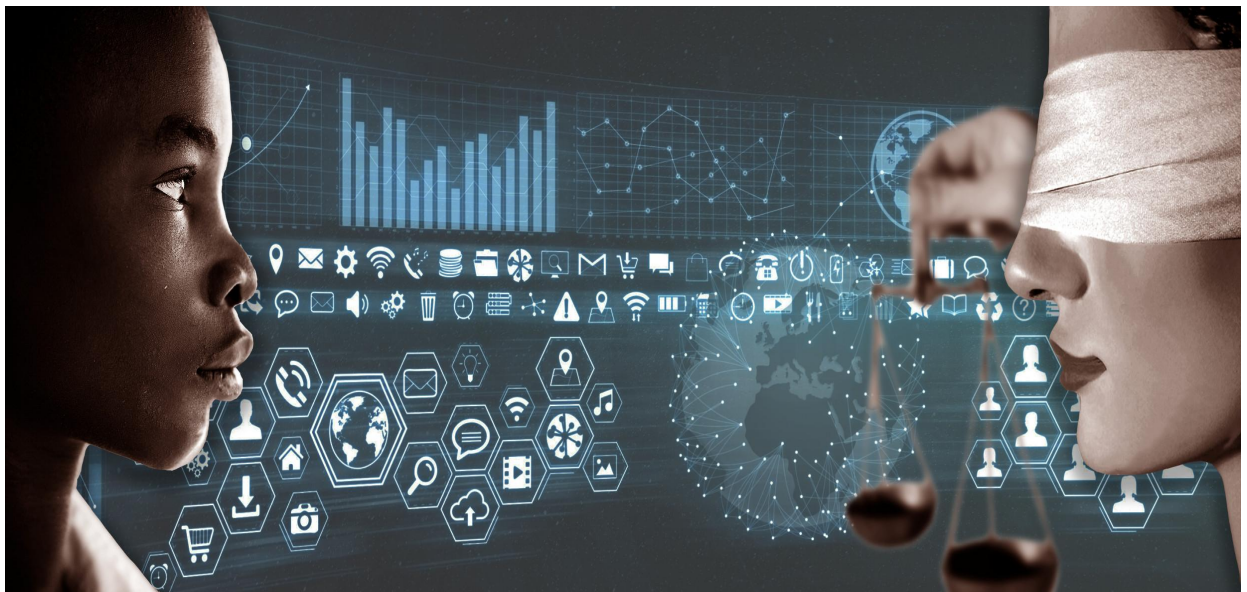


Improving access to justice with technology

Using technological innovations to improve the access to justice of poor communities. A case study of Mobile Justice in Kenya.



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Executive summary

The aim of this research is to look at the access to justice for the poor communities living in less developed contexts and to examine whether technology can provide a solution for improving access to justice. For this purpose the central question behind the research is: *“How can technological innovations improve access to justice of poor communities in less-developed countries in light of global connectivity?”*

Within the current study, the literature review establishes the theoretical framework with a number of concepts, trends, and problematic situations regarding access to justice. As part of the secondary data, substantial desk research was conducted in this regard. This data was further developed and concrete examples were investigated through a mixed-method approach of research. Conducting a case study on the topic of Mobile Justice in Kenya and interviewing two legal professionals for input and opinions provided valuable insight into some of the tendencies in the field. In the analytical discussion, the gathered information was critically assessed through the definitions and assumptions set during the literature review. This provided for outlining trends and conclusions.

The research arrived at the conclusion that access to justice is presented as an idealistic assumption in theory. However, in terms of practical applicability, equal access to justice can be considered as a utopia for a significant number of people worldwide. Particularly, the poor and marginalized communities seem to suffer the most from limited access to justice. This is ascribed to a number of barriers, such as financial obstacles, geographical remoteness, and lack of information and awareness.

Applying technological innovations seems to be a very promising model for improving the access to justice for these people. Such tools have been recognized to be cost-effective, scalable, applicable to more communities and widely accessible, due to the spread of technology and mobile devices. Despite some of the limitations of the study that call for further research on examples and evaluation, the central question of this dissertation can be answered:

Technological innovations can improve access to justice for poor communities in less developed countries by providing cost-effective tools for these people to empower them in overcoming the barriers that impede this access.

List of abbreviations

HiIL	The Hague Institute for the Internationalization of Law
NGO	Non-governmental organization
OCHCR	Office of the High Commissioner for Human Rights
UN	United Nations
UNDP	United Nations Development Program
USAID	United States Agency for International Development
U.S	United States
WJP	World Justice Project
LDC	Less developed country

Table of Contents

Executive summary	2
List of abbreviations	3
Introduction	6
1.1 Objectives of the research.....	9
1.2 Structure of the research	10
Literature review	11
1. Rule of law	11
2. Access to justice	14
2.1 Formal and Informal justice systems.....	15
2.2 United Nations and the UNDP in relation to access to justice	17
3. Poor communities and access to justice.....	18
3.1. Less-developed country.....	20
3.2 Barriers to access to justice.....	22
4. Improving access to justice.....	26
4.1 Role of technology	27
Methodology.....	33
1. Secondary research	33
1.1 Desk research	33
2. Primary research.....	35
2.1 Interviews.....	35
2.2 Case study.....	36
2.3 Rejected approaches: Surveys and focus groups.....	37
3. Ethical considerations.....	38
4. Limitations	39
Results	40
1. Case study: Mobile Justice in Kenya	40
1.2 Mobile Justice	42
1.3 M-Sheria and M-Haki.....	42
1.3 Access to justice in Kenya.....	45

2. Interviews.....	49
2.1 Initial stages and steps.....	49
2.2 Access to justice	50
2.3 M-Haki.....	51
2.4 Drawbacks.....	54
2.5 Future developments.....	54
Discussion	56
1. Access to justice	56
2. Technological innovations	59
3. Future development and tendencies	62
Conclusion and recommendations.....	64
References	67
Annexes	73
Annex 1: Page 6 of the Universal Declaration of Human Rights.....	73
Annex 2: Page 28 of the 2030 Agenda for Sustainable Development of the United Nations.	74
Appendices.....	75
Informed Consent forms.....	75
Student Ethics Form	77
Interview transcripts.....	82
Interview 1	83
Interview 2	94

Introduction

The Commission on Legal Empowerment of the Poor, co-chaired by Madeleine Albright and Hernando de Soto and hosted by the United Nations Development Program, argues that about 4 billion people around the world are excluded from the rule of law (UNDP, 2008). These are people who live in poor communities and they are considered the most disadvantaged group in society. Their daily lives, social, economic, and political interactions, transactions and relations are mostly taking place in an informal sector, outside the rule of law. This is to a great extent rooted in their exclusion from the formal justice system, because of a number of barriers that limit their access to justice.

People who live in poor communities in less-developed societies face more obstacles when trying to access justice with their problematic situations that require legal assistance. These are people who often do not own the houses or apartments where they live, do not qualify for loans, cannot prove that the livestock they take care of are their own and do not have the legal license to sell what they might be producing. Many of these people do not possess legal documents such as birth certificates or proof of identity. Such people are vulnerable, exposed to all kinds of dangers, often exploited by others who have more power, including criminals, corrupt government officials or unscrupulous employers.

In such context, these marginalized individuals face a significant number of barriers to access to justice and their situation is aggravated, becoming a vicious circle of insecurity and poverty (Barendrecht & de Langen, 2008, p. 251). They are often forced to accept unjust settlements of their disputes as an outcome of the impossibility to get adequate access to justice mechanisms and professionals that can assist them in resolving the issue. The lack of options for the people living in poor communities to pursue justice remedies through the established justice systems can also lead to further violations of their rights. In her report on extreme poverty and human rights, Magdalena Carmona (2012, p. 6) associates such barriers to access to justice with financial resources, lack of legal information, language barriers, geographical causes, court delays and cultural norms.

As outlined in the definition by Avocats Sans Frontiers (2013), having access to justice is associated with all the mechanisms and processes that guarantee a response to a problematic situation, for a person or a group of people, associated with the violation of human rights. These solutions, pertaining to access to justice, are based on the law.

The concept of the rule of law, as defined by Sannerholm (2012, pp. 52-53), is referred to as a principle of governance under which all institutions, persons, entities, both public and private, as well as the State itself are accountable to the established laws, which are publicly promoted, equally enforced and independently settled.

The right of access to justice, in turn, has been recognized in a number of local, national, and international frameworks that represent essential documents in the domain of human rights. Among others, The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights.

Traditionally, access to justice is associated with the possibility for individuals to be able to seek and obtain the remedy for grievances they might suffer via the formal justice system but also via informal justice mechanisms.

The latest tendencies in the domain of the rule of law are associated with the need for new and innovative practices (Avocats Sans Frontieres, 2013). These can empower the poor in their attempts to overcome the barriers and have real access to justice and enable them to solve their problems. These solutions are also regarded as bottom-up approaches that have the goal of resolving the problem closer to the people, empowering them, as opposed to the largely applied top-down approaches aiming at improving the formal justice system as a whole. Such top-down approaches to improving access to justice include investing in courts and improvement of mechanisms. According to Barendrecht and de Langen (2008, p. 254), the informal justice system, which is often the better, more efficient and less costly solution, is neglected when access to justice is at stake.

Within the informal justice system, technology seems to be key part of the solution. Legal professionals, operating within the informal justice system, develop innovative

platforms with the aim of bringing justice closer to the people. Technological innovations in the realm of access to justice have been used with success in developed countries. For example, in the United States, James Cabral and Thomas Clarke (2012, p. 248 - 252) look into a number of web platforms and mobile applications that provide people with fewer opportunities with legal information, legal advice, and assist them when filling in court-related documentation. These platforms are discussed further in this research.

Another example of applying technology to the idea of improving access to justice, in this particular case, of people living in poor societies, is M-Sheria. This is a justice mobile and web platform, maintained by around 500 lawyers in Nairobi, Kenya. On a daily basis, it provides many people, with little or no access to justice and in most cases living below the poverty line, with legal information and advice that help them resolve their issues and consequently improve their lives (HiiL, Innovating Justice, 2013). In the course of the current research, during the interview with Ms. Aimee Ongeso (personal interview May 13, 2016), it was pointed out that the above-mentioned tool M-Sheria is now called M-Haki, which has the same main objective but a slightly different platform. It has been up and running in its testing stage since March 2016, as explained in detail in the Findings section of this dissertation.

Today's globally interconnected world, where borderless communications and possibilities connect people beyond any physical borders, has been running on the basis of technological innovations for the last few decades. Lighter devices, smarter phones, and tablets, facilitating a large variety of tasks, are meant to improve every aspect of the daily work and life. Space and distance become insignificant where technology is applied. Nowadays people share thoughts, views, ideas, and experiences with a single click. It seems that there are more and more barriers that technological innovations can overcome.

As outlined by Cabral and Clarke (2012, p. 246), barriers to access to justice for people living in poor communities can be challenged by applying technological innovations. This will assist these people to access easier what is granted to them by constitutions and international treaties on human rights.

This leads to the central question behind this research:

"How can technological innovations improve access to justice of poor communities in less-developed countries in light of global connectivity? - A case study of Mobile Justice in Kenya"

The dissertation looks into the situation of persons living in poor communities and their access to justice. It will review such technological innovations established to facilitate this access and to exert positive effect on the living conditions of these marginalized groups of people. Moreover, successful technological innovations from other contexts are reviewed as best practices. This research combines theoretical knowledge about access to justice and rule of law but also relates these assumptions to a concrete solution for improving access to justice, namely technological innovations.

1.1 Objectives of the research

In order to answer the central question of this dissertation, the research will focus on a number of objectives. Firstly, to review *and* expand the existing knowledge in the area of innovations in justice and in particular technological innovations and their applicability with the objective of improving the access to justice for people living in poor communities. Secondly, to discover if such innovative practices improve access to justice for people living in poor communities, making their lives better. Thirdly, the research will try to find out if such practices are applicable to other poor communities. Lastly, to discuss the potential future advantages and developments related to applying technological innovations with the aim of improving access to justice for people living in poor communities.

These objectives will be reached by addressing the following thesis questions:

1. What is access to justice, what is its importance and what are the barriers to it for the poor communities?
2. What is the role of innovative practices and technology in improving access to justice for the poor communities?
3. What is the situation in Kenya with regards to access to justice and how are the poor communities affected?

4. What is “M-Haki” and are the lives of the people in the poor communities in Kenya improved as a result of such innovations?
5. Are such practices applicable to other poor communities and what could be the potential future advantages and developments related to applying technological innovations with the aim of improving access to justice?

In order to meet its objectives the research adheres to the following structure:

1.2 Structure of the research

First, in the Literature Review the research establishes the theoretical framework related to access to justice, the rule of law, and technological innovations created to improve access to justice. Key terms, definitions, and existing research on the subject will be presented in this part, including examples of technological innovations for improving access to justice. The research will attempt to establish an understanding of access to justice and the various barriers that people living in poor communities face when trying to obtain legal help. Then, it lays out best practices, innovative technological solutions for improving access to justice used in the different context that can also be applied to poorer communities, for example, technological justice innovations used in the United States. Secondly, the Methodology chapter introduces all the research methods adopted in the relevant chapters of this dissertation with the objective of answering the central question of the research. The main part of this dissertation was conducted with a combination of primary and secondary research methods, particularly desk research, a case study, and two interviews. This part will justify the use of these methods for obtaining essential information. Thirdly, the Findings section will introduce the results of the case study of Mobile Justice in Kenya associated with the topic. In addition, it will present the new information obtained from the two interviews. These are conveyed with legal professionals involved with technological innovations aiming at improving access to justice for poor communities. Fourthly, in the Discussion section, the research evaluates the findings obtained from primary research which is then evaluated in the context of the existing literature, outlined in the literature review. Finally, the Conclusion summarizes key steps and the main findings of this research and puts forward recommendations for further investigation.

Literature review

This chapter touches upon and presents a short overview of the research that has been done in relation to the topic of applying technological innovations with the goal of improving access to justice for people living in poor communities, in particular in less developed countries. The objectives of this chapter are to obtain theoretical support for the current research project, acquire a better orientation in the area of access to justice and finally to introduce what previous research has already established with regards to the current topic.

Essentially, this part establishes key concepts and definitions that further lay the foundations of the dissertation and enable a better understanding of the theoretical framework. At this stage, it is crucial to define what is the rule of law, what is understood by access to justice, the importance of having access to justice and the possible barriers to accessing justice. Further, the chapter looks into the question of whether and why the access to justice is more cumbersome to people living in poor communities and what are the possible solutions and practices to improve this access.

1. Rule of law

Often scholars in the justice field argue about the precise definition of the term “rule of law”. In recent years, the international community has been focusing more on commitment and responsibility to reform the rule of law. As a result, the United Nations, in 2004, established the common UN rule of law definition.

The rule of law, according to the definition by the United Nations, is described as a concept that is perceived at the very core of the organization and its mission. The rule of law is the principle of governance under which all institutions, persons, entities, both public and private, as well as the State itself are accountable to the established laws. These laws are publicly promoted, equally enforced and independently settled. The term refers to the “...principles of the supremacy of the law, equality before the law, accountability to the law, fairness in its application, separation of powers, participation in

decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency” United Nations (2011, p. 6).

A historic international document that is iconic in the system of international relations is the Universal Declaration of Human Rights. Clearly outlined already in the Preamble of the Declaration (1948), the rule of law is recognized as an essential principle when it comes to human rights, their promotion, and protection at an international level. It states that all human beings have fundamental rights and freedoms and affirms that in order to protect the people from tyranny and oppression the rule of law should protect their human rights.

The idea of the rule of law is included also in the Charter of the United Nations. In the Preamble, as one of the main objectives of the organization, it is outlined: “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained” (United Nations, 1945). These conditions pertain to a system governed by the rule of law in which international law can be maintained

Another definition of the term is provided by the World Justice Project, an independent, multidisciplinary organization that works in the field of justice and rule of law with the objective of advancing the rule of law around the world. Within the definition, the assumption for equal accountability before the law is outlined: governments, including their officials, personnel, and agents, as well as individuals and private actors are accountable under the established law (World Justice Project, 2016, “What is the rule of law” section, para. 2). These laws are clear, firm and well communicated. Moreover, they are applied in the same manner to everyone and, by doing so, they protect the fundamental rights, incorporating the security of persons and property. The rule of law requires that representatives are impartial, competent, and ethical, of efficient number, with enough resources and who mirror the communities they serve and make justice accessible at the right time for the citizens (World Justice project, et al., 2016, para. 3). It can be concluded here that the processes of making law, administering and enforcing it have to be accessible, just and efficient.

When talking about the rule of law, the majority of scholars agree on one point: the rule of law is objective and equal accountability before the law is obligatory. In that relation, this can be further associated with what Aristotle said, “The Rule of Law ... is preferable to that of any individual” (Constitutional Rights Foundation, 2010, “Bill of Rights in Action” section, para. 4). This idea refers to the fact that the individuals possess flaws and could shape the government to their interests, in contrast to the rule of law, which is ideally objective.

As outlined by Rachel Belton (2005, pp. 25-26), the essential differences that scholars outline when defining the rule of law boil down to two categories. In the first category, the rule of law is emphasized as indented to serve the society, in terms of upholding law and order or providing efficient and predictable judgments. This first category is mainly associated with philosophers and legal scholars. The second category is related to comprehensive laws and the well-functioning justice system. This second category is mostly associated with rule-of-law practitioners involved with development programs.

This research, when the rule of law is at stake, refers to and relies on that second category and also the above-mentioned definitions provided by the United Nations and the World Justice Project, outlining that the law is established for all the members of the society and that they are equally accountable for it. And that the justice system, accountable to the rule of law, needs to be accessible at the right time for the citizens, as outlined by the World Justice Project in the definition above.

The notion of the rule of law is deeply linked to the principles of justice and access to justice, as this chapter pointed out. This stems from the fact that in order to enjoy the objectiveness of the established laws and to make use of them, society needs to be able to access justice and take an active part in it. The following subchapter will focus on providing a definition and discussing what different scholars emphasize upon when access to justice is at stake.

2. Access to justice

Access to justice in its traditional definition is considered as the possibility for the individuals to access courts and be guaranteed legal representation. Moreover, it is also associated with the ability of the citizens to seek and obtain a remedy, a solution for their legal problems, through a system composed of formal and informal institutions of justice for grievances. These systems are founded on the basis of international human rights standards, established within The Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and Covenant on Civil and Political Rights and The International Bill of Human Rights, to name a few.

The definition of “access to justice” provided by the Van Vollenhoven Institute takes the perspective of the individual seeking justice. The Van Vollenhoven (2016) Institute is an institute for Law, Governance, and Development and is part of Leiden Law School. The definition of access to justice, put forward by the institute is pertinent to the goals of this paper, as this institute is very much involved in advancing knowledge of the functioning and formation of legal systems and also their effectiveness in terms of development and good governance.

Access to justice presents the various processes that the justice seeker needs to go through to obtain the sought redress. The institute looks at the idea of access to justice as a process rather than as a situation or a goal.

Another important notion put forward by the Van Vollenhoven Institute (n.d, “Access to Justice: The concept” section, para. 3) underlines the necessary conditions for access to justice to exist. This is, specifically, that the citizens, vulnerable and marginalized, who suffer from injustices, are able to have their grievances heard and as a result can obtain a proper treatment of such grievances by the formal or informal justice system. This, in turn, should lead to a redress of these injustices on the basis of principles stemming from state law, customary or religious law and are in accordance with the rule of law.

As a term, “access to justice” can be further defined as the variety of mechanisms that an individual can draw on when seeking legal assistance. This concept of “access to justice” consists of two crucial elements:

- **Equal access to legal services:**

This stands for the importance of having a system that is equally accessible to all members of the society regardless any differences in their status or possession of resources. Gordley (1977, p. 224) points out that high-quality legal services and dispute resolution mechanisms need to be equally accessible to all citizens in order to ensure the protection of their interests and rights.

- **Equality before the law:**

This concept is embedded in article 7 of the Universal Declaration of Human Rights (1948, p. 3). The notion of equality before the law is to ensure that all members of the community, regardless of their race, gender, disability or ethnic origins have equal opportunities in the fields of justice, education, employment and can make use of public goods and community facilities and are equal before the law.

These principles establish the notion that access to justice relates to having equal opportunities for all the members of the society to participate in the formal and informal justice systems. For the purposes of this dissertation, these two terms need to be defined.

2. 1 Formal and Informal justice systems

Schutzer and Mullins (2002, pp. 11-13) argue that the formal justice system refers to formal models of law, courts, police, prisons and procedures related to these that are supported by the government and stem from it. This is in terms of both access to legal services and access to courts and tribunals. In the formal justice system, laws are set and punishments are administered by the above-mentioned state institutions.

The Virtual Knowledge Center to End Violence against Women and Girls (2012, “Formal justice mechanisms” section, para. 1), which is an initiative of UN Women and brings together valuable contributions and definitions by various actors from the field of justice,

provides a further framework for defining the term: The power of the policies in the formal justice system and their structure derive from the governments. The formal mechanisms used to administer the system are not only provided by the state apparatus but are also funded by it. The function of such formal mechanisms is to interpret laws and by doing so to resolve conflicts, as well as to outline responsibilities for violations of the established laws. In terms of stakeholders, the official courts are the center of the formal justice system. Key actors here include judges, prosecutors, civil attorneys, defense attorneys, and supporting staff.

On the other hand, the informal justice system, as outlined in the definition by Unicef (n.d, "Definitions of informal Justice systems" section, p. 8) is associated with the resolution of disputes or assistance by a neutral third party that is not part of the judiciary as established by law and the government. This system operates within the established law but relies on alternative and in some cases innovative methods. These stakeholders are usually closer to the people who need legal assistance. Mechanisms associated with informal justice systems derive from community structures and social groups that do not form part of the government (Virtual Knowledge Center, 2012, "Informal justice mechanisms" section, para. 2). Actors within the informal justice system include, but are not limited to non-governmental organizations, legal aid organizations, legal professionals who are involved with justice and improving access to justice. In most cases these are focusing on poorer communities, for a number of reasons that make these more disadvantaged, as outlined further in the chapter, under the subpart of barriers to access to justice.

This dissertation, in the course of the current research, is more focused on the processes and developments related to the informal justice system in order to reach the objectives set for this work and thus will accept these as a basis to develop on.

Moreover, the definition of access to justice, for the purposes of this work, will be interpreted more broadly than solely involving access to formal justice systems, legal representation, and courts. Access to justice is, thus, referred to as the possibility to participate in the justice system, including having access to legal information, receiving legal aid and not being limited to that access by barriers. Overcoming such barriers will

be related to tools, such as technological innovations, developed within the informal justice system.

Once having established the definitions for the rule of law, access to justice and formal and informal justice systems, the current part moves on to obtain a broader overview of the situation in relation to access to justice and the rule of law. This broader context is applied in the following subpart. At the international level, access to justice and the rule of law are at the core of organizations such as the United Nations and its agency for development UNDP. Further, the UN is reviewed in light of defining access to justice and its importance worldwide.

2.2 United Nations and the UNDP¹ in relation to access to justice

The United Nations is one of the organizations worldwide that is heavily involved in promoting equal access to justice. For this purpose, the views, positions, support for its member states and definitions provided by the organization in relation to justice and access to justice are of interest for this dissertation.

Access to justice is also recognized by the organization as a human right. In articles 6, 7 and 8 (annex 1) of the Universal Declaration of Human Rights (United Nations, 1948), it is highlighted that all are equal before the law and are entitled, without being subject to any kind of discrimination, to equal protection under that law. Article 8 concludes also that an effective remedy for the grievances suffered is a right to all persons.

The United Nations Development Program advocates fair, effective and accessible justice systems as a prerequisite for democratic development and a sound foundation for governance. Access to justice is the essential tool for the citizens to be able to exercise their rights, have their voice heard, hold decision-makers accountable for their actions, challenge poverty and discrimination and strive for improvement of their lives (UNDP, 2016). In this context, both justice and security have their footing in the rule of law. Accessible justice and the rule of law provide for the establishment of a safe and secure environment enabling economic growth and development. The UNDP works with their

¹ The United Nations Development Program (UNDP, 2016) is one of the largest multilateral development

partners, in the backdrop of complexities and pluralistic legal landscapes, to ensure that their support programs involve different approaches to justice, bottom-up mechanisms in order to empower the marginalized citizens to seek remedies for injustice and to improve their legal protection. Part of the priorities of the organization listed is the strengthened relations between the formal and informal structures.

Access to justice is one of the fundamental principles of the rule of law. It is an important aspect, and when present, it ensures a system where the citizens have their rights protected, their voice heard and the decision-makers are held accountable for their actions. In the Declaration of the High-level Meeting on the Rule of Law at the National and International Levels (United Nations, 2014, para. 11), where the Assembly invited the UN Member States to discuss national practices with the goal of strengthening the rule of law, it is emphasized that equal access to justice is a right for all, including the members of poorer societies that are vulnerable and marginalized. The above-mentioned Declaration of the meeting also highlights that all member states of the UN are equally committed to providing conditions where access to justice is for everyone. In theory, this is associated with transparent, fair, and effective services that promote such access to justice. These principles are outlined in paragraphs 14 and 15 of the Resolution adopted by the General Assembly following the High-level Meeting on the Rule of Law at the National and International Levels (United Nations, 2012, para. 14-15). The United Nations in the light of its activities as a global organization is highly committed to supporting its member states in their efforts to ensure and promote equal access to justice by developing national strategic plans and programs with focus on service delivery and justice reforms.

3. Poor communities and access to justice

Having access to justice is crucial for tackling poverty, vulnerability and exclusion. People who are marginalized and vulnerable and live in less-developed countries are often more likely to fall victim to illegal acts and crime. For such people, it is cumbersome to obtain redress and the outcome is that they fall further into poverty. Fair and accessible justice systems are important and are the way forward to tackle inequalities and reduce violence, conflicts, and poverty.

Magdalena Sepúlveda was the United Nations Special Rapporteur on extreme poverty for the period May 2008 – June 2014. In her speech, from 16 October 2012, to the member states of the UN (Sepúlveda, 2012), she highlights the relation between poverty and access to justice and that immediate and collective measures in relation to improving access to justice for the poorest segments of society have to be taken. In her speech, she also refers to the fact that access to justice itself is a human right, as already mentioned previously in this research and quoted from articles 6,7 and 8 (annex 1) of the Universal Declaration of Human Rights (United Nations, 1948). Furthermore, Ms. Sepúlveda (2012, para. 9) argues that improving access to justice is essential for tackling poverty and improving the lives of the marginalized people who live in poorer societies. When access to justice is not guaranteed for these people, they are unable to claim and realize their other human rights. The main obstacles outlined here when trying to access justice include physical, financial, and social constraints. These are discussed in further detail in this dissertation in part 3.2 of this subchapter. When concluding her speech on the International Day for the Eradication of Poverty, Ms. Sepúlveda (2012, para. 11) stressed and reminded the member states of the UN that efforts to reduce and end poverty need to be multidimensional and improving access to justice for the poorer communities is a crucial part of this process.

This relation between poverty and access to justice is also recognized by The Open Society Foundations, an organization working in the field of the rule of law and human rights that support the idea of building societies where governments are open and accountable to the people. According to the organization (2015, para. 8), the poor communities live at risk of losing the homes and lands that they rely on for their survival. In a number of cases others who have more power exploit these vulnerable people. This, in turn, can result in a spillover effect that creates violence and more poverty for them. Due to the obstacles they face along the way, they cannot seek justice for their grievances. In this correlation between poverty and justice, outlined by the organization (2015, para. 11), it is stressed that overall progress can be achieved and poverty reduced if the access to justice for the poor is enhanced.

Such overall development and progress for ending poverty are part of the new 2030 Agenda for Sustainable Development. This new Agenda was developed with the objective to the full realization of all the Millennium Development Goals, set in 2000, with a focus on less-developed countries. These new Global Goals, adopted by the UN (2015), were agreed by the member states on 25 September 2015. Goal 16 (annex 2) of the Sustainable Development Goals and Targets is to “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (United Nations, 2015, p. 28). Furthermore, in point 16.2 (United Nations, 2015, p. 28), it is outlined that the main objective for sustainable development is the promotion of the rule of law at the international and national level and equal access to justice for all citizens.

Furthermore, at the international level, organizations such as the World Bank are associated with programs that aim at reforming justice to make it more accessible for the more vulnerable and marginalized (The World Bank, 2011). Such a program is the Justice for the Poor (J4P) program of The World Bank. This program aims to improve the delivery of justice services for the poorer communities and it also intends to support sustainable development processes associated with conflict resolution and managing grievances. This program works in countries such as Indonesia, Sierra-Leone, Nigeria, and Kenya. The role of justice, as highlighted by the organization, in relation to this program, is in breaking the cycles of poverty and conflict. In relation to access to justice, the organization works to improve the legitimacy and access to both the formal and informal justice systems, capable of resolving conflicts and problematic situations. The organization operates in a number of less developed countries such as Sierra Leone, Nigeria, Timor-Leste, and Papua New Guinea (The World Bank, n.d, “About Justice for the Poor” section, para. 5). In the next subpart, the definition for a less developed country is outlined.

3.1. Less-developed country

Such poorer communities that have fewer opportunities and are vulnerable are associated with less developed countries, as outlined in the definition of Investopedia, one of the largest financial education web platforms. According to this definition (n.d, “Lesser-Developed Country – LDC” section, para. 2), a less developed country is

associated with deficiencies in terms of economy, infrastructure, and industrial base. Moreover, the population of a less developed country has a low standard of living. This is due to poverty and low income of the members of the society. This level of poverty is measured in most cases by gross domestic product (GDP) per capita. According to this definition, the platform identifies many African and Arab nations as less developed countries. Such countries depend extensively on agriculture as an income source and modernization is mostly associated with capital cities and big urban centers.

Another definition for a less developed country (LDC) is provided by the online business library allBusiness. This definition (allBusiness, n.d, “Less-Developed Country” section, para. 1) also shares the idea that a less developed country is characterized by the low national income, which, in turn, defines the state of economic development. In addition, the online library highlights that a less developed country is also defined by the high rates of population growth, high rates of unemployment, and dependency on commodity exports. Furthermore, as examples of such nations, this business platform (allBusiness, n.d, “Less-Developed Country” section, para. 2) points to countries mostly situated in Asia, Africa, and Latin America. Such nations are also referred to, depending on the state of development, as developing countries or in some cases third world countries.

When talking about less developed countries, this dissertation refers to nations where parts of the citizens live in poor communities and have limited opportunities because of very limited resources and live in an overall less developed context in terms of high rates of population growth, growing unemployment, and slow economic development, as outlined in the definitions above.

Despite the idealistic statements provided by organizations such as the UN and the World Bank, that justice needs to be accessible to all the members of the society, oftentimes there are a number of barriers that limit this human right and make it available only for a small number of citizens. Access to justice, in relation to the public availability of legal information, allocation of legal aid, costs of legal proceedings and services at times, construct barriers in particular for people who are vulnerable and marginalized.

The following part reviews the various barriers to access to justice faced on a daily basis by people who live in poorer communities in less developed countries.

3.2 Barriers to access to justice

Even if a country has a functioning legal system, justice may not be accessible to all citizens, particularly for the poorer communities. The State may also only engage in a limited range of cases and thus not serve all persons equally. Such situations construct barriers to access to justice. These barriers have been studied by a number of legal professionals and academics and outlined in various reports (Abregú, 2000, pp. 53-60; Amnesty International, 2010; Gordley, 1977; Carmona, 2012; Barendrecht & de Langen, 2008). These studies isolate a few major situations that form barriers to access to justice.

The majority of these are common for all the reports. Such barriers to access to justice are related to the formal justice system, which was defined earlier in the research. Such barriers include four major categories of constraints: physical, financial, information, and language barriers. These are outlined in more detail below.

Some of these studies (Gargarella, n.a; Barendrecht & de Langen, 2008) include, in addition to the mentioned general categories, more barriers to access to justice. Such barriers are corruption, formalism, fear and mistrust, the complexity of laws and procedures, and cultural norms. Due to limitations of the current research, as listed in the methodology part, these are not explained further. The focus remains on the common 4 barriers found in all the studied reports.

Some of the solutions for these barriers come from the informal justice sector, with legal professionals and NGOs working with innovative practices and technology. This will be introduced in the part following barriers to access to justice. The barriers that are common for all the reviewed reports on the topic are presented next.

- *Economic costs*

In their report, “Legal empowerment of the poor”, Barendrecht and de Langen (2008, p. 255) list the financial causes as the biggest purpose for having difficulties in accessing justice. The fees that most of the courts have are high and are often the stumbling block for the poorer citizens to even initiate legal proceedings. Additionally, all kinds of further costs aggravate the situation and hinder access to justice. For instance, people living in poorer societies in the less-developed countries may not be able to read or write and therefore need to pay extra costs for these services provided by third parties in relation to documentation. Another instance is the lack of identification documents. If the person seeking redress does not possess the needed documents for identification, they would have to obtain one. For such marginalized people, even the costs associated with ID pictures might be impossible.

The market for legal services is oftentimes highly restricted to the citizens that can afford them. People who are economically disadvantaged face barriers in relation to the legal services provided by legal professionals, such as lawyers, notaries, and advocates as they are costly and thus difficult to obtain. In relation to this, a report from Amnesty International (2010, para. 6) argues that women in Uganda, who have tried to access justice and seek legal assistance for their grievances, resulting from domestic violence, were unable to do so because of financial constraints and limited resource.

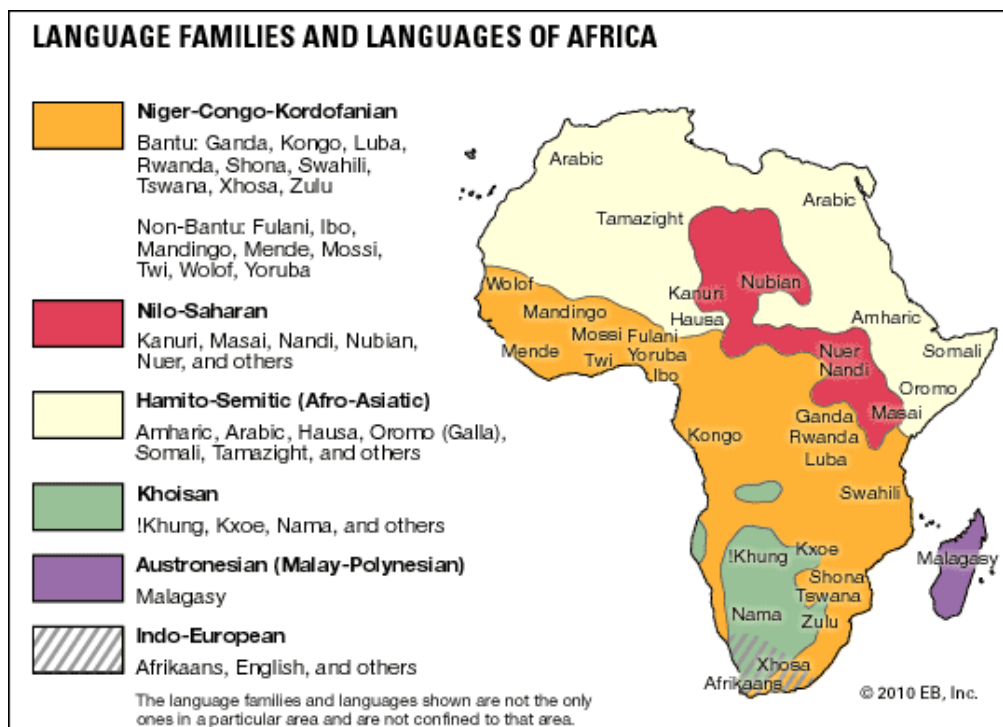
- *Lack of information*

Among other obstacles to access to justice, obtaining and using legal information commonly becomes a barrier that is hard to avoid, particularly by vulnerable members of the society. For example, according to a study conducted in 2001 in Colombia (Buscaglia, 2001, p. 7), within the poorer communities, 66% of the people who participated in the surveys on access to justice, considered the lack of information about their legal rights and obligations to be the most significant barrier. When information is hard to access, the disadvantaged lack essential information about their rights. This, in turn, results in not knowing what rights they have and if they can pursue compensation for their grievances. As outlined by Gargarella (n.a, “Lack of information” section, para. 1), this lack of information is further related to not knowing where to go and what to do in

order to demand one's rights. Mauro Cappelletti (1978, p. 183) defines this problem as "legal poverty".

- *Language barrier*

Legal procedures and norms have to be understandable by the public. Oftentimes laws are drafted and are applied by courts in the national language of the country. This, of course, could be an immediate barrier to access to justice for the people who have not mastered the language (Barendrecht & de Langen, 2008, p. 254). An example is that in most African countries, the official language used for legal procedures and drafting laws is the language of the former colonial power. However, most of the population on a daily base communicates in a different language that is their mother tongue. Between 800 and 1000 languages are spoken in Africa (Encyclopædia Britannica, n.d). Graph 1 below illustrates the great diversity of language families in Africa that in cases could become a barrier if the legal information is offered only in English, as outlined.



Graph 1: Language Families and Languages of Africa (Encyclopædia Britannica, n.d)

On the other hand, another barrier related to language is the level of illiteracy. Members of the society who cannot read and write have a huge disadvantage in the modern legal systems as most of the documentation is written. Gargarella (n.d, p. 3, para. 1) sees this to be particularly the case with people who live in poor societies. Lastly, the complex language that legal professionals use when drafting laws and documents is further complicating access to justice for the most vulnerable. Worldwide lawyers are criticized for their extravagant language that is frequently a reason for complicating the process. In the context of the less developed countries, this is no different. The impact of this is even more substantial since the average level of education in such societies may be lower than, for example, in some developed countries.

- *Geographical causes*

The majority of the population that lives in poor societies lives outside of the urban centers. These are remote and hard-to-reach areas that are far from the big cities where the community of legal professionals is centered (Bappenas, 2007). In these circumstances, people living in poverty have to sacrifice their daily wage when going to the capital cities or bigger towns where they can access justice when they need to. They often need to travel long distances and spend, in some cases, more than they would earn for a day in their attempts to access justice. This also means that these people would expose themselves to unsafe conditions and unfamiliar environments that might cause them further problem.

Jin Ho Verdonschot, who is director at HiiL Rechtwijzer Technology² in The Hague, The Netherlands (Verdonschot, 2013, “M-SHERIA” section, para. 2), describes the geographical accessibility of the justice system to be one of the biggest barriers, particularly in less developed countries. He, along with his colleagues from Kituo Cha Sheria³, initiated and developed M-Sheria, an innovative IT platform for legal advice justice (HiiL, Innovating Justice, 2013, “Mobile law in Kenya” section), with the goal of reducing the physical distance between those people in Kenya that live in poorer

² Rechtwijzer (2014) is an online-based dispute resolution platform that assists people during their justice journey.

³ Kituo Cha Sheria (2016) is a NGO working in the field of human rights, providing the poor and disadvantaged people in Kenya with legal advice and better opportunities to access justice.

communities and have little or no access to. This platform has been further developed and is now called M-Haki and it is presented in more details in the Results section of this research.

People who live in poverty are equally entitled to access justice without being discriminated in any way. Moreover, they have a right to due process and the right to be treated fairly as all the members of a society (Sepúlveda, 2012, para. 7)

In conclusion to this part, it was established that there is a need for improvement of the access to justice for the poorer communities as they face many barriers that prevent them from enjoying their human rights and this results in cyclical poverty.

In the following part, these ideas are further discussed and some innovative practices, particularly using technology, are reviewed with the objective of improving access to justice.

4. Improving access to justice

In 2013, Avocats Sans Frontières (2013, p. 1) hosted a conference in Brussels and one of the main priorities was to highlight the correlation between access to justice and the fight against poverty. One of the main discussions revolved around the idea that access to justice can be used as a means to enable the most marginalized individuals around the world to enjoy their human rights. The basis of this is the law and also all legal and judicial mechanisms that are available, but also innovative practices that can improve the overall access to justice by reaching more people with fewer resources

When talking about access to justice and public policy, the idea of access to justice is often associated as an obligation of the State. In most western societies this access is established by the combined system of legal advice, legal aid subsidized by the state, and pro bono assistance (Avocats Sans Frontières, 2013, pp. 3-4). However, even in countries, which are considered stable, it is difficult to construct a system that would ensure an equal access to justice for all the members of the society. The most affected by this are the vulnerable and marginalized people living in poverty, because of the great

number of barriers to such assets, as outlined previously in this research. Oftentimes civil society organizations, local and international organizations, but also actors such as lawyers and bar associations take the responsibility for improving and guaranteeing access to justice for these communities.

Barriers to access to justice require innovative solutions that will construct a sort of a bridge between the justice system and the citizens. Such processes would facilitate in a number of ways the lives of such people who live in poorer communities when trying to obtain remedies for their grievances. Innovative methods and procedures, such as the use of mobile and web platforms to enhance access to justice, are being researched and applied by various legal professionals and organizations worldwide. The role of technology in these processes is key, as it is further outlined in the next subpart.

4.1 Role of technology

A few reports and articles (Carmona, 2012; HiiL, Innovating Justice, 2013; Cabral, Chavan, & Clarke, 2012) highlight the need for applying more innovative practices and procedures to enhance access to justice and in particular for the people living in poorer communities. The already mentioned concerns and barriers, related to access to justice, call for a review of the strategies and priorities and highlight the need to search, develop and apply more innovative, cost-effective and user-friendly justice solutions. The role of technology is key. Technology has made the world of today more interconnected than ever. As indicated in the report of Cabral and Clarke (2012), technology can also be applied in the fight for improving the access to justice of the persons living in poor communities with the objective of improving their living conditions

In the Harvard Journal of Law & Technology (Cabral, Chavan, & Clarke, 2012), the subject of using technology to enhance access to justice was reviewed in a more general manner and innovative solutions in the context of legal systems in the United States were presented. This is relevant for the current research as it presents a set of examples, good practices that are already functional and work successfully in assisting people with their legal needs and can be considered as a blueprint for less developed contexts. Some of these successful solutions include:

- *Legal aid websites*

When these platforms were first created they contained only static information about procedures and services with links to resources and information. In the last few years these platforms and websites have started to become very much interactive with legal aid materials. Some of these websites have been optimized and now can create content optimized for search engines, which makes the search process of legal information faster. Moreover, on such platforms people can now find podcasts, interactive quizzes, videos and multimedia content in relation to legal information and processes (Cabral, Chavan, & Clarke, 2012, p. 248). Such a web platform is Probono.net. The non-profit organization behind this platform was created in 1999 with the objective to improve the access to justice for the disadvantaged. This is achieved through solutions based on innovative technologies and expertise that result in the creation of justice networks, making justice accessible and easily reachable for the ones who need it most (ProBono.net, 2016, “about” section). Another web platform aimed at improving the access to justice for the poorer citizens is LawHelp.org (2016). This platform was specifically created for people living on low-incomes. The assistance provided is associated with referrals to information about laws, legal rights, court forms and self-help information (graph 2), to list a few. Both of these platforms are operating in the United States.



Graph 2: Screenshot: Differences between Federal, State and Local Laws (LawHelp.org, 2016)

Such platforms providing legal aid and information related to legal texts are of benefit to the poorer communities, as they assist marginalized people in overcoming barriers to access to justice in relation to a lack of information.

- *Remote assistance*

These innovative solutions present a very promising development in the web-based platforms for legal information that improve access to justice. Such platforms also support instant messaging and software that allows for remote access with the final goal of assisting the users in finding available self-help resources. It uses bilingual volunteers to support its services under their LiveHelp program (Cabral, Chavan, & Clarke, 2012, pp. 249-250).

Such a technological innovation is “LawHelp/NY” (2016, “about” section). This particular platform aims to help low-income New Yorkers solve their legal problems. The assistance is offered both in Spanish and English. When a visitor goes to the website in search of legal self-help information, there is a button that can connect them to a live session with a trained specialist. This professional can assist the users in finding the information needed and answering their questions. In cases when no experts are available, the person can leave their message and receive the necessary information later via email. In the case when particular legal advice is needed, these volunteers will inform the user where and whom to contact to address the problem. Assistance is provided in the following fields (graph 3):

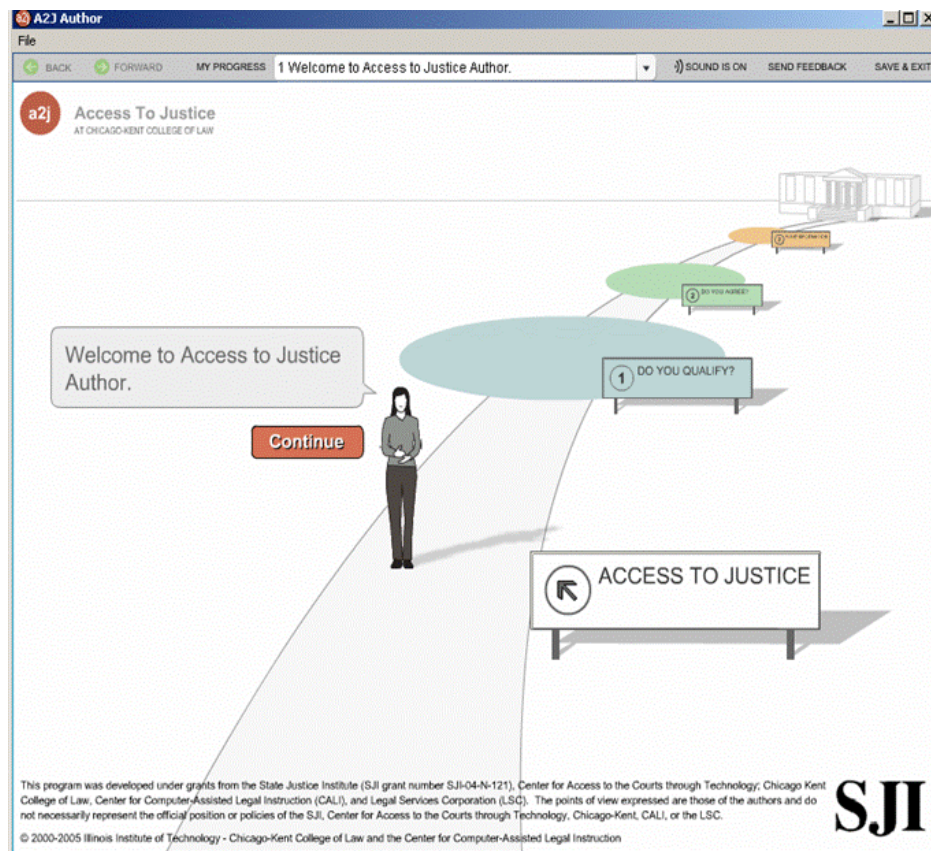


Graph 3: Screenshot, Home page of the web platform LawHelpNy.org (LawHelpNy.org, 2016)

The added value of such platforms, providing live assistance for a number of legal matters, as illustrated in graph 3, is also associated with overcoming barriers related to geographical distances and financial resources.

- *Filing of legal documentation*

Another very successful technological innovation in the U.S is called A2J Author. When applying for legal assistance this kind of applications can significantly simplify the process of filing legal documents. Instead of filing court forms by hand, the users are allowed to go through the litigation process online, using the platform. The litigants, thus, need to answer a number of questions and this, in turn, results in filling in the documents that use more than 2300 templates stored on a server for the use of legal professionals, pro bono volunteers, and advocates (Illinois Institute of Technology, n.d, "A2J Author" section, para. 2). A2J Author is a software tool that delivers greater access to justice for litigants that self-represent themselves. Barriers such as complexity of procedures and terminology are removed in this case by providing an interactive and simple to use step-by-step guide, as illustrated below (graph 4):



Graph 4: Screenshot, guided step-by-step tour for filing legal documentation (A2J Author, n.d).

Such platforms, aimed at improving access to justice by transforming content into interactive data, help poorer citizens to overcome barriers related to the complexity of procedures, legal texts, and lack of higher education.

As a result of the knowledge obtained throughout the literature review, after collecting and reviewing the data, best practices and examples, it can be outlined that the scholars agree on the following:

Innovative practices, using technology to overcome barriers and improve access to justice, can be further of use to people who are vulnerable and marginalized, living in the poor societies of less developed countries. However, these innovations need to be evaluated and adjusted to the concrete national context and justice system in order to

work properly. It is evident from the examples that such technological innovations are a modern cost- and time-effective alternative to formal justice procedures and methods. These solutions, in turn, are put forward by the informal justice sector (legal aid organizations, NGOs, legal professionals) and can be applied to bring justice closer to people with scarce resources that often live below the poverty line, which may, in the end, improve their living conditions.

Information in regards to applicability and usage of such technological innovations in the concrete context of less developed countries with the objective of improving the access to justice of the poorer communities is scarce. Mr. Jin Ho Verdonshot (personal e-mail, 25 April) argues that such technological innovations, as reviewed in this part, do not seem to be extensively applied in less developed countries. However, steps towards this are slowly being taken. Such is the example of M-Haki, discussed with Ms. Ongeso (personal interview May 13, 2016) in the Results section of this dissertation. This is presented through primary research findings that aim to explore this field and possibilities better.

Methodology

This section outlines the research methods applied in the dissertation to establish the findings of the work. The chapter seeks to lay out a framework for the research in terms of tools and methods for obtaining information.

The approach to this research is inductive, as one of the main objectives of the dissertation is to put to test the hypothesis that innovative practices can improve access to justice. The particular case here, of course, is by applying technological innovations for this purpose.

The information obtained in this dissertation is a product of both qualitative and quantitative research. The qualitative research method, as outlined by Verhoeven (2015), is associated with the collection of data that is non-numerical. The objective sought with this method is to define terms, relate to theories and to look into the different theoretical perspectives of the matter, as opposed to quantitative research, where the central tools are mathematical and statistical analysis (Penn State University, 2016, para. 2). On the other hand, the quantitative methodology of research, representing numbers to test hypotheses (Seale, 2004, pp. 52-53), used in the dissertation is limited due to scarce statistical data on the subject. The qualitative methodology of the research is composed of primary and secondary research.

1. Secondary research

Secondary research, used for the purposes of the study, includes data and information, key terms, definitions and research on the subject that already exists and is available.

1.1 Desk research

A fundamental part of the research that this dissertation elaborates on derives from desk research, using secondary sources, reviewing projects, information, data, and topics associated with the correlation between innovative practices and access to justice for

people who live in poor communities. This research method was applied initially in order to review the literature related to the subject that is already published.

The literature sources within this method are secondary and include already published information on the matter, in particular, texts, books, reports, and articles. The reason for using this research method is to obtain a better understanding of the problem area. Moreover, this provides the research with a theoretical support for highlighting the main ideas, problems and better defining the central concepts, such as access to justice, the rule of law, formal and informal justice systems, for instance. Desk research further helps to distinguish and review what other research says about the topic (Verhoeven, 2015, pp-129-132). In practice, desk research comprises of reviewing published academic literature and journals on the topic. Moreover, articles of legal professionals and reports by justice professionals are included. The collected data is necessary to address the objectives laid out in the introduction of this work.

The articles and reports are from websites of organizations, authors, legal professionals and experts in the fields of justice, technologies, and innovations. This includes the expertise from a number of international organizations such as the United Nations, HiiL Innovating Justice, The Commission on Legal Empowerment of the Poor and Avocats Sans Frontieres, which are very much involved in the field of the rule of law and justice. As part of their priorities is the need to improve the access to justice for people who live in poor societies, the majority of whom struggle with less than 2 dollars a day.

As mentioned above, HiiL Innovating Justice is one of the important stakeholders for this research. The organization has worked for a number of years conducting and providing research and improving access to justice by applying new innovative approaches through expertise and working with a network of international justice innovators (Innovating Justice Accelerator, 2016). Contacts with experts from this organization are crucial for obtaining data for the research. Such a contact is established with Mr. Jin Ho Verdonshot (personal e-mail, 25 April), who is interviewed with the aim of acquiring first-hand information about technological innovations and access to justice, explained further in the following part.

2. Primary research

Apart from conducting secondary research and reviewing the existing literature on the topic, this dissertation relies on interviews and a case study to construct a better understanding of the topic and to include a number of different opinions and new insights that are not available in the reviewed literature. As defined by Seale (2004, pp. 52-54), primary research represents first-hand information acquired through tools such as interviews and case studies. These are discussed in further detail below.

2.1 Interviews

Conducting an open and semi-structured interviews present excellent research methods for obtaining first-hand information and data on the subject that is being investigated. As a primary source of insights, these interviews provide a better opportunity to gather new information, review different perceptions and experiences related to the central question (Swanborn, 2009). In particular, open interviews provide more general insights and set the overall framework of the topic. Furthermore, a semi-structured interview permits the researcher to tailor down and specify the investigated subject and thus to ask more concrete questions with the objective of obtaining specific data to answer the central research question (Seale, 2004, p. 50). Thus, for the current research, both open and semi-structured interviews are seen as one of the best methods to obtain the necessary information. As the topic is relatively new, contacting law-makers and professionals involved with justice innovations personally adds value to the research.

For these purposes, two interviews were conducted. The first interview is with Mr. Jin Ho Verdonschot who is a legal professional, involved in the field of innovations in justice, in particular using technology in order to “build bridges” between the justice system and the people with little or no access to it (The National Center for Technology and Dispute Resolution, 2016). He is also among the leading experts related to the project “M-Haki” in Kenya. The correspondence with Mr. Verdonschot was conducted both in person and via email. Following an initial informal discussion about the topic and its objectives, an email correspondence with interview questions was sent to Mr. Verdonschot. The outcome of this communication and interview is included in the results section and are

essential to meeting the objectives set in the introduction. In addition, a transcript of the email correspondence is included in the appendices.

The second interview was conducted via Skype with Ms. Aimee Ongeso, a legal professional who works at Kituo Cha Sheria, a legal advice center in Nairobi, Kenya. The questions discussed with Ms. Ongeso are more specific and aimed directly at the justice sector in Kenya. Of particular interest to this talk was the technological innovation called M-Haki which provides legal information and advice for the poorer communities in Kenya. Moreover, the current status, evaluation, drawbacks, and future developments of this platform were central to the discussion.

In terms of ethical considerations, both participants in the primary research were informed about the nature and objectives of the work. Moreover, their personal information is used only for the purposes of this dissertation and their agreement on this is reflected in an agreement via an informed consent form and emails (appendix 1). The information and outcomes of the two interviews are set in detail in the Results section of this dissertation. These are further analyzed through the concepts and perceptions, laid out in the literature review, in the Analysis part. A further part of the primary research forms the case study of Mobile Justice in Kenya. This case study is focused on providing information, data and statistics with regards to access to justice and mobile technology within the particular case of Kenya. This and the concept of the case study and its essence are defined below.

2.2 Case study

Case studies are limited to a set of interactions or context and allow the researcher to examine how particular sayings or doings are integrated into specific patterns of social organization (Seale, 2004, p. 54). With using a case study strategy for research, the phenomenon can be studied intensively, focusing on one case, as in this dissertation. This is also the reason because some researchers call this method “intensive research” or “in-depth research”. These characteristics of the case study distinguish this method from other main strategies in social science that are large-scale research designs and social surveys. Case studies seem to be one of the dominant strategies in the policy sciences and organization studies. These traits of the study method are the reason why

this method is preferred for the purposes of this dissertation. As outlined by Swanborn (2009), conducting a case study is essential and worthwhile as it provides the possibility to approach the question from the inside. This gives this research a concrete example and contact with an organization that is involved and works with such innovations with the goal of improving access to justice for poor communities.

The study about Kenya presents specific data on an issue of access to justice in Kenya, also the notion of Mobile Justice and M-Haki as a platform. Within this, the research is not presenting any opinions of academics, but data and statistics on access to justice and description of M-Haki and its purpose.

Conducting the case study and focusing on the example of Kenya and Mobile Justice, and specifically on the technological innovation “M-Haki”, outlined in detail in the Results section, provide this thesis with an abundance of information on how such technological innovations function in practice, what are the goals, how they are achieved and what the outcomes are.

Due to limitations of this research, highlighted at the end of this subpart, more examples, which would give the research a better overview and further outline the positive and negative aspects of applying technological innovations for improving access to justice for poor communities in other countries, are not included.

2.3 Rejected approaches: Surveys and focus groups

Social surveys are associated with the type of research strategy that aims to collect social statistics for evaluation and theory testing. Researchers usually use this method when a large number of identical questions are asked. These questions are aimed at separate individuals or a large group of people with similar traits, education, and occupation, for example. Focus groups, as indicated by Verhoeven (2015), are predominantly applied when two or more people are interviewed simultaneously, in most cases 6-12 persons, gathered in the same room.

For this particular research, these research methods are not applied, as they are considered rather time-consuming and cumbersome to carry out, thus not feasible to

conduct the current research. Another reason to omit them is linked to the complications associated with the possibility of directly contacting a sufficient number of Kenyan citizens, who have used the application “M-Haki”, the subject of the case study, in order to obtain adequate statistical information contributing to a quantitative research approach. This is also due to the fact that the platform has been active in its testing stage only since March 2016.

3. Ethical considerations

Ethical considerations are essential when conducting social research. According to Laerd Dissertation (2012), there are a number of important ethical assumptions that need to be taken into consideration.

First of all, the researcher needs to obtain an informed consent from the research participants. This indicates that the participants should understand what the research is about, what is required from them and that they understand that they are taking part in the research. The information included in this principle relates to the purpose of the research, methods of researching and possible outcomes of the research (Laerd Dissertation, 2012, “Principle two” section, para. 1). In relation to this principle of ethics, both interviewees are informed prior to further discussions, about the purposes of the research, its objectives and idea (informed consent forms are duly signed by the participants in the research and are included in the Appendices part of this work)

Secondly, the researcher has to minimize the risk of harm to the participants in the study. The dissertation should not harm the participants or put them in a situation of discomfort and if there is any possibility, because of the nature of the topic, context or sensitivity of the issue being researched, there must be very strong justifications for this. Harm, in this case, can mean physical harm, psychological harm or social disadvantage (Laerd Dissertation, 2012, “Principle one” section, para. 1). For the purposes of the current research, this ethical principle is taken into consideration and all possible measures are taken to reduce any possibility of harm to the participants of this research.

Thirdly, the confidentiality and anonymity of the participants need to be protected. In most cases interviewees are willing to share information regarding the research matter, especially information that is of sensitive or private nature, only when the researcher affirms that this information will be used only and exclusively for the purposes of the research (Laerd Dissertation, 2012, "Principle three" section, para. 1). Both participants in the interviews conducted for this dissertation are informed that their personal information and the expertise shared are used only within the framework of this dissertation and their anonymity is protected. Lastly, the participants in this dissertation are informed that they can withdraw at any point in time from the research.

4. Limitations

Limitations to this research are related to time, resources and availability of sufficient first-hand information. Firstly, time constraints limit the possibility of conducting a more extensive research that would examine and cover a bigger number of countries and technological innovations created to improve access to justice for people living in poorer societies. Secondly, due to limited resources, the dissertation lacks more quantitative research that would provide statistical data and contribute to the part where technological innovations are evaluated and feedback from users is collected in order to examine better the efficacy of such solutions. Moreover, the same constraints limit the dissertation from obtaining more first-hand information through interviews with people living in poorer societies, what would contribute to collecting more data to analyze and write recommendations based on that. This possibility is also limited because of the recent launching of the platform, namely in March.

Lastly, geographical constraints are also limiting this research are associated with the impossibility of conducting surveys and interviews in Kenya in particular. This is due to the remoteness of the country at the current state of this research and also due to the lack of sufficient resources.

Due to the above-mentioned limitations, it is a rather cumbersome task to cover all the different aspects of the matter. In relation to that, the current dissertation is not comprehensive. Further research can be conducted in relation to the expansion of knowledge, expertise, and data on the topic.

Results

This chapter presents an overview of the information obtained through primary and partly secondary research for the purposes of this dissertation. This includes a case study that illustrates a concrete example in the context of less developed communities in Kenya and access to justice. Moreover, first-hand information, obtained through two interviews, is included in this part.

1. Case study: Mobile Justice in Kenya

This subchapter will present the case study of Mobile Justice in Kenya, which is a key part of this research. In particular, this part provides an overview of the country focusing on the justice system and particularly on the question of access to justice of the poorer communities in Kenya. As access to justice is the core concept of this research, the subchapter will then go into more detail and present M-Haki, a technological innovation that aims to improve this access for the poorer communities in Kenya.

According to The World Bank (2015), Kenya is one of the fastest growing economies not only in Africa but also in the world. UNICEF describes the country as one of many contrasts. These contrasts are related to various aspects, its landscapes, demographics but more importantly contrasts in terms of social and economic inequalities. The country is one of the fastest growing economies in the region, but it is also referred to as one of the most unequal in this region. Forty-two percent of Kenya's population lives below the poverty line (UNICEF, n.d, "Kenya overview" section, para. 3). Access to public goods and services are often a luxury for many people living in the poor communities. Most of the Kenyans live in the rural areas of the country, which, on the other hand, makes it physically cumbersome to access some of these public services, such as education, healthcare, sanitation, and justice.

According to research by the Pro Bono Institute (2010, p. 2), many Kenyans are left without legal representation. This is due to the fact that the government provides legal aid mostly to individuals accused of capital crimes. The majority of the legal services in the country are provided by non-governmental organizations who are part of the informal

justice system, as established earlier in the research. These organizations, however, are mostly based in the capital Nairobi or other big cities and they also lack resources and capacities to be able to assist the large number of Kenyans who have legal needs.

As mentioned, about half of the Kenyan population lives under the poverty line and in case of legal need they can hardly afford a lawyer and legal services. Their access to justice is significantly limited due to, first of all, their physical remoteness from the justice centers in the country and, secondly, because of their living conditions on the edge of extreme poverty.

Mobile communications are very developed in Kenya and despite the limited resources of the inhabitants, a significant number of them have a cell phone and mobile subscription. According to the quarterly sector statistics report on communications in Kenya for the financial year 2015/2016 (Communications Authority of Kenya, 2015, pp. 8-10), for the mentioned financial year there have been 37.8 million mobile subscriptions. Mobile penetration rate, indicating what percentage of the population is using a mobile phone, is at 88 percent. These indicators are illustrated in the figure below:

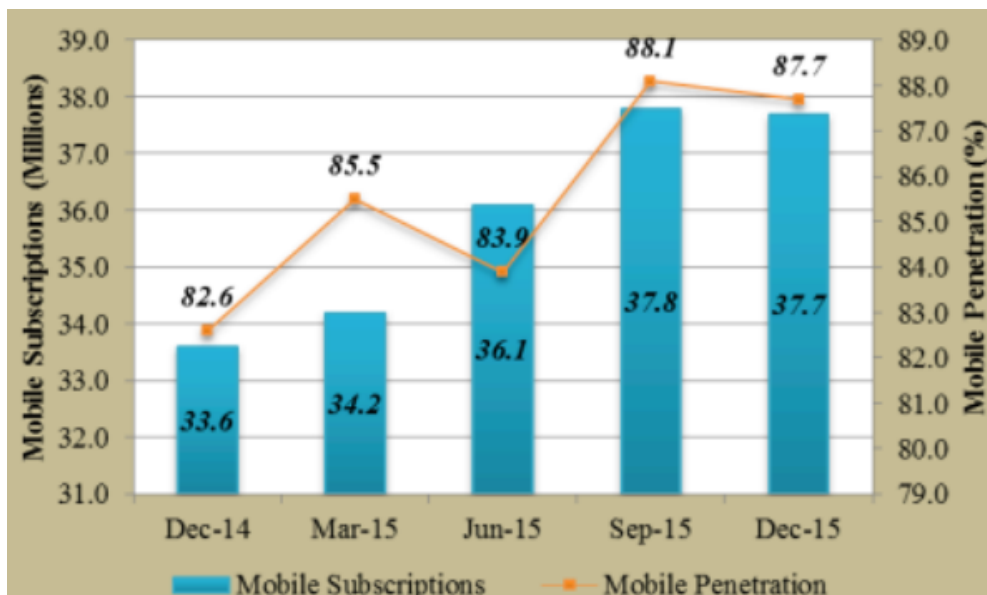


Figure 1: Mobile subscriptions

A popular example of using mobile communications to improve services in Kenya is the innovative solution called M-Pesa. This is a mobile platform that provides the population with the technology to make their money transfers, using cheap and easy service. Safaricom (2016, “M-Pesa” section, para. 3) argues that around 75% of the adults in Kenya have accounts with a bank or mobile money provider. In a business overview of Kenya, Chambers & Partners⁴ (2016, para. 5) highlights that such services such as M-Pesa are tools associated with poverty reduction. Moreover, the review stresses that the country is seen as a sort of a hub for such innovative solutions using technology and is setting an example in the region.

Mobile communications are also used in Kenya to make justice more accessible.

1.2 Mobile Justice

Mobile justice is associated with the idea that mobile technologies can be applied to improve and facilitate access to justice. Such innovations can be launched by government agencies and judicial systems, but in most cases they are initiated in the informal justice sector by civil society groups, non-governmental organizations and also technology companies. With such public-private partnerships the justice systems begin to explore the possibilities and potential of mobile justice platforms (The following part provides concrete examples related to the idea of Mobile Justice).

1.3 M-Sheria and M-Haki

The high rates of mobile phone usage and communications, as previously outlined, were also the inspiration for a group of legal professionals who used this opportunity to work on the matter and in 2013 developed M-Sheria (2013).

Jin Ho Verdonschot from HiiL Innovating Justice in collaboration with Gertrude Angote and Carol Mburugu, both lawyers from Kituo Cha Sheria, a legal advice organization (outlined further in the chapter), created M-Sheria in 2013 as a legal help desk. When Mr. Verdonschot talks about the background and reasons for creating the platform, he

⁴ Chambers and Partners (2016, “about” section) is an organization, created in 1990, that is involved with providing research and rankings in relation to business and law.

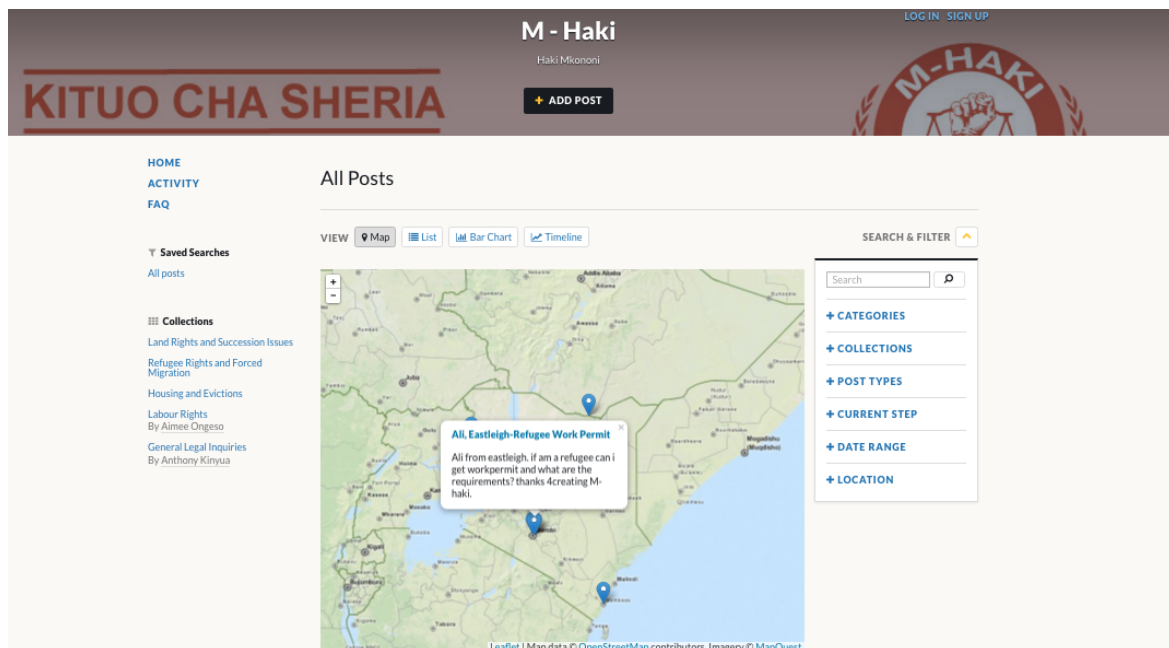
outlines that the people who most needed legal assistance and advice and were going to Kituo Cha Sheria in Nairobi were facing major barriers to access to justice. Such barriers were financial obstacles and geographical remoteness. The idea behind M-Sheria, according to the legal professional (Verdonschot, 2016, personal e-mail, 25 April) was to overcome these barriers and improve the access to justice of these people living in poor communities in Kenya

In his personal blog, Verdonschot (2013, para. 5) explains how M-Sheria was developed on the basis of both a mobile and a web platform that were interrelated. The users of M-Sheria send their legal questions about their problematic situations via SMS to the web platform. Once the message is sent, an automatic reply is received back with a generated suggested answer. The question is then categorized and published on www.msheria.com. During the next stage of the process, the published question on the platform is reviewed by legal professionals within the network of Kituo Cha Sheria, who would do that on a basis of voluntary work, and then answers the question on the web platform. The initial sender of the question receives all these answers to their mobile phone. The total cost of this service is only the price of the SMS. The meaning of M-Sheria in Kiswahili⁵ is “Mobile Law”.

In the course of the current research, however, it became clear that M-Sheria does not receive any new messages and the reason for that is that Kituo Cha Sheria has been working on further developing the model and the platform. As a result, M-Haki was created and it has been in the process of being tested since March 2016 (Ongeso, personal interview May 13, 2016). The objectives of this innovative platform are the same: improve access to justice for the poor communities in Kenya. The new developments (graph 1) are related to a new technology behind the platform, which will ensure smoother work for both sides, the legal professionals and the people seeking legal assistance.

The current status and future developments of M-Haki are further discussed as part of an interview, introduced further in the research, conducted with Ms. Aimee Ongeso.

⁵ One of the languages spoken in Kenya



Graph 1: Screenshot Home Page of M-Haki Platform (2016)

The organization behind this platform is Kituo Cha Sheria. Kituo is a legal advice center. It has been providing legal aid since 1973 and up to date is one of the few organizations in Kenya that is involved in providing these kind of services. This human rights non-governmental organization was the first legal aid center established in Kenya. The organization works in the field of legal aid education, advocacy government, forced migration, and community partnerships. Kituo is also very much active in the field of communication, research, documentation, strategic leadership, and governance. All the activities and programs elaborated by Kituo Cha Sheria (2016, “about us” section, para 2) are focused on empowering the poorer communities in Kenya with their justice needs, providing them with tools to access justice better and thus enjoy their human rights. The organization is associated with new technologies and innovative practices to empower its services related to access to justice. The situation in Kenya with regards to access to justice is reviewed further in this chapter.

The following subchapter presents details in relation to the situation of the justice sector and the rule of law in Kenya. A particular interest for the current research is the access to justice review included in the section below.

1.3 Access to justice in Kenya

In the Constitution of Kenya (2010) in article 48 it is stated that all citizens should have equal access to justice and that this is ensured by the State. Moreover, the text stresses that in cases where a fee needs to be collected, it should be an amount which does not impede access to justice:

“48. The State shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice” (p. 33).

In relation to this, Open Society Initiative for Eastern Africa and AfriMAP elaborated a report (Mbote & Akech, 2011), focused on the Justice Sector and the Rule of Law in Kenya. This report presents data on a number of topics, one of which is access to justice. The purpose of their work is to evaluate the accountability, responsiveness, legitimacy and efficacy of the justice system in Kenya. This report is of interest for the dissertation as it is directly related to the investigated case of access to justice in Kenya and provides valuable statistical data on that issue.

The abovementioned project includes primary data that was collected through interviews and surveys within the legal and judicial sectors. The following table includes the number of respondents included in the study and their respective province of residence:

Province	No. of respondents	Percentage (%)
Nairobi	161	8
Central	256	13
Coast	179	9
Eastern	310	15
Nyanza	310	15
Rift Valley	483	24
Western	241	12
North-Eastern	68	3
Total	2007	100

Table 1: Distribution of respondents (Mbote & Akech, 2011, p. 15)

The majority of these respondents are aged 15-17 and 18-24 years. These comprise 70% of the total number. The rest 30% are respondents in the category aged 24-44 years. This means that there are no respondents older than 44 in this study. The respondents are distributed as following: 51% Men and 49% Women. According to the data obtained and the report (Mbote & Akech, 2011, pp. 15-20), the majority of the people had at least some formal education. The participants in the surveys were asked a variety of questions in relation to the justice sector in Kenya.

The results of this study indicate the following major conclusions:

- Kenya's progress towards realizing the rule of law has increased. This is justified with the creation of a number of bodies in the field of human rights, such as the Kenya National Human Rights and Equality Commission, National Commission on Gender and Development and Law Reform Commission.
- Kenya has made efforts in relation to making the judiciary more accountable and autonomous, a guardian of the rule of law. Kenya's new constitution and the 2010 Report of the Task Force on Judicial Reforms are the examples of that.

The third fact put forward in relation to the justice system in Kenya and particularly important for this dissertation is related to access to justice:

- Access to justice is portrayed as a mirage for a great number of citizens. The recommendations put forward by the Open Society Foundation (Mbote & Akech, 2011, "Preface" section, p. 6). include that there is a need to enhance access to justice. However, the recommendations only make relation to sector-wide programs, reforming the formal justice system in accordance with the constitution. More innovative solutions such as technological innovations are not mentioned here.

The biggest issue reminds that many Kenyans are not familiar with their basic rights, they lack knowledge and information and this is a major barrier to access to justice, as

indicated previously in the previous chapter. This is the case, in particular, with people who live in poverty and are vulnerable, as indicated by Ms. Ongeso (personal interview May 13, 2016). The following table illustrates that access to justice is a major problem in the country:

Are there Kenyans who have limited access justice?	No. of respondents	Percentage (%)
Yes	1 665	83
No	342	17
Total	2 007	100

Table 2: Distribution of respondents by whether Kenyans have limited access to justice (Mbote & Akech, 2011, p. 160).

The biggest factors that limit access to justice for the people of Kenya are poverty and little knowledge and awareness, as indicated in the next table below:

Suggestions on what limits Kenyans' access to justice	No. of respondents	Percentage (%)
Poverty	987	59
Gender	110	7
Religion	32	2
Lack of knowledge of their rights	707	42
Corruption	82	5
Others (incl. poor governance, tribalism, nepotism, illiteracy, discrimination, cumbersome process, courts are far, fear, culture, etc.)	57	4
Total	1 975	100

Table 3: Factors that hinder access to justice (Mbote & Akech, 2011, p. 161).

The main conclusions of the findings from the case study section on the justice and rule of law sector and access to justice in Kenya, are structured in the table below:

Economy	<ul style="list-style-type: none"> • One of the fastest growing economies in the region • High rates of poverty, economic and social inequalities • 42 % of the population live below the poverty line • Most of the Kenyans live in rural areas making their access to public services cumbersome
Justice system	<ul style="list-style-type: none"> • A significant number of Kenyans are left without legal representation • The majority of the legal services in Kenya are provided by non-governmental organizations (informal justice systems) • Progress has been made since the acceptance of the new Constitution in 2010
Access to justice	<ul style="list-style-type: none"> • Limited due to scarce resources and geographical remoteness (legal aid centers are centered in the capital and bigger cities) • Still a “mirage” for most of the Kenyans • Biggest problem: Lack of awareness, many citizens are not familiar with their basic human rights • Organizations such as Kituo Cha Sheria are heavily involved in projects for improving access to justice for the poorer communities • Biggest factors that limit it: poverty, awareness, information
Mobile communications	<ul style="list-style-type: none"> • Very widespread usage of mobile devices • The majority of the Kenyans have mobile phones and subscriptions • Used to make justice more accessible • Environment for developing innovative platforms such as M-Haki for Mobile Justice

The collected information above will be further used in the analysis section of this work where it will be discussed and applied. The following sub-chapter is focused on the results obtained through primary research in the form of interviews. This data will further outline opinions and tendencies in the field of technological innovations and their applicability within the poorer communities.

2. Interviews

This subchapter introduces the process and outcomes of the two interviews that were conducted to obtain first-hand data about the research. The concrete findings are grouped into categories and when possible presented with diagrams and tables for a better overview of the important factors and trends. These categories were formed on the basis of the asked questions and discussed topics.

The first-hand information was collected through an interview with Ms. Aimee Ongeso, a legal professional, working at Kituo Cha Sheria in Nairobi, Kenya and a second interview in the form of email correspondence with questions with Mr. Jin Ho Verdonschot, Rechtswijzer director at HiiL Innovating justice in The Hague, The Netherlands. Interview transcripts and email correspondence with both participants are included in the Appendices.

2.1 Initial stages and steps

The process was initiated already in the preparatory stage of this dissertation. Mr. Verdonschot was contacted directly with the idea of discussing the main ideas behind this research and its objectives. Mr. Verdonschot and his opinion were key for the process of further obtaining primary data. Firstly, his views on the topic were seen as valuable and important as he works predominantly in the field of access to justice and technology. Furthermore, he was among the legal professionals, along with his colleagues from Kituo Cha Sheria, who established and developed M-Sheria, which now is transformed and further advanced into M-Haki, as outlined in the previous part. Already in this informal discussion about the topic, valuable input was received in relation to the situation of access to justice and the need for innovative solutions and technology with regards to the poorer communities living in less developed countries. This input was consolidated with a follow-up email correspondence with questions (attached in the appendices) and the outcomes of that are applied in this section.

At a further stage, it was established that possible discussion about the dissertation, with the objective of looking into a concrete and functional example, could be carried with a representative from Kituo Cha Sheria. Thus, the next step of the process was the

49

contact with the legal aid organization. The contact was accomplished through the network of Mr. Verdonschot. This gave the opportunity to introduce the purpose and goals of the research and to ask for the possibility of conducting an interview. As a result, Ms. Ongeso was contacted and a Skype interview with her took place shortly after.

The outcomes and discussed matters of both these interviews are presented below within the categories.

2.2 Access to justice

Both interviewees shared the view that there are a number of problems that are associated with the access to justice of the poorer communities. These problems are associated mostly with barriers that limit their access (Verdonschot, personal e-mail, April 25, 2016; Ongeso, personal interview, 13 May, 2016). These barriers, in the concrete example of Kenya, as outlined by Ms. Ongeso (personal interview May 13, 2016) are related to scarce financial resources and the fact that most of the legal aid centers are located in Nairobi. Thus, people who come, from the North of the country for example, and live in poverty, have to save and raise funds in order to come to Kituo in Nairobi and have their legal problems heard and addressed. Another problem addressed by Ms. Ongeso is that in some cases these people bear the costs for arriving at Kituo and find out that the action that they need to take is within their area. Thus, there are many logistical and awareness issues related to accessing justice by the poorer communities. Addressing such problems resulted in creating a platform, where the people are able to text their issues and receive legal advice and help from Kituo. This saves time and resources and makes it necessary to travel to the capital only when it is necessary.

Both participants were asked if, in terms of access to justice for the poor communities, there are sufficient technological innovations that are used. The responses to this question were identical and outlined that this is relatively new. This field is now being researched about possibilities and generally, the legal systems are very slow in adapting (Verdonschot, personal e-mail, April 25, 2016; Ongeso, personal interview, 13 May,

2016). Ms. Ongeso expressed her hopes that this model will continue to develop and highlighted that currently M-Haki is one of the first cases.

At a later stage, it was established that possible discussion about the dissertation, with the objective of looking into a concrete and functional example, could be carried out with a representative from Kituo Cha Sheria. Thus, the next step of the process was the contact with the legal aid organization. The contact was accomplished through the network of Mr. Verdonschot. This gave the opportunity to introduce the purpose and goals of the research and to ask for the possibility of conducting an interview. As a result, Ms. Ongeso was contacted and a Skype interview with her took place shortly after. The outcomes and discussed matters of both these interviews are presented below within the categories.

2.3 M-Haki

This part brings the attention to: usage, applicability, drawbacks and future developments of M-Haki, an innovative mobile and web platform in Kenya, developed to bring justice closer to the people living in poverty. This provides the current research with a concrete example of a technological innovation being used in the context that this work focuses on.

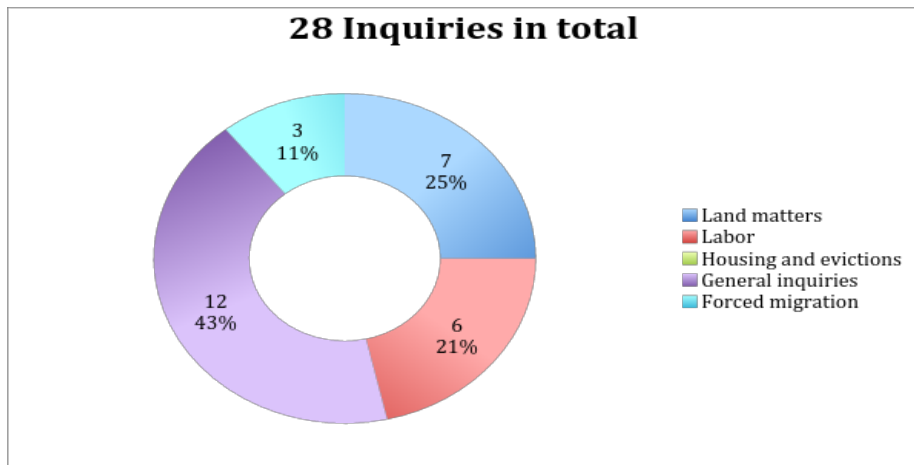
The web platform of M-Haki, as explained by Ms. Ongeso (personal interview, 13 May, 2016), consists of different posts. The people who would like to receive legal advice send their questions through an SMS platform and this is then reflected on the web platform used by Kituo Cha Sheria. The questions are received with information about the location and are automatically pinned on the map of Kenya. Thus, the legal professionals working on answering these requests can see where the questions are coming from, which ones are coming from Nairobi or from areas outside. Once the question is received it is then categorized into one of the following: Land rights and succession issues, Refugee rights and forced migration, housing and evictions and Labor rights. These are the main areas of focus for Kituo. The last broader category is General legal inquiries as some questions fall under different scopes. The response from the legal professionals is delivered within 48 hours. It is important to mention that the tool is not available on a 24/7 basis but Monday-Friday from 8 am till 5pm.

In terms of using the platform from Kituo's side, only people who have access to the platform can respond to these inquiries. Once a question comes in, a notification goes to the email of the person who is involved and responsible, for example for answering questions related to land rights issues. Currently, the staff that is in charge of replying to the questions consists only of people who work at Kituo. Seven legal professionals are in charge of this at the moment, but the idea is to expand this in the future and include volunteer advocates and community paralegals in the process. Mr. Verdonschot (personal e-mail, April 25, 2016) agrees that such platforms as M-Haki enable the people to access legal information, which, in turn, brings neutrality and fairness and improved access to justice.

During the interview the question about the difference and relation between M-Sheria and M-Haki was addressed. Ms. Ongeso (personal interview, 13 May, 2016), explained that when using technological innovations in relation to access to justice there are two main works that need to be matched. These are technology and legal work. And the technological world does not necessarily understand the legal language. And this was the problem with M-Sheria, the previous platform. In that case, the focus was mainly on the technology and the legal work was lacking. The problem with it was rooted in the ideas about the platform that the technological company had and that Kituo had in mind in the first place. It was important to make the complex technological language suitable for people, users of the platform who are not technological experts. This is when M-Haki was created with the help of Ushahidi, a company that is involved with technology and promotion of social justice.

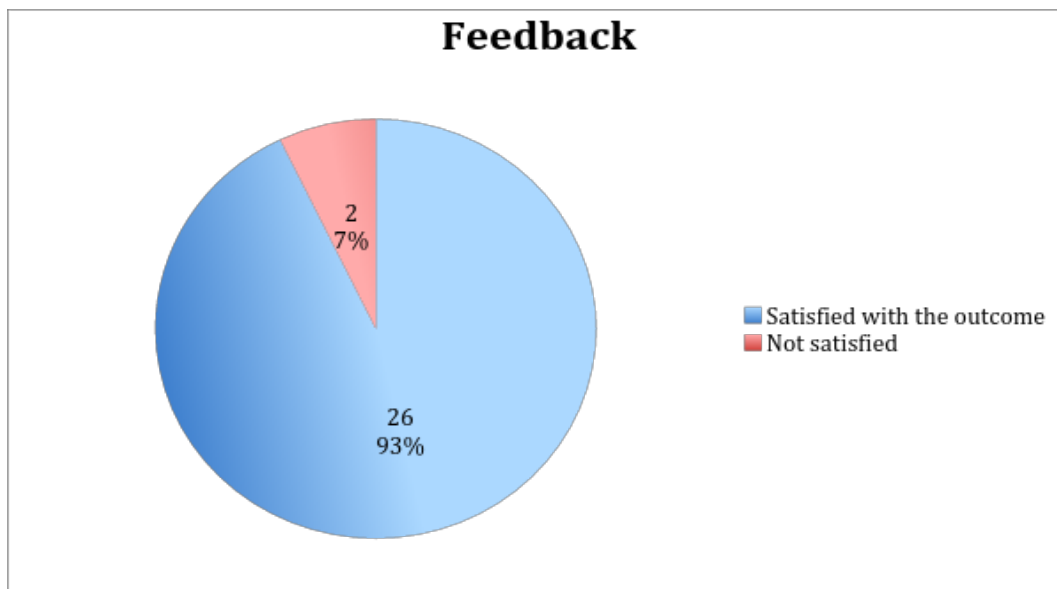
The platform is relatively new and it has been functional in its testing stage as of March 2016. Yet extensive awareness for M-Haki has not been created. Currently, training are being conducted for paralegals and staff.

For the period 8 March to 19 April, M-Haki has received the following:



Their inquiries were sent from Nairobi, Kitui, Turkana, Kisumu, Mombasa, and Kisii. Male users, representing 68% of the total number, sent 19 of the questions. Female users sent 6 of the questions amounting to 11% of the total questions. Gender was not specified in 3 of the questions received.

In terms of satisfaction, the users were asked if they were satisfied with the answer to their question. 26 out of 28 were satisfied with the answers they received, the following graph illustrates these outcomes:



As the platform is still in testing stage more complete feedback is not provided, however, more studies in relation to evaluation of the effectiveness and satisfaction will be

conducted at the end of the project. This will also show if M-Haki has a positive impact on the lives of the people using it, namely people living in poorer communities in Kenya (Ongeso, 2016).

2.4 Drawbacks

Weak points of M-Haki, as a technological innovation for improving access to justice, were discussed with Ms. Ongeso and they are the following:

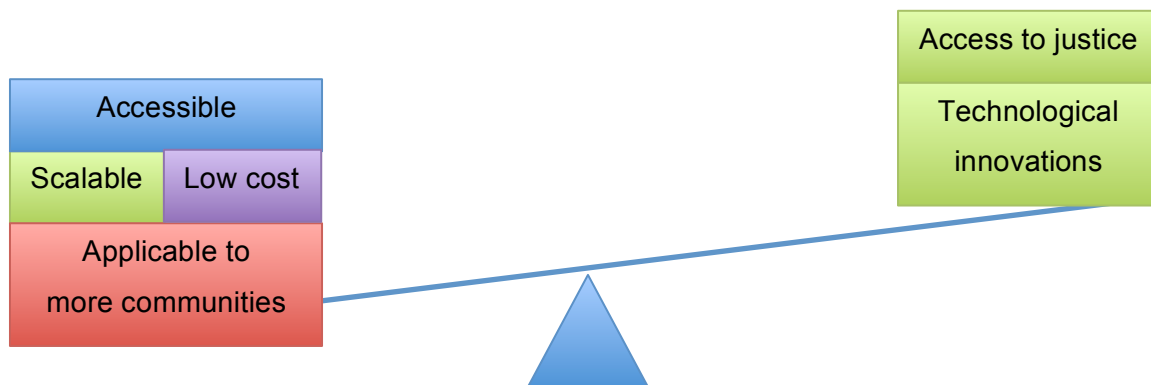
- The responses to the questions are limited to the size of the SMS, which is only 140 characters. Thus, sometimes the advocates have to write several SMS's in order to answer 1 question.
- Some SMS's with questions do not indicate the name of the person and their location. This makes it difficult to geotag the question or to properly analyze the question.
- Sometimes the staff members are unable to answer within the promised deadline of 48 hours.
- M-Haki cannot assist clients who need urgent attention to their matter. Sometimes the response from M-Haki might not respond to the urgency of the problematic situation.

A possible solution to some of these drawbacks, as pointed out by Ms. Ongeso, is that follow-up calls could be initiated in the future.

2.5 Future developments

In terms of future developments for such technology, both participants expressed very positive opinions. Both see potential for such services in terms of improving the access to justice for poor communities and also in terms of developing a business model that can be applied and developed beyond the borders of Kenya and other poorer communities. Mr. Verdonshot (personal e-mail, April 25, 2016) highlights that M-Haki shows how it can be done and that this can also give others the courage and belief to replicate and develop such models. Ms. Ongeso (personal interview, 13 May, 2016). stressed that this service can be further developed and also become a source of income

for the legal professionals involved with their work. This, in turn, will not affect the users of the application, as this might slightly increase the cost of the SMS. Which in comparison to all kinds of expenses related to going to a legal professional in Nairobi, for example, are insignificant. According to Mr. Verdonchot (personal e-mail, April 25, 2016), technological innovations are very scalable and thus can be developed in other communities as well. It was further outlined by Ms. Ongeso (personal interview, 13 May, 2016) that a regional meeting with Rwanda, Uganda, and Tanzania to present them with M-Haki is a key step. This will be achieved also through developing a document with lessons, experiences, successes and failures are listed. This is something that can be replicated within the region to assist more poor communities in their struggles with accessing justice.



The next chapter discusses and analyses in detail the information obtained through the Results section in relation to the existing literature.

Discussion

This part of this research focuses on analyzing the findings obtained in the course of the work through primary and secondary research. The outcomes from the case study and the interviews will be critically discussed in light of the literature review. Furthermore, the thesis questions, objectives and the central question of this dissertation will be addressed. To best achieve that, concepts under discussion will be structured and outlined with trends underneath them. This will provide a better overview and critical approach.

To analyze the findings of the research, four main steps in the process of analysis are applied: Exploration phase, Specification phase, Reduction phase and Integration phase, as explained by Verhoeven (2015). This, in particular, means that the materials are explored, concepts are outlined and they are structured and related to the central question.

As a result of applying the above-mentioned steps, the following concepts have been outlined as key concepts of the study, discussed through the dissertation both in the literature review and the results section. These concepts will be analyzed and related to the objectives and subquestions of the research.

1. Access to justice

Trend: Access to justice is a fine concept but in practice it seems to be hard to achieve for everyone.

Within the literature review the concepts for the rule of law and access to justice have been defined by a number of scholars and organizations. Despite the slight differences in the definitions, the ideas that both these concepts carry in theory are very positive and to some extent idealistic. Access to justice was defined in the context of constitutions and international treaties as a human right that all citizens are entitled to and that enables them to resolve conflict situations and enjoy their other human rights access to justice for all is now also part of the 2030 Development Goals of the UN (United Nations, 56

2015), which, in turn, demonstrates the commitment at the international level of the countries willing to improve this situation, in particular for the less developed countries.

Furthermore, the concept of access to justice places the individuals, with their problematic legal issues in the center and thus intends to provide them with the tools to resolve these issues. These tools can be provided from either the formal justice system (Virtual Knowledge Center, 2012), by programs funded by the government, or by the informal justice sector, consisting of non-governmental actors that strive to empower the poorer communities with their legal needs. The informal justice sector seems to be more involved with innovations when it comes to justice. Both interviewees focused their attention predominantly to the informal justice sector, as the leading part in the bottom-up, innovative solutions for improving access to justice for the poorer communities.

The idealistic concept of equal access to justice and for all, however, appears to become more utopian when access to justice is viewed from a practical point of view. As indicated by the UNDP (2008), four billion people worldwide live outside the rule of law and are struggling with accessing justice. Both the existing literature and the primary research, providing new insights on the matter, demonstrate that justice is far from accessible for a number of people. Barriers to this access, such as financial, social and geographical, are constructed before the most vulnerable and marginalized people who live in poorer communities in the less developed world.

This problematic situation of contradiction between theory and practice in relation to access to justice for the poorer communities call for multilateral actions.

Furthermore, the case study reviewed the issue of access to justice in Kenya. Despite the fact that the justice sector in Kenya has been improving ever since the new Constitution was introduced in 2010, there are major disparities in relation to access to justice. Access to justice remains a mirage for most of the Kenyans and this is particularly the case for the poorer communities. The reason for that is the number of barriers they face when trying to address their legal problems.

Two main causes were defined as major obstacles to access to justice for the poorer communities in Kenya. They are highlighted both in the case study and by the participants in the interviews. These are poverty and lack of information and awareness. On a number of occasions through the research, the linear relationship between poverty and access to justice was established. As outlined in the literature review (Sepúlveda, 2012), poverty can be tackled and reduced by improving access to justice. The correlation was also established that the lack of access to justice can further aggravate the situation of poverty, and, in the process, also other human rights can be violated resulting in a vicious circle.

These assumptions can be related back to the main objectives of the research and the central question. The first subquestion of this work is the idea of access to justice, its importance and possible constraints to it for the poorer communities. Despite the various barriers limiting this access of people who live in poorer communities in less developed countries, the informal sector is looking for innovative solutions to address these barriers and to empower the marginalized.

Innovative technologies for that matter seem to be part of the solution. Some of the reports that were reviewed (Barendrecht & de Langen, 2008) call for more innovative methods for improving access to justice. This was also stressed in the primary research where both interviewees (Verdonschot, personal e-mail, April 25, 2016; Ongeso, personal interview, 13 May, 2016) pointed out that this is the way forward

As concluded in the results section, technological innovations using mobile and web platforms are very accessible for the poorer communities. For example in Kenya, more than 85% of the population has a mobile phone. Furthermore, these innovations are cost-effective and scalable. Such tools are directly aimed at tackling barriers associated with lack of awareness and legal information and at overcoming geographical constraints. An example was given during the interview with Ms. Ongeso (personal interview, 13 May, 2016). By using M-Haki for their legal problems, the poorer communities pay only the cost of the SMS, as compared to caring all the logistical expenses to go to Nairobi for the same legal assistance.

Consequently, in relation to the established correlation between access to justice and poverty and the abovementioned advantages of using such tools, it can be argued that applying technological innovations can be directly related to:

- Improving access to justice for the poorer communities
- Reducing levels of poverty
- Having a positive effect on the living conditions of the marginalized people.

These logical assumptions, however, need to be measured and tested to be confirmed. The applicability and usage of such technology should be evaluated. Some evaluation for that matter was provided from the testing period of M-Haki, discussed and analyzed further in the section below.

2. Technological innovations

Trend: Technology is part of the solution but it is not sufficiently explored and applied in relation to improving access to justice, particularly in less developed countries.

When obtaining secondary data and information regarding technological innovations being used in practice, the majority of results came from sources in the developed countries, such as the United States (Cabral, Chavan, & Clarke, 2012). Examples of such technologies applied in societies that most need them and can apply them, due to their accessibility, low cost, and effectiveness, seem to be very scarce. One of the few examples that were found was studied in the course of this dissertation and that is M-Haki.

The fact that there was scarce information about these tools in less developed countries can be due to a few reasons. As highlighted by Mr. Jin Ho Verdonchot (personal e-mail, April 25, 2016) this field is still relatively unexplored and also the justice systems are to some extent slower in accepting and applying innovations. This is also the case with Kenya, as outlined by Ms. Aimee Ongeso (personal interview, 13 May, 2016) that awareness about such opportunities and technology is very limited. This is also the case for the region, including countries such as Rwanda, Uganda, and Tanzania. Information

and awareness are, thus, currently rather insufficient about technological innovations that can be used with the objective of improving access to justice for the poorer communities. The gap between the most marginalized and justice can be further reduced when such technology becomes more widespread and people are more aware of its existence, applicability, and advantages.

The advantages of using technology for the purposes of improving access to justice for the poor communities have become evident from the research. Kenya's National Commission on Human Rights (2010, p. 48) argues that mobile technology is very widespread in the country and almost every citizen has a mobile phone, regardless his or her income. Mobile applications are used for a number of purposes, such as banking. The availability of these tools for communication allow for great accessibility and low-cost services provided through mobile phones. In relation to access to justice, an example that is still in its testing stage is M-Haki.

The idea behind M-Haki is to improve the access to justice for the poorer communities in Kenya. This is particularly important due to the fact that most of the legal aid organizations and legal professionals, in general, are focused in the capital Nairobi and in bigger cities such as Mombasa. On the other hand, the poorer communities tend to live in the rural areas and this creates not only a financial barrier but also a geographical barrier for them to be able to access justice. Ms. Ongeso (personal interview, 13 May, 2016) stresses that M-Haki was developed with the goal to break these barriers and provide those people with legal advice and information when needed for the cost of only an SMS.

Despite the fact that M-Haki is relatively new and it has been operational only since March 2016, it shows rather positive results in terms of feedback and applicability. As outlined in the results section, for the period 8 March – 19 April, 28 inquiries with questions about legal problems were received. 26 of the users who sent these inquiries evaluated the service they received as positive and satisfactory. Furthermore, the cost that these people had to bear was only of an SMS, as opposed to the significant amount of financial resources and time related to going to Nairobi, for example, to obtain the same results. This demonstrates that the two barriers, initially mentioned, are overcome

when this innovative platform is applied. This shows a positive trend for future applicability of such platforms.

Another statistic provided by Kituo Cha Sheria related to M-Haki is about the different inquiries received for the testing period. As previously mentioned, 28 inquiries were received in total. 12 of them, accounting for 43% of the total number are under the category “General inquiries”. This can also be related to the assumption shared by Ms. Ongeso (personal interview, 13 May, 2016) that there is a lack of information and awareness and that the Kenyans are unaware of their basic human rights. Raising awareness and creating more products for delivering justice information about basic human rights can be the way forward to reduce the big number of “general inquiries” among the Kenyans.

Despite the positive tendencies, technology is not perfect and there are a number of weak points that M-Haki has. These are related to the inability of assisting with matters that are very urgent, for example. Another disadvantage of the platform is related to the fact that the staff members cannot answer in time to the request (within 48 hours). Moreover, the SMS technology does not allow for using more than 140 characters in a single message. This creates more work for the legal professionals, as they need to address the question in a number of separate messages. Last but not least, some of the requests come without names and location. This makes it particularly difficult to geotag and to properly analyze the matters. The reasons for this can be associated with insecurity and unawareness of using the technology among the users. These weak points of such platforms such as M-Haki call for reevaluation and reassessment in order to optimize the processes for both the legal professionals and the users. Such possible solution, as mentioned by Ms. Ongeso (personal interview, 13 May, 2016) can be follow-up calls related to the more urgent matters.

These assumptions can be linked to the objectives and subquestions of this dissertation.

The second objective of the research was set to investigate the role of innovative technology in improving access to justice for the poorer communities. The outcomes from the case study on Mobile Justice in Kenya and the two interviews conducted can be

linked to this objective. The role of technology in this process is key. This is due to the fact that technological innovations are cost-effective, very scalable, accessible and they can bring justice closer to the people by overcoming barriers such lack of information, scarce resources, and geographical remoteness.

Another weak point that can be mentioned at this stage is that there is no extensive feedback related to the service provided by M-Haki and in relation to whether the situation of the person was improved as a result of using the service. Such a feedback document is envisioned for a later stage of the project. However, for the purposes of the current research it can be outlined that with regards to subquestion 4, it is still unclear if the lives of people in Kenya are improved as a result of such innovations.

3.Future development and tendencies

Trend: Positive and optimistic but the lack of awareness and the reluctant formal justice system must be addressed.

Currently, such technologies are not used sufficiently in less developed countries but the tendencies show that they are the way forward. The two interviewees stressed that currently technological innovations for improving the access to justice of the poorer communities are rarely used. The reasons for such tendencies are linked to a few assumptions.

First of all, the existing data on the subject suggests that the informal justice sector is mostly involved in researching and developing of tools that focus on the direct empowerment of the poorer communities (Virtual Knowledge Center, 2012). However, the awareness, as outlined, is very low in relation to such possibilities. Better communication between the formal and informal justice systems and stakeholders can be initiated with the objective of taking multilateral actions.

Secondly, it can be argued that such products are yet not largely applied in less developed countries because of the lack of a business model for them. A business model will establish the “know how” of how such tools can be both beneficial to the

poorer communities and at the same time to generate some sort of income for the legal professionals.

Currently, Kituo Cha Sheria is establishing such a model with the idea of making M-Haki both profitable and accessible by the poor communities. Their initial idea is to slightly increase the price of the SMS by replacing the normal phone line with a paid phone line and also negotiating quotes with the mobile network providers.

On the other hand, technological innovations for improving access to justice which are developed and function in developed contexts can serve as a blueprint. Through research, developing and applying similar or better platforms can be initiated in less developed countries, where the poor communities face numerous barriers to justice. Such ideas and examples were presented in the course of this dissertation.

The future tendencies of such technological innovations like M-Haki, for instance, are positive. This is due to the fact that technology is becoming more and more accessible and it is also very scalable for that purpose, as outlined by Verdonchot (personal e-mail, April 25, 2016). This, in turn, makes successful models of technological innovations applicable to other poor communities with the objective of improving the access to justice.

As for developments at the international level, the goal of equal access to justice, particularly focusing on the less developed countries, is a leading objective and part of the 2030 Development Goals of the United Nations (United Nations, 2015). This can have a positive impact on the future of developing technological innovations as more actions and resources will be allocated to improve the trends related to access to justice.

Conclusion and recommendations

The outcomes of this research have been obtained through a number of steps and phases. Firstly, the main field of interest, topic of the current study and a set of objectives were determined. Secondly, through the literature review, the theoretical framework of this research was constructed. Key concepts such as access to justice, the rule of law, informal and formal justice systems and barriers to justice were defined within the different opinions of the scholars. Furthermore, in the process, various problems were identified as limiting the access to justice of the poorer communities who live in less developed countries. The case study and the interviews, then, tried to look into concrete examples and search for solutions. The concepts that were outlined both in the Results section and through the secondary research were critically analyzed in the last section of this work.

A number of conclusions were then drawn. The first and most important conclusion of this research is that equal access to justice for all is an idealistic assumption. It can be argued that access to justice is to a great extent a utopia for a significant number of people worldwide, who live outside the rule of law. This is particularly the case for the poorer communities in less developed countries.

It was then indicated that as a result of their living conditions, these marginalized and vulnerable people face significant constraints when trying to resolve their problematic legal situations. Such barriers were identified to be financial resources, geographical remoteness and lack of awareness and information. These barriers result in major problems for the justice system. In Kenya, for example, it was defined that the access to justice of the people is mostly limited because of the levels of poverty and lack of information and awareness.

Both the formal and the informal justice sector are involved with developing programs for enhancing this access to justice. However, the informal justice sector, with the legal professionals and non-governmental organizations tend to be more proactive when it comes to new, innovative practices aimed at empowering the poor communities in their pursuit of remedies. The international setting related to access to justice for the poorer

communities was affected by the introduction of the 2030 Global Development Goals by the United Nations. This calls for greater multilateral actions raising the levels of awareness and better communication between the formal and informal justice sectors. Part of the solution was argued to be namely technology and technological innovations. M-Haki was the particular platform that was investigated in this study in the context of access to justice of the poorer communities in Kenya. For the short period from its creation to this date it demonstrates positive outcomes and significant room for future development in the region. Cost-effective, scalable, accessible and breaking barriers related to distance and scarce resources make such tools the way forward to improving the access to justice for the poorer communities in less developed countries.

Despite some of the limitations of the study that call for further research on examples and evaluation, the central question of this dissertation can be answered:

Technological innovations can improve access to justice for poor communities in less developed countries by providing the necessary tools for these people to empower them in overcoming the barriers that impede this access.

It became evident that such barriers include financial and geographical constraints, but also the lack of information and awareness. Innovative tools using technology can be developed for a number of purposes depending on the legal needs of the population. Examples are technological innovations that provide interactive platforms for legal information, legal advice, legal aid and help with filing legal documentation. When improving access to justice, such innovations can be further related to reducing levels of poverty and having a positive effect on the living conditions of the most marginalized and vulnerable.

Despite the positive trends, it is recommended that these logical assumptions are evaluated and tested for validity in the future when more innovative solutions using technology are applied and feedback is collected. This is related to next steps that can be taken to develop the current research. A future study can include more examples, case studies in terms of countries investigated and technological innovations reviewed. Furthermore, more quantitative data related to evaluation and feedback from the users

can be collected in a future research. These will provide for obtaining a better understanding of the concepts and concrete data on the topic.

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Annexes

Annex 1: Page 6 of the Universal Declaration of Human Rights

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier

Annex 2: Page 28 of the 2030 Agenda for Sustainable Development of the United Nations

- ! Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels!
- 16.1+ Significantly reduce all forms of violence and related death rates everywhere++
- 16.2+ End abuse, exploitation, trafficking and all forms of violence against and torture of children++
- 16.3+ Promote the rule of law at the national and international levels and ensure equal access to justice for all++
- 16.4+ By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime++
- 16.5+ Substantially reduce corruption and bribery in all their forms++
- 16.6+ Develop effective, accountable and transparent institutions at all levels++
- 16.7+ Ensure responsive, inclusive, participatory and representative decision-making at all levels++
- 16.8+ Broaden and strengthen the participation of developing countries in the institutions of global governance++
- 16.9+ By 2030, provide legal identity for all, including birth registration++
- 16.10+ Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements++
- 16.a+ Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime++
- 16.b+ Promote and enforce non-discriminatory laws and policies for sustainable development++
- ! Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development!
- ! Finance!
- 17.1+ Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection++
- 17.2+ Developed countries to implement fully their official development assistance commitments, including the commitment by many developed countries to achieve the target of 0.7 per cent of gross national income for official development assistance (ODA/GNI) to developing countries and 0.15 to 0.20 per cent of ODA/GNI to least developed countries; ODA providers are encouraged to consider setting a target to provide at least 0.20 per cent of ODA/GNI to least developed countries++
- 17.3+ Mobilize additional financial resources for developing countries from multiple sources++

(United Nations, 2015, p. 28)

Appendices

Informed Consent forms

Ms. Aimee Ongeso

Informed Consent Form

Informed Consent Form

1) Research Project Title

"How can technological innovations improve access to justice of poor communities in less-developed countries in light of global connectivity? - A case study of Mobile Justice in Kenya"

2) Project Description (1 paragraph)

The dissertation will look into the situation of persons living in poor communities in relation with their access to justice. It will review such technological innovations, created to improve this access and have the goal to affect positively the living conditions of these marginalized people. This research combines theoretical knowledge about access to justice and rule of law but also relates these assumptions to concrete solutions for improving access to justice, namely technological innovations. In addition, this work has the objectives to find out if such practices are applicable to other poor communities and to discuss the potential future advantages and developments related to applying technological innovations with the aim of improving access to justice of people living in poor communities.

If you agree to take part in this study please read the following statement and sign this form.

I am 16 years of age or older.

I can confirm that I have read and understood the description and aims of this research. The researcher has answered all the questions that I had to my satisfaction.

I agree to the audio recording of my interview with the researcher.

I understand that the researcher offers me the following guarantees:

All information will be treated in the strictest confidence. My name will not be used in the study unless I give permission for it.

Recordings will be accessible only by the researcher. Unless otherwise agreed, anonymity will be ensured at all times. Pseudonyms will be used in the transcriptions.

I can ask for the recording to be stopped at any time and anything to be deleted from it.

I consent to take part in the research on the basis of the guarantees outlined above.


Signed:


Aimee



Date:

13. 07. 2013.

Mr. Jin Ho Verdonschot




Jin Ho Verdonschot
to me 
fully agreed.

May 18 (3 days ago) ☆  

Dr Jin Ho Verdonschot
Director
Hiil Rechtwijzer Technology

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www.hiil.org | www.innovatingjustice.com



On 18 May 2016, at 12:05, Tsvetelin Velev <tsvetelinvelev@gmail.com> wrote:

Dear Jin Ho,

Thank you for sending these replies to my questions, much appreciated.

Could you please state in writing your agreement for me to use these answers to the questions and cite them with your name?
I would like to attach this email in the appendices part of the dissertation, applying this an informed consent. It is a formality but they insist that I inform you and ask for your permission. Otherwise I can also send u the form for you to sign and send back but I assume that will take more time and I don't want to bother you anymore. An email with your statement of agreement will be sufficient.

Thanks again and all the best !

Kind regards,
Tsvetelin Velev

Student Ethics Form

Student Ethics Form

European Studies Student Ethics Form

Your name: Tsvetelin VeleV

Supervisor: Isabel Düsterhöft

Instructions/checklist

Before completing this form you should read the APA Ethics Code (<http://www.apa.org/ethics/code/index.aspx>). If you are planning research with human subjects you should also look at the sample consent form available in the Final Project and Dissertation Guide.

- a. ☐ Read section 3 that your supervisor will have to sign. Make sure that you cover all these issues in section 1.
- b. ☐ Complete sections 1 and, if you are using human subjects, section 2, of this form, and sign it.
- c. ☐ Ask your project supervisor to read these sections (and the draft consent form if you have one) and sign the form.
- d. ☐ Append this signed form as an appendix to your dissertation.

Section 1. Project Outline (to be completed by student)

(i) Title of Project:

Improving access to justice with technology:

Applying technological innovations to improve access to justice for the poorer communities. A Case study of Mobile Justice in Kenya.

Central question behind this research:

"How can technological innovations improve access to justice of poor communities in less-developed countries in light of global connectivity? - A case study of Mobile Justice in Kenya"

(ii) Aims of project:

- *Review and expand* the existing knowledge in the area of innovations in justice and in particular technological innovations and their applicability with the objective of improving the access to justice of people living in poorer communities.
- *Discover* if such innovative practices improve access to justice of people living in poor communities, making their lives better.
- *Find out* if such practices are applicable to other poor communities

- *Discuss* the potential future advantages and developments related to applying technological innovations with the aim of improving access to justice of people living in poor communities.

(iii) **Will you involve other people in your project – e.g. via formal or informal interviews, group discussions, questionnaires, internet surveys etc. (Note: if you are using data that has already been collected by another researcher – e.g. recordings or transcripts of conversations given to you by your supervisor, you should answer ‘NO’ to this question.)**

YES

If no: you should now sign the statement below and return the form to your supervisor. You have completed this form.

This project is not designed to include research with human subjects . I understand that I do not have ethical clearance to interview people (formally or informally) about the topic of my research, to carry out internet research (e.g. on chat rooms or discussion boards) or in any other way to use people as subjects in my research.

Student's signature _____ - date _____

If yes: you should complete the rest of this form.

Section 2 Complete this section only if you answered YES to question (iii) above.

(i) **What will the participants have to do? (v. brief outline of procedure):**

For the purposes of this research, two interviews will be conducted, consisting of questions in regard to the thesis subject:

- A Skype interview with Ms. Aimee Ongeso from Kituo Cha Sheria.
- An email correspondence with Mr. Jin Ho Verdonschot with questions.

Firstly, direct contact with Mr. Jin Ho Verdonschot will be established and an informal discussion, where the topic and objectives of the dissertation will be presented. Furthermore, contact with the legal professionals from Kituo Cha Sheria, particularly with Ms. Ongeso, will be initiated through the network of Mr. Verdonschot. That will be followed by an email correspondence with Ms. Ongeso and if agreed, a Skype interview with her.

On a later stage, further email correspondence(interview) with Mr. Verdonschot will take place in

the form of questions about technological innovations and their applicability with the goal of improving the access to justice of the poorer communities.

The similarity between these two interviews (via Skype and email) will be that both participants will be asked a number of questions with the objective of answering the sub- and central question. In the email interview, Mr. Verdonschot will be asked questions that are more general and related to the applicability of technological innovations and possible future developments. On the other hand, Ms. Ongeso, in the Skype interview with her, will be addressed with questions in the form of a semi-structured interview that will have the objective of investigating further the situation in Kenya in relation to access to justice of the poorer communities. M-Haki, the technological innovation developed by Kituo Cha Sheria, will be a central topic of the interview.

Some of the questions that the participants will address include:

1. What do you think is the role of technology in improving access to justice of people living in poor communities?
2. Do you think that technological innovations, with the goal of improving access to justice of these people, are currently being used enough and if not, why is that?
3. Are such technological innovations applicable to other poor communities?

(ii) What sort of people will the participants be and how will they be recruited?

Both Ms. Ongeso and Mr. Verdonschot are legal professionals working in the field of access to justice and rule of law. Mr. Verdonschot is the Rechtwijzer director at HiiL Innovating Justice in The Hague, The Netherlands. Ms. Ongeso, on the other hand, works at Kituo Cha Sheria, a legal advice organization, in Nairobi, Kenya.

(iii) What sort stimuli or materials will your participants be exposed to, tick the appropriate boxes and then state what they are in the space below?

Questionnaires[☐]; Pictures[☐]; Sounds [☐]; Words[x]; Other[☐].

(iv) Consent: Informed consent must be obtained for all participants before they take part in your project. Either verbally or by means of an informed consent form you should state

what participants will be doing, drawing attention to anything they could conceivably object to subsequently. You should also state how they can withdraw from the study at any time and the measures you are taking to ensure the confidentiality of data. A standard informed consent form is available in the Dissertation Manual.

Both participants will be informed about the scope, idea and objectives of the study. Informed consent form will be collected from Ms. Ongeso and an email agreement, baring the same message, from Mr. Verdonschot.

(vi) What procedures will you follow in order to guarantee the confidentiality of participants' data? Personal data (name, addresses etc.) should not be stored in such a way that they can be associated with the participant's data.

It will be communicated to the participants that all the personal data, in terms of names and positions, will be used only for the purposes of the dissertation. Data such as addresses will not be requested and thus will not be stored in any kind. This will also be made clear for the participants during the interviews in verbal and written form.

Participants in the interviews will be given the possibility to remain anonymous if they want. If confidentiality/anonymity of the participants is then requested, their names and personal information will not be used in the research. Instead, nicknames such as "legal professional 1" and "legal professional 2" would be applied.

Moreover, the two interviewees will be informed of the fact that if willing, they can withdraw from the study at any state of it. Thus, all the information shared by them along with their personal details if included, will also be removed from the content of the dissertation.

Student's signature:  date: 25/05/2016

Supervisor's signature:  date: 25 May 2016

Interview transcripts

Email correspondence with Kituo Cha Sheria prior to the interview to introduce the research:

Tsvetelin Velez <tsvetelinvelev@gmail.com>
 to Jin, getrude, getrude, Lydiah

Apr 26 ☆

Dear Ms. Angote and Ms. Awiti,

I would like to use the opportunity, first of all, to thank you for your time and to express my appreciation to any help on your behalf in regards to this research.

To shortly introduce myself: my name is Tsvetelin Velez, I am 26, originally from Bulgaria and for the last 4 years I have been working and studying in The Hague, The Netherlands.

Currently, I am working on my dissertation on the topic of *improving access to justice of people living in poorer communities by applying technological innovations*. I became very interested in this domain as a result of my internship at HiIL Innovating Justice and my interest in such activities that bring technology to the use of people who have little or no access to public goods such as Justice.

I would like to focus on a particular case study as part of my dissertation in order to make it specific and elaborate. I believe that writing and researching the topic of Mobile Justice in Kenya and in particular M-Sheria (M-Haki) will give me the opportunity to better understand the topic and to obtain valuable information in regards to the applicability of such practices and the results of that. I am also very interested in finding out what the future prospects of your work, related to this project, are, but also developments and applicability beyond the national borders.

Another important aspect is associated with results (statistics), feedback and satisfaction of these people who have asked for legal advice through the platform and how this has affected their lives.

I believe that the work you do, building bridges between the people of Kenya and Justice is a very honourable task that deserves respect and appreciation.

Please let me know if you would have some time to discuss the topic in relation to M-Haki and if you prefer a Skype talk or otherwise I can also prepare a few questions and forward them to you via email, if that is more convenient due to your busy schedules.

Thank you in advance and I look forward to hearing back from you.

Kind regards,
Tsvetelin Velez

Aimee <aimee@kituochasheria.or.ke>
 to Angote, me, getrude, Lydiah

May 11 (11 days ago)

Dear Tsvetelin,

Many thanks for your email below.

I will be happy to assist where I can. Can we have a Skype call this Friday the 13th at 4pm Kenyan time?

Kind regards,

Aimee Ongeso - Programme Coordinator | Tel: +254-712-294-866
 Skype: aimee.ongeso | Facebook: Kituo Sheria | Twitter: @KituoSheria | www.kituochasheria.or.ke

KITUO CHA SHERIA
LEGAL ADVICE CENTRE
we care for justice

M-HAKI
LEGAL ADVISORY

SMS 0700777333 for Legal Advice

This email correspondence resulted in conducting an interview with Ms. Ongeso via Skype, the transcript of this interview is included in the part below:

Interview 1

Interview with Aimee Ongeso from Kituo Cha Sheria in Nairobi, Kenya about M-Haki and using technological innovations in regards to improving access to justice for the poorer communities.

Interviewer Tsvetelin VeleV:

Tsvetelin: *Okay I am recording now. Thanks again for your time. I am recording the interview now. Well, first to introduce myself. My name is Tsvetelin VeleV, and I am originally from Bulgaria. I study in The Hague, The Netherlands. Currently I am working on my Bachelor thesis at The Hague University in The Netherlands. My thesis is on the topic of improving access to justice by using technological innovations and this is why I am interested in the topic. Moreover, I did an internship in 2014 at HiiL Innovating Justice in The Hague, The Netherlands and this is where I developed my general interest in the topic of access to justice and innovative practices. Could you please introduce yourself first and tell me a little bit about yourself?*

Ms. Ongeso: *Yes, my name is Aimee Ongeso and I work for Kituo Cha Sheria. This is an NGO based in Nairobi. Kituo Cha Sheria is a Swahili word and it translates as Legal Advice Center. We have been giving legal advice services since 1973. Thus, we are pretty old in this game. During all the years that we have been giving legal aid, of course, each year the number increases and we have been feeling a pressure. So we are happy to use tools such as technology to improve access to justice and kind of reduce the pressure on us.*

Tsvetelin: *And this is where the role of M-Haki (M-Sheria) comes, I saw that you have changed the name of the platform?*

Ms. Ongeso: *Yes, this is where M-Haki comes in, because you see, we, Kituo are based in Nairobi and for a long time in Kenya, we did not have legal aid legislation. so this means that legal aid has been primarily the job of civil society organization as ours. So you could be coming from the North of the country, you are very poor, you have to come to raise funds to come to Kituo. And when you come to us to find that your matter*

is out of time or that you need to take action, but this action is within your area. So maybe go to the chief or the policeman in your area. So you see, you spend so much money coming to Kituo, maybe you also have to spend the night. So there are many logistical issues related to this and it is expensive. Some of the questions are just awareness questions. So we decided if we have a platform and people are able to text in their issues and we advice them on the issue and they only have to come to Kituo when is very necessary.

Tsvetelin: *So this saves a lot of time, a lot of resources as well?*

Ms. Ongeso: *Yes it saves time and it is very accessible to all, because almost all Kenyans have mobile phones.*

Tsvetelin: *So the current status of the platform is that is up and running and I saw that you have around 500 lawyers who are involved and they volunteer, or is there something that has changed?*

Ms. Ongeso: *No, I don't know if I can split my screen actually or I can send you the link to M-Haki. I need to log in and I can show you the platform. We don't have volunteers at the moment, we don't have advocates who work like that at the moment, because they are being trained. Well I just wanted to show you some things on the platform. I don't know how to split the screen.*

Tsvetelin: *I don't see the option for sharing the screen, only the one for the video. You can also send me the link in the chat window.*

Ms. Ongeso: *Okay, so let me log in, but you have to see the screen. Just give me a second, the internet is very slow.*

Tsvetelin: *Please take your time; there is no rush at all. The only option I see on my side is just to turn the video on, I don't see the other one available for sharing the screen.*

Ms. Ongeso: *Okay, I have the link, so let me send it to you. Are you able to access that link ?*

Tsvetelin: *Yes, it is loading now and I can see all the posts and also a map.*

Ms. Ongeso: *When you open the link, do you see the Kituo Cha Sheria logo?*

Tsvetelin: *Yes and then below I see the map and I see the points on the map also the different cities. I see Nairobi here and Mombasa.*

Ms. Ongeso: *And then do you see, I logged in, so I gave you the link for my profile in the platform.*

Tsvetelin: *I don't see your name here, what I see is: Main activities, FAQ and then on the left side Collections, land rights and succession issues.*

Ms. Ongeso: *Okay so you cant see, you don't have access to that.*

Tsvetelin: *No, I think I only see the general information and also the map*

Ms. Ongeso: *Yeah I wish you had access to it, I mean I can probably give you my username and password but I don't know but it is very sensitive. Anyway, I can guide you through M-Haki. So what we have is, we have posts. What happens is that people are sending their questions through an SMS platform and then it is reflected on the computers that we have. The questions are Geo-typed, meaning that we are able to see which questions are coming from Nairobi, which questions are coming from areas outside Nairobi. Even questions that are coming from within Nairobi, we can see in which exact location in Nairobi. Another feature is that once the questions come in, we put them in a different collection. For example if it is a land related issues, we put them in the land rights portfolio, refugee's rights, like that, housing eviction, labor issues and general inquiries. The reason that we put land, labor, housing and refugee rights is because these are the main areas of focus for Kituo.*

We are also aware that we will get very general legal questions. Then what happens is, when a question comes in, people who have access to the platform are able to respond. So, for example, for me when a question comes to the platform, I have a notification system set, that once the message comes to the platform, it also goes to my email address. So it is connected like that, so for example, if you are only interested in land rights issues, I send you emails as administrator or as a member and then I put notifications for you only on land rights. So any question that comes in related to land rights and succession, an email comes to you referring to the post on the platform and then you can log in and respond to it.

Tsvetelin: *And the people who respond the questions, do they work for Kituo ?*

Ms. Ongeso: *Yes, currently the people who have access to respond the questions are the staff of Kituo. But eventually we will hopefully have volunteer advocates and maybe community paralegals*

Tsvetelin: *And this is actually a new platform, a new website? Because before that I think you had a different one?*

Ms. Ongeso: *We did have a different one. You see, we are matching two works here, we are matching technology and we are matching legal work, access to justice, we don't have the technical capacity to understand technological issues. And the technological world does not understand the legal language. The problem with the previous company was they were speaking too much technological language and we couldn't see how the M-Sheria platform was going to work. So we had problems to be up and running because, we couldn't understand their language and I did not see the vision. What I saw was a lot of technological this and that. But when we had this with Mshahiti. They had expertise in technology to promote social justice, so they know even if technology is complex, they know how to use the language for the people, who are not technological experts, to understand. It is very important, because once the technological bit is done , the technological people go. So we are making this product for the consumers but we also have to create awareness for it. Another feature that I forgot to tell you about is : once you send in a questions, there is an automatic response that tells you: thank you*

for sending your message to Kituo Cha Sheria, we will respond in 48 hours, this is available only Monday to Friday from 8 am till 5 pm. The purpose of these messages is that there needs to be an awareness created that this tool is not available 24/7 and we need a time limit to get back to you.

The platform is very good also because it pulls in issues raised on Twitter. So if anyone tweets with the words Sheria, law, justice, Kituo, the platform is able to pull this from Twitter and we are able to respond to some issues that need a respond or we are also able to just be aware and track the justice conversations that are happening in Twitter.

Tsvetelin: *The tendencies and what kinds of questions people are asking.*

Ms. Ongeso: *Exactly*

Tsvetelin: *And when did you change the platform? Since when do you have the new one (M-Haki)*

Ms. Ongeso: *So this platform has been on, please let me check the timeline. So we first started testing the platform in January. So in January we were giving input and trying to interact with it, but actually we became very active on 7 March when we were testing it with paralegals, that's when it became very active. I can give you a breakdown of the information that we receive. So for the period of 8 March to 19 April, this is after the first series of trainings, we see 28 matters. 69% were from male and the rest were from women. Some people did not specify their gender so it is very difficult to tell if they are male or female. And the platform is also receiving questions from outside Nairobi and Nairobi. 19 matters were handled, sorry, we had land matters, 7 land matters, 6 labor matters and we had the most were general inquires which were 12. So you see many people have just general inquiry questions.*

Tsvetelin: *Okay, and you mentioned trainings, do you have trainings with the chiefs that are usually closer to the people or?*

Ms. Ongeso: *So, the trainings are designed like this: the trainings are designed to, first of all, test the platform and, second of all, to build the capacity of people who engage*

with the platform and third to conduct some sort of marketing research. So we have trainings for example with community paralegals, we give them a questionnaire asking about their status of access to justice, how much they spend, trying to pursue matter or how much people spend in their opinion when trying to access justice and then we ask them M-Haki is a good tool, do they think MHAKI is going to solve the logistical or cost issue of access to justice and how they see M-Haki improve. So we also get feedback from these people, the trainings are very targeted. We are targeting those, that we think are going to interact with the platform and use it, to actually respond. So we are only targeting community paralegals that we work with, as Kituo, and volunteer advocates within the volunteer advocate scheme of Kituo. And then obviously the Kituo staff.

Tsvetelin: *You mentioned evaluation, feedback, have you received anything from the people who actually use the platform, who have send questions, do you have any statistics, examples if their lives have been improved in result ?*

Ms. Ongeso: *Yes, I do have a response. So to make reference to what we ask them, so after responding to the questions and then we send, we generate a question from our end to test current satisfaction. So we just ask one close-ended question, we ask: was your question to M-Haki satisfactory answered, yes or no? So in the period 8 March to 18 April 26 out of 28 clients said that the questions had been satisfactory answered, so they were happy with the responses. Also at this point I would like you to know that we haven't created massive awareness, because we are still at the testing stage and we are still collecting data in terms of the marketing research. But once we are done with doing all the trainings with our target group then we will able to go live, I mean we will be able to create much more awareness and then be able to share with people our findings and then hopefully the public can freely interact with M-Haki. Now on a very low scale, we are giving out flyers to very targeted communities.*

Tsvetelin: *Okay and one more general question, do you think that this kind of technological innovations are being used sufficiently, or this is something that is being developed now?*

Ms. Ongeso: *I think in Kenya technology is being used a lot, especially mobile phone technology. The doctors have their app for example, I am sure you know about Mpesa. I think, from my perspective in Kenya we are becoming very innovative and we are using this technology more and more. So I think we are in a good place.*

Tsvetelin: *And in relation to access to justice, do you think that there are enough applications that being used, being developed. I mean in terms of access to justice, to help people improve their access to justice. Do you think that currently there are enough innovations using technology or this is something relatively new?*

Ms. Ongeso: *Oh, specifically access to justice, for me is relatively new. So it will be one of the first cases.*

Tsvetelin: *So I guess you see a lot of future for this though, that technological innovations like M-Haki can really help in breaking these barriers.*

Ms. Ongeso: *Yes, I see a lot of future for M-Haki, in terms of promoting access to justice but also being a sustainable source of income. So what we plan to do, okay right now, what we are using is a normal mobile phone number. So what the client pays is, in terms of the SMS, is like 2 schillings. But once we become successfully, we want to move to a shortcut number. This number is much more expensive to send an SMS to, it is like 20 schillings or 10 schillings. And then we plan to speak to the service provider that we split the costs, maybe they get 8 schillings and Kituo gets 2 schillings. That will be able to add money, but that will be in the future. For now we use this normal line.*

Tsvetelin: *Okay, this eventually will effect the people, though, the people who would like to use the application. Do you think that will reduce the number of messages being sent from the people, because of the price or?*

Ms. Ongeso: *No, I think that a free service shouldn't be absolutely free. And these same poor people, who come to Kituo, spend more than 1000 schillings. At least they should contribute to the sustainability of the legal aid that we are giving.*

Tsvetelin: *And they receive quality advice and legal aid. Do you think that this platform is applicable, because you are using it currently only in Kenya, do you think that it is applicable to other countries, societies?*

Ms. Ongeso: *Yes, actually what we are thinking of doing in the project is, at the end of the project to have a tool kit where we document our lessons and experiences, successes and failures and then have a regional meeting for Rwanda, Uganda and Tanzania. And then show them M-Haki. Because we think that this is something that can be replicated within the region.*

Tsvetelin: *So, the future of M-Haki is then, I suppose, related to developing a business model?*

Ms. Ongeso: *Yes*

Tsvetelin: *And then going beyond the borders of Kenya*

Ms. Ongeso: *Exactly*

Tsvetelin: *Alright, something else about the statistics. You mentioned that you have some statistics since you have been up and running since the beginning of March with M-Haki, the new platform. And the only statistics and feedback that you currently have are the 26 out of 28 positive evaluations of the people. But do you actually track, in the future, after receiving the advice, the lives of the people have changed in a way, like there is a better outcome, lets say.*

Ms. Ongeso: *No we don't, because we don't have the capacity. Maybe it can be at the end of the project evaluation but not within the evaluation.*

Tsvetelin: *Meaning to have a sort of an evaluation but on a later stage. Okay and you mentioned that currently only people who work at the organization respond to the question, do you have the total number of the people?*

Ms. Ongeso: *Yes, 7 people*

Tsvetelin: *Okay, just 7 people, meaning a lot of work.*

Ms. Ongeso: *No, actually we have like 4 advocates and we have 2 paralegals in the legal aid department and last year they interviewed 8000 people. So over M-Haki, typing a response this is way better.*

Tsvetelin: *Okay, very well. I think we covered most of the things I wanted to ask you. We talked about the current status, about future developments if you see a lot of future for this kind of technology in relation to access to justice. And you said that you definitely you. About this information is it okay if I use it in my research, can I also quote your name, because I will use this as an interview and I can, if you allow me to, I can quote you with your name?*

Ms. Ongeso: *Yes, that is fine, no problem.*

Tsvetelin: *Okay, I think that this has been very fruitful.*

Ms. Ongeso: *I have a question for you: in the month of July, we are planning to have a big lecture, conference on how people use technology to promote access to justice. And we are proposing to invite one international keynote speaker, who is knowledgeable about how different countries use technology to promote access to justice. So if you have anyone in mind that you think can fit this lecture, please recommend names to me and I will be happy to get in touch with them.*

Tsvetelin: *Okay, that is no problem I can look somebody up. Do you have a link for this, some sort of specific information about it?*

Ms. Ongeso: *No not yet, we have started to conceptualize it, but if you send me the names, or I can send you something already, a few lines about it.*

Tsvetelin: *Yes, and then I can look for some people and give you names. Have you spoken to Jin Ho by the way?*

Ms. Ongeso: *He is a friend of Kituo and he is definitely going yes.*

Tsvetelin: *Okay I will see what I can do, I am currently at Europol and they work in a slightly different field but I will see what I can do.*

Ms. Ongeso: *Okay, thank you, all the best*

Tsvetelin: *Thank you very much, thanks for all the information and I can send you a copy of the research when I am done if you want.*

Ms. Ongeso: That will be excellent, yes

Tsvetelin: *Okay, thank you very much again. Bye*

In addition to the Skype interview the question about the current drawbacks of M-Haki emerged and the answer was provided in the chat box as it follows:

[5/13/16, 3:54:38 PM] Tsvetelin Velez: only 1 last thing that I forgot to ask, do you see any disadvantages, drawbacks of M-Haki at the moment?

[5/13/16, 3:54:54 PM] Tsvetelin Velez: very briefly

[5/13/16, 3:58:05 PM] Aimee Ongeso: Yes the responses (SMS) are limited to 140 characters.

[5/13/16, 3:58:33 PM] Aimee Ongeso: The advocates therefore have sometimes write several SMS's to answer 1 question

[5/13/16, 3:59:04 PM] Aimee Ongeso: Some SMS's do not indicate the name of the sender or where they are sending in their questions from

[5/13/16, 3:59:15 PM] Aimee Ongeso: making it difficult to geo-tag

[5/13/16, 3:59:21 PM] Aimee Ongeso: or analyse data

[5/13/16, 4:02:38 PM] Aimee Ongeso: Sometime the staff do not respond to the questions asked within the 48 hour limit

[5/13/16, 4:03:44 PM] Aimee Ongeso: MHAKI does not really assist clients who need urgent attention

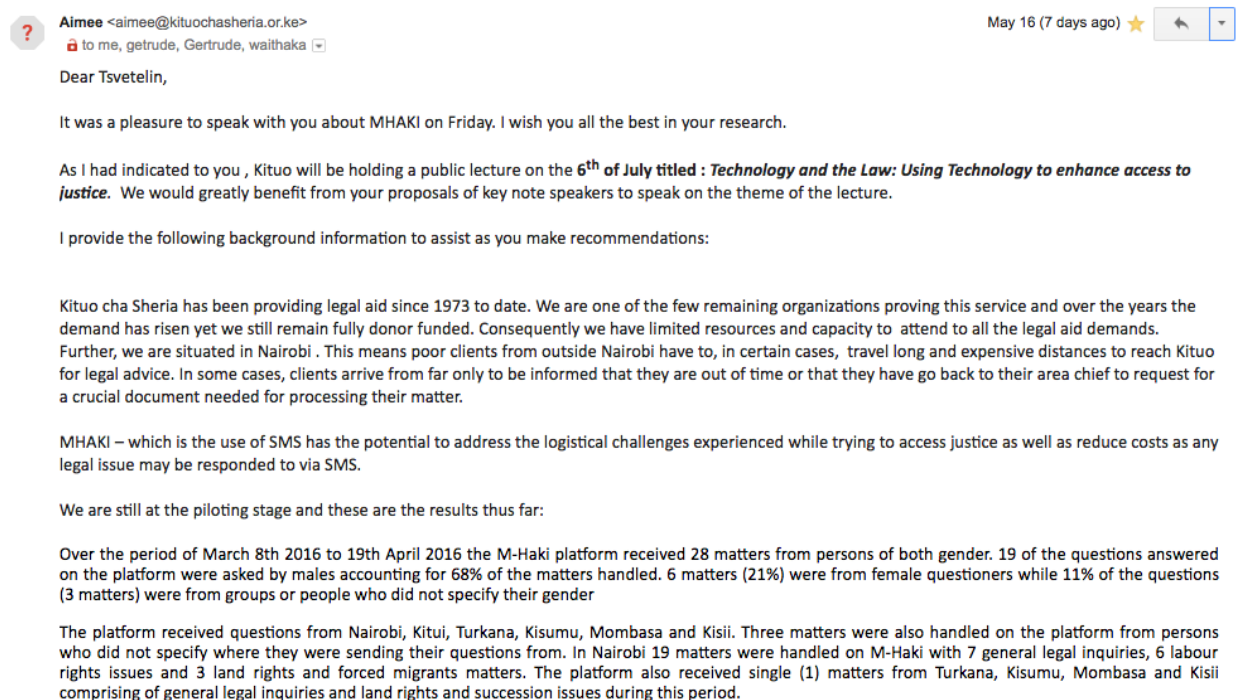
[5/13/16, 4:04:08 PM] Aimee Ongeso: we had a question come in that the sender had been arrested at 11.59 pm

[5/13/16, 4:04:51 PM] Aimee Ongeso: or of someone sends an SMS that they are being evicted

[5/13/16, 4:05:14 PM] Aimee Ongeso: the response from MHAKI might not respond to the urgency of the matter

[5/13/16, 4:05:36 PM] Aimee Ongeso: perhaps as we grow- we will be in a position to make follow up calls'

In addition to the interview, an email was received from Ms. Ongeso that contained a summary of some of the information shared about the platform and its current status:



Matters received over the said period are as follows:

- Land matters: 7
- Labour: 6
- Housing and evictions : 0
- General inquiries: 12
- Forced Migration : 3

- Client satisfaction- To measure client satisfaction on the M-Haki platform, clients are asked a closed ended question **“Was your question to M-Haki satisfactorily answered? YES/NO”**. In the period from 8th March – 19th April 2016, 26 out of 28 clients said that their questions had been satisfactorily answered.

At the time of the conference, we will have more results to analyse as well discuss the challenges and areas of improvement. This lecture will put into perspective the use of available and affordable technologies such as SMS in promoting access to justice.

I hope that the background and concept are clear. Once you send me a few recommendations , we will provide more detail.

Kind regards,


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SMS [0700777333](tel:0700777333) for Legal Advice

Interview 2

In the section below the email correspondence with Mr. Jin Ho Verdonschot in relation to this dissertation is included. This email correspondence is a follow-up summary of an informal talk during which the topic and objectives of this work were presented to Mr. Verdonschot. Moreover, the subject of applying technological innovations with the aim of improving access to justice for the poorer communities were discussed. In the emails below, more concrete questions were asked that are directly related to the objectives of the research and they sum up as well some of main the conclusions of the initial informal talk on the topic, taking place in the preparation stage of the dissertation.

 **Tsvetelin Velev** <tsvetelinvelev@gmail.com> May 16 (6 days ago) ☆ ↶

to Jin ▾

Dear Jin Ho,

I hope my email finds you well.

I wanted to thank you for introducing me to the people from Kituo. On Friday I had the opportunity to talk to Aimee and to discuss the current status and future developments of M-Haki. It was very fruitful and important for me.

I can imagine that you are pretty busy. However, I just wanted to check with you if you would have a minute to reply with a line or two to the questions that I have included here. I will appreciate that a lot and thus I will be able to quote you in my dissertation as well and use your feedback and opinion on the topic. Here are the questions again, please feel free to answer the ones that you want:

1. What do you think is the role of technology in improving access to justice of people living in poor communities?
2. Do you think that technological innovations, with the goal of improving access to justice of these people, are currently being used enough and if not, why is that?
3. As you were part of the team that established M-Sheria, being currently developed under the name M-Haki and with a slightly different platform, do you think that the lives of the people, who live in poor communities in Kenya, can be improved as a result of such innovations?
4. Are such technological innovations applicable to other poor communities?
5. What could be the potential future advantages and developments related to applying technological innovations with the aim of improving access to justice for poor communities?

Any reply on that will be valuable for my research. Thank you very much for your time. My deadline is 26 May, so I will definitely not be bothering you with this anymore.

Kind regards,
Tsvetelin Velev

 **Jin Ho Verdonschot** May 17 (5 days ago) ☆ ↶

to me ▾

Great to hear Tsvetelin! See below. Best and good luck, Jin Ho

Dr Jin Ho Verdonschot
Director
Hiil Rechtwijzer Technology

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On 16 May 2016, at 19:27, Tsvetelin Velev <tsvetelinvelev@gmail.com> wrote:

Dear Jin Ho,

I hope my email finds you well.

I wanted to thank you for introducing me to the people from Kituo. On Friday I had the opportunity to talk to Aimee and to discuss the current status and future developments of M-Haki. It was very fruitful and important for me.

I can imagine that you are pretty busy. However, I just wanted to check with you if you would have a minute to reply with a line or two to the questions that I have included here. I will appreciate that a lot and thus I will be able to quote you in my dissertation as well and use your feedback and opinion on the topic. Here are the questions again, please feel free to answer the ones that you want:

1. What do you think is the role of technology in improving access to justice of people living in poor communities?

1. What do you think is the role of technology in improving access to justice of people living in poor communities?

It creates new ways in which we can optimise the way in which paralegals, lawyers and judges deliver fairness.

2. Do you think that technological innovations, with the goal of improving access to justice of these people, are currently being used enough and if not, why is that?

We have just started to explore what is possible. Legal system is very slow in adopting, so it might take some time, but there are strong indications we are working towards a breakthrough.

3. As you were part of the team that established M-Sheria, being currently developed under the name M-Haki and with a slightly different platform, do you think that the lives of the people, who live in poor communities in Kenya, can be improved as a result of such innovations?

Yes, since it enables them and the paralegals that help them to access legal information, which brings neutrality - a key ingredient for fairness.

4. Are such technological innovations applicable to other poor communities?

Sure, I think technological innovations are most scaleable.

5. What could be the potential future advantages and developments related to applying technological innovations with the aim of improving access to justice for poor communities?

If M-Haki shows how it can be done, it can create courage and believe with others to replicate it. It may also help legal professionals to open up.

100%