

A glowing lightbulb is the central focus, surrounded by a sea of crumpled, light-colored paper. The lightbulb is illuminated from within, casting a warm glow. The background is dark, making the lightbulb and the crumpled paper stand out. The overall composition suggests a theme of ideas, innovation, or a breakthrough.

ALTERNATIVE DISPUTE RESOLUTION NEWSLETTER

The Recap: ADR Week

Utatuzi Center

01
Issue

3 EDITORIAL NOTE

4 REFLECTIONS ON THEMATIC PANEL DISCUSSIONS

Trends and Technology: A Global Perspective

Culture and Identity in Alternative and Online Dispute Resolution

Implementation of People-Centered Justice Solutions

12 SNAPSHOT: THE ADR WEEK PRESENTATIONS

14 ADR LEGAL AID: OUTCOMES AND HOPES

20 FOOD FOR THOUGHT

Reflections on the Essay Writing Competition

Judges Commentary

Excerpts from Winning Essays

24 BEHIND THE SCENES

Mediation Awareness

Message from Kateryna Yeroshenko

Tech Crunch: Utatuzi ADR Week Prep

EDITOR'S NOTE

LEARNING CURVE

May has been a month of many firsts: first-time organizer/ moderator, first-time legal aid clinic and first-time ADR Week. The choice of the thematic area "Creating people-centered justice through use of technology" was fitting for this event as it gave us a chance to deeply discuss and reflect on several emerging issues in today's society. Namely "people centered justice" and "legal assistive technologies".

It is unfathomable the extent to which, the COVID-19 pandemic has quickly changed the way we interact and live our daily lives. In as much as we live in a

post-pandemic world, the usage of technology has in essence usurped our "recently ancient and manual"-methodology of service delivery especially in the arena of access to justice. It has been believed that the idea of people-centered justice is to facilitate inclusive and responsive access to legal and dispute resolution services. But are we truly as inclusive, as universal and as accessible as we make ourselves out to be?

As Utatuzi Center, it has been an honor for us -during the ADR Week- to shed light and demystify the true core of what our future legal innovations should look like. I am able to envision a society where we are moving from paper promises to real-life solutions. We are also happy to have served members of the public with our first ever virtual Legal Aid Clinic.

I bear testament to the synergies and relationships created by formidable partnerships both locally and internationally. I am humbled by the support, and participation of individuals far and wide. Through these short moments, that seemed like an eternity for me, I have grown through leaps and bounds. Thank you. We appreciate all our partners, professionals and participants. Special thanks to Mercy Mwangi and Evans Kirubi who have assisted in the design and compilation of this newsletter. This has been a win for Utatuzi Center through the steep learning curves; now we push for more progress.

Editor

Josephine Wairimu

REFLECTIONS ON THEMATIC PANEL DISCUSSIONS

Re-live the thought provoking panel discussions under the thematic choice, creating people-centered justice through use of technology.

To watch the panel discussions, click [here](#)

Trends and Technology: A Global Perspective

Can mediations be successfully conducted online? Yes; this is now the new Covid-19 post pandemic reality. The discussion of Trends and Technology in Dispute Resolution gives us an insight on the changing landscape of the dispute resolution space and the introduction of facilitative technologies globally.

Through reflecting on the conduct of traditional mediations, two issues present themselves: the physical and manual nature of proceedings. As times and circumstances changed, this ushered a dynamic approach to service delivery mediation notwithstanding to fit into an advanced technology-centered world. This has not been an easy journey but gradually we are witnessing wins for the access to justice sector in the adoption of facilitative technology. The composition of the panel, drawn from a diverse background and geographical areas set the tone for a rich discourse comprising of; Michael Tomko (USA), Syed Mustafa (Pakistan), Ilan David Bass (UK and China), Erastus Njaga (Kenya) and Rashid Mbwiza (Kenya).

As astute legal and dispute resolution professionals, they projected their alternate realities and localized perspectives to give the audience a glimpse into the transitioning dispute resolution arena. The discussion provided a comparative analysis on fundamental elements of a traditional mediation process and technology innovations surrounding these items i.e. Online Agreements, Preliminary Meetings, Evidentiary Issues, Online Awards and Validity amongst others. An array of facilitative innovations such as block-chain technologies, case management, video-conferencing and document sharing systems are part and parcel of the strides that Utatuzi Center has made, to ensure secure and confidential dispute resolution processes; from signing documents to the substantive mediation sessions.

Through this discussion, 3 fundamental matters are brought to the forefront: Trust, Adaptability and Compromise.

“Trust, Adaptability and Compromise”

First, gaining trust of the parties in the dispute resolution process is paramount. The remarks: “The mindset of a lawyer and the mindset of a mediator are fundamentally different” provided by Ilan David Bass evokes the need for a different perspective when looking at alternative dispute resolution as a whole:

less argumentative and more facilitative. Coming from a highly litigious legal environment, Syed Mustafa discussed the nuances of online mediations as a relatively new concept in Pakistan slowly gaining traction due to preferences surrounding physical meetings. Trust implies an obligation to the mediator to display impartiality and competence when approaching the dispute at hand despite the medium of communication. This means, not exploiting different technological loopholes to compromise the outcome of the dispute.

Furthermore, the issue of trust also touches on the perceptions and views of the public towards the efficacy and reliability of alternative dispute resolution processes. Highlighting his concerns as a member of the legal fraternity, Erastus Njaga illustrated sabotaging tactics used by lawyers to deviate mediation processes for selfish interests. This highly undermines alternative dispute resolution whose benefits allow for faster and easier access to justice.

Two, adaptability to technology tools during virtual mediations is a joint learning process for both the mediator and the parties, requiring both patience and openness from either side. Whilst this does not cure the inherent ills of technology, there seems to be a perfect mix required for efficient and effective Online Dispute Resolution. This proposed by Michael Tomko includes Legal knowledge + Mediation skills + Tech savviness + Collaboration tools. As the global south, we are still plagued by vast inequalities and developmental challenges surrounding technology access which makes it a much more difficult ordeal especially in relation to service delivery in the justice sector. This creates a great segue to the third element: Compromise.

Compromise is an ongoing give and take situation in a dispute resolution process; all resulting to one common goal- consensus. Consensus that times have changed, and things need to be done differently. Compromise from mediators to educate parties on alternative dispute resolution and facilitative technologies as intimated by Rashid Mbwiza will significantly increase the uptake of online dispute resolution. Compromise for parties to adapt to a changing environment will gradually increase confidence in online dispute resolution. Supported by Syed Mustafa, the need for public awareness and sensitization will have a positive impact on the mainstream adoption of online alternative dispute resolution.

The upshot of the discussion is that Online Dispute

Resolution (ODR) is a work in progress, and a dynamic area with infinite innovation. Notwithstanding, it is comforting to note that different jurisdictions across the globe have significantly adopted technology-powered mediation processes. The future of electronic mediation (E-mediation) is certainly a horizon of limitless possibilities with the singular objective of improving and promoting accessible and people-centered justice.



Sustainable Justice through Alternative Dispute Resolution Technology

Culture and Identity in Online and Alternative Dispute Resolution

What is the future of online dispute resolution? This being a new reality dawning in the legal field, many individuals are wary towards the use of technology. This hesitation is, however, not unfounded. Technology is associated with the lack of interpersonal relationships, vulnerable to personal data breaches, and is seen as biased to certain group of individuals more so those lacking technological knowhow. There is also the undeniable aspect of cultural relativism when it comes to adoption and usage of technology in disputes resolutions from one community to another. This lack of universalism is attributable to our divergent societal norms, and ethnic customs which influence our identities at both the individual and societal level. Accordingly, and in acknowledgement that online dispute resolution is our present and future reality, it is critical to examine and evaluate the future of online dispute resolution (ODR) from a global and a cross-cultural perspective. To help us dissect this topic, we had an eminent panel consisting of Lea Hungerbühler & Nicole Ahoya (Switzerland), Edwin Apacha (Kenya), Adejuwon Adenuga (Nigeria), and Wilson Macharia (South Africa). All of them are distinguished legal practitioners and illustrious and passionate researchers with a focus in matters affecting the vulnerable and marginalized people including Persons with Disabilities, Refugees and Asylum-Seekers.

Mediation like any other alternative dispute resolution processes is people-centric. As such, the process demands the highest degree of *uberrimae fidei* (utmost good faith), trust and patience - now more than ever due to the impersonal nature of technology. Lea Hungerbühler gave her insight on working with Refugees and Asylum-Seekers. She affirmed the need for legal professionals to re-enforce confidentiality and trust in the advocate-client relationship so as to prevent their clients from feeling ignored and disregarded. Trust, as highlighted during the Day 1 panelist discussions, builds both the reputation of the mediator and that of the online mediation process, impartiality and transparency making the outcome unbiased and accountable. There was unanimous submission by each panelist through their individualized perspectives for the need of observing the highest levels of common etiquette and impeccable interpersonal practices during the online mediation. They include practices such as: being respectful and kind, listening before speaking, not interrupting when the other party is speaking, saying sorry and being punctual. These seemingly “insignificant” codes

of conduct really help to de-escalate tensions before and during the dispute resolution process.

Moreover, trust creates confidence and reliability in the alternative dispute resolution process. Majority of people use litigation as their first call of action when facing a dispute. Since litigation is adversarial in nature with both outright winners and losers, many are drawn to use it due to the attractiveness of “landslide victories”. However, as postulated by Adejuwon Adenuga, in most African traditional societies, when a dispute occurred, the first call of action was to negotiate it between the involved parties before it escalated to the council of elders for mediation. As modern times caught up with us, and the subsequent introduction of litigation in the court system, these amicable disputes settlement methods slowly became obscure. He, however, believes that this appetite for the litigation route in his country Nigeria and Africa in whole can be reversed, through giving practical lessons. He underscores the critical nature for creating awareness to the people on the various merits of mediation and arbitration as a faster, cheaper, efficient and effective mode of resolving disputes as contrasted to litigation.

“When you design taking into account universal design, you design for everyone.”

Edwin Apacha noted that gradually and slowly, online dispute resolution is being accepted at the community level. The acceptance has resulted from the various mediation sensitization and awareness campaigns at public forums such as chiefs’ barazas and church meetings. ODR is usually viewed as a complex jargon eliciting thoughts of complicated technologies and software. This should not be the case. Indeed, online dispute resolution should be viewed from a simplistic perspective of utilizing basic technological elements or tools like a mobile phone to facilitate efficient and faster disputes resolution. It may include using a mobile phone to make calls to initiate the process of dispute resolution or using text message to remind parties to submit documents or to attend meetings. Through using these simplistic means, the meaning and adoption of ODR will hit closer to our hearts; gradually generating confidence in the more sophisticated avenues of ODR.

However, as ODR is an emergent practice in our society, careful considerations must be taken to make access to these services inclusive to all people. Indeed, “When you design taking into account



universal design, you design for everyone.” Wilson Macharia a visually impaired PhD. Researcher covered the plight of people who are abled differently. He challenged innovators to develop technologies with universal and inclusive design which are user-friendly and accessible. Wilson noted that despite the different benefits of technology in our modern world, it has created a second barrier to access and usage for Persons with Disabilities especially when not designed well. He nevertheless, noted with approval, the efforts of Utatuzi Center in designing universal technologies for accessible and people-centered justice. A case in point is the Utatuzi Center Meet, an online video conferencing platform adaptable for mediation sessions (and the ADR Week conference too); containing a screen-read software, making the platform accessible to visually impaired persons which is equally user-friendly. Ultimately, the concept of inclusive design creates sustainable eco-systems which promote universal participation and inclusion thus promoting equality, fairness and access to justice among other services as envisioned by the United Nations Sustainable Development Goals.

What then is the future of online dispute resolution, taking into account the obligation to ensure people-centered justice; that encompasses the needs of all? Nicole Ahoya, pleaded with everyone to take a step back and to critically analyze, the true meaning of “people centered justice” and “access to justice”. Emphatically, she illustrated that legalese and jargons involved in access to justice merely “create more of paper promises and less of practical implementable solutions”. This surely, is a great point of reflection for policy makers and legal practitioners to put the common mwananchi at the forefront while designing and creating solutions that benefit them the most.

In summing-up, online dispute resolution (ODR) mechanisms promise significant people-centered and accessible justice systems by the various groups of people in the society. However, there are various cross-cultural and societal considerations that need to be identified and acted on decisively to promote efficient, accessible and cost-effective access of technology-powered disputes resolution. Importantly, it is critical for all technological inventors, designers and online disputes resolution platforms to have a holistic universal consideration when designing and advocating for ODR tools. Further, ODR needs to be demystified as a highly complex and elitist subject to a more relatable conversation to everyone. Until, then the arduous journey of promoting and advocating for ODR persists.



Implementation of People-Centered Justice Solutions

If you ask non-lawyers what they consider justice to mean, you will be shocked to get quite convoluted responses. Ideally, justice is seen as legal jargon term beyond the grasp of the common citizen. Advance the question to people-centered justice and you will loose even the elites. So, what is people-centered justice; is it just a paper promise; is it achievable in Kenya? Further, what are the implications of this approach for Kenya's justice system? To give a precise answer to these questions, one needs to have a holistic understanding of what justice is. Contrary to the belief of the majority, justice is not merely the

absence of legal wrongs, inequalities, various social upheavals and social unfairness. Rather, justice is an active and ongoing process that needs to be both fair and equitable safeguarding the procedural and substantive fairness. Then what is this people-centered justice? Eric Mwangi gave a very elaborate definition of people-centered justice as "the person who has the justice problem being the focal point of the conversation on justice". Indeed, he interrogated whether, "justice is still just if it is not accessible?" "Commendably, significant strides have been made to transform the Kenyan Judiciary and promote

access to courts and the delivery of judicial services to all corners of the country through sensitization campaigns at the grass-roots level. Hon. Caroline Kendagor, a Senior Magistrate, emphasized that presently, the public has an insight on how the Kenyan judicial system works. This entails access of the courts across the country as well as the court-annexed mediation services offered by the Judiciary Court Annexed Mediation Secretariat. However, she cautioned that the ideals of people-centered justice is not an exclusive reserve of the Judiciary. Instead, there is need for concerted efforts between the public and private sectors to promote people-centered justice. Many justice players and citizens hope that the newly sworn in Chief Justice Hon. Lady Justice Martha Koome, will improve feedback systems, delivery and accessibility of judicial services by the Judiciary.

On her part, Lorraine Ochiel posited that people-centered justice mandates that "it is not to be forced or done behind the back of the justice seeker. The people seeking justice have to be actively involved in the process." Accordingly, justice should not only be delivered but the justice seeker must also see and believe its delivery. Both the process and outcomes need to protect the interests and the rights of the justice seeker. She also noted that through IDLO's activities at the grass-roots levels, the masses seem to have little to no information regarding their rights, ways to seek legal redress and many believe that courts are the only providers of justice. Morenike Obi Farinde, from Nigeria shared a common Yoruba saying that clearly summarizes the above biased perceptions. She postulated that; "If we go to court, we can never be friends". She stressed the need for actors in the public and private sector to look for innovative ways to work with the justice seekers to create appropriate solutions to meet their needs; and for information to be delivered in languages that the local people understand. Notably, institutions like IDLO use vernacular radio stations to educate people about their legal rights, the options to seek redress and the benefits of alternative dispute resolution as opposed to going to court. Furthermore, the panelists highlighted a huge concern regarding lack of knowledge on legal matters that should fall under the ambit of Alternative Dispute Resolution (ADR) and those that should be under criminal law. As illustrated in the discussion, many victims of sexual assault fail to obtain justice, as the mode of redress used does not provide sufficient justice to the affected party.

“Is justice still just if it is not accessible?”

Harendra Patel a trained psychologist and mediator brings in an interesting angle by submitting that: "People-centered justice on the contrary should also consider the psychological and mental well-being of the parties during the dispute resolution process". Coincidentally, it is something that is rarely taken into account, as each party is desperately trying to find a solution to their problem while each dealing with the accompanying stresses in their individual environments. The subject of mental health is one that is rarely discussed in most African societies and therefore, not much regard is given to it. Unequivocally, mental well-being is paramount for clarity of the parties and to allow for the realization of people-centered justice. Moreover, the panelists bolstered the significance of public education towards achieving people-centered justice. It is critical for all justice players to seek to sensitize and create awareness on the various available justice systems. A case in point is the Online Dispute Resolution (ODR) concept which to many is just another mysterious piece of the larger legal puzzle. Whilst the benefits of ODR are evident, there is still substantial resistance to it as it involves the use of technology. Subsequently, education geared towards the use of technology is necessary to demystify the complex nature of technology and to encourage adaptability. With approval, programs such as the ADR Week, as facilitated by Utatuzi Center fill in the knowledge gaps when it comes to legal technology. Besides, its user-friendly platform simplify the concept of legal-technology; making more people amenable to the adoption of tech-powered alternative dispute resolution which is swift, affordable, efficient and protects the confidentiality of the parties. Certainly, education should be a critical tool towards the empowerment of the community. Eric Kariuki concisely stated that, "In our education, we tend to alter how the receiver thinks, which is very wrong. Education is supposed to give a person the free will to think for themselves and make decisions for themselves without being compromised in the name of education."

In conclusion and in the words of Sir Winston Churchill, people-centered justice is a riddle, wrapped in a mystery, inside an enigma; but perhaps there is a key. That key is promoting community awareness and increasing education on matters justice and the various alternative forms of resolving disputes. There is need for concerted efforts by public and private justice institutions and individuals, to demystify and make justice a concept that resonates with everyone all the way regardless of social strata. That way, people-centered justice will translate fully from a theoretical concept to reality.

SNAPSHOT: THE ADR WEEK PRESENTATIONS

01

Introduction to ADR and ODR

How conversant are you with matters concerning Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR)? Muiruri Wanyoike, the Managing Partner of Utatuzi Center gave a broad analysis of ADR and ODR. In a nutshell, Alternative Dispute Resolution comprises of methods used to resolve disputes without going to court which include Mediation, Arbitration and Conciliation amongst others. ADR is thus resolution of disputes without going through the litigation route. However, the introduction of technological tools to assist with alternative dispute resolution processes has brought about the emergence of ODR. Through utilizing ADR and ODR, we have seen creation of avenues where one can access justice in a swift, convenient and affordable manner.

02

Access to Justice in the COVID-19 Era: The Wearemore Story

Did you know that 1 in every 5 Kenyans who have legal problems does nothing about it? This is quite disastrous. While public and private stakeholders have proposed a myriad of solutions, the introduction of technology in providing legal aid services is a welcomed change in access to the justice sector. As illustrated by Kagai of Wearemore, an organization that is creating change in the legal sector by synergizing law and technology and adopting virtual Legal Aid in Kenya. Indeed, such efforts provide several advantages such as affordability, ease of access, and swift service delivery, amongst others. Legal aid and virtual legal aids are critical as they provide legal assistance to the needy and vulnerable in the society by ensuring equality before the law, the right to counsel, and the right to a fair trial is the way to go. Virtual legal aid also increases the visibility and uptake of Online Dispute Resolution provided by institutions such as Utatuzi Center, making this a win-win situation to achieve holistic legal services.

03

15 Years of Innovations in Access to Justice: Hague Institute for Innovation of Law

"How fair is justice if it is impossible to use?" was the capturing title of the presentation by Morgan Gikonyo, the Partnerships Associate at the HiiL Innovation Hub East Africa. His presentation focused on the various roles and efforts of The Hague Institute for Innovation of Law (HiLL) in creating and promoting people-centered justice globally. The organization's mission is to help at least 150 Million people to have resolved their pressing justice issues by 2030 through supporting and mentoring highly scalable justice ventures/startups/organizations. As one of the leading global accelerator programs focusing on Access to Justice and peaceful institutions (i.e., Sustainable Development Goal 16), they support, mentor, and fund innovative justice startups through The HiiL Justice Accelerator Program. To evidence their efforts, since 2011, over 130 startups have been supported globally! Utatuzi Center is one of the beneficiaries having graduated in the 2020- 2021 cohort. Also, each year 500+ startups apply to the Innovating Justice Challenge, out of which a new fellow of 15 - 20 joins the Hill Justice Innovators community. Indeed, through such efforts and support, as accorded by the Hill Justice Program, justice can be delivered to everyone in an accessible, efficient and affordable manner.

04

ADR Education in Kenya

An investment in knowledge always pays the best interest. Alternative Dispute Resolution (ADR) education in Kenya is essential to increase awareness of the discipline, and to instill confidence regarding the capabilities of ADR as an efficient and cost-effective means of resolving disputes instead of going to court. Dr. Francis Kariuki of Strathmore Law School through his presentation, stressed upon the need for ADR education to be made as part of the core courses components at the university level. Notably, he highlighted the necessity for ADR education to focus on emerging trends such as legal technology and Online Dispute Resolution by lauding the efforts of Utatuzi Center in providing educational forums and services

on the same. Dr. Francis emphasized the importance of embracing technology as a means to ensure swift access to justice and legal services. Furthermore, he posited that once ADR education is well structured, then adoption of Online Dispute Resolution will be easy. He noted with much approval the various efforts made by the different higher learning legal education players in integrating ADR into the syllabus but was quick to point out that there are still more opportunities to be exploited.

05

An Insight on Utatuzi Center Technologies

The word "Online Dispute Resolution" has been misunderstood to be a complex term involving heavy tech processes and terminologies. However, through efforts of demystifying Online Dispute Resolution, we can create a receptive environment for adopting legal technologies in the society. Through its bespoke platform, Utatuzi Center has developed a user-friendly Online Dispute Resolution technology that utilizes best practices with respect to security and privacy. The presentation focused on giving a comprehensive analysis of Utatuzi Center's technological platform in its pursuit for expeditious, confidential, efficient, and cost-effective disputes resolution, thus promoting people centered-justice. One is a Dispute Resolution Management System (DRMS) that is linked with the Application Programming Interface (API), allowing for automated notifications of disputes from clients, easy assignment to the dispute resolution professionals, and efficient tracking and recording of the resolution sessions. Further, the platform has integrated a state-of-the-art video-conferencing platform that ensures excellent virtual resolution. Additionally, the platform uses blockchain-powered Smarts Contract to guarantee a permanent and immutable record of a dispute resolution. Despite the various innovative milestones, there are challenges of low tech literacy, the novelty of ODR, bureaucracy, and resistance to technology that faces legal technology innovators like Utatuzi Center.

06

ADR in the Eyes of the Community: Community Dispute Resolution Programs/Community Justice Programs.

The WasilianaHub team consisting of Wangari Kabiru, Emerald Midega, and Rev. Prof. Peter Gichure analyzed various community-based disputes programs and their critical role in promoting justice thus making a case for Community-Based Mediation Service Centres in Kenya. The presentation underscored the multiple advantages of such programs in creating a peaceful society where disputes are amicably resolved without resulting in the abrasive court process, saving costs and time, and retain parties' privacy. Further, their presentation gave an insight into the various technological efforts that have been used in Kenya and globally to promote community-based justice programs. Using case studies from Kenya and other jurisdictions, they illustrated how the incorporation of technology such as phone calls, video calling, email messages, among others, could be combined with the existing community-based programs to provide a sustainable and accessible justice system in the communities, particularly the Covid-19 pandemic era.

07

Kyiv LEPP Presentation

In an attempt to design and deliver people-centered justice, Kateryna Yeroshenko of the Kyiv Legal Empowerment Practical Program (Kyiv LEPP) (in Ukraine) emphasized the importance of the design-thinking process to map out innovations in the field of access to justice. This refines the ideation process for young innovators who are creating viable and people-centered solutions. As Kyiv LEPP, their major priorities lay in research on impact of justice programs to facilitate participatory approaches in the utilization of justice data; innovation of solutions. Through their work, Kyiv LEPP has supported institutions such as Utatuzi Center to develop its legal technology solutions in the field of Online Dispute Resolution. Therefore, such initiatives fuel the creation and spread of people-centered justice.

To watch the presentations click [here](#)

SPEAKERS ADR WEEK 2021



Josephine Wairimu
Utatu Center-Organizer



Hon. Caroline Kendagor
Judiciary



Erastus Njaga
Utatu Center



Edwin Apacha
Suluhu Mediation Center



Eric Kariuki
HIL EA



Syed Mustafa Mehdi
Syed Mehdi Chambers



Morgan Gikonyo
HIL EA



Kateryna Yeroshenko
KYIV LEPP



Muiruri Wanyoike
Utatu Center



Kagai Muriithi
Wearemore



Harendra Patel
Glory Mediation Center



Lea Hungerbühler
Asylex



Ilan David Bass
Orchid Mediation



Adejuwon Adenuga
ODR Africa



Michael A. Tomko
Resolve Conflict



Morenike Obi-Farinde
ODR Africa



Dr. Francis Kariuki
Strathmore University



Nicole Ahoya
Asylex



Lorraine Ochiel
IDLO



Rashid Mbwiza
Win-Win Mediation Center



Wilson Macharia
University of Pretoria



Wangari Kabiru
Wasilianahub



Emerald Midega
Wasilianahub



Rev. Prof. Peter Gichure
Catholic University of Eastern
Africa

PARTNERS ADR WEEK 2021



UA2J SCHOOL
OF PRACTICE



We are grateful. Thank you

ADR LEGAL AID: OUTCOMES AND HOPES

Alongside the ADR Week, Utatuzi Center carried out its first Pilot Virtual ADR Legal Aid exercise. ADR Legal Aid? Let me explain...


The traditional legal aid exercises solely caters to providing legal advice to members of the public regarding their legal issues. Our mode of ADR Legal Aid took a three pronged approach. First, providing legal advice regarding an issue. Second, educating individuals about Alternative Dispute Resolution. Lastly, {where possible} bringing parties together to resolve disputes using Alternative Dispute Resolution methods mainly mediation.


“Using a holistic approach in providing legal aid, creates confidence in the use of ADR systems.”

The virtual exercise took into account the accessibility, flexibility and convenience of the participants, thus we advocated for exercises to be done through

phone calls, text messaging,WhatsApp, Facebook and the use of the Utatuzi Center Video Conferencing platform. Our First Virtual Pilot Legal Aid Exercise, managed to serve over 50 people in the span of 3 days.The legal issues presented ranged from contractual disputes; insurance compensation; family, children and succession matters; land disputes and community rights disputes.

As Utatuzi Center, we believe using a holistic approach in providing legal aid creates confidence in the use of ADR systems. Through using practical legal education and creating accessible channels, ADR Legal Aid has the potential to open up a world of realtime dispute resolution services. This may seem to be a Utopian ideology, though this elicits deep introspection regarding its practicality at the community and grass-roots levels. More-so: (i) availability of technological infrastructure; (ii) technology literacy and bias; (iii) awareness/education on ADR and individual legal rights as the main challenges facing the widespread adoption of virtual legal aid programs.






[REGISTER NOW](#)


Legal AID: How it works

Provide the details about your legal matter in the form below and we will get back to you with appropriate help.


Your Name (Jina):*

 Your Name (Jina):


Your Email (Barua Pepe):

 Your email (Barua Pepe):

Your Phone no. (Simu):*

 Your phone no. (Simu):

Brief Description (tell us about your legal problem) (Tueleze shida yako ya kisheria):

 Tell us about your legal problem (Tueleze shida yako ya kisheria)

[Submit](#)

“LEGAL AID VOLUNTEERS (ADR WEEK 2021)



Beatrice Njagi



Elizabeth Kinuthia



Sam Nyamo



Kennedy Kitonga



Wanjiru Nduati



Caleb Kusienya



Sarah Kebaya



Nancy Gathingiri



Oscar Gathura



Ewang Tsisiga Ebude



Evelyn Kilemi



Mercy Muriuki



Kazuri WanjikuNdunyu



Tonny Odera



Evans Kaimenyi



Gilbert Mitullah

We are grateful. Thank you



FOOD FOR THOUGHT

Reflections on The Essay Writing Competition

“

In line with the theme of the ADR Week, the Essay writing competition was meant to generate academic research regarding the role of Alternative Dispute Resolution in a post pandemic Africa. The papers focused on ADR as a catalyst for change in the e-commerce, trade and justice sectors by challenging the authors to examine how technology is to facilitate people-centered justice in formal and informal levels.

For instance, evaluating (i) the role of policy instruments to encourage adoption of technology; (ii) the need for local and external fundraising for access to justice programs focusing on ADR; (iii) institutionalizing mainstream Online Dispute Resolution in regular court processes.

The commentaries from our Esteemed Judges gives an insight into the general performance of the participants and their submissions as well as their thoughts on the thematic discussions.

”



01



02



04



03

JUDGES'

COMMENTARY

The inaugural Utatuzi Center Essay Writing Competition, was assessed by an independent panel of judges, who are distinguished legal practitioners in the fields of academia, research, private practice and policy. Meet our esteemed judges who brought insight, direction and robust evaluation to the Competition.

01

Dr. Francis Kariuki

Let me start by first thanking the Utatuzi Team for the aptness of the theme for the essay writing competition: 'Creating people-centered justice through the use of technology'. In view of the current Covid-19 pandemic, the theme offered an excellent opportunity to explore various ways of enhancing access to

justice to all by integrating technological solutions and/or developments. From the various submissions, virtually all the contestants were cognizant of the role and centrality of technology in driving the next phase of the justice sector in Africa. It was evident from the submissions, that technology has already occupied this central place both in litigation and in ADR. The contestants ably illustrated how dispute resolvers including courts, arbitral institutions, and mediators, have resorted to technological applications and online platforms in dispute resolution.

This attests to the fact that the contestants were alive to the impact of the current pandemic on access to justice in Africa. Additionally, it tells us, as actors in the justice sector and researchers, that the next phase of dispute resolution will be technology-driven. Lastly, all the submissions were very well written, and depicted excellent research skills, and deep understanding of the intersections between access to justice, technology and ADR. I encourage Utatuzi to continue with this fantastic endeavour, as it will without doubt, contribute to increased awareness about ADR, ODR and the role of technology in enhancing access to justice to all.

02

Jasper Lubeto

"I must begin by thanking you for engaging me in evaluating the essays. In overall, the essays were relevant, rich in information and ideas, and responsive to the topic of discussion. The level of writing demonstrated an appreciation of development in e-commerce not only in Kenya but beyond in sub-Saharan Africa and the world. This supports the idea of global interdependence in commerce and by extension

touched on dispute resolution. It also helped to bring out the role of the law in facilitating local and international trade. It came out that technology must still work hand in hand with the law. As a judge I found the essays illuminating as they were informative on the current state of affairs with respect to electronic commerce and trade. To note also that the authors focused a lot on what is, rather than exploring the future for us. Future essay writing competitions could benefit from a wider range of publicity so as to attract international participation.

03

Dennis Nkarichia

It takes a special team, one with a vision and the spirit to go for it, to formulate and successfully execute an initiative in the midst of a pandemic. That's been my experience with the team at Utatuzi Centre; a team committed to actualizing the online dispute resolution and alternative dispute resolution frameworks in a challenging environment. Congratulations to everyone who made the ADR Week happen. At a conceptual basis, the theme of the event spoke to the circumstances of the team as the global economy

digitizes it is apposite that dispute resolution mechanisms similarly evolve and align with the digitization. Over the ADR Week, I had the privilege of gaining a better grasp of how technology could be leveraged to bridge access to justice gaps of geographical, financial, and capacity deficiencies that have hampered the adoption of ODR within the African setting. Further, the event served to illustrate the role and place of technology in delivering people-centric justice while meeting the formal requirements of a dispute resolution mechanism that is transparent, fair and accountable to the stakeholders. Having had a ringside seat as a judge at the essay writing competition, I was impressed by the authors' ability to appreciate the theme of the initiative and relate it to practical and every day issues that exist within the access to justice tableau. Rather than adopting a futuristic (and often optimistic view) of technology in societal setting, the authors managed to critique and account for the place and role of contemporary technology in the justice sector. I look forward to seeing how the authors will translate their works into various programs within the justice system to deliver on a holistic and responsive frameworks within the access to justice field.

04

Grace Naiserian

I want to thank Utatuzi Center for coming up with this essay writing competition and especially at a time that access to legal remedies in Kenya has been disrupted by the Covid 19 pandemic. The theme of the essay being, "Creating people-centered justice through the use of technology" was quite a revealing task to how technology has bridged the gap between justice and the justice seekers. In the process of evaluating, we looked at the form, content, and impression. From the submissions, I enjoyed the concept that the writers brought forward together with the new ideas. Some essays highlighted emerging issues like cybersecurity issues which are a thing on the rise in this digital age and era. My favorite part in one of the essays was the development of a code of ethics for virtual ADR. To conclude, all participants submitted great essays with well-researched, insightful ideas. Thank you, Utatuzi Center, for allowing me to be part of the judges and honoring me with the opportunity to announce the results. May we push ODR and ADR to greater heights.

EXCERPTS FROM WINNING ESSAYS



1st place

Mercy Munyao

"The legal sector is traditionally very conservative and resistant to change and innovation. The use of technology in the Alternative Dispute Resolution arena is no longer an option, but a necessity. Technology will continue to play a significant role in facilitating and expediting ADR proceedings. Despite the challenges likely to be experienced, the advantages of online ADR remain outstanding. Without a doubt, online ADR is going to advance justice. It's a win-win situation for all."



2nd place

Vianney Sebayiga

"Access to justice means that people whose rights and freedoms have been violated can find redress from the justice systems in place. Informal dispute resolution mechanisms can also be used by people to get remedies. Using courts as the only forum hinders access to justice due to case backlogs and insistence on rules. It has been argued that access to justice promotes development by giving people more assurance that their rights will be protected. As a result, they use their capabilities and skills to exploit opportunities thus increasing output and improving standards. From the appreciation of development as a process of expanding freedoms, access to justice empowers people to protect other rights. It is upon this backdrop that ADR mechanisms including ODR are important for development."



3rd place

Alex Assenga

"The onset of the Covid 19 pandemic revolutionized technology on the African soil as various fields were forced to embrace technological set ups. The ADR field has coped well with this modern evolution. There has been a rise of Online Dispute Resolution taking the place of the traditional physical ADR systems. Undeniably, the impact of this technological- powered ADR has scaled up e-commerce, trade and justice systems. In spite of all the positives, we cannot turn a blind eye on the challenges that need to be vanquished."

To read the essays click [here](#)



Grow your skills with virtual, self-paced, sector-specific mediation courses



Learn more at www.ucti.co.ke



BEHIND THE SCENES (BTS)

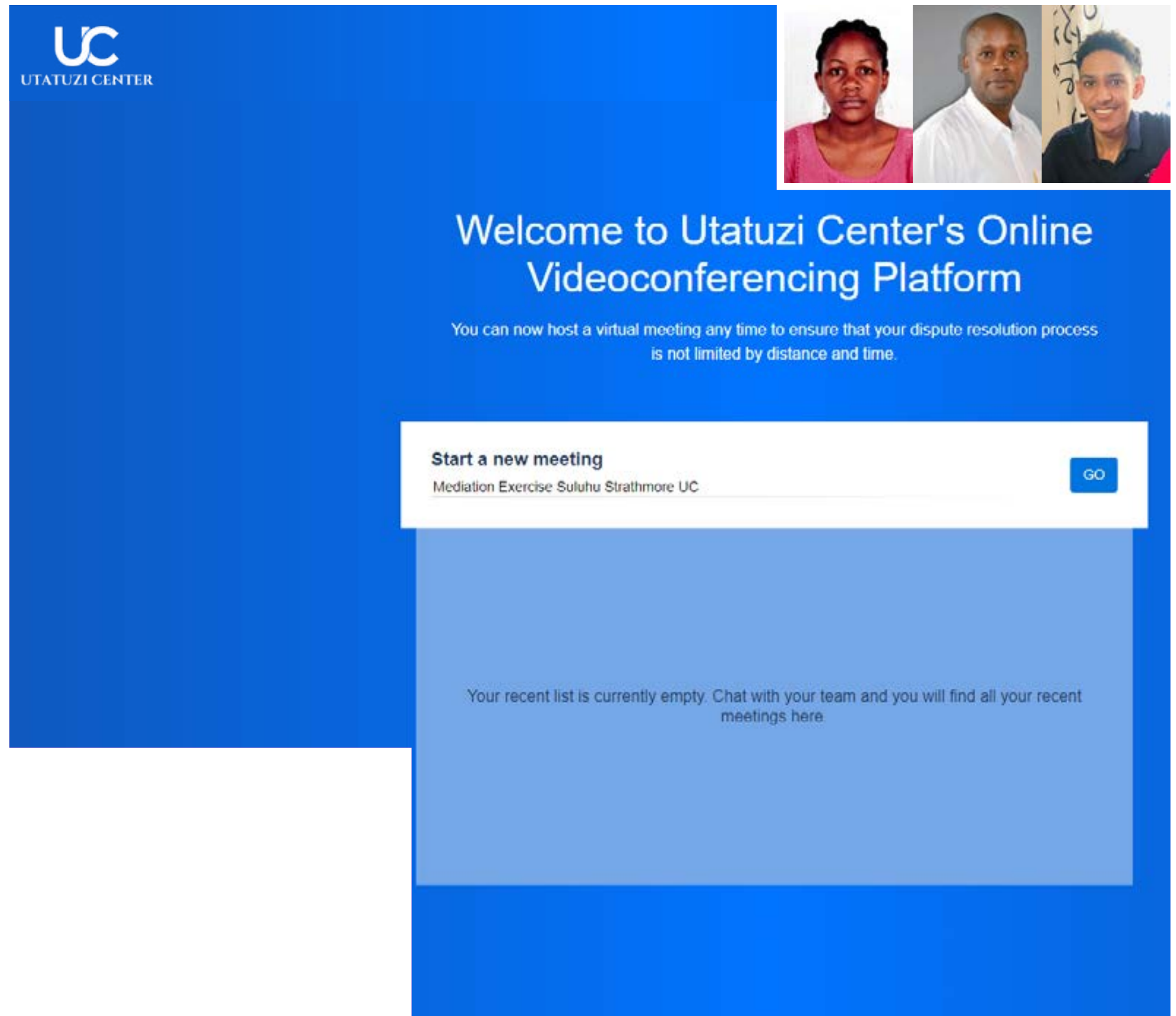
Mediation Awareness

Presenting.... Mock Virtual Mediation Video.

As Utatuzi Center, we champion the use of online alternative dispute resolution to facilitate convenient, accessible, affordable and efficient access to justice. Even in this "new normal" we continue to innovate secure ways such as the "Utatuzi Center Video Conferencing Platform" which gives parties confidence from hacking and allows them to smoothly conduct the dispute resolution process.

The Mock mediation video was prepared in collaboration with Strathmore University Law Clinic (Roselyne Asiko Mwanza and Naeem Yusuf) and Suluhu Mediation Center (Maina Migwi).

To watch the Mediation Video click [here](#)





**UA2J SCHOOL
OF PRACTICE**

Message from Kateryna Yeroshenko

Head of Kyiv LEPP and Project Coordinator of the Ukrainian Legal Aid Foundation

The COVID-19 pandemic has shown the world that many current models of legal solutions are in dire need of new technologies for efficient and uninterrupted operation.

Last year, the Ukrainian Access to Justice School of Practice conducted an annual training course from the Kyiv Legal Empowerment Practical Program, KyivLEPP 2020. One of the five participating teams was the Kenyan team, represented by Utatuzi Center experts. To make justice in their country more accessible to all, the Utatuzi Center team has created a web-based alternative dispute resolution platform. Now this resource has been used by Kenyan business companies and government experts. The promotion plan for this platform was developed during KyivLEPP 2020. One of the components of information support and promotion of the web platform, the team planned to do by conducting Alternative Dispute Resolution Week (ADR Week). Ukrainian Access to Justice School of Practice became one of the institutions and organization which also supported ADR Week. More than 200 experts from around the world took part in ADR Week events online by using the capabilities of the platform.

We are confident that the experience of the Utatuzi Center will be useful for many countries working on the implementation of technological solutions in the field of access to justice, as such a platform will bring justice much closer to every resident.



Tech Crunch: Utatuzi ADR Week Prep

In the digital and post-COVID era that we live in, it is essential to not only be familiar with new technologies for our personal use; but to adapt to these tools to ensure continuity of service provision. Utatuzi Center, as a legal tech company, also prides itself in creating niche legal technology solutions (such as contract automation and data management) for organizations to significantly enhance their efficiency and productivity. In the brief one year period we have been operational we have strived to build tools that allow our users to have an accessible, easy, and convenient means of accessing our diverse services.

While we have an existing video-conferencing platform, Utatuzi Meet (<https://meet.utatuzicenter.com/>), that is built on the open source software Jitsi, we realized that for the anticipated ADR week a different approach was needed. Utatuzi Meet was built

for small and confidential virtual meetings between a Dispute Resolution Professionals (DRPs) and the disputing parties. In contrast, for the ADR week, we needed a platform that could handle thousands of attendees, multiple panelists, and changing presentations while facilitating smooth moderation and management of the sessions. Therefore, we decided to utilize Big Blue Button, an open source platform geared towards management of online webconferences and teaching, meeting our needs perfectly. In addition, it could be modified and hosted on our own servers guaranteeing privacy of our attendees.

It goes without saying that hosting the event on our platform was beyond our wildest imaginations. According to the overwhelming feedback that we got from the panelists and the attendees, we have faith that the Utatuzi Platform is a game-changer.

MEET THE TEAM

Muiruri Wanyoike
(Founder)



Qualifications:

Bachelor of Law (LL.B) (Second Class Upper (Hons)), Certified Professional Mediator, LLM (ongoing)

I am a self-taught programmer and have about 7 years' experience in software development and engineering. I have been a student of law having a Bachelor of Laws (LL.B) and currently working on my Masters of Laws (LL.M) with a focus on Law, Science, and Technology, and Law, Governance and Democracy. I also have a scholarly interest in how emerging technology can be used to solve issues across different fields such as Insurance, Dispute resolution, and Law as can be seen from my publications. Currently a founder and the Managing Partner at Utatuzi Center, a web-based platform offering alternative dispute resolution mechanisms to companies.



Erastus Njaga
(Founder)

Qualifications:

Bachelor of Law (LL.B), (Second Class Upper (Hons)), Dip KSL, Certificate of Public Accountant and Public Secretary (ongoing).

Besides being a Founder of Utatuzi Center, I am an Advocate of the High Court of Kenya with a keen interest in the intersectionality of law and technology. I believe that technology is a significant component of our modern life. The Utatuzi Center's journey has allowed me to have the first-hand experience of a typical startup. It is a rollercoaster with many ups and downs. However, it has reinforced my belief that unwavering faith despite the glaring difficult situations is a critical component of life. Sometimes you feel overwhelmed and would be excusable and easier to give up but once you read the profound and gallant stories of the likes of Amazon, Facebook, Netflix, Tesla Inc., who started like us, you understand that whatever stage you are in is part of the process. As a way of recharging, I love meditating, adventuring, and hiking.



Josephine Wairimu
(Founder)



Qualifications:

Bachelor of Law (LL.B) (Second Class Upper (Hons)), Certified Public Secretary, Certified Public Accountant, Certificate in Arbitration, MSc Development Finance (ongoing), Dip KSL (Advocate of the High Court of Kenya)

I am curious. Curious to know how things work. So, I always involved myself in different projects constantly. I never did feel like the traditional "lawyer" and looked for a way to do things outside the norm. I resolved to explore my interests in innovation, social impact and governance. I chose an alternate path allowing me to morph into whatever I wanted to be. This has opened up a world of possibilities where my tomorrow throws a different set of challenges and surprises. This uncertainty has shaped my experiences not only as a founder but also as a human. Being at Utatuzi Center is a roller-coaster ride: it is worth every minute. During my free-time, I volunteer under several non-profit organizations focusing on leadership, entrepreneurship and development. Music powers my very existence and I don't know how I would survive without it.



Evans Kirubi
Public relations

Being a communications intern at Utatuzi Center and a graduating student at Africa Nazarene University, I have learned that life is for those who grab opportunities. Utatuzi Center has given me the opportunity to explore my potential and unearth new capabilities. As a lover of life, I love and enjoy good music, good memes and good food.



Mercy Mwangi
Graphic Designer

Hello, nice to meet you! I am a creative graphic designer passionate about coming up with original ideas and elevating existing brands as well as startups. My goal is to become an inclusive designer and to always keep myself updated in the world of design. I am a curious observer who wants to explore life and make the most out of it. I am sociable and reliable person who is team oriented, i always strive to be a better version of myself in all aspects of life.

