ACCESS AND USE OF INFORMATION BY MAGISTRATES AT THE NAIROBI LAW COURTS

BY

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DECLARATION

DECLARATION BY THE CANDIDATE

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This thesis is dedicated to my loving daughter Laura Betty Andiva who had to endure long hours of absence and loneliness as I concentrated on completing it.
ABSTRACT

Magistrates in Kenya form the bulk of legal officers in the Judiciary. Despite this, they are the least catered for with regard to access to information. The information resources available at the Law Courts are not adequate to meet their needs leading to a backlog of pending cases. The Kenyan judicial system relies on precedent and other sources of information while dispensing justice. Information is considered the backbone of any legal entity. Its production, modification and dissemination lubricate the wheels of justice. Without it the whole judicial process will be an effort in futility. This being the case, there is need to provide them with comprehensive, relevant and timely information. This study investigated access and use of information by magistrates in Nairobi with a view to proposing ways to improve its availability. The objectives of the study were to: establish the work magistrates in Kenya do, ascertain the relevance of information provided to magistrates, establish their information needs and seeking behaviour, establish the extent to which their needs are met by the information services at the Law Courts, Nairobi, identify the challenges they experience while seeking information; and propose solutions to the challenges they experience. Wilson’s global model of information behaviour theory and Neidwidzka model of Information Behaviour were used. The population of the study consisted of magistrates in Nairobi Law Courts Area that comprised of chief magistrates, senior principal magistrates, and principal magistrates, senior resident magistrates, resident magistrates and district magistrates. A total of 47 magistrates were involved. Qualitative research method was used. Data was collected using semi-structured interviews and documentary sources. The research established that access and use of information by magistrates was inadequate. Information should be provided using the available technology, the role of information in the dispensation of justice ought to be appreciated and that the information seeking behaviour of magistrates is greatly influenced by cases presented in court. As such the wheels of fast dispensation of justice will be pegged on how readily information will be availed. The study recommended a review of the library collection development policy, development of a user database and an improvement in the information provision services. Magistrates need to acquire research skills in the use of various information provision platforms that provide information on development of jurisprudence.
TABLE OF CONTENTS

DECLARATION .................................................................................................................. ii
ACKNOWLEDGEMENT ................................................................................................. iii
DEDICATION ................................................................................................................... iv
ABSTRACT ..................................................................................................................... v
TABLE OF CONTENTS ................................................................................................... vi
LIST OF TABLES ........................................................................................................... ix
LIST OF FIGURES ......................................................................................................... x

CHAPTER ONE .............................................................................................................. 1
1.1 INTRODUCTION ...................................................................................................... 1
1.2 BACKGROUND TO THE STUDY ............................................................................. 1
1.3 THE JUDICIARY ...................................................................................................... 2
   1.3.1 COURT STRUCTURE IN KENYA ................................................................... 5
   1.3.2 OPERATIONS OF THE JUDICIARY .............................................................. 9
1.4 STATEMENT OF THE PROBLEM .......................................................................... 10
1.5 AIM OF THE STUDY ............................................................................................ 12
1.6 OBJECTIVES OF THE STUDY ............................................................................. 12
1.7 RESEARCH QUESTIONS ....................................................................................... 13
1.8 ASSUMPTIONS OF THE STUDY ......................................................................... 14
1.9 SIGNIFICANCE OF THE STUDY .......................................................................... 14
1.10 SCOPE OF THE STUDY ....................................................................................... 15
1.11 LIMITATIONS OF THE STUDY ......................................................................... 15
1.12 DEFINITION OF TERMS ..................................................................................... 16

CHAPTER TWO ............................................................................................................ 18
LITERATURE REVIEW .................................................................................................... 18
2.1 INTRODUCTION ...................................................................................................... 18
2.2 THEORETICAL FRAMEWORK ............................................................................. 18
2.3 RELEVANCE OF THE FRAMEWORK TO THE STUDY ........................................ 25
2.4 PREVIOUS STUDIES ............................................................................................ 28
2.5 MAGISTRATES AND INFORMATION .................................................................. 30
2.6 INFORMATION AS A RESOURCE ..................................................................... 31
2.7 USER NEEDS ........................................................................................................ 35
2.8 INFORMATION NEEDS ........................................................................................ 37
2.9 INFORMATION SEEKING BEHAVIOUR ............................................................ 38
2.10 USE OF ICT BY MAGISTRATES/LAWYERS ..................................................... 43
CHAPTER FIVE ........................................................................................................ 93
SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS ........ 93

5.1 INTRODUCTION .................................................................................................. 93
5.2 SUMMARY OF FINDINGS ...................................................................................... 93
  5.2.1 Overview of Research Questions ..................................................................... 93
5.3 CONCLUSION ........................................................................................................ 108
5.4 RECOMMENDATIONS ........................................................................................... 111
  5.4.1 Recommendations for Information Providers ............................................... 111
    5.4.1.1 Develop a User Database .......................................................................... 112
    5.4.1.2 Review the Library Collection Policy ......................................................... 112
    5.4.1.3 Legal Library Consortiums ........................................................................ 113
    5.4.1.4 Improve Information Provision Services .................................................... 114
    5.4.1.5 Provide Access and Link to Digital Information Resources ....................... 114
  5.4.2 Recommendations for Policy Makers ............................................................... 115
    5.4.2.1 Adequate funding of information providing systems ................................ 115
    5.4.2.2 Provision of Information Literacy ............................................................. 115
    5.4.2.3 Device Methods of Proper Record Keeping ................................................. 115
    5.4.2.4 Develop Policies on Procedure Manuals and Catalogues ......................... 116
    5.4.2.5 Improve ICT Infrastructure .................................................................... 116
  5.4.3 Recommendations for Magistrates ................................................................. 117
    5.4.3.1 Acquire Research Skills ............................................................................ 117
    5.4.3.2 Use of e-resources .................................................................................. 118
  5.5 SUGGESTIONS FOR FURTHER RESEARCH .................................................. 118
REFERENCES ............................................................................................................. 119

APPENDIX I ACCESS AND USE OF INFORMATION BY MAGISTRATES IN KENYA IN THE NAIROBI LAW COURTS IN THE DISPENSATION OF JUSTICE ........ 125
LIST OF TABLES

Table 1: Study Population ................................................................................................................. 64
Table 2: Respondents Profile ............................................................................................................. 76
Table 3: Information Sources Available in the Judiciary ................................................................. 86
LIST OF FIGURES

Figure 1: Judiciary Court Structure.................................................................7
Figure 2: Wilson’s Global Model of Information Behaviour.............................21
Figure 3: A new model of information seeking (Niedwiezka, 2003).......................23
Figure 4: Years of service in the Judiciary ..........................................................78
Figure 5: Nature of Information Needed by Magistrates.................................84
CHAPTER ONE
INTRODUCTION AND BACKGROUND INFORMATION

1.1 INTRODUCTION

This chapter covers the background study of the Judiciary, statement of the problem, objectives of the study and the research questions. Assumptions and significance of the study are also highlighted in this chapter.

1.2 BACKGROUND TO THE STUDY

Information is a tool used in all spheres of life that include economic, cultural, political, technological and scientific issues. Information accelerates decision making processes, gives answers to our questions, brings new ideas on board and also leads to sources that have solutions. In the same breath information is used to prepare and implement projects that have been initiated and need justification for implementation.

Information plays a central role in defining the work of persons in the legal fraternity. Information is important when dealing with bulk legal processes that increase by the day. Magistrates need information while carrying out research addressing cases, preparing briefs and also while referring to extra jurisdictional materials. This demand is sometimes necessitated by the frequent changes in the law. The promulgation of the Kenyan Constitution in August, 2010 increased the number of laws that were amended or created so as to actualize the implementation of the said constitution. These developments have increased the volume of information available, thus the demand and accessibility of information needed. All justice systems require information for continuity, development of jurisprudence and enhance equality while
delivering services to litigants thus the need to appreciate its use and access by those charged with that responsibility.

It is a common practice among magistrates to seek for information from traditional sources such as print that is readily available. Developments in the modern world depend greatly on information that is available to be utilized in the right form and time. A lot of dynamism has been seen in the recent past that requires one to diversify the sources of information materials that they make reference to.

To a magistrate information is important for proper judicial processes, decisions and the development of jurisprudence. Today the work of a magistrate involves making reference to various information sources so as to dispense justice as required. The current constitution empowers the citizenry to receive information and also justify why a certain judicial decision was made. In this regard, magistrates are required to easily access various information sources so as to satisfy the increasing demands of litigants who want timely justice.

1.3 THE JUDICIARY

The Judiciary is one of the organs of the state mandated to administer justice. The other organs of the state as established by the constitution are the legislature and executive. In order to achieve its mandate, the Judiciary heavily relies on information to make rulings and judgments and other administrative decisions.

The Judiciary interprets the laws when adjudicating disputes arising between individuals and between individuals and the state while protecting persons against
excess or arbitrary action of Government officials. The Judiciary envisions being “the independent custodian of justice in Kenya”. Timely delivery of justice and development of jurisprudence relies mainly on information provided to both the bar and the bench.

The mission of the Judiciary is “to deliver justice fairly, impartially and expeditiously, promote equal access to justice, and advance local jurisprudence by upholding the rule of law” (Judiciary Strategic Plan 2008-2012)

The history of Kenya’s Judiciary can be traced to the East African Order in Council of 1897 and the Crown regulations made there under, which marked the beginning of a legal system in Kenya. It was based on a tripartite division of subordinate courts; that is, native courts, Muslim courts and those staffed by administrative officers and Magistrates. A dual system of superior courts was also established, one court for Europeans and the other for Africans. This system only lasted for 5 years.

Upon the realization by the colonial authorities of the need to have dispute resolution organs, village elders, headmen and chiefs were empowered to settle disputes as they had done in the pre-colonial period. These traditional dispute settlement organs gradually evolved into tribunals. They were accorded official recognition in 1907 when the Native Courts Ordinance was promulgated. This ordinance established native tribunals that were intended to serve each of the ethnic groups in Kenya.

The Chief Native Commissioner was authorized to set up, control and administer the tribunals. The ordinance also established similar tribunals at the divisional level of
each district and also authorized the governor to appoint a Liwali at the Coast to adjudicate over matters between the Muslim communities. One could appeal against the decisions of these tribunals to the District Officer and or District Commissioner and finally to the Provincial Commissioner. The final appeal lay with the Supreme Court.

The Native Appeals Tribunal’s Ordinance 1930 reduced the number of elders sitting on a tribunal and also made it a requirement that a literate member records the proceedings. By 1950 these tribunals had evolved sufficiently for them to be converted into courts similar to those that hitherto served non-Africans. In 1950 the African Courts Ordinance abolished the Tribunals and replaced them with African Courts.

In dispensing justice under the relevant English and Indian laws where non-Africans were concerned, the administration of justice was entrusted to expatriate judges and magistrates. Appeals lay from subordinate courts to the Supreme Court. The head of the system was the Chief Justice while the administrative duties were carried out by the Registrar of the Supreme Court. The main courts were established at major urban centers such as Nairobi, Mombasa and Kisumu. Judges and Magistrates on circuit served other centers. Muslim courts were headed by a Chief Kadhi and were classified as subordinate courts. As such, appeals from Islamic courts lay to the Supreme Court.

The segregated system of administering justice prevailed until 1962 when the African Courts were transferred from the provincial administration to the Judiciary. Further, it was not until 1963 that the beginning of a truly independent and impartial Judiciary
was set up. The independence Constitution established a Supreme Court with
unlimited original criminal and civil jurisdiction over all persons, regardless of racial
or ethnic considerations. The judges were appointed by an independent Judicial
Service Commission. The Constitution further provided for the establishment of a
Court of Appeal and the Kadhi’s court.

When Kenya attained the status of a Republic in 1964, the Supreme Court was
renamed the High Court. In 2010 the newly enacted constitution created the Supreme
Court. In 1967 three major laws were enacted. These were the Judicature Act
(Chapter 8), the Magistrates’ Courts Act (Chapter 10) and the Kadhi’s Courts Act
(Chapter 11). These Acts have streamlined the administration of justice in Kenya
today. (Kinyanjui, 2000).

1.3.1 COURT STRUCTURE IN KENYA

The establishment and creation of courts in Kenya is determined by the Constitution.
The Acts that establish the various Courts are in the following legislations: Judicature
Act (Cap 8), Appellate Jurisdiction Act (Cap 9), Magistrates Act (Cap 10) and the
Kadhi’s Courts Act (Cap 11) (Kinyanjui, 2000).

Kenya like any other modern judicial system has a court structure that operates at
different levels. Each level of the court has powers to deal with certain cases. Their
power is known as the court jurisdiction. Original jurisdiction is in the Magistrates
Courts while the Court of Appeal has the appellate jurisdiction that handles appeal
cases. The High Court on the other hand has both appellate and original jurisdiction
(Jackson 1998).
The Judiciary derives its mandate from the Constitution of Kenya, 2010; Chapter 10 of the constitution provides that:

1. Judicial authority is derived from its people and shall be exercised by, the courts and tribunals established by or under the Constitution.

2. In exercising judicial authority, the courts and tribunals shall be guided by the following principles:
   i. justice shall be done to all irrespective of status
   ii. justice shall not be delayed
   iii. use alternative forms of dispute resolutions including reconciliation, mediation, arbitration and traditional dispute resolution mechanism shall be promoted.
   iv. justice shall be administered without undue regard of procedural technicalities
   v. the purpose and principals of the constitution shall be protected and promoted

3. Traditional disputes resolutions mechanisms shall not be used in a way that;
   i. contravenes the rule of law
   ii. repugnant to justice or morality or results in outcomes that are repugnant to justice or morality
   iii. is inconsistent with the constitution or any written Law. ( The Constitution of Kenya 2010)

The figure illustrates the structure and explains the hierarch of the Courts as it is today in Kenya.
Supreme Court

The Kenya Constitution, 2010 established the Supreme Court. It is the highest court in the land. The court constitutes of seven judges that include the Chief Justice who is the President of the Court, Deputy Chief Justice and five other judges. The court has exclusive original jurisdiction to hear and determine disputes relating to the election...
of the president and appellate jurisdiction to hear cases, determine appeals from the Court of Appeal and any other court or tribunal as prescribed by national legislation

**Court of Appeal**

The Court of Appeal was the highest court in Kenya up to August, 2010. The Judges of this court are known as Judges of the Court of Appeal. The Court of Appeal mainly sits in Nairobi, but travels on circuit to other principal towns in Kenya to hear appeals. In the case of appellate decrees of the High Court, appeals may be made only in one or more of the agreed schedules. The decisions of this court are authoritative and are cited by counsels in the lower courts when the circumstance in a case justifies the production of a citation.

**The High Court**

The High Court is established by Article 165 of the Constitution of Kenya. The Constitution provides for the judges of the High Court and gives specifications of appointment. They have unlimited jurisdiction in civil and criminal matters. They also have the power to summarily allow for appeal, when the litigant is dissatisfied. The High Court is given the power to supervise subordinate courts. It carries out this supervisory role in the course of the performance of its revisionary and appellate jurisdiction.

**Subordinate Courts**

Article 169 of the Constitution establishes subordinate courts namely:

i. Magistrates Courts

ii. Kadhi’s Courts
iii. Court martial Courts and any court or local tribunal as established by an Act of Parliament

Magistrates have different designations and also have different jurisdictions. They include chief magistrates, senior principal magistrates, principal magistrates, senior resident magistrates, resident magistrates and district magistrates. The appointments are made by the Judicial Service Commission. The criminal jurisdiction of magistrates is very wide and embraces most crimes especially those in the Criminal Procedure Code (Cap 75)

1.3.2 OPERATIONS OF THE JUDICIARY

The Kenya Judiciary uses the principle of precedent, where court rulings and decisions are based on what other courts of equal or higher jurisdiction have decided on a particular matter. The Magistrates’ Courts are the lowest courts in the judicial hierarchy. The others are the Supreme Court which is the highest court in the land followed by Court of Appeal and the High Court.

(http://judiciary.marsgroupkenya.org/index.php?option=com_content&view=article&id=45&Itemid=37)

Judicial officers must ensure that the decisions they make are more or less consistent with what other courts have decided. Precedents form the basis for which subordinate courts make decisions. More often than not, reference is made to a set of precedents that usually dictate what and how decisions are made. Information is therefore core in deciding what precedent should be followed in a particular case.
The justice system in Kenya is faced with a backlog of unidentified cases. The number of pending cases currently stands at 60,000. This is assumed to be caused by lack of information in the form of law reports and other legal information that is not readily available. The backlog may also be caused by the large number of appeals that are filed by dissatisfied litigants who are not content with decisions made by these courts. The law allows them to seek justice in higher courts hence resulting to backlog of cases. The researcher proposes to use this study to ascertain whether this has been caused by lack to access of information by the magistrates. (*Judiciary Archives*)

As stated earlier, the Kenyan Judiciary system is based on precedent. Judicial officers are therefore expected to carry out research and make reference to previous court decisions and rulings and various jurisdictions law reports. It assumed that most of the cases that causes backlog are from Magistrates’ courts. The study endeavored to ascertain whether the available information is utilized by officers of this cadre is well addressed so as to ensure that judicial decisions and rulings are served satisfactorily.

**1.4 STATEMENT OF THE PROBLEM**

The legal sector and especially the Judiciary rely on information to make judicial decision. However, magistrates are unable to work optimally as there is a gap that has to be filled by information. Information can reduce backlog while increasing output efficiency and effectiveness. The researcher therefore aims at inquiring what their information needs are and provide possible solutions to the identified problems.
For a magistrate to carry out adequate legal research, he/she is expected to make reference to law reports and other literature made available to them. The researcher therefore seeks to find out whether the information materials that are availed in the chambers are used for this purpose or reference is only made to other unreported cases that they may have heard about or had interest in. Many of the court rulings are usually similar in nature and the rulings made may not necessarily be as extreme as anticipated. Hence some may see no reason to refer to the available reports since they can remember the previous decisions.

The Judiciary has its main library and registries at the High Court Building in Nairobi that hold a large collection of the information materials. The library is adequately resourced; on the other hand libraries in the outstations are not well resourced because of financial constraints. In order to curb this problem, magistrates have mini libraries in their respective chambers which have few law reports and books. The collection is so limited that it does not allow the magistrates to exhaustively carry out thorough legal research.

For one to perform well he/she is required to have certain skills that include management that are acquired either through training, practice and at times research. The library is therefore expected to provide this information. This however is not the position on the ground since information materials on management are rarely provided for. Magistrates are forced to depend on hearsay and instincts and therefore they may not make proper judicial decisions.
Technology worldwide has become a major source of information. Globally there is a growing need for real-time information for decision making, planning and other diverse reasons. Developments in legal research in the recent past include online legal databases, online legal discussions, social media and online training programs that broaden the scope of understanding new legal concepts. Most magistrates even those in Nairobi are not able to access this information due to lack of the necessary equipment and facilities. The researcher also sought to understand how technology is used to cater for magistrates’ information needs.

In addition, the number of appeals made in superior courts, namely: High Court arising from the magistrates’ court continues to rise. In this regard, the researcher wonders whether magistrates in Kenya make serious use of information to make informed judicial decisions. It is important to note that the researcher has vast experience of working with the Judiciary and that she has interacted with most judicial officers hence the source of the information provided.

1.5 AIM OF THE STUDY

The study investigated the access and use of information by magistrates at the Nairobi Law Courts; with a view of proposing ways to improve its availability and utilization.

1.6 OBJECTIVES OF THE STUDY

The specific objectives of this study were to:

1. Establish the jobs magistrates at the Law Courts do.

2. Establish their information needs and seeking behaviour.
3. Ascertain the relevance of information available to magistrates by the Law Courts Nairobi.

4. Establish the extent to which their needs are met by the information services at the Law Courts, Nairobi.

5. Establish whether magistrates have adequate information retrieval skills to make effective use of information resources at the Nairobi Law Courts

6. Ascertain the challenges they experience while seeking information.

7. Propose solutions to the challenges experienced by the magistrates.

1.7 RESEARCH QUESTIONS

The study endeavored to address the following questions:

1. What kind of job do magistrates do?

2. What are the magistrates’ information needs and information seeking behaviour?

3. How is the information provided to magistrates at the Law Courts relevant to the magistrates?

4. How the information needs met by the information sources available at the law Courts?

5. Are magistrates satisfied with the information provided at the Law Courts, Nairobi?

6. What challenges do magistrates face when seeking information?

7. What strategy could be adopted to provide information to magistrates?
1.8 ASSUMPTIONS OF THE STUDY

The study was based on the following assumptions:

1. Although magistrates require information to support their work, the information resources available at the Law Courts are not adequate to meet their needs leading to a backlog of pending cases.

2. Magistrates do not fully exploit and utilize information materials made available.

3. Proper understanding of the magistrates information needs, will improve service delivery.

4. Lack of current and adequate information seriously affects the performance of magistrates.

1.9 SIGNIFICANCE OF THE STUDY

The study was significant in the sense that:

1. It exposed some problems regarding access and use of information at the Law Courts that ought to be addressed to improve access and use of this information by magistrates in Nairobi as well as in Kenya.

2. The study made information providers aware of the magistrate’s information needs that when addressed will hasten judicial processes.

3. Challenges experienced by magistrates with regards to access and use information were identified and solutions were proposed to address them.

4. The study will contribute to new knowledge since no study has been done in Kenya on the needs, access and use of information by magistrates.

5. The research will act as a basis for further research
1.10 SCOPE OF THE STUDY

The study was carried out at the Nairobi Law Courts only since magistrates are found in the entire country and they face similar challenges. It was not possible to reach all of them due to time constraints.

1.11 LIMITATIONS OF THE STUDY

The study was carried out at a time when the Judiciary was undergoing a transformation. The Kenya Constitution, 2010 requires that all magistrates and judges are vetted before starting a new term of service. As a result, the magistrates under study were not willing to share information that the research was seeking for fear of such findings jeopardizing the research process. The research was carried out in courts within the Nairobi Law Courts jurisdiction. Being a cosmopolitan zone it may have an upper hand with regard to access to information since the headquarters of all judicial services is in Nairobi.

The study was carried out at a time when Nairobi Law Courts judges and magistrates were transferring to the new Milimani Law Courts. This meant that the magistrates had to be given more time to settle down in the new building. This limited access to them since they needed time to acquaint themselves with the new working environment and work schedules. As a result the duration of the study had to be extended.

While collecting data, the biggest challenge was accessing the respondents some of who were in a state of uncertainty. This was due to the publication of an Act of Parliament, Vetting of Judges and Magistrates Act, (No 2 of 2011) that requires that all Judges and Magistrates be vetted before starting a new term of service. As a result
most of the respondents were in a panic frenzy and were also uncooperative since they wanted some reassurance that the information gathered from them will not jeopardize their positions either now or in future but will be used to improve service delivery in the Law Courts.

During the same time, the Nairobi Law Courts High Court and Magistrates Court were transferring to the new Milimani Law Courts Complex in the Nairobi Upper Hill area. Access to the magistrates was not easy since the researcher is based at the Supreme Court Building while the magistrates were settling down in a new court. This greatly slowed down the data collection process.

While collecting data, the biggest challenge was accessing the respondents some of who were in a state of uncertainty. This was due to the publication of an Act of Parliament, Vetting of Judges and Magistrates Act, (No 2 of 2011) that requires that all Judges and Magistrates be vetted before starting a new term of service. As a result most of the respondents were in a panic frenzy and were also uncooperative since they wanted some reassurance that the information gathered from them will not jeopardize their positions either now or in future but will be used to improve service delivery in the Law Courts.

1.12 DEFINITION OF TERMS

Authorities: copies of legal documents presented in Courts of Justice to authenticate precedents.

Common law: Law derived from judicial decisions rather than statutes until expressed and articulated in a judgment.
**Information:** anything that gives knowledge in the form of facts in a medium that is capable of communicating.

**Information access:** availability of data required to add value to a process.

**Information needs:** the identified gap, void or insufficient knowledge that has to be filled with information acquired from a source.

**Information seeking:** the process of seeking for information to satisfy an identify information need.

**Information sources:** includes journals, articles, reports, online resource etc both published and unpublished.

**Information use:** interaction with data for decision making.

**Judicial libraries:** libraries that are run by the Judiciary and are available in all High Court stations countrywide

**Judicial officers:** Judges, Magistrates who serve in the Judiciary to serve and dispense justice

**Magistrates:** judicial officer charged with the responsibility to dispense justice

**Precedents:** making of a judicial decision while applying rules considered while furnishing an authority for the determination of a similar or identical question of law.
CHAPTER TWO
LITERATURE REVIEW

2.1 INTRODUCTION
The chapter presents a discussion of the research issue under study. The researcher used literature review to understand the research problem with a view to obtaining more knowledge on the research topic under study and also discussing the appropriate theoretical framework.

2.2 THEORETICAL FRAMEWORK
A theoretical framework is a conceptual model of how one theorizes or makes logical sense of the relationships among the several factors that have been identified as important to the problem. It discusses the inter-relationships among variables that are deemed to be integral to the dynamics of the situation being investigated thus improving our understanding of the dynamics of the situation (Sekaran, 2006). A theoretical framework is the basis of the research problem. It explains the phenomena upon which the thesis investigation hopes to fill the vacuum in the stream of knowledge. A model maybe described as a framework for thinking about a problem and may evolve into a statement of the relationships among theoretical propositions.

Two theoretical frameworks are discussed in this chapter. They are the Wilson’s (1999) Information Behaviour Model and Neidzweidzka (2003) model that presents a critical presentation of the previous model. The models discuss how various groups of people behave when seeking information and their needs.
T.D. Wilson defines a model as “a framework for thinking about a problem and may evolve into a statement of the relationships among theoretical propositions. Many models in information sciences are statements often in diagrams that attempt to describe information seeking activity or the relationship among stages of information seeking behavior.

Wilson’s model of Information Behaviour 1999 was a review of his previous model of Information Behaviour (1981) drawing upon an extensive review of research from a variety of fields other than Information Sciences that included decision making psychology, innovation, health, communication and consumer research. As a result he proposes theories of these disciplines to be used in analysis of information behavior (Ingwersen & Jarvelin, 2005).

The Wilson’s model outlined various areas of information seeking behavior that arise from a need perceived by an information user. The model also showed that part of information seeking behavior may involve other people through information exchange and that information perceived as useful may be passed to other people as well as being used by the person him/herself.

Wilson’s model is neither a process nor directly based on empirical findings. It is static, fairly broad, general summary model of information behavior and thus needs specifications by analytical concepts that were used for the study of relationships between tasks, information seeking and retrieval.
The concepts founding Wilson’s original model was presented in 1981, and a variation of the model was presented in 1999 (Figure 1). The model is one of several employed in research concerned with information use and users. Wilson’s model of behavior was developed over a considerable duration of time. The model developed an idea of personal, social role and environment context that may give rise to a need for information.

Wilson’s experience of information seeking in this very practical context led him to develop a model of information seeking behavior that is prompted by the individual’s physiological, cognitive and effective needs. He notes that the needs may be the person him/herself, or the role demands of the person’s work or life, or the environments (political, economic, technological, etc.) within which that life or work takes place. He suggests that the barriers that impede the search for information will arise out of the same set of contexts.

Wilson’s model proposes that information seeking behaviour as a goal determined behavior and that the concept of problem solving provides a framework that can help to expand multiple search episodes as the information seeker move through the problem resolution and solution statement hence dealing with activities engaged in once all the barriers of information seeking are overcome. (Fisher, 2005)

Wilson (1999) claimed that other disciplines considered in his review to offer many analytical concepts, models and theories that have been ignored by information scientists and urgently need to be incorporated into information science studies. In Wilson’s 1999 view the model remains one of the macro-behaviour while the
inclusion of other theoretical models of behavior makes it a rich source of hypothesis and further research. The model is not only hospitable to theory but also varies in approaches to information seeking behaviour and information searching. The model incorporates Ellis behavioral characteristics of information seeking (Ellis, 1989) which describes the activities “search” mode of information seeking.

The model uses the term “intermediate variables” that emphasizes that the impact is either negative or positive impact on information seeking has taken care of the barriers that may be introduced. Intervening variables suggest that outlying factors may prevent or promote information seeking. The model portrays how information needs can be reshaped as information seeking and how information is generated all together in the process (Wilson, 1999).

Figure 2: Wilson’s Global Model of Information Behaviour
The New Model of Information Behaviour by Niedwiezka (2003) presents a critical description of Wilson’s Model of Information Behaviour and proposes major modification of the Wilson’s model. (Figure 2)

The model adds the different models of search behaviour such as: passive search, active search and ongoing search. Niedwiezka, (2003) is of the opinion that the first mode involves passive absorption of the information from the environment. The second mode is the active search mode which is said to apply when a particular behaviour leads to information acquisition and its relevance to the person seeking information. The third mode the ongoing search means continuing search carried out of update or expand the areas of information need. [link](http://upetd.up.ac.za/thesis/available/etd-02052008-71412/unrestricted/02chapter2.pdf)

According to Niedwiezka, Wilson’s model presents in a simplified way the relationship among the theoretical propositions and process connected with identification and satisfying one’s information need. Niedwiezka is of the opinion that most information models presents a certain section or a full sequence of activities, which lead to obtaining information while concentrating on the phases when information arises, which is called problem recognition. As such, this model abstracts the intellectual process of the problem solving from the context, and focuses on it. The model also states that other models including Wilson’s 1986, 1996 and 1999 are restricted to the stage of information search thus introducing the dynamic and cyclic character of information behavior.
The model suggests two basic strategies of information seeking:

i. A user seeks information personally

ii. A user uses the help of services of other people.

A user can choose to use can choose one, the other or both of the strategies. An independent user will apply his knowledge, available sources and interact with search systems and information services (databases, catalogues, archived, search engines, etc). Such a user selection information personally or can entirely depend upon intermediaries and other sources (information specialists, subordinates, co-workers) and utilize the effects of their information seeking and processing while acting independently only at a stage of mental processing of information. This was deemed appropriate for the study since the population under study did not necessarily have to
consult others while seeking information. They too can single handedly access the required information. The model applies to a wider range of information users. It presented the concept of information behavior and its possible conditioning factors in a more clear way.

Niedwiezka states that models selectively referred to are complimentary to one another or put in light various stages of the process. The Wilson’s 1999 model presents a full range of influencing factors and mechanisms cognitive, social and environmental but does not encompass the major behavior of a category of users under investigation.

She draws the following conclusion from the study: that Wilson’s model is not suitable to describe numerous categories of information users. This model only applies to those who personally seek information and hence does not reflect the important information behavior of large groups of information users.

Niedzwiedzka (2003) has identified some of the weaknesses of the Wilson’s 1996 model as:

- Poor diagrammatical representation of the differences between the phase of the occurrence of information need and the phase when a decision to seek information is undertaken;
- The separation of psychological and demographic variables in the intervening variables section and yet they can be under one broad heading personal variables;
• The separation of the features of information source from the information environment (context) and yet there can be a general class of environmental variables; and
• Variables should also be considered, not only at the stage of seeking, but also, at the need occurrence, decision-making, processing and use of information.

2.3 RELEVANCE OF THE FRAMEWORK TO THE STUDY

Any communication process starts when a message is conceived by the sender. The information conceived by the sender is then transferred from one entity to another (receiver). It is expected that all those involved in the communication process have an area of commonality and hence the requirement of a sender, a message and a receiver. (Ronsengren, 2002) defines communication as a process of transferring information from one entity to another. It is an interactive process where thoughts and opinions are exchanged. This increases our shared knowledge of our common sense “that is the basic pre-condition for all communication”.

Both the Wilson’s (1999) and Niedwiezka’s (2003) models present in a simplified way the relationships among theoretical propositions and processes connected with identification and satisfaction of information needs. The models propose that information seeking behavior can be seen as goal determined behavior and that the concept of problem solving provides a framework that would explain multiple search episodes; as the information seeker moves through the problem solving states of problem recognition, problem identification, and problem resolution and solution
statement. This was quite appropriate for the study since the problem had been identified and the study aimed at providing a possible solution.

In light of the research, magistrates predominately turn to various intermediaries to obtain necessary information for decision making. The identification of pre-dominant behavior was important for the design and organization of information systems to suit the rising need of the users. Such identification allows for defining the range and type of the problems which are to be considered while outlining the area of study or designing an information system. It would be necessary at this stage to understand their social interactions or communication skills.

The models develop the idea of personal, social role and environmental context that may give rise to a need for information; giving significance of division of the needs that of information seeking behavior into psychological, affective and cognitive needs and the suggestion that information needs is a helpful concept for research purposes. Therefore, the term information behavior is adapted as the behavior of observable where a need being internal, while mental states are not. Magistrates’ information needs are psychological, cognitive and effective as they perform their duties.

Wilson’s model recognized information seeking in a particular context. It recognizes that information seeking maybe of different types which are specified as passive attention, passive search, active search and on-going search. The model recognized that the feedback loop which is based on the processing and use of information. This recognizes that information seeking is not a one off complete activity but rather continuous at a later date. With regards to the population under study, the need for
information is usually a continuous process but it requires that the research and reference to the other documents is done over a period of time if not continuously.

The models also suggested that not all information needs make a person seek information. For example an individual does not engage in seeking activities if they are convinced that they possess sufficient knowledge to make the right decision in the situation at hand. An effective stimulator of information behavior is the perception of self-efficacy, explained in depth by social learning theory. This highly affected the decisions undertaken to necessitate what determined whether a person can cope with the situation.

Niedwiezka stated that the separation between psychological and demographic variables should not necessarily be categorized as personal variables since they are considered as a general class of environmental variables. With regards to the study Niedwiezka states clearly that magistrates’ information needs reflect important information behavior of a larger group of information seekers. The activating mechanism can occur as a link between the chain of behavior leading to acquiring and using information.

The new model complements Wilson’s causative relations (arrows) between the activating mechanisms and intervening variables that can be misleading by allowing the user to generate the need for information and the realization for a need to find sense and order while making sense of a phenomenon. The model introduces the concept of information behavior cycle, thus feedback from both the users and
providers of information. Both models propose that the introduction to intermediary in
the search process.

The discussed conceptual framework shows the concepts and variables of interests in
the study situations or context of information needs include the activities that
magistrates are involved in, work practices, what information they require and what
information is available. Intervening variables that include psychological factors,
knowledge base, lack particular skills or knowledge, years of experience, role related
to or interpersonal factors (organizational support, for time and information
provisions, culture and workload), source characteristics (availability, accessibility,
usefulness and reliability). In spite of this, the study is interested in skill competency
and data based or computer based information use.

2.4 PREVIOUS STUDIES

Libraries today continue to evolve. The use of technology has impacted on the way
the library services in various institutions are offered to potential and actual users. As
a result libraries in the new century encounter numerous development challenges that
have altered the use of information. Librarians today need to identify more clearly and
understand better the information contents in their possession so as to satisfactorily
meet and provide for the growing user needs and expectations.

The origins of human information seeking behavior are found in work on the users of
libraries and in readership studies in general. The post-war increase in the amount of
scientific literature which was either newly published or recently released from war-
time restrictions in 1948 led to the establishment of the Royal Society Scientific
Information seeking behavior. However, the subject goes rather further back in time.

Folster as cited by (Whitlatch 1995) states: over the last three decades a considerable
body of literature has emerged dealing with information needs and information
seeking pattern of researches in social sciences. The impetus of studying active user
and potential users of libraries making them responsive to clients started in the 1960s,
concentrated efforts to determine what types of information is being used and how it
is being used by social science researches.

The 1970s saw an increasing attempt to design research that would go beyond the
descriptive aspects of material usage to developing profiles for users and their needs.
Methodologies were developed that could provide insights into the information need
groups, their characteristics and their present information seeking behavior.

A project study was designed in the 1970s to assess information needs of British
Social Scientists. The Project Investigation into information requirements of Social
Science was carried out in the late 1960s and 1970s employed a number of
methodologies as a means of lending validity of information with regard to
information needs of social scientists. The findings enlightened the information
professionals and their need to lay the background for their role in information
gathering to reach their targets. Studies that emerged in the 1980s and 1990s
developed techniques of looking more closely at information seeking patterns of
researches and activities associated with each kind of information gathering process.
This has formed the basis on which this study was carried out.
2.5 MAGISTRATES AND INFORMATION

While reviewing available literature regarding access and use of information by magistrates, limited literature about magistrates was available. However for this study, lawyers, advocates, attorneys and magistrates will be used simultaneously. They all undergo the same training and each complements the other’s duties and responsibilities.

On August 27, 2010 Kenya promulgated a new constitution that ushered in a new set of national values, bills of rights and a new system of government. Under the new constitutional order, citizens have a right to access public information and have leapt out of legal obscurity to claim its place among other constitutional rights such as the right to life and freedom of expression. Public legal information includes:

i. Laws of Kenya
ii. Statutes
iii. Bills of Parliament
iv. Legal Notices
v. Gazette notices
vi. Treaties and International instruments
vii. Judiciary opinions and
viii. Parliamentary Hansards
Information is significant to a human being whether it originates from an external environment or an internal world. Lawyers, judges, and law school students routinely consult librarians to satisfy their information needs. They expect information provided to be:

- **Timely**: The information required is usually immediate.
- **Current**: Many cases are based on precedent; that is how courts resolved similar matters in the past. Arguing a case using outdated laws is not only embarrassing but could be critical to the outcome of the case. They therefore have to keep abreast with legal developments.
- **Accuracy**: information given should be correct since a wrong answer could determine how a case goes.
- **Thoroughness**: the information should be a culmination of a complete and thorough search. The lawyer should be given all requested materials and every effort should be made to address all avenues.
- **Detail**: the lawyer is not only concerned with the wording of a statute but the textual context. Lawyers present facts and therefore information should be provided in detail.
- **Format**: when possible, information should be provided in the original format though they are dictated by the courts.
- **Confidentiality**: since the full details of cases are not always known, all requests should be held in strictest confidentiality. www.kenyalaw.org

### 2.6 INFORMATION AS A RESOURCE

Information has been defined differently by different authors and scholars. Case (2007) defines information as any difference you perceive in an environment or
within yourself. It is an impact that you recognize in your pattern of reality. Therefore when any user of information utilizes available information, it is important that whoever provides the information and whoever seeks the information perceives the content similarly. Both should have a similar understanding of the need of the information required.

Information is an amorphous concept less susceptible to a precise definition that everyone has to deal with in many ways throughout one’s lifestyle. Indeed information can be described as a fifth need of man ranking fifth after food, water and shelter. Kemp (1976), as cited by Sridhar (2006). Leibunnau (1990) on the other hand, states that information is precisely the reduction in uncertainty. It is a pattern or design that rearranges data for instructional purposes. Information is data recorded, classified, organized, related or interpreted with context to convey meaning. Information therefore reduces uncertainty allowing one to choose between two alternatives.

Mbengei (1999) relates the term information and data as sometimes being synonymous. Information supplicates data in context where the emphasis is on the broad, grand or useful aspects such as information processing, information network and information interchange. While information only measures transmitting the sequence (message) produced from the source, data are agreed upon symbols that increase the knowledge of the recipient. The distillation of data through processing creates information.
To the information scientist, information is a dual requirement. On one hand information being the result of transformation of generator’s cognitive structure or being something which can be perceived affects the recipient’s state of knowledge (Ingwersen, 2005). As the saying goes, it takes two to tango. The user has to create the need while the provider has to avail the information in a timely and required format so as to satisfy the need.

The primary activities for lawyers/attorneys are advocacy (with its accompanying legal research), drafting of legal documents, and counseling of clients, negotiating outcomes and managing their practices. All this imply a great deal of information seeking of various types (Case, 2007). The production, modification and dissemination of information are an important activity to any lawyer. Legal practices are based upon the accumulation of intellectual analysis of knowledge base.

Olon (1999), states that successful use of information requires a basic understanding of the institution or jurisdiction. The following aspects are important to understand the use of information by the legal fraternity:

i. Legal rules that are available in a constitution. A constitution determines how a legal framework and laws are created by the legislature, courts and the executive agencies

ii. Rules created by court

iii. Classification of legal categories.
Findings by ASLIB established that these lawyers are involved in complex tasks that require a constructive process of interpreting, learning and creating. To accomplish these tasks, they prefer printed texts over computer databases primarily because computer databases required well specified requests and did not offer options for examining a wide range of information at one time. Lawyers call for an active potential role for mediators in “just for me” services would encompass designing systems to provide a wider range of access more compatible with the process of construction, applying and developing principles of classification that would offer a more uniform system for organizing and accessing rules, and providing direction in filtering the overwhelming amount of information available on electronic resources.

Lawyers use sources of information in different ways throughout the process of construction within a complex task. Initially, sources provide an overview and background knowledge. Then sources enable them to construct a theory or strategy in the case. Finally, they complete their work when they are determined that they have used sufficient information to create a persuasive presentation in court. Several lawyers stated that complex tasks occasionally require sources outside legal literature: for example when addressing medical, environmental or social issues. At times these sources support the constructive process.

All the above definitions regard information as something which is measurable with the value it adds to both the user and the provider. Others may link information to how well the user utilizes it and how timely and appropriate the information is provided to the user. Information may be relevant but if not utilized and delivered in a timely manner, it seizes being valuable to both the user and the provider.
2.7 USER NEEDS

Libraries play a crucial role in our society. They are created and maintained to provide services to users in whatever institution they maybe. Librarians therefore play a crucial role in provision of information to users. They play a crucial role of continuously and critically evaluating the information services offered. The librarian has a role to offer users what they want. Lest they lose relevance to those they serve.

Casey,(2007) states that, librarians should be aware of the user’s needs before implementing any change in the library collection. The users of the library are actually the reason for existence. Their needs form the basis of the library collection hence the need to understand their needs and provide for them. The need to keep both the actual and potential users satisfied can therefore not be understated.

Understanding user needs is an effective and efficient way of marketing library services. When understood the user needs influence behavior of the user. This will enable the librarian understand the target group. The information provider will then be able to fulfill this need with a view of creating a desire for more information.

Decision makers need to know the quality of existing services and whether to discontinue, add or modify library services. They also need to understand if the library services meet the goals and objectives of the information needs. Such an evaluation provides insights into services collected and user satisfaction. Libraries are expected to provide a certain quality of services and meet existing demands while adapting to new ones. (Hermon,1990). An evaluation of the library strengths should
be done to match the users’ information needs that are critical for the library performance and rating.

Mullins (2010) relates information needs to marketing libraries. This entails establishing user needs, investigating which library products and services that are available. This includes satisfying needs, packaging and promoting information while offering value to users: both actual and potential to their specific need.

Communicating with library users is an essential part of librarians work. The main purpose of communicating to library users is increasing information resources and decreasing funds. It is important that the library users’ needs are the pre-requisite to providing good service (Heck, 2001).

Otike (1999) argues that lawyers varied greatly in their use of information. The frequency of information used varied depending on the type of work the lawyer undertook and the experiences they had or they have had in a particular work role and legal area. Regarding types of information required, he found a split between the need for detailed search information and brief factual information obtained from a variety of sources including statutes, case summaries and digests.

Cole and Kuhlthau (2000) in their study conceptualized possible solutions to a case or client problem enabled the expert lawyers to add value to the information they collect. The authors identified four ways in which experienced lawyers’ added value:

i. Experienced lawyers are able to find and possibly exploit facts that might be presented in a certain way in order to seem real to the judge or jury
ii. Value can gain by constructing new knowledge and understanding from the information in order to benefit the client, jury and the judge. Gaining understanding of the key issues in a case allows for gaps in potential opposing arguments.

iii. Funding cost effective data that can be processed into value. Lawyers consulted other lawyers who have handled similar cases.

2.8 INFORMATION NEEDS

Information needs are related to the problems and how they are understood, delimited and formulated. An identified problem creates the urge for one to seek information to solve the arising issues. The information provider can only provide information for an identified problem by the actual or potential user. However there is no identified mental dimension associated with having information need but can be compared to an education need. This removes the mystique from the concept of information need.

An information need is a recognition that your knowledge is inadequate to satisfy a goal that you have. Ingwersen (2005) defines information need as a significance of a consciously identified gap in the knowledge available to an actor. Information need may lead to information seeking and formulation of a request of information.

The need for information comes from a user who thereafter seeks to acquire the information from a source that they deem best. In the quest for information, the user consults whatever sources that is available to meet the need.
Use of information is what drives all information behaviour since it represents the ultimate purpose of which information is needed and sought. This forms the basis upon which consideration of activities such as information seeking or information seeking behaviour of individuals are made, no wonder the question how information will be used? Was the information needed and sought actually used to meet a goal or even solve the problem? To make the connection it is important to involve both the user of the information and the information user.

A wide range of research work is centered on the “use” and use of information called “use and user studies” has cropped up in recent times. The user is the key person in any information seeking system. All the luxuries of information revolution and problems of information explosion and centered on the user and the convenience. Understanding the users is an important and continuous activity. Accurate and up to date knowledge about users and information behaviour is one of the essential ingredients for understanding information needs.

2.9 INFORMATION SEEKING BEHAVIOUR

Information seeking behavior is a broad term which involves a set of actions that an individual takes to express an information need, seek and evaluate information in order to satisfy a need. In order to determine this behaviour it is important that the environment that one seeking information is in, the purpose of the information need, preferred channels and sources of information and even the challenges of access.
Information behaviour relates to the basics of being human. We need information in order to understand how we can fill our needs and survive in the world. Information seeking is triggered by a specific need for information, a gap between the present knowledge and the knowledge needed. Information is essential in order to overcome this gap and make sense of a new situation.

Information seeking behaviour encompasses information seeking as well as the totality of other unintentional or passive behaviour as well as purposive behaviour that do not involve seeking, such as actively avoiding information retrieval systems. Information seeking is a conscious effort to acquire information in response to a need or gap on your knowledge (Case, 2007).

Wilson (2002) defines information seeking as a term of describing the way individuals seek, evaluate, select and use information while interacting with different people, analog tools and computer based information systems. It is also a process in which humans engage in order to advice and potentially alter their state of knowledge. It is an important cognitive process.

He also defines information seeking behaviour as the purposive seeking for information as consequences of a need to satisfy some goal. In the course of seeking, the individual may interact with manual information systems (such as newspapers or a library), or with computer based systems (such as the World Wide Web). Information seeking behaviour results into a recognition of some need perceived by the user, who as a consequence demands for satisfaction from either a librarian, online or any other person.
Today, everyone seems to be seeking for information so as to increase diversity and variety. This has brought about a rise in the growth of the concept of information searching in organizations and for the people too. Information seeking behavior can also be defined as the general model of information behaviour (Wilson, 1997). Information behaviour needs to include at least the following elements:

- An information need and its drivers i.e. The factors that give rise to an individual’s perception of information
- The factors that affect the individual’s response and perception need
- The process or action involved in that response.

Spink and Cole (2004) define information need as seeking as a subset of information behaviour that includes purposive seeking of information in relation to a goal. The construction of information seeking process evolving in stages with key variables stated as relevance, judgments and uncertainty. Information seeking is a human activity dealing with searching for information by means of information sources and interactive retrieval systems. According to research the term information seeking, and its importance in day to day life of a lawyer, holds a variety of concoctions.

Information seeking behaviour is a broad term, which involves a set of actions that an individual takes to express information needs, seek information, evaluate and select information, and finally use this information to satisfy his/her information needs. Information seeking behaviour involves personal reasons for seeking information, the kinds of information which are being sought, and the ways and sources with which needed information is being sought (Leckie, Pettigrew & Sylvain 1996).
Lawyers’ main works are then categorized into four main categories; advocacy, drafting, counseling and managerial. Each of these roles shapes the information seeking process through the nature of the required information and its subsequent use.

Information-seeking is important for lawyers, who have access to many dedicated legal information resources. Otike (1997) argues that, legal information is basic to both lawyers and non-lawyers. Parliament does not enact laws for the exclusive use of lawyers. Lawyers’ information needs are greatly influenced by the nature of the work they do. The scope of each practice determines the specificity of legal information needed for ready reference and research.

Lawyers need to understand the law to enable them to perform the various challenges presented to them in life without worrying about going against. Lawyers, for instance, solicitors, seek information in order to assist in solving legal cases and in order to keep abreast of the law. Legal information helps to create awareness of how the law works and how justice is administered (Okello-Obura and Tuhumwire, 2010).

Otike (1999), notes that experience has a considerable influence on their legal information needs. It is generally assumed that experienced lawyers do not require as much information support as newly qualified lawyers. The lawyers’ needs for information in turn influences their information seeking habits. Lawyers are regarded as “hard core” information users because of their multitasking habits.

Information seeking is an important part of a lawyers work and like many professions; the legal profession needs access to many dedicated legal information resources. The need for information is greatly influenced by the age and experience of the lawyer. It is argued that the older lawyers who are more experienced in legal practice are, the less they need to consult information sources (Otike and Mathews, 2000).
Access to the right kind of legal information is viewed as bedrock for judicial processes success. Legal information is seen as a key element in delivering quality services to the population. But access to the right information depends on knowledge of the information provider. Thanuskodi (2009) asserts that librarians must be aware of the kind of information being sought and how it can be obtained. This makes determination of legal information needs of lawyers very crucial if relevant and accurate legal information is to be provided.

Kuhlthau and Tama (2001) conducted a new study to probe how lawyers acquire and use information as well as complexity and stages of how their information seeking tasks fit together. The study described information seeking process in relation to information needs as a series of the following steps;

i. Initiation –become aware of the need for information when facing a problem

ii. Selection-identifying and choosing a general topic of information seeking

iii. Exploration-seeking and investigating information as a general topic

iv. Focus formulation –fixing and structuring the problem solved

v. Collection –gathering pertinent information for the focused topic

vi. Presentation-completing information seeking, reporting and using the results of the tasks.

Proper legal information seeking depends on careful identification of the needed legal information based on the problems to be addressed and strategies adapted to get the information. Lawyers are information perfectionists who must know the level of authority and the source of everything cited or used in legal argument. They also approach research as information optimists. There is an assumption that a “mirror”
exists or a statute or regulation is on point with a client’s needs. Lawyers are very hesitant to declare something to be a “case of first impression”. By the same token, information professionals have trouble facing the prospect that information does not exist (Shaffer, 2002).

Lawyers are not information isolationists, but rather are anxious to understand the “literature” of all disciplines and use it effectively in advocacy. Increasingly sociology, psychology, the basic sciences and engineering have found themselves embedded in legal inquiry. Lawyers employ principles of qualitative and quantitative research in jury and forum selection. They are also very team-oriented. Legal teams are frequently vertical teams that bring together a group of experts in order to look at all the consequences of an action; yet, they relay simultaneously on being part of another team that is horizontal and hierarchical within their organizations (Shaffer, 2002).

2.10 USE OF ICT BY MAGISTRATES/LAWYERS

As Information Communication Technology (ICT) continues to proliferate, so do they also continue to become a target for government intervention and legislation? Within the legal profession, ICT has been coming on its own as a specialist’s field and a number of firms have been established to cater for the growing number demanding for legal knowledge in this area. Recent legislation aimed at controlling aspects of the Internet and mobile communication technologies and copyright means this exciting area is still in its infancy. Lawyers involved with it are in the cutting edge of interpreting and advising on the new legislation.
Some lawyers are of the opinion that legislation violates the freedom of information and communication the Internet has helped facilitate, the truth is that commercialization of the medium has resulted in the need for a range of security, privacy and compliance issues to be regulated. E-lawyers are playing a viable part in ensuring that legislation is passed and known to the public.

Information Communication Technology (ICT) is an umbrella term that includes all technologies for the manipulation and communication of information. The work of legal practitioner involves a high level of documentation and information processing, storage and retrieval. To a lawyer the tools and technologies that would speed up documentation, management and information handling, value of accuracy, correctness, completeness, relevance and information handling are professionally necessary. These values are characteristics of information which ICT systems generate to meet lawyers information needs (Owoeye, 2011).

Omekwu (2011) observes that the use of digital technology has led to migration of lawyers instruments of trade to electronics formats. Judicial decisions and all other sources of information to the work by lawyers are now available in electronic format. Many of these materials are accessed online.

ICT is impacting different sectors of the Nigerian economy especially in legal profession. Due to the importance of ICT in the development of Nigerian legal system, there is a paradigm shift from acquisition of print information resources to electronic resources in law libraries. The effective adoption and use of ICT in law libraries will be immensely beneficial for sustainable development in Nigeria by
ensuring that relevant and current information is made available for legal practice for enhanced productivity (Eke, 2006).

Recent developments in Information and Communication Technology (ICT) in the context of the need of groups of knowledge workers such as lawyers who use the needs of groups of knowledge workers such as lawyers who use ICTs to form knowledge networks have created a new management dilemma. The work product of law firms relies greatly on the ability of lawyers to do legal research. Legal research generally entails information seeking that involves lawyers using information technologies to maintain control over information and to improve service provision. This control in the legal information service market sets the legal profession apart in the sense that it is a profession identified with a theoretical body of specialized knowledge which assumes academic training as a requirement in order to master this information.

In order to deliver accurate legal services, law firms can apply to a variety of tools and technologies to streamline the process of legal work and reduce costs. ICT can be used to improve accessibility, retrieval and storage of information and to facilitate knowledge sharing between people to their own advantage.

Studies in South Africa have established that law firms utilize key technology infrastructures such as intranets, document management systems and electronic communication systems. The potential value of using these to improve legal practices management, empower lawyers to increase productivity, use time more efficiently,
facilitate transfer of skills and knowledge to legal professionals to improve legal service deliver and gain a competitive advantage (Plessis, 2011).

### 2.10 LEGAL RESEARCH

Research is the process of looking through information to find the answer to a question. The purpose of legal research is to find “authority” that will aid in finding a solution to a legal problem. Primary authorities are the rules of law that are binding upon the governments and individuals. They are generated by legislation, courts and administrative agencies. Secondary authorities are commentaries on law that do not have binding effects but aid in explaining what the law is or should be.([www.law.cornell.edu/wex/legal_research](http://www.law.cornell.edu/wex/legal_research))

In years past, legal research took place in one place, a law library. Legal research looks very different today, however, for a variety of reasons. One is that courts, recognizing that many litigants represent themselves and need access to resources to help them do that have become more user friendly. Book publishers, lawyers and other professional organizations have all recognized the value of providing information directly to consumers who will hire or use their products. The Internet also allows one to find information on all kinds of legal topics hassle free (Elias, 2009).

Legal research involves identifying a broad category before searching for specific information. Once this is established, appropriate, background resources that include encyclopedias, legal journals, dictionaries etc are identified. The following steps can be used to initiate any form of legal research:
i. Formulation of legal question

It is important to start knowing what are you looking for?

ii. Categorize your research topics

Categorizing research topics enables one describe the various varieties

iii. Find appropriate background resources

Before starting any legal research task one needs an overview of the legal issues connected to the questions and how the larger legal fabrics fits in.

iv. Lack of statutes


The main players in this industry of online research are LexisNexis (www.lexisnexis.com) and Westlaw (www.westlaw.com). The invent of legal information research websites in addition to using search engines and general government sites to get legal information provide access to many legal resources and can limit results to legal resources topics, section of documents, year and host of many other factors (Elias, 2012).

Law is dynamic, growing, complex and often elusive. What is law today may be history tomorrow. Gaining understanding of the law is a challenge with many issues to consider and details to check. Law has a role to bring order in chaos and ease societal pressures. Legal research is different from other research in other disciplines since it has different vocabulary, different forms of law, jurisdiction of authorities and hierarchies of importance and their never seems to be a definite answer. Legal research is a way of life for lawyers. To succeed one needs information, confidence
and practice. The growth of legal material online means that important legal resources are now available to everyone with Internet access (Pauwel et al 1999).

Generally law is enacted to regulate the human conduct for the welfare of humankind. It is considered that law should be enacted to protect the interest of a person, society and the country as a whole. The goal of legal research cannot be distinguished from the goal of law. As law is directly related with social science research also automatically related with research of social science. Legal research is not limited only to the analysis of criminal behaviour, activities of the public, court, public prosecution, etc it also includes protection of the environment and development as well. As a result research plays a crucial role for the welfare of humankind and is more important than others to bring positive change in our society and the whole of mankind (Shretha, 2003).

2.12 CHALLENGES MAGISTRATES FACE WHILE USING INFORMATION

1. Technological challenges

The use of technology presents a number of challenges for employers generally and special challenges for attorneys and law firms. Law firms face challenges regarding compliance with professional responsibility requirements and avoidance of malpractices.

Improper use of technology by lawyers can lead to ethics violation, breach of attorney’s ethical privilege and potential malpractice liability. An important concern when using technology is protection of client confidentiality that relate to representation of the client, as well as the narrower area of protecting privileged
communications and work product. Technology can impact professional responsibility requirements in other areas such as online and email advertising, provision of legal advice online, informing unintended attorney-client relationships electronically and unauthorized practice of law by transmitting legal advice or communication to persons in remote jurisdictions. Attorneys can also commit malpractices electronically through inappropriate transmission of metadata with electronic documents, breach of confidentiality or loss of privileged by inappropriate forwarding of errors of electronic filling.

The growth and use of email in the recent years has caused a risk in using information by attorneys. They include:

a. **Lack of confidentiality**
Risks are associated with interception or unauthorized access on both the sender and recipients computers and networks. This risk is compounded by the potential for access during storage of electronic communication in these locations, which can continue long after an email has been sent.

b. **Authenticity**
General absence of definite sources

c. **Integrity**
Risk of tampering and alteration

d. **Informality**
Tendency to treat email communications as informal and casual

e. **Inappropriate instant responses**
There is a temptation to immediately respond to email even when research deliberation or consultation is appropriate (Nelson, et al, 2006).
In a study carried out by Makri (2008) to find out how difficult it is to find information by academic lawyers when using digital law libraries such as LexisNexis and Westlaw, it was found that much of the difficulty arose from poor knowledge of the digital library system itself rather than poor research skills in general. The academic lawyers face challenges regarding knowledge of the similarities between individual digital law libraries might well play a part in their incorrect assumptions about the way individual systems work. The study suggested the need for academic lawyers to gain an understanding in order to appreciate the situations in which different electronic resources might be useful.

Digital libraries have the potential to be both barriers and gateways of knowledge. Digital libraries should therefore be designed not only to help users progress in their information journey but also support users in getting to grips with systems along the way.

2. Problems of Accessing Legal Information

Lawyers like any other users, experience challenges in satisfying their information needs. Makri (2008) agrees that there is a challenge in accessing current information since legal practitioners work in an environment that keeps fluctuating and so as to increase the sources of legal information. The wealth of legal information spans different types of documents a wide range of legal topics areas and a range of jurisdictions (Tuhumwire and Okello-Obure, 2010).
Legal practitioners spend considerable amounts of time looking for information sometimes due to lack of skills to access legal information. Sometimes the problems are with the information providers. Greer and Hale (1982) as cited by Tuhumirwe and Okello-Obura (2010) assert that libraries provide services on three levels: passive, reactive and assertive (proactive). A passive collection lies in wait for the chance user, a reactive library is happy to answer requests while a proactive library is one that takes time to know its primary clientele, anticipate their users and consult with them regarding material. Unfortunately, majority of the information providers are passive or reactive. This state of affairs forces the users who are not satisfied to begin the information seeking process again or to redefine the information need. This is time consuming since information has to be available whenever and wherever it is needed.

3. Methods of Selecting Legal Information Sources

Lawyers face challenges when choosing legal information resources. Lawyers tend to rank their information resources based on own perceptions or use firm criteria or mechanism when searching for information to make the information relevant and as precise as possible (Ellis and Haugan, 1997). Lawyers tend to filter information based on the level of the court on which a case was decided rather than report the series it was written in. Ways of filtering information include:

a. Level of court that a particular legal case was reported

b. Date the case was heard, piece of legislation introduced or amended journal published

c. Title of a particular legal journal, article or piece of commentary

d. Author of a particular legal journal article

e. Source in which query search terms are mentioned within the document
4. Other Criteria Affecting Access to Legal Information

Makri et al (2008) compound the problems to include:

a. The subject and nature of the content of the resource
b. Structure of the content
c. The perceived comprehensiveness of coverage of the content
d. Prior positive experiences that the user has had with the resource
e. User’s familiarity of the resource
f. Whether the resource has been recommended by others or not

Legal information providers need to have elaborate mechanism to determine the legal information needs, associated hindrances to access and ensure that are handy means to access resources from any selection angle applied to lawyers.

2.13 SOURCES OF LEGAL INFORMATION

There are many sources of law in any society. Some laws will be written in the country’s constitution, others will be passed by the legislature while others will come from long social traditions. In the recent past the most recognized source of law were law libraries. However, developments in the recent past created other sources and thus an understanding of these sources is core to any law practitioner. These are discussed herein;

a. Internet

The internet allows us to find information on all kinds of legal topics without the hassle of going out to a law library. The internet is useful at every stage: when
seeking general information about a topic, when you are zeroing in on specific legal information or when you are trying to figure out what to do with the information you have uncovered.

Conducting legal research on the Internet can be efficient and thorough than doing the same in the library. If focus is narrowed on searches, you can get reliable and comprehensive results. The following can be considered when using the internet:

**Court Website**

Court websites are a great source of information on a variety of legal topics. They also provide access to primary sources like court opinions and rules.

**Legislative Websites**

State legislative websites have online information about Bills under debate or consideration or recently passed. Current statutes or potential changes may also be cited.

**Administrative Agencies**

Administrative agencies also provide access to various sources of legal information. One can retrieve relevant citations either by typing in citation numbers or searching with keywords (Elias, 2012).

**b. Search Engines**

Search engines are a common tool used to find relevant information for almost any topic: legal topics are no exception. The software used is usually based on an index of all words in the indexed documents on the Internet, so they do a similar job to putting indexes off the shelf and reading through them on a much bigger scale through a very complex process.
Automatic indexes generated are very thorough and often produce more results than what is needed and some maybe unreliable and irrelevant. Among the common search engines that are used are Yahoo and Google.

Use of Boolean searching limits the Internet to ensure that only relevant results are generated. Boolean logic is a mathematical formula that read specific words and symbols with a view of narrowing searches.

c. Legal Research Websites
Besides the sources discussed above, legal research websites also serve as a source of legal information. LexisNexis and Westlaw are the world leaders in the provision of online legal information. These sites provide access to almost any legal resource you can imagine. They have sophisticated search tools that allow quick and narrow searches by setting limited criteria in form of “queries”.

d. Customary Law
In developing countries especially those colonized in the 1940s and 1950s, the law is generally a mixture of law introduced by the former colonial power and customary law which existed colonization. Customary law often takes priority in certain areas of life.

Today customary law is derived from the morals, values and traditions of indigenous ethnic groups. However they are heavily influenced by other sources such as Islamic and Christian values, central government administrative policy, proceedings of
superior courts, customary court records where these are kept, and district councils and chiefdoms by law (Kaane, 2005).

Customary law presents the question of interpreting, applying and enforcing the emanations of interpreting and applying the interpretation that is a part of the law. From an African perspective, customary law of a particular society or segments thereof signifies the corpus of norms or rules of this community in which they apply consistent with the social obligations this community has created for itself (Mwalimu 2005).

e. Legal Encyclopedia

Legal encyclopedia cover national and state jurisdiction and are good starting points for research in unfamiliar areas of law. These is a secondary source that is arranged alphabetically into many broad legal topics which are further subdivided into sections that provide researchers with useful commentary on the law and acquaint them with legal jargon.

They are a source of information as they form the basis for brainstorming useful search terms for particular topics. They also help formulate subject indexes as one looks for a topic California Legal Research Guide, (2012).

According to the Georgetown Law Library website, legal encyclopedias can be quite useful as a general introduction to an area of law which is fairly new to the researcher. They provide more in-depth information than legal dictionaries while being nearly as accessible and easy to use. Encyclopedias have a way to find citations to a case and
other useful materials on a particular issue. However, legal encyclopedias are not intended to be used as authoritative sources of law in any area and thus are not cited on briefs, memoranda or scholarly papers.

f. Law Reviews and Journals

Law reviews and journals provide yet another source of information. They discuss traditional area of law and though not exhaustive of all case law, they provide a level of analysis that argue one side of an issue and can therefore be helpful in marshaling arguments for why a line of a case or a statute should be changed or followed in a particular case (Larsen and Bourdeau, 1997).

g. Constitution and Statutes

Constitution and statutes occupy the highest rank in the hierarchy of authority. Constitutions are the highest forms of legal authority followed by statutes.

A constitution is a document that establishes the legal structure of a state or nation and the basic legal principle that controls the operations of the government and conduct of its citizens. Statutes are the laws enacted either by a federal or state legislature. The business of the legislature is to enact laws. Statutes are formed by both state and federal as well as municipal or county ordinance and charters.

A country’s constitution is a set of fundamental ground rules setting out the powers of different branches of government and how the organs of government operate and interrelate. The constitution overrides any other source of law. It is usually difficult to
amend. In most cases a judicial court which considers constitutional matters namely law, regulations or administrative act is inconstant and therefore void.

Statutes are primary sources of authority because codes and statutes are the laws created but the legislature. They are the authorities to rely on when researching. Statutes are enacted to control conduct like criminal acts, relationships and aspects that frequently occur in our society. Court decisions applying and interpreting statues already enacted must be consulted to assess how a statute has been applied and analyzed.

h. Treaties

Host countries may be subject to laws made by a regional or world grouping by becoming a signatory to a treaty. It is unlikely that a country could amend the rules easily. Regulations are created to direct applications in the respective member states legal systems and will take precedence over each member’s nationality.

Treaties can be divided into three main categories:

*Multilateral treaties:* This type of treaty is open to all states of the world. They lay down rules of behaviour (laws) that tend to be a fundamental and “norm-creating” character. They form the basis of general rules of law.

*Collaborative Mechanism Treaty:* They establish mechanism by which states can regulate or manage a particular activity. They tend to lay out a specific purpose or objective and then back it up with legal principals. They tend to have an institutional and administrative character that allows them to oversee various areas of activity.
**Bilateral Treaty:** Made between a small number of states and are often in contractual terms in which parties mutually exchange rights and obligations (*intiblawg-wordpress.com*).

### i. Judicial Precedent

Judicial precedent means decisions of judges laying down legal principles for cases coming before it. The doctrine of judicial precedent is the heart of common law systems of rights and duties. The courts are bound (*with prescribed limits*) by prior decisions of superior courts.

Adherence to precedent helps achieve two objectives of the regime of stable laws that afford a degree of security for individual rights. Secondly, it ensures the law develops only in accordance with the changing perception of the community and therefore accurately reflects the morals and expectations of the community (*www.ourcivilization.com*).

Precedents form a source of law by looking at existing precedents making it possible to forecast on what decisions will be made and thus plan accordingly. Precedents form uniformity of law that is ideal for the system as a sense of justice to make the system acceptable to the public. Judicial precedent is also flexible and enables a system to change and adapt to new situations. They are practical in nature and detailed. (*www.lawteacher.co.uk*)

### 2.14 SUMMARY

Judicial operations worldwide are guided by information that is availed to the litigants, prosecution and the judicial officer. Access and use of information to the
above provide the basis for a smooth running judicial system that forms the basis for
good governance, law, justice and cohesiveness amongst the people. Though
amorphous as it maybe, the crucial role of information cannot be understated since
information lubricates the end that justifies the means as it were.

Library collection development policies should be guided by users information needs.
An understanding of users’ needs that are guided by the cases that the magistrates are
dealing with at that time to enable provision of relevant information aimed at
achieving a certain goal: in this case timely dispensation of justice. Recognition of the
information seeking behaviour that is aimed at achieving a certain goal should be
satisfied by the information provider with a view of facilitating the respective
magistrate perform their respective duties.

Diverse sources of information brought about by the rise and growth of technology
that avails information in real-time has indeed created an urge for more information.
Magistrates want to be aware of happenings globally thus the need to avail it as the
need arises.
CHAPTER THREE
RESEARCH METHODOLOGY

3.1 INTRODUCTION
This chapter covers the research methodology used in the study. This includes the research design, population sample and sampling techniques, tools for data collection and techniques for data analysis. Qualitative research using the case study method was discussed.

3.2 RESEARCH DESIGN
A research design is a work plan that details what has to be done to complete a project. The function is to ensure that the evidence contained enables one answer the initial question, to test a theory or to evaluate a program or to accurately describe a phenomenon. A research design is a way proceeding through research process (www.deakin.edu.au).

The researcher used qualitative research method with a case study design to conduct this study. Qualitative research provides a brand explanation for behaviour and attitudes which the research intends to explore. Creswell (2009), states that qualitative approach to research provides an overall orienting lens for study in questions of gender, class, race, etc. This is done by presenting an advocacy perspective that shapes the question while informing how data is collected, analyzed and provides a call for action or change.
3.2.1 Qualitative Research

Qualitative research is broadly defined as “any kind of research that produces findings not arrived at by means of statistical procedures or other means of quantification, (Strauss and Corbin, 1990)

A good qualitative study enables one to understand a situation that would otherwise be enigmatic and confusing Eisner (1992). Healy and Perry (2000) assert that the quality of a study in each paradigm should be judged by its own paradigm terms. The consistency of data can only be achieved when the steps of the research are verified through examination of such items as raw data reduction and process notes (Campbell, 1996).

A qualitative approach is participatory knowledge, claims a narrative design and open minded interviewing. The use of qualitative research in this study enabled the researcher to construct knowledge. The research provided the channel by using interviews, observation study and review of documents. The researcher played the role of an elevator of the challenges faced by this group of respondents.

Qualitative method of research brought into focus emerging issues with a view of searching substantial solutions to the problems the magistrates faced. The method connected the two: the researcher and the information user since making the process more effective.

As Quiin (2002) stated, qualitative method of research is inductive, naturalistic inquiry strategy of approaching a setting without a pre-determined hypothesis.
Understanding and theory emerge from fieldwork experiences and are grounded in the data. It used in-depth interviews which are not necessarily based on pre-conceived hypothesis. This was relevant to this study since theories and patterns were developed to enable the researcher appreciate and understand the information users better while providing the required information. The use of semi-structured interviews, focus groups and participants played a major role too.

While using the qualitative research, the researcher understood the challenges well because of the involvement of the user/respondents. Qualitative research enabled the researcher understand the behaviour of the magistrates since it was interactive. The researcher had an opportunity to have one on one session with the magistrates in respective chambers while observing how and when information was accessed and used. As a result the researcher was able to understand the situation better. The researcher observed each magistrate for an hour for three days when they were writing and researching for authorities to direct them in judicial decisions.

Qualitative research allowed for inductive analysis of data since that were formulated before the research commenced. This was made possible because the emerging issues were formulated by the users/subject own findings thus making the process flexible. Based on the researcher’s assumptions, it was found that information is key for any judicial officer to effectively manage the work assigned to them and that without provision of adequate information their output was below par.

The researcher carried out the study in the subjects’ natural settings. This was possible since the interviews were carried out in the respondents’ chambers. As a result there
were no pretenses or manipulation of responses. The research findings reflected exactly what was happening on the ground as the study was interactive, that is data collection and research questions. The approach increased opportunities for more relevance and interest under study.

3.2.2 Case Study

Creswell (2009) states that case studies are a strategy of inquiry in which the research explores in depth a program, event, activity, process or one or more individuals. Case study allowed the research to make in-depth investigations into various characteristics of small number of cases, over a specific period of time. The data collected was detailed, varied and comprehensive in nature while investigating the social unit as an entity.

The overall purpose of the case study was to obtain comprehensive information about the research object in this case magistrates. Emphasis was laid on the full analysis of a limited number of events or conditions and their interrelations. Kothari (2005), states that it’s an essentially intensive investigation of the behaviour patterns of the unit as an integrated totality. The objects of the case study included the Judiciary library, online resources, and information materials in respective chambers, registries, archives and word of mouth.

Creswell (1994) opinionates that in a case study, a single person, program, event, process, institution, organization, social group or phenomenon is investigated within a specified time frame using a combination of appropriate, data collection devices.
3.3 STUDY POPULATION

A population is any group of institutions, people or objectives that has at least one characteristic in common. The target population was explicit and unequivocal as defined; otherwise the target population after the study would be untrustworthy. The target population consisted of all categories of magistrates in Nairobi. They consisted of chief magistrates, senior principal magistrates, principal magistrates, resident magistrates and district magistrates. The Nairobi High Court jurisdiction consists of four law courts namely Nairobi High Court, Kibera Law Courts, Makadara Law Courts and Milimani Commercial Courts. These courts are spread all over the Nairobi Law Courts area jurisdiction. In total, there were 47 magistrates in Nairobi.

Table 1: Study Population

<table>
<thead>
<tr>
<th>RANK OF MAGISTRACY</th>
<th>POPULATION</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Magistrate</td>
<td>5</td>
<td>100</td>
</tr>
<tr>
<td>Senior principal magistrates</td>
<td>3</td>
<td>100</td>
</tr>
<tr>
<td>Principal magistrates</td>
<td>16</td>
<td>100</td>
</tr>
<tr>
<td>Senior resident magistrates</td>
<td>10</td>
<td>100</td>
</tr>
<tr>
<td>Resident magistrates</td>
<td>9</td>
<td>100</td>
</tr>
<tr>
<td>District magistrates</td>
<td>4</td>
<td>100</td>
</tr>
<tr>
<td>TOTAL</td>
<td>47</td>
<td>100</td>
</tr>
</tbody>
</table>

3.4 POPULATION SAMPLING

In research a sample is a group of people, objects, or items that are taken from a larger population for measurement. The sample should be representative of the population to ensure that we can generalize the findings from the research sample to the population as a whole. To draw conclusions about populations from samples, use of inferential
statistics, to enable determine a population’s characteristics by directly observing only a portion (or sample) of the population was considered.

A sample is a subset of the population. The sample population refers to an individual events or objects with observable characteristics. Since the population of magistrates in Nairobi was small, sampling was not done. The entire population was involved in the study.

3.5 DATA COLLECTION METHOD

Data collection and data analysis were done at the same time. The process basically involved classification of findings, events and persons involved. Data was analyzed using computer software. During the data analysis, the data was categorized and chronologically organized, reviewed repeatedly and continually coded. Computer software was used to analyze the data.

The first step was to design interview schedules that were used when carrying out interviews. The aim, objectives and research questions of the study formed the basis of the schedules. The study made use of semi structured interviews for data collection. The study used a semi-structured interview schedule as its tool for data collection.

3.5.1 Semi Structured Interviews

A combination of closed and open ended questions was included in the interview schedule. Semi-structured questions are vital in a qualitative research. Sekeran (2007), states that semi-structured interviews allow the interviewer to enter into the interview
setting without a planned sequence of questions to be asked of the respondent. The objective was to bring some preliminary issues to the surface so that the intervention determines what variables that need further in-depth investigation.

Open-ended questions drawn from the objectives of the study provided adequate information for answering the research questions. Characteristics of semi-structured interviews were:

- Interviewer and respondents engaged in a formal interview
- Interviewer developed and used an interview guide
- Interviewer followed topical trajectories in the conversation that may stray from the guide when he/she feels appropriate
- Involved many open ended questions, although may also contain some closed questions.

3.5.5.1 Justification of Semi-structured Interviews

Since the study was descriptive it required an in-depth analysis. It was an inquiry into the work done by magistrates in Kenya hence the need to use a tool that will meet the specific objectives of the study.

Furthermore, the nature of work for magistrates requires that they are the ones who question and dictate how a session goes in court. Interviews had them respond to the issues the researcher thought hindered access and use of information at the Law Courts. Interviews provided for such an avenue for interaction and openness in the conversation.
3.5.2 Documentary Sources

The study used both secondary and primary available documentary sources. Documentary sources included both raw and published data. These included journals, thesis, government reports, newspapers and directories. Documentary sources enabled the research to appreciate and evaluate what other institutions and persons had documented on the area of the study that formed the basis of the research.

3.5 VALIDITY AND RELIABILITY OF RESEARCH INSTRUMENT

Validity and reliability are important since they measure outcomes. If the data collection instruments are not valid and reliable then the results collected will always be in doubt and the findings of the study maybe challenged (Cargan, 2007).

Validity is the most important idea to consider when preparing or selecting an instrument for use. Validity is defined as referring to the appropriateness, meaningfulness and usefulness of the specific inferences researchers’ make based on the data they collected (Fraenkel and Wallen, 2000).

Validity determines whether the research truly measures that which it was intended to measure or how truthful the results are. It is the extent to which the instrument measures what it purports to measure.

The concept of validity is described by a wide range of terms in qualitative studies. This concept is no single, fixed or a universal concept, but rather a contingent construct grounded in the process and intentions of particular research methodologies and projects (Winter, 2000).
Reliability on the other hand is the extent which the data collection too in this case the interview schedule produced the same results on repeated trials. It is the stability of consistency of scores over time or repeated trials. Reliability refers to the consistency of the scores obtained. How consistent are they for each individual from one administration of an instrument to another and from one set of items to another (Fraenkel and Wallen, 2000).

Reliability of an instrument is confirmed when it is able to deliver consistent results time after time Cargan (2007). The question being asked determines the results when a retest of the dependent variables produces similar scores. Neuman (2003), is of the opinion that “reliability means dependability of consistency and that qualitative studies use variety of techniques to record such observations”.

The interview schedule was presented to magistrates in other stations other than Nairobi. The magistrates helped determine both the validity and reliability of the interview schedule. The results of the initiative were similar and thus reflected the expected output.

3.7 PRE-TESTING RESEARCH INSTRUMENTS

Draft interview schedules were sent to magistrates in various court stations. The magistrates who were involved included one chief magistrates, one senior principal magistrates, one principal magistrates, one senior resident magistrates, one resident magistrates and one district magistrates drawn from Mombasa, Kisumu, Machakos and Kitale Law Courts.
The findings of the pre-testing enabled the researcher to edit the interview schedule so as to enable the respondents have a better understanding of the questions and respond with ease. The pretest interview schedule results were more or less what were established by the study with very few alterations.

3.8 DATA COLLECTION AND ANALYSIS

Data collection and analysis were at the same time. The process of data analysis involved preparation of data, understanding of the data, data representation and making meaning of the data.

Actual Data Collection

After getting the necessary approvals to undertake the study, the researcher made appointments with the various respondents. The interviews were done at varied intervals.

All interviews and data recording were done by the researcher herself. A semi-structured interview schedule was used as a guide on questions that were asked as the personal interview was asked as the personal interviews were carried out. Though the magistrates were known to the researcher, formal introductions and the objective of the interview were well stated to respondents to formalize the interview process.

The interviews were carried out in a flexible environment with only questions asked at a time while probing when the researcher felt that the response was not exhaustive. The responses were recorded on the interview schedule sheets. The exercise was
carried in a friendly, courteous and unbiased manner while avoiding irrelevant questions from the respondents.

Interviews were mainly conducted in English and they lasted for half an hour or an hour. The research lasted a period of four months from July-October, 2011.

Data Analysis

According to Mugenda and Mugenda (2003) qualitative data analysis seeks to make general statements on how categories themes of data are related. Data collection and analysis in this kind of research go hand in hand.

Technically the process of data analysis referred to computation of certain measures along with searching the pattern of relationship that exists among data groups. The process involved editing, coding, classification and tabulation of the collected data for analysis. However, Saunders (2002) states that the richness associated with qualitative data cannot be in a standardized way. Data will be classified into categories before it is analyzed. This involves collecting open-ended data based on asking general questions and developed analysis from information supplied by participants. The following steps were followed during the data analysis process.

Organization of data

The process involved transcribing interviews, editing, field notes, sorting, arranging the data into various types depending on the source of information.
Creation of categories, themes and patterns

The researcher distinguished data from each other by establishing relationships amongst categories. Codes/categories were generated both manually and using computer software. After making sense of the responses the researcher wrote notes and thoughts at this stage.

Coding process

This is the process of organizing the materials into segments to make meaning. After making sense of some of the responses and getting meaning, the thoughts were written on the margins. Thereafter a list of topics were clustered and arrayed as major topics.

Descriptive words were assigned to the topic and categorized showing relationships. Respective data was put together for analysis. Codes were used to present a particular phenomenon.

Description

The description was generated from the coding process. This involved a detailed description of information about the people, places and events in a particular setting. Themes were generated from the major findings and created respective sections of the study. They represented multiple perspectives of diverse findings.

Interpretation of data

After coding and describing the data, the researcher evaluated and analyzed the data. Meaning was derived from the formulated theories. The evaluation created usefulness of the information in regards to answering the research questions.
Data Presentation

Meaning was derived from the formulated theories. The data was then analyzed using tables.

3.9 DATA ANALYSIS PROCEDURE

Data analysis was done based on the objectives and research questions of the study. The researcher scrutinized common phrases that were used repeatedly by the respondents. The data collected was then analyzed using descriptive statistics to determine frequencies as the percentages were calculated using tables, graphs and charts. This was done using computer software.

3.10 ETHICAL CONSIDERATIONS

Ethics emerge from value conflicts and therefore a decision in research involves a potential compromise of one’s value for another. Therefore, the researcher tried to minimize risks of participants, colleagues and society while attempting to maximize the quality of information produced.

While carrying out the research, it was important that various ethical issues were observed. As an employee of the institution under study the researcher took responsibility to protect the research respondents: develop trust with them; promote integrity, guard against misconduct and impropriety that might reflect wrongly on the organization and challenging problems. This was done by playing an impartial role by not influencing or coercing respondents who are work colleagues.
During formulation of the research problem the following ethical issues were addressed:

- Ensured privacy and confidentiality of respondents
- Voluntary participation of the respondents and sought their consent
- Respected participants and avoided marginalization.

Ethical issues in purpose and questions were considered too. The problem statement and research questions were central to the intent of the research. It was important to ensure that both the respondents and the researcher read from the same script and understood the purpose. Respondents were made to understand and acquaint themselves with actual reasons for the study. They were informed that the study aimed at improving service delivery in their work environment.

In order to address issues relating to data analysis and interpretation the researcher had to communicate high integrity levels. Failure to observe ethics would have opened unwarranted questions, since lack of objectivity would have distorted the conclusion and findings.

Ethical issues were also considered while disseminating the research findings. At this stage ethical issues of confidentiality and anonymity were maintained:

- Proper language that was not biased to any group of persons was used.
- Falsification of data or inventing data to meet the audience needs was not tolerated
- The findings were not be used to manipulate others or used for the advantage of others.
3.11 SUMMARY

The focus of the chapter was on the research method used in the study. This included the research design that was qualitative using the case study method, all the targeted respondents were involved in the study and thus sampling was not required. The data collection method and analysis were done based on the responses derived from the interview schedules. The chapter discussed ethical issues considered during the study too.
CHAPTER FOUR
DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1 INTRODUCTION

This chapter analyses and interprets data that was collected from the respondents. The study sought to investigate the use of information by magistrates at the Nairobi Law Courts; with a view of proposing strategies to improve its access and availability. The specific study objectives were to establish the work magistrates at the Law Courts do, ascertain the relevance of information provided to magistrates by the High Court, establish their information needs and seeking behaviour, establish the extent to which their needs are met by the information services at the Law Courts, Nairobi, establish whether magistrates have adequate information retrieval skills to make effective use of information resources at the Nairobi Law Courts, ascertain the challenges they experience while seeking information and propose solutions to the challenges experienced by the magistrates.

The following sub-themes were covered in this study:

i. Structure of the Judiciary

ii. Activities that magistrates are involved in

iii. The information needs of magistrates at various cadres

iv. Sources of information used by magistrates

v. Information systems available to magistrates in the Law courts

vi. Accessibility of information by magistrates in the Law courts
4.2 THE COMPOSITION OF PERSONNEL IN THE MAGISTRACY CADRE AT THE NAIROBI LAW COURTS

The composition of the personnel at the Law Courts is shown in Table 2 below.

Table 2: Respondents Profile

<table>
<thead>
<tr>
<th>RANK</th>
<th>NO. INTERVIEWED</th>
<th>% OF MAGISTRATES INTERVIEWED</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHIEF MAGISTRATES</td>
<td>5</td>
<td>100</td>
</tr>
<tr>
<td>SENIOR PRINCIPAL MAGISTRATES</td>
<td>3</td>
<td>100</td>
</tr>
<tr>
<td>PRINCIPAL MAGISTRATES</td>
<td>13</td>
<td>81</td>
</tr>
<tr>
<td>SENIOR RESIDENT MAGISTRATES</td>
<td>8</td>
<td>80</td>
</tr>
<tr>
<td>RESIDENT MAGISTRATES</td>
<td>9</td>
<td>100</td>
</tr>
<tr>
<td>DISTRICT MAGISTRATES</td>
<td>4</td>
<td>100</td>
</tr>
<tr>
<td>TOTAL</td>
<td>42</td>
<td>94</td>
</tr>
</tbody>
</table>

According to Table 2 above, forty seven respondents were targeted out of which 42 were interviewed. The statistics indicate that the principal magistrates were the majority followed by senior resident magistrates, totaling ten while district magistrates were the least.

Out of the targeted 47 respondents (100%) only 42 were interviewed due to inevitable circumstances which sum up the overall response at 94%. 4 others did not participate in the interview they constituted (6%) of respondents. The following reasons can be presented for the magistrates who missed out; one senior resident magistrate failed to
avail herself for the interview claiming that she had a busy schedule in court, while one of the principal magistrates was transferred from Nairobi during the interview period and was not replaced. Another was un-cooperative while two resident magistrates were on official trip overseas. From Table 2, above all the chief magistrates, senior resident magistrates, resident magistrates and district magistrates were interviewed. This could be attributed to the fact that they were keen to know the findings of the study.

The administrative responsibilities maybe duplicated across the board to all levels of the magistracy. The various courts have assorted jurisdiction and due to understaffing or other inevitable reasons, magistrates in lower cadres are responsible for administrative duties within the respective court jurisdictions.

4.3 PERIOD SERVED IN THE JUDICIARY

The study sought to establish the period respondents have worked in the Judiciary with a view to understanding how it has influenced their information needs. Figure 3 below analyses the responses.
Figure 4: Years of service in the Judiciary

The study indicates that majority of the respondents have worked for the Judiciary for more than 5 years. Based on this, the study established that magistrates’ understood how the judicial system works and they were competent enough to make proper judicial decisions and rulings. As earlier stated, the Kenyan Judiciary uses common law that is based on precedent. The more the period of service the better the knowledge and understanding the judicial officer has with regard to what information is relevant to make judicial decisions. Use of such information reduces backlog in the courts since it curtails the number of appeals by dissatisfied litigants.

4.4 LAWS THAT GOVERN MAGISTRATES JOBS

Chapter 10 of the Laws of Kenya establishes Magistrates Court. The Act establishes the following courts that govern the Magistrates as they perform their duties:

1. Chief magistrates’ court
2. Senior principal magistrates’ court
3. Principal magistrates’ court
4. Senior resident magistrates’ court
5. Resident magistrates court and
6. District magistrates court

Magistrates have and exercise jurisdiction of powers in proceedings of a criminal nature, as are for time conferred to the court. They are guided by the Criminal Procedure Code Act or any other written law. However, there is a provision for further appeal at both the High Court and Court of Appeal.

4.5 DUTIES PERFORMED BY MAGISTRATES

Magistrate courts derive their authority from the Magistrates Court Act (Cap10). They are mandated to handle both civil and criminal cases depending on the rank of the magistrate. The higher the rank the bigger the cases they are expected to handle. Magistrates’ courts are subordinate to the higher courts such as: the High Court, Court of Appeal and the Supreme Court and are duly constituted when held by a magistrate at whatever rank. They have jurisdictions across the country.

Magistrates in the courts especially those in higher ranking also serve as administrators of the respective courts and court records. They are referred to as Deputy Registrars. Amongst the duties they perform are allocations of dates for hearing, signing or authenticating court decisions, communication with various authorities both internal and external and are also involved in the daily administration of the courts.
4.6 RELEVANCE OF INFORMATION TO MAGISTRATES

The study established that information as a resource is of great importance to the respondents. A total of twenty eight, (60%) respondents considered information very essential in effecting judicial decisions. They viewed information as a lubricant in dispensing justice. Upon equipping themselves with the necessary information, one is able to give ruling on admissibility of evidence fairly. It is important to be fair in ruling by getting relevant facts from evidence and relating the case with past rulings supplied from various sources of information documented from the past.

The performance of any judicial officer was more often than not dictated by access and use of information. The respondents observed that for any work to be accomplished, information is core. It was established that each magistrate had a collection of law reports and law statutes in their respective chambers. They used the collection to make judicial decisions. However, some relied on word of mouth from colleagues who had previously handled similar cases. The researcher observed that no work would conclusively be done in the court without making reference to the information available in chambers and other places within the Law Courts.

The study also established that magistrates at Nairobi Law Courts have access to various sources of information either in their chambers, library, archives or other judicial decisions that they have in their custody. They also have access to scholarly papers and presentations made in various workshops or colloquia held annually.

Information sources available to the magistrates included Law reports; both local and international. Local law reports include: Kenya law Reports 1972-2010, East Africa

Other information resources available for magistrates include Laws of Kenya (statutes) in every chamber, law dictionaries, files containing judicial decisions and judgments and law related websites such as National Council for Law Reporting website (www.kenyalaw.org). This website has rich content in terms of information that includes key judicial decisions, law statutes, Kenya Gazettes, Parliamentary Hansards and has links to various international law websites. Access to online services is readily available at the High Court Library and some chambers have the required infrastructure to facilitate access.

Majority of the magistrates require information to assist them in performing their work. Information as will be discussed in this research is core for any judicial officer to use to make either judicial decisions or administrative decisions in order to fully carry out their duties, be it administrative or in court.

4.7 EXPERIENCES IN INFORMATION RETRIEVAL

The research sought to establish whether experience acquired from the bench is adequate to dispense justice without necessarily looking for additional information elsewhere. The respondents were divided in opinion. Fifty percent of the respondents saw no need in seeking for additional information while the other fifty percent needed information for decision making. Those who did not need additional information had
worked for the Judiciary for longer periods and saw no need to seek information since the cases they handle are more or less the same and thus are well conversant with them. This is based on the fact that the Kenyan judicial system is based on Common-law statutes. Two cases may not necessarily be similar but the decisions could be guided by the same precedent hence the same information is consulted.

The other fifty percent who had a different opinion were mainly those who had not served for long in the Judiciary. They tend to venture into unexplored information resources and wanted to set new jurisprudence based on the current global developments in areas of technology, crime jurisprudences and decisions in other courts that may not have been fully explored. The challenge for them was access to diverse information resources in the field of law.

The research also attempted to establish whether magistrates have adequate research skills to retrieve information available at the Law Courts. It was found that twenty eight (60%) respondents were able while nineteen respondents (40%) faced challenges retrieving information.

The sources of information at the Law Courts include the library, archives, registries, word of mouth, online and information available in chambers. Sources available in the library are diverse and readily available for their use. The magistrates who did not experience challenges in retrieval of information claimed to access the information whenever they needed it since it. The custodians of the information were willing to share and assist in retrieving the required information.
However, the other eighteen, (40%) who had challenges in retrieving information cited uncooperative staff, not knowing where to find the information they require, inability to use online resources and lack of awareness of what information material is available in the library. As a result they felt frustrated and harassed retrieving the information required.

While retrieving information, thirteen respondents (80%), of the magistrates portrayed confidence in using Information Communication Technology (ICT). The respondents claimed to have access to more information online compared to accessing the information material in print available to them. Online information is diverse and current. They are able to retrieve information that is current from other jurisdictions. Use of jurisdictions and decisions from other courts is core for any judicial officer who may want to break even in the legal fraternity. Such information is readily available online; as a result, they are able to diversify their writing of legal decisions and judgments.

The other nine (20%) who were not competent to use computers in legal research cited a number of reasons for their incompetence. Some of the concerns were technophobia: fear of using the available technology, lack of skills and knowledge on how to use computers, lack of skills and training on how to use the appropriate computer software and lack of computers in their chambers. All these reasons prompted them not to use information resources available thus posing a challenge to using and accessing information. One of the respondents felt intimidated by the available technology. They appeared more comfortable with printed as opposed to electronic resources.
4.8 INFORMATION NEEDS OF MAGISTRATES

The study established that the information needs of magistrates at the Law Courts were diverse and derived from their work in courts. It was further established that the information needs of magistrates were more or less related across the ranks.

**Figure 5: Nature of Information Needed by Magistrates**

In establishing the nature of information required by magistrates at the Nairobi Law Courts Area, the study categorized the information into: abstracts, photocopies of law reports, court decisions, detailed information with relevant citations and online information. The Figure 4 above indicates that all respondents’ preferred photocopies of authorities.

Detailed information that includes relevant citations was considered a source of accessing and using information. This could be because of the demand for current information that is necessary in making reviews of the judicial decisions. Citations enable magistrates to make quick references thus making it possible for them to easily access particular information materials.
Abstracts are also a crucial information source for magistrates. They summarize information in various information materials formats and direct users to where that can be found. Court decisions are quick reference point for magistrates. Since the Kenyan judicial system is based on precedent, seventy two percent (72%) of the respondents made regular reference to them. They form a basis of how decisions are made in court and also a great source of developing jurisprudence.

It was found that seventy percent (70%) of the respondents used online information resources. Online information resources are rich, detailed and core for the legal fraternity. In spite of its limited availability it has constrained access thus limiting magistrates who would wish to use this source of information.

The study established how useful the High Court Library was in providing information to magistrates. Most magistrates especially those at the High Court building visited the library fairly often since it is the main source of information. However, those based at the Milimani Commercial Courts, Kibera and Makadara Law Courts frequented the satellite libraries in their respective stations. The library staff in the satellite libraries consulted the High Court Library for information required by users that was not available in their respective stations.

The library staff was viewed as professional while serving the magistrates. They were well conversant with the various disciplines of law, skills that they acquired on the job through provision of similar information to various information users.
Library staff are assigned a particular magistrate to work with. Since they belong to a particular division of the court they are able to understand their information needs better. They have a responsibility to provide information selectively to identified magistrate with a view of creating awareness of the latest developments with regard to a particular aspect of law. Updates of such information are provided as soon as they are available, either when new information materials are acquired, new developments are established online or alerts received from the various sources.

4.9 INFORMATION SOURCES AT THE LAW COURTS

The study sought to find out the information resources that are available at the Nairobi Law Courts. The resources identified were those that magistrates had access to make decisions while administering justice.

The respondents identified the Constitution of Kenya, Laws of Kenya statutes, Law Reports, Judiciary bulletins and the Internet. Table 3 below illustrates the findings:

Table 3: Information Sources Available in the Judiciary

<table>
<thead>
<tr>
<th>SOURCE</th>
<th>5</th>
<th>4</th>
<th>3</th>
<th>2</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Constitution</td>
<td>11</td>
<td>22</td>
<td>04</td>
<td>00</td>
<td>03</td>
</tr>
<tr>
<td>Laws of Kenya</td>
<td>13</td>
<td>22</td>
<td>04</td>
<td>00</td>
<td>05</td>
</tr>
<tr>
<td>Law reports</td>
<td>14</td>
<td>21</td>
<td>04</td>
<td>00</td>
<td>05</td>
</tr>
<tr>
<td>Judiciary Bulletin</td>
<td>03</td>
<td>07</td>
<td>10</td>
<td>08</td>
<td>12</td>
</tr>
<tr>
<td>Internet</td>
<td>04</td>
<td>05</td>
<td>11</td>
<td>16</td>
<td>04</td>
</tr>
</tbody>
</table>
As illustrated in the Table 3 above, the Constitution of Kenya was the most used source of information. The Constitution of Kenya is the backbone of all laws in the country. It forms the basis of all decisions in the Kenyan judicial system. It overrides the rest. If any law is contrary to what the constitution states, then the Constitution takes priority. Knowledge of the Constitution is important for any judicial officer, since this is the basis of all other laws that govern the Kenyan legal system. This is the reason why the Constitution is supreme and has to be upheld at all times.

Laws of Kenya were the second used source of information. Laws of Kenya statutes are the tools of trade for any judicial officer. They interpret the Constitution hence forming the basis of what the Constitution states. Laws of Kenya state what judicial decisions should be made regarding a particular issue, the sentences to be administered to the litigants and other judicial decisions. These set standards in the administration of justice that may otherwise vary from one judicial officer to another. The Laws of Kenya are the backbone of the Judiciary in its core business to administer justice, hence the need for magistrates to use this as a source of information.

Law Reports were the third most used information source. They emanate from various jurisdictions especially those that practice Common law. They include Kenya Law Reports, East Africa Law Reports, Commonwealth Law Reports, All England Law Reports and the Queens and Kings Bench Reports. They are published either annually or biannually depending on what information is available for publication. The Kenyan judicial system is based on precedent and hence the need for one to make judicial decisions based on previous decisions that were made in other jurisdictions.
Magistrates ought to understand the Law Reports that serve as a source of information since they carry out intense research and thus make appropriate references to the law reports that serve as a guide to the decisions made in Court. However, decisions in the law reports are not binding.

The study found out that other source of information within the Law Courts is the Judiciary Law Bulletin. The Judiciary Law Bulletin is a bi-annual publication published by the Judiciary Training Institute (JTI). The bulletin contains abstracts of key decisions made in courts of justice, reports on conferences organized by the Judiciary, reports on guest speakers who made remarks during such forums and any other activities that involved the Judiciary fraternity. This is a core source of information to magistrates who want to keep abreast with developments in the Judiciary.

The internet was considered the least used source of information available in the Law Courts. This is due to lack of appropriate software, online databases for reference that are not updated and are not easily available or accessible. Sources of information on Kenya Law are not available online either, though many would have wished to make reference to them.

### 4.10 CHALLENGES FACED WHEN SEEKING INFORMATION

The study sought to establish the challenges faced by magistrates while seeking information at the Law courts. Amongst the challenges stated was the use of obsolete materials, lack of access to the internet, inadequate photocopying facilities, work overload, and inaccessible library services, uncooperative library staff, lack of.
knowledge and skills in information retrieval, lack of automated information systems and delay in provision of information materials in their respective chambers.

Table 4: Challenges in Seeking Information in Law Courts

<table>
<thead>
<tr>
<th>CHALLENGE</th>
<th>5</th>
<th>4</th>
<th>3</th>
<th>2</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obsolete materials</td>
<td>20</td>
<td>08</td>
<td>02</td>
<td>06</td>
<td>06</td>
</tr>
<tr>
<td>No internet access</td>
<td>27</td>
<td>10</td>
<td>02</td>
<td>02</td>
<td>01</td>
</tr>
<tr>
<td>Inadequate photocopying facilities</td>
<td>22</td>
<td>10</td>
<td>08</td>
<td>02</td>
<td>00</td>
</tr>
<tr>
<td>Inadequate reference materials</td>
<td>05</td>
<td>10</td>
<td>25</td>
<td>00</td>
<td>02</td>
</tr>
<tr>
<td>Work overload leaving no time for research</td>
<td>10</td>
<td>08</td>
<td>04</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Library is inaccessible</td>
<td>00</td>
<td>01</td>
<td>04</td>
<td>27</td>
<td>10</td>
</tr>
<tr>
<td>Inadequate library personnel to provide the information sought</td>
<td>27</td>
<td>10</td>
<td>01</td>
<td>02</td>
<td>02</td>
</tr>
<tr>
<td>Inadequate training in terms of use of information resources</td>
<td>25</td>
<td>10</td>
<td>02</td>
<td>04</td>
<td>01</td>
</tr>
<tr>
<td>Lack of computerized information system</td>
<td>10</td>
<td>18</td>
<td>04</td>
<td>05</td>
<td>05</td>
</tr>
<tr>
<td>Delay in delivery of materials to chambers</td>
<td>15</td>
<td>20</td>
<td>05</td>
<td>01</td>
<td>01</td>
</tr>
</tbody>
</table>

On a scale of 1-5 the challenges encountered were evaluated whereby 5 was least accessed and 1 was the most accessed.

Obsolete information materials were found to be the greatest challenge faced by the magistrates. Most of the information available in the library and other facilities is not up-to-date. They are old editions and have not been reviewed for a while and in some cases contain information that is not current. This has deterred the performance of magistrates as they administer justice. As a magistrate one requires updated and current information while making judicial decisions. Lack of reliable Internet was also cited as a challenge in accessing of information by magistrates. The world over
technological advances demands that all have access to online resources so as to keep abreast with developments globally. This has however been impossible for the magistrates who have limited or no access to the Internet and other equipment to enable access. The Judiciary has not laid down the necessary infrastructure to facilitate access to information by magistrates, thus posing a challenge to the administration of justice. Magistrates find themselves in situations where they do not fully exploit the various sources of information that would otherwise have formed the basis of judicial decisions.

In addition, lack of adequate photocopy facilities poses a challenge to accessing information. Given the fact that they are not sufficient copies of the required documents to be used by every magistrate photocopies of authorities have to be prepared and filed to be used as he need arises. When the copiers are insufficient or out of service, access and use of information is greatly hampered. Just like any other public institution with the responsibility to provide information, inadequate or lack of sufficient reference materials is a challenge to acquisition of information materials. Inadequate reference materials sources have hampered access to information and thus limits access to justice.

The magistracy cadre in the Judiciary is greatly understaffed. The magistracy cadre has only 47 magistrates against a population of 3,138, 369 as at the year 2009 statistics who seek justice at the Law Courts. They are not able to carry out sufficient research for the cases they have to administer due to time limits coupled with a tight work schedule. Without accessing the relevant information sources, magistrates tend
to make judicial decisions that are weak and thus necessitate grounds for appeal, as less time is spent on carrying out relevant and appropriate research.

It was found that inadequate library staff posed a challenge to accessing justice in the Law Courts. This ratio of library staff to judicial staff is wanting hence hampering the process of accessing information. In some court stations the number of staff was inadequate with one staff in every library who may be absent or serving other officers and therefore not able to serve more than a particular one at a time. Lack of staff has indeed compromised on service delivery that ought to be offered that is limited by the prevailing circumstances.

Lack of information retrieval skills was also a challenge. Some magistrates were not aware of the information available at the Law Courts while some had no skills on how to retrieve and access the available information resources. Without proper skills and knowledge on how to retrieve available resources, the magistrates are not able to comprehensively research for the cases they ought to administer.

While accessing information at the Law Courts, lack of computerized/automated information was cited as a challenge. The necessary infrastructure to provide the required information was either non-existent or inadequate. Magistrates need to keep abreast and well informed to competitively survive in the profession. Access to information is greatly curtailed due to the lack of automated systems. Need for Information Communication Technology (ICT) cannot be understated since this plays a crucial role in the provision of information in the legal world.
Often information is not provided on time to the users. Failure to provide prompt and timely information to the users greatly deters use and access to information. This, in turn leads to acquisition delays and even processing of information before it is availed to the users. Delay in delivery of materials to the chambers affect the magistrates and in turn hampers the dispensation of justice.

4.11 SUMMARY

The above challenges greatly affect access and use of information which in turn affects the administration of justice. The findings of this chapter are significant since they bring about an understanding of how magistrates access and use information in the administration of justice.

The study established that without access to information, magistrates will be incapacitated in their efforts to administer justice expeditiously. The need to provide timely and prompt information can therefore not be ignored nor under rated since every judicial decision is pegged on how well informed both the members of the bar and the bench is. Development of jurisprudence by legal officers is a milestone and gives a sense of accomplishment to them and the institution of the Judiciary too.

For this to be attained provision of information has to be improved. The challenges faced in the providing information to magistrates have to be urgently addressed especially at this time and age of a new constitutional dispensation that is key to the timely delivery of justice. The adoption of ICT would go a long way in achieving this since it is the norm globally. It is evident in the study that magistrates require quick and timely access to information to make judicial decisions. The information has to be readily accessible, delivered promptly and in formats that are easy to retrieve for use in their daily work in Court.
CHAPTER FIVE
SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

The chapter discusses the summary of findings, conclusions and recommendations. It also suggests issues that require further research to enrich access and use of information within the legal fraternity.

5.2 SUMMARY OF FINDINGS

The following are the findings of the study as derived from the research questions:

5.2.1 Overview of Research Questions

Question One: What kind of work do magistrates do?

The study established that the work done by magistrates was not only court work but that they were also involved in administration and managers of respective court stations. Magistrates’ information needs are more or less the same at different ranks since they all handle both criminal and civil cases and the process of seeking information is similar. Magistrates just like judges are judicial officers who are recruited by the Judicial Service Commission to serve as Court officers in the administration of justice. Magistrates’ duties are stipulated in Magistrates’ Act (Cap 10) of the Laws of Kenya.

Magistrates serve at various levels that are hierarchal. The senior most magistrates are the chief magistrates while the least is the district magistrates. They have different jurisdictions that are assigned to them. Magistrates’ core duties are to administer
justice in courts to all. They handle both criminal and civil cases, as guided by the Criminal Procedure Code (Cap 75) of the Laws of Kenya.

Besides serving as judicial officers, magistrates also serve as administrators in their respective Court stations especially the senior most magistrates. They are in charge of supervision of staff, daily administration duties, revenue collection; they are custodians of securities deposited in court as bail and also manage the exchequer that is allocated to the station. They are referred to as Deputy Registrars while serving in this capacity.

**Question Two: What kind of information do they require?**

The study established that information is required by all magistrates. Information for magistrates is important for understanding legal frameworks established by the legislature for the administration of law. Indeed magistrates’ use information progressively without necessarily concentrating on particular information that enables them create ways that are progressive with the cases that are before them.

It would be ideal to note that information required by magistrates is similar across the ranks. The study established that magistrates require information in the following areas: information on legal developments in other jurisdictions, rulings and judicial decisions especially from countries that practice Common law, information from various Law Reports especially those that contain landmark decisions that are reported on time and are precise, information on what renown legal scholars have documented on various disciplines of law and also information on the latest developments in the world of crime such as cyber-crime, fraud, globalization and piracy.
The above findings support a study by Otike (1997) that legal officers share a lot of information amongst them and considered colleagues as a source of obtaining new information. Al-Daihani et al (2008) also established that the importance of informal sources such as colleagues was a common practice amongst lawyers in Kuwait. Seeking clarity from colleagues not only to get opinions but also provide additional information in respective disciplines.

Magistrates also serve as administrators in some of the courts. They therefore need information regarding personnel within the station, financial reports on the returns made in the form of fines, bonds and any other revenue collected within given durations to the Court. These magistrates also need information on the number of cases administered, nature of the cases handled within the station. Basically they require an assortment of statistical information to enable them assign duties and responsibilities to the various cadres of officers under their supervision.

Given that they are administrators of the courts, magistrates also need information on the development projects that have to be carried out within the Law Courts. Information is required on what structures have to be developed, the amount of monies required. They need information to use when preparing budgets for various development projects that have to be initiated within the Law Courts.

Kulthau and Tama (2001) explored the information search process of lawyers and revealed the same that lawyers were frequently involved in complex tasks. To do so, they preferred printed texts over databases since databases did not offer options for examining a wide range of information at once.
Question Three: How often do Magistrates Seek Information?

A lot of dynamism is experienced when magistrates’ seek information. The need for information is therefore driven by the ultimate purpose of which the information is sought. The frequency of seeking information for magistrates and those of the legal fraternity are guided by four main categories; advocacy, drafting, counseling and managerial. These roles guide the frequency by propagating for a broad survey of the various information sources that may be required.

The study established that seeking information is actually a continuous process amongst magistrates. Magistrates continually seek information since this is what they require to perform their daily duties. All judicial decisions are made depending on what and how information is provided by either the defense or the prosecution. Without relevant and timely information the administration of justice will not be effective and timely as required.

Information required by magistrates is gotten from various sources including word of mouth from colleagues, library, archive and registries, judicial decisions and rulings made in various courts, law reports, legal publications and online. In a related study Wilkinson (2001) found that the lawyers overwhelmingly preferred informal sources when seeking information. In addition, they preferred sources of information internal to the organization rather than external sources. The study also found out that information provided at the Nairobi Law Courts is inadequate and the infrastructure for use in provision of this information is inadequate thus limiting access. Due to these circumstances they face a myriad of challenges while accessing and using information that can be classified as technological, social and administrative.
Question Four: Are Magistrates Satisfied with the Information Provided at the Law Courts?

Magistrates were not fully satisfied with the information provided at the Law Courts. Information provided is inadequate since more often than not the resources are shared amongst a number of magistrates. In some cases the information is only provided to senior magistrates thus denying others access to the same information. Indeed information is provided to the Law Courts but it is not sufficient.

In 2002 Otike ascertained that lawyers require information that meets their needs. These needs are considerably influenced by experience. Newly qualified lawyers however require much information and thus need to be assisted as the need arise. He also ascertained that lawyers rely heavily on printed media. Electronic media is used only as a last resort.

Lack of appropriate infrastructure deterred access to information by magistrates. Due to this use of online resources was limited. As a result of this they are unable to utilize optimally the knowledge they have on how to access information online that are rich in content that they need for the job they do. In the same breath Nikeditor (2009) concurs that the increasing use of technology in all aspects of society makes confident, creative and productive use of ICT as an essential skill for life. ICT capability encompasses not only the mastery of technical skills and techniques but also the ability to apply these skills purposefully, safely and responsibly in learning, everyday life and employment.
Inadequate and relevant library resources have led to dissatisfaction amongst magistrates. Besides the High Court Library that is based at the Supreme Court Building most of the satellite libraries are not well equipped, they often seek resources at the Nairobi High Court library which at times delays the process of accessing information as the need arises due to the inevitable reasons like the books being borrowed, limited number of copies available or lack of facilities to make copies of the relevant information. Otike (2000) explored the legal information needs of lawyers in Kenya. He noted that lawyers’ work was determined by the legal needs of the client who in turn influences the information needs of the lawyer who seeks assistance from the High Court or collections in respective law firms.

Magistrates are not satisfied with the information provided at the Law Courts because of loss and disorder in the archives and registries. Loss of vital files is a common occurrence in the Judiciary registries. When a magistrate wants to study a file so as to be informed on the contents they find them missing. This is an obstacle in accessing and using information for the expeditious dispensation of justice.

Access to information by magistrates in the Law Courts is not satisfactory since some have to rely on information provided by their colleagues who at times may not cooperate or are unreliable. These compromises on decision making since the sources are not reliable. Tuhumirwe and Okello-Obura (2000) study supports this. They are of the opinion that access to the right kind of information is viewed as bedrock for judicial processes. Legal information is seen as a key element in delivering quality services to the population of any country, but accessing the right information depends on the knowledge of the information provider has to address the legal needs of the user.
Otike (1999) noted that experience has a considerable influence on the work that lawyers do. As such it is assumed that experienced lawyers do not require as much information support as newly qualified lawyers. They are therefore regarded as hardcore information users. This argument is also supported by Kulthau and Tamu (2001) study that probed lawyers/magistrates use information as a series of six stages that are:

i. Initiation- awareness of the need of information when facing a problem
ii. Selection-identify and choose a general topic for seeking information
iii. Exploration- seek and investigate information on the general topic
iv. Focus formulation- fixing and structuring the process to be solved
v. Collection- gathering pertinent information for the focused topic
vi. Presentation- completing information seeking, reporting and using the result of the task.

The route to satisfaction regarding accurate legal information depends on careful identification of the needed legal information based on the problems to be addressed and adoption of strategic approaches of getting the information.

**Question Five: What Challenges do Magistrates Face When Seeking Information at the Law Courts?**

Magistrates face a myriad of challenges when seeking information at the Law Courts. Amongst the challenges faced are:

1. **Obsolete Materials**

Provision and access of information is hampered by lack of current information sources. Most of them are obsolete and unreliable. This is due to the fact that like any other government institution, funds allocated for the library collection development
are limited and thus acquisition of required information is not as forthcoming as would be expected. Obsolete materials have greatly impaired the working of magistrates who require information that is current to be set higher standards in the development of jurisprudence.

Legal practitioners work in an information rich environment which is in constant flux, with ongoing additions to statutes and other sources for legal research, Kerrins, Medden and Fulton (2004) and Makri (2008) agrees that the work carried out by lawyers can be complex and often involves findings and works with a wealth of different types of information. Unfortunately this is not readily available since law libraries do not have comprehensive law collections.

In support of the above argument, Otike (2000) and Fowler (2007) state that the materials have considerable gaps which need to be addressed. It is equally difficult to obtain current issues of the unreported judgments of the superior courts. Information must be available whenever and wherever needed.

2. Lack of Access to Online Information

Online resources especially from renowned legal institutions form authentic and reliable sources which are important in accessing current and timely information for use in courts of justice. Though this is a key element for any legal officer, magistrates in the various Law Courts in Nairobi have limited access to these online resources.
The appropriate tools and infrastructure to facilitate access to online resources have not been sufficiently provided to the various courts. In most cases the required tools are only available in the senior most magistrates’ chambers or the library where all officers have to access the facility. This poses challenges to access and use of information since they are not able to utilize the information available online. Though information is relevant to their work, it is unfortunate that its access is limited and not available on demand.

In a study of Kuwait legal professionals, Al-Dahani and Oppenheim (2008) established that the absence of ICT facilities, negative past experiences, poor skills and lack of training are some of the possible reasons of low or non-use of ICT thus becoming an inhibitor rather than being a motivator to use of electronic resources.

3. Inadequate Reference Information Resources

Just as obsolete information materials were identified as a challenge to access and use of information to magistrates so are inadequate resources. The lack of reference information resources deters access to crucial resources.

Cases have been reported of magistrates having to “queue” before they access certain information resources. This is because their colleagues may have borrowed that particular information material and thus it is not accessible. Unfortunately in most cases, there is usually only one copy of the information material since the acquisition of some of these resources is very costly.
Just as it was established in a study carried out in Kuwait, lawyers are overworked and they have no time to visit libraries. They tend to rely more on the collections available in their respective chambers. Otike (1996) too reported similar findings that legal professionals rarely visit libraries and will only visit when what they want is not available in their collection. They are also ignorant of the resources available at their disposal.

4. Work Overload that Limits Time for Research

Development of jurisprudence and the art of making hallmark decisions that frame the direction of other judicial decisions call for extensive research from diverse sources. However, since the magistrates’ cadre is highly understaffed they have an increased workload and limited time to carry out research; access and use of information that would otherwise facilitate the administration of timely justice to all is limited. Most of the magistrates are also involved in the other administrative works, thus compromising on the time required for research and access to available information materials.

5. Lack of Knowledge and Skills to Retrieve and use the Available Information Resources

Upon employment or completion of school, it is common practice for most people not to study or seek for information. Most people either study for the purpose of passing exams or interviews. When they have achieved this most of them lose skills on how to access and use information and in some cases shy away from seeking assistance lest their ignorance is exposed. This poses a challenge to access information even though the information is available for use by all who want to.
As found in this study, print resources allowed them to look for “one thing, find another”. Unlike the computerized system that was designed to be specific while seeking information, lawyers expressed reservations about the capacity of computerized systems to access a wide range of information needed.

The fear of embarrassing themselves or exposing their ignorance has also limited their knowledge and skills to retrieve information materials.

6. Delay in the Delivery of Information in the Respective Chambers

The process of acquisition of information in government institutions is usually centralized, long and laborious. This causes delay in the delivery of information to the identified users. Once the information materials are delivered to the processing unit, in this case the library, it takes another process before the information materials are eventually delivered to users.

This process delays and denies access to information. Tuhurimwe and Okello (2010) argue that an accurate in-depth identification of legal information needs and behaviour of users is crucial in addressing the effectiveness of a library or information center in meeting the legal information and library training needs. They observed that information providers should be proactive and reactive in the provision of information because when a user is dissatisfied, they start the information seeking process again. In the process they redefine their information need. This is time consuming. Information must be available whenever and wherever it is needed.
Question Six: What Strategies should be Adopted to Provide Information to Magistrates?

Fowler (2007) stated that attorneys can be counted on to have a solid knowledge of state and federal constitutions, statutes and court rulings if they access relevant legal information. Beyond that, the scope of each practice determines the specificity of legal information needed for ready read, reference and research. The legal information required by legal officers varies because of the variety of cases handled and areas of specialization.

The study gave an in-depth discussion on access and use of information by magistrates in various Law Courts in the Nairobi Area. Therefore it would be prudent to propose strategies that could be adopted to provide access and use of information by magistrates.

1. Use of Online Resources

Online resources come with a whole wealth of information on various subject matters that are usually current and contain a great deal of information that would lead to the development of jurisprudence. Efforts should be made to provide the necessary infrastructure and equipment necessary for the provision of online resources. This includes computers, network cabling and subscription to various online related websites available.

2. Automation of Information Sources

The study looked at the various sources of information sources available in the Law Courts. Most of these sources work independent of each other and thus lack synergy and co-ordination. Automation of all the information provision services through the creation of relevant databases will enable the magistrates’ to access information from
one access point, thus limiting the need to interrogate the various sources of information available.

3. Provide Modern Information Resources

Provision of obsolete information resources is a common practice in the Nairobi Law Courts. The study proposes the use of ICT for the provision of modern information resources that are available globally. As a result this will improve the timely administration of justice that is core in the attainment of the country’s economic blueprint Vision 2030.

The law library should explore alternative models of information sources such as consortium based subscriptions that are appropriate solutions to providing access to relevant legal information sources.

4. Proper Record Keeping

Records in most government institutions are not well kept thus leading to mysterious disappearance of key information sources. Use of tamper proof record keeping technologies will therefore ensure that information is accessible when the need arises. Use of appropriate technology will ensure that information is accessible by all by keeping track of files movement.

5. Availing Reference Information Resources at Various Court Stations

Access to information is greatly hampered due to lack of adequate reference information resources in various court stations. Though costly, efforts need to be channeled towards providing at least a copy of key reference information sources to the stations. Failure to provide information will always be an impediment to the timely administration of justice.
Thumirwe and Okello-Obura (2010) noted with equal concern that the Ugandan Judiciary failed to recognize the fact that there is a problem regarding access to information; a fact that has been attributed to ignorance of what is on the ground or little importance they attach to the vital need of lawyers accessing legal information at the right time in the right place. The issue of lawyers accessing the right legal information is absolutely crucial for efficiency and effective judicial performance if we were to promote good governance, accountability and justice.

6. **Increase Allocation of Resources to Information Providers**

Limited resources in terms of finance, personnel and even equipment pose a challenge to access and use of information by magistrates. Efforts should be made towards provision of the required resources; on the other hand information providers need to initiate fund raising programmes such as providing conferences facilities, increasing fines that are remitted, hold exhibitions and seek for donors to boost the available collections and resources available.

Otike and Mathews (2000) established that in Kenya, the number of law libraries collection were outdated and in desperate need of updating. The currency of information materials is very vital and therefore the information providers ought to go an extra mile to avail it. Such include consortiums and resource sharing among libraries. There is need for handy means of accessing information by organizing the centers based on accurate information and needs of the users so as to limit on the time spent.
7. Limiting Work Pressure

Magistrates have heavy workloads that limit the time they use to access information resources available in the Law Courts. The work done by magistrates ought to be redefined and if possible separate them from handling administrative duties in the Law Courts so that they focus on their key responsibilities of judicial work.

More magistrates should also be employed so as to reduce the number of cases each magistrate handles in a given time.

8. Impart Skills in Research

Lack of skills on how to carry out research either online or manually is a great impediment to access and use of information. The need to equip information users and seekers cannot be understated. Training should be done upon recruitment of new officers and continuous training be held for those already in service with a view of ensuring that they are not incapacitated but enabled to access information as the need arise.

The responsibility of obtaining information for magistrates lies solely on the library staff. The library staff who double up as research assistants who work along with the magistrates to provide information pertaining to cases that they are addressing in court. The library staff are expected to carry out research in their respective subject areas, prepare abstracts, and where possible make copies of precedents and other reference that may be used in court. This guides the magistrates in making judicial decisions. The information provided is not binding as the magistrate can use his or her discretion to make decision based on the evidence presented by both the defense and the prosecution in court.
In some instances, the magistrates carry out their own research without necessarily involving the library staff. They do this by making reference to the information available in their chambers or even by consultation with colleagues who have handled similar cases previously and use the previous decisions as a guide. Thumirwe and Okello-Obura (2010) summarily state that legal information providers need to determine the legal information needs associated hindrances to access information and ensure that they are handy means to access resources from any selection angle applied by the user.

5.3 CONCLUSION

Access and use of information is vital in any judicial institution. The Kenyan Judiciary has been accused of being slow in the delivery of justice which has led to backlog in court processes. Following the promulgation of the Kenya Constitution 2010, litigants are fully aware of their right and demand that cases they present in courts of law are expeditiously dealt with. The study concluded that if information is readily accessible and used as the need arises, magistrates will be able to make well researched court decisions that will also limit the grounds of appeal and hence reduce backlog.

Access and use of information by magistrates play a major role in the justice process. Information is backbone of all judicial process that impact greatly on the lives of litigants and the Kenyan citizenry. Its availability is essential as it facilitates the growth of jurisprudence that forms the basis of dispensation of justice and a focal point for other jurisdictions within the Commonwealth. As a result the access and use of information has to be diversified from the traditional information sources that
mainly included paper based sources to online sources that are renowned and authentic. These developments go a long way in equipping magistrates with skills in information retrieval essential for their work.

The study also established that magistrates’ information needs are not fully catered for since the information materials provided are either obsolete, unavailable or the providers of this information are unreliable especially when urgently required. This has challenged the provision of information since at times decisions have to be made based on previous judicial decisions without necessarily taking into account the developments made in the particular discipline of law that is dynamic.

The study ascertained that magistrates face challenges while seeking information that can be referred to as technological, social and administrative. Amongst the technological challenges they face are lack of skills regarding use of online resources, limited access to online resources and inadequate technological infrastructure that is crucial in information use and access. The social challenges faced by magistrates include obsolete information sources, unreliable information providers, lack of knowledge in information retrieval to name but a few. Administrative challenges include serving as administrators or managers for institutions at the expense of serving in court that divides the available time thus delaying the expeditious dispensation of justice.

The study findings also provided the usefulness of information to the magistracy. The role of information in the administration of justice cannot be understated. For a magistrate to stand out and develop jurisprudence, information plays a major role. In
this regard the access and use of information is a prerequisite for judicial officers. Magistrates have access to information either in their respective chambers, library, registries, from colleagues and online sources. They also have unlimited access to various law reports, both local and international, this forms the source of most core information source for magistrates who use the same for judicial decisions.

The role of providing information to magistrates at the Nairobi Law Courts heavily lies on the library staff that are assigned to respective magistrates and have the core responsibility to ensure that information is provided to them. Magistrates are mostly deployed to specialized court divisions dealing with specified aspects of law. Library staff are therefore expected to provide the required information to the respective magistrate in line with the specialized line of duty. Information is however provided by others including colleagues who may have dealt with similar cases in the past, registry staff and online in a few cases. In some instances magistrates seek information for themselves without necessarily involving other persons or sources.

The study established that magistrates require information in order to make appropriate decisions in court. Law is diverse and dynamics and thus magistrates expect information provided to them to use while making decisions in court to be diverse, from various jurisdictions to enable comparison. Judicial decisions have to be made after considering evidence provided in court by both the prosecution and by both the defense and the prosecution. The decisions made ought to cover all the facts presented hence the need for diversity while accessing information for judicial processes. The study established that while magistrates who have served for longer periods may not appreciate diversity while accessing and using information for
judicial processes, the younger generation prefers diversity and utilizes modern information provision services such as the Internet.

The study also revealed the information needs and information seeking behaviour of magistrate within the Nairobi Law Courts Area. Information needs and seeking behaviour are greatly influenced by the cases presented to a particular magistrate at a particular time. It can be concluded that magistrates are guided by precedents that relate to the cases that were dealt with in the past and are similar. However, it would be paramount to note that precedents are not binding but what the law states is the binding factor. From the findings of this study it can be concluded that magistrates have information at their disposal that can be used as they make judicial decisions that facilitate the administration of timely justice.

5.4 RECOMMENDATIONS

The study addressed a number of issues that are important in order to enable the optimum utilization and access to information by magistrates at the Nairobi Law courts. The recommendations are directed at information providers, policy makers and magistrates.

5.4.1 Recommendations for Information Providers

The role of information providers cannot be understated. Information providers have a responsibility to provide timely, accurate information that affects, assists and informs the magistrates.
5.4.1.1 Develop a User Database

The study recommends that information providers develop a user’s database in tandem with the cases that are handled by respective magistrates. The databases will include the information materials that are frequently used for ease of access and use. This will ensure that any magistrates who deal with similar cases in future will be able to access the information in a pool of resources that shall be created well in advance.

The database should have a list of available books, journals, websites and any other information that is available at their disposal. As a result less time shall be used in retrieving this information that will be used in court since most of the cases that are heard are categorized as civil or criminal and are more or less similar. This information should be in desired and diverse formats the desired formats and when the information is needed by the magistrates. This however will be guided by the information needs that the users will desire.

5.4.1.2 Review the Library Collection Policy

Information providers should urgently develop a collection development policy that will give guidance with regards on selection, deselection of information resources in various formats. This will include acquisition, processing, weeding, retention, preservation without any personal biases. A formal collection development policy will be useful to the information providers when seeking for additional funding during the budgeting processes. The stated objectives of the information providers will demonstrate accountability and commitment to the agreed goals. This will involve the administrators and users who will demand for results as the decisions will be justified by standard basis.
Peggy (2009) defines a policy as a reflection of the mission and vision of the library and a commitment to intellectual freedom. Collection development policies describe current collections, assists in budgeting, establishes priorities, serves as communication links between the library and the users, supports collection development, protects intellectual freedom and assist with gifts, de-selection and cancellations.

The policy will ensure that all the magistrates have equal access to the available information sources since Collection Development Policies are the heart of information providers. In the same breath the policy will form the basis of consortia with likeminded institutions thus a mutual knowledge and agreement on what the library has in its collection.

### 5.4.1.3 Legal Library Consortia

Legal information providers should initiate consortia that aim at sharing information, collections and complement each other’s information needs. This will reduce the cost of buying information materials and expedite the fast dispensation of justice.

Library consortia are important to achieve optimum user satisfaction. The cost of legal information is costly and thus the creation of consortia among various legal institution such as academic institutions that provide training in law such as Universities, Kenya School of law, law firms and libraries will ensure that user needs are met optimally at minimal costs.
5.4.1.4 Improve Information Provision Services

The study established that at times the information providers are not proactive in providing information to the magistrates. The study therefore recommends that information providers initiate information provision processes. Such initiatives will support the justice system include Current Awareness Services (CAS) and Selective Dissemination of Information (SDI) to the users since there is a disconnect between information providers and the magistrates. This initiative will submit, revise and maintain a high quality of information that is current for judicial decision making and growth of jurisprudence.

5.4.1.5 Provide Access and Link to Digital Information Resources

Information providers are called upon to provide modern information that has been lacking in the Judiciary. Such initiatives should include providing information materials that are frequently referred to on blogs, CD_ROMs, websites and on social media. This should be done by way of training the users on how to use such platforms, continuous training whenever such information is updated or availed and where possible encourage the users to research on their own within their office premises.

Information providers are called upon to develop, store and make information available online. The study recommends that information providers avail virtual information, create directories with hyperlinks to renowned legal websites and where necessary prepare databases of relevant legal information sources. They should derive a great sense of pride in providing information to magistrates.
5.4.2 Recommendations for Policy Makers

5.4.2.1 Adequate funding of information providing systems
The study revealed that most of the available information is obsolete and outdated due to limited finances allocated to the library. Policy makers should therefore enhance the financial allocation for purchase of information materials that are current and available in the market. This calls for proper planning, budgeting and co-ordination amongst the various stakeholders with a duty of providing information to magistrates. Well-funded libraries and other information providing systems will ensure that the information provided to magistrates is current and relevant for their use.

5.4.2.2 Provision of Information Literacy
Information is widely available within the Law Courts for this information to be widely accessed and utilized magistrates need to be trained on how to research and retrieve information from the various sources available. Information literacy will go a long way in enabling them prepare better judicial decisions and in the writing of judgments that lead to the development of jurisprudence.

5.4.2.3 Device Methods of Proper Record Keeping
Records in any institution are crucial and important, thus they need to be kept well for easy retrieval and accessible. The study therefore recommends that records in the various registries and archives are well kept so as to avoid unnecessary delays when one needs to access them and unnecessary loss and misplacement. However, caution should be taken with regards to confidential information that is accessed regularly.
The records should be upgraded regularly so as to reflect the situation and circumstances as they are in the organizations.

5.4.2.4 Develop Policies on Procedure Manuals and Catalogues

Magistrates who were the focus of this study should be provided with procedural manuals on how to retrieve information, where the information is and also provide them with catalogues of what information materials are available in the library and in other areas such as their respective chambers.

Policies on preparation of manuals and catalogues will serve as a guide to access and use of the information that is readily available to them for use as they undertake the responsibility and duties at hand. This will boost efficiency and eliminate confusion that is caused by lack of knowledge and information on what is available.

5.4.2.5 Improve ICT Infrastructure

Technological developments globally have become the bedrock of information sources that are utilized in judicial processes. The study therefore recommends that appropriate and adequate infrastructure and equipment necessary for provision of online legal websites are provided. These should include computers, networking cables and online subscription to law related websites as a matter of agency.

Magistrates should be provided with fast and reliable Internet services in their respective stations. Access and utilization to information resources will enable reduction in case backlog that have clogged the system, since judicial decisions will be well researched and without loopholes that set ground for appeal. In the same
breath access to diverse information sources will lead to growth and development of jurisprudence that is core for any judicial system.

5.4.3 Recommendations for Magistrates

5.4.3.1 Acquire Research Skills

Magistrates’ information needs are diverse and dynamic. The evolution of crime and civil matters globally has led to the need of judicial officers to keep abreast and alert on issues that keep arising in court for litigation. Provision of this information should be timely and accurate. These calls for magistrates to be proactive and when the need arise, demand for appropriate information.

Magistrates should acquire skills on how to search for information both manually and online with a view of accessing information without relying on information providers when the need arises.

Legal information diverse and dynamic thus the needs for magistrates at all cadres acquire skills on how to acquire it. Online legal resources are proving to be growing at a high rate and thus the need to acquire skills on online retrieval skills. This will enable them utilize available online resources optimally. Online retrieval skills will help magistrates appreciate and understand the developments in the legal fraternity and developments in jurisprudence globally. This cannot be understated otherwise magistrates may face challenges when making judicial decisions.
5.4.3.2 Use of e-resources

The dynamism of law globally has greatly contributed to the growth of jurisprudence. Therefore, there is need for a paradigm shift amongst the magistrates with regards to use of e-resources. The Kenyan magistrate has to diversify their scope beyond the court room and chambers and look for information elsewhere by utilizing available e-resources.

E-resources will diversify sources of information and so will the use of social media by engaging likeminded persons while developing jurisprudence and keeping abreast with legal discussions globally by creating knowledge networks, transfer skills and thus improve service delivery. A break from rigid traditions is long overdue. Available e-resources will diversify sources of information that magistrates use to.

5.5 SUGGESTIONS FOR FURTHER RESEARCH

Access to and use of information is the backbone of any judicial system that aims at dispensing timely justice. Litigants of the Kenyan judicial system have been empowered to seek information and justification of why certain decisions were made. Judicial officers therefore require this information as the need arises to ensure the speedy dispensation of justice to all. Further studies in the following areas will enable better service delivery in the Law Courts:
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APPENDIX I
ACCESS AND USE OF INFORMATION BY MAGISTARTEES IN KENYA IN THE NAIROBI LAW COURTS IN THE DISPENSATION OF JUSTICE

INTERVIEW SCHEDULE

DEMOGRAPHIC DATA

NAME OF COURT .................................................................

DESIGNATION ...........................................................................

YEARS OF EXPERIENCE AS A MAGISTRATE .........................

MAGISTARTEES WORK IN KENYA

1. What are the laws and rules that govern your work as a magistrate?


2. What duties do you perform as a magistrate?


3. Do you require information to assist you to carry out your work as a magistrate?

Yes No

If NO, why □ □


4. Do you find your experience on the bench adequate to dispense justice without looking for additional information elsewhere?

Yes □ No □

Please explain


Do you have adequate legal research skills to assist you to retrieve relevant information from information resources at the Law Courts?

Yes [ ] No [ ]

Kindly elaborate

_____________________________________________________________________

_____________________________________________________________________

5. Are you adequately competent in using computers for legal research?

_____________________________________________________________________

6. How readily available are the following information sources on a scale of 1-5 within the Law Courts?

<table>
<thead>
<tr>
<th>INFORMATION SOURCE</th>
<th>LEAST AVAILABLE</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>MOST AVAILABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Constitution</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laws of Kenya</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law reports</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judiciary Bulletins</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Internet</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

7. Who is charged with the responsibility of obtaining information for you and who provides it?

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________
8. In your opinion, can lack of information affect your performance as a magistrate? Kindly explain?

_____________________________________________________________________
_____________________________________________________________________

9. Who decides what information should be provided to you at the Law Courts?

_____________________________________________________________________
_____________________________________________________________________

INFORMATION NEEDS AND INFORMATION SEEKING BEHAVIOUR

10. For what purpose do you seek information

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

How often do you look for information in a day?

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

11. Do you seek assistance from your colleagues whenever you are in need of information?

Yes [ ] No [ ]

Please elaborate.
INFORMATION SOURCES

12. What are the sources of information available in the Law Courts?

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

13. What information materials do you use frequently?

- Law reports
- Reference Books
- Laws of Kenya
- Law Journals
- Grey Book

Others (please state)

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

What other sources would you like to use but are not available?

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

14. Do you visit the Law Courts Library to seek for information?

Yes ☐ No ☐

How often do you visit the library?

_____________________________________________________________________
_____________________________________________________________________

How helpful are the library staff helpful in assisting you to obtain the right information? Please explain

_____________________________________________________________________
_____________________________________________________________________

What do you do whenever you fail to obtain the right information?

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

15. Are you informed by the library staff whenever the library receives new information materials relevant to your work? Yes □ No □

If No, why? If Yes, how often?
_____________________________________________________________________

What information materials are available in your chamber?
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

16. Are the materials available in you chamber useful to you?

Yes □ No □

If no, why?
_____________________________________________________________________

17. Are the information materials available in your chambers useful to you?

Yes □ No □

If No, why?
CHALLENGES EXPERIENCED SEEKING INFORMATION

18. On a scale of 1-5 what challenges do you face when accessing the following information?

<table>
<thead>
<tr>
<th>MOST ACCESSED</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>LEAST ACCESSED</th>
<th>CHALLENGES FACED WHEN ACCESSING INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Obsolete materials</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No internet access</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Inadequate photocopying facilities</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Inadequate reference materials</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Work overload leaving no time for research</td>
</tr>
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<td>Library is inaccessible</td>
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<td>Inadequate library personnel to provide the information sought</td>
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<td>Inadequate training in terms of use of information resources</td>
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<td>Lack of computerized information system</td>
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<td>Delay in delivery of materials to chambers</td>
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</table>

19. Have these challenges affected your delivery of services?

_____________________________________________________________________

In your view, what should be done to improve the information delivery services at the Law Courts?

_____________________________________________________________________

THANK YOU FOR YOUR CO-OPERATION