

REPUBLIC OF KENYA



THE JUDICIARY

SPEECH BY

**HON. JUSTICE DAVID K. MARAGA EGH, CHIEF JUSTICE AND
PRESIDENT OF THE SUPREME COURT OF KENYA,
DURING THE**

**LAUNCH OF THE ELECTRONIC FILING INITIATIVE AT
THE SUPREME COURT BUILDING, NAIROBI, ON JULY 1,
2020.**

The Deputy Chief Justice, Lady Justice Philomena M. Mwilu;

Commissioners of the Judicial Service Commission;

President of the Court of Appeal,

Adan Mohammed, CS East Africa Affairs;

Joe Mucheru, CS ICT;

H.E Frans Makken, Netherlands Amb. to Kenya,

Honourable Judges present;

Chief Registrar of the Judiciary,

The Director of Public Prosecutions,

President, Law Society of Kenya,

**All heads of Agencies and Representatives of the National
Council on the Administration of Justice,**

Distinguished Guests,

Ladies and Gentlemen:

Good Morning!

Today is a great day for the Judiciary and the administration of justice. It marks the single most significant step in our long journey to harnessing Information Technology as an integral part of the delivery of services to our people.

It is exactly 10 years ago when the digitisation of court records was identified as a critical aspect of Judicial reforms by the Task Force that was chaired by Justice William Ouko. In their report published in July 2010 they said, and I quote, that *“an ICT policy and master plan [should] be operationalised in the Judiciary to ensure strategic development of ICT infrastructure and systems for present and future needs.”*

They observed, with what now appears to be prescient accuracy, that *“judicial reforms must also focus on information and communications management in the institution”* and that

“Resources [should] be provided to the Judiciary to facilitate digitization of court records, automation of the recording of court proceedings and the establishment of interactive databases.”

Subsequently, there have been many reports, and many efforts, to mainstream ICT as an

integral feature in the Judiciary’s day-to-day work. For example, the Judiciary Information Communication Technology (JICT) Committee chaired by the retired Justice Philip Waki, even as far back as 2011, was spearheading many infrastructural and other initiatives aimed at mainstreaming technology in the

Judiciary. Along the way, countless pilot projects have been undertaken, most of them at the Milimani Law Courts, but the roll-out of extensive digitisation has remained elusive, with one challenge being consistent over the years: **Lack of funds to move beyond the pilot stage.**

Some of these pilot projects have proven to be highly successful. The implementation of the e-filing system at the Milimani Commercial and Tax Division (undertaken in close collaboration with Mr. Adan Mohammed, the then CS for Industrialization) has, for instance, directly contributed to the improvement of

Kenya's Ease of Doing Business. While most of these projects are yet to have a judiciary-wide impact, they have reaffirmed our institutional capacity to adapt to technology and to manage it for the benefit of our stakeholders.

Indeed, it is from the experiences earned and the lessons learnt in the pilots that we have reached where we are today. It has also been through the effort of the entire judiciary juggernaut, driven by the desire to succeed, that has enabled us to come this far.

Ladies and Gentlemen,

From the onset, increased use of ICT has been identified as a key plank in our efforts to transform the Judiciary into a modern, progressive institution that is succinctly responsive to the needs of the people we serve. The Judiciary Transformation Framework (JTF), launched in 2012 by the former Chief

Justice Willy Mutunga, and my own blueprint, Sustaining Judiciary Transformation (SJT), were very clear about this.

When I launched the SJT in January 2017, we shifted from the institutional building and capacity development agenda that defined JTF and focused on a service delivery agenda. SJT

emphasizes the improvement in the speed and quality of service delivery in the Judiciary by increasing efficiency and effectiveness at individual and system levels. One of our primary initiatives was the design and adoption of a Digital Strategy that sought to boost not only Judicial operations but also

Enterprise Resource Planning (ERP) capabilities in order to assist in our administrative functions.

Central to this was the establishment of an ICT infrastructure that would support these initiatives, including provision of internet access to all our courts as well as enhancement of our security and disaster recovery capabilities. As we speak, all our courts except Mbalambala and Kakuma Law Courts, which are in far-flung areas, are connected to reliable internet.

These efforts are anchored on the Judiciary ICT Masterplan 2018-2022, an ambitious

blueprint that, once fully implemented, will see the Judiciary reap the full benefits of technology and dramatically improve our ability to deliver judicial services efficiently, effectively, and equitably.

Equity is an important variable here. No matter how efficient and effective we become,

it will do little good to the people of Kenya if, by having excellent ICT assets such as what we are inaugurating today, it results in only a few privileged people being able to make use of it. If what we are launching today locks out sections of the community or is discriminatory and shows partiality to a class of litigants, we

will have failed. Conscious of this need, we have taken care to ensure that everyone is well served by all the technological initiatives we adopt. I will talk more about this later.

Ladies and Gentlemen,

The Electronic Filing System we are launching today has been under development over the

last three years. It is a robust system that will fundamentally change the way judicial officers and other judicial staff work, as well as the way court users interface with the courts.

Even though case filing is the core function of the system, it represents a transformation that touches on almost all courtroom activities. I

have heard some people ask whether, upon filing their documents online, they will be printed and put in physical files for use when they come to court. The answer to that is **NO**. The digitisation is total, meaning that in the courtroom, all parties will access case materials online. Even when hearings are

going on, all parties will have access to the documents online. This means that the operation of court registries, as we know it today, will drastically change. Court documents previously stored and retrieved in physical files will henceforth be stored and retrieved in soft form from the digital registry.

This system which, I am proud to say, has been designed, developed, and implemented by our very own Judiciary's Directorate of ICT has many advantages and is expected to significantly impact on the speed, accuracy and efficiency of service delivery.

One of the significant advantages of digitisation is the assurance of the integrity of court files. As many of you must be aware, litigants have been frustrated by constant loss or misplacement of court files or documents. With digitisation and the improvement of ICT

infrastructure, such challenges will be a thing of the past.

The other challenge stakeholders in the Justice Sector have faced is authentication of court orders. The system we are launching today will seamlessly integrate with all major stakeholders such as the Office of the Director

of Public Prosecutions (ODPP), the Prisons Department and the Probation Service when they are ready and be able to file court documents as well as obtain and verify the authenticity of court orders from the comfort of their offices.

The system has many other facets to it.

In addition to the cases being registered in the system, it has an automated fees assessment and payment module which utilises various platforms such as Mpesa and Credit Cards to effect the required financial transactions and generate e-receipts. This will minimize pilferage of court revenue.

Integrated into the system is a process service module which enables electronic service of court processes.

Other important features include an indexed retrieval and viewing module for Judges and Magistrates to access documents; the ability to

search for cases; and an integrated Court calendar.

Many litigants, including our brothers and sisters in the diaspora, never get to know what transpires in the hearing of their cases. Since court files are public documents, we will in future make it possible for the public, upon

payment of the requisite fees, to access court files for perusal online.

Ladies and gentlemen,

As you know, time is among the court's most valuable resources. Our digitisation efforts, therefore, must not merely pander to the prestige of achieving global standards in the

use of technology, exciting though this is, but also ensure that it aids in improving our efficiency, leading to quicker resolution of matters.

An integral companion to e-filing is the Case Tracking System (CTS), which we have already introduced in **60** court stations across the

country. The remaining **72** stations will be using the system by end of October this year. CTS involves the monitoring and managing of cases in the court docket from the time the case is filed to the moment it is finally disposed of by way of trial, settlement or otherwise. When optimally used, it ensures that all cases

progress swiftly without unnecessary delay, and feedback is given to Judiciary leadership when challenges occur in any of our courts.

An integral part of the CTS is a messaging service that allows us to send updates to our clients through SMS. The clients can also prompt updates by sending an SMS with the

case tracking number to the short code number **22490**.

Besides the CTS, the Judiciary is also implementing a digital court recording and transcription system in **32** courtrooms around the country. Six courtrooms in the Commercial Division of the High Court at

Milimani are already operational while installation is currently being done in another 26 courts, including the Anti-Corruption court in Nairobi.

The full implementation of this system will bring an end to manual recording of court proceedings. The audio recorded proceedings

will thereafter be passed on to transcribers who, through strict and elaborate procedures, will prepare the official court records in text form. The Judiciary has partnered with the Ministry of ICT through the AJIRA project which will engage the youth in doing transcription, thereby providing employment to thousands of young people.

Ladies and gentlemen,

ICT has enormous potential to improve the administration of justice. Indeed, we have seen it come in handy in enabling justice delivery in the face of the COVID-19 crisis. We have, since

the onset of the pandemic, established virtual courts and engaged litigants through online meeting applications. Hundreds of cases have been heard successfully despite open court activities being significantly reduced in the wake of the pandemic.

The Coronavirus pandemic has, in a way, become a blessing in disguise. Among the many long-term implications of our increased use of technology is that moving forward, we will no longer require expert witnesses such as the Government Chemist, pathologists, ballistic experts, and hand writing experts to

appear in court in person. We will use technological platforms to take their evidence from the comfort of their offices and thereby enhance convenience for everyone involved.

These advancements are carefully guided by a robust Judiciary ICT Policy whose overall

objective is to provide a governance framework for the acquisition, use and disposal of ICT in the Judiciary. Key objectives of the policy include ensuring that the security of our data and information is guaranteed.

Indeed, even as we launch this initiative today, one of the most recurrent questions is whether

the integrity of materials filed and stored electronically will be maintained at all times.

The answer, and I do not have any doubts at all about this, is a resounding **YES**. Besides the routine security protocols like redundant systems, strong access controls and encryption, we have implemented specific

security measures that reflect global best-practices in data security. Of course, it would be foolhardy for me to enumerate those measures here for obvious reasons but rest assured that great care has been taken to ensure the integrity of our electronic files.

Ladies and gentlemen,

We cannot expect that an undertaking of this magnitude can be fully implemented without some hiccups, either in the performance of technology or the ability of the people to use it properly. Besides, it is consistent with human nature to be apprehensive about change,

sometimes even to resist it only to embrace it with enthusiasm later.

What I would like to assure you today, ladies and gentlemen, is that we shall strive to address all challenges that emerge as we implement the system, and to assist all our stakeholders to adapt to the new requirements

as soon and as smoothly as possible. Towards this, we have undertaken extensive training not only for Judiciary staff but our external stakeholders as well.

Ladies and gentlemen,

As I said earlier, this system will not serve the highest ideals of justice delivery if it is only

convenient to a section of court users. We have therefore initiated various programmes aimed at ensuring that ordinary wananchi seeking court services, especially those who may not have access to the necessary infrastructure, or are unrepresented and unfamiliar with court procedures are not disenfranchised in any

way. These include the establishment of IT support centres within our stations where court users, especially the severely indigent ones who may not afford the fees charged in cyber cafes, can be assisted to file their matters.

On the other hand, cyber cafes which meet our stringent standards will be accredited and their staff trained so that they may assist court users to access the system.

In further pursuit of inclusivity, we plan to quickly roll out this service to other parts of the country, beginning with Mombasa and

Kisumu. This will start as as soon as we have sufficient storage capacity for the heavy data generated in the new system. To this end, we are at an advanced stage in procuring the necessary

servers and storage capacity to ensure that we achieve this objective as soon as

possible but in any case not later than three months from today.

Ladies and gentlemen,

To ensure that the increased use of ICT is fully anchored in law, we have undertaken various initiatives aimed at aligning the new processes to relevant legislations.

We have finalised the development of practice directions, revised rules and proposed amendments to the Civil Procedure Act, the Evidence Act as well as the Criminal Procedure Act to align them with the ICT environment and facilitate the widespread adoption of technology in courts.

The proposed changes are already being reviewed by our stakeholders including the Law Society of Kenya and the general public and we expect to receive their feedback soon so that we can complete the process.

Ladies and gentlemen,

The court digitisation journey has, since the onset, benefitted from generous funding from many of our supporters, and I wish to sincerely thank them all.

I would like to single out the International Development Law Organisation (IDLO) for their support of the e-filing initiative from the

start, as well as the United Nations Office on Drugs and Crime, GIZ, the World Bank through Judicial Performance Improvement Project and the Government of Kenya for your generous support.

Many individuals have worked extremely hard to bring us to this point. Justice Gatembu

Kairu, the Chair of the Integrated Court Management System (ICMS) Committee and the entire membership of that Committee and his predecessor, Justice Richard Mwongo; Justices Ouko and Waki whom I have already mentioned; the ICT Directorate led by the Ag. Director, Mr Steven Ikileng, and many other

stakeholders who have worked and continue to work hard, we thank you very much.

The LSK, ODPP, the Prisons Department, the Probation and all others stakeholders have been very supportive and we are grateful to all of them.

I conclude my speech with great hope that this system will generate the necessary impetus to fully integrate ICT into all justice processes. Honourable Judges, Judicial Officers, ladies and gentlemen, with regard to the use of technology, the proverbial hour is here with us. I am happy to note that we are all gradually

embracing these changes. Indeed, the full benefit of technology will not be realised if we, the users, do not fully engage with it. On the other hand, failure to make a conscious effort to learn

and be part of the change will render us irrelevant in this fast-changing landscape.

Let us all be the catalysts for change.

Thank you and may God bless you all.

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