

## **FUTURE OF LEGAL EDUCATION IN KENYA:**

### **Integrating Technology Law and Research.**

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#### **Abstract.**

*The advent and exponential advancement of technological innovations are projected to alter our legal systems, interpersonal relationships, and professional modalities. Digitalization has transformed every social and economic sector leading to unprecedented data retrieval, and knowledge democratization. In the digital age, the scope, scale, and ubiquity of disruptions due to technology are undoubtedly unheralded. The consequential, albeit uncertain, impact of advancing technologies on society and law provokes reflection on incorporation into educational frameworks. Technology has significantly transformed the nature and practice of law which has for a long time been resistant to change. The legal studies must therefore adequately embrace emerging tech, preparing a new wave of lawyers adept in tech-centric competencies which is essential for navigating the evolving legal landscape, such as cyber law, electronic evidence, intellectual property and data privacy. This paper explores the need to integrate technology law and research into Kenya's legal training and education curriculum. The research analyzes the right to legal education through the lens of cultural acceptability and adaptability. Using a comparative analysis across diverse jurisdictions, this paper's findings will provide insights into the imperative of unlocking the potential opportunities within the challenges of legal evolution. The research advocates for interdisciplinary Law & Tech training and fostering new hybrid legal professions like legal technologists, Cybersecurity lawyers, and project managers.*

**Keywords:** Legal Education and Training, Technology Law, Council of Legal Education (CLE), Law and Tech, Legal Education Curriculum

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## **1. Introduction.**

How best can legal education, which is always invariably backwards-looking, anchored in precedent and deeply embedded in conservatism, effectively prepare future lawyers to represent clients and navigate the legal complexities of cyberspace? The significance of this question emanates from the influence of emerging technology on the legal profession and practice which requires rethinking the form and content of legal education.<sup>2</sup>

Kenya demonstrates a proactive approach to ensuring its legal and social infrastructure remains adaptable and robust in the ever-evolving digital landscape.<sup>3</sup> In pursuit of the realization of Kenya's Vision 2030 and other national development objectives, which aspire to transform Kenya into a globally competitive, newly industrialized, middle-income nation grounded in robust Science, Technology, and Innovation (ST&I) infrastructure, the government of Kenya enacted the Science, Technology, and Innovation Act of 2013.<sup>4</sup> This Act replaced Cap. 250 of the Laws of Kenya and established the National Commission for Science, Technology, and Innovation (NACOSTI) as the successor to the National Council for Science and Technology (NCST). The Act aims at 'facilitating, promoting, coordinating and regulating the progress of Science, Technology and Innovation (ST&I) in the country.'<sup>5</sup>

Furthermore, central to this domain of discourse is that in April 2022, the government unveiled the 2022-2032 Digital Master Plan to 'align with global technological advancements and to be a conceptual framework in the quest towards the realisation of a successful and sustainable digital economy.'<sup>6</sup> Indeed high level of Interconnectedness defines the digital era,

2 See Marjan Ajevski, Kim Barker, Andrew Gilbert, Liz Hardie & Francine Ryan, 'ChatGPT and the future of legal education and practice' ([2023]) 57:3 The Law Teacher 352-364; Mateus de Oliveira Fornasier, 'Legal education in the 21st century and the artificial intelligence' ([2021]) 19(31) Revista Opinião Jurídica 1-32.

3 Kenya Ministry of Information, Communications and Digital Economy (2023). Kenya National E-Commerce Strategy. [PDF] Available at: <https://ict.go.ke/wp-content/uploads/2023/12/E-Commerce-Strategy-2023.pdf> [Accessed 18 March 2024]

4 Kenya Vision 2030, [n.d.], (Vision 2030 Secretariat), available at <https://vision2030.go.ke/> (accessed March 18, 2024).

5 Science, Technology and Innovation Act 2013, c 12, (Kenya), preamble. 'An Act of Parliament to facilitate the promotion, co-ordination and regulation of the progress of science, technology and innovation of the country; to assign priority to the development of science, technology and innovation; to entrench science, technology and innovation into the national production system and for connected purposes'

6 The Kenya National Digital Master Plan 2022 - 2032 Kenya Digital Blueprint (2022) <<https://cms.icta.go.ke/sites/default/files/2022-04/Kenya%20Digital%20Masterplan%202022-2032%20Online%20Version.pdf>> accessed 21 February 2023

which is largely driven by the internet's role in merging virtual and physical realms.<sup>7</sup> Kepios's analysis reveals a surge in internet users in Kenya to 17.86 million in January 2023, reflecting an 8.0 per cent rise from 2022, with a concurrent internet penetration rate of 32.7 per cent.<sup>8</sup>

However, amidst government digitization efforts, the digital space in Kenya faces critical legal challenges such as unresolved Data Protection debates, ongoing Computer Misuse Act issues, digital defamation concerns, illegal arrests involving misuse of telecommunications devices by authorities, and the need for comprehensive blockchain regulation.<sup>9</sup> Moreover, as technology advances inexorably it shapes the legal landscape creating novel realms of practice unthinkable a decade ago, such as cyber security, FinTech, cryptocurrency, blockchain, Initial Coin Offerings, and artificial intelligence. Law firms are projected to witness an escalation in litigation on cyber security negligence and fault, augmenting the advancement of this specialized area of legal practice.<sup>10</sup> The projection suggests that with the proliferation of the Internet of Things, ensuring robust data protection and cybersecurity measures will emerge as an increasingly critical priority for companies, governments, and law firms.<sup>11</sup>

The new technologies are not simply creating entirely new legal issues, but they also force us to rethink existing legal frameworks and traditional ones. This is because the normative, customary, and juridical frameworks which were traditionally devised to oversee human-to-human (*in personam*) and human-to-machine (*in rem*) interactions may not optimally suffice in the nascent epoch of machine-to-human and machine-to-machine net era.<sup>12</sup> Future lawyers are increasingly urged to integrate with technology, especially artificial intelligence applications. Although technology will not replace the role of legal experts, it will drastically

7 Enoch Chan, "The Future Lawyer in a Digitally Disrupted Age" (Oct 23, 2018), Predict <https://medium.com/predict/the-age-of-digital-disruption-the-role-of-the-future-lawyer-e5ea618f1b08> accessed March 19, 2024.

8 DataReportal – Global Digital Insights, 'Digital 2023: Kenya' (2023) <https://datareportal.com/reports/digital-2023-kenya> accessed 18 March 2024.

9Mugambi laibuta.com, 'Digitisation of government services and the unique personal identifier' <https://www.laibuta.com/cyber-security/digitisation-of-government-services-and-the-unique-personal-identifier/> accessed 14 March 2024: Dr. Kariuki Muigua, PhD, 'Challenges and Concerns with the use of technology in the legal profession' ([July 3, 2022]) <https://thelawyer.africa/2022/07/03/challenges-with-use-of-tech-in-the-legal-profession/> accessed

10 Kaushal, Ritu. "Cybersecurity for Law Firms: What Legal Professionals Should Know." Legal Support World Blog, last modified on 28 Feb, 2024. Available at: <https://www.legalsupportworld.com/blog/cybersecurity-for-law-firms/>

11 Muigua, Kariuki. "Legal Practice in Kenya in the Era of Modern Technology: Challenges and Prospects." The Lawyer Africa, published on July 3, 2022. Available at: <https://thelawyer.africa/2022/07/03/legal-practice-in-kenya-in-the-era-of-modern-technology/>

12 Vladislav V. Fomin's "AI in the Context of Regulation of Smart Technology Services" ATEITIS workshop presentation at Vytautas Magnus University, Kaunas, Lithuania (Sep. 21, 2018).

transform how legal services are provided and depart from the traditional law firm partnership model. Whilst a law degree is a versatile academic course affording a variety of career opportunities, including a solid academic preparation for the vocational stage of studying the legal profession, a question remains as to what sorts of knowledge and intellectual pursuits are now necessary and relevant for a changing world.

## **2. Setting the Context**

In the realm of the right to education, Charles Darwin's theory of adaptation underscores the poignant imperative of aligning education with the evolving technological landscape. Just as species must adapt to survive, in changing environments, learners must learn to adapt to the rapidly evolving technological landscape or risk being replaced by non-traditional competitors in their various disciplines.<sup>13</sup> The right to education, therefore, in addition to its accessibility has dimensions of quality and relevance.<sup>14</sup>

The right to education as enshrined in Article 53(1)(b) of the Kenyan Constitution 2010, guarantees every child "free and compulsory basic education" and Article 55(a) directs the State "to take measures to ensure that the youth access relevant education and training."<sup>15</sup> From this context, it can be surmised that the right to education is both positive and negative. It is positive in the ambience that it imposes the obligation on the state to provide proactive measures for the provision and realization of this right and negative in the setting that it is a defensive right that it protects an individual's right to education and prohibits this right from interference by the state. The right to education as a human right is classified as a second-generation and can be provided by the state from a reasonable limit, however, it must meet the dimension of cultural acceptability and adaptability.<sup>16</sup>

<sup>13</sup> UNESCO, Rethinking Education: Towards a Global Common Good? (Paris: UNESCO, 2015) 2 available at <https://unevoc.unesco.org/e-forum/RethinkingEducation.pdf>; Kis, Daphne. "Learning In The Digital Age: Reskilling And The Evolution Of Education." Forbes Business Council, June 16, 2023. Available at: <https://www.forbes.com/sites/forbesbusinesscouncil/2023/06/16/learning-in-the-digital-age-reskilling-and-the-evolution-of-education/?sh=403ed62b5ce0>

<sup>14</sup> Tomaševski, Katarina. "Human Rights Obligations: Making Education Available, Accessible, Acceptable, and Adaptable." Published by the Swedish International Development Cooperation Agency (Sida), 2001. Available at:

[https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski\\_Primer%203.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski_Primer%203.pdf)

<sup>15</sup> Constitution of Kenya, 2010 (Kenya)

<sup>16</sup> Jost Delbrück, "The Right to Education as an International Human Right," German Yearbook of International Law 35 (1992): 92.

Acceptability dimension requires provision of relevant educational content.<sup>17</sup> The education must be quality and relevant to the culture, respecting and upholding human rights. This dimension requires that the education system adopt minimum safety, quality, and health standards and respect diversity and the language of interaction. Adaptability, on the other hand, is an essential acreage since it advocates for the education system to adjust to the needs of learners within their diverse cultural and social backgrounds.<sup>18</sup> The learning process and content should be flexible to adapt to the changing needs of society and the community at large. It should capture the best interest of the learners. In integrating technology law into the legal curriculum, the concepts of acceptability and adaptability are essential in reassessing the structure and content of legal education. The acceptability facet requires a high-quality standard of legal education, while adaptability advocates for the legal curriculum to evolve with the needs of society.<sup>19</sup>

### **3. The Purpose of Legal Education**

Society views lawyers in the category of ‘knowledgeable person’ therefore, there is no distinction between lawyers and other experts providing on other range of life situations.<sup>20</sup> The traditional expectations of lawyers are changing and lawyers are no longer expected to provide services based solely on their legal knowledge.<sup>21</sup> This contention views the legal profession as a way of life rather than a job since advocates manage the most extensive spectrum of human relations, which are constantly challenged from all angles and therefore should have broad expertise across diverse domains.<sup>22</sup> In addition to their legal knowledge, modern lawyers need to complement their legal expertise with a diverse skill set, proficiency in technology's role in legal services, project and process management, business

17 Katerina Tomaševski, “Human Rights Obligations: Making Education Available, Accessible, Acceptable and Adaptable,” Right to Education Primers 3 (2001) // <[https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski\\_Primer%203.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski_Primer%203.pdf)> accessed 21 February 2023

18 UN Committee on Economic, Social and Cultural Rights (CESCR), *supra* note 23. 28 “Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG)” (2015) // <[https://enqa.eu/wp-content/uploads/2015/11/ESG\\_2015.pdf](https://enqa.eu/wp-content/uploads/2015/11/ESG_2015.pdf)> accessed 21 February 2023

19 *Ibid* n 18

20 Odenyo, Amos O. "Professionalization amidst change: The case of the emerging legal profession in Kenya." *African Studies Review* 22, no. 3 (1979): 33-44.

21 Hunter, Dan. "The Death of the Legal Profession and the Future of Law." *University of New South Wales Law Journal* 43.4 (2020): 1199-1225; Norton, Natasha. "Legal Consultants and the Rise of Alternative Legal Service Providers." *Korum Blog*, Aug 22, 2023. *Korum Blog*, Jul 27, 2022. Beyond Legal Acumen: <https://www.korumlegal.com/blog/beyond-legal-acumen-what-skills-do-lawyers-need-today#:~:text=The%20traditional%20model%20of%20a,their%20business%20and%20personal%20challenges>.

22 Unger, Roberto Mangabeira. "The Critical Legal Studies Movement." *Harvard Law Review*, 1983, pp. 561-675.

understanding, client relations, and collaborative skills.<sup>23</sup> It is, therefore, necessary for the school curriculum to take into account the changing dynamics in the legal world and design programs that equip future lawyers to deal with the changes advocating<sup>24</sup> and that the legal education curriculum should take into account and be responsive to the market and social needs.

Ojwang and Salter B's stance was that one of the preeminent agents of law and legal process is lawyers<sup>25</sup>. Therefore, their making, direction, and working style are concrete representations of the legal response to the inexorable transitional dynamics in African society. The two commentators reiterate the sentiment of Lord Denning that "the very future of the law in Africa depends on a proper system of legal education being established."<sup>26</sup> In the digital age, a properly established legal, and educational system should effectively prepare future lawyers with the requisite knowledge and skills for the success of the ever-evolving legal landscape and must constantly transform and align with the dynamic changes in law, society and the profession at large. The Legal education curriculum must therefore take into account the changing dynamics in the legal world and design programs that equip future lawyers to deal with the changes advocating<sup>27</sup> and it should be responsive to the market and social needs.

The legal education curricula should be flexible and adapt to the ever-evolving legal system and the world, as pointed out by the three-fold approach by James Arthur on the best module to deliver legal education and training to law students. Arthur asserts that even though the three predominant positions are not mutually exclusive, one approach must prevail<sup>28</sup>. He describes the roles of Legal education as follows;

*"The first see their primary, if not their sole, function as producing "practice ready lawyers" for today's profession. The second proposes that they should*

23 Du Plessis, T. "Competitive legal professionals' use of technology in legal practice and legal research." Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad 11.4 (2008): 32-60.

24 Mboya, Apollo, 'The Bar: Challenges and Opportunities,' in Ghai, Y.P., and Cottrell, J. eds., In the legal profession and the new constitutional order in Kenya. Strathmore University Press, 2014, p. 245.

25 Ojwang JB and Salter DR, 'Legal Education in Kenya' [1989] Journal of African Law. <<https://www.jstor.org/stable/745534>> Accessed 20th February 2023

26 A.N. Allott (ed.), The Future of Law in Africa, London, 1960, 5 <<https://sci-hub.ru/10.2307/523172>> Accessed February 19, 2023,

27 Mboya, Apollo, 'The Bar: Challenges and Opportunities,' in Ghai, Y.P., and Cottrell, J. eds., In the legal profession and the new constitutional order in Kenya. Strathmore University Press, 2014, p. 245.

28 Harry Arthurs, 'The Future of Law School: Three Visions and a Prediction' (2014) 51 Alberta Law Review 705 <[https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=3761&context=scholarly\\_works](https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=3761&context=scholarly_works)> accessed 21 February 2023

*produce ‘tomorrow’s lawyers, lawyers with the capacity to adapt to the rapidly and radically changing circumstances of legal practice. And the third insists that the leading role played by law schools in the creation and transformation of legal knowledge, legal practice, and the legal system requires them to provide their students with a large and liberal understanding of the law, which alone will prepare them for a variety of legal and non-legal careers.’<sup>29</sup>*

Technology has become a significant concern, and students need to be taught Technology law at all stages as it can no longer be considered an area of the law for the future.<sup>30</sup> Twining points out the two main conceptions of the role of law schools in the modern industrial age: the professional school model and the academic model.<sup>31</sup> The Professional model dwells on providing the foundation for competent lawyers by enriching the student with practical skills and knowledge while the academic model focuses on the scholarly and theoretical aspects of the law. However, Twining holds that the modern world legal profession is so complex and fragmented that the traditional concepts of lawyer and the legal profession become more or a little bit fictitious. His position holds that the legal profession is undergoing evolution, specialization, and transformations and law schools must be keen to adapt their respective approaches correctly.

#### **4. The Contemporary Legal Education Framework**

The regulation of legal education in Kenya is currently overseen by the Council of Legal Education, which is established under the Legal Education Act 2012.<sup>32</sup> The principal mandate of CLE is ‘promoting legal education and training, and the maintenance of the highest possible standards in legal education providers; and the provision of a system to guarantee the quality of legal education and legal education providers.’<sup>33</sup> The current legal education in Kenya draws its pedigree from the Common Law system and it bifurcates two tiers: the academic and experimental phases.<sup>34</sup> The academic phase is offered at universities with

<sup>29</sup> Harry Arthurs ‘The Future of Law School: Three Visions and a Prediction’ (2014) 51 Alberta Law Review 706 <[https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=3761&context=scholarly\\_works](https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=3761&context=scholarly_works)> accessed 21 February 2023

<sup>30</sup> *Ibid*

<sup>31</sup> William Twining, *Law in Context: Enlarging a Discipline* (Oxford University Press, 1997).

<sup>32</sup> Legal Education Act Sec.4

<sup>33</sup> Legal Education Act 2012 Section 3

<sup>34</sup> Kankindi, Antoinette, and Victor Chimbwanda. "Legal education and its contemporary challenges in Sub-Saharan Africa." *Strathmore LJ* 5 (2021): 145.

certificates in law at the lowest cadre for legal support staff is the professional entry qualification, and a credit pass at this level qualifies one for a diploma in Law program. The 2016 Legal Education (Accreditation and Quality Assurance) Regulations outline the minimum requirements for eligibility into a certificate or diploma program. Conversely, the practical phase, or professional training, is offered by institutions solely and legally mandated to provide vocational training for Law students. The LLB program spans 4 years of full study to brace students with the knowledge for the Advocates Training programs; the program involves 16 core subjects and must have at least 1680 contact hours and be completed in four academic years on a full-time basis or six academic years on a part-time/evening basis.<sup>35</sup>

The core units outlined in Part II of the second schedule of the Legal Education Act<sup>36</sup> are Legal Research, Tort, Contract, Legal System and Method, Criminal Law, Family Law and Succession, Evidence, Commercial Law (including the sale of goods, hire purchase and agency), Law of Business Associations, Administrative Law, Constitutional Law, Jurisprudence, Equity and Trusts, Property Law, Public International Law, and Labour Law. The practical component of LLB is Judicial attachment; it is an immersive experience for law students, and it is normally undertaken during 2nd or 3rd year it intersects the legal theory and the current legal practice. The Transition Guidelines are essential and aim to avoid the proactive application of the Legal Education Act 2012 and Kenya School of Law Act 2012 by providing a brief window for students admitted before the enactment of these two Acts. Part III of the second schedule for a post-graduate diploma provides core courses at the Kenya School of Law.<sup>37</sup> The core units at the Kenya School of Law include Civil Litigation, Criminal Litigation, Probate and Administration, Legal Writing and Drafting, Trial Advocacy, Professional Ethics and Practice, Legal Practice Management Conveyancing, and Commercial Transactions.<sup>38</sup>

Advocates Training Program is conducted in 18 months, 12 months in-house, and 6 months pupillage.<sup>39</sup> It includes problem questions, simulations, role-plays, seminars, and moot courts. Students are eligible for pupillage after completing their first year of classes, which entails receiving hands-on training under the supervision of an advocate for the Kenyan Supreme

35 *Ibid n 36*

36 Legal education Act No 27 of 2012

37 *Ibid*

38 Advocates Training Program, Kenya School of Law, website available at <https://www.ksl.ac.ke/advocates-training-program/>.

39 *Ibid*

Court.<sup>40</sup> The pupillage program is essential for trainees to learn about an advocate's business, practice, and employment. A traditional law firm or other organizations with a legal department and staff can provide pupillage services.<sup>41</sup> During pupillage, students gain hands-on experience working with their Pupil Masters in advocacy, drafting, and legal research. Traditional lectures are the predominant instructional method, more so medical and law schools favour socratic teaching methods in Kenya.<sup>42</sup> The method involves questioning students to understand legal concepts and analytical skills better. The traditional Socratic method is fiscally and pedagogically effective since many students can participate in legal reasoning and analysis. It ensures engagement and participation from all learners because, despite one learner answering questions at a time, every student must be prepared because he/she anticipates being called upon. Questions have been addressed concerning this teaching method's limit and value, with criticism analogizing it to a shell game in that it forces students in a search-resembling manner.<sup>43</sup>

However the landscape of legal academia is transforming towards a socio-legal framework and there is a discernable trend of departure from traditional doctrinal approaches, which some argue prioritize practical application over scholarly inquiry. Consequently, legal education, both at the postgraduate level and undergraduate programs, has begun to transition away from a strict focus on black letter law and traditional practices. There is a growing emphasis on critical examination, theoretical exploration, and socially informed perspectives that assess the effectiveness of legal systems in addressing specific issues.

## 5. The Criticism of the Current Legal Education Curriculum

The Kenyan legal curriculum has primarily focused on the Common Law and local law, which have benefitted lawyers in the past. The educational program has been criticized for emphasizing the foreign curriculum, and there have been calls for the law school curriculum to resonate and adapt to the unique condition of the needs of respective local people.<sup>44</sup> However, living in a hyper-globalized world and focusing on the traditional aspect of legal

40 *Ibid n 33*

41 The Kenya School of Law, *Student Information Handbook 2016-2018*, available at <https://www.ksl.ac.ke/advocates-training-program/>.

42 Kariuki Muigua, "Embracing Technology for Enhanced Efficiency and Access to Justice in the Legal Profession," available at <http://kmco.co.ke/wp-content/uploads/2022/06/Embracing-Technology-for-Enhanced-Efficiency-and-Access-to-Justice-in-the-Legal-Profession-Dr.-Kariuki-Muigua.pdf>.

43 *ibid*

44 Report of the Committee on Legal Education for Students from Africa (The Denning Report) (London: HMSO, 1961) Cmnd 1255

education limits the scope of lawyers. With the emergence of globalization, educational frameworks should focus on international standards, comparative studies, and related aspects.

One of the recommendations of the Akiwumi report was that respective universities offering law could identify the niche areas of operation and put more emphasis on the area.<sup>45</sup> However, some scholars have argued that identifying niches and areas of operation may be challenging because each institution must offer 16 compulsory units at LLB. In her Commentary Patricia Mbote states that ‘There is indeed little room for innovation, and schools have found that they have overburdened their students with hefty course loads in the quest to establish a niche.’<sup>46</sup> Therefore, reviewing the law curricula for various institutions to comply with the recommendations may take work. Despite Kenya's technology and transformation regimes, few universities offering degree programmes in law have identified the area of technology, research, and globalization as curriculum gaps.<sup>47</sup>

CLE Strategic Plan 2023 - 2027 recognized that there is a rising concern in Kenya and many other nations that the current legal education and training curricula do not sufficiently prepare students to practice law in the current and emerging fields.<sup>48</sup> One key challenge facing challenges facing Legal education in Kenya identified by the report is the lack of adaptation of the curriculum to meet the new market demands and technological advancements. This could be an impediment to innovation as one of the core values of the CLE in the execution of their mandate. Innovation is the desire to craft fitting and creative solutions to current and future challenges.<sup>49</sup> Legal education and training programs should therefore prioritize the development of competencies such as agility, legal skills, ethics, professionalism, and technology knowledge and competence, as these are essential for practising law in the modern world.<sup>50</sup>

Furthermore, the persistent dilemma lies in the outdated methods of legal education reminiscent of the 1970s. Legal education predominantly centres on the theoretical methods

45 Report of the Task Force on the Status and Management of the Kenya School of Law, 1994. pg.58

46 Patricia Kameri Mbote Legal Education and Lawyers in Ghai, Y.P., and Cottrell, J. eds., *The Legal Profession and the new constitutional order in Kenya*. Strathmore University Press, 2014, p. 245.

47 Mboya, Apollo, ‘The Bar: Challenges and Opportunities,’ in Ghai, Y.P., and Cottrell, J. eds., *The Legal Profession, and the new constitutional order in Kenya*. Strathmore University Press, 2014, p. 245.

48 Council of Legal Education *Strategic Plan 2023-2027* (CLE, 2024)

<https://cle.or.ke/wp-content/uploads/2024/04/CLE-Strategic-plan-2023-2027.pdf> accessed 21 May 2024

49 *ibid*

50 *ibid*

deployed in university education and therefore it requires a more practical approach.<sup>51</sup> The culture of legal education is mainly theoretical and aims to give a university education at the academic level. Students are required to apply all of the knowledge they have acquired throughout the academic stage to real-world situations during the ATP and, to a large extent, the pupillage stage.

Furthermore, the curriculum also does not Legal education in Kenya still involves the rigid distinctions between academics (moot courts, seminars, judicial attachments, clinical, pupillage) and continuing stages of training.<sup>52</sup> There have been calls for a future system of Legal education to prepare legal service providers to meet the needs of consumers effectively and efficiently and perhaps this at this present time is more pertinent than in relation to technology.<sup>53</sup> The flaws in curriculum might go beyond lawyers and extend to innocent third parties through issuing erroneous judgments, wrong advice on technological issues, and improper practice management, no matter whether the mistake was honest, justifiable, or made with good intentions.<sup>54</sup>

## 6. Legal Profession under the New Dawn

In the Digital age lawyers need new proficiencies and abilities that extend beyond their traditional legal knowledge. Digital literacy is a skill and competency which is becoming more and more important in the legal profession. It pertains to the aptitude for utilizing and comprehending digital technologies, such as computers, software, the internet, and other digital instruments.<sup>55</sup> It involves the abilities and knowledge required to function in the digital age and critically assess information. Some of the ways that digital literacy and the legal profession interact include; the use of virtual court sessions, digital filing through the e-filing platform, electronic case management systems and digitization of land service.<sup>56</sup>

51 The Kenya School of Law, *Strategic Plan 2014-2018*

<https://www.ksl.ac.ke/wp-content/uploads/2018/04/strategic-plan-2015-18.pdf> accessed 21 May 2024

52 *ibid n 46*

53 Kariuki Muigua, 'Legal Practice and New Frontiers: Embracing Technology for Enhanced Efficiency and Access to Justice (2020), <<http://kmco.co.ke/wp-content/uploads/2020/06/Legal-Practice-and-New-Frontiers-Embracing-Technoloy-for-Eenhanced-Efficiency-and-Access-to-Justice-Kariuki-Muigua-Ph.D-June-2020.pdf>> Accessed March 2, 2023,

54 Aušrinė Pasvenskienė and Paulius Astromskis, "The Future of Legal Education: Do Law Schools Have the Right to Be Conservative?" (2020) 13(1) Baltic Journal of Law & Politics 191

55 M Spante, SS Hashemi, M Lundin and A Algers, 'Digital Competence and Digital Literacy in Higher Education Research: Systematic Review of Concept Use' (2018) 5(1) Cogent Education <https://doi.org/10.1080/2331186X.2018.1519143> accessed 21 May 2024

56 Muigua. K., 'Virtual Arbitration Amidst Covid19 : Efficacy and Checklist for Best Practices' available at <http://kmco.co.ke/wp-content/uploads/2020/05/Virtual-Arbitration-Proceedings-Amidst-COVID-19-Efficacy-andChecklist-for-Best-Practices69523-Revised.pdf>

The integration of technology into law practice in Kenya has transformed the judicial process which traditionally relied on the physical presence of judges, magistrates, witnesses and attorneys for courtroom proceedings.<sup>57</sup> The interaction has transformed access to justice amongst individuals and businesses and as a matter of necessity, technology is a critical tool for access to justice.<sup>58</sup> This shift would therefore imply that lawyers possess digital literacy to navigate these platforms effectively and effectively present their cases.

The Judiciary has also made strides in the digitalization drive through its E-filing services such as the the Judiciary Integrated Case Management System (JICMS).<sup>59</sup> The E-filing system has become more prevalent in legal practice since the Outbreak of the COVID-19 pandemic. For example, the electronic filing service was deployed during the 2022 election cycle in which the Political Parties Disputes Tribunal (PPDT) and the Election Courts received the election petitions electronically throughout the country.<sup>60</sup> In this regard, Chief Justice Martha Koome launched e-filing in all courts nationwide and directed that no court should print pleadings and documents from July 1, 2024. In her opinion, the program “marks a giant leap commitment to transforming the delivery of justice through the strategic use of technology in alignment with the Social Transformation through Access to Justice blueprint of the Judiciary.”<sup>61</sup>

Case Tracking System (CTS) is another aspect of technology that has enabled it to track the entire details of a case from initiation to disposition. The CTS has automated registry operations that include processes like case registration, fee assessment, cause list preparation, court order generation and performance reports. The CTS has been progressively rolled out and operationalized across all courts and tribunals.<sup>62</sup> Since most services can now be accessed online, CTS has also made it possible for court registries to become less congested. To enhance efficiency, the judiciary has already integrated its CTS system with the Uadilifu Office of the Director of Public Prosecutions system. The CTS has been very crucial in real-

57 *ibid n 43*

58 *ibid*

59 Judiciary of Kenya, 'Judiciary of Kenya E-Filing Service' <https://efiling.court.go.ke/auth/help> accessed 21 May 2024

60 Judiciary of Kenya, ‘Leveraging On Information And Communication Technology (ICT) To Promote Access To Justice’ (Judiciary.go.ke, 2024) <https://judiciary.go.ke/leveraging-on-information-and-communication-technology-ict-to-promote-access-to-justi>

61 Judiciary of Kenya, ‘All Courts Nationwide Go Digital’ (Judiciary.go.ke, 11 March 2024) <https://judiciary.go.ke/judiciary-launches-e-filing-in-all-courts-data-tracking-dashboard-and-causelist-portal-portal/> accessed 21 May 2024

62 *ibid*

time case tracking and online fee payment significantly reducing registry congestion.<sup>63</sup>. Digital literacy is necessary for effective and secure communication, as well as for understanding the legal implications of electronic communications.

Virtual law firms such as Imani Law and Lex Afric Consulting deploy technology to provide cost-effective and flexible legal services across the country, which benefits startups and Small and Medium-sized Enterprises (SMEs) without the constraints of traditional office space.<sup>64</sup> Kenyan law firms are also adopting practice management software such as Kenya Legal Wakili CMS and Clio which aims at streamlining operations, increasing collaboration and client satisfaction since the legal practitioners can focus on providing their clients with tailored solutions to their legal issues.<sup>65</sup>

Dispute resolution methods, such as Online Dispute Resolution (ODR), use electronic communications and information and communication technology (ICT) tools to resolve disputes. The Kenyan e-commerce industry could benefit from using ODR to resolve disputes online, thereby reducing the need for physical interactions and reducing the costs and effort associated with traditional offline solutions.<sup>66</sup> Parties can settle conflicts quickly and affordably by using online mediation and arbitration services provided by platforms such as the Nairobi Center for International Arbitration (NCIA).<sup>67</sup>

There have been significant strides in the digitalisation of Legal services, for instance in line with the mandate of the Land Registration Act to maintain electronic land registers and public access<sup>68</sup> the National Land Commission and Ministry of Lands and Physical Planning have jointly developed Ardhisasa, which enables citizens, stakeholders, and interested parties to interact with land information held by the government.<sup>69</sup> The Chief Land Registrar is mandated to keep an electronic land registry under the Land Registration (Electronic Transactions) Regulations, 2020.

63 *ibid*

64 AMM Law, ‘Embracing Legal Tech: A Kenyan Perspective on Transforming Legal Services’ (AMM Law, 24 April 2024) <https://ammlaw.co.ke/embracing-legal-tech-a-kenyan-perspective-on-transforming-legal-services/> accessed 21 May 2024

65 *ibid*

66 Bernard M Nyaga, ‘Online Dispute Resolution: The Future of E-Commerce in Kenya’ (2023) 8(3) Journal of Conflict Management and Sustainable Development

67 *ibid*

68 see Land Registration Act, No.3 of 2012, S 9 (1) (b)

69 What is Ardhisasa, available at <https://ardhisasa.lands.go.ke/home>

The landscape of Kenya's legal education is evolving alongside technological advancements. The delivery modes of legal education in law schools and professional training organizations have incorporated online learning platforms and webinars. Furthermore, programs such as the Legal Tech Africa Hub equip legal practitioners with digital skills ensuring that Kenya's legal workforce remains at the forefront of innovation.<sup>70</sup> Despite the legal technology's role in enhancing efficiency, accuracy, and effectiveness in legal practice, it raises concerns about data privacy and potential job displacement due to automation.<sup>71</sup>

## **7. Essential Technology Law Units**

The essence of our knowledge-driven economy lies in technology and innovation, which have propelled numerous sectors to adopt technological advancements at an accelerated pace.<sup>72</sup> Some people may contend that technological advancement's impact is not so severe and momentous to warrant reform of the legal curriculum. They posit that the impact of technology is exaggerated and entirely speculative;<sup>73</sup> however, scholars have responded to this objection by suggesting that the scepticism is a hasty one taking into account rapid and unprecedented technological advancements in the field of AI, robotics and computer sciences as well as prospects in future.<sup>74</sup>

Furthermore, it would be grossly irresponsible and negligent to eschew discussions regarding precautionary measures when significant technological setbacks can potentially cause enormous damage and their likelihood cannot be completely ruled out in advance. Therefore there is a need to balance the potential significance of technological advances and the potential harm that may be associated with these risks. The educational landscape should be flexible to equip learners with specialised and general abilities for addressing constraints resulting from the current world.<sup>75</sup> Therefore, technology law is a multifaceted endeavour to encompass lecturers, students, and researchers with the requisite knowledge and skills to navigate through a comprehensive spectrum of ever-evolving legal and ethical issues. The paper identifies the following fields in the area of technology law.

70 *ibid n 7*

71 *ibid n 42*

72 Andrew Reamer, 'The Impacts of Technological Invention on Economic Growth – A Review of the Literature' (The George Washington Institute of Public Policy, The George Washington University, 28 February 2014)

[https://gwipp.gwu.edu/sites/g/files/zaxdzs6111/files/downloads/Reamer\\_The\\_Impacts\\_of\\_Invention\\_on\\_Economic\\_Growth\\_02-28-14.pdf](https://gwipp.gwu.edu/sites/g/files/zaxdzs6111/files/downloads/Reamer_The_Impacts_of_Invention_on_Economic_Growth_02-28-14.pdf) accessed 21 May 2024

73 *Ibid*

74 *ibid n 53*

75 *ibid n 73, 53*

## **7.1. Data Protection and Privacy**

The forefront of technology law are data protection and privacy laws and technology regulations, which deal with safeguarding sensitive personal information and data from compromisation, corruption, or losses.<sup>76</sup> The unit, therefore, should focus on the existing comprehensive legislation, common law, and regional and international instruments such as the Data Protection Act 2019 and the General Data Regulation (GDR) of the European Union,<sup>77</sup> providing a detailed overview of principles of privacy law as well as comparative analysis. This core unit will enhance deep cognizance of the interplay of these core units in advancing technology and its potential impacts. A comprehensive objective of this unit requires a comprehensive understanding of the legal framework governing this field since it has a lot of complexities. Cybersecurity relates to this unit, which is a burgeoning concern in Kenya. Therefore, learners should explore hacking, phishing, identity theft, and other legal implications of cybercrime and breaches. This will need a profound grasp of statutes, legislations, and policies such as Computer Misuse and Cyber Crimes 2018 and the National Security Strategy of 2020.

Few institutions in Kenya offer this course, for instance, the Centre for Intellectual Property and Information Technology Law (CIPIT) introduced participants to data protection concepts under Kenya's Data Protection Act. 'CIPIT aims to:<sup>78</sup>

- Introduce participants to concepts and terms used in data protection laws globally.
- Give participants an in-depth understanding of the legal basis and scope of Kenya's Data Protection Act.
- Prepare participants to comply with the technical and organisational measures required under Kenya's Data Protection Act.
- Provide participants with the knowledge and skills required to serve as or support a Data Protection Officer (DPO).'

<sup>76</sup> Roger Clarke, 'Privacy and Social Media: An Analytical Framework' (2014) 23 Journal of Law, Information and Science 169

<sup>77</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) [2016] OJ L119/1.

<sup>78</sup> Strathmore University Center for Intellectual Property and Information Technology Law, 'Data Protection Course' <https://cipit.strathmore.edu/data-protection-course/#:~:text=The%20Data%20Protection%20online%20course,required%20of%20businesses%20and%20organisations> accessed 21 May 2024

The course should be available for instruction for all other legal education institutions irrespective of their various niches because Data protection is a rapidly growing and essential legal field. Lawyers must be adequately knowledgeable about privacy and digital security issues to safeguard sensitive client data and provide legal advice on matters of data breaches and cyber-security.

## **7.2 E-commerce, Digital Transactions and Communication Law**

E-commerce and Digital Transactions are other essential units regulating online transactions, including consumer protection online payment and contracts (smart contracts) and online financial transactions such as smartphone Apps<sup>79</sup>. This requires a comprehensive understanding of the legal and regulatory framework governing e-commerce and the Internet, e.g., The Electronic Transactions Act of 2011, the Payment System Act of 2011, and the Consumer Protection Act of 2012. The unit should explore domestic and transborder E-commerce's challenges, opportunities, and future. Furthermore, it should address the legal implications of blockchain, cryptocurrencies, online fraud, and financial crime, which are emerging areas.<sup>80</sup>

However, the regulations of platforms such as radio, TV, and other telecommunication broadcasting services, internet, and wireless communication should be covered in Communication Law. It is the study of any law involved in the regulation of electronic telecommunications it extends to the regulation of social media applications such as Facebook, Instagram, and Twitter, materials posted on the internet, cyberbullying, image-based exploitations, defamation, and harassment.<sup>81</sup> It examines the advent of the internet as a facilitator of instantaneous global communications and the challenges this poses for individuals, law enforcement, and governments.<sup>82</sup>

## **7.3. Technology and Law Enforcement in Criminal Law**

In the quest to safeguard public safety and stop criminal activity, the law enforcement integration of advanced surveillance has been very significant specifically in the increasingly

<sup>79</sup> Gregor Urbas, *Cybercrime: Legislation, Cases and Commentary* (Lexis Nexis, 2nd ed., 2020)

<sup>80</sup> M Smith, 'Technology Law in Legal Education: Recognising the Importance of the Field' (2022) 32 *Legal Education Review* 19.

<sup>81</sup> *ibid*

<sup>82</sup> See e.g., Alan Davidson, *Social Media and Electronic Commerce Law* (Cambridge University Press, Second Ed., 2018).

interconnected and digitized world.<sup>83</sup> These technologies incorporate, CCTV systems, facial recognition, license plate recognition, drones, forensic technology, and biometric systems.<sup>84</sup> They can improve law enforcement's efficacy and offer invaluable resources for both crime prevention and investigation. However, their use has also brought up a number of ethical issues and difficulties, especially with regard to transparency, accountability, protecting private and individual rights such as freedom of expression, and the possibility of law enforcement authorities abusing their power.<sup>85</sup>

#### **7.4. Intellectual Property Law**

Intellectual property law is another critical unit that examines how storage and the transfer of data impact ownership rights in the digital age media industry.<sup>86</sup> It revolves around online piracy, patents, trademarks, copyright, AI, blockchain, 3D printing, and industrial designs.<sup>87</sup> The relevant statutes in the study include the Copyright Act 2001, Trademark Act 2001, Industrial Property 2001, and other international legal frameworks such as TRIPS. Furthermore, an international perspective is also a good unit focusing on the challenges including the challenges of responding to technology developments, for governments, law enforcement, and the private sector, in an international context, including managing economic impacts, investigating and enforcing the law in relation to technology-based offences, system interoperability, and data security. Law schools in Kenya can collaborate with technology experts. Students should therefore be engaged in contributing to technology regulations by examining regulatory, ethical, and epistemic perspectives of <sup>88</sup>advancing technology.

#### **7.5. Legal Informatics**

A decade ago, law graduates were buried in millions of manual document reviews for discovery, a task which is now increasingly handled by algorithms. <sup>89</sup>Furthermore, a good

83 J Laufs and H Borron, 'Technological Innovation in Policing and Crime Prevention: Practitioner Perspectives from London' (2022) 24(2) International Journal of Police Science & Management 190

84 *ibid*

85 Benjamin Kisio and Ndikaru wa Teresia, 'Ethical Implications of Advanced Surveillance Technologies on Law Enforcement: A Case Study of National Police Service in County of Nairobi, Kenya' (2024) 7(1) East African Journal of Information Technology 68

86 see B Klein, G Moss and L Edwards, *Understanding Copyright: Intellectual Property in the Digital Age* (Sage 2015).

87 *ibid*

88 Council of the European Union, "European Council meeting conclusions" (EUCO 14/17, 2017) // <https://www.consilium.europa.eu/media/21620/19-euco-final-conclusions-en.pdf>

89 Technology and the Law Practice: Emerging Trends and Opportunities." Kampala Associated Advocates. Available at: <https://www.kaa.co.ug/technology-and-the-law-practice-emerging-trends-and-opportunities/>

lawyer should know where to find the law, this makes the essentials of legal research and writing. Legal research and writing help students to become agile scholars and solve legal problems by enhancing their analytical and research skills. The research should extend to disciplines such as Legal Informatics which is the study of information science within the realm of law and the utilization of this information with the aid of technology.<sup>90</sup> This field focuses on technology development, which manages the vast and extensive information within the legal profession. Legal research and training should foster the entrepreneurial spirit, curiosity, originality, and strategic thinking abilities that might be considerably more important in the education and recruiting of future legal professionals.<sup>91</sup>

The creativity manifested by law students, for example, by commenting on parliament bills. Law students can therefore have a stake in the law-making process to ensure the quality of bills by offering their insights and recommendations on the impact of suggested bills on society. Law students should, therefore, be involved in public participation forums, submission of written comments to the relevant government institutions and agencies, engage with the civil societies in Kenya, such as Katiba Institute, or get engaged through social media platforms such as Zoom. Kenya lacks a platform where students can disseminate their research findings due to the lack of publications in journals by most law schools, underscoring the essence of establishing scholarly legal journals for students and academic staff, which facilitates the production and distribution of innovative research papers written by students.

Finally, the interdisciplinary programs focus on the impact of technology in the fields such technology used in fields such as Health care, criminal justice, agriculture, and financial services. In health care, technology is deployed in areas such as artificial reproduction, a legal conundrum in Kenya, Electronic Health Records, and mHealth. In criminal Justice, there are some privacy issues in the deploration of Automated Fingerprint Identification Systems, crime mapping, and digital forensics. However, all the disciplines should also focus on international perspectives and other challenges facing technology regulations and law enforcement.<sup>92</sup>

90 Erdelez, Sanda, and Sheila O'Hare. "Legal informatics: application of information technology in law." *Annual Review of Information Science and Technology (ARIST)* 32 (1997): 367-402. available at<[https://www.researchgate.net/publication/234627056\\_Legal\\_Informatics\\_Application\\_of\\_Information\\_Technology\\_in\\_Law/link/5c1a7962299bf12be38b2eb9/download](https://www.researchgate.net/publication/234627056_Legal_Informatics_Application_of_Information_Technology_in_Law/link/5c1a7962299bf12be38b2eb9/download)> Accesed 23rd February 2023

91 Ron A Dolin, 'Legal Informatics' (2021) *The Practice* <https://clp.law.harvard.edu/>

92 *ibid* n 78

## **8. Should legal education be conservative?**

The curriculum of any learning institution should be designed comprehensively to produce a well-rounded individual. Education should encourage an interdisciplinary model since it enhances core values such as creativity, critical thinking, and innovation and encourages profound respect for the natural world and humanity.<sup>93</sup> Some scholars contend that the accentuation placed on technology and related skills in legal education may be a potential danger to humanistic education doctrines. Thus putting utilitarian skills as more significant than humanistic values can be more grievous to humanity and the liberal arts.<sup>94</sup> Therefore to have a well-rounded educational system, the curriculum must have technical skills as well as broader humanistic values. Human values need are the three areas of knowledge, understanding, and skill necessary for the practice of law cognitive or intellectual, which is basically knowledge of the law or legal rules, and skills, which is the ability to apply legal knowledge and values required of the legal profession.<sup>95</sup> To fulfil intellectual development rights, there should be a striking harmony between the traditional legal systems and a place to address emerging issues such as technology. The educational system, including legal education, should be reflective and adaptive to environmental and societal changes.

Law schools should incorporate the growing technology field in LLB and the ATP curriculum but not eliminate critical areas such as professional ethics and responsibilities. Law schools in developed countries have also responded with vigorous continuing legal education programs that seek to remedy shortcomings in current information and skills and to keep current with developments in the law and practice. However, in doing this, ATP focuses more on the practical areas of technological data protection issues such as data protection. However, the ATP program should focus more on the practical aspects of the law and offer other elective areas and interdisciplinary approaches in the technology field to provide opportunities for those interested in pursuing the technology and globalization field.

## **9. Comparative Review.**

The Australian legal education curriculum focuses much on Practical Legal Training programs before getting admitted to practice. Accredited practical legal training in Australia

93 O Godwin and A Luz, 'The Role of Art Education in Fostering Creativity and Critical Thinking Skills' (2024).

94 *ibid n 53*

95 Asia and the Pacific Programme of Educational Innovation for Development (APEID), 'Values and Ethics and the Science and Technology Curriculum' (1991)< <https://unesdoc.unesco.org/ark:/48223/pf0000091109>> Accessed 28 february 2022

in accordance with section 29 of the Uniform Law of the NSW Legal Profession Admission Board<sup>96</sup>. Some of the accredited Universities are the College of Law which offers The Practical Legal Training program, the University of Newcastle, which offers a Diploma of Legal Practice or a graduate diploma in Legal Practice; the University of South Wales offers a Diploma of Legal Professional Practice and the University of Technology of Sydney, offering a graduate certificate in Legal Practice.

The College of Law is the foremost institution offering the PLT program offering 5 compulsory and having 2 elective units.<sup>97</sup> The focus is on the lawyer's Skills, Ethics and Professional Responsibility, Civil Litigation Practice, Property Law Practice commercial and corporate practice.<sup>98</sup> Lawyering skills are an essential unit since they offer oral and written communication, advocacy, interviewing, drafting, negotiating, problem-solving, managing work and time, and resilience. The university offers a wide range of elective units such as criminal, family, consumer, employment, environment, Estate, and Banking Practice. The University of Technology of Sydney offers a wide range of technology law disciplines as elective unit fields, such as copyright, Intellectual property, and patent law.<sup>99</sup>

In the American Bar Association, many accredited institutions offer bar training incorporating technology law disciplines, such as the University of Stanford and Yale University. Stakeholders in Singaporean legal education have determined that it is important to incorporate technology's expanding role into instruction. For Singapore to develop into a powerful commercial hub supported by technological advancements in law, the nation has determined that legal practitioners should possess digital literacy.<sup>100</sup>

The Kenyan legal curriculum may resist modernity due to a lack of skills and knowledge and skills in the technological law field, and a lack of both technical and financial support but it is good to emulate the legal curriculum to keep it in pace with other jurisdictions and also to foster benchmarking and knowledge transfers with these jurisdictions which have integrated technology law as part of their curriculum.

## **10. Recommendations**

96 Uniform Law of the New South Wales s 29

97 College of Law, 'About Us' (Australian College of Law,) available at <<https://www.collaw.edu.au/>> Accessed 28 February 2022

98 *Ibid*

99 *Ibid*

100 Singapore Working Group for the Reform of Legal Education, 'Report of the Working Group for the Reform of Legal Education' (January 2024)

[https://www.mlaw.gov.sg/files/news/press-releases/2024/legal\\_education\\_reform\\_report.pdf](https://www.mlaw.gov.sg/files/news/press-releases/2024/legal_education_reform_report.pdf)

The convergence of the Internet of Things, Artificial Intelligence, and complex datasets present significant prospects to “probabilistically emulate [human] behaviour under analogous conditions” which presents a scenario that typically demands flexibility, creativity, problem-solving skills, and effective communication in complex situations.<sup>101</sup> These changes present significant consequences across all societal facets, including law and Legal systems, presenting and fostering novel domains of legal expertise that demand specialized knowledge and skills. In response to this situation, this paper presents three strategies to better equip students for the future and steer legal education forward: (i) integrating digital literacies into existing courses, (ii) developing interdisciplinarity, and (iii) fostering practical Legal skills that nurture creativity, collaboration, and communication opportunities.

### **10.1 Integrating technology into existing courses and Modernizing Pedagogy**

The current law school lays a strong foundation on legal principles and procedures but falls short of addressing the digital age demands. The critics suggest that the Legal curriculum is outdated and does not take into account the contemporary legal issues arising from technology, leaving the law graduates unprepared for areas like cyber law, electronic evidence, data privacy and other legal aspects of artificial intelligence.<sup>102</sup> This paper therefore advocates for incorporating topics on Law and Technology into core subjects such as constitutional law, contract law, and criminal law. Over-reliance on traditional teaching practices such as case studies analysis and lectures might not effectively engage students or help them acquire the digital literacy needed for current legal practice.<sup>103</sup>

Legal education in Kenya is shifting from traditional lecture-based teaching towards interactive and student-centred pedagogical methods, reflecting efforts to modernize their approach. This transition should however fully integrate modern pedagogy principles such as active learning, problem-based learning, and practical skills development into the curriculum. The position fosters critical thinking among students promotes active engagement with legal materials, and encourages the application of legal principles to real-world scenarios in the modern age. Furthermore, the graduates should be conversant with essential legal tech skills, like e-discovery, legal research software, and online legal practice management tools and

<sup>101</sup> Andra le Roux-Kemp, 'The Fourth Industrial Revolution and a New Policy Agenda for Undergraduate Legal Education and Training in England and Wales' (2020) 2(1) Journal of Law, Technology, and Trust 1.

<sup>102</sup> *Ibid n 48*

<sup>103</sup> *Ibid n 47*

therefore the stakeholders should create incentives for institutions to adopt technology-enhanced learning.

## **10.2. Introduction of courses on Law and Technology and Interdisciplinary Elements**

The Legal field is increasingly becoming more digitally savvy and graduates who are unacquainted with legal technology may find it difficult to adapt to the demands of the contemporary workplace.<sup>104</sup> Kenya is experiencing technological advances in every social and economic sector, ranging from elections, healthcare, and energy, to transportation and beyond.<sup>105</sup> Therefore introduction of courses on Law and Technology such as such as information technology, telecommunications, and digital finance electronic transactions will enable law students to understand the legal implications of these technological advancements. Furthermore, with the rise of technology-driven sectors such as fintech, e-commerce, and digital entrepreneurship, the legal profession must understand and take into account both the technological and legal aspects of these advancements.

The law does not exist in isolation nevertheless it intersects with a spectrum of disciplines such as economics, psychology, sociology, and technology, underscoring the interdisciplinary nature of law and its pervasive influence across societal domains.<sup>106</sup> Therefore incorporation of this specific element into the legal curriculum will foster a comprehensive understanding of the legal issues and their wider societal impact. Furthermore, this approach enables the students to effectively contemplate the effects of judicial decisions on the different aspects of society.

## **10.3 Emphasis on the Legal Practical Skills and Ethics:**

However legal education in Kenya strives to meet the contemporary acknowledging its effectiveness in promoting ethical values and providing digital integration. There is a growing need for the provision of practical learning opportunities, critical thinking and research skills, interdisciplinary comprehension, and enhanced accessibility to the postgraduate diploma legal education. Practical skills such as research, writing, negotiation, and courtroom advocacy equip the graduates well for real-world legal practice. Furthermore,

<sup>104</sup> Andra le Roux-Kemp, 'The Fourth Industrial Revolution and a New Policy Agenda for Undergraduate Legal Education and Training in England and Wales' (2020) 2(1) Journal of Law, Technology, and Trust 1.

<sup>105</sup> Republic of Kenya, 'Digital Economy Blueprint' (2019)

<https://www.ict.go.ke/wp-content/uploads/2019/05/Kenya-Digital-Economy-2019.pdf>

<sup>106</sup> E Habzda-Siwek and J Kabzińska, 'Psychology and Law: Between Multidisciplinary and Interdisciplinary Approach' (2014) 99 Problems of Forensic Sciences 53.

ethics and professional responsibility form integral aspects of the legal education curriculum underlining the necessity of ethical conduct and the preservation of the rule of law. The curriculum should take into account the diversity and dynamism in the Kenyan Legal system. The curriculum should understand and navigate the complex and ever-changing legal landscape with confidence and competence in various disciplines such as customary law, religious law, international law, and statutory and common law principles.

## 11. CONCLUSION

Technology law is a crucial field; therefore, it should not be covered in fragments inside other disciplines. The accreditation bodies should therefore take into account the impact of technology in government, healthcare, cybersecurity and other fields and consider it as a standalone and compulsory unit in the LLB program and a practical aspect of the ATP program. In comparison with other jurisdictions, the Law curriculum programs at ATP should focus on providing a wide range of standalone practical units in Technology law. Technology Law fields such as data and privacy and cyber laws should therefore be taught as a standalone, and students should be engaged in clinical programs in technology law fields at the ATP level to make legal training in Kenya adaptable and acceptable. Therefore, the Council of Legal Education, in collaboration with other stakeholders such as the Law Society of Kenya and Lawyers Hub. This will help lawyers understand the links between technology and other related fields from an international, ethical and legal perspective enhancing their research and participation opportunities created by technology imperative and necessary in the digital age.

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