

Managing Court Records in Kenya

Elsebah Maseh

*School of Information Sciences,
Moi University, Eldoret, Kenya
jmaseh@gmail.com*

Abstract

This paper presents the results of an empirical and theoretical literature review to understand the challenges associated with managing court records in the Kenyan Judiciary. Three research questions are addressed: What records management challenges are facing the Kenyan Judiciary? What capacity building plans are in place to ameliorate court records management challenges? What lessons can the Kenyan Judiciary learn from international court records management best practices? The research questions are underpinned by Records Continuum Model. Results show that records management in the Kenyan Judiciary faces several challenges such as backlogs of cases; lost, misfiled or damaged files; delays in registering cases; locating records and filing documentation; the lack of records management policies; inadequate staff capacity, limited awareness about the value of sound records management; limited use of ICT and inadequate budgets. As a result, decisions are made without full information about cases. Besides, the absence of systematic record keeping and controls leaves scope for corruption and collusion between court officials and lawyers. The ISO 15489-1 is presented as the key best practice mechanism for enhancing sound records management that the Kenyan judiciary may espouse. The subject matter of this paper is

aimed at influencing policy and practice, especially with regard to provision of the appropriate competencies and skills needed for sound management of court records to enhance accountability, transparency and service delivery.

Keywords: Records management, court records, judicial records, Kenya, judiciary, accountability, transparency, open governance

Introduction

Records are valuable assets and vital to virtually every aspect of the governance process (Sichalewe, 2010) including the dispensation of justice as they provide evidence of, and information about the transactions of individuals, organisations and states. IRMT (1999) contends that records are fundamental to the efficient and effective operation of the legal system of any country and are critical to the administration of law than to any other function of the public sector. Without sound records management, there can be no rule of law, accountable and transparent administration of justice by any government.

Records are fundamental to the administration of justice and the protection of citizens' rights. Both current and noncurrent records are used daily by a wide range of legal agencies for making legal decisions (Motsaathebe and Mnjama, 2007). Efficient and accountable court records systems are thus widely recognized as a key component in the delivery of justice to citizens. Delays in registering cases, locating records and filing documentation all have a direct impact on citizens and their legal rights. Thurston (2005) for this reason argued that dysfunctional records management undermines legal and judicial reform. Decisions are made without full

information about cases, and the absence of systematic record keeping and controls leaves scope for corruption or collusion between court officials and lawyers. Court time is wasted, delays are created and the Judiciary's standing is lowered. The large volume of records passing through a typical court system, their sensitivity and time pressures on courts makes effective records management essential.

Court Records Management

Records by their very nature provide proof of the activities of organisations or persons within society (IRMT, 1999). They serve as evidence of the rights and obligation of individuals, organisations and governments. Records enforce and support the agency's laws or binding rules; and for this reason, the law is a fundamental part of all record-keeping activities. Regardless of the specific legal system in place, records document activities and may serve as admissible evidence in a court of law.

According to Motsaathebe and Mnjama (2007), the importance of records in dispute settlement and adjudication is crucial for several reasons. For example, in order for a case to proceed, the initial documents (the summons) should be available. Failure to provide or locate these documents means that the case cannot proceed, thus occasioning delays in determining the case. Lack of evidence in the form of records can lead to failure of the judicial system to bring justice to the citizens. This may lead to loss of faith in the administration of justice. Motsaathebe and Mnjama also observe in the context of legal records that when an accused person appeals against conviction, the decision of the judge is made after assessing the record of proceedings from the lower court. This is achieved by having a complete and accurate record from the lower court. If the record of proceedings cannot be located due to poor record keeping practices, the accused person might be denied justice. There is a tendency for some civil litigation to continue for many years or be revived after a long period of time. Good record keeping enables the concerned parties to enquire about the status of their case. The overall effect being that the court staff will be able to update the concerned parties, due to good record keeping.

In a nutshell, the daily operations of the court depend on the availability of accurate, authentic and reliable information presented in a timely manner,

hence the need to maintain an effective and efficient record keeping system for the judicial system. The same thing applies to court staff responsible for safeguarding case files. When they are able to access and retrieve records in a timely manner, the working environment becomes conducive for them. If they cannot locate a case file relating to a trial, it becomes impossible for a judge or magistrate to pass a judgment, thus justice being denied or delayed to the plaintiff.

Court System in Kenya

The Judiciary in Kenya is one of the three arms of government established under Chapter 10 of the constitution of Kenya (National Council for Law Reporting, 2010). The mandate of the Judiciary is the administration of justice and judicial matters (Presidential Circular No. 1 /2008). The other two arms of government are the Executive and the Legislature whose roles are to exercise executive authority of the republic and to formulate laws respectively. The three arms of government exercise their jurisdiction independently while complementing one another. The Kenyan Judiciary is divided into two units: the technical unit comprising the courts (Supreme Court, Court of Appeal, High Court, Magistrates Courts, Kadhis Courts and Specialized Courts) and the administrative unit consisting of departments such as administration, personnel and library service, to name but a few (IRMT, 2011). The courts are broadly categorized into two: Superior Courts, and Subordinate Courts (Lubale, 2012).

The Constitution of Kenya 2010 provides the hierarchy of the superior courts as the Supreme Court, the Court of Appeal, and the High Court respectively (National Council for Law Reporting, 2010: Article 162). The Supreme Court is placed at the apex of the judicial hierarchy system. The court comprise the Chief Justice who is the President of the court, Deputy Chief Justice, who deputizes the Chief Justice and is the deputy Vice President of the Court and five other judges appointed by the President on the advice of the Judicial Service Commission [National Council for Law Reporting, 2010: Article 163 (1)]. The Supreme Court has original, appellate and advisory jurisdiction as indicated below [National Council for Law Reporting, 2010: Article 163 (3a, 3b and 6)]:

- Exclusive original jurisdiction to hear and determine disputes relating to the elections to the office of the president;
- Appellate jurisdiction to hear and determine appeals from the Court of Appeal and any other court or tribunal as prescribed by national legislation;
- Advisory jurisdiction to give an opinion at the request of the national government, any state organ or any County government with respect to any matter concerning County government.

The Court of Appeal consists of not less than twelve judges who elect a President of the Court of Appeal from among themselves. This court has jurisdiction to hear appeals from the High Court and from any other court or tribunal as prescribed by an Act of Parliament (National Council for Law Reporting, 2010: Article 164). In contrast, The High Court is established vide Article 165 and comprises a number of Judges prescribed by an Act of Parliament and is organized and administered in the manner prescribed by an Act of Parliament. It has jurisdiction for the following [National Council for Law Reporting, 2010: Article 165 (3)]:

- Unlimited original jurisdiction in criminal and civil matters;
- Determining the question of whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened;
- Hearing an appeal from a decision of a tribunal appointed under the Constitution to consider the removal of a person from office, other than a tribunal appointed under Article 144 which makes provision for the procedure for removal of the President for reason of incapacity;
- Hearing any question regarding the interpretation of the Constitution; and
- Any other jurisdiction, original or appellate, conferred on it by legislation.

Finally, The Subordinate Courts comprise the Magistrates Courts, Kadhis' Courts, Court Martials and any other court or local tribunal as may be established by an Act of Parliament (National Council for Law Reporting, 2010: Article 169). Magistrates Courts were created under Magistrates

Acts Chapter 10 of the laws of Kenya (amended in 2012) and reconstituted under Article 169 of the Constitution of Kenya 2010. They handle civil and criminal matters depending on the rank of the magistrate.

Article 170 provides that there shall be a Chief Kadhi and such number, being not fewer than three, of other Kadhis as may be prescribed under an Act of Parliament (National Council for Law Reporting, 2010: Article 170). The jurisdiction of the Kadhis' Court is limited to the determination of questions of Muslim law relating to personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi's Courts.

Statement of the Problem

During the launch of the Judiciary Transformation Framework in Kenya, the Chief Justice Willy Mutunga, (Mutunga, 2012:3-4) observed that an oft-repeated criticism of the Kenyan judiciary has been over how it has accumulated impossible case backlogs. He pointed out that case delays have become the badge of inefficiency and ineffectiveness the judiciary wears as its mark of distinction and an important source of public frustration. To address the public frustration, the Judiciary embarked on a pilot project to reduce case backlogs using the Court of Appeal and the High Court. The pilot project revealed that in many instances the cases were greater in number than had previously been thought (Judiciary Transformation Framework, 2012). This scenario speaks volumes to the importance of sound management of court records. Where records storage, management and retrieval system is weak or non-existent, the effort of judges and /or magistrates alone would not be adequate in preventing a miscarriage of justice. Thurston (2005) concurs that well managed records are essential to efficient and effective legal system. Accurate and readily accessible records of judicial rulings reduce the potential for injustices that may result from delays, corruption and inaccuracies.

The Kenyan Judiciary in an effort to enhance service delivery to the public has undertaken to deploy an electronic case management, integrated document management and audio-visual recording tools to cut back on delays and other factors that frustrate the search for justice. However, IRMT (2011) reveals

that there is a limited capacity especially at senior records management level in the Kenyan Judiciary to facilitate the design of systems that leverage ICT that are crucial for enhancing sound records management. Meaningful transformation of the Kenyan Judiciary cannot ignore a sound records management regime that is capable of availing to citizens' information and data that is accurate, complete, reliable, authentic and trustworthy. In the wider East African region, a study carried out by IRMT (2011) revealed that though procedures for the continuous management of records had been developed in Kenya, Uganda and Tanzania, they were directed to the management of only paper records and ignored electronic records. In some cases, notably in Tanzania, procedures for transferring semi-active records to records centres and archival records to the national archives were in place, but only for paper records. IRMT concluded that the absence of procedures for managing digital records was becoming a serious issue across the East African region.

This paper therefore seeks to address the challenges of managing court records in Kenya and proposes amelioration strategies predicated on human capacity building. The lessons that the Kenyan Judiciary can learn from best practices in court records management from around the world are adduced.

Research Questions

Three research questions are addressed in this paper:

1. What records management challenges are facing the Kenyan Judiciary?
2. What capacity building plans are in place to ameliorate court records management challenges?
3. What lessons can the Kenyan Judiciary learn from international court records management best practices?

Theoretical Framework and Methodology

The research questions outlined above are addressed through review of empirical and theoretical literature underpinned by Records Continuum Model (RC).

Various records management theories and models have been developed by national archival institutions, archives schools, international professionals, records and archives management organisations and records and archives management scholars (Kemoni, 2008). Some of these theories and models include the Records Life-cycle model; the Records Continuum model; the International Council on Archives Electronic Records Management Guidelines Model; the National Archives of Australia Digital Recordkeeping Guidelines 2004; and the National Archives and Records Service of South Africa Guidelines to name but a few. The subject matter of this chapter is underpinned by the RC Model.

The RC Model was developed by Frank Upward in the 1980s in Australia in response to criticism of the life-cycle models (Shepherd and Yeo, 2003). The RC Model is defined as "the whole extent of records existent" concerned with a consistent and coherent hierarchy of management processes from the time of the creation of records (and even before creation in the design of record-keeping systems) through to the preservation and use of records as archives (AS4390, 1996). The Records Continuum Model advocates for a records management process where both records' managers and archivists are involved in the ongoing management of recorded information (An, 2001). The Model focuses on records as logical rather than physical entities, regardless of whether they are in paper or electronic form. The RC emphasizes the need for archivists and records managers to be involved in the stages of managing records and ensuring the creation of the right records containing the right information to facilitate their use, disposal, protection and preservation. The Model offers a holistic approach to records keeping because managing records is seen as a continuous process where one element of the Continuum passes seamlessly into the other (Garaba, 2010:84).

Besides, the RC Model provides a worldview that can help harness the development of knowledge in archives and records management globally (Upward, 2000). The RC model sees the concept of records as inclusive of records of continuing value. The RC model stresses the uses of records for transactional, evidential memory purposes and thus unifies approaches to archiving/recordkeeping. The RC Model applied to the subject matter of this paper

therefore implies that every record created in any format and managed in the Kenyan Judiciary is important and useful as a basis for passing legal judgment, showing evidence of cases arbitrated or as memory of the judicial system. This is even more important given that an archival document can be retrieved and returned to its current status, just as a newly created record can be archived immediately after its use. Jenkinson (1937), shares the view that records could lie dormant for a while and then be activated for business purposes. It is important therefore to manage court records holistically from creation to disposition as postulated by the RC Model.

Results

The results on the subject matter of this study are organized around the themes of the research questions, namely: records management challenges facing the Kenyan Judiciary, capacity building plans for sound court records management, and lessons the Kenyan Judiciary can learn from international court records management best practices.

Records Management Challenges facing the Kenyan Judiciary

The challenges of managing records not only in Kenya but also in the whole of East and Southern Africa region are not confined to courts only, but seem widespread. Mnjama and Wamukoya (2006) observed that East and Southern Africa member countries continue to face numerous challenges in the capture and preservation of records. These challenges include: absence of organisational plans for managing records; low awareness of the role of records management in support of organisational efficiency and accountability; lack of stewardship and coordination in handling records; absence of legislation, policies and procedures to guide the management of records; absence of core competencies in records and archives management; absence of budgets dedicated for records management; poor security and confidentiality controls; lack of records retention and disposal policies and absence of migration strategies for records.

Mnjama and Wamukoya (2006) observed that the level of commitment to managing records can be gauged by the existence or non-existence of records management policies, plans and guidelines.

In the same vein, Griffin (2003) has observed that in many governments, policies and guidelines for managing the records are often non-existent, and the legislative and regulatory framework is largely weak or outdated. In some countries, the responsibility for managing the information on which government and citizens depend is often not properly assigned or is unclear. It is also important to note that the existence of a records management policy that does not embrace all forms of records and particularly electronic and digital records is inadequate.

A recent study on the alignment of records management with ICT in East Africa showed that some governments in the region including Kenya had policies in place for managing current records, but these typically addressed paper and none addressed the management of digital records. Besides, there was no evidence that records management provisions had been applied to digital records. It was also significant that policies addressing the management of ICT or e-government initiatives had yet to incorporate provisions reflecting the importance of records management (IRMT 2011).

Moreover, another study by IRMT (2011) on Kenya Courts revealed that though efforts were being made to digitise hard copies of court records where five million of the 30 million targeted pages of Court records had been scanned by October 2010, the project was being undertaken without any policy for integrating ICT and records management. The digitization was thus proceeding without the specifications needed to manage digital records over time. This scenario calls for the Kenyan Judiciary to strive not only to establish records management policies, plans and procedures, but also to integrate these with all its business functions as a means of supporting judicial accountability and governance.

Capacity Building Plans and Strategies

The challenges brought about by new technologies in general and e-records management in particular require that records and archives management staff to be equipped with new skills and competencies through training or retraining to be able to effectively operate a sound records management strategy both in a manual environment and electronic environment. IRMT (2004) points out that as governments adopt the use of ICT in the provision of services to the citizens, the intended benefits will be compromised

unless the issues of capacity building is addressed noting that failure to address these issues could lead to reduced government effectiveness; increased operating costs; gaps in recorded memory; reduced public access to entitlements; erosion of rights and weakened capacity for decision making. The issue of records management capacity building is more imperative given that governments are increasingly under public pressure to demonstrate that they are accountable, transparent and committed to rooting out corruption and other malpractices.

Wamukoya and Mutula (2005) identified various competencies and skills required by records management staff in Eastern and Southern Africa. Such skills and competencies are diverse but can be categorized into: records and information management skills; technological skills; managerial skills; and project management skills. Others include but are not limited to: skills to create, capture, classify, index, store, retrieve, track, appraise, preserve, archive and dispose of records in both the manual environment and the electronic environment. Moreover, skills and competencies in records management practices and trends, knowledge of the types of records including emails and web pages, and knowledge of ICT application to records and archives management are important (IRMT 2004).

The imperative for capacity building in records management is premised on the belief that: accurate and reliable records form the documentary evidence needed to provide a foundation for all development strategies; the loss of control of records and information systems, particularly in electronic environments, is highly significant global problem. Sound records management systems are critical to the ability of the public sector to be accountable and transparent and to improve services to citizens, especially in developing countries.

Mnjama and Wamukoya (2006) pointed out that key resources, such as trained staff, equipment, basic supplies and finances, were often not made available in the majority of governments and agencies with statutory responsibility for records in developing countries, including Kenya. They observed that with a few or non-existent trained and qualified staff in records management, and the low status accorded to records work, the principles and standards that should guide records and information work were never included as part of organisation's strategic plans.

The IRMT (2011) study found that out of an establishment of 66 records officers in the Kenyan Judiciary, only 40 were in post against over 120 court stations in Kenya. These officers had obtained training in archives and records management on their own personal initiative without the help of the courts. Of the 40 staff, the study established that 3 had trained at degree level; 25 at diploma level; and 12 at certificate level. This depicted the Judiciary as having a limited capacity, especially at management level, to facilitate effective and efficient records management. This finding is corroborated by Wamukoya and Mutula (2005) observation that within the East and Southern Africa Region of which Kenya is part, staff competencies, skills and tools needed to effectively and efficiently manage records have not been adequately developed in many public sector organisations, resulting in inadequate capacity and skills gaps.

Given the paucity of records management skills within the Kenyan Judiciary, it is in the view of the author that an effective capacity building strategy needs to be developed for the Judiciary. Furthermore, there is need for the following programmes to be undertaken to address the skills gaps identified:

- Basic managerial skills training for records management staff especially, those staff already trained at degree level;
- Human resource development focusing on education, training and continuing professional development;
- Increasing the numbers of trained records staff within the Kenyan court system;
- Putting in place clear governance and accountability structures that assign clear roles and responsibilities;
- Sensitising and creating awareness through workshops and other channels for key stakeholders;
- Establishing a working relationship between the judiciary and institutions vested with the responsibility for records management such as the Kenya National Archives Service and Documentation Centre; and
- Facilitation of records management staff to attend national, regional and International records management conferences.

Court Records Management Standards and Best Practices: Implications for the Kenyan Judiciary

Standards are defined as guidelines that reflect agreement on products, practices or operations by nationally or internationally recognized industrial, professional, trade association or government bodies (International Council on Archives, 2009). On the other hand best practices are defined as techniques or methodologies that through experience and/or research have proven to reliably lead to a desired result. Standards and best practices in records management therefore offer guidelines on the management of organisational records. Literature reviewed revealed a number of records management standards and best practices that organisations can draw their records management practices (Johare, Hussin and Jamaludin, 2011). These include but not limited to the following:

- The International Standard and Information Documentation-Records Management (ISO 15489, 2001).
- Principles and Functional Requirements for Records in Electronic Office Environment: Guidelines and Functional Requirements for Electronic Records Management System (International Council on Archives (ICA), 2008).
- Model Requirements for Electronic Records Management ((MoReq2) (European Communities, 2008).
- Electronic Records Management Software Applications Design Criteria Standard (DoD5015-02-STD) (US Department of Defense, 2007).
- Functional Specification for Electronic Records Management System Software (National Archives of Australia, 2006).
- Requirements for Electronic Records Management Systems (Functional requirement) (United Kingdom Public Record Office, 2002).
- Requirements for Assessing and Maintaining the Authenticity of Electronic Records (InterPARES 1, 2002).
- Electronic Records Management System: System Specification for Public Office (National Archives of Malaysia, 2008) .

The International Standard and Information Documentation-Records Management (ISO 15489, 2001) is the acknowledged international best practice standard that outlines the requirements for sound management of records, hence this article is based on its provisions. It makes provision for an organisation seeking to put in place a sound records management strategy to first and foremost establish, document, maintain and promulgate policies, procedures and practices for records management to ensure that its business needs for evidence, accountability and information about its activities are met.

The organisation is therefore required to define and document a policy for records management. The objective of the policy should be the creation and management of authentic, reliable and usable records capable of supporting business functions and activities for as long as they are required. The organisation must also ensure that the policy is communicated and implemented at all levels in the organisation. It should also be adopted and endorsed at the highest decision-making level and promulgated throughout the organisation. Finally, the policy should be regularly reviewed to ensure that they reflect current business needs (ISO 15489, 2001).

Alongside the establishment of the policy, records management responsibilities and authorities should be defined, assigned and promulgated throughout the organisation so that, where a specific need to create and capture records is identified, it should be clear who is responsible for taking the necessary action (Johare, Hussin and Jamaludin, 2011). These responsibilities should be assigned to all employees of the organisation including records managers, allied information professionals, executives, business, unit managers, system administrators and others who create records as part of their work, and should be reflected in job descriptions and similar statements. Specific leadership responsibility and accountability for records management should be assigned to a person with appropriate authority within the organisation (ISO 15489, 2001).

The Kenyan Judiciary should therefore comply with this requirement by way of establishing records management policies and assigning records management responsibilities to the appropriate persons within the Judiciary. This will guide all records management operations thus enabling the

Judiciary to create and maintain reliable, accurate, useable and authentic records that will enhance the administration of justice and the rule of law.

Besides the establishment of the policies, the Kenyan Judiciary should ensure that the records maintained meet the general quality requirements of records as provided for by the standard. According to the standard, a record should correctly reflect what was communicated or decided or what action was taken. It should be able to support the needs of the business to which it relates and be used for accountability purposes. Moreover, the record should contain or be persistently linked to or associated with the metadata necessary to document a transaction in the following ways (ISO 15489, 2001):

- The structure of a record, that is its format and relationship between the elements comprising the records, should remain intact;
- The business context in which the record was created, received and used should be apparent in the record (including the business process of which the transaction is part, the date and time of the transaction and the participants in the transaction);
- The links between documents, held separately but combining to make up a record should be present.

These provisions of (ISO 15489, 2001) are particularly useful for the Kenyan Judiciary as it implements its digitization process since the usability of electronic records depends entirely on the maintenance of the content, structure and context of the records.

Having established the relevant policies, the Kenyan Judiciary should seek to manage the court records in a coherent manner in conformity with the ISO standard. This implies the processes of creation through to disposition of the records must comply with the provision of the Standard (Motsaathebe and Mnjama, 2007). The creation of the court record involves two sets of information. One set includes documents and other information provided by the parties to aid the court in making its decisions, for example, pleadings, motions, and exhibits. The litigants, the appellate courts, and the public must be able to see all the information the court considered in making its decision, except what has been sealed or that which is subject to rules protecting the

confidentiality of the information. Furthermore, the documentation of the decisions of the court must be available and accessible to the public. This includes matters related to calendaring and case management, as well as decisions of the court and juries (Judicial Council of California, 2013).

The maintenance of the court record addresses the continued existence and accessibility of the record. The record must be kept in a manner that ensures its completeness and availability both during the life of an active case and after it is closed. The record must also be kept in a manner that allows easy and convenient access to those wanting to see it. The court should be able to find the record easily when the record is needed (Mnjama and Wamukoya, 2006). Making copies of the record should also be convenient and inexpensive. Finally, the format in which the record is kept should allow ready access over time, despite changes in technology, in particular, obsolescence of equipment and software required to access electronic forms of a record (Saman and Haider, 2012).

Another aspect of maintenance is preserving the record's integrity. In this regard the court record should be the whole record and nothing less. The system for maintaining court records should minimize the risk of misfiling, loss, or damage of the court record or any of its parts (Mnjama and Wamukoya, 2006).

Finally, good records management involves controlling who has access to the record or its component parts. There may be portions of the record that, by law or judicial decision, are accessible only to certain individuals, parties, or groups of individuals based on their role in the justice system. A good records management program should provide convenient and timely access to those allowed to see information, and prevent access by those not authorized to see it.

The retention of the court record relates to how long it must be available to the public. Some court records must be retained indefinitely while others have a limited shelf life. Decisions about how long records should be maintained within a records system are based on an assessment of the regulatory environment, business and accountability requirements and the risks involved either by retaining or not retaining the record (Judicial Council of California, 2013).

The Judicial Council of California (2013) provides that records retention should be managed to meet current and future business needs by:

- Retaining information concerning past and present decisions and activities as part of the corporate memory to inform decisions activities in the present and future;
- Retaining evidence as past and present activities to meet accountability obligations;
- Eliminating as early as possible, and in an authorized, systematic manner, records which are no longer required; and
- Retaining the context of the records which will enable future users to judge the authenticity and reliability of records even in cases where the records systems in which they are retained have been closed or have undergone significant changes.

The disposition of the court record is the final stage of a records management program. When the existence of a court record is no longer required, based on passage of time or a policy decision, the record should be properly destroyed. Whether the record ceases to exist, or becomes accessible only to certain groups, is a policy decision that the records management program must correctly implement. Disposition action may encompass the following (ISO 15489, 2001):

- Immediate physical destruction including overwriting and deletion;
- Transfer to an appropriate storage area or medium under the organisational control;
- Transfer to an organisational archive; or
- Transfer to an external archives authority; in this case, the Kenya National Archives and Documentation Service.

Conclusion

This paper sought through empirical and theoretical literature to understand the challenges facing the management of court records in the Kenyan Judiciary. Three research questions were investigated, namely: What records management challenges are facing the Kenyan Judiciary? What capacity building plans are in place to ameliorate

court records management challenges? What lessons can the Kenyan Judiciary learn from international court records management best practices? The subject matter of the research questions was underpinned by Records Continuum model. Results show that records management in the Kenyan judiciary faces several challenges such as persistent backlogs of cases – a factor which is attributed to poor records management resulting in lost, misfiled or damaged files, delays in registering cases, locating records and filing documentation, the lack of records management policies and inadequate staff capacity, limited awareness about the value of sound records management for enhanced service delivery, limited use of ICT, and inadequate budgets.

The implications of poor management of court records in the Kenyan Judiciary are that decisions are made without full information about cases. Besides, the absence of systematic record keeping and controls leaves scope for corruption and collusion between court officials and lawyers. Furthermore, court time is wasted and the Judiciary's standing is lowered. The ISO 15489-1 is regarded as a key best practice mechanism for enhancing sound records management that the Kenyan judiciary needs to espouse. Overall, the subject matter discussed here has the potential of influencing policy and practice, especially with regard to provision of the appropriate competencies and skills needed for sound management of court records to enhance accountability, transparency and service delivery.

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Elsebah J. Maseh is a lecturer at the School of Information Sciences, Moi University, Kenya. She teaches in the areas of archives and records management. She holds an MPhil. and Bsc. from Moi University and currently a PhD candidate at the University of KwaZulu-Natal South Africa.



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