILING COMES HOME, A DISCOURSE ON THE GUIDELINES AND PROCESSES HELD ON 17TH JULY 2020

The Mombasa Law Society in conjunction with the ICT department of the Mombasa Law Courts organized an E-filing session for all law firm employees. The members of employees were taken through the following:

- Introduction to computer System and Change Management
- Email Filing etiquette
- Secured Filing and Passwords
- Efiling system

l. SPECIAL TRIBUTE AND THANKS GIVING PROCEEDINGS HELD ON 23RD JULY 2020 AT COURT OF APPEAL MOMBASA HELD ON 23RD JULY 2020

The Mombasa Law Society organized a Tribute and thanks giving proceedings on 23rd July 2020 at the Court of Appeal in Mombasa

m. PUBLIC LECTURE HELD ON 7TH AUGUST 2020

The Mombasa Law Society organized a Public Lecture on 7th August 2020. The Presenter was Prof. Chikosa Silungwe the Attorney General of the Republic of Malawi.



The topic of the day was the role of the Bench and the Bar in defending the rule of Law and Constitutionalism: The Malawi journey. It gave an overview on the role of the Bar in defending the rule of Law and the Malawian experience

n. EFLING TRAINING FOR LAW FIRM CLERKS & SECRETARIES HELD ON 13TH AND 14TH AUGUST 2020

The objective for the training was to sharpen computer skills through online methodology with the view of smooth transition and preparedness of the E-filing system deployment.

o. MLS/UON PUBLIC LECTURE – DEMYSTIFYING THE CONTROVERSIES: IMPORT AND IMPLICATIONS OF THE REPRODUCTIVE HEALTH BILL HELD ON 30TH OCTOBER 2020

The University of Nairobi, Mombasa campus in conjunction with the Mombasa Law Society organized a public lecture on the reproductive health bill on 30th October 2020 The speaker was Hon. Millie Odhiambo, MP Mbita Constituency.

p. MLS/UON PUBLIC LECTURE: THE 2/3RD GENDER RULE ‘MIRAGE’: UNLOCKING THE STALEMATE HELD ON 13TH NOVEMBER 2020

The Mombasa Law Society in conjunction with the University of Nairobi, Mombasa campus organized a public lecture on 2/3rd Gender rule. The Speaker was Mr. Elisha Z. Ongoya, Partner Ongoya & Wambola Advocates and Senior Lecturer Kabarak University.

The 2/3rd Gender Rule enshrined in the 2010 Constitution of Kenya presented an opportunity to foster gender equality in leadership.

q. TRIBUTE AND THANKSGIVING CEREMONY FOR THE HONOURABLE CHIEF JUSTICE DAVID MARAGA HELD ON 17TH DECEMBER 2020 AT THE MOMBASA LAW COURTS

Mombasa Law Courts in partnership with Mombasa Law Society organized a thanksgiving and Last conversation session for the Hon Chief Justice David Maraga who was due to retire. The theme of the day was **“The Last Conversations”**. The event started at 10:00 am with the guests welcoming the CJ who was accompanied by his lovely wife (Mrs. Maraga) and taking him to his former chambers where he used to sit while serving Mombasa Law Courts. Mombasa Law Courts was the first station

that the Hon C.J was posted to as Judge. After visiting his former chambers the C.J was taken to his former Court (court no. 3) for a Special Court Proceeding Session where Snr. Gikandi Ngibuini was appearing for the bar in the matter of Special Tribute and Thanksgiving Proceedings and the Last Conversation with Hon. Chief justice David K. Maraga.

After the Special Court Proceedings the main occasion started at 11: 00 am with the national anthem and opening prayer from the Chief Kadhi. Thereafter the Presiding Judge, Hon. Justice Eric Ogola gave welcoming remarks. What followed thereafter were short remarks by Court Users Committee, County Attorney, ODPP, Attorney General, Mombasa Law Society, Judiciary Staff, Magistrate representative and finally representative of Judges. Special guests of Honour included; the Chief Registrar of the Judiciary, Hon. Anne Amadi, and the President of the Court of Appeal, Hon. Justice William Ouko. The day was crowned with an address by the Hon. Chief Justice David Maraga where he talked about his experience as a Judge and the C.J. He thanked the Judiciary and the Members of the Bar for the continued support and urged everyone to uphold integrity in their work. He finished by awarding Certificates of Appreciation to Members of the Bench and the Bar who have stood out in making sure technology meets Justice in Mombasa Law Courts.

WELFARE ISSUES

The Society through its welfare and the Young Lawyers Committee raised funds to support members who were affected by the onset of Covid-19 pandemic. The Council appreciated those who contributed and those who reached out to members in distress. The Society continues to partner with the Mombasa Advocates Welfare and takes care of Members’ welfare issues and holds sessions and events to sensitize members on welfare matters. The last expense cover taken out by the welfare has so far assisted a number of members during bereavement.

3. EVENTS OF THE MALINDI LAW SOCIETY

a. CHAPER ELECTIONS HELD 24TH JANUARY 2021 AT MALINDI LAW COURTS ON

Members held their election of officials electing Conrad Atiang as Chairman, George Kariuki as the Vice Chairman, Alfred Wanga as the Secretary General, Chebet Metto as the Treasurer and two non-Executive members namely Mercy Aoko & Duncan Matini.

b. HAND OVER CEREMONY HELD ON 30TH JANUARY 2020 AT ADVOCATES LOUNGE

The former Officials, elected officials and members graced the handing over ceremony to the newly elected officials.

c. COUNCIL MEETINGS

The Malindi Branch had 6 Council meetings on the following dates:

- 5.2.2020
- 6.3.2020
- 21.3.2020
- 5.5.2020
- 20.7.2020
- 4.8.2020

d. MEMBERS MEETING HELD ON 17TH FEBRUARY 2020 AT ADVOCATES LOUNGE

Members had a meeting on 17th February 2020. The agenda for the meeting was the Annual General Meeting

e. MEDIATION TRAINING WITH MTI

The Branch commenced the discussion for mediation training with MTI and Coast Mediators on 17.02.2020.

f. CHILDREN'S SUB-COMMITTEE MEETING HELD ON 18TH FEBRUARY 2020 AT MALINDI LAW COURTS

g. BRANCH AGM HELD ON 20TH FEBRUARY 2020 AT MOMBASA CLUB

Agenda for the meeting was branch affairs and various agenda.

h. CHILDREN'S SUB COMMITTEE MEETING HELD ON 25TH FEBRUARY 2020 AT MALINDI LAW COURTS

i. GARSEN LAW COURTS CUC MEETING HELD ON 27TH FEBRAURY 2020 AT GARSEN

Open day and Budget validation.

j. SPECIAL CUC & BAR BENCH MEETING ON COVID-19

The Council had a special CUC & Bar-Bench meeting on Covid-19 on the following dates:

- 17.04.2020
- 22.04.2020
- 24.04.2020
- 26.05.2020
- 28.06.2020

k. SANITARY INSPECTION OF THE MALINDI LAW COURTS BY THE MINISTRY OFFICIALS ON 20TH APRIL 2020

l. LAUNCHED THE OFFICIAL UPSCALING OF THE COURT ACTIVITIES ON 11TH JUNE 2020

m. LSK ANNUAL GENERAL MEETING HELD ON 23RD JULY 2020 AT OCEAN BEACH RESORT AND SPA & VIRTUALLY

n. TRAINING OF ADVOCATES ON BILLING OF LEGAL FEES HELD ON 21ST AUGUST 2020 AT MALINDI LAW COURTS STAFF LOUNGE

The Training was by our Senior Colleague Tukero Ole Kina. Members attended Countrywide virtually.

o. STAKEHOLDERS PARTNERSHIP MEETING FOR MOMBASA AND KILIFI COUNTIES HELD ON 7TH SEPTEMBER 2020 AT PRIDE INN PARADISE

p. TRAINING FOR JUSTICE STAKEHOLDERS ON HUMAN RIGHTS BASED APPROACH IN COMBATING VIOLENT EXTREMISM HELD ON 25TH SEPTEMBER 2020 AT TURTLE BAY RESORT

q. MEDIATION TRAINING HELD ON 5TH OCTOBER 2020 AT MALINDI LAW COURTS

Over ten advocates were trained in Mediation by the MTI are now Accredited by the Mediation Accreditation Committee.

r. LEGAL AWARENESS WEEK HELD ON 12TH TO 16TH OCTOBER 2020 AT MALINDI LAW COURTS

We engaged the public on a free legal service week

s. APPRECIATION DAY HELD ON 15TH OCTOBER 2020 AT STAFF LOUNGE MALINDI LAW COURTS

We held a Ceremony to celebrate our former officials, judicial and judiciary staff not only for their exemplary service to us but to our nation.

t. DISCUSSION ON THE NEW COURT OF APPEAL RULES AND VISIT BY THE COURT OF APPEAL RULES COMMITTEE HELD ON 15TH OCTOBER 2020 AT TROPICAL VILLAGE DREAM OF AFRICA

Hon. Gatembu & Hon. Musinga JJA and the Deputy Registrars of the Court engaged advocates on the new rules.



- u. **LOWER COURT BAR BENCH TOGETHER WITH HEADS OF REGISTRIES HELD ON 22ND OCTOBER 2020 AT MALINDI LAW COURTS**
- v. **INTER-COUNTY CUC KILIFI, TANA RIVER AND LAMU COUNTIES HELD ON 30TH OCTOBER 2020 AT LILY PALM RESORT WATAMU**

The Branch engaged all stakeholders in the justice system across the three Counties.

- w. **END OF YEAR BARBEQUE FOR PRO BONO LAWYERS HELD ON 27TH NOVEMBER 2020 AT KIBOKONI RESIDENCE, MALINDI.**
- x. **16 DAYS OF ACTIVISM AGAINST VIOLENCE HELD ON 9TH OCTOBER 2020 AT PINE COURT HOTEL MALINDI.**

Going forward the New Year the Branch proposals:-

- a. Proceed with the purchase of the office space expeditiously and move offices to better serve members.
- b. In view of the geographical expanse of the branch there is need to have some kind of leadership in Voi and Kwale/ Diani practice centres. In this regard, in the next year we will steward the creation of Kwale and Voi/Taita Taveta practice centres as we mature them into future chapters attaining the legal threshold in numbers. In so doing, it will be easier for the branch leadership to coordinate activities with those areas.
- c. Continue to engage to Courts within the region on issues that touch on practice in the region.
- d. In conjunction with the other branches and the LSK National office continue to address issues on national importance and issues touching on practice and welfare.

We appreciate the support of members this far and look forward to your valued support.

LAW SOCIETY OF KENYA (LSK) BRANCH CHAIRS CAUCUS

INTRODUCTION

The Law Society of Kenya Act, 2014, under Section 24, establishes eight Branches of the Law Society of Kenya (LSK). The mandates of these Branches are stated under Section 24(2) of the said Act as follows:

1. Practice issues – matters dealing with general practice of law by advocates in Kenya;
2. Welfare matters – ensuring proper welfare of its members over and above legal practice; and
3. Member participation and coordination with Council – issues dealing with participation of Advocates in Branch and legal activities and ensuring the Councils are well-informed and involved with Advocates.

Each of the eight Branches has a Branch Chair. Under Regulation 64(2) of the Law Society of Kenya (General) Regulations, 1962, the Branch Chairs are empowered to form a Caucus among themselves for purposes of coordinating practice, welfare and participation matters and for facilitating the promotion of shared interests.

M. THE BRANCH CHAIRS

The current LSK Branch Chairs Caucus (“Caucus”) comprises of:

1. **Matthew Nyabena (Coast Branch, Caucus Chair);**
2. **Linda Kiome (Mt.Kenya Branch, Caucus Vice Chair)**
3. **Justus Mutia (South Eastern Branch, Caucus Secretary)**
4. **Eric Theuri (Nairobi Branch, Caucus Secretary)**
5. **Sussy Rautto (West Kenya Branch, Caucus Deputy Secretary)**
6. **Joshua K. Martim (North Rift Branch, Caucus Deputy Treasurer)**
7. **John Ochang’ (Rift Valley Branch, Caucus Practice Secretary)**
8. **Wilkins Ochoki (South West Branch, Caucus Welfare Secretary)**

N. BRANCH SECRETARIAT

The Caucus activities are currently being undertaken by a volunteer Programme Assistant from the Law Society of Kenya Nairobi Branch where the Caucus Treasurer is the Chair. The office of the Secretariat is currently housed at the Lower Hill Duplex, Suite No.015, Upperhill Road.

O. CAUCUS MEETINGS

The Caucus held **6 (six)** meetings in 2020 to deliberate on practice & welfare matters and to discuss issues dealing with member participation and coordination with Council as follows:

- A meeting with the emeritus Hon.Chief Justice, the President of the Court of Appeal and the Registrar of the Court of Appeal on **13th January 2020**;
- A meeting with the emeritus Hon. Chief Justice on **13th May 2020**;
- The 9th Branch Chairs Caucus meeting on **15th May 2020**;
- A meeting with the emeritus Hon.Chief Justice in which the Chief Registrar of the Judiciary, Anne Amadi, Chair of the Rules Committee, Justice Daniel Musinga, Director of Public Prosecutions Noordin Haji, and Prof.Elijah Omwenga were in attendance on **26th May 2020**
- The 10th Branch Chairs Caucus meeting on **27th July 2020**;
- A meeting between the Caucus and the Advocates Benevolent Association on **7th October 2020**

P. KEY ACHIEVEMENTS OF THE CAUCUS IN 2020

Despite the Covid-19 pandemic, the branches have been able to achieve several important milestones that have been brought on by the decisions of the aforementioned meetings and their adoption by the different stakeholders. These achievements are listed below:

A. Achievements in dealing with the Judiciary and in the Administration of Justice

The Caucus has continued to conserve a close working relationship between the Branches and the Judiciary. This relationship has been enhanced through:

- The report on the physical audit of the files before the Court of Appeal, containing statistics which guide administrative decisions of the Court of Appeal, shall be circulated with the members of the Branch in order to allow the members to understand the decisions taken, including the decisions taken by the Court of Appeal.
- Digitization of the Judiciary through the E-filing system with the aid of the Caucus which continues to take steps towards assisting the Judiciary in achieving its goals with respect to the implementation of the system.
- Regular Bar-Bench Committees and Court Users Committees at all court levels starting from Magistrate Courts to the Court of Appeal have adopted open court hearing sessions;
- Regarding Covid-19 ,all serious cases are handled expeditiously by the Director of Public Prosecutions
- Occasional Inns of Court sessions involving Judges and Advocates to discuss issues affecting court practice;
- The Caucus addressing the issue of different court stations requiring rehabilitation and having the issue taken up by the respective Court Users Committees within the Branches;
- The Branches have successfully persuaded their members to embrace ADR including court-annexed mediation processes and have conducted and continue to conduct numerous trainings with regard to the same which has seen an integration of ADR mechanisms in an attempt to deal with the issue of case backlogs experienced in the Courts;
- The Caucus raised the problem of delays in the selection and appointment of judges and the backlog of cases and their effect on the quality of services in all the branches.

B. Inter-Branch Activities

- With the advent of the COVID-19 pandemic Social and physical distance steps and company closures have also affected many daily facets of life, including sport and physical exercise. Many major athletic competitions of the Branches have been cancelled or delayed in order to protect the health of competitors and those involved.

C. Branch members welfare

- The Caucus noted that some of the Branch's mental health problems were influenced by the Covid-19 pandemic. Accordingly, after meetings with the Advocates' Benevolent Association (ABA) in order to conform to the resolution to collaborate collaboratively with ABA on its mission concerning the wellbeing of its members, ABA will exchange any resolutions and newsletter with the Caucus to a broader degree.
- ABA also agreed to collaborate with the Caucus to make the Advocates conscious of the value of understanding and finding a next of kin and, in addition, to holding quarterly meetings with the Caucus.



D. Partnerships with other stakeholders

- On matters of practice, the position of LSK Branches has been given weight and consultation done from all levels.
- Members attending Branch AGMs are now eligible to earning 1 CPD point and the point can be linked to one or two Branch activities, but without splitting the point.
- An agreement was made at a meeting with LSK SACCO that LSK SACCO will host an event within each division every year still continues.
- In dealing with quacks in the profession, the Caucus and Branches have been working with the LSK National office to ensure that they are dealt with accordingly.

E. Funding

- In meeting with the LSK Devolution Committee, it was resolved that the Fund distribution shall be done after presentation of audited accounts of the Branches for the previous financial year as well as the budget of the year 2020 as follows:
 - a. 1st tranche of **50%** shall be given before **1st March** based on the projected Devolution Fund from practicing certificates paid for at the beginning of the year;
 - b. 2nd tranche of the remaining **50%** shall be given by **30th August**; and
 - c. The **KShs.1 million** and balance of previous year shall be provided by **30th January** after audit has been done as well as based on income from the December/January admissions.
- In ensuring that there is openness and accountability, the Secretary of the LSK Devolution Committee shall send a quarterly summarized report to all Branches on the disbursements sent and received.
- It was resolved that Trainings on the Draft Accountability Checklist and Record Keeping as well as Orientation on the Branch Budget template presented during the meeting with the Devolution Committee shall be conducted in 2020 for all Branches. This is in order to ensure that the Branches' capacity on accountability in handling the Branch resources is built.
- So as to discuss and ensure implementation of resolutions made on welfare and practise

matters for the members, it was resolved that there would be a maximum of **15 meetings** per year for the Branch Council members in each Branch. A minute book shall be maintained for all meetings held to foster accountability and transparency.

Q. EXPRESSION OF GRATITUDE

The Caucus would like to thank all the Branches and their Executives for ensuring that the Reports on the Resolutions made for every meeting attended by the Caucus sent to them were followed up and acted upon. In addition, the Caucus wishes to express its heartfelt appreciation to the above-mentioned collaborators and stakeholders for their continued assistance and cooperation in ensuring that the Branch members' practice and welfare matters are addressed and dealt with to ensure a robust LSK, effective administration of justice and the well-being of Branch members is enhanced.

LAW SOCIETY OF KENYA BRANCH REPORTS 2021

SOUTH EASTERN BRANCH- 2021

The office resumed from the December holidays on the 5th of January 2021. The following are the activities which were undertaken:-

1. BRANCH EXECUTIVE RETREAT

In order to plan for the year, the Branch Executive had a three (3) day (29th/01/2021 to 31st/01/2021) retreat at Lerruat Resort, Kajiado County. This enabled the members to come together, settle down and set the years' calendar as well as discuss matters that were arising from the previous year and that would need their attention. This also served as the first Branch Executive meeting for the year 2021 in the month of January.

2. BRANCH EXECUTIVE MEETINGS

After the Executive retreat and everyone was back to their station, it's the norm of the Branch Executive to conduct at most monthly meetings in order to review previous agendas as well as touch on arising matter across the region pertaining practice and welfare of branch members. Due to this, the committee held three physical meetings and six virtual meetings in the following dates;-

- a) 30/01/2021 - Physical at and during the retreat
- b) 19/03/2021 - Physical at the branch office
- c) 26/04/2021 - Virtual
- d) 28/05/2021 - Virtual
- e) 25/06/2021 - Virtual
- f) 9/08/2021 - Virtual
- g) 10/09/2021 - Virtual
- h) 15/10/2021 - Physical
- i) 19/11/2021 - Virtual

3. BRANCH OFFICE SECRETARY

After the 2020 internal audit by the national office, the report to the Branch was that the Programs Development officer who had been hired by the Branch Executive did not have enough duties to fit the position as at the time. This resulted to termination of her services and in 2021 the Branch Executive decided that it was necessary to hire an Office secretary who would replace the PDO but with lighter duties in coordination with the Office Administrator. The Branch Executive, therefore, advertised for the position and shortlisting was done

on the 22/02/2021. The interviews were conducted on the 23/02/2021. The one who qualified for the position reported on duty on 1/03/2021.

However, her services to the Branch lasted for only six months and due to financial challenges, the Branch Executive could not afford to keep her. The Branch Executive had a discussion with and her services were mutually terminated on the 31/08/2022.

4. WELFARE ASSOCIATION

The LSK S.E Branch Welfare Association led by its committee and under the watch of the Branch Executive continued with its mandate and mission to assist registered members on welfare issues. The Committee regularly held meetings to address issues whenever they arise and ensure that affected members felt recognized by the group. Despite the Covid-19 circumstances, rules and regulations that didn't allow large group meetings, the group managed to conduct a hybrid Annual General Meeting on the 23/03/2021 where members participated through an online platform with the committee officials present at the Branch Secretariat Board Room. It is during this AGM where members agreed to partner with an insurance company that will be assisting members of the group with the last expense compensation. During the year 2021, only one member was affected by bereavement and he was supported by the Welfare Association.

5. FUNDING AND BRANCH OFFICE PLOT

After the Branch got into a financial crisis due to non funding by the National Office, the Branch Executive was forced to get back to its general membership and request for advances that would assist in finalizing the purchase of the Branch plot. As of 6/07/2021, some members of the Branch had advanced KShs. 1,465,000/=.

After the Branch got some funds from the national office it refunded the money of the members and fully paid for the plot. The Vendor is fully paid a total of KShs. 4,350,000/= and the process of transfer is ongoing.

6. COURT ACTIVITIES

The Branch continued to participate in various Court Users Committees across the region. This was done through representatives of the Branch in those committees.

On 19.10.2021, the Chairman represented the Branch in the opening of the Kajiado Law Courts new Building. The opening ceremony was presided over by the Hon. Chief Justice, Martha Koome.

7. UPDATE ON COURT CASES INVOLVING THE BRANCH

The Branch has been holding a watch brief in three cases. These are:

a) Machakos High Court Criminal Case No. E006/2020: Republic v. Nancy Njeri

The accused was charged with murder of an advocate, the late Onesmus Masaku. As at May 2021, two (2) witnesses had been heard. When the matter was coming in October, Justice Kemei who was handling the matter could not proceed with it as he was on transfer. The matter was taken over, in November, by Lady Justice Mugai who directed that proceedings be typed and the case be mention on 7.2.2022.

On 7.2.2022 directions were taken that the matter proceeds from where it stopped. It was fixed for hearing on 23.2.2022.

Mr. Andrew Makundi, Advocate was instructed by the Branch to hold a watch brief for the family of the deceased.

b) Kajiado Chief Magistrate's Criminal Case No. E627/21: Republic v. Jacob Obilo

The accused was charged for masquerading as an advocate in Hon. Mulochi's Court. The matter has come for hearing twice but could not proceed. It is coming up for hearing on 9.3.2022.

Mr. Ernest Githuka, Advocate, holds a watch brief for the Branch.

c) Kajiado High Court Criminal Case No. E050/21: Republic v. Joseph Maina Marua

The accused was charged with murdering an advocate, the late Boaz Nyakeri. When the matter came up for plea on 2.2.2022 the accused sought to be released on bond. The same was opposed and the accused was directed to file submissions and parties to respond thereto. The matter is coming up for highlighting on 21st March 2022.

Mr. Ernest Githuka is acting for Branch.

8. CORPORATE SOCIAL RESPONSIBILITY

As part of giving back to the community, the Branch donated to Masaku School for the Physically Disabled (APDK) four (4) handwashing tanks. The Administration Finance and Planning Committee, on behalf of the Branch presented the items to the school on the 28th May 2021.



9. ANNUAL GENERAL MEETING

In the year 2021, the Branch did not hold its AGM at the usual time and hence the Branch AGM was held mid-October on the 15/10/2021. Due to financial challenges and Covid-19 restrictions, the AGM was a hybrid one via an online platform where members joined the Branch Executive who attended physically from the Office Board room. It is during this AGM where Audited Accounts of the year 2020 were presented to the members and also the Executive committee had the opportunity to announce that Branch Elections were due December 2021.

In order to plan, arrange and coordinate the Elections for the 2022 – 2023 Branch Executive, an Elections Board was set up. This was in implementation of a resolution that had been passed by members during the 2019 AGM.

conduct, oversee and announce winners of the Elections. The same started with opening of nominations for the five (5) elective positions namely; Chairperson, General Secretary, Treasurer, Senior Counsel and Young Counsel.



10. LEGAL AWARENESS WEEK

In coordination with national office, the Branch participated in the Legal Awareness Week which was on 25/10/2021 to 29/10/2021. This was done in eight (8) stations namely; - Machakos, Mavoko, Makueni, Makindu, Kajiado, Kitui, Mwingi & Garissa. A total of ninety-six (96) Advocates participated across the region and the exercise was a success where for the first time, the Branch had an opportunity to engage members from Garissa.

For Garissa the Branch partnered with Independent Medico-Legal Unit (IMLU) to conduct the exercise.

11. ELECTIONS

The Branch Elections were held on 15.12.2021. They were organized and supervised by a Branch Elections Board chaired by Mr. Andrew Makundi, Advocate.

The Elections board consisted of five (5) members from across the region was put in place and kicked its work on the 3/11/2021. The Board was mandated to plan, arrange,

As at closure of the nomination period, only three posts resulted to be contested and hence the Board had to plan for an Election Day when members would vote by ballot for the positions of Chairperson, Senior Counsel and Young Counsel. This was conducted on the 15/12/2021 in seven Stations across the region with Machakos being the Tallying center and where the results of winners were compiled, announced and declared by the returning officer.

The following were elected:

1. Mr. Mutua James Makau, Advocate – P:105/6293/06 – Chairman
2. Ms. Priscillar Mtawe Kioko, Advocate – P:105/6688/07 – General Secretary
3. Ms. Edith Nzisa Mutuku, Advocate – P:105/9304/12 – Treasurer
4. Mr. Japheth Kiteme Mwalimu, Advocate – P:105/3300/96 – Senior Counsel Rep.
5. Mr. Wilfred Mwendwa Kithuka, Advocate – P:105/17856/20 – Young Counsel Rep.

6. Mr. Chrislero Langalanga, Advocate – P.105/13120/16 – Machakos Rep.
7. Ms. Everlyne M. Wambui, Advocate – P.105/16206/19 – Kitui/Mutomo Rep.
8. Mr. Ernest N. Githuka, Advocate – P.105/6486/06 – Kajiado/Kitengela/Ngong’ Rep.
9. Ms. Edith A. Onyango, Advocate – P.105/10599/14 – Makueni/Makindu Kilungu Rep.

10. Ms. Yvonne Jeruto, Advocate – P.105/8594/11 – Mavoko Rep.
11. Mr. Isaiah M. Munguti, Advocate – P.105/15570/18 – Kangundo/Tala/Kithimani Rep.
12. Mr. Peter M. Munyoki, Advocate – P.105/12516/16 – Mwingi/Kyuso/Garissa Rep.

The new officials will take over during the AGM to be held in the Month of March this year.



12. LUNCHEONS

The Branch did not have many luncheons. On 17th December 2021, the Branch had a luncheon hosted by one of its senior members, Hon. Florence Mwangangi, the Speaker for Machakos County Assembly. It was the

final event held for the year which was attended by forty nine (49) members.

The luncheon gave the opportunity to members to discuss various challenges affecting practice and also unwind.



NORTH RIFT BRANCH

This report is an excerpt of an address by the then Chairman of the North Rift Branch Mr. Joshua Maritim during the AGM of the LSK Northrift Branch.

He began by noting that it was indeed a great honour for him and his council at the handover ceremony to usher in the New Council.

Mr. Maritim stated that 2 years ago the branch member bestowed a great honor to him and his council to lead the great society for 2 years, a service which they have rendered whole heartedly and with passion.

The Branch Officials were as follows;

1. Loices Kuyaki –Vice Sec General
2. Henry Kenei- Served as our Secretary General
3. Joan Lelei- continues as Treasurer
4. Aggrey Karani- Vice Chairman
5. Joshua Martim - Chairman

Practice Centers

Over the period, there has been growth in membership as there are new advocates who have been admitted into the profession therefore resulting in a robust growth in our practice centers.

We now have fully fledged practice centers with interim officials as stated below;

1. Kapenguria- Mr. Eric Changorok is the interim chair
2. Kapsabet – Mrs. Mildred Chelimo is our interim Chair
3. Lodwar – Mr. Ondabu Daniel Interim Chair
4. Kitale is a fully fledged chapter. Mr. Richard Nyamu is the chapter chair.

Other than growth in the practice a number of members, there has been various appointment of member to serve in various capacities; We have members who have in the two years joined;

- a) Office of the AG
- b) Office of the ODPP
- c) Ministry of Lands as Land Registrars
- d) Joined the Magistracy
- e) Joined the bench at the level of Judges
- f) Various boards and state agencies

This is just to highlight, the achievements and the steps so far made.

Branch visits

Of our practice centers we managed to visit 4 of the 5 centers that is Kapsabet, Kitale and Lodwar. In that period, we also managed to attend two functions of the Court at Iten law Courts. The Court users' committee meeting and the Iten Court Open day.

The Council have high hopes that in the coming days Iten will have a vibrant court practice center committee with enough advocates.

We had occasions where we interacted with members of the branches in an informal sitting to exchange ideas of how to improve practice. It was an eye opener when we had a day-long meeting with Lodwar center.

We learnt a great deal and we were able to bring our brothers from the far North a little bit closer. We had interacted with them over the phone for a long time but the meeting up close was refreshing.

Branch Visits

The North Rift Branch had a branch visit to its members in the various branches.

1. Kapsabet
2. Lodwar
3. Kitale

In Kapsabet we were able to foster close working partnerships with the branch. Kapsabet Chapter is now under the leadership of advocate Mildred Chelimo.

Lodwar Chapter

On 10th September 2021 we visited Lodwar Chapter. Lodwar has 11 practicing advocates. This excludes the office of the AG and the Office of the ODPP. The chapter has been under Kitale Chapter but now it was critical for members to organize themselves. Their officials are;

1. Daniel Ombogo Ondabu- Chapter Chair.
2. Ruth Emakinor- Secretary
3. Treasurer- Lucas Lele

The Court station in this region is in Lokichar, a Mobile court with a senior Resident Magistrate in Kakuma. This court has a mobile court in Lokitaung and another mobile court in Lokichogio.

Kapenguria

The West Pokot Chapter is equally a vibrant Chapter. It was previously under Kitale Chapter but is now a vibrant



chapter with its officials. It has 16 members. The official are as below;

1. Eric Changorik- Chairman
2. Fancy Chebet- Vice Chair
3. George Lowasikow- Secretary
4. Leonida Opondo- Treasurer
5. Robert Katina- Patron

Kapsabet Chapter

The Kapsabet Chapter is equally a vibrant chapter. It has 34 members. Their office bearers are;

1. Chairlady- Mildred Chelimo
2. Vice Chair- Edgar Oduol Mbiwe
3. Secretary General- Moses Kipyego Rotich
4. Assistant Secretary General- Nancy Jeruto
5. Treasurer- Philemon Melly
6. Organizing Secretary- Duncan Kimutai Tallam

Cases in court

It is unfortunate that again during this period a number of cases were filed by the branches and the branches were also sued. The cases touched on a number of issues at the National office. The issues were cross cutting and as the North Rift branch, we took a unified approach with the other branches and an advocate was appointed by the branch chair's caucus.

We thank God that as a branch office, we won, which was not the case in our other branches. All the cases were consolidated and the branch chair's caucus appointed an advocate to represent the branches.

The branch received the 1st tranche of disbursements for a sum of kes 3,000,000/-. The branch is still expected to receive the other funds in due course.

Bereavement

During our term we lost 2 advocates;

1. Mr. Birech Paul
2. Mr. Simon Kitur

May their souls rest in eternal peace.

He further noted that ABA looks out for issues touching on members' welfare and urged members to pay for life membership of the ABA so that in the event of one's demise, they will enjoy the benefits of being a paid up member; this include school fees for member's children and the last expense cover etc.

LAST EXPENSE COVER

The Chair appreciated all who took up the last expense cover. The cover is active and it will be up for renewal in March 2022. He further urged members to pay up their premiums in time which is Kes 3000 per member and an additional 2,500 to include the spouse.

The benefit is Kes 500,000/- paid to the next of kin.

Moi University Partnership

On the 31st July 2021 Moi University School of Law organized a public lecture at the school of law main lecture hall. The speaker Nandi County, advocate Joshua Kiptoo. The public lecture was hosted by Hon Wamwara the Associate Dean Moi University School of Law.

Court of Appeal Bar-Bench

In the beginning of the year the Court of Appeal organized a sensitization workshop on the new rules of the court of Appeal. A number of U attended the meeting.

On 6th October 2021 the Presiding Judge of the Court of Appeal invited us for a bar bench meeting with a select few advocates who ordinarily practice in the Court of Appeal. The meeting was chaired by Hon. Kiage JA and was attended by 8 of our advocates and representatives from the ODPP and the AG. Some of the highlights were the dress code, filings at the Court, pro bono matters at the court of Appeal.

Farewell Party

On 29th October 2021 the branch organized a farewell party to 6 judicial officers. They included

1. Olga Sewe J. Who was transferred to Mombasa
2. Stephen Githinji J. who was transferred to Malindi.
3. Dr. Odeny Millicent J who was transferred to Malindi
4. Hon Linus Kassin. Chief Magistrate. Who has been transferred to Kakamega.
5. Hon. Sitati Grace who has been transferred to Milimani Commercial Court

Legal Awareness Week

The Branch took part in the legal awareness week; The partners included;

- a) IPOA who pitched a tent for one week
- b) KNHCR who also pitched a tent for one week.
- c) Rural women peace link who organized a one day sensitization workshop at Huruma PCEA church

hall.

- d) Judiciary who gave us the grounds for us to organize the event.

We conducted Legal Awareness in 5 out of the 6 practice centers which was an improvement last year.

Lodwar and Kapenguria did it for the first time; thereafter, the points were awarded.

Practice certificates

Members of North Rift received their PCs through its secretariat; he noted that there have been incidences where PC do not reach their intended recipients and as an office they have endeavored to ensure that we have zero PCs at our secretariat. For members who the Branch do not have their PCs the same is returned to Nairobi.

1. Rupaz Fun and Fitness Centers

The branch partnered with Rupaz fitness center. The chair called upon members to subscribe so that they can receive services at a discounted rate. Your health is your life.

2. Whiterose Dry cleaners

Members still enjoy discounted rates at white rose dry cleaners. You need to present your ID card for identification.

NOTABLE MENTIONS:

1. The Electoral Committee

Led by Mr Gad Chemoyai and your team I would like to sincerely thank you for the great work. You conducted a successful election.

2. Advocates who do pro bono matters on behalf of LSK

- a) Mr. Githaiga who is representing a mother who was maimed and a victim of GBV.
- b) Mr. Magare who is representing LSK North Rift in a constitutional petition

MT. KENYA BRANCH-2021

The Branch Officials are as follows;

1. Lindah Kiome Gitonga- Chairlady
2. Ramadhan Abubakar- Vice Chairman
3. Duncan Okwaro- Secretary
4. Amos Chweya- Vice Secretary
5. Gladys K. Magara- Treasurer
6. Kaumbi Kiogo- Committee Member
7. Munga Ndichu- Committee Member
8. Sharon Muriuki- Committee Member
9. Benson Kijaru- Committee Member
10. Ngigi Gichoya- Committee Member
11. Margaret Kimani- Committee Member
12. Hosea Mutembei- Committee Member
13. William Onnwong'a- Committee Member

1. CPD Seminars in the Region

We take note that due to the existing Covid 19 situation at the time, all CPD seminars were conducted online.

The online seminars proceeded throughout the 2nd & 3rd quarter of the year.

2. Devolution Funds Grant to Chapters

The year, 2021 posed many challenges to the branch as no resources were devolved for use by the branch secretariat which had a ripple effect to the chapters and practice centres.

Therefore, we were not able to actualize devolution of funds to support the chapters and practice centres.

3. Accountability

The prescribed accounting procedures as advised by the national office through the internal auditor were followed to the letter to prevent misuse and misappropriation of funds.

4. Legal Awareness Week

The legal awareness week was observed between 25th and 29th October and wish to state that all the chapters within the region participated.

The list of all those who participated was forwarded to the secretariat for awarding of one CPD unit.

5. Practicing Certificates

There has been existing delay in issuing of practicing certificates to members from the National Office, we pray that going forward there will be change.

6. Situation of Courts

The Branch has been experiencing shortages of judges and magistrates, in Nyeri for instance, the court of appeal has not been operational for the last three (3) years this has caused backlog in cases at the Court of Appeal.

Marsabit High Court also experienced inadequacy of service at the station since the Judge was tasked to serve at the Nyeri high court as well. There for, both stations have inadequacies in the High Court consequently affecting the practice and welfare of our members.

In Meru, Nkubu law court station similarly has inadequate judicial staff officers in the year 2021 and therefor there's need to lobby for more Judges and Magistrates in the Region.

7. Conclusion

In conclusion the branch did not undertake any activities throughout the year until we received funds in the last quarter and we were able to hold the Annual General Meeting.

LSK NAIROBI BRANCH 2021

A. INTRODUCTION

The Law Society of Kenya Nairobi Branch comprises the Council, Secretariat, Committees and the general membership through which it executes its functions. This Report covers the activities and programs of LSK Nairobi Branch in the year 2021. It has been the tradition of the Branch that the Council holds a retreat at the beginning of every year to brainstorm on the Strategic Plan for the year. The Council held a retreat in January 2021 to discuss the establishment of sustainable programs on practice and welfare issues. The Council further had a retreat in 2022 from 13th - 16th January, to formulate the calendar of events and strategy for implementing the Branch programs effectively. The Council also discussed ways of improving practice and welfare matters of the membership.

B. THE BRANCH COUNCIL

The current Council comprises of:

1. **Mr. Eric Theuri:** Chair
2. **Ms. Helene Namisi:** Vice-Chair
3. **Ms. Rose Wanjala:** Secretary
4. **Mr. Wangila Waliaula:** Treasurer
5. **Mr. Colin Warutere:** Kiambu County Representative / Organizing Secretary
6. **Ms. Soila Kigera:** In - House Counsel Representative / Fundraising Secretary
7. **Mr. Stephen Saenyi:** Deputy Treasurer
8. **Mr. Kennedy Murunga:** Welfare Secretary
9. **Ms. Charles Mwalimu:** Communications Secretary
10. **Ms. Julia Wachira:** Deputy Organizing Secretary

C. COUNCIL MEETINGS

The Branch Council met every month in 2021 to deliberate on matters of concern to legal practitioners and assess its progress in achieving its Agenda. The Council Meetings of the Branch were and still are the forum for exploration of proposals that the Council Members have regarding the Branch and how it should run, guided by its mandate under Section 24 of the LSK Act 2014.

Corporate Governance Statement:

Attendance at Council Meetings January - December 2021 (Council 2020 - 2022)

Name	Council Meetings (2021)
Eric Theuri	12/13
Helene Namisi	13/13
Wangila Waliaula	13/13
Rose Wanjala	13/13
Soila Kigera	13/13
Colin Warutere	12/13
Stephen Saenyi	13/13
Charles Mwalimu	13/13
Kennedy Murunga	13/13
Julia Wachira	13/13

i. Council Allowances and Reimbursement

Council members receive a sitting allowance of Kenya Shillings Five Thousand (Kshs.5,000.00) for attending every ordinary and special Council meeting. However,

no allowances are paid for attending other events or meetings of the Branch.

D. BRANCH SECRETARIAT

At the start of 2021, the Branch Secretariat had the Head of Secretariat, Ms. Wendy Muganda, two Program Officers, namely Alex Waweru and Edward Gachunga, one Program Assistant, Leonora Arwa, one Administrative Assistant, Abraham Ngaira, one Office Assistant, Charles Agwata and seven interns.

1. Location

The Branch office is located at Lower Hill Duplex, Suite No. 015, Upperhill Road opposite Upperhill School. Our office contacts are as follows:

Landline - 020 2711177

Mobile - 0707 256140

Emails - info@lsknairobi.or.ke and lsknairobi@gmail.com

2. Functions

The Secretariat is in charge of running the Branch programs. Each member of the Secretariat has been assigned specific programs to handle as follows:

- a. **Wendy Muganda** - Council welfare, stakeholder engagement, overall management of the Secretariat, Social and Welfare, Commercial Practice, Law Reform and Devolution and Training programs
- b. **Edward Gachunga** - Bar Bench, Legal Tech and Innovation and Legal Aid programs
- c. **Alex Waweru** - Branch Communication, Nairobi Legal Awards
- d. **Leonora Arwa** - Mentorship programme, ICT programme, assists the Programme Officers in their respective programs
- e. **Gloria Kuyoh** - Branch Communication, partnerships and stakeholder relations.
- f. **Abraham Ngaira** - Implementing and monitoring financial policies, budget management, management of all physical and electronic records of the Branch and Human Resource functions

g. **Charles Agwata** - Mans the reception desk of the office, performs general cleaning, maintains inventory of Branch property and delivers Branch correspondence

h. **Interns** - Assist in coordination of the various programs under the supervision of each Programme Officer

3. Communication

The Branch has access to updated details of the overall members' database held by the Law Society of Kenya National Office which has facilitated our ability to communicate effectively with all our members.

3.1 Website Revamping

The Branch has been managing its website at www.nairobilaw.or.ke. The Branch website has been revamped through:

- a. Creation of pages for all major events undertaken by the Branch;
- b. Improving the outlook by having borders on the page bearing Branch contacts and subscription information;
- c. Inclusion of all partner logos and improvement of general organization of the website; and
- d. Inclusion of social media icons to direct members to our social media pages.

3.2 Social Media

The Branch operates on five main social media platforms to communicate to members, namely, Facebook, Twitter, Instagram, WhatsApp and LinkedIn. Frequent posts are made on various Branch activities and Programmes on either or all the Platforms. The Branch has also successfully developed a WhatsApp Database for all Group Administrators of various Advocates' WhatsApp groups to enhance communication to members. The Branch circulates event posters via broadcast list on WhatsApp.

3.3 Bulk Email & Mailing List; Bulk Sms

The Branch has upgraded from the use of the Atomic Mail Application to MailChimp Application to send out multiple emails simultaneously to all members on our mailing list. The Mailing List is also constantly and manually updated after every event and new engagement with members.

3.4 Weekly Newsletter

Regular communication of Committee progress and Branch activities is issued to members via the Branch Newsletter. We send out our weekly newsletters every Friday. We launched a rebranded Newsletter taking the form of weekly bulletins. The intent is to develop it to incorporate a feature section for Advocates in different areas of practice.

3.5 Wakili Magazine

The Wakili Magazine, whose Editor in Chief is **Wangila Waliaula**, only had one edition published in the year 2021. The magazine is part of our fundraising initiatives where money is raised through advertisements placed by our sponsors and partners. The magazine will be published on a quarterly basis in 2022.

The **4th issue** of the magazine was published in December 2021 highlighting various aspects changing or in need of change in the legal space. We made 500 physical copies of the same which were distributed to our stakeholders, firms within Nairobi and Kiambu counties and our sponsors.

E. THE FOURTH ANNUAL GENERAL MEETING OF LSK NAIROBI BRANCH

The Branch conducted its fourth Annual General Meeting in the form of a hybrid meeting on **4th June 2021 from 11am** at the Movenpick Hotel and Residences, Westlands. We used Microsoft Teams and Zoom platforms to accommodate virtual attendees. The meeting began with the Secretary reading the Notice to convene the meeting. Members observed a moment of silence to pay tribute to members departed. Minutes of the last AGM held on 6th June 2020 were confirmed as some members proposed amendments to the Minutes. The Annual Report for 2020, which had Financial Statements and Audit Reports, was presented and members deferred the appointment of Branch Auditors for the year 2021 pending the resolutions of LSK National Office regarding the same. The next AGM is scheduled for **3rd June 2022**.

F. BRANCH STRATEGIC PLAN 2017 – 2022

We have a Strategic Plan which has been effective since 2017. The Plan outlines our measurable goals, evaluates progress made and informs whether we need to change approaches in implementing the goals set out.

Vision & Mission

The main vision of the Branch is to be a premier Bar Association that advances legal practice and members' welfare. Our mission is to stay committed to advancing a conducive environment that enhances the professional and commercial interests of our members.

Core Values & Pillars

We are guided by responsiveness, relevance and efficiency as our core values in fulfilling our mandate. Our pillars are to engage members and key stakeholders of Nairobi Branch in addressing practice and welfare matters and strive to ensure accessible opportunities for active member participation.

G. BRANCH ENGAGEMENTS WITH KEY STAKEHOLDERS

The Branch has key stakeholders who assist in different capacities to improve practice and welfare of members. They include Law Society of Kenya, Attorney General, Office of Director of Public Prosecutions and Judiciary. We have long standing sponsors of the Branch who are also part of our stakeholders. Further, we have LSK affiliated agencies such as LSK SACCO, ABA and other LSK Branches who we principally engage through the LSK Council or, under the direction of Council, through the Secretariat.

1. The Branch, in collaboration with **Trial Advocacy Training Institute**, held a virtual **Trial Advocacy Training** from **14th – 18th June 2021** and **21st – 25th June 2021**.
2. The Branch was invited to the **Pre-launch Stakeholder Engagement Forum with members of LSK and Kenya Bankers Association on Implementation of the National Land Information Management System (NLIMS)**. The forum was held on **28th January 2021** at Survey of Kenya.
3. The Branch held a **Digital Skills Training for Lawyers** in partnership with Google and Emobilis on **29th January on "Build your brand and sell online"**, **26th February on "Use marketing tools and social media to grow your business online"**, **26th March on "Create a digital marketing plan"**, **30th April on "Use data and insights to help your business grow"**
4. The Council paid a **Courtesy Call on the Chief Magistrate Criminal Division at Milimani Law**

- Courts, Hon. Francis Andayi.** The meeting was held on **11th February 2021** and attended by representatives from the ODP, the Bar and Magistrates sitting in the criminal courts. Members discussed how to improve practice whilst affording access to justice to the public and how to improve the criminal justice system.
5. The Branch, in collaboration with **Business Registration Services** and **Institute of Certified Secretaries**, organized a Beneficial Ownership Webinar on **"Insights on Beneficial Ownership"** on 26th January 2021 and on **"Beneficial Ownership Information and other Emerging Issues"** on **19th February 2021**.
 6. The Branch in collaboration with **Kenya Revenue Authority**, organized a Tax Awareness Forum on the topic, **"Tax Awareness and the KRA Service Charter"** on **23rd February 2021**.
 7. The Council had a meeting with **the Principal Judge and Presiding Judges of the High Court Divisions** on **4th March 2021**, at Crowne Plaza. This meeting is held annually to brainstorm on how best to improve practice within the various Divisions as well as table practice concerns from the membership regarding service delivery within the Courts.
 8. The Council had a meeting to discuss **Partnership with Kenya Bankers Association**, which also served as the signing ceremony of the MOU between the Branch and the institution. This was held on **9th March 2021**.
 9. The Branch organized a Mentorship Forum webinar on the topic **"Reaffirming the Importance of and Respect for the Judiciary"** on **24th February 2021**. Our speakers were **Hon. Justice Patrick Kiage and Evans O.Ogada**
 10. The Branch through the Anti-Corruption Division Bar Bench Committee organized a virtual Inns of Court on **25th February 2021** on the topic **"Asset Recovery and the unexplained assets question"** The speakers were **Hon. Lady Justice Mumbi Ngugi, Philip Kagucia and Paula Atukunda**.
 11. The Branch organized a webinar on **"Virtual Court Etiquette"** on **9th March 2021**. The speakers were **Hon. Justice Alfred Mabeya and Hon. Lady Justice Grace Nzioka**
 12. The Council paid a courtesy call on the Speaker of the National Assembly, **Hon. Justin Muturi**, to discuss how the Branch can participate actively on law reform and how the Devolution and Law Reform Committee can liaise with the Clerk's office and Legislative Office in preparing memoranda for Bills undergoing public participation. The meeting was held on **10th March 2021** within the Parliament Building.
 13. The Branch organized the inaugural **In-House Counsel Seminar** on the topic **"Valuable legal and non-legal skills essential for every In-house lawyer to achieve success in a business environment"** on **11th March 2021**. The speakers were **David Swao, Lorna Solopian** with **Soila Kigera** as the moderator.
 14. The Branch, through the Legal Aid and Public Interest Litigation Committee, organized a Public Legal Awareness webinar on the topic **"Understanding the Legal Process in Custody and Maintenance"** on **31st March 2021**. The speakers were **Hon. G.M Gitonga, Phillip Nzenge and Enrich Dulo**.
 15. The Branch had a **Meeting with the Chair of the Tax Appeals Tribunal, Hon. Eric Nyongesa**, on **7th April 2021**. The members of the Tax Liaison Committee presented a memorandum of concerns from the members and the Chair of the Tribunal responded to the same. It was agreed that the Liaison Committee and the Tribunal would work towards establishing a Bar-Bench/CUC.
 16. The Branch organized a Virtual Mentorship Forum on the topic **"Tips on Financial Management and Charging of Legal Fees"** on **15th April 2021**. The speakers were **Kevin McCourt and Sheba Njagi**.
 17. The Branch, through the Legal Aid Committee, together with HIV & AIDS Tribunal and Kituo Cha Sheria, organized a public awareness webinar on the topic **"Demystifying HIV & AIDS Rights in Kenya"** on **22nd April 2021**. The speakers were **Helene Namisi and John Mwariri**.
 18. The Branch organized a Tax Awareness Webinar on the topic **"Navigating Tax Disputes Based on Merit vs Procedural Technicalities"** on **23rd April 2021**. The speaker was **Janet Lavuna**.
 19. The Branch was represented at the official **Launch of the Small Claims Court** Milimani Commercial Law Court on **26th April 2021**.

20. The Branch was represented by the Chair, **Eric Theuri** at the **Launch of the National Lands Information Management System (NLIMS)** which was held on **27th April 2021** at the Survey of Kenya Headquarters.
21. The Branch organized a webinar in collaboration with Business Registration Service organized a webinar on the topic **"Validation of the Guide on Disclosure of Beneficial Ownership Information"** on **27th April 2021**. The speakers were **Mercy Okinda, Larry Agoro** and **Mercy Buku**.
22. The Branch, in collaboration with the Ministry of Lands and Physical Planning, organized a webinar on the topic **"Training on the National Lands Information Management System (NLIMS)"** on **29th April 2021**.
23. A spill off from our regular Mentorship Fora, the Branch conducted the first edition of the **Coffee Talks Series** on **6th May 2021**. The session brought together young lawyers who were paired with senior lawyers in an informal discussion on **"Overcoming Adversity at the Workplace"**. The speakers were **Hon. Priscilla Nyokabi, Mr. Arthur Igeria, Ms. Pat Mbugua, and Mr. Stephen Gitonga**.
24. The Branch, in collaboration with Riara Law School, organized a Legal Awareness webinar on the topic **"Explaining the Process of Constitutional Amendment and BBI"** on **6th May 2021**. The speakers were **Hon. Martha Karua** and **Prof. Ben Sihanya**. The moderator was **Dr. Victor Lando**.
25. The Branch in collaboration with Directorate of ICT, Judiciary and the Milimani High Court organized a webinar on E-filing training with the topic **"E-services request"** on **7th May 2021**.
26. The Branch, in collaboration with Kituo cha Sheria and the Legal Aid Committee, organized a Public legal awareness webinar on the topic **"Dissecting and analyzing the BBI Judgment"** on **21st May 2021**. The speakers were **Hon. Priscilla Nyokabi Kanyua, Charles Kanjama, and Prof. John Osogo Ambani**. The moderators were **Dr. Victor Lando and Grace Okumu**.
27. The Branch, in collaboration with EALS Institute, organized a workshop on the topic **"Cybercrime and Electronic Evidence"** on **25th May 2021** and also on **8th June** and **15th June 2021**. The panelists were **Lawrence Dinga, Eric Theuri, Amy Amina Itogot and Pie Habimana**.
28. The Branch organized a webinar on the topic **"Salient Tax Changes from the Finance Bill 2021"** on **28th May 2021**. The webinar was facilitated by **Anjarwalla & Khanna LLP Tax team**.
29. The Branch organized a webinar on the topic **"Sectional Properties/Long term leases: Which way forward?"** on **9th June, 2021**. Our speakers were **Ambrose Rachier and Peter Muhiu Mwangi**.
30. The Branch organized a webinar on the topic **"Effective Communication for Effective Advocacy"** on the **10th of June, 2021**. The main speakers were **Mr. Arthur Igeria** and **Ms. Jacqueline Waihenya**.
31. The Branch, in collaboration with the **Chartered Institute of Arbitrators**, organized a webinar as part of its ADR Series Session 1 on the topic **"Back to Basics with Alternative Dispute Resolution"** on **11th June, 2021**. The speakers were **Dr. Willy Mutubwa, Eunice Lumallas and Njeri Kariuki**. The webinar was moderated by **Dr. Wyne Mutuma**.
32. A spill off from our regular Mentorship Fora, the Branch conducted the second edition of the **Coffee Talks Series** on **17th June, 2021**. The session brought together young lawyers who were paired with senior lawyers in an informal discussion on the topic **"Setting and Tracking your Career Goals"**. The speakers were **Cosima Wetende, Allan Maleche, June Opiyo and Dr. Victor Lando**.
33. The Branch, in collaboration with the **Chartered Institute of Arbitrators**, organized a webinar as part of its ADR Series Session 2 on the topic **"Exciting Developments and Trends in Alternative Dispute Resolution"** on **18th June, 2021**. The speakers were **Kamau Karori, Samuel Nderitu, and Jacqueline Oyuyo Githinji**. The webinar was moderated by **Senator Sylvia Kasanga**.
34. The Branch in collaboration with the Chartered Institute of Arbitrators organized a webinar as part of its ADR Series Session 3 on the topic **"Challenges affecting ADR Practitioners in the Legal Profession"** on **21st June, 2021**. The speakers were **Phillip Alier, Prof. Githu Muigai and Justice Jackie Kamau**. The session was moderated by **Dan Ameyo**.
35. The Branch, in collaboration with the **Chartered Institute of Arbitrators**, organized the Debate Series 3 on the motion **"The Alternative Justice Systems Policy Framework: A Solution to Access to Justice in Kenya"** on **24th June, 2021**. The motion

- was proposed by **Prof. Justice Joel Ngugi** and opposed by **Dr. Francis Kariuki**. The debate was moderated by **Ms. Teresa Mutua**.
36. The Branch in collaboration with the Chartered Institute of Arbitrators, organized a webinar as part of its ADR Series Session 4 on the topic “**Exploring the Opportunities in ADR for Legal Practitioners**” on the **25th of June 2021**. The speakers were **Nyagah Kithinji, Lawrence Ngugi** and **Rtd. Justice Jonny Havelock**. The session was moderated by **Jackie Oyuyo-Githinji**.
 37. The Branch through its **Judicial Review Bar Bench Committee** organized an **E-filing Training** Webinar on **1st of July, 2021** for advocates practicing in the Judicial Review Division.
 38. The Branch in collaboration with the **Chartered Institute of Arbitrators**, organized a webinar on the topic “**Demystifying the New 2020 CIArb Arbitration Rules: An Analysis**” on the **7th of July, 2021**. The speakers were **Samuel Nderitu** and **Kethi Kilonzo**. The session was moderated by **Kyalo Mbobu**.
 39. The Branch organized a sensitization series “**Know Your Tribunals**” on the **9th of July, 2021**. The series was aimed at creating public awareness of the existing Tribunals and their mandate. The session covered the **Political Parties Disputes Tribunal, Micro and Small Enterprise Tribunal** and the **Industrial Property Tribunal**. The speakers were **Dr. Jackson Bett, Hon. Desma Nungo** and **Pauline Mudeshi Muhanda**.
 40. The Branch’s Joint Liaison Committee in collaboration with the **Institute of Certified Secretaries** and the **Business Registration Service** organized a webinar on “**Training on Practice Note No.3-Event Driven Filings**” on the **13th of July, 2021**.
 41. The Branch in collaboration with the **Kenya Revenue Authority**, through the **Tax Awareness Forum** organized a webinar on ‘**Tax Emerging Issues**’ on **15th July, 2021**. The main speaker was **Nickson Omondi** from the Domestic Taxes Department of the Kenya Revenue Authority.
 42. The Branch in collaboration with the **Kenya Revenue Authority**, organized a webinar on the topic “**Sensitization on the Finance Act 2021**” on the **19th of July, 2021**. The webinar was aimed at unpacking the provisions of the Finance Act and seeking a deeper understanding of its implications.
 43. The Branch conducted the Coffee Talk Series on the topic “**Building Professional Networks**” on the **22nd of July, 2021**. The speakers were **Dr. Muthomi Thiankolu, Diana Sawe, Michael Kiruti** and **Jane Serwanga**.
 44. The Branch organized the second session on “**Know Your Tribunals**” on the **23rd of July, 2021** aimed at creating public awareness of the existing Tribunals and their mandate. The session targeted the **Communication and Multimedia Appeals Tribunal, Business Premises Rent Tribunal and the Legal Education Appeals Tribunal**. The speakers were **Hon. Rosemary Kuria, Gakuhi Chege** and **Hon. Rose Mbanya**.
 45. The Branch in collaboration with **Traction School of Governance and Business**, organized a webinar on the “**Insights to the New KASNEB Syllabus for CS Course**” on the **28th July, 2021**.
 46. The Branch in collaboration with the **Chartered Institute of Arbitrators** organized a **Special Training on Arbitration and ADR** on the 3rd and 4th of August, 2021.
 47. The Branch in collaboration with the Nairobi Legal Awards Trust, organized the NLA Young Lawyers Webinar on the topic “**Chasing Excellence: Finding the Balance between Work and Mental Health**” on the **4th of August, 2021**. The speakers were **John Chigiti SC, Senator Sylvia Kasanga, Eunice Lumallas** and **Johnson Kariuki**.
 48. The Branch, in collaboration with the LSK SACCO, organized a webinar on “**SACCO products, loans and savings, Benefits of being a member of LSK SACCO, Members online portal and peer to peer recruitment and Investing in LSK Housing Projects**” on the 6th of August, 2021.
 49. The Branch organized the third session on “**Know Your Tribunals**” on the **6th of August, 2021** aimed at creating public awareness of the existing Tribunals and their mandate. The target of this webinar was the **Sports Tribunal, Standards Tribunal** and **National Environment Tribunal**. The speakers were **Hon. John Ohaga SC, Hon. Gladys Mburu** and **Hon. Mohammed Balala**.
 50. The Branch organized a welfare Webinar on the topic ‘**Essential Soft Skills for Lawyers**’ on the **12th of August, 2021**. The speakers were; **John Chigiti SC** and **Arthur Igeria**.

51. The Branch, in collaboration with the **Nairobi Center for International Arbitration**, organized a webinar on **“Contracts, Arbitration clauses drafting, NCIA Arbitration and Mediation Services”** on **17th August, 2021**. The speakers were **Lawrence Ngugi, Jacqueline Oyuyo, James Muruthi** and **David Njoroge**.
52. The Branch organized its Coffee Talk Series on the topic **“Work Life Balance”** on the **19th August, 2021**. The speakers were **Andrew Muma, Jacqueline Waihenya, Nelson Ashitiva** and **Wandiri Karimi**.
53. The Branch, in its Tax Awareness Forum, organized a Tax Awareness Webinar on **“Double Taxation Agreement”** on the **18th of August, 2021**. The speaker was **Jemimah Mugo**, a Tax and Finance Executive.
54. The Branch organized the fourth session of **“Know Your Tribunals”** on the **20th of August, 2021** aimed at creating public awareness of the existing Tribunals and their mandate. The session targeted the **Cooperative Tribunal, Tax Appeals Tribunal** and **HIV and AIDS Tribunal**. The speakers were Hon. **Beatrice Kimemia, Hon. Eric Nyongesa** and Hon. **Helene Namisi**.
55. The Branch, through its Legal Aid and Public Interest Litigation Committee, organized a webinar on the topic **“Justice in the eyes of a Child”** a discussion on how children who have faced trauma are handled within the justice system. The webinar was held on **25th August, 2021**. The speakers were **Hon. G.M. Gitonga, Margaret Njihia** and **Ezekiel Kimani**. The session was moderated by **Joy Matheka**.
56. The Branch, in collaboration with the Judiciary and the Law Society of Kenya Branch Chairs Caucus, organized a webinar on the topic **“Practical Implementation of the Newly Gazetted Court Fee Schedule”** on the **30th of August, 2021**.
57. The Branch through its Legal Aid and Public Interest Committee organized a webinar on the topic **“Resentencing and Plea Bargaining Webinar”** on the **31st of August, 2021**. The speakers were; **Wilfred Nderitu SC** and **Jemimah Aluda**. The session was moderated by **Joy Matheka**.
58. The Branch organized the fifth session of **“Know Your Tribunals”** aimed at creating public awareness of the existing Tribunals and their mandate. The session targeted the **National Civil Aviation Administrative Review Tribunal, Transport Licensing Appeals Board** and the **Competition Tribunal**. The speakers were Hon. **Dr. Njaramba Gichuki, Prof. Kiarie Mwaura** and **Hon. Daniel Ogola**. The webinar was held on **3rd September, 2021**.
59. The Branch organized its final session of **“Know Your Tribunals”** aimed at creating public awareness of the existing Tribunals and their mandate. The session targeted the **Retirement Benefits Tribunal and the Accreditation Appeals Tribunals**. This session was held on the **10th of September, 2021**. The speakers were Hon. **Muthoni Gichohi** and Hon. **Joel Bosek**.
60. The Branch organized a webinar on the **“Demystifying Trust Funds: Planning your Estate to outlive you”** on the **15th of September, 2021**. The speakers were **Hosea Kili, Mimi Aldrine, Happi Kilongosi** and **Harris Kukundakwe**. The event was moderated by **Peter Mwaniki**.
61. The Branch, in collaboration with the Judiciary and the LSK Branch Chairs Caucus, organized an **“E-Filing Training”** webinar on the topic **“Emerging Issues from the Consolidated Fee Schedule Upgrade”** on the **16th of September, 2021**.
62. The Branch in collaboration with **CPF Consulting**, organized a webinar on the topic **“Secure Tomorrow Today: How much do you need to retire today?”** on the **22nd of September, 2021**. The speakers were **Joshua Mollo** and **Lucy Mandago**. The session was moderated by **Happi Kilongosi**.
63. The Branch organized its Coffee Talk Series on the topic **“Honing Leadership Skills”** on the **23rd of September, 2021**. The speakers; **Dr. Praxedes Tororey, Kuria Waithaka, Dr. Vincent Ogutu** and **Liz Lenjo**.
64. The Branch in collaboration with **One Health Medical Center**, organized a webinar on the topic **“The Importance of Full Body Checkups for Advocates”** on the **23rd of September, 2021**. The speaker was **Dr. Michelle Muhanda**, the CEO of One Health.
65. The Branch organized a webinar on the topic **“The Law Making Process in Kenya”** on the **29th of September, 2021**. The speakers were **Elizabeth Muhia** and **Salem Lorot**.
66. The Branch in collaboration with **CPF MWAMBA Trust Fund**, organized a webinar on the topic **“Estate Planning; A case for Trust Funds”** on the **30th of September, 2021**. The speakers were **Mimi Aldrine**

and **Happi Kilongosi**. The session was moderated by **Peter Mwaniki**.

67. The Branch hosted a webinar on **Data Protection in Legal Practice** on **7th October 2021**. The webinar discussed among other issues, the Data Protection, General Compliance and Enforcement Regulations, 2021. The speaker was **Mr. Mugambi Laibuta**.
68. The Branch conducted a two-day training on **Gestational Surrogacy and the Transfer of Parental Rights in Kenya** on **12th and 16th October 2021**. The trainer was **Ms. Enricah Dulo**.
69. The Branch in collaboration with the **Companies Joint Liaison Committee**, conducted a virtual **Training on Practice No. 7- Foreign Companies** on **12th October 2021**.
70. The Branch, in collaboration with the **Committee on the Formulation of the Remuneration Order for the Small Claims Court** and the **LSK Branch Chairs Caucus**, held a **Stakeholder Engagement Forum on the Proposed Remuneration Order for Advocates practicing in the Small Claims Court** on **18th October 2021**. The Chair, **Eric Theuri**, moderated the session. The speakers were **Hon. Justice Mabeya** and **Dr. Benjamin Musau**, Chairperson and Vice-Chairperson of the Committee, respectively.
71. The Branch in collaboration with **Kenya School of Law**, conducted a webinar on the **Dynamics of the Master and Pupil Relationship in Kenya** on **22nd October 2021**. The webinar was moderated by **Mr. Christian Andole**. The speakers were **Mr. Justus Munyithya**, **Mr. John Ohaga SC**, and **Ms. Lynette Etemesi**.
72. The Branch hosted its first **Legal Aid Day** at the **Lang'ata Women's Prison** on **22nd October 2021**. The inmates received free legal advice from volunteer Advocates. The Legal Aid and PIL Committee also donated some items to the Prison.
73. The Branch participated in the **LSK Legal Awareness Week** which was held from **25th to 29th October 2021**. The Branch offered pro bono services to members of the public at Milimani Law Courts, the Kadhi's Court, Kibera Law Court and Makadara Law Court.
74. The Branch organized a webinar on **Sexual Harassment at the Workplace** on **11th November 2021**. The speakers were **Mr. Beuttah Siganga SC**, **Ms. Beth Michoma** and **Mr. Ribin Ondwari**. The issues discussed during the webinar included the policies and procedures in place to protect survivors and ensure that perpetrators are brought to book.
75. The Branch in collaboration with the **Climate Change Lawyers Cafe**, held a webinar on **The Lawyers' Role in Climate Change and Human Rights on 12th November 2021**. The speakers included **Ms. Immaculate Kemunto**, **Ms. Therese Arnesen**, **Ms. Jacqueline Ingutah** and **Ms. Clarice Wambua**.
76. The Branch in collaboration with the **Judiciary**, conducted an **E-Filing Training on the Small Claims Court E-Filing System**. The training, which was held on **17th November 2021**, targeted external stakeholders. The training was conducted in readiness for the operationalization of the e-filing solution at the Small Claims Court.
77. The Branch held a webinar on **Allocation of Public Land and Leases** on **18th November 2021**. The speakers were **Mr. Reginald Okumu** and **Ms. Caroline Khaosa** from the NLC.
78. The Branch organized a webinar on **Benefits and Opportunities of AfCFTA for Lawyers** on **19th November 2021**. The webinar was moderated by **Ms. Tabitha Joy Raore**. The speakers were **Ms. Luisa Cetina**, **Prof. Migal Akech** and **Mr. Patrick Anam**.
79. The Branch held a webinar on **Anti-money Laundering Reporting Obligations and their Impact on the Legal Profession** on **7th December 2021**. The webinar was moderated by **Mr. Chacha Odera**. The speakers were **Mr. Saitoti Maika** who spoke on anti-money laundering reporting obligations, and **Mr. Denis Moroga** who spoke on their impact on the legal profession.
80. The Branch entered into Partnership with the **Kenya School of Law** to promote the professional development of lawyers and other actors in the legal field and to promote mentorship of students in the Advocates Training Programme. The MoU was signed on **9th December 2021** at a fundraising dinner hosted jointly by the Branch and KSL. The event was graced by **John Ohaga, SC** as the Guest of Honour following an invite from the Chair.
81. The Branch, in partnership with the National Office, organized a two-day colloquium on **Electoral Laws and Practice** on **9th and 10th December 2021**. The colloquium was aimed at preparing Advocates for

the upcoming election cycle in 2022. The colloquium was graced by various eminent speakers, among them the Chief Guest, **Mr. Wafula Chebukati**, the Chairman of IEBC and Chief Justice Emeritus, **Hon. David Maraga, Rtd**

82. The Branch, in collaboration with the Ministry of Lands and Physical Planning, conducted a virtual **Training on the Ardhisasa Platform on 14th December 2021**. The training featured an actual demonstration of step by step registration of transactions ready for registration.
83. The Branch held the **Christmas Fest on 16th December 2021 at the All Saints Cathedral**. The theme was "Hope and Restoration" Goodwill Christmas messages were given by **Lady Justice Hedwig Ang'udi**, Chair, **Eric Theuri** and Advocate, **Nelson Ashitiva**. Advocate and Pastor **Gichohi Waweru** delivered the sermonette. We had solo and group performances from various Advocates and members of the Judiciary.

2022 UPDATE

84. The Branch, in collaboration with **The Political Parties Dispute Tribunal**, will hold a **Sensitization Workshop on 4th February 2022** at **Sarova Panafric**. The workshop aims to sensitize practitioners on the functions and processes of the Political Parties Dispute Tribunal.
85. The Branch is collaborating with the Kenya School of Law in organizing the Metropolitan region **Pupil Master Workshop** with the topic; **Pupillage during and after COVID-19 pandemic on 18th February 2022**.

H. BRANCH COMMITTEE ENGAGEMENTS

The Branch reconstituted its committees after the new Council assumed office in June 2020. The current Committees are as follows;

1. Council Committees

The Branch has five main Practice Committees, which are:

- i. The Litigation Practice Committee, convened by **Charles Mwalimu**
- ii. The Social and Welfare Committee, convened by **Kennedy Murunga**

- iii. The Commercial Practice Committee, convened by **Rose Wanjala**
- iv. The Devolution and Law Reform Committee, convened by **Wangila Waliaula**
- v. Branch Legal Aid and Public Interest Litigation Committee, convened by **Stephen Saenyi**

2. Bar – Bench Committees (BBCs)

Since establishment, the Branch has constituted and engaged with the Nairobi Courts in BBCs where issues specific to various courts have been discussed and solutions proposed and pursued. The Bar-Bench Committees of the Branch are;

- i. Supreme Court Bar BBC, previously convened by **Hon. Chief Justice David Maraga**
- ii. The Court of Appeal BBC, convened by **Charles Kanjama**
- iii. High Court Family BBC, co-convened by **Remegio Mugambi** and **Marysheilla Oduor**
- iv. Constitutional and Judicial Review BBC, convened by **Herman Owiti**
- v. High Court Commercial BBC, convened by **Stella Muraguri** and co-convened by **Chris Maondo**
- vi. The High Court Criminal, Anti-Corruption and Economic Crimes BBC, convened by **Paula Atukunda**
- vii. Environment and Land Court BBC, convened by **Ezra Makori**
- viii. Employment and Labour Relations BBC, convened by **Cosima Wetende**
- ix. Milimani Court Annexed Mediation BBC, convened by **Angela Mwadumbo**
- x. Milimani Chief Magistrates Criminal BBC, previously and currently convened by **Clarence Jumba**
- xi. Milimani Chief Magistrates Commercial Court BBC, convened by **Paula Njuguna**
- xii. JKIA BBC, convened by **Robert Asembo**
- xiii. Makadara BBC, convened by **Robert Asembo**
- xiv. Kibera BBC, convened by **Robert Asembo**
- xv. Kadhis BBC, convened by **Ali Mahmud**
- xvi. Kahawa BBC, convened by **Robert Asembo**

3. Tribunal Committees

The Tribunal Committees are as follows:

- i. The National Environment Tribunal Committee, convened by **Charles Kanjama**
- ii. The Rent Restriction Tribunal Committee, convened by **Julia Wachira**
- iii. The Business Premises Rent Tribunal Committee, convened by **Julia Wachira**
- iv. Co-operative Tribunal Committee, convened by **Wangila Waliaula**
- v. Public Procurement Tribunal Committee, convened by **Kiragu Kimani SC**
- vi. HIV Tribunal Court Users Committee, convened by **Helene Namisi**
- vii. Political Parties Dispute Tribunal was formed in 2021 and is convened by **Harriet Njoki Mboce**

4. Liaison Committees

The Branch has also set up Liaison Committees specifically for the Companies Registry and the Nairobi Lands Registry and specific commercial practice areas to bring together lawyers with similar interests. These

are:

- i. ICT and IP Liaison Committee, convened by **Rose Wanjala**
- ii. Tax Liaison Committee, convened by **Stephen Saenyi**
- iii. Nairobi Lands Registry Liaison Committee, convened by **Eric Theuri**
- iv. Nairobi Companies Registry Liaison Committee, convened by **Charles Kanjama**

5. Special Committees

Special Committees set up by the Branch include;

- i. Awards Committee, convened by **Charles Kanjama**
- ii. Internal Dispute Resolution Committee, convened by **Eric Theuri**
- iii. Lawyer – Police Relations Committee, convened by **Wangila Waliaula**

Regular Communication of Committee progress is issued to members via the Branch Weekly Newsletter and Committee progress is updated on the Branch website Committee pages at <http://nairobiilaw.or.ke/about/committees/>.

COMMITTEES	MEETING DATES	ACHIEVEMENTS
COUNCIL COMMITTEES		
Social and Welfare Committee	17 th February, 26 th April, 19 th October 2021	<ol style="list-style-type: none"> 1. The Committee held a successful Quiz Night on 18th March and 5th November 2021 2. The Committee organized Mental Health Series webinars during the peak of the COVID-19 pandemic 3. The Committee engaged stakeholders in the Welfare Management of members by getting into partnerships with CPF Financial Services and Chiromo Mental Health Hospital 4. The Committee organized a welfare webinar held on 18th February 2021. The webinar was titled “Why Study CS Course”, facilitated by our partner Traction School of Governance and Business. The webinar gave insights to the current syllabus as approved by the Registration of Certified Public Secretaries Board. The key speakers were Mr. Patrick Mulwa, Executive Officer at Registration of Certified Public Secretaries Board and Mr. Bernard Kiragu, Executive Director at Traction SGB & Managing Partner at Scribe Services.



COMMITTEES	MEETING DATES	ACHIEVEMENTS
Legal Aid and Public Interest Litigation Committee	26th February, 9th April, 10th May, 30th July, 20th August, 15th October, 12th November 2021	<ol style="list-style-type: none"> 1. The Committee conducted Legal Aid through social justice centres in 2021. 2. The Committee is managing the ongoing PIL matters that have already been filed in Court. The Committee has filed new PIL matters such as HCJR/E010/2020 LSK Nairobi Branch v The Attorney General which granted and Order of Stay to the accounting officers and Cabinet Secretaries stopping them from barring procurement of external legal services. 3. The Committee has organized various virtual Awareness Webinars. 4. The Committee also organized a legal awareness webinar on Explaining the Process of Constitutional Amendment and BBI, held on 6th May 2021 and Resentencing and Plea Bargaining webinar on 31st August 5. The Committee organized the Langata Women's Legal Aid Day on 22nd October 6. The Committee led consultations with the Office of Data Protection Commissioner on the breach of data by political parties.
Devolution and Law Reform Committee	22 nd February, 4 th May, 5th November 2021	<ol style="list-style-type: none"> 1. The Committee has a liaison contact at Parliament who assists in review of legislation in collaboration with the Branch 2. The Committee engaged the Council of Governors and formed a sub-committee to formulate terms of engagement and devolution matters to be addressed. 3. The Committee receives quarterly updates from Kenya Law which are shared by members through our communication channels 4. Committee made comments to Communication Technology Practitioners Bill 2020 which were collated into one memorandum for submission to Parliament.
Litigation Practice Committee	23 rd February and 28 th April 2021	<ol style="list-style-type: none"> 1. The Committee organized Training on Virtual Court Etiquette and Litigation held on 9th March 2020. The session was graced by Hon. Justice Alfred Mabeya, Presiding Judge of High Court Commercial Division and Hon. Lady Justice Grace Nzioka, who also sits in the Rules Committee. 2. The Committee has been successful in organizing E-Filing Trainings for members
In – House Counsels Committee	8 th February and 9 th March, 24th September, 2021	<ol style="list-style-type: none"> 1. The Committee has formed a sub-committee to look into and demystify in-house practice within Nairobi and Kiambu counties 2. The Committee will have webinars every quarter or physical seminars to address various aspects of in-house practice 3. The Committee organized a webinar on 11th March 2021 on “Valuable Legal and Non-Legal Essential for Every In-House Lawyer to Achieve Success in a Business Environment”

COMMITTEES	MEETING DATES	ACHIEVEMENTS
Commercial Practice Committee	23 rd February 2021, 5 th November 2021	<ol style="list-style-type: none"> 1. The Committee is currently pursuing emerging commercial practice issues 2. The Committee is in the process of making recommendations on the simplification of commercial procedures and practices through the representatives of the liaison committees 3. The Committee organized a webinar in collaboration with Anjarwalla and Khanna International Trade Law Department on the Benefits and Opportunities of AfCFTA for Lawyers, held on 19th November 2021
BAR - BENCH COMMITTEES		
Court of Appeal BBC	22nd January, 25 th March, 30th September, 2021	<p>The Court of Appeal Bar Bench Committee discussed various practice issues and Advocates were requested to take note the following:-</p> <ol style="list-style-type: none"> 1. The need to improve the quality of submissions filed to the Court 2. The narrowing down of issues raised especially during applications as this would hasten the process 3. Applications under Court of Appeal Rule 5(2) (b) should be filed together with the Record of Appeal. 4. An Inns of Court will be held during the 1st Term of the Court and members are encouraged to participate.
High Court Family BBC	2 nd June, 29 th June, 29 th September, 26 th November, 10 th December 2021.	<ol style="list-style-type: none"> 1. The Committee is actively engaged in a rallying call “To enhance justice through digitization”. 2. The Committee has formed a sub-committee to formulate proposals on how to actualize digitization of grants 3. The Committee is preparing a short handbook on Frequently Asked Questions (FAQs) to assist all stakeholders in handling processes 4. The Committee organized Service Weeks in 2021



COMMITTEES	MEETING DATES	ACHIEVEMENTS
Constitutional and Human Rights Division Bar Bench Committee	10 th March, 3 rd November 2021	<p>The BBC is chaired by the new presiding judge, Lady Justice Hedwig Ong'udi. Among the main issues for discussions have been the new court fee structure, plans to re-open courts per Petition E392 of 2020, reduction of backlog, typed proceedings, reduction of missing files, and digitization, e-filing and virtual courts. The following were key highlights:</p> <ol style="list-style-type: none"> 1. Virtual sessions have been progressing well and should continue. Open court sessions have been reserved for hearings especially where witnesses are involved and provided that health protocols are followed. There is, however, a need to consider how to equip unrepresented parties and those who come from rural areas and have limited or no technological knowledge. Pursuant to the judgment in E392 of 2020, it is necessary to await further directions from the Chief Justice in relation to resumption of open court sittings. 2. Members of the bar can now notify the Deputy Registrar whenever they encounter delays in receiving typed proceedings. Members should follow up on requests for typed proceedings because some members request for the proceedings then fail to pick them up. 3. Currently, Counsel who are dissatisfied with directions given pursuant to a Certificate of Urgency, in terms of date set for hearing, can write a formal letter to the Judge on duty requesting to be heard on why the date should be moved forward.
Judicial Review BBC	25 th February, 4 th June, 30 th September 2021	<ol style="list-style-type: none"> 1. The Committee welcomed its new convener Mr. Issa Mansour and discussed various challenges faced by the court. 2. All matters filed after 2017 have been scanned and uploaded to the E-filing portal. 3. The Court by request of the Committee held an e-filing training for advocates. 4. The Convener and the DR in conjunction with the LSK Nairobi Branch looked into ways through which the issue of harmonization of instituting proceedings under the Civil Procedure Act and the Fair Administrative Action Act can be solved including engaging other stakeholders in coming up with rules.
High Court Civil BBC	10 th March, 3 rd November, 2021	<ol style="list-style-type: none"> 1. The Committee requested guidelines for whether a matter is heard virtually or physically given the new hybrid system. 2. Judges was reducing backlog and having as many as 3 hearings a day to this effect
High Court Commercial BBC	25 th January, 2021	<ol style="list-style-type: none"> 1. The Committee has been at the forefront on digitization of the Commercial and Tax Division. 2. The Committee has formed a subcommittee to formulate practice directions that will guide the Court on all virtual and physical hearings. he directions have been finalized and sent to the Chief Justice 3. The Committee fundraised Kshs. 75,000/- towards purchasing 13 mobile phones to be donated to the Division.

COMMITTEES	MEETING DATES	ACHIEVEMENTS
High Court Criminal, BBC	11th May, 9th September, 18th November 2021	<ol style="list-style-type: none"> 1. The Divisions has continually raised concerns with regard to Plea-Bargaining agreements, Disclosure, Advocates not being supplied with committal bundles, Bond Processing and Re-sentencing. The Committee will prepare Practice Directions on re-sentencing, pre-trial and plea bargaining in 2021. 2. The Committee prepared a report on challenges encountered with pro bono briefs and there were changes made in the system of payment. Henceforth, pro bono advocates will receive their payments on time. There are about 208 Advocates in the Divisions Advocates pro bono Master Roll. About 70 of them were young advocates. Advocates with over 5years post admission experience were encouraged to participate in pro bono cases and take up murder briefs. 3. The Committee participated in the Review of Draft Criminal Appeals & Applications Practice Directions 4. A subcommittee was formed composed of representatives from advocates; the Office of the Director of Public Prosecutions, judges and the Deputy Registrars would be formed to come up with draft Practice Directions for Re-sentencing 5. Representatives of the office of the ODPP, trained the members on plea bargaining. Advocates were encouraged to advise their clients to embrace Plea Bargaining and Diversion Policies.
High Court Anticorruption BBC	23 rd February, 7 th April, 6th May 2021	The Anti-Corruption Bar Bench organized an Inns of Court held on 25th February 2021 . The session was graced by Hon. Lady Justice Mumbi Ngugi , the Presiding Judge of Milimani Anti-Corruption Division, Phillip Kagucia , the Head of Corporate Communications EACC and Paula Atukunda , Advocate and Convener of Anti-Corruption Division BBC.
Environment and Land BBC	18 th March 2021	<ol style="list-style-type: none"> 1. The Committee incorporated the Institution of Surveyors of Kenya and the Auctioneers body as members of the CUC. 2. The Committee managed to coordinate with the Secretariat in informing members of judicial leave date in good time 3. The Committee has been pushing for fixing of dates for all matters in the Division 4. The Committee pushed for Appeals disposable through submissions to proceed virtually.
Employment and Labour Relations BBC	22 nd January, 28 th April 2020, 10 th June, 23 rd September 2020, 24 th February 2021	<ol style="list-style-type: none"> 1. It was encouraged that more Advocates should be trained on mediation to help reduce the backlog of cases. 2. The Committee has been publicizing the ELRC Rules and its enforcement during the trial process. 3. The Committee has been at the forefront in trying to urge the Court to clear case backlog 4. During this COVID-19 pandemic, the Committee resolved that the Court should have their normal Cause List where all matters will be treated as mentioned in the first instance where directions shall be given on how matters are to proceed. The Committee also agreed that Parties can liaise with Deputy Registrars on how to collect documents at the Court.



COMMITTEES	MEETING DATES	ACHIEVEMENTS
Kadhis BBC	26 th February, 23 rd August 2021	<ol style="list-style-type: none"> 1. The Committee had a joint meeting with the High Court Family Division and the Children's Court and prepared a working paper expounding on the issues and proposed amendments to various relevant legislation and a handbook on issues of jurisdiction and practice in divorce, succession and children matters. 2. The committee toured the Kadhis Court and noted the need for renovation. The Deputy Chief Kadhi was for example, using his Chambers as a Courtroom. One Courtroom cannot be used as it has no ventilation. The other 2 Kadhis share one Chamber, and the room next to them is full of old court files from the early 1990's. 3. A report of the survey of services at the Kadhis' Court was presented and the members discussed the solutions to the issues raised.
Milimani Court Annexed Mediation Committee	5 th May 2021	<ol style="list-style-type: none"> 1. The Committee has formed a sub-committee to come up with proposals on publicity and sensitization of Advocates on compliance with Court Annexed Mediation Agreements 2. The Committee will be submitting comments on ADR matters and pending legislation in Parliament related to the same.
Children's' Court BBC	1st and 2nd November, 2021	<ol style="list-style-type: none"> 1. The Committee pushed for a Children's Court Open Day in 2021 to deal with closing of old files, that is, 5 years and older. 2. The Committee reviewed the Children's Bill 2021. Comments and suggestions on the Bill were forwarded for consideration to the Labour and Social Welfare Committee through the Clerk of the National Assembly. 3. The Committee organized the 'Justice in the eyes of the child' webinar

COMMITTEES	MEETING DATES	ACHIEVEMENTS
Chief Magistrates Criminal BBC	18 th February , 30 th March 2021	<p>Some of the issues raised by counsels in meetings are the failure and delays to reproduce court files that were filed through the e-filing system as well as the reallocation of courts causing confusion among counsels on where a magistrate is sitting. The following were 2021 highlights :</p> <ol style="list-style-type: none"> 1. The Committee finalized the Non - Custodial Measures Pilot Project at Milimani in collaboration with Raoull Wallenberg Institute 2. The court promised to work to ensure that matters filed before 2017 would be disposed of before 2022. 3. The Bench is also organizing a service week between February and March 2022 to reduce backlog. The specific dates will be communicated in due course. 4. The Court made a call for applications from advocates to join the CM Criminal pro bono scheme for those accused of robbery with violence. The advocates would be remunerated at Kshs 30,000 per file. 5. A liaison officer is to be appointed between the High Court and CMs court to ensure smooth movement of files such as those sent for revisions 6. The courts have been labelled afresh to stop confusion. 7. The ODPP will in 2022 set up training and sensitization of members of lawyers and members of the public on plea bargaining and diversion. Members were encouraged to advise their clients to embrace restorative justice.
Milimani Commercial Court Bar Bench Committee	24th November 2021	<ol style="list-style-type: none"> 1. The Committee discussed the practising challenges and the progress made by the court to curb some of those challenges. 2. The Committee has held off WIBA Matters given the judgment from the Court of Appeal. 3. The Bar has also raised the concern about the slow pace at which cases move at the execution stage as well as the problems they face when e-filing. 4. The Committee said goodbye to the outgoing Head of Station, Hon. Lynn Gicheha, and welcomed the new head of station. 5. A virtual customer care platform has been set up with IT personnel to assist with issues from the e- service portal from 9 a.m. to 4 p.m.

COMMITTEES	MEETING DATES	ACHIEVEMENTS
Chief Magistrates Civil BBC	24 th February and 29 th March 2021	<ol style="list-style-type: none"> 1. The Committee is pushing for a Standard Operating Procedures(SOPs) manual to guide the court processes 2. The Committee has been addressing the jurisdiction of the Court with regards to matters arising out of the Work Injury Benefits Act (WIBA) 3. The Committee made proposals relating to Judicial Service Commission on employment of more judicial officers to reduce case backlog 4. The Committee addressed the enhanced jurisdiction of Magistrates Court to hear land matters and how to deal with cases transferred to these Courts. 5. The Committee addressed various Advocates' concerns on upscaling Court processes at the Court. The Committee resolved on the matters to be handled in the current Cause List, typing of Rulings and Judgments before delivery and filing procedures for urgent matters. 6. The Branch Chair, Convener of the High Court Commercial and Tax BBC and Convener of the CMCC Bar Bench Committee were invited to the Judicial Visit by Hon. Alfred Mabeya (Presiding Judge Commercial and Tax Division). The report of the Branch was discussed and a tour of the Courts registries and departments was conducted. The meeting came up with various solutions to problems being faced and implementation to be assessed within 90 days.
Kibera BBC	15 th April 2021	They discussed the numerous adjournments due to unavailable police files, and poor time management. Members requested Magistrates to come up with guidelines to prevent inconsistencies in granting bail/bond terms.
JKIA BBC	5 th February 2021	The Committee discussed the issue of case backlog and proposed that the Branch should assist with sensitization of the same. The committee further discussed the need to increase the number of pro - bono Advocates for drug trafficking cases to those who cannot afford legal services
Makadara BBC	8 th April, 24 th September 2021	<ol style="list-style-type: none"> 1. The Committee agreed to adopt the LSK Nairobi Branch KPIs for 2021 with a particular focus on the following: <ol style="list-style-type: none"> i. Increasing the number of pro - bono Advocates accessible to litigants who cannot afford legal services such as the elderly, foreigners, children and the illiterate ii. Eradication of masqueraders and quacks from the Courts iii. Meetings in every quarter 2. A sub-committee was selected to formulate Guidelines on Virtual Hearings from plea taking to the conclusion of the case. The sub-committee comprises Judicial Officers, Advocates and representatives from the Office of the Director of Public Prosecutions

COMMITTEES	MEETING DATES	ACHIEVEMENTS
Kahawa BBC	25 th January, 4 th March and 12 th March 2021	<ol style="list-style-type: none"> 1. The BBC was formed in January 2021. The meeting brought together stakeholders from across the board and featured discussions on how best to steer operations at the newly established Court. It was agreed at the meeting that a multifaceted team would be constituted in order to develop practice guidelines for the court. 2. Participants drawn from various stakeholders discussed guidelines for operationalization of the court to enable it effectively discharge its mandate of handling counterterrorism cases and related offences.
Small Claims Court Bar Bench Committee	14th September, 18th November, 2021	<ol style="list-style-type: none"> 1. The Small Claims Court requirements validation and systems customization workshop was held on 6th to 10th September 2021. The workshop was attended by the acting Registrar of the Small Claims Court, the Chair of LSK Nairobi Branch, an Adjudicator, employees of the Court and developers. They discussed the customization of the Judiciary's E-filing portal, CTS and JIFMIS systems for the Small Claims Court. At the end of the workshop the prototypes for the three systems had been developed. It is intended that the platform will be launched on 1st October, 2021 and the branch shall be involved in organizing training for them. 2. The Small Claims Court Bar Bench Committee had its inaugural meeting on 14th September, 2021. The convener of the committee is Kennedy Ochieng. 3. The committee discussed among other things, the jurisdiction of the court on declaratory suits where the judgment was made by the court. Hon. Gitonga reported that the Small Claims Court (SCC) has jurisdiction to hear declaratory suits arising from judgments by the court. This will be communicated formally to litigants in the coming days. 4. The E-filing system of the court is now running and training sessions on how to use the system were held. 5. The committee debated a draft of the Representative Claim Form that would be used in application for leave to proceed with the main claim. The final version was incorporated in the e-filing system. 6. The Bar Bench also formed a sub-committee to compile and propose amendments on the Small Claims Court Act and especially the section requiring matters to be completed in 60 days. The proposed amendments will be presented to Hon. Justice Mabeha.



COMMITTEES	MEETING DATES	ACHIEVEMENTS
TRIBUNAL COMMITTEES		
National Environment Tribunal Committee	29 th April 2021, 6 th July, 19 th November, 2021	<ol style="list-style-type: none"> 1. The Committee resolved to set up strategic plan for the committee's term 2. The Committee plans to engage the Tribunal actively in 2021 3. The National Environmental Tribunal (NET) Bar Bench Stakeholders Consultative Meeting was held on 16th July 2021 to primarily to discuss; <ol style="list-style-type: none"> a) The development of a practice guideline for practitioners b) Planning of technical support to the Ministry of Environment and Forestry to develop pending regulations for the implementation of laws enacted on climate change, Natural Resource Management (NRM) and biodiversity c) Preparation of training program to relevant national and county institutions on international environmental law, biodiversity and human rights laws d) Creation of a strategy for stakeholders' engagement on climate justice and NRM 4. The National Environmental Law Practitioners Workshop was held at Sarova Stanley to discuss the development of the National Environmental Tribunal Practice Guidelines. Some of the issues to be covered in the Guidelines include; What is the National Environmental Tribunal, how to approach the tribunal, the jurisdiction of the Tribunal and the costs to be incurred when you want to file a suit before the Tribunal.
Rent Restriction Tribunal Committee	12 th February 2021	The Committee will be reconstituted and a Tribunals Open Day to be organized in 2022.
Business Premises Rent Tribunal Committee	21 st April 2021	The Committee discussed in a previous meeting how to engage the relevant stakeholders not to disband the tribunal which would otherwise affect the practitioners and the clients they represent.
Cooperative Tribunal Committee	22 nd April 2021	The Committee pushed for deployment of judicial officers at the Tribunal by engaging JSC
Public Procurement Tribunal Committee	Not met in 2021	The Committee has recently been constituted. The purpose of the Committee is to address the practice concerns arising from adjudication of disputed procurement proceedings.
HIV Tribunal CUC	13 th January, 14 th April, 21 st July and 9 th December 2021	<ol style="list-style-type: none"> 1. The Committee had a CUC meeting to discuss the practice concerns of the Tribunals 2. The Committee organized a legal awareness webinar in collaboration with the Legal Aid & PIL Committee, and Kituo Cha Sheria. The webinar was held on 22nd April 2021 titled "Demystifying HIV/AIDS Rights in Kenya". The speakers were Helene Namisi, Chairperson of HIV/AIDS Tribunal and John Mwariri, Coordinator at the Legal Aid and Education Department at Kituo Cha Sheria.

COMMITTEES	MEETING DATES	ACHIEVEMENTS
Political Parties Dispute Tribunal	25th June, 25th November 2021	<ol style="list-style-type: none"> 1. The Bar Bench committee was formed in June 2021 and is convened by Harriet Njoki Mboce 2. The BBC has set it KPIs and has worked on its TORs 3. The Committee spearheaded the workshops for practitioners before the tribunal. In Nairobi, the workshop will be held on 4th February 2022
LIAISON COMMITTEES		
ICT and IP Liaison Committee	29th January, 26th February, 26th March and 30th April, 6th October 2021	<ol style="list-style-type: none"> 1. The Committee organized sessions of Digital Skills Training for Advocates within the first and second quarters of 2021 2. The Committee is planning for the second edition of Nairobi Legal Innovation Week in the second quarter of 2022 3. There are sub – committees that are reviewing legislation in ICT and IP
Tax Liaison Committee	26th March, 7th April, 18th June, 30th July, 3rd September, 24th September, 5th November	<ol style="list-style-type: none"> 1. The Committee collaborated with KRA in organizing Tax Forum addressing various tax issues, which were held on 15th July and 19th July 2021. 2. The Committee is liaising with KRA to have more tax trainings for members in Nairobi and Kiambu Counties 3. The Committee has held Tax Awareness Fora in 2021 on the following dates: On 23rd April 2021 on “Navigating tax disputes based on merit vs procedural technicalities” 19th July on “Emerging tax issues” 18th August titled “Deferred Tax Assets” 4. The Committee was able to secure an MOU with Tax Justice Networks Africa with possible areas of collaboration such as trainings, public interest litigation cases, OECD inclusive framework on BEPS deal.
Nairobi Lands Registry Liaison Committee	28 th January, 17 th February, 24 th February, 25 th March, 26 th March, 2 nd April, 5 th April, 22 nd April 2021, 11th May 2021, 23rd September, 6th December 2021	<ol style="list-style-type: none"> 1. The Committee through the Chair, Eric Theuri has been part of the subcommittee reviewing the NLIMS processes to be launched in 2021 2. The Committee has been following up on pending applications at the registry and the Chair, Eric Theuri has been circulating updates on the same. 3. Land Registry Processes and Procedures Training. The Committee has pushed for efficiency of service delivery at the Lands registry. 4. The Committee has been liaising with the LSK Conveyancing Committee to ensure that the Lands Registry and Ministry of Lands adhere to the service charter and resolutions agreed during the joint liaison meetings 5. The Committee in liaison with members of the LSK conveyancing committee and the ministry held a joint retreat from 25th – 26th March 2021. The purpose of the retreat was to develop the Titles Conversion Manual. The retreat was a success and the manual is set to be released soon. The sub-committee further had meetings to finalize on the draft manual. 6. The Committee in liaison with the Ministry organized a training for Advocates for the new Ardhisasa Platform on the 14th December 2021 which included transacting through the platform and the procedures for application /uploading of parcels online.



COMMITTEES	MEETING DATES	ACHIEVEMENTS
Nairobi Companies Registry Liaison Committee	12 th March, 16 th June, 30 th July, 24 th September, 19 th November, 2020, 11 th February and 15 th April 2021	<ol style="list-style-type: none"> 1. The Committee has pushed for implementation of interim resolutions regarding service system concerns during meetings with the Registrar of Companies 2. The Committee has collaborated with BRS to organize trainings for members on the online system 3. The Committee organized for sensitization of members on Beneficial Ownership requirement 4. The Committee proposed an escalation mechanism which can be used by members in case of delay of services at the Companies' Registry 5. The Committee has formulated Practice Notes for use at the Companies Registry, which are currently on the BRS website. 6. The Committee is currently doing the business processes reengineering with the support of IFC of World Bank 7. The Committee organized a webinar on Beneficial Ownership Awareness held on 26th February 2021. We had good attendance from members. The webinar addressed challenges members faced while filing beneficial ownership information on the companies' registry portal, highlights of the Beneficial Ownership Regulations and the Beneficial Ownership Guidelines. 8. Another webinar on Beneficial Ownership was held on 18th February 2021. 9. The Committee organized a webinar on Practice Note 3, that is Foreign Companies, held on 12th October 2021
SPECIAL COMMITTEES		
Awards Committee	16 th February, 1 st March, 20 th April, 18 th May, 15 th June, 20 th July, 12 th August, 17 th August, 24 th August, 21 st September, 28 th September, 19 th October, 2 nd November, 12 th November, 18 th November, 24 th November, 26 th November 2021, 7 th January, 18 th January 2022,	The Committee organized the 4rd edition of Nairobi Legal Awards 2021 . The Committee has been reconstituted and preparations are underway for the 5 th edition of Nairobi Legal Awards 2022
Lawyer – Police Relations Committee	Not met in 2021	The Committee is still pushing for adoption of the draft Lawyer Police Guidelines

I. PROGRAMMES

1. BAR – BENCH PROGRAMME

We are constantly managing challenges arising within the course of practice through interactions in the BBCs and CUCs which have proven efficient as there are direct interactions between the Bar and the Bench

1.0 Introduction

On **5th February 2021**, the Branch held a Bar Bench Conveners Seminar at the Milimani Law Courts Parking. We had attendance from judicial officers of the various divisions of Court, heads of stations from the lower courts in Nairobi and the conveners of the BBCs. Members discussed the KPIs and monitoring and evaluation strategies.

Bar-Bench Committees KPI's 2021

1.1 Introduction

On 5th February, 2021 LSK Nairobi Branch held the Bar Bench Stakeholders Seminar at Milimani Law Courts. The seminar was attended by Deputy Registrars, Chief Magistrates, Conveners, the Branch Chair and Council members. The seminar aimed at reviewing the performance of Bar Bench Committees in 2020 and forging a way forward.

The Key Performance Indicators (KPIs), 2021 are based on the previous ones of 2020. They guide the undertaking of Bar-Bench Committees throughout the year including their monitoring and evaluation. Bar-Bench Committees, if seen as more than just meetings but as running programs, can be used as an avenue to enhance practice and access to justice. The KPIs set strongly rely upon the Bar Bench Committee Practice Guidelines, 2018.

The various Bar-Bench Committees have been mandated to adopt these KPIs and set their targets in the actualization of these KPIs tailored to the Court in question.

2.0 Bar-Bench Committees KPI's 2021

The following are the KPIs set for all Bar Bench Committees in 2021:

2.1 Quarterly Meetings

- a) Each Bar-Bench Committee shall hold at least one meeting per quarter and the dates of these meetings shall be set either during the committee meeting or at the beginning of each

quarter.

- b) At least one week's notice shall be given before any meeting.
- c) Members shall be notified of Bar-Bench Committee meetings in the following ways:-
 - By emails two weeks before the meeting;
 - By notices sent on email and the committees' WhatsApp group; and
 - On the Cause List for a week before the meeting.
- d) Meetings whether physical or virtual will start at the agreed time and members are encouraged to be punctual.

2.2 Membership

- a) Each Committee shall have at least fifteen permanent members and one of these members shall be the convener of the Committee.
- b) Permanent members are encouraged to attend all the meetings of the Committee and an attendance report shall be prepared at the end of the year.
- c) The Convener of the Bar Bench committee or Branch Council can co-opt new members into the committee after approval from the Branch Chair. Conveners with the assistance of judicial officers are encouraged to identify frequent practitioners in their Court to co-opt.

2.3 Dissemination of Information

- a) Action points from the Bar-Bench Committee shall be shared to the members of the Committee one day after the meeting.
- b) A Bar Bench update of the Committee meeting shall be shared on all WhatsApp Groups and the Newsletter within one week of the date of the Committee meeting.
- c) Minutes of the Committee meeting shall be prepared within one week of the Committee meeting and shared with the Convener and Deputy Registrar(s) before onward transmission to the members of the Committee.

2.4 Inns of Court

- a) Each Committee is required to hold at least one Inns of Court within the year.
- b) Topics to be discussed in the Inns of Court should be agreed upon by the Committee and dates should be settled on at least three months in advance to allow for proper planning.

2.5 Sensitization

- a) Advocates shall be encouraged to join and attend Bar-Bench Committees during all CPD training and relevant LSK Nairobi Branch events.

2.6 Standing Agenda Items

- a) Each Bar-Bench shall have standing agenda items that shall be discussed and reports given during each meeting.
- b) The key standing agenda items shall include:-

- *Case Filing and Disposal Report*

A report of all matters filed every month and matters concluded every month at each Division or Court shall be presented during the Bar Bench Committee meeting.

This report shall also state the backlog that the particular Division or Court has.

Bar Bench Committees should come up with strategies to ensure that matters are concluded within 365 days of the date of filing,

- *Reduction of Missing Files*

Bar-Bench Committees join in the Judiciary's goal of having 100% file availability. Each Deputy Registrar shall present a Missing File Report during each Bar-Bench Committee meeting.

- *Progress Reports on digitization*

A report on the progress of scanning and uploading old matters to the E-filing platform and other on-going digitization initiatives should be presented.

- *Typed Proceedings and Transcription*

Proceedings should be ready within 90 days of conclusion of the matter. A report of the same shall be presented by Deputy Registrars during

each Bar-Bench Committee meeting.

- *Mediation Report*

Bar-Bench Committees shall be used as a means of encouraging and sensitizing members about mediation. A report of matters in mediation shall also be tabled.

- *Report from the Bar*

The Convener of the Bar Bench committee shall present a report of the feedback collected by members from the Bar on the practice in the particular Court or Division.

- c) Committees are encouraged to have sub-committees to deal with specific matters of concern to the Committee, which shall also report on the day of the meeting.

2.7 Court Users Committee

The Convener of the Bar Bench Committee shall be invited for all Court Users Committee and the Advocates in the Court Users Committee shall be co-opted as members of the Bar Bench Committee.

2.8 Bar Bench Projects

Bar Bench Committees are encouraged to undertake projects every year and identify sponsors or donors who would be willing to support the projects.

2.9 Assessment of Judicial Officers

The Branch shall undertake continuous assessment of Judicial Officers through online questionnaires.

2.10 Complaints

Part X of the LSK Bar Bench Committee Practice Guidelines, 2018 provides for Bar-Bench Committees to handle personal complaints. As a general rule in the first instance any complaints will be handled informally through the Conveners.

Deputy Registrars shall also provide a report of written complaints sent to their office. Written complaints to Deputy Registrars will be replied to within seven days of receipt.

When a Deputy Registrar receives a complaint against a Judge, the complaint will be channeled through the Convener to present it to the Presiding Judge.

Note that these complaints are on matters welfare or the personal conducts of Advocates and Judicial Officers.

2.11 Media engagements

Bar-Bench Committees are encouraged to enhance access to justice by choosing relevant legal topics relevant to the public in general and organizing, in conjunction with the Judiciary, for media engagement and present on the same at least once during the year.

3.0 Conclusion

It can be emphasized further, that Bar-Bench Committees have a mandate to do more than just meet. The Bar-Bench Committees should work towards proposing the amendment of statutes, developing practice directions, enhancing practice, and acting as tools for informal conflict resolution. The Judiciary can become more effective through the concerted joint efforts of the Bar and the Bench.

2. COMMERCIAL PRACTICE PROGRAMME

This programme is executed through various committees such as Tax Liaison, Companies Liaison, Lands Liaison and ICT/IP Liaison Committees. The Committees meet at least once a quarter or monthly on a needs basis. It worth noting that the programme has led to the establishment of other programs such as the Legal Tech and Innovation programme which emanated from the need to embrace the growing field of legal technological advancements.

2.1 Commercial Practice Liaison Committee Meetings

We have managed to have consistent meetings with the Companies Registries. However, we are still pushing for more regular engagements with the Lands Registry. We have also been having regular engagements with KRA and KIPi/KECOBO for the Tax Liaison Committee and ICT/IP Liaison Committee respectively.

2.2 Committee Meetings

We have set up cohorts for specialized practitioners. We have circulated articles relating to ICT and IP law and Tax Law via Weekly Newsletter. We are still in the

process of compiling a database for the specialized practitioners.

2.3 Development of Commercial Practice Notes

The Companies Liaison Committee also formed a sub-committee to formulate **Companies' Registry Practice Notes**. This was prompted by the variations in service delivery at the Companies Registry.

The Branch has been part of the team formulating the **High Court Practice Directions**, which are yet to be adopted. The Bar Bench Committees are also coming up with Practice Directions for the respective Divisions. The stakeholders' various engagements with the Judiciary prompted the need to streamline service delivery within the Judiciary.

The Branch has been a part of the team drafting the **Titles Conversion Manual**. There are plans to come up with more Practice Notes for the Lands Registry to improve service delivery.

3. SOCIAL AND WELFARE PROGRAMME

3.1 Welfare Initiatives

3.1.1 Internal Dispute Resolution Committee

This Committee is tasked with resolving disputes amongst Advocates. There has been little feedback regarding complaints between Advocates. We received one complaint in 2020 which is under review.

3.1.2 Members Savings and Investment

The Law Society of Kenya in Partnership with LSK Sacco has been carrying out welfare initiative drives to encourage members to save and invest their income. In line with the MOU, we have been encouraging firms to also implement the check-off system to match up their employees' contribution to the SACCO. We will also have a special award during the Nairobi Legal Awards for the firms that encourage saving and investment for their employees.

3.1.3 Improvement of Lawyer Police Relations

We have engaged the Regional Commander of Police Nairobi County and Directorate of Criminal Investigations on how to improve the relations between Advocates and the Police noting that both are officers of the Court. We came up with draft guidelines through the Lawyer Police Relations Committee. Two subcommittees were formed to work on the draft guidelines which are supposed to be



presented to the DCI before adoption.

We have not been successful at engaging the Directorate of Criminal Investigations to fast track improvement of lawyer-police relations on the ground before the guidelines are adopted. The guidelines are still work in progress but we hope to finalize the matter in 2022.

3.1.4 Branch Partnerships

CS Certification of Advocates – The Branch ongoing partnership with Traction School of Governance and Business has led to improvement of members’ skills. We are glad that members are taking up CS courses as a way of building their professional capacity. The partnership guarantees 10% discount to members on the tuition fees and full reimbursement from National Industrial Training Authority (NITA).

Partnership with Bountiful Safaris – The Branch has partnered with Bountiful Safaris to offer members discounted travel packages. We urge firms and corporates going on conferences or personal vacations to utilize the partnerships.

Partnership with Alumni Club – This partnership benefits Subscribed members who will be provided with a meeting room without paying any costs.

Partnership with CPF Financial Services – Structuring of the partnership is still ongoing. We are in the process of formulating welfare programs.

Partnership with Kenya Bankers Association – Collaborate on practice issues cutting across both sectors.

Partnership with Chiromo Hospital Group – To promote mental health awareness among our members.

Partnership with Traction School of Governance and Business – To give discounts to our members who want to pursue professional courses

Partnership with LSK SACCO – To promote the financial wellbeing of our members.

3.1.5 Quarterly Luncheons

Unfortunately, we could not organize luncheons for the year 2021 due to the covid-19 pandemic.

3.2 Social Initiatives

3.2.1 Quiz Nights

The Branch has been organizing for Quiz Nights as a way of bringing together Advocates practising within Nairobi and Kiambu Counties. The Quiz Nights are interactive yet competitive sessions amongst different lawyers categorized into teams consisting of six participants each. We had quiz night held on **18th March 2021** was held at Blue Door Lounge. The event was well attended and we received sponsorship from **RONN Law Advocates** and **Traction School of Governance and Business**. The winners were: **Team Hung Jury** in first position, **Ligi Soo** as first runners up and **Team Kombucha** and **Team Issa Problem** tied at second runners up position.

3.2.2 LSK Nairobi Branch Sports Day (Incorporating Inter-Branch Football Match)

Unfortunately, due to covid-19 pandemic, we could not organize a sports day in 2021. However, the next one is scheduled for **17th September 2022**. We intend to have quarterly fitness boot camps in 2021 and we urge members to turn up in large numbers. We also have Fitness Boot Camps scheduled within the year 2022.

3.0.3 Advocates’ Barbeque

We had Advocates Barbeque held on **18th December 2021** at Jiweke Tavern. It was a social activity bringing together members to celebrate the achievements of 2021.

4. MENTORSHIP PROGRAMME

The programme has had an impact on young lawyers. However, the programme is not limited to mentoring of young lawyers only. We also accept applications for mentorship on different aspects of practice such as law firm operations and transitional changes in one’s career path.

4.1 One-on-one Mentorship

Due to the outlined challenges faced by young lawyers in practice, we approached and requested senior Advocates equipped with the necessary skills and expertise, take up 2-5 mentees under their wing for mentorship purposes. The mentorship shall be structured to fit within a specific period of time (ideally one year) at the expiry of which the mentors will take up new mentees. It is at the mentors’ discretion to select one of the two options available, that is, one-on-one sessions or group sessions with the given set of mentees.

4.2 Mentorship Forums

The in-person quarterly Mentorship Forums were not organized in 2021 due to the COVID-19 pandemic. However, we organized a virtual Mentorship Forum held on **15th April 2021**. The theme was **"Tips of Financial Management and Charging of Legal Fees."** The speakers were **Mr. Kevin McCourt**, Partner at Kairu & McCourt Advocates and **Ms. Sheba Njagi** from Centonomy Limited.

4.3 Mentorship Video Podcasts

We have managed to feature a few senior Advocates in the YouTube video podcasts which are a form of mentorship. The Advocates give an overview of previous professional challenges and advise how to deal with them. So far, we have interviewed **Paul Muite, SC, John Ohaga SC, FCI Arb, Nelson Ashitiva, Commissioner Mercy Deche, Eunice Lumallas, Hon. Dr. Otiende Amollo SC, Hon. Mutula Kilonzo Junior, Mugambi Laibuta, Ribin Ondwari, Johnson Kariuki, Julie Soweto, SC, Melissa Ngania and Judy Thongori SC.**

4.4 Young Lawyers Mentorship Guidelines

These are guidelines meant to improve and refine the Mentorship Programme. The objective is to improve the welfare and practice of young lawyers, ranging from exemplary mentorship programs and better working conditions to improved and acceptable remuneration. The guidelines apply to all Advocates working within Nairobi and Kiambu Counties, must have been in practice for 5 years and below and those who have been admitted to the Advocates Training Programme (ATP) while undertaking their pupillage programme within Nairobi and Kiambu counties.

4.5 Coffee Talks Mentorship Series

The 'Coffee Talks' series is designed to incorporate aspects of the One-on-One Mentorship as well as the Mentorship Forums, hosted on a virtual platform. The series entails informal conversations between mentors and mentees about various topics including legal practice and life in general. Each series has 5 mentors who are assigned to different breakout rooms on the virtual platform. Each mentor has a maximum of 8 mentees in the room and engage in an informal discussion of the topic of the day.

So far we have had 6 sessions from **6th May 2021** on **Overcoming adversity in the workplace, 17th June 2021** on **Setting and tracking career goals, 22nd July 2021**

on **Building professional networks, 19th August 2021** on **Work Life Balance, 23rd September 2021** on **Honing leadership skills, 21st October 2021** on **Getting that promotion/raise.**

4.5 Mentorship General Code of Conduct

This Code defines the framework within which the mentors and mentees under the Programme operate during the Programme. It promotes utmost integrity, professionalism and ethical conduct. That said, embodying good conduct goes deeper than simply following a set of rules or policies – it is a way of life. However, we are aware that the document cannot spell out what's right and what's wrong in every situation, so the mentors and mentees are expected to exercise good personal judgment, integrity and a strong sense of personal accountability when making decisions during the Programme.

5. LAW REFORM AND DEVOLUTION PROGRAMME

5.1 Committee Meetings

We had a few meetings because of the covid-19 pandemic. The Committee engaged the Legislative Office of the National Assembly and agreed to participate in review of Bills moving forward.

5.2 Review of Legislation and Devolution Matters

The Committee prepared a **Memorandum forwarded to the Clerk of National Assembly on the ICT Practitioners Bill 2020**. More memoranda are in the works for pending Bills.

6. TRAINING PROGRAMME

We have partnered with various firms in setting up practice series which can be beneficial to members dependent on the members' practice needs.

6.1 ICT Training

The Branch began training series on ICT skills. We partnered with **Emobilis Mobile Technology Institute** courtesy of **Google Digital Skills Africa Program**. The first session of Google Digital Skills was held on **29th January 2021** from 12:00noon. The webinar was facilitated by Emobilis Mobile Technology Institute and members were trained on how to build their brands online while adhering to the Advocates Marketing and Advertising Rules. The following were the topics that were addressed during the sessions:

- a. Session 1 was held on **29th January 2021** – Build your brand and sell online.
- b. Session 2 was held on **26th February 2021** – Use marketing tools and social media to grow your business online
- c. Session 3 was held on **26th March 2021** – Create a digital marketing plan
- d. Session 4 was held on **30th April 2021** – Use data and insights to help your business grow

6.2 Trial Advocacy Training

We partnered with Trial Advocacy Institute to offer Trial Advocacy Training in Nairobi. In 2020, the training initially scheduled for 30th March – 3rd April 2020 was postponed due to covid-19. We had the first training in 2021 being held from **18th – 21st and 25th – 29th January 2021**. The second phase of training was held on **14th – 18th June and 21st – 25th June 2021**.

6.3 Legal Audit & Compliance

We are currently engaging Kenya School of Law in setting up this series which was expected to begin in 2021. Unfortunately, it was postponed due to COVID – 19 pandemic and plans are underway to have it in 2022.

6.4 In-House Counsels Training

The Committee organized a webinar on **11th March 2021** on “Valuable Legal and Non-Legal Essential for Every In-House Lawyer to Achieve Success in a Business Environment”. The speakers were **David Swao** (Legal Director, Kenya & Performance Markets Cluster GSK), **Lorna Solopian** (Head of Legal & Compliance, Kenafric Group of Companies) and **Soila Kigera** as the facilitator.

6.5 Tax Series with KRA

This is an ongoing partnership where KRA facilitates the logistics to have a Tax Forum where members can engage on tax related matters. We held a Tax Forum on **23rd February, 23rd April 2021 and 19th July 2021**.

7. NAIROBI LEGAL AWARDS (NLA) PROGRAMME

The NLA was launched in 2018. This was done in recognition of the challenges noted with law practice in Nairobi and Kiambu Counties including the quality of client care and satisfaction, quality of legal services and engagement between members of the profession and other professional bodies. We had the 4th Edition of NLAs in 2021 with the Awards Gala held on **26th**

November 2021 at Movenpick Hotel. The Awards Programme has been recognizing law firms/ legal departments and individual lawyers with outstanding standards of practice and legal service delivery in an effort towards encouraging excellence in practice. The criterion is based on globally recognized best practice in legal practice and service delivery.

The Nairobi Legal Awards Trust was set up with the aim of institutionalizing the Nairobi Legal Awards Programme. The Trustees are:

1. Mr. Charles Kanjama – Chair
2. Mr. Beuttah Siganga SC – Member
3. MS Jacqueline Manani – Member
4. Mr. Eric Theuri – Member
5. Mr. Gad Gathu – Member
6. Ms Ndinda Kinyili – Member
7. Kennedy Murunga – Member

The Trustees, working in concert with the organs of the Trust that is the Technical Committee and The Awards Jury as well as the Branch Council and Branch Secretariat oversaw the execution of the 2021 Awards Cycle.

The fourth edition of the Nairobi Legal Awards was held on the **26th November 2021** at the **Movenpick Hotel, Nairobi** from **4.00pm**.

A. SPECIAL COMMITTEES OF THE NAIROBI LEGAL AWARDS

The Awards Process was coordinated by the following key Committees.

i. Technical Committee

The Technical Committee for the Nairobi Legal Awards 2021 comprised:

Name	Organization/Institution
1. MS Ndinda Kinyili	Chair of Committee (LSK Council and EACC)
2. MS Helene Namisi	LSK Nairobi Branch Council Vice Chair
3. Julia Wachira	LSK Nairobi Branch Council Member
4. Charles Mwalimu	LSK Nairobi Branch Council Member
5. Mr. Gad Gathu	Mucheru Law LLP
6. MS Dorcas Kitaa	D.S Kitaa & Co Advocates

- | | |
|---------------------|----------------------------------|
| 7. MS Venessa Lwila | Majanja Luseno & Co
Advocates |
| 8. Alex Waweru | |
| 9. Gabriel Mwangi | |
| 10. John Chigiti | |
| 11. Rose Mbanya | |

ii. The Awards Jury

This comprised the following reputable persons from various areas of Practice:

- | | |
|---------------------------|---------------|
| 1. Mr. Beuttah Siganga SC | Chair of Jury |
| 2. Justice Isaac Lenaola | Member |
| 3. Mr. Kiragu Kimani SC | Member |
| 4. Mr. Fred Waitthaka | Member |
| 5. MS Jacqueline Manani | Member |
| 6. MS Diana Sawe | Member |
| 7. Mr. Charles Mutinda | Member |
| 8. Mr. Charles Kanjama | Member |
| 9. Mr. Eric Theuri | Member |

B. METHODOLOGY

The Awards involved three processes:

- I. Invitation of and submission of entries by contenders and collection of data for the various Awards categories based on a Tool formulated to encompass the above enumerated principles of legal best-practice and statutory provisions. The Tools stipulate the various aspects to be assessed. Questions are formulated to assess the level of establishment and compliance with the various aspects. Data is to be provided by nominees through answering the various questions and providing evidence for the indicated practices/policies. The aspects are proportionately weighted.
- II. Data Assessment which entailed visits by trained Awards Assessors to the participating Firms/Organizations and interview of individual participants to verify the data provided and Evidence presented by the contenders.
- III. Jury consideration of the data and selection of winning candidates

I. INVITATION FOR SUBMISSION OF ENTRIES

Members of the public were requested to submit their nominations or nominate themselves in the various categories and the first batch of nominations closed on the 10th September 2021.

The following were the awards categories:

Corporate Categories

1. Law Firm of the Year- Large & SME
2. Corporate Legal Department of the Year
3. Public Sector Law Department of the Year

Individual Categories

1. Lawyer of the Year
2. Young Lawyer of the Year
3. In-House Lawyer of the Year
4. Civil Society Lawyer of the Year
5. Public Sector Lawyer of the Year
6. Judge/Judicial Officer of the Year
7. Committed Service Award
8. Branch Chairs Award
9. ADR Practitioner of the Year
10. Law Teacher of the Year
11. Pupil Master of the Year

The following were eligible to participate in the Awards:

- ▶ All lawyers practising in Nairobi and Kiambu Counties
- ▶ All law firms with offices/registered practices in Nairobi and Kiambu Counties
- ▶ All legal departments with offices in Nairobi and Kiambu Counties

Law-firms, organizations and individuals whose members/colleagues were in the Awards Coordination Committee/Jury were precluded from participating in the Awards.

Thereafter, nominees were asked to fill and return, in pdf format, entry forms sent to them by email. They were called upon to communicate any challenges experienced

in filling the same and notified of the next stage of the Awards process as well as the date of the Awards Ceremony. Only the nominees who returned their respective entry forms were eligible for assessment.

II. ASSESSMENT

The assessment process was conducted in two stages; **Individual assessment** and **Firm/Legal Department assessment**.

Firm/Department assessments were conducted dependent on availability of assessors and the arrangements made with senior officers of the firms/departments.

The assessors were:

1. Ms Praxedes Tororey Chief Assessor
2. Abigael Samin
3. Geoffrey Imende
4. Harry Karanja
5. Jacqueline Waihenya
6. Julius Kitheka
7. Kimwele Muneeni
8. Abongo Kennedy Modi
9. Omondi Shadrach
10. Salome Odero
11. Sylvia Muiruri
12. Tabitha Joy Raore
13. Agnes Kionga
14. Wambui Racheal
15. Anjwang Debora Anditi
16. Frida Mbugua
17. Samwel Njeri
18. Anne C. Adhiambo
19. Brian Tororei
20. Pauline Kenyatta Achieng
21. Alex Waweru
22. Cynthia Moraa Sagini
23. Kenneth Kithinji Kirimi
24. Joyce Mukururi
25. Megan Muthoni
26. Felix Odhiambo
27. Lynn Nganga

Members of the Branch Secretariat also assisted in the conducting of the assessments.

Individual interviews were carried out via video link by the assessors.

III. SELECTION OF WINNING CANDIDATES

The Awards Jury met on the 18th, 19th, 2nd and 23rd November 2021 in order to select the winning candidates.

The winners were selected based on the reports submitted by the Assessors and the information gathered from the entry forms as well as the provided references.

D. THE AWARDS CEREMONY

The Awards ceremony was held on the **26th November 2021** at the Movenpick Hotel from 4.00pm. The Gala was graced by Chief Guest **Hon.Lady Justice Lydia Achode**, Guests of Honour: CAS Beatrice Elachi, KRA Commissioner David Kinuu

This year, the handling of the main ceremony was handed over to Vintage Concepts Limited, who were in charge of conceptualizing and organizing the main Awards Gala.

8. LEGAL TECH AND INNOVATION PROGRAMME

The Branch, through its ICT and IP Liaison Committee, did not hold the Legal Tech Week due to the COVID -19 pandemic. However, the next one is scheduled for October 2022, exact dates to be confirmed.

9. LEGAL AID PROGRAMME

The programme incorporates offering legal aid services and taking up public interest matters. We have organized several legal aid clinics in prisons within Nairobi. The Branch has also donated some utilities to the prisons and Milimani Chief Magistrate Criminal Division, to aid access to justice for remandees. We have filed the following public interest matters in Court. The matters are still in the initial stages and we hope to finalize in the soonest time possible;

- a. Entered appearance as an interested party in the petition filed by Matatu Owners Association against NCAJ and the AG, **Petition 139 of 2020, relating to INVESCO Insurance** and Order of Stay in rem against all execution.
- b. Nairobi **ELRC Petition No.100 of 2020** consolidated with Petition No. 99 of 2020 Bernard Odero Okello vs Industrialization, Trade & Enterprise Development.

The Branch has set up a **Legal Aid Fund Trust** which will facilitate the Legal Aid Programme. We are in the process of getting more partners to aid in sustainability of the Fund.

The mandate of the Legal Aid and Public Interest Litigation (LAPIL) Committee is to organize and provide legal aid to members of the public within the jurisdiction of the Branch, educate the public on current legal issues and institute public interest litigation suits.

In 2021, the LAPIL Committee undertook the following activities:

International Day of Elderly Persons - Kibera

The Branch, through LAPIL Committee, joined the Grace and Mercy Foundation Kenya in commemorating the International Day for Older Persons on September 28, 2021 with about 300 seniors from Kibera Day Care Centre for the Elderly. Members attended to about 80 elderly persons.

Langata Women's Prison Legal Aid Day

The Branch, through LAPIL Committee, hosted a Legal Aid Day on 22nd October 2021. Members volunteered to give legal advice to about 550 inmates, ranging from capital offences remandees and general remandees to convicts. The Branch also donated a printer, photocopying paper, and body lotion, bars of soap, cooking oil and bales of wheat flour to the Prison.

Representation of LAPIL Committee activities on Citizen TV Live

The Convener, Ms. Joy Matheka, made presentations about the activities of the Branch and specifically the LAPIL committee in promotion of access to justice.

Partnerships

The LAPIL Committee has been able to form partnerships with Faraja Foundation and IDLO in sponsoring the various programs.

Public Interest Litigation

The Committee took interest in the breach of voters' data by Political Parties and is currently in discussion with the Office of the Data Protection Commissioner with an aim to solving the issue or proceeding to file a PIL matter.

The Committee's plans for the coming year include:

(i) More prison visits- especially to Kamiti and Industrial Area Remand Prisons.

(ii) Legal Aid in churches in various slums within Nairobi.

J. CHALLENGES AND MEASURES TO RESOLVE THEM

1. Member Participation

The Branch is facing challenges in getting members to attend our events and activities. We request members to embrace Total Member Involvement (TMI) to enable us to discharge our mandate effectively. Getting members to subscribe has also been a great challenge despite all the enticing benefits we have created for subscribed members. We request members to take advantage of the benefits by paying the voluntary subscription fee of Kshs.1,500.00

The Branch is currently allowed to issue one (1) CPD point for attendance of the Branch AGM and we hope this will increase member participation.

2. Fundraising

The Branch key sources of income come from LSK National Office which include Annual Grant, Devolution Fund and the Equalization Fund. We also raise income through the activities/events that we organize, member subscriptions and donations.

We have had challenges in fundraising for our major programs. We believe that this has been occasioned by stiff competition from other entities and cut-backs on traditional funding, especially grants from corporates during the COVID-19 pandemic.

We made a rallying call to members to give donations that could be used to curb the spread of COVID-19 pandemic. We appreciate all the sponsors who heeded our call and assisted us in purchasing boxes of sanitizers and face masks. The items were donated to stakeholders such as courts and police stations. We believe that this will go a long way in bolstering the existing relationship.

GRATITUDE FOR SUPPORT RECEIVED

LSK Nairobi Branch would like to express sincere gratitude to all Nairobi and Kiambu Counties practitioners and law firms for their support and participation in Branch activities. We specially recognize the following law firms and organizations that have supported the Branch in furthering its activities through generous contributions and donations:

1. Ashitiva Advocates LLP
2. Triple OK Law Advocates
3. Robson Harris Advocates
4. Traction School of Governance and Business
5. Chartered Institute of Arbitrators Kenya
6. RONN Law Advocates
7. IKM Advocates
8. Archer & Wilcock Advocates
9. Esmail & Esmail Advocates
10. Spy Crew Investigations Ltd
11. Oraro & Co. Advocates
12. Muma & Kanjama Advocates
13. MMW LLP Advocates
14. Dentons HHM
15. G&A Advocates LLP
16. LSK Sacco
17. Anjarwalla & Khanna ALN
18. Bowmans Coulson Harney LLP
19. CMS Daly & Inamdar Advocates
20. Munyao, Muthama & Kashindi Advocates
21. A.F. Gross Advocates
22. NBMA Advocates LLP - ENSafrica Kenya
23. Muchemi & Co Advocate
24. UAP Insurance
25. MMC Advocates
26. Paul G. Ngotho
27. Members' Subscriptions
28. Other Donations

K. KIAMBU COUNTY REPRESENTATIVE REPORTS

INTRODUCTION:

Below is the Annual Report for both LSK Kiambu Chapter and LSK Thika Chapter.

It is important to note that there were no activities in the months of January, April, June, September and November 2021 owing to Covid restrictions placed by the government from time to time and lack of funds by both Chapters.

CHAPTER ACTIVITIES IN FEBRUARY 2021

1. KIAMBU CHAPTER

(i) Kiambu Chapter Executives' Meeting

Kiambu Chapter Council met on **11th February, 2021** at the Professional Centre Building, Kiambu Town. Issues discussed include:

- i. Masqueraders and land brokers issue;
- ii. Meeting with Land Registrar, Kiambu Lands Registry;
- iii. Undercutting issue;
- iv. Satellite firms being run by clerks & secretaries;
- v. Bar-bench issues
- vi. Amendment of Chapter charter through an S.G.M
- vii. Appointment of new auditors
- viii. Chapter budget and lack of funds
- ix. Chapter elections date
- x. Chapter A.G.M date

A follow up meeting by the Chapter Executives on the above will be held on **4th March, 2021**.

2. (ii) Limuru Bar Bench Committee Meeting

The Limuru BBC held its meeting on 23rd February, 2021 at Limuru Law Courts.

The following resolutions were passed:

► Filing Documents & Pleadings

Any party who wishes to file a document or pleading shall do so through the court's email address: -

limurucourt@gmail.com indicating the subject as **"For Assessment"**

► Mentions

Any party who wishes to have a matter mentioned shall write a request for mention letter and send it by email to the Court email address limurucourt@gmail.com indicating the full case number and the purpose for which the mention is sought. (Note: all parties MUST be copied).

The request letter shall be assessed and scanned and sent to the person requesting to mention the matter.

The court will schedule a meeting by Microsoft teams/ Zoom/Google Meet and communicate the same to the parties. Mentions for fixing ruling/judgment dates

will be done virtually through Microsoft teams/Zoom/Google Meet.

► Applications And Preliminary Objections

Save for Succession Cases coming up for confirmation, all applications and or preliminary objections will be canvassed by way of written submissions and shall be filed as above, and the date of judgment or ruling shall be communicated in accordance with these guidelines.

Ex-parte applications shall be handled virtually through Microsoft teams/Zoom/Google Meet

► Applications Under Certificate Of Urgency

Applications under certificate of urgency shall be filed in the same manner as provided above. The court shall then issue directions on the manner that the same shall proceed.

► Pre-Trial Conferences

Upon closure of pleadings, the court shall issue Pre-Trial Notice to all parties attaching the Pre-Trial Directions Template.

The template shall be completed by the parties in consultation with each other within the given timelines.

The template shall then be filed and the court shall certify the matter ready for hearing.

In the event parties fail to agree on the pre-trial directions, either party may request for a mention as provided in these guidelines.

► Hearings

In line with the recommendations from the Public Health Office, each court will be handling only 4 hearings per day for Civil cases.

Parties who wish to fix their cases for hearing shall do invitation letters to other parties for fixing of hearing dates at the registry. Dates shall be fixed only on Mondays and Fridays.

Hearings will either be done physically in court or virtually through Microsoft teams/Zoom/Google Meet as individual judicial officers may direct.

A cause list will issue indicating the exact time each of the 4 cases will be called for hearing.

In all matters, an affidavit of service shall be filed 3 days before the hearing date.

Only the parties, their counsels if any and their witnesses will be allowed in the court premises during hearing.

► Delivery of Judgments

The Court shall put up a notice of the Judgments and Rulings to be delivered and the date of delivery on the Judiciary and NCLR websites as well as the Judiciary and Limuru Law Courts Facebook Page.

Parties who have provided email addresses or cellphone numbers in their pleadings shall also be notified of the same by email or text message.

Parties will be notified of the place, manner and time of delivery of Judgments and Rulings.

(ii) Kiambu Bar Bench Committee Meeting

The Kiambu Bar Bench Committee was to hold its meeting on **25th February, 2021** at Kiambu Law Courts at 2:00 p.m. However, the Chief Magistrate was unavailable as she was attending a seminar. The Kiambu BBC meeting was postponed to **11th March, 2021**.

2. THIKA CHAPTER

(i) Thika Law Courts Bar Bench Committee Meeting

The Thika Bar Bench Committee held its meeting on **18th February, 2021** at Thika Law Courts at 2.00 p.m. The following resolutions were made:

1. That the court shall create an email address for matters purely filed under certificate of urgency. This shall ensure that such matters are given priority during assessment and filing.
2. That instances where the CTS system is down, matters filed under certificate of urgency shall be placed before the duty court and directions on the same shall be issued pending the confirmation of payment of the relevant fees. Where the directions or orders have been issued, the contact advocate shall be informed of the progress and the orders shall only be signed and released to the advocate only upon confirmation of the payment.
3. That taking into account that the court lacks adequate ICT infrastructure, and it has been established that only one desktop is available for emails responses hence delaying the work. The court requested the Chapter to donate to them at least 2 desktops which shall aid in making email responses easier.

The Chapter calls to all members to donate towards that kitty whose budget we estimate will be Ksh 50,000/- (Kenya shillings Fifty Thousand)

4. That advocates who intend to come on record for criminal matters before court 3, they should ensure that they login before 9a.m since the court accords those matters first priority especially where the accused is in custody.
5. That the court undertook to improve its workforce in email responses and assessment of documents.
6. That matters that are undefended, formal proof hearing, divorce matters shall be heard online. This shall reduce significantly the number of persons who attend court physically.

(ii) Thika Chapter Special General Meeting

Thika Chapter held its S.G.M on Friday **5th March, 2021**.

Issues discussed

1. Amendment of the Chapter Charter
2. Approval of the Chapter budget for financial year 2021

The two (2) resolutions were passed by the Chapter membership.

I attended the meeting having been invited by the Chapter Council as Kiambu County Representative.

I noticed during the reading of the budget and bank balances that Thika Chapter is operating with just Kshs. 16,000/- in their bank and there was an appeal for the Chapter Grant from the Branch.

CHAPTER ACTIVITIES IN MARCH 2021

1. L.S.K KIAMBU CHAPTER

(i) Kiambu Lands Liaison Committee Meeting

The Kiambu Bar Bench Committee held its meeting on 24th March, 2021 at Kiambu Senior Members' Club at 2.00 p.m.

Issues discussed

1. Missing Greencards

The Registrar at Lands Kiambu stated that this is an issue that she inherited from previous regimes but

the whole team of registrars is working on the issue by holding morning meetings for status update to follow up and trace missing cards.

Advocates and their clients are urged to make a list of missing green cards for onward transmission to the Land's registry so that they can be worked on.

2. Franking Machine

The Kiambu Land's Registry Franking machine broke down in August, 2019.

The Head Registrar has on numerous times tried to request for a replacement and was promised a machine which she never received.

She requests that Advocates do a formal complaint to the Collector of Stamp Duty in order for them to see the dire need for the same.

3. Powers Of Attorney

The Registrars have been insisting on seeing the Donors of the power in instances of sale and charge. This was necessitated by the reason that some people were drawing the power of attorneys with recourse to the Donor therefore causing fraudulent transactions.

It was proposed that for power of attorneys meant for sale and charge, advocates to copy the Land's registry through email the correspondences between them and the Clients who are out of the country so that the registry can track the genuineness of the instructions. The email address will be provided.

4. Covid Mitigation Measures At Kiambu Lands Registry

Ever since the Registry gate was opened by order of the CS for Lands, there has been little observance of Covid-19 Ministry of Health guidelines. The Lands Registry has exhausted their donations meant to implement the guidelines. However, the head Registrar will try to procure more items such as sanitizers, thermo-guns, and soaps. Advocates urged to donate what they can.

In the meantime, security personnel will regulate the number of people getting into the hall at any given time and if possible allow 15 people at a given time.

5. Reconstruction of Greencards

The process though strenuous and long has to be adhered to. However, the Registrars are optimistic that the issue of loss of Greencards will reduce.

6. Consent on Leasehold Transfers

The said consents are issued by the Land Officer who is currently bereaved. He will be notified of the legal position once he is back.

However, Advocates and clients who want to lodge such titles for registration are free to do so by attaching the Gazette notice in place of the consent.

7. Delays in Registration of RL 19 and RL 7 Forms

The delay is occasioned by lack of prompt response from the courts once they are contacted. The other challenge has been some courts e.g. Milimani requesting the registrar to pay court fees.

8. Dispatch of Documents

The concern was that the records at times indicated that documents have been dispatched whereas the person who booked still has the original booking form.

The issue has been sorted by allocating the task of dispatching to specific people from a central point at the reception. Carry the original booking form and in case of loss or displacement of the original booking form, take along the registered owner with their original identity card.

9. AOB

- Advocates urged to attach their current Practicing Certificates or payment receipts when lodging documents at the Kiambu Lands Registry.
- Advocates urged to use the current Lands Forms when making applications.
- Advocates are encouraged to raise their concerns through the Chapter Executive who will pass it to the Registrars.

(ii) Kiambu Bar Bench Committee Meeting

The Kiambu Bar Bench Committee held its meeting on 26th March, 2021 at Kiambu Law Courts at 2.00 p.m.

Issues discussed

1. Court operations

The Chief Magistrate brought it to the attention of members present that judicial officers would be proceeding for a colloquium on diverse dates as indicated below

- Hon.Grace Omodho (Court 4) - 13th to 17th April, 2021
- Hon.Rita K. Orora (Court 6) - 13th to 17th April, 2021
- Hon.Patricia Gichohi (Court 1) - 20th to 24th April, 2021
- Hon.Wilson Rading (Court 5) - 20th to 24th April, 2021
- Hon.Stella Atambo (Court 2) - 27th to 1st May, 2021

The Chief Magistrate indicated that advocates and litigants be called and matters be rescheduled.

2. Giving of Dates to Fresh Matters

It had been proposed that all new matters be given dates upon filing before being fed into the system. However, advocates present proposed that matters be fed into the system without dates.

It was resolved that matters will be keyed into the system but they will not have dates.

3. Pro Bono Briefs

The Deputy Registrar stated that he was working on the issue of pro bono briefs and that he will see to it that the advocates who have taken up such briefs have been compensated before close of the financial year that is before the end of the month of June, 2021.

4. Earnest Plea for Reinstatement of Court No. 3

Court users should request for a new Court No. 3. The same should be done through a letter to the CRJ requesting for a replacement in the shortest time possible.

5. A.O.B

Court No. 4 will be handling her civil matters on Wednesdays starting **1st August, 2021**

(iii) Kiambu Bar Bench Committee Emergency Meeting

The Kiambu Bar Bench Committee held its meeting on **8th April, 2021** virtually at 2.00 p.m. to discuss the recent notice by the Acting Chief Justice on the closure of physical courts to the public.

It was resolved that Kiambu Law Courts shall henceforth proceed with matters virtually.

The notice was shared in our weekly newsletter to our membership and the same is annexed below.

2. L.S.K THIKA CHAPTER

(i) Thika Chapter Special General Meeting

Thika Chapter held its S.G.M on Friday **5th March, 2021**.

Issues discussed

1. Amendment of the Chapter Charter
2. Approval of the Chapter budget for financial year 2021

The two (2) resolutions were passed by the Chapter membership.

I attended the meeting having been invited by the Chapter Council as Kiambu County Representative.

I noticed during the reading of the budget and bank balances that Thika Chapter is operating with just Kshs. 16,000/- in their bank and there was an appeal for the Chapter Grant from the Branch.

(ii) Thika CMC Bar-Bench meeting

The following issues were agreed upon in an effort to make practice better.

1. That the court shall create an email address for matters purely filed under certificate of urgency. This shall ensure that such matters are given priority during assessment and filing.
2. That instances where the CTS system is down, matters filed under certificate of urgency shall be placed before the duty court and directions on the same shall be issued pending the confirmation of payment of the relevant fees. Where the directions or orders have been issued, the contact advocate shall be informed of the progress and the orders shall only be signed and released to the advocate only upon confirmation of the payment. The objective of this resolution is to ensure that urgent matters get to the attention of the court and immediately the system resumes such matters shall be granted priority in payment. This will ensure that immediately payment is done the orders will not take long before being signed and released to the advocate.
3. That taking into account that the court lacks adequate ICT infrastructure, and it has been

established that only one desktop is available for emails responses hence delaying the work. The court requested we donate to them at least 2 desktops which shall aid in making email responses easier. It's therefore a call to all members to donate something towards that kitty whose budget we estimate will be Ksh 50,000/- (Kenya shillings Fifty Thousand)

4. That advocates who intend to come on record for criminal matters before court 3, they should ensure that they login before 9am since the court accords those matters first priority especially where the accused is in custody.
5. That the court undertook to improve its workforce in email responses and assessment of documents.
6. That matters that are undefended, formal proof hearing, divorce matters shall be heard online. This shall reduce significantly the number of persons who attend court physically.

(iii) Ruiru Law Court Bar Bench Committee

Following a CUC meeting at Ruiru Law Courts, the court encouraged members to:

1. File certificates of urgency before noon to ensure the matters to be heard on the same day.
2. Members are urged to call court when there is slow response to assessing and filing of matters as the system is sometimes slow and the court calls for understanding on this issue of the new filing system.
3. Court 4 is a visiting court that is helping clear the backlog in the court.
4. The court still has not obtained a generator but is working on obtaining one.

Criminal matters part-heard and 2019 matters are being prioritized for hearing at the moment.

CHAPTER ACTIVITIES IN MAY 2021

In view of the directions given by the Ag. Chief Justice on **9th May 2021**, all courts in Kiambu County held joint BBC and CUC meetings to discuss the issue of reopening of courts and related directions.

The same is detailed in the report below:

1. KIAMBU CHAPTER

(i) Kiambu Law Courts Court Users Committee

The Kiambu Law Courts CuC was held on **11th May, 2021** via MS Teams. The meeting was convened by Lady Justice Mary Kasango, the Presiding Judge, Kiambu County.

Issues discussed include:

- i. Delays in response to assessment and filing of certificates of urgency (lower courts);
- ii. Delays in response to emails sent to court for assessment and filing (lower courts);
- iii. Pro bono payment arrears;
- iv. Hearings to be done physically while complying with MoH Guidelines;
- v. Need for computers for Kiambu Police Station (needed for plea taking)
- vi. Power Cuts and internet speed issues (resolved)
- vii. Need for e-filing to be rolled out
- viii. Lack of phone for the civil registry

The Chapter Council suggested that the court should open different emails for

- i. Certificates of urgency;
- ii. Succession matters;
- iii. Criminal matters;
- iv. Other Civil matters.

An email address was registered for dealing with criminal matters. The other suggestions are yet to be implemented.

(ii) Kiambu County Pro Bono Committee Meeting

Kiambu County Pro Bono Committee Meeting was held on **19th May, 2021** virtually via the Microsoft Teams Platform. The meeting was convened by Lady Justice Mary Kasango, the Presiding Judge, Kiambu County. The main agenda was for appointment of an LSK Representative to the Pro Bono Committee.

Kiambu Chapter nominated Mr. Colin Warutere, and Thika Chapter nominated Mr. Steve Mbugua. The judge shall appoint one person and communicate on the same.

The Chief Magistrate (HoS), Children's Officer, Prisons Superintendent, OCS and Chairs of Kiambu Chapter and Thika Chapter were present.

(iii) Kikuyu Bar Bench & CuC Meeting

The Kikuyu BBC held its meeting on **11th May, 2021**. The following resolutions were passed:

1. A: CIVIL MATTERS

The committee resolved that Civil/Children matters shall continue being heard virtually.

There will be an exception for those matters where parties are unrepresented and they are not able to log onto the virtual court. There will also be an exception in matters where the parties feel and the court agrees that there are complex issues that require articulation of issues, and the virtual platform cannot be able to facilitate the same.

B: URGENT MATTERS

All urgent matters shall be handled by the Duty Courts on a daily basis.

C: FILING OF SUBMISSIONS/ AFFIDAVITS OF SERVICE

Litigants/Advocates are encouraged to file Submissions/ Affidavits of Service **five (5) days** before the due date so as to enable our Registry Staff to retrieve and place them in the court file in good time.

2. A: CRIMINAL MATTERS

For the matters where the accused persons are out on bond, hearings shall proceed physically in court. The court will restrict the numbers of hearings to a maximum of **5 (five) per day, per court** in order to limit the people present at the law courts at any given time.

For those in custody, the court will continue to hear the matters virtually where it is possible to do so, until such a time that the prison authority is able to produce the remandees in court.

The traffic matters will be treated like the criminal matters, meaning that those out on bond will attend physically, while those in custody will be attended to virtually, until the prisons are able to produce them.

B: PLEA TAKING

All pleas shall be handled virtually. All suspects who are out on police cash bail will avail themselves to the respective police stations on the day indicated in their summons.

C: JUDGEMENTS AND RULINGS

The Criminal judgements to be delivered in Open Court.

1. SUCCESSION MATTERS

The Succession matters will be heard once a week. Each court will have a maximum of five matters listed and phased out for hearing at an allocated time. Entry to the law courts will be strictly for the administrators and the listed beneficiaries.

Applications that do not need the attendance of beneficiaries and directions on hearings will be done virtually. These will be listed together with the civil matters on either **Mondays Court 2, Tuesdays Court 1 or Wednesdays Court 3.**

2. BAIL AND BOND

The processing of bail shall be done physically at the law courts. The sureties will be required to present themselves at the customer care desk, from where they will be directed on the next procedure.

3. FINES AND DEPOSITS

Those paying fines and doing deposits shall be attended to physically. They will be attended to from the customer care desk and guided on where to move next.

4. FIXING OF DATES

This will continue being done virtually for the time being, as has been happening in the civil registry. In cases where parties are not represented and not able to log into the meeting for giving dates, the civil registry will make arrangements to have the parties appear physically for date fixing.

However, the courts shall endeavour to give a further date in all matters that are listed and need further action. Create a link for fixing dates.

Parties to send emails for fixing dates **three (3) days** before.

Fixing dates is on Wednesdays and Thursdays between 10.00 am and 12.00 noon.

5. Our permanent virtual Electronic Address

- i. Court 1 - Hon. D. N. Musyoka
- ii. Court 2 - Hon. G. Onsarigo
- iii. Court 3 - Hon. Z. W. Gichana

In case of Assistance, contact:

1. The Court Administrator - Mr. Maina Phone No: 0720 871 722
2. Mr. Kabatha (In-charge Civil Registry) Phone No.0721 495160
3. Ms. Caroline Kadaga (In-charge Criminal Registry) Phone No.0722 632 069
4. Leah Ndirangu (In-charge Succession Registry) Phone No.0727 212 640

COURT ASSISTANTS

- i. Ebban - Court 1 Phone No: 0723 660 864
- ii. Joel Omina - Court 2 Phone No: 0713 638 453
- iii. Tabby Njeri - Court 3 Phone No: 0710 791 614

(ii) Githunguri Bar Bench & CuC Meeting

The Githunguri BBC and CuC held its meeting on **11th May, 2021**

The minutes and resolutions of the meeting not yet submitted.

2. THIKA CHAPTER

(i) Thika Law Courts ELC Bar Bench Committee Meeting

Pursuant to the CUC meeting held on the **11th May 2021** at the Thika Environment and Land court presided by Hon.Lady Justice L.Gacheru it was agreed as follows:

- i. Litigants and advocates to be discouraged from filing documents in the morning when the matter is listed for the day.
- ii. Advocates and litigants to ensure they use the respective emails while filing documents. The court had noted that certificate of urgency applications are not being filed in the proper email as directed.
- iii. Advocates and litigants to use the case number of the suit as the subject of the email being addressed to court for ease of reference.
- iv. Bulk documents to be filed physically in court.
- v. Date fixing shall be done once a week via zoom/teams or phone calls as directed by the registry clerks. (Notice to this shall be released by the court)

- vi. Advocates to ensure they furnish the court with the proper functioning emails for ease of communication.

(ii) Thika Law Courts Bar Bench Committee Meeting

Pursuant to the CUC meeting held on the **11th May 2021** held virtually and presided by Hon. Nang'ea (CM), the following resolutions were reached at the meeting for immediate implementation:

- i. To reduce the risk of Covid-19 infections in this very busy Court, it was decided that all matters will continue to be disposed of online where possible and convenient to the parties concerned.
- ii. For cases which have been identified as only suitable to be conducted physically in open Court, each Court will list a maximum 6 (six) hearings per day. All mentions will henceforth continue to be handled virtually.
- iii. Hearing of Criminal cases in which accused persons are in remand custody will be conducted in open Court.
- iv. All matters involving children who are in conflict with the law or are alleged victims of offences will be disposed of physically in Court unless the matters can otherwise be heard virtually.
- v. All Probate and Administration Causes which had stopped because of huge numbers of beneficiaries who usually throng the Court, will now be dealt with in open Court except those that may be conveniently handled by virtual link.
- vi. All Criminal cases that have been pending since 2017 and earlier are to be heard in open Court to prevent further delay in conclusion thereof.
- vii. Delivering of Judgments/Rulings where accused persons are out on bond had stalled because of the partial closure of the Court. Upon agreeing with Police Stations, the concerned accused persons will be directed to specific Police Stations where judgments will be read to them virtually. In the event of a conviction, the convict will thereafter be sent to Prison as may be directed by the Court.
- viii. In implementing the foregoing resolutions, the Court will continue to be guided by the existing Ministry of Health Protocols which *inter alia* prescribes the maximum number of persons allowed in each Court during conduct of proceedings.

(iii) Gatundu Law Courts Bar Bench Committee Meeting

Upon consultation with the stakeholders on **11th May, 2021**, Gatundu Law Courts BBC made the following resolutions which took effect from **17th May 2021**:

1. CIVIL CASES

Civil hearing and mentions shall continue to be conducted virtually. The courts shall issue specific directions where due to the nature and complexity of the cases. The virtual platform would not be practicable.

2. CRIMINAL MATTERS

- i. Cases where the accused are out on bond, hearings shall proceed in open court with restricted number of hearings per day.
- ii. For those in custody: the court will continue to hear the matters virtually where it is possible to do so until such a time that the Prison Authority is able to produce the remandees in court.
- iii. Pleas shall continue to be conducted virtually.

3. SUCCESSION MATTERS

- i. Succession matters will be heard once a week with restricted matters fixed. Entry to the Law Courts will be strictly for the administrators and listed beneficiaries.
- ii. Succession applications that do not require the attendance of beneficiaries and directions for contested hearings shall be done virtually and listed with civil matters on either Mondays or Wednesdays.

4. BAIL AND BOND

Processing of bail shall be done physically at the Law Courts. The sureties will be required to present themselves at the Customer Care desk.

5. FINES AND DEPOSITTS

Those paying fines and making deposits shall be attended physically through the Customer Care desk.

6. FIXING OF DATES

Fixing of dates in the civil registry will continue to be done virtually and where the unrepresented parties are not able to appear virtually. The civil registry will make arrangements for their physical attendance.



The court emphasized that strict compliance with the Ministry of Health guidelines shall be adhered at all times which include wearing of face masks, washing of hands and keeping social distance.

Further directions to ensure efficient service delivery shall be made.

FEEDBACK ON KIAMBU COURTS 2021

This is a summary of Feedback from Advocates practising in Thika Chapter and Kiambu Chapter to be presented to the Hon. Chief Justice. I have noted that most of the concerns by the advocates are similar.

Below is a summary:

A. KIAMBU CHAPTER

1. KIAMBU HIGH COURT

This court mainly had positive reviews except for No. (iii) below:

- Virtual and physical Courts are beginning on time
- The court ensures Covid-19 prevention measures are kept during the physical open court hearings
- Typed proceedings are taking months hence creating backlogs

2. KIAMBU CHIEF MAGISTRATE'S COURTS

The concerns are that:

- The court takes too long to assess court fees.
- The civil registry doesn't respond to inquiries sent via email
- Difficulty in filing pleadings
- In regards to virtual Court proceedings, there is weak internet/poor internet connectivity
- It takes more than seven (7) days to receive summons
- In some cases, dates are set without one's knowledge and one only finds out through checking the cause list
- Generally the staff is not helpful unless it is somebody you have established a rapport with.
- It takes more than 7 days to have the issue in the letter or email sent acted upon and resolved
- There are delays in receiving typed proceedings.
- Sometimes advocates are requested for

money/facilitation to be offered services by the registry

- Punctuality of courts is an issue.
- Emails never responded on time, so impossible to file urgent documents. One is compelled to travel to the court station.
- Under staffed members, especially that the typist not available
- In one instance, extraction of an order took two (2) weeks
- Kiambu has a habit of moving courts. You find court one sitting in court 3 without consistency.
- Delays in receiving orders caused by Officer on duty not being available
- Rude attendance, harsh questions and dismissal of queries

Suggestions:

- Fixing of dates should be done virtually before the executive officer in the afternoon.
- Time allocation for plea taking to be regularized and remain constant. For instance every day 12noon.

3. KIKUYU LAW COURTS

- No response to emails when filing matters in court
- Summons take more than 7 days to be issued
- Issue of facilitation/corruption prevalent in the registry in order to receive services
- Punctuality of courts is an issue
- Emails take More than 7 days to be responded to
- Registry officials unsupportive to advocates and litigants
- Classification of matters on when they were filed and fixing them per the said year is contributing to delays
- No prior notices on whether judicial officers are sitting

Suggestions:

- Magistrate must and should always be ready to proceed

4. GITHUNGURI LAW COURTS

- Online filing is a challenge
- Numerous complaints about missing files

- especially on the hearing day
- Virtual Court proceedings need to start on time (Punctuality)
- Typed proceedings taking up to 30 days
- Delays in receiving orders due to Magistrate being busy

OVERALL RATING OF SERVICES OF THE COURTS IN THE CHAPTER:

3/5 (1 being poor; 5 being excellent)

B. THIKA CHAPTER

1. Thika ELC Court

Below are the views collected from advocates practising in Thika Chapter:

- Staff never responding to emails
- Summons take more than 7 days to be issued
- Procedure for fixing dates for matters at the above Court not satisfactory
- Issue of missing files
- Not knowing who to contact when faced with challenges during virtual Court proceedings
- Internet connectivity issues during virtual Court proceedings. The network should be improved
- Punctuality issues at court
- Orders take more than 7 days to be certified and verified
- Delay in assessment of documents
- Slow staff: Takes too long when seeking their services
- Once a document assessed, you have to send someone to registry to stamp document instead of them scanning the receipt and stamped copy
- Typed proceedings delays
- However, court commended for ensuring Covid-19 prevention measures are kept during the physical open court hearings

2. Thika Law Courts

- The staff takes too long (more than 14 days) respond to emails and never assesses documents.
- It takes more than 7 days to receive summons
- To get a date you have to facilitate the staff.

Facilitation asked for even when asking for assessment of an affidavit of service

- Staff not co-operative, an advocate has to call several times for them to do their work.
- Generally, poor service delivery.
- Missing files, some taking years.
- Arrogant and corrupt staff.
- Delays in receiving typed proceedings up to 3 weeks
- Social distancing currently not being observed in open court sessions.

Suggestions:

- No matter should be stood over until end of cause list
- Minimize number of people in court as per Covid-19 protocols.
- On a positive note, virtual and physical courts begin on time

OVERALL RATING OF SERVICES OF THE COURTS IN THE CHAPTER:

2/5 (1 being poor; 5 being excellent)

CHAPTER ACTIVITIES IN OCTOBER 2021

1. KIAMBU CHAPTER

(i) Legal Awareness Week

Kiambu Chapter observed this year's Legal Awareness Week from **25th October, 2021 – 29th October, 2021** at the **Kiambu Law Courts'** Parking Yard.

The event was held under the theme: ***"Sovereignty of the People and Access to Justice"*** and was officially launched on **Monday 25th October, 2021** by the incoming Chief Magistrate Hon. E. Ominde.

Pro bono services were offered by over 60 Advocates to over 80 members of the public.

(ii) Kiambu Bar-Bench Committee

The Kiambu Bar-Bench Committee held a luncheon on **Friday 29th October, 2021** at Kiambu Golf Club at 2.30

p.m. to welcome the new Magistrates posted in Kiambu Law Courts, namely;

- (i) Hon. E. Ominde – Chief Magistrate – Court 1
- (ii) Hon. Maunela W. Kinyanjui – P.M – Court 2

The new Magistrates' respective court links were updated on Kenya Law Reports.

Council Member and Kiambu County Rep. Colin Warutere attended the luncheon on behalf of LSK Nairobi Branch.

2. THIKA CHAPTER

(i) Legal Awareness Week

Thika Chapter observed this year's Legal Awareness Week from **25th October, 2021 – 29th October, 2021** at the following Court Stations:

- (i) Thika Law Courts
- (ii) Ruiru Law Courts
- (iii) Gatundu Law Courts
- (iv) Kandara Law Courts

The event was held under the theme: ***“Sovereignty of the People and Access to Justice”*** and was officially launched on **Monday 25th October, 2021**.

CALENDAR OF CHAPTER EVENTS:

1. LSK Thika Chapter End of Year Party on **3rd December, 2021**.
2. LSK Kiambu Chapter End of Year Party on **10th December, 2021**.

The venues shall be communicated and invitation letters shall be sent to the Council of LSK Nairobi Branch in due course.

CHAPTER ACTIVITIES IN DECEMBER 2021

1. **LSK THIKA CHAPTER END OF YEAR PARTY ON 3RD DECEMBER, 2021.**

Thika Chapter held its end of year party at Rainbow Resort, Ruiru.

The event was attended by advocates, officials from Kiambu Chapter and judicial officers from Thika practice centre.

Members of the LSK Nairobi Branch Council that were in attendance: Eric Theuri (Chair, LSK Nairobi Branch), Colin Warutere (Kiambu County Rep.), Soila Kigera (Inhouse Counsel Rep.) and Julia Wachira (Council Member).

2. **LSK KIAMBU CHAPTER END OF YEAR PARTY ON 10TH DECEMBER, 2021.**

Kiambu Chapter held its end of year party at The Range, Kiambu Golf Club.

The event was attended by advocates, officials from Thika Chapter and judicial officers from Kiambu practice centre.

Members of the LSK Nairobi Branch Council that were in attendance: Colin Warutere (Kiambu County Rep.) and Julia Wachira (Council Member)

Prepared by:

Kunene C. Warutere,

Kiambu County Representative

SOUTH- WEST KENYA BRANCH 2021

1. LEADERSHIP STRUCTURE

The Branch officials comprises of:

- a. Mr. WILKINS OCHOKI** - Chairperson
- b. Ms. NANCY NYARIGE** - Vice Chairperson
- c. Mr. SAMUEL MAINGA** - Secretary General
- d. Mr. BENARD GICHANA** - Treasurer
- e. Ms. VIOLET MOGUCHE** - Organizing Secretary
- f. Ms. BRENDA NYAEGA** - Deputy Organizing Secretary

2. SECRETARIAT OFFICES

The Branch offices are located at Masaba Building, 2nd Floor, along Ogembo Street within Kisii town.

3. COUNCIL MEETINGS

The Branch officials have been convening meetings at least once every Month. The first meeting deliberated on developing a strategic plan and calendar of events for the Branch for the year 2021.

The plan was aligned to the general objectives of the Law Society of Kenya. The other routine meetings were set aside for planning events, assessing and reviewing the progress of previous activities.

1.1 ACTIVITIES CARRIED OUT IN THE YEAR 2021

The following are the activities which were carried out by the Branch in the year 2021.

A. KILGORIS BAR-BENCH MEETING

The members of the Branch attended a Bar-bench meeting on 2nd of February, 2021 held at Kilgoris Law Courts. The said meeting was chaired by the Hon. **P.J.F Gikonyo** and **Hon. R. Oanda**. The main agenda discussed was the operationalization of the High Court and E.L.C sub-registries.

B. VISIT TO KISII LAW COURTS BY JUSTICE HON. MAUREEN ONYANGO

On 10th of February, 2021, the Hon. Justice Maureen Onyango, the Principal Judge of the Employment and Labour Relations Court accompanied with Hon. Kennedy Kandet visited Kisii Law Courts. The two met various stakeholders at the Court station including the members of the Bar and the Bench.

It was agreed that all the Employment and Labour Relations matters from Kisii,

Nyamira, Homabay and Migori be filed at the Court's Kisii sub-registry.

C. HOMABAY LSK CHAPTER ELECTIONS

The Homabay LSK chapter held its elections on the 19th February, 2021. The following were elected as officials; Quinter Adoyo as the Chairperson, Victor Nyakwamba as the Secretary and Phiona Amondi as the organizing Secretary.

D. INTERNATIONAL WOMEN'S DAY

On the 8th March, 2021, the female branch members joined the Kisii presiding Judge Hon. Justice Rose Ougo at the Kisii Women's prison to celebrate the international Women's Day.

E. PRAYER SESSIONS

On the 20th March, 2021, the branch members held prayers at Dan's Hotel. We were joined by various pastors and other few members of the public.

F. DONATION OF A TENT

On the 31st March, 2021, the branch donated a tent to Keroka Law Courts with the view to enable the Court facilitate hearings in compliance with the covid-19 guidelines by the ministry of Health.

G. INTERNATIONAL PRISONERS JUSTICE DAY

On the 10th August, 2021, the branch members joined Hon. Mutai and other stakeholders at the Kisii main prisons to celebrate the international Prisoners Justice Day.

H. FILE CLOSING FOR KOINA ONYANCHA

On the 1st September, 2021, the Branch members joined the Hon. Justice Rose Ougo, other members of the Bench and the family members of the late Koina Onyancha advocate for closing file ceremony and tribute session.

I. FAREWELL SESSION FOR JUDGES AND JUDICIAL OFFICERS

On the 15th October, 2021, the Branch hosted a farewell party at Dans hotel for various judicial officers and Judges who had been transferred from the region to other Court stations. The occasion was also used to welcome the officers that had been transferred to the region.

J. LEGAL AWARENESS WEEK

The branch undertook the legal awareness week between the 25th October, 2021 and 29th October, 2021. Its theme was "*Sovereignty of the people and access to justice from.*" The members of the branch offered free legal aid to members of the public at the various Court stations.

On the 28th October, 2021, the Society's CEO Ms. Mercy Wambua visited the Branch and later accompanied the branch members to Marani town where four elderly citizens had been lynched on suspicions of allegedly practicing witchcraft.

The public was sensitized by the members on the need of respecting the rule of Law and undertook to watch brief for the victims in the criminal proceedings that had ensued therefrom.

K. VISIT TO KISII MAIN PRISON

On the 29th October, 2021, on the last day of the legal awareness, the members of the branch paid a visit to Kisii prison wherein they donated a laptop to the prison which

would aid the station to conduct virtual proceedings. The members equally sensitized the prisoners on their rights and various Court procedures.

L. ABA MEETING

On the 12th November, 2021, the officials of the Branch had a meeting with the Advocates Benevolent Association representative, one Ms. Angela Mwadumbo. Various issues were discussed in the meeting including the welfare of the members.

M. FILE CLOSING FOR NYAKUNDI JOSEPHAT

On the 25th November, 2021, the Branch members joined the Hon. Justice Rose Ougo, other members of the Bench and the family members of the late Josephat Nyakundi advocate for closing file ceremony and tribute session.

N. DONATION TO HOMABAY LAW COURTS

The members of the branch donated a table for the use by the Judge of the E.L.C Court at Homabay. The members expressed their gratitude on the posting of an E.L.C Judge at Homabay.

O. ANNUAL GENERAL MEETING (AGM)

On the 16th December, 2021, the Branch held its Annual General Meeting at Hotel Discretion in Migori County. In attendance were branch members from Kisii, Nyamira, Homabay and Migori. The members deliberated on various issues to wit; touching on the profession, practice, welfare, financial statements and the auditor's report.

P. END YEAR PARTY

On the 16th December, 2021, the Branch held an end year party at the Hotel Discretion in Migori County.

Q. PRISON VISIT

On the 16th December, 2021, the members of the branch accompanied the Kisii High Court presiding Judge Hon. Justice Rose Ougo and other Judicial Officers in presenting gifts to the prisoners at the Kisii Prison.

COAST BRANCH - 2021

INTRODUCTION

Pursuant to the Charter of the Law Society of Kenya Coast branch, the same recognized Mombasa Law Society and Malindi Law Society as separate entities to run events in their areas. This is reinforced by an earlier resolution of the LSK Annual General Meeting to preserve the Societies that pre-existed the new branches which are the recognized Chapters of LSK Coast branch.

Consequently, a number of events are executed by the Chapters whilst a number are executed as events of the Society. We are pleased to present the various activities undertaken this year as hereunder:-

- 1. Events of the Branch.**
- 2. Events of Mombasa Law Society.**
- 3. Events of Malindi Law Society.**

HIGHLIGHTS OF THE YEAR

1. EVENTS OF THE LAW SOCIETY OF KENYA COAST BRANCH

(a) ANNUAL GENERAL MEETING HELD ON 25TH FEBRUARY 2021

The LSK Coast Branch held its Annual General Meeting on 25th February 2021 at Pride Inn Hotel and was also held virtual. The attendance was successful we had 106 participants online and 20 participants on physical attendance.

The Councils proposal for the New Year was:

- i. To proceed and purchase the office space and move to a better place.
- ii. To steward the creation of Kwale and Voi/Taita Taveta practice centers.
- iii. Engage the Courts within the region on issues of practice.
- iv. Engage the LSK in issues touching on national importance and issue on practice and welfare.

(b) LEGAL AWARENESS WEEK HELD ON 25TH TO 29TH OCTOBER 2021

Mombasa Law Society held its legal awareness week on 25th October to 29th October, 2021 at the open ground opposite the Mombasa Law Courts. The event will be observed under the theme "**Sovereignty of the**

people and access to justice". The Legal Awareness Week comprised of various activities geared towards promoting access to justice, advancing pro bono legal services and legal aid. Advocates involved in legal aid and human rights work as well as other institutions that provide legal aid will have an opportunity to engage with members of the public with a view to promoting a better understanding of the role they play in the advancement of legal literacy, advocacy and access to justice.

The number of Advocates and Clients who attended during the five days are as follows:-

DATE	ADVOCATES	CLIENTS
Monday 25 th October 2021	69	30
Tuesday 26 th October 2021	80	19
Wednesday 27 th October 2021	82	19
Thursday 28 th October 2021	70	33
Friday 29 th October 2021	63	18

The Client to advocate turnout ratio was unbalanced since the Advocates were more than the Clients.

Issues observed during the week were:

- Adoption
- Children matters
- Criminal cases
- Custody and Maintenance
- Employment matter
- Land matters
- Matrimonial property
- RTA
- Succession
- Sexual offences - defilement
- Work injury claims among others

2. EVENTS OF THE MOMBASA LAW SOCIETY

a. TRAINING FOR THE MOMBASA LAW SOCIETY ON THE ABUSE OF BUYER POWER PROVISIONS AND PROCEDURES UNDER THE COMPETITION ACT NO. 12 OF 2010 HELD ON 2ND FEBRUARY 2021 AT CASTLE ROYAL HOTEL

The training on the abuse of buyer power provisions and procedures under the competition Act No. 12 of 2010 was held on 2nd February, 2021 at Castle Royal Hotel and was organized by the Competition Authority of Kenya.

The Competition Authority of Kenya (the Authority) is mandated by the Competition Act No. 12 of 2010 (the Act) with promotion and safeguarding of competition in the national economy including through regulating abuse of buyer power. One of the functions of the Authority is promoting public knowledge, awareness and understanding of the obligations, rights and remedies under the Act.

The workshop covered the following areas:

- a. Overview of the Kenyan Legal Framework for Competition Law;
- b. Understanding Buyer Power and its Abuse;
- c. Understanding the provisions of the Competition Act on Abuse of Buyer Power;
- d. Buying Cartels: Buyer Alliances and Joint Purchasing Agreements;
- e. Buyer Power Concerns in Merger Review; and
- f. Enforcement Procedures on Abuse of Buyer Power.

b. INTERDENOMINAL PRAYER DAY HELD ONLINE ON 5TH FEBRUARY 2021

The Mombasa Law Society organized a prayer session online for its members on 5th February 2021. The facilitators were members of the Mombasa Law Society.

c. INVITATION TO A COUNTY COURT USERS COMMITTEE (CCUC) ON 10TH FEBRUARY 2021 AT PRIDEINN PARADISE HOTEL

Members were invited to a Court Users Committee Meeting held on 10th February, 2021. The County Users Committees (CUCs) provide a platform for actors in the justice sector at the local or regional level, to consider improvements in the operations of the courts, coordinate functions within the justice system and improve the interaction of stakeholders.

d. THE 3RD QUARTER 2020/-2021 FY COURT USERS COMMITTEE MEETING HELD ON 26TH FEBRUARY 2021 AT PRIDEINN HOTEL, SHANZU

Members attended the Court Users Committee held on 26th February, 2021. The event was organized by the Mombasa Law Courts. CUCs provide the Judiciary with an opportunity to make the justice system more participatory and inclusive since the public is represented by all arms of government.



e. **BOOT CAMP HELD ON 20TH MARCH 2021 AT FOREST TRAILS**

The Mombasa Law Society Sports and Recreation Committee organized its 1st boot camp event on 20th March 2021 at Forest Trails. The Committee has also organized several successful boot camp events that have helped its members on health and wellness issues, and also created a platform for both young and senior members of the bar to meet and interact with one another.

f. **COMMISSION MERCY DECHE'S EXIT CONVERSATION HELD ON 23RD MARCH 2021 - MLS UON PUBLIC LECTURE SERIES 2021**

Mombasa Law Society in conjunction with University of Nairobi, Mombasa Campus organized a public lecture on 23rd March 2021 in honour of Commissioner Dr. Mercy Deche's whose term expired from the JSC and this marked her last exit conversation.

g. **EASTER SERVICE HELD ON 1ST APRIL, 2021 ONLINE**

The Mombasa Law Society organized an Easter prayer service for its members on 1st April, 2021 via online. The event was attended by advocates as well as judicial officers. The event was successful.

h. **GOOGLE SOLUTIONS FOR LAW FIRMS HELD ON 8TH APRIL, 2021 ONLINE**

As part of Mombasa Law Society's IT/PR Committee mandate to build capacity for our members and in response to the new normal that has resulted in an uptake of technology by law firms, the MLS IT/PR Committee partnered with BusinessCom Consulting Services, a Google Cloud Partner to bring to members a session where they can learn more about using Google's products in their firms. The session was held on 8th April 2021 via Google Meet.

i. **DATA PROTECTION ACT, 2019 COMPLIANCE & OPPORTUNITIES FOR LAWYERS HELD ON 12TH APRIL 2021.**

The Mombasa Law Society, IT/PR Committee in conjunction with the University of Nairobi, School of Law Mombasa campus organized an online forum on data protection Act, 2019 to discuss some salient provisions of the Act including the rights and duties of entities under the Act, the principles of data protection, consequences of non-compliance, the applicability of the Act to law firm practice,

opportunities for lawyers among other.

j. **CSR - WAKONGWE CSR AT MEKATILILI HELD ON 23RD MAY 2021**

The Mombasa Law Society organized a CSR on 23rd July 2021 at Mekatilili Cultural Research and Rescue Centre in Malindi. The Cultural Centre is a home for the elderly men and women that age has made them target of murder. The motivation being allegations of witchcraft used as an excuse to conceal a desire to dispose them of property they acquired in their youth.

The Mekatilili Cultural Research and Rescue Centre was formed with the sole purposes of protecting these aged men and women who now are on the run due to their threat to person.

Mombasa Law Society delivered foodstuffs and clothing as donations to the home. The Society also had a meal with the elderly men and women. The event was successful.

k. **PUBLIC LECTURE SERIES**

The Mombasa Law Society in conjunction with the University of Nairobi, Mombasa campus organized a series of lectures held online as follows:

- Mental Fitness and Exclusion in the Legal Profession: Unpacking mental health Law and Policy in Kenya. The speakers were Dr. Naomi Njuguna and Mr. Cindano Gakuru held on 7th May 2021.
- Basic Structure theory: Demystifying the Doctrine for Wanjiku held on 4th June 2021. The speaker was PLO Lumumba.
- Legal Pluralism: A discourse on the customary Laws of Kenyan Communities held on 11th June 2021. The Panelists were Hon. Justice Eric Ogola, Mr. Lumatete Muchai advocate, Mr. Gikandi Ngibuini advocate & the Hon. Senator of Mombasa County Mr. Mohamed Khatib.
- Decolonizing International Law: The Boundary Conundrum held on 2nd July 2021. The Speaker was Prof. Malcolm Shaw.
- Rethinking Sentencing in Kenya: The Muratetu Decision held on 22nd July 2021. The panelists were SC. Winfred Nderitu (Nderitu & partners Advocates) and Mr. Alexander Muteti (Senior

Assistant DPP.

l. STRATEGIC PARTNERS MEETING IN MOMBASA HELD ON 28TH MAY, 2021 AT KNCHR OFFICES

The Kenya National Commission on Human Rights (KNCHR) is an independent Constitutional Commission established under Article 59 and Chapter 15 of the Constitution of Kenya and subsequently operationalized through the Kenya National Commission on Human Rights and (KNCHR Act No. 14 of 2011). The Commission's two fold mandate is enhancing the protection and promotion rights and fundamental freedoms.

On 28th May, 2021 KNCHR and Mombasa Law Society met and in the meeting provided a platform for partners in Mombasa to discuss continued provision of access to justice, adaptations in the wake of the pandemic especially for vulnerable groups and recommendations on ways to enhance the partnership going forward.

m. MOMBASA LAW COURTS COURT USERS COMMITTEE MEETING HELD ON 4TH JUNE 2021

Members were invited to attend the 4th quarter CUC meeting held on 4th June 2021 at the Mombasa Law Courts. The agenda for the meeting was upscaling of Court operations and activities at Mombasa Law Courts during the Covid-19 pandemic and review of the sanitary inspection report.

n. FAMILY DIVISION BAR-BENCH CONFERENCE MEETING HELD ON 4TH JUNE 2021 AT VOYAGER HOTEL

The Mombasa Law Society Family Division Committee and the Mombasa Law Courts Family Division have been conducting Bar - Bench meetings routinely.

The Judiciary invited members of the Mombasa Law Society for a full day Bar-Bench conference meeting held on 25th **March, 2021. Some of the issues raised and discussed were:**

- Emerging issues in family matters e.g delay in issuance of grants
- Court Annexed Mediation

o. TRIP TO SHELDRIK FALLS HELD ON 12TH JUNE 2021

The Mombasa Law Society Sports and Recreation Committee organized its first hike event at Sheldrick Falls on 12th June 2021. The Committee has hosted a series of events as follows:

- 2nd trip to Sheldrick falls on 10th July 2021
- Hike to Kombani – Tiwi Beach in Kwale on 21st August 2021
- Hike to Vuria Hills, Taita Taveta on 18th & 19th September 2021
- Mashuja Hike at Chonyi, Vipingo Ridge - Kurwitu Beach on 20th October 2021

p. TONONOKA LEGAL AID HELD ON 15TH JUNE 2021

Tononoka Law Courts organized a Legal Aid Clinic on 15th June 2021. Advocates who practice in this Court were present during the legal aid clinic and offered their services to the litigants.

q. LUNCH FOR COMMISSIONER DECHE AND 3 APPOINTED ELC JUDGES HELD ON 1ST JULY 2021 AT ROYAL COURT HOTEL

Mombasa Law Society organized for a Lunch on 1st July 2021 at Royal Court Hotel in honour of Commissioner Mercy Deche whose term at the JSC had ended. The Society also hosted lunch for its three members who were appointed to serve as Judges of the Environment and Land Court.

r. MOMBASA ADVOCATES WELFARE ASSOCIATION MENTAL HEALTH AWARENESS DAY HELD ON 16TH JULY 2021 ONLINE

The Mombasa Law Society in conjunction with Mombasa Advocates Welfare Association hosted an online meeting on the mental Health Awareness day on 16th July 2021.

s. STAKEHOLDERS ENGAGEMENT ON HIGH COURT PRACTICE DIRECTIONS HELD ON 9TH AUGUST 2021

The Court of Appeal under the leadership of the chair of the Judiciary Rules Committee Hon. Mr. Justice Daniel Musinga, and Chair of the Committee on the Court of Appeal Electronic Case Management Practice Directions, Hon. Mr. Justice Gatembu Kairu organized a half day workshop held on 9th August 2021.



The objectives of the workshop were to discuss the Court of Appeal Rules (Proposed Amendments, 2020) and the Court of Appeal Electronic Case Management Practice Directions. Members attended and gave their views on the proposed amendments and practice directions.

t. **VACCINATION EXERCISE HELD ON 9TH AUGUST 2021 AT KOBLENZ HALL**

Mombasa Law Society in conjunction with the Red Cross Society of Kenya organized its 1st vaccination exercise against Covid-19 on 9th August 2021 at Koblenz Hall. Members, their families, and office workers attended the exercise. The exercise was a success. A similar exercise was carried out on 25th October, 2021.

u. **UPDATING THE NEWLY GAZETTED FEES ASSESSMENT IN THE FILING SYSTEM WEBINAR MEETING ON 25TH AUGUST 2021**

Members attended the webinar held on 25th August 2021 organized by the Judiciary. The purpose of the meeting was to explain the practical implementation of the Court structure and also gave an opportunity to discuss ways of sensitizing other court users including law firms and other ways of improving the delivery of justice in the Judiciary by use of technology.

v. **THE 1ST QUARTER 2021/2022 FY COURT USER COMMITTEE MEETING HELD ON 27TH AUGUST 2021 AT FLAMINGO BEACH RESORT-SHANZU**

Members were invited to attend meeting on the 1st quarter 2021/2022 Financial Year Court Users Committee meeting held on 27th August 2021 at Flamingo Beach. The theme of the meeting was "SGBV response and reporting networks".

w. **PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA ON THE ALTERNATIVE DISPUTE RESOLUTION BILL (SENATE BILLS NO. 34 OF 2021) HELD ON 15TH SEPTEMBER 2021**

Mombasa Law Society invited members for a virtual meeting on 15th September 2021 to discuss the ADR Bill (Senate Bills No. 34 of 2021) and submitted written Memoranda to the Senate.

x. **COURT USERS COMMITTEE MEETING ON THE IMPLEMENTATION OF ALTERNATIVE JUSTICE SYSTEM ON 15TH SEPTEMBER 2021 AT PRIDE INN HOTEL**

Members were invited to the Court Users Committee on implementation of Alternative Justice System(AJS) held on 15th September, 2021 at Pride Inn Hotel. The event was organized by Pamoja Trust (PT). PT is a civil society organization dedicated to promoting access to land, shelter and basic services for the urban poor. Some of the issues discussed were:-

- To map out the AJS work done by the Mombasa CUC and stakeholders.
- Review documentation tools and case registering processes as it links the autonomous AJS and the court annexed AJS.

y. **PRO BONO TRAINING FOR ADVOCATES IN MOMBASA & KWALE HELD ON 27TH SEPTEMBER TO 1ST OCTOBER 2021**

The Kenya National Commission on Human Rights (the Commission/KNCHR) through its directorate of redress and legal services undertook pro-bono training in the area of Human Rights Litigation for young advocates in Mombasa and Kwale County respectively, from 27th September to 1st October 2021. Our members attending the training. The event was successful.

z. **LUNCH HELD ON 30TH SEPTEMBER 2021 AT ROYAL COURT HOTEL TO BID FAREWELL TO JUDICIAL OFFICERS WHO ARE GOING ON TRANSFER AND WELCOME NEWLY POSTED JUDICIAL OFFICERS TO MOMBASA STATION**

The Mombasa Law Society organized a lunch on 30th September 2021 at Royal Court Hotel. As our usual custom the Society hosted the lunch to bid farewell in honour of Judicial Officers who were going on transfer and to welcome the newly posted judicial officers to Mombasa station.

aa. **SENSITIZATION FORUM FOR STATE ACTORS HELD ON 1ST OCTOBER 2021**

Members of the Society attended a sensitization forum for state actors organized by

MUHURI. MUHURI in partnership with Article 19 is implementing a project titled PROTECT.

PROTECT (Protecting Rights, Openness and Transparency Enhancing Civic Transformation) is a consortium-led project bringing together 4 international organizations working in partnership and collaboration with local and national based state and non-state actors. The project seeks to foster open societies by addressing the challenges and opportunities of media and civil society actors working to push for transparent, Accountable governance in a protective and enabling environment.

ab. **CUC MEETING WITH THE NATIONAL CSO PROGRAMME HELD ON 27TH OCTOBER, 2021 AT THE MOMBASA LAW COURTS**

The Mombasa Law Courts invited members on 27th October, 2021 for a CUC meeting with the National Community Service Order Program. The National Community Service Orders Program conducted a familiarization, project inspection and consultative meeting with various CSO stakeholders. The Mombasa Law Society members and engaged CCSO stakeholders on implementation of the CSO programme. Issues discussed included enhancing the application of the CSO as a sentencing option, referrals and filling of social inquiry reports, supervision of offenders placed under CSO, prison decongestion and challenges in implementation of the CSO Act.

ac. **SENSITIZATION ON NATIONAL CIVIL AVIATION ADMINISTRATIVE REVIEW TRIBUNAL (NCAART) COMPLAINTS RULES & REGULATIONS ON 29TH OCTOBER, 2021 AT MOMBASA LAW COURTS**

The National Civil Aviation Administrative Review Tribunal (NCAART) invited members for a sensitization forum on 29th October, 2021 at the Mombasa Law Courts. NCAART is established under section 66 of the Civil Aviation Act 2014 (as amended 2016) to adjudicate upon disputes and determine complaints and appeals arising out of decisions made by the Kenya Civil Aviation Authority under the Act as well as certain other commercial and operational disputes in the aviation sector.

ad. **INVITATION TO PRESENT DURING UP-COMING INSTITUTE OF SURVEYORS SEMINAR ON 29TH OCTOBER 2021**

The Institute of Surveyors organized and seminar on 29th October, 2021 and invited a member to present on new property Laws and its impact on land ownership and transaction.

ae. **ELECTION OF THE MOMBASA LAW SOCIETY ON 11TH NOVEMBER 2021**

The Mombasa Law Society held elections on 11th November 2021.

The following members were elected as office bearers for the period 2019-2023:

- i. Chairman/Chairperson - Charles Opulu
- ii. Vice Chairman/Chairperson - Jacqueline Waihenya
- iii. Secretary General - Mary Kiruriti
- iv. Deputy Secretary - Boaz Adalla
- v. Treasurer - Luqmaan Ahmed
- vi. Deputy Treasurer - Peter Gitahi
- vii. Organizing Secretary - Lilian Oluoch
- viii. Council Members - Elizabeth Aroka
- Anne Wamithi
- Ernest Mokaya
- Jane Onyango
- Sharon Maiga
- Teresia Memia

af. **TRIP TO MT. KENYA ON 12TH TO 18TH DECEMBER, 2021**

The Sports & Recreation Committee of the Mombasa Law Society organized a seven days trip to Mt. Kenya. The event was marked the Mombasa Law Society's 110 years anniversary.

The event was a success.



ag. **END OF YEAR PARTY HELD ON 10TH DECEMBER 2021**

The Mombasa Law Society held its End of Year Party on 10th December, 2021 at Coast Gymkhana Club. The event was well attended.

3. **EVENTS OF THE MALINDI LAW SOCIETY**

(B). WELFARE ISSUES

The Mombasa Law Society continues to partner with the Mombasa Advocates Welfare by taking care of members' welfare issues. We urge members of Chapters to join the welfare.

ACTIVITIES IN PICTURES

CSR Mekatilili Outreach





LSK BRANCH CHAIRPERSONS



Mathew Nyabena
Coast Branch



Linda Kiome Gakii
Mt. Kenya Branch



Joshua Martim
North Rift Branch



Eric Theuri
Nairobi Branch



Susy Rauto
West Kenya Branch



Ochang Ajigo
Rift Valley Branch



Wilkins Ochoki
South West Kenya Branch



Justus Mutia
South Eastern Branch



PUBLIC INTEREST LITIGATION / COURT CASES 2020

1. **PETITION OF 78 OF 2020 LAW SOCIETY OF KENYA VS CS MINISTRY OF HEALTH AND 4 OTHERS**

Two weeks after China Southern Airlines suspended its direct flights to Nairobi amid the rising cases of the coronavirus, the airline resumed flights to and from Kenya, with 239 passengers touching down at the Jomo Kenyatta International Airport (JKIA) on 26th February 2020. The government issued a statement stating that the passengers were screened on board advised to “self-quarantine for 14 days.

Besides this event, the 1st Respondent also generally failed to prepare or enforce a functional public health emergency contingency plan to control, prevent and manage the importation, outbreak or spread of the corona virus in Kenya. The 1st Respondent failed to disseminate to the public information on risks, detection, prevention, response, or control as well as signs and symptoms, and health facilities to report to in cases of infections. There was also no hotline or other media for the public to seek, access, share or supply information concerning disease.

The Society moved to court to challenge this action by the Respondents since it amounted to a threat against Kenyan lives contrary to provisions under Article 19 of the Constitution.

The matter was consolidated with Petitions 79,80&81 and had its **ruling delivered on 3rd August 2020** by Judge A. Makau, who found that the Respondent’s application dated 8th April, 2020 was without merit, that the prayer to stay the implementation of the orders issued on 28th February, 2020 only to the extent that the same was in the form of a structural interdict compelling the 1st respondent to prepare and present to the court for security a contingency plan on prevention, surveillance and control and response system to corona (Covid - 19 outbreak in Kenya is declined

The court found that it has jurisdiction to grant a structural interdict at interlocutory stage pursuant to Article 23(3) of the constitution, and refused to set aside the orders previously granted in favor of the petitioner.

The matter is spent, and Counsel advised that the matter be marked as settled, having obtained all the interim orders sought.

Mr. Ochiel Dudley, Advocate was on record.

2. **PETITION NO. 120 OF 2020 LAW SOCIETY OF KENYA V HILLARY MUTYAMBAI INSPECTOR GENERAL NATIONAL POLICE SERVICE & 4 OTHERS ; KENYA NATIONAL COMMISSION ON HUMAN RIGHTS & 3 OTHERS (INTERESTED PARTIES) [2020] EKLK**

LSK moved the Court to challenge *The Public Health (Covid-19 Restriction of Movement of Persons and Related Measures) Rules, 2020 inter alia* on the grounds that they infringed Article 27 (4) of the Constitution in that they indirectly discriminate against the poor and vulnerable who could not afford to buy masks, the imposition of penal sanctions compounding the discrimination, and undermining the dignity of persons on the basis of their socio-economic status. The second ground for the Petition was the absence of Parliamentary approval as the Rules were published without being tabled before the National Assembly within 7 (seven) days.

The Court issued *inter alia* a declaration that the 1st Respondent’s unreasonable use of force in enforcing the Public Order (State Curfew) Order, 2020 is unconstitutional and an order of mandamus compelling the 2nd Respondent to amend the Schedule to the Public Order (State Curfew) Order, 2020 so as to include the 3rd Interested Party (IPOA) and the members of the Law Society of Kenya in the list of “**essential services**, personnel or workers.

Members may now perform their duties when necessary beyond the curfew time as stipulated under the directive.

Mr. Omwanza Ombati and Ms. Wakesho Kililo were on record for the Society.

3. **PETITION NO. 58 OF 2020 LSK VS ATTORNEY GENERAL, PS AND CS MINISTRY OF LANDS AND PHYSICAL PLANNING**

Via a Notice published in local dailies on 20th February, 2020 the Cabinet Secretary, Ministry of Lands and Physical Planning notified the general public of its intention to close the Nairobi District and Central Registries at Ardhi House for purposes of conducting an audit of records for a period of three weeks from 24th February, 2020 to 13th March, 2020. This directive was expressed without any consultation whatsoever with stakeholders and affected parties with pending/on-going transactions that may suffer prejudice through penalties and delays.

The Society, in part fulfillment of its mandate under Section 4 of the Law Society of Kenya Act, moved to Court to challenge the decision to close the registries for being unjustifiable, discriminatory and issued contrary to the law and observance of principles of natural justice. There was neither sufficient notice issued to members of the public or stakeholders to prepare in advance nor have there been measures put in place to mitigate the adverse effects of the closure on the pending land transactions.

The Court through **Hon. Justice W. Korir**, in agreement with the Society, issued the following orders on 24th February, 2020;-

1. THAT pending the *inter-partes* hearing and determination of this Application, a Conservatory Order be and is hereby issued in the nature of an Injunction restraining and staying 2nd and 3rd Respondents, their agents, officers or any persons from closing Nairobi and Central Registries at Ardhi House for auditing of records for three (3) weeks as per the Notice in the Daily nation and The Standard Newspapers dated 20th February, 2020.
2. THAT the Respondent to file and serve a response to the Application and Petition within 3 days from today's date.
3. THAT upon service, the Petitioner to file and serve Further Affidavits, if any, together with Submissions within 3 days.
4. THAT the Respondents will upon receiving the Petitioner's Submissions file and serve Submissions within 3 days.
5. THAT highlighting of submissions on the Application/Petition on 5th March, 2020.

On said date, State Counsel served a Replying Affidavit and LSK requested for more time to file a Supplementary Affidavit in response. Court ordered as follows;-

- i. Petitioner to file and serve Submissions within 7 days;
- ii. Respondents to file and serve Submissions within 7 days;
- iii. Petitioner file and serve supplementary submissions within 7 days of service;
- iv. Highlighting of submissions on 13th May, 2020;

The Advocate attended Court on 24th of June, 2020 for the mention of the matter. Court fixed the matter for hearing on the **28th of October 2020**. The matter proceeded and the judgment date was set for 25th February 2021.

On **25th February 2021** Judge Korir found that if there were any violations ,then the same were remedied upon the issuance of the conservatory orders suspending the 2nd and 3rd respondents 'decision and that no further remedies are therefore deserved in this matter. The petition was thus dismissed.

Mr. Felix Ogeta, Advocate is on record in the matter.

4. **PETITION 64 OF 2020 OKIYA OMTATAH & ANOR VS EXECUTIVE OF THE REPUBLIC OF KENYA & 2 OTHERS.**

The Petitioner moved to court challenging the recent action of the Executive taking over the functions of the Nairobi County Government through entering into an agreement to that effect with impugned Governor of Nairobi, H.E Mike Sonko as well as Devolution Cabinet Secretary, Eugene Wamalwa. The Petitioner alleges that this action is tantamount to dissolving a County Government without following due process to Article 192 of the Constitution.

The Law Society is an Interested Party in the matter due to the public interest nature of the case. On 10th November, 2020 Hon. Justice Ngaah certified the petitions as raising substantive questions of law deserving to be heard by an uneven number of judges as provided for in Article 165(4) of the Constitution. The Petitions were subsequently sent to the Chief Justice for empanelment of a bench. We wait to directions from the Chief Justice.

Ms. Carolene Kituku, Advocate is on record.

5. **PETITION NO. 4 OF 2020 JAVAN KICHE OTIENO VS THE CHIEF JUSTICE**

The Petitioner, a Kenyan national admitted to the Rwanda Bar, has moved to Court challenging the rejection of his Petition for admission into the Roll of Advocates. He contends that the Chief Justice's rejection of his application to be admitted based on the Court of Appeal decision in Civil Appeal No. 96 of 2014 was discriminatory.

The High Court in Nakuru (Justice Hillary Chemitei) delivered the Judgement on **25th February, 2021** dismissing the suit with no orders as to costs. The Court held that the Petitioner's recourse is to petition Parliament to reinstate the law that was struck down by the decision of the Court in Civil Appeal No. 96 of 2014.

Ms. Julie Soweto, Advocate was on record.

6. **PETITION NO 6 OF 2020 MWARUME MWADZUA & 7 OTHERS VS CHIEF JUSTICE & LSK**

The Petitioners, all Kenyans admitted to the Rwanda Bar, have moved to Court challenging the rejection of their Petition for admission into the Roll of Advocates by the Hon. Chief Justice on the advise by the Law Society of Kenya. They contend that the Chief Justice's rejection of their applications to be admitted based on the Court of Appeal decision in Civil Appeal No. 96 of 2014 was discriminatory. The matter comes up for mention on 1st March, 2021. Ms. Julie Soweto, Advocate is on record.

7. **PETITION 200 OF 2020 LAW SOCIETY OF KENYA V KENYA PORTS AUTHORITY & PUBLIC PROCUREMENT & REGULATORY AUTHORITY.**

As the Premier Bar Association with a statutory mandate under Section 4 of the LSK Act to advance and promote the rule of law and administration of justice the Law Society of Kenya examined the purport and contents of The Kenya Ports Authority tender set to be opened on *15th July, 2020*, and contends that the criteria set out offends article 227 of the Constitution, section 55, 60 & 70(3) of the Public Procurement and Disposal Act and the provisions set out under the Competition Act. The Society instructed Mr. Omwanza Ombati to represent the Society on a *pro bono* basis in instituting the above captioned petition as the said tender is primarily directed towards services offered by its membership. This matter has since been transferred to Mombasa High Courts to be consolidated with Petition No. 42 of 2020, which was filed and has subsisting orders against KPA on the subject matter. The matter is scheduled for hearing on the 15th July, 2020 in Mombasa.

Mr. Omwanza Ombati, Advocate is representing the Society in the matter.

8. **MISC APPLICATION 136 OF 2020 REPUBLIC V LSK AND 13 OTHERS**

The applicants the Hon. Attorney General Mr. Paul Kihara and the Hon. Solicitor General Mr. Kennedy Ogeto sought leave to apply for JR Orders of certiorari and prohibition, quashing the decision by the Law Society to move a motion at the Ordinary General Meeting of the LSK for their expulsion.

The applicants were granted leave to institute Judicial Review and stay of the proceedings. Highlighting submissions has been set for 30th July.

Meanwhile, the ruling was appealed via **CIVIL APPLICATION 275 OF 2020 CIVIL APPLICATION NO. 275 OF 2020-NELSON HAVI v PAUL KIHARA KARIUKI AND OTHERS** and is proceeding before the court of Appeal.

Matter was stayed by consent pending the determination of application 275 of 2020 before the Court of Appeal.

Mr. Ochiel Dudely, Advocate is representing the Society.

9. **PETITION NO. 215 OF 2020 LAW SOCIETY OF KENYA V THE NATIONAL ASSEMBLY, ATTORNEY GENERAL AND THE COMPETITION AUTHORITY**

In execution of its mandate under Section 4 (d) and (e) of the LSK Act, the Society instituted proceedings challenging the constitutionality of Sec 29 of the Competition Act, 2020. The Act seeks to introduce Sec 29 (A) which provides that if an association fails to apply for an exemption from the 3rd Respondent it shall have committed an offence punishable to imprisonment for a term not exceeding Kshs. 10M or both. The Petition and Notice of Motion Application were filed under Certificate of Urgency on 25th June, 2020. LSK filed a supplementary affidavit on 1st March 2021. We await further directions.

Mr. James Oduol, Advocate is representing the Society in the matter, on a *pro bono* basis.

10. **PETITION NO 55 OF 2020 INVESCO ASSURANCE COMPANY LTD VS AUCTIONEERS LICENSING BOARD**

On 20th May, 2020, Court issued Orders which for all intents and purposes gave a blanket moratorium and immunity in favour of Invesco Assurance Ltd shielding it from all executions whatsoever countrywide against all decrees arising -and whether emanating- from other High Courts or even in higher courts which orders were adverse to the interest of persons not enjoined in the proceedings. Justice Sergon on 23rd June, 2020 allowed LSK's application to be joined as the 2nd Interested Party and he also discharged the interim orders previously issued.

The matter is ongoing and members will be updated on the progress. The defence and Witness Statements were filed and parties await a hearing date.

Mr. Guandaru Thuita, Advocate is representing the Society in the matter.

11. **CONSTITUTIONAL PETITION No. 40 OF 2020 ERIC KYALO MUTUA VS INSPECTOR GENERAL OF POLICE, DCI AND DPP.**

The Petitioner moved to Court seeking to stop an intended arrest, investigation and prosecution by the Respondents as well as a stay in any criminal proceedings to be instituted against the Petitioner. The Petitioner had transacted for his client in a conveyance involving sale of a parcel of land which has been made subject to a criminal investigation.

The Society is an interested party in the matter since it relates to member welfare.

Counsel attended Court on this day **9th February, 2021** before **Hon Justice A. C MRIMA** when this matter came up for Mention for purposes of compliance. The Firm of Miller & Co. Advocates had filed a Notice of Change of Advocates to take up the matter on behalf of the firm of Nzamba Kitonga & Co. Advocates for the Petitioner. However, the Court was of the view that this matter ought to be heard at the Anti-Corruption and Economic Crimes Division rather than at the Constitutional and Human Rights Division. The Court thus directed the parties to put in written submissions on the issue of the matter to be transferred to the Anti-Corruption and Economic Division. Counsel shall thus file and serve written submissions on the issue and further attend Court on the **29th March, 2021** for highlighting of submissions.

Mr. Paul Obura, Advocate is on record.



12. JUDICIAL REVIEW APPLICATION 114 OF 2020 O.M PARKASH AND 21 OTHERS VS THE LAW SOCIETY OF KENYA

The Applicants moved the Court seeking leave to file Judicial Review proceedings against the Respondent over its decision to revoke the recommendations made by the Committee on Senior Counsel on 26th August, 2019. The recommendations were made to confer the rank and dignity of Senior Counsel to the Applicants. Subsequently, the recommendations were revoked via decision made on 11th May 2020 and communicated to the Membership on 13th May 2020.

On 28th May 2020 Court granted the twenty-two Applicants who are advocates of the High Court of Kenya, leave to commence judicial review proceedings against the Law Society of Kenya. The Applicants' substantive Notice of Motion dated 8th June 2020 was heard virtually on **6th August 2020**.

The parties have filed their submissions and the matter comes up for judgment on **25th March, 2021**.

Mr. Omwanza Ombati, Advocate represents Law Society of Kenya in the matter.

13. MERU PETITION 8 OF 2020 CHARLES MWENDA V IGP ET AL

The Petitioner together with his close family members and entourage while heading to Meru County from Malindi County for his wife's burial were ordered by Police officers to abandon the procession. The family members were further ordered to leave the Petitioner with the casket on the road at night despite all of them having complied with all the health directives and obtained necessary permits.

The Petitioner moved the Court seeking declaratory and compensation orders against the respondents jointly and severally, for violating the petitioner's rights and freedoms as well as the provisions of the constitution under articles 3,4,10,19(2),19(3)(a)(b) &(c),22(1) &(3) 25(a),27,28,29(d), 50,165 &259.

The Law Society in execution of its mandate under Section 4 (d) of the LSK Act joined the matter as an interested party in the matter due to the Public Interest nature of the proceedings. The matter came up on 10th March, 2021 for mention before Hon. Justice Muriithi. Ms Wambulwa appeared for the Petitioner, Mr. Muchomba held Mr. Jamlick's brief for the 1st interested party i.e the Law Society of Kenya. Mr Munene appeared for the 2nd Respondent, the County Government of Meru while Ms Kung'u appeared for the AG on behalf of the 1st and 3rd respondents'

Mr. Munene requested for 7 days to put in his written submissions, the same was opposed but the court granted the same. Mention on **14th April 2021** for a Judgment date.

Mr. Jamlick Muriithi, Advocate is representing the Society in the matter.

14. PETITION 100 OF 2020 BENARD ODERO OKELLO V CABINET SECRETARY FOR INDUSTRIALIZATION, TRADE AND DEVELOPMENT AND OTHERS

Vide Gazette Notice no. 4244 of 22nd June, 2020, the CS for trade and enterprises announced the appointment of the 1st to 5th interested parties as appointees of the Business Premises Rent Tribunal for a period of 3 years with effect from 22nd June 2020.

The Petitioner moved the court to challenge the constitutionality of the appointments and contends that it was conducted without a proper, open, fair and competitive process. The Law Society in execution of its mandate under Section 4 (d) of the LSK Act has joined the matter as an interested party in the matter due to the Public Interest nature of the proceedings.

Mr. John Githui, Advocate for on record for the Society.

15. **PETITION 203 OF 2020 LAW SOCIETY OF KENYA V THE OFFICE OF THE ATTORNEY GENERAL, DR. JOSEPH KINYUA, HEAD OF PUBLIC SERVICE THE JUDICIAL SERVICE COMMISSION**

On 11th May 2020, the President of the Republic of Kenya issued an executive order No. 1 of 2020 titled *Organization of the Government of the Republic of Kenya* purporting to organize government and set out the Judiciary, commissions and independent offices as institutions under Ministries and government departments. The Society moved the Court to challenge the constitutionality of the said executive order, and sought a conservatory, staying and/or suspending and/or halting the further and continued implementation of the Executive Order No. 1 of 2020 dated 11th May, 2020 in respect of the Judiciary and the following independent institutions;- The Public Service Commission; Teachers Service Commission; The National Police Service Commission; Parliamentary Service Commission; Judicial Service Commission; Independent Boundaries and electoral Commission; Office of the Director of Public Prosecution; Ethics and Anti-corruption commission; Commission on Administrative Justice; The National Land Commission; The Office of controller of Budget ; Commission on Revenue Allocation; salaries and Remuneration Commission ; Kenya National Commission on Human Rights and National Gender and Equality Commission.

On 3rd August, 2020, Judge A Makau granted conservatory order staying/suspending and or halting the further and continued implementation of the Executive Order no 1 of 2020 dated 11th May 2020 in respect of the Judiciary, The Public Service Commission; Teachers Service Commission; The National Police Service Commission; Parliamentary Service Commission; Judicial Service Commission; Independent Boundaries and electoral Commission; Office of the Director of Public Prosecution; Ethics and Anti-corruption commission; Commission on Administrative Justice; The National Land Commission; The Office of controller of Budget ; Commission on Revenue Allocation; salaries and Remuneration Commission ; Kenya National Commission on Human Rights and National Gender and Equality Commission.

Mr. Manwa Hosea, Advocate and Arnold Oginga, Advocate are on record for the Society.

Matter set to proceed for hearing of the Petition on **25th February 2021**.

16. **JUDICIAL REVIEW E0045 OF 2020 REPUBLIC VERSUS PAUL KIHARA KARIUKI ATTORNEY GENERAL & OTHERS**

The *ex parte* Applicant, the Law Society of Kenya, aggrieved by a directive issued on 7th July 2020 by the National Development Implementation and Communication Cabinet Committee, of which the Respondents are members, and which requires Ministries, State Departments and State Agencies to withdraw court cases filed against any other state agency, not to contract external counsel without written approval of the Attorney-General, and terminate engagements with all external advocates who had been contracted without the express and prior grant of the concurrence of the Attorney General.

Nyamweya J on 22nd July 2020 granted orders inter alia that the *ex parte* Applicant's Chamber Summons application dated 21st July 2020 be certified as urgent, and that The *ex parte* Applicant is granted leave to apply for judicial review orders of Prohibition restraining the Respondents, their servants and agents from executing the National Development Implementation and Communication Cabinet Committee (NDICCC)'s directives (vii), (viii) and (ix) contained in Part A(1) of the Extract of Resolutions NDICCC 21 (2020) dated 8th July, 2020.

A virtual hearing to confirm compliance and to highlight submissions was scheduled before Hon. Mr. Justice Mativo on **6th October, 2020** on the said date the AG raised an objection against the consolidation of our application with that of the LSK Nairobi Branch. Oral submissions on the objections were made and ruling delivered by Mativo J striking out our application.

LSK sought to be joined as interested party in the matter filed by Nairobi Branch of the Law Society of Kenya HCJR E010: LSK Nairobi Branch -vs- AG. Our application for joinder was first mentioned on 18th January 2021 where the Court directed parties to file and serve both the submissions on joinder and the main motion. On 22nd February 2021 parties confirmed filing of submissions on both the LSK'S application for joinder and submissions on the main motion.

Ruling date is set for **26th March 2021**.

Mr. Omwanza Nyamweya and Ms. Barbara Kwanga are on record for the Society.



17. **PETITION 238 OF 2020 LAW SOCIETY OF KENYA - VS - THE ATTORNEY GENERAL, PRINCIPAL SECRETARY MINISTRY OF LANDS, CABINET SECRETARY TREASURY & ANOTHER.**

The Law Society in execution of its mandate under Section 4 of the LSK Act moved the Court to challenge the constitutionality of several provisions and Regulations of the Public Procurement and Disposal Act. The Petition seeks *inter alia*, an order of permanent injunction do issue permanently restraining and staying the operation and implementation of Section Sections 167 (2) and 175 (2) of the Public Procurement and Asset Disposal Act 2015 as read together with Regulations 203, 204 and 218 of the Public Procurement and Asset Disposal Regulations 2020.

The Attorney General filed a response, while the National Assembly filed none. The Court directed that the Petitioner file the supplementary affidavit together with submissions within 30 days and that the Respondents file their submissions within 21 days of service. The matter comes up on **10th March, 2021** for submissions and to take a judgment date.

Mr. Innocent Muganda and Mr. Kibaara Murithi are on record for the Society.

18. **NAKURU CONSTITUTIONAL PETITION NO. 11 OF 2020 HON SALUEL KIPKEMOI TONUI V KENYA FOREST SERVICE, THE ATTORNEY GENERAL ET AL**

The Law Society of Kenya in execution of its mandate under Section 4 (E) to protect and assist the public in Kenya in all matters touching, ancillary or incidental to the law; on 30th July, 2020 joined the above cited matter as interested party and seeks injunctive orders against the forceful, illegal and unconstitutional evictions of families in Nessuit, Mariashoni, Sururu, Likia, Terit and Sigotik settlement schemes by Kenya Forest Service and other State Agencies.

The Advocate attended Court on 30th July, 2020 and the court directed that parties exchange further affidavits and responses. On 2nd February 2021 the Court directed that all parties comply and that affidavits will be deemed as witness statement and proceedings by viva voce evidence. The matter was set for hearing from 26th to 30th July with a **mention on 20th June 2021.**

Mr. Simon Matiri, Advocate is on record.

19. **PETITION 229 OF 2020 PATRICK NGUNJIRI V CS TREASURY AND 4 OTHERS**

Via a Notice dated 29th April, 2020 the 1st Respondent announced the closure of the Nairobi District and Central Registries at Ardhi House having extended the closure which closure is contrary to the Constitution of Kenya 2010, the provisions of the Public Service (values and principles) Act 2015 and the Land Registration (General) regulations 2017. This was expressed without any consultation whatsoever with stakeholders and affected parties with pending/ongoing transactions that may suffer prejudice through penalties and delays.

Advocate attended Court on **Tuesday 18th August** 2020 for directions and was granted 14 days to file a supporting affidavit while the Petitioner was granted a corresponding 7 days to respond to the issues raised.

The Advocate has indicated that he will forward proposals on terms that parties can consider to consent upon, and the President advised that he is in consultations with the CS Lands. The matter has been stood over generally pending the outcome of the deliberations.

Linus Mwangi Advocate is on record for the Society.

20. **PETITION 139 OF 2020 MATATU OWNERS ASSOCIATION -VS- NCAJ AND OTHERS**

The petitioner moved to court seeking injunctive orders restricting the respondents from attaching and moving chattels and movables belonging to the applicant's members in execution of decrees during the covid-19 pandemic period. The matter was scheduled for mention on **23/9/2020** to confirm compliance and for issuance of directions on the filing of submissions.

The Petitioner withdrew the matter and the same was marked as closed.

Ms. Edna Arati, Advocate was on record for the Society.

21. **CIVIL APPLICATION 275 OF 2020 CIVIL APPLICATION NO. 275 OF 2020-NELSON HAVI v PAUL KIHARA KARIUKI AND OTHERS**

The Civil Application filed on 16th July, 2020 arises from Judicial Review No 136 of 2020 wherein the High court granted the 2nd and 3rd respondents leave to institute Judicial Review against a decision by the Council of the Law Society of Kenya and stay of the proceedings.

The application was certified urgent and the Applicant directed to file and serve written submissions within 7 days while the Respondent a corresponding 7 days to respond and file any other relevant documents, and serve all the parties on record.

The President of the Court of appeal directed that he shall constitute a 3 Judge Bench and further that matter will be disposed of by way of written submissions. The Court will notify parties of the date and the findings of the Court together with any orders where applicable via email.

The matter came up for hearing of application for stay on **26th January 2021. Mr. Ochiel Dudely, Advocate** is on record on behalf of the Society.

22. **APPLICATION FOR REVIEW OF THE ORDERS OF THE COURT OF APPEAL IN CIVIL APPEAL 102 OF 2020 LSK V BLOGGERS ASSOCIATION OF KENYA.**

LSK supported the Petition against the Computer Misuse and Cybercrimes Act, claiming that the Act limits freedom of expression. Aggrieved by the both the High Court and Court of Appeal decisions, the Society applied for review of the Court of Appeal decision issued on 7th August, 2020.

The review was filed on 11th August 2020. The application was certified not urgent. We filed a rule 47(5) reference to certify it urgent which was declined as well. It is awaiting a hearing date from the court.

Mr. Ochiel Dudely, Advocate is on record on behalf of the Society.

23. **ELRC PET /E025/2020 LAW SOCIETY OF KENYA V CS MINISTRY OF TOURISM AND WILDLIFE ET AL.**

On 7th August, 2020, vide Gazette Notice Vol. CXXII- NO. 150 No. 5462 Kevin Muasya, Alais Lenana Momoi, Isaac Muchiri Njangu and Pauline Njoroge, were appointed as members of the Tourism Board of Authority for a period of three (3) years with effect from 7th August, 2020.

The Society on 13th August 2020 filed a Petition contending that the said appointments were unconstitutional, unlawful, illegal, unprocedural, null and void ab initio as they were done in total disregard of substantive and procedural, constitutional and statutory requirements applicable in public service appointments.

Hon Lady Justice H. Wasilwa certified the matter as urgent, and admitted it for hearing during the court' summer vacation. She further ordered that pending the hearing and determination of the application interpartes that Gazette Notice Vol. CXXII- NO. 150 No. 5462 dated 7th August be suspended.

The matter came up for inter-parte hearing, the Hon. Attorney General filed his response to our Application and Petition, the 5th Interested Party requested for 14 days to file their reply. The matter will be mentioned on 17th of September to confirm compliance.

The Court J Mbaru on **4th February 2021** found no illegality in the actions of the 1st Respondent, as the petition was based on a law that was amended through the Statute law (Miscellaneous amendment). The matter was therefore dismissed with costs. The Law Society of Kenya has filed and appeal against the decision in the Court of Appeal.

Hosea Manwa, Advocate was on record for the Society.



24. **HIGH COURT PETITION E250 OF 2020 PATRICK KABUNDU AND OTHERS VS THE PUBLIC SERVICE COMMISSION AND OTHERS**

The Petitioner filed a petition on 20th August, 2020 challenging the appointment of the Registrar of Political Parties and 3 Deputy Registrars by the Public Service Commission as well as the Political Parties Amendment bill 2016. The Society was cited as interested party.

This matter was slated to come up for highlighting of submissions on 10th February 2021. Owing to failure by the Petitioners to serve all the Respondents with their amended petition and submissions within the timelines given by court, the Court granted all the Respondents 21 days to put in their replies to the amended petition as well as submissions. Matter slated for further mention on **24th March 2021**.

Ms. Barbara Kwanga Advocate is on record for the Society.

25. **HCC E 303/2020 IN THE MATTER OF XPLICO INSURANCE LTD**

The Petitioner moved to the High Court on 25th August 2020 seeking ex-parte orders that the Court do issue Conservatory Orders staying the proceedings against them- of claims- at various stages from any of the third party claims. The Court subsequently granted the orders, thereby depriving members of the public, policy holders, creditors and other affected persons the right to access justice, right to a fair hearing, right to property and right to fair administrative action as guaranteed under Articles 48 and 50(1) of the Constitution.

Mr. Samson Alosa Advocate is on record for the Society.

26. **MISC APPLICATION HC COMM MISC/E729/2020 O.S LAW SOCIETY ONLINE ANNUAL GENERAL MEETING.**

The Law Society instituted the matter seeking leave to hold the Annual General and Advocate's Benevolent Association meetings which were to be held on 28th March 2020 -but were postponed in light of the health directives issued by the Ministry of Health following the Corona Virus outbreak- virtually. The O.S. was allowed and leave granted to the Council of the Society to host an AGM via appropriate information communication and technology platform of its choice and on a date to be communicated to members within 7 days of judgment, and Notice to be issued to members by the Society within 7 days of judgment with sufficient notice as in the Act/Regulations, informing members of the date and mode of hosting the AGM. **Mr. Bryan Odongo, Advocate** and Ms. **Barbara Kwanga, Advocate** represented LSK on *pro bono* basis.

27. **ELRC PETITION E053/2020; LAW SOCIETY OF KENYA -VS- THE GOVERNOR COUNTY GOVERNMENT OF VIHIGA & THE COUNTY ASSEMBLY OF VIHIGA & 2 OTHERS**

The Law Society of Kenya in execution of its mandate under Section 4 of the LSK Act moved the Court in seeking a conservatory order restraining the 47 Governors from nominating and or gazetting persons into the office of the County Attorney where there are other persons employed by the respective County Public Service Boards to perform the functions of the office of the County Attorneys, except for persons already serving in similar positions before the commencement of the Office of the County Attorneys Act.

The Petition was initially filed at the Milimani Law Courts, with Ms. Melissa Ngania on record, where upon the Court directed that the matter be transferred to Kisumu, Mr. Brian Otieno Advocate was subsequently instructed and he has filed an application to set the orders aside and stay judgment wherein the matter has been dismissed for non attendance. Counsel has already filed submissions according to the court directions; the 1st Interested Party has served upon him their Replying Affidavit. This is in addition to the 2nd Respondent's Replying Affidavit. Ruling comes up on **5th May 2021**.

Mr. Brian Otieno Advocate, is on record for the Society

28. SUPREME COURT PETITION 11 OF 2020 JOSEPH OMBOGI O V S MARTHA BOSIBORI

The above captioned matter is a Supreme court petition(application) arising from an appeal that raised fundamental issues on division of matrimonial property at the Court of appeal and High Court touching on Public interest.

In exercise of its mandate under Section 4, The Society applied and was joined in the matter as *Amicus curiae* to assist the Court examine and address itself to the issues in contention.

Ms. Rose Mbanya Advocate is on record for the Society.

29. PETITION NO. 283 OF 2020 LAW SOCIETY OF KENYA VERSUS THE OFFICE OF THE ATTORNEY GENERAL, CABINET SECRETARY MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND IRRIGATION

His Excellency the President of the Republic of Kenya and the Cabinet Secretary Ministry of Agriculture, Livestock, Fisheries and Irrigation have unilaterally purported to restructure and re-organize the Kenya Meat Commission and the Ministry of Defence thus altering and/or interfering with the Provisions of the Constitution of Kenya, 2010 and thus offending institutional and structural duties of Ministries.

The Society filed this case and contends that the said directive is unconstitutional, unlawful, illegal, un-procedural, null and void *ab initio* by reason that the executive arm of government cannot restructure or assign functions of a statutory body without such amendments of the Statute. The Petition is dated 16th September, 2020.

It was filed electronically on 17th September, 2020 together with an evenly dated Notice of Motion. The Motion was brought under certificate of urgency and sought some conservatory orders. Upon consideration by the Court, then sitting as a duty Court, the Notice of Motion was dispensed with *sue moto* and directions given towards the hearing and determination of the main Petition. Whereas the Petitioner admits that the President has the authority under Article 132(3) (b) of the Constitution to direct and coordinate the functions of the ministries and government departments, it is strenuously contended that such authority does not extend to transfer of government institutions established under a statute without having due regard to the established mechanisms in the said statutes or triggering amendments to the statute in issue.

Hon Mrima J on **15th February 2021** delivered a judgment granting sought by the Law Society of Kenya and quashed the executive decision to re assign the ministerial responsibility from the Ministry of Livestock, Fisheries and irrigation to the Ministry of Defence, for want of public participation.

Mr. Manwa Advocate was on record for the Law Society of Kenya.

30. NAIROBI HC CONSTITUTIONAL PETITION NO. E364 OF 2020 OKIYA OMTATAH OKOITI-VS-THE HONOURABLE ATTORNEY GENERAL & 5 OTHERS

On 13th November, 2020, the Independent Electoral and Boundaries Commission Act, 2011 was amended through the Independent Electoral and Boundaries Commission (Amendment) Act, 2020 (impugned Act). Parliament made the amendments to provide for the composition of the Selection Panel charged with the recruitment of the Commissioners (both chair and members) of the Independent Electoral and Boundaries Commission (IEBC). Parliament created a new composition of the selection panel, made up of a total of seven (7) members. The majority of those - four members - are to be selected by the Parliamentary Service Commission while two by the Inter-religious Council, and one by the Law Society of Kenya. Moreover, the impugned Act makes the Parliamentary Service Commission (PSC) the secretariat of the Selection Panel. The PSC is composed of eleven members: nine are sitting Members of Parliament, while the remaining two are individuals who are not MPs but are recruited and approved by the MPs. The Clerk of Senate heads its secretariat. The Petitioner is of the view that the impugned amendment is unconstitutional.

The Law Society in execution of its mandate under Section 4 of the LSK Act applied and joined as Interested Party. The matter comes up for hearing on **24th March, 2021** on Application by the 4th Respondent's Counsel.

Mr. Nelson Osiemo Advocate and Ms. Wacu Mwenja Advocate are on record for the Society.



31. SUPREME COURT PETITION 1 OF 2018 (CDF PETITION) TISA -VS- NATIONAL ASSEMBLY

The Law Society of Kenya joined the Supreme Court Appeal which arose from Petition 71 of 2013 filed on 6th February 2013 in Nairobi and Petition 16 of 2013 filed in Nakuru on 10th May 2013. Both Petitions were seeking declarations that the County Development Fund Act, Act No.30 of 2013 is unconstitutional. The matter proceeded before the High Court and the Court of Appeal. The Society joined the matter as Interested Party.

Ms. Edna Arati, Advocate is on record.

32. PETITION E 392 OF 2020; LEGAL ADVICE CENTER (KITUO CHA SHERIA) VS CHIEF JUSTICE AND OTHERS

The Law Society in execution of its mandate under Section 4 of the Law Society of Kenya Act, 2014 has been named as an interested party in the Petition **PT E392 of 2020; Legal Advice Center v Chief Justice and others** challenging the electronic court system that has affected many members of the society that have pending cases in court or intend to institute new ones. Directions have been given on the petition with **15 March, 2021** as the date of the hearing of the Petition. In the meantime, parties ought to file their responses and submissions on the petition.

Ms. Carolene Kituku Advocate is on record.

33. JR NO.E1100 ALLEN GICHUHI -VS-COMMITTEE OF SENIOR COUNSEL &OTHERS

The Petitioner through his Counsel, **Mr. Walter Amoko** filed the Judicial Review dated 14th September, 2020 under Certificate of Urgency pleading for leave to proceed to prosecute his appeal on grounds that The Law Society of Kenya had invited applications for persons seeking to be considered for the conferment of the rank of Senior Counsel in September 2020 whilst the Petitioners Application alongside those of other applicants who had submitted their applications previously had not yet been considered.

This was notwithstanding the lapse of time as provided for under the Senior Counsel Rules which provide that the same applications be determined within Six (6) months of their receipt of applications by the Committee on Senior Counsel, which case the same would be by **30th September, 2020**. Further, Counsel pleaded that the call for applications for conferment made by the Law Society of Kenya through notices published on the Newsletter on 2nd September, 2020 and on the Daily Nation edition of 3rd September, 2020, was made without the knowledge of the Committee on Senior Counsel; consequently, the same was illegal, null and void.

Granted leave, the applicants in compliance with the orders of the court served the pleadings on the parties, wherein Mr. Omesh Kapila SC filed a Replying Affidavit on behalf of the Committee on Senior Counsel dated 25th September, 2020, while also the firm of Nchogu, Omwanza & Nyasimi Advocates filed a Replying Affidavit signed by Mr. Nelson Havi, the President of the Law Society of Kenya and dated 30th September, 2020 for the Committee on Senior Counsel and the Law Society of Kenya and in response to the Notice of Motion dated 14th September, 2020 by the Petitioner.

The President through the firm of Nchogu, Omwanza & Nyasimi Advocates filed a Notice of Motion dated 5th October, 2020 and the Supporting Affidavit evenly dated on behalf of the 1st Respondent, the Committee on Senior Counsel and The Law Society of Kenya. The said Notice of Motion sought to have the matter as filed by the Petitioner referred to ADR as provided under the Law Society of Kenya (General) Regulations 2020 stating that the Petitioner had not exhausted the internal remedies available prior to filing the matter in Court.

The Petitioner filed a Notice of Motion alongside a Supporting Affidavit dated 26th October, 2020, seeking to have the pleadings and documents filed by the firm of Nchogu, Omwanza and Nyasimi Advocates be struck out for among other reasons, there had been no Council Resolution appointing the said firm of Advocates and that they had illegally filed the Notice of appointment and accompanying pleadings before the Court.

On 4th November, 2020, the President of the Law Society of Kenya filed a Replying Affidavit evenly dated on the Notice of Motion dated 26th October, 2020. Further, the President through the firm of Nelson Havi & Company Advocates filed a Notice of Change of Advocates, effectively transferring the matter from the firm of Nchogu, Omwanza and Nyasimi

to the firm of **Nelson Havi & Company Advocates**.

The Council of the Law Society of Kenya appointed the firm of Murgor & Murgor Advocates who filed their Notice of Appointment on the 3rd December, 2020. Through the firm of Nelson Havi and Company Advocates, the President, Mr. Nelson Havi filed a Notice of Motion and a Supporting Affidavit dated the 15th December, 2020, in which the President sought to have the pleadings filed by Kaplan & Straton Advocates; the pleadings filed by Murgor & Murgor Advocates and the Consent filed in court on the 3rd of December, 2020 struck out.

When the matter came before court for a mention and directions on 15th December, 2020 and 19th January, 2021, the Court noted the issue of Representation which had been pending ever since. It is apparent that there were more than one firm of Advocates appearing for the 1st Respondent and the 2nd Respondent. Notably, the matter was also taken at the Special General Meeting for the Law Society of Kenya held on 18th January, 2021 and in which the firm Ashioya & Nkatha Advocates, were appointed to handle the matter and represent the Law Society of Kenya.

The Resolutions have since been stayed by the High Court in Adrian Kamotho Versus the Law Society of Kenya and another, in the ruling of the Court on 3rd February, 2021. The Learned Judge, P. Nyamweya during the hearing in Court on 8th February, 2021 noted as much and listed the matter for a ruling on the 19th April, 2021 on the issue of representation.

34. **ELRC NO. E087 OF 202 IN THE EMPLOYMENT & LABOUR RELATIONS COURT IN NAIROBI MURIGI KAMANDE VERSUS NELSON ANDAYI HAVI, THE LAW SOCIETY OF KENYA AND MERCY KALONDU WAMBUA (INTERESTED PARTY)**

The Petitioner being an Advocate of the High Court and a member of the Law Society of Kenya, (the 2nd Respondent), moved to Court through a Petition to the Employment and Labour Relations Court; filed under a Certificate of Urgency, alongside its accompanying Notice of Motion and Supporting Affidavit on 26th November, 2020; pleadings evenly dated. The Petitioner being the Exparte Applicant in the Notice of Motion prayed for among others; -

- i. THAT this Application be certified urgent and heard expeditiously, ex parte in the first instance; pending inter parties hearing of the Application, an Injunction be issued restraining the Respondents from interfering with the Interested Party's appointment/tenure as the 2nd Respondents CEO by In anyway, moving/debating or passing motions/resolution on the Interested Party's appointment/tenure or advertisement of her position in the Special General Meeting intended to be conducted on 5th December 2020 or any other Special or Annual General Meeting;
- ii. THAT pending inter panes hearing of the Application. a Conservatory Order be issued staying the enforcement/ implementation of the 1st Respondent's letter dated 23rd November 2020 in so far as it calls for a Special General Meeting to move, debate or vote on matters about the Interested Party's appointment/tenure as the 2nd Respondents CEO. and to recruit a CEO, as further set out in Agenda 3 & 4 of the Notice requisitioning an SGM;
- iii. THAT pending inter-parties Hearing of the Application, the 1st Respondent either by himself, agents, or accomplices be restrained from interfering with the Interested Party's role as secretary to the Council of the Law Society of Kenya and from interfering with the Interested Party's position as the Chief Executive Officer of the Law Society of Kenya in the day-to-day administration, management of the Secretariat and the affairs and functions of the Law Society of Kenya or in any manner whatsoever interfering with her contract of employment with the Law Society of Kenya.

Notably, there had been a Requisition for a Special General Meeting filled with the Secretary in which the members of the Society were to discuss inter alia, the recruitment of a New CEO/Secretary for the Society. This followed after the Suspension of the CEO on 14th September, 2020, the hearing of her Notice for Removal on 6th October, 2020 and the decision taken on 16th October, 2020 by 9 Council members to reinstate the CEO/Secretary back to office. Subsequently, the President, Mr. Nelson Havi gave a statement to members dated the 19th October, 2020 on the Notice of Termination of the CEO, notwithstanding that the Council had voted 9/13 members to retain the CEO. Further, the Council members issued a clarification message which was meant to reinstate the CEO and a further statement dated the 23rd October, 2020 confirming the position that the CEO had not been terminated and that she was lawfully in office.



When the matter came up in Court on the 3rd December, 2020, the Court noted the issue of Representation wherein the Firm of Kimani Muhoro & Company Advocates had filed their Notice of Appointment acting for the Law Society of Kenya on appointment by eight council members while the firm of Kurgat, Kabata, Odongo and Alakonya LLP had filed their Notice of Appointment to act for the Law Society of Kenya as well having been appointed by the President. The firm of Prof. Tom. Ojienda & Associates is on record for the 1st Respondent, Mr. Nelson Havi Andayi.

Upon reading the affidavits on record on the issue of representation and hearing the parties on the same, the Court on the 17th of December, 2020 gave a ruling wherein it ordered that the Law Society of Kenya files a Resolution of the General Meeting in so far as representation of the Law Society of Kenya is concerned in both this matter as well as in Petition E090 of 2020, Gad Aguko Versus Nelson Havi and the Law Society of Kenya.

35. JUDICIAL REVIEW NO. 1146 OF 2020: GAD AGUKO VERSUS NELSON ANDAYI HAVI, MERCY KALONDU WAMBUA & LAW SOCIETY OF KENYA AND 12 INTERESTED PARTIES

The Ex-parte Applicant through the firm of Aguko, Osman & Company filed the Judicial Review dated 2nd December, 2020 under Certificate of Urgency seeking leave to proceed to institute judicial review proceedings on grounds that a campaign had been began to collect the names of members requisitioning for a Special General Meeting (SGM) pursuant to the Law Society of Kenya Act, 2014.

The Ex-parte applicant noted that the 1st Respondent, Mr. Nelson Havi had proceeded to authorize the convening of the Special General Meeting which was to be held on the 5th of December, 2020, yet the convening of the meeting ought to be done by the whole Council. He therefore sought leave to proceed to prosecute his matter and further to seek an injunction to restrain albeit temporarily pending the hearing and determination of the application the SGM of the 3rd Respondent, (the Law Society of Kenya).

The Learned Judge Hon. Justice Nzioki Wa Makau gave conservatory orders dated the 1st of December 2020 upon hearing the Counsel for the Applicant Ex-parte effectively staying the Special General Meeting that had been scheduled for the 5th December, 2020.

Consequently, learned Judge, P. Nyamweya, on 3rd December, 2020 gave a ruling with inter alia orders that the Ex-parte applicant be granted leave to file Judicial Review orders seeking to quash the 1st Respondent's letter dated 23rd November, 2020 directing that arrangements be made to enable the holding of the SGM, that the leave granted operates as stay and suspension of the SGM scheduled to be held on 5th December, 2020 or any other day as contained in the notices requisitioning the SGM pending the hearing and determination of the Ex-parte applicant's substantive Notice of Motion or further orders of the court.

The firm of Kurgat, Kabata, Odongo & Alakonya Advocates LLP filed a Notice of Appointment dated the 7th December, 2020 while the firm of Murgor & Murgor Advocates filed a Notice of Change of Advocates dated 14th December, 2020, taking over the matter from KKOAA Advocates initially on record for the Law Society of Kenya.

Further, Mr. Nelson Havi and Council Members Carolyne Kamende; Herine Kabita, Esther Ang'awa filed their respective Replying Affidavits to the suit while Carolyne Mutheu filed a Replying Affidavit on behalf of the Law Society of Kenya through the firm of Murgor & Murgor Advocates. Ms. Riziki Emukule filed a Replying Affidavit in the matter through the firm of Oraro & Company Advocates on behalf of other 8 Council Members also listed as Interested Parties, and dated 15th December, 2020. On her part, Ms. Mercy Kalondu Wambua filed her Replying Affidavit through the firm of Limo & Njoroge Advocates dated 16th December, 2020.

The matter has however not proceeded noting the ruling delivered by Justice James Rika in Petition Number E087 of 2020, Murigi Kamande Versus Nelson Havi and the Law Society of Kenya in which the court ordered on 17th December, 2020 that a resolution of the General membership be filed in Court to ascertain the issue of representation for the Law Society of Kenya in the suits noting that more than one Advocate (or firm of advocates) had filed their Notice of appointment to act for the Law Society of Kenya.

36. **PETITION NO. 44 OF 2018 LSK VS INSURANCE REGULATORY AUTHORITY AND 3 OTHERS.**

The Law Society of Kenya moved to Court to challenge statutory provisions of **Section 67** of the **Insurance Act** and the almost consistent issuance of moratoriums by courts in favour of unstable insurance companies thereby depriving members of the public, policy holders, creditors and other affected persons the right to access justice, right to a fair hearing and rights to seek the protection of the courts as guaranteed under Articles 48 and 50(1) of the Constitution.

Counsel on record for the Law Society of Kenya, met with officials from the Insurance Regulatory Authority with a view of settling this matter, and were informed that they would want to develop a Policy Paper which will ignite a change in the legal framework that governs unstable Insurance Companies. They requested LSK to send its input to that Policy Paper. That way, positive action may be taken by the regulator in the industry which will solve the problem that led matters to be filed in court and consequently, the matter may be settled amicably.

The matter shall be mentioned in Court on **24th March, 2021**.

The **Mr. Guandaru Thuita, Advocate** is on record for the Society.

37. **PETITION NO. 89 OF 2018 LSK VS DIRECTOR GENERAL COMMUNICATION AUTHORITY, MR. JOE MUCHERU CS ICT, MR. FRED MATIANG'I CS INTERIOR & AG.**

The Society moved to Court to seeking declarations that the decision/action of the Respondents whether jointly or severally to shut down four broadcasting stations of the 1st to 3rd Interested Parties from 30th January, 2018 was ultra-vires, unlawful and a violation of Articles 10, 33, 47 of the Constitution as read with Section 4 and 5 of the Fair Administrative Action Act and section 5A (2) Kenya Information and Communications Act.

The Petition was filed on 14th March, 2018 and mentioned on 21st May, 2018 to confirm compliance of the court's directions on filing of responses. None of the Respondents had filed their responses and they sought 14 days to comply. Court was of the view that the Petitioner should file its submissions even if Respondents haven't filed their responses. The Petitioner would thereafter be at liberty to file supplementary submissions.

Hearing was fixed for 19th November, 2018 but did not proceed. The 1st Respondent filed their response to the petition and requested for 7 days to file submissions. The matter was set down for hearing on 18th February, 2019 however did not proceed since Hon. Justice E. Mwita is on transfer. It has now been scheduled for hearing on 3rd July, 2019 before Hon. Justice Korir but was moved to 25th September, 2019.

The matter did not proceed on said date since the Judge was engaged in a 3-judge bench proceeding. The matter has been fixed for hearing on 23rd March, 2020.

Mr. Nani Mungai, Advocate and **Ms. Julie Soweto, Advocate** are on record for the Society.

38. **PETITION NO. 1178 OF 2007 INVESCO ASSURANCE CO. LTD VS THE COMMISSIONER OF INSURANCE AND 3 OTHERS.**

Invesco Insurance Limited initiated the proceedings herein seeking, *inter alia*, a declaration that the enforcement of decrees held by third parties in ancillary suits would contravene its rights under Sections 70 (a) (c), 75(1) (3) (6) and 76(1) of the repealed Constitution. When the Petition came up for hearing on 22nd June, 2010, Consent was recorded whose effect was to exclude the enforcement of some decrees held by third parties in the said ancillary suits.

Later, the Commissioner of Insurance applied and succeeded in setting aside the Consent Order on the ground that it was binding on parties that were not represented in the Petition. The Petition is thus supposed to be heard afresh but in the meantime Invesco Insurance has sought to amend it since it was filed under the repealed Constitution.

The Matter was mentioned on 18th December, 2017 for further directions and thereafter scheduled for a further mention on 20th March, 2018 to obtain directions on hearing of the Petition. The Court fixed the Petition for hearing on 31st July, 2018 to allow the Petitioner to file their amended Petition. The Petitioner was granted leave to file an Amended Petition within 14 days and the matter fixed for hearing on 11th December, 2018. The Judge thereafter directed that the matter be heard on 18th December, 2018 to take a judgment date.



However, Justice Chacha Mwita directed that the Petitioner files a bundle containing the Petition and all Further Affidavits in support thereof for expediency. The matter was set down for a mention on 19th February, 2019 for confirmation of compliance and taking of a judgment date.

However, the Petitioner had not filed their Petition and Bundle of Documents as directed. Court therefore directed that the matter be mentioned on 26th September, 2019 and again on 4th November, 2019 to get a judgment date. However, the judge was not sitting. The submissions were highlighted on 22nd February 2021 and judgment reserved for **22nd April 2021**.

Mr. Nabil Orina, Advocate is on record for the Society.

39. **CONSTITUTIONAL PETITION NO. 144 OF 2018 LAW SOCIETY OF KENYA - VS - THE ATTORNEY GENERAL, PRINCIPAL SECRETARY MINISTRY OF LANDS, CABINET SECRETARY MIN. OF LANDS & ANOTHER.**

On 4th April, 2018 the Principal Secretary for the Ministry of Lands issued a Public Notice on processing and registration of land transactions effectively discontinuing manual transactions at both Nairobi and Central registries. The Notice also effectively obliges all users to use electronic means for land transactions including applications for registrations of instruments. The Society through **Mr. Duncan Anzala, Advocate** moved to Court challenging the propriety and implementation of the said Notice.

The Petition was certified urgent on 17th April, 2018 and **Lady Justice A. Okwany** issued the following orders -;

1. A conservatory order in the nature of an injunction is issued restraining and staying the 2nd and 3rd Respondents from implementing electronic filing of conveyancing documents as per the Notice on e-filing dated 4th April, 2018.
2. The Petition and the Application be served upon the Respondents within 7 days.
3. The matter be mentioned on 2nd May, 2018 for further directions.

On said date **Mr. Anzala, Advocate** informed the Court that there were two other applications pending -:

1. An application by the 1st to 3rd Respondents seeking to review the conservatory orders issued; and
2. An application by Consumer Federation of Kenya (COFEK) to be enjoined in the suit as an Interested Party.

The Judge allowed the request made by parties for more time to engage in negotiations towards a settlement and issued the following directions, that by consent -:

1. COFEK be enjoined as an Interested Party,
2. The Case be mentioned on 9th May, 2018 to confirm if parties had reached a settlement and for directions; and
3. Interim orders be extended till then.

A Consent was filed in court on 22nd May, 2018 to the effect that -:

1. The 3rd Respondent do establish within seven days an all-inclusive Taskforce comprising of representatives of all relevant stakeholders to develop guidelines for implementation of the electronic land transactions.
2. Specific processes shall continue to run electronically.
3. Applications for registration, transfer, charge, lease, caution/caveat, court orders, consent etc. shall run concurrently on electronic and manual form.
4. Members of the Petitioner be granted unfettered access to the physical copies of land records.
5. A mentioned is set for 30 days for further orders.

On 6th June, 2018 the matter came up for mention with a view to having the Consent filed on 22nd May, 2018 adopted however, the National Land Commission opposed its adoption on the ground that the Ministry of Lands had usurped some of its mandates. The Court declined to adopt the Consent and directed that the Commission and Ministry of Lands hold further negotiations.

The matter was scheduled for 25th June, 2018 to confirm whether an agreement has been reached. In the interim, Court directed that if there will be no agreement:-

1. The Petitioner files and serves submissions to the Petition within 10 days;
2. The Respondents and Interested Party files and serves submissions within 14 days
3. Interim orders be extended.

The matter was mentioned on 26th September, 2018 to confirm status of progress of the Taskforce. It was confirmed before Court that the Taskforce had been gazetted and had begun executing its mandate before the rules are subjected to public participation. Court directed that the matter be mentioned on 4th December, 2018 to review progress.

The matter was then adjourned to 12th March, 2019 for mention. LSK informed court that the Taskforce had submitted its report to the A.G for review and comment and requested court for 30 days to obtain feedback on the same. Court granted the request and directed that the matter be mentioned on 8th May, 2019.

State Counsel informed Court that they are working on the draft regulations and required more time to finalize and have them published. Court allowed the request and directed that the matter be mentioned on 23rd July, 2019 to review the progress. However, the Land Registration (Electronic Land Transactions) Regulations, 2019 were subsequently gazetted on 28th June, 2019. However on 25th November, 2019 an Article was published indicating that the Parliamentary Committee on Delegated Legislation recommended annulment of the Regulations.

Matter was set down for 25th September, 2019 to review the progress and our advocate confirmed that he has received the draft report from the Taskforce and draft regulations but requested for more time to take instructions.

Matter was mentioned on 24th February 2020 where LSK requested Court to direct the AG to serve and file the final report by the Taskforce. The Court made the following Orders-;

- i. AG to file and serve the Report on or before 17th March, 2020;
- ii. Matter to be mentioned on 25th March, 2020.

Mr. Wambugu Wanjohi Advocate is currently handling the matter.

40. **HIGH COURT CRIMINAL CASE NUMBER 75 OF 2011 – R VS MOHAMMED ISMAEL MADLEY & 3 OTHERS (MURDER OF LAWYER ANTHONY NAHASHON NGUNJIRI).**

The matter came up for hearing on 22nd January, 2018 before **Justice Wakiaga**. However, it did not proceed since Counsel for the 1st and 2nd accused persons was handling an election petition in Migori and counsel for the 3rd and 4th accused persons was unwell. Prosecution was however ready to proceed with one witness who is a firearm's officer. The matter was adjourned and another hearing date given on the 20th and 21st February, 2018.

However it did not proceed on 20th February, 2018 because the Judge (Wakiaga, J) was writing a judgment for an election Petition that was due. The matter was subsequently adjourned to 17th and 18th April, 2018 where Counsel for the accused persons concluded their cross-examination. Court directed that the two remaining witnesses be heard on the 28th June, 2018.

The two witnesses were heard on said date before court directed that the proceedings be typed and the prosecution to confirm closing of case. The matter was given a further date on 15th November, 2018 for hearing and highlighting of submissions and hearing set for 14th February, 2019.



The defendants had not filed their submissions on said date and the matter was given further dates of 28th February, 2019 and 10th April, 2019 for highlighting submissions. The matter came up for mention on 17th September, 2019 where the court fixed three dates for the defence hearing – 15th, 16th and 17th October, 2019. On said dates the 1st and 2nd accused persons testified and were cross-examined. Matter was then adjourned on request of Counsel for the 2nd accused person for summons to issue to Safaricom Kenya for production of electronic evidence.

Matter was scheduled for defence hearing on 21st and 22nd January, 2020 but was adjourned to 22nd January, 2020 since Prosecution Counsel was unwell.

The matter slated for Further Defence Hearing on the **11th February 2021**. However, the same did not proceed as Justice Wakiaga was away on official duties. The matter was listed before Honourable Aganyo (DR) who was equally away on official duties.

Fresh dates will be issued by the Registry.

Mr. Joel Mbaluka, Advocate is on record for the Society and the deceased's family.

41. **PETITION NO. 171 OF 2018 ADRIAN KAMOTHO NJENGA VS REGISTRAR HIGH COURT & 2 OTHERS.**

The Petitioner moved to Court to challenge the application of Section 13 (1) (b) of the Advocates Act on requirements of admission as an advocate. The Society applied to be enjoined as an Interested Party which application was allowed. The matter was to be heard on 26th November, 2018 but was adjourned to 27th February, 2019. However the same could not proceed as the Council for Legal Education had not been enjoined in the matter to deliberate on interpretation of Section 13 of the Advocates Act.

The Court directed that Council for Legal of Education be enjoined and the matter will be heard on 22nd July 2019 but matter did not proceed since the judge was unwell. It shall now be heard on 5th December, 2019 however the matter did not proceed since the Petitioner was indisposed. It has been set down for 3rd March, 2020 for hearing. The matter was withdrawn with no orders as to costs.

Mr. Cohen Amany, Advocate is on record for the Society.

42. **PETITION NO 61 OF 2017 LAW SOCIETY OF KENYA VS THE HON. ATTORNEY GENERAL & 2 OTHERS.**

The Society moved to court seeking tax exemption since it is a non-profit making organization. The Petition is premised on discrimination. The Respondent was given 14 days to file their response and the matter was set down for highlighting submissions on 13th March, 2018.

The matter was fixed for mention on 4th July, 2018. Court directed the Society to file and serve submissions upon the Respondent within 14 days. Matter was to be mentioned on 10th October, 2018 which was subsequently gazetted as a public holiday so the matter was set down for mention on 20th October, 2018. The Judge having confirmed that the parties had filed their respective submissions, set down the 19th March, 2019 for highlighting of submissions.

The matter was taken out of the court list alongside all High Court matter scheduled on the said date as Judges were away on a conference. The matter was scheduled for a mention on 3rd December, 2019 and court directed parties to appear on 8th April, 2020 for highlighting of submissions. Madam Odede attended to the matter on Wednesday 21st October 2020 where the Court directed that Grounds of opposition and submissions by the 1st respondent be served upon the petitioner within 14 days. That the Petitioner to file replies/supplementary submissions thereafter. Matter was mentioned on 16/11/2020 before Hon. Mrima J for setting a date for highlighting of submissions. The date is yet to be established.

Mr. Evans Ogada, Advocate has been requested to Highlight submissions and take a judgment date for the Society.

43. **CONSTITUTIONAL PETITION NO.9 OF 2019 LAW SOCIETY OF KENYA VS ODPP, DCI, IG POLICE, AG AND CJ**

The Law Society has moved to court seeking the following reliefs;-

- i. declaratory order that the inhibition of an advocate's right to represent a client by the Respondents contravenes the rights and freedoms of the advocate and the client;
- ii. a prohibitory injunction against the Respondents from harassing or arresting advocates as relates to matters of advocates-client privilege,
- iii. A mandatory injunction compelling the Respondents to release advocates on Bail/Bond on the basis of personal cognizance upon arrests that are premised on their practice.

The matter had been scheduled for mention on 7th May, 2019 but did not proceed since Justice Korir was not sitting. It has now been scheduled for hearing on 13th July, 2020.

The Law Society of Kenya has complied with court directions by filing submissions in this matter. This particular petition was heard concurrently with its sister petition, Constitutional Petition number 8 of 2019. The matter comes up on **9th March 2021** for the highlighting of submissions. The ODPP is yet to comply with the requirement for submissions. They have the final chance to comply. Matter slated for **28th June 2021** for the highlighting of submissions.

Mr Borniface Akusala, Advocate and Mr Evans Ogada, Advocate are on record for the Society.

44. **PETITION 23 OF 2019 CHAMA CHA MAWAKILI VS AG, REGISTRAR OF COMPANIES**

A group of lawyers registered a company on 19th December, 2018 by the name Chama Cha Mawakili Limited (CCM) and on 8th January, 2019 the Society wrote to the Registrar of Business Registration Service to register reservations and objections to the registration of the company on grounds that it bears a similar name to the Law Society of Kenya.

The Registrar wrote to CCM on 9th January, 2019 directing them to change their name within 14 days or they would invoke Section 58 of the Companies Act and deregister the company. The Business Registration Service then wrote to both parties on 24th January, 2019 to convene a consultative meeting to resolve the issue but CCM moved to court and filed the Petition.

The Petitioner alleges that the Registrar of Companies violated their rights to fair hearing and fair administrative action as provided for in Articles 36 93) (b) and 47 of the Constitution. The Petitioner also contests the constitutionality of Section 58 (5) of the Companies Act because it does not give on a right to fair hearing before a registration is cancelled.

The matter is scheduled to come up for further directions on 15th March, 2019 but was set down for mention on 11th July, 2019 to confirm the Registrar's position on the impending registration. The status was confirmed as archived and during the mention of 29th August, 2019 the Petitioners' application seeking reinstatement of their status as active came up for directions.

Court directed parties to file responses within 7 days and the matter will be heard on 9th September, 2019. The same [proceeded with the Petitioners application seeking reinstatement of their status from archived to active. The Petitioners sought interim orders which were denied by court and the matter was scheduled for 4th October, 2019 for hearing.

Court directed the Society to file and serve responses and submissions to the Petitioner's application for conservatory orders by 7th October and directed the Status Quo to remain as is meaning no deregistration of the Petitioners should be undertaken.

Matter set down for 17th October, 2019 for mention and hearing for 8th November, 2019 but did not proceed, trial judge was not sitting. Matter to be mentioned on 2nd December, 2019 and court directed that the petition and highlighting of submissions be on 6th December, 2019. However, on said date, the Petitioners sought an adjournment which was



opposed by LSK. Court directed parties to file supplementary submissions and matter to be heard on 17th December, 2019.

On 3rd April 2020 the Court through Korir J faulted the Registrar for not affording the Applicants a right to be heard and quashed the decision to deregister them. He however held that the Registrar could begin the process de novo.

Mr. Cohen Amanya, Advocate was on record for the Society.

45. **CONSTITUTIONAL PETITION NO. 3 OF 2019 ODIRA ELVIS NANDA VS CHIEF JUSTICE AND JUDICIAL SERVICE COMMISSION.**

The Petitioner moved to Court citing failure by the Respondents, who are responsible for preparation of the Annual Judiciary calendar, to disclose dates for the judges' and magistrates' colloquium, workshops, seminars, trainings and the judicial service week for the year 2019. The Petitioner argues that the Respondents actions of giving short notices for these activities prejudices court matters and violates their rights to access to justice.

The Law Society is an Interested Party in the matter in support of the petition. The matter came up for directions on 5th March, 2019 and a mention on 9th April, 2019. The purpose of the mention was for the court sitting in Nairobi to issue directions having received an Order issued by **Hon. Ngugi J.** sitting in Nakuru, that the matter be transferred to Nairobi where the Respondents' headquarters are domiciled. The Court directed that the matter be mentioned on 24th July, 2019 before the **Hon. Justice Korir** for further directions.

The court directed as follows when the matter came up for directions;

1. That the Petitioner serves their submissions to all parties within 2 days.
2. That all other parties file and serve their responses to the petition together with their submissions within 21 days thereof
3. That the matter be mentioned on 23rd October, 2019 to confirm whether all parties have complied with the court's directions and to issue a date for judgment. Judgment has been reserved for 30th January, 2020.

It is noteworthy that while the court dismissed the petition, it made the following pertinent observations which may be noted by the society for future reference;

- i) That it is important for the Respondents to always ensure there is proper planning of the trainings and sufficient notice in regards to taking matters out is given in good time.
- ii) That in view of the fact that the respondents have the mandate and are administratively responsible for planning, preparation, circulation and coordination of the calendar for Judges and Magistrates colloquium, workshops, seminars, trainings and judicial service weeks, they should avoid giving hearing dates in court and at the registry only to have them taken out for the very same reasons that ought to have been pre-planned.
- iii) Whereas as emergencies may occur, causing disruption of the court's diary, the respondents are required to give information whenever sought as provided under Article 35 of the constitution.

Ms Mercy Mathai, Advocate was on record for the Society.

46. **CIVIL SUIT NO. 235 OF 2009 JOSIAH ABOBO VS STANDARD LIMITED**

The Claimant, an advocate, moved to court seeking general defamatory damages from the Defendant due to a notice published on its newspaper edition of 10th November, 2008. The Notice, sponsored by the Law Society Disciplinary Committee, listed the Plaintiff as suspended, among other advocates who were either suspended or struck off. The Defendant has thus applied to have the LSK enjoined as a third party with a view to having the Society indemnify the Defendant against any claim that would ensue.

The matter came up in court on 28th March, 2019 where the application was allowed and it was ordered that the

Defendant serves the Third Party Notice within fourteen days.

Mr Wilkins Ochoki, Advocate is on record.

47. **PETITION 160 OF 2016 ZAMZAM ABDI VS DPP, DCI AND TWO OTHERS.**

The Plaintiff, an advocate, moved to court citing harassment by officers of the DCI in the course of undertaking her professional duties. The Petitioner alleges that her fundamental rights and freedoms were violated after she was arrested and illegally incarcerated for over 80 hours without being arraigned in Court, contrary to Article 51 of the Constitution.

The Society has been enjoined as an Interested Party and the hearing of the application for joinder of two proposed interested parties – Mr. Salim Sheikh and Urban Solutions Limited will be heard on 23rd October, 2019.

The matter did not proceed as the second proposed interested parties – Urban Solutions – had not served their application to all parties. Court directed parties to file and serve responses within 21 days. Hearing of the application has been scheduled for 19th February, 2020 where court directed all parties file and serve their written submissions within 21 days. Mention on 22nd April, 2020.

The matter is scheduled for mention on 19th May, 2021 for further directions.

Mr. Henry Faraji, Advocate is on record for the Society.

48. **PETITION NO. 105 OF 2019 ALEX JOSHUA & 2 OTHERS VS KEN LUSAKA & 8 OTHERS.**

The Petitioner moved to Court citing violation of his right to a fair trial in Succession Cause 1287 of 2007. The Petitioner alleges that there were instances of collusion and professional misconduct between the lawyers on record and the judicial officers in the above-mentioned case. The Society is listed as the 6th Respondent.

The matter was mentioned on 19th June, 2019 and Court directed as follows:-

- a) That the Petitioners serve all, other, parties with the application dated **6th May, 2019**, within **seven (7) days**.
- b) That all Respondents who have not filed response to do so within **seven (7) days** from the date of service.
- c) That the Petitioners file their written submissions within **fourteen (14) days** from service of these responses.
- d) That the Respondents, in turn, file their submissions within **fourteen (14) days** of service.

Thereafter, the Honourable Court reserved highlighting of submissions for the **22nd October, 2019**.

However, this matter did not proceed to highlighting of submissions for the following reasons:

- a) The Petitioner together with the rest of counsel except for counsel for LSK and 1st, 2nd and 8th Respondents were absent.
- b) It appeared that most parties, save for those present in court, had not complied with the directions of the Honourable Court with regard to filing of responses, submissions and service thereof.

Consequently, the Honourable Court directed as follows:

- a) That all parties comply with the order of the court; and
- b) That that the Preliminary Objections filed on your behalf and that of the 1st and 2nd Respondents are given priority as to hearing; *to wit*, they shall be adjudicated upon and determined first.

Thereafter, the Learned Judge reserved mention, verification filing of responses and submissions on the 28th January, 2020.



Now, to advise that due to downscaling of the courts due to the Covid-19 directions this matter has remained in abeyance pending further directions.

Mr. Dennis Muyuri, Advocate is on record for the Society.

49. **PETITION 185 OF 2019 OKIYA OMTATAH VS PARLIAMENTARY SERVICE COMMISSION, PARLIAMENT OF KENYA AND 422 OTHERS.**

The Petitioner moved to court challenging the apparent actions of the 1st and 2nd Respondents to pay members of the National Assembly House Allowances in addition to the Mortgage Allowances they are entitled to per term. The Petitioner alleges that the 1st and 2nd Respondents have no Constitutional mandate to determine remuneration of Members of Parliament since that is solely vested in the Salaries and Remuneration Commission.

The Law Society is an Interested Party in the matter and the matter will be mentioned on 24th October, 2019 and directions were issued that hearing be on 5th December, 2019. Judgment was to be delivered on 16th March, 2020.

On **10th December 2020**, A 3 Judge Bench consisting of J Mativo, J Korir and J Nyamweya delivered a judgment quashed the decision the Parliamentary Service Commission to set, and approve the payment of an accommodation or house allowance to Members of Parliament contrary to the structure of Remuneration and Benefits of all State Officers in Parliament without the approval of the Salaries and Remuneration Commission in disregard of Article 230(4) (a) of the Constitution. The Bench additionally issued an order directing the Clerk of the Senate and the Clerk of the National Assembly to, within a period of twelve calendar months from the date of the order, recover in full from the salaries and allowances of each Member of Parliament the entire amount of monies paid as accommodation and/or house allowance to the Members of Parliament, pursuant to the illegal and unconstitutional decision of the Parliamentary Service Commission.

The late Mr. Nzamba Kitonga, SC was on record for the Society. The matter is now being handled by **Mr. James Ivia Kitonga, Advocate**.

50. **PETITION NO. 3062 OF 2019 JULIET KINITI VS LSK**

The claimant moved to Court alleging that the Society defamed her by issuing a publication on December 21st, 2018 in the local dailies listing her practice status as suspended. She is demanding that the LSK issues her an apology, amends and/or withdraws that publication as well as claiming general, aggravated and exemplary damages for defamation and libel.

The matter came up on 3rd December, 2019 for hearing of an application to set aside the default judgment and the same was allowed by consent of all parties. Court directed parties file their submissions and mention on 22nd January, 2020. The matter was mentioned on 9th March 2020 for purposes of confirming the status of negotiations between the parties. By consent the parties agreed to refer the matter to Court Annexed Mediation, However due to the ongoing Covid-19 pandemic, the parties were not able to start the mediation process as the Court had yet to appoint a mediator to handle the case. The advocate is following up with the Court for appointment of a mediator. **Mr. Cohen Amany, Advocate** is on record for the Society.

51. **PETITION NO. 337 OF 2018 FELIX KIPRONO MATAGEI VS ATTORNEY GENERAL.**

The Petitioners have moved to Court to challenge Section 8 as read with Section 9 of the Law Reform Act that provides that leave must first be obtained before an application for Judicial Review orders of *Certiorari*, *Mandamus* or *Prohibition*. The Petitioner alleges that the impugned sections of the Act contravene Articles 23 (2), (f), 48, 50, 159 and 259 of the Constitution of Kenya as read with Order 53, Rule 1 of the Civil Procedure Rules.

The matter was mentioned on 15th July, 2019 where parties were directed to file and serve pleadings by 15th August, 2019. Hearing scheduled for 25th September, 2019 however the hearing did not proceed since the judge was not available and it was given a mention date of 26th November, 2019. Court thereafter directed that hearing be on 9th April, 2020. The Law Society has been invited to join the proceedings as *amicus curiae*.

The matter was heard on 20th January, 2021 and judgment reserved for **25th March, 2021**

Ms. Florence Mwangangi, Advocate is on record for the Society.

52. **SUPREME COURT REFERENCE NO. 3 OF 2019.**

The Council of Governors moved to the Supreme Court to seek an Advisory Opinion as per Section 13 of the Supreme Court Act on the impasse regarding the annual Division of Revenue Bill. The Senate and the National Assembly have failed to agree on the Division of Revenue Bill for the financial year 2019-2020 and the mediation process provided for under Article 113 of the Constitution has failed. This situation threatens to cripple operation of counties thus directly affecting service delivery to the public.

The matter was eventually resolved after the proposed Court mediation process and the two Houses eventually agreed on the Division of Revenue allocation however the matter will be heard on 22nd January, 2020.

On **15th May 2020** an Advisory Opinion, was rendered by a Bench consisting of J Wanjala, CJ Maraga, J Njoki, J Ibrahim, conclusively disposed of the four issues in the manner determined; namely, the recommendations of the Commission on Revenue Allocation are not binding on Parliament; in the event of an Impasse over the Division of Revenue Bill, the solution prescribed in paragraphs 81 to 91 of this Opinion shall apply; the Supreme Court or any other court for that matter, is not the appropriate forum for setting timelines as to when the National Treasury must transfer the equitable share of revenue to counties; and Parliament cannot enact the Appropriation Act before the enactment of the Division of Revenue Act.

The Late Mr. Nzamba Kitonga, SC, Mr. Borniface Akusala, Advocate and Mr. Steve Ogolla, Advocate were on record for the Society.

53. **PETITION NO. 384 OF 2019 HILLARY MOKAYA, NICK KYUNUVE VS THE COMMITTEE ON SENIOR COUNSEL, ATTORNEY GENERAL, LSK AND CHIEF JUSTICE**

The Petitioners have moved to court to challenge the Senior Counsel Conferment process alleging that the composition of the Committee was illegal, unlawful; and unconstitutional. They allege the two members of the Committee were not representing the Law Society at the time of the first Notice calling for submissions for the Senior Counsel Conferment was sent because the LSK elects such representatives during its AGM.

The Petitioners also allege that Hon Justice Mohamed Ibrahim and Jacqueline Kamau were elected/appointed to sit in the Committee way after they had begun sitting meaning those sittings were being held while the Committee was not properly constituted. They add that these two persons sat in deliberations involving applicants who represented them during vetting of judges and did not declare potential conflict of interest.

Parties attempted to negotiate an out of court settlement, but such negotiations collapsed on 26th Feb 2020.

The matter comes up for a mention on 26th October 2020 for directions.

Mr. Elisha Ongoya, Advocate is on record for the Society.

54. **PETITION NO. 203 OF 2019 TEDDY OKELLO T/A PATRICK, TEDDY & PARTNERS VS CABINET SECRETARY MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT & 2 OTHERS**

The Petitioner moved to court challenging the advertisement for **TENDER NUMBER KENHA/2172/2019 – REGISTRATION FOR PROVISION OF LEGAL SERVICES PROVIDERS FOR THE PERIOD ENDING 30TH JUNE 2021** where the 2nd Respondent invited law firms to bid for prequalification for registration of Legal Services Providers for the period ending 30th June, 2021, with the mandatory requirement that the Managing Partner of the law firm bidder must have at least Fifteen (15) Years post - admission experience among the terms of the tenders so advertised.

The Petitioner alleges that that requirement is discriminatory and restrictive and will result in selective participation



and unfair competition in provision of legal services to State Corporations in Kenya. Other advocates in Kenya, especially the young lawyers. The Law Society has applied to be enjoined in the suit since it relates to matters of general practice and welfare of members.

The matter was mentioned on 11th October, 2019 where he respondents in the KENHA matter served the petitioner with a preliminary objection on the basis of Sections 65 and 167 of the Public Procurement and Asset Disposal Act No. 33 of 2015; and also objected to our application to join the suit as an interested party.

The court directed that both issues be canvassed via written submissions. The respondents to reply to our application file and serve us within seven days from 9.10.2019 and we deal our part within the same time frame. The same directions were given on the preliminary objection.

The matter was mentioned on 11th December, 2019 but Respondents had not filed their submissions.

Matter was to be mentioned on 11th March, 2020 where respondents were given 7 days to file and serve responses. **Ms. Aluso Ingati, Advocate** is on record for the Society.

55. **PETITION NO. 6 OF 2018 PHILIP OKOTH (SUING AS NEXT OF KIN) AND 9 OTHERS VS BOARD OF MANAGEMENT ST. ANNE'S PRIMARY SCHOOL AHERO AND 3 OTHERS.**

The Petitioner moved to Court in his capacity as next friend of nine children who are all students of St. Anne's Catholic Primary School in Ahero. The Petitioner, one of the nine students in the school, had been expelled for refusing to attend the mandatory Friday morning Catholic Mass. The students had requested to be exempted from all inter-faith activities since they were all adherents of Jehovah Witness. The School's Board of Management declined that request and expelled one of the Petitioners in response. The Society was enjoined in the matter as a second Petitioner due to the public interest nature of the case.

The Petitioners moved to court seeking to enforce the rights of Jehovah Witness children not to be indirectly discriminated against through the enforced Friday Mass attendance and also a declaration that the action of the School's Board of Management to require all students to attend the mandatory Friday mass was a violation of the Petitioner's Constitutional rights to equality, freedom from discrimination and freedom of religion and association.

The Petition was filed in April 2018 and conservatory orders entered to allow the students to sit their KCPE examinations. The Court, in a judgment delivered on 30th September, 2019 by **Hon. Justice Fred Ochieng** dismissed the Petition holding that the Petitioners had originally accepted the School Rules and Regulations which included attending mass on Friday mornings. He added that the Petitioners had failed to prove how the rule which appears neutral had disadvantaged them.

In light of the recent court decision by **Hon. Justice E. Mwita** in **Petition 10 of 2019** the Society has instituted an appeal in the matter. LSK is waiting for submissions from St Annes and AG so as to proceed.

Mr. Ochiel Dudley, Advocate is on record for the Society.

56. **PETITION 369 OF 2019 ADRIAN KAMOTHO VS ATTORNEY GENERAL**

The Petitioner moved to court to challenge the apparent reluctance of the President of the Republic of Kenya to appoint judges who had been recommended by the Judicial Service Commission to fill positions in the Court of Appeal, Environment and Land Court and Employment and Relations Court.

The Petitioner claims that there has been inordinate delay that is hampering administration and access to justice. The Society is an interested party in support of the Petition and the matter was mentioned on 12th November, 2019. The Court directed as follows:

- a) That the file is to be forwarded to the Chief Justice for the empaneling of an uneven bench for this matter.
- b) That the matter be mentioned on the 20th November 2019 for purposes of a status update.

The Court informed the parties that the Chief Justice has empaneled a 3 Judge Bench to handle these matters. The judges are:

- a) Achode J - Presiding Judge
- b) Makau J
- c) Chacha J

The matter came up for directions on 4th December, 2019 where the court directed LSK to file submissions and responses by 9th December, 2019 and highlighting of submissions for 16th December, 2019. Judgment reserved for 6th February, 2020.

The Court, through **Hon. Justices L.A Achode, J.A Makau and E.C Mwita** in its judgment delivered on 6th February, 2020 agreed with the Petitioner and the Society in declaring that the President is constitutionally bound by the recommendations made by the JSC in accordance with Article 166 (1) as read with Article 172 (1) (a) of the Constitution on appointment of Judges, holding thus;

1. A declaration be and is hereby issued that the President is constitutionally bound by the recommendation made by the 1st Interested Party in accordance with Article 166(1) as read with Article 172(1)(a) of the Constitution on the persons to be appointed as Judges.
2. A declaration be and is hereby issued that the President's failure to appoint the persons recommended for appointment as Judges violates the Constitution and the Judicial Service Act.
3. A declaration be and is hereby issued that the continued delay to appoint the persons recommended as judges of the respective courts is a violation of Articles 2(1), 3(1), 10, 73(1)(a), 131(2)(a), 166(1), 172(1)(a) and 249(2) of the Constitution.

The decision was appealed against by the Respondents. Counsel for LSK were served with the record of appeal on **15th February 2021**.

Ms. Maria Mbeneka, Advocate and **Mr. Evans Ogada, Advocate** are on record.

57. **MERU ELC PETITION 25 OF 2019 JOSEPH LORUNYEI & 5 OTHERS VS CS MINISTRY OF DEFENCE & 5 OTHERS**

The Petitioners moved to Court challenging their proposed eviction from the land by the Ministry of Defence in Burat Ward, Isiolo County measuring 350 square miles. The Petitioners allege that the subject land is ancestral land of the members of the Turkana, Samburu, Borana, Somali and Ndorobo communities. Interim orders were granted on 24th September, 2019 as follows:

- i. An interim conservatory order be and is hereby issued restraining the Respondents by themselves, their agents and/or servants from evicting the applicants and the more than 20, 000 members of the Turkana, Samburu, Borana, Somali and Ndorobo Communities within Burat Ward, Isiolo County from their ancestral land measuring approximately 350 square miles.

The Law Society intends to be an Interested Party due to the public interest nature of the matter. The matter was mentioned on 29th October, 2019 for hearing of the Petitioner's Notice of Motion Application. Petitioner requested for 14 days to file a Supplementary Affidavit while Respondents sought 14 days to file and serve responses. Court directed the Respondents to file and serve their Replying Affidavit within 14 days and extended the interim orders. Highlighting was scheduled for 2nd December, 2019 where LSK canvassed its application for enjoinder dated 21st November, 2019. The 1st and 5th Defendants were not opposed but sought to get instructions from their clients on what position to take. The 2nd, 3rd, 4th and 6th Respondents were opposed and were given leave to file their replying affidavits. The Petitioner did not oppose the application.



The matter has been set down for hearing of LSK's application and directions on the Petitioner's application on 11th February, 2020.

Matter is fixed for hearing on **19th May, 2021**.

Mr. Victor Muriithi, Advocate is on record.

58. **PETITION NO. 425 OF 2019 LAW SOCIETY OF KENYA VS CS TREASURY, AG**

The Acting CS, Treasury issued a notice – Treasury Circular No. 14 A on 24th September, 2019. The Circular, addressed to all Cabinet Secretaries and Accounting Officers provides guidelines for the first revision of the Financial Year 2019/20 Estimates of Revenue and Expenditure. The Circular confirms drastic reduction on the Judiciary's Recurrent and Development budget by **Kshs. 1.493 B** and **Kshs. 1.404 B** respectively. This essentially has amounted to 50% reduction in the budgetary provisions that are essential to the Judiciary's operations.

The Law Society has moved to Court to challenge the legality and effect of this Circular. The Society received written confirmation from the Chief Registrar of the Judiciary pursuant to a circular issued today, that the Judiciary's recurrent and development budget for FY 2019/20 has been restored in the budget for the half year and been uploaded on IFMIS as approved by the National Assembly. Further to this, our petition came up on 6th November 2019 for mention for directions; we sought for the extension of the Court Orders pending the hearing and determination of the petition. The Court allowed our application and extended the orders as prayed. The matter comes up on 27th November 2019 for further directions where it was set down for a mention on 18th February, 2020. Court thereafter directed that respondents file and serve responses within 21 days and highlighting of submissions on 22nd April, 2020. **Ms. Aluso Ingati, Advocate** is on record for the Society.

59. **PETITION NO. 2 OF 2019 STANLEY KARANJA VS REPUBLIC**

This matter is a petition brought about by prisoners in Nakuru challenging the constitutionality of Section 46 of the Prisons Act that provides for remission of certain prisoners of up to one-third of their sentence for good conduct and industry. The section however provides that no remission is applicable for persons convicted for life or under Sections 296 and 297 of the Penal Code or those imprisoned under the President's pleasure.

The Society, exercising its mandate under Section 4 of the LSK Act applied to be enjoined as *Amicus Curiae*. This matter was scheduled for mention and hearing of our application on 28th October 2019.

However, the matter was taken out of the day's cause listed and scheduled to be place before Deputy Registrar for directions on 1st November 2019 since the presiding judge Hon. Lady Justice Teresia M. Matheka was not sitting since she is bereaved. When the matter came up before the Deputy Registrar on 1st November, 2019, he directed that the matter be mentioned on 23.1.20 for directions.

Two of the Petitioners have already been acquitted and they have abandoned the Petition and the one who is remaining has expressed the desire to abandon the Petition. This matter came up in Court on 20th February, 2020 where the court granted The Law Society of Kenya leave to be enjoined to the proceedings in the capacity of *Amicus Curiae*.

The Court further directed that;

- a. We put in our submissions within 14 days; and
- b. The matter be heard on 4th May, 2020.

On 4th May, 2020 the matter was not heard and the file was placed before the Honourable Judge for direction.

Mr. John Chigiti, SC is on record.

60. **PETITION 279 OF 2018 EDWIN MOTARI ONGUTI VS GEOFFREY NYAANGA, DPP, LSK AND ONE OTHER.**

The Petitioner moved to Court citing violation of his rights arising from assault causing bodily harm, robbery, harassment and unlawful imprisonment by the 1st Respondent and police officers in Mlolongo area. He also alleges that the Law Society was complicit in these crimes by ignoring his complaints about the conduct of the 1st Respondent who is an advocate.

The matter came up for hearing on **16th December, 2019** and LSK informed court of its application dated **13th November, 2019**, seeking that the Society ought to be struck out from the proceedings and we sought direction as to its prosecution. Similarly, counsel on behalf of the Attorney General addressed that they, too, would like to file an application to be struck out from the proceedings.

Consequently, the Honourable Court directed as follows:

- a) That the Attorney General is allowed **seven (7) days** to cause the application to be filed on his behalf.
- b) The Petitioner is allowed **fourteen (14) days** to file his response to both applications.
- c) That verification of these items shall be on the **3rd March, 2020**, when this matter shall be mentioned.

Matter was stood over generally and is awaiting issuance of fresh dates.

Mr. Dennis Muyuri, Advocate is on record.

61. **PETITION 209 OF 2019 DR. PIUS WANJALA VS EACC.**

The Plaintiff, an advocate, moved to court citing harassment and investigation by officers of the EACC as a result of performing his professional duties as an advocate and initiating a complaint against his employer. The Petitioner alleges that his fundamental rights and professional freedoms are being violated and that EACC have no authority to investigate him on account of advocate privilege.

The Society has been enjoined as an Interested Party in the matter with a view of protecting its overriding interests on member welfare and the matter was mentioned on 25th November, 2019 before the Hon. Mr. Justice Onsemus Makau. Due to the fact that the Respondent and the Interested Parties had not filed their respective responses, they sought and were granted time to file the same. The Respondent, the EACC, did also indicate that it was desirous of making an application to have the Petition transferred from the ELRC to the Anti-Corruption Court.

The Court made the following directions:

- a) The Respondent (EACC) and the 1st Interested Party (CS, Health) do file their responses within 14 days; the Respondent is at liberty to file an application seeking the transfer of the matter to the Anti-Corruption court as intimated within the said 14 days too;
- b) The 2nd Interested Party to file its response (if any) within 14 days of service by the Respondent and the 1st Interested Party;
- c) Matter to be mentioned on 20th January, 2020 before any other judge of the ELRC to confirm compliance and for further directions.

The matter was transferred to the Anti-Corruption Court, where Justice Mumbi Ngigi directed that Parties file responses and submissions to the main petition. Meanwhile, the petitioner was granted leave to file further affidavit within 21 days with liberty to the other Parties to file responses thereto within 21 days. The matter shall be mentioned on 2nd June, 2021 for directions on highlighting submissions.

Mr. Elias Masika, Advocate is on record for the Society.



a) **CRIMINAL CASE NO. 1809/2019 R VS SOLOMON KINUTHIA WAMBUI**

The Law Society of Kenya received reports of an assault against Ms. Angela Kagunyi, a young lawyer awaiting admission to the Bar and who works at the Kiambu County Assembly, on Friday 8th November, 2019. The two Members of Kiambu County Assembly – Mr. Solomon Kinuthia, MCA Ndenderu Ward and Ms. Njeri Bakari, MCA Nominated were alleged to have harassed, assaulted Ms. Angela Kagunyi while tearing into pieces a Court Order barring the Assembly from proceeding with an impeachment motion against the Youth & Sports County Executive.

Hon. Solomon Kinuthia MCA, was arrested and arraigned in Court on Wednesday 13th November, 2019 for plea taking. However, the other suspect was not present in Court. The advocate for the accused applied for a deferral of the plea taking for 14 days, an application which was opposed by the Prosecutor as well as the advocate representing the victim, Mr. Noel Okwach. The application was also opposed by the advocates representing the Law Society and FIDA, Ms. Mercy Kareithi and Ms. Joy Wakirama respectively. The Court in its ruling delivered on 14th November, 2019 by Hon. S Atambo, SPM denied the application to defer plea taking holding that Section 23 of the National and County Assemblies Powers and Privileges Act does not prevent a Court from prosecuting a criminal offence.

The suspect was charged with assault and also malicious damage to property and returned a plea of not guilty for both counts. He will be kept in custody for a period of 5 days pending a ruling on a bail application. Hearing for 5th March, 2020 but did not proceed since the advocate for the accused person requested an adjournment through an advocate holding brief since he was indisposed. The DPP also sought an adjournment to amend the charge sheet further.

The Court granted an adjournment while advising parties to seek an out of court settlement since the offence was a misdemeanor. Matter to be mentioned on 20th March, 2020.

The matter is set for hearing on the **18th and 27th May, 2021**.

Ms. Mercy Kareithi, Advocate is watching brief on behalf of LSK.

62. **ELC CASE 7376 OF 2019 BILAL KINUTHIA VS MWAJUMA MOHAMED**

The Petitioner has moved to court seeking eviction orders against the defendants over a parcel of land in Mihango area, Embakasi. The defendants have documentary evidence showing they lawfully acquired the properties through share ownership plans and are therefore being unlawfully harassed and evicted. The Society, exercising its mandate under Section 4 of the Act, instructed Mr. Bemih Kanyonge, Advocate to represent the indigent Defendants. This matter is coming up for hearing on **29th March, 2021**

Mr. Bemih Kanyonge, Advocate is on record.

63. **PETITION NO. 505 OF 2019 LAW SOCIETY OF KENYA VS FEDERATION OF KENYA EMPLOYERS**

The Federation of Kenya Employers put up an advertisement in July 2018 in a Billboard informing the public that they now offer legal services. The Society has moved to court seeking enforcement of Section 33 of the Advocates Act that precludes any unqualified person from practicing as an advocate or purporting to issue legal services.

The matter was heard under certificate on 17th December, 2019 before Hon. Justice Makau who directed that it be mentioned on 18th December, 2019 for directions. The Respondents requested for more time to file their responses while LSK applied for interim orders of injunction restraining the Respondent from charging legal fees to members for provision of legal services. Court directed that

- i. The Respondent file submissions in 21 days
- ii. Petitioner file and serve supplementary affidavit if need be within 14 days after receipt of Replying Affidavit
- iii. Matter be mentioned on 4th March, 2020
- iv. Interim orders declined since no urgency in the matter. Petitioner had raised concerns since 2018.

The Honorable Court (Makau J) upon confirming that both parties had put in their submissions directed that a Ruling on the same shall be delivered on **17th March, 2021**.

The Honorable Court (Makau J) dismissed the Respondent's Preliminary Objection and Grounds of Opposition with costs on account that the Petition does not raise issues on Article 41 of the Constitution and Section 12 of the Employment Act, but raises issues of breach of the Petitioner's fundamental rights as well as those of the public.

The further directed that:

- a) The Respondent to file its Response to the Petition within 21 days;
- b) The Petitioner to file its submissions within 14 days of service of the Response by the Respondent;
- c) The Respondent to also file and serve its written submissions within 14 days after service by the Petitioner; and
- d) The matter be mentioned on 29th June, 2021 to confirm compliance.

Ms. Irene Kashindi, Advocate is on record.

64. **PETITION 231 OF 2019 PRISCA WAMBUA VS IG, DPP, DCI AND TWO OTHERS**

The Plaintiff, an advocate, moved to court citing harassment by officers of the DCI in the course of undertaking her professional duties while transacting in a conveyance of L.R No. 1870/11/200 IR 65800. The Petitioner alleges that her fundamental rights and freedoms were violated due to harassment, victimization and investigation, contrary to Article 51 of the Constitution.

The Society was enjoined as an Interested Party with a view of protecting its overriding interests on member welfare but the matter was overtaken by events after a revision of the orders in the lower court. LSK has moved to have the matter marked as settled however the DPP contested the revision of the orders issued in Misc. Criminal Application No. 3796 of 2019 and court directed both matters Pet No. 231/2019 and Misc. 462/2019 be mentioned before Justice Kimaru on 28th April, 2020.

The matter proceeded before Hon Makau on 25th November, 2020. The Respondent was not present and had not put in their response. The Court granted the Respondent 14 days to file their response. The matter will be mentioned on **1st March, 2021**.

Mr. Samuel Mohochi, Advocate is on record.

65. **PETITION 187 of 2019 LAW SOCIETY OF KENYA NAIROBI BRANCH VS. THE REGISTRAR SMALL CLAIMS, AG AND 2 OTHERS**

The Law Society instituted the matter cited above as the Petitioner and moved court in seeking a declaration that Articles 25 (c), 27, 48, 50 (1) 159 (1) and (2) (e) of Constitution have been violated by denying a party proceedings before the small claims courts the right to legal representation among other orders.

Mr. Borniface Akusala, Advocate is on record.

66. **PETITION 235 OF 2019 OKIYA OMTATAH VS PUBLIC SERVICE COMMISSION, AG & 4 OTHERS**

The Petitioner moved to court challenging the appointment of Ms. Margaret Nyang'ate as Controller of Budget alleging that she does not meet the mandatory minimum qualifications contained in Articles 228(2) as read with Articles 250 (3) and 73 (2) (a) of the Constitution. The Society is enjoined as an Interested Party.

The matter proceeded for hearing and Judgement was rendered on 3rd July 2020; That declaration that the 1st, 2nd, 3rd and 5th respondents to forthwith consider an enactment to improve and fill the apparent and established lacuna in Section 4(1) of the Controller of Budget Act so as to expressly provide for and include a vacancy if or where the Controller of Budget leaves office by reason of lapsing of the prescribed term of tenure of 8 years per Article 228(3) of the



Constitution and as may be appropriate, such lapsing of of tenure being foresable, a procedure for timely transparent and competitive interviews, identification, nominations, approval for appointment, appointment and swearing into office of the next holder of the office of Controller of Budget as at the time of the lapsing of th tenure of the incumbent and whose term is foreseeably due to lapse by operation of Article 228(3) of the Cosntitution."

Mr. Wakesho Kililo, Advocate is on record.

67. **PETITION NO. 4 OF 2020 INVESCO ASSURANCE COMPANY AND ANOTHER VS ATTORNEY GENERAL, OFFICIAL RECEIVER & LIQUIDATOR**

The Petitioner moved to the High Court in Kisumu seeking the following ex-parte orders;-

That the application be certified urgent and be heard ex-parte;

- i. That the Court do issue Conservatory Orders staying the proceedings at any stage including Warrants of Attachment, Taxation, certificate of Taxations, Garnishee Order nisi or absolute and execution of Judgment and decrees subsisting or arising from any of the third party claims specifically cited under Schedule 'A', 'B' and 'C' pending the hearing and determination of the Application herein;
- ii. That the Petitioners do give notice ex-parte in the first instance of the institution of these proceedings by public advertisement in a newspaper of countrywide supply for the notification of the cited third parties in ancillary suits in schedule 'A', 'B' and 'C' and other affected persons;
- iii. That the Court do issue a Conservatory Order staying the proceedings at any stage including Warrants of Attachment, Execution Proceedings, Taxation, Certificate of Taxations, Garnishee Order nisi or absolute and execution of Judgment and decrees subsisting or arising from any of the third party claims against the 1st Petitioner or its insured and specifically cited under Schedule 'A', 'B' and 'C';
- iv. That in the alternative to Order 2 and 3 a Conservatory Order staying the proceedings at any stage including Warrants of Attachment, Execution Proceedings, Taxation, Certificate of Taxations, Garnishee Order nisi or absolute and execution of Judgment and decrees subsisting or arising from any of the third party claims specifically cited under Schedule 'A', 'B' and 'C' pending the Petitioners screening/validation of outstanding claims portfolio and only settle of bonafide validated claims upon reasonable terms and conditions;
- v. That the costs of the Application be in the cause.

The Court, through **Hon. Lady Justice T.W Cherere** on 27th January, 2020 ordered;

- i. That prayer 1 and 2 (relating only to Warrants of Attachment) and Prayer 3 are hereby issued pending directions on 12th February, 2020, that is;
 - a. That this application be certified urgent and be heard forthwith and service of the same on the parties to proceedings herein be dispensed with ex-parte in the first instance;
 - b. That this Honourable Court do issue a Conservatory Order staying the proceedings at any stage including Warrants of Attachment;
 - c. That the Petitioners do give notice ex-parte in the first instance of the institution of these proceedings by public advertisement in a newspaper of countrywide supply for the notification of the cited-third parties in ancillary suits in Schedule 'A', 'B' and 'C' and other affected persons.

The Society was enjoined in the matter as an Interested Party due to the public interest nature and the fact that it relates to practice matters. The Society applied and was enjoined in the matter as an Interested Party due to the public interest nature and the fact that it relates to practice matters. During the inter-partes hearing of 12th February, 2020 the Society opposed extension of the conservatory orders for failure to disclose to the court material facts by the Petitioners. The Petitioners had failed to disclose the existence of similar suits with similar prayers under Nairobi Constitutional Petition No. 394 of 2019 and Kisumu Constitutional Petition No. 27 of 2019.

The Court in its Ruling delivered on 12th February, 2020 by Lady Justice Cherere agreed with the Society and ordered thus, inter-alia;-

- 1) This petition be and is hereby transferred to Nairobi Constitutional and Human Rights Division for hearing and disposal;
- 2) The Conservatory Orders granted on 27th January, 2020 are hereby discharged.

The LSK was represented in the case in Kisumu by **Mr. Moses Omondi, Advocate**. Subsequently, the matter was transferred to Nairobi. The matter is presently before Korir J and will be mentioned on **24th March 2021** to confirm filing of submissions by all parties.

The Society is represented by **Mr. Guandaru Thuita, Advocate**.

68. **ELC SUIT NO. 51 OF 2010 PETER NDETO & 3 OTHERS VS ANTHONY KANGETHE.**

The Defendant, a registered bee-keeper in Limuru was forcefully and arbitrarily evicted from the subject parcel of land by the Petitioners who claimed ownership. The Defendant, who is elderly, had employed quite a number of indigent women and youth who depended on that activity for a source of livelihood.

The Petitioners, after filing suit and obtaining ex-parte orders proceeded to forcefully evict him and his employees from the parcel while also illegally and irregularly confiscating all his trees, hives and equipment. The Society, due to the public interest nature of the matter instructed **Mr. Godfrey Munene, Advocate** to represent the indigent defendant and the matter will be mentioned on 28th July, 2020.

69. **PETITION NO. 38 OF 2019 MIKE SONKO VS DPP, IG POLICE AND 4 OTHERS**

The Petitioner moved to court citing violation of his right to equality and freedom from discrimination after Hon. Justice D. Ogoti, while imposing bail terms on 11th December, 2019 in Chief Magistrates Case No. 31 and 32 of 2019 prohibited the Petitioner from accessing the office of Governor of Nairobi County, pending the hearing and determination of those matters.

The Society is an interested party due to the public interest nature of the suit and the matter was scheduled for mention on 3rd March, 2020 but the Judge (Hon. Justice Onyiego) was indisposed so it was rescheduled for mention on 11th March, 2020 where the judge was still indisposed. Matter scheduled for 17th March, 2020 to obtain directions.

On **27th January 2021** J Wakiaga delivered a ruling finding that the Petitioner raised substantial issues of law including the constitutionality of Section 62(6) of ACECA as read against the Constitution and ordered that a three Judge Bench be empaneled to determine the issues therein.

Mr. Edwin Saluny, Advocate is on record.

70. **CONSTITUTIONAL PETITION NO. 226 OF 2018 LSK VS ATTORNEY GENERAL.**

In June 2018 the President of the Republic of Kenya signed **Executive Order No. 1 of 2018** which effectively subjected independent constitutional bodies, envisaged under Chapter 15 of the Constitution, to the control and subordination of Government Departments. The Society thus moved to Court to challenge the constitutional validity of that Executive Order, with the following prayers-;

71. A declaration that Executive Order No. 1 of June, 2018 is unconstitutional for being inconsistent with and in contravention of Article 2(4), 10, 132(3), 157(10), 249 and 255 in so far as it purports to designate and appoint the Attorney General as Cabinet Secretary while placing under his portfolio the following institutions and agencies;-
 - i. Kenya Law Reform Commission
 - ii. Council of Legal Education
 - iii. Office of Registrar of Political Parties



- iv. Assets Recovery Agency
 - v. Kenya School of Law
 - vi. Kenya Copyright Board
 - vii. Victims Protection Board
 - viii. Office of the DPP
 - ix. Independent Elections and Boundaries
 - x. Kenya National Commission on Human Rights
 - xi. Commission on Administrative Justice
 - xii. Judicial Service Commission
 - xiii. Parliamentary Service Commission
72. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Interior and Government Co-ordination to direct and co-ordinate the National Police Service Commission, a constitutional commission under Article 248 (2).
73. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Treasury to direct and co-ordinate the following;-
- i. Commission on Revenue Allocation
 - ii. Salaries and Remuneration Commission
 - iii. Controller of Budget
74. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Education to direct and co-ordinate the Teachers Service Commission, a constitutional commission under Article 248 (2).
75. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Public Service, Youth and Gender to direct and co-ordinate the Public Service Commission, a constitutional commission under Article 248 (2).
76. An order of *Mandamus* directed at the President in accordance with Article 132(3)(c) of the Constitution to appoint, designate or assign a befitting Cabinet Secretary for the implementation of the following Acts of Parliament:-
- i. Law Reform Act
 - ii. Legal Education Act
 - iii. Kenya School of Law
 - iv. Judicial Service Act
 - v. Kenya National Commission on Human Rights ACT
 - vi. Victim Protection Act

Conservatory Orders were issued on 27th June, 2018 pending/staying the implementation of the Executive Order No.1 pending hearing and determination of the Petition. The matter came up on 16th July, 2018 before Lady Justice Okwany for determination and directions on the application by the Gender Commission to join the Petition. Upon concession by the Petitioner, the Gender Commission was joined as an Interested Party.

The matter came up for hearing on 2nd October, 2018 but did not proceed. The Attorney General had not filed a reply and sought fourteen days to file, citing delay in getting instructions. Accordingly, the Court Ordered the AG to file a Replying Affidavit in 14 days, and the Petitioner a similar period to file any Further Affidavit. The matter was set down for hearing on 4th December, 2018 but the Attorney General sought occasion to file submissions in the matter. The Court (Lady Justice Okwany) granted 21 days to do so, and hearing shall now be on 8th March 2019. That was the earliest date available. In the meantime, the Conservatory Orders continue in force.

The matter came up on said date but was moved to 4th February, 2020 when the matter did not proceed, for the reason, that the National Gender and Equality Commission the Interested Party was not present. The Judge allowed the application to join the Gender Commission as a party to enable them an opportunity to articulate their position.

The matter is slated for hearing (Highlighting Submissions) before Hon. Mr. Justice Makau on **1st March 2021**.

Mr. Miller Bwire, Advocate is on record for the Society.

77. **CONSTITUTIONAL PETITION NO. 215 OF 2018 ESTHER GATHONI VS DPP, DCI & IG.**

The Petitioner, an advocate, moved to Court on grounds of harassment and threats in the discharge of her lawful duties. The Society, by virtue of its mandate under Section 4 of the Advocates Act and since the issues raised in the Petition relate to matters of practice and independence of the legal profession, applied to be an Interested Party. The application dated 24th July 2018 was also allowed by consent of the parties and the LSK became the 4th Interested Party.

The Court, Hon. Lady Justice W. Okwany, proceeded to make the following directions;

1. The Petitioner to amend and serve the amended Petition within 7 days.
2. The Petitioner's replying affidavit to the application dated 4th July, 2018 was deemed abandoned.
3. The Respondents and the Interested Parties to respond within 14 days of service with corresponding leave to the Petitioner to file a Supplementary Affidavit within 14 days after service.
4. Mention on 31st October 2018 to confirm compliance and for further orders/directions.
5. The interim orders in favour of the Petitioner were also extended.

The matter was mentioned on 31st October, 2018 to confirm the filing of the Affidavits. The court directed that the case be mentioned on 5th December 2018 to confirm the filing of the responses and for further directions.

The matter was mentioned on aforementioned date and the other parties were afforded liberty to file any additional affidavits and submissions before the next hearing date fixed for 8th May, 2019 for purposes of confirming the filing of submissions. The Petitioner's advocates requested additional time within which to file a further affidavit and the submissions. The court allowed the request and allowed 14 days from the date of service to file and serve written submissions.

The Petitioner's advocates had in advance indicated that they would be filing an additional affidavit before the filing of submissions. The case will be mentioned on 23rd July 2019 for the highlighting of the submissions.

The matter came up for mention on said date and the Petitioner filed and served the submissions on 1st October 2019. The court granted leave for filing of submissions by the Respondents and the Interested Parties with a mention of the case on 12th October, 2019 to confirm filing and for further directions.

Matter set down for mention on 9th December, 2019 to confirm filing of submissions but DPP requested more time to file submissions. Court directed that matter be mentioned on 11th March, 2020 where the Respondents requested additional time to file their submissions while the Petitioner also requested additional time to file further submissions. Their requests were granted.

The highlighting of the submissions was to proceed on 16th June 2020.

Mr. Jackson Awele, Advocate is on record for the Society having taken over from Mr. Deynes Murithi, Advocate.

78. **ELRC NO. 547 OF 2018 NAIROBI ERASTUS GITONGA & 4 OTHERS VS NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY (NEMA).**

The claimants, all employees of NEMA and members of the Law Society, moved to the Employment and Labour Relations Court seeking payment of non-practicing and prosecutorial allowance. The Society, exercising its mandate under Section 4 of the LSK Act, applied and was enjoined in the matter as an Interested Party due to the nature of the case touching on matters of professional practice and welfare of in-house counsel.

The application was allowed on 3rd December, 2018 and the court observed that since the dispute consisted of purely legal issues, the matter should be canvassed by way of written submissions. The claimants were therefore directed to file their submissions on or before 20th January 2019 while the Respondent and the Interested Party to file their submissions on or before 20th February 2019. The matter will be mentioned on 6th March, 2019 for purposes of confirming compliance with filing submissions and for further directions.

On said date the respondent was granted 14 days to file and serve submissions. The Court, in a judgment delivered on 10th April, 2019 by **Hon. Justice Byram Ongaya** found for the claimants and declared as follows:-

- i. That the Respondent's action of not paying the 1st to 5th claimants a non-practice allowance is unlawful, wrongful and unfair.
- ii. That the Respondent's action of not paying the 1st to 5th claimants a prosecutorial allowance is unlawful, wrongful and unfair.
- iii. That the Respondent subjected the claimants to unequal treatment amounting to discriminatory and unlawful labour practice by denying them the subject allowances.
- iv. That the Respondent to pay the claimants thus 1st claimant **Kshs. 2, 060, 000**, 2nd claimant **Kshs. 1, 760, 000**, 3rd claimant **Kshs. 1, 900, 000**, 4th claimant **Kshs. 860,000** and 5th claimant **Kshs. 540,000**
- v. The Respondent to pay non-practice allowance accruing to the claimants from the date of filing this claim and for the duration of service of the claimants. The rate of non-practice allowance shall be as issued by applicable government circulars or otherwise as may be set by a lawful competent authority.
- vi. In regard to prosecutorial allowance the Respondent to pay the 1st to 4th claimants thus 1st claimant **Kshs. 1, 830, 000**, 2nd claimant **Kshs. 1, 470, 000**, 3rd claimants **Kshs. 1, 470,000** and 4th claimant **Kshs. 1, 440, 000**.
- vii. The Respondent to pay I allowance accruing to the claimants from the date of filing this claim and for the duration of service of the claimants. The rate of prosecutorial allowance shall be as issued by applicable government circulars or otherwise as may be set by a lawful competent authority.
- viii. The amount already due to the claimants will be paid by the Respondents not later than 1st August, 2019 failing interest at Court rates will apply thereon from the date of this judgment until full payment.
- ix. The claimants shall serve this judgment upon the Public Service Commission, within 7 days from the date of this judgment, towards the Commission's consideration of issuing the relevant gazette notice under Section 98 of the Public Service Commission Act, 2017 to harmonize prevailing grading levels and to provide for equivalency of job groups, grades and ranks applicable in the public service or bodies under its constitutional and statutory functions and powers and in view of the serious issues which have emerged in the present case, the Commission to consider publishing the gazette notice not later than 1st February, 2020.
- x. The Respondent to pay the claimants' costs of the suit.

The Respondents have since filed an application seeking stay of execution of the judgment. LSK filed Grounds of Opposition to the stay especially of the policy aspects of the judgment, the Court considered the nature of application and the fact that stay lapses on 1st August, 2019 and ordered that there be an interim stay of execution of orders d, e, f, g, and h i.e. the monetary part of the Decree, conditional on the Respondent/Applicant depositing the decial sum and all payments due and accruing on a monthly basis in a joint interest earning account within 30 days.

The directive to the Public Service Commission to consider harmonization of job groups within the institutions under its mandate by 1st February, 2020 was not stayed.

The matter was mentioned on 14th October, 2019 for directions where the Court allowed the Appellant's request for an extension of time within which to deposit the decretal sums owing into a joint account to 16th October, 2019.

Matter was mentioned on 4th November, 2019 where the Court directed the Claimants and Respondents to dialogue and reach a compromise on the issue of the full decretal sums being deposited in the joint account as directed by the lower court.

The Court also directed that any interested parties in the appeal formally file applications for the same. The Matter was mentioned on 19th November, 2019 for directions on the Respondent's application seeking stay of execution of the decree and taxation of the Bill of Costs. The Respondent was yet to comply and parties were directed to continue negotiating on the same.

The AG and SRC had filed applications seeking to be enjoined as Interested Parties which was to be heard on 2nd December, 2019. The Society filed Grounds of Opposition to both applications. The Court directed the Claimant and Respondent to agree on the outstanding issue of stay of execution and further directed the proceedings to be typed to expedite the process.

Applications were mentioned on 2nd March, 2020 where LSK opposed the same.

The Court on 27th May 2020 granted parties more time to negotiate with a view to reaching a compromise on the modalities of remitting recurrent amounts and reaching an agreement.

On **11th February, 2021** the Court ordered that the Respondents deposit a sum of Kshs. 3,000,000 within 14 days failing which the stay orders granted would be rendered void.

Mr. Elijah Mwangi, Advocate is on record for the Society.

79. **PETITION NO. 46 OF 2018 EVERLINE SANDE, MARY WAMBUI AND GEORGE NJOROGE NJOKI VS KENYA URBAN ROADS AUTHORITY AND 7 OTHERS.**

The Petitioner moved to Court to challenge the proposed resettlement of persons living in Deep Sea informal settlements by the Kenya Urban Roads Authority via *Petition No. 263 of 2018 Ever line Sande Ngulam & Others vs. Kenya Urban Roads Authority*. The matter was then transferred to the Environment and Land Court Division as the aforementioned petition where LSK was enjoined as an Interested Party due to the public interest nature of the matter.

The matter, before Hon. Lady Justice Loice Komingoi, comes up for delivery of a ruling on 6th September, 2018 for grant of interim conservatory orders staying the implementation and enforcement of the decision made/communicated by the 1st Respondent but it was not ready on said date and it will be delivered on notice.

The Ruling delivery notice was issued for 18th October, 2018 where Lady Justice Komingoi dismissed the application for lack of merit. Following the dismissal, the Petitioners sought to go back to the community for fresh instructions while consultations and discussions with KURA on a way forward are held.

The matter was set down for 19th July, 2019 for mention to confirm if parties had filed their respective submissions. Matter was mentioned on 10th December, 2019 and was given a further date of 24th March, 2020.

The matter was last listed for mention before the DR on 19th November, 2020. However, during that period, it was done without notifying any of the parties. It has now been scheduled for a NTSC - Dismissal on **29th April, 2021**. before ELC Lady Justice Komingoi.

Mr. Lusaka Bemih Kanyonge, Advocate is on record for the Society.

80. PETITION NO. 334 OF 2018 LSK VS AG, SPEAKER NATIONAL ASSEMBLY AND COMMISSIONER GENERAL – KRA.

The Petitioner moved to court seeking conservatory orders suspending the coming into force of Sections 13, 32 (b) (i), 32 (b) (ii), 32 (b) (iv), 50, 85 and 86 of the Finance Act and a declaration that the said sections are unconstitutional due to violations of Articles 10, 94, 115, 118 and 201 of the Constitution on principles of public participation, legislative authority of Parliament and openness and accountability in financial matters.

The matter came up on 1st October, 2018 before **Justice Chacha Mwita** and he directed that the Petition be served on Respondents immediately and responses be filed within 7 days. Petitioner will have 7 days after service to file and serve a supplementary affidavit if any. The matter was set down for directions on 24th October, 2018 and hearing scheduled for 20th November, 2018.

The matter was coming up for hearing of the 1st Respondent's application dated 19th November 2018. The application is to consolidate this Petition with Petition 353/2018 and 366/2018 and stay the consolidated petitions. The Court was informed that in Petition 366/2018 a notice of appeal had been lodged at the Court of Appeal against a ruling issued by the Court, which ruling was yet to be delivered. Hearing of the application was thereafter adjourned to await the ruling from the Court of Appeal and the matter was set down for hearing on 5th December, 2018.

The matter came up for hearing of the 1st Respondent's application dated 19th November 2018. The application is to consolidate this Petition with Petition 353/2018 and 366/2018 which was dismissed by the court for want of merit. Court also ordered parties to comply with directions issued earlier on filing of submissions and marked Petition 437 of 2018 as withdrawn. The Petitioner in the said petition was enjoined as an Interested Party in this petition and the matter was set down for 15th February, 2019 for hearing.

However, Justice Mwita was transferred to Kajiado County and the matter was hence reserved for the incoming judge. It was scheduled for mention on for further directions on 6th March, 2019 where an application for consolidation was set down for hearing on 8th April, 2019. Court also directed that the application for conservatory orders to be heard after application for consolidation.

The Society applied under Certificate of Urgency on 18th April, 2019 for conservatory and injunction orders be issued prohibiting the respondents from affecting the housing levy pending the hearing and determination of this suit. The application was certified urgent and court directed that it be served before close of business on 23rd April, 2019 and inter-partes hearing on 29th April, 2019 before **Hon. Justice Makau**.

The Court, in a ruling delivered on 29th April, 2019 by **Hon. Justice J.A Makau** declared as follows ;-

1. **THAT** conservatory and injunction orders be issued prohibiting the respondents from affecting the housing levy pending the hearing and determination of this suit.
2. **THAT** parties are directed to put in all their responses and submissions.
3. **THAT** the Petitioner to file and serve their submissions within 7 days from the date of service of the Respondents response who are supposed to file and serve their responses 14 days from today.
4. **THAT** the Respondents do file their submissions and serve within 10 days from the date of the Petitioner's submissions.
5. **THAT** hearing shall be on 25th of June, 2019 before **Hon Justice W. Korir**.

Parties were to return for directions on 29th July, 2019 where Court directed that the matter be mentioned on 2nd October, 2019. It was then ordered that parties should return for a further mention on 3rd December for directions on hearing before Justice Korir. Matter set down for hearing on 30th March, 2020.

The matter was to come up for hearing on 4th January 2021. Given that on this date the court was still on recess, the matter was mentioned instead on 19th January 2021 for allocation of a new hearing date. Advocate for the Attorney General indicated that he needed more time to file his submissions before a hearing date could be set. The Court granted him fourteen days to do so and set a hearing date for **22nd February, 2021**. On 22nd February, 2021 the Counsel for the AG was yet to comply with previous orders issued by the Court. The matter was therefore adjourned. The AG

was directed to file written submissions. The matter will be mentioned on **24th March, 2021** to confirm compliance after which the Court will give a judgment date.

Ms. Mercy Mutemi, Advocate is on record for the Society.

81. **HCCC NO. 482 OF 2004 STEPHEN OKERO OYUGI VS LSK & SANJEEV KHAGRAM.**

The Plaintiff, a member, sued the Law Society for defamation after the Society allegedly wrote a letter dated 17th March, 2004 addressed to the City Council of Nairobi stating that he did not have a practicing certificate for the years 2003 and 2004. Mr. Kenneth Akide, SC was on record for the Society in the matter but due to potential conflict of interest owing to the fact that he served as a Chairperson for the Society for a term of 2 years, he applied to cease acting via Application dated 22nd October, 2015. The application was allowed on 20th June, 2017.

The parties were scheduled to take down a mention date at the Registry on 25th October, 2018. Court reserved 5th December, 2018 as a mention date and certified the matter as ready for hearing. 11th December, 2018 was set down for a further mention for purposes of setting a hearing date. Date was fixed for 14th February, 2019.

Court certified the matter ready for hearing and granted LSK leave of 14 days to file a formal response and the matter was fixed for hearing of the application on 3rd April, 2019. Counsel for the Plaintiff informed court that he was not ready to proceed but served both the Replying Affidavit and Grounds of Opposition.

Hon. Lady Justice Ceclia Githua directed that the matter be mentioned before Hon. Justice Thurania since the application seeks to set aside his orders. The matter was fixed for mention on 7th May, 2019 for directions but did not proceed since the judicial officers were away on official duties. The matter was set down for mention on 26th September, 2019 for hearing of LSK's application to set aside the interlocutory judgment and Court directed that it proceed by way of written submissions.

It was set down for mention on 24th October, 2019 for further mention where parties were directed to file their written submissions ahead of a further mention on 21st November, 2019 where Respondent requested for more time to file submissions. Matter set for mention on 22nd January, 2020 where court granted more time for parties to file submissions.

Matter set down for ruling on the application to set aside the interlocutory judgment on 13th February, 2020 where the court dismissed the application for being an abuse of the court process.

Mr. Henry Faraji, Advocate is now on record for the Society.

82. **CONSTITUTIONAL PETITION NO. 8 OF 2019 LAW SOCIETY OF KENYA VS ODPP, DCI, IG POLICE, AG AND CJ**

The Law Society has moved to Court seeking orders of **Mandamus and Prohibition** directed at the Office of the Director of Public Prosecutions and Director of Criminal investigations for among others, orders that the Respondents to grant cash bail/bond as of right to arrested citizens unless compelling reasons are given in writing to the arrested citizen, and they be prohibited from capriciously arresting citizens suspected of committing non-cognizable offences on Friday afternoons and/or periods that would deny them the opportunity to take plea within 24 hours and issuing press statements on accusations against citizens and publicizing the said allegations.

The matter came up for hearing of the application on 30th January, 2019 where the Court granted the Petitioner leave to amend the Petition to include more prayers and add supplementary affidavits.

The matter had been scheduled for mention on 7th May, 2019 but did not proceed since Justice Korir was not sitting. It has now been scheduled for hearing on 13th July, 2020.

The Law Society of Kenya has complied with Court directions by filing submissions in this matter. This particular petition was heard concurrently with its sister Petition, Constitutional Petition number 9 of 2019. The matter is coming up on **28th June 2021** for the highlighting of submissions

Mr Borniface Akusala, Advocate and **Mr Evans Ogada, Advocate** are on record for the Society.



PUBLIC INTEREST LITIGATION/ COURT CASES 2021

Public Interest and Advocacy Directorate

Specific objective; to protect public interest, maintain and advance constitutionalism, justice and the rule of law.

PUBLIC INTEREST LITIGATION CASE MANAGEMENT.

The department through the PIL Committee chaired by Ms. Faith Odhiambo continues to offer support to the society in PIL by identifying cases that warrant interventions and making case referrals to Advocates who handle the matters on pro bono basis. Full report attached. The cases are still in various stages, and members have been receiving updates periodically on progress through the newsletters.

2021 ORDERS /JUDGEMENTS DELIVERED.

1. NAIROBI CONSTITUTIONAL PETITION NO. 226 OF 2018 LSK VS ATTORNEY GENERAL

In June 2018 the President of the Republic of Kenya signed Executive Order No. 1 of 2018 which effectively subjected independent constitutional bodies, envisaged under Chapter 15 of the Constitution, to the control and subordination of Government Departments. The Society thus moved to Court to challenge the constitutional validity of that Executive Order, with the following prayers:-

A declaration that Executive Order No. 1 of June, 2018 is unconstitutional for being inconsistent with and in contravention of Article 2(4), 10, 132(3), 157(10), 249 and 255 in so far as it purports to designate and appoint the Attorney General as Cabinet Secretary while placing under his portfolio the following institutions and agencies:-

- Kenya Law Reform Commission
- Council of Legal Education
- Office of Registrar of Political Parties
- Assets Recovery Agency
- Kenya School of Law
- Kenya Copyright Board
- Victims Protection Board
- Office of the DPP
- Independent Elections and Boundaries
- Kenya National Commission on Human Rights
- Commission on Administrative Justice
- Judicial Service Commission
- Parliamentary Service Commission

A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Interior and Government Co-ordination to direct and co-ordinate the National Police Service Commission, a constitutional commission under Article 248 (2).

A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Treasury to direct and co-ordinate the following;

- Commission on Revenue Allocation
- Salaries and Remuneration Commission
- Controller of Budget

A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Education to direct and co-ordinate the Teachers Service Commission, a constitutional commission under Article 248 (2).

A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Public Service, Youth and Gender to direct and co-ordinate the Public Service Commission, a constitutional commission under Article 248 (2).

The prayers above were superseded and are now subject of Constitutional Petition 203 of 2020 Law Society of Kenya vs. Attorney General. The Society proceeded to make submission in respect to the residual prayers j, k and l.

On 2nd December Justice Makau issued an order of Mandamus directed at the President in accordance with Article 132 (3) (c) of the Constitution to appoint, designate or assign a befitting Cabinet Secretary for the implementation of the following Acts of Parliament:-

- Law Reform Act
- Legal Education Act
- Kenya School of Law
- Judicial Service Act
- Kenya National Commission on Human Rights ACT
- Victims Protection Act
- Mr. Miller Bwire, Advocate was on record for the Society.

2. **NAIROBI HC CONSTITUTIONAL PETITION NO. E364 OF 2020 OKIYA OMTATAH OKOITI-VS-THE HONOURABLE ATTORNEY GENERAL & 5 OTHERS**

On 13th November, 2020, the Independent Electoral and Boundaries Commission Act,

2011 was amended through the Independent Electoral and Boundaries Commission

(Amendment) Act, 2020 (impugned Act). Parliament made the amendments to provide

For the composition of the Selection Panel charged with the recruitment of the

Commissioners (both chair and members) of the Independent Electoral and Boundaries

Commission (IEBC). Parliament created a new composition of the selection panel, made up of a total of seven (7) members. The majority of those - four members - are to be selected by the Parliamentary Service Commission while two by the Inter-religious Council, and one by the Law Society of Kenya. Moreover, the impugned Act makes the Parliamentary Service Commission (PSC) the secretariat of the Selection Panel. The PSC is composed of eleven members: nine are sitting Members of Parliament, while the remaining two are individuals who are not MPs but are recruited and approved by the MPs. The Clerk of Senate heads its secretariat. Based on the grounds given in his pleadings, including in these submissions, the Petitioner is of the view that the impugned Act is unconstitutional.

The Law Society in execution of its mandate under Section 4 of the LSK Act joined as Interested Party and supported the petition. On 29/11/21 Justice Anthony Mrema delivered its Judgment today declaring Section 2 (2) (a) of the Independent Electoral Boundaries Commission (Amendment) Act No. 18 of 2020 as unconstitutional

Mr. Nelson Osiemo Advocate and Ms. Wacu Mwenja Advocate were on record for the Society.



3. **JUDICIAL REVIEW APPLICATION 114 OF 2020 O.M PARKASH AND 21 OTHERS VS THE LAW SOCIETY OF KENYA**

The Applicants moved the Court in seeking leave to file Judicial Review proceedings against the Respondent over its decision to revoke the recommendations made by the Committee on Senior Counsel on 26th August 2019. The recommendations were made to confer the rank and dignity of Senior Counsel to the Applicants. Subsequently, the recommendations were revoked via decision made on 11th May 2020 and communicated to the Membership on 13th May 2020.

On 28th May 2020 Court granted the twenty-two Applicants who are advocates of the High Court of Kenya, leave to commence judicial review proceedings against the Law Society of Kenya. The Applicants' substantive Notice of Motion dated 8th June 2020 was heard virtually on 6th August 2020.

The parties have filed their submissions and the matter comes up for judgment on 4th October 2020.

On 15th November Hon Justice A K Ndungu issued orders to quash the decision made by the Society contained in the letter dated 13th May 2020 and further prohibited the Society from acting on the decision of 13th May 2020 contained in the letter dated 13th May 2020 addressed to its membership.

4. **MACHAKOS HIGH COURT PETITION NOS. E005 OF 2021 (CONSOLIDATED WITH PETITION NO. 1 OF 2021 – STANLEY WAWERU AND 20 OTHERS VS THE NATIONAL ASSEMBLY AND 2 OTHERS.**

The Finance Act, 2020 made an amendment to the Income Tax Act (Cap 470) by

Inserting Section 12 D to the said Act which introduced a new tax known as Minimum Tax. This tax came into effect on the 1st of January 2021. The said tax is computed at 1% of gross turnover for entities making annual revenue of over 50 million Kenya Shillings and is paid where the minimum tax is higher than the installment tax due under the previous regime.

In light of the above, the Petitioners through the above cited Petitions No. E005 and No.1 of 2021 (later consolidated) moved the court to challenge the constitutionality of the impugned amendment Section 12D of the Income Tax Act as discriminatory against the petitioners and other traders. The Law Society on joined the matter as the 2nd Interested Party, in support of the Petition. On 20th September 2021 Hon. Judge JV Odunga found merit in the petitions and issued the following orders:

(1) A declaration that Section 12D of the Income Tax Act as introduced by the Finance Act, 2020 and amended by the Tax Laws (Amendment) (No. 2) Act, 2020 violates Article 201(b)(i) of the Constitution and as such null and void.

(2) A declaration that the failure by the Respondents to comply with the provisions of the Statutory Instruments Act renders the Minimum Tax Guidelines null and void and of no effect.

(3) An order prohibiting the 2nd Respondent whether acting jointly or severally by themselves, their servants, agents, representatives or howsoever otherwise from the implementation, further implementation, administration, application and/or enforcement of Section 12D of the Income Tax Act, Chapter 470 of the Laws of Kenya as amended by the Tax Laws (Amendment) (No.2) Act, 2020 by collecting and/or demanding payment of the Minimum Tax;

The Society thanks Mr. Bosire Nyamori, Advocate, Mr. Daniel Ngumy, Advocate and Mr. Eddy Thiongo Advocate, for representing the Society in the matter, on a pro bono basis.

5. **PETITION 203 OF 2020 LAW SOCIETY OF KENYA VS THE OFFICE OF THE ATTORNEY GENERAL, DR. JOSEPH KINYUA, HEAD OF PUBLIC SERVICE THE JUDICIAL SERVICE COMMISSION**

On 11th May 2020, the President of the Republic of Kenya issued an executive order No. 1 of 2020 titled *Organization of the Government of the Republic of Kenya* purporting to organize government and set out the Judiciary, commissions and independent offices as institutions under Ministries and government departments. The Society moved the court to challenge the constitutionality of the said executive order, and sought a conservatory, staying and/or suspending and/or halting the further and continued implementation of the Executive Order No. 1 of 2020 dated 11th May, 2020 in respect of the Judiciary and the following independent institutions;- The Public Service Commission; Teachers Service Commission; The National Police Service Commission; Parliamentary Service Commission; Judicial Service Commission; Independent Boundaries and electoral Commission; Office of the Director of Public Prosecution; Ethics and Anti-corruption commission; Commission on Administrative Justice; The National Land Commission; The Office of controller of Budget ; Commission on Revenue Allocation; salaries and Remuneration Commission ; Kenya National Commission on Human Rights and National Gender and Equality Commission.

On 3rd August 2020, Judge A Makau granted conservatory order staying/suspending and or halting the further and continued implementation of the Executive Order no 1 of 2020 dated 11th May 2020 in respect of the Judiciary, The Public Service Commission; Teachers Service Commission; The National Police Service Commission; Parliamentary Service Commission; Judicial Service Commission; Independent Boundaries and electoral Commission; Office of the Director of Public Prosecution; Ethics and Anti-corruption commission; Commission on Administrative Justice; The National Land Commission; The Office of controller of Budget ; Commission on Revenue Allocation; salaries and Remuneration Commission ; Kenya National Commission on Human Rights and National Gender and Equality Commission.

Mr. Manwa Hosea, Advocate and Arnold Oginga, Advocate were on record for the Society.

6. **NAIROBI CONSTITUTIONAL PETITION NO. 337 OF 2018 FELIX KIPRONO MATAGEI VS ATTORNEY GENERAL.**

The Petitioners have moved to court to challenge Section 8 as read with Section 9 of the Law Reform Act that provides that leave must first be obtained before an application for Judicial Review orders of *Certiorari*, *Mandamus* or *Prohibition*. The Petitioner alleges that the impugned sections of the Act contravene Articles 23 (2), (f), 48, 50, 159 and 259 of the Constitution of Kenya as read with Order 53, Rule 1 of the Civil Procedure Rules.

The matter was mentioned on 15th July, 2019 where parties were directed to file and serve pleadings by 15th August, 2019. Hearing scheduled for 25th September, 2019 however the hearing did not proceed since the judge was not available and it was given a mention date of 26th November, 2019. Court thereafter directed that hearing be on 9th April, 2020.

The Law Society joined the proceedings as *amicus curiae*.

The matter was heard on 20th January, 2021 and reserved for judgment on 25th March, 2021

The Court on 13th May 2021 held that sections 8 and 9 of the LRA and Order 53 of the CPR no longer serve any purpose as the FAAct has aligned judicial review of administrative action with the Constitution and their continued retention in our statute books will only serve to promote the wrong notion that Kenya has a two-tracked system for seeking judicial review against administrative action.

Ms. Florence Mwangangi, Advocate was on record for the Society.



7. PETITION NO. 120 OF 2020 LAW SOCIETY OF KENYA VS HILLARY MUTYAMBAI INSPECTOR GENERAL NATIONAL POLICE SERVICE & 4 OTHERS ; KENYA NATIONAL COMMISSION ON HUMAN RIGHTS & 3 OTHERS (INTERESTED PARTIES) [2020] EKLR OF NATIONAL GOVERNMENT AND 3 OTHERS

Pursuant to the directives issued by His Excellency the President Uhuru Kenyatta on 26th of March 2021, the 1st Respondent in the above cited matter issued Legal Notice No. 37 Public Order (State Curfew) Order, dated 29th March, 2021, imposing a curfew period between 8:00 PM and 4:00 AM in five counties during which time any movement within the counties is prohibited.

The Legal Notice omitted Advocates from the list of exempted essential services yet the Honourable court in its Judgment given on 16th April, 2020 (in Petition No. 120 of 2020(Covid 025) Law Society of Kenya v Hillary Mutyambai) noted that Advocates are instrumental in the protection of the rights guaranteed by Article 49 of the Constitution whenever called upon to do so, thus declaring that Advocates and (Independent Policing Oversight Authority) were essential service providers.

In light of the above, the Law Society instituted *NAIROBI HIGH COURT PETITION NO. E110 OF 2021 LAW SOCIETY OF KENYA vs. FRED MATIANGI AND OTHERS* on 6th April 2021 at Milimani Law Courts Constitutional and Human Rights Division seeking orders that;

The Application and Petition be certified urgent and heard ex parte at the first instance during the court's vacation.

Pending inter parties hearing of this Application, an order be and is issued restraining the Respondents from interfering with, arresting and harassing Advocates travelling to and from official business during curfew hours or outside the lockdown areas.

Pending hearing and determination of the Petition, an order be and is issued restraining the Respondents from interfering with, arresting and harassing Advocates travelling to and from official business during curfew hours or outside the lockdown areas.

Pending interparties hearing of this Application, a declaratory order be and is hereby issued declaring Advocates and the interested party exempt from the curfew hours and restriction of movement contained in the Public Order (State Curfew) Order, 2021 published under Legal Notice No. 37.

Pending hearing and determination of the Petition, a declaratory order be and is hereby issued declaring Advocates and the Interested Parties exempt from the curfew hours and restriction of movement contained in the Public Order (State Curfew) Order, 2021 published under Legal Notice No. 37.

Pending hearing and determination of the Petition, the Honourable court be pleased to issue a conservatory order compelling the Respondents to recognize the Petitioner's Members and Interested Parties as essential service providers and amend the Schedule to the Public Order (State Curfew) Order, 2021 issued so as to include members of the Petitioner and the Interested Party in the list of "services, personnel or workers" exempt from the curfew period and restriction of movement.

That the honourable court be pleased to issue further directions as may be expedient to secure the ends of justice.

On 7th April 2021, Justice AC Mrima having considered the Notice of motion dated 6th April issued orders that;

The matter is certified as urgent. The Petitioner shall serve the Application and the Petition upon the Respondents and Interested Party within 3 days

Upon service the Respondents and the Interested Party shall file and serve any responses to the Application and the Petition within 10 days

The Petitioner shall within 7 days of service file and serve any supplementary response, if need be together, together with written submissions on both the Petition and Application

The Respondents and interested party shall within 7 days of service file and serve written submissions to the Application and the Petition

The Petition and the Notice of Motion both dated 6th April 2021 are fixed for hearing on 5/5/2021

In the meantime, prayers 2 and 4 of the Notice of Motion dated 6th April 2021 are granted to wit:-

Pending interparties hearing of this Application, an order be and is issued restraining the Respondents from interfering with, arresting and harassing Advocates travelling to and from official business during curfew hours or outside the lockdown areas.

Pending interparties hearing of this Application, a declaratory order be and is hereby issued declaring Advocates and the interested party exempt from the curfew hours and restriction of movement contained in the Public Order (State Curfew) Order, 2021 published under Legal Notice No. 37

g) Orders accordingly

Ms. Wakesho Kililo, Advocate and Mr. Nick Omari, Advocate represented the Society in the matter, on a pro bono basis.

8. NAIROBI CONSTITUTIONAL PET NO. 283 OF 2020 LAW SOCIETY OF KENYA PETITIONER/ APPLICANT VS THE OFFICE OF THE ATTORNEY GENERAL CABINET SECRETARY MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND IRRIGATION

His Excellency the President of the Republic of Kenya and the Cabinet Secretary Ministry of Agriculture, Livestock, Fisheries and Irrigation have unilaterally purported to restructure and re-organize the Kenya Meat Commission and the Ministry of Defence thus altering and/or interfering with the Provisions of the Constitution of Kenya, 2010 and thus offending institutional and structural duties of Ministries.

The Society contends that the said that the said directive is unconstitutional, unlawful, illegal, un-procedural, null and void *ab initio* by reason that the executive arm of government cannot restructure or assign functions of a statutory body without such amendments of the Statute. The Petition is dated 16th September, 2020. It was filed electronically on 17th September, 2020 together with an evenly dated Notice of Motion. The Motion was brought under certificate of urgency and sought some conservatory orders. Upon consideration by this Court, then sitting as a duty Court, the Notice of Motion was dispensed with *sue moto* and directions given towards the hearing and determination of the main Petition. Whereas the Petitioner admits that the President has the authority under Article 132(3)(b) of the Constitution to direct and coordinate the functions of the ministries and government departments, it is strenuously contended that such authority does not extend to transfer of government institutions established under a statute without having due regard to the established mechanisms in the said statutes or triggering amendments to the statute in issue.

Hon Mrima J on 15th February 2021 delivered a judgment quashing the decision to re assign the ministerial responsibility from the Ministry of Livestock, Fisheries and irrigation to the Ministry of Defence, for want of public participation.

Mr. Manwa Advocate is on record for the Society.

CONSTITUTIONAL PETITION NUMBER 467 OF 2021; LAW SOCIETY OF KENYA, WILSON HASSAN NANDWA & ELVIGA BWIRE -VS- ATTORNEY GENERAL, DIRECTOR OF PUBLIC PROSECUTION, INSPECTOR GENERAL OF POLICE, SAFARICOM LIMITED AND INDEPENDENT POLICING OVERSIGHT AUTHORITY.

Following the mysterious disappearance of our member Prof. Wilson Hassan Nandwa P:105 /6804/08 on the evening of 28th October 2021 at the Central Police Station, the Law Society of Kenya wishes to institute proceedings under Article 51 (2) of the Constitution against the National Police Service and the Inspector General of Police.

On 4th November 2021, the Court issued the following orders;

A). THAT prayers 1 and 3 of the Chamber Summons dated 02/11/2021 do hereby issue. To wit:-

- i. THAT pending the hearing and determination of the Application, a writ of habeas corpus is issued for the production of 2nd and 3rd Petitioners before a court of law within 24 hours of the issuance of the order.
- ii. THAT pending the hearing and determination of this Application, an order is issued compelling Safaricom Limited to supply the 1st Petitioner and produce before Court the phone call records and BTS (Base Transmitting Station) records and logs of the 2nd Petitioner, Advocate [0723718084] from 9:00 a.m. on Thursday 28th October, 2021 to 2nd November, 2021 midnight.

On 08/11/2021 the court directed the Mr. Hillary Nzioki Mutyambai, nsc (AU) Inspector General of Police and the Attorney General Hon Paul Kihara Kariuki EGH to personally and physically appear in Court on Thursday at 11 a.m. to articulate their position on this matter, as well as explain their failure to enter appearance in the proceedings.

9. **NAIROBI HIGH COURT CASE NO. HCCRMISCAPPL/E072/2021 LAW SOCIETY OF KENYA VS THE DIRECTOR OF PUBLIC PROSECUTIONS AND 3 OTHERS**

Benson Njau Kayai an Advocate *trading as such in the name and style of Njau Kayai & Company Advocates* was reported missing on 7th February 2021 at around 5:30pm and his whereabouts remain unknown to date.

In light of the above, the Law Society 24th day of March instituted the matter cited at Milimani Law Courts Criminal Division as the Ex parte Applicant, by moving the Court through a Notice of motion (*Under Article 25(a), 35(1)(a) & (b) and 48 of the Constitution of Kenya*). The same was lodged under Certificate of Urgency (click for attachment) seeking orders;

1. THAT the Honourable Court be pleased to make an order the Director, IC3, to produce movement records captured for motor vehicle registration number KCP 283Z between 2nd February 2021, 8:00 am and 7th February 2021, 8:00 pm;
2. THAT the Honourable Court be pleased to make an order the officer In-Charge, Transportation Unit, Nairobi City County Director of Roads Transport and Public Works, Nairobi Metropolitan Services to produce movement records captured by Intelligent Traffic Management System (ITMS) cameras and Vehicle Number Plate Recognition System (VNPRS) cameras for motor vehicle registration number KCP 283Z between 2nd February 2021, 8:00 am and 7th February 2021, 8:00 pm;
3. THAT the Honourable Court be pleased to order the Director, IC3, to produce to the
4. Applicant movement records captured for motor vehicle registration number KCC 843F on 7th February 2021 between 3:00 pm and 7:00 pm;
5. THAT the Honourable Court be pleased to order the officer In-Charge, Transportation Unit, Nairobi City County Director of Roads Transport and Public Works, Nairobi Metropolitan Services to produce movement records captured by ITMS and VNPRS cameras for motor vehicle registration number KCC 843F on 7th February 2021 between 3:00 pm and 7:00 pm;
6. THAT the Honourable Court be pleased to make an order the Director, IC3, to produce movement records for all motor vehicles captured up to one minute after motor vehicle KCC 843F was captured on 7th February 2021 between 3:00 pm and 7:00 pm.
7. THAT the Honourable Court be pleased to make an order the officer In-Charge, Transportation Unit, Nairobi City County Director of Roads Transport and Public Works, Nairobi Metropolitan Services to produce movement records for all motor vehicles captured by ITMS and VNPRS cameras up to one minute after motor vehicle KCC 843F was captured on 7th February 2021 between 3:00 pm and 7:00 pm.
8. THAT the Honourable Court may be pleased to make an order that Safaricom Limited produces complete call data records for mobile subscriber number 0722 707701 between 2nd February 2021, 8:00 am and 7th February 2021, 8:00 pm.

9. THAT the Honourable Court be pleased to make any other Orders deemed expedient in the circumstances.

The application was based on the following grounds and supported by the annexed Affidavit of *Mercy Wambua* and other grounds adduced at the hearing thereof.

- A. A. THAT the Law Society of Kenya is empowered at sub-sections 4(b) and (h) of the Law Society of Kenya Act (2014) to:
- a. *uphold the Constitution of Kenya and advance the rule of law and the administration of justice ...*
 - b. *represent, protect and assist members of the legal profession in Kenya in matters relating to the conditions of practice and welfare”*
- B. THAT Benson Njau Kayai is a member of the Law Society of Kenya whose mandate includes protecting the rights and interests of all its members.
- C. THAT Benson Njau Kayai was abducted on *7th February 2021* or thereabouts and has since not been seen by family and friends.
- D. THAT the Respondents will not be prejudiced in any way if this Application is granted.
- E. THAT the wheels of justice tilt in favour of granting the prayers sought therein.

The Interim Orders above sought were granted (click) when the matter came up for hearing of the Application on 24th March 2021. Honourable lady Justice Grace L Nzioka further directed that pursuant to the Orders granted, the information sought be supplied within 7 days and if there be no good reason for non-compliance, the same be slated on oath.

So far, no arrests have been made, and orders previously issued by the Court have not been fully complied with.

Mr. Stephen Ongaro, Advocate is representing the Society in the matter, on a pro bono basis.



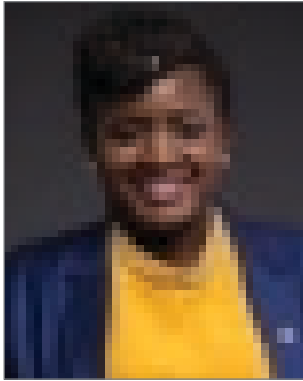
THE ADVOCATES' BENEVOLENT ASSOCIATION (ABA)

LIST OF DECEASED ADVOCATES IN THE YEAR 2021

	Name of Advocate	P105 No.	Date of Death	Last Known Place of Practice
1.	Elizabeth Koki Musyoki	9476/12	08-Jan-2021	Nairobi
2.	Abobo Josiah	2379/92	19-Jan-2021	Kisii
3.	Francis Irungu Mburu	3780/98	21-Feb-2021	Naivasha
4.	Manek Rameshchandra Gopalji	582/70	13-Mar-2021	Nairobi
5.	Perez Washington Joseph Odero	1174/81	14-Mar-2021	Nairobi
6.	Nicholus K.W Bichaga Nyamategandah	1896/89	15-Mar-2021	Nakuru
7.	Kimani Muhoro	1262/82	17-Mar-2021	Nairobi
8.	Steven Ruphinus Adere	694/73	22-Mar-2021	Nairobi
9.	Kimandu Gichohi	4548/01	23-Mar-2021	Nairobi
10.	Agatha Loko Wambua	12605/16	24-Mar-2021	Nairobi
11.	Thomas Ratemo Oira	3771/98	24-Mar-2021	Nairobi
12.	Maina Wachira	722/74	27-Mar-2021	Nairobi
13.	Faruq Kyalo Mwaniki	3920/98	30-Mar-2021	Garissa
14.	Patrick Karuga Muya	17780/20	06-Apr-2021	Nairobi
15.	Satpal Singh Jowhal	439/66	11-Apr-2021	Nairobi
16.	Benson Musau Kisilu	5720/05	15-Apr-2021	Nairobi
17.	Peter Mwaniki Mbogoh	13088/16	16-Apr-2021	Nairobi
18.	Mutavi Itundua Maseki	1037/79	17-Apr-2021	Nairobi
19.	David Maitai Rimita	645/72	17-Apr-2021	Meru
20.	Karen Chepkoech Wanderi	1539/96	18-Apr-2021	Nakuru
21.	John Okundi Omwoyo	2689/93	21-Apr-2021	Nairobi
22.	Joseph Onyango Wagara	2711/94	13-May-2021	Nairobi
23.	Maswai Wesley Kipruto	18497/20	18-Jun-2021	Kilifi
24.	John Elvis Wangira	18497/20	18-Jul-2021	Kilifi
25.	Bryan Njehia Kahumbura	7583/09	03-Aug-2021	Nairobi
26.	Lawrence Mwarari Kigera	6681/07	14-Aug-2021	Nairobi
27.	Meshack Owino Njega Odero	510/69	17-Aug-2021	Nairobi
28.	Onyancha Koina	2386/92	22-Aug-2021	Kisii
29.	George Githinji Wanjie	531/69	17/09/2021	Eldoret
30.	Lynette Wanjiru Wainaina	1397/17	01-Oct-2021	Nairobi
31.	Evans Nyarongi Monari,	1621/87	04-Oct-2021	Nairobi
32.	Biliah Nyangweso Ongiri	12740/16	09-Oct-2021	Nakuru
33.	Peter Rufundamu Apuuli Kirenga	2763/94	13-Oct-2021	Kisumu
34.	Samuel Ndegwa Kairu	12621/16	02-Nov-2021	Nairobi
35.	Joseph Nyakundi Nyangau	15087/18	17-Nov-2021	Kisii
36.	Bessie Ndukwe Ambunya	1168/81	29-Nov-2021	Kakamega
37.	Joseph Nyakundi Nyangau	15087/18	30-Nov-2021	Kisii
38.	Boaz Amoro Nyakeri	14731/18	04-Dec-2021	Nairobi
39.	Edith Mawia Malombe	1457/85	07-Dec-2021	Nairobi
40.	David Kiprop Meli Malakwen	1250/82	08-Dec-2021	Eldoret
41.	Samuel George Wanyanga	640/72	14-Dec-2021	Nakuru
42.	Sheila Chepkoech Tarus	11829/15	17-Dec-2021	Nakuru
43.	Wilkister Nyangito Morara	5435/04	18-Dec-2021	Nairobi

Report of the Board of Management

From 1st October, 2020 to 31st December, 2021



Barbara A. Malowa
Board Member



Angela N.M. Mwadumbo
Board Member



Amany Cohen
Board Member



John O. Onyango
Chairperson



Nelson A. Havi
President, LSK (ex-officio)



Carolyn K. Daudi
Vice-President, LSK (ex-officio)



Mercy K. Wambua, OGW
Secretary/CEO, LSK (ex-officio)

What We Are

The Advocates’ Benevolent Association is the welfare arm of the Law Society of Kenya and exists to support and help members who are in need, in distress, or have difficulties. The Association has a medical benefit available to members who are admitted to the hospital and have challenges in settling their medical bills. Additionally, the Association pays a token of last expenses to families of deceased members and supports the education of their children up to tertiary level.

The Board of Management of the Association is tasked with entering into strategic partnerships to sustain the wellbeing of Advocates.

Constitution and Management of the Board



The Association is managed by a Board of Management, the members of which are elected after every two years during the relevant Annual General Meeting. The Board consists of the Chairperson and three (3) members who assist in the discharge of the Association’s mandate. The President, Vice President, and Secretary of the LSK are *ex-officio* members of the Board.

The current office bearers are:

- a. J. Oiri Onyango (Mr.) Chairperson,
- b. Amany Cohen (Mr.) Board Member
- c. Angela N.M. Mwadumbo (Ms.) Board Member; and
- d. Barbara A. Malowa (Ms.) Board Member/Treasurer

Ex-Officio Members

- a. Nelson A. Havi (Mr.) President, LSK
- b. Carolyn D. Kamende (Ms.) Vice-President, LSK
- c. Mercy K. Wambua (Ms.) Secretary/CEO, LSK

The Board directs the investment of income and distributes the funds of the Association. It also deliberates on all applications for relief as well as the eligibility of applicants, the levels of such relief, the mode of affording relief, and generally, to conduct the business & operations of the Association. It also has powers to make rules and regulations for the management of the Association. The offices of the Board are based at the Law Society of Kenya Secretariat.

The Association operates on a lean staff of one Programme Officer, one Programme Assistant/Accountant, and an Intern.

Membership

The membership consists of every Advocate who is a member of the Law Society of Kenya (LSK) under Section 22 (b) and Section 23 of the Advocates’ Act and any advocate admitted to membership by the Board under Rule 16 of the Advocates’ Benevolent Association Rules.

It is now possible for Advocates who are categorized under S.10 of the Advocates Act and wish to become members of the Association to make direct payment of ABA subscriptions. Members wishing to do so will need to put in a written request to the Board.

As of 31st December, 2021, there were **1,793** Active Life Members and **13,619** Active Non-Life Members.

Subscriptions

Currently, the annual subscriptions are **KShs. 3,500** and **KShs. 150,000** for Life Member subscriptions.

The Board of Management is working on modalities to allow members to make payment for Life Membership subscriptions in installments.

Educational Assistance

The Association financed the education of the dependents of the following **One Hundred and Forty (140)** deceased Advocates in the Year Ended December 31st, 2021. 22 of whom died during the year under review.

P:105/1905/89	Karanja, Paul Njeru
P:105/3822/98	Wanambisi, Simiyu R.
P:105/1789/88	Rebiro, James Nganga
P:105/3165/96	Mbaye, John
P:105/2535/93	Musambai, Simon Boze

P.105/3158/96	Okello, James Ayub
P.105/581/70	Onjala, John Aggrey
P.105/1516/86	Onganga, Jasper Mokaya
P.105/3312/96	Omdimu, Douglas Mosoti
P.105/5104/03	Mwanzia, Augustine Wambua
P.105/1283/82	Kibuthu, Kamau Moses
P.105/1860/88	Kandie, Philip Kimaiyo
P.105/4263/00	Sang, Joel Kimutai
P.105/2629/93	Maari, David Tom
P.105/3524/97	Nyakundi, Samson Mayieka
P.105/4371/00	Nyangwara, Robert Ouko
P.105/4434/01	Mutahi, Joseph Ichau
P.105/2306/92	Momanyi, Washington Omari
P.105/2858/95	Awino, Grace
P.105/5161/03	Wekesa, Domiano Nanyende
P.105/1582/86	Kiptoo, Philip Kiprop
P.105/1972/89	Kavila, John Mule Peter
P.105/3906/98	Njenga, Steven Njomo
P.105/2508/93	Nyanyuki, Elijah Kefa Ondieki
P.105/2943/95	Nyakeno, Thomas
P.105/2802/95	Mbugua, Robert Mburu
P.105/4814/02	Getembe, Jared Machuka
P.105/2575/93	Wangari, Mary Muchina
P.105/4976/03	Maende, Joseph Nangambo Muchinyi
P.105/1614/87	Thiongo, Nganga
P.105/3139/96	Onguso, Gibson Morara
P.105/5234/03	Ogonya, Omondi Stephen
P.105/534/69	Muttu, Kihara
P.105/3407/97	Onditi, Thomas Collins
P.105/1346/84	Ngunjiri, Antony Nahashon
P.105/7389/09	Muhiri, James Wambura
P.105/7537/09	Chebet, Nicholas Chelimo
P.105/3160/96	Okeyo, Griffin Ochieng
P.105/2904/95	Muindi, John Bosco
P.105/3061/96	Bonyo, Peter Onyango
P.105/1612/87	Wainana, George Wambuu

P.105/1553/86	Mwangi, Ngugi Muhindi
P.105/5697/05	Watta, Kenneth Omondi
P.105/2505/93	Kimani, Paul Ndumbi
P.105/2887/95	Gitau, James Kariuki
P.105/3218/96	Wanyama, Peter Wanyonyi
P.105/1273/82	Simani, Peter Ldhituachi
P.105/3516/97	Ngetich, Samuel Kipkorir
P.105/2723/94	Kenzi, Munyao
P.105/3143/96	Ouma, Roy Bobby
P.105/7198/08	Ogola, Collins Okoth
P.105/6466/06	Murungi, Dishon Mwit
P.105/652/72	Kamonde, Geoffrey Harun Muchichu
P.105/3688/98	Minda, Cyrus Onserio
P.105/4033/99	Oruru, Samuel Erastus
P.105/5856/05	Kurgat, Job Kiplagat
P.105/2596/93	Muthusi, Charles Kioko
P.105/5212/03	Oriaro, Geoffrey
P.105/6566/07	Odhiambo, Antony Shem Otieno
P.105/5690/05	Mbaabu, Robert Mugambi
P.105/3351/97	Mmaiti, Christopher Tonny Luyali
P.105/6176/06	Misoi, Janice Cherop
p.105/3336/97	Michael, Wandera Wanjala
P.105/8148/10	Okindo, Douglas Obed
P.105/4101/99	Ongechi, Danvas Abere
P.105/8677/11	Mumia, Gladwell Vurakwa
P.105/2820/95	Raha, Jilo Mwambela
P.105/8201/11	Nyawira, Grace Wangari
P.105/2969/95	Kioko, Joshua Kiume
P.105/3073/96	Amusavi, David Kahi
P.105/4717/01	Lubya, Ronald Joseph
P.105/6699/07	Mokua, Jared Ratemo
P.105/3880/98	Kariuki, Francis Gichure
P.105/1478/85	Maosa, Thomas Maranga
P.105/3838/98	Ndungu, Alex Karanja
P.105/2507/93	Samba, Calvin Onyari
P.105/3889/98	Kimani, Titus Muthui Timothy



P.105/3520/97	Nduati, Mark Charagu
P.105/4876/02	Khaminwa, Albert Shihemi
P.105/5929/05	Cheptanui, Elizabeth
P.105/9401/12	Wanyeki, Jeremiah Kamau
P.105/806/76	Okwach, Joe Wandago
P.105/2089/91	Ngala, Kibichy
P.105/7555/09	Miencha, Richard Oigoro
P.105/1924/89	Onguto, Joseph Louis Omondi
P.105/9390/12	Rioba, Godfrey Nyamboga
P.105/6439/06	Kiplagat, Henry Stanley Koros
P.105/4631/01	Onyango, Kwame Nkrumah
P.105/2986/96	Miano, Gacheche Wa
P.105/1093/80	Aboge, Aloys Obunga
P.105/4203/00	Mburu, Stephen Kariuki
P.105/2911/95	Gathungu, Samuel Mugambi
P.105/885/77	Khamati, Anthony Huka
P.105/9847/13	Irungu, Linda Wanjiku
P.105/4532/01	Sang, Moses Koey Bartamutta
P.105/1739/88	Motende, Evans Getenga
P.105/1330/83	Anambo, Alex
P.105/5862/05	Kweyu, Charles Sunduli
P.105/9763/12	Kipchoge, Gladys Jepkemboi
P.105/3347/97	Chesang, Robert
P.105/3583/98	Wachira, James Waithaka
P.105/3647/98	Areba, Charles Keago
P.105/2883/95	Oduongo, Odongo J. S. O
P.105/3569/97	Martin, Tom Mboya Joseph
P.105/9615/12	Opingo, Paul Juma
P.105/4678/01	Omwakwe, Joyce Susan
P.105/2791/95	Murage, Patrick Wokabi
P.105/8918/11	Ameyo, Anne Otuoma
P.105/4912/02	Simel, Alex Leteipa
P.105/9305/12	Torome, Onesmus Lempaa
P.105/8060/10	Kibowen, Meshack Kipruto
P.105/3464/97	Andambi, Alubala Abenayo
P.105/6506/06	Shilenje, John Brown

P.105/752/75	Mutula, Kilonzo
P.105/1124/80	Ocharo, Philip
P.105/3137/96	Opiyo, Albert George
P.105/3959/99	Kaikai, Maurice
P.105/13071/16	Ombaba, Perminus Makori
P.105/2431/92	Onderi, Oseko
P.105/3245/96	Kimani, Francis Ndathe
P.105/930/78	Anyango-ogutu, Joshua Walter
P.105/3324/97	Mari, Kennedy Wachira
P.105/2942/95	Alwenya, Manazes Lubia
P.105/2539/93	Kabaka, Boniface Mutinda
P.105/4773/02	Gacheru, Samuel Kimuya
P.105/3576/98	Nyawara, Joshua Otieno
P.105/1896/89	Nyamategandah, N. K.W. Bichanga
P.105/4548/01	Gichohi, Kimandu
P.105/3059/96	Kiptonui, Simon Kitur
P.105/3780/98	Mburu, Francis Irungu
P.105/694/73	Adere, Steven Ruphinus
P.105/4433/01	Chea, Mwinga Gunga
P.105/9223/12	Nyarera, Humphrey Otara
P.105/2379/92	Abobo, Josiah
P.105/3920/98	Mwaniki, Peter Kyalo
P.105/5720/05	Kisilu, Benson Musau
P.105/722/74	Maina, Wachira
P.105/6681/07	Kigera, Lawrence Mwarari
P.105/2711/94	Wagara, Joseph Onyango
P.105/2386/92	Onyanacha, Koina

Advocates who passed on during the financial year:

	Name	P105.	Date of Death	Town
1.	Harrison Ogweno Okeche	5568/04	10-Oct-2020	Nairobi
2.	Onesmus Masaku Musyoki	15772/19	18-Oct-2020	Nairobi
3.	Dominic Mukui Kimatta	1205/81	18-Oct-2020	Machakos
4.	Nzamba Kitonga	1066/79	24-Oct-2020	Nairobi
5.	Mark Nganga Ikahu	6435/06	28-Oct-2020	Kerugoya
6.	Jonah Maghanga Mngola	9054/12	29-Oct-2020	Nairobi
7.	Simon Kitur Kiptonui	3059/96	29-Oct-2020	Kapsabet
8.	Katherine Ntheya Kisila	4645/01	30-Oct-2020	Nairobi
9.	Michael Eustace Aronson	231/58	31-Oct-2020	Nairobi
10.	Boniface Mutinda Kabaka	2539/93	11-Nov-2020	Nairobi
11.	Rahma Ali Darani Thureya	8736/11	15-Nov-2020	Mombasa
12.	Francis Kiago Ndirangu	8101/10	25-Nov-2020	Nairobi
13.	Joshua Otieno Nyawara	3576/98	26-Nov-2020	Nairobi
14.	Kwesiga Arnold	13047/16	30-Nov-2020	Nairobi
15.	Elvis Maiyo Michieka	5205/03	01-Dec-2020	Nairobi
16.	Anthony Kinyua Maina	15015/18	10-Dec-2020	Nairobi
17.	Margaret Muthoni Njuguna	7980/10	10-Dec-2020	Nairobi
18.	Manazes Lubia Alwenya	2942/95	19-Dec-2020	Mombasa
19.	Mwinga Gunga Chea	4433/01	27-Dec-2020	Mombasa
20.	Elizabeth Koki Musyoki	9476/12	08-Jan-2021	Nairobi
21.	Abobo Josiah	2379/92	19-Jan-2021	Kisii
22.	Francis Irungu Mburu	3780/98	21-Feb-2021	Naivasha
23.	Manek Rameshchandra Gopalji	582/70	13-Mar-2021	Nairobi
24.	Perez Washington Joseph Odera	1174/81	14-Mar-2021	Nairobi
25.	Nicholus K.W Bichaga Nyamategandah	1896/89	15-Mar-2021	Nakuru
26.	Kimani Muhoro	1262/82	17-Mar-2021	Nairobi
27.	Steven Ruphinus Adere	694/73	22-Mar-2021	Nairobi
28.	Kimandu Gichohi	4548/01	23-Mar-2021	Nairobi
29.	Agatha Loko Wambua	12605/16	24-Mar-2021	Nairobi
30.	Thomas Ratemo Oira	3771/98	24-Mar-2021	Nairobi
31.	Maina Wachira	722/74	27-Mar-2021	Nairobi
32.	Faruq Kyalo Mwaniki	3920/98	30-Mar-2021	Garissa
33.	Patrick Karuga Muyah	17780/20	06-Apr-2021	Nairobi
34.	Satpal Singh Jowhal	439/66	11-Apr-2021	Nairobi
35.	Benson Musau Kisilu	5720/05	15-Apr-2021	Nairobi
36.	Peter Mwaniki Mbogoh	13088/16	16-Apr-2021	Nairobi
37.	Mutavi Itundua Maseki	1037/79	17-Apr-2021	Nairobi
38.	David Maitai Rimita	645/72	17-Apr-2021	Meru
39.	Karen Chepkoech Wanderi	1539/96	18-Apr-2021	Nakuru
40.	John Okundi Omwoyo	2689/93	21-Apr-2021	Nairobi
41.	Joseph Onyango Wagara	2711/94	13-May-2021	Nairobi



42.	Maswai Wesley Kipruto	18497/20	18-Jun-2021	Kilifi
43.	John Elvis Wangira	18497/20	18-Jul-2021	Kilifi
44.	Bryan Njehia Kahumbura	7583/09	03-Aug-2021	Nairobi
45.	Lawrence Mwarari Kigera	6681/07	14-Aug-2021	Nairobi
46.	Meshack Owino Njega Odero	510/69	17-Aug-2021	Nairobi
47.	Onyancha Koina	2386/92	22-Aug-2021	Kisii
48.	George Githinji Wanjie	531/69	17/09/2021	Eldoret
49.	Lynette Wanjiru Wainaina	1397/17	01-Oct-2021	Nairobi
50.	Evans Nyarongi Monari,	1621/87	04-Oct-2021	Nairobi
51.	Biliah Nyangweso Ongiri	12740/16	09-Oct-2021	Nakuru
52.	Peter Rufundamu Apuuli Kirenga	2763/94	13-Oct-2021	Kisumu
53.	Samuel Ndegwa Kairu	12621/16	02-Nov-2021	Nairobi
54.	Joseph Nyakundi Nyangau	15087/18	17-Nov-2021	Kisii
55.	Bessie Ndukwe Ambunya	1168/81	29-Nov-2021	Kakamega
56.	Joseph Nyakundi Nyangau	15087/18	30-Nov-2021	Kisii
57.	Boaz Amoro Nyakeri	14731/18	04-Dec-2021	Nairobi
58.	Edith Mawia Malombe	1457/85	07-Dec-2021	Nairobi
59.	David Kiprop Meli Malakwen	1250/82	08-Dec-2021	Eldoret
60.	Samuel George Wanyanga	640/72	14-Dec-2021	Nakuru
61.	Sheila Chepkoech Tarus	11829/15	17-Dec-2021	Nakuru
62.	Wilkister Nyangito Morara	5435/04	18-Dec-2021	Nairobi
63.	Dennis Muraya Mbugua	18371/20	20-Dec-2021	Eldoret
64.	Linah Jepkosgei Kigen	2974/94	22-Dec-2021	Eldoret

The following dependants joined the education assistance programme during the financial year

	Name of Child	Name of the Parent
1.	Alicia Nyakeni Kiago	Francis Ndirangu Kiago
2.	Adrain Ndirangu Kiago	Francis Ndirangu Kiago
3.	Ainsworth Thea Lubia	Alwenya Thea Lubia
4.	Alvin Alwenya Lubia	Alwenya Thea Lubia
5.	Tevin Kamau Lubia	Alwenya Thea Lubia
6.	Jeannette Wanjiku Lubia	Alwenya Thea Lubia
7.	Abraham Kabaka Mutinda	Boniface Mutinda Kabaka
8.	Mary Yula Mutinda	Boniface Mutinda Kabaka
9.	Carlson Abba Otiato	Steven Ruphinus Adere
10.	Bichanga, Elly Haron Gesincho	Nicholus K Wilson Bichanga
11.	Kimuya, Joy Wambui	Gacheru, Samuel Kimuya
12.	Nyawara, De-Mabior Nadia	Nyawara, Joshua Otieno
13.	Nyawara, Avia Verina	Nyawara, Joshua Otieno
14.	Nyawara, Georgia Dorsila	Nyawara, Joshua Otieno
15.	Andai, Giggs Ryan	Nyawara, Joshua Otieno
16.	Kimandu, Faith Nyambura	Gichohi, Kimandu

17.	Kimandu, Clara Njeri	Gichohi, Kimandu
18.	Kimandu, Raphael Gichohi	Gichohi, Kimandu
19.	Kiptonui, Chebet Stephanie	Kiptonui, Simon Kitur
20.	Irungu, Wendy Wangari	Mburu, Francis Irungu
21.	Mwinga, Thoya Franklin	Chea, Mwinga Gunga
22.	Mwinga, Gunga Ezra	Chea, Mwinga Gunga
23.	Mwinga, Mwenda Vicky	Chea, Mwinga Gunga
24.	Otara, Kerubo Casey	Nyarera, Humphrey Otara
25.	Abobo, Nina	Abobo, Josiah
26.	Kyalo, Ummul-Ayman Farouq	Mwaniki, Peter Kyalo
27.	Kyalo, Nadhir Farouq	Mwaniki, Peter Kyalo
28.	Kyalo, Amal Farouq	Mwaniki, Peter Kyalo
29.	Kyalo, Nahil Farouk	Mwaniki, Peter Kyalo
30.	Kyalo, Nawfal Farouq	Mwaniki, Peter Kyalo
31.	Kyalo, Nasreen Farouk	Mwaniki, Peter Kyalo
32.	Kyalo, Nadir Farouk	Mwaniki, Peter Kyalo
33.	Musau, Samuel Kisilu	Kisilu, Benson Musau
34.	Maina, Joy Njeri	Maina, Wachira
35.	Mwarari, Nathaniel Kigera	Kigera, Lawrence Mwarari
36.	Mwarari, Nolan Mwangi	Kigera, Lawrence Mwarari
37.	Onyango, Ajode Lisa Schola	Wagara, Joseph Onyango
38.	Koina, Isabellah Kerubo	Koina Onyancha
39.	Koina, Kwamboka Gracia	Koina Onyancha
40.	Koina, Tonny Onyancha	Koina Onyancha
41.	Koina, Joshua Onyancha	Koina Onyancha
42.	Koina, Melvin Nyakara	Koina Onyancha

Disbursement of funds under the Education Assistance Programme

The total number of children who received school fees assistance in the Financial Year was **Two Hundred and Forty-Eight (248)** broken down as follows:

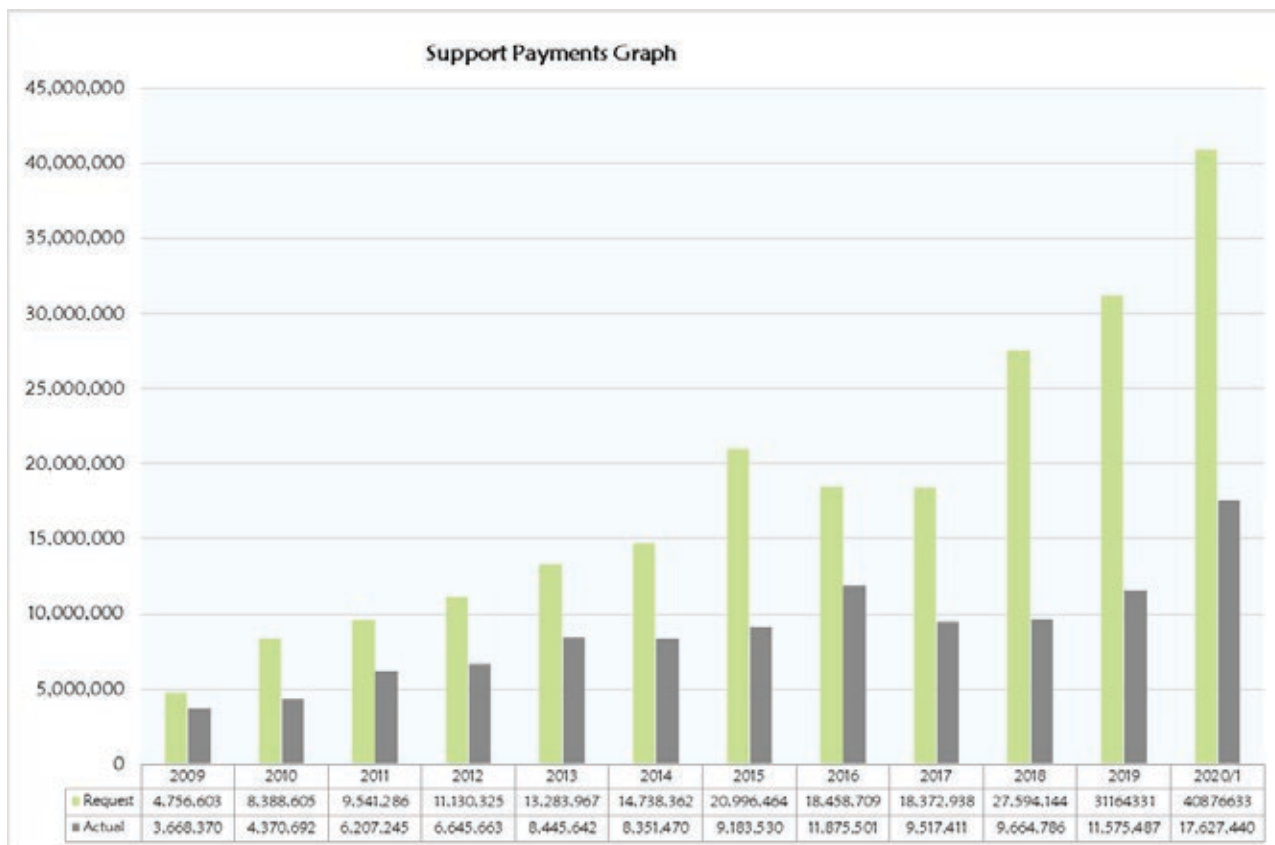
- ▶ Nursery 16 Children
- ▶ Primary 114 Children
- ▶ Secondary 107 Children
- ▶ Tertiary 7 Children
- ▶ Kenya School of Law 4 Scholarships

This translated into the disbursement of a total of KShs. **KShs. 14,383,657/=** under the Education Assistance Program with **KShs. 3,243,714/=** being disbursed under the ABA Revolving Fund.

For purposes of comparison the disbursement over the last four (4) years has been as follows:

2020/1	KShs.17,627,440
2019	KShs. 11,575,487
2018	KShs. 9,664,786
2017	KShs. 9,517,411

Below is a graphical representation of the Applications for Assistance received, viz a viz the level of support the Association was in a position to give:



Limits of Educational Assistance

The Educational Assistance is subject to the following limits:

Nursery	KShs. 40, 000/=
Primary	KShs. 55, 000/=
Secondary	KShs. 80, 000/=
Tertiary	KShs. 60,000/=
Kenya School of Law	KShs. 190,000/=

Medical Assistance

Medical Assistance for the year amounted to **KShs. 881,500/=**. Medical Assistance is capped at **KShs. 100,000/=**.

Last Expenses

A total of **KShs. 2,380,000/=** was paid out under the Last Expenses Assistance. This assistance was paid to the duly nominated Next of Kin of the following Deceased Advocates.

	Name of Advocate	P105 No.
1	Ramesh Sharma Chander	614/71
2	Perminus Makori	13071/16
3	Peter Mburu Gathianja	602/71
4	Maurice Kaikai	3959/99
5	James Thomson Nyakundi	6760/07
6	Francis Ndathe Kimani	3245/96
7	Harrison Ogweno Okeche	5568/04
8	Onesmus Masaku Musyoki	15772/19
9	Simon Kitur Kiptonoi	3059/96
10	Francis Kiago Ndirangu	8101/10
11	Rahma Ali Darani Thureya	8736/11
12	Kwesiga Arnold	13047/16
13	Manazes Lubia Alwenya	2942/95
14	Nzamba Kitonga	1066/79
15	Margaret Muthoni Njuguna	7980/10
16	Mwinga Gunga Chea	4433/01
17	Biniface Mutinda Kabaka	2539/93
18	Elvis Omaiyo Michieka	5205/03

19	Joshua Otieno Nyawara	3576/98
20	Elizabeth Koki Musyoki	9476/12
21	Abobo Josiah	2379/92
22	Anthony Kinyua Maina	15015/18
23	Francis Irungu Mburu	3780/98
24	Steven Ruphinus Adere	694/73
25	Thomas Ratemo Oira	3771/98
26	Nicholus K.W Bichaga Nyamategandah	1896/89
27	Perez Washington Joseph Odero	1174/81
28	Manek Rameshchandra Gopalji	582/70
29	Kimandu Gichohi	4548/01
30	David Maitai Rimita	645/72
31	Petrack Karuga Muyah	17780/20
32	Benson Musau Kisilu	5720/05
33	Kimani Muhoro	1262/82
34	Joseph Onyango Wagara	2711/94
35	Agatha Loko Wambua	12605/16
36	Mutavi Itundua Maseki	1037/79
37	John Okundi Omwoyo	2689/93
38	Peter Mwaniki Mbogoh	13088/16
39	John Elvis Wangira	18497/20
40	Meshack Owino Njega Odero	510/69
41	Lawrence Mwarari Kigera	6681/07
42	Onyancha Koina	2386/92
43	Samuel Ndegwa Kairu	12621/16
44	Biliah Nyangweso	12740/16
45	Peter Rufundamu Apuuli Kirenga	2763/94

Last Expenses is capped at **KShs. 80,000/=** per deceased member.

Investments

The Board has continued to invest surplus funds in Treasury Bills and Treasury Bonds. This is informed by the fact that Government securities are the most secure and guarantee higher returns compared to other forms of investments.

Board Meetings

The Board held **Fourteen (14) Board Meetings** during the Financial Year. These meetings were held on the following dates:

- 27th October, 2020.
- 18th November, 2020.

- 14th December, 2020.
- 14th January, 2021.
- 17th February, 2021.
- 10th March, 2021.
- 29th April, 2021.
- 25th May, 2021.
- 23^d June, 2021.
- 27th July, 2021.
- 25th August, 2021.
- 28th September, 2021.
- 3rd November, 2021.
- 8th December, 2021.

Board of Management Attendance lists.

No.	Names	Position	No of meetings
1.	John Oriri Onyango	Chairperson	14
2.	Barbara A. Malowa	Treasurer	14
3.	Angela N.M Mwadumbo	Board Member	14
4.	Cohen Amanyana	Board Member	14
5.	Nelson A. Havi	LSK President	0
6.	Carolyn D. Kamende	LSK Vice President	0
7.	Mercy K. Wambua	Secretary/CEO	7

Stakeholder Meetings

The Board held **Eight (8) Stakeholder Meetings** during the Financial Year. These meetings were held on the following dates:

- Meeting with the LSK 7th October, 2020; Branch Chairs Caucus:
- Interviews with various 5th March, 2021; counseling Associations:
- Meeting with KRA: 24th March, 2021;
- Meeting with the Office of 9th April, 2021; the Attorney General:
- Meeting with the LSK 28th April, 2021; Sacco:
- Meeting with AMREF 15th July, 2021; Flying Doctors:
- Meeting with the Uganda 1st September, 2021; Law Society: and
- Meeting with KMJA: 12th October, 2021.

ABA Board Activities

a) ABA Recognition Dinner



The Board of Management of the Advocates' Benevolent Association held a dinner reception in recognition of **Dorcas S. Kitaa, Steven R. Adere, Janet N. Wekesa, Sophie C. Chirchir** for their commitment, dedication, and service to the Association. The event took place on **Friday, 4th December, 2020** at the **HillPark Hotel**, and was graced by the following guests:

- Ms. Dorcas S. Kitaa Former ABA Board Chairperson;
- Ms. Janet N. Wekesa Former ABA Board Member and Treasurer;
- Ms. Sophie C. Chirchir Former ABA Board Member;
- Mr. Nelson A. Havi LSK President & Ex-Officio ABA Board Member;
- Ms. Carolyne K. Daudi LSK Vice-President & Ex-Officio ABA Board Member;
- Ms. Esther Angawa LSK Council Member & Convener CCPD Committee;
- Ms. Irene Otto Young Lawyers Committee;
- Mr. Mokuia Manyara Young Lawyers Committee;

Speakers at the event celebrated the previous Board for developing a comprehensive and effective Association that is alive to the needs of its membership and encouraged the current Board to follow in their footsteps and similarly, continue to set high standards.

b) Y2021 ABA Board and Staff Retreat

The Board of Management held a retreat from 14th January, 2021 to 17th January, 2021 at the Swahili Beach Hotel to map out their term in office, to formulate the Y2020-Y2022 Strategic Plan, to seek out modalities of improving on the welfare programs that are currently in place, to lay down the Association's tax and investment plans, and to interrogate the Association's budget, procurement and work plans for the financial year.

c) Production of ABA Life membership cards

During the Financial Year, the Board of Management commenced production of ABA Life Membership cards. Life Members wishing to acquire the cards are required to forward a colored passport photograph and make a payment of KShs. 500/= to the Association for issuance of the same.

So far, thirty-three (33) cards have been produced and issued to interested Life Members.

d) In memory of the Late Steven Ruphinus Adere Advocate (P.105/694/73)



The Board of Management of the Advocates' Benevolent Association learnt with great shock and profound sadness of the passing away of Steven Ruphinus Adere on Saturday, 13th March, 2021.

Senior Adere was a member of the Law Society of Kenya having been admitted to the Bar on 16th July, 1973. He attended as a pupil of and received instructions in the proper business, practice, and employment of an Advocate from the Counsel to the Community for the period 1st April, 1972 to 31st March, 1973. This was

preceded by him graduating in October, 1972 from the pioneer Faculty of Law class of the University of Nairobi. After his admission, he joined Kaplan & Stratton Advocates where he worked until 1984 after which he proceeded to establish his law firm under the name and style of Adere & Company Advocates where he was practicing until his demise on Saturday, 13th March, 2021. Senior Adere practiced continuously since 1973, without a break, holding a practicing certificate thereof. In his 48 years of practice, he had never been found guilty of any professional misconduct and had in the past been a prosecutor at the Advocates' Disciplinary Committee. In 1973, Senior Adere together with four other members founded Legal Advice Centre later renamed Kituo Cha Sheria. In addition, he was elected to the Council of the Law Society of Kenya in the 1980s for twelve years during which time he became a founder member (Vice-Chairman and later Chairman) of the LSK Sacco for many years.

Senior Adere was one of the founder members of the Advocates' Benevolent Association where he served on the Board of Management for over thirty-five years. He committed his time, resources, and efforts to uplift the welfare of members. Through his service to the Association, he oversaw its growth into what it is today. Senior Adere was a man with a great sense of humor, a kind soul, and a lover of humanity. He was a great humanist who held a strong sense of human rights, commitment to the rule of law, and promotion of access to justice for all. He was a dear friend and a benevolent mentor to many. His contribution to the Law Society of Kenya and the Advocates' Benevolent Association will be sorely missed. We continue to remember him for his spirit, and honor him for his life's work and his legacy will live on through the countless lives of men, women, and children whose lives have been made better because he cared enough to give of himself.

The Board of Management visited and condoled with the family of the Late Senior Adere on Sunday, 14th March, 2021. A requiem mass in his memory was held at St. Michael the Archangel Catholic Church, Lang'ata on Monday, 15th March, 2021.

The Late Steven Ruphinus Adere was laid to rest on Wednesday, 17th March, 2021 at Ukwala, Ugenya Constituency, Siaya County. The Board of Management was represented by Ms. Angela Mwadumbo and Ms. Barbara Malowa at the sendoff.

e) Inaugural Stand-Alone ABA Annual General Meeting



On March 27, 2021, the Advocates Benevolent Association held its first stand-alone Annual General Meeting. This was prompted by public health concerns and an increase in Covid-19 infections, as well as a government directive issued on Friday, March 26, 2021 restricting movement of people and suspending all gatherings as a Covid-19 containment measure, as well as the postponement of the Law Society of Kenya's annual general meeting. The Microsoft Teams virtual platform was used to host the Annual General Meeting.

f) Increment of Medical and Last Expenses Caps

In response to numerous requests from members, the Board of Management reviewed the Medical and Last Expenses Caps as follows:

- Last Expenses payments was raised and capped at **KShs. 80,000/=** from KShs. 50,000/=; and
- Medical Assistance payments was raised and capped at **KShs. 100,000/=** from KShs. 35,000/=.

g) Members' Welfare Open Day

The Board of Management sponsored a Members' Welfare Open Day on Saturday, October 23, 2021 at the Parklands Sports Club to achieve its objectives under Rule 3 of the ABA Rules to enhance the welfare of members. The day's activities included:

- The launch of the Advocates' Benevolent Association's partnership with AMREF Flying Doctors;
- The launch of the Advocates' Benevolent

Association’s partnership with the Counselors & Psychologists Society of Kenya;

- A Covid-19 vaccination drive; and
- A Zumba fitness session.

The event was graced by the following guests:

- Macharia Njeru Commissioner, JSC;
- Mercy K. Wambua, OGW LSK CEO/Secretary & Ex-Officio ABA Board Member;
- Eric Theuri, Chairperson, LSK Nairobi Branch;
- Joshua Martim Chairperson, LSK North Rift Branch;
- Peter Wachira CEO, ICEA Lion Trust Company Ltd;
- Justus Munyithya Chairman, LSK SACCO;
- Kimani Githongo J, Counselors & Psychologists Society of Kenya (CPS-K);
- Don Obiga A M R E F Flying Doctors;
- Anna Konuche Assistant Director, ATP, Kenya School of Law.



The Association’s Board of Management, as well as the Secretariat employees, were in attendance.

The partnerships between the Association and AMREF Flying Doctors as well as the Counselors & Psychologists Society of Kenya (CPS-K) were launched at the Members’ Welfare Open Day which was attended by over sixty members.

A fitness session was also held as well as a Covid 19 vaccination drive that saw one hundred and twenty (120) Advocates together with their families vaccinated.

h) Branch Visits



During the month of November 2021, the Board of Management conducted Branch Visits to various branches for interactive sessions. The following Branches were visited and represented by the Board Members as indicated:

- Friday 12th November, 2021 South West Kenya Branch – Ms. Angela Mwadumbo;
- Friday 12th November, 2021 Mt. Kenya Branch - Ms. Barbara Malowa;
- Friday 19th November, 2021 Rift Valley Branch - Mr. J. Oriri Onyango;
- Friday 19th November, 2021 South Eastern Branch – Mr. Amany Cohen;
- Friday 19th November, 2021 West Kenya Branch - Ms. Angela Mwadumbo;
- Thursday, 2nd December, 2021 North Rift Branch – Mr. Amany Cohen.





During these visits, the representatives of the Board presented to and interacted with the various Branch Councils about the role and working of the Advocates' Benevolent Association, issues affecting the Advocates' welfare at the Branch level as well as the welfare programs that the Association currently has in place.

i) Partnership between the Advocates' Benevolent Association and the Counselors and Psychologists Society of Kenya (CPS- K)



The Advocates' Benevolent Association's Board of Management recognizes that the legal profession is competitive and demanding, and that members are susceptible to stress, anxiety, burnout, depression, divorce, substance abuse, and compulsive behaviors, as well as their reluctance to seek help because they are



Members in attendance were informed that the Association had changed and restructured its operations in order to provide members and beneficiaries with more effective services.

afraid of being embarrassed. As a result, Advocates' mental health has become a serious concern, which has been compounded by the Covid 19 pandemic.

Accordingly, the Board of Management entered into a partnership with the Counselors and Psychologists

Society of Kenya (CPS-K) to collaborate and offer psychological and counseling services to members and their families at subsidized rates.

CPS-K is a society established under the Societies Act Cap 108 of the Laws of Kenya which among other things promotes and provides counseling and psychological services for the wellbeing and mental health of clients and generally offers psycho-education and psychological support to the general public.

The Board of Management shall pay for the first individual therapy session provided to paid-up members of the Association. Thereafter, members shall pay for all services rendered to them at the following agreed rates:

- ▶ Individual Therapy at KShs. 1,500/= per session;
- ▶ Couples Therapy at KShs. 2,000/= per session;
- ▶ Family Therapy at KShs. 2,500/= per session; and
- ▶ Group therapy at KShs. 600 per person with a minimum of 6 people.

j) Partnership between the ABA Board of Management and AMREF Flying Doctors



The Board of Management of the Association entered into a partnership with AMREF Flying Doctors during the Financial Year.

AMREF Flying Doctors is a leading, internationally accredited Air Ambulance Provider based in Kenya that has been in operation for the last 60 years with a dedicated fleet of short and long-range aircraft to facilitate accessibility to remote bush airstrips as well as to repatriate patients by air ambulance to other continents.

The partnership has created an avenue in which distressed members of the Association can receive medical evacuation services in case of a medical emergency at different levels as indicated below:

Levels	Subscription rates per person (KShs.)	Coverage
Maisha Bronze	2,500/=	Kenya
Maisha Silver	4,900/=	Kenya, Tanzania & Zanzibar
Maisha Gold	5,500/=	Kenya, Tanzania, Zanzibar, Uganda, Rwanda, Burundi
Maisha Platinum	11,000/=	Kenya, Tanzania, Zanzibar, Uganda, Rwanda, Burundi, South Sudan, Ethiopia.

k) Change of Association’s Financial year.

The Association’s financial year was successfully changed from September 30th to December 31st, thanks to the Board of Management’s efforts. The Association’s financial reporting has now been synchronized with that of the Law Society of Kenya, allowing for more consistent reporting to its members and other stakeholders.

l) Performance of the ABA Revolving Fund

Members overwhelmingly approved a motion at the Y2019 AGM to reorganize the Association’s tertiary benefits and establish a Revolving Fund in collaboration with the Higher Education Loans Board (HELB). The ABA Revolving Fund ensures that the Association’s funds are always available to finance its ongoing operations, regardless of fiscal year.

The Association put **KShs. 3,600,000/=** into the kitty when it was founded. During the Financial Year, **KShs. 3,243,714.00/=** was disbursed for the payment of school fees to various tertiary institutions around the country. The Board injected an additional KShs. 3,000,000/= to cover Y2022 tertiary fees applications due to an increase in beneficiary requests for assistance from the Fund.

Finally, the Board of Management broadened the scope of the current program to include students currently benefiting from the Kenya School of Law scholarship and those pursuing short courses.

m) Performance of Wakili Personal Retirement Benefits Scheme

Wakili Personal Retirement Benefits Scheme was launched on Thursday, 16th July, 2020. The scheme, whose membership is voluntary, will provide members with an easy and convenient way to plan and save for their retirement. A recording of the event can be accessed on the Law Society of Kenya's YouTube page. The Board of Management in its meeting held on Wednesday, 30th September, 2020 resolved to increase the scheme's normal retirement age to eighty (80) years. The Board further resolved to extend the definition of employed member in the Trust Deed & Rules to include non-Advocate employees of an employer.

The total contributions received into the scheme as at 31st December, 2021 is **KShs. 2,034,040/=** averaging to **KShs. 200,000** per month.

The scheme membership as at 31st December, 2021 totals to **sixty-five (65)**.

Members who are interested in joining the scheme can access the membership portal by visiting <https://pensionscloud.azurewebsites.net/> or fill in the membership forms here and thereafter forward the filled-in form to aricha@kingslandcourt.co.ke, bdlife@icealion.com or itslbd@icealion.com.

n) Participation by the Board in various Webinars

The Board of Management had an opportunity to sensitize members in webinars held on the following dates:

- 11th December, 2020 – Induction course for newly admitted advocates;
- 12th January, 2021 – Unpacking the Advocates Benevolent Association;
- 29th April, 2021 – Invitation by ICEA Lion Group to good governance guidelines;
- 28th July, 2021 – Unpacking Retirement Benefits
- 11th December, 2021 – Induction course for newly admitted advocates.

o) Participation of the Board of Management at the 26th East Africa Law Society Annual Conference & General Meeting

The Board of Management had the privilege and honor of interacting with various members of the profession across the East African region at the above Conference which was held from the 23rd to the 27th of November

2021 at the Sea Cliff Hotel, Zanzibar. The Board of Management was able to reach out and discuss with numerous Advocates in the region how the Association runs and explore the possibility of similar welfare associations being replicated in other countries. The Board was also able to further reach out to LSK members who were present on its mandate and role.

The purpose of the conference was to pool legal resources to debate common challenges to the legal profession and the region and find sustainable outcomes aiming at harmonizing relationships among EAC lawyers and providing solutions to governance challenges in the region. At the Conference, the Board of Management together with other regional Advocates had an opportunity to analyze the impact of the COVID-19 pandemic on the legal services market in East Africa and come up with ways through which the profession can continuously reengineer and sustain itself in the face of disruptions.

p) Participation of the Board in the KMJA Annual Conference and General Meeting

The Board of Management was represented by Board Member Amany Cohen at the KMJA Annual Conference and General Meeting which was held from 9th to 12th December, 2021 at the Sawela Lodge in Naivasha. The meeting provided a good forum to discuss the activities of the Association and membership of KMJA members to the ABA in the context of the provisions of Section 10 of the Advocates Act.

The meeting was very fruitful and the feedback received from members present was extremely informative, timely and well received by the Board.

q) Participation of the Board at the Fundraising Dinner for the Legal Education Fund



On Thursday, December 9th, 2021, the Board Chairperson represented the Board of Management at the subject event which was hosted at the Radisson Blu Hotel, Arboretum, Nairobi.

Mr. J. Oriri Onyango had the honor of informing the audience about the association's function and activities.

r) Renewal of the Association's Tax Exemption Certificate

The Board of Management is currently in the process of renewing the Association's Tax Exemption Certificate.

s) Establishment of partnerships with various recreational facilities all over the country for the benefit of members.



The Board negotiated partnerships with the following establishments:

a. Hillpark Health and Fitness Centre

- 10% discount on food at their restaurant.
- Gym charges rate as follows: yearly at KShs. 70,000/=, half-yearly at KShs. 45,000/=, quarterly at KShs. 25,000/=, monthly at KShs. 10,000/=.
- KShs. 700/= on Adult swimming while 500/= on kids swimming.

b. Premier Gym

- A Corporate Rate of KShs. 6,000/= monthly, KShs. 15,000/= quarterly, KShs. 24,000/= half-yearly and KShs. 45,000/= yearly.

TESTIMONIALS FROM SOME OF OUR BENEFICIARIES

I belatedly acknowledge receipt of ABA letter, reference ABA/137, regarding issuance of cheque No. 000162 of KShs. 80,000 in favour of Consolata School and in respect of Muhindi Mwangi Ngugi school fees for the year 2021. Thank you. (Ngugi, Grace Wambui Mwangi, Spouse of the Late Ngugi Muhindi, Advocate)

We continue to extend our gratitude for the educational assistance provided for my brother Elly. (Brian Bisanga, son to the Late Nicholas K. Wilson Bichanga Nyamategandah, Advocate)

Humbly allow me to appreciate your assistance together with the benevolence fund/welfare contribution in the last year to the family of our beloved late brother whom you are supporting through the fund. (Daniel Mwaniki, brother to the Late Farouq Kyalo Mwaniki, Advocate)

I would like to express my sincere gratitude to ABA and the entire LSK fraternity for supporting my dream of being a Advocate, by paying my school fees since high school at Kenya High all through to the Kenya School of Law. (Audrey Ngetich, daughter of the Late Samuel Kipkorir Ngetich, Advocate)

I am Glad to report that my son, Victor Ochieng passed his KNEC exams because of your support. My God bless you abundantly. (Mrs. Gertrude C. Langat spouse of the Late Okoth Collins Okoth, Advocate)

The Board of Management is looking forward to:

- Increasing membership uptake of Wakili Personal Retirement Benefits Scheme;
- Registration and launching of the Wakili Umbrella Provident Fund;
- Fundraising activities for the ABA Revolving Fund;
- Beneficiary mapping;
- Donor funding;
- Increased sensitizations to raise membership awareness of the Association; and
- Enhancement of the Board's Corporate Governance.



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