



**UNIVERSITY OF NAIROBI**

**COLLEGE OF HUMANITY AND SOCIAL SCIENCES**

**SCHOOL OF JOURNALISM AND MASS COMMUNICATION**

**The Social Media and Public Participation in the  
Administration of Justice in Kenya**

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**REG NO: K50/81106/2015**

**A research project submitted to the University of Nairobi in partial fulfillment of  
requirement for the award of MA Communication Studies.**

**2017**

**DECLARATION**

I declare that this research project titled THE SOCIAL MEDIA AND PUBLIC PARTICIPATION IN THE ADMINISTRATION OF JUSTICE IN KENYA is my original work which has never been submitted either wholly or in part to any other institution for the award of a degree or diploma.

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## **DEDICATION**

I dedicate this work to my son, Alpha Femi Ogemba, for all the nights he went to bed without seeing daddy due to the long evenings away from home working on this project.

## **ACKNOWLEDGMENT**

All glory to God, in whose favour this project was made possible. Special thanks to Kate, my other half whose inspiration kept me going through difficult moments. I owe intellectual debt to my dedicated lecturers, especially Dr Peter Onyango who walked with me throughout the realization of this academic endeavor. Finally, my heartfelt appreciation to the Judiciary of the Republic of Kenya for allowing me to access several judges and magistrates in the midst of their tight schedule, my colleagues who accommodated me and stood by me in the course of duty and all who contributed to the successful end of this project.

## ABSTRACT

This study sought to examine the role of social media in enhancing public participation in the administration of justice in Kenya. The study's main objective was to examine whether the judiciary can make use of social media as one of the communication channels to promote public participation in the administration of justice in Kenya. The specific objectives was to examine the use of social media in participatory communication in the administration of justice in Kenya; to find out the policies on public participation adopted by the judiciary and to find out the use of social media discussions by judicial offices. The study was anchored in two theories relating to mass communication and democratic rights; the Democratic Participant Theory of Mass Communication and the Connectivism Theory all of which justify the assertion that mass media (social media included) can offer a platform to share and receive ideas between different groups. The study used mixed approach including quantitative and qualitative methods to review literature and conduct primary data collection from 100 respondents divided into two categories, 70 from members of the public and 30 from the judiciary staff. Participants were drawn from Nairobi's Central Business District, Milimani Law Court and the Supreme Court of Kenya and selected through random sampling and clustering with the data analyzed through classification, coding, editing, use of frequency distribution tables and graphical data presentation. The major findings were that 60% of the entire study population want judicial staff to actively engage members of the public on social media while 83% of the entire study population believes that social media is an important channel to enhance public participation in the administration of justice in Kenya which led to the conclusion and recommendation that if public participation is about receiving and giving information and given that many members of the public especially youths aged 18-35 are users of social media; then it would be necessary for the judiciary to consider and adopt social media as a platform for promoting public participation in the administration of justice in Kenya by developing social media policies to guide interaction between judicial staff and members of the public .

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## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.0 Overview**

The background of public participation in the judiciary stems from the 2007 disputed presidential elections when violence known as post elections violence broke out. As Oseko (2011) puts it, in December 2007 the then opposition party Orange Democratic Movement (ODM) refused to submit to the jurisdiction of the courts to resolve the election dispute by rejecting the judiciary as an impartial and independent arbiter due to lack of confidence in the judiciary. Based on this argument, the public (especially those affiliated to ODM) felt that they had nothing to benefit from the judiciary given that they were not active participants in the judicial processes. This distrust in the judiciary is why Nyati (2008) argues that all parties with an interest over an issue within an institution must feel that they are part of it.

#### **1.1 Background of the study**

It is in this context that this study seeks to find out if the judiciary can adopt the use of social media to enhance public participation in the administration of justice in Kenya as a way of giving effect to the Bill of Rights. This means that public must participate in policy making, agenda setting, gate keeping and how justice is handled. Participation in this sense does not only mean receiving and giving information but also making contribution to the decision made by public authorities. It is in this sense that this study has chosen to carry out an academic assessment of the Kenyan judiciary and the role of mass media in public participation.

Supreme Court Judge Justice Isaac Lenaola, in his key note addresses to the Kenya Magistrate and Judges Association (2011), noted that it is important to involve all stakeholders in active public participation in any judicial processes, given that judicial officers are also frustrated by the perceived lack of understanding between them and the public.

Cognizant of the requirement for public participation in judicial matters, Pillar One of the Judiciary Transformation Framework (2012-2016) gives emphasis to people-centered delivery of justice. It specifically provides that:

*The Judiciary will engage the public in the administration of justice at various levels. It will develop and implement a structured approach to the achievement of successful public information, education and communication strategies as well as those for re-branding of the Judiciary. Open Days, Judicial Marches, Public and Student Visitation programme will be initiated and institutionalized to close this public distance. The Chief Justice will give an Annual State of the Judiciary Address. For the avoidance of doubt, open court proceedings will be the norm and chamber hearings the exception. Robust Bench-Academy and Bar- Bench programmes will also be initiated. An elaborate media and communication strategy will also be developed and implemented.*

It is such reasoning that justifies the necessity of public participation in the administration of justice in Kenya, the public being the key stakeholders and consumers of sound legal processes.

The promulgated and the most celebrated constitution of 2010 states clearly that the country's sovereignty is with the people of Kenya under Article 1. The people can either exercise this sovereignty directly or through representation. However, court officers, namely judges, registrars and other officials are not elected by the people of Kenya but hired by Judicial Service Commission. In appointing judicial officers, public advertisement is done, gazette published and interested persons apply procedurally. The best candidates are short-listed then invited for a public interview. The best candidate shall be declared then forwarded to the President for appointment. The name is sent to the National Assembly for endorsement or rejection before the official appointment by the President.

However, live media coverage of Judicial Service Commission's interviews of judges shows that there is a link between mass media and public participation in the administration of justice in Kenya. Several studies have revealed that the role of media in informing and getting information is huge and cannot be taken for granted. Especially many members of the public participate in the social media more than ever before to exchange, share ideas or give opinion on issues of public interest. Some of such issues are related to the administration of justice which we cannot wish away.

The judiciary is one arm of the government which is constitutionally mandated to engage the public in its affairs. This is what makes it necessary to study how the judiciary is promoting public participation in the administration of justice. To achieve this, this study adopted social media, as a component of mass media, to analyze its role in enhancing public participation. This is informed by a PEW Research Centre study in 2015 which revealed that 88 percent of Kenyan adults aged 18 years and above use social media, and that the most active are those between 18 to 34 years. Although it is a fact that the judiciary has been engaging the public through mainstream media as evidenced through live coverage of judicial proceedings, it has not done much to tap the participation of the large population on social media.

The study will concentrate in Nairobi County and will seek to find out whether the judiciary can engage the public through social media to gather ideas, opinions and insights of best practices; and whether judges, magistrates and other judicial officers should actively participate in social media to promote issues concerning administration of justice in Kenya. This will be done through a critical review of literature to find out the correlation between social media and public participation in the administration of justice and a field work to collect data from 100 respondents sampled from the judiciary and members of the public.

## **1.2 Statement of the problem**

In administration of justice, there is a problem of ignorance about the law which is causing lack of confidence in the institution. In the old constitution that was repealed in 2010, access to justice was a serious problem. It included selective justice system that was very exclusive and discriminative. Such problem that was highlighted in the new Constitution of 2010 caused lack of public confidence in the judicial services and failure of the system to enhance public participation (Judges and Magistrates Vetting Board, 2013).

Public participation in the administration of justice has brought about misunderstandings among the general public revolving around the Kenyan legal system. For instance, there are frequent violations of defamation law, intellectual property and privacy rights. There are numerous cases of defamation, hate speech and other felonious crimes that could be abetted by enhanced public participation in the administration of justice. Repeated violations of the law is backed by scarce public

awareness of the law since good part of the general public has no direct or indirect access to information about the administration of justice. There is a general belief that matters related to justice are meant exclusively for law offenders.

The problem caused by failure of public participation in the administration of justice in Kenya has brought about various ramifications that can be deduced as failures in the way the judiciary relates to the public while administering justice. Traditionally, the law is known through law reporting, or case books or through some official publications that are not accessible to the general public. Such traditional law reporting mechanisms are not efficient in enforcing public participation as it ought to be.

As a result of the foregoing, a problem of judiciary's blatant failure to reach out to larger audience or the general public as in what is referred to as legal clinics has been established. This is worsened by the fact that the language of the court is not made familiar to the general public through both the mainstream and social media. The youth, who form majority of social media users, cannot also fully participate in the administration of justice especially on matters of public interest as known in the public litigations. Failure to effectively communicate matters related to the administration of justice has lead obviously to opaque judicial system which is vulnerable to corruption, impunity, and abuse of office as was revealed by the Vetting Board for Judges and Magistrates (Judges & Magistrates Vetting Board 2011-2013).

### **1.3 Research objectives**

#### **1.3.1 General objective**

This study's general objective is to examine whether the judiciary can make use of social media as one of the communication channels to promote public participation in the administration of justice in Kenya.

#### **1.3.2 Specific objectives**

- 1) To examine the use of social media in participatory communication in the administration of justice in Kenya.
- 2) To find out the policies on public participation adopted by the judiciary.



- 3) To find out the use of social media discussions by judicial offices.

#### **1.4 Research questions**

This research study seeks to answer the following questions:

- 1) Could social media in Kenya play a role in public participation in the administration of justice?
- 2) What policies on public participation should be adopted by the judiciary and whether social media would be one of them without interfering with judicial independence?
- 3) Whether or not the judges, magistrates and other judicial officers should recognize the use of social media platform other than the use of mainstream media?
- 4) How can social media being one of the participatory means of communication, form one of the essential components of public participation in the administration of justice in Kenya?

#### **1.5 Justification of the study**

The reality is that judges and magistrates live a life that is hidden from the ordinary social activities. Former Chief Justice Dr. Willy Mutunga introduced judicial clinics through public sessions to reduce the backlog in court and also to enable more public participation. In other jurisdictions there is peace justice in which the judge would go to the people and hold a court session among the people in their residential areas. The practice in Kenya has maintained the division between the judiciary and the public since the colonial time. The outcome of all this has been, there is more stigmatization of the administration of justice which has reduced public participation.

Therefore, there is a strong perception of retributive justice other than restorative justice in Kenya which hinders ordinary public to see the court as people friendly. The study has been motivated by the need to allow the administration of justice to go to the people and vice-versa. There should be more interaction between the public and the court officers. The administration of justice in Kenya requires de-

stigmatization and to allow people to see the administration of justice more as people friendly other than scaring the public.

### **1.6 Scope of the study**

The aim and purpose of this research study is to find out ways through which the Kenya judiciary can maximize the use of social media in enhancing public participation in the administration of justice in Kenya. In the constitutional spirit under Article 1(1) “All sovereign power belongs to the people of Kenya ...” the study seeks to make critical analysis of the problem and to test the hypothesis that have been laid down in lieu of possible solution.

The purpose of this study is to assess the role of social media in enhancing public participation in the administration of justice in Kenya, which is a narrowed perspective of analyzing the correlation between mass media and the judiciary. To achieve this purpose, this study reviewed various literatures which identify some gaps this study seeks to fill. This literature review opens up the correlation between the three variables, which is the mass media (analyzed in terms of social media), the judiciary (analyzed in terms of the administration of justice) and public participation. The review adopted the use of judicial matters which are basically things happening in the judiciary including administration of justice, formulation and implementation of judicial policies, compilation and dissemination of case law and other legal information, administrative issues and operations of all institutions falling under the Kenyan judiciary vis-a-vis the impact the media has in the construction of public belief and attitudes and its relationship to social change and inclusion within public institutions.

### **1.7 Limitations**

This academic project has encountered some substantive restraints as listed below:

- 1) This study has been based on field and desktop research which have their limitations. The time allocated was quite limited for the field research since interviews and using questionnaires require ample time.

- 2) It was not very easy to get informants to answer questions. Some were busy and not committed to this work but others managed to provide me with the data.
- 3) This project required some budget and expenditure which also hampered some of the things that were under the research design. It required movements as well as collection of data from reliable libraries and sources.
- 4) There is no substantive information data based on the statistics of the users of social media in Kenya. It made it difficult to come up with the exact numbers and figures of the population target and size due to lack of such important data information.
- 5) Some informants felt that this work shall not be of economic benefit to them and expressed negative attitude during the interviews and questionnaires.

### **1.8 Operational definitions**

Social media: Applications supported by the internet which allows people to pass, share and exchange ideas through an open, virtual space.

Public participation: A process through which citizens are allowed to give their views and opinions in the affairs of state organizations.

Administration of justice: The way in which an institution which has the power given to it by the constitution uses that authority to give justice.

Judiciary: The arm of the government which is in-charge of giving meaning to the laws and dispensing justice.

Mass media: Different forms of channels used to reach and communicate with a large group of audience.

Court: A body of institution that is mandated to settle disputes among different institutions and members of the public.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.0 Overview

There is so much literature in regard to freedom of the media world-wide. This work shall rely on core publications authored by renowned scholars in the area of social media and new journalism which are deemed to be relevant to the topic of the research. Such literature shall guide the conceptualization of the role of the social media to enhance public participation in the administration of justice and relevant theories thereto; and to define public participation, the social media networks and platforms, and the understanding of the administration of justice

#### 2.1 Understanding public participation

Creighton (2005) defines public participation as the process by which public concerns, needs and values are incorporated into governmental and corporate decision making. Okello *et al* (2009) gives it a more working definition, that public participation is an interactive process that involves communication, listening, consulting, engaging and partnership with the public as stakeholders to establish and deliberate on areas of agreement and disagreement in aid of decision making. This shows that the term is a two way communication and interaction mechanism. This supports the idea that people within a democratic society should not just be seen but should also be heard (Kairu, 2012).

Although there is a general agreement of the need to engage the public in key decision making process, there is no agreement on the best way and mechanisms through which to engage the public. Hatley (2013) argues that the definition of public participation does not describe what kind of process is involved, how individuals participate in it, or how influence citizens might have in the decision making. It is why this study chose to analyse ways through which social media can be used to enhance public participation in the administration of justice in Kenya.

#### 2.2 Access to justice and the freedom of expression.

Chief Justice David Maraga has captured in his vision as follows: *The first of these Big Bets is Enhancing Access to Justice. Many ordinary Kenyans hold the view*

*that the formal justice system is not for them. Several factors account for this: Either the courts are too far away from where they live, or; they do not understand court processes, or; unfortunately, and quite often, they cannot afford the fees required to prosecute or defend their cases to conclusion (Sustaining Judiciary Transformation: A Service Delivery Agenda, 2016-2021).*

The above sentiment proves that the public have a stake in the judiciary, not only to access justice but also to participate in the administration of justice. However, as noted by the Chief Justice, there seems to be a divide between the judiciary and members of the public which requires some bridging to encourage partnership and cooperation.

### **2.3 Independence and impartiality of the judiciary in carrying out the function of the administration of justice.**

Former Chief Justice Dr. Willy Mutunga in his Judicial Transformative Framework of 2012-2016 illustrated the need of independence and impartiality of the judiciary while adhering to the constitutional rights of democracy. Monell (2016) expanded the meaning of administration of justice and supported by Mayton (2001) that administrative of justice should trickle down to the grassroots level. This shows that the administration of justice relate to issues which predominantly affect the everyday lives of members of the public, and which needs their involvement in formulating policies.

Farouk (2012) justifies the importance of administration of justice arguing that human beings by nature are fighting animals and without a common power to keep them in check, it will be difficult for people to live in peace. This shows that administration of justice involves managing the public under the law and order. It further shows that to comply with constitutional provision on public participation in matters that affect them, the public must be involved in the process. But as stated in Chapter One, there is a problem created by lack of agreed formula of collecting public opinion to comply with Pillar One of the Judiciary Transformation Framework (2012-2016) which demands for effective strategies to involve and incorporate public views.

## **2.4 The legal framework and the literature on the social media in Kenya today**

The constitution of the Republic of Kenya promulgated on 27<sup>th</sup> August 2010 has informed most of the discussions of this research. In addition the Judicature Act of 2011 and other publications from the Judiciary including cases and doctrines have been useful in examining the ways of enhancing public participation in the administration of justice.

## **2.5 Link between mass media and public participation in the administration of justice**

Based on the constitutional framework on public participation, it is a well settled principle and agreeable that the public must be involved in matters that affect them (Owegi, 2013). The problem is however the means and mediums through which to achieve public participation. Kandil (2010), and Inglehart (1995) argues that most of the current emphasis on participation methods is also a response to the prevailing view that methods used in the past are no longer appropriate for current decision making processes or for a more educated, sophisticated and less deferential public (Inglehart, 1995). This is necessitated by the belief that more effective public participation techniques might foster, or even act as a substitute for the popular face-to-face interaction.

It is such reasoning that makes mass media a key competent in the judiciary agenda of enhancing public participation. However, there is no agreed principle of how best to maximize the use of mass media to promote public participation in the administration of justice. Brabham (2009) agrees that allowing the public to be part of a process is a major challenge for policy makers. It is what makes mass media one of the means to achieve public participation. This includes social media, which with its immediacy and easy accessibility can make the public part of the administration of justice in Kenya.

## **2.6 The need for public participation in the administration of justice in Kenya**

Kenyan Constitution gives prominence to public participation as one pillar that guides the principles of good governance as echoed by the Institute of Economic Affairs (IEA-Kenya, 2015). The institute argued that participants have the right to be engaged in judicial affairs, in light of Article 159 which says that in exercise of their

authority, judicial officers must act in a manner that promote the people's confidence in the administration of justice. Article 118 (1) (b) talks about public access and participation, while Article 174 (c) enhances public participation in the exercise of state powers in making decisions affecting the public.

The judiciary being one arm of the government and part of the state is therefore obliged to publicize and allow the public to participate in judicial matters to comply with the constitutional provisions. However, the judiciary as an institution which is considered the central pillar to the administration of justice and enforcement of rights of Kenyans cannot on its own promote and achieve public participation. As Nyati (2008) puts it, constitutional provisions on public participation are not in vain. Despite these clear constitutional provisions on public participation, there are still difficulties for people to effectively participate in affairs of state institutions. The challenges include slow pace of legal reforms within the judiciary, failure by the judiciary to enforce those provisions, and general ignorance by the public that they have a right to be involved in judicial matters (Ngondi, 2006).

## **2.7 Understanding social media as part of mass media channels**

Social media use has become a second by second activity for almost the entire generation across the world. From politicians, business executives, opinion leaders, and religious leaders to the common man; more and more people are becoming active on social media to catch up with what is happening around them. As Civitas (2011) puts it, the use of social media networks has become an everyday lifestyle for many people in different sectors and institutions.

When we think of the term social media platforms, what comes to mind is Facebook and Twitter, which is the more commonly used mainstream social media sites. But as Sorokina (2015) and Hansen *et al* (2011) elaborated, all the networks are intertwined and gives the example of Facebook, Twitter, YouTube, Flickr, and personal blogs, Instagram, Snapchat and LinkedIn as some of the popular used social media networks.

Gelles (2013) and Dijck (2010) argues that the primary goal of social media is to reach a wide audience. With its easy accessibility and ever growing wide reach, social media has many advantages as a component of mass media. Hayes (2015)

posits that in using social media, an individual or organization is able to build a network of core supporters who are pivotal to its success. For the purpose of this study, I will limit the benefit of social media to real time sharing and exchange of information as argued by Claywell (2016). Many social media networks incorporate instant messaging features which let people exchange information in real time through chatting. It is through this mechanism that the Kenyan judiciary can tap into opinions and ideas from members of the public not only to promote access of information but also promote public participation in the administration of justice. This should however be done with the knowledge that social media usage keep changing with time.

## **2.8 Role of Social Media in enhancing public participation in the administration of justice**

It is an agreed requirement that the judiciary must promote public participation in the administration of justice and to achieve this endeavor, the Kenyan judiciary has been striving to interact and exchange information with the public. As Fenton and Anderson (2014) argues, the internet and its accompanying information explosion have revolutionized the way we conduct our business and opened opportunities to strengthen the administration of justice. It therefore falls on the judiciary to seize the opportunity to forge a stronger role for the rule of law in the public domain through use of expanded technology.

Odongo (2010) posits that allowing more public ideas, opinions and suggestion in institutions through the help of internet should be adopted. To achieve the goal, his research embarked to investigate the factors that influence institution's adoption of new technology and to explore new possibilities. Gathungu and Mungai (2012) add that the issue of internet and social media has benefits of incorporating new technologies in administration of justice like improved efficiency, transparency and accountability, convenience and lower cost of administrative services. By enhancing the public access to information and facilitating public participation in decision making processes, the internet has expanded the scope and reach of the rule of law (Fenton and Anderson 2014). Other scholars like Lee and Hoon (2012), Noveck (2009) and Lathrop and Ruma (2010) confirmed and suggested that effective use of social media can open up the justice system and incorporate the public ideas in formulating policies required in the administration of justice.



Different sectors and organizations have effectively used social media not only to market themselves but also to enhance their presence and promote public participation. Mangold and Faulds (2009) posit that this is achievable by the fact that social media sites are free and have built-in interactivity. In this context, the Kenya judiciary can exploit the advantages presented by social media to enhance public participation in the administration of justice. This will allow them to facilitate open communication, allow judicial officers to discuss and share links with the public, improve their accessibility, widen their reach to many members of the public, and implement policies aimed at promoting the administration of justice.

Although many advantages have been cited for this form of interaction between the public and judicial officers, it has some challenges like cyber-bullying and creation of fake news and information. As Segerberg and Bennet (2011) puts it, evaluating the relation between transforming communication technologies infuse specific protest ecologies which should make organizations look beyond just the interactive nature of social media given that they may reflect a wider scheme of protest against the organization. It is why Broughton *et al* (2010) recommends that organizations should have a policy on social media use to set out the terms of acceptable and unacceptable behaviour when engaging the public.

## **2.9 Literature on how possible it is for the judicial officers to use social media**

It is an agreed statement that judges should be independent and only answerable to the constitution in dispensing justice to the people. As Velicogna (2007) puts it, judges, magistrates and judicial staff should guard their independence and impartiality. This position contradicts Tabri *et al* (2000) with the argument that the judiciary can reduce delays by employing use on new technologies.

Despite the judicial independence, judges, magistrates and judicial officers cannot run away from the changing face of technology. The only danger as explained by Janoski-Haehlen (2011) is that social media can be inappropriately used to solicit public opinion in a manner that interferes with the administration of justice. For example in a trial where some witnesses have not been called to the dock, is it appropriate for the judicial officers to post comments about what other witnesses had said on social media sites, which will generate public discussion without influencing the opinions and testimonies of those yet to appear in court? Janoski-Haehlen argues

that the judiciary cannot run away from this dilemma, especially with the rapid growth and popularity of social media. Judges and judicial officers will continue to use social media sites to interact with the public, but whether they do so appropriately will depend on policies put in place.

With the known public pressure associated with social media, can judges therefore be influenced by social media users to make certain decisions? Judges, unlike public officials in other state institutions are only answerable to the rule of law. This brings to question ethical considerations for judicial officers to interact on social media. As Broughton *et al* (2010) quips, the issue of whether judges can even participate in online social networking to enhance public participation in the administration of justice is still hotly contested among state bar associations. But judges and judicial officers are human too and cannot escape from the realism of opportunities presented by new technologies in the sense of social media. Danziger (2011) argues that legal realism of the administration of justice is when the application of legal reasons only does not influence the decision of judge but also the psychological, political and social factors.

Browning (2014), Gibson (2013) and Singh (2016) all argue and acknowledge that just as judges and judicial officers are allowed to interact with the public outside the courtroom, such interaction should also be allowed in the virtual forum. Arguing that the people who interact with judicial officers through social media site can one day appear before them is being unfair, given that judges cannot predict who will come before them. It is why Singh proposes that there should be policies to guide social interactions between judges and the public and in this case, it should be anchored on the constitutional provision on public participation where judges and judicial officers only engage the public through social media to enhance the administration of justice and not to discuss the merits or demerits of a pending case.

## **2.10 Literature in favour of the use of social media networks and platforms**

Above review leaves no doubt that mass media, can be an important tool in enhancing public participation in the administration of justice in Kenya. As Marcus *et al* (1998) argues, mass-media based interventions to enhance public participation is the best way to allow personalized interactive formats that may enhance efficiency. Milakovich (2010) adds that social media has become a place where institutions can

promote mutual understanding and cooperation between them and citizens. His assessment of social media use to enhance public participation concluded that the medium can contribute in better ways to inform citizens about public issues affecting them, facilitate online debate, improve knowledge about the administration of justice and to make people feel part of the justice system.

Townsend (2012) posits that mass media has a lot of benefit in the administration of justice, which translates to increased faith in the judiciary. Coglianesse, Kilmartin and Mendelson (2008) outline various benefits of relying on mass media by the judiciary noting that it helps maintain open door policy within the judiciary to ensure broad-based public involvement in formulation of policies within the judiciary that affects them; and help reduce barriers that exist between the judiciary and members of the public.

Traditionally, the core function of the media has been to inform, educate and entertain. But with the evolving technology and dissection of media use, new ideas are coming up on how best to use mass media. For the Kenya judiciary to realize its vision of engaging the public under the Judiciary Transformation Framework (2012-2018), they must critically look into the new opportunities presented by mass media instead of relying on face-to-face interactions. It is only through this that they can build confidence and public trust in the administration of justice in Kenya and fulfill the Kenya Constitution (2010) requirement of public participation in matters that affect their lives.

## **2.11 Theoretical Framework**

Theories relied on for this research:

### **2.11.1 Democratic Participant Theory of Mass Communication**

This theory was advanced by McQuail (1983). He proposed it as a response to the elitist and hegemony in media industry, which he argued should be removed for the media to be democratic and be easily accessible and participatory. The theory postulates that the media should be pluralistic, decentralized, bottom-up or horizontal and must have equality. It encourages horizontal and bottom up approach in media, supports democracy and the participation and interaction of media and the audience.

Vatikiotis (2005) explains this theory further by explaining why decentralized media should disseminate social and cultural ideas through use of new technologies.

The theory captures the concept of mass media being used as a medium of promoting public participation in the administration of justice. As the theory suggests, effective communication is where people interact and share ideas. Through this theory, the mass media offers that platform where judicial officers can get into contact with the public. It is through mass media that the public can give feedback, raise opinions and interact with judicial officers to promote public participation in the administration of justice. This theory further suggests that mass media should not be a one way form of communication but rather a horizontal and bottom up approach. Given the dynamism of media and the advent of internet and social media, this theory makes it possible for judicial officers to post their decision online, while giving the public a chance to comment on them. At the same time, mass media channels publishing or broadcasting judicial matters can have sections for public to comment their opinions which in return promote public participation in judicial matters.

### **2.11.2 Connectivism Theory**

Connectivism Theory is the brainchild of Siemens (2005), and defined as the application of network principles to define both knowledge and the process of learning new things. The theory asserts that knowledge, sharing ideas and learning are not about content, but connection which can be achieved through new technologies under the context of this study.

Just like in the case where social media is open to any user who has subscribed; this theory is relevant to this study in explaining the connectivity between judicial officers and members of the public. As the theory posits, it is an open sphere to anyone who wants to learn and share, a characteristic key in promoting public participation. However, this takes place primarily online and through the sharing of ideas and information. It is what this study hypothesises that if the judiciary can embrace social media, they will be able to generate content from social media users regarding administration of justice and in the process promote public participation. What is important is that it can help an institution promote the culture of public participation.

## CHAPTER THREE

### RESEARCH METHODOLOGY

#### 3.0 Overview

This chapter describes methods and techniques used by to assess correlation between mass media and the judiciary, with the focus on finding out whether social media could provide better solution to the constitutional requirement of public participation in the administration of justice. As Kothari (2008) puts it, methodology is a way to systematically solve the research problem, that is, the various steps this study adopted in solving the research problem and the logic behind choosing the discussed methods. The questions this study seeks to answer were formulated in Chapter One, with this section describing methods through which information was generated and data collected. It has discussions on setting, research design, data collection methods, sampling strategies, data analysis, interpretation, and ethical considerations.

#### 3.1 Setting and study site

This study was set in Nairobi County, and will concentrate within the Central Business District, targeting participants drawn from the Milimani Law Court and the Supreme Court of Kenya. Although the Kenyan judiciary has courts and judicial officials spread across the country, the selection of Nairobi is convenient for the research due to time constraints, logistics and financing. However, given that Milimani Law Court and the Supreme Court of Kenya are the busiest courts in Kenya covering disputes not only from within Nairobi but also other regions of the country and majority of social media users are in urban centre, the population selected to participate in this study will represent a true reflection of the correlation between social media and enhancing public participation in the administration of justice in Kenya.

#### 3.2 Research design

As Claire *et al* (2000) explains, research design can thus be summarized as the conceptual structure through which this study is conducted and constitutes the blueprint for the collection, measurement and analysis of data. This is a mixed method

study to analyze the role of social media in enhancing public participation in the administration of justice in Kenya. The sample population of 100 participants will be entirely drawn from the explained study site. The study assumption is that if majority of the respondents agree that the judiciary should adopt the use of social media to engage the public then there will be increased public participation in the administration of justice in Kenya.

This is a purely mixed method study. As Creswell (2009) explains, a mixed method study is one which uses both quantitative and qualitative approaches to collect and interpret data. Mixed method is suitable for this study since it will enable the researcher to understand complex issues relating to administration of justice and how social media can enhance public participation within the confines of the rule of law, and be able to explain the findings through numbers, charts and statistical analysis.

The study will rely on structured questionnaires to generate data for testing the correlation between social media and public participation in the administration of justice, direct interviews with selected members of the study population and a review of existing literature on how the Kenyan judiciary has engaged the public to enhance public participation. The data collection will involve a systematic method of sampling to select 100 participants from the target population. The selection of participants will be a combination of random and stratified sampling methods. Once the data is collected, it will be subjected to thorough analysis and presentation using mixed methods of data analysis.

### **3.3 Methods of Data collection**

This is the systematic approach the study will use to gather information from a variety of relevant sources to get complete and accurate answers to the research questions, test the hypothesis and evaluate the outcomes. Being a mixed method research, this study will use the exploratory approach through secondary and primary data collection methods as discussed below.

#### **3.3.1 Primary data collection**

Hartley (2013) defines primary data as information observed or collected directly from first-hand experience. Since this study involves assessing public participation in the Kenyan judiciary, the key respondents will be judicial officers

including judges and magistrates stationed at Milimani Law Courts and the Supreme Court and members of the public within Nairobi Central Business District. Use of primary data collection is necessary for this study as it will reveal first hand information about the opinions of the respondents on the research questions. In this study, primary data collection will be done through direct communication with the respondents using the following methods:

**a) Personal interviews and schedules**

This will involve asking questions face-to-face with the interviewee as I fill the questionnaires. This method will be preferred because it will make it possible to obtain more information in greater depth and the flexibility to restructure the questions. Personal interviews will also be justified especially with judges and other judicial officers to explore their views on the use of social media to enhance public participation in the administration of justice in Kenya, the experience of those already in social media, and the motivation they get in interacting with the public on social media. The target group for personal interviews are judges and judicial officers given that they are important participants in this study to find out whether they support the idea of allowing them to use social media to interact with members of the public.

**b) Questionnaires**

This will be the most used method of data collection. It will consist of a number of structured questions printed on a set of forms. The questionnaires will be randomly distributed to the sample population of the study. Questionnaires will be preferred because of being cost effective, free from bias, and gives respondents adequate time to give answers.

**3.3.2 Secondary data collection**

As Hox and Boeijs (2010) puts it, secondary data collection method involve using data collected earlier by other researchers, official statistics, and records routinely kept by organizations. First, this study has already used secondary data in literature review and to generate the theoretical frameworks which form the foundation of resolving the research problem. This was important to establish the

correlation between social media and public participation in the administration of justice in Kenya and to put into perspective the importance of this study.

In gathering useful data to resolve the research problem, the main source of secondary data will be records from the Kenyan judiciary on steps they have taken to engage the public in accordance with constitutional provisions on public participation. The information obtained will however be evaluated to ensure they conform to the research objectives. The logic behind using secondary data collection will be to gain an insight of how the judiciary has used mass media in enhancing public participation in the administration of justice in Kenya.

### **3.4 Sampling methods and design**

A study sample is a smaller but representative collection of units from the study population to generate information about the study topic (Field, 2005). This is important because it is not possible to select every target population to participate in this study. On the other hand, sample design refers to the procedure adopted by the researcher in selecting items to participate in the study. This being a mixed method study, it will use a combination of probability sampling comprising of random and stratified sampling techniques. Probability sampling is justified for this study since every member of the target population will have equal chance of being selected. This method was also adopted because it is cost effective, less time consuming, involves lesser degree of judgment and will present a sample representative of the entire population.

#### **3.4.1 Random sampling**

This is suitable for the study as it will give all those who are targeted opportunity to be part of the research process. Random sampling will be specifically suitable for members of the public who will be selected to participate in the study. This sampling strategy is justified given that the answers to the questionnaires will be independent from each other. It will also be appropriate because of being free from bias and not affected by the choice of the researcher. The method will also be assumed to represent the entire population under the study. As DePersio (2015) explains, the aim of random sampling is to reduce instances of bias in selecting sample elements and since the units selected for inclusion are done through



probabilistic methods, it will allow generalizations and statistical inferences to test the validity of the stated variables.

### **3.4.2 Stratified sampling**

This method involves dividing members of the study population into homogenous subgroups before carrying out simple random sampling of the strata. It is important because this study involves professionals working in the Kenya judiciary as judges and magistrates totaling 1,500. The strata from the judiciary will be reduced to a total of 30 judiciary staff which will be a justified representative of the targeted population of 1,500 judicial officers. Out of the 30, majority of 14 will be judges drawn from the Supreme Court, the Court of Appeal and the High Court; six will be magistrates drawn from the Milimani Law Courts while the remaining ten will be paralegal staff drawn from across all court levels. The strata will also be sampled according to court levels that have been mentioned above. From this unit, the assumption will be that if majority of the judicial officers support the proposition of allowing them to be active on social media, then the conclusion will be that judges and other judicial officers should be active on social media to promote public participation in the administration of justice in Kenya.

### **3.4.3 Clustering**

This involves the process of organizing the study elements into groups whose members have similar characteristics. For purposes of collecting data for this study, the sample population will be clustered into two broader groups. The first group will include judges and judicial officials involved in the administration of justice in Kenya. This cluster is important given that they are part of the population directly involved with the administration of justice in Kenya and interpret laws that affect the public. The second cluster consisted of members of the public affected by the justice system in Kenya. They are justified to participate in the study since their opinion is what informs policies in the administration of justice. The judiciary staff will further be clustered according to their work category, like judges, magistrates and paralegal staff while members of the public will be clustered according to age and education level.

#### **3.4.4 Sample elements**

These are the units within the target population which this study seeks to gather information from. The sample elements will include 30 judges, magistrates and paralegal staff and 70 members of the public randomly chosen from within the study site. These study elements are sufficient to provide valid and verifiable information for testing the research questions.

#### **3.4.5 Sample size**

This refers to the number of units that will be chosen from the target population and which data will be gathered to assess the role of social media in enhancing public participation in the administration of justice in Kenya. The study is planned to take place in Nairobi, with a population of about five million people. It will concentrate at Nairobi's Central Business District, the Supreme Court of Kenya and the Milimani Law Court with a workforce of about 1,000 judicial officers. From this general population, the sample size will be reduced to 100 participants to represent the entire sample elements. Out of the 100 participants, 70 will be members of the public, while 30 will be judges, magistrates and other judicial officers. The sample size of 100 participants will be adequate for the study, being a small scale research with limited resources and time.

#### **3.4.6 Sample frame**

The sample frames will be majorly drawn from the Supreme Court building within Nairobi's Central Business District and the Milimani High Court located at Upper Hill. In order to ensure that the sample is representative, the gender variable (male and female) was factored where each member representing a certain gender will be randomly picked to represent a sample unit.

### **3.5 Data analysis and presentation strategy**

As Wolcot (2004) suggests, this stage is about useful ways of organizing and presenting the information gathered. In the process of data analysis and presentation, the information gathered will be subjected to statistical tests of significance to determine with what validity they can be interpreted to determine the conclusions. This study will use various methods of analyzing the data collected, which will lead to understanding and interpretation of the findings to fill the gap as established in

statement of the problem. In analyzing and presenting the data to assess the role of social media in enhancing public participation in the administration of justice in Kenya, this study will adopt the following steps:

**a) Classification**

This will involve arranging data in groups on the basis of common characteristics. Since the study had identified the group of respondents, the common characteristics for classification will include occupation, gender, age and frequency of using social media.

**b) Coding**

This method of analyzing data will involve segmenting the information collected based on thematic areas set out in the questionnaires. Coding will be necessary to analyse similar responses and explanation given by participants behind their answers under given thematic areas.

**c) Editing / verifying the data**

It will also involve weeding out irrelevant information through careful scrutiny of the feedback from questionnaires and interviews conducted with judicial officers.

**d) Frequency distribution tables**

The frequency distribution tables will be used to present data according to the variables stated. The tables will be used to summaries numerical data based on the participants' common characteristics, frequency of accessing social media and percentage of various numerical data established during the analysis.

**e) Graphical data presentation**

Data will be presented through graphical illustration especially through bar graphs and pie charts. Bar graphs will be important to summaries a set of categories of data collected while pie charts will be important to present data in segments to show various categories of findings.

**f) Statistical presentation**

The Likert scale will be used to interpret results from the questionnaires. This will be in instances where the respondents will be asked to rate the effectiveness of using social media to enhance public participation in the administration of justice in Kenya. The range and interpretation of the five point scale is as shown in the following table.

**Table 3.1: The five-point Likert Scale**

<b>Scale</b>	<b>Range</b>	<b>Interpretation</b>
5	4.01 – 5.00	Strongly Agree
4	3.01 – 4.00	Agree
3	2.01 – 3.00	Not Sure
2	1.01 – 2.00	Disagree
1	0.01 – 1.00	Strongly Disagree

The survey result will then be analysed through statistical approach to determine the percentage of respondents who strongly agree with the question, percentage of those who disagree, percentage of those who are uncertain, percentage of those who disagree and percentage of those who strongly disagree with the assumptions put through by the question.

**g) Data triangulation**

Data triangulation will involve use of multiple perspectives for interpretation. This will be important to present different views from the different respondents, as well as the different data collected from both secondary and primary sources.

### **3.6 Ethical considerations**

This study majorly used human participants in generating data to assess the role of social media in enhancing public participation in the administration of justice in Kenya. It was conducted through permission from the University of Nairobi's School of Journalism and Mass Communication. Before proceeding for fieldwork, the researcher defended the proposal and was cleared by the Board of Examiners and issued with a Certificate of Fieldwork which is attached in the Appendix III. During the fieldwork, the researcher informed the respondents of ethical considerations which included their voluntary consent to participate, confidentiality and protection of data collected. To collect data, the researcher used questionnaires, attached in Appendix I and Interview Schedules, attached as Appendix II. After the fieldwork, the researcher defended the project before the Board of Examiners and was issued with a certificate of originality after a plagiarism test was done. The certificate of originality is attached in the Appendix IV. The corrections suggested by the Board of Examiners during the defence were done and a certificate of correction issued which is attached as Appendix V. This cleared the work for printing and binding for final submission.

## CHAPTER FOUR

### DATA PRESENTATION, ANALYSIS AND INTERPRETATION

#### PART I: Primary Data

#### 4.0 Overview

This chapter covers data presentation, analysis and interpretation of the study findings. The general objective of this study is to examine whether the judiciary can make use of social media as one of the communication channels to promote public participation in the administration of justice in Kenya. The study had 100 participants divided into two categories; 70 members of the public and 30 judicial staff. Primary data was collected by way of questionnaires and scheduled interviews with some judicial officers. This was done for two months, in the months of July and August 2017 within Nairobi's Central Business District, the Milimani Law Courts and the Supreme Court of Kenya.

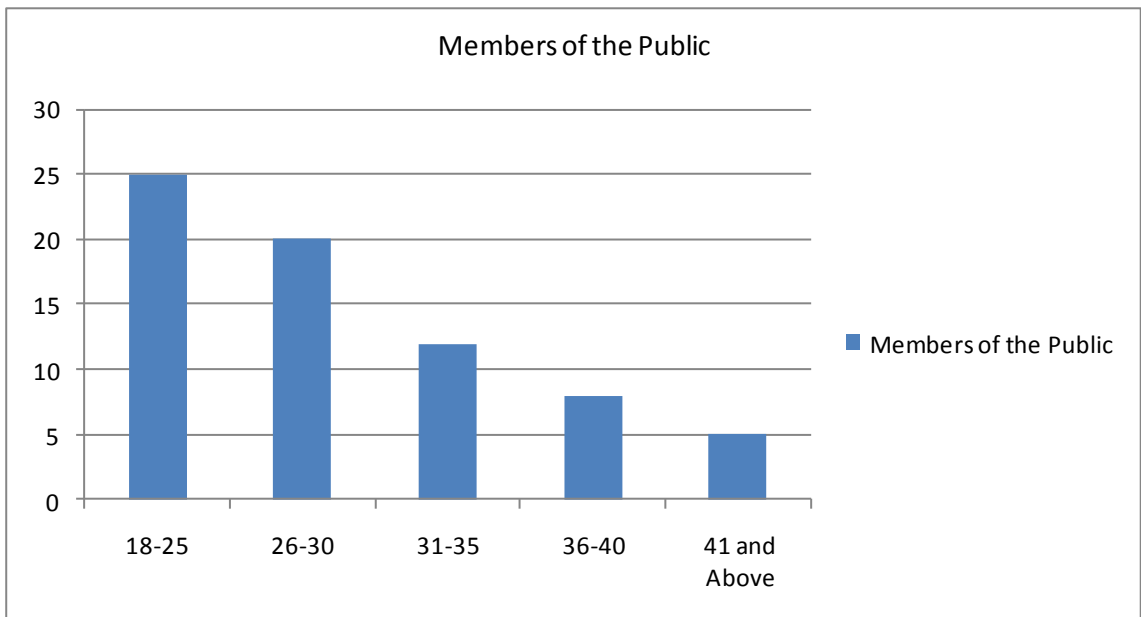
#### 4.1 Results of general questions

As noted above, the study had two sets of questionnaires; one for the public and the other for judiciary staff. The general questions centered on gender, age, education level and the court level of the respondents as tabulated in the following tables.

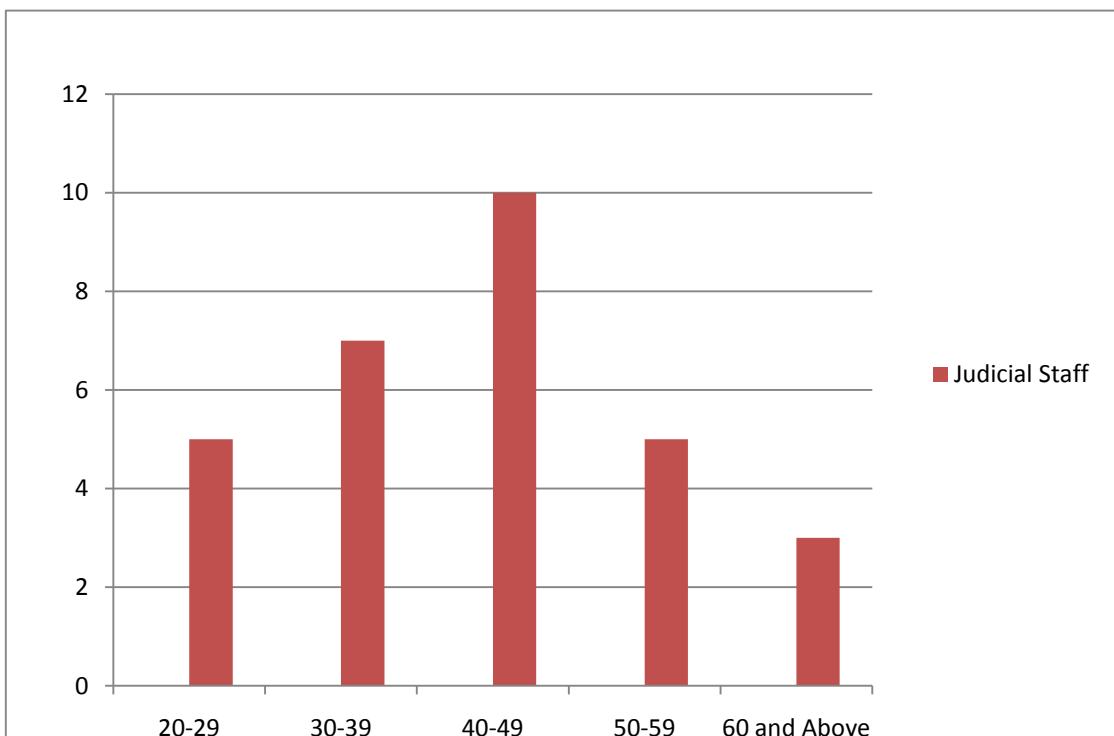
**Table 4.1: Gender of respondents**

Particulars	Members of the public	of the Judicial staff	Sub-total	Percentage
Male	42	16	58	58%
Female	28	14	42	42%
Total	70	30	100	100%

**Figure 4.1: Age of respondents from Members of the Public**



**Figure 4.2: Age of respondents from Judiciary staff**



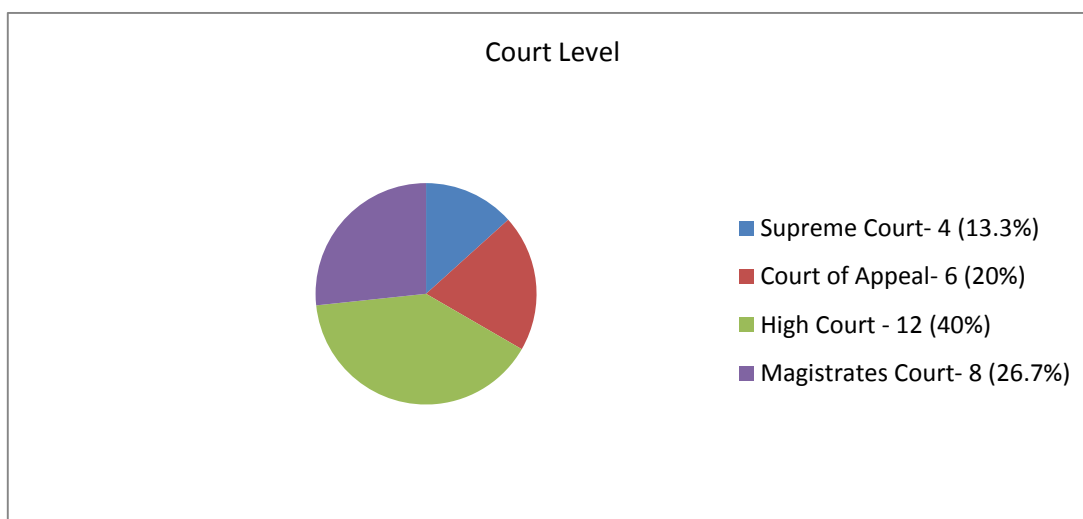
**Table 4.2: Education level**

This general question was specifically targeting members of the public and not judicial staff. This was important to gauge the education level of the 70 respondents, and whether it influences their social media use and participation in the administration of justice.

Level	Frequency	Percentage/100
Secondary	10	14.3%
Tertiary	5	7.1%
College	25	35.7%
Bachelors	24	34.3%
Post-graduate	6	8.6%
Total	70	100%

**Figure 4.3: Court level**

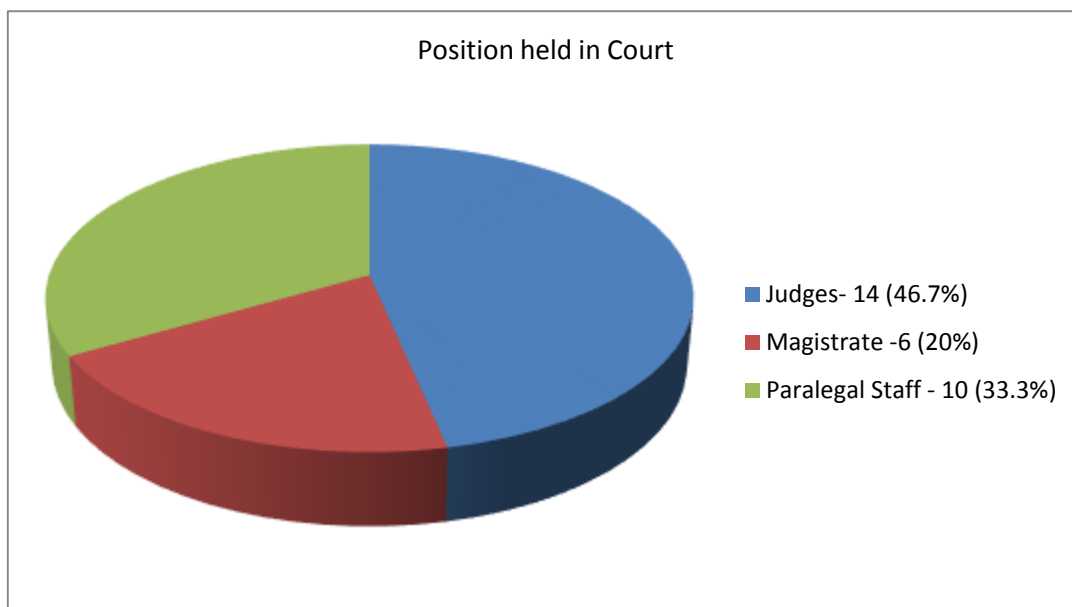
This general question was for judicial officers, intended to gauge their opinions about their understanding of the role of social media in enhancing public participation in the administration of justice in Kenya across the various court levels.





**Figure 4.4: Position held in court**

This general question also targeted judicial staff to know their positions within the judiciary as a way of gauging their opinion about the use of social media to enhance public participation in the administration of justice in Kenya.



#### **4.1.1 Analysis and interpretation of findings on the general questions**

Data presentation from the general questions shows that the study was all inclusive and representative of all players in the justice system. It presents a true reflection of the population in the study, being members of the public and judicial staff. The gender variable was carefully factored with 58% male and 42% female.

The age variable was categorized to separate members of the public and judicial staff. This was done in the belief that majority of young people aged 18-25 years are not employees of the judiciary while judges serve in the judiciary up to 70 years. From members of the public, majority of 25 out of 70 representing 35.7% of the study population were aged 18-25 years. Those aged between 26-30 years were 20 (28.6%), 31-35 were 12 (17.2%), 36-40 were 8 (11.4%) while those aged 41 and above were 5 (7.1%). From the judiciary, the age bracket started from 20-29 who were 5 out of 30 representing 16.7%. Those aged 30-39 were 7 (23.3%), 40-49 were 10 (33.3%), 50-59 were 5 (16.7%), 60 years and above were 3 representing 10%.

In terms of education level, all respondents from members of the public had at least secondary education qualification meaning they were literate and understood the questions and the context of the research study. Majority, 25 out of 70 had college level education representing 35.7% while 24 representing 34.3% had Bachelors degree qualification. 10 (14.3%) had secondary education, 6 (8.6%) post-graduate while those with tertiary qualifications were 5 representing 7.1% of study population.

The judiciary staff was categorized into two; according to court levels and rank in the judiciary. In terms of court level, the High Court had the majority of 12 out of 30, representing 40% judiciary staff. The magistrate's court had 8 participants representing 26.7%, the Court of Appeal had 6 (20%) and Supreme Court had 4 participants representing 13.3%. Judges were the majority at 14 out of 30, representing 46.7% of judiciary staff. This was because the judges were drawn from all the three court levels. Paralegal staff were 10 representing 33.3% while magistrates were 6, representing 20% of the study population from the judiciary.

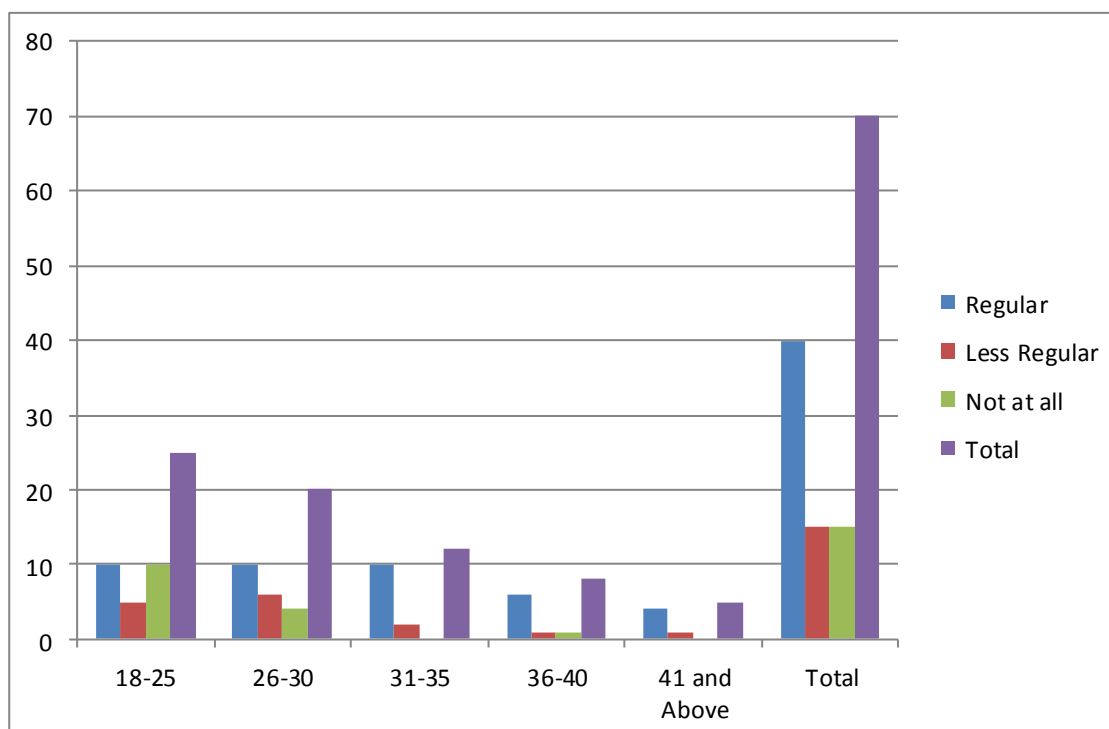
#### **4.2 Public participation in the administration of justice in Kenya**

This section in the questionnaire sought to establish how regularly the public participate in judicial affairs, which media channels they prefer to get information relating to administration of justice in Kenya and their opinions on whether the judiciary should always engage the public, as well as corresponding questionnaire for the judiciary staff.

#### 4.2.1 Engagement of members of the public in judiciary affairs

**Figure 4.5: Engagement of members of the public in judiciary affairs**

The figure presents a question asked to 70 respondents drawn from members of the public on how regularly they follow proceedings from the judiciary.

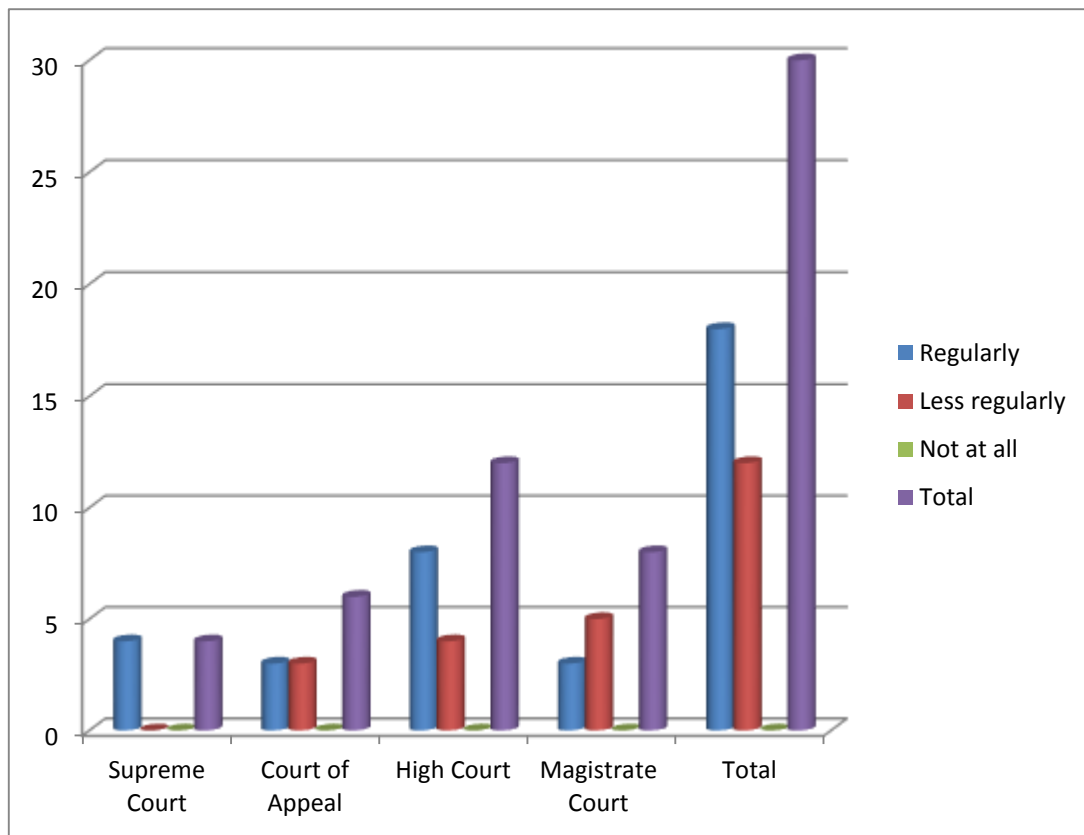


#### 4.2.2 Analysis of findings

From the above Figure 4.5, 40 out of the 70 respondents representing 57.2% of the study population drawn from members of the public regularly follow proceedings from the judiciary. Out of the 40 respondents, those aged 18-25, 26-30, and 31-35 all had a frequency of 10 people as regular followers of judicial proceedings. Those aged 36-40 were 6 while 41 years and above were 4 out of the 40 who regularly follow judicial proceedings. 15 out of the 70 respondents representing 21.4% of the study population said they follow judicial proceedings less regularly while the remaining 15 (21.4%) said they don't follow judicial proceedings at all.

**Figure 4.6: The corresponding question targeted 30 judicial officers**

The corresponding question targeted 30 judicial officers and sought to establish how regularly the judiciary engages the public to promote public participation in the administration of justice in Kenya.



#### 4.2.3 Analysis of findings

As per the above Figure 4.6, majority of judicial staff, 18 out of 30 representing 60% of the study population from the judiciary agreed that they regularly engage members of the public to promote public participation in the administration of justice in Kenya. Out of these, 4 were from the Supreme Court, 3 from the Court of Appeal, 8 from High Court and 3 from magistrates' court. The remaining 12 representing 40% of the study population from the judiciary said that the judiciary has been engaging the public to promote public participation less regularly. None was from the Supreme Court, 3 were from the Court of Appeal, 4 from High Court and the remaining 5 from the magistrates' court. None of the respondents however stated that they have not been engaging members of the public.

#### **4.3 How the judiciary has been engaging members of the public.**

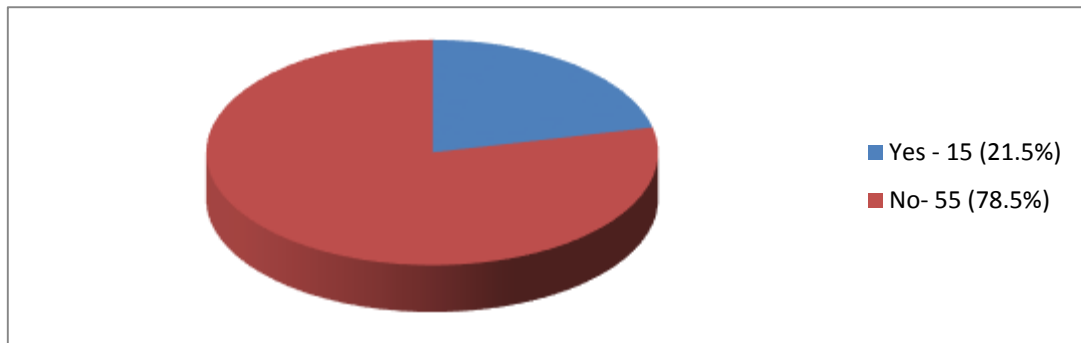
There were two questions targeting the 30 respondents from the judiciary. The first sought to know if the judiciary has been engaging members of the public and the second asked for explanation on how the judiciary has been engaging the public to enhance their participation in the administration of justice in Kenya.

On the first question, all the 30 respondents representing 100% of judicial officers agreed that the judiciary has been engaging members of the public. On how they have been doing, the judicial staff stated that they have been engaging the public through judiciary open days, judicial marches, public events, community work and exhibitions. They also do it through invitations through the media for members of the public to give their views on particular issues; through the office of the ombudsperson which receives complaints from members of the public and ensures they are resolved; through the judiciary's department of communication and public affairs especially on matters of external communication; through publication and distribution of written materials to explain to the public how the judiciary operates; by having stands and participating in annual events like the Agricultural Society of Kenya shows; and through live broadcast of court proceedings and articles in the print media.

#### **4.4 How members of the public have been participating in the administration of justice in Kenya.**

This part also had two questions targeting members of the public. The first question required a Yes or No answer as presented in Figure 4.7, and asked the respondents if they have ever participated in any public function relating to administration of justice. If the answer was in the affirmative, the second part asked the respondent to explain how they participated.

**Figure 4.7: Have you ever participated in any public function relating to administration of justice in Kenya?**



#### **4.4.1 Analysis of findings**

55 out of the 70 respondents which represent 78.5% of members of the public said they have never participated in any public function relating to administration of justice in Kenya as illustrated in the above diagram. The other 15 respondents representing 21.5% of the study population who said they have participated in public functions relating to administration of justice explained their participation as follows: Participation in a peaceful demonstration to the judiciary to present a draft memorandum to the Chief Justice about judicial reforms; having a meeting with judicial officers to discuss arbitration and alternative dispute resolution mechanisms with the community; following people’s opinions and commentary during live broadcast of judicial proceedings; meeting with judicial officers to sensitize the youth against taking the law in their own hands and civic education by the judiciary on the new constitution; visiting judiciary stands during exhibitions and interacting with judicial officers; and attending a forum organized by the judiciary during the free legal week services.

#### **4.5 Preferred media channel to get information relating to administration of justice in Kenya.**

This question was targeting the 70 respondents drawn from members of the public. It sought to find out the most preferred media channel preferred by members of the public in getting information relating to administration of justice as presented in Table 4.3. This was important to test if social media can be among the preferred channel as a way of fulfilling the study’s objectives.

**Table 4.3: Which media channel do you prefer most to get information relating to administration of justice in Kenya?**

Age Group/Media	Newspaper	Television	Radio	Social media	Other (Specify)	Total
18-25	1	9	1	14	-	25
26-30	4	5	3	8	-	20
31-35	5	2	1	4	-	12
36-40	3	2	2	1	-	8
41 and above	3	1	1	-	-	5
<b>Total</b>	<b>16</b>	<b>19</b>	<b>8</b>	<b>27</b>	<b>-</b>	<b>70</b>

#### 4.5.1 Analysis of findings

From the above Table 4.3, members of the public prefer social media as the best channel to get information relating to administration of justice in Kenya at 27 out of 70 representing 38.6% of the study population. Television is second most with 19 out of 70 respondents representing 27.1% of the study population. Newspapers are the third most preferred, with 16 out of 70 respondents representing 22.9% of the study population. Radio is the least preferred channel to get information relating to administration of justice among the Kenyan public with 8 out of 70 people representing 11.4% of the study population.

#### 4.6 Preferred media channel to engage members of the public in the administration of justice in Kenya.

This question targeted 30 respondents drawn from the judiciary staff to know their most preferred media channel in engaging the public as presented in Table 4.4.

**Table 4.4: Which media channel do you prefer most for the judiciary to engage the public?**

Court level/Media Channel	Newspaper	Television	Radio	Social media	Other (Specify)	Total
Supreme Court	2	1	-	1	-	4
Court of Appeal	3	2	-	1	-	6
High Court	4	3	1	4	-	12
Magistrate Court	3	2	2	1	-	8
<b>Total</b>	<b>12</b>	<b>8</b>	<b>3</b>	<b>7</b>	<b>-</b>	<b>30</b>

#### 4.6.1 Analysis of findings

From the above presentation, majority of judicial staff prefer newspapers as the best media channel to engage members of the public, with 12 out of 30 representing 40% of the study population from the judiciary. Television is second with 8 out of 30 representing 26.7%. Social media is third with 7 out of 30 representing 23.3%, while radio is the least preferred channel for judicial staff to engage the public, with only 3 out of 30 representing 10%.

#### 4.7 Extent to which judiciary should engage members of the public

This question cut across the entire study population and sought to know whether the judiciary should always engage members of the public in the administration of justice in Kenya. This question was necessary to test the discussion in Chapter Two, where there is a general agreement backed up by Constitutional provisions that the judiciary should promote public participation to bridge the lack of confidence and lack of understanding of the complex legal processes. The findings are as presented in Table 4.5, Table 4.6 and Table 4.7.

**Table 4.5: Do you agree or disagree that the judiciary should always engage members of the public in the administration of justice in Kenya? (Members of the public)**

Age Group	Strongly Agree	Agree	I don't Know	Disagree	Strongly Disagree	Total
18-25	13	8	2	-	2	25
26-30	9	5	3	2	1	20
31-35	4	4	2	2	-	12
36-40	3	2	1	2	-	8
41 and above	1	3	1	-	-	5
Total	30	22	9	6	3	70
Percentage/100	42.9%	31.4%	12.8%	8.6%	4.3%	100%



**Table 4.6: Do you agree or disagree that the judiciary should always engage members of the public in the administration of justice in Kenya? (Judiciary staff)**

<b>Court level</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
Supreme Court	3	1	-	-	-	4
Court of Appeal	3	2	-	1	-	6
High Court	4	6	-	2	-	12
Magistrate Court	5	2	-	1	-	8
Total	15	11	-	4	-	30
Percentage/100	50%	36.7%	-	13.3%	-	100%

**Table 4.7: Do you agree or disagree that the judiciary should always engage members of the public in the administration of justice in Kenya? (Cumulative frequency from both members of the public and judiciary staff)**

<b>Category</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
Members of the public	30	22	9	6	3	70
Judicial staff	15	11	-	4	-	30
Total	45	33	9	10	3	100
Percentage/100	45%	33%	9%	10%	3%	100%

#### **4.7.1 Analysis of findings**

From the above Tables, it is evident that majority of the respondents both from members of the public strongly agree that the judiciary should always engage the public in matters relating to administration of justice in Kenya. 45% of the 100 respondents from the entire study population said they strongly agree that the public should be engaged in matters relating to administration of justice in Kenya, 33% said they agree, 10% said they disagree, 3% said they strongly disagree while 9% said they don't know whether the judiciary should engage the public in matters relating to administration of justice.

In terms of categories, 30 out of 70 respondents which represent 49.9% from the public said they strongly agree that judiciary should engage them in matters relating administration of justice while 22 out of 70 representing 31.4% of the population said they agree with the statement. 9 out of 70 representing 12.8% said they don't know if judiciary should engage the public. 6 respondents representing 8.6% of the population disagreed while 3 out of 70 representing 4.3% said they strongly disagreed that judiciary should engage the public. From the judicial staff, 15 out of 30 representing 50% of study population from the judiciary strongly agreed that they should engage the public while 11 out of 30 representing 36.7% said they agree with the statement to engage the public. Only 4 out of 30 representing 13.3% of judicial staff disagreed that they should always engage members of the public in matters relating to administration of justice in Kenya.

#### **4.8 Summary and interpretation of findings on Public Participation in the administration of justice in Kenya**

First, the findings on public participation in the administration of justice in Kenya shows that majority of members of the public, 40 out of the 70 respondents representing 57.2% regularly follow proceedings from the judiciary while majority of judicial staff, 18 out of 30 representing 60% of the judiciary agreed that they regularly engage members of the public to promote public participation in the administration of justice in Kenya. This proves that there is interest from both members of the public and the judiciary to interact with each and know what is happening. Another 15 out of the 70 respondents representing 21.4% of the study population from the public said they follow judicial proceedings less regularly while a corresponding 12 out of 30 respondents from the judiciary representing 40% said that the judiciary has been engaging the public to promote public participation less regularly. These trends show that there is need for the judiciary to explore more ways of engaging the public to have more people following proceedings.

The second finding was that the judiciary has actually been engaging members of the public to promote their participation in the administration of justice in Kenya. They have however been doing these through open days, judicial marches, public events, community work, exhibitions and mainstream media. Despite judiciary saying they have been engaging the public, majority of members of the public, 55 out of 70

representing 78.5% of the population have never participated in any public function relating to administration of justice in Kenya. Only 15 respondents representing 21.5% of the study have participated in public functions relating to administration of justice through peaceful demonstration, meeting with judicial officers, following other people's opinions and visiting judiciary stands during exhibitions. The findings show that the judiciary needs to do more to include the majority of members of the public who feel left out in the affairs relating to administration of justice in Kenya.

The third finding was that members of the public prefer social media as the best channel to get information relating to administration of justice in Kenya at 27 out of 70 representing 38.6% of the study population. Therefore, it gives a signal for the judiciary to think of ways to diversify media channels through which they should engage the public. This is despite the finding that many judicial staff, 12 out of 30 representing 40% of the study population from the judiciary prefer newspapers as the best channel to interact with the public. What needs to be done is integration of the various media channels to ensure that all members of the public are included in the administration of justice given that the preferences vary from social media, newspapers, television and radio which is the least preferred channel of communication for both members of the public and judicial staff.

Finally, the findings show that majority of the respondents both from members of the public and the judiciary strongly agree that the judiciary should always engage the public in matters relating to administration of justice in Kenya. 45% of the 100 respondents from the entire study population said they strongly agree that the public should be engaged in matters relating to administration of justice in Kenya while 33% said they agree members of the public should be engaged. This consensus between the two categories of respondents proves that public participation is an important aspect in the administration of justice in Kenya.

#### **4.9 Use of Social Media in the Administration of Justice in Kenya**

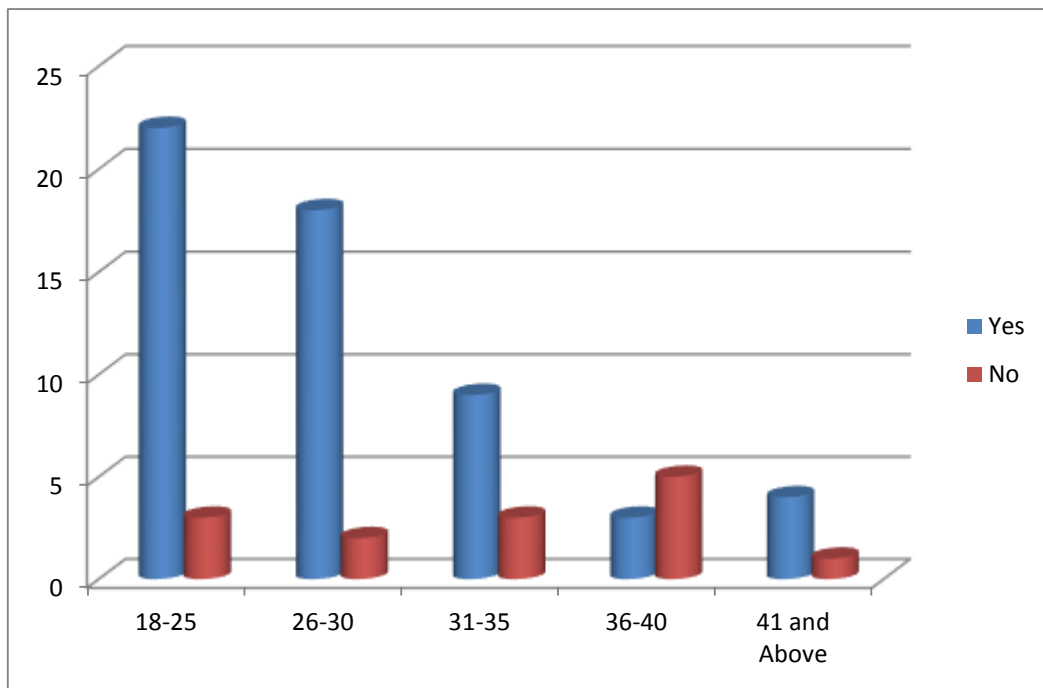
This section of the questionnaire went to the core of study objectives and sought to answer the study questions as formulated in Chapter One. As earlier stated, the study had two sets of questionnaires targeting the two different segments of the study populations. Some questions were similar while others were slightly different

but all aimed at finding out the correlation between social media and public participation in the administration of justice in Kenya.

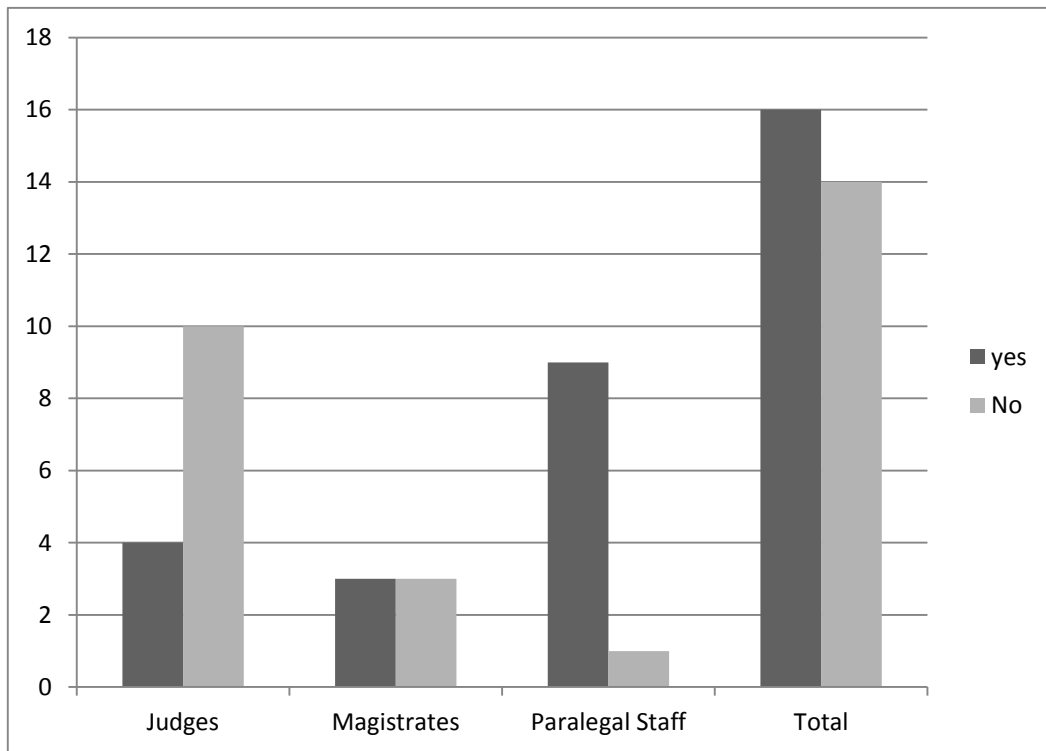
#### 4.9.1 Being on social media and frequency of being active

Figures 4.8 and 4.9 shows the findings on how many respondents are on social media while Figure 4.10 is cumulative representation of the total members of the study population on social media from both members of the public and judiciary staff. This question was important as it set the tone of other questions to establish the interactivity that can happen on social media between members of the public and judiciary staff.

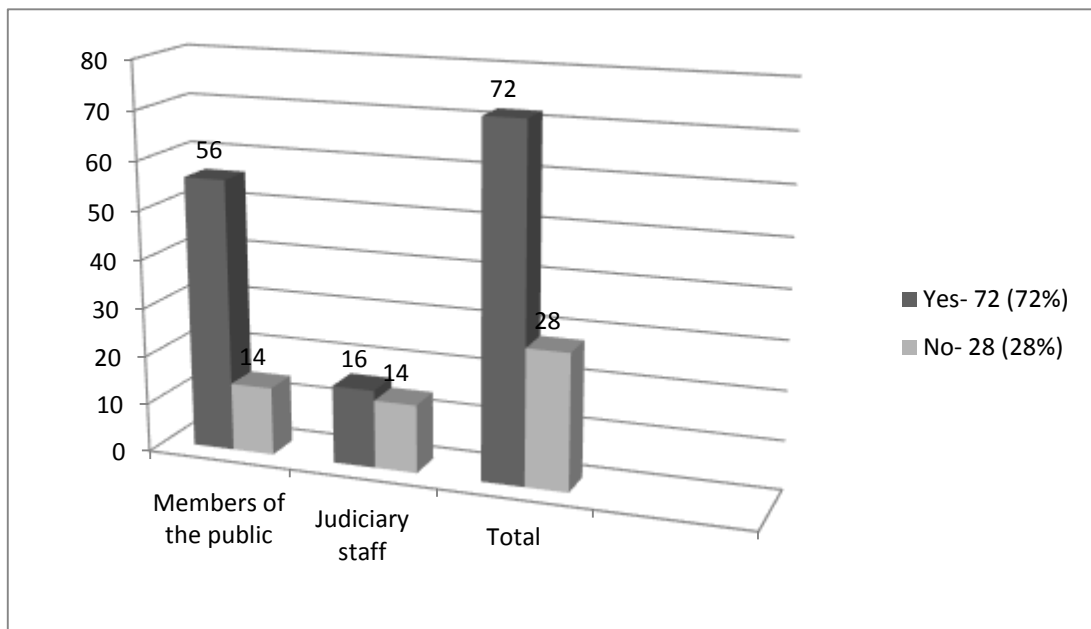
**Figure 4.8: Are you on social media? (Members of the public)**



**Figure 4.9: Are you on social media? (Judiciary staff)**



**Figure 4.10: Are you on social media? (Cumulative total from both members of the public and judiciary staff)**



#### 4.9.2 Analysis of findings

Figures 4.8, 4.9, and 4.10, shows that majority of the 100 study population drawn from both members of the public and judiciary at 72%. 56 out of 70 members of the public representing 80% are on social media while from judiciary staff, 16 out of 30 representing 53.3% are on social media. Those aged 18-25 are the majority on social media given that 22 out of the 25 interviewed representing 88% said they are on social media. 18 out of 20 aged 26-30 said they are on social media which represents 90% of the age group while 9 out of 12 aged 31-35 representing 75% of the group said they are on social media. 3 out of 8 respondents aged 36-40 which is 37.5% are on social media while 4 out of 5 aged 41 and above said are on social media which translates to 80% of the age group.

From the judiciary, 9 out of 10 paralegal staff representing 90% is on social media. 3 out of 6 magistrates who participated in the study said they are on social media, which represents 50% of the magistracy while 4 out of 14 judges translating to 28.5% of judges being on social media. These findings suggest that there are a considerable number of members of the public and judicial staff on social media and which can form a basis of their interaction through social media channels.

**Table 4.8: How active are you on social media? (Members of the public)**

These findings on Table 4.8 are based on the 56 out of 70 respondents drawn from members of the public who said they are on social media.

Age Group	Very Active	Less Active	Not Active	Total
18-25	17	5	-	22
26-30	13	5	-	18
31-35	4	5	-	9
36-40	1	2	-	3
41 and above	1	3	-	4
Total	36	20	-	56
Percentage/100	64.3%	35.7%	-	100%

**Table 4.9: How active are you on social media? (Judicial staff)**

These findings in Table 4.9 are based on the 16 out of 30 respondents drawn from judicial staff who said they are on social media.

Position	Very Active	Less Active	Not Active	Total
Judge	-	3	1	4
Magistrate	-	2	1	3
Paralegal staff	5	4	-	9
Total	5	9	2	16
Percentage/100	31.3%	56.2%	12.5%	100%

**Table 4.10: How active are you on social media? (Cumulative response from members of the public and judiciary staff)**

These findings on Table 4.10 are based on the combined responses from the study population on social media.

Category	Very Active	Less Active	Not Active	Total
Members of the public	36	20	-	56
Judiciary staff	5	9	2	16
Total	41	29	2	72
Percentage/100	56.9%	40.3%	2.8%	100%

### **4.9.3 Analysis of findings**

From the above three Tables 4.8, 4.9 and 4.10, it is evident that majority of the 72 respondents from both members of the public are very active on social media. 41 out of 72 representing 56.9% of study population said they are very active on social media, 29 out of 72 representing 40.3% of the population said they are less active while on 2 out of 72 of the study population on social media translating to 2.8% said they are not active on social media.

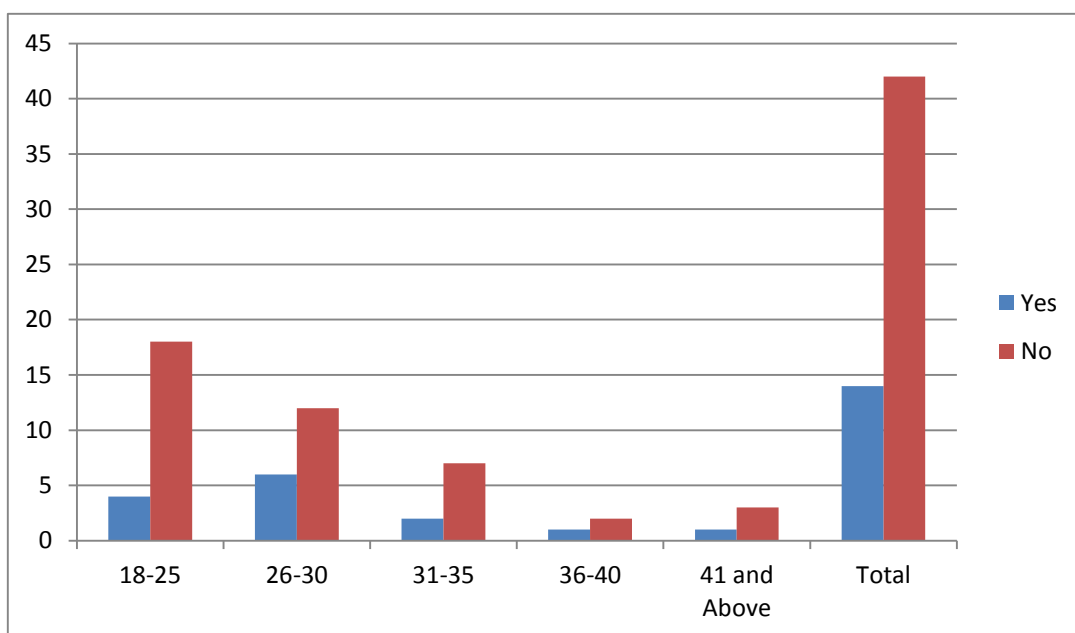
In terms of age categories relating to members of the public, those aged 18-25 are the most active at 17 out of 22 while 13 out of 18 aged 26-30 said they are very active on social media. 4 out of 9 aged 31-35 said they are very active on social

media, 1 out of 3 aged 36-40 said the same while 1 out of 4 aged 41 and above also said they are very active on social media. From judicial staff, 3 out of 4 judges on social media said they are less active while the remaining one is not active at all. For magistrates, 2 out of 3 on social media are less active while one is not active at all. For paralegal staff, 5 out of 9 respondents on social media said they are very active while the remaining 4 said they are less active. These findings is an indicator that both majority of both members of the public and judiciary staff on social media are active and even those who are less active can improve if there are interactions between the groups on matters relating to administration of justice in Kenya.

**4.10: Participation in discussion relating to administration of justice in Kenya on social media**

The question had two parts targeting members of the public. The 56 who responded that they are on social media were asked if they have ever participated in any discussion relating to administration of justice in Kenya as presented in Figure 4.11. Those who answered in the affirmative were then asked to explain how they participated in the discussion.

**Figure 4.11: Have you ever participated in any discussion relating to the administration of justice in Kenya on social media?**





#### **4.10.1 Analysis of findings**

From the above Figure 4.11, only 14 out of 56 representing 25% of members of the public said they have participated in discussion relating to administration of justice in Kenya through social media. The remaining 42 out of 56 which translates to 75% of members of the public said they have never participated in any social media discussion relating to administration of justice in Kenya. Of these, majority were those aged 18-25 who were 18, those aged 26-30 were 12, those aged 31-35 were 7, those aged 36-40 were 2 while those aged 41 and above were 3.

When asked to explain how they participated in discussion relating to administration of justice in Kenya on social media, the 14 out of 56 respondents representing 25% of members of the public on social media gave various views. Some said they had contributed to discussions on social media and gave opinions about judgments made at the High Court while others said they had engaged a group of followers on social media to explain to them how a certain decision was made and also making them understand what the law says about certain penalties. Others said they gave views on social media on how justice should be administered to different people for different offences; analyzed measures that should be taken by the judiciary to ensure that there is peace before, during and after the elections; gave views to a discussion on social media on policies that should be adopted by the judiciary when administering justice in an humanitarian way; gave views on why people should trust the judiciary to resolve their disputes instead of taking the law in their own hands; following what other people are saying on social media about certain cases relating to administration of justice in Kenya; acting as a moderator in a social media discussion on appointment of judges; giving views on the importance of judiciary impartiality when determining political disputes; and commenting on the need for peace, justice and equity during a discussion on social media.

#### **4.11 Engaging social media contacts/followers on matters relating to administration of justice in Kenya.**

The question had two parts targeting judicial staff. The 16 judiciary staff on social media were asked if they engage their contacts/followers in discussions relating to administration of justice in Kenya as presented in Table 4.11 and if the answer was

affirmative, they were asked to explain how it affects their role/function as a judicial officer.

**Table 4.11: Do you engage your social media contacts/followers in matters relating to administration of justice in Kenya?**

<b>Position</b>	<b>Yes</b>	<b>No</b>	<b>Total</b>
Judge	1	3	4
Magistrate	2	1	3
Paralegal staff	2	7	9
Total	5	11	16
Percentage/100	31.3%	68.7%	100%

#### **4.11.1 Analysis of findings**

The study found that 11 out of 16 representing 68.7% of judiciary staff don't discuss matters relating to administration of justice in Kenya with their followers and contacts on social media. Of these, 3 out of 4 judges don't engage their followers, 1 out of 3 magistrates also don't engage their followers while 7 out of 9 paralegal staff also do not engage their followers on matters relating to administration of justice in Kenya.

When asked to explain how engaging social media contacts/followers in matters relating to administration of justice in Kenya affects their roles and functions as judicial officers, the remaining 5 out 16 respondents representing 31.3% of judicial staff on social media gave the following reasons:

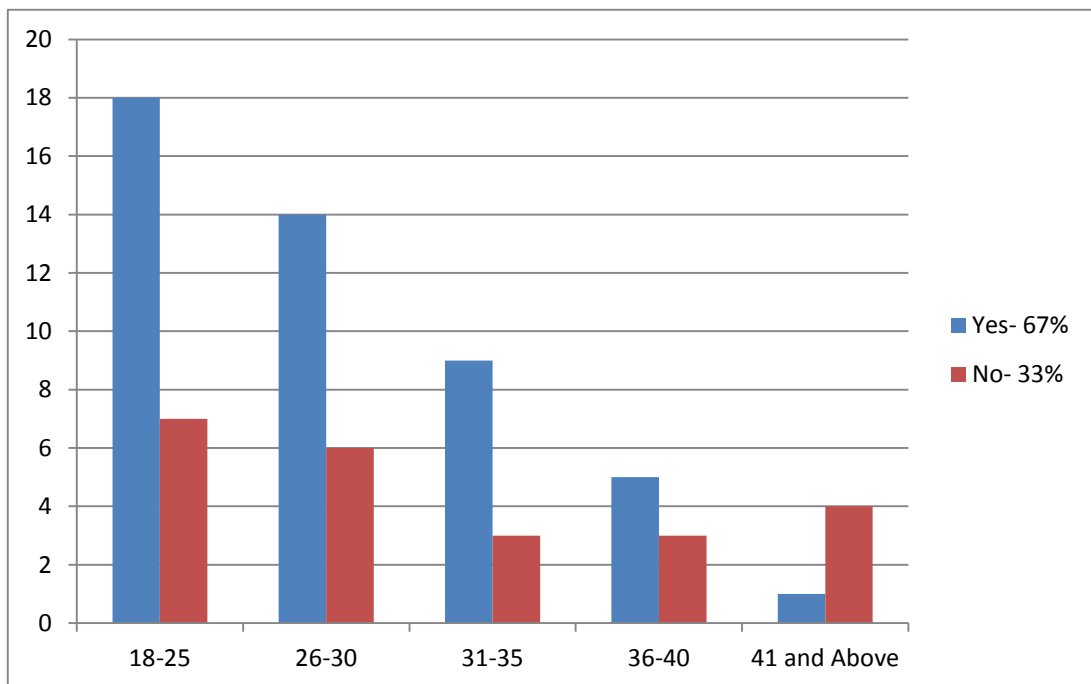
- 1) Makes me able to directly engage court users and obtain their feedback which makes my role easier as a judicial officer in explaining what administration of justice is.
- 2) When discussing issues of administration of justice in Kenya with social media contacts, it makes it easy for them to appreciate the work we are doing.
- 3) It enhances our work by disseminating information to many people at a go.
- 4) Makes the people on social media feel closer to the justice system hence help our work of reaching to them.

- 5) Social media has made it possible for the judiciary to assist people with knowledge when they ask questions and get answers from us.
- 6) It helps in promoting public confidence in us by making them know that the judiciary is transparent
- 7) It helps to demystify the belief that judges are secretive and are out of reach of the ordinary people.

**4.12 Whether members of the public would contribute to discussion on administration of justice in Kenya in a social media forum.**

The question targeted the 70 respondents drawn from members of the public. It sought to find out if they will participate in any discussion relating to administration of justice in Kenya if the discussion is on social media as tabulated in Figure 4.12, and to give reasons why they will/or not participate.

**Figure 4.12: Would you participate in any discussion relating to administration of justice in Kenya through social media?**



#### 4.12.1 Analysis of findings

From the above Figure 4.12, majority of members of the public totaling 67% of the study population affirmed that they will participate in social media discussions relating to administration of justice in Kenya. Of these, 18 out of 25 youths aged 18-25 said they will participate, 14 out of 20 aged 26-30 also said they will participate, 9 out of 12 aged 31-35 said the same, 5 out of 8 participants aged 36-40 and 1 out of 4 aged above 41 years also affirmed that they will participate in any social media discussions relating to administration of justice in Kenya. Only 23 out of 70 translating to 33% of the study population said they will not take part in such discussions.

The 47 out of 70 representing 67% of the study population drawn from members of the public gave the following reasons to justify why they will participate in discussion relating to administration of justice in Kenya through social media:

- 1) Social media is a good platform to air your opinion and be heard by the judiciary without fear of victimization. It also doesn't require any permission to give your opinion.
- 2) Social media enhances closeness between the judiciary and members of the public.
- 3) Members of the public can give their views to the judiciary about ways to resolve some cases.
- 4) Will help the judiciary to come up with acceptable mechanisms that are supported by the public in resolving conflicts.
- 5) It makes it possible to send out a message and receive opinions from across the country without going to specific locations.
- 6) Social media has no limited space and I can give all information I think is relevant to the administration of justice.
- 7) Makes it possible to get ideas from other people about what is wrong or right regarding justice in Kenya.
- 8) Justice can only prevail if people's opinions are heard.

- 9) Social media makes it possible for those with knowledge on administration of justice to enlighten others hence it is educative.
- 10) Social media help us to eliminate biases since we may have different views but through discussion it helps us have better understanding of the judiciary.
- 11) To help us understand the right channels to follow when faced with a legal problem.
- 12) It brings all participants to the same level whether highly educated or not educated but you can understand each other on social media.
- 13) Discussion on social media helps create awareness about some injustices and make the authorities take action.
- 14) Sometimes the judiciary have no time to interact with the public and its only through discussion on social media that they can realize that we have a stake and take notice of what the public is saying.

On the contrary, 23 out of 70 respondents representing 33% of the study population drawn from members of the public said they will not participate in discussion relating to administration of justice in Kenya through social media because of several reasons. The first was that social media cannot be a constructive channel for meaningful discussion unless it is regulated. This is because social media is monitored and therefore creates fears which will stop someone from giving opinion on issues concerning administration of justice in Kenya. The second reason was that the judiciary does not take social media seriously therefore they will not consider opinions people give given that public views on social media will always be disregarded. Other reasons were that opinions on social media are just propaganda and cannot help in enhancing administration of justice; that the judiciary is supposed to be independent so discussing issues to do with administration of justice on social media will interfere with their independence and impartiality; that understanding justice in Kenya is difficult so it will be boring to discuss anything relating to it on social media; that social media is not the best channel to express your views and opinions concerning administration of justice; and because it is not easy to verify the accounts of social media users so you cannot trust information being posted.

**4.13 Whether judicial officers should actively engage the public on issues relating to administration of justice in Kenya through social media.**

Tables 4.12, 4.13 and 4.14 are presentations of what the study population thinks on the question as to whether judicial staff including judges and magistrates should actively engage the public on social media. Part two of the question is analysis of the reasons for their answers.

**Table 4.12: Do you think judicial officers including judges and magistrates should actively engage members of the public on social media? (Members of the public)**

<b>Age Group</b>	<b>Yes</b>	<b>No</b>	<b>Total</b>
18-25	22	3	25
26-30	12	8	20
31-35	8	4	12
36-40	5	3	8
41 and above	3	2	5
Total	50	20	70
Percentage/100	71.4%	28.6%	100%

**Table 4.13: Do you think judicial officers including judges and magistrates should actively engage members of the public on social media? (Judicial staff)**

<b>Position</b>	<b>Yes</b>	<b>No</b>	<b>Total</b>
Judge	3	11	14
Magistrate	2	4	6
Paralegal staff	5	5	10
Total	10	20	30
Percentage/100	33.3%	66.7%	100%

**Table 4.14: Do you think judicial officers including judges and magistrates should actively engage members of the public on social media? (Cumulative total from both members of the public and judicial staff)**

<b>Category</b>	<b>Yes</b>	<b>No</b>	<b>Total</b>
Members of the public	50	20	70
Judicial staff	10	20	30
Total	60	40	100
Percentage/100	60%	40%	100%

#### **4.13.1 Analysis of findings**

From the above Tables, a comparative findings shows that majority of the study population at 60% comprising both members of the public and judiciary staff think that judicial staff including judges and magistrates should actively engage members of the public on social media. However, it is members of the public (50 out of 70) representing 71.4% who strongly feel that they should be engaged on social media by judicial officers. Majority of judicial staff (20 out of 30) representing 66.7% of their population do not think that judicial officers should actively engage members of the public on social media.

The 60% gave the following reasons why they think judicial staff including judges and magistrates should actively engage members of the public on social media:

- 1) It will enable judicial staff to directly engage the public and get feedback about their opinion on the administration of justice.
- 2) It will help the judiciary open up to the public for scrutiny and demystify the myth that judiciary is not public friendly.
- 3) Since majority of people are able to access social media than print and broadcast media, it will enable the judiciary to gather much information from the public relating to their feelings on the administration of justice.
- 4) Given that social media has a wider reach and accessibility, it will help the judges and magistrates explain their decisions to many people.

- 5) It will help the public understand the work of judicial staff easily and encourage people to be law abiding citizens.
- 6) It will help the judiciary build trust and confidence among the public whereby the public will feel their views matter to judicial officers they interact with.
- 7) Being active on social media will help judges and magistrates to demystify the belief that justice is only for the rich people since being active on social media will enable them interact with ordinary people.
- 8) It will help in educating the public on which channels to follow and what cause of action to take whenever they have issues.
- 9) Interacting with judges and magistrates can help them gather some information from the public which they don't know but which may be important in the administration of justice especially in knowing other ways of resolving conflicts between different communities.
- 10) Many Kenyans are not conversant with the constitution and the rule of law, therefore interacting with judges and magistrates can help them gather information about the constitution and laws of Kenya.
- 11) It is important for them to engage the public so that they are not seen to be partisan in dispensing justice.
- 12) It will make it easy for the judiciary to gather a lot of information from many people when developing policies for administration of justice in Kenya.
- 13) It will help the judiciary to encourage openness and demystify the feeling of corruption among judicial staff.
- 14) Social media is the easiest, cheap and fast way for judges and magistrates to communicate with the public.
- 15) It can enable judicial staff to offer guidance to their followers in matters relating to administration of justice.



- 16) There are young people on social media who aspire to be judges and magistrates, and can be inspired through interaction with judicial officers without interfering with judicial independence.

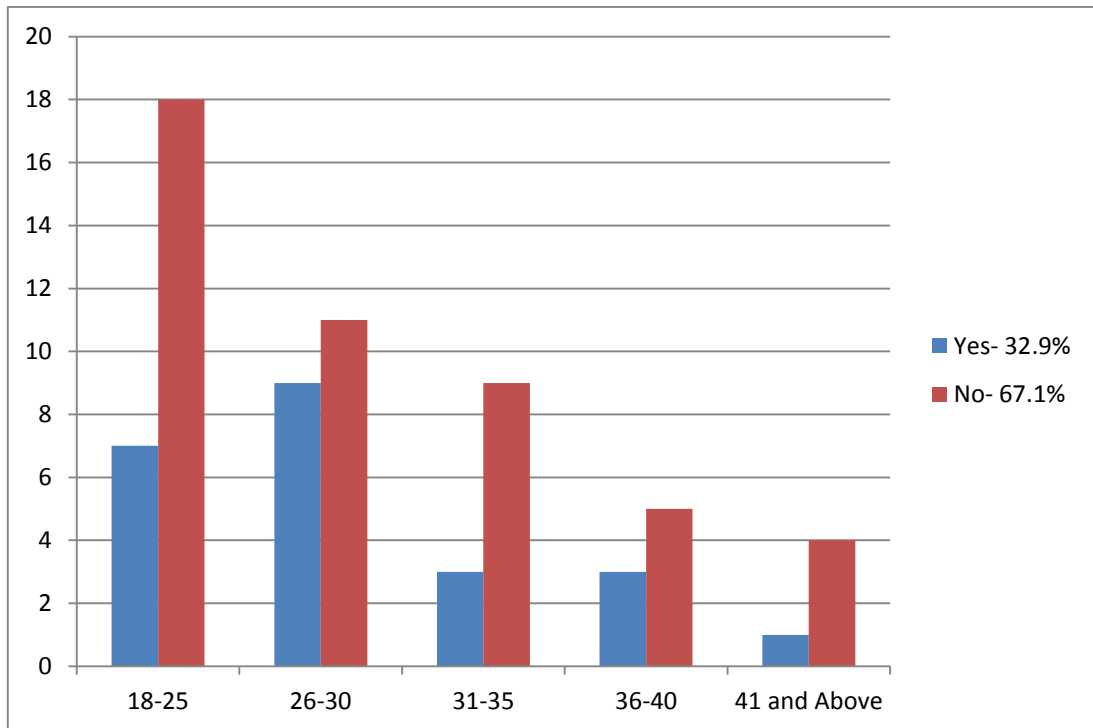
On the contrary, 40% of the entire study population of 100 gave the following reasons why they do not think that judicial staff including judges and magistrates should actively engage members of the public on social media: That judges, magistrates and other judicial staff are too busy and should not have time to waste engaging social media contacts; that social media can be misused to compromise the objectivity and impartiality of judicial officers; that only the department of public affairs and communication in the judiciary should interact with the public on social media but not judges and magistrates; that judges and magistrates should only speak to the public through their judgments but not through social channels; that social media is not regulated so it can be used to intimidate, scare and threaten judicial officers; that there are many people on social media so the judicial staff cannot listen to all of them and take their views; and that interacting with the public can interfere with an ongoing case before the judge or magistrate and lead to conflict of interest.

Others were of the opinion that judicial officers should only follow the constitution and the law, therefore they have no reason to interact with members of the public on social media to share their views; that some information relating to administration of justice are confidential and judicial staff may be tempted to share with social media contacts therefore creating a crisis; that social media is not an authoritative channel and is full of jokers who may mislead judicial officers when giving their opinions; and that opening social media as a channel of communication between judicial officers and members of the public may undermine the authority of the judiciary.

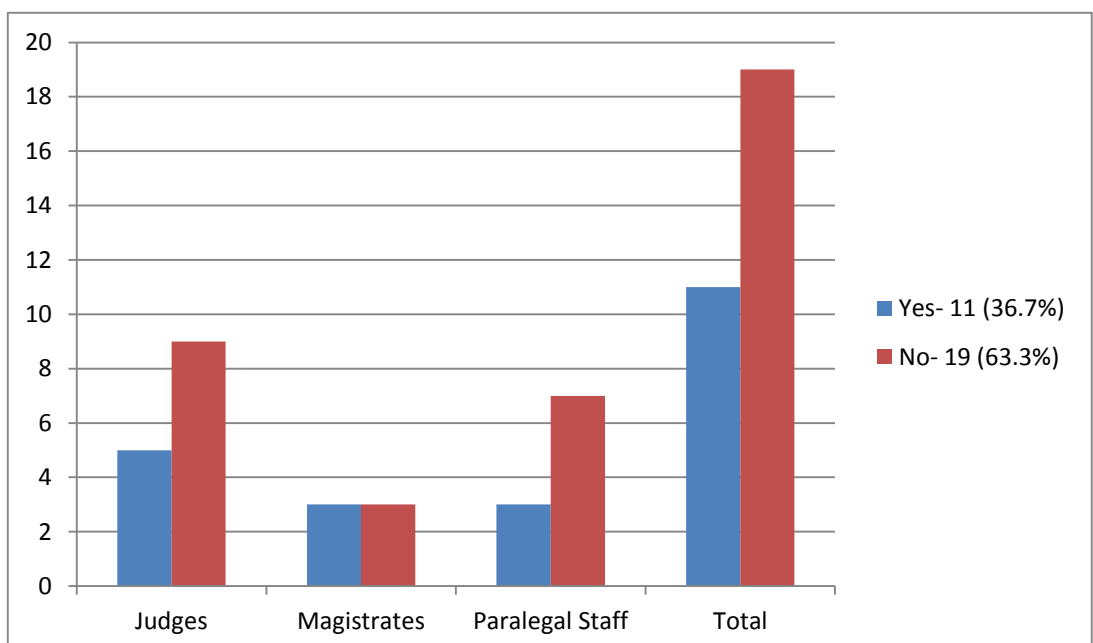
#### **4.14: Interacting with judges, magistrate on social media and whether it interferes with independence of the judiciary.**

There were two questions asking members of the public if they thought interacting with judicial officers on social media will interfere with judicial independence while the question for judicial staff asked them if they think interacting with members of the public on social media interferes with their independence. These are as represented in Figure 4.13, 4.14 and Table 4.15.

**Figure 4.13: Do you think interacting with judges and magistrates on social media will interfere with their independence as judicial officers? (Members of public)**



**Figure 4.14: Do you think interacting with members of the public on social media will interfere with your independence as a judicial officer? (Judiciary staff)**



**Table 4.15: Cumulative response of whether interaction between judicial officers and members of the public on social media will interfere with independence of the judiciary.**

Category	Yes	No	Total
Members of the public	23	47	70
Judicial staff	11	19	30
Total	34	66	100
Percentage/100	34%	66%	100%

#### 4.14.1 Analysis of findings

The above presentations confirms that majority of the 100 respondents do not think that interaction between members of the public and judicial officers on social media will interfere with judicial independence with 66 out of 100 (66%) of the population saying the interaction does not interfere with judicial independence. Of these were 47 out of 70 members of the public translating to 67.1% while the judiciary staff who affirmed the interaction does not interfere with their independence were 19 out of 30 translating to 63.3%. Only 34 out of 100 (34%) believe that the interaction between judicial officers and members of the public on social media will interfere with judicial independence. Of these were 23 out of 70 members of the public (32.9%) and 11 out of 30 judicial staff representing 36.7% of judicial staff.

The 34% of the study population of 100 participants said they think interaction between judicial officers and members of the public on social media will interfere with the independence of the judiciary because judicial officers might go personal when interacting with people on social media hence affects their independence. Others stated that being on social media will expose judicial officers to ridicule and criticism which will interfere with their work; that judicial officers might be swayed to follow views and opinions of their friends on social media and forget about the rule of law; and that social media is full of hackers and fake information which can affect the credibility of judicial officers in the performance of their duties.

Some respondents also believe that interaction between judiciary staff and members of the public on social will interfere with judicial independence given that judicial officers should always maintain confidentiality in their work, and that it may

lead to cases of corruption where a friend of the judicial officer on social media may take advantage to bribe the judge or magistrate and therefore interfere with judicial independence. Others said public opinion may negatively influence a judge or a magistrate to give a decision based on public opinion on social media but not the law and because social media has so many views and opinions which might interfere with judges and magistrates decisions if they start taking notice of them.

On the contrary, majority of the 100 participants accounting for 66% gave the following reasons why they think that interaction between judicial officers and members of the public on social media does not interfere with the independence of the judiciary.

- 1) Social media is an alternative forum where judicial officers can freely express themselves without any prejudice to their independence.
- 2) It helps in building the relationship between the judicial officers and the public regarding the administration of justice and cannot interfere with judicial independence.
- 3) Judicial officers are also social beings, it is not wrong for them to interact with people on social media to get their views which do not necessarily interfere with judicial independence.
- 4) Social media cannot interfere with independence of the judiciary because it is just a forum of reacting to people's needs and giving them the right information concerning administration of justice in Kenya.
- 5) On the contrary, social media will enhance the work of judicial officers and make them more transparent and accountable to the public.
- 6) Judicial work is guided by the constitution and the rule of law. There is no way social media can replace the constitution and the law to interfere with judicial independence.
- 7) The reason why people lose trust and confidence in the judiciary is because of the fallacy of being independent. People can only have faith, trust and confidence in the judiciary if judicial officers are accessible.

- 8) Social media creates room for inclusivity, which means members of the public will feel they are part of the administration of justice. This cannot interfere with judicial independence.
- 9) Some issues tackled by the judges and magistrates need more elaboration for the public to understand. Therefore being on social media to explain those things does not interfere with the independence of the judiciary.
- 10) Judges, magistrates and other judicial officers are there to serve the people. There is nothing wrong with them interacting with the people they serve on social media.
- 11) Judicial officers have their own principles which guide their work and listening to other people cannot affect their principles.
- 12) Interacting with judges and magistrates on social media only help them build on the information they already have and do not interfere with their independence.
- 13) Social media can only help the judicial officer in getting a clue about an issue, but the rest are given in court so it does not affect their independence.
- 14) The law is clear that the judiciary is independent from any direction from any other authority, so being on social media does not take away that independence.
- 15) It is not automatic and mandatory for judicial officers to take into consideration the opinions on social media.
- 16) There are guidelines and procedures to be followed by judicial officers when administering justice, therefore public views on social media does not affect the procedures.
- 17) Judicial officers know the limits on interacting with people on social media which does not entail those discussing sensitive cases. This helps them protect their independence.

18) It is a way of getting public views concerning the administration of justice. Judicial officers are only fulfilling what the law says on public participation which does not interfere with their independence.

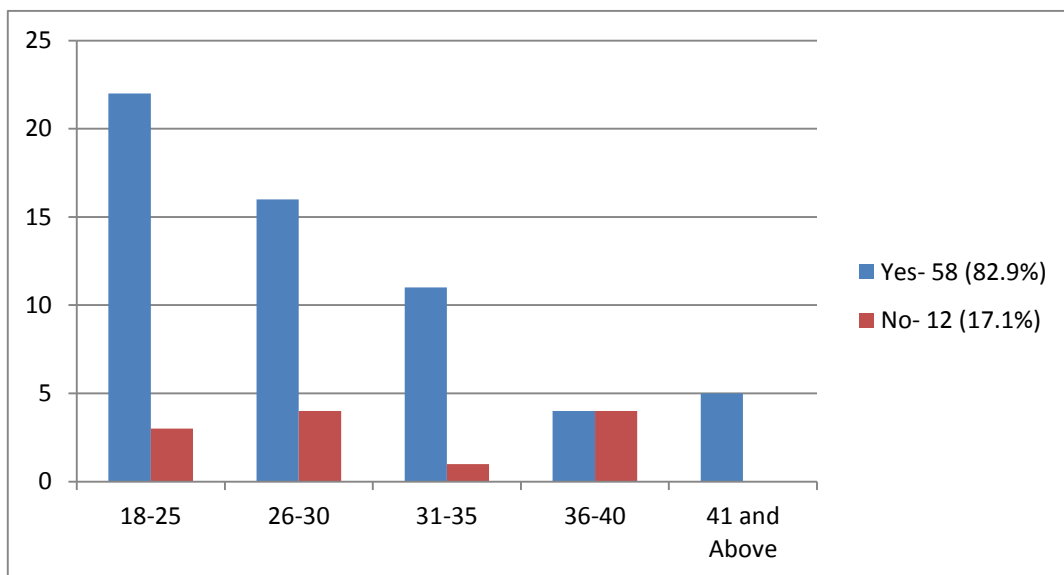
19) Some information given on social media are correct and factual and if the judges and magistrates take note of them, it does not interfere with their independence.

20) Social media has a lot of knowledge from different people which can enrich formulation of rules to guide the administration of justice in Kenya.

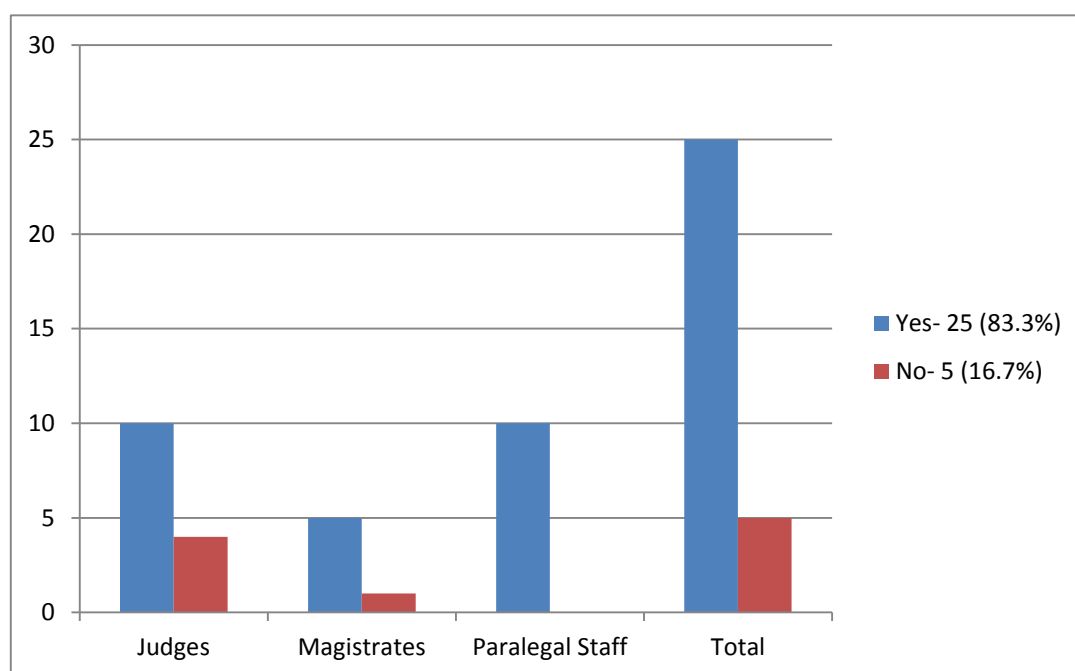
#### **4.15 Whether social media can enhance public participation in the administration of justice in Kenya**

The question to test the validity of this research objective was similar for both members of the public and judicial staff. It asked the respondents whether they believe that social media is an important channel to enhance public participation in the administration of justice in Kenya and to give reasons for their answer. The findings were as tabulated below in Figure 4.15, 4.16 and Table 4.16:

**Figure 4.15: Do you believe that social media is an important channel to enhance public participation in the administration of justice in Kenya? (Response from members of the public)**



**Figure 4.16: Do you believe that social media is an important channel to enhance public participation in the administration of justice in Kenya? (Response from judicial staff)**



**Table 4.16: Do you believe that social media is an important channel to enhance public participation in the administration of justice in Kenya? (Cumulative response from both members of the public and judicial staff)**

Category	Yes	No	Total
Members of the public	58	12	70
Judicial staff	25	5	30
Total	83	17	100
Percentage/100	83%	17%	100%

#### 4.15.1 Analysis of findings

The presentations in Figures 4.15, 4.16 and Tables 4.16 confirms that 83 out of 100 respondents from the entire study population believe that social media is an important channel to enhance public participation in the administration of justice in Kenya. 58 out of 70 respondents drawn from members of the public representing 82.9% think that social media is ideal to enhance public participation in the administration of justice in Kenya while 25 out of 30 representing 83.3% of judiciary

staff also have similar opinion. Only 17 of the 100 respondents believe social media cannot enhance public participation in the administration of justice, with 12 out of 70 representing 17.1% of members of the public and 5 out of 30 judiciary staff (16.7%) having the same opinion.

83% of the study population who believe social media is an important channel to enhance public participation in the administration of justice in Kenya gave the following reasons to justify their stand:

- 1) Social media creates a platform for feedback which is very important for the judiciary in coming up with public friendly regulations.
- 2) The society tends to be free on social media and can contribute much unlike in other places or media forums.
- 3) It is the best place to find people aged between 20 to 40 years to give their views and receive information relating to administration of justice in Kenya.
- 4) Social media makes it possible for people even from furthest regions to send their complaints which help to promote administration of justice in Kenya.
- 5) It is a platform that can be used to enlighten the public about their rights and demystify the court processes.
- 6) Social media acts a connecting point between the judiciary and the public. This help in promoting public understanding of the justice system in Kenya.
- 7) Social media can enable the judiciary collect views from many people at the same time without spending a lot of resources going around the country.
- 8) It helps in creating awareness on the rule of law through sensitization. This enhances the public chances of understanding what is right and wrong.
- 9) Judiciary at times need to amend their policies concerning administration of justice in Kenya and the best place to gather public views is social media where many youths who are active can contribute.



- 10) Since the public act as watchdog to the judiciary, social media offers them opportunity to critic what they think is not right within the judiciary and in the process held the judiciary correct their mistakes.
- 11) Social media helps create trust and public confidence in the judiciary.
- 12) Information flow between from the judiciary is guaranteed through social media thereby enhancing public participation.
- 13) It brings people closer to understanding how the judiciary operates thereby enhancing public participation in the administration of justice in Kenya.
- 14) Through social media, the public can raise some injustice or crimes happening which are then followed by the judiciary until justice is done.
- 15) When members of the public connect with judges or magistrates on social media, they feel closer and attached to the judiciary thereby enhancing their participation in the administration of justice.
- 16) Many young people on social media have fresh and innovative ideas which have not been tapped. Their ideas are very important for the judiciary when coming up with policies concerning the administration of justice in Kenya.
- 17) Not all members of the public can go to court or organized functions where the judiciary is collecting public views, so social media is an ideal platform to diversify collection of public views.
- 18) Social media is a uniting place for different tribes, communities, religions, races and gender. Therefore it is the best place for the judiciary to collect views from the different groups to promote their participation in the administration of justice in Kenya.
- 19) There is no discrimination in social media as people of all calibre can directly contribute their opinions and access the justice system without depending on information from other people.
- 20) Justice affect the public both positively and negatively. They therefore need to the fastest way to react which is only through social media.

On the contrary, 17% out of the 100 participants in the study believe that social media is not an important channel to enhance public participation in the administration of justice in Kenya. This is because most people on social media are jokers and post fake news and information which cannot help strengthen the administration of justice in Kenya; the lack of privacy on social media makes it untrustworthy when giving information concerning the judiciary; relying on social media makes people lazy when issues to do with administration of justice should only concentrate on schools and organized public forums; social media is not regulated therefore it cannot offer a good channel for people to participate in the administration of justice in Kenya; some issues like the administration of justice need to be discussed physically for people to understand; judges and magistrates are employed to be independent and don't need contribution from social media to help them do their work; and because many people on social media are reactionaries. They cannot give constructive opinion to help promote administration of justice in Kenya.

#### **4.16: Whether adoption and use of social media by the judiciary will enhance public participation in the administration of justice in Kenya**

The question targeted the entire study population of 100 respondents. It asked the respondents to rate on a five pointer scale ranging from strong agreement to strong disagreement on whether the adoption and use of social media by the judiciary will enhance public participation in the administration of justice in Kenya. The findings are as presented in Tables 4.17, 4.18 and 4.19.

**Table 4.17: How strongly do you agree or disagree with this statement:**

The adoption and use of social media by the judiciary will enhance public participation in the administration of justice in Kenya. (Response from members of the public)

<b>Age Group</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
18-25	12	7	3	2	1	25
26-30	9	4	1	4	2	20
31-35	6	2	1	2	1	12
36-40	2	3	-	2	1	8
41 and above	2	2	-	1	-	5
Total	31	18	5	11	5	70
Percentage	44.3%	25.7%	7.1%	15.8%	7.1%	100%

**Table 4.18: How strongly do you agree or disagree with this statement:**

The adoption and use of social media by the judiciary will enhance public participation in the administration of justice in Kenya. (Response from judiciary staff)

<b>Position</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
Judges	3	5	1	4	1	14
Magistrates	1	3	-	2	-	6
Paralegal staff	5	4	-	1	-	10
Total	9	12	1	7	1	30
Percentage	30%	40%	3.3%	23.4%	3.3%	100%

**Table 4.19: How strongly do you agree or disagree with this statement:**

The adoption and use of social media by the judiciary will enhance public participation in the administration of justice in Kenya. (Cumulative response from both members of the public and judiciary staff)

<b>Category</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
Members of the public	31	18	5	11	5	70
Judicial staff	9	12	1	7	1	30
Total	40	30	6	18	6	100
Percentage/100	40%	30%	6%	18%	6%	100%

#### **4.16.1 Analysis of findings**

Tables 4.17, 4.18 and 4.19 shows that 70 out of 100 support the adoption and use of social media by the judiciary to enhance public participation in the administration of justice in Kenya. 40% strongly agree while 30% agree with the statement. Of these, 31 out of 70 members of the public representing 44.3% and 9 out of 30 representing 30% of judiciary staff said they strongly agree that the judiciary should adopt the use of social media. 18 out of 70 representing 25.7% members of the public and 12 out of 30 representing 40% of judiciary staff agreed that the judiciary should adopt and use social media to enhance public participation. 24 respondents

said they do not support the adoption and use of social media by the judiciary. Of these, 18 out of 100 said they disagreed and 6 out 100 strongly disagreed with the statement. Only 6 out of the 100 respondents said they don't know whether the judiciary should adopt and use social media to enhance public participation in the administration of justice in Kenya.

#### **4.17 Whether judiciary should develop policies for social media use by judicial staff**

The question targeted the entire study population of 100 respondents. It asked the respondents to rate on a five pointer scale ranging from strong agreement to strong disagreement on whether the judiciary should develop a policy for social media use to enhance public participation in the administration of justice in Kenya. The findings are as tabulated in Tables 4.20, 4.21 and 4.22.

**Table 4.20: How strongly do you agree or disagree with the following statement: The judiciary should develop a policy for social media use to enhance public participation in the administration of justice in Kenya. (Response from members of the public)**

<b>Age Group</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
18-25	10	8	4	3	-	25
26-30	6	11	1	2	-	20
31-35	5	5	1	1	-	12
36-40	2	4	-	2	-	8
41 and above	2	3	-	-	-	5
Total	25	31	6	8	-	70
Percentage	35.7%	44.3%	8.6%	11.4%	-	100%

**Table 4.21: How strongly do you agree or disagree with the following statement:  
The judiciary should develop a policy for social media use to enhance public participation in the administration of justice in Kenya. (Response from judiciary staff)**

<b>Position</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
Judges	4	7	-	2	1	14
Magistrates	1	4	-	1	-	6
Paralegal staff	4	4	-	1	1	10
Total	9	15	-	4	2	30
Percentage	30%	50%	-	13.3%	6.7%	100%

**Table 4.22: How strongly do you agree or disagree with the following statement:  
The judiciary should develop a policy for social media use to enhance public participation in the administration of justice in Kenya. (Cumulative)**

<b>Category</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>I don't Know</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>Total</b>
Members of the public	25	31	6	8	-	70
Judicial staff	9	15	-	4	2	30
Total	34	46	6	12	2	100
Percentage/100	34%	46%	6%	12%	2%	100%

#### **4.17.1 Analysis of findings**

Presentation of findings on Tables 4.20, 4.21 and 4.22 prove that a combined majority of 80 out of the 100 study population from both members of the public and judiciary staff want the judiciary to develop policies for social media use as a means of enhancing public participation in the administration of justice in Kenya, with 34 out of 100 saying they strongly agree with the idea while 46 out of 100 agree with the statement. Out of those who support the development of policies of social media use by the judiciary, 25 out of 70 members of the public representing 35.7% strongly agree while 31 out of 70 translating to 44.3% of the population agree that judiciary

should develop policies for social media use. From judiciary staff, 9 out of 30 representing 30% strongly agreed while 15 out of 30 representing 50% agreed that the judiciary should develop policies for social media use to enhance public participation in the administration of justice. Only 14 out of 100 participants in the study do not think the judiciary should develop policies for social media, with 12 saying they disagree and 2 saying they strongly disagree. The remaining 6 out of 100 respondents said they do not know whether judiciary should develop policies for social media use to enhance public participation in the administration of justice in Kenya.

#### **4.18 Summary and interpretation of findings on use of social media in the administration of justice in Kenya.**

As stated earlier in the previous chapters, this section refers to the core formula of testing the study of hypothesis, theories, and seeking to answer the initial research questions and objectives in a coherent manner.

First and foremost, the study found out that majority of the respondents both from members of the public and judiciary staffs are on social media, and that they frequently engage in sharing of information. The study found further that majority of social media users are the youth aged 18-30, which justifies the study hypothesis that if the youth are the main users of social media, then it would be necessary for the judiciary to consider the use of social media platform in order to reach them as a way of promoting their public participation in the administration of justice in Kenya.

The second finding was that only 25% of members of the public on social media have ever participated on social media discussion relating to administration of justice. However, majority of members of the public at 67% affirmed that they are willing and ready to participate and contribute in any social media discussion relating to administration of justice in Kenya. This study finding answers and proves the research question and objectives that social media could play a role in enhancing public participation in the administration of justice in Kenya. This was further confirmed by findings that 50 out of 70 members of the public which translate to 71.4% of public population believe that judicial officers should actively engage them on issues relating to administration of justice in Kenya through social media.

The findings also confirm that social media, being one of the participatory means of communication is an essential component of public participation in the administration of justice in Kenya. This was confirmed through the findings on preferred media channels of receiving information relating to administration of justice in Kenya, where majority of 38.6% drawn from members of the public said they prefer social media as opposed to 27.1% who prefer television, 22.9% who prefer newspapers and 11.4% who prefer radio. In addition, the finding justifies the study hypothesis that if public participation is about receiving and giving information, social inclusiveness, participatory communication, then social media can provide a better platform for the court to receive and give information on matters affecting the public.

The third finding relates to study objective of determining if the judiciary can make use of social media that are considered unreliable, untruthful and inaccurate, in enhancing public participation and what constitutes the legal guidelines as formulated in the research question to determine policies on public participation and whether social media would be one of them. This objective and research question was conclusively answered by several findings. First, 60% of the entire study population from both the public and judiciary staff believe that judicial officers including judges and magistrates should actively engage members of the public on social media. The second finding to justify the objective and study question was that 83 out of 100 respondents (83%) agreed that social media is an important channel to enhance public participation in the administration of justice in Kenya. A further 40% strongly agreed while 30% of the entire population agreed that adoption and use of social media by the judiciary will enhance public participation in the administration of justice in Kenya.

In terms of guidelines and policies for social media use in the judiciary, a majority of 80 out of the 100 study population from both members of the public and judiciary staff want the judiciary to develop policies for social media use as a means of enhancing public participation in the administration of justice in Kenya. This includes 56 out of 70 respondents from the public constituting 80% and 24 out of 30 judicial staff also constituting 80% from the judiciary. The findings resolve the research problem on whether judiciary should develop policies for social media use for its staff when adopting its usage to enhance public participation in the administration of justice in Kenya.

The fourth finding sought to answer the research problem relating to judicial independence in relation to adoption of social media as a means of enhancing public participation in the administration of justice in Kenya. The question generated was whether interacting with judges and magistrates on social media would interfere with the independence of the judiciary as guaranteed by the Constitution. The findings show that majority of 66 out of 100 respondents do not think interaction between judicial officers and members of the public on social media compromise judicial independence. These include 47 out of 70 members of the public representing 67.1% and 19 out of 30 judiciary staff representing 63.3% from the judiciary. This therefore means that by adopting social media to enhance public participation in the administration of justice in Kenya, and allowing judges and magistrates to interact with members of the public will not compromise judicial independence so long as there are guidelines and policies for social media use in the judiciary.

Finally, the findings have provided solution to the inefficiency of public participation in the administration of justice in Kenya as discussed in the statement of the problem, which can be addressed through adoption and use social media. The study has found out that social media can play a major role in enhancing public participation in the administration of justice in Kenya; that judges, magistrates and other judicial officers should recognize the use of social media platform other than other forms of media channels in interacting with the public; and that the judiciary should develop policies on social media use by judicial officers.



## **PART II: Secondary Data**

### **4.19 The judiciary transformation framework**

On sustaining judiciary service transformation and the agility of service delivery, Chief Justice David Maraga stated in his vision that, *During my term in office, I shall operate on the basis of these constitutional and democratic truths and even more: that the Judiciary is the defender of us all; both the weak and the mighty; the rich and the poor; as well as the ruler and the ruled. The Judiciary operates on the principle that all authority is subject to, and constrained by, law. It is not the will of an individual or a group that is the governing force in society.* (Sustaining Judiciary Transformation: A Service Delivery Agenda, 2016-2021)

However, the Judiciary Transformation Framework: 2012-2016 was designed by the first Chief Justice under the 2010 new constitution, Dr. Willy Mutunga who stated that: *“We found an institution so frail in its structures; so thin on resources; so low on its confidence; so deficient in integrity; so weak in its public support that to have expected it to deliver justice was to be wildly optimistic. We found a Judiciary that was designed to fail”*. In this document, it is stated clearly that the judiciary in the old order did not meet the criteria of public participation in the administration of justice and it is their determination to innovate the judiciary to fit in the modern systems using the ICT that inter alia, shall include but not limited to the social media platforms and networks. In the very wordings of the document it is explicitly clear that the use of social media network and platforms is not excluded or dismissed. Again, if all this means, international best practices, then the use of social media contributes to the enjoyment of human rights and freedoms that are already entrenched in the constitution of the Republic of Kenya.

Analysis of secondary data showed that the Kenya judiciary recognizes mass media as an important tool in achieving constitutional provision on public participation. For example in the Annual Report of the State of the Judiciary and the Administration of Justice (2014-2015), the report analyzed how the media covered the Justice at Last initiative meant to reduce backlog of civil cases as presented in the following table:

**Table 4.23: Summary of Media Coverage of Justice at Last Initiative**

<b>Media Coverage</b>	<b>Number of Frequencies</b>
Stories and photos (Print Media)	7
Broadcast media (TV and Radio)	3
Infomercials (TV and Radio)	25
Radio mentions	36
Websites	55
Posters and Banners	60
Live coverage by KTN television in Kisumu	1

(Source: State of the Judiciary and the Administration of Justice Annual Report, 2014-2015)

With the above evidence that mainstream mass media channels do report on judicial proceedings, can it be concluded that their coverage enhance public participation in the administration of justice in Kenya? Ghai (2016) puts it that newspapers do include a certain amount of coverage to courts. However, there is a challenge in the tendency to focus on the court involvement of the already well known or somehow big people, and that it would be unlikely that there will be any serious interrogation of why some things happen in the judiciary. He adds that the most interesting issue about judiciary engaging the public through mass media is in the form of paid up advertisements, which suggest that there is no confidence that a good report or any other report would otherwise appear in the press. Kenyans, including even the courts, are fond of saying that under the constitution, sovereignty is with the people. But in terms of judicial accountability, how does mass communication help?

This brings to focus the choice of stories used by various mass communication channels from the judiciary. Although it is a matter of fact that Kenyan broadcast media at times carry live proceedings in the judiciary, this does not bring out everything that happens within the corridors of justice. Justice Isaac Lenaola of the Supreme Court argued in 2011 during a keynote address to the Kenya Magistrates and Judges Association that lack of or limited communication, or communication breakdown within the key actors in the judiciary, to a great extent limits the ability of the justice agencies in fulfilling their constitutional obligations on public participation. The mainstream media is known for framing issues in which they chose

what to report, the choice of words to use, and the prominence given to a story. Although the number of media reports about the judiciary is considerable, the mainstream media do not engage in meaningful debates to enhance public participation in the administration of justice (Park, 2012). In addition, media coverage of judiciary is biased towards certain issues leaving out the wider context that can inform public participation in the administration of justice in Kenya.

Faced with the reality of the biasness in media reporting, the Kenya judiciary at times resorts to advertise in mass media as a way of enhancing public participation. But this too may not effectively achieve the threshold of public participation in the administration of justice, as Ghai (2016) confirms that advertising to promote public participation may work to some disadvantage due to the weakness of the paid medium since to get one's money worth, one feels obliged to cram in so many words that the reader needs to strain through. Although mass media has wider reach, it cannot be assumed that it is the best method to promote public participation in judicial matters. Ngondi (2006) argues that majority of the poor who constitute a big percentage of the public cannot depend on mass communication to participate in judicial matters.

This is the reason why new strategies to enhance public participation in the administration of justice in Kenya is required. It is at this point that this study becomes necessary, as it introduces a new technologically mediated approach in engaging the public through social media. This argument is supported by evidence that majority of Kenyans are increasingly becoming active on social media, and their opinions on the administration of justice can be obtained just by a click of a button. According to PEW research (2015), about 88 percent of Kenyan adults aged 18 years and above are on social media while statistics from the Communication Authority of Kenya (2016) show that 25 million Kenyans are connected to internet either through their computers or mobile phones. In addition, according to Google's Consumer Barometer (2016), 58 percent of internet users in Kenya (14,500,000) are active on social media. This justifies why the judiciary should explore new ways of harnessing public participation in the administration of justice in Kenya, especially through social media which has ready public to engage.

#### **4.20 Testing the Theories**

This research relied on two key theories namely, democratic participant theory and Connectivism theory respectively. In the first theory, democratic participant theory of mass communication is focused mainly on elitist and hegemony paradigm. In this theory the reality is that participation is through representation. In Kenya, the people can exercise their sovereign power either directly or through representation. In a democratic process, people freely elect their representatives that ought to represent their will. Such representative mechanism shows that some elite in the political position represent their electorates in deliberations and decision making. The risk of this theory is that, it is not always true that such elected representatives do represent the will of the people.

Connectivism theory is related to the allegory of the “small village” or globalization theory. The internet has rendered the world small communication villages of citizens connected to the World Wide Web and are communicating. The risk in this theory is that people tend not to know their communication partners. In the process they lose connection with their local realities such as fundamental values and principles. In such globalization there is need for localization in which citizens shall be made to uphold their local values and principles besides the global values and principles.

Social media as means for enhancing public participation the administration of justice plays a role in strengthening other values such as agenda setting and watchdog roles. Let's assume that the public is informed and educated enough to know what to choose in a given society. In such situation, the majority of the masses shall gang up to support one idea against the elite or those in power. The masses can cause change to happen through peaceful demonstrations and picketing to compel the government to act in a certain way without using the representatives.

The theory of this research shows that in a democratic system there must be public participation in matters concerning the public. It is in this theory that this research upholds that social media platforms, if put in proper context and use can generate the desired change in society. For instance, if one is a thief and this information is shared through the social media, by assumption, the right thinking and informed citizens may not elect such a person to some level of authority. This is a

sign that the public is informed and formed about values, principles and issues. The main part of the public is aware of what it is looking for and many elected members may lose their positions.

However, in Kenya court officers are not elected by the people. This is to avoid situations that would compromise the integrity of the administration of justice. Judges and magistrates are recruited by the Judicial Service Commission on professional ground. They are not supposed to be influenced by the public or by any other force. It is by doing so that the judiciary defends justice, the rule of law, the constitution and values of the people. The constitution of 2010 has since shelved the powers of the president making the judiciary more powerful and autonomous from political elites.

## **CHAPTER FIVE**

### **SUMMARY, CONCLUSION AND RECOMMENDATIONS**

#### **5.0 Overview**

This chapter presents a summary of the entire research project based on the introduction, literature review, research design and methodology, and the findings as presented through analysis of primary and secondary data. It also presents conclusions and recommendations arrived at based on the study findings.

#### **5.1 Summary**

This research study was anchored in the Constitution of Kenya 2010 which guarantees public participation in the affairs of state organs, the judiciary being one of them. Although there has been media coverage of judicial proceedings including live broadcast of court proceedings, the study identified a problem of the judiciary's inefficiency to fully engage the public to seek their participation in matters relating to administration of justice in Kenya. To bridge this gap, this study sought to investigate how social media could play a role in enhancing public participation in the justice system in Kenya, through the assumption that if public participation is about receiving and giving information and given that the youth are the main users of social media; then it would be necessary for the judiciary to consider social media as a platform for promoting public participation in the administration of justice in Kenya.

The study reviewed several literatures as guided by two theories; the Democratic Participant Theory of Mass Communication and the Connectivism Theory all of which justify the claim that mass media (social media included) can offer a platform to share and receive ideas between different groups. The literature review went further to define, show the correlation and link between the different variables being social media, public participation, and the administration of justice. The study also established why the public, being the consumers of judiciary activities, need to participate in the administration of justice. Through literature review, the study established a conflict of interest of how judges, magistrates and other judicial officers can be active on social media discussing with their contacts matters relating to administration of justice while keeping the cardinal rule of judicial independence.

To achieve the study objectives and answer the research questions, the study used a mixed method of both quantitative and qualitative approaches to collect data and gather information. The study was conducted within Nairobi County with participants drawn from the Central Business District, Milimani Law Court and the Supreme Court of Kenya. Data was collected through secondary review of literature and primary data collection through questionnaires and scheduled interviews. The study used a sample population of 100 participants of which 70 were drawn from members of the public and 30 judiciary staff. The participants were then selected through random sampling and clustering, in which all members had a chance to participate. After collecting data, the information was analyzed through classification, coding, editing, use of frequency distribution tables and graphical data presentation to arrive at the following conclusion.

As stated before, data was collected from 70 members of the public and 30 judicial staff and presented in terms of gender, age, education level, court level and position held in court to show that the study was all inclusive and presented a true reflection of the findings from consumers of the justice system in Kenya.

On public participation, the study found out that majority of members of the public at 57.2% has interest in the administration of justice and regularly follow proceedings from the judiciary. Conversely, 60% of judiciary staff agreed that there is need for public participation in the administration of justice and that they regularly engage the public through different ways. This was supported by further findings of 78% of the entire study population agreeing that the judiciary should always engage members of the public in the administration of justice in Kenya. Despite the high number of people having keen interest in the administration of justice in Kenya, the study found out that only 21% have ever participated in any public discussion relating to administration of justice in Kenya which justifies the need for other alternative means and forums to increase the number of people participating in judicial affairs.

The fulcrum of the study was to investigate the role of social media in enhancing public participation in the administration of justice in Kenya. To achieve this, the study formulated research objectives and questions to test whether social media could play a role in enhancing public participation in the justice system in Kenya; whether judiciary can use social media as one of the policies for public

participation; and whether judges, magistrates and other judicial officers could actively participate in social media discussions without compromising their independence. These were aimed at bridging the problem of inefficient public participation in the administration of justice in Kenya under the hypothesis that since the youth are the majority users of social media and given that public participation is about receiving and giving information; then social media can provide a better platform for the judiciary to receive and give information on matters affecting the public.

The research objectives and questions were adequately answered by the findings that majority of members of the public especially the youth aged 18-30 years prefer and would fully participate in the administration of justice in Kenya through social media. This was supported by the finding of 60% from the entire study population that judicial staff including judges and magistrates should actively engage members of the public on social media in matters relating to administration of justice in Kenya. In addition, 67% of members of the public stated that they will participate in any discussion relating to administration of justice in Kenya, which justifies the hypothesis that social media can enhance public participation in the administration of justice in Kenya. The study further dispelled fears that interaction between judges; magistrates and members of the public will interfere with judicial independence with 66% of all respondents drawn from both the public and judiciary saying it will not interfere with judicial independence. To cap it all, 83% of the entire study population believe that social media is an important channel to enhance public participation in the administration of justice in Kenya. There was however a majority agreement of 80% of the respondents that the judiciary should develop policies to guide social media interactions between its staff and members of the public. These explanations answer the study questions and fill the gap of inefficient public participation in the administration of justice in Kenya.



## **5.2 Conclusion**

In conclusion, there is no doubt to believe that social media plays a major role in disseminating law, principles and values to the society. Due to the fact that the majority of the Kenya's populations are the youth between the age of 18-30 and social media is the most popular and frequently used means of communication, it would be great if the judicial authority can make effective use of some credible social media platforms to reach-out to as many people as possible.

The findings of this research shows that Kenya is of age to adopt clear policies on social media and to ensure that such new media are used as the most powerful means of communication in the modern age and international best practice. As has been discussed in details, such policies should design clear judicial applications that can run on the social media platforms and reach as many users as possible. The Judicial Transformation Framework designed by the judiciary is one of the best examples that would give this idea its concrete configuration and application. It shall inform the public of what are the policies ideas, values, and principles that the judiciary stands for. It is in this line of argument that we can infer the integrity of the administration of justice system and build more public confidence towards the judiciary. Members of the public shall not only realize that there is just but shall be enabled to see that justice is done.

Therefore, the recognition of social media by the judicial officers should not be prohibitive and out of bound. Judges, magistrates and other judicial officers should interact with the public through the social media. Such would entail receiving questions and providing accurate answers to queries from the public. By doing so, it shall not only make the judiciary accountable to the public but also educate it towards the works of the justice system.

Finally, the study has established that social media platforms, being one of the participatory means of communication, form one of the essential components of public participation in the administration of justice in Kenya.

### **5.3 Recommendations**

After considering the findings in line with the research objectives, this study makes the following comprehensive recommendations:

- 1) The judiciary should adopt and use social media as a channel of communicating and receiving views from the public as a way of enhancing public participation in the administration of justice in Kenya.
- 2) The judiciary should develop policies and guidelines for social media use among judiciary staff to guide their interaction with members of the public.
- 3) As a way of making the public feel closer to justice, more judges and magistrates should consider being active on social media and actively engage their contacts/followers to improve public understanding of the justice system.
- 4) The study found out that the judiciary prefers mainstream media as a way of reaching out the public but as the finding shows, majority of the youth prefer social media. The judiciary should therefore explore ways of diversifying their modes of communication to include social media.
- 5) The public have a desire to be part of the justice system, the judiciary should therefore seize the opportunity to constantly engage the public to promote public confidence in the institution.
- 6) Apart from individual judges, magistrates and other judicial staff having their social media accounts, the judiciary should also have social media accounts for each of the court categories and have administrators to respond to public comments.
- 7) The study recommends further research on the mode of engagements that should be adopted by the judiciary and areas in which they should seek public opinion through social media. Such mode of engagement shall include developing appropriate applications that can easily run in the social media platforms such as smart phones.

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## APPENDICES

### ANNEXURE I (Research questionnaire for judiciary staff)

#### RESEARCH QUESTIONNAIRE

Dear Respondent,

#### **REF: DATA COLLECTION**

I am a student at the University of Nairobi, pursuing a Masters of Arts in Communication Studies (Development Communication Option). I am collecting data for my research project titled THE ROLE OF SOCIAL MEDIA IN ENHANCING PUBLIC PARTICIPATION IN THE ADMINISTRATION OF JUSTICE IN KENYA in partial fulfillment of the Master's Degree.

I am therefore humbly requesting you to provide answers to these questions honestly and precisely as possible. Please note that the information you give is purely for academic purposes and will be treated with utmost confidentiality.

Thank you for your consent to voluntarily participate in this study.

Ogemba Paul Ochieng

Student, MA- Communication Studies

#### **Section A: General Information**

1. Gender

Male

Female

2. Age

20-29

30-39

40-49

50-59

60 and above



3. Which court level do you work for?

- Supreme Court
- Court of Appeal
- High Court
- Magistrates Court

4. What is your position at the courts?

- Judge
- Magistrate
- Paralegal staff

**Section B: Public Participation in the Administration of Justice in Kenya**

1. Does the judiciary engage the public to enhance their participation in the administration of justice in Kenya?

- Yes
- No

2. If your answer in question (1) above is yes, explain how the judiciary has been engaging the public to enhance their participation in the administration of justice in Kenya

.....

.....

.....

.....

3. How regularly does the judiciary engage the public to promote public participation in the administration of justice?

- Regularly
- Less regularly
- Not at all

4. How strongly do you agree or disagree with the following statement?: The judiciary should always engage members of the public in the administration of justice in Kenya.

Strongly agree

Agree

I don't know

Disagree

Strongly disagree

**Section C: Use of Social Media in the Administration of Justice in Kenya**

1. What media channel do you prefer most for the judiciary to engage the public?

Newspaper

Television

Radio

Social Media

Other (Specify).....

2. Are you on social media?

Yes

No

3. If your answer in (2) above is yes, how active are you on social media?

Very active

Less active

Not active

4. Do you engage your social media contacts in matters relating to administration of justice in Kenya?

Yes

No

5. If your answer in (4) above is yes, explain how it affects your role as a judicial officer.

.....  
.....  
.....  
.....

6. Do you think judicial officers including judges and magistrates should actively engage the public on social media?

Yes

No

Why?.....  
.....  
.....  
.....  
.....

7. Do you believe that social media is an important channel to enhance public participation in the administration of justice in Kenya?

Yes

No

Why?.....  
.....  
.....  
.....

8. Do you think interacting with the public on social media will interfere with your independence as a judicial officer?

Yes

No

Give reasons

.....  
.....  
.....

9. How strongly do you agree or disagree with the following statement: The adoption and use of social media by the judiciary will enhance public participation in the administration of justice in Kenya.

Strongly agree

Agree

Don't know

Disagree

Strongly disagree

10. How strongly do you agree or disagree with the following statement: Judiciary should develop a policy for social media use to enhance public participation in the administration of justice in Kenya.

Strongly agree

Agree

Don't know

Disagree

Strongly disagree

Thank you for your feedback and participation in this study.

## **ANNEXURE II (Research questionnaire for members of the public)**

### **RESEARCH QUESTIONNAIRE**

Dear Respondent

#### **REF: DATA COLLECTION**

I am a student at the University of Nairobi, pursuing a Masters of Arts in Communication Studies (Development Communication Option). I am collecting data for my research project titled THE ROLE OF SOCIAL MEDIA IN ENHANCING PUBLIC PARTICIPATION IN THE ADMINISTRATION OF JUSTICE IN KENYA in partial fulfilment of the Master's Degree.

I am therefore humbly requesting you to provide answers to these questions honestly and precisely as possible. Please note that the information you give is purely for academic purposes and will be treated with utmost confidentiality.

Thank you for your consent to voluntarily participate in this study.

Ogemba Paul Ochieng

Student, MA- Communication Studies

#### **Section A: General Information**

1. Gender
  - Male
  - Female
2. Age
  - 18-25
  - 26-30
  - 31-35
  - 36-40
  - 41 and above
3. Education level
  - Secondary level
  - Tertiary level
  - College level

- Bachelors degree level
- Post-graduate degree level

**Section B: Public Participation in the Administration of Justice in Kenya**

5. How regularly do you follow proceedings from the judiciary?

- Regularly
- Less regularly
- Not at all

6. Which media channel do you prefer most to get information relating to administration of justice in Kenya?

- Newspaper
- Television
- Radio
- Social Media
- Other  
(Specify).....

7. Have you ever participated in any public function relating to the administration of justice in Kenya?

- Yes
- No

8. If your answer in question (3) above is yes, explain your participation.

.....

.....

.....

.....

9. How strongly do you agree or disagree with the following statement?: The judiciary should always engage members of the public in the administration of justice in Kenya.

Strongly agree

Agree

I don't know

Disagree

Strongly disagree

**Section C: Use of Social Media in the Administration of Justice in Kenya**

11. Are you on social media?

Yes

No

12. If your answer in (1) above is yes, how active are you on social media?

Very active

Less active

Not active

13. Have you ever participated in any discussion relating to the administration of justice in Kenya on social media?

Yes

No

14. If your answer in (3) above is yes, explain how you participated in the discussion

.....  
.....

.....  
.....

15. Would you participate in any discussion relating to administration of justice in Kenya through social media?

Yes

No

Give reasons

.....  
.....  
.....

16. Do you think judicial officers including judges and magistrates should actively engage the public on social media?

Yes

No

Give reasons

.....  
.....  
.....

17. Do you think interacting with judges and magistrates on social media will interfere with their independence as judicial officers?

Yes

No

Give reasons

.....  
.....  
.....



18. Do you believe that social media is an important channel to enhance public participation in the administration of justice in Kenya?

Yes

No

Give reasons

.....  
.....

19. How strongly do you agree or disagree with the following statement: The adoption and use of social media by the judiciary will enhance my participation in the administration of justice in Kenya.

Strongly agree

Agree

Don't know

Disagree

Strongly disagree

20. How strongly do you agree or disagree with the following statement: Judiciary should develop a policy for social media use to enhance public participation in the administration of justice in Kenya.

Strongly agree

Agree

Don't know

Disagree

Strongly disagree

Thank you for your feedback and participation in this study.

### APPENDIX III: CERTIFICATE OF FIELDWORK



## UNIVERSITY OF NAIROBI COLLEGE OF HUMANITIES & SOCIAL SCIENCES SCHOOL OF JOURNALISM & MASS COMMUNICATION

Telegram: Journalism Varsity Nairobi  
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Nairobi, GPO  
Kenya

#### REF: CERTIFICATE OF FIELDWORK

This is to certify that all corrections proposed at the Board of Examiners meeting held on 26/05/2017 in respect of M.A/PhD. Project/Thesis Proposal defence have been effected to my/our satisfaction and the project can be allowed to proceed for fieldwork.

Reg. No: KSO/81106/2015

Name: OGEMBA PAUL OCHIENG

Title: THE SOCIAL MEDIA AND PUBLIC PARTICIPATION

IN THE ADMINISTRATION OF JUSTICE IN KENYA

DR. PETER O. ONYOP  
SUPERVISOR

[Signature]  
SIGNATURE

8/17/2017  
DATE

Dr Samuel Siringi  
ASSOCIATE DIRECTOR

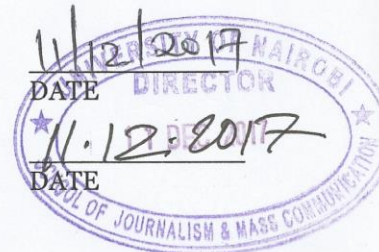
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11/12/2017  
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DIRECTOR

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## APPENDIX IV: THE CERTIFICATE OF ORIGINALITY

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**REF: CERTIFICATE OF CORRECTIONS**

This is to certify that all corrections proposed at the Board of Examiners meeting held on 10/12/2017 in respect of M.A/PhD. Project/Thesis defence have been effected to my/our satisfaction and the project/thesis can be allowed to proceed for binding.

Reg. No: KSO/81106/2015

Name: OGEMBA PAUL OCHIENG

Title: THE SOCIAL MEDIA AND PUBLIC PARTICIPATION

IN THE ADMINISTRATION OF JUSTICE IN KENYA

Dr. Peter Onyango Onyango [Signature] 8/12/2017  
SUPERVISOR SIGNATURE DATE

Dr Samuel Sirinji [Signature] 11/12/2017  
ASSOCIATE DIRECTOR SIGNATURE DATE

Dr. Naleth Nalati [Signature] 11/12/2017  
DIRECTOR SIGNATURE/STAMP DATE

