A COMPARATIVE STUDY ON THE IMPACT OF DIGITIZATION OF JUSTICE FOLLOWING THE COVID-19 PANDEMIC:
Experiences from Kenya and Rwanda

Policy Brief

Executive Summary

Several challenges are still encountered by justice actors and justice seekers despite significant achievements with digitization of the Kenyan and Rwandese justice sector. Challenges include: digital illiteracy, insufficient and incompatible information and communication technology equipment (ICT), poor ICT infrastructure (poor internet and cellular network coverage), high ICT set up costs, and data security concerns, among others. Addressing these challenges in digitization of the justice ecosystem is recognized as an avenue for strengthening access to justice in the region.

To close the gaps in the digitization of Kenyan and Rwandese justice systems for indigent and vulnerable groups in both countries, this policy brief recommends that both countries consider:

- Further training, sensitization and capacity building of justice service actors and the public on the use of ICT to access justice;
- Making internet accessible and affordable to the poor and marginalized by adopting strategies like installation of more free public Wi-Fi and other ICT related infrastructure;
- Improving data privacy and protection and of course the sensitization of the public on the data protection laws;
- Partnering with established grassroot systems such as Chiefs' Camps, Cyber Cafés and Huduma Centres to bring ICT based justice services closer to the people;
- Exploring how ICT could support Alternative Justice Systems;
- Improving the ICT infrastructure and capacity of the institutions involved in justice administration including police stations, sexual and gender-based violence help desks, prisons and child help desks;
- Bridging the digital gap between the rural and urban areas through improvement of ICT infrastructure; and
- Developing an accessible up-to-date directory with a listing of the justice sector actors and their ICT platforms supporting access to justice.

Introduction

This policy brief is based on the Report "*The Impact of Digitization of Justice During COVID-19 In Kenya and Rwanda*" which assesses and compares how digitization of justice services has affected access to justice in Kenya and Rwanda, with specific focus on the experiences of justice actors and vulnerable groups during COVID-19. This Policy Brief summarizes the Report and its findings.

The International Development Research Centre and Kituo Cha Sheria (Legal Advice Centre), Kenya partnered with Rwanda's Legal Aid Forum (LAF) to conduct the comparative study. The study explored Kenya and Rwanda as case studies, with a specific focus on how the digitization of legal services has impacted both service providers and vulnerable people's access to justice. This brief summarizes the results of the completed study.

The motivation behind the research was to understand how the rapid advancement and adoption of Information Communication and Technology (ICT) has opened new opportunities that have improved the administration of justice in Kenya and Rwanda. The overall objective of the research was to assess how digitization of legal services has affected access to justice to both service providers and the vulnerable groups in Kenya.

Highlighted in this policy brief are lessons that African justice systems can learn in order to develop more effective and inclusive access to digitized justice systems for the poor and marginalized in Kenya and Rwanda.

Significant achievements have been made in digitally transforming the justice sectors of Kenya and Rwanda, including streamlining processes in managing and filing cases and enhancing transparency in justice systems and cost effectiveness in delivering and accessing legal services. However, vulnerable groups still encounter considerable barriers when using ICT in accessing justice services. In some cases, ICT adoption has completely failed especially in some low income rural areas. There is much more that still needs to be done to bridge the digital gap between the urban and rural counties and the rich and the poor.

This brief also offers a guiding framework for policymakers aiming to ensure equitable access to justice while using ICT. The digitization of justice holds the potential to transform the justice landscape by making processes more efficient, accessible, and transparent. While challenges exist, with careful planning, investment in human capacity and technology, and a commitment to inclusivity, the legal and justice systems can leverage technology to better serve the needs of both legal professionals and the public.

The next sections of this policy brief present key findings and recommendations that are centered on the countries experiences digitizing legal services during COVID-19.

Findings and Recommendations

This section identifies the challenges in the delivery and access to justice services using ICT tools in Kenya and Rwanda. Each of the presented challenges is followed by recommendations that could be applied at different levels of government, as well as in non-government and private justice sector settings.

Access to Justice ICT Tools

The movement restrictions that were imposed by the Kenyan and Rwandese governments during COVID-19 increased the need to use digital platforms to continue service delivery even while maintaining physical distance between citizens. Even beyond the pandemic, there was a need to accelerate the digitization of the handling of cases and the use of audio and video communications between court users and professionals in the justice sector.

The Kenyan study revealed that many respondents still use simple feature mobile phones to access legal aid through legal aid toll-free helplines and e-payment systems (mobile money). Other respondents reported using smartphones and computers to attend virtual court sessions, report incidents and receive legal information. Some legal aid actors still use basic, outdated personal smartphones and computers to administer justice using the Electronic Case Management System (ECMS), Electronic Filing (e-filing) System, Case Tracking System (CTS).

Most Rwandese respondents who reported to have sought legal services also indicated to be mostly using basic technologies such as simple mobile phones, smartphones, tablets and computers to access legal aid services. The different ICT platforms commonly used by the legal aid providers and public users in the Rwandese justice sector include: The Integrated Electronic Case Management System (IECMS), *Sobanuzainkiko* platform, and toll-free helplines *845#* and *1022*.

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*845# and 1022

Recommendations

Enhancing ICT Infrastructure and Accessibility in Rural Areas: Improvement of the ICT infrastructure including electricity, cellular network and internet coverage especially for the rural communities is also required to enable easier access to ICT platforms which tend to be reliant on their steady supply. In this study, a large majority of respondents especially residents of rural regions, reported poor access to justice via ICT platforms because of poor to no electricity, internet and lack of computers/phones. The government should consider narrowing the digital gap and reducing barriers to accessing legal and justice services in Kenya and Rwanda by improving the ICT infrastructure in rural areas.

Familiarity With Courts' ICT Requirements and Procedures

Most vulnerable citizens in Kenya and Rwanda still find it hard to access justice services online because they lack the skills and knowledge to use the digitized justice systems by themselves and are mostly reliant on legal aid providers like advocates and paralegals.

In the Kenyan study, it was found that people in the rural areas were unaware and were surprised at the existence of digital tools used in the Kenyan justice system and expressed the need to be educated on them. Beneficiaries of the digitized justice processes like the virtual courts expressed appreciatio for the convenience the virtual courts offered but they mentioned that they were not familiarized with the system and everything was shocking to them.

Some Kenyan respondents reported that there are community members who showed resistance and unwillingness to adapt to using ICT in the pandemic period. For instance, a number of them mentioned that they could not trust that the judge was listening to them virtually, with some stating that virtual courts deny them opportunities to grab the attention of the presiding judges. Their reasons for resistance however give even further credence to the need for more sensitizations to create more awareness of the systems' operations.

In Rwanda as well, most respondents in the study mentioned that they lacked the skills to navigate the internet-based ICT justice platforms and had to rely on assistance from legal aid providers like LAF and cyber cafe agents with e-filing of cases and accessing IECMS. While knowledge of the existence of technologies like IECMS was high, courtesy of massive radio campaigns by the ministry of justice popularizing the platform, usage of it is only on a needs basis.

Recommendations

Training and Capacity Building for Justice & Legal Aid Providers and the Public on the Use of ICT For Justice: While the justice system is adapting to the new way of service delivery, more inclusive training and dedicated ICT departments for justice seekers actors and seekers should be considered. While this is already happening, much more targeted training strategies must be put into the justice actors serving the poor and marginalized recognizing the unique situations faced by these regions. The technologies being deployed must also be those that are not only available but also accessible.

Respondents also emphasized the need for further sensitization and training of the population on the existing ICT solutions in the justice system. The responses from Kenyan respondents point to the need for the government and other stakeholders to develop capacity building initiatives that are aimed at bringing awareness to the public on existing technology that enhance access to justice.

Skills development and advancement through relevant training programs for both service providers and justice seekers on the use of technology to access justice was also recommended. Increased training and capacity building for local administration and other community-based justice actors at the grassroots including paralegals should be considered.

Empowering the justice and human rights defenders and paralegals at the community levels with knowledge and skills of using the platforms could also be impactful in ensuring that first responders have the relevant capacities and capabilities. Rwandese respondents also pointed out the need for improving knowledge and skills of using IECMS to ensure digital inclusion in access to justice.

Satisfaction With ICT in Delivery and Access to Legal Services

Levels of satisfaction in using ICT platforms could increase the responsiveness of justice actors necessary for improving the quality of service delivery through ICT.

Many Kenyan respondents expressed satisfaction with digitized justice services due to its efficiency, ease of use, reduced cost in accessing justice and speediness of the processes. However, there is still unawareness of the ICT-based interventions in the justice space. The notable gap in institutional preparedness in the use of ICT was a factor reducing satisfaction levels, for instance, while the courts have the ICT infrastructures, the prisons and the police stations expected to produce the accused in court virtually have very poor infrastructure.

The Rwandese findings revealed that most respondents were satisfied and lauded the convenience in using ICT in access to justice. While most respondents in both countries are satisfied with the use of ICT in access to justice, they opined that the two governments still need to do some more work to ensure that ICT is accessible to all by improving the infrastructure and providing opportunities for the citizens to improve their capacities to use ICT to access justice.

Recommendations

Streamlining Digital Judicial Services: The success of Rwanda's IECMS was in its ability to integrate all the justice actors in the justice system. Through this, information sharing has been easy and efficient right from investigations to correctional services. The ability of the different justice actors within the Ministry of Justice to "speak with each other" has streamlined processes thus making the system effective. In Kenya however, the different actors have stand-alone ICT systems that hardly speak to each other.

This has affected the efficiency of ICT in the adjudication of justice with limited to no coordination between the different ICT platforms. But, ICT efficiency can be improved by developing an integrated system that links all the institutions within the justice sector to streamline and centralize access to justice services.

The complete digitization of justice services in Rwanda through the IECMS serves as a roadmap for the journey that Kenya should consider taking in the digitization of its judicial processes for the purposes of enhancing access to services in the justice ecosystem.

Capacity to Deliver Justice Services Using ICT Platforms

Since the services of professionals in the justice system are needed to perform certain duties in aid to the vulnerable and marginalized citizens, assessing their competences and skills to operate ICT platforms was imperative. The study also sought to assess whether the different institutions involved in administering justice were equipped with enough ICT infrastructure to be able to deliver legal services electronically.

Most Kenyan respondents who are justice actors reported issues with limited capacity to deliver services using ICT tools. Police stations and prisons for instance, did not have ICT departments to support the use of ICT in linking the courts to these institutions during the court proceedings.

Power outages and lack of communication and training on the available ICT solutions were also mentioned by the respondents as some of the challenges limiting their capacities to deliver justice, better evaluate and improve their capacities.

In contrast, most Rwandese respondents were of the opinion that the Ministry of Justice had developed adequate training and capacity for justice actors to deliver justice using ICT. The Ministry has equally fostered partnerships including with the cyber cafe agents to enhance the ministry's capacity to offer justice using ICT.

While these initiatives are lauded by the Rwandese respondents, it was observed that more continuous training (refreshers) were still required both for the court staff and cyber cafe agents.

Additionally, it is recommended that there be continuous engagement with the public through radios and legal aid forums to ensure that the public is informed on the developments in the justice system and particularly the application of ICT in access to justice.

Recommendations

Improving Internet Coverage in Remote and Marginalized Areas: Internet coverage in many of the remote areas is still poor in both countries. To ensure adequate adoption of internet based ICT solutions in justice delivery, there is an urgent need to improve the quality and coverage of the internet in these areas even as the coverage is improved, the high cost of internet access must equally be addressed by reducing the cost of the internet and installing more publicly accessible Wi-Fi. In Kenya, the government has already launched the installation of free Wi-Fi hotspots in public places including local markets to enhance access to the internet with over 25,000 Wi-Fi hotspots expected to be installed across the country.

Partnering with Established Grassroot Systems: At the grassroot levels, there are different systems that work with the local populations to bring e-justice to people. Incorporating e-justice in the services provided by grassroots establishments could bring justice services to those who would otherwise not be reached by the justice sector.

In Kenya, the justice system has the potential to establish fruitful partnerships with various entities capable of bringing e-justice closer to rural communities. Collaborations with Chiefs' Camps, Huduma Centres, and local cyber cafes hold promise, given their extensive networks, experience, and expertise in engaging with local communities. Some examples are given in the case studies below.

Case Studies

1. Chief's Camps

Working with local administration like chiefs could support further access to e-justice by making available and accessible a judiciary desk at the Chiefs' Camps. These desks could be facilitated with the requisite infrastructure including the internet needed to access the justice e-services. Through these desks, community members can attend courts virtually and also access the online justice services including e-filing and causelists.

The Chiefs' Camps are already being used as Alternative Dispute Resolution Centres. In Kenya, working with the administrators to bring the justice ICT services to the grassroots would ensure that many vulnerable people can enjoy the benefits of ICT in the justice sector.

2. Cyber Cafés

The Ministry of Justice in Rwanda has partnered with the Cyber Café Agents to bring IECMS services closer to the people. Justice seekers therefore can visit the Ministry of Justice Certified Agents and file their cases or access the IECMS with the support of trained agents. Considering that Cyber Cafés are also very popular in the rural areas of Kenya, the judiciary can consider training the agents on electronic filing and other judiciary e-services and these agents can help citizens sign-up for the e-filing, file cases and also access the other online services.

3. Judiciary Desks at Huduma Centres

Huduma Centres are popular in Kenya given that many government services can be accessed in these hubs. With over 52 centres across the country, these places could also work with the Judiciary and other justice actors to bring the justice services closer to people by establishing Judiciary Desks or Justice Desks. Establishing service desks at the centres would promote access to the justice services including virtual courts, support e-filings and other justice e-services. While this was a plan conceived by the Judiciary in partnership with Huduma Kenya during COVID-19 period, it is yet to be operationalized.

Equipping Police Stations and Prisons With Sufficient Infrastructure and Resources for Virtual Courts and Other Digital Justice Services: Justice Institutions like the police stations and prisons should be provided with the resources needed to support e-justice services delivery. Resources for virtual courts attendance like ICT officers, fast and stable internet connections, large display screens, speakers, voice distortion devices and HD cameras should be provided.

Additionally, dedicated rooms from which the court sessions could be conducted should be provided in these institutions. There is currently insufficient support being provided to these departments of the justice system, with offices ill-equipped without the digital resources needed to support ICT based justice access.

The police officers and prison officers that participated in the study observed that if granted adequate ICT resources and training, they would be better positioned to support quick and more convenient access to justice in areas that are far removed from the physical court establishments.

Challenges faced in using ICT during COVID-19

While ICT introduces new opportunities for improving citizens' access to justice, the respondents also highlighted some challenges to ICT-related services.

Some Kenyan respondents highlighted issues leading them to travel long distances to access in-person justice services including:

Frequent power outages, limited electrical power supply, poor internet and network connectivity in some counties were also reported as issues among most Kenyan respondents.

Technical difficulties with ICT-based platforms, such as audio problems and language barriers, limited access to smartphones or computers and digital illiteracy were also challenges raised by Kenyan respondents.

Lastly, Kenyan respondents mentioned issues related to high costs involved with setting up and continuing to use certain ICT platforms with the internet and data privacy issues while using certain ICT platforms to access, input, and process personal data.

Rwandese respondents reported challenges with poor internet connectivity in some villages which causes villagers to travel long distances to receive legal aid.

Limited access to smartphones or computers to access IECMS, which is unaffordable to the poor, was also reported among Rwandese respondents. This especially was a challenge for those that are in areas that lacked trained cyber cafe agents.

Rwandese respondents also shared that they were having concerns with privacy when handling cases, considering that the agents lived with them and some of the cases they were filing were sensitive and unauthorized access was a concern.

Lastly, high setup costs, technical difficulties, digital illiteracy and cyber insecurity also emerged as concerns among the Rwandese respondents.

Recommendations

Implementation of the Data Privacy and Protection Laws: As more services are digitized and shared online, data privacy is becoming a major concern. While both countries have developed Data Protection Laws, there is a growing need for the implementation of the laws and more robust sensitization of the public on their rights and obligations under the Data Protection Laws.

ICT based justice systems have no control of who can access their data and how their data is used. It is therefore important that training is conducted to ensure prudent access, custody, use and sharing of data and information by all players in the justice sector. Also, data security loopholes should be sealed and where breaches occur, the culprits should be brought to book.

Exploring how ICT can Support Alternative Justice Systems: There is a pressing need for further exploration of how ICT can be harnessed to support the Alternative Justice System (AJS), also known as Alternative Dispute Resolution. Given the acceptance and adoption of AJS in dispute resolution within Kenya and Rwanda, harnessing the potential of ICT presents a unique opportunity to enhance the efficiency and transparency of these processes, and also address the challenges of resource constraints, access to justice, and equitable legal services delivery.

Creating a Directory with a Listing of the Available ICT Justice Platforms: Most respondents mentioned that they were not aware of the ICT platforms that have been created by the different justice actors. This was particularly rampant among the rural respondents. While the study has shown that there are different ICT innovations already available to access justice, deliberate efforts must be put into creating awareness of their existence and the support justice seekers can get from these platforms.

Creation of physical and digital directories of the existing ICT platforms and the services offered should be considered by administrators of justice services. The directory should have clear descriptions of how each listed platform works to support access to justice.

Moreover, to address language barrier issues and accommodate readers with different language proficiencies and preferences, it should be available in languages mostly spoken in the targeted regions. These directories can then be made available through public platforms including Chiefs' Camps, libraries, market notice boards, courts and other places that are easily accessible to the poor and marginalized.

Conclusion

Digitization in the justice system provides significant opportunities for enhancing access to justice for the poor and marginalized. A majority of the respondents in the study lauded the use of technology and regarded it as essential in enhancing delivery and access to justice.

Notwithstanding that measure of progress, challenges are still faced by Kenyan and Rwandese justice actors and justice seekers in implementing and using ICT to administer and access justice. Service delivery concerns remain, such as poor digital literacy among rural and poor populations, the high cost of provisioning ICT infrastructure and internet, and meaningful digital harmonization between official departments.

Future research should continue to monitor the evolution of digital justice systems in these countries and assess the effectiveness of the recommended interventions. Further, a comparative analysis of similar initiatives in other jurisdictions if conducted could provide valuable insights for further improvements. Future comparative research could also explore the extent to which ethics and confidentiality is adopted in last-mile legal service provision using ICT, especially when engaging the public on sensitive matters. Future studies could also do comparative assessments of the perception of transparency and trust of digitized justice systems. Lastly, country comparisons on the extent and impact of bridging the gender digital divide in access to digitized justice services are also worth exploring in the future exercise.

As ICT increasingly penetrates daily life, the integration of ICT into justice services delivery is not just a matter of convenience but a fundamental aspect of ensuring equitable access to justice. For Kenya and Rwanda to catalyze early gains toward a more digitized justice system, the lessons learned from this study can inform policy decisions and ultimately contribute to a more effective, efficient and more accessible justice system for all.