



The Voice of the Private Sector in Kenya

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KEPSA HOSTS THE CHIEF JUSTICE ROUNDTABLE

Nairobi, 16th July 2024: The Kenya Private Sector Alliance (KEPSA), today hosted the Chief Justice Roundtable (CJRT) at the Trademark Hotel, Nairobi. This engagement between KEPSA and the Judiciary aims to enhance a favourable judicial environment through judicial accessibility, and streamlined judicial processes that promote justice, and economic growth; enhance the ease of doing business and foster sustainable development and competitiveness in Kenya and globally.

Over the past years, the Chief Justice Roundtable has yielded socio-economic fruits including the introduction of e-court processes, that has significantly improved access to justice, especially in commercial matters. As a result, the time taken to resolve disputes has reduced, thus fostering a more predictable business environment.

Speaking during the roundtable Chief Justice Martha Koome noted that significant gains had been realised since the last session in 2022. She noted that *“the Judiciary has been working tirelessly to strengthen Kenya’s business climate by encouraging increased investment through building confidence in its commercial justice system, by ensuring quality and efficient commercial justice.”*

On digitization, the Chief Justice highlighted that the Judiciary successfully rolled out the e-filing system nationwide in March 2024 after the initial pilot in Nairobi City County from July 2020. *“Since March 2024, all pleadings and other court documents are now filed online in all court stations throughout the country,”* she emphasized. The e-filing platform allows cases to be filed remotely, eliminating the need for physical court attendance by litigants and advocates. It also supports remote court fee assessments, online inquiries about case status, automatic allocation of cases to judicial officers, and convenient downloading of case documents. Judges and magistrates can draft, edit, and publish rulings, judgments, and orders online, as well as generate individual case statistics and performance reports through the case tracking Judiciary-facing part of the e-filing system.

In addition, the Judiciary is rolling out a transcription system powered by an Artificial intelligence engine to help in offering transcription support to several court stations with plans to expand nationwide through the establishment of the Judiciary Transcription Centre. This project, which received significant support from KEPSA during its pilot phase under the Ajira Digital Project, aims to accelerate the transcription of court proceedings. The cause-list portal launched in March 2024 provides real-time access to court schedules, enabling all stakeholders to stay informed about upcoming cases, thereby fostering transparency and accountability. This innovation ensures that justice is dispensed timely and in an organized manner.

“Through the Ajira Digital Project, we have been instrumental in digitizing various government entities. Notably, the Judiciary Pilot Project supported 482 court stations and produced 253,742 transcripts. This has enhanced the judicial process and created 2,608 jobs with decent earnings especially among the youth,” added KEPSA CEO Ms Carole Kariuki.

Another notable advancement is the introduction of the Judiciary Data Dashboard. This initiative is part of our efforts to enhance accountability within the institution by leveraging technology. The Data Dashboard allows the leadership of the Judiciary to monitor, in real-time, the performance of each court and each judicial officer or judge with the click of a button, all from the comfort of their offices. This innovation is a significant boost to the judiciary efforts to ensure effective monitoring and supervision of the performance of all courts throughout the country.



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“Our tech-team is also developing a public facing court decision portal where all decisions posted on the Case Tracking system will be published. This repository will provide easy access to court decisions by members of the public. Through these initiatives and programmes, we aim to improve Kenya’s ranking and attractiveness as an investment destination by increasing the effectiveness and efficiency of contract enforcement. This will be achieved by reducing the time and cost of dispute resolution through leveraging technology in the administration of justice,” said Chief Justice Koome.

On *Small Claims Courts*, the Chief Justice informed that since the appointment of the first Small Claims Court adjudicators in April 2021, the Judiciary now has a total of eighty-one (81) adjudicators designated to preside over the thirty-seven (37) operational Small Claims Courts across the country. As of the end of June 2024, 81,640 cases have been filed in the Small Claims Courts since establishment. Of these, 68,167 cases have been heard and determined, leaving 13,473 cases currently active in the court system. The value of the determined cases stands at 12.6 billion Kenya shillings released back into the economy. The court has expanded its presence and is now operational in thirty-three (33) counties with thirty-seven (37) functional Small Claims Courts. We have gazetted Small Claims Courts in Voi and Garissa. The expansion of the Small Claims Court outside Nairobi has allowed the Judiciary to provide the expeditious delivery of justice to the public. On regulation of adjournments, the Small Claims Act was amended to fix the maximum number of adjournments that can be granted at three and stipulates that adjournments are limited to unforeseen and exceptional circumstances. This has significantly reduced the time taken to determine commercial disputes.

“Looking ahead, we aim to digitize the Small Claims Courts registries by entering all existing Small Claims Court files into the system. To achieve this, we require the facilitation of KEPSA through the Ajira Digital team to scan and upload all files in the registry, along with the provision of 100 scanners to be distributed across all Small Claims Courts. Moving forward, all court proceedings will be scanned and uploaded, ensuring that all Small Claims Courts are fully automated. We also plan to roll out 25 more Small Claims Courts across the country to increase access to justice for all citizens. Financial support will be needed to meet infrastructural needs, such as the construction of more Small Claims Courts,” she said.

On *training*, the Chief Justice noted that the Judicial Service Commission has revamped the Kenya Judiciary Academy (KJA) into a vibrant institution of continuous learning and collaboration. The Commission is positioning the Academy to serve as the regional hub for judicial learning and justice dialogues. The Judiciary in turn, has partnered with the private sector to build the capacity of the Judges and Judicial officers practicing in the commercial courts in tax laws, insolvency and mobile technology.

The Chief Justice reassured that The Kenya Judiciary Academy will work closely with KEPSA to identify knowledge and resource gap within the institution to enable a partnership framework which will equip the Judges and Judicial officers with the necessary skills, knowledge and best practice to handle and dispense commercial and tax matters within a reasonable timeframe and ultimately enrich the commercial justice jurisprudence.

On *building a Corruption-Free Court System*, the Chief Justice reflected on the efforts by the Judiciary and the Judicial Service Commission, in ensuring that courts are corruption-free.

“We have intensified this effort through the National Council on the Administration of Justice (NCAJ), where we are coordinating a sector-wide and nationwide campaign against corruption,” she noted.



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The Chief Justice invited KEPSA to be an integral part of the Judiciary's whole-of-society approach and accountability dialogues, towards reinvigorating the national value system and embracing a culture that abhors corruption. *"By adopting this comprehensive approach, we can effectively combat the cancer of corruption that has hindered our nation from realizing its developmental potential."* She added that the Judiciary has revamped the complaints processing and investigation systems within the Judicial Service Commission. This enhancement ensures that any corruption-related complaints lodged against judges, judicial officers, or members of staff are dealt with promptly and effectively.

Furthermore, in partnership with the Centre for International Private Enterprise (CIPE), KEPSA spearheaded the operationalization of the Bribery Act, 2016, through the popular version of the Bribery Laws. This has actively aided in sensitizing and creating awareness on the implications of bribery and corruption in both public and private sectors.

During the roundtable, the private sector made key recommendations to ensure faster and efficient delivery of Judicial services for ease of doing business. Key was the consideration to adopt a comprehensive monitoring and evaluation tool to track the performance of the Judicial Service Commission (JSC) in eradicating corruption, and publishing of regular reports on the progress and outcomes of anti-corruption efforts to maintain public trust and accountability.

"Addressing corruption within our judiciary is paramount for maintaining transparency and efficiency. We must also enforce strong whistleblower protection policies, and strengthen investigative and complaints resolution processes," emphasized Ms Kariuki.

She was seconded by KEPSA Board Chairperson Dr. Jaswinder Bedi, EBS, MBS, who acknowledged some of the persistent challenges hindering businesses. These include lengthy court processes that tie up substantial capital, estimated at KES 600 billion, stalled in unresolved legal cases. Additionally, small and medium-sized enterprises often lack the resources for legal representation, emphasizing the need for accessible legal clinics and advisory services.

"Together, we can mitigate these challenges and harness opportunities to advocate for business-friendly policies and their effective implementation. By promoting transparency, and advocating for reforms, we can better address business needs, catalyse Kenya's economic growth and enhance its global competitiveness," said Dr. Bedi.

It was noted that while ADR is now mainstreamed into the Small Claims Courts, there is urgent need for the adoption into the Large Claims Courts. This will ultimately unlock over KES 500Bn in commercial court cases. The private sector lauded the judiciary for multi-door approach, and committed to enhance the ease of doing business, improving the judicial processes, and ensuring swift resolution of dispute is unwavering. *"These are not just goals but imperative steps towards creating a more dynamic and prosperous economy for all Kenyans,"* concluded KEPSA Vice Chair Ms. Brenda Mbathi.

KEPSA is keen to continue open and regular engagements with institutions involved in the administration of justice. Both the Judiciary and KEPSA re-affirmed their commitment to continue incorporating good practices to enhance the quality and efficiency in the court system and support institutions, and consequently, increasing access to Justice.

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Editor's Note:

Access the respective statements during the roundtable here: <https://kepsa.or.ke/public/resource-locator/speeches>

For media inquiries, please contact: Josephine Wawira, KEPSA Corporate Communications Manager via jwawira@kepsa.or.ke

About KEPSA

The Kenya Private Sector Alliance (KEPSA) is the apex body of the private sector in Kenya. KEPSA brings together business associations, trade associations, corporates, multinational companies, SMEs, and start-ups from all sectors of the economy under one umbrella to enable them to speak with one voice when engaging Government and other stakeholders on cross-cutting policy issues affecting private sector development, supporting businesses on training, opportunities to network for business, financial linkages, mentoring, access to markets, value chains and access to investment opportunities. The membership categories have been developed to meet the size of all businesses.

For more information, please visit: <http://www.kepsa.or.ke>.