The provision of legal information to, and needs of, the legal community in Kenya: a study of the Eldoret, Kisumu and Nairobi areas

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THE PROVISION OF LEGAL INFORMATION TO, AND NEEDS OF, THE LEGAL COMMUNITY IN KENYA

A STUDY OF ELDORET, KISUMU AND NAIROBI AREAS

By

Japhet Natandula Otike

A Doctoral Thesis

Submitted in partial fulfilment of the requirements for the award of
Doctor of Philosophy of Loughborough University

December, 1997

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ABSTRACT

THE PROVISION OF LEGAL INFORMATION TO, AND NEEDS OF, THE LEGAL COMMUNITY IN KENYA: A STUDY OF ELDORET, KISUMU AND NAIROBI AREAS

The study investigates the provision of legal information to the legal community in three areas of Kenya, namely, Eldoret, Kisumu and Nairobi. It endeavours to ascertain whether the provision of information in the areas studied is adequate to meet the growing and varying needs of members of the legal community. Data was collected by use of semi-structured interviews and structured observation. Information was collected from members of the legal community in their capacity as users of information, and librarians in their official capacity as providers of information.

The study examines the performance of legal information services in the context of user needs and current library and information service provision. It investigates the information needs and information seeking habits of the legal profession, and examines the problems experienced by users and providers of information.

The research concludes that the provision of legal information is inadequate to meet the needs of the legal profession. The major causes of this situation are inadequate funding from government, and the negative attitude of decision makers in government ministries and organisations towards libraries. It is observed that if this situation is not addressed, it is likely to have a negative effect on legal development.
DEDICATION

This work is dedicated to my family, and all those people who in one way or another, have contributed to our success. The list is so long that it would be futile for us to mention them.
ACKNOWLEDGEMENT

This research work has been completed with the effort and contribution of a number of people and organisations. Without their participation, the work would have remained to a great extent, more wanting.

In this connection, I must express my heartfelt appreciation and sincere thanks to my supervisor Graham Matthews for his total commitment to the success of my programme. His timely advice and inspiration in critical stages of the work made a great difference. I am also thankful to Dr. Cliff McKnight, my research director for his personal involvement, particularly during the final stages of the study.

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I am also indebted to Moi University, Eldoret and, in particular, the Dean, Faculty of Information Sciences for nominating me to undertake this programme, and also, supporting me through the entire period of my study in the UK.

The British Government and, in particular, the Department of Overseas Development Assistance (ODA) deserve a million thanks for funding my doctorate programme at Loughborough. In addition, I would like to express my sincere gratitude to the British Council for administering the award so efficiently. Their timely assistance made my stay in the UK a memorable experience.

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# TABLE OF CONTENTS

Abstract
Dedication
Acknowledgement
Table of contents
List of figures and tables
List of appendices

## CHAPTER 1: INTRODUCTION

1.1 Preamble
1.2 Statement of the problem
1.3 Aims and objectives of the study
1.4 Research questions
1.5 Significance of the study
1.6 Definitions of terms
1.7 Structure of the thesis

## CHAPTER 2: KENYA: THE LEGAL ENVIRONMENT

2.1 Introduction
2.2 The legal profession
2.3 The judicial structure
2.4 Sources of Kenya law
2.5 Literature of Kenya law
LIST OF FIGURES AND TABLES

FIGURES

Figure 2.1 The court structure in Kenya 17

TABLES

Table 5.1 Analysis of the population studied 95
Table 5.2 Analysis of law teachers 97
Table 5.3 Analysis of law students 99
Table 5.4 Numerical distribution of legal practitioners 102
Table 5.5 Geographical distribution of legal practitioners 104
Table 5.6 Details of library staff interviewed 106
Table 6.1 Library funding 112
Table 6.2 Staffing in law libraries 120
Table 6.3 Salary scales for library staff 125
Table 6.4 Basic salary scales for Kenya civil servants 126
Table 6.5 Size of law library collections surveyed 133
Table 6.6A Evaluation of information collections by users 134
Table 6.6B Currency of information collection (periodicals) 135
Table 6.6C Currency of information collection (law books) 136
Table 6.7 Number of users served 140
Table 6.8 Types of enquiries made by users 142
Table 6.9 Satisfaction with library performance 150
Table 7.1 Legal information materials frequently used 172
Table 7.2 The rationale for library use 177
Table 7.3 Use of High Court libraries 184
Table 7.4 Use of grey literature 190
Table 7.5 Non-use of information 194
Table 7.6 Use of information sources 198
Table 7.7 Non-legal information 199
Table 7.8(A) Users’ suggestions for improving information services (lawyers) 203
Table 78(B) Users’ suggestions for improving information services (law students) 204
Table 8.1 Where lawyers find out about new information 227
Table 8.2 Delegation of legal research 234
Table 8.3 Verification of information 238
Table 8.4 Looking up the law 242
Table 8.5 Use of law libraries 245
Table 8.6 Use of other libraries 250
Table 8.7 Sources where users start their research 254
Table 8.8 Information sources users prefer to start with 257
Table 8.9 Pressure of work as a constraint to information seeking 259
Table 8.10 Method used in the identification and retrieval of information 261
Table 9.1 Composition of personal collections 286
Table 9.2 Updating of personal collections 290
Table 9.3 Absence of information affecting work 293
# LIST OF APPENDICES

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix 1</td>
<td>Interview Schedule: Legal Practitioners</td>
<td>365</td>
</tr>
<tr>
<td>Appendix 2</td>
<td>Interview Schedule: Law Teachers</td>
<td>371</td>
</tr>
<tr>
<td>Appendix 3</td>
<td>Interview Schedule: Law Students</td>
<td>377</td>
</tr>
<tr>
<td>Appendix 4</td>
<td>Interview Schedule: Library Staff</td>
<td>381</td>
</tr>
<tr>
<td>Appendix 5</td>
<td>Observation Schedule</td>
<td>386</td>
</tr>
</tbody>
</table>
CHAPTER 1

INTRODUCTION

1.1 PREAMBLE

In common with other professionals, lawyers cannot be divorced from information. Information is the lifeblood of their existence. They need information to enable them to advise a client on an issue of law; to represent a client in court; or to conduct legal transactions. Without access to information, judges and magistrates cannot dispense informed and consistent decisions. A law teacher requires information to teach in an institution of higher learning; to conduct research; and to carry out consultancy. Unlike a scientist, a lawyer has no laboratory equipment and no experiment to conduct. They are highly dependent on the printed words which are produced in all forms of media.

Since legal information materials are expensive and beyond the financial reach of many lawyers, and in particular, those in the third world, law libraries have come to play an important role in legal development. The role of law libraries in the acquisition, organisation and dissemination of information has been recognised by the legal profession. Law libraries are lawyers' laboratories. They are indispensable repositories of tools without which lawyers cannot operate. Lawyers and law libraries are like 'identical Siamese twins,' (Malomo, 1994, p.25) that is, they are inseparable.

The importance of legal information to lawyers is emphasised further by Ademola (1994, p. xvii):

The legal profession is a highly book reading consumption profession. In my household, I observed the difference between members of my family who are in the sciences and medical professions and those who are in the law. The lawyers have no time for any worthwhile recreation, they are always with one case or another. Those who are in other profession can continue to talk to you till midnight or thereafter when they are not wanted in the hospital or
laboratories.

Information does not, however, reach the lawyer from out of the blue. It has to be acquired, organised and, possibly, repackaged and disseminated to reach the lawyer at the appropriate place, at the right time and in the right form. This, makes the need for a law librarian inevitable. The importance of a law librarian is reiterated by Panella (1990, p.10). She observes that the majority of library users are highly educated, intelligent individuals. Their expectations and demands are high. These are not the people who will be satisfied with partial or incorrect answers. Having been trained to think on their feet, to analyse, to challenge and to cross-examine, they can be a difficult group to satisfy. In this regard, Fisher (1986, p.5) observes that maintaining knowledge of developments in the speciality in which the lawyer practises must be of paramount concern and it is in this area that the law librarian can provide tremendous assistance to the practitioner. For such assistance to be provided, however, librarians must see their roles not merely as custodians of information repositories, but as involving the dissemination of newly acquired information.

It is, however, important to note that law librarians are not the only participants in the legal information system. The system has several players. This research will focus only on the information network or system provided by law librarians.

1.2 STATEMENT OF THE PROBLEM

The purpose of choosing this topic as a subject for research emanated from the researcher's experience as librarian of the High Court in Nairobi, Kenya. Throughout the researcher's long service as a law librarian, he came across some instances when cases in law courts had to be postponed; when suspects had to spend longer periods in remand cells; when lawyers representing their clients had to plead for adjournments; when proceedings in civil courts had to be unnecessarily delayed; when legal transactions taking place out of court had to be unnecessarily prolonged simply because of one reason, namely, lack of sufficient information at the correct time.
Since authorities cited in legal proceedings have to be produced and examined in court before a case can proceed, non-availability of a cited reference can prompt the court to postpone the proceedings and thereby delay the dispensing of justice. In the case of criminal proceedings, the affected party or accused may have to spend a considerable period in remand, thus affecting his freedom of movement which is enshrined in the constitution. In the case of civil proceedings, the parties may have to undergo unnecessary expenses in the form of lawyers' fees; travel and accommodation; delayed payments to the plaintiff which may ultimately escalate the cost of the civil suit, etc.

It is therefore hypothesised that one cause of the above problems is the inadequate availability of legal information in the country; that legal information, produced both locally and abroad, is not adequate, and that the limited legal information which is available in the country is not fully accessible to lawyers in need.

The scarcity of legal information in a developing country, such as Kenya, has serious implications for the training of future professionals. Non-availability of adequate and up-to-date information means that training programmes will be based on outdated information sources, resulting in the production of ill-informed professionals who are not in touch with current trends in the legal profession.

In view of the above, the researcher was convinced that there was an urgent need to examine the provision of legal information, and to ascertain whether the existing information is adequate to meet the needs of people in the legal profession.

1.3 **AIMS AND OBJECTIVES OF THE STUDY**

The general aim of this research is to examine information provision to the legal community in Kenya, and to ascertain whether it is adequate to meet the growing needs of that community.
For the purposes of this investigation, the legal community is defined as:

a) Judges of the High Court and Court of Appeal
b) Magistrates
c) Advocates of the High Court
d) State Counsels
e) Law Teachers
f) Law Students

(Please see section 1.6 of this chapter for definitions of some posts mentioned above).

Consequently, other users of legal information such as parliamentarians, police officers, administrative officers in the civil service and students studying law as part of non-legal programmes (such as accountancy, or environmental studies) have been omitted.

The study seeks to realise the following objectives:

a) to investigate information use and needs of members of the legal community surveyed

b) to assess the problems experienced by members of the legal community surveyed in accessing and use of information

c) to determine the extent to which the information needs of the legal community surveyed were adequately met by the existing library and information services

d) to assess the problems experienced by law librarians in the provision of information to members of the legal community surveyed.
1.4 RESEARCH QUESTIONS

The above objectives evoke the following questions, which can be seen as basic to the research study presented in this thesis.

1. For what purposes do members of the legal community surveyed seek information?

2. How do members of the legal community surveyed seek information?

3. How do members of the legal community keep abreast of current developments in law?

4. Are members of the legal community able to access all the information they require to meet their needs?

5. Are law libraries able to satisfy the growing needs of the legal community, and, if not, why not?

6. If the provision of information is inadequate, what effect, if any, does this have on the work of the legal community?

1.5 SIGNIFICANCE OF THE STUDY

No research into any aspect of legal information provision has ever been carried out in Kenya which means that little is known about the information needs and information-seeking habits of legal professionals in the country. Such information as has been contributed on the subject is primarily an expression of authors’ opinions. It was hoped that the present study would provide information based on empirical research.

It was also hoped that the study would be helpful to law librarians in the provision of
legal information to their users. The study should help provide information about the nature of the legal community: the kind of work they do, their research habits, and their information needs. In their capacity as providers of information, law librarians are likely to find this information useful in deciding what kind of information services to provide to their users. In the absence of research data, law librarians in Kenya have tended to base their services purely on the assumed needs of the legal community.

1.6 DEFINITION OF TERMS

Some terms have been used in this work which require clarification. It is important that these be defined at this stage.

Academics/academicians: This term refers to scholars, including law teachers or lecturers. Writers and respondents appear to use these terms interchangeably.

Advocate: An advocate is a term officially used in Kenya to refer to a lawyer. To be an advocate, a person must have qualified as an advocate of the High Court of Kenya in compliance with the Advocate’s Act (Cap. 16), 1992. The two terms advocate and lawyer will be used interchangeably.

Articled clerkship: A term commonly used in the study referring to a method by which lawyers in Kenya obtained legal qualifications without pursuing a law degree. This option was however phased out in 1973.

Clientele: Stands for a group of users. When used in association with law libraries it would refer to users of law libraries or legal information. This term will be used synonymously with legal users.

Common law states: Are states previously administered by Britain that adopted the English common law as a basis for their legal system.
**Half-baked lawyers:** The term is commonly used in Kenya, particularly by lawyers and politicians, to refer to lawyers who are either ill-informed or not adequately prepared for legal practice.

**Information professional:** An information professional in this work refers to a person who holds appropriate qualifications and experience in library and information studies serving in a library or information service.

**Law librarian:** This term refers to a fully qualified librarian working in a law library.

**Law library staff:** This is a general term referring to the staff working in a law library.

**Legal community:** The term has been used frequently to refer to members of the legal profession. This includes legal practitioners, law teachers and students.

**Legal practitioners:** These are lawyers serving variously as judges, magistrates, advocates and state counsels. It denotes professionals practising law.

**Legal professionals:** These are basically members of the legal profession. The term refers to people who have obtained basic law qualifications. Some professionals, such as law teachers or researchers, cannot practise because they have not qualified as advocates of the High Court.

**Legal research:** For the purpose of this study, legal research can be defined as a search carried out by a legal user or library staff to identify appropriate information to be used in the investigation of a legal issue.

**Legal research skills training:** It is a course of instruction carried out by either law librarians or law teachers (or both law librarians and law teachers) in a law school or law library to enable law students or lawyers to develop techniques necessary to effectively use the legal information resources available to them.
**Para-legal:** This term has been used in this study to refer to people serving variously as law clerks, legal assistants, etc. in law firms or other legal organisations. It must be emphasised here that para-legals are not lawyers. Their role is confined to carrying out support tasks for lawyers.

**Participants, respondents and interviewees:** are used severally and synonymously to refer to people who contributed data for research.

**Researcher:** For the purpose of this study, the term "the researcher" will be used to refer to the author of this thesis. This term differs from "legal researcher" which refers to lawyers engaged in research work.

**Trainee lawyers/pupils:** These are law graduates undergoing a period of pupillage in law firms, or legal institutions prior to qualifying as advocates. They assist lawyers in performing a number of legal functions, including legal research, drafting legal documents, and accompanying their masters to court.

**Source of information:** This term is used in the study to refer to an individual, institution, library, or other media where information is obtained.

### 1.7 STRUCTURE OF THE THESIS

This thesis is arranged into ten chapters.

Chapter One: **Introduction.** Discusses the problem to be investigated; the aim and objectives of the study; the research questions and the significance of the research.

Chapter Two: **Kenya: the Legal Environment** provides an overview of the legal system in Kenya. The main features of the system are described.

Chapter Three: **Review of Previous Studies** represents the literature review chapter. It identifies studies carried out in areas related to this study. The review does not
confine itself to studies carried out in Kenya and the developing world, but also covers other parts of the world, with special reference to the Anglophone states.

Chapter Four: **Research Methodology** examines the methods to be used in the collection and analysis of data. It provides a brief account of the research methods available for studies carried out in social sciences in general; and library and information studies in particular. Their advantages and disadvantages with regard to this study are highlighted, and the reasons for the choice of the research methods used in the study are discussed. The population to be studied and the selection of an appropriate sample are discussed.

Chapter Five: **Analysis of the Population Studied** looks at data concerning the respondents who participated in data collection. It analyses the characteristics of the sample population and discusses their significance for the present study.

Chapters Five to Nine comprise the data analysis chapters. Data collected from field research are analysed in these chapters with the aim of throwing light on the objectives of the study.

Chapter Six: **The Effectiveness of Legal Information Services** examines the performance of the law libraries covered in the survey. It ascertains to what extent they have realised the objectives for which they were established. It also evaluates their resources (financial, human and information) and examines their impact on the provision of information services to users.

Chapter Seven: **Information Needs** examines in detail the information needs of a cross-section of members of the legal community. Members of the legal community perform a variety of functions. The differences in their workstyle can exert considerable influence on their information requirements, and this is discussed at length in this chapter.
Chapter Eight: Information-Seeking Behaviour discusses information use by legal users. The legal community, like other professions, displays a certain behavioural pattern when seeking and using information. This chapter provides an analysis of the behaviour of users as they go about seeking and making effective use of information.

Chapter Nine: Accessibility and Availability of Information examines issues pertaining to the accessibility and availability of information to members of the legal community. It highlights the information sources used, together with their composition and upkeep. The use of computers in legal research is discussed, and users' perception about their potential use analysed. This chapter also examines the acquisition of legal information materials and highlights the problems experienced by users in accessing information.

Chapter Ten: Conclusion summarises the results of the study; discusses the findings arising from the research; and makes recommendations for action by law librarians and decision makers. Suggestions for future studies are also made.

Bibliography: Contains a complete bibliographic record of the literature used in the study. This includes both cited and uncited literature.
CHAPTER 2

KENYA: THE LEGAL ENVIRONMENT

2.1 INTRODUCTION

The essence of this chapter is to describe the major features of the legal system in Kenya. An understanding of the legal environment is crucial in the study of legal information provision and needs of the community. The legal profession in Kenya, its development, composition, and qualification will be described. The various methods in place for the study of law and qualification as a legal practitioner will be highlighted. The national legal system will also be described, and the judicial structure will be outlined. This will include the structuring of the courts in the republic starting from the District Magistrates' Courts at the bottom end to the Court of Appeal at the top. It will examine the jurisdiction of the courts in question and the qualification of the office bearers. Other specialist courts, such as the Kadhi's courts and court martial will also be discussed. Efforts will be made to discuss the various sources of Kenyan law. Although the legal system which is based on the western tradition is a fairly recent development compared to those within developed states, within the short period it has been in existence, it has managed to create an adequate grounding in sources of law. This has occurred because the legal system has to operate without much reliance on imported law. However, this was not the case during the early colonial period when the colonial administrators and white settlers relied entirely on the law prevailing in England at the time.

In examining Kenyan law, attempts will be made to highlight the role of the legislature, the customs of the people, and English common law. Since English common law owes part of its existence to the English customs prevailing in the early days, this too, is reflected in Kenyan law in which the tradition and customs of the indigenous people have had a considerable influence on the legal system. However, the influence of English law cannot be under-estimated. Since English law formed the
basis of the rule of law during the early colonial period, many Acts have either been incorporated in the present code of Kenya laws, or have significantly influenced the enactment of the Kenyan law. The influence of common law and the doctrine of equity is not confined to Kenya alone. It has had a great influence on the legal systems in the majority of the English speaking countries of the world (Jackson, 1986). The result has been the existence of some kind of uniformity in the legal systems of the Commonwealth states. The transplantation of the common law system has been a great blessing to Great Britain, and England in particular. Since much of the legal literature published in England has 'persuasive' influence in the Commonwealth states, these states have had to rely on the English publishers for practically all their legal information requirements. This trend is likely to continue until such a time when the majority of the states are able to produce their own materials.

2.2 THE LEGAL PROFESSION

2.2.1 Development

Until Kenya achieved its independence from Britain in 1963, the legal profession was confined to a few people. The profession was dominated by English and Indian lawyers because the majority of the lawyers had trained in England, India and Pakistan. Prior to 1961, people aspiring to qualify as lawyers had to do so outside the East African region preferably in England and India. It was therefore no surprise that, by 1960, Kenya had produced only four indigenous lawyers (Jackson, 1986, p. 385). It was certainly not easy for an African to obtain a legal qualification, as the colonial government of the 1950s did not support or encourage Africans to obtain legal qualifications. Financial reasons alone were sufficient to prevent the average African from pursuing legal training abroad. With the advent of independence between 1961 and 1964, however, this problem was eventually overcome. The first law school was established in Dar-es-Salaam in Tanzania at the newly established University College, Dar-es-Salaam, which was a constituent college of the then University of East Africa, with other campuses in Nairobi, Kenya and Makerere, Uganda. The Faculty of Law
in Dar-es-Salaam therefore became ‘the intellectual Mecca’ of Africa, attracting law students from the entire East African region. It became the foundation of African law practice in Kenya. Today, the major names in legal practice in the country come from Dar-es-Salaam. The majority of this group consider themselves to be in a class of their own.

In order to meet the need for an increased number of legal professionals to take over from departing expatriates, an educational institution, the Kenya School of Law, was established in Nairobi in 1963 to provide for non-degree entry into the legal profession through articled clerkship. With the creation of independent national universities in the region to meet the growing academic needs of the East African states, a law faculty was established at the newly founded University of Nairobi in July, 1970. In 1973, the legal programme at the Kenya School of Law was halted in preference for the degree programme at the University of Nairobi. The Kenya School of Law then assumed a new role. It was re-organised to provide postgraduate training (for law graduates) prior to admission to the roll of advocates, in a similar way to the programmes currently running in the Inns of Court in England for candidates aspiring to qualify as barristers.

In 1974, the Faculty of Law admitted 70 law students; in 1986 the number had risen to 131, while in 1987 (the year of the first double intake - when the government directed public universities in the country to double the annual admission of students into universities) it admitted 274 (Jackson, 1986, p. 396). The number has since stabilised at 150 (1994/95 intake). On the other hand, the Kenya School of Law admits a substantial number of students, at an annual average of 350. Over half of this total emanate from universities outside Kenya. A considerable number come from Indian universities. The Kenya School of Law has had to set up a separate arrangement for these students to cover programmes which their colleagues from the University of Nairobi have experienced.

In addition to the Law Faculty in Nairobi, a second law faculty was established at Moi University in Eldoret in 1995. The faculty started with an initial intake of 45 law students. The programme at Moi University will differ slightly from the one in
Nairobi. It will, for example, incorporate the teaching of information technology as part of the legal programme.

2.2.2 Composition of the Profession

The legal profession generally comprises people who have read and qualified in the legal discipline. In Kenya, it is made up of people who have either obtained a law degree, or lawyers who have qualified through articled clerkship. It should be noted that a number of Kenyans had qualified through articled clerkship in England and in Kenya through the Kenya School of Law before the programme was phased out.

The discipline includes a number of people holding law degrees but not practising qualifications, the majority of which are to be found in academic or training institutions. Some are employed in the civil service as administrative officers, while others are to be found in the provincial administrations. Both the police force and prison service provide ideal opportunities for law graduates. A number of Kenyans who obtained legal qualifications from overseas universities not recognised by the Council for Legal Education (CLE) have taken up administrative and managerial positions in the private and public sectors.

Some lawyers have ended up teaching in university and technical institutions. The Kenya Polytechnic, Kenya Institute of Administration, the Kenya Police College, etc., employ the services of law lecturers. Some academic lawyers have practising certificates, while others do not. The law requires all Kenyans aspiring to practise to undergo pre-entry training at the Kenya School of Law. It does not provide exemption to anybody, not even the highly learned academics such as the law professors. Academics consider it humiliating to undergo a pre-entry training programme at the Kenya School of Law, sharing a class with past students and taking instructions from lawyers who they have previously taught. The majority of young academics prefer to complete the legal requirement for enrolment as an advocate before embarking on higher academic programmes. This arrangement has enabled them to practise part time, which has been the envy of their senior colleagues who find themselves
The majority of the legal profession is made up of lawyers or legal practitioners. This is because almost every entrant into the profession, including law students, would like to practise. All legal practitioners are potential members of the Law Society of Kenya, a body established by the Law Society of Kenya Act (Cap. 18) 1980, specifically to maintain and improve the standards of conduct and learning of the legal profession in Kenya. The size of the Kenyan legal profession is still comparatively small, at about 2,000 lawyers.

2.2.3 Qualifications for a Lawyer

Kenya has a unified legal profession, and as a result, there is only one way to qualify as a lawyer or advocate. To be able to qualify as an advocate of the High Court, candidates need to meet the requirements stipulated in sections 11 and 12 of the Advocate’s Act (Cap.16), 1992. These are:

a) the applicant must be a Kenya citizen

b) s/he must hold a law degree obtained from a university in Kenya (or other universities approved by the CLE). Law degrees from most British universities are generally accepted by CLE.

c) the applicant must have successfully completed a pre-entry programme at the Kenya School of Law preceeded by a period of pupillage served under an advocate of not less than five years standing.

d) Other options:

The Advocate’s Act provides a few options for qualified legal practitioners from the Commonwealth. In addition to the Kenya citizenship which is a mandatory requirement;

i) the applicant must have qualified as a barrister in England, Northern Ireland, Republic of Ireland, or a member of the Faculty of Advocates of Scotland, or writer to the Signet or a solicitor in Scotland
ii) A legal practitioner who has the right of audience before any court of unlimited original civil or criminal jurisdiction in any self governing country in the Commonwealth, being a country in which, in the opinion of the Council for Legal Education, an advocate would be entitled by reason of his/her admission as an advocate in Kenya to substantially the same privilege as is conferred by this provision on such a legal practitioner.

Such applicants may be required to sit for certain papers in the examinations for CLE.

On completion of the requirements, the candidate is required to petition the Chief Justice for admission as an advocate of the High Court. Upon successful petition, the candidate is placed on the roll of advocates. A practising certificate is thereafter issued to enable him/her to practise, which is renewable annually.

2.3 **THE JUDICIAL STRUCTURE**

The diagram below illustrates the types of courts available in Kenya. All law courts in Kenya are administered by the Judiciary. Members of the bench are appointed by the Judicial Service Commission. There are four major regular courts in Kenya. These are:

a) District Magistrates Court  
b) Resident Magistrates Court  
c) High Court  
d) Court of Appeal

In addition, the country has two courts performing special functions, namely:

- Courts Martial  
- Kadhi’s Court
a) **District Magistrates Court**

The District Magistrates Courts were established by the Magistrates Courts Act (Cap. 10), 1989. This court operates at the grass-root level in the judicial hierarchy. There are three levels of the court, which are called first, second and third class courts. The level of court is determined by the seniority or jurisdiction of the magistrate holding the office. That is a District Magistrates Court assumes the level of second class if it is presided over by a second class magistrate, and so on. Its jurisdiction is influenced by the jurisdiction accorded a presiding magistrate. The power of a district magistrate
is confined to gazetted geographical areas. Their sentencing powers too, are limited. While a district magistrate of first class (DM I) can impose a maximum term of imprisonment of seven years; and a fine not exceeding KShs. 20,000, a DM III can only impose a maximum prison term of twelve months; and a fine of KShs. 5,000.

From the above, it appears that District Magistrates handle less arduous cases: routine cases that do not call for serious preparation. The majority are traffic and petty criminal offences. In civil cases, much of the work hinges around customary law. District Magistrates Courts of third class (DM III) are occupied by lay magistrates, and recruited from among the para-legals. DM IIs on the other hand, comprise qualified lawyers, because DM II is the entry point for newly qualified lawyers entering the magistracy. DM I is the maximum level that a lay magistrate can advance in the hierarchy. Because DM I and Resident Magistrates (RM) are placed on same level in terms of remuneration, a DM II (professional magistrate) moves direct to the position of a Resident Magistrate on promotion. A lay magistrate cannot assume the position of a resident magistrate and above, as these situations are reserved for professionally qualified lawyers.

b) **Resident Magistrates’ Courts**

The Resident Magistrates’ Court, like the District Magistrates’ Court, was established by the Magistrates’ Court Act (Cap. 10), 1989. The Resident Magistrates’ Court is presided over by an array of magistrates varying from the Resident Magistrate (RM) at the very bottom through the Senior Resident Magistrate (SRM), Principal Magistrate (PM), Senior Principal Magistrate (SPM), to the Chief Magistrate (CM) at the top of the magistracy. There are eight positions of Chief Magistrate in the entire republic. The positions are tenable in Nairobi and major court stations in the country. The position of Chief Magistrate is considered by many as the stepping stone to the office of High Court judge. The jurisdiction of each category of magistrate is clearly stipulated by the law. In criminal cases, they deal with offences varying from simple robbery requiring a few years’ sentence, to robbery with violence which calls for a mandatory death sentence.
All appointments of magistrates are made by the Judicial Service Commission. The Commission is headed by the Chief Justice.

c) The High Court of Kenya
The High Court of Kenya is established by section 60 of the Kenya Constitution. It has its headquarters at the Law Courts in Nairobi, where the majority of the puisne judges (i.e. ordinary High Court judges) are to be found. It maintains High Court stations in Mombasa, Kisumu, Nakuru, Eldoret, Nyeri, Kisii, Kakamega and Machakos. The stations are served by resident judges.

The Constitution provides for the office of the Chief Justice and not less than 30 puisne judges. Both the Chief Justice and the rest of the judges are appointed by the President. Judges can be appointed from the magisterial bench, practising advocates or senior lawyers in the Attorney-General’s Chambers (A-G). Until the mid 1980s, it was fashionable to recruit judges from legal practitioners in the UK, but this practice now appears to have faded away. All judges, with the exception of expatriates, hold permanent positions. They retire at the age of 74, and have security of tenure. They can be removed only upon a finding by a special tribunal on the judge’s inability to perform the functions of his/her office. The High Court has original, as well as appellate jurisdiction in both civil and criminal matters. This means, it decides cases appearing in court for the first time (original), as well those appearing on appeal (appellate) from the subordinate courts.

d) The Court of Appeal for Kenya
The Court of Appeal is the highest appellate court in Kenya. It took over from its predecessor, the Court of Appeal for Eastern Africa, which was abolished in July, 1977. It was established by the Constitution of Kenya (Amendment) Act (Act 13 of 1977) to take over all functions of the earlier court. The court sits in Nairobi, but travels on circuit to principal towns in Kenya to hear appeals emanating from those stations. The court has a total of eight Judges of Appeal.
e) Kadhi’s Court

The Kadhi’s Courts are established by the Kadhi’s Court Act (Cap. 11), 1986 in pursuance of section 66 of the Constitution of Kenya. The Kadhi’s Court is presided over by a kadhi appointed by the Chief Kadhi. The Kadhi presides over cases involving people of Muslim faith. Its activities are strictly limited to:

- determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all parties profess Muslim religion.

The Kadhi’s Court Act does not specify the qualifications and experience that a kadhi must have to perform judicial functions. The major requirement is that he must have qualified as a Muslim *kadhi* in accordance with the Muslim faith. The Kadhi Court has the unofficial status of a magistrate’s court. Appeals from the court are made to the High Court.

The establishment of the judiciary provides for 8 judges of appeal, 30 puisne judges, 8 chief magistrates, 14 senior principal magistrates, 15 principal magistrates, 52 senior resident magistrates, 60 resident magistrates, 88 district magistrates, 1 chief kadhi and 8 kadhis. The Chief Justice in addition to chairing the Judicial Service Commission, heads the Court of Appeal and chairs CLE.

2.4 SOURCES OF KENYA LAW

For the purpose of this discussion, the sources of Kenya law refers to the various ways in which Kenyan law came into being, or the source from which it originated. The source of Kenya law is clearly stipulated in section 3 of the Judicature Act (Cap. 8), 1988 of the *Laws of Kenya* as:

i) the Constitution of Kenya

ii) legislation. This includes:

- Acts of Parliament
specific Acts of Parliament of the United Kingdom as stipulated in the schedule to the Judicature Act and the law of Contract Act (Cap. 23)

- one Act of Parliament of India

- the English Acts of general application in force in England on 12th August 1897

iii) subsidiary legislation

iv) the substance of the common law, the doctrines of equity and the statutes of general application in force in England on 12th August 1897.

v) African customary law

2.4.1 The Constitution of Kenya

Kenya has one single written Constitution. The constitution describes all the organs of the government, determines their composition, powers and duties, and sets out certain fundamental rights and freedoms of the individual. The Kenya Constitution is supreme, and takes precedence over other laws, both written and unwritten. The present Constitution has 127 sections, touching on all key issues. It provides for the legislature, executive and judiciary, which work independently of each other.

The first Constitution for independent Kenya was enacted on 12th December 1963. It was subsequently amended on 12th December 1964 to provide for a republican status. The last major amendment was made in 1969. Since then, only routine amendments have been carried out in line with changing trends in the Kenya society.

2.4.2 Legislation

Legislation refers to all laws passed by the Parliament. The Parliament is the supreme law-making organ of the nation.

a) Statutes

The Parliament enacts laws, which come out in the form of Acts of Parliament. These
Acts are often referred to as statutes. Since the law is dynamic, the statutes are amended from time to time by Acts of Parliament in line with general opinion.

b) Subsidiary Legislation
Subsidiary legislation is often described as ‘delegated legislation’. These codes of laws are passed by other bodies on behalf of the Parliament, in pursuance with a stipulated Act of Parliament. Such laws are ‘subsidiary’ to the main laws or statutes. Since subsidiary legislation is legion and highly intricate, the function is ‘delegated’ to the specialist organisation responsible for its administration. However, the minister responsible for the organisation at the time is mandated by law to approve the new legislation.

c) English and Indian Acts
The English and Indian Acts were introduced in Kenya by the colonial administration. Kenya, like the present Commonwealth states, was colonised by Great Britain from as early as 1895 up until 1963. When the English settlers arrived in Kenya, they brought with them the English legal system as it existed in England at the time. The lawyers, magistrates, and judges who served in the colonial period found English law appropriate. The colonial government employed the services of Indian lawyers on the bench, many of whom had trained and practised in India. These lawyers found it appropriate to consult the Indian Acts. It is therefore not surprising that at independence in 1963, the Kenya legal system had a mixture of laws with English, Indian and African background. The English and Indian laws have since formed the basis for Kenya law.

Section 3(1)(b) of the Judicature Act (cap. 8), 1988 singles out specific English Acts as comprising part of the Kenya legislation. They are:

- the Admiralty Offences (Colonial) Act, 1849
- the Evidence Act, 1851, sections 7 and 11
- the Foreign Tribunals Evidence Act, 1856
- the Evidence by Commission Act, 1859
- the British Law Ascertainment Act, 1859
- the Admiralty Offences (Colonial) Act 1860
- the Conveyancing (Scotland) Act, 1874, section 51
- the Evidence by Commission Act 1885

The only specific Indian Act currently applicable in Kenya is the Indian Transfer of Property Act, 1882. Most of the early Indian Acts have since been replaced by Kenyan Acts.

d) The Common Law and the Doctrine of Equity

Section 3(1)(c) of the Judicature Act (Cap. 8), 1988 considers 'the English common law, the doctrines of equity and the statutes of general application' in force in England on 12th August 1897, and the procedure and practice observed in courts of justice in England at that time as a source of Kenya law. This therefore implies that the English statutes of 'general application' passed before 12th August, 1897, are law in Kenya, unless any such statute has been repealed by a Kenyan statute, or a later English statute made applicable in Kenya. It is worth noting that the English statute of 'general application' on the reception date, if repealed by a later English statute, would still be law in Kenya. All English statutes applicable in Kenya take precedence over the common law and equity. However the English statutes of general application are applicable in Kenya only as long as the circumstances in Kenya and the inhabitants of Kenya permit and subject to such qualifications as those circumstances may render necessary. In pursuance of the above, J. A. Hancox, in Mariga and Mariga (Civil Appeal No. 66 of 1982) observed:

Kenya is and has been for several years, developing its own common law, parallel one might say, to that of England, in areas covered by its written laws. As part of this process the courts frequently pay attention to English decisions, and regard them as of high persuasive authority. It must never the less not be lost sight of the fact that it is the Kenya common law that is being developed and that there is no compulsion to apply present English decisions.
e) **African Customary Law**

Section 3(2) of the Judicature Act, 1988 makes provision for customary law as a source of Kenya law. This law is, however, applicable only in civil cases where one or more of the parties are subject to it. Since there is no one uniform code of customary law applicable across the entire republic, its application tends to vary from one ethnic group to another, as each has its own code of laws. Customary law is mainly confined to land held under customary tenure, marriage, divorce, dowry, maintenance, matters affecting status, succession, claims in contract and tort.

The problem with the application of customary law is that very little information has been documented, which has meant that many of the facts are oral. Therefore, when disputes arise requiring the application of the law, a lot of time and money is spent soliciting oral evidence.

### 2.5 LITERATURE OF KENYA LAW

The literature of Kenya law closely follows the pattern of sources previously discussed.

a) **The Constitution**

As stated earlier, the Constitution is described in one complete volume. The last edition of the Constitution was published in 1968, although since that time, it has undergone subsequent amendments to bring it up to date. In addition to appearing as an independent publication, the Constitution has been incorporated as a chapter in volume I of *Laws of Kenya*.

b) **The statutes**

The Kenya legislation is contained in a set of the *Laws of Kenya*. The current fourth edition of the *Laws of Kenya* was published in 1962, in a total of 13 volumes. The set grows from time to time, depending on the amount of legislation passed by the Parliament. The set carries loose chapters which can be inserted or withdrawn at will. At the end of a calendar year, all Acts passed by Parliament including the amendment
Acts are bound, to provide a complete record of laws passed in one year. These volumes or publications are known as the annual supplements. The statutes and subsidiary legislation are bound separately. Annual supplements are extremely valuable in the amendment or updating of legislation. They are the basis upon which a lawyer or library staff carries out the updating of statutes in the chambers or library.

The Government Printer in Nairobi publishes the *Laws of Kenya*, as well as the *Kenya Gazette*. The *Kenya Gazette* is a weekly publication which comes out on Fridays, and acts as an official government newspaper. The primary function of the Gazette is to provide appropriate publicity for government programmes. The information comes out in the form of notices, appointments, nominations, etc. In addition to Gazette notices, the Gazette carries legislative supplements, in the form of bills, Acts of Parliament and subsidiary legislation. Subscribers in Nairobi are able to obtain their copies the same day if they arrange to collect them from the Government Press, although it may take between one and two weeks to reach up country subscribers. A number of legal information users considers it important to be kept up to date with the Gazette weekly, because of the latest information it carries. Generally, a subscriber is entitled to practically all supplements of the legislation, however, with the spiralling cost of publishing such materials, some bulky supplements are now charged extra.

In addition to Kenyan legislation, a considerable amount of reference is made to English legislation. English law has considerable persuasive effect in Kenya, so much so, that although English law may not be directly applicable in most areas, it can be used to clarify situations where the law in Kenya is silent.

In this regard, a number of outstanding publications carrying English law are used by lawyers and students in Kenya. Among these are *Halsbury's Statutes of England*, *Current Law*, *Law Reports Statutes*, and *the Public General Acts*. For subsidiary legislation, reference is generally made to *Halsbury's Statutory Instruments*.
c) Case Law

Case law is a body of law comprising decisions of judges laying down legal principles derived from the circumstances of the particular disputes coming before them. The use of case law in legal practice leads to what lawyers describe as 'the doctrine of judicial precedent'. This doctrine has been described as follows:

This doctrine, in its simplest form means that when a judge comes to try a case, s/he must always look back to see how previous judges have dealt with previous cases (precedents) which have involved similar facts in that branch of law. In looking back in this way, the judge will expect to discover those principles of law which are relevant to the case which s/he has to decide. The decision which s/he makes will thus seek to be consistent with the existing principles in that branch of the law, and may, in its turn, develop those principles a stage further. The doctrine of judicial precedent is also known as 'stare decisis (to stand upon decisions).'

(Eddey, 1992, p.159)

In Kenya, decisions of the Court of Appeal are binding upon the High Court and the subordinate courts. The decisions of the High Court on the other hand, have no effect on the Court of Appeal. To maintain a proper record of volumes of case law, and make them easily accessible to users, the judicial decisions that have the potential to be used as precedents, are selected and published at regular intervals in the form of law reports.

In Kenya, these judgements appear in two forms: reported and unreported cases. Reported cases pertain to judgements that have been published in the law reports, while unreported cases are those that were not selected for publication. Despite their failure to be published, a number of these cases are extremely useful. The failure to be published does not necessarily mean that the judgement is inferior, but simply that the issue it raises might have been covered before. Since it takes a long time to have a judgement published in a local law report (in some instances up to 3 or 4 years), lawyers opt to use unreported cases while they are still in cyclostylled form. The cyclostylled cases are produced by the office of the registrar of the High Court.
Limited copies are produced for circulation to judges, High Court registries in Nairobi, and law court stations in the country. As a result, only a few stations receive them.

Kenya has managed to build up a considerable volume of case laws. These are to be found in a series of law reports: the *East Africa Law Reports*, *Kenya Law Reports*, and *Kenya Appeal Reports*. As stated earlier, these reports are not up to date, since last volume of the *Kenya Appeal Reports* reflects cases decided in the mid 1980s. Consequently, they cannot be relied upon for issues touching on recent developments in the legal discipline. Where this need arises, lawyers prefer to use the unreported cases or unpublished reports.

In addition to Kenyan case law, a considerable use is made of English case law. This is demonstrated by the considerable number of reports emanating from England. Although not all English case decisions are applicable in Kenya, they do have a considerable influence in determining the course of justice in the country. Among the major English law reports commonly used in Kenya are:

- All England Law Reports
- Law Reports series
- Weekly Law Reports
- Lloyds Law Reports
- The English Reports
- Criminal Appeal Reports

In addition to the main reports, English digests are used to access summaries to important cases decided in English courts. Among the leading titles is the former English and Empire Digest, presently referred to simply as the *Digest*.

**d) Law Journals**

Law journals are an important source of new information. They provide latest reviews of cases determined and legislation passed. Until fairly recently, Kenyan lawyers were able to access a number of serial titles on African law. Among these were:
Despite being academically biased, the journals provided useful information on legal developments. Only the *Journal of African Law* published by the School of Oriental and African Studies (SOAS), University of London is still active. The other two published by the Law Faculties of Nairobi and Dar-es-Salaam universities, respectively, have ceased publication. Only one similar title exists in Kenya presently. This is the *Nairobi Law Monthly Magazine*, published by an opposition activist Gitobu Imanyara. The magazine provides a critical review of legal developments in Kenya, including digests of recent cases decided in the High Court and Court of Appeal. Although the magazine is still in circulation, a number of government departments have withdrawn their subscription, allegedly on account of its continued criticism of the political establishment. Although the discontinuation of the two academic journals could have arisen from diminished funding, it could also have resulted from lessening interest in legal scholarship by academics in East Africa. A number of university scholars have since switched their attention from publishing to legal practice because of the big rewards that emanate from the latter. Much of this has been accomplished at the expense of teaching and research.

In view of the lack of live local journals, attention has been diverted to foreign journals. Among the journals used in Kenya are:

- Law Quarterly Review
- Cambridge Law Journal
- Modern Law Review
- New Law Journal
- Solicitors' Journal

The first three are academic journals while the last two are practitioners' titles. In addition, a few specialist journals are referred to. These are:
e) Newspapers
Newspapers play a significant role in highlighting important judgements made in the country. Occasionally, they publish digests of important cases. Kenya has three dailies, namely:

- Daily Nation
- East African Standard
- Kenya Times

In addition to the local papers, use is made of English papers which provide summaries of important cases decided in superior courts in England. Among the leading papers in this regard is *The Times* (London).

f) Law Books
Law books comprise an important secondary source of information. Although law books cannot be fully used as a current awareness tool because of the length of time they take to be published, they are extremely crucial in reviewing the principles and practice of the law. Unfortunately, very few law books are published in Kenya. The reason is the lack of indigenous authors who are patriotic enough to publish locally. The few authors venturing in this direction opt to publish with overseas firms. The lack of adequate demand for locally published materials has been another factor. The few titles published locally comprise simple law books that are likely to appeal to other disciplines. On account of this, many of the legal titles used by the academics and practitioners have had to be imported, and British publishers have been the major beneficiaries. The two leading law publishers in Britain, Butterworths and Sweet & Maxwell, have made substantial inroads into the Kenyan legal book market.

g) Reference Materials
Reference materials are extremely important in a law library. They exist to provide
answers to queries and clarify some issues of law. Among these are the legal
cyclopaedias. The most notable are:

- Encyclopaedia of forms and precedents
- Halsbury’s Laws of England
- Atkin’s Encyclopaedia of court forms

Legal dictionaries are crucial in any legal establishment. Among the popular titles are:

- Stroud’s Judicial dictionary
- Jowitt’s Dictionary of English law
- The Oxford companion to law
- Mozley and Whiteley’s law dictionary

The above comprise some basic titles that any law collection in Kenya should have. Although the majority of the titles mentioned above are published essentially for the English market, the similarity of the law between the two states makes them an ideal collection for use in Kenya.
CHAPTER 3

REVIEW OF PREVIOUS STUDIES

3.1 INTRODUCTION

So far only one study has been carried out in Kenya in the area of legal information. This study was carried out by Uche (1981). The researcher spent some months in Kenya collecting data from lawyers, academics, and library staff heading law libraries in and around Nairobi. The study investigated the legal information structure in Kenya. It surveyed the sources of legal information, its users, and providers. The results of her research are discussed elsewhere in this thesis. This therefore indicates that the area of legal information and, in particular, user studies is wide open for research. As a result of the absence of studies on Kenya, much of the literature that will be reviewed in this chapter will pertain to studies carried out elsewhere.

3.2 INFORMATION NEEDS

3.2.1 Definition

According to Wilson (1981, p.173), information needs are created as a result of an individual's performance of a social role. In performing a given role an individual will primarily experience affective (or emotional) and cognitive needs. These needs require information to satisfy them. In an attempt to satisfy these needs, the individual sets in motion what Wilson describes as 'the information seeking acts'.

Devadason and Lingam (1997, p.41) argue that lack of self-sufficiency constitutes information needs. These information needs represent gaps in the current knowledge of the user. Apart from the expressed or articulated needs, there are unexpected needs of which the user is aware but does not like to express. The final category of need, is the
3.2.2 User Studies

There have been several studies of users, information needs and information seeking behaviour (Wilson, 1981), (Rhode, 1986), (Slater, 1989), (Itoga, 1992), (Ellis, et al, 1993), (Kuhlthau, 1993). The number of publications produced in this area is quite substantial. The terms 'user studies,' 'information needs' and 'information seeking behaviour' are associated with a diverse range of problem areas, from studies that provide a basis for system development or improvement, through bibliometrics, user education, readability of texts, studies of reading and readership, to information retrieval and design (Wilson, 1994).

The study of user studies and information needs in particular, poses a number of problems. One of these relates to the difficulty of comparing findings or results from related studies. Difficulties arise from differences in methodologies used, levels of socio-economic development, and other geographic considerations as noted by Dervin and Nilan (1986). Despite the above factors, the studies are an important contribution to research and will no doubt continue to play a significant role in pushing back the frontiers of knowledge.

It appears that very limited studies have been carried out to compare the information needs of lawyers and their counterparts in other professions. One such study was carried out in New Zealand (Stephen-Smith, 1989), which examined the needs of accountants, consulting engineers and pharmacists in addition to lawyers. Contrary to assumptions, it was found that the four professions had a lot in common. The printed word was still considered the most important source of information. Many respondents also sought advice from their colleagues, and when work colleagues were not around, they often telephoned friends and acquaintances in their profession for assistance. These respondents resorted to documents only when their colleagues were unable to help. Most had personal dormant need of which the user is unaware.
collections of information materials they resorted to when the need arose. The only exception in the above study is that the four groups did not delegate information searching as stated below:

Another commonly held belief was shown to be a myth. It is generally believed that, within the professions, partners and senior staff delegate information searching to more junior staff. The four groups did not conform to this pattern. This is understandable in small firms, but it was surprising to find that, even in larger firms, accountants and lawyers delegate very little. It suggests that partners and senior staff take responsibility to many topics, and do not delegate as a matter of priority.

(Stephen-Smith, 1989, p. 13)

It was found that lawyers and consulting engineers used libraries most, but only when they were reasonably sure that they would find there the information they wanted. This suggests that their use of libraries is limited by their perception of the library’s service.

Another interesting study is Operation Compulex (1972). The study was conducted in Canada by the Federal Department of Justice and the Canadian Bar Association. The aim of the study was ‘to determine if the practising lawyer was experiencing difficulties with the current manual approach to dealing with information and if so, how developments in information technology might be of assistance to her/him.’ The survey concentrated on lawyers in private practice because they represented the bulk of the legal profession; their needs covered a wider spectrum, and their information facilities were considered generally inferior to those of judges, professors and lawyers in the government. The survey came up with interesting findings. The law firms in Canada vary in size from small firms with 1-3 lawyers to large firms with over 10 lawyers. Lawyers are extremely busy people and as a result, ‘time is an important commodity’. Most lawyers spend an average of 10 hours a day at their practice. The lawyer’s legal research is influenced by: the lawyer’s time constraint; her/him attitude to research; the relation of the client to the law firm affecting the amount of research attention; and the amount of research conducted is determined by
the knowledge, degree of specialisation and experience of the lawyer. The survey revealed
that the lawyer still preferred to use the printed book as opposed to electronic media and
that a number of them did not use electronic media at all. Many lawyers preferred the
traditional system of searching the law. 'The historical, cumbersome and detailed nature
of legal research activity is seen by many lawyers as almost a necessary manifestation of
their professional identity. This conservative outlook results in a wait and see attitude with
regard to anything new, whether it is automatic type writers or a new legal research
system.' Since this survey was conducted over 25 years ago, there is a need to review this
study to ascertain whether most of the findings are still valid. Despite its limitation, the
Canadian study is relevant in Kenya as the legal profession in Kenya is heavily dependent
on the print media. Furthermore, in the absence of the electronic media, information users
still use the traditional system of searching the law.

Newton (1981) endeavoured to assess the needs of different categories of the legal
professions of the Commonwealth states of the Caribbean. The participants comprised
academic lawyers, legal officers in government departments, judges, magistrates, and
lawyers in private practice. The survey posed a serious challenge to the researcher, who
had to collect data from no less than eleven states of the Caribbean. The Caribbean survey
differed from Operation Complex (1972) in two ways. While the Caribbean survey
covered practically all members of the legal profession, Operation Compulex set out to
determine whether the practising lawyer was experiencing difficulties with current manual
systems for dealing with information, and if so, how developments in information
technology could be exploited in this regard. The only noted similarity is the data
collection instrument. Both used questionnaires for data collection. The Caribbean survey
had two weaknesses: Although law students were singled out as major users of law
libraries in the region, they were excluded from the survey for no apparent reason and the
data collected from the survey was not analysed, therefore, the results of the research
have not been disseminated to the public. Despite this shortcoming, the study highlights
the kind of problems that researchers experience collecting data from members of the
legal community in developing countries. Prospective researchers in legal user studies are
likely to find the discussion on research methodology particularly interesting.

The survey carried out in the Philippines (Feliciano, 1984) provided a more comprehensive picture about the information needs and habits of the legal profession. Unlike the studies above, this survey involved both information users that is, the lawyers and information providers, that is, law librarians from legal institutions, government departments, law firms and corporations. A total of 40 out of 91 law libraries were surveyed, resulting in some interesting findings. It was found that although scanning current legal journals was the best method of keeping abreast of the law, lawyers did not use this option because the materials were inaccessible. It was found that the most popular reason for seeking information is 'to provide specific information needed for work in progress' and the majority of lawyers learn of new publications or developments in their field of interest through the library's acquisition list. The survey also found that library services can be more effective to end users if there are up-to-date indexes and more trained personnel. The problem with this survey is that it does not give details of the number and composition of the lawyers who participated in the survey. Furthermore, it did not involve the law students who are major users of legal information. On account of these problems, this study cannot be said to be truly representative of the legal community.

A study carried out by Cheatle (1992) on information needs and use by solicitors is worthy of discussion. Unlike the previous studies, Cheatle used observation as the main data collection method, supplemented by questionnaires and informal interviews. The study was conducted in the form of a case study based on a medium sized law firm in London. Despite this limitation in coverage, the results produced theories which are suitable for general application. The results from the survey suggested 'an apparent research lull in the senior assistant category of user. This lull is intensified in solicitors in the 2-5 years qualified bracket.' It is felt that this could be prompted by 'the ratio between experience of the staff member and the level of difficulty of the work undertaken.' The study suggests that junior staff or solicitors seek information frequently
simply because they are still on 'the learning curve' and that once adequate experience and expertise have been acquired, the habit fades away fast. This finding concurs with studies carried out elsewhere (e.g. Kidd, 1981). However, what appears to be a unique discovery is the finding that the more senior staff became involved in complex matters, and the more heavily they were involved in the supervision of junior staff, the more likely they were to seek information support. The probable explanation could be that since senior staff are treading in an area that is alien to them, a need arises to consult information sources in that area. Responsibilities over staff and finances, for instance, may compel the lawyer or partner to consult information on personnel management and financial control to be able to do the job well. In addition, the study found that much of the communication conducted by solicitors was oral, and that they are more involved with 'active law' as opposed to theory. Solicitors require accurate, objective and complete information from both clients and legal information sources. Furthermore, they rely on personal information collections and personal contacts. They are skilled users of information, but reluctant and generally unskilled users of information technology. This observation concurs with the Canadian study (Operation Compulex, 1972). It must, however, be stated here that in view of the limited coverage of Cheatle’s study, its results cannot be considered conclusive.

Law libraries, and, particularly, academic law libraries are at times called upon to serve the general public in addition to the academic community. As a result of the above, Braithwaite (1993) observes that an academic law library should cater for the needs of the immediate neighbourhood. Using her law library at Wayne State University in the US as a case study, she discusses the types of services offered to the public. Among the people served by the law library were school children, who made frequent use of the reference collection, particularly, the legal encyclopaedias; lawyers (attorneys), and the pro-se patrons (people who opt to conduct their own cases in court). In addition, the library admits students and staff from other academic institutions. While Braithwaite (1993, p.42) encourages the public to use the library’s resources, she cautions colleagues about providing advice or interpreting the law to the public however knowledgeable or
confident they may be. The provision of legal information services to members of the general public (including non-members of the law library) has been extensively covered in studies conducted by Allen (1976), Dunn (1990) and Sekula (1979). These have found that the use of the law libraries, and in particular, academic law libraries by the public poses a serious challenge to law librarians. The first challenge is how to serve the increasing population of secondary school students who visit the library to consult legal materials and the second challenge is how to meet the specific needs of young patrons, and particularly, children, the majority of whom are unable to digest traditional legal information materials. While law libraries in the developed states can comfortably meet the needs of the general public, one wonders whether this practice can be sustained in the third world where the available resources are not adequate to meet the needs of their immediate users. Several arguments on the subject why a law library should serve the public have been advanced (Sekula, 1979, p.622). It is argued that people working in law libraries are better able to deal with legal materials and that the needs of the user do not require sophisticated legal research techniques.

3.3 LEGAL RESEARCH

3.3.1 Definition

There appears to be no clear cut definition for the term ‘legal research,’ which is described differently by various lawyers, depending on their perception of the term (Tunkel, 1992) (Clinch, 1994) (Stott, 1997). In support of this observation, Clinch (1992, p.201) argues that ‘the Marre Report’ (1988), despite its importance in starting the legal research revolution in the teaching of law in England and Wales, did not provide definition for legal research. The Canadian study defined it as ‘the collection of relevant authoritative materials (legislation and judicial decisions) required by the lawyer as his/her foundation for good advice’ (Operation Compulex, 1972, p.9). On the other hand, Kidd (1978) described it as ‘the time consuming study of primary sources by specialist solicitors or the bar during the consideration of a complex legal problem.’ He
differentiates it from the phrase 'looking up the law' which he regards very much as a task more closely associated with checking a point or an issue.

Wren and Wren (1988, p.8) consider legal research more as a process. They describe it as the process through which researchers decide how and when to draw on law books in developing comprehensive strategies for researching legal problems. Sprowl (1981) describes legal research as a repeated circle in which the researcher already possesses a knowledge of the facts and a partial understanding of the relevant law. Having retrieved certain information selected by his use of a particular index terms the researcher analyses the results of this first circle, and then repeats the process, testing out different hypotheses or retrieving different information linked to different sets of retrieval terms during each successive research circle. The process is continued until either time runs out or so little useful information is finally recovered.

3.3.2 Types of Legal Research

Hutchison (1994, p. 139) categorises legal research into three groups:

- Updating Research: research that a lawyer requires to keep him/herself up to date.

- Operational Research: research that a lawyer undertakes on problems or legal issues arising from working on a current file.

- Original Research: research undertaken when exploring a new area of law.

3.3.3 Determinants of Legal Research

According to Operation Compulex (1972, p.7), the amount of legal research carried out is influenced by:
The area or areas of law practised. Some areas take more time while others take less. For instance, less practised work take more research time than the more practised area.

The researchers's time constraint. This seriously reduces the time allocated to research.

The attitude to legal research. Some lawyers dislike carrying out legal research, while others enjoy it.

The importance of the client to the lawyer. The lawyer is prepared to put in more time on the case of a valued client compared to others.

The degree of complexity of a client's problem. The more complex the problem, the more research time will be required.

The size of the law firm. Larger firms attract more business and are also more accessible to law students. Some have comprehensive law libraries.

The conservative attitude of lawyers confines them to law books, making them less adaptable to changes.

3.3.4 Benefits of Legal Research

Smith (1976, p.11) summarises the benefits of legal research as follows. It:

- keeps the law vital and relevant via continuing analysis

- gives rise to procedural reforms, which are the result of the critical evaluation of the process of the law
provides direct assistance to people engaged in the practice of the law but also contributes to the understanding of broad social and political conditions.

Smith (1976) does, however, consider the benefits from the academic's point of view which are likely to differ from those advocated by a practitioner.

### 3.3.5 Delegation of Legal Research

Since legal research is considered a time consuming and tedious job, some lawyers opt to delegate it to others, however, the extent of delegation necessarily varies from one lawyer to another. Academic lawyers, such as university professors, rarely delegate the work to other people (Smith, 1976) while for a practising lawyer it is a common practice (Eisenschitz and Walsh, 1995). Lloyd (1986, p.50) identifies two reasons for delegation:

- Legal research requires more time and freedom from interruption. Within the structure of the legal profession, junior lawyers and trainee solicitors are more likely to be able to cope with this work than senior lawyers or partners.

- The high cost of senior lawyers' time makes the use of junior staff cost effective.

Legal research can be delegated to a number of people; from counsel (Kidd, 1978) to staff in specialist departments, and law students (Operation Compulex, 1972). Students serve as a cheap source of labour and a number of large law firms have access to them. Others opt to carry out their own research, such as barristers in the UK (Eisenschitz and Walsh, 1995), and judges who, like legal academics, do not tend to delegate legal research (Hainsworth, 1992, p.212).

### 3.3.6 Legal Research Habits

It appears from the studies examined that legal research tends to vary from one lawyer...
to another. A practising lawyer carries out research in response to the needs of a particular client and usually considers cases within a restricted jurisdiction, for example, the law of a single state, while a law professor conducts legal research with a view to advancing the theory and practice of his discipline (Smith, 1976, p. 11). In support of this finding, Slade and Gray (1984) in a study carried out in the UK, state that academics are not focused on the affairs of any client or individual, but are directed toward the edification of students, the legal profession, or even the society at large by exposition, analysis, and critique of the law. In a similar study conducted in Germany, Goedan (1986) found that academics spent more time on information search than practising lawyers. Academics preferred to rely on their own documentation as opposed to practitioners who relied heavily on prefabricated systems.

With regard to the place where most research is carried out, lawyers appear to do much of this work in their office, with the aid of law books from a library. 'Rare is the lawyer who conducts most of his research at home.' (Cheatle, 1992). Regarding the time of the day when research is carried out, with the exception of especially involved research, most is carried out when time becomes available rather than at a specific time of the day. Much of it is done in the evenings. Davis and Browning (1980) in a study conducted in the UK, argue that lawyers, and in particular, the barristers, only a minority are engaged in research work. Many lawyers relied on their experience and knowledge they already had. This finding is supported by Leckie (1996, p.175). She observes that lawyers with greater experience are likely to draw on their own professional knowledge to a greater extent, or refer the case to a colleague, thus eliminating the need for certain kinds of legal research. On the use of information technology in information retrieval, many lawyers preferred to delegate it to the library staff. Lawyers considered the use of databases a time consuming job. The academic community, however, made extensive use of law databases. The reason could be the enormous literature that members of the community consult in the course of their work (Houghton, 1985, p.168).
Legal research can be effectively and economically managed if lawyers are knowledgeable about the relevant skills. In this regard, Axelroth (1985, p.129) observes:

If a student fails to cite a major study relevant to his or her term paper topic, the result may be a low grade on the paper, or in the course. If a lawyer fails to research a case properly, the result may be a lost case, a client unjustly penalised and in some instances, a malpractice suit.

Legal research skills instruction or training has a number of benefits. Among these are:

- It enables a student to carry out independent legal research. The student gains both knowledge of the law and competency in a number of skills in the practice (Clinch, 1993, p. 137).

- It brings down the cost of legal research and ultimately, the overall cost of running the firm because of the less time spent searching for information both manual and electronic (Axelroth, 1985, p.131).

- It enables the young lawyer or graduate to cope with changes in the quantity, type and format of information materials found in law libraries.

### 3.3.8 Types of Legal Research Skills Programmes

With regard to the programmes offered in law schools, the practice appears to vary from one school to another; and from state to state. For instance, in the UK, the programme may comprise a basic introduction to the law library, instruction in basic research (e.g. to obtain understanding of legal citation abbreviations, use of the citator) and instruction either without an exercise or with an unmarked or self assessed exercise (Clinch, 1993, p.138). Such a programme can be organised and executed either entirely by the law
librarian, or can be a partnership of the law school and the law library staff as it is in Australia (Thew, 1994, p.138). In the US, for instance, the timing of the programme is likely to vary markedly from one semester or term, to the entire course of the postgraduate programme (Berring and Heuvel, 1989, p.442).

3.3.9 Reasons for Complacency

Despite the importance of legal research skills training in legal development, law schools and students do not appear to take the programme seriously. Some researchers accredit this to the continued reliance on library staff for assistance. ‘Summer clerks are accustomed to 'canned' materials at the law school when they are assigned a writing project. They come to the firms believing that it is someone else’s job to pull all the necessary information together for them’ (Howland, 1990, p.388). Lack of cooperation and support from the law school has been a serious obstacle to legal research skills training. In this regard, it was observed:

Law schools simply have been unwilling to accord reasonable status, compensation, and time to legal research training. Regular faculty members cannot teach legal research course, and when they do decide to teach one, the results are almost invariably disastrous. Most of faculty members cannot teach legal research because they do not understand it themselves. If compelled to teach, they rebel.

(Berring and Heuvel, 1989, p.438)

Thew (1994, p.129) considers lack of motivation on the part of both law school and law library staff to be a serious hindrance to effective legal research skills training programmes in Australia. He challenges authorities to address this crucial issue.

3.3.10 Proposals for Improvement

Staheli (1994) suggests three solutions for improving legal research skills instructions:
the need to emphasize the importance of competent legal research skills to the participants

- allocation of adequate time to legal research instruction

- making legal research training compulsory by marked assignments, etc.

Clinch (1993, p.140) observes that the only way to improve the programme in the UK is 'through a radical alteration in the way in which the law is taught.'

3.4 INFORMATION SEEKING BEHAVIOUR

There appears to be no precise definition of information seeking behaviour. On one hand, Chen (1982, p.6) describes it as the paths pursued by individuals in an attempt to resolve an information need, and on the other hand, Sattar (1984) considers it to be synonymous with information gathering habits. Mchombu (1994, p.9) considers information seeking behaviour as strategies employed by individuals to acquire information; including selection of sources and channels to meet their need, and preference for messages on particular subjects.

3.4.1 How lawyers find out new information

Lawyers have many ways of accessing new information, one of which is through colleagues. For instance, it has been found in Australia that solicitors in small firms chiefly rely on consulting colleagues (Reynolds, 1994, p.135). In addition, in a study carried out in Scotland, colleagues were cited as an important means of acquiring new information (Kidd, 1978, p.128). The study observed that solicitors kept up to date through conversations and discussions with other solicitors inside and outside the law firm. The solicitors constituted themselves into 'invisible colleges', thus permitting these exchanges of information to take place.
In addition to the above, lawyers were kept informed through the circulation of periodicals, current awareness broadsheets, and inter-departmental memoranda. The extent of this service is greatly determined by the size of the firm (Kidd, 1978, p.127). Kidd found that solicitors in Scotland were kept informed by attending lectures, seminars, and weekend study programmes organised by local professional bodies.

3.4.2 Purpose for Seeking Information

According to Cohen (1969, p. 184) a lawyer seeks information for two main purposes. Firstly, he/she seeks information to determine the position of the law on a given subject, in other words, how the court will act if the problem before him is litigated. Secondly, the lawyer may seek authorities and arguments to support an already determined position to be able to persuade someone of what the law should be, which law should be applied, and how the law should be applied. Seeking authorities appears to be a fairly popular reason for information use. This observation is supported by a study conducted in Malaya (Osman, 1987, p.13).

3.4.3 Information Use by Legal Professionals

a) Judges

Judges are appointed from different legal backgrounds in terms of education and experience. Despite this, they are supposed to perform the same function, namely, to determine the facts of the law, and apply them to situations presented in their courtroom; and render fair and just decisions. According to Re (1990, p. 8), the role of judges in the administration of justice is not confined to making decisions, but they must also set forth the reasons for their decisions. ‘The judicial opinion is a reasoned explanation of the decision of the court.’

Marvell (1978) studied the use of information in the court environment in the US. He argues that appellate judges (judges of appeal) cannot make decisions without information
support, and that the quality of the decisions made by judges depends to a great extent
on the amount, accuracy and relevancy of information used. Judges depended on the
'adversary system' for the bulk of their information, much of which is disseminated in
the form of briefs, records, and oral arguments. The bar therefore plays an important role
in the administration of justice. Marvell (1978, p.87) further observes that judges
supplement information given by lawyers with independent research done by law clerks
and staff attorneys, and in rare cases with advice given informally by outside experts.

Hainsworth (1992) investigated the information seeking habits of judges of appeal in the
state of Florida in the US and found that judges do not trust, and are skeptical of,
information provided for them. She found that judges have particular needs with regards
to organising information which are not met by any system, and that the time required
for information seeking is predicated upon the judges' situation regarding disposition of
the case. A judge's years on the bench suggest a pattern of information seeking at oral
argument, and judges seek information independently and individually. His or her distance
from the information source approximates and predicts its relevance, use and value to the
judge. Two resources provided by the state, which if absent, would most affect the
judges' information seeking, are clerks and personal library collections. The quality and
depth of information seeking by judges is guided primarily by their internal feelings of
satisfaction towards their resulting opinions. Judges use of computers is affected by the
nature of their job, which involves primarily reading and writing. Judges most prefer and
value information in hard copy, and their information seeking is limited to resources
within the physical confines of the courthouse. A judge's information seeking behaviour
is also affected by time.

b) Lawyers

In her study of lawyers in Scotland, McGavin (1991, p. 129) notes that solicitors and
advocates (barristers in England) are two different kinds of people. While a solicitor is
a member of a local law society, an advocate is a member of the Faculty of Advocates
(the Scottish Bar). The work they do is equally different. While a solicitor represents the interest of a client by following his or her instructions, the advocate has no contractual relationship with his/her client. Therefore, the advocate is independent of his/her client in a way in which a solicitor is not. 'Advocates cannot decline to act for anyone except in very special circumstances...This ensures that every one whose case is unpopular, unattractive or otherwise unwelcome to those in authority, will never the less obtain representation.' This lawyer-client-relationship is also noted in another study carried out in Scotland (Campbell, 1976). An advocate provides advice on complicated issues of law, framing of proceedings and conduct of proceedings both oral and written, and acts as a legal consultant to the solicitor. While the solicitor can represent a client in subordinate courts, the advocate appears in superior courts.

In his study of lawyers in the US, Johnstone (1967) discusses the many functions they have, including advice giving, negotiation, drafting, litigation, investigating facts, and legal research. He observed that, when giving advice, 'a lawyer’s advice is often written, more often oral which may be a product of careful thought or study or just a quick off-the-cuff opinion.'

Lloyd (1986, p. 16) observes that a lawyer’s work involves analysing a set of facts or hypotheses; extrapolating a number of legal issues which are raised by the facts or hypothesis; examining each in turn in the light of applicable principles; noting where the law is clear to the lawyer and noting where it is not; finding an answer if possible to the question where the law is unclear; and carrying action forward as may be appropriate. Such action may involve giving advice, drafting a contract, rendering a judgement, presenting an argument in court, or writing an article for a legal periodical.

In her study of lawyers associated with employment law in England, Gelder (1981) observes that different types of information materials are used by different categories of users. For instance, professionals made more use of statutes and law reports than industrialists, who in turn used specialised journals most. In addition, academic and trade
union researchers used a wider range of textbooks than other researchers. The use of materials is no doubt determined by the kind of work lawyers do, for example, academics are likely to prefer academic and research journals, as opposed to practitioners who are more likely to incline towards statutes and law reports. Most users did not delegate legal research. The most used collection of information concerned unfair dismissal, followed by that covering redundancy, which reflects the amount of work transacted by respondents in the two areas. These are certainly the most contested areas.

Vale (1989) researched the level of information seeking by lawyers, and the relationship between the characteristics of information structure, the mode and channels of message delivery, and the information seeking behaviour of lawyers in their work. Vale asked the question, ‘specifically to what extent do the characteristics of print and online delivery of the same message content affect the use of these media?’ Three factors were found to influence the amount of information seeking:

- the cost of the individual’s time has a negative effect on the amount of information sought
- the cost of using the media (i.e. print or online) affects its use
- the length of time in the profession has a considerable effect on the amount of information seeking

Vale observes that time cost was significant in determining the amount of information sought and relative use of online information. The cost of using the media was viewed as a resource constraint which has an effect of limiting the number of media used but only to those with moderate information needs. For those with a high level of information need, the cost of using the media is relatively unimportant.

### 3.5 EVALUATION OF LIBRARY SERVICES

Evaluation of the performance of an information service is considered an important aspect
of information management, because it provides feedback on how effectively the library or information service is meeting the objectives for which it was established. Evaluation can be done in a number of ways. One of which is library surveys.

3.5.1 Law Library surveys in the US

Many of the earliest noted surveys in law library performance were carried out in the United States. For example, Ochal (1974) carried out a nationwide survey of County Court libraries in 1973 to assess the performance of law libraries 20 years after the publication of the results of the Roalfe law library survey (Roalfe, 1953). The survey covered considerable areas such as financial support, book collection (adequacy, content and condition), staff, service, furniture and equipment, etc. Unfortunately, Ochal's survey did not assess the use of resources. Much effort was placed on the recording of numbers of available resources and services without taking into account the quality of services provided, and feedback from users was not solicited. Ochal's survey was followed in 1990 by another nationwide study of State, Court and County law libraries carried out by Fraley (1991). Fraley confined her survey to assessing library, financial and staff resources, and presents raw data without any analysis. Again, the assessment of the effectiveness of library services was ignored.

Fraley's survey (1991) marked the end of nationwide surveys in the US. Foust (1980) conducted a survey of Pennsylvania county law libraries, whose purpose was to develop an instrument to survey county law library collections; staff and physical plant; to design a survey process; and to determine how well Pennsylvania county law libraries met various proposed standards. Foust developed standards for the measurement of library performance, and evaluated libraries surveyed on the basis of those standards. The results revealed that less than half of the libraries surveyed met the minimum standards. In an attempt to improve the performance of all libraries in the state, it was proposed that a law library network be established, so that larger libraries could assist the smaller ones in terms of resources and management expertise. This survey also concentrated on
quantitative data to the extent that it did not provide information on the quality of the services provided.

Koslov (1994) surveyed Wisconsin County law libraries in the US to determine their ability to meet the needs of circuit court judges. The performance of the libraries was evaluated to determine the extent to which they were able to meet four basic objectives:

- the libraries should contain a basic collection of current legal materials
- the libraries should be readily accessible
- the libraries should have sufficient financial resources to support objectives 1 and 2
- the libraries should be used by the judiciary and its staff on a regular basis

Among the areas evaluated were administration, access and services; county law budgets; an inventory of materials held; judicial use, and satisfaction.

It was found that, in general, basic needs were met by the county law libraries, and 40% of the judges used the libraries once a month or less. Among the reasons advanced was that case loads did not give them sufficient time for legal research. In addition, they were satisfied with the collection kept at their Chambers. Perhaps the most interesting of all was the view that, in instances where the information required was not available in the local library, 'many judges and law clerks did without'. The use of online information retrieval was minimal, probably due to the lack of training of judges in computer use, and the lack of adequate time to spend on on-line information search due to case loads. In addition, it was found that county law libraries were used equally as much by members of the general public.

Zachert (1989) conducted a thorough review of the American Bar Association (ABA), and the Association of American Library Schools (AALS) standards. She noted that the standards for qualitative evaluation of library services were ambiguous, for instance, the
performance criterion for evaluation of a library collection was expressed simply as 'adequacy,' which she felt to be subjective. In the case of staff performance, the criterion was based on the fact that staff who have 'either a library science or a law degree or both' were duly qualified for the work, however, such credentials do not necessarily guarantee optimum performance. Zachert therefore believes that the ABA and the AALS standards are flawed, and there is a need to sharpen and increase the present qualitative indicators and criteria of service so that they are testable. In determining the performance indicators for individual activities, a number of problems are bound to arise because of the differences in the work styles of different sections, e.g. interlending, cataloguing, reference services, etc. Therefore, one single performance indicator system cannot apply. The adoption of one service, for example, interlending as a surrogate for the whole, cannot work either. Winkworth (1993, p.250) believes that the best single measurement of the quality of service is a user satisfaction survey, the popularity of which is highlighted further in a recent survey carried out in the UK (Garrod and Kinnell, 1996, p.144) which re-stated the importance of user feedback as the most favoured method of assessing the effectiveness of library services.

3.5.2 Law Library Surveys in the United Kingdom

A number of surveys have been carried out to assess the performance of law libraries in the United Kingdom, including one which was conducted by the British and Irish Association of Law Librarians (BIALL) (Bailey, 1993). The purpose of the survey was to provide information on the patterns of services provided by law firm library and information units; to look at the length of time the units have been in existence; to look at the ratios of information staff to users; to ask how the effectiveness of a service is measured; and to determine whether the recession has had an impact on the provision of services. With regard to information services, a number of libraries provided current awareness services (CAS) which included Selective Dissemination of Information (SDI) followed by journal circulation, library bulletins and press cuttings. This demonstrates the importance lawyers attach to keeping abreast of current legal developments. On the
subject of information retrieval, it was found that all libraries surveyed provided an enquiry service, and that 90% of the libraries surveyed carried out legal research. A number of libraries subscribed to external databases including CD-ROM services, with 'Profile' being the most heavily subscribed service (77%), followed by Lexis (74%). A high proportion of libraries offered training in legal research and information skills. Practically all libraries surveyed evaluated their services. Among the methods used were: informal feedback from the users; user surveys; and statistics of usage. The most popular method of evaluating the performance of law library services was found to be statistics of usage.

The Law Society of England (Willis, 1992) carried out a survey on the use of the society’s library by solicitors. The results from the survey revealed that over one-third of the solicitors had visited the library in the previous five years, compared to one-quarter of partners. It was found that most solicitors (97%) preferred to use their own library, while the Law Society library was rated next to their own in importance, suggesting that solicitors used the Law Society’s library only in instances where their own was not able to cater for their needs. It was found that most lawyers consulted colleagues when they were in need of information, which concurs with the studies conducted by Cohen (1969), Kidd (1978) and Reynolds (1994). It was found that few respondents rated CALR as important which indicates that CALR is an expensive service, and that only large firms have the financial ability to subscribe to it.

The Law Society carried out another survey subsequent to the one discussed above (Law Society, 1994). The survey endeavoured to establish how important various services and library attributes were to its users (principally solicitors, trainees and law librarians), as well as how well the services were performed. The survey was an attempt by the law library to live up to its mission: ‘to contribute to the competence of solicitors by continually improving the transfer of legal information.’ The survey was administered by use of a postal questionnaire. ‘The core of the questionnaire was two batteries each consisting of 22 statements, each on the importance of various aspects of library service,
the other rating the library's performance to establish four quadrants (high priority services rated well, high priority services rated badly, etc.).' The purpose here was to identify any mismatch between user requirements and resource allocation, with the intention of rectifying the situation, if a mismatch occurred. The results from the survey suggest that, apart from the library's opening hours, self service photocopying, and Lexis searches, other services of the library performed fairly well. The highest rating was given to the staff, who were acknowledged to be very competent, and the comprehensive English collection and the staffed photocopying service also scored highly.

3.5.3 Other Surveys

The only survey worthy of mention was carried out in Malaya, by the staff of the Law Library, University of Malaya (Osman, 1987). The purpose of the survey was to assess how effective the law library was in meeting the needs of its users. Among the areas investigated were the nature and pattern of library use; the adequacy of the collection; and the relevancy of the library services. Law reports came out as the most heavily used collection (54%), followed by the statutes, while textbooks were singled out as an area that was inadequately stocked. Among the problems expressed were insufficient copies of items particularly, textbooks, followed by the problem of outdated text books and statutes. The problem of outdated textbooks could have resulted from an increased intake of students in conjunction with dwindling library funding, which is likely to have exerted considerable pressure on the limited library resources.

3.6 USE OF COMPUTERS IN LEGAL INFORMATION

It is important to note here that although some studies referred to in this section are slightly dated, they are of particular relevance to Kenya as Kenya has yet to catch up with developments in the developed world.
3.6.1 Introduction

Electronic access to information, first through the online databases of WESTLAW and LEXIS and more recently through CD-ROM and the Internet, has had a dramatic impact on the way legal research is done. The ability to search the databases independently has freed lawyers from reliance on library staff (Cohen and Olson 1996). With regard to the role of computers in the law school environment, Danner (1996, p.44) observed:

Computers and networked computing services create, store, and access information of all sorts, not only in the law library but throughout the law school. The growing reliance on technology, both to accomplish long standing tasks and to do new things, affects the entire law school environment, requiring new investments and raising new issues in law school administration.

Computerisation has yet to be introduced in law libraries in Kenya. Uche (1981, p.115) observed: ‘through my survey of law libraries in Kenya, very little has been said about computerisation. This is because the Kenyan scene is not computerised, desirable as this may be. She believes that, ‘if computers were introduced, the Kenyan lawyer would be more effective, the administration of justice would be quicker, and the entire legal system would benefit.’ Uche (1981, p.127) castigates lawyers who believe that computerisation is unachievable. She argues that people believe that it is expensive and generally unachievable in Africa, but they have no empirical study on which to base this assumption. Without a study, it is not possible to know whether current methods are cheaper than a computerised system, and by what margin. On the contrary, the study may reveal that Kenya should only bother with computerising Kenyan case-law.

3.6.2 Benefits of Using CALR

The use of computers in legal information has a number of advantages, some which have been identified by Karim (1988) and Martin (1991), as follows:

- the computer can scan enormous quantities of text in a short time
computers provide satisfaction through exhaustive scanning of information in the database, including CD-ROM facilities

- the user has access through the terminal in the office, to a wider audience than the printed book

- the ability to check at any time on the ‘updates’ reflecting changes in the law without waiting for formal publication dates of new editions or releases of loose leaf updates

Bing (1984) mentions the advantages of CALR as follows:

- It retrieves relevant documents efficiently

- It assists the user to determine whether the document sought is relevant or not. It is able to do this by inclusion of abstracts which assist to highlight the contents of the documents

Campbell (1988, p.6) observes that the advent of microcomputers has allowed lawyers to acquire computers for office and home use. This, he says, has had a considerable effect on the performance of the legal profession. Gwynne-Smith (1995, p.256) states that the electronic media can store a considerable amount of data, and that the CD-ROM is likely to replace other formats such as hard copy. She adds that a single disk can hold 250,000 A4 pages of text. Already complete textbooks are appearing on CD-ROM, and this development has certainly improved access to legal information. Ebersole considers the increased quality of legal research as the major contribution of CALR:

A major factor that has affected use in general, and has certainly been instrumental in the penetration of the commercial market, is the research quality. There is impressive evidence that the use of CALR systems results in increased quality of legal research. Quality can be measured by several indicators or variables. Certainly,
finding a significant case on point - which helps an attorney [lawyer] win a lawsuit or allows him or her to advise a client that a certain course of action is proper - improves the quality of legal representation. In fact, CALR has improved the quality of legal research in all instances where case authority that was not found through traditional manual methods was found using CALR.

(Ebersole, 1980, p. 143)

Another major advantage of CALR over the printed media is the speed at which the system is able to access latest judicial decisions. For instance, recently decided cases frequently appear within the LEXIS and WESTLAW databases before they appear in print (Sprowl, 1981, p.152). In addition, computer networks are increasingly used as a medium for the exchange of information. E-mail provides easy communication between information users allowing them to exchange new information and ideas of common interest. As networking proceeds, e-mails also provide links to larger networks and opportunities for lawyers to explore and develop network discussion groups on topics of legal interest (Danner, 1996, p. 46).

3.6.3 Some Observation About CALR

Despite the benefits that accrue from using computers in legal information, a section of the legal profession is skeptical about their worth. A study by the SCL (1979) indicated that lawyers, particularly, barristers were pessimistic about the use of computers. This conservative attitude towards computers is also noted by Myers (1978, p.165). Ebersole (1980, p.129) observed that the vast majority of American lawyers do not use computerised legal research system in their practice, and that any changes that have occurred, which will probably result from commercially available systems, do not represent a major transformation in the profession. 'The effect has been revolutionary.' In Germany, it was found that only the academic lawyers used computers frequently (Goedan, 1986). Karim (1988, p.111) argues that the non-use of computers by lawyers in the UK is due to their close association with the print media: 'Law has been and is still a book bound profession. Hence the strong attachment to printed reference sources.' This
observation is upheld in studies conducted by Andrews (1993) and Walsh (1994).

3.6.4 Limitation of CALR

Andrews (1993) argues that the practical limits of the computer as a research tool relate to the fact that much useful research information has not yet been established within the database of the computer. Computerised case collections do not go back far enough to cover all cases handed down, and some research materials are not computerised. It can prove time wasting to an experienced researcher who has never used CALR. In this regard, Sprowl (1981, p.154) observes that the computer should not be considered as a last resort when the available manual research tools have been unable to solve a problem. The computer, like all other available research tools, should be regarded as one of the tools in the researcher’s kit. Sprowl believes that a researcher should first define the problem and then look for a retrieval tool rather than deciding on the retrieval tool, before identifying the problem.

According to Lloyd (1986, p. 139), factors such as the physical availability and ease of use present barriers to using databases. When deciding which source of information to use to find the answer to a question, the convenience of accessing the information is a major factor. The reason is that the legal database is nearly always less accessible than the lawyer’s personal library. It is unlikely, therefore, that the legal database will be used in preference to the personal library, unless the personal library does not contain the required information. It is also argued that some databases are difficult to use. The difficulties range from the employment of highly codified interrogation languages to, complex and unstable connection procedures. This observation is upheld by Houghton (1985, p.168) and Sibbald 1990).

Despite the growing importance of the CD-ROM as a storage medium, it has its own problems. The contents of a CD-ROM are by definition fixed and cannot be updated without a completely new CD being issued. CD-ROMs are therefore not particularly
suitable for storing data that is subject to rapid change (Gwynne-Smith, 1995, p.257).

3.7 **AVAILABILITY OF INFORMATION**

Lewis-Ruttley (1992, p.121) observes that law libraries are part of the practising and academic lawyer's tools of the trade, yet access to current legal books and journals, whether training or information professional events, presents a major problem for the legal profession in most developing countries. Legal information is an important support system upon which a country's legal services and education rely, if they are to be effective. For developing countries, the difficulties comprise not only the supply of legal information, but also storage, that is, libraries and library access.

3.7.1 **Acquisition**

On the subject of library acquisition, Jegede (1976, p.72) argues that the techniques for procuring legal materials are no different from the conventional ones used in most libraries. While current materials may be acquired on the regular market by the traditional method of ordering materials title by title, the procurement of older and rare books is bound to present some problems. Three methods are singled out for the procurement of information materials, namely, direct purchase or subscription, exchanges, and gifts or donations.

Idungikan (1990) observes that, for any acquisition programme to be effective, the librarian must have a thorough knowledge of the aims and objectives of the parent organisation the library is serving, since the success of the library depends largely on how it meets the information needs of the organisation. In addition, successful collection development programmes and, in particular acquisitions, depends greatly on effective acquisition policies. This being the case, Anyakoha (1979, p.28) argues that the librarian needs to draw up an acquisition policy to guide the library in the procurement of information materials. 'It can serve as a firm basis for rejecting unneeded gifts,' he
observes. This view is upheld by Idungikan (1990).

3.7.2 Types of Materials Acquired

Jegede (1976) argues that the utility value of a law library depends primarily on the quantity and quality of its collection, organisation, and accessibility to its users. For instance, a research library should endeavour to acquire both current and old materials. The policy governing acquisition of materials should clearly define areas where the library should focus its attention, since a complete coverage of all subjects on different parts of the world is impossible.

Jegede states that any law library worth its salt must procure both legal and non-legal materials. She observes:

> acquisition of non-legal materials is not new in a functional law library-both academic and private law libraries. Librarian of a practising firm of lawyers buys basic volumes in engineering, accounting, medicine, etc. for practising lawyers who require some knowledge of the subjects in order to handle the cases with competence.
>

(Jegede, 1976, p.79)

Both Jegede (1976) and Idungikan (1990) are opposed to the idea of using the library committee for book selection. It is felt that this practice leads to bureaucracy, and that a librarian with adequate training and experience in law librarianship is adequate.

3.7.3 Local Publication of Legal Literature

Jegede (1993, p.149) argues that the publication of local titles is important because it enables law students to understand their law. However she notes that many of the legal text books used locally are published in the UK, even though they are written by Nigerians. The same applies to law reports. However not every African state appears to

3.7.4 Acquisition Problems

a) Inadequate Funding
African libraries including law libraries, experience considerable problems in the procurement of information materials, often caused by the scarcity of funding. In Nigeria, for instance, Idungikan (1990) observes, ‘there have been serious cases of inadequate funding of law collections in universities, and most university authorities do not adhere strictly to the 5% prescription advocated by the Parry Committee of 1967.’ Consequently, only paltry sums are expended on sustaining existing legal collections. Okewusi (1979, p.125) argues that some law libraries in Nigeria do not have their own votes, but instead draw their funds from the central vote shared with other departments. Lack of support from administrators, the majority of whom are not lawyers was singled out by Okewusi (1979) as a major cause for diminished funding of law libraries in government service. Many administrators do not consider the procurement of legal information materials as important. In Kenya Uche (1981, p.131) observed that funds for the purchase of law books were seriously inadequate, affecting book purchases and periodicals subscriptions.

b) Lack of Indigenous Publishing Industry
Absence of an effective publishing industry has been a major problem in developing countries, including Kenya. This problem results from lack of adequate infrastructure in the economy to support the development of indigenous publishing activities; and the consequent lack of an organised book trade. As Ombu (1977, p.85) observes, even where some form of organised publishing exists, the field is heavily dominated by foreign concerns. The majority of these are branches of multinational companies, whose main interest is the publication of school texts - an area where the financial returns are exceptionally high. Much of the publishing is done in America and Europe.
Jegede (1993, p.151) blames the scarcity of locally produced materials on the Nigerian practice of publishing abroad. She observes that this practice is encouraged by the insistence by Nigerian universities for foreign published literature as a requirement for promotion:

"...the point is further strengthened by Nigerian Universities policy of 'publish or perish' as the yardstick of promotion within the university system. Even articles published in foreign legal periodicals enjoy more recognition among the academicians than the ones published in local periodicals."

(Jegede, 1993, p. 151)

The few existing local publishers are more concerned with the publication of school texts, where returns are assured. None are interested in the publication of highly specialised literature, including legal titles, on account of limited local demand. In Nigeria, for instance, Jegede (1993, p.152) notes that local publishers are not committed, and find it difficult to specialise and remain competitive. Ombu (1977, p. 86) observes that the low level of local book production inevitably makes developing countries largely dependent on book imports from advanced countries which means that libraries have to battle with the ever increasing prices of imported texts.

c) Dependence on Foreign Suppliers.
Dependence on overseas suppliers creates additional problems, namely, considerable delay in getting the materials required owing to vast distances. The second hurdle is the problem of payment in foreign currency. It is estimated that over 90% of books and other reading materials used in Kenya are imported, mainly from the UK, US and India (Njuguna, 1984). For instance, according to the Book Trade Yearbook, 1995, British book exports to Kenya in 1994 amounted to UK£2,180,000, while in 1993, it totalled UK£3,280,000.
d) The Problem with Local Book Suppliers

Local book suppliers can play an important role in the acquisition and distribution of information materials. They are, therefore, an important segment in the book trade. Unfortunately, most of the book shops are small, and their capital is meagre. As Jegede (1977, p.232) suggests, some of them have little knowledge of books and the book trade. Their stock is equally limited and they do not offer any discount packages, as compared to overseas suppliers.

e) The Problem of Foreign Exchange

The scarcity of foreign exchange has compelled governments in the third world to enact very stringent laws and regulations requiring licences for imports into the country. As Ombu (1977) argues, the result of this development is that libraries are badly hit because the importation of books is subject to import licence procedures. In Nigeria, Ajayi (1994) observes that the scarcity of foreign exchange has had a considerable effect on the provision of library services to legal practitioners.

f) Problems Arising From Gifts and Donations

Lack of adequate funds and scarcity of foreign exchange compel libraries in the third world to resort to gifts and donations to supplement the meagre collection received by direct purchase or subscription. This option has its own problems. As Ombu (1977, p.91) observes, unsolicited gifts, apart from being a hindrance to the collection development of a particular library, can lead to serious duplication of an existing collection and consequent disposal and or storage problems. Anyakoha (1979) states that while gifts should be accepted, libraries should be cautious of unsolicited gifts. 'Donors give only what they have no space for and expect us to be grateful....these donors believe that we should have only those items they have no space for. Books bearing the discard stamps of other university or public libraries are heaped on us.' As far as the donors are concerned, a developing country should develop with obsolete materials, and not with new ideas. Despite this, Anyakoha notes that on occasion, some out of print and very useful materials have appeared. The above problems are reiterated in studies carried out by

3.8 ATTITUDE TO LAW LIBRARIES AND LAW LIBRARIANS

The law library occupies an important place in the legal profession. It is considered by many as ‘a lawyers’ laboratory.’ However, Small (1990, p.85) in a study of information services in law firms in England, argues that the library and librarian are not accorded a proper status in law firms: ‘This often stems from the business community’s unfamiliarity with and stereo-typed perceptions of libraries and librarians.’ She feels that library staff are treated more as secretarial staff rather than as fee-earners. In support of this view, Miskin (1987a, p.4) adds that librarians in law firms in England are perceived by the lawyer as ‘the little lady with the bun and spectacles handing out the Mills and Boon in the local public library. The lawyer probably believes that the only true professionals are the lawyers and maybe the odd accountant.’ Among the remarks made of law libraries and librarians are the following:

- it is an unnecessary overhead and the money would be better spent elsewhere
- librarians are a drain on the individual partner’s partnership profits; libraries are a waste of money
- the lawyers talked about the library being part of the heart of the firm, but they act like it is in the Appendix

Miskin (1987b) observes that despite this adverse attitude, it is interesting to note that the library is usually included in the tour of inspection of clients around the firm. Some libraries feature in the company’s brochures

3.8.1 Improving the Image of the Library

Small (1990, p.85) argues that the law librarian must understand the aims and objectives of the parent organisation to be able to serve it better. 'He/she must understand the
political and cultural climate of the organisation. He/she must endeavour to understand
the information needs of the people he/she is serving.'

Miskin (1987a, p.4) observes that there is dire need to change the librarian’s image in a
law firm. She states: ‘it is disheartening to attend conferences where speakers emphasise
that we must go out and sell ourselves, be aggressive and market our skills and services,
but there is more than an element of truth in this and we should be fully aware of the
competition we face from other professional groups.’ She believes the best way to market
our profession is through services. ‘We must operate a service that is useful to lawyers.’
Personalised services such as CAS, SDI, etc., are considered to be important publicity
tools. She states, ‘we as librarians must be pro-active rather than reactive. We must
always be a step ahead of our customers, anticipating demands.’

Wootton (1996, p.81) believes that improving the image of the law firm library involves
aggressive marketing practices. The measures proposed include involving the lawyers in
the running of the library; attending practice group sessions, offering training sessions in
legal research skills to trainee solicitors and instituting effective communication policies.
Logan, (1976, p.40) in her contribution on academic law libraries, considers formal
committee meetings, formal contacts with individuals, participation of users in the running
of the library and out of hours activities as ideal media for publicity. In support of the
library committee, Logan feels that the role of the librarian on the library committee
should be to report on library work, to initiate discussions on new developments or policy
changes, and to consider any suggestion that is made and advise on its desirability or
feasibility. With regard to out of hours activities such as legal dinners, attendance at
moots, etc., Logan, (1976, p.41) argues: ‘if the librarian’s face and name are well known
to a wide circle of readers, it boosts the library’s image and the status of its staff.’

64
3.9 CONCLUSION

In this chapter, an attempt has been made to discuss previous studies related to the themes of this thesis. It is interesting to note that a number of the studies examined in the area of user needs pertain to the information needs and seeking habits of lawyers, and to some extent, of judges. In other words, much research effort appears to have been directed towards the needs of legal practitioners, yet legal practitioners comprise only a section of the legal profession.

The needs of law students (both undergraduates and postgraduates) and, to some extent, trainee lawyers do not appear to have been addressed. There appears to be no specific reason why researchers have tended to ignore this area, although it is the area that poses the least difficulties to a researcher. As noted in the study of the lawyers in the Caribbean (Newton, 1981), the researcher experienced considerable problems accessing legal practitioners. This shows that legal practitioners are among the most difficult people with whom to make contact. On the contrary, law students are approachable, and furthermore, make up the majority of the legal academic community.

Another forgotten group is made up of the academic community. So far, no serious research has been carried out to determine the information needs of the various categories of the academic community such as scholars and law teachers, etc. Apart from some limited coverage in the 1970s (Smith, 1976), very little has been attempted in this direction recently. Academics, particularly those in the developed world, are accessible, and generally willing to participate in such programmes. Until the entire legal profession is covered, it can only be assumed that the studies so far carried out are, to all intents and purposes, partial in nature.

The researcher found the findings from previous studies extremely useful in this research. Firstly, the studies provided the researcher some background information on the subject. The information enabled the researcher to ascertain the number of researches conducted
in the area of legal user studies in general, and Kenya in particular. This information was considered important for the purpose of avoiding duplication of research effort. Secondly, the studies were instrumental in deciding the research method to be used in the research, and designing data collection instruments. Finally, the studies exposed the researcher to the kind of problems experienced by researchers in earlier studies. It is important to note that there is no single study used that can claim full credit for the success of this research as most of them contributed in one way or another to the completion of this work. Since the results of any research programme are determined by the aims and objectives of the study, it is rare to find studies that are identical in all aspects. Because of this, the researcher had to obtain pertinent information from as many sources as possible.
CHAPTER 4

RESEARCH METHODOLOGY

4.1 INTRODUCTION

Research methodology is a crucial aspect of any empirical research programme, and is the factor which, more than any other, determines the course of research. The success or failure of research programmes have more often than not been accredited to the choice of the research method used in collecting and analysing data. The choice of an inappropriate method can have serious implications for a research programme, however good the objectives of the study might be.

This chapter will discuss the methodology used in this research, and will highlight the various methods available for conducting a study of this kind. The methods discussed will be those that pertain to research carried out in the area of social sciences. The methods selected for use in data collection and analysis will be described and the rationale for their selection discussed.

4.2 REVIEW OF EXISTING RESEARCH METHODS

There are two major research methods often used in social sciences in general, and in library and information studies in particular. These are quantitative and qualitative methods. Each method has its own features, strengths and weaknesses. The selection of any or both methods depends greatly on what the researcher intends to realise from his or her research endeavours.
4.2.1 Quantitative Research Method

The quantitative research method deals in mass data, that is, the greater the number of cases studied, the better and the more accurate the study will be (Slater, 1990, p.109). It places much emphasis on counting or measuring and the application of subsequent statistical tests to detect or confirm the trends. On account of its insistence on measuring and testing, it is often referred to as 'the scientific method.' It formulates research problems in the form of testable hypotheses, attempts to identify and measure relationship between variables, and strives to minimise researcher interference. Hypotheses are regarded as propositions that lead to the prediction of facts under given circumstances. The specification of research hypothesis based on an explicit theoretical framework means that general constructs provide the framework for understanding specific observation or cases (Patton, 1990, p. 44). Data collection techniques involve rigorous standardisation, and utilise strategies such as pre-tests to demonstrate validity and reliability (Weingard, 1993, p. 17).

Quantitative research typically uses questionnaires and, to some extent, highly structured interviews as instruments for data collection. Questions are structured with pre-determined replies to facilitate standardised responses, which ensures that respondents provide specific answers to questions. As Slater (1990, p. 107) comments, 'questions and answers occur within controlled frameworks e.g. of fixed options to be selected from pre-supplied answer categories, the most extreme cases being answer - yes or no.' The main advantage of questionnaires is that they can be supplied to a great number of people, and data can be generalised to represent the total population. It saves on both time and cost, with the analysis of data taking a shorter time compared to qualitative methods. Quantitative research is an exceedingly effective method where generalisation of results is required.

Among the principle weaknesses of questionnaires is the low response rate which it attracts. In many cases, the response rate varies between 20% and 40% (Frankfort-Nachmias and Nachmias, 1992, p. 216). The problem of low response rate is noted in studies conducted by Roberts and Clifford (1986, p.172), Koslov (1994, p.722) and
White (1986, p. 43). It is also felt that a questionnaire can elicit useful responses only when it is dealt with by the person to whom it was addressed. However, in busy offices where time is an important consideration, there is a danger that the questionnaire can be passed on to a subordinate staff member, who may not be able to provide the information required. Furthermore, the effectiveness of the questionnaire depends to a great extent on the clarity of the questions, and unclear questions can elicit the wrong responses. It is also likely that respondents will take advantage of the absence of a researcher to provide incorrect information about themselves, particularly where individual behaviour is concerned. Furthermore, quantitative research does not make adequate allowance for the unexpected. The tightly structured questionnaire, the rules of sampling, and tests of significance required by a quantitative approach can form a strait-jacket which prevents an investigator from obtaining results other than those that fall into anticipated categories (Sturges and Chimseu, 1994, p.2).

It must, however, be noted that the quantitative method is not an ineffective method. It is exceedingly effective when the researcher is interested in the breadth of the research, that is, where the number of respondents is crucial. It is an important method in justifying decisions by use of statistics, for instance, the performance of a library can be justified by statistical data through such factors as the number of people served in a year, the book loans issued, etc. However, in instances where the in-depth study of a population or situation is required, quantitative research may not be useful. In this regard, Chalmers argues:

the thrust of the argument is not that questionnaire surveys should be abandoned, but that, they are more limited, less reliable and less able to generate insight than is commonly believed. By capturing and enslaving so many researchers, especially social scientists, they also raise questions of cost effectiveness and opportunity cost, of alternative uses of those same resources and funds. But they remain a legitimate, necessary useful tool, especially for data which are not sensitive and for which distribution and aggregates are not needed.

(Chalmers, 1986, p.58)
4.2.2 Qualitative Research Method

Qualitative research is a method of study that places less emphasis on statistics or counting. It produces descriptive data, comprising people's own written or spoken words and observable behaviour. Patton (1982, p.5) defines qualitative research as the research method consisting of detailed descriptions of situations, events, people, interactions, and observed behaviours, direct quotations from people about their experiences, attitudes, beliefs and thoughts, excerpts or entire passages from documents, correspondence records and case documentation. The raw data are collected by open-ended narrative, and there are no attempts to fit institutional activities or individual experiences into pre-determined, standardised categories, as the response choices of questionnaires or tests do. Qualitative research stresses understanding, emphasizes context, and sees the world from the point of view of the actor. According to Hannabuss (1996, p. 22), actors are the people working in organisations and doing particular jobs, who form the respondents or informants, and what they say and do is an important element in qualitative research.

The main instruments for data collection are interviews, observation and document analysis. Since qualitative research emphasizes in-depth study of a situation as opposed to breadth, the research involves fewer respondents compared to quantitative research. According to Slater (1990, p.110), the number of participants in an interview can be as few as 20. She considers a sample of 200 to be exceptionally large for qualitative research. The normal rigorous, statistical rules of sampling or recruiting participants characteristic of quantitative research do not apply here. Participants are invited solely on the basis of the quality and variety of information they can offer. When planning data collection, the researcher generally has no idea of the number of people he/she would interview. The number of participants is determined to a great extent by the information already collected, the cost and the time of conducting interview and, perhaps, the exhaustion on the part of the interviewer.

Unlike quantitative research, qualitative research does not formulate a statement of hypothesis at the beginning of the research, or before the research programme.
Hypothesis is not considered an important consideration in this type of research, but if any hypothesis does arise, then it can only be developed during the course of the research when data collection and/or analysis work have started. 'It (qualitative research) neither determines the cause and effect, nor tests hypothesis or theories that researchers might have about human behaviour' (Fidel, 1993, p.222). This view is also shared by Patton (1990, p.44). In addition, qualitative research does not have an explicit theoretical framework, because of the absence of explicit statements of hypotheses and research theories in the planning stages, which are characteristic of quantitative research.

Qualitative research also has several advantages. It allows in-depth and therefore, detailed study, it produces a wealth of detailed information about a much smaller number of people or cases, and it increases understanding of cases and situations studied whilst reducing generalisation. Open ended responses enable the researcher to understand the world as seen by the respondent. Qualitative research is flexible, accessible, intelligible, and, at its best, highly illuminating with regard to important aspects of human behaviour and belief.

However, qualitative research has some disadvantages. Data collection by interviews and observation takes a considerable time, and if many interviews are to be carried out, the research can prove expensive in terms of both staff and time. Because of the limited number of respondents involved, the results from such programmes cannot be generalised. Qualitative methods such as interviews do not accord respondents the anonymity they deserve, which may lead to a respondent feeling reluctant to comment on sensitive and highly volatile issues. However, the greatest weakness of qualitative methods is researcher bias and subjectivity. Without strict controls characteristic of quantitative methods, data collected from qualitative methods may prove totally unreliable.

4.3 SELECTION OF APPROPRIATE RESEARCH METHODS

The choice of what method the researcher adopts for his study greatly depends on
what the researcher intends to investigate. The purpose of this study was to investigate the provision of legal information to the legal community in Eldoret, Kisumu and Nairobi. In addition, the study endeavoured to ascertain the legal information needs and adequacy of information provision. The data collected comprised views, opinions, experiences, and reactions of people using legal information. Because of the in-depth coverage of this study, it was felt that the most appropriate methods for the study were semi-structured interviews and participant observation.

4.3.1 Semi-Structured Interviews

Semi-structured interviews are made up of a combination of structured and open-ended questions. The structured questions allow the data to be quantified for comparative purposes, while the open ended questions enable the respondent to discuss freely questions raised by the interviewer. In order to allow some amount of control over the interview, the questions intended to elicit specific answers are recorded in interview schedules. These schedules ensure that the respondent has answered all the questions listed for research, and act as check lists. This no doubt ensures some uniformity, thereby rendering the collected data more reliable.

There are some benefits that accrue from using semi-structured interviews in the study of the information needs of the legal community in Kenya. The data required for the study is more descriptive than statistical, where comparison is required, this has been adequately catered for by the limited amount of statistical data collected.

For instance, some participants and, in particular, senior lawyers feel guilty to admit that they do not use libraries or consult information regularly. If a mailed questionnaire was used in this case, the lawyer might feel obliged to present a positive impression of himself by indicating that he uses information regularly when in reality, the opposite might be the case. However, this situation is less likely to arise in the case of interviews, because the researcher is able to follow up responses with probing questions which may expose the lawyer's weakness. During the course of this study, probing questions were found to be useful because they helped to disclose information
that would otherwise not have come to light if other methods had been used.

As busy people, lawyers are likely either to ignore the questionnaires, or delegate them to relatively junior staff including para-legals. Such people might not provide the information requested, including the lawyers' information seeking habits which are very personal. Furthermore, the legal profession in Kenya, in common with other countries in the third world, is generally apathetic towards survey research. It is considered to be a waste of valuable time. Therefore, without the researcher's presence, a mail questionnaire is likely to be disregarded. In her survey of the Caribbean states Newton (1981) experienced similar problems with practising lawyers and magistrates. Many of them complained that they did not have time to attend to the questionnaires. In Kenya, Uche (1981) provides a detailed account of problems she experienced when collecting data from lawyers. She states:

People's general attitude to questionnaires in developing countries was my second reason for deciding to take questionnaires personally to libraries and lawyers' chambers. To have posted them and waited back for replies could have resulted in considerable delays which one could least afford. Secondly, doing it by correspondence might also have meant receiving no result at all because even when I was physically present to persuade them to complete the questions, many people were still reluctant to do so on pretext of being very busy. If a lawyer is too busy to interact with someone who is looking into ways of helping her/him to do her/his job better, how justified is s/he to criticise the service with which s/he is being provided?

(Uche, 1981, p.14)

Semi-structured interviews proved ideal because they were briefer and took a relatively shorter time to complete - between 30 and 45 minutes. Open-ended interviews would have been unsuitable here on account of the length of time they take to complete.

4.3.2 Participant Observation

Mellon (1990, p.40) defines participant observation as a technique by which
researchers become involved in the lives of those they are studying, while still maintaining their objectivity as an observer.

Participant observation was used as a secondary data collection instrument in the present study. Its objectives were twofold. It was to provide additional information or data to supplement the data collected through the main research method - the semi structured interviews. The data obtained from observation were also used to verify the data supplied by the interviewees. As mentioned earlier, some respondents may have a biased attitude, and are likely to exaggerate information about themselves and in particular, their information use habits. Participant observation was considered appropriate as a counter against such exaggerations. This subject has been covered more comprehensively towards the end of this chapter.

4.3.3 Supplementary methods

In addition to the two principal methods mentioned above, the researcher obtained valuable information by analysing data contained in official and non-official documents. Among the documents analysed were government budgets, development plans, and other statistical publications. Some files, both confidential and non-confidential were also accessed. This data were used to supplement information obtained from interviews and observation. Any information obtained either by observation, or by other methods that was considered useful to the research was noted for use later.

4.4 RELIABILITY AND VALIDITY OF DATA COLLECTION

Reliability has been described as the extent to which a measurement procedure yields the same answer however and whenever it is carried out. Validity, on the other hand, is the extent to which it gives the correct answer (Kirk and Miller, 1986, p.19). The above concepts are common in quantitative methods where data emanating from field research can be easily quantified, and where data collection is carried out in a strictly controlled environment characterised by standardisation of the data collection
Since the researcher used semi-structured interviews for data collection, which allow some amount of standardisation and quantification of data, the following measures were taken to meet the above requirement. The questions raised and issues recorded were specified in the interview and observation schedules respectively in order to ensure consistency. All respondents answered the same questions so that any differences in their responses can be accredited to the actual differences in their perceptions, and not as a result of inconsistencies in the data collection instruments.

Both the semi-structured interviews and the participant observation schedules were tested and any flaws in them were rectified before they were finally used for data collection. The use of pre-testing as a precaution against inconsistencies and ambiguities in research interviews has been defended by Silverman (1993, p.148). He argues that, for consistency to be maintained, it is important that each respondent understands the question the same way.

The employment of probe or follow up questions is an important technique to ensure that respondents give objective data, and the researcher applied this method as much as necessary. An attempt was made to ensure that information or data collected from interviews was verified. Probe questions were asked from time to time to seek clarification of issues raised.

Finally, in an attempt to minimise the subjectivity characteristic of most qualitative methods, the researcher employed another qualitative method, participant observation. In addition to supplementing the data collected during semi-structured interviews, the participant observation method was employed to verify the data collected by interviews. The employment of additional methods in qualitative research is a widely accepted practice. This practice or phenomenon is often referred to as triangulation (Fidel, 1993, p.227). Triangulation is used to overcome the deficiencies of either method.
4.5 POPULATION OF THE STUDY

The population of this study comprised members of the legal profession or community in Kenya.

4.5.1 Selection of Study Areas

Since it is not practicable to travel the entire country of Kenya within the limited period allocated for field research, three areas were selected for study. These are Eldoret, Kisumu and Nairobi. Nairobi is the capital city of Kenya and is the seat of the government, therefore the majority of law firms and legal institutions are to be found there. Both the Faculty of Law of University of Nairobi and the Kenya School of Law are situated in Nairobi. The city has virtually all the leading law libraries in the country. It hosts law firms of varying sizes, from one-man bands to large firms employing over 40 lawyers. According to the Secretary of the Law Society of Kenya, Kenya has 2000 (1997) practising lawyers, of which 1100 are situated in Nairobi. It should, however, be pointed out that the distribution of lawyers in the country is not static, and that there is a regular movement of lawyers from one employer to another; and from one urban centre to another in search of better opportunities.

Kisumu is positioned on the shores of Lake Victoria, the second largest freshwater lake in the world. It is about 350 kilometres away from Nairobi. The town has one of the largest concentrations of the Asian population in the country. It is the provincial headquarters of Nyanza Province. Kisumu has a population of over 150 lawyers. Eldoret is over 300 Kilometres west of Nairobi. Eldoret and Kisumu are 120 kilometres apart. Eldoret is situated on the Kenya Highlands, where much of the mechanised farming activities take place. It hosts Moi University, where the researcher is employed. Eldoret has a population of about 50 lawyers. Eldoret and Kisumu have fairly limited legal services compared to Nairobi and good law libraries are practically non-existent.
4.5.2 Criteria for Selection of Study Areas

The main reason for selecting more than one area for study was to obtain information or data from as wide a community as possible in order to reflect the differences in information needs, research habits and perceptions. The three towns chosen are hundreds of kilometres apart. While Nairobi is the capital city where the major services exist, Kisumu and Eldoret are over 300 kilometres away from this hive of activity. Because of these geographical differences, the study was likely to come up with a variety of information about the kind of problems that legal information users and providers experience.

A study covering three towns would provide a general indication of the situation in the country. It should be noted that this study was not expected to lead to a generalisation of the results, as is the case with quantitative research, but rather, a deeper understanding of the experiences from the perspectives of the participants selected for the study. As Chalmers (1993, p.44) comments, 'the results of such a study are indicative rather than conclusive.'

4.5.3 Description of the Legal Population

The legal population is, in reality, the legal profession. The legal population has three main components: legal practitioners, law teachers and law students. Legal practitioners comprise judges, advocates, state counsels and magistrates. Advocates are also referred to as private legal practitioners or simply, lawyers. The majority of the judges are to be found in Nairobi, the seat of the Judiciary. Eldoret, Kisumu and Nairobi all have High Court registries, each with a resident judge. Nairobi equally has a big concentration of magistrates of all levels of seniority, whereas Kisumu and Eldoret have only a few. Since magistrates are transferable, their number tends to fluctuate from time to time. Nairobi has by far the largest number of advocates or lawyers, the reason being the various roles that the city plays: as a commercial, administrative and academic capital of the country.
Until 1995, all law teachers and students in the country were based in Nairobi in the two legal institutions, namely, the Faculty of Law of University of Nairobi and the Kenya School of Law. However, this has recently changed with the establishment in November 1995 of the Law Faculty at Moi University in Eldoret. The new faculty has about 90 students and 4 academic staff.

4.6 POPULATION SAMPLING

Population sampling is the identification of a representative section of the population to be studied. The sample is therefore a section of the population about which data is collected. In drawing up plans for data collection, an attempt was made to involve all members of the legal community, namely, legal practitioners, law teachers, and law students. In addition, library staff heading law libraries were involved in their capacity as information providers. A sample of each of the above categories was approached in order to provide data representative of the group. It was envisaged that the involvement of the above categories of the population would assist in providing a variety of data, or balanced information pertaining to their information needs, research behaviours and problems. Since members of each category or speciality perform different functions, their representation is bound to bring in a variety of contributions. Similarly, effort was made to ensure that members of the legal profession in the three towns were represented in order to provide data reflecting the situation in their respective areas.

4.6.1 Sample Size and Composition

A total of 134 participants were interviewed. One hundred and twenty five participants comprised members of the legal profession and the remaining 9 were library staff heading the nine law libraries in the three towns. With regard to the selection of the 125 representatives of the legal profession, the number interviewed was determined by the amount of people willing to be interviewed, the time allocated for field research, and the cost of research. It is worth noting here that the researcher did not have any prior idea of the exact number of participants he wished to interview. The
number was arrived at in the course of research. The participants interviewed were those who the researcher believed would contribute a variety of valuable information based on their experience in areas of their speciality. In this regard, effort was made to ensure that participants of all age groups and levels of experience were involved. The researcher also avoided involving personal friends, relatives, or people who hold pre-conceived views as interviewees as this was likely to render the results less objective. A statistical account of the participants interviewed is to be found in Chapter 5 of this thesis.

In quantitative research, the question of sample size is critical because it indirectly influences the robustness of the statistical tests used to measure significance of the numerical data, and the generalisation of the study results. In qualitative research, it is difficult to decide the number of people to be studied in order to understand the phenomenon of interest. The size of the sample in qualitative research is dependent entirely on the amount of work to be covered, the time available, the cost of research and researcher fatigue. Subject to the above factors therefore, researchers continue to collect and analyse data until no new information is uncovered. This view is supported by Glaser and Strauss (1967); and Guba (1978). Lincoln and Guba (1985) state that a carefully conducted study can reach saturation point with as few as 12 participants while Douglas (1985) puts it at 25.

For this study, the criterion used in sampling the population was purposive sampling. In quantitative research, researchers use mathematical models to select samples that are representative of the entire population to make predictions about how members of the group on average can be expected to behave under certain conditions. In purposive sampling, the participants are selected on the possibility that each participant will expand the variability of the sample. Purposive sampling increases the likelihood that variability common in any social phenomenon will be represented in the data (Maykut and Morehouse, 1994, p.45). Since the sampling was done ‘accidentally’ or subjectively, rather than by a mathematical formula or random sampling, the sample selected cannot be said to be truly representative of the legal population.
Four categories of interview schedules were prepared. Three of the schedules represent a category of the legal profession, these being legal practitioners, law teachers and law students. The fourth schedule pertains to library staff acting in their official capacity as information providers. Since members of each category are involved in different activities, it was felt that interview schedules specially designed for them would collect more data than would one schedule applicable to all the four categories of participants. The use of pre-determined questions was considered appropriate as a guarantee of uniformity of responses, that is, each participant answered the same questions. As a result, the researcher was able to compare the data across participants. The schedules were also a great saving on time, because the participants were guided to talk in the area of the researcher's immediate interest. It also ensured that all questions for each participant were attempted.

The researcher made extensive use of the literature collection in the university library in Loughborough; and materials borrowed from other sources in the United Kingdom in the preparation of interview schedules. By reviewing past studies, the researcher was able to draft schedules that were appropriate to his requirements. The researcher's extensive experience in legal information services was also instrumental in predicting the research patterns of lawyers.

A final version of the drafts was initially tested on PhD. colleagues in Loughborough who imitated the role of lawyers. The purpose of this exercise was to ensure that:

- the questions were clear and unambiguous

- it was possible to answer the questions in the schedules within the 30 - 45 minute time allowance. This was particularly crucial, as lawyers are very careful about time. Any time wasted is considered as money lost

- the survey instrument was capable of collecting data required for the study
the interview schedule was capable of motivating participants to continue to be interested in the questions, because badly worded questions can deter participants from continuing with the interview.

the researcher had the confidence and stamina to face the participants, since some participants might prove to be unfriendly.

Any flaws in the schedules uncovered by this exercise were addressed. The revised version of the schedules was tested on a limited number of lawyers and law library staff in law firms in Birmingham through the courtesy of the Association of Law Librarians of Central England (ALLICE). The essence of this exercise was to prepare the schedules for use in a pilot study in the UK, prior to their eventual use in Kenya.

4.8 PILOT STUDY IN THE UK

A pilot study was carried out in the UK which covered a limited number of lawyers, academics and law librarians in London and the Midlands. The purpose of the study was to test the appropriateness of the data collection instruments, that is, the interview schedules, prior to their use in Kenya. A number of issues were tested. Among them are:

- the length of the interviews
- the clarity of the language used
- the presentation of the questions

At the end of each interview, participants were asked for comments. Some participants expressed satisfaction, and others provided some valuable comments which the researcher took into account in subsequent amendments. Some law librarians who happened to have conducted similar programmes before, provided valuable comments based on their previous experience. Some participants were particularly concerned about the time factor and felt that 45 minutes was too long for lawyers, many of whom had very tight schedules. It was suggested that there should be fewer open
ended and more structured questions (including yes/no options) to save on lawyers' time. It was also suggested that, rather than recording the proceedings of the interview in a note book, it would be more economical and convenient if sufficient space was set aside in the schedules between questions to note down the responses, and expand them in a note book later. These comments were noted, and relevant amendments were made in the subsequent interviews.

In addition to helping with the design of the research instruments, the pilot study provided the researcher with a wealth of experience in interacting with lawyers and academics. The experience proved valuable in data collection in Kenya.

Lastly, since the data collected had to be analysed and presented, the pilot study offered the researcher appropriate experience in data analysis prior to the main work. The pilot study accorded the researcher a glimpse of things to come.

Considerable changes were made to the final version of the schedules as a result of the pilot study in the UK. Adequate space allowance was made in the schedules for notes, questions that appeared redundant were withdrawn, and more clarity was introduced. More structured questions were introduced in the schedules to replace open ended questions. The addition of these structured questions enabled some data to be quantified and then compared with data from other participants. Probing questions were used wherever possible, to supplement structured questions. In revising the schedules, the researcher took into consideration differences between the UK situation and that in Kenya.

In summary, the pilot survey assisted greatly in the development of data collection instruments. It gave the researcher the experience necessary for data collection and analysis and gave him the confidence essential to interact successfully with members of the legal profession. It is important to note that the UK study was carried out explicitly to pre-test and perfect the methodologies already chosen for use in Kenya, and could not therefore be used for comparative purposes. However, some references have been made to the survey whenever it is deemed appropriate.
4. 9  PREPARATION OF FINAL INTERVIEW SCHEDULES

Four versions of the interview schedules were prepared (Copies of the schedule appear as Appendices 1-4). The first three versions pertained to members of the legal profession and the fourth version was designed for library staff. The first three versions were more or less similar with the exception of a few areas which gave more emphasis to activities in their respective categories.

4. 9.1  Members of the Legal Profession

Section A of the interview schedules covered personal information about the participant. Information solicited included age, gender and experience. In the case of students, additional information required was the institution of affiliation and course being undertaken. The questions in this section were highly structured in order to elicit data that could be quantified and used for comparison.

Section B endeavoured to elicit information of a general nature. It requested data on legal research and legal research skills training programmes. Views on the perception of legal research by the legal community and relevancy were covered by this section. Accessibility to legal information sources was also highlighted in this section.

Section C elicited data on the information needs of the participants, the activities they performed, and how these needs were met by the information resources. The purposes for which lawyers seek information were examined, and the information resources used by members of the legal profession were ascertained. Problems experienced by participants seeking information and suggestions on how the provision of legal information could be improved were also requested.

Section D covered data on the information seeking habits of the participants. Members of the legal profession have evolved different patterns for satisfying information needs and their sources used vary from one person to another. This section tested the users' perceptions of materials consulted frequently, and reasons for the choice of
information sources. The level of use of materials which are not traditionally legal, but of considerable value to the profession were also ascertained. Among these are materials on customary law, forensic medicine, accountancy, criminology, etc.

Section E attempted to elicit information about user satisfaction with information provision. The aim here was to ascertain the participants’ views on the performance of legal information services in the country, because evaluation of the performance of the library was a key objective of this study. The researcher was keen to find out how well library services were performing, and what factors were responsible for deteriorating performance. It was felt that the best way to ascertain the performance of a law library was to obtain feedback from the users. This view is supported by Kinnell (1995, p.270). Other performance indicators were considered appropriate only in evaluating a particular library service, such as the reference service or the library catalogue.

4. 9.2 Library Staff

As described above, one version of the schedule was prepared specifically to elicit information from library staff. Information was solicited from law librarians where they were available, or any other library staff running a law library.

Section A elicited personal information about the participant or interviewee. This information consisted of position held, age, gender, qualifications and experience. These variables were considered crucial in comparing the performance of law libraries covered by the research.

Section B elicited information about the collection of the law library. It was felt that questions about the size and composition of the library collection could best be answered by the library staff. In addition, data about book loss, and problems of book acquisitions were solicited.

Section C attempted to elicit information on library finances. Funding is the lifeblood
of a law library, and without adequate funding, library services are likely to be greatly affected. Data collected included sources of funding, annual budgets, and adequacy. Additional information was obtained by questioning the participants further. Evaluation of resources or input is considered important because it is generally assumed that the better the resourcing the greater the possibility of the library providing adequate services to its users (Lancaster, 1993, p.22).

Section D attempted to gather information on library staff. Data collected included the size of the library establishment, the ratio of trained to untrained staff, staff attitude and remuneration. In addition to the size of the establishment, the performance of a law library greatly depends on the existence of trained and experienced staff and the attitude of the staff. Perhaps the most important factor of all is salary, since remuneration in Kenya is a great motivating factor. In the absence of attractive pay packages, the performance of the library is bound to be greatly affected because of staff mobility. In view of this, it was considered important that this factor be examined in the research.

Section E collected data on the services offered by law libraries in the areas of the study. Questions on the size of library users were asked. Information on services such as inter-library loans, teaching of legal research skills, and current awareness were also elicited. In addition to highlighting information services offered by law libraries, the researcher endeavoured to find out how well these services were carried out. In this regard, the researcher attempted to find out whether these services were evaluated, and if so, what methods were used.

4.10 PARTICIPANT OBSERVATION

4.10.1 Introduction

The structured (participant) observation method was selected as opposed to unstructured (participant) observation. Structured observation uses data collection forms often referred to as observation schedules. Observation schedules have pre-
determined categories or entries which are used to guide the recording process (Glazier, 1985, p.105). This method is different from unstructured observation, which does not offer pre-determined entries or statements to guide the researcher in the observation process. This method employs an open-ended data collection process, where the researcher alone decides on what to collect. Because there is no uniformity in data collection, the data collected lacks the orderly arrangement characteristic of the structured observation.

4.10.2 Reasons for Using Structured Observation

The greatest advantage of the structured observation method is that it provides guidance in data collection, enabling the researcher to collect data that is of immediate relevance to his research. Furthermore, the data arising from this method is not open to the researcher's subjective bias, therefore avoiding the problem of subjectivity which is common with some qualitative methods. Because the observation schedules are highly standardised, the data collection method can be used to demonstrate the relative importance of the activities observed. The process of data collection is convenient and less tedious compared to note-taking, which is characteristic of the unstructured method. Furthermore, the researcher is kept aware of the kind of information or data he is looking for. The structured observation method was employed successfully in user studies carried out by Wilson and Streatfield (1981); Hale (1983); Glazier (1985) and Eager and Oppenheim (1996).

4.10.3 Development of Data Collection Instrument

The observation schedule was pre-tested first in Pilkington Library, Loughborough University, and then in the law collection at Moi University Library, Eldoret. The pre-testing was done in order to validate the content of the schedule, to identify any confusion or ambiguity arising from the contents, and to assess the success of the schedule in eliciting useful data. Arising from these tests, appropriate changes and amendments were made to the schedule.
4.10.4 Description of the Observation Schedule

The observation schedule made provision for the following entries (See Appendix 5):

a) **Place of Observation:** This pertains to the location in which the observation was made. In all cases, the observation was carried out in law libraries.

b) **Date of Observation:** This pertains to the date the observation was made.

c) **User Activities Observed:** This section included a pre-determined list of 11 activities that are typical of a law library in Kenya. All the 11 activities are listed in the schedule. In addition to the pre-determined entries, space was allowed for additional activities not previously recorded in case any unforseen major activity cropped up in the course of data collection.

d) **Number of Users:** Against each activity, the number of users observed carrying out the stated activity at a given time was recorded. The observation was recorded at hourly intervals between: 9 - 12 Noon; and 2 - 5pm. The libraries were closed between 1 - 2pm. to allow the staff to go for lunch break Two sheets of paper were used to record the data collected in one single day. The hourly recording provided information about the number of users observed carrying out the highlighted activities at the time of the recording. At the bottom of each column, the total number of users observed making use of a given library activity either in the morning, afternoon or during both sessions can be tabulated. The number of users observed carrying out a given activity over a certain time can be used to show the relative importance users attach to the services offered in a law library.

In addition to the pre-determined entries made in the schedule, space was left at the bottom of the schedule to record any information or occurrence that could not be quantified. Descriptive data in the form of comments, remarks, signs of disappointment or frustrations by users and library staff were noted here. The space was also used to record responses to the researcher's queries by library users and
staff arising from observation, and it provided room for unexpected events. This observation schedule was highly flexible and, therefore, appropriate for this kind of research. It not only catered for pre-determined categories, but also, accommodated open views from users. On account of the limited space at the bottom of the sheet, a third page was added to accommodate additional information.

4.10.5 Coverage

Data collection was confined strictly to library or information use. Data were gathered from three law libraries, these being the High Court libraries in Eldoret, Kisumu and Nairobi. Data were collected from legal practitioners, that is, the judges, magistrates and advocates. In addition to these, responses and comments from library staff were solicited.

Like any qualitative research, the size of the population sample was not crucial here. The most important consideration was the length of the observation study, which lasted seven weeks. It was the feeling of the researcher that data collected over this period provided a fair view of the use of information by legal users in the geographical areas covered. Data collected from this study went a long way towards supplementing the information collected by the main research method, that is, the semi-structured interviews.

4.10.6 Field Data Collection

Before data collection was carried out in the field, arrangements were made with the relevant authorities in Eldoret, Kisumu and Nairobi about the proposed study. Their assistance and cooperation was solicited and obtained. In common with other participant observation, the library staff were fully aware of the researcher's presence and his mission. However, while they were told that the researcher was investigating information use by users, they were not aware that the researcher was also monitoring their activities in the library. This hidden observation was necessary because the behaviour of library staff such as absenteeism, excessive chatting, etc., greatly affects
the provision of services in the library. Some staff had met the researcher before, therefore his presence did not affect their normal behaviour. The lawyers were also too busy to notice the researcher's presence except when some queries were raised in connection with information use. Throughout the study, the researcher ensured that his presence did not affect the behaviour of users and library staff, as this would have made them behave artificially, thereby affecting the outcome of the research.

Quantitative data pertaining to the use of the library was recorded at the prescribed time. However, non-quantitative information arising from queries and observation of user behaviour was taken unobtrusively to avoid attracting the attention of the participants, and also, to provide sufficient attention to participants to air their views without being distracted.

At the end of each day, the researcher went through the data collected, analysed them, and planned strategies for the following day. Any issues that appeared ambiguous were noted for raising with participants the following day. For instance, the low use of law journals prompted the researcher to find out why this collection was not so heavily used compared to say, law reports; why there were practically no statistics on the use of the library catalogue, etc. As a result, this study adhered to three principles of participant observation: looking, listening and asking.

4.11 METHOD OF DATA ANALYSIS

Two types of data were generated from the field research: quantitative and qualitative data.

The quantitative data were analysed manually by simple mathematical calculations to obtain totals, percentages, etc. On account of the insignificant volume of quantitative data and the simplicity of the figures, the use of statistical packages administered by computers was considered unnecessary.
Qualitative data were analysed by qualitative data analysis method. The following steps were involved in the analysis:

- transcribing data
- coding
- constant comparative method
- theory development

The descriptive data from the field research were fully transcribed in the data collection schedules. The same applied to the data recorded in note books. The coding of the data started during the course of data collection, because since both the interview and observation schedules were structured, coding was made easier as the schedules already had pre-determined subject headings or themes. Coding is the assignment of names to categories or themes as they are identified to help the researcher to reduce data to manageable units. The coding was done by assigning data to relevant themes in the schedules. Data recorded in note books were also coded. Coding was carried out using the 'Constant Comparative Method.' This method involves joint coding and analysis during the continual review of data gradually to form categories. Each new incidence that appears to fit into a coding category was constantly compared to all other incidents in the same coding category. By constant comparison of all current incidents in the category, the researcher was able to develop ideas about the category, its dimensions and limitation, and its relationship with other categories. From this comparison, new information came to light. The researcher was therefore able to generate research theories from the analysis.

Data analysis was carried out continuously, and started right from data collection. Data analysis has to be done fairly early because it assists the researcher to open new areas where a variety of information can be gathered. Secondly, since the data collected in qualitative research do not depend on the size of the population sample, but purely on the variety of information obtained, continuous analysis of data helps to ascertain whether the data collected so far are adequate. It also helps to point out areas where adequate coverage has not been achieved. Alternatively, it can pinpoint areas where
'saturation' has been reached - where additional data do not make any significant contribution to research. This form of data analysis is known as the grounded theory. It is the process that combines the coding of data with generation of theoretical ideas (Glaser and Strauss, 1967).
CHAPTER 5

ANALYSIS OF THE POPULATION STUDIED

5.1 INTRODUCTION

The essence of this chapter is to describe the profile of those who participated in field research in Kenya. It is intended to realise the following objectives:

a) to furnish general and detailed analysis of the characteristics or variables of the population studied
b) to discuss the importance of these variables in the study of legal information provision and accessibility
c) to highlight the problems experienced in this regard

The collection of field data was carried out in three areas, namely, Eldoret, Kisumu and Nairobi. A total of 134 respondents was formally interviewed during the exercise. The population sample comprised representative sections of the legal community in the country. It included 73 legal practitioners, 47 law students and 5 law teachers or lecturers. Since information provision is an integral part of this research, the providers of legal information in the form of library staff were also involved. A total of 9 library staff was interviewed. In addition to the above participants, effort was made to involve decision or policy makers in the departments or institutions visited to find opinion on issues raised by respondents, or observations made by the researcher. The questions asked in these interviews were solely determined by the outcome or findings arising from the formal interviews.

This chapter will focus on three issues: general characteristics of the respondents; a detailed analysis; and limitations of the survey. The first issue will discuss the
variables common to all four categories of people interviewed. It will highlight the
differences that exist between them and how they influence their work style. The
second aspect will provide a more detailed analysis of the four categories of the
population sample. For each category, the variables were employed to investigate
further differences between them. This, it is hoped, will provide the background
information necessary to understand and appreciate the issues that arise in the
subsequent chapters.

5.2 GENERAL CHARACTERISTICS OF THE POPULATION STUDIED

Table 5.1 provides a detailed analysis of the population sample. The undermentioned
characteristics were selected specifically to ascertain their influence on legal information
use.

a) Gender
From a total population sample of 134 respondents interviewed, 97 (72.4%) respondents
were male while the remaining 37 (27.6%) were female participants. This number can be
subdivided further according to their four classes. Thus the legal practitioners had 49 male
against 24 female respondents; law teachers had 4 male against 1 female respondent; law
students had 41 male against 6 female respondents; while the library staff had 3 male
against 6 female respondents.

It should, however, be pointed out that the gender ratio is simply accidental. It does not
hold any research significance. No study has so far been carried out to show the gender
disparity on information use. It is only a reflection of the numerical differences that exist
between men and women in the legal profession. This difference can be traced to high
school and university education. The same ratio exists in other specialised areas such as
medicine, agriculture, education, architecture, business, etc.

b) Age
Table 5.1 shows a disparity in age among the respondents. The youngest respondents are
in the age group 21-30 while the oldest respondents exist in the over 50 age group. The
age of the latter can be extended to 74 years which marks the official retirement age of judges in Kenya. The majority of the respondents totalling 83 (61.9%) were aged 21-30. This is followed by the age group 31-40 which had 31 (23.1%) respondents. The age range 41-50 had 12 (9.0%) respondents while the over 50 age group had 8 (6.0%) respondents.

It is interesting to note that the majority of the respondents interviewed were between 21 and 30 years of age. The reason here is that this group comprises not only the newly qualified members who have recently entered the profession, but also a substantial number of students from legal institutions in the country. The researcher found the newly qualified lawyers extremely helpful. They were not only friendly, but also agreed to requests for interviews. As students or new recruits into the profession, they used information most. Consequently, they were able to provide more objective comments than the rest. This fact will be evident in the subsequent chapters. The lawyers' responses to interviews tended to vary greatly with age. While the young and upcoming lawyers were more accommodating, the older generation was less acceptable to being interviewed opting in some cases to delegate it to the young or newly recruited lawyers.

Age difference is an important factor in determining seniority in the field. Generally, the older one is in the legal profession, the more senior the position one holds. This criterion is applied very rigidly in the promotion of magistrates, legal officers and judges. The reason is that the legal profession in Kenya is a fairly controlled discipline which, unlike the United Kingdom, has a single tier system. This system requires prospective candidates to pass through the university and the Kenya School of Law before petitioning the Chief Justice for admission into the roll of advocates. Because of this requirement, the majority of new entrants are young people. Very few people make it through the mature age (private study through distance education) programme. Difference in age has considerable implications for the need and use of legal information as seen in the subsequent chapters.
Table 5.1

Analysis of the Population Studied

<table>
<thead>
<tr>
<th>Categories of Users</th>
<th>LP</th>
<th>LT</th>
<th>LS</th>
<th>LIS</th>
<th>TT</th>
<th>TP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Respondents</td>
<td>73</td>
<td>5</td>
<td>47</td>
<td>9</td>
<td>134</td>
<td>100</td>
</tr>
<tr>
<td>Gender:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>49</td>
<td>4</td>
<td>41</td>
<td>3</td>
<td>97</td>
<td>72.4</td>
</tr>
<tr>
<td>Female</td>
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<td>1</td>
<td>6</td>
<td>6</td>
<td>37</td>
<td>27.6</td>
</tr>
<tr>
<td>Age:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 21</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>21 - 30</td>
<td>34</td>
<td>1</td>
<td>45</td>
<td>3</td>
<td>83</td>
<td>61.9</td>
</tr>
<tr>
<td>31 - 40</td>
<td>24</td>
<td>-</td>
<td>2</td>
<td>5</td>
<td>31</td>
<td>23.1</td>
</tr>
<tr>
<td>41 - 50</td>
<td>8</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>12</td>
<td>9.0</td>
</tr>
<tr>
<td>Over 50</td>
<td>7</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>8</td>
<td>6.0</td>
</tr>
<tr>
<td>Work Experience (yrs)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nil</td>
<td>-</td>
<td>-</td>
<td>47</td>
<td>-</td>
<td>47</td>
<td>35.1</td>
</tr>
<tr>
<td>0 - 5</td>
<td>31</td>
<td>1</td>
<td>-</td>
<td>3</td>
<td>35</td>
<td>26.1</td>
</tr>
<tr>
<td>6 - 10</td>
<td>21</td>
<td>-</td>
<td>-</td>
<td>3</td>
<td>24</td>
<td>17.9</td>
</tr>
<tr>
<td>11 - 15</td>
<td>9</td>
<td>1</td>
<td>-</td>
<td>1</td>
<td>11</td>
<td>8.2</td>
</tr>
<tr>
<td>16 - 20</td>
<td>3</td>
<td>2</td>
<td>-</td>
<td>1</td>
<td>6</td>
<td>4.5</td>
</tr>
<tr>
<td>Over 20</td>
<td>9</td>
<td>1</td>
<td>-</td>
<td>1</td>
<td>11</td>
<td>8.2</td>
</tr>
</tbody>
</table>

Abbreviations

LP: Legal practitioners  LT: Law teachers  LS: Law students

LIS: Library staff  TT: Total respondents  TP: Total percentage

95
c) **Work Experience**

A total of 47 respondents (35.1%) did not have prior experience in legal practice. This group comprised wholly of students. Apart from this group, other respondents had experience in their speciality. A total of 35 (26.1%) respondents had 0-5 years’ experience; 24 (17.9%) had 6-10 years’ experience; 11 (8.2%) respondents had 11-15 years’ experience; 6 (4.5%) had 16-20 years’ experience, while 11 (8.2%) respondents had over 20 years’ experience. This marked difference in work experience closely resembles differences in age as reflected in Table 5.1. Experience is an important feature because it determines the work style of lawyers, particularly in major legal organisations such as the judicial service, government departments and the academic discipline. Experienced lawyers in large organisations occupy fairly senior positions with a supervisory role over junior colleagues. Experienced lawyers equally have less legal research to do as much of the basic information is at their finger tips. Furthermore, they have mastered basic legal procedures so that they do not need to frequently consult the law. Young or newly qualified lawyers on the other hand need to look up the law every time a new issue arises.

d) **The Nature of Work**

The work style of members of the legal profession is an important variable. From a total of 134 respondents, 125 were members of the legal profession comprising legal practitioners, law teachers and law students. Each group has its own work style which determines its information needs and information seeking habits. The information service required by law students is different from that demanded by legal practitioners and vice versa. This difference is important to a law librarian in assessing the needs and levels of information provision. The difference in work style will be demonstrated in chapter 7.

5.3 **DETAILED ANALYSIS**

**Law Teachers**

Although there are presently three institutions offering legal education in Kenya, namely, the University of Nairobi, Moi University, Eldoret and the Kenya School of Law, only
two, Nairobi University and the Kenya School of Law, were directly involved in data collection. Moi University was omitted because the Faculty of Law was being constituted at the time the research was carried out and only two lecturers had been recruited. The first group of students was expected in November 1995, a month after the conclusion of the field research.

Table 5.2

Law Teachers

<table>
<thead>
<tr>
<th>Institution</th>
<th>Respondents</th>
<th>Total</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>University of Nairobi</td>
<td>5</td>
<td>5</td>
<td>100</td>
</tr>
<tr>
<td>Kenya School of Law</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Five members of the teaching staff were interviewed comprising four male and one female staff. All the respondents came from the University of Nairobi. None was interviewed from the Kenya School of Law because it does not have full time teaching staff on its establishment. All the teaching staff other than the principal are leading advocates in the city who work strictly on a part time basis. They visit the school only to lecture and leave immediately after the presentation. The School of Law explained that this was because the pay package offered by the institution, which is part of the civil service terms and conditions of service, is not competitive enough to attract and retain professionals. Similarly, the researcher was not able to interview as many lecturers from the University of Nairobi as he would have wished because they were often engaged in private practice or consultancy work.
Law Students
A total of 47 students was interviewed. Out of this total, 26 (55.3%) students came from the Faculty of Law, University of Nairobi, while 21 (44.7%) students came from the Kenya School of Law.

Table 5.3 shows a break down of the academic programmes and course levels in the two institutions. The table does not include the first year undergraduate course because this class was on a long recess at the time of the exercise. Also, there was no entry for postgraduate academic programme. It was observed that the Faculty of Law had only 5 postgraduate students at the time who were carrying out field research. Some were researching while carrying out their office work. The researcher met two of the students later in their work places. All 26 students interviewed at the University of Nairobi were pursuing the LLB programme while the 21 students at the Kenya School of Law were pursuing postgraduate professional courses in legal practice.

The ages of students varied from 21 to 40 years. The age group 21-30 had 45 (95.7%) students, while the age group 31-40 had 2 (4.3%) students.

Legal Practitioners
Legal practitioners constituted the largest category of the total population interviewed (see Table 5.1). A total of 73 practitioners were interviewed representing 54.5% of the population. The male population comprised 67.1% of the practitioners interviewed.

The age of this population varied from 21 to over 50 years. The largest population was found in the age group 21-30 years. This group had 34 (46.6%) respondents. The age group 31-40 had 24 (32.9%) which was a close second to the first age group. The age group 41-50 came third with a total of 8 (11%) respondents. And finally the over 50 age group had 7 respondents, a reflection of 9.6% of the population of practitioners interviewed.
Table 5.3

Law Students

<table>
<thead>
<tr>
<th></th>
<th>University of Nairobi</th>
<th>Kenya School of Law</th>
<th>Total</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>21</td>
<td>20</td>
<td>41</td>
<td>87.2</td>
</tr>
<tr>
<td>Female</td>
<td>5</td>
<td>1</td>
<td>6</td>
<td>12.8</td>
</tr>
<tr>
<td><strong>Age:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 21 yrs</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>21-30</td>
<td>26</td>
<td>19</td>
<td>45</td>
<td>95.7</td>
</tr>
<tr>
<td>31-40</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>4.3</td>
</tr>
<tr>
<td><strong>Course and Level:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Undergraduates</td>
<td>26</td>
<td>-</td>
<td>26</td>
<td>55.3</td>
</tr>
<tr>
<td>1st year</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2nd year</td>
<td>10</td>
<td>-</td>
<td>10</td>
<td>21.3</td>
</tr>
<tr>
<td>3rd year</td>
<td>13</td>
<td>-</td>
<td>13</td>
<td>27.7</td>
</tr>
<tr>
<td>4th year</td>
<td>3</td>
<td>-</td>
<td>3</td>
<td>6.4</td>
</tr>
<tr>
<td>Postgraduates</td>
<td>-</td>
<td>21</td>
<td>21</td>
<td>44.7</td>
</tr>
<tr>
<td>Academic</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Professional</td>
<td>0</td>
<td>21</td>
<td>21</td>
<td>44.7</td>
</tr>
</tbody>
</table>
A number of factors can account for this numerical distribution. As observed earlier, the age group for the under 21 years did not have any representation. The reason is that this age group is generally synonymous with high school and possibly the early period of university undergraduate education. The age group 21-30 had the largest number of respondents because most undergraduate students at the university qualify for their degrees around the age of 24-25 years. After a year’s post graduate programme at the Kenya School of Law and an additional year trying to find a job placement, they finally settle down to legal work at the age of 26-27 years. They still have three to four years to serve before reaching the age group 31-40. Before this time, they would probably have been promoted at their work place. This group therefore comprised newly qualified practitioners with less experience in legal practice. However, this lack of experience is compensated by their flexible attitude towards work, their openness to new challenges and energetic approach to work situations. This is certainly the reason the group had the largest representation in the research programme. Despite the pressure of work, they managed to spare some time to attend the interviews.

The age group 31-40 comprises the newly promoted group, some possibly in their second promotion. This group is in the process of settling down to business not only at their place of work, but also in their family life. Because of these responsibilities, some professionals try to be selective about how they spend their limited available time. Their participation in the research programme therefore greatly depended on the importance they attached to the exercise. Those who agreed to participate in the programme had great interest in the development of legal information. Participation fell to 8 and 7 respondents for the age groups 41-50; and over 50 respectively. This group comprised senior partners in private legal firms, senior magisterial cadres, principal state counsels and judges of the High Court and Court of Appeal. These groups have behind them a considerable period of experience in legal practice. They have certainly mastered practically all the important legal procedures and authorities in their areas of speciality. In addition, they have assumed many responsibilities at their work-place in addition to social and family commitments. This may be so much the case that they rarely have time to attend to other
functions. Their agreement to contribute to the research project greatly depended on the interest they attached to the programme.

On work experience, it appears that the majority of the respondents (31 out of 73) had just 0-5 years. This group comprises new entrants to the profession, the majority who are in their upper twenties. As stated above, again it is this group that participated most in the research programme. A total of 21 respondents had 6-10 years experience. This again supports the earlier assumption that the older one becomes, the more responsibilities he/she acquires and the less the interest in peripheral activities. Nine participants had 11-15 years experience while 3 participants had 16-20 years. Finally, only 9 participants had over 20 years experience in legal practice. All judges interviewed plus a few magistrates and state counsels had over 20 years.

Legal practice embraces four categories of professionals: judges, magistrates, state counsels and advocates. Out of a total of 73 legal practitioners, 5 (7%) comprised judges of the High Court and Court of Appeal; 16 (22%) magistrates; 20 (27%) state counsels; and 32 (44%) advocates (see Table 5.4). Advocates comprised not only the largest percentage of practitioners, but also the largest number of all respondents interviewed.
Table 5.4

Numerical Distribution of Legal Practitioners Interviewed

<table>
<thead>
<tr>
<th>Legal Practitioners</th>
<th>Number of Respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judge</td>
<td>5</td>
<td>7</td>
</tr>
<tr>
<td>Magistrates</td>
<td>16</td>
<td>22</td>
</tr>
<tr>
<td>State Counsels</td>
<td>20</td>
<td>27</td>
</tr>
<tr>
<td>Advocates</td>
<td>32</td>
<td>44</td>
</tr>
<tr>
<td>Total</td>
<td>73</td>
<td>100</td>
</tr>
</tbody>
</table>

While advocates constituted a formidable group, they were among the most difficult people with whom to secure audience. Yet they are the people most affected by the problems of information flow. It should, however, be noted that the large number of advocates interviewed is not necessarily a reflection of their interest in the research programme, but simply the numerical advantage advocates have over other respondents as over two thirds of lawyers in Kenya are employed in private legal practice. Because of this numerical superiority, it was indeed the intention of the researcher to reflect this ratio in data collection. However, the most difficult advocates to see were those based in Nairobi. Those in the countryside were fairly accessible. They have less business and therefore were more amenable to requests for interview.

The magistrates were an extremely busy group. Despite this, they were able to squeeze in some time to attend interviews. The magistrates in Eldoret and Kisumu were particularly receptive. Magistrates in the outstations faced considerable problems in accessing legal information and it was their conviction that the research would address itself to these issues.
All state counsels are employees of the A-G Chambers (In some departments of the A-G Chambers, they are referred to as legal officers e.g. the Registrar-General and Administrator-General departments). They work in various departments ranging from civil and criminal litigation at one end to law reform at the other. There are over 60 state counsels in the A-G Chambers. Since these officers are involved in a variety of legal functions, it was not too difficult to obtain their participation. While lawyers in departments such as criminal and civil sections were always busy with court work, those in non-contentious areas such as the Registrar-General, Administrator-General, Legislative Drafting could afford to spare some time.

Although there are about 30 judges on the bench, the researcher managed to hold formal interviews with only five. Getting their audience proved a great challenge to the researcher as they rarely had time to see members of the general public. But it is also a reflection of the interest they have in the development of legal information as not all judges appeared to have keen interest in legal research. Those who participated in the programme had demonstrated interest in legal information. Some were members of the local library committee. Those who failed to attend did so not necessarily because they were over stretched, but presumably because they did not want to be seen to be ill informed in some areas. This, they feel, could send the wrong impression about the information interests of members of the bench. At the Court of Appeal, for instance, its chairman/head had to propose the participants.

**Distribution of Lawyers**

As stated earlier, data collection for this research was confined to three geographical areas: Eldoret, Kisumu and Nairobi. Table 5.5 highlights the geographical distribution of the population studied.

All 5 judges interviewed came from Nairobi. None was interviewed from Eldoret and Kisumu, the reason being that the High Court was in recess at the time the exercise was carried out. Judges are rarely available at this time. A total of 16 magistrates was
interviewed. Of this total, 3 were in Kisumu, 5 in Eldoret and 8 in Nairobi.

The researcher interviewed 20 state counsels. Of this total, 18 state counsels came from Nairobi. Only 2 were interviewed from outside. The reason is that Eldoret and Kisumu each has 2 state counsels stationed there essentially to carry out litigation on behalf of the government. All other legal work is done in Nairobi where the majority of state counsels are to be found. A total of 32 advocates was interviewed. Of this total, 10 respondents came from Kisumu, 10 from Eldoret and 12 from Nairobi. Nairobi had the majority of the respondents. This accounted for 58.9% while Kisumu had 19.2% and Eldoret 21.9%. Nairobi, being a leading city in Kenya and East Africa, has the majority of lawyers as much of the commercial and urban life is to be found in this city.

Table 5.5

Geographical Distribution of Legal Practitioners

<table>
<thead>
<tr>
<th>Legal Practitioners</th>
<th>Kisumu</th>
<th>Eldoret</th>
<th>Nairobi</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judges</td>
<td>-</td>
<td>-</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Magistrates</td>
<td>3</td>
<td>5</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>State Counsels</td>
<td>1</td>
<td>1</td>
<td>18</td>
<td>20</td>
</tr>
<tr>
<td>Advocates</td>
<td>10</td>
<td>10</td>
<td>12</td>
<td>32</td>
</tr>
<tr>
<td>Total</td>
<td>14</td>
<td>16</td>
<td>43</td>
<td>73</td>
</tr>
<tr>
<td>Percentage</td>
<td>19.2</td>
<td>21.9</td>
<td>58.9</td>
<td>100</td>
</tr>
</tbody>
</table>
Library Staff

Table 5.6 provides detailed analysis of library staff who participated in the research programme. The respondents comprised librarians heading law library services. In view of the scarcity of professionally qualified staff in the Civil Service, where the majority of law libraries are to be found, it was appropriate to involve any staff whether trained or non-trained to provide the necessary data pertaining to the library. A total of 9 library staff were interviewed, each one representing his or her information service. The number comprised 3 male and 6 female respondents. From this number, 3 respondents were full professionals (trained librarians), 3 were para-professionals (trained library assistants) and 3 were non-professionals (untrained staff).

None of the 9 participants had any legal education. From the above, it appears that Kenya does not have a law librarian with a legal background. The only Kenyan law librarian was the former law librarian at the University of Nairobi Law library. She relinquished the responsibility upon promotion to the position of deputy and subsequently to university librarian.

Of the respondents interviewed, only one member did not have experience in library work (The staff in question had only recently been posted to the library). Two respondents had 0-5 years. Three respondents had 6-10 years; while each of the three remaining respondents had work experience varying from 11-15; 16-20; to over 20 years respectively.

On specific experience in law libraries, out of a total of 8 experienced staff, 3 respondents had worked in law libraries for a period of 0-5 years; 4 respondents had 6-10 years; none had 11-20 years experience; while one had served for over 20 years. It transpired that the latter had served in law libraries for all his library working life.
Table 5.6
Details of Library Staff Interviewed

<table>
<thead>
<tr>
<th>Gender</th>
<th>Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>3</td>
</tr>
<tr>
<td>Female</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
</tr>
</tbody>
</table>

**Qualifications**

a) Librarianship
   - Full professionals: 3
   - Para-professionals: 3
   - Non-professionals: 3

b) Legal education: 0

**Work Experience:**

- Experience in libraries in general:
  a) Nil: 1
  b) 0 - 5 years: 2
  c) 6 - 10: 3
  d) 11 - 15: 1
  e) 16 - 20: 1
  f) Over 20 years: 1

- Experience in law libraries:
  a) Nil: 0
  b) 0 - 5 years: 3
  c) 6 - 10: 4
  d) 11 - 15: 0
  e) 16 - 20: 0
  f) Over 20 years: 1
5.4 LIMITATIONS OF THE SURVEY

Considerable problems were experienced in the collection of data from participants. One problem pertained to the very nature of lawyers in Kenya who are by nature very busy. Advocates for instance rely on paying clients to exist. Since law firms are always flooded by clients seeking assistance with a variety of issues both personal and corporate, an advocate is compelled to give top priority to paying clients. While magistrates by nature do not entertain clients, they have busy schedules from morning to evening. The tight schedule, it was observed, arises from under-staffing of the judicial service. They are either in court presiding over cases, or in chambers carrying out chamber applications. While some appreciated the opportunity to contribute to the research programme, the time was simply not there. Judges were perhaps the most difficult people to meet. In some instances, the researcher had to go through a proxy, normally a court clerk. In Eldoret and Kisumu, the researcher was not able to interview the judges because the High Court was in recess.

Another problem is the ineffectiveness of the appointment system in Kenya. While appointments are adhered to strictly in the developed world, in Kenya they are not. This is so particularly in the public service. So while efforts may be made to effect appointments with some lawyers, this is no guarantee that such appointments will materialise. So arranging an appointment with a lawyer is one thing and fulfilling it is another. The success of an appointment greatly depends on the nature of business to be discussed: whether fee paying or free service; the status of the client or visitor; and whether there was any other urgent business at the time of the appointment. There were some instances when the researcher had to be hurried to the reception room in the course of the interview to allow the lawyer to attend to clients who arrived unexpectedly. A number of lawyers offered appointments without consulting their diaries only to cancel them in the researcher's absence. There were some cases when the researcher arrived for appointments only to be told that the lawyer had gone to court or up country without leaving any apologies. One magistrate had developed a habit of giving appointments at
times she knew she would not be around and every time she was reminded, she denied that the appointment had been made.

The rising cost of living in Kenya has had a considerable effect on the work style of lawyers employed in the government and academic establishments. While lawyers in the private sector or practice are well paid, those in the two establishments are not. In an apparent attempt to bridge this gap and live according to the status that befits legal elites, these lawyers undertake private consultancy work or part time teaching. Because of this, they are rarely in their work place. At the Law Faculty in Nairobi, the researcher failed to interview an appropriate number of the academic staff despite the fact that the faculty had 34 lecturers. Lecturers reported only when there were lectures to be presented or faculty meetings to attend and disappeared soon thereafter without even going to their offices. In the government service, some respondents openly admitted that they have had to resort to this practice simply to survive.

As in any qualitative research, the researcher incurred considerable expenses collecting data in the field. As data collection was carried out in three areas, a significant amount of time was spent visiting participants, arranging appointments and interviewing. The failure by some participants to honour appointments further increased the cost because it compelled the researcher to spend extra days in one place. The postponement of appointments meant that some programmes in the diary that were to be carried out the following day had to be postponed or cancelled. This was particularly serious where such programmes were to be held in other places. There were some instances where the researcher was informed of the postponement, without the participant ascertaining whether the researcher would be available on that day. In such instances, the researcher is compelled to make difficult decisions: whether to wait for the appointment, to ignore it, or proceed on with the next appointment in the diary which has equal chances of failing to materialise. The funds set aside for research were limited. Therefore, any extra time spent in the field meant that the researcher had to look for alternative sources which were hard to come by.
Interviewer fatigue or exhaustion was another obstacle. Waiting for lawyers at their workplace or in the library to interview or observe their behaviour for well over six months proved to be a tedious and sometimes frustrating experience. Considerable time was spent waiting for lawyers in the library all but in vain. In Kisumu, for instance, some afternoons would elapse without seeing a single lawyer enter the library. And when s/he did, her/his stay would be so brief and s/he would be in such a hurry to go to court that s/he did not like to be delayed.
6.1 INTRODUCTION

The performance of an information service does not depend on one fact, e.g. funding alone, but on a combination of factors. Each factor has a key role to play. Among these are adequate funds; information resources; human resources; and support from active users. Therefore, the effectiveness of legal information services in any country depends on appropriate combination of contribution or participation of each and every factor mentioned.

This chapter will examine the level of performance of law libraries covered in the survey. It will examine the extent to which they fulfil their aims as currently formulated. To this end, an attempt will be made to evaluate their resources and services so as to ascertain their impact on the users. Views from users will be analysed to provide a fair picture of the performance of legal information services in the country. On the basis of this information, the researcher should be able to arrive at a just conclusion about the provision of legal information services and its impact on the legal profession in the three areas of the study.

6.2 FINANCE

The success of a legal information service in Kenya depends, among other factors, on adequate funding. To meet the varying needs of a cross section of legal users, libraries have to procure diverse information sources. This is particularly expensive when these items have to be obtained from outside Kenya. Legal materials are in any case among the most expensive information sources.
6.2.1 Sources of Funds

The law libraries surveyed appeared to have various ways of obtaining funds. The differences in funding are determined purely by library ‘ownership’. There are three types of ‘ownership’ in Kenya, namely:

a) **Government libraries**: This applies to Law Courts, A-G Chambers, the Law Reform Commission; and the Kenya School of Law libraries. These libraries are funded exclusively by the Treasury through their respective government departments.

b) **Academic or Institutional libraries**: These comprise departments or sections of the university library system. The law librarian is normally accountable to the University librarian. Among these is the Law Library, University of Nairobi at Parklands; and the new law library being set up at Moi University, Eldoret. These libraries obtain their funding from the University library. The level of funding is dependent on what the main library secures from the University.

c) **Law firm libraries**: Law firm libraries are owned and run by private firms. The funds required to run the services are allocated by the partnership. In view of their variation in terms of size from just under 100 volumes characteristic of a small law firm to over 5000 volumes found in large size firms, the extent of funding is also bound to vary significantly.

6.2.2 Library Budgets

Table 6.1 presents variations in library funding in the law libraries surveyed. The High Court library system or chain with K£250,000 had the highest allocation, while the Law Reform Commission with K£16,000 commanded the lowest amount among government funded libraries. The financial allocation for the law library at the University of Nairobi is not shown as the library does not have a specific budget. Its expenditure is drawn from the main library account. This situation arises from the fact that the main library operates a highly centralised system. The law library confines itself to user services. In acquisitions, its role is strictly limited to coordinating book selection, leaving the procurement to the main library.
Table 6.1

Library Funding

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>High Court Libraries</td>
<td>50,000</td>
<td>30,000</td>
<td>64,000</td>
<td>60,000</td>
<td>250,000</td>
</tr>
<tr>
<td>Attorney-General’s Chambers</td>
<td>33,000</td>
<td>42,000</td>
<td>50,000</td>
<td>50,000</td>
<td>25,000</td>
</tr>
<tr>
<td>Law Library, University of Nairobi</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
</tr>
<tr>
<td>Kenya School of Law</td>
<td>18,000</td>
<td>14,000</td>
<td>20,000</td>
<td>21,000</td>
<td>25,000</td>
</tr>
<tr>
<td>Law Reform Commission</td>
<td>16,000</td>
<td>15,000</td>
<td>17,000</td>
<td>20,000</td>
<td>16,000</td>
</tr>
<tr>
<td>Hamilton, Harrison &amp; Matthews</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
<td>Not Fixed</td>
</tr>
</tbody>
</table>


- The Kenyan financial year starts on 1st July and ends on 30th June.
- Currency Exchange Rate: K£ 1.00 = UK£ 0.20 (As October 1997)

Law libraries in private firms likewise do not have definite library budgets. They draw their funding from central votes established by the partnership for the running of various services in the law firm. Because of this, it is difficult for the librarian to ascertain the library expenditure as the accounts department does not arrange the expenses on a departmental basis. The system has its advantages and disadvantages. The major advantage is that library expenditure is not subjected to limitations.
normally characteristic of strict budgetary mechanisms. Therefore, the librarian can afford to spend fairly freely as long as the central vote is able to accommodate such expenditures. The disadvantage is that in situations where there is serious competition for the scarce resources in the central vote, its expenditure may be affected drastically depending on the decision makers' attitude towards the library services. Since revenue in law firms tends to fluctuate from time to time, their expenditures, too, are bound to be affected. A number of lawyers interviewed said they did not adhere to strict budgetary processes.

The funds allocated to law libraries in Table 6.1 are earmarked exclusively for the acquisition of information materials (law books and serials). The vote is normally administered by the library. However, for other requirements such as staffing, computers, stationery, and maintenance of library equipment, expenses have to be incurred from relevant votes controlled by other departments such as personnel, supplies, maintenance, etc. Should the librarian require for instance, a typewriter, s/he has to requisition one from the supplies officer who alone administers the vote for office equipment. This situation results in a kind of inter-departmental dependency in a government organisation or ministry that ultimately leads to bureaucratic procedures in the acquisition of materials, equipment or services. It was found that a number of librarians were not involved in the budgetary process. Decisions on library budgets were made by top management.

6.2.3 Adequacy of Funding

Although the High Court library system was allocated K£250,000 in the financial year 1997/98, this sum does not appear adequate to meet the information requirements of its users. It was noted that this financial year's budget was increased after intervention by members of the bench. The reason is that the High Court has 10 branch libraries (and more are being established) distributed in major towns in Kenya. In addition, it services the Court of Appeal library, the exclusive library for judges of appeal. Specifically the library vote is supposed to cater for the following:
- to furnish all court libraries in the country with appropriate law books
- to subscribe to standard law reports and journals on behalf of all court libraries in the country
- to supply and maintain sets of Laws of Kenya in all judicial offices and courts in the country
- to subscribe and supply copies of the Kenya Gazette to all courts and chambers in the country

It is obvious from the above facts that the current library vote is totally inadequate to meet all the above needs. This is particularly so since most of the practitioner’s law materials required by lawyers have to be acquired from overseas. This view was confirmed by the High Court librarian who felt that although this sum is an improvement on the previous budget, it would not make a great difference in one year.

It is interesting to note that although the High Court library was allocated K£250,000 (UK£50,000), it compares unfavourably with similar libraries in the developed world. In a pilot survey conducted in the UK in 1994, it was found that the Supreme Court library spent UK£750,000, while the Sheffield Crown Court library spent UK£260,000 on collection development in the financial year 1994/95.

It is therefore no surprise that an overwhelming number (8 out of 9) of library staff interviewed confirmed that their library vote was not adequate. Only one respondent from HHM said she was happy with the existing level of funding. At the Kenya School of Law, it was reported that the amount allocated for library expenses was so insufficient that much of it was used in updating statutes and servicing subscriptions to the Kenya Gazette. It was found from the library records that the library has not been purchasing books since 1993. The same situation was witnessed at the A-G Chambers where it was reported that the library has not been ordering books for the last eight years, and that whatever new books they might have received in the recent past were donations from international agencies. It was further reported that, on some occasions, the library vote is used by management to off-set expenses in other votes.

The researcher endeavoured to ascertain how serious the problem of funding was in
law libraries. To do this, respondents were requested to indicate the percentage of the total book requirements met by their book budget (i.e., what percentage of your total book requirements is met by the book fund or budget?). The essence of this question was to ascertain the impact that the budget has on the overall needs of the library. The responses varied from 10% to 50%. Only one respondent, from HHM, felt the budgetary allocation met about 90% of her entire needs.

It appears that, other than HHM, the rest of the law libraries are under-funded. This does indicate beyond any reasonable doubt that budgetary allocations for law libraries rarely make any significant impact on collection development. At the Faculty of Law, it was stated that the problem of funding was so real that the World Bank has had to come in to supplement whatever the university was able to raise. This finding concurs with an earlier survey carried out by a Nigerian researcher (Uche, 1981, p. 6).

The Situation in Non-Legal Government Libraries
The problem of inadequate funding is not confined to law libraries in the government service alone. It appears to be a problem that has affected practically all libraries in the public service. To understand the seriousness of this problem, effort was made to examine the situation in a few non-legal government libraries in Nairobi. It was found that none of the library staff interviewed was directly involved with the actual mechanism of budgeting. Budgeting was carried out by the parent department to which the library and librarian was accountable. At the Ministry of Agriculture, the work was done by the Deputy Director of Agriculture in charge of Agricultural Information Services (AIS) under which the Agricultural library falls. At the Kenya National Scientific Information and Documentation centre (KENSIDOC), a department of the National Council for Science and Technology (NCST), the function was carried out by the head of KENSIDOC. While at the Kenya National Archives and Documentation Centre (KNADC), which also has an established library, the work was assigned to the Deputy Director in charge of Finance and Administration. It is noted that the three established institutions have fully qualified librarians who are capable of performing this function.
Similarly, librarians in non-legal libraries do not administer the library vote. Control of the library vote is carried out by their superiors. The librarian in the three areas mentioned plays a very limited role in library financial planning. At KENSIDOC, for instance, the librarian does not participate in budgeting and any discussion related to the library budget. At the Ministry of Agriculture, however, the librarian may be requested to make some input into the budget by suggesting what he would like to acquire. At KNADC, the librarian noted: ‘The librarian only suggests what he wishes to have and the Deputy Director translates that into figures. The librarian does not provide the actual estimates.' It was pointed out that any request for funding to procure an information item e.g., a book, has to be approved by the management or vote controller.

As pertains to budgetary allocations, it was found that non-legal libraries in the government were also affected. In the financial year 1996/97, for instance, the Ministry of Agriculture library, the oldest and leading government library in the country, was allocated only K£10,000. The library at KENSIDOC was allocated K£3,500 while that at KNADC was allowed K£8,000. It was mentioned by the library staff that the library budgets have never been sufficient to meet the information needs of the library users. ‘The amount is not even enough to meet the acquisition of basic materials,' one librarian pointed out. It was further stated that usually the library vote is never fully utilised for collection development. Whenever there is a pressing need for additional funds in other areas, e.g. transport, stationery, etc., library funds are channelled to relieve the pressure there.

However, what appears to annoy librarians most is the failure by management to entrust them with control of library votes. ‘I have to seek approval from my immediate boss - who is not an information professional - any time spending is required. And whenever the money is channelled to meet other purposes, I am not informed. I am only told the funds are not available or simply, ‘vote is exhausted,’ one respondent remarked.

It was mentioned that although the decision makers were aware of funding problems
in the library, they have done nothing to address the problem. The majority hardly use
the library. It is interesting to note that although some users who happen to occupy
important positions in the department are well aware of the problem, they have done
nothing to arrest it. ‘Some users did not frequent the library and therefore are not
conversant with the problems afflicting the library,’ one library staff member
observed. At KENSIDOC, it was pointed out that the majority of users visited the
library solely to read newspapers. They rarely engaged in serious reading except when
there were some papers to be presented. The problem of funding in government
libraries has been restated in a number of conferences and seminars:

There is lack of serious effort to improve the condition of ministry libraries, yet
the government holds massive information of importance to research and
decision making. A casual glance at the amount of money allocated to library
expense in the recurrent expenditure is a laughable matter.

(Kinyanjui, 1993, p.3)

The problem of funding in government libraries has also been extensively covered in
studies carried out by Gehrke (1975), Sinnette (1979) and Nganga (1980). Kinyanjui
however feels that inadequate funding is not a problem prevalent only in government
libraries. University libraries are equally affected:

With government finding it difficult to continue supporting expanding
programmes, the university library is facing the most difficult time. The student
population has expanded in unprecedented numbers, while the budget has
remained stagnant, if not reduced. The rate of renewal of journal subscriptions
has gone down significantly.

(Kinyanjui, 1993, p.3)

It is interesting to note that funding problems are not unique in Kenya alone. They
appear to be everywhere on the African continent. In Zambia, school and college
libraries are allocated as little as K100.00 towards the purchase of books in a year
(Luhila, 1982), while in Ghana, Alemna observed:

Special libraries, by their very nature, are controlled by their parent
organisations. In Ghana, almost all parent organisations are in turn controlled by the government. The amount of money the library gets therefore depends on the financial allocation to the parent organisation. In times of economic recession and falling commodity prices, there have been continuous decreases in yearly financial allocations to these organisations and institutions. This has adversely affected the development of special libraries.

(Alemna, 1989, p. 25)

It appears from Table 6.1 that the High Court library in Nairobi obtains relatively superior funding compared to other government law libraries for several reasons. One is the involvement of the librarian of the High Court in the budgeting process. The High Court librarian, unlike her counterpart in the A-G Chambers, participates in the compilation of estimates of library expenditures. Her views are heard and taken seriously by the management. A further reason is the support the librarian receives from the users of the library service. The judges, magistrates and advocates have expressed a keen interest in a comprehensive and up-to-date library service. They support the librarian in her endeavour to improve services to the community. The management, and in particular the judges have been supportive of the library in terms of financial need. It is important to note that without the support of the management and the legal community, the High Court library would not have had such a dramatic rise in this financial year’s budget from a meagre K£60,000 to K£250,000 (1997/98), particularly as the government is effecting austerity measures.

Inadequate funding of law libraries could have a considerable effect on legal information development in several ways. It is bound to adversely affect collection development programmes and for that matter, the growth of library services. Since the legal community operates in an information intensive environment, lack of adequate funds could jeopardise the provision of current and comprehensive information which is crucial to their very existence. Current law journals and reports may cease to be available on account of the apparent failure by the library to renew annual subscriptions. The statutes, and in particular the Laws of Kenya which are essential to lawyers may fail to be updated. Similarly, the amendment of statutes may fail to take place on account of the law library’s inability to subscribe to the Kenya Gazette which carries supplements of new legislation in the amendment. These developments are
bound to affect the operation of the library considerably. The library may not be able to furnish the correct information as and when needed.

Inadequate funding could affect facilities in the library. Both reading and shelving facilities need to be reviewed from time to time to ensure they meet the needs of the fast growing profession. Failure to address these needs is bound to lead to overcrowding in the library creating an unpleasant atmosphere. Lawyers by the very nature of their work require generous desk space to be able to carry out thorough legal research. Lack of adequate working space could have an adverse effect on their preparation.

Inadequate funding is bound to discourage the librarian from venturing into new areas. Computers, for instance, are being increasingly employed in the storage and retrieval of legal information in the developed world. This is one area into which law libraries in Kenya could venture. Unfortunately this will continue to be a distant dream within the present financial climate. This is because computers can only be employed once the basic needs have been met, namely, the provision of current and comprehensive information.

6.3 LIBRARY STAFF

In addition to funding, the success of an information service greatly depends on the existence on the library's establishment of not only an adequate number of educated and trained staff, but also staff who are highly motivated and interested in the success of the information service. The law library, like any other specialised information service, values the patronage of its users very highly. Since law libraries exist to serve the interests of the legal community, their success is determined by the lawyers' perception of the service offered by the library. This perception can be influenced by the performance of the library staff. A highly trained and motivated staff can assist in moulding the attitude of the users towards the library which can go a long way to improve the image of the library in the eyes of the management.
6.3.1 Size of the Library Establishment

In view of the importance of the size of the library establishment in the performance of a legal information service, the researcher endeavoured to ascertain the size of the library establishment in the areas surveyed. Table 6.2 highlights the distribution of library staff in the areas surveyed.

Table 6.2
Staffing Situation in Law Libraries

<table>
<thead>
<tr>
<th>Libraries</th>
<th>Professional staff</th>
<th>Para-Professional staff</th>
<th>Non-Professional staff</th>
<th>Total staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Court, Nairobi</td>
<td>0</td>
<td>4</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td>Court of Appeal, Nbi</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Kisumu Law Courts</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Eldoret Law Courts</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Attorney-General, Nbi</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Kenya School of Law</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Law Reform Commission</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Law Library (UON)</td>
<td>2</td>
<td>2</td>
<td>9</td>
<td>13</td>
</tr>
<tr>
<td>Hamilton Harrison &amp; Matthews</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>13</td>
<td>25</td>
<td>40</td>
</tr>
</tbody>
</table>

Description of terms used:

Professional: Staff with a degree or postgraduate qualification in library or information studies.

Para-professional: Staff with either a certificate or undergraduate diploma in library studies.

Non-Professional: Staff who have not had any training in librarianship. It includes subordinate staff (junior staff).
It appears that only two law libraries had a large number of full time staff, namely: the High Court in Nairobi (12 people); and the Law Library, University of Nairobi at Parklands (13). These were followed by the Court of Appeal (4), Attorney-General’s Chambers (3), the Kenya School of Law (3) and the Law Reform Commission (2), HHM, Eldoret Law Courts and Kisumu Law Courts each have one staff member. Several reasons can be advanced for the large numbers of staff at the Law Faculty and High Court library in Nairobi. The Faculty Library serves a population of over 600 users. At the same time, the library is open from 8.30 am to 10.00 pm compelling staff to work on a shift basis. The High Court library, likewise, serves a huge population of lawyers in the city as well as those visiting Nairobi from outside. Although the library operates strict office hours, it is charged with highly specialised functions. Among these is the amendment of statutes in chambers and offices at the Law Courts. The amendment work requires adequate establishment.

The staffing environment in law libraries appears to be similar to other government libraries. The three libraries the researcher visited did not appear to have adequate staff. At KENSIDOC, for instance, the librarian who had recently been recruited has one clerical assistant. Two positions of library assistant were vacant at the time but there was no intention of filling them on account of the new government policy on recruitment. At the Ministry of Agriculture, a number of vacancies existed for professionals and para-professionals resulting from people who have left the service. Similarly, the promotion of existing staff to vacant positions could not be effected. At KNADC, a number of vacant positions existed for various grades of librarians.

6.3.2 Composition of Library Establishment

Table 6.2 also analyses the distribution of various categories of library staff. Only three law libraries have professionally qualified librarians namely: the Law Library, University of Nairobi (2), the A-G Chambers (1) and the Law Reform Commission (1). At the same time, 7 law libraries have para-professionals or trained library assistants. Most libraries had non-professional or untrained staff. This category includes clerical and secretarial staff, messengers, and cleaners.
It is evident from the above account that very few libraries have the benefit of fully qualified librarians. It is interesting to note that both the High Court and Court of Appeal libraries, which have some of the best law collections in the country, did not have trained professionals at the time.

There are several reasons why the staffing situation in law libraries is the way it is and, in particular, why there are few qualified librarians. As noted in Table 6.2, the majority of libraries without trained librarians are in the civil service. The fact that government at the moment is implementing strict financial austerity measures entails cutting down on government expenditures. Since a great percentage of government expenses comprise salaries for civil servants, the recruitment of new employees has been suspended except in dire circumstances. Law libraries like other government units have equally been affected by this policy. The second reason could be the general perception of librarians by lawyers. Some lawyers cannot differentiate a professional librarian from para-professional or library assistant. To them, anybody who has training is a librarian irrespective of the level at which the training was conducted. The result is that anybody who works in the library and appears to be knowledgeable in law library practice is a librarian.

The employment of non-professionals and para-professionals in place of fully qualified professionals could have serious consequences for the provision of legal information services in the libraries concerned. First, the library services are bound to stagnate. The library staff would not have undergone the rigorous training that enables him/her to plan and organise an effective library service. On account of this, the service is bound to miss the professional touch characteristic of those staffed by fully trained librarians. Secondly, the law library may not be effectively represented at top management level. Lawyers, being proud people, may not even invite the librarian to top level meetings. The result is that the library may not be effectively represented. For the librarian to be seen to be effective, s/he must contribute innovative ideas which may be appreciated by the management.
6.3.3 **Staff Attitude Towards Work**

As staff motivation is crucial in the success of any legal information service, the researcher endeavoured to ascertain the motivation of staff in the libraries surveyed. The survey revealed a great variation in motivation from negative to highly positive. Several reasons were given in support of these differing positions. Those with negative attitudes argued that they were frustrated by their treatment by management, and that management neither listened nor attended to their problems. At the Kenya School of Law, for instance, it was reported that management rarely responded to communications from the library. Hence the staff were unable to comprehend management’s position on issues raised. Lack of communication was therefore singled out as a major obstacle. The second reason is lack of interest in a career in librarianship by some library staff. The researcher was told that the library profession lacked a career ladder and promotions were hard to come by. Also it took a considerable time for the newly trained staff to be promoted to an appropriate grade and, in some instances, they were never promoted at all due to what management considered to be lack of senior positions or adequate funds. They felt frustrated at performing the work of trained staff in return for the salary of untrained staff. At the university’s law library, it was revealed that some junior staff appeared on duty only to be seen, but had no conviction to work. The subordinate staff spent much time gossiping at the counter while piles of books awaited reshelving. The highly motivated staff on the other hand had high regard for their management team. They said they were well treated and the management took a serious view of their needs and suggestions. The law library here was held in high esteem.

The staff morale in non-legal government libraries is equally low. Staff in law libraries in the government departments like their counterparts in the civil service are governed by the same scheme of service. As a result, they have similar staffing problems. Promotions and training opportunities for higher qualifications are hard to come by. However, the greatest bone of contention is the low status accorded librarians by decision makers in the civil service. It was pointed out that for instance while newly qualified graduate archivists were employed on Job Group K, newly qualified graduate
librarians were taken at Job Group J. (See Tables 6.3 and 6.4). Similarly, graduate teachers were employed on Job Group K. This disparity arises from the differences in the three schemes of service governing librarians, archivists and school teachers. The differences in the schemes of service create discontent among librarians. They feel that their profession is not considered as important as the other two. There is, therefore, a serious need for the government to address this disparity with the hope of harmonising the schemes of service. Table 6.3 provides the salary structure for library staff employed in the civil service. Table 6.4 indicates salary scales for various categories of personnel employed in the civil service in Kenya. It is included here for comparative purposes. When used with Table 6.3, it shows the level of seniority that the senior-most librarian or information professional (Principal Librarian) attains in the salary structure in the civil service. It was observed that no librarian had ever attained Job Group N.

The low staff morale in government libraries is also attributed to the adverse attitude of the decision makers. Because of this, the staff have tended to be casual and, at the same time, endeavoured to seek better opportunities elsewhere where their contribution is appreciated both morally and in monetary terms.

6.3.4 **Staff Remuneration**

Remuneration is an important motivating factor amongst workers in Kenya as it is in other developing countries. With salaries falling far below subsistence level in some sectors, and increasing level of social dependency characteristic of the African continent, the pay package has been a contributory factor in staff mobility.

In view of the above observation, respondents were asked whether they were well paid. A total of 4 respondents out of 9 agreed. A further 2 participants said they were not well paid while 3 did not comment. Apart from 2 participants, the rest were civil servants. Library staff in the civil service are governed by the terms and conditions governing employees in the civil service. As civil servants are generally averagely paid, library staff consider themselves poorly paid.
Table 6.3

Salary Scales for Library Staff in the Government Service in Kenya (as at June 1997)

<table>
<thead>
<tr>
<th>Position</th>
<th>Job Group</th>
<th>Salary Scale</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Non-professionals</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cleaners/messengers</td>
<td>A/B</td>
<td>K£ 897 - 1416</td>
</tr>
<tr>
<td>Library clerks</td>
<td>E</td>
<td>K£ 1668 - 2505</td>
</tr>
<tr>
<td>Secretarial staff</td>
<td>C/F</td>
<td>K£ 1128 - 3021</td>
</tr>
<tr>
<td><strong>Para-professionals</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Library Assistant II</td>
<td>F</td>
<td>K£ 1947 - 3021</td>
</tr>
<tr>
<td>Library Assistant I</td>
<td>G</td>
<td>K£ 2505 - 4662</td>
</tr>
<tr>
<td>Senior Library Assistant</td>
<td>H</td>
<td>K£ 3435 - 5157</td>
</tr>
<tr>
<td><strong>Professionals</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assistant Librarian</td>
<td>G</td>
<td>K£ 2505 - 4662</td>
</tr>
<tr>
<td>Librarian III</td>
<td>H</td>
<td>K£ 3435 - 5157</td>
</tr>
<tr>
<td>Librarian II</td>
<td>J</td>
<td>K£ 4092 - 6066</td>
</tr>
<tr>
<td>Librarian I</td>
<td>K</td>
<td>K£ 4827 - 7140</td>
</tr>
<tr>
<td>Senior Librarian</td>
<td>L</td>
<td>K£ 5694 - 8127</td>
</tr>
<tr>
<td>Principal Librarian</td>
<td>M</td>
<td>K£ 6918 - 9837</td>
</tr>
<tr>
<td>Senior Principal Librarian</td>
<td>N</td>
<td>K£ 7872 - 10803</td>
</tr>
</tbody>
</table>

Exchange rate: K£ 1.00 = UK £0.20

Table 6.4

Basic Salary Scales for Kenya Civil Servants 1996

<table>
<thead>
<tr>
<th>Job Group</th>
<th>Salary Scale (Per Annum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>K£ 897 x 36 - 1206 x 42 - 1290</td>
</tr>
<tr>
<td>B</td>
<td>K£ 1050 x 39 - 1206 x 42 - 1416</td>
</tr>
<tr>
<td>C</td>
<td>K£ 1128 x 39 - 1206 x 42 - 1416 x 45 - 1506 x 54 - 1776</td>
</tr>
<tr>
<td>D</td>
<td>K£ 1332 x 42 - 1416 x 45 - 1506 x 54 - 1884 x 63 - 2073</td>
</tr>
<tr>
<td>E</td>
<td>K£ 1668 x 54 - 1884 x 63 - 2073 x 72 - 2505</td>
</tr>
<tr>
<td>F</td>
<td>K£ 1947 x 63 - 2073 x 72 - 2577 x 111 - 3021</td>
</tr>
<tr>
<td>G</td>
<td>K£ 2505 x 72 - 2577 x 111 - 3021 x 414 - 3435 x 129 - 3822 x 135 - 4497 x 165 - 4662</td>
</tr>
<tr>
<td>H</td>
<td>K£ 3435 x 129 - 3822 x 135 - 4497 x 165 - 5157</td>
</tr>
<tr>
<td>J</td>
<td>K£ 4092 x 135 - 4497 x 165 - 5322 x 186 - 6066</td>
</tr>
<tr>
<td>K</td>
<td>K£ 4827 x 165 - 5322 x 186 - 6252 x 222 - 7140</td>
</tr>
<tr>
<td>L</td>
<td>K£ 5694 x 186 - 6252 x 222 - 7362 x 255 - 8127</td>
</tr>
<tr>
<td>M</td>
<td>K£ 6918 x 222 - 7362 x 255 - 8637 x 300 - 9837</td>
</tr>
<tr>
<td>N</td>
<td>K£ 7872 x 255 - 8637 x 300 - 10137 x 333 - 10803</td>
</tr>
<tr>
<td>P</td>
<td>K£ 8937 x 300 - 10137 x 333 - 11469</td>
</tr>
<tr>
<td>Q</td>
<td>K£ 19137 x 333 - 11802 x 369 - 12540</td>
</tr>
<tr>
<td>R</td>
<td>K£ 11469 x 333 - 11802 x 369 - 13278 x 414 - 14106</td>
</tr>
<tr>
<td>S</td>
<td>K£ 12540 x 369 - 13278 x 414 - 15348 x 465 - 15813</td>
</tr>
<tr>
<td>T</td>
<td>K£ 14934 x 414 - 15348 x 465 - 18138</td>
</tr>
</tbody>
</table>

Although the question of inadequacy of pay was not extensively highlighted by the staff in charge of law libraries in the course of the discussion, the researcher found that it was a serious problem among library staff in particular; and other categories of personnel in the civil service in general. Table 6.3 provides the salary structure for library personnel employed in the civil service. All civil servants in Kenya are placed between Job Group A and T (see Table 6.4). Junior staff such as cleaners and messengers are employed on Job Group A while the senior most civil servants e.g. the Permanent Secretary in the Office of the President is placed on Job Group T. The small figures in each Job Group denotes the annual increment awarded to employees in that Job Group. For instance, in Job Group B, an employee starts at point K£1050 with an annual increment of K£39 until s/he reaches point K£1206. From here, s/he is awarded an annual increment of K£42 until s/he reaches the maximum point K£1416. Unless s/he is promoted, s/he is likely to remain at this point until s/he either resigns or retires.

The researcher observed a number of cases of negligence of work, idling, gossiping, etc. among junior staff. There were cases of staff sneaking out to attend to private errands. A number of staff including librarians went out to do part time jobs in private law firms. Lawyers found them extremely useful in updating statutes. The researcher was informed that at one time, the habit of part-timing was so common that the registrar of the High Court had to issue a circular warning his staff against this practice which came to be unofficially known as ‘moonlighting’. The library staff interviewed specifically on this subject defended the practice. They felt that the practice was extremely useful in supplementing the meagre salary they earned. They wondered why the management in government departments was against the practice when lawyers in the public service were equally involved.

There are several reasons why decision-makers are against part-timing by library staff. One is that the practice encourages staff to ignore their official work. Two, the staff used library materials e.g. the statutes to amend the statutes in private law firms. The result is that a number of materials were never returned after use leading to considerable losses in the end. It was also pointed out that lawyers in law firms took
advantage of this relationship to encourage library staff to sell to them library materials. An academic at the Law Faculty in Nairobi referred the researcher to an incident where an advocate was found in possession of library materials without a proper reason.

Library staff in non-legal government libraries are equally averagely paid. Unfortunately, librarians are not considered professionals by the civil service. On account of this, fresh university graduates are recruited on Job Group J - the entry scale for general university graduates as opposed to Job Group K which is reserved for graduates in the professional disciplines. Interestingly, their colleagues, the archivists are considered professionals and hence employed on Job Group K, to the amazement of librarians!

Despite the above differences, salaries in the civil service are generally inferior to those prevailing in the private sector. The situation has reached such proportions that there has been a considerable exodus of highly trained and experienced staff from the civil service to other sectors where the rewards are considerably higher. Another consequence of low salaries has been the general laxity and absenteeism among workers. Some employees have resorted to part-time jobs to cope up with the cost of living. This issue is reiterated by a contributor in a newspaper mailbox as follows:

Civil servants are some of the most frustrated workers in Kenya. They are underpaid and, therefore, find it difficult to concentrate on their duties. It is this that drives them to seek additional sources of income. A good number of government employees, therefore, serve two masters within an eight hour working day...........He has to try other means to raise some money to cover the balance [in the cost of living]. This creates a situation where the officer has to indulge in corruption to make ends meet or carry out some business alongside his civil service duties. The government should look into this if it hopes to have a clean civil service free of corruption.

(Onyango, 1997, p.7)

As stated above, the effect of inferior pay in the civil service and government libraries in particular has been a regular exodus of highly trained professionals. The irony of
this is that the majority of these librarians were trained overseas at government expense specifically to staff government libraries on their return. This development therefore defeats the very purpose for which training schemes were established. Sooner or later the government may be compelled to terminate the scheme since it is not serving the purpose for which it was established. But the workers cannot be blamed for this. It is simply a matter of common sense. One cannot simply starve when there is plenty to eat in the immediate neighbourhood. Mukunga (1984, p.70) observes that between 1976 and 1982, no fewer than six newly-qualified librarians trained at government’s expense left KNADC for better paying jobs elsewhere. This certainly explains why libraries in the civil service are poorly staffed as Nganga states:

It is interesting to note that although these are libraries which should be properly staffed, by qualified staff, these libraries are poorly staffed, except a few ministry libraries, the bulk of special libraries in Kenya are staffed by unqualified staff.

(Nganga, 1982, p.305)

6.3.5 Staff Training

Staff training is an important factor in the performance of a library as it enables staff to be more effective and, therefore, more efficient in their work and can contribute to high motivation. The researcher attempted to find out whether library staff were also involved in staff development programmes. Asked whether their organisation or department carried out training programmes for their staff, 5 out of 9 respondents agreed. Asked what kind of programmes they had in place, they said they offered both formal and informal programmes. Formal programmes comprised full time training programmes in librarianship either at the Kenya Polytechnic or outside. Informal programmes comprised short courses in the form of workshops, seminars, etc. Most of these programmes are organised by the Kenya Library Association.

However, 4 out of 9 respondents, said their work-place did not offer training
programmes for their staff. Among the reasons advanced was lack of funds. Both Eldoret and Nairobi Law Courts had university graduates who could not train in librarianship abroad because the department did not have funds for the programme and scholarships were hard to come by. Some respondents argued that they had never been presented with any training opportunity by their employers. As for others, it was stated that the staff were encouraged to take up such opportunities, particularly the local ones, but had been hesitant in doing so. Another factor has been the failure by some employers to promote the staff immediately on qualifying. In the past, when there was a serious shortage of trained staff in the civil service, the staff used to be promoted immediately they obtained the required qualifications. However with the increase in the number of graduates from the Kenya Polytechnic and other institutions qualifying in the information discipline, and the inability of the government to create additional positions to match the growing number of graduates, all the available vacant positions in the civil service have since been filled leading to many qualified but unpromoted staff waiting for promotion. The majority of these people feel disappointed at having to perform the work of trained staff but being paid the salary of untrained staff. This problem has tended to discourage staff from taking up similar programmes.

6.3.6 Employment of staff

The researcher wanted to ascertain whether the staff's services were fully utilised at their work place. In this connection, the respondents were asked whether the work they did matched their education and training. The majority (5 out of 9) agreed, 3 disagreed while one respondent was not certain.

Those who disagreed believed that they were under-employed and were made to do repetitive tasks which were customarily done by junior staff. Evidence of repetitive tasks was seen at the A-G Chambers. The staff said they were required to amend statutes, a job they believed could be done by clerical staff. However, in view of the shortage of clerical staff, they had no option but to do the work themselves. Tasks such as handling directional enquiries were repetitive and unchallenging to be dealt with by highly qualified staff. It was stated that on account of diminished funding,
much of the work associated with book selection, acquisition, and processing has virtually come to a standstill leaving the library staff to confine themselves to reader services which they believed could best be carried out by junior staff. Cases of under employment were equally observed. Some stations such as Eldoret and Kisumu Law Courts were staffed by people not trained in librarianship, but who were expected by the legal community to discharge all the duties of a trained librarian. Some respondents complained that the lawyers did not appreciate their contribution to information development. They were only keen to see that the laws were up to date.

6.4 LEGAL INFORMATION COLLECTIONS

6.4.1 Size of the Collection

In Kenya, unlike in some developed states, the size of the collection is considered an important factor in assessing the effectiveness of an information service. This is because the legal community in Kenya, like in much of the developing world, relies heavily on the printed media as a basis for information support. Other media such as the electronic media have yet to reach this area. Furthermore, the library users continue to emphasize information self-sufficiency so much that inter-library cooperation is restricted to very few cases. On account of this, the effectiveness of a law library is normally measured or ascertained by the size of the information collection it has: that is, the total number of volumes it holds. There are, of course, obvious flaws in using this criterion. One is the tendency to give too much emphasis to quantity, at the expense of quality. Such factors as currency, accuracy and relevancy of the collection are likely to be ignored.

Table 6.5 indicates the size of the collections of law libraries covered in the survey. The size is reflected by the total number of bound volumes that each library has. It appears that the majority of law libraries in Kenya are small with a total collection of under 10,000 volumes. Only three libraries have over 10,000 volumes. These are the Law Library, University of Nairobi, High Court library and the A-G Chambers library. There are a number of reasons why the three libraries have assumed a leadership role
in the provision of legal information in Kenya. One is that the two libraries, namely the High Court and the A-G Chambers libraries, were established during the early period of colonial rule to support the administration of justice in the country. As a result, they were able to build up a substantial collection of information over a considerable time. When the Law Faculty library was started in 1970 with the establishment of the Faculty of Law at the University of Nairobi, it obtained substantial donations from international academic agencies in addition to generous grants from the government through the university library. Secondly, most of these libraries enjoyed fairly generous funding from the Treasury until the mid 1980s when government funding started to diminish. Thirdly, in the colonial era, the parent organisations appreciated the services offered by law libraries. They were considered by the colonial government as a basic necessity. In this regard, sufficient funds were set aside for their development. Fourthly, law libraries were staffed by highly trained, experienced and motivated staff. Although the salaries in the civil service were relatively low, inflation was equally low. At the moment, inflation is exceptionally high but the salaries are still low prompting the staff exodus. Musisi addresses the issue this way:

Until 1963, when Kenya attained independence, all government departmental libraries had well stocked and well staffed libraries. The departments of Agriculture, Health, Information, Law Courts, Mines and Geology, Veterinary services, as well as those in the defunct East African Community, all had qualified librarians. Almost immediately after independence, all these European women librarians, left the country. Nearly all of them, however, had trained some African librarians. After independence nearly all the government departments were without qualified librarians, primarily because salaries were low compared with those paid librarians elsewhere.

(Musisi, 1984, p.133)
6.4.2 Evaluation of Law Collections

This section will examine the performance of legal information collections in the libraries surveyed. Table 6.6(A) analyses the collections as reflected from responses collected from the users.

a) Currency of Information

Analysis of responses from Table 6.6(A) indicates that 61 (50.4%) respondents rated most law collections poorly. Only 21 respondents considered their library collections up to date. The rest of the respondents considered the collections average. Lack of current information was cited as a major problem. The problem of currency arises from law libraries failure to renew subscriptions to major law journals, reports and basic works. It also results from failure to up date editions of major legal titles such as reference works, Archbold, the Supreme Court Practice, Bullen & Leake, Mulla's Civil Procedure Code, Rayden on Divorce, Kemp & Kemp, etc. A number of basic
works such as *Kemp & Kemp* have loose-leaf volumes which require regular updating and failure to renew such works, even for one release, renders the entire volume useless as subsequent amendments would not be harmonised.

**Table 6.6 (A)**

**Evaluation of Information Collections in Law Libraries Surveyed by Users**

<table>
<thead>
<tr>
<th>Criterion</th>
<th>Poor</th>
<th>Average</th>
<th>Good</th>
</tr>
</thead>
<tbody>
<tr>
<td>Currency of information</td>
<td>61</td>
<td>39</td>
<td>21</td>
</tr>
<tr>
<td>Completeness of coverage</td>
<td>56</td>
<td>40</td>
<td>25</td>
</tr>
<tr>
<td>Relevance of sources</td>
<td>23</td>
<td>31</td>
<td>68</td>
</tr>
<tr>
<td>Convenience of use</td>
<td>36</td>
<td>28</td>
<td>60</td>
</tr>
<tr>
<td>Accessibility of resources' contents</td>
<td>30</td>
<td>34</td>
<td>58</td>
</tr>
</tbody>
</table>

Tables 6.6 (B) and (C) indicate the currency of the information collection in six of the law libraries surveyed. Table 6.6 (B) covers serial titles, while Table 6.6 (C) covers law books. The comparison was based on a checklist of standard texts and serial titles frequently used in practitioners’ law libraries. In addition to comparing the collections of six libraries, the two tables further demonstrate the currency of law collections in the six libraries in question. It appears that HHM has a more up to date serial collection than the rest of the libraries surveyed. On the other hand, the High Court library in Nairobi leads the rest in law books. The High Court libraries in Kisumu and Eldoret appear to be trailing the Nairobi based law libraries. This indicates that lawyers in Eldoret and Kisumu have limited access to current information which is bound to affect their performance.
### Table 6.6 (B)

**Currency of Information Collection (Periodicals)**

<table>
<thead>
<tr>
<th>Library &gt;</th>
<th>AG</th>
<th>HCE</th>
<th>HCK</th>
<th>HCN</th>
<th>HHM</th>
<th>KSL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law Journals</td>
<td>Latest Issue (Volume) Received</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nairobi Law Monthly</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1997</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>New Law Journal</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Solicitors' Journal</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Law Reports</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lloyds Law Reports</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1987</td>
<td>1997</td>
<td>-</td>
</tr>
</tbody>
</table>

* These titles have not appeared for some time.

**Abbreviations:**

AG: Attorney-General’s Chambers  
HCE: High Court, Eldoret  
HCK: High Court, Kisumu  
HCN: High Court, Nairobi  
HHM: Hamilton, Harrison & Matthews  
KSL: Kenya School of Law
Table 6.6 (C)
Currency of Information Collection (Law Books)

<table>
<thead>
<tr>
<th>Library &gt;</th>
<th>A-G</th>
<th>HCE</th>
<th>HCK</th>
<th>HCN</th>
<th>HHM</th>
<th>KSL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Reference Texts</td>
<td>&lt; Latest Edition Held &gt;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atkins Court Forms</td>
<td>2nd</td>
<td>-</td>
<td>-</td>
<td>2nd</td>
<td>2nd</td>
<td>2nd</td>
</tr>
<tr>
<td>Current Law Statutes</td>
<td>1985</td>
<td>-</td>
<td>-</td>
<td>1983</td>
<td>1997</td>
<td>-</td>
</tr>
<tr>
<td>Ency. of Forms &amp; Precedents</td>
<td>5th</td>
<td>1st</td>
<td>-</td>
<td>4th</td>
<td>5th</td>
<td>4th</td>
</tr>
<tr>
<td>Halsbury's Statutes of England</td>
<td>4th</td>
<td>3rd</td>
<td>-</td>
<td>4th</td>
<td>3rd</td>
<td>4th</td>
</tr>
<tr>
<td>Supreme Court Practice</td>
<td>1995</td>
<td>1975</td>
<td>1979</td>
<td>1993</td>
<td>1985</td>
<td>-</td>
</tr>
<tr>
<td>Standard Legal Texts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Archbold: Criminal Pleading</td>
<td>44th</td>
<td>44th</td>
<td>38th</td>
<td>44th</td>
<td>40th</td>
<td>40th</td>
</tr>
<tr>
<td>Bullen &amp; Leake: Precedents of Pleading</td>
<td>13th</td>
<td>8th</td>
<td>12th</td>
<td>13th</td>
<td>11th</td>
<td>12th</td>
</tr>
<tr>
<td>Charlesworth on Negligence</td>
<td>7th</td>
<td>3rd</td>
<td>6th</td>
<td>7th</td>
<td>9th</td>
<td>6th</td>
</tr>
<tr>
<td>Chitty on Contract</td>
<td>27th</td>
<td>20th</td>
<td>26th</td>
<td>27th</td>
<td>27th</td>
<td>25th</td>
</tr>
<tr>
<td>Kemp &amp; Kemp on Damages</td>
<td>4th</td>
<td>1st</td>
<td>4th</td>
<td>4th</td>
<td>4th</td>
<td>4th</td>
</tr>
<tr>
<td>Mulla on Civil Procedure</td>
<td>14th</td>
<td>-</td>
<td>12th</td>
<td>14th</td>
<td>13th</td>
<td>-</td>
</tr>
<tr>
<td>Phipson on Evidence</td>
<td>13th</td>
<td>9th</td>
<td>13th</td>
<td>13th</td>
<td>11th</td>
<td>13th</td>
</tr>
<tr>
<td>Rayden on Divorce</td>
<td>13th</td>
<td>-</td>
<td>13th</td>
<td>16th</td>
<td>12th</td>
<td>13th</td>
</tr>
</tbody>
</table>

Abbreviations:
A-G: Attorney-General's Chambers  HCE: High Court, Eldoret
HCK: High Court, Kisumu  HCN: High Court, Nairobi
HHM: Hamilton, Harrison & Matthews  KSL: Kenya School of Law
From the analysis of field data, it appears that all libraries are up to date with newspapers. The reason could be that the papers are affordable. The law library, University of Nairobi, appears to do fairly well with textbooks and case books as this is their area of interest. It is, however, poor in practitioner's law. HHM appears to have a comprehensive selection of textbooks as well as practitioner's law. The High Court and Court of Appeal have the most extensive collection of practitioner's titles. Case books are not important here as a considerable volume of case law is available in law reports.

It is unfortunate that court libraries in the outstations are not as well stocked as the main library in Nairobi. Much of their collections are outdated and new additions are rarely made. A number of practitioners expressed their concern on this issue which they believed could have serious consequences for the administration of justice if not rectified.

On statutes and subsidiary legislation, most law libraries appeared to have up to date collections. This is not surprising because the statute collection is the heart of every legal activity. Only one library, the Law Library of University of Nairobi had less current sets. This observation does however not concur with views expressed by the lawyers interviewed. Lawyers generally felt that the statutes were not up to date in some libraries. But the researcher did observe some instances where advocates preferred to use the library sets rather than office based collections simply because they believed the library sets were fairly current.

b) Completeness of Coverage
With regard the completeness of coverage, the majority (46.3%) of the respondents interviewed rated their libraries poorly. Only 21 (17.4%) participants considered their collections good. The rest of the respondents considered their collections average. This is yet another indication that the coverage of most law collections in the areas covered by this study still leaves a lot to be desired. The problems of coverage may arise from gaps created through book losses, mutilation or purchase of incomplete works such as encyclopaedias, law reports or journals. In an academic institution, this may result
from the creation of subjects in the curriculum without making adequate arrangements to acquire enough literature in the library to cover the new subjects. Students using or visiting the law library are bound to find the new areas inadequately covered.

Again, while the three law libraries, namely, the High Court, the Court of Appeal and HHM, appear to have fairly comprehensive collections, the Law Court collections in Kisumu and Eldoret have seriously inadequate collections. Yet these stations serve some of the busiest legal communities in the country.

c) Relevance of Sources
Analysis of responses from Table 6.6 (A) indicates that 68 (56.2%) participants considered law collections in their libraries satisfactory, indicating that much of the material is relevant to the needs of legal users. A total of 31 respondents considered them average. Only 23 participants considered the collections poor.

The researcher observed only two libraries with substantial collections that were not of immediate relevance to the users' needs. These were the A-G Chambers and Eldoret Law Courts. At the A-G Chambers, it was observed that an entire upper floor was occupied with old legislation of the Commonwealth states that were rarely used. The existence of this obsolete collection deprived the library of shelving space for popular materials. At Eldoret Law Courts, obsolete materials took up valuable space in a room that is already heavily congested. The immediate solution lies in weeding the collections. However, unfortunately, this has never been attempted, because rigid government regulations pertain to the disposal of such documents.

d) Convenience of Use
The analysis of responses in Table 6.6 (A) indicates that about half (49.6%) the respondents interviewed found their collections convenient to use. Only 36 participants were not happy with this aspect. The rest considered it just average. This does therefore imply that many of the law collections surveyed were convenient to use.
Access to the Libraries' Resources' Contents

Analysis of data in Table 6.6 (A) reveals that users generally found the resources of their law collections accessible. A total of 58 (48%) respondents expressed their total satisfaction with this aspect, while 36 respondents were not happy. A total of 34 respondents considered it average. There were only a few exceptions to the above conclusion. At the A-G Chambers, use of some materials has been restricted on account of theft by users. The East Africa Law Reports and major legal dictionaries have had to be restricted for similar reasons. At the High Court in Nairobi, the use of the Kenya Appeal Reports was similarly restricted.

In conclusion, it can be stated that the quality of law collections in libraries is unsatisfactory. As regards currency of information, the book collections are slightly better, while the law reports and journals are the worst affected by inadequate funding. A further concern is that no library other than HHM had live subscriptions to law reports and journals. The subscriptions in most law libraries stopped in the mid 1980s. Completeness of coverage is also a problem. Some collections have serious gaps which require addressing. These gaps might have resulted from book theft, vandalism and failure to renew subscriptions to periodicals. As long as these gaps persist, the use of these collections will be seriously hampered.

6.5 ASSESSMENT OF INFORMATION SERVICES

6.5.1 Number of Law Library Users

The researcher attempted to ascertain the size of the legal community in each of the libraries surveyed. Table 6.7 shows a variety of the legal population served by law libraries. It appears that the High Court and the law library of the University of Nairobi served a great number of users.

It must however be pointed out that the figures furnished by respondents are basically estimates as practically all libraries surveyed did not have a physical register of their users. As for academic libraries, the figure was based on the total faculty student
enrolment. However confining this number to law students alone would tend to ignore students from other faculties and departments who patronise the law library. For instance, it was pointed out that students from the Kenya School of Law are welcome at the Law Faculty.

Table 6.7

<table>
<thead>
<tr>
<th>Libraries</th>
<th>Legal Users</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney-General’s Chambers</td>
<td>100</td>
</tr>
<tr>
<td>High Court, Nairobi</td>
<td>500+</td>
</tr>
<tr>
<td>Court of Appeal, Nairobi</td>
<td>20</td>
</tr>
<tr>
<td>Kenya School of Law</td>
<td>500</td>
</tr>
<tr>
<td>Law Reform Commission</td>
<td>20</td>
</tr>
<tr>
<td>Hamilton, Harrison &amp; Matthews (Advocates)</td>
<td>100</td>
</tr>
<tr>
<td>Law Library, University of Nairobi</td>
<td>600+</td>
</tr>
<tr>
<td>Eldoret Law Courts</td>
<td>Not Known</td>
</tr>
<tr>
<td>Kisumu Law Courts</td>
<td>Not Known</td>
</tr>
</tbody>
</table>

6.5.2 Recording Enquiries

One way of ascertaining the kind of information that users need is to record the enquiries they make. Recording enquiries helps to assess the use of various sources of information in the law library. In an attempt to ascertain the extent this practice was carried out in law libraries, respondents were asked whether they recorded enquiries made by users. All said they did not record users’ enquiries.
Asked why they did not record the enquiries, the following comments were made by the respondents in reply:

- no need has arisen for it
- we simply do not record
- we have never done it before
- this has been the situation ever since I was employed
- the enquiries made are routine (repetitive) in nature

It was observed that some participants were not aware of such a practice. The reason is that libraries in Kenya including special libraries rarely record enquiries made at the information desk.

6.5.3 Types of Enquiries Made by Users

Law libraries like other specialised information services receive enquiries from a cross-section of their users. These are of various kinds: from very simple questions that can be answered by any knowledgeable library staff, to complex enquiries that call for the expertise of trained and experienced library staff.

Asked to state the type of enquiries their users made, a variety of responses was obtained. Table 6.8 analyses responses obtained from participants. It appears that the majority of law libraries dealt with directional enquiries. Only 2 libraries dealt with brief factual information queries. Information search enquiries were recorded in one library. A total of 2 libraries indicated that they dealt with two types of enquiries namely: directional; and brief and factual information. Furthermore, 2 law libraries reported that they dealt with all the three kinds of enquiries.
Table 6.8

Types of Enquiries Made by Users

<table>
<thead>
<tr>
<th>Types of enquiries made</th>
<th>Libraries involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directional</td>
<td>6</td>
</tr>
<tr>
<td>Brief factual</td>
<td>2</td>
</tr>
<tr>
<td>Information search</td>
<td>1</td>
</tr>
<tr>
<td>Directional + Brief factual</td>
<td>1</td>
</tr>
<tr>
<td>Directional + Brief factual + Information search</td>
<td>2</td>
</tr>
</tbody>
</table>

Directional enquiries are simple queries made by users who need directions to required materials e.g., the location of the library catalogue; where books on personal injury claims are shelved; where to find *Gower on company law*, etc. Brief factual information enquiries request for specific facts or information such as a section in a given legislation, date when a given case was decided, etc. Information searching, on the other hand, is an enquiry requiring extensive information searching. An example is a situation where an advocate is preparing for a court case in which his client is seeking compensation for injury. The advocate here is interested in relevant information to assist him to represent his client. This kind of enquiry calls for thorough legal research.

Several reasons can be advanced for the prevalence of directional enquiries. Firstly, the majority of staff in the libraries surveyed were not qualified librarians and, therefore, not best suited for detailed information search. No staff had the slightest background in law. Secondly, some lawyers are reluctant to delegate complex information searches to library staff opting to use young or trainee lawyers instead. Finally, some lawyers believe that they are the only people able to do the work. Such people feel that the library staff may not be able to carry out exhaustive research. As a result, there is likelihood that the lawyers could be presented with inaccurate
information which could turn out to be costly.

### 6.5.4 Record of Library Users

An alternative method of ascertaining the use of information sources in law libraries is to maintain a record of people who visit or use them. Asked whether they recorded the people who patronised their library services, all respondents said they did not. The only record they appeared to have in this regard was a register of people who borrowed library materials, or the book loans. While a record of book loans can assist to show the popularity of some materials or titles, it does not provide a comprehensive record of the use of the entire library resource. Some respondents did not understand the rationale for it.

### 6.5.5 Participation in Legal Research

In view of the importance of legal research in law library practice, the researcher attempted to ascertain to what extent this practice was carried out in the libraries surveyed. Asked whether they carried out legal research skills training programmes for their users, only 2 out of 9 respondents said they did. The above respondents said they carried it out in the form of instruction in the use of library resources and services. The libraries involved had trained staff, an indication that only trained and possibly experienced staff are capable and confident enough to perform this task.

The rest of the respondents interviewed (7 out of 9) did not carry out this programme. A number of arguments were given in defence. A respondent in the law court library felt that judges would consider such a programme as an insult, and that the users may not like the idea of being taught legal research skills by a person they consider not one of them (the learned friends). Another respondent in a legal institution believed it would be difficult to conduct such a programme since the librarian was not informed about the institution's activities e.g. the academic calendar. He was not necessarily aware when the new students were due to arrive, and their arrival tended to take the librarian by surprise. One respondent said they did it only on request upon
the arrival of a new member of staff who expressed interest in the programme.

It appears from the above analysis that the legal community considers legal research skills training as a programme confined to students in law schools to enable them to develop appropriate skills in using legal information resources. After qualifying, lawyers believe they are adequately prepared to carry out legal research independently and therefore, do not need further instructions. Lawyers fail to understand that training in legal research skills should be a continuous process to enable them to keep abreast of new forms of literature entering the field. This explains why lawyers would be reluctant to undergo another course of instruction organised by a librarian at their place of work. Therefore, the legal research skills that lawyers in Kenya have are those they obtained as law students in a university. Reluctance by lawyers to undergo such a programme, and shortage of trained and experienced law librarians in Kenya, are possible reasons for the absence of legal research skills training programme.

In addition to the above, respondents were asked whether they carried out legal research for their users. Some participants (4 out of 9) said they did while the rest (5 out of 9) did not. The following reasons were singled out:

- the library staff have never been presented with search requests
- the users generally know what they want and where to find it
- some users feel that the library staff are not competent to carry out information search
- some participants confined legal research to their immediate bosses. Ordinary lawyers had to do their own searches.

A law librarian must identify her/himself with the aspirations of the profession s/he is serving. Her/his support for the legal profession not only accords her/him respect among members of the legal community, but also improves her/his status in the community. The law librarian can realise this objective by participating in a variety of programmes in the organisation. Among these is the teaching of legal research skills to users of legal information. In support of this programme McGavin observed:
Lawyers like every other user, need to be trained or educated in the use of their library. This is a problem you have all encountered. ‘A nice librarian’ to whom nothing is too much trouble is as bad for a lawyer as a nasty one to whom everything is a bother. Lawyers, like most library users, need to be able to find the books they want for themselves. It is good for them to have this flexibility, and it releases the librarian for other work of a more specialised nature of which I am sure there is plenty.


6.5.6 Current Awareness Service

A current awareness service (CAS) is an extremely important service in law library practice as it keeps lawyers fully abreast of current developments in the legal discipline. This being the case, the researcher endeavoured to ascertain whether this service was offered in their library. The majority of respondents (6 out of 9) said they offered a CAS of some sort. The following methods were used to disseminate new information:

- personal (verbal) contact with users
- circulating new literature such as new issues of periodicals, publishers’ catalogues, bibliographies, etc. for new books
- displaying new books at the entrance of the library
- circulating the Kenya Gazette

However a minority of respondents (3 out of 9) said they did not keep their users abreast of the law. Among the reasons cited were:

- lack of current information resources to run the programme
- scarcity of funding has affected the purchase of new materials and subscriptions to periodicals upon which the programme depends
- no need has been expressed for this kind of service in some organisations and the library staff have not thought of proposing it.

On the importance of current awareness service, Fisher (1986) observed that
maintaining knowledge of developments in the field of speciality in which the lawyer practises must be of primary concern and it is in this area that the law librarian can provide tremendous help to the practitioner. 'In this regard, law librarians must not see themselves merely as custodians of information repositories but as involving the dissemination of newly acquired information.'

6.5.7 Evaluation By Library Staff

The researcher endeavoured to ascertain the extent to which information professionals in the libraries surveyed were involved in the evaluation of the services of their law libraries. Asked whether they evaluated their library services, the majority of respondents (5 out of 9) said they did not. Asked why they did not evaluate the services, one respondent said that they have never done that before, while another respondent said that the idea had never occurred to him. A minority (4 out of 9) said they evaluated their services. Asked how often the work was done, all said it was done as and when need arose. The following methods were used in the evaluation:

- comparing the materials on the shelves against the record in the library catalogue
- by stock taking
- soliciting feedback from users on library performance
- enquiring verbally from users about their satisfaction with the services offered

It appears that evaluation of information services is not a serious management function in the law libraries surveyed. The probable reason is the absence of professionally qualified librarians in most libraries. These are the people most qualified to carry out such a function. However, as noted earlier, only three libraries had qualified librarians and the others had trained library assistants. In support of this finding, Zachert (1989, p.275) and Kinnell (1995, p.271) argue that performance measurement requires staff trained and skilled in quality management techniques. The second factor is lack of adequate input into law libraries in the form of financial and literature resources to
compel the staff to account for whatever they receive and translate them into output or services. For the few libraries that evaluated their services, it is noted that the exercise is carried out as and when need arises - an indication that the programme is sporadic and informal. Because the programme is instituted at the request of the management, certainly in times of crisis, it does not assist to provide an idea of how well the service performs under normal circumstance. Another factor could be the absence of quality management practice in most government organisations. In the absence of this management practice, departmental heads are not compelled to evaluate their services.

For an information service to be effective in discharging its functions, it has to be properly managed. Its resources need to be properly organised and co-ordinated to ensure maximum output. In addition to the co-ordination of library functions, it is necessary to ascertain whether the services meet the needs of legal users. The management would no doubt appreciate this assurance. Without it, it cannot guarantee additional inputs into the library. To meet this challenge, it is necessary to evaluate the library services to ensure they meet the needs of the users. Evaluation of a library service should not be carried out as an exceptional procedure. Rather, it should be an on-going process making it possible to continuously assess both the general development of the library in the context of its environment and the needs of the primary users, and the specific results of actions to maintain and improve quality of service and effective use of resources (Winkworth, 1990), (Cotta-Schonberg and Line, 1994).

6.5.8 Management's Attitude to Information

In addition to evaluation, the researcher wanted to explore the attitude of management towards the law library. The attitude of management is crucial in assessing its support to the library in the form of adequate funding and staffing. In this regard, respondents were asked whether the management took an interest in the library's development. A few respondents (3 out of 9) agreed. The rest said their management did not take much interest in library affairs. The following observations were made:
the management has low consideration for library services
- the management has never shown support for the library
- the Faculty Board (University of Nairobi) rarely meets. As a result, it is difficult to gauge the Faculty Board’s attitude towards the library

The observation indicates that law libraries with a hostile management attitude have a number of obstacles to overcome. As long as these obstacles remain, their development will seriously be hampered. The users will continue to blame librarians for being ineffective, but unless the attitude of the management changes from negative to positive, there is little librarians can do to improve the services.

6.6 SATISFACTION WITH SERVICES OFFERED BY LIBRARIES

After examining the resourcing of law libraries and its services, the researcher considered it appropriate to investigate users’ satisfaction with the performance of their law libraries. In total, 71% of respondents said they were not satisfied with this performance, while 29% of the respondents were satisfied. This no doubt demonstrates beyond any reasonable doubt that most law libraries surveyed are not performing satisfactorily. Table 6.9 provides detailed analysis of responses from participants interviewed.

To provide a detailed account of the performance of law libraries, the discussion will be broken down into five categories each representing specialist user groups.

6.6.1 Law Teachers

Table 6.9 indicates that 40% of law teachers interviewed were satisfied with the performance of their library while the rest were not. Asked why they were unhappy with its performance, they cited non-availability of current literature and the mutilation of library materials by users as the cause.

It was, however, observed that very few academics visited or used the library.
Therefore, there is a possibility that some potential users did not know exactly what was taking place in the library. This observation was supported by a senior library staff member at the Law Faculty, Parklands Campus. She observed that academics tended to use the library only when they had papers to write for presentation in conferences.

6.6.2 Law Students

From a total of 47 students interviewed from the two legal institutions, only 8 participants expressed satisfaction with the performance of their library. The rest were not satisfied. The reasons given were:

- inadequacy of legal information materials
- lack of an information counter or desk in the library. The two law libraries did not have an information desk manned by qualified staff who could assist users in times of need
- lack of updated information. The information collection lacked currency. Some materials were obsolete
- congestion in the library making reading and browsing difficult
- lack of energetic and co-operative staff to assist users. It was reported that some staff were old, slow and unco-operative.
### Table 6.9

#### Satisfaction With Library Performance

<table>
<thead>
<tr>
<th>Sources</th>
<th>Categories of Users n = 125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>No</td>
<td>23</td>
</tr>
<tr>
<td>Yes</td>
<td>9</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

#### Abbreviations

- A: Advocates
- JS: Judicial staff
- LSK: Law students (KSL)
- LSU: Law students (UON)
- LT: Law teachers
- SC: State Counsels
A respondent at the Kenya School of Law observed that their library was so disorganised that it did not have any useful information to give, and that it was more suited to individual reading than as a source for information.

6.6.3 Judicial Staff

Out of 21 members of the judicial staff interviewed, 11 participants expressed satisfaction with the performance of their law library as opposed to 10 members who disagreed. This suggests that the majority of the staff were happy with the service in comparison with other groups examined.

It was observed that about half of the respondents who expressed satisfaction with the performance of their library comprised judges based in Nairobi. Judges have cause to be satisfied. Being in Nairobi they are served by some of the leading libraries in the country: the High Court and Court of Appeal libraries. Judges, as a matter of practice, do not go out looking for information. Where the materials required are not available in their library, the library staff or even the lawyers would endeavour to obtain the materials for them. It was no surprise therefore when one judge remarked that he has never had any problem accessing information. Some respondents did not appear serious about what they said. One magistrate who expressed satisfaction with the service had not been seen in the library for a considerable time. A senior magistrate in Eldoret in charge of the station, expressed satisfaction with the performance of his law library, but when it came to detailed evaluation of its services, he rated most of them poorly! It is assumed that he wanted to protect his station's library as its failure would equally reflect on him as the accounting officer of the entire station. Alternatively it may be due to lack of inside knowledge of the station's library.

The respondents who expressed dissatisfaction with the library services, presented the following reasons:

- the library staff lacked the skills necessary to assist users with information searching
- scarcity of locally published law reports
- lack of adequate legal materials
- lack of information retrieval tools necessary for speedy identification and retrieval of information
- lack of up to date legal materials
- late updating of statutes
- inadequate reading and shelving space (Eldoret and Kisumu)
- non-availability of current issues of law journals, and reports due to failure to renew subscriptions

6.6.4 State Counsels

A total of 20 state counsels was interviewed. Of these, 4 respondents expressed satisfaction with the performance of their library while 16 did not. The following reasons were given for dissatisfaction.

- the statutes were not kept fully up to date
- the library does not have an adequate collection of statutes
- the general scarcity of law reports at the A-G
- lack of relevant legal standard texts
- the library is neither well equipped nor updated
- the library staff do not provide sufficient guidance to assist users to access information
- lack of adequate and up to date information due to dwindling budgets
- lack of current journals and law reports
- scarcity of popular materials or titles when required
- the library is not well equipped and managed. The library staff are not effective in the discharge of duty
- the library is closed when its services are required
- considerable materials are missing from the statute books
- the library staff do not appear to know what they have

6.6.5 Advocates

A total of 32 advocates or private practitioners was interviewed. Of this number, 23 respondents expressed dissatisfaction with the performance of their law library while 9 were positive. On further scrutiny, it was revealed that out of 9 respondents who were positive, at least 6 came from HHM who have one of the leading law libraries in the country.

The following reasons were given by the majority who were dissatisfied:

- scarcity of legal materials in the outstations
- lack of trained personnel to provide the necessary guidance
- lack of adequate space for reading
- the statutes are not promptly amended to match changes in the law
- some materials missing in the library possibly due to losses (Kisumu)
- total lack of current materials
- lack of comprehensive law collection (Kisumu and Eldoret)
- lack of information retrieval tools (Kisumu and Eldoret)

From the above analysis, it appears that lack of comprehensive and current information materials is one of the major problems facing law libraries. In support of this finding one lawyer observed:

Law books are indispensable tools in legal practice and in the administration of justice. It is surprising what little attention has been placed on the role of the law library in the administration of justice. The reason must be in my view, not the lack of recognition of the fact that law books are indispensable tools of legal practice and in the administration of justice, but the fact that maintenance of an
effective library service requires substantial funds which can only be provided for on a self help basis.

(Kariuki, 1992, p.155)

It appears from the literature review the researcher undertook on this subject of user studies that the problems isolated above are not confined to Kenya alone. They are prevalent in much of the third world. In a survey conducted among users of the Law Library of the University of Malaya (Osman 1987, p.17), the users, who comprised basically of the academic community, were equally not satisfied with the adequacy of the collection due to:

- insufficient copies of items available
- the available items particularly the text books were outdated

Book scarcity is an equally serious problem in Nigeria. Jegede (1993, p.146) observed that the problem of scarcity of legal materials has started to take its toll on the production of lawyers in the country because law libraries are unable to support teaching and research. Furthermore, university students qualified without enjoying the opportunity to use some of the vital law reports and journals.

Other government libraries in Kenya experience similar problems. These problems appear to have existed since independence. Sinnette (1979) during her visit to libraries in the country observed: ‘most government libraries still occupy small, crowded quarters, are stocked with outdated materials and maintained by untrained personnel.’ Despite the fact that this observation was made over 19 years ago, the picture still remains true for most of these libraries to date. It is, however, interesting to note that this situation is not peculiar to Kenya alone. It is also noticeable across the African continent. In Ghana, for instance, it is observed that:

A visit to the special libraries will show the seriousness of this problem. The materials are mostly outdated and of little or no use to researchers. Current information, which is a distinguishing feature of special libraries, do not exist in most of the libraries. Important journals relating to the libraries are either not available or are often received very late. As a result, there are a lot of gaps in
the journal collections. Non-book materials such as microfilms, film strips, slides and various forms of audio-visual aids, are virtually non-existent in most of the libraries.

(Alemna, 1989, p.25)

6.7 EFFECT OF PROVISION OF INFORMATION ON THE LEGAL PROFESSION

The legal profession is an information intensive profession. This is so because the profession relies on adequate and accurate information for its existence. Information is used right from the time a law student is introduced to the study of law in a lecture room to his subsequent appearance in a court of justice. Information is important to a lawyer just as the apparatus and reagents are to a scientist in a laboratory. The position lawyers take and the arguments they present in court are based on the information they have collected. The resultant court decisions have a considerable impact on the people involved, and, in some cases, set precedents for future decisions. Therefore, just as it is necessary for a lawyer to collect all facts surrounding an accident, it is essential that the lawyer has the relevant laws, regulations and similar court decisions to be fully prepared to represent that accident victim (Panella, 1991, p. 10).

It is, therefore, evident that lack of adequate supply of legal information can have a serious effect on the legal profession. To investigate the extent of this situation, the researcher endeavoured to seek views on the subject from members of the legal profession.

6.7.1 The Administration of Justice

It was pointed out by participants that lack of adequate supply of information can lead to the maladministration of justice. Lawyers rely on current and accurate information to be able to provide sound legal advice to their clients. Absence of this information
can prompt a lawyer to base his advice on partial or outdated information which can prove costly to the clients and his own career.

The situation is also bound to delay justice. Where a document referred to in court by a counsel is not immediately available, a judge or magistrate may be compelled to postpone court decision or ruling on a case pending the availability of the document in question. If the case touches on an individual who is suspected to have committed a crime which is not bailable, for instance, and the court is made to understand that a new law has recently been passed amending a section of the law under which the suspect is charged, the presiding judge or magistrate is bound to postpone hearing the case pending the receipt of the new legislation to enable the court to dispense fair justice. While waiting for this document, the suspect will remain in remand prison. The waiting period can vary significantly from a few days to few months. While the court attempts to ensure that justice is dispensed to the accused by confirming the information in the awaited law, it is unfair to the suspect who remains innocent until proved otherwise. Justice delayed is justice denied.

It was revealed by respondents that lack of up to date information may compel a magistrate to decide a case on the basis of obsolete information. Respondents pointed out that there have been instances when magistrates in remote stations unaware of new legislation, have decided cases using repealed laws. It was also reported that there have been cases where magistrates have made judicial decisions based on information presented in court by counsel, only to turn out to be defective.

Inadequate information can have a serious effect on the development of good case law. The legal profession in Kenya like that in the common law states, relies to a certain extent on judges producing exceptionally good judgements that could be used as precedents on similar future cases. However, this can only be done if judges have access to comprehensive information. To pass good judgements, judges require exceptionally good information. In the absence of adequate and current information, the law will not be developed. It will stagnate. Yet the law for all intents and purposes is supposed to be dynamic.
Inadequate availability of information could affect uniformity in sentencing. In situations characterised by scarcity of legal materials, in particular in the countryside, there is a tendency for court stations to continue to apply outdated legislation unaware of new laws.

The scarcity of information is also bound to adversely affect the overall performance of advocates. Their preparation is likely to be sketchy and court presentation would leave a lot to be desired. It was pointed out by advocates in the outstations that this problem is now more serious than before. They said most law court libraries in the countryside were so seriously under resourced that lawyers did not find them at all satisfactory. They cited collections such as the unreported judgements of the High Court and Court of Appeal which they claim were so outdated that whenever they appeared against their colleagues from Nairobi who were more accessible to current judgements, their presentations were found to be outdated. The lawyers felt that if this situation persisted, they could be accused of professional negligence. In this regard, one researcher observed: ‘if lawyers lack access to research resources, there is a serious question about their ability to operate at minimum level’ (Leary & Cooper, 1981, p.640). It is an obvious fact that inadequate information can lead to inadequate preparation and ultimately, a poor final presentation. Sir David Napley, a prominent British lawyer and writer, believes that a carefully prepared case may be brought to a successful conclusion by one, who by nature or otherwise, is a poor advocate when on his feet; but an inaccurately prepared case is unlikely to be won unless presented by an unusually able advocate, on one of his lucky days, before either a singularly good or singularly bad judge (Napley, 1991, p.10).

6.7.2 Training of Legal Professionals

Lack of adequate information can have a serious effect on the production of trained lawyers in a country. One lawyer observed that the problem of lack of reading culture prevalent among a cross-section of lawyers is the result of inadequate preparation of students in law schools. Their reliance on lecture notes and hand outs seriously affects scholarly research essential in legal practice. Inadequate exposure to information in
law schools, has led some lawyers to develop a negative attitude towards information. They use information only when work compels them to. They often do not carry out thorough preparation as evidenced from their dismal performance in court.

Another lawyer blamed the government’s decision to double the intake of students in public universities in Kenya. He observed ‘since increased intake was not matched with increased resourcing of universities, the situation has led to a serious shortage of information resources in law libraries.’ Both seating and shelving facilities have been affected. ‘On account of the greater ratio of students on one hand, and library staff and information resources on the other, the quality of lawyers currently produced in the country is questionable’, one academic lawyer commented.

Some respondents described the present breed of lawyers in Kenya variously as "half baked, secondhand or sub-standard" who, they said, have already had an impact on the administration of justice through poor presentation in court. On this note, one lawyer remarked: "you only need to visit the courts to witness their presentation which leaves a lot to be desired". It is alleged by the same respondent that this breed of lawyers were not sufficiently trained to use library resources.

A prominent judge expressed concern about the general shortage of information resources in law school libraries in the country. He felt that if such a situation persisted, law schools were bound to produce ‘half-baked’ lawyers who were not able to meet the challenges of the present day legal practice. He observed that the law library at the University of Nairobi compared unfavourably to that of the University of Dar-es-Salaam in Tanzania which he described as the best in East Africa. That the quality of the law library is reflected in the quality of Kenya graduates who have performed exceptionally well on the bench and the bar. However, while the judge’s comments are sober and worthy of note, it is interesting to question whether the quality of the law library service at Dar-es Salaam remains as high today. Kenyans no longer train at Dar-es-Salaam and the last group to train there left around 1976. Furthermore, Tanzania and, in particular, the University of Dar-es-Salaam have undergone even worse economic hardship than Kenya in the recent past, as evidenced
blaming others for their problems. ‘Thus a lawyer, to put it crudely, would blame the law, blame other lawyers, blame the judicial process: should things go wrong - or go too slowly - it is never the lawyers’ fault but always that of other people.’ Clients would thus emerge satisfied with their own lawyers but less than happy with the legal system as a whole.

6.8 SATISFACTION WITH THE PROVISION OF LEGAL INFORMATION IN KENYA

In addition to ascertaining the views of members of the legal community on the general performance of law libraries, the researcher endeavoured to seek their opinion on the provision of legal information in the country as a whole and, in particular, whether they were happy with the supply of legal information. Asked whether they were satisfied with the provision of legal information in the country, all the participants interviewed said they were not satisfied. They felt the supply of information was totally inadequate.

Several reasons were given by respondents in support of their position. One respondent, an academic lawyer, felt that the ban by the government on institutions such as the Centre for Law and Research International (CLARION), which were carrying out research into aspects of the law in Kenya greatly affected the availability of locally produced research materials. (Fortunately, the above institution was re-registered in June, 1996). Another respondent blamed the present day legal scholars. He observed that academics at the university had lost interest in scholarly research and publishing and opted to practise in an attempt to make quick money.

A state counsel interviewed laid the blame squarely on the decision makers in the government. He observed that although the top policy-makers in the A-G Chambers for instance, were lawyers and were well aware of the scarcity of legal information materials in their library, they have not voiced their concern to the Treasury. The result is that the library’s performance has continued to deteriorate due to underfunding and this has seriously affected the performance of legal departments
which rely on the library for information support. 'It is a shame for decision makers to authorise the purchase of vehicles which cost millions of shillings while legal publications which cost much less and yet are a basic requirement for lawyers are ignored', he concluded.

Some lawyers blamed the local bookshops for not stocking adequate copies of relevant titles. However on checking on a few leading bookshops in Nairobi, the researcher was informed that they did not stock expensive legal titles because there was practically no serious demand for them. Further, whenever they stocked them, the titles took a considerable time to be cleared. Book suppliers were more comfortable with students' textbooks which they said sold fairly fast.

6.9 CONCLUSION

This chapter has examined the effectiveness of legal information services in the three areas covered by the survey. It has examined the resourcing of law libraries in terms of staffing, financial and information resource provision. The analysis of data in this chapter suggests that there is serious under resourcing of law libraries. It is noted that this problem is not characteristic of law libraries alone. It is a problem that is common with government special libraries in the country. It was observed that inadequate resourcing could have serious effect both on legal practice and the administration of justice.

Several explanations can be advanced for under-funding of government libraries which includes, law libraries. The attitude of decision makers both in the parent organisation or department and the treasury could have a devasting effect on the growth of libraries. A large proportion of senior government officers does not appreciate the value of information. It is argued that some officers might not have used the library extensively during their school life. They might possibly have achieved their position simply by way of regular promotion as opposed to serious study or reading through continuing education programmes. In this regard, Okewusi notes:
The attitude of these administrative officers could be due to their educational background and their parochialism. Many of them rose to the top from the bottom by way of promotion and, as a result, became alarmed when so much money was asked for library funds. Their horizons were never widened. Theirs was to deal with files, they could not read reports from which they could have gained more knowledge and ideas.

(Okewusi, 1979, p.126)

Another obstacle has been the serious competition for the scarce funds among sister departments or sections in the organisation. This puts the decision maker in an awkward situation. S/he is compelled to choose between competing sections. This is where one’s perceptions come to the fore. Whatever decision s/he makes, some elements of subjectivity or bias are involved. Her/his decision is bound to be affected by the persuasive power of the heads of the competing sections. Because the librarian rarely sits on the senior management committee, her/his library needs cannot be as well defended by a representative who is neither a librarian nor an active information user.

The library staff can be instrumental in under resourcing libraries. Lack of motivation arising from inferior terms and conditions of service, lack of promotion and training can limit his/her contribution in the library. In times of scarcity of resources, the librarian needs to be aggressive in advancing the cause of the library. Even in situations where the pay package is inferior compared to other workers, the librarian through effective public relations can improve conditions. He/she does not need to sit back and expect the management to act on his/her problems, he/she has to fight for them. But aggressive marketing can succeed only where the library is staffed by a fully trained professional. Untrained staff, on the other hand, are unlikely to carry out aggressive marketing. It is suggested (Abbott, 1994, p.207) that performance measurement can be used by librarians to argue for increased funding for library services. This approach is, however, likely to fail in Kenya due to lack of trained and experienced librarians who understand the concepts of quality management.

Users are equally crucial in advancing the cause of the library. For every successful library, there is always a body of active users behind it. Lawyers are respected people
in society. Therefore, their requests and views are bound to be taken seriously. It is noted for instance that this financial year’s increase in the budget (1997/98) for the High Court library in Nairobi from K£60,000 the previous year to K£250,000 resulted from a memorandum submitted to the Treasury by judges of the High Court asking for improved financial provision for the library services. On the other hand, the situation still remains the same at the A-G Chambers simply because the lawyers there have never taken a similar move.

To sum up, it can be argued that the success of a law library does not depend on the effort of one single person alone. It requires the effective participation of funders, users and law librarian who must have the interest of the library at heart. A team spirit is, indeed, crucial and significantly increases the administration of justice in the country. In this regard, Judge Re (1990, p.11) observed: ‘All of us - lawyers, judges, librarians and others - are part of the administration of justice. All of us, by performing our tasks better i.e., more efficiently, more economically, and more expeditiously, can play a vital role in the improvement of the administration of justice.’
CHAPTER 7

INFORMATION NEEDS

7.1 INTRODUCTION

The legal community in Kenya, like other professions, require information to perform their work well. The essence of this chapter is to establish the information needs of the community and to ascertain whether these needs are influenced by the kind of work they do.

7.2 THE WORK AND ACTIVITIES OF LEGAL USERS

Members of the legal community in Kenya carry out a variety of activities. These activities are governed by their role in society. The nature of their work greatly influences the kind of information required. The information needs of law students for instance, are different from those of legal practitioners. In an attempt to test this hypothesis, respondents were asked to highlight the activities they carried out in the course of their work or study. The information presented below demonstrates that members of the legal community perform more than one function:

a) Legal Practitioners
For the purpose of this discussion, this category is subdivided into four classes, namely: the judicial staff, state counsels, advocates and trainee lawyers.

The judicial staff comprises magistrates and judges. They preside over cases and make judgements. They hear urgent applications and take pleas. Judges, in addition, preside over appeal cases both at the High Court and Court of Appeal. They administer the law through judgements. They set legal precedents that assist to determine the course of the law. In addition to the above challenges, magistrates carry out general administration of the station in their official capacity as deputy registrars of the High Court. As heads of outstations they supervise subordinate staff and control the station's finances. They
carry out public relations exercises on behalf of the station. They organise the business of the High Court. Above all, both judges and magistrates ensure that fair and just trials are conducted. They ensure that justice is not only done, but is seen to be done.

State counsels or government legal officers perform a variety of functions from court appearances to office work. These include:

- carrying out legal research and law reform
- drafting reports, legislation and memoranda
- advising government ministries, departments and parastatals on legal issues
- administering estates and trusts
- representing the government in court of law
- carrying out criminal and civil litigation
- drafting agreements, treaties, contracts involving government ministries and parastatals
- advising the Attorney-General on the state of the law
- registering companies, societies, births, marriages, deaths, etc.

Advocates likewise perform a variety of activities. They:

- advise and inform clients on legal issues
- litigate in criminal and civil cases on behalf of their clients
- commission, notarise and attestate documents
- represent clients and take care of their interests
- seek relief for wronged parties
- write legal opinion
- offer legal aid to the needy
Trainee lawyers (student pupils) are an important asset to practitioners. They assist lawyers in a number of ways. They:

- carry out legal research for their superiors
- learn the procedures of presenting legal issues
- carry out house work that includes, drafting applications, pleas, etc.
- appear in court accompanying qualified lawyers
- endeavour to learn how the court system in Kenya works

b) **Law Students**

Among the activities carried out by law students are:

- attending lectures
- preparing and writing assignments and exams
- keeping abreast of current developments in law
- carrying out legal research
- participating in professional programmes of the faculty or school

c) **Law Teachers**

Law teachers or lecturers perform a variety of functions in the academic community. These include:

- participating in teaching programmes
- conducting legal research
- carrying out consultancies
supervising students' research projects
- carrying out legal practice (on part time basis)
- writing papers for presentation in conferences; and publications

In addition to the above, members of the academic staff are occasionally assigned responsibilities which include heading academic departments. Such responsibilities entail supervising both academic and non-academic staff in the department; controlling the departmental vote and representing the department on the university senate.

From the above account of the activities of respondents interviewed, it is evident that the legal community is not a homogeneous group. Despite undergoing similar basic courses in law, there are marked differences between them. These differences are determined by the kind of work they do or the occupation they are engaged in. As noted, members of the legal community are engaged variously as advocates, judges, magistrates, state counsels, law teachers and law students. The qualifications for some of these specialities are so defined that one cannot simply move from one speciality to another at will. For instance, a law student cannot cross from where s/he is to the bar, nor can an advocate serve as judge of appeal without fulfilling certain qualifications. Similarly, a Judge cannot move from the bench to the bar. It is technically impossible. A law teacher for instance, cannot cross over to the bar and practise without undergoing a pre-entry training in legal practice.

Differences in work style are likely to create marked differences in information needs. This is so because the kind of information a person or user requires is determined by the demands of his/her work. A law teacher who has to introduce his/her students to the study of the law of torts, for instance, would look for theoretical material that introduces students to the principles of the law of torts, whereas an advocate wanting to represent his/her client on a similar subject, would look for practitioner's materials that would guide him/her in the practice of that law. Materials on practice and procedures would in this case be more appealing than those on principles. Such materials are likely to provide her/him the necessary instructions on how to present
or argue her/his case in a court of law. This view reinforces the observation made in the US (Heitz, 1979, 641). It was felt that judges and lawyers performed totally different roles. While judges are arbitrators, lawyers are advocates of a certain point. Whereas lawyers look at one side of the argument, the side they support, judges need to be impartial and find justice. It is argued that since their role is different, so their information requirements must also be different.

It is therefore obvious that if a law librarian has to meet the needs of the entire community, a considerable variety of information would have to be procured. This is likely to be an uphill task especially when all resources are in short supply.

7.3 TYPE OF INFORMATION GENERALLY REQUIRED

In view of the variety of work carried out by members of the legal profession, the researcher attempted to ascertain what type of legal information they required: whether their requirements were confined to brief and factual information; or detailed and researched information. Brief or factual information comprises basic data or information that requires less time to consult. It may involve: consulting an act to confirm the position of the law; a digest to access the summary of a case; or extracting a citation from a judgement. Detailed information may involve: reading a review article in a law journal; reading a full judgement of a case to find out whether it can support one’s line of argument; following up a legal issue in a textbook to obtain the necessary theoretical background information on the subject before moving to a case law, etc.

Asked what type of information they required to satisfy their job requirements, respondents gave a variety of answers, stressing that the type of information required depended on their work.

A great number of advocates interviewed expressed their preference for detailed and researched information. It was felt that such information was essential to write a sound legal opinion. Some advocates preferred brief and factual information. One respondent, much of whose work was in criminal law, said he used brief information most of the
time and that this amounted to 80% of the information required. However, some advocates felt that one cannot separate the two categories, because in legal research, one has to start with brief and factual information before moving on to detailed information. ‘A lawyer commences his/her research by ascertaining the facts before he/she moves on to detailed information,’ one interviewee commented. Some respondents felt their information preference depended on the work they do.

Magistrates, too, expressed their own preferences. Some opted for detailed information which they believe is essential to enable them to present fair judgement. Some favoured a combination of both. ‘One has to start with brief and factual information to get the points or issues correct before moving to detailed information,’ one respondent argued. However, a few magistrates favoured brief and factual information. Magistrates dealing with minor criminal and traffic offences, for instance, used this type of information which is generally available in statutes and charge sheets. Judges and senior magistrates who have to deal with more serious cases lasting a considerable time also opted for either detailed information or both brief and factual; and detailed information.

State counsels were equally divided on this subject. The majority appeared to favour detailed information. Some preferred a combination of the two. Only one respondent opted for brief and factual information due to the nature of her work which dealt with the administration of the deceased estates. Hence, she relied entirely on a few precedents and the Succession Act for information support. Apart from the two documents, she did not require any other information materials.

Law teachers indicated preference for detailed information. They require this to prepare lectures and write papers for presentation in conferences and publication in learned journals.

Law students did not have a uniform view. While students from the Faculty of Law favoured detailed information, the majority of students from the Kenya School of Law opted for brief and factual information. A few students from both institutions indicated preference for both brief and factual; and detailed information. As law students from
the Faculty of Law use legal textbooks, law journals and law reports fairly frequently, it is not surprising that they opted for detailed information. As for the Kenya School of Law students, their needs tended to differ slightly from those pursuing academic programmes. While academics expressed preference for detailed information, professional students chose brief and factual information as professional programmes appear to emphasise practice and ethics, as opposed to theories.

The differences in the work style of lawyers and the training programmes conducted in legal institutions greatly determine the type of information members of the legal community use. The activities highlighted exert a considerable impact on their information needs. Broadman (1976) observed that legal practitioners and researchers by very nature of their work style have differing information needs. While a practitioner often requires brief information to solve his/her problems, a researcher requires detailed information obtained from an array of sources. The law teacher, for instance, is less concerned than the practising lawyer with 'how to do it problems,' less pressured by continuous competing deadlines and disturbed routines and more concerned with systematic enquiry and analysis. In teaching and researching, the law teacher's priorities are frequently to seek to interpret, comprehend, synthesise and rationalise the confusing bulk of law and precedence. Law teachers like law students are likely to obtain minimum satisfaction from academic law libraries. Apart from coverage of standard works, care is taken to include a range of primary source materials, specialist journals, materials on foreign and international law; and historical and comparative treatises. The size of the academic community and the number of programmes offered at the college determine the range of library services offered. Policies on duplication of popular titles would also need to be formulated. Practitioners on the other hand were satisfied with a relatively smaller law collection housing basic collection on legal practice. Duplication of materials depended on the size of the legal establishment and the demand for particular works. A formal policy may not be necessary as procurement is less bureaucratic. The material requirement would comprise standard legal texts, specific journals, law reports, up-to-date statutes and basic reference works, indexing and digests. On this subject Leckie observes:
Within the universe of potentially relevant information, what is required by a particular lawyer will vary because lawyers (and law firms) often specialise in a few areas of the law, in an attempt to focus their practice. This has an immediate impact on information need and use, as it is commonly recognised that certain areas of the law (such as real property law) do not require the same amount of research or supporting documents as other areas that are much more labour intensive and expensive (such as taxation, litigation). Thus to a greater or lesser extent, lawyers must retrieve, amass, evaluate, and use this array of information to serve their clients.

(Leckie, 1996, p.173)

7.4 MATERIALS FREQUENTLY USED

The survey revealed that members of the legal community used or consulted more than one source of information. The materials used varied from statutes on one hand; and digests and citators on the other. The following order of information sources were used frequently by a cross section of the community:

i) statutes and subsidiary legislation

ii) law reports

iii) law books

iv) law journals

v) unreported cases of the High Court and Court of Appeal

vi) digests and citators

Table 7.1 provides a detailed analysis of the use of information materials by legal users.
### Table 7.1

**Legal Information Materials Frequently Used**

<table>
<thead>
<tr>
<th>Information Materials</th>
<th>Categories of Users n = 125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>----------------------------</td>
<td>----</td>
</tr>
<tr>
<td>Statutes and subsidiary legislation</td>
<td>20</td>
</tr>
<tr>
<td>Law reports</td>
<td>30</td>
</tr>
<tr>
<td>Law books</td>
<td>27</td>
</tr>
<tr>
<td>Law journals</td>
<td>15</td>
</tr>
<tr>
<td>Unreported cases</td>
<td>17</td>
</tr>
<tr>
<td>Digests and citators</td>
<td>16</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

**Abbreviations**

- A: Advocates
- JS: Judicial staff
- LS: Law students
- LT: Law teachers
- SC: State counsels
From the above analysis, it appears that statutes (94%) were the most heavily used legal information materials, followed by law reports (91%), law books (89%), law journals (58%), unreported cases (47%), and digests and citators (20%). Statutes and particularly, the *Laws of Kenya* are popular because they are used by practically the entire legal community in Kenya. They are consulted in court to assist in dispense justice; in law schools; and in office based legal work. People consult the statutes to ascertain the position of the law on an issue at hand. Law reports are considered important because they are a source of case law. Lawyers use them to identify legal authorities in which to base their decisions or opinions.

Text books were also heavily used, particularly by the academic community. As Feliciano (1984, p.84) points out, textbooks can be used to 'brush up or refresh the memory on the present state of the law.' They can also be used to study in more detail, an aspect of the law less covered in any other medium. Finally, they can be used ‘to obtain citations to leading cases in point which could lead to other cases.’ A textbook, then, serves two major purposes: as a source for information on an aspect of the law and also, as a source for references. The importance of textbooks is restated by McGavin as follows:

> From both an advocate’s and a solicitor’s point of view, the best and easiest starting point for establishing the law on a particular matter, is the up to date textbook, the one which incorporates the new act and one which has references to all the recent case law on the subject. Out of date textbooks, unless they concern a relatively static area of the law, either complicate the matter, or at worst, are useless.


Law journals, on the other hand, were not as heavily used as the statutes, law reports and books. The reason is that the journal collection is only popular with academics who use review articles for teaching, study and research. As a result, only law teachers and students and, in particular, law faculty students, indicated they used them. Furthermore, in view of the general scarcity of locally published journals, the majority of journals in law libraries in the country are foreign. Such journals may not contain the kind of
information that would be appropriate to a practitioner interested in the application of local legislation. Although unreported cases are fairly popular with practitioners, they are not frequently used by law students. The reason is that this collection is practically non-existent in law school libraries and the little that does exist is seriously outdated so that it is of little practical value. The same applies to digests and citators. With the exception of a few libraries, foreign published digests and citators are outdated. At the same time, the publication of local digests is so irregular that users do not rely on them as sources of current information.

It must be pointed out that only the local statutes, the *Laws of Kenya* and the subsidiary legislation are heavily used. While foreign statutes and, in particular, the English statutes are consulted, the collection is only available in Nairobi. Furthermore, the currency of such collections is equally questionable. The same applies to law reports. The most heavily used reports are the local reports, the *East Africa Law Reports, Kenya Law Reports*, and *Kenya Appeal Reports*. These are supplemented by English reports such as the *All England Law Reports, Law Reports series* and *Weekly Law Reports*. As for law books, in the absence of locally published titles, practically all materials used in the country are foreign published.

Table 7.1 analyses the use of information materials by the total population surveyed. Detailed analysis of categories of users shows disparities in the use of information materials. This disparity is particularly evident between the law students and legal practitioners. While law students appear to use law books most frequently, legal practitioners on the other hand use local statutes most. This difference arises from differences in their work style. While law students prefer theoretical materials necessary to enable them to pursue programmes in substantive law, practitioners are more interested in sources on procedural law. Advocates, for instance, take interest in materials that assist them in the interpretation and application of the law. Such information is readily available in law reports and statutes. In this regard Smith (1976, p.11) observed that whereas a lawyer does his research in response to the need of a particular client and usually considers cases within a restricted jurisdiction, the professor of law conducts legal research with a view to advancing the theory and
practice of his or her discipline. Differences in the work style of members of the legal community have, therefore, a considerable influence on the kind of information required.

7.5 USE OF LIBRARY SERVICES

A law library, like any other subject based library, is set up to meet a specific purpose. The nature of the services offered by the library depends on the community of users. This section endeavours to seek the purpose for which a law library exists; and ascertains the types of information services carried out by the libraries covered in the study.

7.5.1 The Rationale for Library Use

Members of the legal community, like those of other disciplines, use the library to achieve specific aims. While it is widely accepted that the reason for using the library must be connected with access to information, the researcher wanted to know the specific reasons for their actions: what exactly do they aim to achieve from the visit? Presented with a list of possible purposes for visiting or using the law library, the most popular responses from interviewees were ranked as follows:

1. to look for specific information
2. to look for a particular document
3. to carry out legal research
4. to keep abreast of current developments in law
5. to browse through the library collection
6. to photocopy documents

Table 7.2 analyses the purposes for which users visit or use law libraries. The survey shows that members of the legal community used the library for more than one
i) **To Look for Specific Information**

To look for specific information came out as the most popular reason for visiting law libraries. It is evident that when lawyers visit the library, they are often looking for specific information to assist them with their work. This presupposes that the user does not know which particular resource from which the required information is to come. All he/she is interested in, is the information, for example, a date when a certain case was decided; the ruling of the court on a given issue; the position of the law on a given subject. Therefore, the form in which this information appears is immaterial. In support of this observation, Cohen (1969, p.185) argues that lawyers need the cases, the statutes and the regulations which govern a particular problem, or are related to a particular situation. Only rarely is their search aimed at a case decided on a particular day or a statute passed on a particular date.

In some instances the need for information may arise when a lawyer is compelled to tackle a legal problem in an area that is alien to him. Where such a situation arises, the lawyer is compelled to consult the law on a specific issue to enable him to advise his client appropriately. This view is amplified by Kidd as follows:

> It is when the matter or an aspect of the matter is diagnosed as ‘outside the ordinary’ that a solicitor is faced with greatest difficulty. In this situation, the matter remains his responsibility - he has no immediate justification for referring it completely elsewhere and because it is out of the ordinary, it will involve areas of law with which he is unfamiliar both in theory and in practice. It is likely to involve law on which he very probably he has not been keeping closely up to date and law that has not had very much experience in putting into practice. It is therefore precisely this situation, where something out of the ordinary crops up that the solicitor has to look up the law.

(Kidd, 1978, p.122-23)
### The Rationale for Library Use

<table>
<thead>
<tr>
<th>Purpose for Using the Library</th>
<th>Categories of Users ( n = 125 )</th>
<th>( A )</th>
<th>JS</th>
<th>LSK</th>
<th>LSU</th>
<th>LT</th>
<th>SC</th>
<th>Range</th>
<th>Average</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>To look for specific information</td>
<td></td>
<td>32</td>
<td>20</td>
<td>15</td>
<td>25</td>
<td>4</td>
<td>19</td>
<td>71 - 100</td>
<td>90</td>
<td>1</td>
</tr>
<tr>
<td>To look for specific document</td>
<td></td>
<td>26</td>
<td>19</td>
<td>14</td>
<td>25</td>
<td>5</td>
<td>17</td>
<td>67 - 100</td>
<td>88</td>
<td>2</td>
</tr>
<tr>
<td>To carry out legal research</td>
<td></td>
<td>27</td>
<td>11</td>
<td>13</td>
<td>18</td>
<td>4</td>
<td>17</td>
<td>52 - 85</td>
<td>72</td>
<td>3</td>
</tr>
<tr>
<td>To keep abreast of current developments</td>
<td></td>
<td>10</td>
<td>8</td>
<td>13</td>
<td>15</td>
<td>4</td>
<td>11</td>
<td>31 - 80</td>
<td>54</td>
<td>4</td>
</tr>
<tr>
<td>To browse through the library collection</td>
<td></td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>8</td>
<td>1</td>
<td>3</td>
<td>10 - 38</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>To photocopy documents</td>
<td></td>
<td>6</td>
<td>19</td>
<td>5</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>10 - 24</td>
<td>16</td>
<td>6</td>
</tr>
<tr>
<td>Total in sample</td>
<td></td>
<td>32</td>
<td>20</td>
<td>21</td>
<td>21</td>
<td>5</td>
<td>4</td>
<td>20 - 18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Abbreviations

- **A:** Advocates
- **JS:** Judicial staff
- **LSK:** Law students (LSK)
- **LSU:** Law students (UON)
- **LT:** Law teachers
- **SC:** State counsels
This finding concurs with a similar study carried out in the Philippines (Feliciano, 1984). In the research carried out on legal users of the Law Library of the University of the Philippines, it was found that the majority of users visited the library to look for specific information to assist them to attend to a legal issue. It appears evident from this finding that ‘looking for specific information’ is a universally accepted reason for using the law library. The above finding also supports an earlier study carried out in the US (Cohen, 1969, p.184). Cohen observes that lawyers seek information to meet the following objectives:

- to advise a client on a proposed course of action
- to seek authorities and arguments to support an already determined position
- to seek legal support for a client’s position or legal rationale for a proposed course of conduct

ii) To Look for a Particular Document

Some respondents visited the library specifically to check or refer to a particular document. This was done in the knowledge that the information needed was contained in a given document. The document may be a book, law report, journal, statute book, pamphlet, reference work, etc. It presupposes that the user has consulted a resource before or has information about the resource and knows what to expect in the required title.

A number of instances were singled out in this regard. Among them are occasions when a lawyer receives lists of authorities her/his counterpart intends to use to advance her/his case. In this case the lawyer would go to the library specifically to look for these listed titles, read them and see how s/he can challenge them. If s/he has to do this, s/he would also be required to produce her/his list of authorities that would not only challenge her/his opponent’s, but also, assist her/him to advance her/his arguments. Law students, also, mentioned some instances when they have had lists of references from their lecturers and have had to go to the library to read them. Similarly judges too, are presented with lists of authorities by the two parties to a case. On receipt of the lists, a judge ensures that s/he either goes to the library to read the listed
materials, or sends her/his law clerk to collect them on her/his behalf.

Law teachers, also, mentioned some instances when they have gone to the library to consult specific documents. On occasions they have gone to the library to check for references made in textbooks or law journals. Academics said that whenever they have to prepare papers for presentation in conferences or publication in journals, they often went to the library to look for specific references given in relevant journal articles. In this regard, one respondent said, ‘before I read any article in a journal, I first of all go through its reference list to glance at the amount and quality of citations made to see if they can be used as sources of information. An article that is not referenced does not attract my attention.’

iii) To Carry out Legal Research

Some participants used the library to carry out extensive legal research to identify adequate and appropriate information to use in their work. ‘It would seem, however, that most of the legal research that is undertaken is, almost invariably, connected to a particular case rather than an effort to keep up generally,’ one lawyer observed. Fear of embarrassment was mentioned as a motive for doing general legal research. It was mentioned that young lawyers and pupils spent much of their time in the library conducting legal research for more senior colleagues. Academics, also, said they spent much time seeking information whenever they had lectures or papers to present. Until the doors were closed to pupils in early 1995, the High Court library in Nairobi was patronised heavily by pupils who went to the library specifically to carry out research for their superiors.

Pupils cannot avoid carrying out legal research. First, legal research provides them with an adequate understanding of the entire field of law. In particular, it enables them to develop expertise in procedural law - an area that is useful when they start to practise. Secondly, as trainees they are under the supervision of experienced lawyers. In the course of their pupillage, their performance is monitored to ascertain their suitability for employment on completion of their course. As the market for young lawyers is very competitive, leading and, for that matter, well paying law firms, are very selective in
the recruitment of new entrants. Therefore, in an attempt to ensure that they are not only given better recommendation but also retained by the law firm, pupils are obliged to be thorough with legal research work.

iv) **To Keep Abreast of Current Developments in Law**

A number of participants did not, however, consider keeping abreast of current developments as the main motive for library use. The majority viewed it as a secondary objective. In this regard one lawyer observed, ‘Time is very precious for us lawyers. On account of this, one does not have that time to go to the library and study the journals as he would want to, or in a way that is not related to specific cases.’ Magistrates, too, did not consider the above reason important. They felt that this was because their work schedules were so tight that they did not have time for that activity and whatever information searching activity they did was strictly limited to critical information.

The participants at the A-G Chambers said keeping abreast of the law was no longer an important activity as their library did not receive new materials. As a result no lawyer ever visited the library for this purpose. It was also revealed that although the library subscribed to newspapers, most lawyers opted to buy their own papers so as to read them in their own offices.

It appears from the above analysis that lawyers do not use the library specifically to keep abreast with law. This finding supports an earlier study carried out in Scotland by Leith (1991, p.208). He observed that solicitors do not primarily require immediate access to whole hosts of legal case reports and legislation. They are too busy and too involved with client contact and with problems of administering their practices to be able to spend substantial time coming to terms with the diverse and changing nature of law. Time is a major constraint in this regard. In Canada, (Operation Compulex, 1972, p.3) it is noted that time is such an important commodity. Most lawyers average a 10 hour day and often devote part of their weekend to their practice. Time is so important that they tend to think of their time as worth so many dollars per hour.
Despite the above observations, keeping abreast of current developments is considered an important aspect of a lawyer's work. A lawyer needs to be up to date with changes in the legislation and case law. S/he needs to monitor developments in her/his area of speciality. To meet this challenge, s/he may opt to use library resources regularly to keep up to date.

v) To Browse Through the Library Collection
Browsing was not considered an important reason for using the library. However some respondents pointed out that on some occasions they would visit the library to browse through its resources just to find out if there is any new title or information that has been acquired relating to their area of speciality. An advocate said he browsed through the High Court library in Nairobi between court sessions to pass time usefully as he awaits the next session. He would normally go through the newspapers or browse through any new materials on display. He, however, admitted that he has never left his work place to visit the library specifically for browsing. Such time, he says, is not available. Some students at the Parklands Campus said they often browsed in their library. They did this when they were bored in their rooms and wanted something different for a change. They also browsed the library while waiting for meals, and in particular when it is reported that meals would be late and something has to be found to absorb the time interval. On this note, one student said, 'I would go to the library, look for any issues of the newspapers I have not read, and go through them thoroughly. When the newspapers are not available as they are sometimes, I would go through some magazines on display.' While a number of respondents agreed that it was a good idea to browse the library for any information of interest, some of them said that the nature of their work and time did not allow for this activity. A number of them complained of tight work schedules. One magistrate remarked, 'those days are gone. Time is short and cases are many. There is not the time to do a leisurely search.'

vi) To Photocopy Documents
Photocopying documents was not considered an important reason for visiting a law library. With the exception of the High Court and HHM libraries, the other libraries surveyed did not have photocopying machines and so this reason was inapplicable. If
any photocopying was to be done, the users took the materials to be photocopied by commercial concerns. This situation was also typical of the High Court library in Nairobi until recently when they acquired their own machine. Despite the absence of this service in most libraries, a number of respondents viewed the service as crucial and wondered why library management had not instituted it in their libraries.

It appears that the above reason was rated lowly because the machines are not available. It is possible that had machines been available, it would have assumed a leading role. A number of users who for one reason or another are unable to take books out, would have opted for this alternative. In a similar study carried out in Malaya (Osman, 1987, p.14), photocopying service was rated the third most popular of all the services offered in the law library of the University of Malaya. There is therefore a dire need for the management of these institutions and government departments to address this issue.

The above analysis concurs with a similar survey carried out in the Phillipines on the use of information by lawyers (Feliciano,1984).

7.5.2 Use of High Court Libraries

7.5.2.1 Introduction

Law libraries perform a variety of functions. The services offered by libraries vary greatly from one institution to another depending on the kind of work in which the parent body is involved. This is so because a law library exists primarily to support the objectives of the parent organisation. In an effort to ascertain the services offered by law libraries, a study was carried out on the use of the three High Court libraries based in Eldoret, Kisumu and Nairobi respectively. The study was carried out using the structured observation method supplemented by interviews. (see chapter 4.) Table 7.3 carries a detailed analysis of data from this study.
7.5.2.2 Observations

a) Using the Materials at Desk
Using the materials at desk was the most popular activity observed in the libraries. It involved the users going to the book shelves, collecting the materials required and using them in the library. To make effective use of the collection, the user had to find a desk and a seat. The majority of users used the materials in the library because these were all reference libraries. Except where the materials were sent to court or taken out briefly for photocopying (where such facilities did not exist), all law materials were used only in the library. Using the materials at desk was carried out extensively in Nairobi followed by Kisumu. Eldoret on the other hand, recorded the lowest number of users. The reason for this disparity could be space. Nairobi has far more reading space which can accommodate about thirty users at a time, while Kisumu can only accommodate ten, and Eldoret a maximum of three. From the above analysis it appears evident that the law library is used extensively for legal research.

b) Consulting Law Reports
Consulting law reports came out as the second most popular use of the law library. It demonstrates yet again that law reports are a major source of reference for lawyers. Most lawyers used the local reports and in particular, the East Africa Law Reports followed by the Kenya Appeal Reports. As for foreign reports, the most popular title was the All England Law Reports. This was the only foreign title available in the three libraries. The reason law reports are heavily used is that very few lawyers can afford to acquire them, and so opted to use the library sets.
### Table 7.3

Observation on the Use of High Court Libraries

<table>
<thead>
<tr>
<th>User Activities</th>
<th>Eldoret Law Courts</th>
<th>Kisumu Law Courts</th>
<th>Nairobi Law Courts</th>
<th>Total Users - (Per Act’ty)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Using Materials at Desk in the Library</td>
<td>68</td>
<td>127</td>
<td>221</td>
<td>416</td>
</tr>
<tr>
<td>2. Consulting Law Reports at Shelf</td>
<td>19</td>
<td>21</td>
<td>31</td>
<td>71</td>
</tr>
<tr>
<td>3. Borrowing and Returning Books</td>
<td>42</td>
<td>0</td>
<td>24</td>
<td>66</td>
</tr>
<tr>
<td>4. Reading Newspapers</td>
<td>28</td>
<td>0</td>
<td>32</td>
<td>60</td>
</tr>
<tr>
<td>5. Users Holding Discussions</td>
<td>6</td>
<td>27</td>
<td>26</td>
<td>59</td>
</tr>
<tr>
<td>6. Consulting Law Books at Shelf</td>
<td>23</td>
<td>8</td>
<td>25</td>
<td>56</td>
</tr>
<tr>
<td>7. Photocopying</td>
<td>0</td>
<td>0</td>
<td>49</td>
<td>49</td>
</tr>
<tr>
<td>8. Asking Questions at the Enquiry Desk</td>
<td>31</td>
<td>0</td>
<td>15</td>
<td>46</td>
</tr>
<tr>
<td>9. Consulting the Catalogue</td>
<td>0</td>
<td>0</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>10. Consulting Law Journals at Shelf</td>
<td>2</td>
<td>0</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total User Activities (Per Library)</strong></td>
<td>219</td>
<td>188</td>
<td>442</td>
<td>N/A</td>
</tr>
</tbody>
</table>

c) **Book Loans**

This activity incorporates the borrowing and returning of library materials. Materials are lent out either to be used in the court, chambers, or to be taken out for photocopying especially in stations where library photocopying services do not exist.
Eldoret recorded the highest number of people using this activity followed by Nairobi. The reason for this could be because of the lack of sufficient reading space prompting users to take materials away either to the chambers or for photocopying as an alternative. In Kisumu, no book loans were issued at the time of the observation because the High Court where most of the materials are taken was in recess.

d) Reading Newspapers
This activity was carried out fairly extensively in Nairobi and Eldoret. It was not carried out at all in Kisumu as this library does not subscribe to newspapers. Nairobi library subscribes to all the three national papers. Although lawyers had their personal copies in their office, a number of them used the library copies whenever they happened to be in the library. However, very few lawyers visited the library specifically to read newspapers. As to the type of information they sought from the papers, the majority read them to keep up to date with political developments as well as legal news. Information about new opportunities was also mentioned particularly by the young lawyers.

e) Holding Discussions
The law libraries were also used as a medium for the exchange of information among lawyers. Lawyers used the facilities of the library to discuss legal issues or exchange information on a case before or after coming from a courtroom. A number of users found it appropriate to talk to colleagues on some issues of law to obtain the necessary confidence before going to court. Some lawyers preferred to hold such discussions informally in the library while using the relevant information materials available in the library. It was, therefore, a common experience and in particular in Nairobi and Kisumu to observe two or three lawyers seated at a desk discussing issues as they went through a pile of information materials. A few users interviewed said they preferred to hold informal discussion in the library because of the peaceful atmosphere that existed there. As noted in Table 7.2 there was less of this activity in Eldoret compared to Kisumu and Nairobi. The reason is that users are likely to protest at the use of limited reading facility for discussion. It is also likely to interfere with others who are doing serious reading.
f) Consulting Law Books
Like item (b) above, consulting law books involved users browsing through the book collection on the library shelves. The book collection also included a collection of statutes. Books are not as heavily used as the law reports as some lawyers have personal collections of books and statutes in their office, but few can afford law reports because they are prohibitively expensive. So in instances where the law reports were involved, they had no option but to use the library collection. This no doubt indicates that the High Court library is used by some lawyers as a second reference source. It is used only when their own collection has failed to be useful.

g) Photocopying Services
Photocopying services were available only in Nairobi. The law library in Nairobi had recently acquired a new photocopying machine donated by the United Nations Development Programme (UNDP). Until this donation, none of the three libraries had a photocopying machine. Considerable use is made of the service both by lawyers and members of the bench. While the bench does copying free of charge, lawyers have to pay for the service. Payment for the service was considered appropriate by users because it helps to sustain the service.

h) Enquiry Services
It is observed that the Enquiry or Information Desk was not seriously used. Of the three libraries only Eldoret and Nairobi made use of this service. In Kisumu, the service was rarely used. The service was more popular, however, in Eldoret than Nairobi. The reason could be the size of the library room in Eldoret. Since the Eldoret library cannot accommodate more than three people at once, those who could not access the library, made enquiries for information from the staff normally positioned at the entrance. The enquiries were fewer - an indication that this is not considered a serious activity. It was observed that most of the enquiries were simple directional queries. This could be due to the lack of fully trained and experienced staff capable of handling complicated tasks. It could also be the reluctance of lawyers to delegate legal research to people who have no training in the legal discipline.
i) Use of the Library Catalogue
The catalogue as an information retrieval tool was seldom used by lawyers during the observation period. In Eldoret and Kisumu, this was inapplicable as neither has a library catalogue. Only the High Court library in Nairobi has a catalogue. In the absence of this information retrieval tool, users located information materials simply by browsing through the book shelves. The reason the catalogue in Nairobi was not used was that it is not user-friendly. The arrangement of the card entries is so haphazard that it is difficult to locate the needed information. The arrangement has not been revised because of a lack of qualified professional staff. Hence users opted to browse through the book shelves or seek assistance from library staff.

j) Consulting Law Journals
Consulting law journals was the activity least undertaken by lawyers. A few users were recorded in Nairobi and Eldoret. No single user was recorded in Kisumu during the observation period, which is unsurprising as Kisumu does not have any law journal of note. It is interesting to note that despite a vast number of journals available in Nairobi and in particular, the academic law journals, the collection was not heavily used. The possible reason could be the nature of users of court libraries who are essentially judges, magistrates and advocates. Being practitioners, many users do not find law journals very useful. In addition, most of the law journals available in court libraries are old with no current subscriptions to back them up. There is no serious live local journal at the moment. The presence of a live journal could have served as a current awareness tool. It could have updated lawyers on current developments in the legal discipline. Furthermore, the few existing journals are foreign journals which are not directly relevant to the needs of lawyers in Kenya. Another reason is that the majority of journals available in the libraries comprise academic journals which do not directly appeal to practitioners. Practitioners’ titles such as the Solicitors' Journal, New Law Journal, etc. are not available.

Comparison of Usage
Table 7.3 shows that the High Court library in Nairobi is the most heavily used of the three libraries. Several reasons can be advanced in support of this observation. Nairobi
has the largest population of lawyers in the country. The High Court library in Nairobi serves as the main library of the High Court library system. The main library coordinates the activities of the branch libraries and controls library expenditure. This gives it an advantage over the branch libraries in the area of acquisition of information materials. Furthermore, the librarian in charge of the entire system operates from Nairobi. The above, plus other factors, give the High Court library in Nairobi an obvious advantage over the branch libraries.

It is, however, interesting to note that despite the obvious importance of Kisumu as a major urban centre in the country, the High Court library in Kisumu appears to be less active than Eldoret. One factor could be the library staff. The law library in Kisumu has for a considerable time been run by inexperienced clerical staff with little interest in library work. They consider the library job as punitive compared to places such as the registries where side benefits appear to exist. As a result, the library staff rarely stayed in the library to serve the users. Instead, they tended to spend much time out of the library attending to personal errands. In their absence, lawyers were compelled to serve themselves. This attitude by library staff discourages lawyers from visiting the library.

Another factor could be the rapid growth of Eldoret as a modern urban centre. This has been enhanced by the great attention and interest the present government has recently accorded Eldoret. The flurry of socio-economic activities witnessed in Eldoret has attracted a lot of advocates to the area who have made a great impact on library services in Eldoret.

**Conclusion**

It does appear from the analysis of data from this observation that the three libraries are not fully used. Several factors have contributed to this. One factor has been inadequate funding. Funding has affected the procurement of materials for these libraries. Because of a lack of current materials, a number of collections and services are not used. It is noted for instance that the enquiry service is not offered. This could be due to the absence of current titles. Law journals are exceedingly effective as an
information source when they are current. Their use diminishes as they cease to be current. This is so because lawyers use them as a source for current awareness. The same applies to books. The usefulness of a law book fades away after the publication of subsequent editions. Funding also affects the procurement of catalogue card cabinets. As a result, the branch libraries have not been able to catalogue their collection.

Lack of trained and motivated staff has similarly affected the services provided in the libraries surveyed. Despite the importance of the High Court libraries in the administration of justice in a country, at the time of the study, the system did not have a professionally trained librarian. The few para-professionals (library assistants) available were all based in Nairobi. Both Eldoret and Kisumu are managed by untrained and poorly motivated staff. Such an establishment does not provide the kind of services typical of an organised law library.

The physical facilities in these libraries are inadequate. The two branch libraries cannot cope with the number of users at peak time. In Kisumu, for instance, it was reported that the library is fully occupied at peak time when student pupils from the Kenya School of Law are in recess. In Nairobi, the library is so crowded at peak time that the need for additional space is paramount. In a confidential report written by the acting librarian of the High Court in Nairobi to the Judiciary arising from his visit to branch libraries carried out in 1996, which included among others Kisumu, the librarian expressed his concern about the appalling reading and shelving facilities in the branch libraries. As long as these problems persist, the use of High Court libraries will be greatly affected.

7.6 USE OF NON-PUBLISHED MATERIALS

Non-published or grey literature is becoming increasingly used in law libraries. This literature comprises information materials that generally do not pass through conventional publishing houses. In the legal discipline, it may comprise the following:

- unreported judgements of the High Court and Court of Appeal
annual reports
- locally published digests of judgements
- conference, seminar papers, etc
- publications from government departments, Non-Governmental Organisations (NGOs), etc.
- theses and student project reports

In view of the popularity of these sources in the developed world, the researcher wanted to find out whether lawyers in Kenya ever used them. Asked whether they used non-published literature in legal research, 89% of the respondents interviewed agreed. This finding confirms the importance of grey literature in legal research. Table 7.4 provides detailed analysis of responses from participants.

Table 7.4

Use of Grey Literature

<table>
<thead>
<tr>
<th>Response</th>
<th>Categories of users n=78</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>Yes</td>
<td>29</td>
</tr>
<tr>
<td>No</td>
<td>3</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations:
A: Advocates
JS: Judicial Staff
LT: Law teachers
SC: State counsels

On further analysis of responses from participants, it was evident that all law teachers used it. They used it for both teaching and research. One participant observed that in
the absence of current journals and latest editions of textbooks, the grey literature was the only source of up to date information. Because of this, he opted to use it when he accessed a relevant title. One academic said, 'I find the materials extremely useful. I use them a lot whenever I research issues on African customary law, much of which is not published.'

The academic community used a considerable amount of grey literature. As this collection contains primary literature, a number of law teachers interviewed found it helpful when writing papers for presentation in conferences or publication in learned journals. They used unpublished papers presented in seminars, conferences and workshops. Some papers have not been published in learned journals because of the lack of live local journals. At the same time, they have not been published by overseas journals because of the stringent publication requirements stipulated by the internationally acclaimed journals. Much of the grey literature is in the law library and in particular, the academic law library where it is housed as a special collection. In addition to conference papers, the library of the University of Nairobi acts as a depository for theses produced either in Kenya, on Kenya or by Kenyans. Its law library at Parklands Campus maintains a collection of dissertations written by final year LLB students. This collection has developed into a sizable collection and a number of law students, particularly final year students, make serious use of it. Due to the heavy use of the collection, the materials have been put in the reserve collection.

Legal researchers at the Law Reform Commission, also, confirmed using these materials extensively. They found publications on government policy statements particularly useful. One researcher found materials on sociology useful to his research work. Another researcher argued that in proposing new laws for legislation by the parliament, 'We as legal researchers have to ascertain the impact that the new law is likely to have on the population. To do this, an understanding of the culture of the people in the country is considered vital. For instance, if a new law on marriage has to be proposed for enactment, the researchers would need to have an idea of its effect on the muslim or hindu culture or any other ethnic group. Since very little has been published conventionally on this subject, researchers are compelled to resort to grey
Advocates, too, found unreported judgements and unpublished digests very helpful in keeping abreast of judicial decisions. Since published judgements take long to be produced, unpublished judgements have proved exceedingly useful in this regard. It was pointed out that since the last published issue of the *Kenya Law Reports* in 1988, the legal community has had to rely entirely on this mass of literature. Without it, they say, there is simply no way they could have kept up to date with case law. "These unreported cases produced in cyclostylled form have really done us proud," one advocate remarked. Until the publication of the official law reports is streamlined, the legal community in Kenya will continue to rely to a great extent on this mass of unpublished materials.

Most of the law libraries in the three areas studied have grey literature in one form or another. However, the Law Library at Parklands Campus and the Law Reform Commission library in Nairobi had superior collections. The reasons could lie in the nature of the work of the parent organisations which require constant reference to the collection. The court libraries and, in particular, the High Court library in Nairobi confine their coverage basically to unreported judgements and unpublished digests. They have fewer government reports. Court libraries, by virtue of the nature of their users, are more interested in materials that are able to be used as legal authorities. While unreported judgements qualify to be cited in court as they are produced by the High Court Registry, much of the grey literature cannot be used for this purpose because it is not authenticated.

Information users were asked if they were able to access all the grey literature they needed, and most replied that this was not the case. They blamed their law library for its failure to obtain a more comprehensive literature. Some users believed that a comprehensive collection of grey literature is crucial in boosting their research collection. One participant said she had to visit a number of libraries including non-legal libraries to find appropriate research materials.
The growing need for grey literature has serious implications for law librarians. Since the law librarian, like her/his counterpart in other special libraries, has to meet the needs of users, s/he has to ensure that this literature is available to them when needed. But acquiring this literature is not easy as much of it is published privately. Being an in house venture, much of the literature is not for sale. Therefore, there is no incentive by the producers to produce extra copies for circulation. Furthermore, they are not documented in bibliographic sources that could assist the librarian to learn of their existence. The identification and location of such material is down to chance as there is no systematic way to trace it (Kibirige, 1978, p.318). On this subject, Muya (1991, p.7) adds: 'Grey literature creates lots of problems because its existence is not well known. Even where it exists, it is unplanned for and very unsystematic. The major bibliographic tools are not effective in recording this form of literature.' Furthermore, Bent states:

Libraries have had to contend with information resources which are not available through conventional channels, such as technical or research reports and conference proceedings. This 'grey literature' a term originating with British librarians is characterised by limited distribution, poor bibliographic control, small press runs and non-standard formats.

(Bent, 1996, p.61)

So the only option open to the librarian trying to acquire such literature is, as Loo (1985, p.60) says, to visit each and every organisation that produces it. As such materials are generally available free of cost, the librarian will need to be good at public relations as some organisations may be uncooperative.

7.7 NON-USE OF INFORMATION

Aware of the great importance lawyers attach to information, the researcher endeavoured to find out whether members of the legal community can function without it. Asked whether they have ever prepared a defence or decided a case in court or advised a client on a legal issue without resorting to any documented information source, 87% of the participants who answered this question agreed. The rest said they
have never done it. Table 7.5 provides a detailed analysis of responses from participants.

Table 7.5
Non-use of Information

<table>
<thead>
<tr>
<th>Response</th>
<th>Categories of users n=73</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A  %</td>
</tr>
<tr>
<td>Yes</td>
<td>29 91</td>
</tr>
<tr>
<td>No</td>
<td>3 10</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32 41</td>
</tr>
</tbody>
</table>

Abbreviations:
A: Advocates JS: Judicial Staff SC: State counsels

The researcher attempted to ascertain how lawyers managed to do without information support. The following instances were mentioned. Where:

- a lawyer has mastered the law relating to a given subject or issue
- the lawyer has decided or dealt with similar cases before
- a lawyer or magistrate has built up a considerable experience in a particular field or issue of law
- the issue or case at hand is simple and the procedure is well known
- the case relies on the general principles of law and not experience; or on facts as presented. A number of magistrates interviewed, said they did not need to consult the law to decide on some cases. Instead, they relied on the facts presented in court by the parties. In criminal cases, for instance, one magistrate said that she relied mostly on three sources: the charge sheet containing details of the offence, information from the prosecution and the defence. On the basis of the information provided from the three sources and her considerable experience on the bench, she was able to make a ruling without looking for
additional information. She, however, admitted that where a new area of the law was involved, she endeavoured to carry out independent research

- the advice is presented verbally and not in writing. It was stated by some respondents here that any information (e.g. legal opinion, brief, etc.) a lawyer gives out in writing must be based on a documented information source. Any advice given in writing commits him/her and could be used against him/her if it is found out that he/she gave wrong information

- one has to give an immediate decision (verbal) possibly on the telephone. Experience is, however, important here to ensure that the relevant authority is used

One respondent, however, pointed out that he only offered legal advice orally, and that for other legal work and in particular defence, he has to resort to the law. He did not believe in taking chances. Thapisa (1996, p.214) argues that any decision made by a policy maker must be based on adequate information support.

It is evident from the above analysis that a lawyer can perform a legal task without necessarily referring to the law. This is particularly so where the decision taken or advice conveyed is verbal. This finding concurs with studies carried out by Kidd (1981) and Johnstone (1972). Such instances isolated by respondents are strictly limited to possible verbal advice and decisions. As for tasks such as opinion or brief writing, one has to consult the law. A prominent lawyer in the UK observed:

The average barrister, however - unlike, I regret to say, some solicitors - learns never to give an opinion without first looking up his law. By comparison the solicitor, who works under greater pressures over a wider field, often labours under the false impression that if his client - being a layman - sees him looking at books before answering his questions, he will assume that he does not know his job and will lose confidence. Yet if a solicitor wishes to attain real proficiency in his profession, he must take time to check his law.

(Napley, 1991, p 9)

Lawyers should not be too over confident. Kidd believes that advice should not be given unless more is known about the person or client:
A solicitor must be informed about his clients. He must have any information which is pertinent to the matter he is handling for his client; that is all the information which must be taken into consideration before advice is given or action is taken. Without this total information there is always the danger that the best advice will not be given or the best course of action not taken, not because the solicitor lacks knowledge of the law, but because the solicitor has been made aware of all information relevant to a client's matter. An unsuitable course of action may be taken, or an omission may occur, simply because the solicitor does not have all this relevant information or cannot locate it. Thus the fundamental need of a solicitor is to be fully informed of all that is relevant to a matter which he is handling for a client.

(Kidd, 1978, p.41)

Johnstone (1972, p.79) observes that some lawyers when asked for advice in an area they know they are not equipped to give, will gamble on luck or their client's gullibility and give advice without sufficient preparation. It is important to note that a lawyer who does her/his advisory work well makes law and legal process meaningful. In terms which the clients can understand, s/he explains the legal doctrine and practices and their implications to clients. This individualizing and popularizing of the law requires a good deal of facility with ideas and language, at simplifying concepts often mystifying and strange for clients. But the more a lawyer knows about the surrounding circumstances of the matter at hand, the better the position s/he is in to give accurate and sound advice. Mastery of legal doctrine by itself is seldom not enough. The better the lawyer understands his/her client and his/her client's affairs, the more helpful s/he can be.

7.8 USE OF INFORMATION SOURCES

In view of the general scarcity of legal information materials in the country, the researcher endeavoured to ascertain the extent to which users obtained maximum satisfaction from their law library collection. In this connection, respondents were asked whether their legal or non-legal information needs were adequately met by one single information source e.g. the library in their organisation. The responses indicated that the needs of the majority of participants were met by more than one source.
Table 7.6 analyses respondents who derived satisfaction from combinations of information sources. The survey revealed that 69% of the respondents interviewed obtained maximum satisfaction from a combination of three information sources namely: their library; their own collection; and outside sources. In addition, a total of about 29% of respondents derived satisfaction from a combination of two information sources namely: their library; and their own collection. Only a minority of respondents used just one information source to adequately meet their needs.

As noted, only one respondent obtained maximum satisfaction from his personal collection. The respondent who used only his own collection is a well established advocate who runs a single law firm in Kisumu. Because of the scarcity of legal information materials in the Law Court Library in Kisumu, the advocate maintains a basic legal collection (fairly sufficient) to meet much of his daily needs.

Of the three respondents who relied wholly on their library for information, one respondent is a judge of appeal while the rest are junior magistrates. This judge did not consult other sources because his chamber was just next to the library collection of the Court of the Appeal. The two magistrates presided over pretty minor criminal cases in subordinate courts and found the library collection more than sufficient for their daily needs.

A third of the law students and advocates interviewed used two information sources. However the majority of respondents used at least three information sources. This means that their own collection and library sources were inadequate to cater for their needs. A good example here is state counsels. Although the A-G Chambers has a sizable library, only 3 respondents obtained satisfaction from it. The rest had to consult other sources preferably the High Court library. Similarly, a few students from the Law Faculty in Nairobi relied entirely on their library. The majority resorted to third sources to satisfy their needs.
Table 7.8

Use of Information Sources

<table>
<thead>
<tr>
<th>Information Sources</th>
<th>Categories of Users n = 125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>Own collection + library + outside sources</td>
<td>21</td>
</tr>
<tr>
<td>Library + own collection</td>
<td>10</td>
</tr>
<tr>
<td>Library collection</td>
<td>0</td>
</tr>
<tr>
<td>Own collection</td>
<td>1</td>
</tr>
<tr>
<td>Total sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations

A: Advocates
JS: Judicial staff
LSK: Law students (KSL)
LSU: Law students (UON)
LT: Law teachers
SC: State Counsels
The above analysis demonstrates the serious shortage of legal information materials in law libraries in Kenya. Because of the inability of most libraries to meet the users' information needs, users have to visit other libraries or information sources to supplement the information.

7.9 NEED FOR NON-LEGAL MATERIALS

A great deal of non-legal information is procured in law libraries to supplement legal collections. The researcher wanted to ascertain the requirements of users of law libraries in the areas of the study for these materials. Asked whether a law library should procure materials in non-legal areas, 95% of respondents interviewed replied positively. This question was confined only to lawyers and law teachers. Table 7.7 analyses responses from participants.

Table 7.7

Non-Legal Information

<table>
<thead>
<tr>
<th>Response</th>
<th>Categories of users n=78</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A  %</td>
</tr>
<tr>
<td>Yes</td>
<td>32</td>
</tr>
<tr>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations:
A: Advocates JS: Judicial Staff LT: Law teachers SC: State counsels

In view of this overwhelming response, the researcher endeavoured to find out what prompted one respondent to think otherwise. The respondent who held a differing view was a law teacher who believed that a law library and, in particular, the Law Library
of the University of Nairobi should concentrate its efforts on areas of immediate relevance, that is, the procurement of adequate and current legal materials. She felt that taking on non-legal materials would be an impossible task which the library was ill prepared to shoulder. Further, she said that should a need arise for non-legal materials, users can use other libraries' collections.

Asked to suggest areas or subjects they would like to see incorporated in their law library collections, a number of proposals were made. Among these are: accountancy, insurance, banking, medico-legal literature, forensic medicine, business, office management, international relations, sociology, politics, criminology, penology, firearms, history, philosophy, customary law, theatre, literature, environment, biodiversity, agriculture, computer studies, architecture and other areas that have relevance to the study of law.

The above finding concurs with similar studies carried out in the developed world. It concurs with a pilot survey conducted by the researcher earlier in England where 84.6% of the lawyers interviewed on this subject supported the procurement of non-legal information materials. Smith (1976, p. 14) argues that a progressive law library should not confine its collection to purely law materials. It should seek to acquire materials that are not strictly legal in subject content but relate in some way to legal studies.

Lawyers interviewed believed that non-legal materials were desirable in any law library because lawyers, including judges and magistrates, are involved in legal issues in areas such as medicine, agriculture, engineering, environment, etc. To be able to dispense fair justice, lawyers must have access to information in these disciplines to acquire background information necessary to assist them to arrive at a just opinion. ‘In assessing claims for personal injury for instance, a lawyer may need to consult literature on medicine to assist him to assess the injury that a claimant has suffered so that appropriate claims can be negotiated with the defendant,’ one academic stated. It would be futile, he said, for the lawyer to rely entirely on the evidence of medical personnel. ‘One needs to have background information in this discipline to be able to
cross examine the medical witness,’ another lawyer remarked. Similarly, it was appropriate for law libraries to stock materials on financial and personnel management. Since lawyers in small firms and, in particular, solo firms have to perform their own accounting, specialist literature on accountancy for lawyers was ideal for lawyers to accomplish this task. In large firms with a sizable staff establishment, partners need literature on personnel management to assist them to administer the law firm staff. Cohen (1969, p.187) observes that a lawyer should not confine her/his research solely to her/his office library. Lawyers must have increasing recourse to the related literature of other disciplines, particularly the social sciences. With regard to the importance of a non-legal collection, a law librarian in Nigeria commented:

Acquisition of non-legal materials is not new to a functioning law library - both academic and private law libraries. Librarians of practising firms of lawyers buy basic volumes in engineering, accounting, medicine, etc. for practising lawyers who require some knowledge of subjects in order to handle their cases with competence. For the past few years, pressure has been brought to bear in most academic and research law libraries to acquire more of non-legal materials to support changes in curricula of law schools and empirical researches in inter-disciplinary programmes undertaken by post-doctoral fellows which bring together scholars and experts of various disciplines: lawyers, sociologists, economists, etc. These inter-disciplinary programmes are described as ‘problem-solving research projects that result in written products.’

(Jegede, 1976, p.79)

It was, however, pointed out that non-legal materials should only supplement and not replace mainstream legal materials. In other words, they should not be procured at the expense of basic legal works. In academic law libraries, the librarian should not be concerned with the procurement of non-legal materials as many of these titles are either available or can be acquired by relevant subject-based libraries in the university. Where the materials are not available, the law librarian can liaise with her/his subject counterpart. The problem is, however, greatly felt in law firms or court libraries. Here a policy has to be made on the fate of these materials in the library’s collection development policies. However, in view of the scarcity of funds to update the mainstream collection, the law librarian may be compelled to seek other venues to satisfy this need. Among the options to be investigated, are donations and inter-library
cooperation.

7.10 USERS' SUGGESTIONS FOR IMPROVING INFORMATION SERVICES

A number of issues were raised by respondents interviewed on various aspects of legal information provision in the country. Some of these issues have been covered elsewhere in this work. A number of problems were highlighted about the performance of law libraries. Although the essence of this research is not to provide researched solutions to the problems of legal information provision, the researcher endeavoured to find out users' views on the problems highlighted. Asked to propose how law libraries can most effectively meet the needs of the legal community, a number of suggestions were presented. The responses to this question are grouped into two categories: those emanating from lawyers, including law teachers; and, law students. Differences in the work style of the two groups influence their perception of information services. Detailed analysis of the responses to the above question is contained in Tables 7.8(A) and 7.8(B).

The data analysis shows little difference between the suggestions presented by lawyers and those of law students. While lawyers emphasise 'replacing missing law books and periodicals' as the most important factor, students consider four suggestions as the most important, namely: provision of more textbooks; acquisition of latest editions of standard texts; replacing missing law books and periodicals; and updating law journals.
Table 7.8 (A)

Users' Suggestions for Improving Information Services (Lawyers)

<table>
<thead>
<tr>
<th>Suggestion</th>
<th>Categories of Users n= 78</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>Replace missing law books and periodicals</td>
<td>30</td>
</tr>
<tr>
<td>Acquire latest editions of standard texts</td>
<td>26</td>
</tr>
<tr>
<td>Provide up to date and indexing materials</td>
<td>31</td>
</tr>
<tr>
<td>Employ professionally qualified staff</td>
<td>29</td>
</tr>
<tr>
<td>Introduce current awareness service</td>
<td>23</td>
</tr>
<tr>
<td>Automate library services</td>
<td>20</td>
</tr>
<tr>
<td>Train users in legal research skills</td>
<td>28</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations

A: Advocates  JS: Judicial staff  LT: Law teachers  SC: State Counsels
### Table 7.8 (E)

Users' suggestions for Improving Information Services (Law students)

<table>
<thead>
<tr>
<th>Suggestion</th>
<th>Categories of Users</th>
<th>n= 47</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LSK %</td>
<td>LSU %</td>
</tr>
<tr>
<td>Provide more text books</td>
<td>18 86</td>
<td>25 96</td>
</tr>
<tr>
<td>Acquire latest editions of standard texts</td>
<td>17 81</td>
<td>26 100</td>
</tr>
<tr>
<td>Replace missing law books and periodicals</td>
<td>17 81</td>
<td>26 100</td>
</tr>
<tr>
<td>Update law journals</td>
<td>17 81</td>
<td>26 100</td>
</tr>
<tr>
<td>Provide additional sitting facilities</td>
<td>16 78</td>
<td>24 92</td>
</tr>
<tr>
<td>Update indexes and abstracts</td>
<td>16 78</td>
<td>23 83</td>
</tr>
<tr>
<td>Provide more legal documentation publications</td>
<td>16 86</td>
<td>20 77</td>
</tr>
<tr>
<td>Introduce a current awareness service</td>
<td>13 62</td>
<td>24 92</td>
</tr>
<tr>
<td>Involve students in the formulation of library policies</td>
<td>11 52</td>
<td>20 77</td>
</tr>
<tr>
<td>Employ more trained staff</td>
<td>10 48</td>
<td>21 81</td>
</tr>
<tr>
<td>Automate library services</td>
<td>10 48</td>
<td>16 69</td>
</tr>
<tr>
<td>Introduce a more personalised student - staff relationship</td>
<td>8 38</td>
<td>19 73</td>
</tr>
<tr>
<td>Total in sample</td>
<td>21 45</td>
<td>26 53</td>
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</table>

**Abbreviations**

LSK: Law students (KSL)  
LSU: Law Students (UON)
7.11 DISCUSSION OF USERS’ SUGGESTIONS

a) Replace Missing Law Books, Reports and Journals.

Concern was expressed by respondents about information materials missing in law libraries. The absence of these materials, and in particular, law reports, law journals and statutes creates such a serious gap in the collection of a law library that unless the situation is rectified, its use is greatly hampered. At the A-G Chambers library for instance, this problem is so acute that a number of officers use the High Court collection instead. At the Kenya School of Law and the Law Faculty the same problem persists. To improve the effectiveness of law collections, it was suggested that the missing materials should be replaced.

b) Acquire Latest Editions of Standard Texts

This suggestion was brought forward in response to what respondents described as the pathetic condition of legal materials in libraries surveyed. It was observed that some popular works were not only seriously outdated, but also, worn out. In an attempt to solve this problem, it was suggested that the mutilated and outdated works be replaced with current editions.

The need for a current collection of textbooks in the law library is indeed crucial. In support of this view McGavin observes:

Out of date text books, unless they concern a relatively static area of the law, either complicate the matter or at worst, are useless. The large number of periodicals to which a law library must subscribe is also a speciality. They are indispensable. The two most important areas of need for the lawyer, up to date textbooks and periodicals, are not surprisingly among the most expensive. So many areas of the law are the subject of new legislation, and litigation in general terms has increased, with the result that it must be a nightmare of resource allocation to keep a law library stocked in the way which it renders it most useful for the user, the advocate or the solicitor.

(McGavin, 1991, p. 134)

205
c) **Update Abstracting and Indexing Materials.**
A number of respondents interviewed expressed concern about the lack of up to date abstracts and indexes in many law libraries in the country. Since these titles act as information retrieval tools, their absence hinders the retrieval of information. While some libraries such as the High Court and A-G Chambers in Nairobi have these tools, the titles have not been updated since the 1980s. As a result, their effectiveness is questionable. Procurement of an up-to-date collection was suggested.

d) **Provide More Text Books**
The provision of up-to-date text books was made mainly by law students. It was felt that, despite increase in student admissions at the Law Faculty and the Kenya School of Law, the provision of information materials remained the same. The increase in student intake has put so much pressure on the limited information resources that access to them has been a major problem. A situation has arisen where too many people are chasing too few titles. Popular textbooks in particular are not available. It was proposed that additional titles be procured to match the growing number of students.

e) **Up Date Law Journals**
Respondents expressed concern about the currency of law journals in libraries surveyed. It was found out that with the exception of the collection at HHM, the rest had outdated periodicals. At the University's law library, periodicals were last renewed in 1985 and at the A-G Chambers, in the early 1980s. As a result, these collections can no longer be used as a current awareness source. The solution is to update the collection. Students were concerned about this problem because they use the literature frequently.

f) **Employ Professionally Qualified Staff**
A number of respondents were dissatisfied with the performance of library staff. While some were ill prepared to handle legal clientele, others were said to be uncooperative. At the Law Faculty and Kenya School of Law, students interviewed felt the junior staff were unfriendly and occasionally absent from their positions. At the A-G Chambers,
respondents were unhappy with the performance of the library staff. They complained that the staff did not have relevant skills and, in some instances, were not available. On some occasions, the library closed early and opened late. Respondents believed that the employment of professionally qualified staff could improve the management/effectiveness of the library and its performance.

g) **Introduce Current Awareness Service**
Current awareness service is a very important information service in any organised library. By use of new issues of journals, magazines, newspapers, new books, etc., the library staff draw the attention of users to new information affecting their study or work. In law libraries, this service is particularly useful. Unfortunately, this service does not exist in most law libraries surveyed due either to lack of current subscriptions to periodical titles upon which the programme relies, or lack of trained library staff. In view of the importance of this service, it is no surprise that users strongly recommended it.

h) **Train Library Users in Legal Research Skills**
Although a number of lawyers interviewed claimed to have had training in legal research skills in college, it is possible that much of this knowledge has since been forgotten and a refresher course would be useful. Lawyers at the Law Reform Commission considered training in legal research skills appropriate to their work as researchers to improve their research capability. One researcher pointed out that research activities were hampered because officers did not undergo research methodology programmes in college and, that because of this, some colleagues were unable to write acceptable research proposals.

Users need to know how to use the resources of an information service to be able to maximise its use. They need to know how to utilise the various retrieval tools such as abstracts, indexes, digests, and citators to retrieve needed information. They need to know where to find retrieval tools and their location in the library. They need to know the library arrangement to be able to locate the materials with minimum inconvenience. To be able to overcome these obstacles and maximise use of library resources, users
and, in particular, new users, need to undergo programmes in legal research skills. This programme is normally carried out by qualified and experienced law librarians. Training in legal research is a great asset to lawyers who by nature of their work have limited time to spend gathering information. It saves valuable time and it maximises research effectiveness. This enables him/her to present thoroughly researched legal opinions which can have a great impact on legal practice in the long run.

i) **Involve Students in the Formulation of Library Policies**

Law students interviewed believed that involvement in the formulation of library objectives would, if implemented, enable students to participate in the decision making process of the library and would lead in a way to a form of participative management.

j) **Introduce an Effective User Suggestion Scheme**

Students interviewed said they did not have any formal method of communicating their views about the library performance to senior library authorities. They felt that a user suggestion scheme would be appropriate in this regard.

k) **Automate Library Services**

A number of respondents believed that the automation of library services could improve the performance of specific operations. They pointed out that catalogue users in particular would be the immediate beneficiaries as the present manual catalogue is slow and cumbersome to search. Automated services would make the retrieval of information faster. However, looking at the ranking of this suggestion, it is obvious that the suggestion does not carry much weight. The reason may be because most users have not used an automated system (OPAC) before and, therefore, do not know its advantages.

7.12 **A CASE STUDY: the Information Needs of a Legal Practitioner in Kisumu**

**Introduction:**

In an effort to highlight the situation in which Kenyan country lawyers operate and the kind of information they need to carry out their legal functions, an in-depth study was carried out (by interview and observation) of a lawyer in Kisumu. The results obtained
from the study illustrate the experiences of lawyers in small law firms.

Background Information:
Kinyanjui and Co. (Advocates) is a one man law firm. It was established by Hannington Kinyanjui in Kisumu in 1992 after leaving the service of a medium size practice in Nairobi the same year. Realising how competitive legal practice was in Nairobi for a new business, he decided to start the practice in Kisumu which he felt was less competitive. Although Kisumu is not his home town, Kinyanjui likes the place and its business environment. The people are friendly and the business he says, is picking up. Initially Kinyanjui had thought of starting his practice in Nyeri, the provincial capital of Central province from where he originates. But he realised that Nyeri did not have many businesses since there were fewer industrial and commercial concerns in the area. The majority of the people are basically farmers, and to a lesser extent, civil servants and teachers. Such an environment was not favourable for legal practice. Furthermore, a number of colleagues who were practising in Nyeri had started winding up their business. Kisumu, on the other hand, was a thriving city with a population of 750,000. In addition to being the headquarters of Nyanza province, it has several key industries and significant commercial activity centred around the Asian population. Kisumu has since been nicknamed ‘the Bombay of Kenya.’ Furthermore, the town is situated in western Kenya which acts as a major gateway for traffic between Uganda, Rwanda, Burundi and Zaire. In addition, the city has a flourishing fishing industry based on Lake Victoria, the second largest freshwater lake in the world.

Kinyanjui & Co. has rented three rooms in a two storey building about a kilometre from the town centre. Being a small firm, Kinyanjui could not afford an office space in the town centre which was fairly competitive. Kinyanjui does not own a car. So, in most cases, he walks to the office and, if in a hurry, he uses public transport. Out of the three rooms, one room serves as his office, the second is used as a reception room from where his secretary operates, while the third acts as a registry room. This room houses all files and documents arising from legal work.
Kinyanjui has three members of staff. These are the secretary, a law clerk and a cleaner-cum-office messenger. The secretary does all the typing and filing of documents. She arranges the advocate’s appointments and attends to visitors. The law clerk takes care of the advocate’s legal matters. He ensures that all files for pending cases are attended. He serves sermons on behalf of the advocate and represents his master in places where he is unable to attend. The messenger does the office cleaning, carries out some errands and prepares tea for staff and official visitors.

Nature of His Business
Like any lone practitioner in Kenya, Kinyanjui has not endeavoured to specialise in any aspect of legal practice. He has yet to make an impact in Kisumu and since he requires business to exist, he takes any business that is brought by clients. Much of his business revolves around litigation, providing advice, and office based legal work such as conveyancing and probate. He occasionally assists his clients with investment and taxation problems. However, litigation occupies much of his time. Once in a while he oversees the transfer of property, and, in particular, land assets. Kinyanjui would like to concentrate on conveyancing because it offers excellent returns, but he says, the business is very irregular and therefore, he cannot rely on it to sustain a legal practice. Litigation, on the other hand, offers regular business but poor rewards. Furthermore, some clients particularly individual clients do not pay fees on time forcing the advocate to resort to bank loans as a temporary measure. In addition, litigation takes much of the advocate’s time in form of preparation and court appearances.

Kinyanjui does not have a rigid work schedule. The reason being that his work is determined by clients whose needs cannot be predicted. He reports in his office at 8am. He goes through the morning papers for current information before the clients arrive. He interviews, consults and advises clients on legal issues affecting them. From 10am he attends the court to represent his clients. In most cases, he appears at the Kisumu Law Courts. But in some instances, he may appear in courts in neighbouring towns such as Kakamega, Kisii and Busia. Whenever he is not appearing in court, he may be attending
land transfer matters at the Lands Office or even appearing at the Land Board. He is normally back in the office at 5pm. He would attend to clients who would be waiting to see him. When the office is clear of staff and clients at about 6.30pm, he would attend to correspondence; prepare legal documents such as wills, leases, sale agreements, etc; carry out legal research (where it is necessary); and arrange the following day’s work. In some instances, he would take some work home to be completed after supper. The earliest time Kinyanjui goes to bed is 11pm.

Office Information Collection

The law firm has a total collection of about 50 volumes of legal texts. In addition, the advocate recently purchased a set of the local legislation, the *Laws of Kenya*. The collection comprises basically quick reference materials which the advocate has been able to develop since he was a law student at university. Although a number are becoming dated and some editions need to be replaced, the advocate feels that they still serve a purpose by refreshing him on some principles of law. In addition to materials bought at college, some materials were acquired while he was a fee earner in Nairobi. He used to save money while in Nairobi to purchase limited copies of practitioner’s books that he now uses. Kinyanjui, like many young advocates, says that his ultimate ambition was to start his own practice. But before that materialised, he thought he should work with a busy legal practice not only to gain the experience essential for a competitive world, but also, to save enough money to be able to acquire the basic materials required for a successful legal practice. In addition, the law firm has been subscribing to the *Kenya Gazette* and through this, the firm has built up a cumulation of Annual Supplement to the *Laws of Kenya* for the last three years. The annual supplement is used as basis for the amendment of the *Laws of Kenya*. The statutes have to be amended from time to time to keep them up to date. The best way to do this is to incorporate new amendments as and when they are published. These supplements are supplied along with the *Kenya Gazette*.

The information collection is housed in the advocate’s office. One reason for this is that it enables the advocate to access the collection easily from his desk. Secondly, he is the
only user of the collection other than, perhaps, the law clerk who may wish to check on
the statutes for one purpose or another. That is, however, an exception rather than the rule.
But the most important reason is that it prevents materials from disappearing as many
which are not only expensive, but also, not easily available. Few people entered
Kinyanjui’s office and those who did, were essentially clients who have nothing to do with
his information collection. The law collection covers some areas of his immediate interest.
However, since law books and in particular practitioner’s books are expensive to acquire,
he has not attempted to be self sufficient. His firm, like most small law firms, will
continue to rely on external sources for a considerable period of time. Among the areas
of law he has endeavoured to acquire materials in are criminal law and procedure, law of
evidence - both principles and practice, civil procedure, transfer of property, and customary
law. Customary law is important here because there is a considerable amount of litigation
involving customary marriages, divorce, succession, and land transfer. Furthermore, there
is no uniform customary law in the country. The law tends to vary from one ethnic group
to another. With over forty ethnic groups in the country, the firm library has to collect
information materials on most of these groups. It is worth noting that much of this law is
not documented and, where it is, much of it is in grey literature which is difficult to
obtain. The advocate uses practitioner’s law much of the time to assist him in matters
pertaining to procedural law. However, for substantive law, he still relies on textbooks he
acquired at university and the few he has managed to add since he qualified as an
advocate. In addition, he has two legal dictionaries which he consults frequently. Kinyanjui
considers his new set of the *Laws of Kenya* and a collection of annual supplements as a
major investment. This is so because advocates consider the *Laws of Kenya* as the basic
tool of their trade. He argues that any respectable lawyer should have an up-to-date
collection of the statutes. ‘It is the basic collection one turns to whenever one needs to
consult the law.’ The advocate has, however, not endeavoured to invest in law reports. He
says they are expensive and therefore beyond his financial reach. ‘The law reports are not
only expensive but also, irregularly published and therefore, not worth the effort,’ he
concluded. The advocate was more concerned about the local reports which come out
irregularly. As for foreign reports, he feels they are just too expensive. With regard to law
journals, he says that he does not use them as often as he uses, for instance, the law reports and statutes. He therefore, does not see the rationale for acquiring them. Furthermore, there is no creditable local journal at the moment. ‘A local journal would be preferable because it provides regular reviews of developments of the law in Kenya which is the heart of every Kenyan practitioner. A foreign and, in particular, a British journal, does highlight developments in English law which are considered marginal in Kenya,’ he observed. Despite this, the advocate has been buying copies of the *Nairobi Law Monthly Magazine* whenever he has money to spare. He argues that the magazine is not very useful. Apart from a review of law reports, the rest of the magazine concentrates on criticising the political establishment which is peripheral to legal practice.

Kinyanjui also keeps a considerable amount of literature in loose leaf form. Because of their nature, the literature is preserved in the files. Much of the literature emanates from the many activities and assignments that he has carried. The advocate prefers to keep such materials for future use. The literature includes unreported judgements of the High Court and Court of Appeal; forms and precedents; photocopies of judgements reproduced from law reports; journal articles; and unbound issues of local digests.

In addition, the firm subscribes to two newspapers namely, the *Daily Nation* and the *East African Standard*. The copies are first read by the advocate and subsequently passed to the reception room to be used by visitors. The newspapers keep advocates informed of current developments in the country. In addition, the *Daily Nation* papers published on Mondays contain summaries of important judgements made the previous week. The advocate produces cuttings of the cases he considers of interest to his work and files them for future use. Since court judgements take a considerable period to be published, the summaries are very useful. The only problem with this literature, as the advocate says, is that they cannot be cited or used as authorities because they are not authenticated.

The information collection is not directed at achieving self sufficiency. Rather it is intended to cater as a collection of first resort. It provides quick reference to common
information needs. These needs may vary from ascertaining the law in a collection of statutes, to finding or confirming the definition of a legal term. Sometimes the advocate may wish to know the procedure for appealing against a judgement in a court of appeal. Alternatively, he may wish to refresh himself on substantive law. In this regard, he may wish to consult textbooks on a particular subject. But for other matters particularly, the case law, and forms and precedents, Kinyanjui consults outside sources.

**External Information Sources**

Kisumu has only one law library that is accessible to all lawyers. This is the High Court library at the Law Courts. The law library in Kisumu acts as a branch library of the High Court library in Nairobi. Kinyanjui & Co. (Advocates) law firm is situated about a kilometre from the town centre. The High Court is situated in the town centre. The High Court library in Kisumu serves all lawyers in the town and those in the neighbouring areas such as Ahero, Winam and Maseno. Lawyers from other towns in the country appearing at the High Court are allowed access to the library. Kinyanjui like any other advocate in Kisumu makes regular use of the law library. He considers it as a second source of reference. He uses it only when the office collection is not able to provide the needed information. He also uses the law library when he is appearing at the Law Courts and a need arises to check a legal issue there. Under normal circumstances he visits the High Court library to use materials which are not available in his office collection. Among these materials are the law reports - both local and foreign, major reference works such as *Halsbury's Laws of England*, *Halsbury's Statutes of England*, and leading practitioner's law books. As stated earlier, Kinyanjui does not have an adequate collection of practitioners' books. So, where need arises for materials not available in his collection, he prefers to check first with the High Court library before attempting other venues. Occasionally, the law firm collection of statutes may be in arrears with amendments. So, where he is not sure of the currency of the law to which he is referring, he opts to verify the citation with the collection at the Law Courts which, he says, is fairly up to date. The advocate admits that there are occasions when his set has been in arrears with amendments. He feels that the amendment of statutes requires highly skilled staff. In the
majority of cases, the amendment of his set is done by his law clerk. However, on account of staff mobility at the law firm, he has not found time to do the amendments himself or train the present staff to do it. In view of this, he has on occasions had to employ the part time services of court clerks from the Law Courts to do it. Kinyanjui was, however, quick to admit that sometimes they do not do a thorough job.

Kinyanjui argues that despite using the High Court library as a second source of reference, the services offered are not the best. Much of the law collection is outdated, and subscriptions to major law reports terminated in the 1980s. As for popular legal texts, new editions have not been procured to replace the outdated ones. The advocate observes that since he started using the law library, he has never come across a new title or edition in its collection. 'The library does not have a comprehensive collection. Major reference works such as the *Encyclopaedia of Forms and Precedents*, etc. are lacking. Popular law reports such as the latest issues of the *Kenya Appeal Reports* and *Kenya Law Reports* are permanently locked up in the resident judges chambers. As long as these collections remain in the judge's chambers, advocates cannot use them,' Kinyanjui pointed out. Another problem singled out by the advocate pertains to the unreported judgements of the superior courts. These materials are produced at the Law Courts in Nairobi. Sufficient copies are supposed to be made for distribution to court stations in the country. Unfortunately, some issues are not received in Kisumu and when they are received, it is often very late and they have lost their currency. Kinyanjui, like most advocates, considers these materials extremely valuable because they carry latest judicial decisions. In the absence of current issues of local law reports, they are the only source of current information on case law.

Kinyanjui pointed out that Kisumu Law Courts, unlike Nairobi, does not have a photocopying machine. Every time a photocopy is required, the material has to be lent out to be reproduced in town. In some instances, materials lent out are not returned on time for others to use. It was also pointed out that library staff are neither trained nor experienced. As a result, Kinyanjui does not expect much help from this source. Although
the seating space is adequate at off-peak times when students on pupillage are away in college, it is fully packed when they are on recess. This occasionally deters Kinyanjui from using the library.

When Kinyanjui cannot find all that he requires at the Law Courts, he often solicits help from friendly law firms in the town. Some law firms receive current issues of foreign reports such as the All England Law Reports. Some have up-to-date editions of major legal textbooks and reference works. Kinyanjui resorts to these sources only when the first two sources are not helpful. On occasions when he goes to Nairobi he often calls into the High Court library to consult information materials not available in Kisumu. He would sometimes peruse current issues of unreported judgements and photocopy relevant cases for his office collection.

**Reasons For Seeking Information**

Kinyanjui has several reasons for seeking information. He believes that lawyers operate in an information intensive environment, everything that a lawyer does requires some information support. Primarily, he requires information to assist him to provide accurate advice to his clients. The advocate provides two kind of advice: verbal and written advice. Verbal is normally provided personally to clients in his office or over the telephone. It culminates from a discussion or interview with the client. The client may wish to be advised on the next course of action s/he should take on a given issue. Alternatively, the advocate would provide verbal or oral advice on the telephone. A client may ring the advocate to seek her/his advice on an issue at hand. Where the issue is urgent, verbal advice is dispensed. The second kind of advice Kinyanjui provides is written. This he says, is the more popular of the two. Sometimes written advice is sent as a follow up to oral advice. The advantage of written advice is that the document can be referred to in the future. Kinyanjui believes that to provide precise and unbiased advice, an advocate must consult an information source. 'It provides the advocate the confidence to argue her/his point convincingly,' he says.

216
Kinyanjui also requires information support to enable him to represent his client effectively in a court of law. He feels that if he has to argue his client's case in court, and at the same time counter the views of the opposing party, he needs adequate information back up. He therefore needs to digest all the relevant principles of applicable law and precedents. He needs, too, to go through the legal authorities cited by the opposing party to find out their applicability in the case; and devise ways by which they can be challenged. Alternatively, the advocate may look for a loophole in legal procedures to have the case dismissed. To be able to do this effectively, Kinyanjui like any other lawyer may need to carry out thorough legal research.

As stated earlier, Kinyanjui does not confine his work only to court appearances. He also covers a considerable amount of conveyancing and other issues. On some occasions, agreements have to be drafted pertaining to the sale of property and terms and modalities of payment agreed. These legal transactions need to be thoroughly researched. The forms and precedents used in the agreement need to be properly understood by the parties concerned and accepted. In divorce proceedings, for instance, where customary law is applicable, Kinyanjui points out that an advocate needs to ascertain whether the two parties are governed by the same law. Where two parties come from different ethnic groups, customary law is not applicable as each ethnic group is governed by its own law which has no bearing on the other group. In this case, the statutory law modelled on the English common law would be applicable. Kinyanjui does not subscribe to the view that non-litigation work does not require serious research. He feels that this kind of work is equally demanding on research especially if an advocate is working on issues s/he does not meet often. He believes that being a lone practitioner reliant almost entirely on individual rather than corporate clients, he rarely turns down any legal business. As a result, he is compelled to carry out adequate preparation whenever he happens to be dealing in areas that are alien to him.

Kinyanjui also seeks information to keep him abreast of current developments in the legal discipline. He argues that if he has to offer expert advice and present the client's case
convincingly, an advocate needs to keep himself up to date. Kinyanjui does this by going through copies of daily papers available to him and, in particular, the *Daily Nation* for summaries of law reports. Since the High Court library does not subscribe to current issues of law reports and journals, he opts to use materials available in other libraries. The *Nairobi Law Monthly Magazine*, contains some amount of current information of relevance to lawyers. The advocate peruses this too. Colleagues are also a valuable source of new information. He says he has, on more than one occasion, obtained current information from colleagues, who might have come across the information from legal journals elsewhere.

Kinyanjui also uses information materials simply to maintain the reading culture. He admits that since he is a born again Christian, he neither takes alcohol, smokes nor attends cinemas. Whenever he does not have office work to be done at home in the evening or weekend, he takes law books home to read. He likes reading books on jurisprudence and his favourite author is Lord Denning. He believes that a successful lawyer needs to think beyond his speciality and one way of accomplishing this objective is to read for pleasure. He, however, admits that his business is developing gradually and sooner or later, he may not have sufficient time for leisure reading.

**Types of Information Needed**

Since Kinyanjui practises in diverse areas of law, he uses both brief and detailed information. He says that when he is dealing with criminal cases, particularly at the Magistrate’s Court, the issue revolves around interpreting the law as it appears in, say, the Penal Code. ‘The issues here are very simple because it is just a matter of ascertaining the relevant legislation, understanding and interpreting it. As a result, one does not need to spend much time to go through volumes of case law. In that case, brief and factual information is appropriate,’ he observed. Some times Kinyanjui starts with brief and factual information before he moves on to detailed research. In so doing, he ensures that all facts to be raised are isolated. On some occasions, he checks for specific facts in a case. Where his client is appearing in a criminal case, for instance, he may wish to verify the details contained in the charge sheet to ascertain whether they are correct. This he does
by going through the relevant legislation to confirm the facts. Kinyanjui points out that whenever he deals with issues pertaining transfer of property, he does not necessarily have to draft totally a new agreement every time. All he does is to use one of the precedents and apply some limited amendments to suit the present circumstance. Again, this does not require detailed research. Kinyanjui says that some advocates like to do office based legal work simply because it does not involve serious legal research. Once an adequate collection of precedents has been established, all an advocate needs to do is to amend the appropriate precedent to suit a new circumstance.

In some instances, Kinyanjui may prefer to carry out detailed research. In instances where appropriate precedents may not be available, he may be compelled to carry out thorough legal research. This normally happens in instances where the issue at hand has never been tackled before. In litigation and, in particular, in cases appearing at the High Court and Court of Appeal where a lot is at stake, Kinyanjui does a great deal of preparation. Such work may involve consulting a considerable volume of case law and law books in addition to the statutes. Where the Kenya law appears to be silent on the subject, he may opt to refer to the English law to ascertain whether the English common law is applicable. He points out that judges of appeal are particularly concerned about adequate preparation. Therefore they have no consideration for ill-informed advocates. Kinyanjui cites a case where an advocate appeared and spent some time making submissions and citing some authorities, only to be told that in the judges’ opinion, those authorities were not supportive of his case. According to Kinyanjui, the advocate misjudged the intelligence of the judges. Even where the issue is straightforward, Kinyanjui does not believe in taking things for granted whenever he appears in superior courts. He considers the superior courts an important area for marketing a lawyer’s service. Since lawyers cannot advertise their services, the superior courts are an ideal medium for doing this and so he prefers to put up his best work. A further reason is that some cases that appear in the superior courts are sensitive. Either a considerable amount of money is at stake, or a life is in danger as the penalty for a capital offence could be death. As a result, such cases are well covered by the media. Kinyanjui feels that winning such a case accords an advocate considerable
publicity which may attract business. ‘With this kind of publicity, you do not need to scout for business,’ he remarked jokingly.

**Legal Information Materials Frequently Used**

The nature of his work means that Kinyanjui uses various types of information materials including textbooks. He consults legal textbooks when he wants to refresh himself on substantive and procedural law. Some of the textbooks used come from his office. Where the relevant titles are not available here, he uses the collection at the Law Courts. Kinyanjui also uses textbooks as a source for references. A number of them carry references to statutes and case law. He finds these references helpful in legal research work.

However, Kinyanjui’s popular collection is the statutes. Hardly a day passes without referring to the local statutes. As he has his own set in the office, he uses that except where he is not sure of the currency of the law when attempts would be made to verify the information with the collection at the Law Courts. Where the English law is applicable, he prefers to use the *Halsbury’s Statutes of England* at the Law Courts or the *Current Law Statutes* available in a local firm in town.

On occasions he may wish to read through judgements made on certain cases e.g. copyright law. This information is contained in the local digests. Unfortunately, most local digests are behind publication schedule. For English law, he prefers *the Digest*. Like the statutes, Kinyanjui prefers to start information searching with the local law reports before moving on to foreign reports. He often begins with the *East Africa Law Reports*, *Kenya Law Reports* or *Kenya Appeal Reports*. Where English case law is considered appropriate, he would start with the *All England Law Reports*. He says that the *All England Law Reports* have comprehensive coverage and therefore are well cited in East Africa.

In addition to the above, Kinyanjui also makes regular use of major reference works such as legal dictionaries, *Atkins Court Forms*, the *Encyclopaedia of Forms and Precedents*, *Halsbury’s Laws of England*, etc. This collection is obtained from the Law Courts or other
Problems Experienced Accessing Legal Information
Kinyanjui like any legal user in Kisumu experiences considerable problems in satisfying his information needs. Among them is the currency of information. Information materials in a number of law collections in the area and, in particular, the Law Courts are outdated and therefore in desperate need of updating. Furthermore, the available materials are inadequate. The High Court library in Kisumu does not have a comprehensive law collection. Some materials have considerable gaps which need to be addressed. Kinyanjui pointed out that it is difficult to obtain current issues of the unreported judgements of the superior courts in Kisumu. Each time he requires an up-to-date judgement, he is compelled to obtain it from Nairobi. The High Court library in Kisumu does not provide an adequate information service and, in particular, reference service due to lack of trained staff. Kinyanjui stated that in instances where the information material is not available in the library, the library staff should be able to direct the user to appropriate sources where the information can be obtained. Unfortunately, this assistance is not offered in Kisumu. Furthermore, the library does not have a catalogue, a major information retrieval tool. Another area of concern is the habit of the resident judge and some magistrates of unnecessarily delaying the return of crucial library materials. Kinyanjui pointed out that the two volumes constituting the Kenya Appeal Reports have been in the judge’s chambers for a considerable time. This, he says, inconveniences them as fewer sources in Kisumu have these reports.

Case Study - Discussion and Conclusion
The findings from this case study concur to a great extent with the analysis of more general data obtained in this chapter. It is noted that Kinyanjui being a lone practitioner and depending on individual clients to exist, does not specialise in any aspect of legal practice. This is a typical situation of lawyers in small law firms in Kenya. This finding supports an earlier study carried out in Kenya (Uche, 1981, p.15).
It is also noted that a lawyer's work is determined by the legal needs of the clients which in turn influences the information needs of the lawyer. A typical small law firm has a limited collection of information materials which the lawyer maintains to support his/her work. Where additional information is required, the lawyer seeks assistance from other sources which include the High Court library or collections in other law firms. The kind and amount of information support required depends on the nature of work done. This also influences the purpose for seeking information support. While litigation work requires a considerable amount of information, office based legal work requires a moderate amount of information. The case study has confirmed the typical problems experienced by lawyers in accessing information.

Kinyanjui's experience in the acquisition and use of information cannot be said to be representative of the situation generally in the three areas of the study. But it is certainly indicative of the kind of situation in which advocates in Kisumu operate. The problem of information access is particularly serious in situations where lawyers do not have information collections of their own. Only large law firms are better off because they are able to procure part of their information requirements. Unfortunately, for the small practice, these problems will persist for some time. The only practicable solution for advocates in Kisumu is to pool their resources and set up their own law collection that would address itself to the immediate needs of the advocates. Although the High Court library is sympathetic to the problems experienced by advocates, it has first to meet the information needs of the bench, as this is the objective for which it was specifically set up to address.

There are interesting contrasts between the case study reported in this chapter and a similar study carried out in Canada (Operation Compulex, 1972, p.3). While a lone lawyer in Kisumu covers as much legal work as possible, a similar lawyer in Canada tends to confine his/her practice to some limited areas of the law. This specialisation is effected irrespective of the needs of the clients. Due to increasing specialisation, lawyers in Canada do not offer advice on all legal matters. The advice is confined to those areas which are
heavily practised. Non-litigation work such as real property, commercial law, personal injury and estate work are more heavily practised compared to areas such as civil and criminal litigation. This is because non-litigation work requires less legal research work and offers superior financial rewards compared to litigation work. In Kisumu, while non-litigation work also pays well, lone lawyers cannot rely on it because such business is scarce. Where it is available, it is generally offered to larger firms where specialisation exists. While litigation work does not pay well, it is considered the back bone of legal practice in town. In Canada, an average lawyer is reluctant to do legal research and wherever it is possible, avoids it simply because of its demand on a lawyer’s time. In Kisumu, an average lawyer is not reluctant to do legal research. Although it takes much of his/her time, the lawyer does it with the hope of attracting more business in the future. The main determining factor here appears to be the demand for lawyers’ services. While Canada appears to have ample business for lawyers, in Kenya, and particularly, Kisumu, business is scarce, thus prompting an average lawyer to be less selective.

7.13 CONCLUSION

This chapter shows that members of the legal community are involved in a variety of functions. The variation in their work styles explains the apparent differences in their information needs. These results have serious implications for the law librarian. Since the law library, like any special library, exists specifically to meet the information needs of the users who comprise the specialised staff of the parent organisation, the law librarian has an obligation to meet this challenge. To ensure consistency in the acquisition of information, these requirements need to be reflected in the library’s collection development policies. The materials acquired should vary from locally to foreign published materials; and from conventional to unpublished literature. The librarian should not confine her/his effort to building up a comprehensive collection alone, s/he has also to look seriously into the currency of the collection. As already noted in the analysis, lawyers visit law libraries to look for specific information. In this regard, they may wish to ascertain whether new legislation has been enacted to repeal an existing act. If a new act has been published, it
is important that this information is made available in the library, as absence of this
information may compel the lawyer to use obsolete legislation which could result in the
miscarriage of justice.

The librarian should also ensure that the need for non-legal literature is met. As the law
touches on a number of subjects that are not legal in nature but are useful in assisting the
lawyer to understand the nature of the problem, these too are necessary. As a result, non-
legal subjects are equally useful to a lawyer as they are to other specialists. Grey literature,
too, should be procured. Since very little conventional publishing is taking place in the
legal discipline in Kenya, a vast amount of grey literature is produced, but with limited
circulation. These materials should be acquired and made accessible to the users. Materials
such as the unreported judgements of the superior courts, digests of Kenyan case law,
government reports, have proved exceedingly useful to the legal community. However,
where for one reason or another the library is unable to procure any of the materials
mentioned, appropriate arrangements should be made for users to access these materials
from other libraries.

The librarian should also endeavour to establish appropriate information services to serve
the needs of his/her community. Services such as CAS, SDI, enquiry services,
photocopying services, etc. would be useful. In serving the legal community, it is
important that the librarian should have an innovative mind and be forward looking. S/he
should not wait for a formal request for a service, before instituting it. As Miskin (1987b,
p.1325) notes, the librarian should anticipate the lawyer's needs and save her/him the time
looking for information. This calls for the librarian to play a pro-active as opposed to a
reactive role.

The results from the analysis also pose serious implications for decision makers in the
parent organisation. To achieve her/his objectives the law librarian needs the support of
the decision makers. The decision makers must accord the librarian the financial assistance
s/he requires to meet the information needs of the legal community and understand and
appreciate the circumstance under which the librarian operates. Legal materials are among the most expensive information materials to-day. Furthermore, many of the materials required have to be imported. To acquire basic materials, the law library requires substantial financial investment. In addition, the law librarian needs an effective and highly motivated staff. Since the librarian cannot meet these challenges single handed, s/he requires an appropriate number of staff to help her/him in this endeavour.
8.1 INTRODUCTION

Information seeking behaviour is an extremely important concept in the study of legal information use. It helps to explain where information users go for information, why they choose or prefer certain types of information resources, and what factors contribute to their decision as to when to seek information. The legal community like other specialised information users displays a certain pattern in information searching and use. The essence of this chapter is to investigate this pattern of behaviour.

8.2 SOURCES OF NEW INFORMATION

The researcher endeavoured to find out how members of the legal profession kept up to date with current developments in law. Asked which methods they used to acquire new information, the following options were suggested:

i) legal periodicals
ii) new books
iii) colleagues
iv) library bulletin
v) meetings, conferences, discussion groups, etc.
vii) digests and citators
vi) current awareness service

Table 8.1 analyses their responses.
Table 8.1

Where Lawyers Find Out New Information

<table>
<thead>
<tr>
<th>Sources</th>
<th>Sources of Users n=125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>Legal periodicals</td>
<td>15</td>
</tr>
<tr>
<td>New books</td>
<td>14</td>
</tr>
<tr>
<td>Colleagues</td>
<td>18</td>
</tr>
<tr>
<td>Meetings, conferences, discussion groups, etc</td>
<td>5</td>
</tr>
<tr>
<td>Library bulletins</td>
<td>4</td>
</tr>
<tr>
<td>Digests, citators, etc</td>
<td>11</td>
</tr>
<tr>
<td>Current awareness service</td>
<td>6</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations

i) Legal Periodicals

Legal periodicals comprising law journals, magazines and law reports were considered the most important medium for the acquisition of new information. This finding concurs with a study carried out in the Philippines (Feliciano, 1984, p.84). Legal periodicals are an ideal source of new information because they are issued at short and regular intervals. Some titles such as the *All England Law Reports* and *Weekly Law Reports* are published weekly and, therefore, are able to provide lawyers in Kenya information on latest judicial decisions in England.

However, despite the popularity of legal periodicals as a leading source of new information, it appears from the analysis (Table 8.1) that only 54% of the people interviewed considered them important. The reason why periodicals are not popular with users is the non-availability of current issues in most of the libraries surveyed. As for law journals, current issues of foreign journals are not available in most law libraries because few libraries can afford subscriptions. In the case of local journals, many ceased publication a long time ago. The only surviving indigenous title is the *Nairobi Law Monthly Magazine* published by Gitobu Imanyara, a lawyer widely considered a critic of the government. This journal was available in most government law libraries and departments until fairly recently when for no apparent reason, its subscription was abandoned. Despite this, the title is available for individual subscription. A number of respondents confirmed they used it. As for law reports, only HHM appears to have current issues. The rest of the libraries do not have current issues because they are not able to pay for subscriptions.

ii) New Books

In a pilot survey the researcher carried out in the UK in 1994, books were not considered an important source of new information. This is because of the length of time a new title takes to be published. In some instances, new titles have come out only to find that they have been overtaken by events - that the information in them is no longer current. Although books are unpopular in the developed world as a source of new information, they appear to be gaining popularity in Kenya. The general absence of current journals in Kenya has made new books an important source of
current information. A number of advocates and magistrates said they used them as source of new information. They are available in some libraries and bookshops and are affordable.

iii) Colleagues
A number of respondents interviewed used colleagues to obtain new information. In addition, they consulted them fairly regularly on issues they were not clear about. This, they said, gave them the confidence to proceed with an issue. Officers at the A-G Chambers, for instance, said they consulted one another before writing legal opinion in case anyone has come across new information on the subject. A law student was very positive about his colleagues as a source of information: 'I attach great importance to my fellow students. I am able to learn more from them and argue with them on legal issues. Through this, I am able to develop an opinion. They assist to eradicate ignorance.' A trainee lawyer also had a lot of praise for his colleagues as a source for new information. 'As a pupil, I attach great importance to my colleagues especially my seniors since by comparing ideas or discussing legal issues, I learn a lot of what I might have missed out or not known.' In support of the above views, one lawyer observed: 'Colleagues are extremely important here because the discipline of the law is wide and dynamic. Colleagues have passed to me information that would have taken ages to come across in books.' Another lawyer argued that opinions are indeed important in legal practice and that discussions with colleagues provide additional information on their respective research.

It appears that the use of colleagues as a means of obtaining new information is a universally accepted practice. A number of studies carried out in user studies support this finding. In a study conducted in the US (Randolph, 1980, p.36) lawyers had high regard for colleagues. The lawyers interviewed said they always talked to their fellow colleagues before filing court suits or going to court. Some lawyers turned to legal texts and publications only when the information required could not be acquired through colleagues. In New Zealand, a number of lawyers sought advice from in-house colleagues either in person or over the telephone whenever they needed help to solve a problem (Stephen-Smith, 1989, p.12). In a study carried out in Australia, one
participant was quoted saying: ‘I solve half of my problems that way. My partners are a good source of information because they have an interest in my getting it right’ (Law Foundation, 1992, p. 16) However, in a study carried out in the UK, it was found that the exchange of information was more popular among colleagues of the same seniority as themselves. ‘There is less fear of looking stupid and less fear of perhaps wasting the senior’s time with what may be a basic point.’ (Cheatle, 1992, p.149). Other studies carried out on information seeking habits of lawyers in Scotland (Kidd, 1978, p.128) and England (Gelder, 1981, p.1) attest to this fact.

Despite the obvious importance of colleagues or the ‘invisible college’ as a source of information, some lawyers interviewed had reservations about them. A trainee lawyer observed: ‘Colleagues come in handy. They can be resourceful, but they do not always satisfy what one requires as their knowledge or materials available are limited.’ In support of this view, a lone lawyer said: ‘I find a select few of my colleagues an indispensable and invaluable source of legal information. However, most members of the profession, with utmost respect, are fairly ignorant of legal developments and information.’ One academic believed that, more often than not, colleagues did not have new information to offer. Some respondents at the Law Courts in Nairobi said their colleagues were rarely available for consultation. As a result, they did not consider them an important source of information. It is interesting to note that none of the academic staff at the Law Faculty in Nairobi used this option. This certainly indicates that academics rarely interacted in this way at the campus. The reason here is that the exchange of information works only where personal or informal contacts exist. However, at the Law Faculty, these contacts do not exist because most of the academic staff are not in most of the time.

iv) Library Bulletin
A small number of the participants (32%) used library bulletins. The low use of this method arises from the fact that few libraries, if any, produce them. The reason may be financial or simply lack of staff who have the ability and motivation to perform this function in addition to other commitments. The University of Nairobi library, which pioneered this programme, stopped the venture in the 1980s due to financial
Members of the legal community like their colleagues in other disciplines need to advance in the profession. One way of doing this is by keeping abreast of current developments in the legal discipline. The legal profession is a dynamic profession. The law is constantly undergoing change in line with changing trends in the local and international community. It is the duty of a lawyer to keep up to date with these changes. A lawyer needs to develop a strategy for accessing new information. To ensure that new information is available in law libraries both the law librarian and users and, in particular, lawyers in their official capacity as users of legal information services, need to work out a strategy for funding these services. In view of the fact that new publications are entering the market resulting from changes in the law, these changes need to be reflected in the library's acquisition programmes. Failure to do this could affect the dispensing of justice. In the case of academic programmes, students are bound to be taught using outdated law leading to the production of ill-informed graduates.

v) Meetings, Conferences, Seminars and Discussion Groups

Some respondents interviewed singled out conferences, meetings, group discussions, as a source of new information. This information is disseminated through papers presented in conferences, seminars or presentations in discussion groups, etc. Any new information participants have is readily shared with the others. A number of magistrates interviewed confirmed that they attended programmes organised by the Kenya Magistrates Association while some said they did not have the opportunity to attend. One magistrate believed that seminars and workshops were an important medium for the exchange of ideas both formally and informally. He said that since magistrates had such busy schedules, gatherings should be encouraged to enable the magistrates to be enlightened on legal developments. Although law students did not attend conferences, they participated in group discussions which, they said, were extremely helpful.

Despite the importance of these gatherings in current awareness, a section of the

231
participants felt they rarely benefited from such programmes and that only the lucky few have benefited from them. Judges, for instance, pointed out that other than possibly the Chief Justice, the majority of the bench did not attend conferences. An analysis of responses from field research indicates that only 5 out of 32 advocates attended the above programmes. A number of reasons can be advanced why few people have benefited from this arrangement. The Law Society of Kenya which is charged with the promotion of the legal profession has not been active in organising such conferences. In the absence of this medium, advocates are denied an excellent opportunity for making themselves aware of new developments. Some blame can be apportioned to the advocates themselves. A number of them do not participate in or endeavour to sponsor their staff to attend these conferences. The government’s reluctance to sponsor members of the Judiciary has posed another problem. Whenever international conferences are held outside the country, the government has denied magistrates and judges permission to attend - purportedly for political reasons (Sunday Nation Team, 1997, p.1).

vi) **Digests and Citators**

Digests are ideally an important source of current information and in particular, the case law. However its major handicap is that all the official local digests ceased publication during the 1980s. Furthermore, no current foreign digests are received in most libraries surveyed. The same applies to citators. On account of this, digests and citators are not very useful at the moment as a source of new information.

vii) **Current Awareness Service**

Current awareness service is ideally the best source of new information. The survey revealed that this method is not popularly used in Kenya. This is because of the non-availability of current journal issues in most libraries and the inability of most law libraries to subscribe to foreign based current awareness packages. Only 19% of the respondents interviewed used this option. At the A-G Chambers, only one respondent used it, an indication that the programme did not exist in the library. Despite the absence of a formal current awareness service in Kenya, one publication, the *Kenya Gazette*, is considered by many people in the legal community as a current awareness...
tool. This title, which comes out weekly, carries all official government notices and announcements. It also carries supplements of new legislation released by the Government Printer. A number of law firms in Kenya subscribe to the title specifically to keep abreast of new legislation. Practically all government departments subscribe to it.

8.3 DELEGATION OF LEGAL RESEARCH

Lawyers whether magistrates, judges, law teachers or advocates, are extremely busy people. Because of this, there are some functions which they have to pass on to other people to give them adequate time to attend to more pressing tasks. Among these functions is legal research.

In view of the importance of legal research in legal work, respondents were asked whether they used other people to search for information for them. An average of 64% of the participants interviewed said they delegated legal research. Table 8.2 provides detailed analysis of responses from participants. This question was directed only to lawyers and law teachers as law students did not delegate their work. The following reasons were given to explain why the rest did not delegate. Some lawyers operating a single law firm said they did not have access to pupils who are best suited for this purpose. At the same time, some lawyers found it hard to use library staff of other organisations, e.g., law courts, to do the work for them. Others believed that they are the only people best suited to do the job in the absence of junior colleagues.

As for those who chose to delegate legal research, the following options were used:

a) Library Staff
Library staff were used in organisations, departments or law firms that have law libraries. Assistance in information searching was generally confined to legal staff of that organisation or department. Library staff in these institutions rarely carried out legal research for advocates or lawyers from outside. The library staff interviewed on this subject said they were only concerned about the legal staff of the parent
organisation. Users from other places have to carry out their own research. They argue that if they were to conduct information searching for every user, the work would be unbearable. Furthermore, users from outside do not pay a fee to use the library and so it would be unwise to spend the organisation's resources to provide personalised services to users from outside. In the US practising lawyers were reluctant to use the services of the library staff at the law school library to assist with information search. 'Other than asking for assistance to locate a particular volume, they believed that the reference librarian would not be of any real assistance in such time consuming hints' (Randolph, 1980, p.39)

Table 8.2
Delegation of Legal Research

<table>
<thead>
<tr>
<th>Response</th>
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</tr>
</thead>
<tbody>
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<tr>
<td>Yes</td>
<td>21</td>
</tr>
<tr>
<td>No</td>
<td>11</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations:
A: Advocates JS: Judicial staff LT: Law teachers SC: State counsels

b) Law or Court Clerks
These are used mainly in institutions or law firms where library staff do not exist. In some instances, judges or magistrates used them to retrieve specific items from the library.

It was, however, pointed out that there are some limitations in the use of library or law clerks in the retrieval of information. And that these staff are effective only in the
retrieval of specific documents. They are not competent to carry out thorough legal research which entails scanning through masses of legal literature to retrieve specific information. This may be due to limited training in law and legal research in particular. So, where specific information is required, lawyers opted to do the work themselves.

c) Trainee Lawyers or Pupils
A number of lawyers interviewed used trainee lawyers. Advocates, in particular, considered them very helpful in legal research. The pupils, too, appeared to enjoy the work. It enables them to develop expertise in legal research skills which would be useful in running their own business in the future. Unfortunately, the law requires that pupils be placed under the supervision of fairly well established lawyers, law firms or government legal institutions. As a result, some lawyers are denied access to this crucial facility.

Several reasons were given by lawyers for preferring to delegate the work to pupils. The lawyers considered it part of the ‘learning curve’ for trainees. The practice provides pupils with an opportunity to learn how to conduct legal research effectively. This in turn prepares them for the challenges ahead as legal research is the cornerstone for success in legal practice. It is cheaper for a client to have his/her work done by a pupil than a fully qualified lawyer on account of the differences in the charge rate. Lawyers on account of their busy schedule do not have much time to do thorough legal research work. They would therefore allow pupils to do much of the fact gathering and come in only when the information is ready for evaluation. It was pointed out that where the case is straightforward such as traffic offences, or offences falling under the Penal Code, much of the work is left to pupils. However in more demanding cases, where a lot is at stake, they would opt to do the research themselves.

The use of trainee lawyers is also a popular practice in the majority of the Common law states. In Australia, trainee lawyers or 'young graduates' are used because they are seen as having up-to-date research skills which older practitioners or lawyers
tended to lack (Law Foundation, 1992, p.1). This view is also supported by Kidd (1978, p. 136). Eisenchitz and Walsh (1995, p.448) argue that a trainee solicitor is not delegated all the work. Instead, the solicitor who deals with the matter decides what needs to be done and looks at one or two key documents - cases or statutes already known to him/her. Then ‘the delegatee’ is instructed, searches further and reports back with the results. If the point is a difficult one, the fee earner will take over the research.

d) Fellow Professionals

In law firms with a considerable establishment of partners and fee-earners, senior lawyers and, in particular, partners, tend to use young and newly recruited lawyers once in a while to carry out legal research for them. Legal research was considered by lawyers interviewed as a crucial stage in the development of a lawyer as this is bound to be the basis of his/her success in legal practice. By looking up the law for senior partners, young lawyers develop legal research skills, become familiar with the law in question thereby improving their mastery of the subject. In some instances, the young lawyer may be required to scan and digest all facts on a specific subject and advise the senior lawyer accordingly.

It was, however, found that despite its importance, delegation of this kind was common only in large firms with a large number of young lawyers. These are the people most suited for legal research because they are still fresh from training and therefore, their research skills are still intact. Small firms on the other hand cannot afford to do this because of limited establishment. The few staff on the establishment are used for more pressing work. It can therefore be concluded that the delegation of research to other lawyers greatly depends on the size of the law firm. The larger the firm, the more delegation is carried out.

The above finding supports similar studies carried out abroad. In studies carried out by Kidd (1978), Lloyd (1986), Cheatle (1992), and Walsh (1994), it was found out that young lawyers were often given assignments by their seniors to work on. Cheatle (1992, p.182) observed that junior staff members need to seek information as they are
still on ‘the learning curve.’ This develops until they are capable of undertaking a majority of the routine work unsupervised. These lawyers will still have developed specific personal information stores and specialised expertise. After this stage, they will probably need to carry out less research. One area of contrast with the Kenya situation is that lawyers and, in particular, solicitors in some common law states have access to counsels whom they can ask for assistance with legal research. In Kenya, this option does not exist because the legal profession is fused. The only assistance a lawyer can get is from a senior lawyer, possibly his/her boss. In a study carried out in Australia (Law Foundation, 1992, p.18), it was found that some small practices relied on counsel to a significant extent. Their assumption was that barristers would be well informed and well resourced in a way that they themselves could not be. Barristers are generally considered by solicitors as researchers in the law.

Why do lawyers in Kenya delegate legal research? Several suggestions can be made. One reason could be the time factor. Kenyan lawyers, like their colleagues elsewhere, are busy people. On account of this, they do not have adequate time to carry out comprehensive research. Where pupils or newly qualified lawyers exist in a law firm, senior lawyers use legal research as an ideal medium or measuring rod in which to ascertain their performance. As their success as lawyers greatly depends on the mastery of the law, legal research is considered crucial in this endeavour. Lastly, since pupils are in training, they are considered a cheap source of labour that is ideal for this kind of work. It is however unfortunate that small law firms in the country are not able to benefit from pupils on account of the statutory requirements.

8.4 VERIFICATION OF INFORMATION

The information obtained through delegated research has to be verified to ascertain its currency, accuracy and relevance. This is particularly evident in situations where information searching is delegated to non-lawyers or trainees. Respondents were asked whether they verified the information provided by the staff to whom they delegated the responsibility of information searching. An average of 88% of respondents who delegated information searching, said they did verify the information obtained. Table
8.3 provides a detailed analysis of responses from participants.

Table 8.3

Verification of Information

<table>
<thead>
<tr>
<th>Response</th>
<th>Categories of users n=47</th>
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</thead>
<tbody>
<tr>
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<td>A  %</td>
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<tr>
<td>Yes</td>
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</tr>
<tr>
<td>No</td>
<td>4   19</td>
</tr>
<tr>
<td>Total in sample</td>
<td>21  45</td>
</tr>
</tbody>
</table>

Abbreviations:
A: Advocates  JS: Judicial staff  LT: Law teachers  SC: State counsels

A few reasons were given why some respondents did not verify the information provided. One participant said he did not verify information provided by a fellow colleague as to do that would be doubting his ability to conduct legal research. Second, verification applied only in instances where the information is made available in digested form, that is, facts, figures, views, etc. This they said has to be verified to ascertain their applicability in a given situation. However, where the information is provided in a physical form, that is, in books, law reports, statutes, etc., verification was considered totally unnecessary.

It was, however, pointed out that verification was necessary in instances where the people delegated are not versed in the law. Any work delegated to the library staff, law or court clerks, etc., for instance, has to be verified. The verification of the work delegated to trainee lawyers or newly qualified lawyers would greatly depend on the importance of the legal issue in question. Where the stake is high, lawyers would verify the work to avoid risk. Verification is equally important in instances where a
presiding judge or magistrate requires appropriate information to assist her/him to decide a case in court. In this case, s/he would request to see and peruse the appropriate document instead of accepting verbal assurances. A senior legal officer in a government department said he usually verified the information provided before he committed the government to any legal transaction as failure to do so could be a disaster and a great embarrassment to the government.

It appears from the above account that verification of information from those to whom it has been delegated tends to vary from one individual to another depending on a variety of factors. In situations where the issue at hand is a serious one: where the client is facing a capital offence or millions of shillings of a corporation are at stake, and where the issues cannot be compromised, a lawyer aware of the consequences of losing such a case would, wherever possible, opt to verify each and every bit of information presented. This view is upheld in a Canadian study (Operation Complex, 1972, p.8). The same applies to a judge who has to preside over a highly sensitive criminal or civil case. A wrong decision based on mis-information can not only lead to the miscarriage of justice, but also, is bound to seriously put to question her/his competency as a judge. In this case, a judge will be compelled to examine all facts presented by counsel to the parties. However, for less serious or routine tasks, a lawyer will be satisfied with the information presented by his/her colleagues. As for trainee lawyers or newly qualified lawyers, the tendency would be to verify fairly often in the first instances and relax it gradually as trainees gain experience and confidence in legal research. With regard to non-lawyers such as library staff and law clerks, the practice is to verify the information to the minutest detail.

### 8.5 FREQUENCY OF INFORMATION SEARCH

In view of the importance of information to members of the legal community, participants were asked how often they looked up the law in: a) a day; and b) a week. Looking up the law is synonymous with consulting information sources. The following responses were noted:
A detailed analysis of these responses is contained in Table 8.4

It appears that the majority of the respondents consulted the law frequently on a daily as well as weekly basis. No concrete reasons were advanced for this variation. It is probable that the differences in the use of legal information may arise from differences in work experience. As noted in chapter 5, the majority of respondents interviewed were under 30 years old. The group comprised law students and newly qualified lawyers. Most of them have not had much practising experience and some might have just started practising. Some young lawyers are deployed in legal research - to carry out information searching for their superiors. Others carry out legal functions but because of their inexperience in legal practice, have to consult the law more often to give them the necessary confidence. Young lawyers are well aware that their performance is being monitored by their superiors. As a result, they ensure that any work assigned to them is properly done and appropriate authorities are consulted. As for law students, one respondent observed: 'there is simply no way they can avoid consulting documents as the success of their academic programmes are heavily dependent on adequate information support.' Experienced lawyers, on the other hand, do not need to consult the law so often. Because of the considerable experience they
have had in legal practice, a number of them have mastered much of the procedural law required in their area of speciality and therefore, do not need to look up the law frequently. Furthermore, the amount of research done greatly depends on the nature of work. Much of the office based work such as conveyancing and probate, for instance, does not require much legal research. On the other hand, much of the litigation and in particular, civil litigation requires a lot of work. In support of this view, one respondent observed: 'one does not need much law to be a criminal lawyer. All he requires is a working knowledge of the laws of evidence and an understanding of basic criminal statutes and in particular, the Penal Code.' Where extensive information searching is required, they would opt to delegate. This finding concurs with studies carried out in the US (Cohen, 1969, p. 191) and Canada (Operation Compulex, 1972, p.8).

In a similar study carried out in Scotland, an elderly lawyer remarked, 'you see much of what I do doesn’t involve looking up the law. As you will appreciate, by now, I'm very well acquainted with all the routine stuff.' Another lawyer commented: 'I am probably past that now - I’m not boasting, it’s not that I know all the law. If anything crops up, I’ll get one of the apprentices to do the digging' (Kidd, 1981, p. 35). Johnstone (1967, p.103) believes that many of the more experienced lawyers particularly if working with their specialities or small fee matters, do very little, and that older lawyers, even very successful ones, are likely to admit that they practise now ‘mostly by ear' and do not consult books much any more.
### Table 8.4

**Looking Up the Law**

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Categories of Users</th>
<th>n=125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>JS</td>
</tr>
<tr>
<td>In a Day:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Frequently</td>
<td>18</td>
<td>56</td>
</tr>
<tr>
<td>Occasionally</td>
<td>14</td>
<td>44</td>
</tr>
<tr>
<td>Nil</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>In a Week:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Frequently</td>
<td>20</td>
<td>63</td>
</tr>
<tr>
<td>Occasionally</td>
<td>12</td>
<td>38</td>
</tr>
<tr>
<td>Nil</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
<td>26</td>
</tr>
</tbody>
</table>

**Abbreviations:**

- A: Advocates
- JS: Judicial Staff
- LS: Law students
- LT: Law teachers
- SC: State counsels
Analysis of responses contained in Table 8.4 indicates that magistrates consulted information sources frequently. But some did it occasionally. A few of the magistrates could have developed motivation-related problems. Because of this, they tend to rely heavily on information furnished in the courtroom by counsel to the parties and, in particular, the prosecution without carrying out independent research. Interviewees told of cases where magistrates decided cases on the basis of information contained in the police charge sheets without verifying the facts, which then turned out to be defective.

Analysis of responses from Table 8.4 suggests that law teachers did not consult the law frequently. The probable reason may be their involvement in part time employment such as consultancies and legal practice at the expense of scholarship. Academics are known to use information more than possibly practising lawyers. In this regard, Smith (1976, p.11) observed that whereas a lawyer does his/her research in response to the need of a particular client, and usually considers cases within a restricted jurisdiction, a legal scholar conducts legal research with a view mainly to advancing the theory and practice of his/her discipline. S/he may compare the law of two or more states, may specialise in the law of a particular subject matter, or may concern her/himself with the law of one or more foreign countries.

8.6 USE OF LAW LIBRARIES

To ascertained the use of the library by legal users, respondents were asked how often they visited or used the law library in (a) a day and (b) a week. The following information was obtained:

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) a day:</td>
<td></td>
</tr>
<tr>
<td>- occasionally</td>
<td>50%</td>
</tr>
<tr>
<td>- frequently</td>
<td>43%</td>
</tr>
<tr>
<td>- nil</td>
<td>6%</td>
</tr>
</tbody>
</table>

243
b) a week:

- occasionally 51%
- frequently 46%
- nil 3%

Detailed analysis of responses to the above question are highlighted in Table 8.5.

From the analysis of responses, it appears that about 50% of the respondents interviewed used the law library occasionally both on a daily and weekly basis. A number of factors account for this. One factor is that a number of users and, in particular, lawyers have office collections which they use whenever need arises. They opt to use the library collection only when the information required is not available in their office collection. The second factor is that many lawyers are extremely busy people. As a result, they do not have much time to visit the law library. Students appear to be the only people who use the library frequently. The reason is that the majority of students do not have personal collections. The library, therefore, is the only place they can go for information support. Despite these statistical returns, a number of lawyers and in particular, those in the A-G Chambers used the library extensively. A lawyer in the A-G Chambers who served as a draftswoman, said her work relied on information support so much that she could not avoid visiting the library and that the drafting of legislation required constant reference to information sources in the library.
Table 8.5

Use of Law Libraries

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Categories of Users</th>
<th>n=125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>JS</td>
</tr>
<tr>
<td>In a Day:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occasionally</td>
<td>18</td>
<td>56</td>
</tr>
<tr>
<td>Frequently</td>
<td>11</td>
<td>34</td>
</tr>
<tr>
<td>Nil</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>In a Week:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occasionally</td>
<td>18</td>
<td>56</td>
</tr>
<tr>
<td>Frequently</td>
<td>14</td>
<td>44</td>
</tr>
<tr>
<td>Nil</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
<td>26</td>
</tr>
</tbody>
</table>

Abbreviations

Those who did not visit the library presented several arguments in defence of their position. One magistrate impressed the researcher with frank and objective views about his use of law libraries. He said that magistrates did not have an interest in legal research because they were relatively poorly paid, even though they were overloaded with work. Therefore, where an opportunity presented itself, they used it to do private work for financial gain. The respondent admitted that he rarely visited the law library.

In fact he had no idea about the resources of the law court library which was close to his chamber. Another magistrate said she visited the library perhaps once in a month, and that most of the cases she dealt with were either criminal or traffic offences which required reference to only two acts which she owned. A magistrate in Eldoret stated: 'I don’t use the court library that much. I get everything I need from the chamber collection. In fact I cannot tell the last time I visited the library.' A library staff member interviewed said that magistrates seldom visited the library except when writing judgements - to enjoy the peace that the library commands. One lawyer believed that the non-use of the library by magistrates affected their performance as evidenced by the number of appeals allowed by the High Court.

Another lawyer argued that some practitioners including judges did not carry out extensive legal research. ‘Some judges even discouraged the use of extensive legal authorities,’ he observed. One respondent however believed that not all judges are serious about legal research work: ‘Judges of the Court of Appeal carry out serious research. Only a few High Court judges are serious with research. This is reflected from the decisions they make. It can be seen from the number of cases cited, the list of statutes interpreted or applied. It is also evidenced from the authorities they use in writing judgements. In the case of the judges of appeal, the factors come out very clearly.’ On the importance legal research to a judge, Judge Re observed:

Under the common law system judges are required to do more than pronounce judgement, either for the plaintiff or the defendant. Judges must set forth the reasons for their decisions. The judicial opinion is a reasoned explanation of the decision of the court. The publication of the judicial opinion is a contribution
to the dissemination of knowledge about the law, its values that it enshrines and that we cherish.

(Re, 1990, p.8)

At the A-G Chambers, one respondent admitted that she rarely used the library. Since her work involved the administration of deceased estates, her information needs hinged around a few legal precedents and relevant acts. Other than this collection, which she has in her office, she did not require any other materials.

Some advocates had personal collections in their offices which they consulted most of the time and visited the library only in instances where the information required was not available in their office collection.

A law student at the Kenya School of Law blamed the inadequate patronage of law libraries on poor reading culture prevalent amongst lawyers. He observed that advocates did not carry out adequate legal research. 'All what they do is to take advantage of the public’s ignorance of the law and loopholes in legal procedures to get away with it.' He felt that such tricks cannot work in the developed world because the public is generally enlightened. On this subject, one prominent advocate in Nairobi observed that lawyers and, in particular advocates, did not do adequate preparation including conducting thorough information searching before going to court. This, he said, is evidenced by the fact that some legal authorities they cite in court turn out against them in the final analysis. He castigated lawyers for not maintaining a reading culture. 'Some lawyers did not read through the entire judgement in a law report and rushed to conclusion only to be rejected by the court,' he said. In support of these views Johnstone (1967, p.79) observed that some lawyers, when asked for advice they know they are not equipped to give, will gamble with luck, or their clients' gullibility and give advice without sufficient preparation. Yet the bench depends on lawyers to be able to dispense justice. So, if the lawyer's presentation is poor, this will affect the judgement of the court. In support of this view Judge Re observed:

Judges must let it be known and must state that they rely on briefs of the
counsel. Counsel will then understand and appreciate the importance of devoting
time and effort to the writing of effective briefs that do, indeed, help the court.
I often highlight this joint effort of the bench and bar by writing and speaking
about ‘the partnership of the bench and the bar.’

(Re, 1990, p.10)

A similar problem was observed among law lecturers at the Faculty of Law, Nairobi.
A senior library staff member pointed out that some young lecturers on the
establishment did not have personal legal collections and yet the same people never
patronise the library. ‘One wonders where these lecturers obtain information backup,’
the respondent commented. Another participant accredited lecturers’ involvement in
part time jobs on their dismal use of the library. He observed: ‘ever since this practice
started, their patronage of the library has been pathetic.’ In support of this view, one
student argued, lecturers who mix practice with lecturing hardly have time to do any
research. Many practising lecturers indeed no longer have any commitment to
research.

Lack of reading culture appears to be a problem afflicting the legal profession. A
member of the library staff at the Kenya School of Law observed: ‘There appears to
be no developed culture of reading by students. The use of the library is prompted by
references provided by lecturers. Leisure or individualised use of the library does not
appear to exist.’ The same sentiments were expressed at the Law Library, University
of Nairobi. ‘Students use the library only to pass exams. They rarely came back after
completing their studies,’ one respondent commented.

It was noted that the majority of lawyers who use law libraries were advocates
involved with litigation. They appeared in court to represent the interest of their
clients. Some lawyers, however, do not appear in court. Much of the work they do is
in-house. They carry out probate, conveyancing, commercial law, etc. These
professionals seldom visit the library and, when they do, it is normally brief - to check
or collect a specific item. A number of lawyers have working collections in their
office centred on the work they do. They like to do all their information searching
in the office as they interact with their clients on phone or visits, etc. Litigation
lawyers on the other hand do not like interruptions when they are preparing or writing legal opinion or briefs. They prefer to focus their mind on one thing - the issue at hand to be able to present a better position of the client in court. For this purpose alone, they may opt to work in the peaceful atmosphere of the library devoid of telephone calls and other office interruptions.

The use of the library is also greatly determined by the nature of work of lawyers. Their work schedule is such that very little time is spared for information searching. Uche (1981, p.121) notes that an average African lawyer is a sole practitioner. S/he is a jack-of-all trades. S/he is fully engaged from early in the morning to late in the evening. S/he is either in the office attending to clients or in court. Because there is no division of labour between her/him and any other colleagues, s/he has very little time for library use. When s/he visits the library, the visit is always brief - to refer to a document on her/his way to court.

The problem of inadequate use of the library by lawyers is not typical of the Kenyan situation alone, it is a common phenomena. In a conference held in the US, Cohen (1969, p.193) was quoted saying: 'In closing, I would just like to offer some speculations on the causes of what is generally agreed to be the very low state of legal research to-day. Deans, judges, law professors and even practitioners themselves bemoan the quality of briefs, memoranda and arguments. Even the craftmanship of our highest appellate courts is considered vulnerable to the criticism.' Studies carried out in Scotland also attest to these findings (Campbell, 1976). In Nigeria it was observed that:

The lawyer and the attomeys in Nigeria make comparatively less use of law libraries than their counterparts in Europe and America. The effect of this is that the law library profession has not been easily accepted even by those who could know better. Many of our lawyers do not believe in scholarship and the need to do more reading to enhance their practice. Very few indeed...indulge in serious reading. Quite a few of them are more business inclined than real practice of law.

(Ogbeide, 1976, p.19)
8.7 USE OF OTHER LIBRARIES

The researcher attempted to find out whether members of the legal community consulted resources in libraries other than in their own organisation. Asked whether they have on occasion had to seek information outside their law library, 81% of respondents said they did. It appears from these returns that the information needs of the majority of users surveyed are not adequately met by their own organisation’s information sources, hence the need to resort to other libraries to supplement these. Table 8.6 provides a detailed analysis of responses from participants.

Table 8.6
Use of Other Libraries

<table>
<thead>
<tr>
<th>Response</th>
<th>Categories of Users</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A %</td>
</tr>
<tr>
<td>Yes</td>
<td>27</td>
</tr>
<tr>
<td>No</td>
<td>5</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations:

Some respondents believed they did not need information from other sources. Among these were judges of the High Court and Court of Appeal. They felt their library met much of their information requirements. In instances where the information required was not available, the library staff ensured that the materials were acquired from other libraries. On account of this, the judges were saved from visiting libraries in the city for the purpose of seeking information. It was also pointed out by a judge that where
a lawyer quotes an authority which the library does not have, the lawyer is normally requested to leave the authority or title with the judge to look at later. It was also observed that lawyers with fairly well organised libraries do not visit other libraries in the area for information. Such information can be made available by the library staff through inter-library co-operation. At HHM, lawyers benefited a lot from this arrangement.

Asked where they sought supplementary information, the following sources were singled out:

- American Cultural Centre
- University of Nairobi, Main Library
- Faculty of Law, Parklands
- Law firm libraries
- Attorney-General’s Chambers
- High Court, Nairobi
- Kenya School of Law
- British Council
- Kenya National Archives
- Kenya National Library Services (KNLS)
- Food Agricultural Organisation (FAO)
- United Nations Environment Programme (UNEP)

It was interesting to note that non-legal libraries played an important role in legal development in the country by supplementing the efforts of law libraries. Among the libraries that came out prominently were the British Council and the American Cultural Centre. It was observed that the British Council had a small but updated collection of legal texts which legal users found exceedingly useful. Despite the funding problems experienced by KNLS which have seriously affected its collection development programmes, a number of respondents visited it regularly. This indicates that the public library in Kenya plays an equally important role in legal development.

In addition to legal literature, respondents said they visited specialised non-legal
sources for non-legal information. Both the academic staff and law students interviewed singled out institutions such as UNEP, FAO, Kenya National Archives, etc., as important sources. It was stated that since law touches on a variety of disciplines, they have had to refer to sources in other subjects whenever reference was made to them. They argued that to study environmental law, one needs to access materials on environment and related disciplines. It was pointed out that final year undergraduate and postgraduate students at the Law Faculty, Nairobi, and legal researchers made extensive use of non-legal information sources. Researchers at the Law Reform Commission said the information sources at the Kenya National Archives were particularly useful as they contained old legislation, government publications and other related materials which were of unlimited research value. Without this kind of information, they felt their work would be incomplete.

It appears from this analysis that legal users consulted other libraries in addition to their own in an attempt to meet their information needs. This indicates that their libraries did not have all the information needed. This finding is however not characteristic of the Kenyan situation alone. In a study carried out in England (Willis, 1992, p.173), it was found that in addition to their own law firm library, solicitors also used other libraries in the immediate neighbourhood, namely, the Law Society library, university and public libraries, while in Australia over 54.1% of the respondents consulted materials outside their libraries. Among the law collections consulted were the Supreme Court library (53.4%), law firm libraries (13.5%), and university libraries (10.2%) (Hutchinson, 1994, p.138).

Several reasons can be advanced for the use of outside resources in Kenya. One reason is that a number of law libraries do not have comprehensive collections (e.g. Kisumu and Eldoret). This compels users to consult other libraries in areas not well covered by their libraries. The second reason could be the opening time of some libraries. Some libraries, particularly those in the civil service, close at 5 pm. This prompts users to visit other libraries such as the academic law libraries which close at 10 pm. A third reason is the lack of crucial services such as current awareness and photocopying services in some government libraries. These services are considered
8.8 THE INFORMATION SEARCH PROCESS

Respondents were asked where they preferred to start their legal research. The majority of respondents (69%) started their legal research in the chamber or office. Practically all this group comprised lawyers. An average of 31% of participants started their work in the library. The majority of this group comprised law teachers and students. Only a small number of participants (14%) started at home. Few participants (1%) started legal research in other places. Table 8.7 provides a detailed analysis of the responses to the above question.

It is evident from the above analysis that lawyers prefer to start their information search from the chamber or office. They start by scanning all the information sources available in their office and move to other sources only when the office sources have been exhausted. This search pattern is noticeable only in instances where lawyers have office collections. Law students, for instance, do not use this option as they do not have offices. The library as a source of first resort is used mainly by law students particularly by students without or with limited personal collections. It is also used by lawyers who have little or no personal collections in their office. The researcher witnessed some practising advocates without any collection of basic information sources in their office. Such lawyers relied entirely on the library for information support.
Table 8.7

Sources Where Users Start Their Research

<table>
<thead>
<tr>
<th>Sources</th>
<th>A %</th>
<th>JS %</th>
<th>LS %</th>
<th>LT %</th>
<th>SC %</th>
<th>Range %</th>
<th>Average %</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chambers/office</td>
<td>25</td>
<td>78</td>
<td>16</td>
<td>76</td>
<td>-</td>
<td>1</td>
<td>20</td>
<td>100</td>
</tr>
<tr>
<td>Library</td>
<td>6</td>
<td>19</td>
<td>3</td>
<td>14</td>
<td>29</td>
<td>60</td>
<td>3</td>
<td>60</td>
</tr>
<tr>
<td>Home collection</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>10</td>
<td>17</td>
<td>35</td>
<td>1</td>
<td>20</td>
</tr>
<tr>
<td>Other collections</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>4</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total sample</td>
<td>32</td>
<td>26</td>
<td>21</td>
<td>17</td>
<td>47</td>
<td>38</td>
<td>5</td>
<td>4</td>
</tr>
</tbody>
</table>

Abbreviations

A: Advocates      JS: Judicial staff    LS: Law students    LT: Law teachers

SC: State counsels
It was observed that some respondents started their information search at home. A number of students fell into this category. As students generally have their law collection at their residence or home, some opt to start with this collection. They resort to library sources only in instances where their personal collections have been exhausted. A few lawyers, too, started their research from their home collection. Some lawyers kept their personal collections at home deliberately to safeguard them against loss or theft at the place of work. Some did much of their official and non-official work at home and, therefore, saw no need to have their collection in the office. Only two respondents started information searching from outside sources. These respondents were students at the Kenya School of Law and preferred using outside sources because of the limited time the law school library operated. Since the library closed at 5 pm, the students said they did not benefit greatly from its services. Instead, they opted to use information sources in other libraries.

Asked to state the sources they (respondents) preferred to start with, the following order of information sources was furnished:

i) text books  
ii) library catalogue  
iii) abstracts and indexes  
iv) Halsbury's Laws of England  
v) local statutes

Table 8.8 analyses the responses arising from the above question. The majority of respondents preferred to start legal research with text books. This no doubt indicates the importance of text books as a source of current information. It is interesting to note that this finding is not characteristic of the Kenya scene alone. McGavin (1991, p.134) observed that since the law is constantly changing, and more up-to-date text books are being published from an advocate and solicitor's point of view, the best and easiest starting point for establishing the law on any particular matter is the up-to-date textbook. This he feels not only incorporates a new act but also references to all recent case law on the subject. In support of this view, Smith (1976, p.13) states that a
lawyer entering into research in a subject in which s/he finds her/himself ill-prepared may consult secondary materials first, to get a feel of the subject. These materials will very likely give her/him some leads to particular cases and statutes, and thus open the way for her/him to use the citator system, editions of statutes arranged by subject, and the digest system. Most often, this will inundate her/him with material and s/he will thereafter be on her/his own in assimilating and systematising it according to her/his need. For a practising lawyer, the result will be a brief for a client’s case before a court while for a professor, it is most likely to be a law review article.

The library catalogue took second position. This could be because of the ineffectiveness of catalogues in most law libraries surveyed. Indexes and abstracts came third. Indexes and abstracts were considered an important information source. It was, however, observed that the importance of this source was hampered by the inability of most law libraries to keep this collection current. *Halsbury's Laws of England* was placed fourth. It was considered an important source on account of its encyclopaedic approach to legal disciplines. Statutes were placed last. Few users started their research with statutes possibly because they do not provide reference to other sources where users could follow up an issue.

Asked whether they often started their information search from the same resource, 93 (74.4%) respondents said they did not always start from the same resource, while 30 (24%) agreed. Two participants did not commit themselves. Those who disagreed said that the type of information resource they consulted greatly depended on the nature of work at the time and that a different work style called for a different approach to information search.
### Table 8.8

**Information Sources Users Prefer to Start With**

<table>
<thead>
<tr>
<th>Sources</th>
<th>A</th>
<th>JS</th>
<th>LSK</th>
<th>LSU</th>
<th>LT</th>
<th>SC</th>
<th>Range</th>
<th>Average</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Text books</td>
<td>15</td>
<td>47</td>
<td>5</td>
<td>24</td>
<td>16</td>
<td>76</td>
<td>3</td>
<td>50</td>
<td>42</td>
</tr>
<tr>
<td>Library catalogue</td>
<td>2</td>
<td>6</td>
<td>5</td>
<td>29</td>
<td>4</td>
<td>19</td>
<td>12</td>
<td>46</td>
<td>24</td>
</tr>
<tr>
<td>Abstracts and indexes</td>
<td>9</td>
<td>28</td>
<td>4</td>
<td>19</td>
<td>4</td>
<td>19</td>
<td>3</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Halsbury's Laws of England</td>
<td>4</td>
<td>13</td>
<td>1</td>
<td>5</td>
<td>6</td>
<td>29</td>
<td>2</td>
<td>8</td>
<td>14</td>
</tr>
<tr>
<td>Statutes</td>
<td>2</td>
<td>6</td>
<td>2</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
<td>26</td>
<td>21</td>
<td>17</td>
<td>21</td>
<td>17</td>
<td>26</td>
<td>21</td>
<td>5</td>
</tr>
</tbody>
</table>

**Abbreviations**

A: Advocates  
JS: Judicial Staff  
LSK: Law students (KSL)  
LSU: Law students (UON)  
SC: State counsels  
LT: Law teachers
The above analysis appears to suggest that experience is an important factor in determining the kind of information sources a person uses. While a new entrant into the profession or discipline may wish to follow the formal route in locating information namely through the catalogue, an experienced person may take shortcuts. This could be via the textbook, indexes, or Halsbury’s Laws of England. This explains why an experienced lawyer takes a shorter time to locate information than one who is newly qualified. This also explains why a lawyer who is in urgent need for information would prefer to carry out legal research himself than delegate it to a pupil.

8.9 PRESSURE OF WORK AS A CONSTRAINT TO INFORMATION SEEKING

Respondents were asked whether their official and personal commitments were a constraint to seeking information. An average of 68% of respondents interviewed agreed that both were a constraint while the rest did not. Table 8.9 provides a detailed analysis of responses from participants.

Both office and personal commitments can pose a serious problem to information seeking if not well handled. This problem is particularly serious in Africa where well placed people like lawyers as a matter of protocol, are given some responsibilities in society. At the Law Faculty in Nairobi, a distinguished academic observed that responsibilities such as faculty and departmental headship were a great enemy of good scholarship. Another academic argued that overloaded curricula which was a characteristic feature in institutions of higher learning did not provide sufficient room for adequate scholarly research. A number of respondents however disputed this observation. They argue that a number of law teachers combined teaching with legal practice. As a result, they find themselves with absolutely no time left for legal research. Students on the other hand, felt that congested time tables had a considerable effect on information seeking as it deprived them adequate time to look for information. One student observed that law students have not had adequate time to carry out as thorough an information search as they would like to do. Because of this, students hardly have time to do Continuous Assessment Tests (CATS) and complete
other assignments on time. Therefore, there is little time left for research. "And when you are able to obtain a breather, one finds that there is not enough books to use," he concluded. The result is that students end up being ill-informed. They produce assignments that are not thoroughly researched and this, they argued, has serious effect on their training as future lawyers. Magistrates too, expressed the same sentiments. They argued that their work schedule was so congested that they rarely had time to carry out legal research. This is perhaps one reason magistrates, and in particular, those in lower courts, relied entirely on facts and evidence produced in court to dispense justice. Because of time constraints, they rarely attempted to carry out independent research to verify the information presented in court by parties, and in particular, the prosecution.

Table 8.9

Pressure of Work as a Constraint to Information Seeking

<table>
<thead>
<tr>
<th>Response</th>
<th>Categories of Users n= 125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A  %</td>
</tr>
<tr>
<td>Yes</td>
<td>22</td>
</tr>
<tr>
<td>No</td>
<td>10</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
</tr>
</tbody>
</table>

Abbreviations:

Another demand on lawyers is the sheer volume of work they have to undertake and the limited time available in which to do it. It was pointed out that the amount of legal matters was so enormous that they were not able to cope with all of it. Yet they were
reluctant to refuse to accept additional work on account of losing future business to other firms. This view is shared by Kidd (1978, p.34) who argues that solicitors rely on recommendations and contracts to attract new business, and so linking a firm’s separate clients may be a complex chain of recommendations and contracts and that if a solicitor turns work away that chain may be broken and as a result, the continuation of existing business may be seriously affected. It was pointed out that lawyers accept a high volume of unprofitable work in the hope that more lucrative work will follow. Sometimes it does, but often it does not. The pressure of work is equally an important consideration amongst Canadian lawyers (Operation Compulex, 1972, p.4). It is observed that much of the lawyer’s time is spent in the preparation of documents, correspondence, telephone calls and interviewing. This leaves limited time for information seeking.

Practically all the judges interviewed said their official and personal commitments did not hinder them from carrying out legal research. This is not surprising as judges, although they appear busy most of the time, are not as heavily loaded as magistrates. Furthermore, the majority did not have administrative responsibilities. For those in the outstations, the administrative responsibilities are held by senior magistrates. Judges rarely went out to look for information. Any information a judge requires is made available by the library staff and, in some instances, by the counsels. In addition, judges are fairly well paid and highly motivated. Furthermore, they have chauffeur driven vehicles which eases their mobility problems.

8.10 IDENTIFICATION AND RETRIEVAL OF INFORMATION.

The researcher attempted to ascertain the methods legal users used to identify and retrieve information. In response to this question, the following retrieval options were given prominence:

i) browsing through the collection

ii) library catalogue
### Table 8.10

Methods Used in the Identification and Retrieval of Information

<table>
<thead>
<tr>
<th>Method Used</th>
<th>Categories of Users</th>
<th>n=125</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A %</td>
<td>JS %</td>
</tr>
<tr>
<td>Browsing the collection</td>
<td>25</td>
<td>78</td>
</tr>
<tr>
<td>Library catalogue</td>
<td>22</td>
<td>69</td>
</tr>
<tr>
<td>Abstracting and indexing materials</td>
<td>26</td>
<td>81</td>
</tr>
<tr>
<td>Library staff</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32</td>
<td>26</td>
</tr>
</tbody>
</table>

**Abbreviations**

A: Advocate  
JS: Judicial staff  
LSK: Law students (KSL)  
LSU: Law students (UON)  
LT: Law teachers  
SC: State counsels
iii) indexing and abstracting materials

Table 8.10 provides a detailed analysis of responses to the above question. It appears from the survey that the most popular method in law libraries used to retrieve information is by simply browsing through the book shelves. About 95% of judges and magistrates (judicial staff) interviewed used this method to retrieve information. About 85% of state counsels used it followed by advocates (78%). Although this method came out very prominently in the survey, professionally it is not the best way of retrieving information. This option generally comes in only when professional methods have failed to live up to their expectations.

The above results differ in a way from the Malayan study (Osman, 1987, p.20). This study rated the library catalogue as the most frequently used information retrieval tool. This was followed by searching the shelves (browsing the book shelves); asking library staff; and asking friends. Asking library staff was rated the third most commonly used retrieval method while in the Kenyan study, it is placed last. This indicates that library staff offered least assistance in locating information. The reason for the ineffectiveness of the library staff in Kenya could be accredited to either lack of training in librarianship or poor staff motivation.

Several reasons can be advanced for the use of browsing as a retrieval method. One reason could be the non-existence of book catalogues in some libraries. At the time of the visit, both Kisumu and Eldoret Law Court libraries did not have a library catalogue. The only way users retrieved information was by going through the bookshelves. The second reason is the inaccessibility of the catalogue in some libraries. Although the A-G Chambers library, for instance, had a book catalogue, the catalogue was sandwiched between book shelves and heaps of unprocessed materials so that it was beyond the reach of the users. Few users ever used this catalogue. The same applied at the Kenya School of Law. The third reason is the ineffectiveness of most of the catalogues surveyed. The catalogue at the High Court and the Law Faculty libraries were so ineffective that users shunned them. At the High Court, catalogue cards of different sizes were mixed together. While at the Law Faculty, the catalogue
was outdated. The catalogue did not reflect a true picture of materials in the library. Although browsing was considered the simplest method, unless the user is acquainted with the collection, it can be a laborious method to a new comer.

The library catalogue took second prominence. The catalogue as a retrieval tool was favoured mainly by the academic community. In total, 66% of students interviewed used this method. It appears from the responses that the importance of the catalogue as a retrieval tool is diminishing fairly fast. In government law libraries where library staff are inadequately trained and poorly motivated, the problem is very clear.

Indexing and abstracting materials were rated third. In a pilot survey the researcher carried out in England, this method was rated very highly. A number of factors can be advanced for the low rating accorded this option in Kenya. One factor is the diminished funding which has affected library acquisition programmes. Because of the scarcity of funds, most indexing and abstracting publications have not been updated for some time. This in turn affects the performance of the materials concerned. Lack of locally produced publications has been another obstacle. Despite these problems, a number of respondents used them. Top of this list were advocates (81%); and judges and magistrates (76%). This is because of the importance of these tools in the retrieval of case law.

While the responses to the above question are interesting, it is important not to take everything the lawyers said at face value. While they appear good at criticising the system, other than the academics, practising lawyers are not known to be serious users of library resources. Therefore any information they give in connection with their information seeking habits should be treated sceptically. In a survey conducted in Michigan in the US (Cohen, 1969, p.192), only 5% of lawyers used the card catalogue and less than half of them found useful references in it and about 30% opted to consult the library staff. Although the above survey is fairly old, its results have a lot of bearing in Kenya as lawyers here rely greatly on the printed media.
8.11 A CASE STUDY: Information Seeking Habits of a Lawyer

Introduction

In addition to data obtained from respondents, an in-depth study was carried out on
the information seeking habits of a lawyer in Nairobi. The study provides a more vivid
account of the kind of situation, problems and factors that influence an ordinary
lawyer in the use of information. The results from the study assist to clarify the
findings obtained in the chapter.

Background

Daniel Kahindi is a junior partner with Mwangaza & Kahindi (Advocates). The law
firm is based in the city of Nairobi. Kahindi was born in 1962 in Coast Province. He
obtained his LLB degree in 1985 from University of Nairobi. From there he proceeded
to University of Dar-es-Salaam in Tanzania where he completed his LLM degree in
1987. From Dar-es-Salaam he moved to the Kenya School of Law in Nairobi for his
pre-entry training programme in legal practice. He completed in 1989 and was
subsequently employed by the A-G Chambers as a state counsel. He worked in the
criminal litigation section until mid-1990 when he moved out and joined the academic
staff of the University of Nairobi at the Faculty of Law, Parklands Campus. Kahindi
has been there ever since. He teaches criminal law, family law and jurisprudence. In
addition to teaching, Kahindi like some of his colleagues in the Faculty of Law, is
involved in private practice. Although officially he only operates part-time at the law
firm, in reality, he is more full time in legal practice and more part-time at the faculty.
He goes to the faculty only when there are lectures to be presented, or staff meetings
to be attended. He does not have non-teaching responsibilities on the campus. All
lecture preparations are done at the law firm or at home.

Kahindi's partner, Reuben Mwangaza, is also a member of staff at the Faculty but
ventured into legal practice much earlier than Kahindi. Kahindi joined him only in
January 1994 as a junior partner. The law firm has two lawyers. Occasionally, it
obtains support from pupils from the Kenya School of Law. In addition to the pupils,
the firm has three support staff namely, a secretary, a law clerk and a messenger. The law firm is situated on Biashara Street, a distance of fifteen minutes walk from the Law Courts, Nairobi. Each partner has an office, a set of the statutes and an office information collection. Kahindi's collection comprises a personal collection of law books and loose materials such as precedents and unreported judgements. He keeps most of his materials in the office. In addition, he has a few textbooks at home which he uses to prepare his lectures. This also includes much of the materials he borrows from time to time from the Parklands Campus.

Kahindi and his colleague like any young businessman do not choose the kind of business to practise. They accommodate any business that comes by. There is however some kind of specialisation between the two which is flexible. Kahindi takes much of criminal litigation, family law and probate including customary law issues. His colleague takes civil litigation, commercial law, conveyancing and customary law relating to land assets. Despite this specialisation, the two work as a team. Where a colleague for one reason or another is unable to attend his business such as a court appearance, his colleague is usually requested to stand in. The same applies to other functions.

Work Schedule
Since information seeking habits are individual to a user, this case study will be confined to Kahindi. Reference will be made to his colleague only where it is considered necessary. Kahindi like most lawyers, has a tight schedule. On a typical working day, he is generally in the office at 7.30 in the morning. He goes through his diary to see the engagements he has for the day. If he has to appear in court, he goes through the work he prepared the previous evening to ensure that everything is in place. He notes down any instructions he would like the secretary or the law clerk to do in his absence. He goes through the morning papers to check for developments and proceeds to court at about 9 am. Depending on the number and extent of engagements at the Law Courts he is usually back in the office by 5 pm. He spends much of this time meeting and interviewing clients. Once the staff and the clients are gone, he settles down to paper work. He prepares submissions, drafts applications, and other
legal documents required the following day. If he has any lectures to present the following day, he carries out the preparation at that time or takes the work to be done at home. He, however, points out that lectures do not take much of his time as he has been teaching the same subjects since he was employed at the university. All he does is to use his master notes built up over a period with some modification to reflect changes that have taken place in the law since the last lecture was presented. He looks up the law where the need for it arises. He then goes through the diary for the following day’s activities and compiles a schedule of work. Except where there is a lot of work pending in the office, Kahindi is normally at home by 7.30 pm.

When he is not appearing in court, he may go to the campus to present lectures, attend staff meetings or remain in the office and either do office work or attend to clients. Kahindi admits he does not have a typical day and what he does on one day depends on the work presented by the clients and the academic programmes at the campus. Occasionally he may go to the High Court library to carry out legal research for a pending case. He says that when the university is open, he is a very busy person. The work subsides when students are on recess.

Acquisition of New Information
Kahindi does not have a comprehensive information collection in his office. His collection comprises basic materials which he uses for quick reference. His set of the statutes is not up to date with the amendments. So when he is not sure about the currency of any legislation, he prefers to use the sets at the Law Courts.

Kahindi has a number of ways of acquiring new information. Top on the list is colleagues. He considers colleagues as an indispensable tool. Whenever he is not sure of anything, he either picks up a telephone and discusses it with his colleague in the firm or visits him in his office. He says his firm partner caters for over 70% of all the information he acquires through colleagues. In instances where his colleague is either not available or not in a position to help, he contacts friends in other law firms. He says this to him is the quickest way to obtain new information as opposed to printed materials where one has to spend hours only to find very little. Some colleagues
would have handled similar issues before and, therefore, are better placed to provide the information needed. Asked whether there have been instances where colleagues have tried to deny him important information, he says, he has never come across such a case. Furthermore, the people he deals with are close friends who equally seek assistance from him. 'All I need to do is to pick up a phone and ring them and the answer will be available in a matter of minutes,' he commented.

He also considers both formal and informal meetings as an important medium for the exchange of information. Kahindi however points out that such meetings are not held frequently. So, whereas important issues which were hitherto unknown can be brought to light, they may not solve all one's information needs. An important side benefit of such meetings is that a relationship is established with fellow lawyers through informal gatherings which could be very useful in exchanging issues of common interest. Kahindi does, however, blame bodies such as the Law Society of Kenya for its apparent failure to organise such meetings. He feels that such gatherings are very crucial in keeping lawyers abreast of the law. He is also critical of the Faculty of Law for its laxity in hosting regional meetings of academics. He observes that for the last five or so years, the Faculty has not organised any noteworthy function.

Kahindi also views the newspapers as important for current awareness. He observes that the majority of newspapers in the country do not carry much legal information. Only occasionally do they report court proceedings and where it happens, such cases must be politically sensitive or issues that are of interest to the public. He appreciates the contribution the Daily Nation newspaper makes to legal development by publishing summaries of important judgements in the Monday issue of the paper. He would like to see other papers take up this challenge as well. Kahindi is aware of The Times (London) newspaper whose issues are regularly received in Nairobi but feels that his firm is too young to be able to subscribe to this paper. He also feels that although the English courts have a persuasive influence in Kenya, top priority is accorded the Kenyan case law, and that the English law is only used to clarify legal issues or comes in only in instances where the Kenyan law is silent on an issue.
Law journals are also used when new issues are available. But more often than not, one rarely comes across a new journal. Both the law library at Parklands Campus and the High Court library, the two libraries he uses fairly often, do not receive current issues of law journals or reports. At the moment, Kahindi has no other way of accessing new issues of journals and reports. The only other sources are large law firms but access to their collections is restricted. Kahindi recalls that when he was a law student in Nairobi, the law library received current issues of most leading law journals and reports. But that appears to be history now. Students used to frequent periodical display shelves for up to date information. He, however, appreciates the role played by the *Nairobi Law Monthly Magazine* but says that the coverage is very limited. He would like to see the magazine concentrate more on legal issues as opposed to political developments. He uses it whenever he visits the High Court library.

Kahindi also uses local digests when they are available but is quick to point out that their irregularity makes them less dependable. He considers new books as an important source of information because they are fairly regular and although they are normally available about a year after publication of the new law in England, he argues that the books would still be relevant in Kenya because the law in Kenya does not immediately match legal developments in England. He argues that whereas the 44th edition of *Archbold on Criminal Pleading and Practice* for instance, is the most relevant edition in England, in Kenya, the most applicable edition is the 40th edition.

**Delegation of Legal Research**

Kahindi like other city lawyers experiences considerable pressure of work. He has not only to attend to legal practice, but also to teach and examine courses at the Law Faculty. In addition, he has to assist his colleagues to manage law firm affairs. All these challenges require information support. Since he is unable to spend much time on legal research, he delegates part of it to others in the law firm, including pupils. His law firm receives between one and two pupils a year. The pupils stay for an average of about eight months before proceeding to the Kenya School of Law. Kahindi uses them for a variety of work: legal research, drafting pleadings,
agreements, wills and leases. In legal research, Kahindi introduces the pupils to the subject of the matter and then leaves them to look for supporting information. Much of the work they do is ground work. They have to obtain all available facts and authorities and pass them to him to evaluate and decide what to use. Information gathering generally starts from the office collection, then to the Kenya School of Law and finally to the law library at the Parklands Campus. Unfortunately, the pupils are not allowed to use the High Court library in Nairobi. Instead, they opt to use the library at the Kenya School of Law or the law library at Parklands when need arises.

Despite the task of perusing through the enormous literature on law and related subjects, the pupils appear to like the work as it is the foundation for future success in legal practice. They believe that information searching skills are important in presenting better legal opinions or submissions. It is argued that the wealth of legal authorities used reflects the amount of work that a lawyer has put into a case. So pupils are eager to learn these skills at this stage of their training. Kahindi does however point out that while delegating legal research to pupils, one needs to be careful to evaluate the information they present to ascertain whether it is current and relevant to the issue at hand. He states that the extent of delegation depends on the nature of work. And that where issues are sensitive or a lot of money or a suspect’s life is at stake, he would either do the work himself or would endeavour to closely monitor the work to verify the information provided. At the same time Kahindi points out that he is unhappy with the training that law students undergo at the university. Their schedules are so loaded with assignments, tests and exams that they have little time to carry out independent research. They rely on lecture notes and handouts at the expense of individualised learning. He argues that during his days as a university student, students had ample time to carry out research. They had fewer assignments between exams. Because of this problem, he says, pupils lack information gathering skills. ‘We are forced to teach them afresh at the law firm,’ he concluded.

In addition to pupils or in their absence, Kahindi does much of the information seeking and uses the law clerk. However the use of the law clerk is confined to identifying and locating the information materials required. They are particularly
useful when the required information has to be obtained from other sources. Asked whether he verified the information obtained from the law clerk, he says, there is nothing to verify here. He argues that since the information is provided in a physical form, e.g. law report, verification is meaningless. It is only applicable with pupils who often provide information in digested form.

Frequency of Information use
Kahindi consults or uses information regularly. He argues that since he operates in an information intensive environment, there is no way he can do without information support. And that anything he does whether it be a submission in a court of law, or advice to a client requires a documented authority. He feels that he cannot give advice without consulting information materials particularly if the advice given is in writing. Reference to the information source is important here because it enables one to identify the exact reference or authority one is referring to even if that authority is not mentioned in the written document. According to Kahindi, the reference provides the confidence necessary to proceed with work. Similarly, when writing submissions, legal opinions, drafting legal documents, etc., appropriate information has to be accessed to assist in the work. And that since they are still a young firm with limited business, he believes in doing a good job so that it can attract more business to the firm. Kahindi cannot recall when he has carried out a legal activity without referring to an information document. He believes this would be tantamount to committing professional suicide.

Frequency of Use of a Law Library
According to Kahindi, the use of the law library depends on the nature of work to be carried out, the wealth of information resources in the law firm and the amount of work he has on his schedule. The three factors influence his information seeking habits. In normal cases, the office collection is adequate to meet his needs particularly if the nature of work simply requires checking an issue of the law in, say, statute books. Since Kahindi does criminal litigation, much of the work may pertain to interpreting the law. This may involve making use of quick reference sources, the majority of which he already has in his office. However, it is only when the work
requires use of materials not available in his collection that a need arises for him to visit the law library. His nearest law library is the High Court library.

Although Kahindi does not count how often he uses the High Court library, he feels it could average twice a week. However, there are occasions when he finds himself in the law library without prior arrangement. This is when something crops up while in court and a need to check an information source arises. Alternatively, he may find himself in a law library at intervals between court sessions. Kahindi uses such occasions to scan through any new literature with the hope of keeping abreast of developments.

Use of Other Libraries
Kahindi considers the High Court library as his main source of information since his firm cannot claim to have a law library. In addition to the High Court library, Kahindi makes use of the law library at the Parklands Campus. Although ideally the law library at the campus should be his main library of reference, Kahindi views it differently. Firstly, the campus library is far away from his law firm office. Secondly, the library is not geared to practitioners’ needs. Much of the work he handles at the law firm is more geared towards legal practice as opposed to academics’ law. Thirdly, the limited materials available on legal practice and, in particular, the statutes are outdated. Furthermore, the collection has never been amended since it was acquired and none of the library staff knows the technique of amending the statutes. Fourthly, commonly used reports such as the Kenya Law Reports and the East Africa Law Reports are mutilated. Some of the contents are missing. Kahindi uses the library to borrow materials to be used to prepare lectures for students. Occasionally he visits the library when he has a paper or two to present. In this regard, he finds some of its research publications very helpful. In addition to law libraries, Kahindi also visits other specialised libraries for non-legal information. Among these libraries are the United Nations Environmental Programme (UNEP) and the medical library of the University of Nairobi. He uses the UNEP library when researching issues that have some environmental implications while the medical library is used on occasions when he has to assist his colleague to assess claims for personal injuries.
Information Search Process

Kahindi starts information searches in his office using the collection there. Much of the research pertaining to legal practice is done in the office because all the relevant materials are to be found in the office collection. The statutes, unreported judgements, forms and precedents are all stocked in the office. Occasionally, he carries out research at home using part of the home collection. However this collection comprises a great portion of academic materials including materials he acquired while at university. This collection may not be ideal for legal practice but still remains useful for academic purposes. Old editions of titles such as *Cross on evidence; Winfield and Jolowicz on tort; Lowe on commercial law; Bromley on family law*, etc. are held at his residence. The High Court library is used only when the information collection in his office is not helpful. With regard to what kind of information sources the lawyer prefers to start with, Kahindi prefers to use the textbook only in areas that are alien to him. He points out that when he is tackling a subject he has not been practising for quite some time, he prefers to start with the textbook. This is so because it provides him with the background information to the subject in question. He argues that he cannot practise in an area of which he does not have any experience. ‘All you need to do is to lay down this foundation before you think of handling the subject.’ However, in areas where he has practised before, has acquired adequate experience, and knows exactly what he wants, he may opt to use indexes to law reports for case law or indexes to the local statutes in case he is looking for legislation. If he is not sure in which law report he will find the required information, he may use the local digests. Kahindi admits he rarely uses foreign digests or citators except when he is looking for foreign case law or statutes.

Strategies Used to Retrieve Information

Kahindi retrieves information materials in the library simply by browsing through the shelves. After using the two libraries, namely, the High Court and Parklands Campus library for a considerable period, he has come to master the location of his favourite titles. All he does is to go to the shelves where they are located and retrieve them. He says the process is very brief. However, when he is unable to locate the required material, he seeks assistance from the library staff. Asked whether he has ever used
the library catalogue, he says both catalogues at the High Court and Parklands Campus libraries are in a total mess. ‘You can spend hours on those catalogues and at the end of the day, you will come out with nothing substantive,’ he remarked.

Kahindi points out that he employs this browsing method and seeks staff assistance only when he is retrieving individual volumes of law books, law reports, journals, statutes, etc. However, if he has to retrieve specific information from volumes of materials in the library, he employs a variety of other methods. Among these is the use of indexes. He uses indexes and in particular, cumulative indexes to retrieve relevant information from law reports. Most law reports both local and foreign, have cumulative indexes which are very handy in retrieving information. The same applies to statutes. The *Laws of Kenya* have an index volume that comprises one of the thirteen volumes in the set. The same applies to law journals. A number of them have cumulative indexes and where there are not available, he uses the index in the individual volumes. In addition to indexes, Kahindi uses citations from textbooks and digests. The use of collections of unreported judgements poses serious problems. According to Kahindi, the collection in the High Court library is not indexed. So, retrieving the relevant judgement is a big problem. The library has a small but growing collection of judgements preserved in loose leaf files. The collection is arranged by broad subject contents such as Criminal Applications-High Court; Civil Applications-Court of Appeal, etc. Against each subject, the files are arranged chronologically by year of publication. Kahindi points out that most files do not have contents pages. In their absence, the only practicable way to retrieve a document from the collection is simply by browsing through the judgements in the files. This the lawyer observed, seriously affected their use.

**Conclusion**

This case study has examined in detail the information seeking habits of a single lawyer working in Nairobi. The study has dwelt mainly on his research habits. It has barely touched on information needs as these have been covered more exhaustively in a case study in chapter 7. It appears that Kahindi’s information searching habits have been influenced by his information needs. These information needs determine
where he goes for information, how he obtains it and how often he uses it. This subject is examined more exhaustively in the conclusion to this chapter.

8.12 CONCLUSION

This chapter has examined the information seeking habits of members of the legal community in the use of information. The results from the analysis suggest that there are widespread differences in their research habits. Among the factors determining these differences is the nature of work that members of the legal community are involved in. It is already noted that members of the legal community perform a variety of work. Details of these functions have been discussed in chapter 7. The work they do determines the kind of information needed. Since members of the legal community do not create their own work, they are dependent on work from other agencies or quarters. In the case of lawyers, the work emanates from the clients both individual and corporate. In the case of the bench, it is the disputes contested by the two parties; while in the case of law students and law teachers, it is certainly the challenges of the curriculum. In an attempt to meet their information needs, members of the legal community in their capacity as users of information, either consciously or subconsciously evolve a set pattern in their information search. The pattern explains the source of information required, where to obtain the required information and how it is to be obtained.

Experience is another crucial factor in seeking information. It was noted that pupils and newly qualified lawyers spent a considerable time looking for information. This is so because they have to go through and evaluate each and every information source they come across. They would perhaps start with the catalogue, then find their way to a relevant textbook for reference to an appropriate case law or statute governing that case. An experienced lawyer on the other hand would perhaps skip the catalogue and move on to a known textbook or, may opt to use the indexes or move directly to known cases. This view is upheld in studies conducted in the US (Randolph, 1980, p.36) and Canada (Operation Compulex, 1972, p.8).
The wealth of the information collection in an organisation is also an important factor. In the case of a law firm, the size of the office collection and presence or absence of a law library greatly affects the lawyer's information seeking habits. Where both the office collection and law firm library are well stocked, there would be less need for a lawyer to visit other libraries. While in single practices, where information support does not exist, lawyers there are heavily dependent on outside information sources. This argument equally applies to academic and other organisations such as Law Courts and the A-G Chambers. Where the parent organisation maintains a well stocked library, there is less need for users to resort to external libraries. At the Law Courts, for instance, it was noted that judges obtained practically all they required from their libraries.

The library staff also exercise an enormous influence on information seeking habits of the legal community. A law library that is staffed by an adequate number of trained and highly motivated staff is able to provide highly personalised services such as Selective Dissemination of Information (SDI), the Library Bulletin Service and Inter-Library Loan Service. The first two services assist the users by keeping them informed of latest developments in the legal discipline. In the case of inter-library loans, the users are able to obtain materials from other libraries through their library without the users going there. This saves users time and many consider such a service a welcome development. On the other hand, where such a service does not exist, users are compelled to visit other law libraries every time a need arises for an information material that is not available locally.

The size and ratio of the legal establishment in a law firm is also important. Whereas in a single law firm a lone lawyer is compelled to do much of the legal research himself, in a larger firm, there is a tendency to share legal research work with colleagues. In instances where the law firm has a number of newly qualified lawyers and pupils on its establishment, legal research can be delegated to them. Since these people are young and relatively inexperienced in legal practice, legal research serves as an ideal starting point into legal practice. Added to this, is the experience and motivation of people delegated the responsibility of carrying out legal research. It is
noted that where the staff members are relatively experienced in legal research, there is a tendency for senior lawyers to delegate more research work to them whereas in situations where the junior staff are inexperienced, the senior lawyers would delegate less and, at the same time, would maintain closer supervision over the delegates' work.
CHAPTER 9

ACCESSIBILITY AND AVAILABILITY OF INFORMATION

9.1 INTRODUCTION

In common with other specialised disciplines, the legal profession requires adequate and up-to-date information to enable it to be positively involved in the administration of justice. Such information must be available at the right time, in the right place and in the right form.

This chapter will examine issues pertaining to the accessibility and availability of information to members of the legal community. It will highlight the information sources used, their composition and the maintenance required to keep them current. The importance of legal research will be examined. The use of computers in legal information will also be examined, along with users' perception of their capabilities. The acquisition of legal information materials will be discussed. Problems experienced by users in accessing information will also be considered. Finally, as no library service can be self-sufficient in the provision of information, an attempt will be made to ascertain the extent to which law libraries participate in resource sharing.

9.2 ACCESS TO INFORMATION

As Koslov (1994, p. 713) points out, information should be readily accessible. Information resources must be located in easily accessible areas and be available during regular business hours. Moreover, accessibility requires that certain public and technical library services be provided to users, including those services rendered by a professional library staff. These services may include such things as reference assistance, a public catalogue, adequate study space and a photocopier.

The study participants were asked how many libraries they had access to. The
responses varied from one to six. This means that every lawyer or law student has access to an information source of some sort. The information gathered through personal observation and interviews with library staff concurs with user responses. All lawyers or private practitioners in the country have access to law libraries operated by the Judiciary in Kenya. In addition, some lawyers have access to academic law libraries such as those of the University of Nairobi and the Kenya School of Law.

Judges and magistrates have access to the High Court library in Nairobi as well as court libraries established in major law court stations in the Republic. Judges of the Court of Appeal also have unlimited access to the Court of Appeal library, established exclusively for them. State counsels in the A-G Chambers have exclusive use of the library of the A-G Chambers in Nairobi, and to its collections in major towns such as Mombasa, Kisumu, Nakuru, Nyeri, Eldoret, etc. In addition, as qualified lawyers, state counsels have access to libraries run by the Judiciary or the High Court. Only law students have limited access to law libraries, their access being confined to academic law libraries such as those of the University of Nairobi and the Kenya School of Law. Law teachers, like advocates, have access to most of the libraries mentioned above. Those interviewed indicated they had access to at least two libraries.

9.2.1. Access to Legal Information Materials

Participants were asked whether they were able to gain sufficient access to all the legal publications published outside Kenya. Out of a total of 125 respondents interviewed, 115 (92%) said they did not have sufficient access. Similarly, they were asked whether they were able to access all locally published legal publications which they required. A total of 106 (84.8%) respondents said they could not, with only 19 respondents claiming they could access these materials.

From the above responses, it appears that many of the information needs of the legal community in the areas of the study remain unmet, which could have a serious effect on their work. Inadequate access to legal information could result from several factors, perhaps from the distance to the library. Some lawyers, particularly those practising
in the outskirts of the towns, may find it difficult to travel to the Law Courts every
time they want to consult information sources. Another factor could be inadequate
availability of information materials for instance, some libraries do not have sufficient
collections of law reports and in particular, foreign reports. The absence of these
reports is likely to affect the performance of lawyers who may wish to use them.
Currency of the materials is also an extremely important consideration affecting the
use of the collection, because lawyers like to use up-to-date collections due to the
dynamic nature of the law. It is therefore important that the library has an up-to-date
collection, in particular, that the primary literature is kept current. Information
retrieval tools such as the library catalogue, indexes, digests, citators, etc. are
important in maximising the use of the library and it is the responsibility of the library
to ensure that these facilities are available to the users. In addition to the retrieval of
information, retrieval tools save users’ time and effort. The presence in the library of
experienced and motivated staff also represents a great asset in maximising the use of
the library resources. Since lawyers have limited time to spend seeking information,
they rely to a great extent on assistance from library staff to obtain the information
they require. Users’ perceptions of the library staff therefore exert a great influence
on library use. Accessibility is not only determined by the sheer volume of the stock,
but also on its quality, that is, the stock must be relevant to the needs of the users as
well as being current.

The above view is supported by Iwe (1994, p.64) who states, ‘there seems to be a
very wrong assumption that once the library materials are acquired, they automatically
become accessible to users. This is a false assumption. Effort must be put in place to
achieve effective use of the acquired materials.’ This observation is upheld by Kpodo
(1985).

9.2.2 Access via Colleagues

Colleagues can be extremely helpful in finding or obtaining information. Where a
user experiences difficulties in identifying or locating the required information, a
colleague who has previously consulted the same source can assist in locating the
information. In this way, valuable time and effort can be saved. In an attempt to confirm this view, respondents were asked whether their colleagues were available to seek assistance whenever the need arose and the majority (89.6%) interviewed indicated that their colleagues were amenable.

A lawyer in the A-G Chambers said that, rather than spending a considerable time perusing through the dusty collection in the library, he found it fitting to contact a colleague in the department who might have handled a similar case before for information on the subject, or direction where that information can be obtained. While a lawyer practising in Nairobi was very positive about his colleagues: 'friends can assist to clarify some technical issues which are not easy to understand on your own. They are the easiest people one can turn to whenever a query arises.' This view is supported by another lawyer, who said: 'I benefit a great deal from colleagues. The fact is that information is not centrally available. It has to be fetched from various corners and sources. Occasionally it is non-existent e.g. local law reports. Hence a word of the mouth, though slow, is a working alternative.' A trainee lawyer observed that colleagues can be very handy when it comes to the exchange of legal documents, submissions in courts and general requests for views on certain points. While a magistrate in Kisumu had this to say on the subject: 'If it is not in my head, I may ring up my colleagues in the chambers. Only after this effort has failed do I resort to a publication.' One lawyer had reservations about the use of colleagues for assistance with information: 'They are important to the extent of indulging in legal discussions. However the information received from them must be confirmed from other sources.'

A number of studies carried out elsewhere support the use of colleagues as alternative sources for locating information. Among the reasons advanced in this regard are that colleagues are equals, friendly and always willing to help. Since no person can claim monopoly over information, sharing of information is considered a worthwhile practice. Research carried out in Kenya on railway engineers found that the sharing of information was a common phenomenon as observed from the following comments by respondents:
We rely very much on information communication among colleagues and our supervisors. Most of our information is obtained through informal personal contacts or from manuals especially the engineering manuals.

(Odini, 1995, p.119)

Another respondent commented:

When we are faced with a tough technical problem, there are no express ways of finding solutions. We usually resort to informal consultation among ourselves and some times, we involve technicians. These consultations normally lead to solutions to technical problems that are not written anywhere. In most cases, our discussions are very informal and some times we conduct them over a cup of tea during break time.

(Odini, 1995, p.120)

The use of colleagues or personal contacts is also noted in a study carried out on the use of agricultural information in Kenya (Kinara, 1981). In a survey conducted by Kungu (1991, p.67) on information use by agriculturalists in Kenya, it was found that 18% of the respondents used colleagues as a source of information. In a study of information use by academics in Kenya, Ocholla (1996, p.350) noted that casual conversations (use of colleagues) was ‘averagely used’ as a source of information. Interaction with colleagues is equally popular in Botswana. In a study of information seeking among parliamentarians, Thapisa (1996) found that personal contacts was a popular method of information exchange. The respondents considered it ‘a noble way’ of obtaining information:

This is interesting from the point of view of African culture, which demands that one should pay others a visit, especially when one needs pertinent information, opinions, or report on something. Face to face discussions are prized because they provide instant feedback on sincerity, attitude, emotions and involvement. In politics, it is often advisable to seek other people’s opinions on certain matters.

(Thapisa, 1996, p.211)
In a study carried out on professionals involved in rural development in Nigeria and drawn from the departments of education, agriculture, information, the water board; and rural and community development, the use of colleagues was rated the most popular method of accessing information (88.1%) followed closely by correspondence (85.3%) (Camble, 1994, p.104).

Therefore, it can be seen that interaction with colleagues appears to be a popular method of obtaining information. The probable reason could be that the results are instantaneous, that is, the information can be obtained immediately. This saves the time and effort of going through volumes of materials, sometimes in vain. It is the easiest way to access information, and being very busy people, lawyers are likely to prefer such a method. The information obtained is generally up to date, particularly if it emanates from a person who has consulted the information source fairly recently. However, despite the popularity of the option, it is important to remember that, when it comes to seeking tangible information in the form of hard facts, the information obtained must be verified. Since information offered by colleagues is likely to be oral, it is likely to lack authenticity. Alternatively, the source of information might be outdated and, if not verified, could lead to disastrous results. The use of colleagues as a source of new information has been covered more exhaustively in chapter 8 of this thesis.

A few respondents indicated that their colleagues were rarely available for consultation. For instance, a judge pointed out that his colleagues were either too busy to be seen, or out of their chambers when not busy and as a result could not be relied upon to supply information. A researcher at the Law Reform Commission pointed out that his colleagues were seldom in their office, were often out consulting information sources, collecting data or simply carrying out their own business. ‘As researchers, they spent much time gathering data outside and therefore, could not be penalised for staying out.’ One respondent said she found it hard to consult colleagues simply because everybody pretended to be busy. On the other hand, another lawyer felt that his colleagues could not be relied upon for information because the majority did not have anything new to offer.
Therefore, it can be seen that colleagues are generally available to help with information in times of need, however, this is not true for all cases. It is therefore important that users learn as much as possible to operate independently and consult colleagues only when it is extremely necessary.

9.2.3 Accessibility of Library Staff

The researcher wished to ascertain how accessible library staff in law libraries were in assisting users when necessary. A total of 110 (88%) respondents indicated that the library staff were always available to assist. However, 15 respondents, who were all students at the Kenya School of Law, indicated that their library staff were seldom available. When asked to substantiate this, the students stated that their staff were not only seldom available, when they were available, were never helpful. 'They were incompetent and uncooperative,' one student replied. At the University of Nairobi, instances were cited where there were insufficient staff, leading to the Reserve Collection being closed to permit the limited staff in the library to staff the issue counter.

Library staff play a significant role in maximising the use of the law library because users depend on them for all kinds of assistance. The extent of the assistance offered to users greatly depends on the familiarity of the staff with sources of information and the interest the staff have in serving the legal community. To be effective, the library staff must have an interest in the law, and at the same time, they must understand the needs of their users well. This enables the staff to provide services that are tailored to the needs of the users. According to Iwe (1994, p.65), the librarian must work very hard to acquaint her/himself with as much information as possible in her/his subject field, so as to give adequate interpretative assistance to readers. In other words, s/he should be an avid reader her/himself in the field to avoid having a passive relationship with materials in her/his subject area.
9.2.4 Access to Personal Collections

A personal collection either in the office, chamber or residence is an extremely important asset to a lawyer or law student, as it serves as a source of first resort. A lawyer will visit the library only when s/he is convinced that all sources in her/his office or chamber have been exhausted. In order to examine the importance of personal collections, respondents were asked whether they had such collections in their office or chamber. In the case of students, the question referred to collections in their residence, since students rarely have offices. A total of 113 (90.4%) respondents interviewed indicated they had personal information sources. A young lawyer in Nairobi said: ‘I have personal collections both at home and in the office. I use them for official as well as for my own personal information.’ A law student stated: ‘I have a few books at home. I use them to prepare my class work and for general knowledge.’

As to how the remainder managed to perform their work without office collections, they said they used the collection in the library, while others said they had personal collections at home. Two respondents, who were junior magistrates (presiding over minor criminal offences requiring only a few months sentence or a few thousand shillings fine), said they did not need to consult information sources much of the time, because much of their work was confined to minor offences contained in the Penal Code and the Traffic Act. They claimed they did not require information on any matter other than these two acts, which they claim to have mastered sufficiently. Senior magistrates on the other hand, required additional information sources on account of the wider jurisdiction and complex cases they deal with. One law student replied: ‘I have no collection of textbooks. The only collection I have is a few copies of Nairobi Law Monthly Magazine. Law books are quite expensive to acquire particularly specialist texts.’

It appears from the above analysis that most respondents (90.4%) had personal collections of information materials in their office or residence. The majority of the respondents who did not have personal collections were students mainly because they
could not afford them.

9.2.5 Composition of Personal Collections

The composition of personal collections varied from one user to another, and the differences were determined purely by the work carried out by the user. A junior magistrate dealing with minor criminal cases, for instance, requires only a few acts to meet her/his information needs because much of her/his work requires use of statute law. On the other hand, a lawyer specialising in civil litigation such as personal injury claims requires an enormous amount of literature, as much of her/his presentations are based on case law. A law student would prefer to maintain a basic collection of legal texts and quick reference books, while a lawyer specialising in conveyancing or administration of estates only requires a basic collection of forms and precedents. When respondents were asked to state the composition of their office or home collection, it became apparent that each category of users had their own preferences. Table 9.1 provides a comparative analysis of personal collections based on data collected from respondents.

Legal Practitioners:
The majority of the legal practitioners had local statutes with or without the annual supplements. In addition, they had collections of precedents comprising unreported cases of the High Court and Court of Appeal. Some had collections of journal articles on subjects relevant to their work. Some practitioners kept files of newspaper cuttings; and other loose leaf materials e.g. forms and other materials relevant to their work. Text books particularly on practice and procedures were also kept. Some practitioners including judges had sets of law reports.

Law Teachers
The majority of law teachers had text books, particularly academic titles; some issues of law reports; issues of law journals; journal articles; statutes and students research reports. The majority of the collection comprised text books. Few law teachers, if any, can afford complete runs of law reports and journals. All they had were limited issues
of law reports. In the case of statutes, most teachers had specific acts relevant to their teaching and research work.

Table 9.1

Composition of Personal Collections

<table>
<thead>
<tr>
<th>Information Sources</th>
<th>Legal Practitioners</th>
<th>Law Teachers</th>
<th>Law Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statutes and subsidiary legislation</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Text books</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Case books</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Law reports</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Law journals</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Journal articles</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Law magazines</td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Students research reports</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Forms and precedents</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lecture notes and handouts</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Unreported cases</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Newspaper cuttings</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seminar materials</td>
<td>x</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Key: ‘x’ denotes categories of respondents who have particular information sources in their personal collections.

Law Students
Law students generally had limited collections of law materials which varied from as
few as three to as many as twenty titles. The collection comprised text books, case
books, specific acts of parliament, photocopied documents, journal articles, law
magazines and lecture hand outs.

It must, however, be pointed out that all the above information materials are not
individual to any respondent. It is simply a total of all materials highlighted by the
respondents. It was observed that, while some lawyers had fairly comprehensive
working collections, others had only sketchy materials which barely met their needs.
It appears from the above analysis that the composition of the office or personal
collection greatly depends on the work of the owner, since the collections reflected the
interests and work style of the owner. It is established specifically to provide
information support to the owner and acts as an information source of first resort.
Therefore the office collection is tailored to meet the specific needs and interests of
its owner. On account of these differences, a collection maintained by one category
of the legal community such as legal practitioners, cannot meet the immediate needs
of another category, for example, university law students. In support of this view,
Broadman (1976, p.6) observes that the practitioner is fundamentally interested in
solving a particular problem with which s/he is faced in real life settings, under
particular conditions, and usually s/he is faced with the necessity of solving it within
a rather tight time limit. For these reasons, s/he is more dependent on practitioners’
law than the academic or scholar whose goal is to diminish the unknown by building
out from the cutting edge of the already known. To reach this goal, the academic
expects to study the small bits of knowledge reported by others and to synthesise this
information himself. S/he is therefore less likely to be interested in a specific datum
than the practitioner, and s/he is less likely to be as time-bounded in her/his need for
the information. In view of this, the academic needs a larger array of literature and
more detailed keys to it than the practitioner who is more interested in additional aid
in finding the answers to her/his problems. It can therefore be concluded here that a
law collection that is useful for a practitioner is not ideal for an academic and vice
versa.

The above discussion suggests that members of the legal profession endeavour to
maintain a working collection of legal information materials which they use as a source of quick reference or a collection of first resort. This finding concurs with similar studies carried out by Lloyd (1986, p.5) and Stephen-Smith (1989, p.13). It is however interesting to note that it is not only members of the legal profession who have office collections. A number of other professionals also keep them. In a study carried out on the use of information in industries in Nigeria, it was found that senior professionals and in particular, decision makers, had access to information collections in their office (Adimorah, 1993, p.50). The same applies to senior agricultural officers and research scientists in the Ministry of Agriculture in Kenya (Kungu, 1991, p.76). This leads us to conclude that keeping office or personal collections is not the exclusive domain of the legal profession, but is a common phenomenon among major professions. Stephen-Smith (1989) investigated the information needs of four professions: accountants, consulting engineers, lawyers and pharmacists, and found that all of them maintained personal collections in the office which they used when the need arose. The same was found in studies conducted among the academics in Scotland (Eager and Oppenheim, 1996, p.19) and geoscientists in the US (Bichter and Ward, 1989, p.174).

9.2.6 Updating of Office Collections

Although an office collection is such an important asset to a lawyer, its value greatly depends on how current it is. A legal collection that is not updated can pose a serious risk to a legal practice. Materials such as statutes, particularly the Laws of Kenya and legal authorities need to be constantly reviewed to keep them abreast of the law. To meet this challenge, there is an urgent need to review the collection regularly. The work of reviewing the office collection can be done by a number of people. Respondents were asked to state who did the updating of the office collections, and a variety of answers was offered.

The responses obtained from lawyers differed markedly, depending on the law firm the respondent came from. Lawyers in single or small firms with limited support staff did the amendments themselves, however, in cases where they were unable to update,
they opted to employ the part time services of staff from nearby law libraries or experienced law clerks. As for major law firms with library facilities, the updating of collections in the lawyers' offices was carried out by the library staff. Where library staff were not employed, the work was assigned to law clerks. Where there is a staff shortage, external assistance can be enlisted. It was observed that library staff employed in government maintained as well as institutional law libraries took advantage of this scheme in order to make extra money. This practice has not been without consequences, as cases have been reported in which staff in major law libraries have neglected or been absent from their place of work to make money in law firms. Table 9.2 provides a detailed analysis of responses from participants.

The updating of office collections in the A-G Chambers and the Law Reform Commission was carried out by the following:

a) library staff
b) law clerks
c) the legal officers themselves

In provincial or regional offices where there were no library staff, the work was delegated to the law clerks. However, where support staff were incompetent, the officers did the work themselves.

In Nairobi offices, the work was carried out by the library staff. In instances where the library staff were unable to update, some officers opted to do it themselves. A number of officers felt they had to take on this responsibility because the office collection, particularly, the statutes were their tools of trade. They felt they could not operate with outdated collections, as this would have a serious effect on their performance. A number of respondents complained that their collections were rarely updated, and that whenever they were reviewed, it was too late. While the library staff agreed the problem existed and needed looking into, they felt they were unable to review law collections in all offices on time because of serious understaffing. It was pointed out that the A-G Chambers had well over 60 lawyers, and that each lawyer
had a set of statutes. At the same time, the library had only two members of staff knowledgeable in the amendment of the statutes. In view of the volume of legislation being produced in the country, it is obvious that the two staff could not cope with updating in addition to dispensing other services. On account of this, they had to do the work on a priority basis.

Table 9.2
Updating of Legal Collections

<table>
<thead>
<tr>
<th>Users' Collections</th>
<th>People Updating the Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Law clerks</td>
</tr>
<tr>
<td>Advocates</td>
<td>x</td>
</tr>
<tr>
<td>Judges</td>
<td></td>
</tr>
<tr>
<td>Law students</td>
<td></td>
</tr>
<tr>
<td>Law teachers</td>
<td></td>
</tr>
<tr>
<td>Magistrates</td>
<td>x</td>
</tr>
<tr>
<td>State counsels</td>
<td>x</td>
</tr>
</tbody>
</table>

Key: ‘x ’ represents the people carrying out the updating.

In law court stations, the amendment of the statutes is typically carried out by the library staff. However, where the library staff are not available, the work is delegated to court/law clerks. The library at the High Court in Nairobi has an ample establishment capable of amending the legislation. The problem here is that some statutes in the judges and particularly magistrates’ chambers are incomplete, that is, a number of sets have chapters missing and which require replacement. The librarian
is unable to replace them because of shortage of funds. The library staff blame the magistrates for pulling out chapters from the loose leaf binders and failing to return them after use. They argue that if they have to keep replacing the missing chapters, then there would be no funds left to purchase additional sets of the statutes for newly appointed staff who need them most.

The law teachers interviewed preferred to do the updating themselves. The sheer number of the academic staff (34 lecturers), their irregular working times and the limited number of library staff knowledgeable in this area, makes updating impossible. Furthermore, few staff other than heads of departments have statutes in their offices. Law students rarely have significant statute collections which require updating. Where they did have, the updating was done solely by the owners.

It appears from the above analysis that the amendment of statutes is affected by two major factors: lack of adequate funds and insufficient staff to carry out the amendments. In view of the sheer volume of legislation being produced in the country, there is a need for funds to be set aside for the maintenance of statutes. In the absence of these funds, it is very probable that some sets are not amended. In addition, there is need for time to be set aside by the library staff for the amendment of the statutes. In most private law firms where library staff are not available, law clerks should be trained to amend the statutes. Since statutes are the principal tools used by the bench and bar to dispense justice, it is important that they are kept up to date, as failure to do this could lead to the miscarriage of justice. The amendment of the statutes should be carried out immediately the law is enacted, and must not be delayed, as it may jeopardise the administration of justice. The amendment of the statutes poses serious challenges to a law librarian. The librarian needs to understand what law statutes, acts, decrees, edicts or legislation means, and must exercise some patience and be as accurate as possible, noting minute details such as commas, fullstops, and dates of commencement of laws since this is extremely important in the amendment work.

It is interesting to note that the above problems are not unique to Kenya. In Nigeria, it was observed:
....the problems of updating principal laws and subsidiary legislation with statutes, decrees, edicts and bye-laws which proved to be very slow, inefficient and expensive, the present system of manual operation of updating the current laws and distributing it to users have proved to be very ineffective to the extent that it influences negatively the dispensation of justice. Non-availability of up to date laws at the disposal of judges and other law officers had made for endless adjournments and prolonged litigation. The criminal cases that are given priority are also affected by the slow updating of current laws as it is paramount that the presiding judge must verify from the law amendment officers the current position of any law before using the same to write his final judgement.

(Ogundipe, 1994, p.16)

9.2.7 Absence of Information Affecting Work

It is a widely held view that information support is crucial in the administration of justice and that without it, justice cannot be dispensed. In this connection, the researcher endeavoured to ascertain whether the absence of information has any effect on the work of lawyers. Respondents were asked whether there were some instances when their work was held up because they were waiting or searching for information. This question was posed only to the lawyers and law teachers. An average of 92% of respondents interviewed, confirmed that they had experienced such a problem. Table 9.3 analyses responses from participants.

The few who did not experience the problem stated that practically all the information required was readily available in their law library. However, it transpired that most of the respondents who held this view were judges and advocates emanating from major law firms in Nairobi. These people have access to the rich legal information resources of the libraries of the Court of Appeal, High Court and law firms with the result that they did not experience any problems accessing legal information.

However, for the majority who experienced problems accessing legal information, the following instances were mentioned:

a) The information required is not available when needed, and time had to be set
aside to look for it

b) The library does not have the required materials which have to be sought elsewhere

c) Materials requested from local or outside sources abroad are still awaited

d) Clients are unable to supply sufficient information, and effort has to be made to look for supplementary facts elsewhere

e) A magistrate has to wait for the report on the offender from the probation officer to enable him to decide the case. In the meantime, the suspect or offender will continue to languish in remand prison

f) Where further research is required on an issue before judgement can be delivered

g) Awaiting materials lent out or misplaced in the library. Sufficient time has to be allowed to enable the material to be returned or traced.

Table 9.3

Absence of Information Affecting Work

<table>
<thead>
<tr>
<th>Response</th>
<th>Categories of Users</th>
<th>n=78</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A  %</td>
<td>JS %</td>
</tr>
<tr>
<td>Yes</td>
<td>28  88</td>
<td>17  81</td>
</tr>
<tr>
<td>No</td>
<td>4   13</td>
<td>4   19</td>
</tr>
<tr>
<td>Total in sample</td>
<td>32 26</td>
<td>21 17</td>
</tr>
</tbody>
</table>

Abbreviations:
A: Advocates  JS: Judicial staff  LT: Law teachers  SC: State counsels

It must be pointed out here that in the event of new materials being expected, the waiting period can be fairly long, as orders have to go through lengthy and cumbersome procedures. This problem is particularly serious in academic law libraries.

It therefore appears that most of the respondents interviewed experienced problems of one kind or another in accessing legal information. A lawyer has an obligation to her/his client to undertake reasonable research in an effort to ascertain the relevant
legal principles, and to make an informed legal decision on the course of action to be undertaken based upon an intelligent assessment of the problem. Therefore, if the lawyer lacks access to vital information resources, there is a serious question about her/his ability to represent her/his client’s interest. Furthermore, lack of access to legal information at the time and place it is required could have a serious effect on the administration of justice. The absence of crucial information may compel the judge or magistrate to adjourn the proceedings, very often pending the availability of the required information. The suspect facing a capital offence is likely to stay in custody unnecessarily which is likely to delay the dispensing of justice. And as the saying goes, ‘justice delayed is justice denied.’

9.2.8 Barriers to Accessing Legal Information

Information gathered from the field research has revealed that lawyers and law students as users of legal information do not have an easy time accessing information. They confront numerous obstacles, the principal difficulties being listed as follows:

a) Information Materials
In a number of law libraries, information was not current. Latest editions or titles were lacking in a number of libraries, and the problem was particularly serious in the two court libraries in Eldoret and Kisumu. For instance, in Kisumu, the last time a new title or edition was received in the library was in 1983. At the Kenya School of Law, it was in March 1993. At the A-G Chambers, major practitioner’s titles such as Rayden on Divorce, Charlesworth on Negligence, McGregor on Damages, etc. were outdated editions. Even at HHM, considered to have the most up to date library collection in Kenya is not without problems. Latest editions of such important titles as Rayden on Divorce, Clerk & Lindsell on Tort, Gower on Company Law, Phipson on Evidence were not available at the time the research was conducted.

Perhaps the most affected were the law reports and law journals. Only HHM had the most up to date collection backed up by current subscriptions. The High Court in Nairobi did not have current subscriptions, but had an arrangement of acquiring annual
bound volumes of a few important law reports, such as the *All England Law Reports*, *Law Report Series*, etc. The last bound volumes received were those for 1992. The University of Nairobi Law Library was equally affected, with the most recent subscription being for 1985.

Scarcity of information materials was singled out as a serious problem. Respondents at the Law Faculty expressed concern about the shortage of essential or popular titles. They blamed the university library authority for failure to increase copies of popular titles despite the increased number of university students making it hard for students to have access to the titles when needed. It was observed that few law libraries had comprehensive collections. With the exception of the Court of Appeal, High Court, Nairobi and HHM, the rest had incomplete collections, a problem which was evidenced in law reports and journals. The libraries in Kisumu and Eldoret were particularly affected. The lawyers interviewed said they have had to make trips to Nairobi simply to make good this information gap. This problem was also reported to be prevalent in the A-G Chambers library. The respondents said that, on occasions, they have had to consult the High Court Library.

It does, therefore, appear that a number of law libraries did not have adequate collections to meet the needs of their users, leading to a serious need for decision makers to address this problem. Malomo (1994, p.32) observes that the problem of scarcity of materials is equally serious in Nigeria. Many users rely on law libraries for practically all their information needs, thus overstretching their resources. He notes that, where books are too expensive for students to buy, they opt to steal them or pull out the relevant chapters or articles from publications. Some resort to photocopying without checking whether they are infringing copyright regulations, and a book which is used for photocopying too often is likely to become tattered.

In addition to the above must be added the problem of relevancy, since it was reported that some materials were not applicable to users’ needs. At the Law Faculty for instance, a number of collections which students said were rarely used occupied valuable space. Much of these collections was made up of donated or old and outdated
materials. At the A-G Chambers library, a whole upper floor is occupied by old sets of legislation of the Commonwealth states which are never used.

b) **Access to Information Sources**
Lawyers and magistrates outside the major law court stations expressed their concern about the distance they had to cover to consult legal information sources. Since court libraries are found only in major stations, lawyers in smaller urban centres have to travel to major towns to consult the law. This, they felt, is not only time wasting, but also seriously disrupts the cause of justice, because cases have sometimes had to be postponed as a result.

The restrictions imposed by management of law libraries on a section of users have greatly inhibited access to legal information. It was reported that the High Court library bars law students, including pupils. This no doubt deprives them of access to one of the best legal collections in the country. Similarly, law firm libraries rarely allow lawyers from other places access to their collections. Lawyers voiced their concern being denied access to the High Court library. They felt the decision seriously affected their work as trainees who were employed specifically to carry out legal research for senior lawyers. The restriction was imposed in 1994 when it was realised that law students and trainee lawyers were misusing the library and compels lawyers to carry out their legal research in the High Court library themselves.

c) **Access to Judgements of the High Court and Court of Appeal**
Decisions arising from cases presided over in the superior courts are extremely important in legal practice because some of these decisions or judgements are used as legal authorities or precedents. Since reported judgements take a considerable time to be published, lawyers opt to use the unreported judgements instead, and also because not all cases decided are eventually reported. Despite their obvious importance, lawyers voiced their concern about the non-availability of unreported judgements in law libraries, and the lack of a proper system of distribution of the judgements by the court registries. Lawyers and magistrates up country have no access to current issues, and when eventually they are procured, it is often too late. Lawyers
up country said the non-availability of these materials greatly affected their court presentations, particularly when they appeared in superior courts in Nairobi. In some instances, their arguments have ended up being overruled by more recent judgements of which they were not aware. It was argued that the situation favoured Nairobi lawyers because of their proximity to the superior courts where they are able to procure the latest judgements without much difficulty.

d) Statute Collection

A number of respondents voiced their concern about the lack of adequate sets of local statutes, the *Laws of Kenya*, in law libraries. As a result, there is a tendency by users to pull out and take away popular chapters. In Kisumu, the problem was so serious that the library staff were compelled to withdraw all heavily used chapters from the sets, and keep them under lock and key. At the Kenya School of Law, on the other hand, the library staff preferred to have the volumes permanently bound to discourage users from pulling out the chapters. At the A-G Chambers, it was reported that a number of sets in the chambers did not contain some essential chapters. It is believed that the lawyers might have taken them home and failed to return them. On account of diminished funding for law libraries and competing needs for the limited funds, most missing chapters have never been replaced.

In addition to the above must be added the problem of currency. To be useful, the statutes must be regularly updated to match developments in the law. In Kenya, new acts and subsidiary legislation are enacted regularly. Some acts either replace or amend the existing legislation and such changes must be incorporated into the statutes to keep them current. Unfortunately, this is not done either because of a lack of funds to procure the new legislation, or because of the inability of the library or designated staff to carry out the amendment of the statutes. In some instances, the materials are received late. On account of these bottlenecks, cases were cited where lawyers and even magistrates have based their opinions and judicial decisions on outdated law. Such incidents have not only proved costly to the lawyers, but also to the clients. It can be very problematic if a magistrate or judge decides a case on obsolete law.

297
e) Law Reports

As stated earlier, very few libraries have up to date law reports and journals. In some libraries, the majority of the law reports, particularly the foreign titles, ceased to be obtained in the mid 1980s. As a result, lawyers and the academic community are not able to access the latest judgements passed by superior courts in England and Wales. Failure to keep up-to-date with English case law can result in the use of authorities which have since been replaced by recent judgements.

In addition, a number of sets of law reports have serious gaps that require attention. Popular titles such as the *Kenya Law Reports* and the *East African Law Reports* are seriously incomplete in most libraries. At the A-G Chambers, the problem is so serious that the librarian has put the popular and heavily used titles in book cases. At the High Court library in Nairobi, all recent issues of the *Kenya Appeal Reports* are reserved. At the Faculty of Law and the Kenya School of Law, most popular volumes are either extensively mutilated or missing.

Lack of indexes to local reports was cited as a major hurdle in the use of the collection. Lack of cumulative indexes means users have to browse through the contents of each and every volume in the collection. The importance of indexes to law reports cannot be underrated - without them, law reports are of limited value (Olaitan, 1976)

f) Information Retrieval Tools

On the subject of retrieval of information, the respondents expressed their concern over lack of adequate information on what is available in law libraries. It was felt that most law libraries did not have elaborate retrieval tools, and since these tools act as a key to the resources in information centres, their absence has made the retrieval of information difficult. One of the major retrieval tools is the library catalogue, and it was observed that the court libraries in Kisumu and Eldoret did not have a catalogue. The A-G Chambers library on the other hand, had a catalogue but it was sandwiched between the book shelves so much that it was beyond the reach of the user. The Kenya School of Law had a book catalogue, however, it was hidden in a corner
between piles of books. In this kind of situation, the only means of identifying and retrieving information materials is by browsing through the book shelves, and the law students felt that this was not only a laborious, but also a time consuming exercise.

It was observed that, while the High Court library in Nairobi and the Law Faculty library had book catalogues, they were beset with various problems. At the Faculty of Law, students complained that the catalogue was not current and that some of the titles it carried had since disappeared from the collection. Similarly, some titles were reportedly available in the library, but absent in the catalogue. The library staff interviewed agreed that the problem existed, and accredited it to a lack of a regular review of the catalogue. The book catalogue in the High Court library was likewise not effective as a retrieval tool because its contents have not been reviewed for a considerable time, and its reliability is therefore questioned by the users.

Most libraries lack up to date digests and citators, which are crucial in exploiting the information contained in law reports. While foreign digests are rarely subscribed to on account of diminished funding, the local digests are so irregular that, whenever they are received, they are already out of date. Lack of adequate, up-to-date and reliable retrieval tools was singled out by users as a major barrier in the use of information resources. As a result, users were unable to tell what the library contained and how to retrieve the required information.

g) Production of Legal Materials
Lack of proper law reporting was singled out as a major hindrance in the use of legal information. Until recently, Kenya did not have a proper system for law reporting, because there was no consistent publisher of official reports. At one time the work was assigned to Butterworths, a leading law publisher in the UK, however, when the Kenya government failed to assure a minimum order to make the venture economical, the publisher withdrew. The exercise was subsequently awarded to a local publisher, who unfortunately gave up fairly quickly, so that, until recently, the publication of the law reports had ceased. However, early in 1994, the government established the National Council for Law Reporting through the National Council for Law Reporting
Act, 1994 with the sole objective of publishing the *Kenya Law Reports*. The Council had not been constituted by the time this research was conducted, but it is hoped that the Council will streamline law reporting in the country.

h) **Limited Physical Facilities in Law Libraries**

Maximising the use of information resources in law libraries requires the existence of an atmosphere conducive to serious study. The library must have ample seating and shelving space. Unfortunately, most law libraries visited did not meet this requirement, and respondents complained about inadequate reading space. At the Law Faculty, students interviewed were not happy about the study space available. Although the library had a seating capacity of 120, the space was clearly not adequate for the faculty population of over 600 students. At the Kenya School of Law, the library initially designed for a student population of 40, now has to cater for over 350. Therefore, at peak times, there is much congestion. While the Kisumu Court library can accommodate 10 users at a time, the Eldoret branch can only manage a maximum of 3 people.

Lack of adequate space greatly affects shelving of materials. At the Law Faculty, it was reported that some legal materials are still held in the main university library. At the same time, the library is so congested that every space in the room is fully utilised. At the A-G Chambers library, a substantial amount of unused materials were heaped on top of shelves, on wooden floors, and between rows of bookshelves. As a result, access to materials in the congested areas is difficult.

Lack of physical facilities in law libraries has arisen from inadequate funding from the government. Because of this, law libraries have not been able to expand their physical facilities. A prime example is the extension of the library at the Faculty of Law at Parklands Campus, which was halted half way through on account of lack of funds from the government. Similarly, although it is planned to move the library at the Law Courts in Eldoret to a more spacious accommodation in a new Law Court building, the move has not materialised because the new building has not been completed due to lack of funds. The problem of government funding is restated by
Walekhwa as follows:

Recently with the introduction of the District Focus for Rural Development, there has been a move to build more courts in the rural areas to bring justice nearer to the people. However, the progress has been slow because of lack of sufficient funding. The Judiciary has to compete for funds from the Treasury just like any other government department. Funds allocated to the department have to be apportioned on priority basis thus causing a lot of delays in the establishment of courts in the rural areas.

(Walekhwa, 1992, p.145)

i) Library Staff

A number of the respondents interviewed expressed their dissatisfaction with the performance of library staff, yet the success of any information service greatly depends on their devotion to service. It is the staff more than any other factor that provides a lasting impression of a library. Respondents blamed the staff for most of their problems. In the two academic libraries, the library staff and in particular the junior staff, were criticised for being uncooperative, and for rarely being available when required. ‘And when they are available, they spent much time gossiping at the counter without bothering about library users,’ one student remarked. In a survey conducted in Malaya, a number of respondents voiced similar complaints (Osman, 1987). At the Kenya School of Law, one respondent observed that the library staff were never concerned about their work, but were half asleep most of the time, and not helpful whenever approached for assistance. ‘One is generally demoralised at looking at this hopelessly managed library as a source for information and research,’ he remarked. At the High Court in Nairobi, a respondent went further by stating that its library staff spent much time doing nothing but reading newspapers.

At the Law Courts in Kisumu, the library staff member spent a considerable part of his working time every day outside the library attending to personal or private errands. In his absence, the library was left unattended, so that lawyers had to serve themselves. Thus, the entire library collection was left at the mercy of the users. A number of lawyers who used the library complained that the library staff member was
never available to assist them with information.

The users' perceptions of the law library service can be greatly influenced by the performance and conduct of the staff. Therefore, the negative attitude of the staff towards work could have a serious effect on the library performance, discouraging users from visiting the library because the first impression is usually a lasting impression. As Wootton (1996, p.83) states, excellent service is the key to marketing a library successfully. Quality service and best practice are terms in fashion and are very pertinent in a competitive law firm environment. Whether these particular terms remain in fashion is not relevant. What is important is that lawyers are always provided with the best possible information service from the law firm library.

It is, however, important to note that a negative attitude towards work on the part of the staff is not characteristic of law libraries alone. It is something that has permeated the entire judicial service in Kenya, as noted by Walekhwa:

Where these [staff] are not closely supervised and monitored, they become bottlenecks in the administration of justice. They become corrupt, unscrupulous and become instrumental in the solicitation of bribes before attending to members of the public. Some times they are arrogant and discourteous to the members of the public, thus keeping them waiting for long hours, or making them come to court several times before they are served. Some times they confuse members of the public by offering to draw substandard documents for them at an agreed fee, which reach the courts only to be rejected as being wrong document or application.

(Walekhwa, 1992, p.147)

j) Lack of Proper Library Security
A number of respondents interviewed expressed concern about security of materials in their libraries. At the Law Faculty, students complained about the apparent lack of security checks at the counter - that users were rarely checked on their way out. As a result, there was a tendency for users to leave the library with materials unrecorded. At the Kenya School of Law, it was noted that although the library had a purpose built staff counter at the entrance, where users could be checked on exit, the counter
was left unmanned thereby exposing the library materials to the mercy of the users. Students accredited lack of security to the mass disappearance of materials. The researcher was informed of cases when the library had remained unmanned the entire working day.

While the High Court library in Nairobi has a checkout point at the entrance, the junior staff manning the point are so afraid of lawyers that they rarely stop them to check what they are taking out. At the A-G Chambers, the entrance to the library was not staffed because both library staff were seated in the library office. In the absence of staff at the entrance, users and visitors entered and left the library at will, with the result that the library collection was left at the mercy of the users.

k) Organisation of Library Collections

The respondents interviewed expressed concern about the arrangement of information materials in law libraries. They felt the arrangement of materials lacked any order, so that it was hard for users to have access to the appropriate materials. At the Law Faculty, for instance, the students felt the arrangement of book shelves did not follow any logical order. As a result, students found it hard to trace the required information. This problem also existed in the library’s reserve room where respondents found it easier to trace a title through trial and error than by using catalogue card entries.

At the A-G Chambers, similar problems were highlighted. The problem is worsened by lack of shelf indicators, meaning that the only logical way to trace the required materials is by browsing through the shelves. At the Kenya School of Law, the situation was no better. Lack of proper organisation of information materials in the library greatly affects access to information. At the High Court library in Nairobi, despite the generous staff provision accorded to the library by the management, very little effort has been made to review the arrangement of the materials in the library. The system that was introduced in the 1970s still exists today, despite the growth of the literature and the increased number of people visiting the library. The labelling of shelves has not been undertaken, so that users find it hard to retrieve the necessary information quickly. Because of this obstacle, some users prefer to seek assistance
from the library staff, rather than spending a considerable amount of time fruitlessly searching for information materials. Lawyers spend a considerable time on legal research, and where time is considered not adequate for the purpose, they opt to avoid the work.

Like any specialised information service, the law library aims to maximise the use of its services, because it is only through the use and appreciation of its services that its future is guaranteed. A law library that does not make a significant impact rarely attracts the attention of the management of its organisation, which is likely to have a considerable effect on its funding. Therefore, the ultimate goal of a law library should be to make its services as accessible to its users as possible. To do this, the librarian needs to ensure that the library staff are not only available at their place of work, but also, highly motivated to provide effective library services. The librarian should ensure that the law collection is both comprehensive and up to date, to meet the varying needs of its users. Retrieval tools such as the library catalogue, indexes, digests and citators must be available to provide maximum accessibility to the library collection. There is also a need to ensure that the library has sufficient information materials to enable users to obtain maximum satisfaction from the information collection. The presence of photocopying and current awareness services are extremely crucial in maximising the use of the collection.

9.3 LEGAL RESEARCH

Legal research is an important part of any lawyer's activity, because no lawyer or student can succeed in her/his endeavour without carrying out adequate research. In view of the above observation, the researcher endeavoured to ascertain the opinion of lawyers and the academic community on the subject of legal research.

Asked whether they have undergone training in legal research skills, 105 (84%) respondents said they had. Of this total, the majority were former students of the University of Nairobi, where the programme is conducted jointly by the academic and library staff. In the case of those who did not undergo the programme, it was found
out that the majority had studied law outside Kenya. For instance, a respondent who qualified in India confided to the researcher that she did not do the programme at her former institution. The rest were senior judges of the High Court and Court of Appeal, the majority of whom qualified as lawyers through article clerkship in England in the pre-independence era. These people did not undergo legal research skills training programme in their curriculum.

All law students interviewed at the Law Faculty in Nairobi indicated that they had undergone the legal research skills training programme. However, of the 21 students interviewed at the Kenya School of Law, only 12 confirmed to have had the programme. It is probable that the 9 students who did not do the programme could have taken their law degree outside Kenya. The majority of this number could have trained in India, since the researcher was informed that about a third of the annual intake of 350 students into the Kenya School of Law had degrees obtained from India.

Asked whether they believe formal legal research skills training programmes could improve the quality of legal research, all the respondents agreed. This certainly goes a long way towards explaining the importance of such a programme in the curriculum for the training of lawyers. Lawyers do therefore consider training in legal research skills to be an important prerequisite for effective legal research. On this subject, one academic observed:

legal research is a task peculiarly within the competence of lawyers. The law schools and bar examinations emphasise the development of competence in this area, and at least to some extent every lawyer must do legal research as part of his work.

Asked why they enjoyed legal research, the following reasons were given. It:

- enables a lawyer to present to court a researched position of the law
- enables one to reach a just decision
- contributes to the development of the law
- allows in-depth research to be carried out
- expands the frontier of knowledge
- provides an edge in litigation
- improves the services offered to clients as well as informing and equipping an individual as an advocate
- helps to identify problems and their solutions
- keeps lawyers abreast of the law
- sharpens the information searching ability of the lawyer
- enables one to tackle a legal problem more convincingly
- helps in the writing of a good judgement
- improves one's academic standing as a scholar.

In view of such advantages of legal research, the researcher attempted to find out why it was that six respondents did not enjoy carrying out this type of work. The following reasons were given:

- legal research is very taxing
- one does it only by circumstance. After the law course, people lose interest in reading and legal research
- it is tedious
- it is difficult to get the information one requires
- the mode of storage of some materials in the library is not conducive to research
- I don't enjoy it simply because of lack of materials
- where the information materials are found, they are outdated.

From the above responses, it appears that lawyers in Kenya should not have problems carrying out legal research due to the fact that the majority of them have had legal
research training. Furthermore, they generally appreciate and enjoy carrying it out. The above finding on the perceptions of lawyers in Kenya towards legal research tends to differ markedly from similar studies conducted in the developed world, where lawyers are reported to dislike carrying out legal research work (e.g. Operation Compulex, 1972). This is likely due to the negative attitude toward legal research developed by students in some law schools (Howland and Lewis, 1990). It is important to note here that the respondents to this study might not have presented a reflection of their true feelings, but rather were keen to please the researcher.

Among the supporters of legal research, perhaps the most enthusiastic are academics or scholars. A scholar cannot ignore legal research, but must accept it whether s/he likes it or not. This is because her/his academic and research work hinges on research which is the backbone of her/his scholarship. Nash (1985) notes that the nature of work of academics means that they do far more legal research than possibly legal practitioners. While practitioners can afford to delegate, a scholar cannot. As Cohen (1969) has stated, a lawyer's legal research relates to two of his professional functions. Firstly, as a counsellor, s/he seeks to determine what the law is on a particular problem. Secondly, as an advocate, s/he may seek authorities and arguments to support an already determined position in order to persuade someone e.g. a court, tribunal, etc., what law should be applied, or how the law should be applied. However, despite the obvious importance of legal research, it is interesting to note that some lawyers do not like it. Those who do it are compelled by circumstance. This dislike is largely due to the fact that research is a difficult mental task requiring discipline and concentration, but is also due to the rather cumbersome system of retrieving the law (Operation Compulex, 1972).

9.4 USE OF COMPUTERS IN INFORMATION RETRIEVAL

Computers are becoming increasingly used in the storage and retrieval of information in the developed world. Although computerised information retrieval systems have yet to be introduced in law libraries in Kenya, the researcher attempted to find out the legal community's perceptions about computer use.
Respondents were asked whether they had ever used the services of a computer in the retrieval of information. A total of 102 (81.6%) respondents indicated they have never used computers. In view of the apparent absence of computers in Kenya at the time, the researcher endeavoured to find out how the few respondents who said "yes" managed to access them. It was stated that some respondents had used computers overseas while pursuing their degree work in British universities, while one used them in Botswana. She had accessed the Lexis facility in the university library, a service that has yet to be seen in Kenya. This indicates that legal information development in Kenya is still far behind some sister states in Africa, such as Botswana, Swaziland and Namibia. The following were mentioned as purposes for which respondents had used computers:

- to retrieve information from databases in the US
- to carry out legal research
- to borrow books
- to retrieve information from sources
- to communicate with colleagues using the Internet.

It was, however, stated that a few law firms had micro-computers, most of which were used for data processing. The computers were essentially standalones. A few students did report using computers in law firms.

Asked whether they believed the introduction of electronic media could assist in meeting their information needs, 113 (90.4%) of the respondents agreed. The rest (12) were non-committal, while none disagreed. Asked how the computer might be useful, the following were suggested. It:

- would improve the retrieval of information
- would save on searching time
- more information can be obtained within a limited time
is very exact in locating information
- is able to furnish current information
- is very convenient to use
- can store a great deal of information which can be retrieved as and when need arises
- is faster at work
- is easily updated
- is easier to use assistants to do information inputting and searching
- enables a wider range of information to be accessible to a larger number of people
- enables information to be acquired beyond one library through networking
- can be used to obtain information not readily available in Kenya
- is more exhaustive in information provision
- provides alternatives to the information one is seeking
- enables one to identify the location of the materials at a glance

From the above responses, it appears that the legal community has a clear perception of the role of computers in the storage and retrieval of information. A few who did not appear to support the introduction of computers did so simply because they did not want to commit themselves. It should, however, be noted that the respondents' views are based purely on their perception of computers. The majority of the respondents have never interacted with a computer, therefore, their views cannot be taken seriously. This is particularly true because the legal profession is considered rather a conservative profession - one that does not easily adapt to changes (Lloyd, 1986, p.18). In support of this view, a prominent lawyer in Nairobi observes:

Good, able, and active judges and magistrates and other court personnel will be of no real benefit to the process of expediting the administration of justice unless they have relevant equipment at their disposal. The court system requires to modernise its equipment. It requires to adopt available technological
advances. The days for manual typewriters are long gone. These are days of electronic printing equipment, the word processor, the computer, etc. The Judicial department must re-examine its range of equipment to see what changes can, within its budgetary constraints, be brought to use.

(Muthoga, 1992, p.198)

It is interesting to note that, despite the advent of information technology in the developed world, some lawyers there are reluctant to use it. This view is upheld by Bresnick (1988, p.283) and Walsh (1994, p.40).

9.5 AVAILABILITY OF INFORMATION

In the earlier sections of this chapter, the researcher examined attempts by members of the legal community to access legal information in Kenya. However, accessibility is only possible when the required materials are available for use. Therefore, availability of materials is an equally important consideration if accessibility is to be realised. The required materials must not only be available, but must also be present in packages which are appropriate to the needs of the users. In addition, the materials must be available in sufficient quantities, that is, the collections must be comprehensive. They must also be up to date and able to meet the varying needs of the community. Where repackaging has to be done, this should be addressed. The subject of availability brings into play the involvement of library staff and in particular, the law librarian.

9.5.1 Acquisition

Foreign publications constitute a substantial percentage of legal information materials in law libraries in developing states. This is particularly noticeable in the commonwealth of nations, where member states are part and parcel of the common law system. Because of the similarities of their legal systems, a number of commonwealth states still rely to a great extent on British publishers for legal information materials. In an attempt to confirm the applicability of this assumption in Kenya, nine heads of law libraries, were asked to state the percentage of foreign
published materials in their library collections. The response obtained indicated that foreign materials constituted between 80 and 98% of their total collection. In some libraries, it was stated that other than the local law reports, statutes and unreported judgements of the High Court and Court of Appeal, the rest of the collections were published abroad. This finding therefore goes a long way towards confirming a previous study carried out in Nigeria on the disparity of foreign versus locally published materials in law libraries (Jegede, 1993).

As regards the method law libraries employ to procure foreign materials, 5 respondents acquired the materials direct from the publishers abroad; 3 respondents used a local book supplier based in Nairobi; while one respondent used a book/subscription agent abroad. Of the 5 respondents who ordered the materials direct from publishers overseas, the majority said they dealt with publishers only for subscriptions and major book orders. This approach was confined only to major law publishers. As for miscellaneous orders involving relatively less prominent publishers, respondents preferred to use a foreign book agent.

**Barriers in the Procurement of Legal Materials**

Respondents were asked whether they experienced problems acquiring foreign legal materials. Eight respondents indicated they did experience enormous problems. The following problems were highlighted:

a) **Time Lag**

It was stated that orders for new materials took a considerable time to be received which was a result of the numerous bureaucracies which the orders were subjected to. For those using local suppliers, the time taken was between six months and two years, while for overseas agents the orders took between two to six months depending on payment formalities and mode of transport. This is a great inconvenience to users who are compelled to wait for the arrival of a specific edition or title. In support of this view, Ombu (1977, p.91) observes that, unlike in advanced countries, getting books and other library materials in developing countries is not merely a matter of telephoning the local wholesale dealer or putting in an order for delivery within the
next few days or weeks, but involves a wait of several weeks, or in most cases, months.

b) **Fluctuation of the National Currency**
The liberalisation of the national economy in Kenya has brought into play the fluctuation of the national currency, that is, the Kenya Shilling against international currencies. Respondents suggested that this seriously affected book acquisition programmes, as prices of items could not be precisely estimated. For instance since 1992, the exchange rate between the Kenya Shilling (Shs.) and the UK pound sterling has fluctuated between Shs. 60 and 120 to the pound. This has a considerable effect on the library acquisition programme, making it hard for the law librarian to plan her/his library expenditure. Fluctuation of the currency is also likely to affect the library’s expenditure on other services, depending on the relative importance of law books as opposed to other services.

c) **Diminished Funding**
It was stated that, while the cost of information materials and inflation in the country continue to rise, law libraries continue to experience budget cuts. The problem is particularly serious in government ministries and departments where expenditures have been trimmed as part of the government policy to minimise inflation and bring down the cost of living. This has had a considerable effect on the volume of materials procured by law libraries. This subject has been discussed exhaustively in chapter 6 of this thesis.

d) **Competing Needs for the Limited Funds**
In addition to the limited funds available, there is a problem of competing needs among sister sections or departments in the organisation for the same funds. The decision maker has to decide which areas should be given priority: should s/he spend the money maintaining the few running vehicles which are grinding to a halt, or purchase library materials? Whatever decision the officer arrives at will be greatly influenced by her/his perception of the importance of the competing services. It was reported that, more often than not, the decision maker would opt to please her/his
bosses by improving the running of a fleet of the organisation’s vehicles rather than meeting the library’s needs.

e) Absence of a Strong Local Publishing Industry

Respondents interviewed believed their reliance on foreign legal materials was prompted by a lack of established local firms able to take over the production of materials in specialised areas, including legal texts. It was also felt that lawyers including academics are not keen to write or contribute to legal scholarship. The result is dependence on foreign literature, despite the fact that the current law in England upon which the new literature is based might not be immediately applicable in Kenya. In a separate interview, a judge of the High Court castigated academics for their apparent failure to contribute to legal scholarship in preference for part time consultancy. One lawyer remarked: ‘law teachers should be making contributions to constitutional reforms debates currently taking place in the country, or national legal issues. On the contrary, they are quiet. They are scrambling for positions in parastatal organisations, preparing seminars for non-governmental organisations (NGOs) instead of carrying out fundamental research. They are only keen to write on areas that attract funding from NGOs such as human rights, civic education, etc.’ A number of lawyers interviewed believed Kenya had lawyers who could meet this challenge. The problem they said, was lack of motivation. Others blamed the rising cost of living. ‘With the cost of living skyrocketing, no lawyer however patriotic s/he may be, will leave to look for supplementary income and opt to write,’ one lawyer remarked.

As stated earlier, 8 out of 9 respondents indicated they had problems with acquisition of foreign literature. One respondent, however, did not appear to have any problems in this regard. The respondent represented HHM, a firm which has one of the most up to date periodical collections in Kenya. It was stated that the library experienced problems with neither funding nor procurement, so that information materials are procured without any obstacle.

With regard to the procurement of locally published materials, most respondents (8 out of 9) said they experienced considerable problems with acquisition. The following
problems were highlighted:

Shortage of funds was isolated as a general problem. Most law libraries did not have adequate funds to meet their obligations. The procurement of judgements of the High Court and Court of Appeal posed additional problems. It was stated that there was no formal system in place for acquiring these materials, and the little that was produced (normally run on stencil), was circulated only to the judges and a few registries. It was therefore the task of the library staff to ensure that they obtain copies for the library. On account of this, much of this collection ended up in Nairobi, leaving the outstations without. A number of lawyers in the countryside expressed their concern about the non-availability of this collection in the outstations. It was emphasised that the non-availability of current judgements seriously affected the performance of lawyers upcountry, particularly when pitted against Nairobi advocates.

Library staff were also concerned about the non-continuity of local journals and law reports. Practically all major local serials, such as the *East African Law Journal, Kenya Law Reports, East African Law Reports*, etc., have stopped publication. In view of this, all serial literature required in libraries has had to be imported. The *Kenya Gazette* which not only acts as a current awareness publication, but also carries supplements to the *Laws of Kenya* and subsidiary legislation, does not publish on time. Furthermore, although the *Kenya Gazette* is a weekly title coming out on Fridays, it does not reach recipients in the outstations until after a week or more, and until it reaches them, lawyers in outstations could be using outdated legislation.

9.5.2 Book loss

Book loss is a major problem in law libraries in developed countries, as it is in developing countries. To ascertain the existence and extent of this problem in the areas of the study, a number of questions were posed to the respondents. One question attempted to ascertain whether the law libraries had gaps in their collections. A total of 6 out of 9 respondents answered in the affirmative. Among the areas
highlighted were the following:

- textbooks
- law reports, with particular reference to local reports, local statutes and subsidiary legislation
- *Halsbury's Laws of England*
- Unreported judgements of the High Court and Court of Appeal.

On book losses, 8 out of the 9 respondents interviewed said they experienced the problem of book loss, however, one respondent, who managed the court library in Eldoret said the problem did not exist in his library. This should not be a great surprise, because the court library occupies a small room with sitting space that allows in only three people at a time. The library staff ensures the room is locked every time he leaves, in order to deter thieves.

In view of the prevalence of the problem of book loss, respondents were asked what they considered were its causes. The following reasons were given:

a) **Negligence by users**

It was stated that some lawyers entrusted with legal materials in their offices or chambers did not look after them responsibly, often failing to return the materials after taking them home or to court. They also allowed friends to borrow the materials without ensuring their return. At the A-G Chambers, for instance, this problem was said to be prevalent, and it was explained that the library staff did not have the power to force lawyers to act responsibly, other than by reporting them to the authorities. It became clear that some lawyers failed to return the materials on leaving the organisation, opting instead to retain them with the intention of using them as a basis for their own law collection. It was stated that a number of popularly used chapters in the local statutes had disappeared in this way.
b) Theft

Theft by users was said to be a critical problem, with academic law libraries being particularly vulnerable. The problem is worsened by lack of adequate security control measures at the Kenya School of Law and the Law Faculty, Nairobi.

Theft of the library’s collection is brought about by two main agents: users and library staff. In libraries which expose their collection to users from outside the organisation, theft of the materials is generally common. Since law libraries do not have elaborate check out systems such as those employed by university libraries, the theft of materials is more likely to happen. For instance, in the mid 1970s, the High Court library in Nairobi was freely accessible to all law students. However, when book loss reached alarming proportions, this privilege was stopped. The problem has since been contained. Another source of book theft is by members of the library staff, when the staff collaborate with external users to sell them valuable materials at cheap prices. At the High Court in Nairobi, theft of library materials by staff reached such an extent that, in 1978, a library staff member was imprisoned for selling vital information materials to lawyers. Theft of library materials is also a common phenomenon in Nigeria as Malomo observes:

Another area that calls for concern is the increasing degree of pilfering going on in the law library. I don’t think any other special library suffers as much as the law library in terms of pilfering. The reason is obvious. Law books are expensive and very difficult to come by. They are not available in large quantity and as a result, they have good re-sale value or secondhand value.

(Malomo, 1994, p.34).

c) Lack of Proper Records

It was found that some of the libraries did not have proper book loan records. Loans were often scribbled on a piece of paper which ultimately ended up getting lost.

Book loss should be considered an unwelcome development in any law library service,
as it reverses any good work done in the past. It can open up numerous gaps in legal collections, which are difficult and costly to fill.

9.5.3 Resource sharing

Resource sharing is an extremely important concept in information development, as no law library can claim to be completely self-sufficient. In view of the problems highlighted by the respondents interviewed, resource sharing appears to be one of the possible solutions. In this regard, the researcher sought to find out the extent of resource sharing among law libraries in the areas of the study.

Asked what methods they used to satisfy information needs for materials they did not have, the following options were highlighted:

a) Requesting the wanted title from the head library in Nairobi. This option was used extensively by law court libraries in Kisumu and Eldoret.

b) Borrowing the title from libraries in and around Nairobi. This option is applicable in law libraries situated in and around Nairobi.

c) Referring users to other law libraries. This method was applied in academic libraries and in particular, the Kenya School of Law where the library staff did not want to be involved with the complexities of inter-library loans.

d) Borrowing materials from other libraries as a short term solution while exploring the possibility of procuring their own copy. This method was particularly used by HHM.

Asked whether they borrowed materials from other libraries for their users, the majority, (6 out of 9 respondents) said they did. As to why the minority did not opt to borrow the materials from external sources, they said they preferred to direct the users to outside sources instead. However, it was observed that since interlibrary lending in Kenya is still informal, that is, done on a personal level between librarians, the service can be denied to a library whose librarian is little known (Otiike, 1990). This denial is due to a desire to minimise the risk that such a transaction might involve.
As inter-library lending requires adequate information on the resources of other relevant libraries, respondents were asked whether they have a union list of periodicals. The union list of periodicals is a general directory carrying information about the periodical holdings of all accredited libraries in the country. The question was confined to periodicals, since there is no union catalogue of books existing in Kenya. Only one respondent confirmed they had the union list. The rest (8 out of 9 respondents) did not. It was observed that a specialist directory for law libraries did not exist.

Asked how they managed to run an inter-library loan programme without a union list, the following methods were mentioned:

a) One respondent said she made use of her excellent knowledge of the contents of the High Court Library in Nairobi - the only library she borrowed from and the only law library she feels is well stocked. She rarely went to other libraries.

b) Others used personal visits or telephone contact to enquire about the materials required. On occasions they would send their staff to borrow the required title.

9.6 CONCLUSION

This chapter has examined the accessibility and availability of legal information materials in the three geographical areas of the study: Eldoret, Kisumu and Nairobi. It was found that users had access to a number of information sources, which included, their personal or office collection, law libraries at the place of work or learning; and neighbouring libraries. It appears from the analysis of data on this subject that law libraries experience some problems in resourcing their services. It can be stated fairly accurately that the major problem behind the inadequate resourcing of law libraries is funding, and it is apparent that law libraries are not getting sufficient funds to run their services. As a result, their information collections are not only inadequate, but also outdated. Because of this, users are unable to obtain maximum benefit from law libraries, which has had a serious effect on the performance of members of the legal community.
In view of the scarcity of funds essential for the maintenance of library services, one ideal solution to this problem is resource sharing. Law librarians need to come together and work out the basis for this programme. However, before embarking on this venture, cooperating libraries need to secure the support of interested parties, among them the management of the parent organisation. Decision makers need to consent to the idea. Their response is likely to depend greatly on the interest they have in the arrangement. The users, particularly the immediate users of the library, will also need to have a say in the arrangement, because some members of the staff of the parent organisation may not like the idea of travelling to other libraries to satisfy their information needs. They may not like their materials being lent out to competitors (e.g. law firms). There is also a need for cooperating libraries to have fairly stable funding to guarantee a steady flow of materials. Above all, the success of the programme is likely to depend on the library staff. Commitment to the programme is crucial for its success.

In support of this arrangement Malomo, (1994, p.29) argues that no legal practitioner today can boast of having an adequate collection of law books in his/her chambers library, not to mention having complete knowledge of all laws. In fact, no law library can claim to satisfy all the needs of its users with its collection. ‘That is why, we often say that no library can afford to be an island by itself.’ Malomo observes that the challenges are many, because the body of knowledge keeps on increasing day by day as a result of new discoveries, new researches, new court decisions, rulings, legal opinions and new legislations. In addition, the number of library users is increasing by leaps and bounds.
CHAPTER 10

CONCLUSION

10.1 SUMMARY OF THE STUDY

10.1.1 Revisiting the Aims and Objectives of the Study

The aim of this study was to examine information provision to the legal community in Kenya, and to ascertain whether it is adequate to meet the growing needs of that community. Specifically, it endeavoured to:

- investigate information use and needs of members of the legal community surveyed
- assess the problems experienced by members of the legal community surveyed in accessing and use of information
- determine the extent to which the information needs of the legal community surveyed were adequately met by the existing library and information services
- assess the problems experienced by law librarians in the provision of information to members of the legal community surveyed.

As the study covered the city of Nairobi, the capital of Kenya where the hive of legal activities is based, in addition to two up country towns: Eldoret and Kisumu, the results of this research can be considered to be indicative of the situation in the country.

10.1.2 The Population Studied

This research has confined itself to the study of the information needs of the legal community, comprising:
legal practitioners, which includes advocates, judges, magistrates, and state counsels

- law teachers

- law students

In addition to the above participants, members of the library staff were invited to supplement the information collected from the legal community.

10.2 DISCUSSION

10.2.1 Effectiveness of Information Services

10.2.1.1 Inadequate Funding

The results of the research suggest that there is serious under-funding of law libraries in government and academic organisations. As a result, law libraries are unable to maintain the level of services characteristic of these specialised information systems. This situation has had a considerable effect on the provision of information services to members of the legal community.

It was found that under-funding is not unique to law libraries in the government service. It is a problem that affects all types of libraries funded by the government. It is interesting to note that law libraries are relatively better funded than other types of libraries within the government service. For instance, the Ministry of Agriculture library, which is not only the oldest, but also the leading special library in Kenya was allocated only K£10,000 in the financial year 1996/97, while the least well funded law library in the study, the Law Reform Commission library was allocated K£20,000. This indicates that law libraries are considered more favourably than non-legal libraries by the government service.

In addition to under-funding is the problem of the yearly fluctuation of funding. A prime example of this can be found in the Law Reform Commission library. In the
financial year 1993/94, it was allocated K£16,000, followed by K£15,000 in 1994/95, K£17,000 in 1995/96, K£20,000 in 1996/97 and finally K£17,000 in 1997/98 (See Table 6.1). There are two probable causes of fluctuations, the first being the inability of the government to raise adequate funds to meet all its commitments. This may result from falling revenue or unexpected events such as drought, or the spread of an epidemic. The latter may compel the government to divert funds from other expenditure votes to meet the unexpected problem. The second reason could be competition among sister departments or sections for the limited funds from the Treasury. Where such competition exists, the decision on what section or activity gets more will depend on the management’s view of the importance of the competing sections. Since libraries cannot close simply on account of the unavailability of funding, it means that they are very much affected by these budget cuts.

Inadequate funding has had a considerable effect on the development of law library services in government service. The following cases are singled out for discussion:

a) Information Resources

With the exception of the law library at HHM, the information collections in most libraries surveyed were in bad shape on account of lack of adequate funds. The majority of the collections lacked currency. Both law journals and law reports were in urgent need of updating. The majority of legal periodicals had ceased to be received in the mid 1980s, due to non-renewal of subscriptions. As a result, these collections cannot be relied upon as a source of current awareness. Failure to renew subscriptions to legal periodicals, especially those from abroad, has made the legal community unable to keep abreast of current developments in the developed world, particularly, English case law. In addition, latest editions of standard legal texts have not been renewed for some time. The latest titles or editions on the shelves of most libraries were last published in the 1980s. Some collections in law libraries are incomplete or have incomplete series, making it hard for users to obtain the maximum benefit from them.
b) Staffing
Inadequate funding has had a considerable effect on library staffing. As a result of diminished funding to government ministries and departments, it has not been possible to recruit enough staff to cater for the increased level of services or to replace those who have either retired or resigned. In addition, promotions and staff training programmes are not being carried out. These developments also affect staffing in government libraries. The result is that staff become dissatisfied with the kind of treatment they receive from the civil service, and many therefore leave.

c) Physical Expansion of Library Facilities
Inadequate funding has hampered the physical expansion of law libraries. Additional shelving and reading facilities have not been made available, despite the growing size of the legal community wishing to make use of library services. Additional need for library space can be addressed in most cases by the construction of extensions or completely new library buildings. The reason here is that most parent organisations are in serious need of office space and, are therefore unable to make available space for library expansion. Furthermore, the expansion of law libraries is generally simultaneous with that of the parent organisation. That is, where the parent organisation has for one reason or another failed to expand, this has similarly affected the law library. In the Judiciary, for instance, the expansion of the law library happens at the same time as the expansion of law courts. However, where such expansions have not taken place, the library has equally failed to expand because of lack of space. On account of the general scarcity of funds from the Treasury, new law court buildings and other government projects are not being constructed, despite the need for such building. This problem is described as follows:

It is obvious to every one who cares to enquire that there is a lot of congestion in the Law Courts building in Nairobi. The registry is small and is unable to cope with increased volume of litigation. The corridors are permanently swarming with litigants and their legal advisers who cannot find a place to put a foot let alone intelligently confer. It is difficult to see why it is not obvious that the accommodation is inadequate. If business of law courts, Nairobi is to be expedited, urgent steps must be taken to obtain additional premises.

(Muthoga, 1992, p.199)
Lack of adequate funding has specifically affected the expansion of law libraries in Eldoret Law Courts, the Faculty of Law at Parklands, and the Kenya School of Law.

d) Introduction of New Services

The results from the research indicate that the law libraries in the areas of the study offer only basic services, namely, reference and to a lesser extent, lending. Services such as CAS and SDI, have not been introduced. There has been no automation of routines or services. With regard to photocopying, this service has been confined to two libraries: the High Court library in Nairobi and HHM. The reason why these services have not been introduced in the other libraries is lack of adequate funding from the government, yet these services are crucial in any library. The absence of these facilities has hampered the maximisation of the use of the law library services.

The problem of inadequate funding is not confined to information services in the government service. It has also affected the performance of institutions of higher education in Kenya. Universities, which rely a great deal on government funding, have been affected similarly. The performance of university libraries has been particularly hampered. New books have not been purchased and subscriptions to periodicals have not been renewed for a long time. In this regard, one writer observed:

Basic items such as books have become endangered species. In the Chronicle article, an American professor described the University of Nairobi library as a shell of a library; most shelves are empty and the books there (most of them collector’s items) are too few to go round. How, he asked, are students expected to learn in such environment? By relying on notes from their lecturers? And do lecturers have the relevant books in the first place? The answer to the first two questions are in the affirmative, but one wonders whether any learning is taking place. To the third question, the answer is negative.

(Mulaa, 1997, p.5)

Lack of adequate funding has also affected teaching and research in universities, which has been discussed as follows:

The public universities, once centres of academic excellence, are to-day
threatened with collapse. As we approach the 21st century, universities face the challenge of teaching and research in a first changing world with limited resources. They must maintain their corporate individuality in the face of dwindling support from the government. Standards in universities have steadily declined over past few years due to various socio-political and economic factors.....Teachers have been turned into perpetual setters and markers of exams with no time left for meaningful teaching and research.

(Sirali, 1997, p.3)

Inadequate funding has affected staffing in universities. Qualified and experienced staff (including law teachers and librarians) have either moved elsewhere where the pay package is better, or have opted to take up part-time jobs in consultancies, teaching or legal practice. Teaching facilities such as laboratories and computer provision have also been affected. Expansion of lecture theatres, libraries, etc. has been abandoned. This problem has been described as follows:

Lecturers who on average have a take home package of about $200 a month cannot afford to buy books for reading. As a graduate student, I spend close to that amount on books each semester. Lack of computers in African universities is another problem....Indeed it is hard to imagine academic life without computers and access to the internet.

(Mulaa, 1997, p.5)

It is worth noting here that the problem of funding is not unique to Kenya. It is a problem characteristic of a number of states on the African continent. A distinguished professor once commented:

If research libraries in developed countries think they are in a period of recession, they should give thought to libraries in West Africa. Few libraries have had any quantity of periodical titles since 1974. Many have had none at all for the last five or six years. National libraries, which have to function as public libraries have budgets which allow them to buy two or may be 20 books a year. There are law libraries with no run of law reports for the past ten years.....There are mobile library services where vehicles are more off than on the road.

(Havard-Williams, 1987, p.11)

Although the above observation was made over 10 years ago, the situation remains the
same at present. In Nigeria, for instance, it has been observed that the situation is no better, despite the abundance of oil wealth. Jegede (1991, p.14) observes that many law faculties operate caricatures of law libraries, which are so poorly stocked and badly staffed that they cannot support teaching and research programmes even at first degree level. And that many university students have obtained their first degree without enjoying the opportunity of using the vital law reports and journals.

Lack of adequate funding in universities poses serious problems to the production of highly skilled manpower required by a nation to meet its long-term development programmes. This includes the training of lawyers essential for the maintenance of the rule of law in the country.

10.2.1.2 Attitude to Information

The results from the research suggest that the attitude of the decision makers or the management of the parent organisation has had a considerable effect on the performance of law library services. It was found that decision makers have a negative attitude towards information. Many do not consider information and libraries to be important. On account of this, they have tended to allocate fewer funds for these services. This has drastically affected their performance. This negative attitude is not confined to law libraries, but is characteristic of the entire civil service. It is, however, disappointing to note that, in organisations such as the A-G Chambers, even though the A-G is a key figure in the government, the law library is poorly funded. Since charity begins at home, it is the feeling of the researcher that the A-G Chambers' library might have been among the best funded libraries in the country. However, as a result of its poor funding, state counsels at the A-G Chambers are compelled to visit the High Court library to satisfy their information needs. It is interesting to note that the negative attitude of the management to law libraries is not confined to Kenya alone. It is common elsewhere. For example, in the UK, Miskin (1987a, p.4) and Esoe (1989, p.16) provide practical examples of situations where the management has been apathetic to the law library, describing it as a financial burden.
The attitude of the users and, in this case, members of the legal community, has a considerable influence on the resourcing of law library services. Since lawyers are respected members of an organisation, their views are bound to be taken seriously by the organisation's management. It is therefore felt that the users can influence the management to improve funding of the library services, therefore helping the librarian to argue his/her case for the improvement of library services. It can therefore be stated here that the problem of inadequate funding of law libraries is partly accredited to users, because they have not been instrumental in supporting the librarian in his/her endeavour to improve the funding of library services. For instance, the A-G Chambers, has well over 60 lawyers, but they appear to have done nothing to improve their library. If they cannot assist in improving their library, one wonders who will improve it for them. On the other hand, the relatively superior library collection at the Law Courts in Nairobi is the result of pressure from the judges who have always advocated for better information provision.

The attitude of the staff to law libraries has a considerable effect on their performance. Staff attitude is influenced considerably by motivation, that is, where the staff are well paid, well trained and have high self esteem, their productivity is high. However, where the situation is to the contrary, the staff are generally apathetic to work. The results from the research appear to demonstrate these two extremes. It was found that the majority of the staff in government maintained law libraries were poorly motivated. The reason being that the management does not appear to appreciate their contribution. This can be seen from their poor remuneration package, lack of training and lack of promotion. The situation is worsened by the fact that the civil service does not recognise librarians as professionals while their colleagues, the archivists who have undergone the same duration of training in similar institutions are considered professionals, and are therefore, placed one grade above. Librarians are treated as general graduates. On the other hand, librarians in the academic and law firm libraries are generally well paid and treated. The result of this development has been higher motivation and this has created a sense of belonging among the staff concerned.

The negative treatment accorded library staff in the government service is the result
of the negative attitude demonstrated by the decision makers. In this regard, Small (1990, p. 85) observes: 'This is more likely to be the case of where the library and its staff are perceived to have low value and ability levels. It is therefore the library manager's responsibility to positively change such perceptions and expectations and consequently gain more control.'

10.2.2 Information Needs

10.2.2.1 The Work Style of the Legal Community

The results from the research indicate that members of the legal community are engaged in a variety of activities. The kind of work they do is determined by their specialisation. For instance, the work done by law students and pupils differs markedly from that done by a legal practitioner. The same applies to a law teacher. The nature of the work done greatly influences information needs. It determines the breadth and depth of information required. It also determines the kind of information materials to be used, and the retrieval tools to be consulted. It also influences the kind of services the librarian needs to introduce in an attempt to meet their needs. For instance, in an academic library, on account of the large academic community, there may be a need to establish a reserve collection for materials or titles on high demand, while in a law firm, the librarian may consider establishing more personalised services such as CAS, SDI, etc.

10.2.2.2 Use of Law Libraries

The study found that the major reason users visit the law library is to look for specific information. This finding concurs with researches conducted in the Philippines (Feliciano, 1984) and the US (Vale, 1988). It does therefore appear that 'looking for specific information' is a universally accepted motive for using the law library. It is noted that 'keeping abreast of current developments,' despite its obvious importance in legal development, is not considered crucial. The probable reason is that the legal community, particularly, lawyers, do not have the time for current awareness. It
appears that lawyers are more interested in basic information, that is, information required to enable them to perform a certain function. On account of their busy schedule, lawyers have no time to visit the library and browse through new information materials for the purpose of updating their legal knowledge. It could also be that they have developed other ways of obtaining current information, such as, the use of colleagues.

10.2.2.3 Use of Law Materials

It was found that the three most frequently used materials are the statutes, law reports and law books. This finding concurs with a study carried out in the US (Hainsworth, 1992), the only difference being that the US study placed law reports first, followed by statutes.

It is interesting to note that, despite the importance of law journals and unreported cases in legal work, the two were not rated highly. The reason is that the top three (statutes, law reports and law books) are consulted by all members of the legal community, irrespective of their work style. Law journals, on the other hand, are popular only with a section of the community, that is, the academic community. Furthermore, their use has been seriously affected by their currency - the majority of the titles have not been updated since the 1980s. As for the unreported cases, they are not available in most of the libraries surveyed. Only Nairobi libraries appeared to have current issues of these.

10.2.2.4 Use of Grey Literature

Grey, or non-published literature, was considered to be of great research value. This literature is very popular with academics and legal researchers in the A-G Chambers. Its importance lies in the fact that it is the primary source of information e.g. the unreported cases which are used as a current source of case law in the absence of current issues of law reports.
The problem with grey literature is that it poses serious acquisition problems. It is difficult to procure as items are not listed in bibliographic sources. So the only method the librarian can use to get hold of such items is to solicit them directly from the producers. This no doubt requires a lot of skill. Since such materials are not available for sale, the producers are unlikely to have the incentive to give them out.

10.2.2.5 Use of Information Collections

The results from the research suggest that members of the legal community are not satisfied by the use of only one information collection e.g. a personal or office collection. The majority were satisfied with consulting at least three collections, namely, personal/office collection, library, and outside sources. This indicates that one collection alone is not adequate to cater for their needs. Hence the need to look for supplementary sources. This finding demonstrates that most of the law collections in the areas studied are not comprehensive enough to meet the entire needs of the individual members. The finding also suggests that self-sufficiency in legal information provision among law libraries is not possible at the present time. This is evidenced by the large percentage of users (69.6%) who consulted at least three sources.

10.2.2.6 Use of Non-Legal Materials

The research found that non-legal information materials are equally important as legal information in the study and practice of law. An effective law library should therefore be able to acquire materials in both legal and non-legal subjects to meet the growing and varied needs of the legal community. This indicates that law is an interdisciplinary profession. It cuts across a number of subjects that are not legal in nature, but are of great benefit to the study of law. This finding has serious implications for the librarian, particularly at the present time when funding from the government is not only inadequate but also unpredictable. The librarian has to devise a system of meeting the need for these materials without seriously affecting the funds set aside for the acquisition of the mainstream collection.
10.2.3 Information-seeking Behaviour

10.2.3.1 Sources of New Information

Legal periodicals were voted the most popular method used by members of the legal community as a source of new information. This finding concurs with an earlier study carried out in the Philippines (Feliciano, 1984, p. 84). It therefore appears that lawyers generally consider legal periodicals (law journals, magazines and law reports) to be an ideal source for keeping abreast of current developments. The reason here is that legal periodicals come out at short and regular intervals. As a result, they are more likely to be up to date with information than, for instance, textbooks which take a considerable time to be published. However, the performance of legal periodicals as a source of new information is hampered by the inability of most law libraries to subscribe to current issues. It is equally affected by the non-availability of locally published titles forcing users to resort to foreign titles which are not directly relevant to their information needs.

It is, however, interesting to note that, while books are generally not considered an ideal source of new information in the developed world, they are considered crucial in Kenya. The reason could be the failure by most law libraries in the country to subscribe to current periodicals.

Colleagues were considered an important medium for obtaining new information. The reasons being that colleagues are easier to contact. The method saves time and effort which can be used for other purposes. The second reason is the non-availability of current journals due to failure to renew subscriptions making journals unsuitable as a source for current awareness. Despite the importance attached to colleagues as a source of new information, ideally it is not the most ideal method. The problem with this method is that over-reliance on colleagues encourages laziness. Users do not bother to visit the law library to browse through the new literature. They wait instead for the little information that their colleagues have read. Another disadvantage is the likelihood of recipients being misled unintentionally. Since much of the information
is given by the word of mouth, inaccurate information is likely to be given. Furthermore, because of the trust that an individual may have in the colleague and the time factor, such information is likely not to be verified - which could have disastrous results.

10.2.3.2 Delegation of Legal Research

The results from the research indicate that delegation of legal research is heavily practised by lawyers but is less common among judges, magistrates and law teachers. It was found that many judges and magistrates did not delegate legal research, but opted to do it themselves. If there was any form of delegation, it was confined strictly to the retrieval of information. The probable reason lies in the fear that they could be given inaccurate information which could be disastrous in dispensing justice. This is likely to give a wrong impression of the bench and in particular, the presiding judge or magistrate. The lawyer is less concerned about using incorrect information in court, because the judge is there to correct him. This reluctance by judges to delegate legal research supports a study carried out in the US. which states:

Judges as a group are very skeptical of information provided to them. Essentially, since their name is attached to the published opinion and open to scrutiny, judges trust no one except themselves.

(Hainsworth, 1992, p.212)

It appears that the delegation of legal research by practising lawyers is a universal practice. In studies carried out in Europe (Lloyd, 1986) and the US (Vale, 1988) delegation of research was heavily practised. This leads the researcher to wonder why lawyers delegate. First and foremost, it is the nature of their work. Without delegation, the work load would be unbearable. It is also part of the training of a lawyer. Young lawyers and pupils have to undergo some training on the job to prepare them for a career in the legal discipline, and part of this training involves legal research. Without it, upcoming lawyers would not be able to master the skills necessary to tackle complex legal problems. Each lawyer has to pass through this process which Cheatle
(1992) and Walsh (1994) describe as 'part of the learning curve for a young lawyer.' It is, however, important that, while legal research is delegated, the performance of the young lawyer is monitored and any information obtained verified otherwise they could be disastrous results.

It was found that, other than the newly qualified lawyers and pupils, established lawyers were not used for delegation because it is not considered cost effective. Where pupils were not available, senior lawyers preferred to do the work themselves.

10.2.3.3 Frequency of Information Use

It appears from the results of the research that the legal community uses information frequently, and that law students and newly qualified lawyers use information more than the rest of the members of the community. This is not surprising since law students are still in the process of learning. The kind of work they do, for example, writing assignments, making presentations and preparing for exams, requires regular use of information. The results of this study concur with a study carried out in the US (Vale, 1988), where it was found that 65% of the respondents used information on a regular basis.

In addition, it was found that the frequency of information use was greatly influenced by the work style of the users. It was found, for instance, that litigation lawyers consulted information more often than office based lawyers, and that lawyers involved in civil litigation used information more frequently than those dealing with criminal litigation. The reason is that the practice of criminal law does not require as much use of information as civil litigation. Criminal law requires only an understanding of the Penal Code and the law of evidence, plus an awareness of important precedents. However, in the case of civil litigation, the lawyer needs to master not only substantive law, but also, relevant case law in order to establish precedents. Such a task can be very demanding on both time and effort.

It was also found that magistrates do not consult information as frequently as lawyers,
The reason being that magistrates rely very much on submissions from the lawyers representing the two parties in addition to their own experience built up over a long period of service on the bench. This means that the quality of work done by the magistrate depends on presentations from the two opposing parties. The problem with this practice is the tendency by magistrates to base their judgement on information obtained from advocates without endeavouring to verify it. Such cases have happened before, as reflected from the increasing number of appeals allowed at the High Court.

10.2.3.4 Information Search Strategy

Most users started their information search from the chamber or office collection, and consulted other collections only when the office collection was exhausted or when no longer helpful. The only exception to this rule is the law students who start with the library collection as most of them do not have personal collections. There are several reasons why lawyers prefer to start their research from the office collection. One reason is that the office collection enables the lawyer to do his/her work without interruption. Secondly, it allows him/her an opportunity to use the collection alongside other documents such as clients files. If s/he was to do an information search outside, s/he would be compelled to carry many client files with her/him, which is not professional. Thirdly, s/he is able to search for information while at the same time attending to other things, such as receiving calls from clients and other visitors. Fourthly, some work may be confidential and therefore, it would be unwise to take it to the library where client files could get misplaced or perused by a wrong person. Lastly, the office collection enables the lawyer to carry out research at times convenient to her/him, particularly in the evenings, when the staff and clients have left.

It was found that most users preferred to start legal research with text books. The text book is used in instances when the user is researching an area that s/he is not familiar with. The text book serves two functions. Firstly, it introduces the user to the subject by providing her/him with background information on the subject. Secondly, it provides her/him with references to the relevant statutes and case law for her/him to
follow up. This is likely to expose her/him to the use of digests and citators in the end. This no doubt explains why the textbook is popular with lawyers in Kenya as a source of information. Among the advantages of the textbook is that it is the most current source of information in the country, since other sources such as abstracts and indexes which are the most suitable sources, are outdated. Although textbooks appear unpopular in the developed world as a source of new information, they are popular in developing countries because they are easily available and affordable.

10.2.4 Accessibility and Availability of Information

10.2.4.1 Access to Information

The results from the research suggest that members of the legal community generally have access to information of one kind or another. The sources include personal or office collections, law libraries located in their place of work, and libraries attached to other legal organisations. However, the level of accessibility is influenced by a number of factors. Among them being the adequacy and currency of collections; the distance to the source of information or law library; the availability and currency of information retrieval tools; staff assistance; reading and shelving space in the library; and organisation of the law collection in the library.

The above factors have serious implications for the law librarian as the provider of information. If the use of the collection is to be maximised, the issues above must be addressed. The collection will need to be improved in terms of size and quality. It must be sufficiently stocked to ensure that users obtain all the information they require. There must be sufficient law reports, statutes, books, law journals and retrieval sources. In addition, the materials must be up to date to ensure that the information used is current. The statutes and precedents collection need to be updated regularly, to ensure that users are kept abreast of the latest developments in legislation and case law. There is a need to employ trained and highly motivated staff who are capable of responding to user needs because users value staff assistance greatly in the retrieval of information. In situations where staff assistance is lacking, users are likely
to avoid the library, particularly in instances where their research time is short. In order to maximise the use of the collection, there is need not only to provide library catalogues in libraries where they do not presently exist, but also the acquisition of sufficient retrieval tools such as abstracts, indexes, digests and citators. The library must have sufficient reading space to enable users to make full use of the library collection.

The distance to law libraries is crucial in the use of their collections. Longer distances to law libraries are bound to discourage lawyers from visiting the library for fear of waisting valuable time. Furthermore, there is a guarantee that the lawyer will be able to find the information s/he requires after making such an attempt. It is therefore likely that lawyers will be discouraged from visiting the library, and opt instead to use whatever information is housed in his/her office collection. The immediate result of this action is that the work done could be substandard, and any subsequent presentation made in a court of law, is likely to be dismissed due to inadequate preparation. In this regard, the librarian needs to work closely with the decision makers in the Judiciary to look into the issue of providing basic information collections to as many court stations as possible, so that the lawyers are within easy reach of a library.

10.2.4.2 Availability of Information

In addition to the important role that library staff play in ensuring that legal information is available at the right time, in the right place and in the right form, funding was found to be a determining factor in the success of an information service. Because of this, law libraries have not been able to acquire adequate and current information to meet the needs of the legal community. With the exception of HHM, the rest of the law libraries studied had serious financial problems. While the cost of information materials is increasing, library budgets are not matching the costs. This problem is worsened by the fluctuation of the national currency, the Kenya Shilling compared to international currencies. Lack of adequate funding for law libraries arises from the negative perception of libraries by decision makers in the government who
do not consider libraries important. Therefore, they are given low consideration when it comes to budgetary allocations. Lawyers, in their official capacity as users of law libraries, are equally to blame. As users of law libraries, they ought to be in the forefront, fighting for the improvement of library services. Furthermore, a number of lawyers occupy senior positions in the government hierarchy, and ought to use this position to reverse the government’s negative perception of law libraries.

The procurement of information materials is also affected by over-reliance on foreign published literature. The publishing industry in Kenya has not seriously ventured into tertiary publishing on account of lack of sufficient demand for materials at this level in the country. Furthermore, it was found that academics in Kenya are less interested in publishing, opting to carry out part time consultancies and legal practice where the rewards are exceptionally high. One obvious reason for this is because the current cost of living in the country discourages one from writing. Writing is considered a time consuming work offering no instant financial rewards. The only reward is the improvement of one’s CV, which does not matter much to a lawyer. At the same time, there is demand in the country for the services of a lawyer offering good monetary returns, that one needs to be a real patriot to avoid such a temptation.

It is, however, unfortunate that judges and practising advocates should blame academics for not writing. Before they point an accusing finger at the academics, they ought in the first instance to evaluate themselves in this direction too. The fact of the matter is that publishing has never been the exclusive domain of academics. Practitioners also have an obligation to publish. Academics can only publish academic books. They are not competent to publish books on practice and procedures. This area is considered the domain of legal practitioners. The question then remains as to how many practitioners in the country have published. The answer is very few indeed. It is noted that Lord Denning has done a lot of publishing from the bench in the UK. We need more like Lord Denning in Kenya. In a summary, the blame should be shared equally by the academics and the practitioners. It is unwise for one group to blame the another.
Another problem with Kenyan academics is their increasing dependence on external aid or funding when publishing. A number of titles produced in recent times have been sponsored by external agencies such as the International Commission for Jurists (ICJ), human rights groups and other NGOs. The problem with this kind of publishing is that the writer is confined to areas which are of immediate benefit and interest to the funder. In Kenya, this appears to be true, as many of the works have been in the area of human rights abuse, civic education, etc. Very few of these titles have benefited law schools, the bar or the bench.

10.2.4.3 Resource Sharing

One way of maximising the availability of information to members of the legal community is via resource sharing. In the absence of adequate information resources, cooperative use of the available resources is perhaps the only answer to the problem. This option is, however, not popular in the law libraries studied. There is no agreed system for inter-library lending. The programme is carried out on an ad hoc basis, that is, as and when the need arises. Several reasons can be advanced for the lack of a formalised programme. One reason is the absence of trained and motivated staff in most libraries. Only trained staff understand the complexities of inter-library cooperation. Therefore, they are the people best qualified to manage such a scheme. The second reason is the reluctance of the management, which may not like the idea of other organisations sharing its resources. The third reason is the users, who may not like their valuable resources being lent out to people outside the organisation. Judges are especially very particular about this. These obstacles can, however, be overcome if the right people are appointed to head law libraries.

10.2.4.4 Use of Computers in Information Retrieval

The role of computers in information retrieval was recognised by the respondents. However, since most respondents had not used computers before, their views were based simply on perception, and not on concrete evidence. Since lawyers are known to be conservative, with a liking for the printed media, their view of computers would
perhaps not have been the same had they had the opportunity to interact with them. In Kenya for instance, it is a comparatively recent development, i.e. during the early 1990s, that courts have accepted photocopied documents. If CALR were to be introduced in the country, it would certainly take some time before judges accepted information obtained through the electronic media. This liking for the book media is demonstrated in a study carried out in the US which suggests:

Hard copy in the form of the book is the only frequently received information source by all judges....Judges feel very comfortable in the book media...the computer screen is not comfortable for the amount of reading judges do and is not compatible with speed reading which many of them do.

(Hainsworth, 1992, p.229)

10.3 RECOMMENDATIONS

This section will put forward three types of recommendations:

- those requiring the attention of law librarians
- those requiring the attention of decision makers
- those requiring the attention of information studies researchers

10.3.1 Action By Law Librarians

a) Recruitment of Qualified Staff

The most important consideration in improving the provision of the library service in an organisation is to recruit the staff who will be responsible for running the service. As most law libraries in Kenya are owned by the government, there is need to convince the government to improve the scheme of service for library staff to make it attractive to the labour market. To realise this objective, it is suggested that the few qualified librarians in the government service, with the assistance of the Kenya Library Association (KLA), arrange to contact their counterparts in other libraries to make
representation to the Directorate of Personnel Management (DPM), the department responsible for manpower development in the civil service, to improve the scheme of service for library staff. Specifically, the librarians should ensure that library staff both professionals and para-professionals are placed on same grades as their colleagues in other professions, such as archivists, agricultural officers, secondary school teachers, architects, etc. This, it is hoped, will not only attract qualified library staff into the government service, but also, will assist in retaining the existing staff. This is likely to improve the morale of the staff as disparities in the schemes of service between library staff and other professions was considered a serious demoralising factor among the staff interviewed.

Once an adequate number of trained staff has been employed to staff law libraries, librarians should be able to use their knowledge and professional skills to impress on their organisation’s management the need to improve support for their law library.

b) Maximising the Provision of Legal Information

In an attempt to improve the accessibility and availability of information to their users, law librarians should consider drawing up written policies relevant to the development of their libraries. Among other things, the policies should clearly identify a library’s objectives, its services to users, and outline lending and collection development programmes.

In conjunction with this, librarians should consider carrying out user studies. Once the user needs are identified and addressed, librarians should consider the implementation of basic performance measures in their libraries. These should help them offer a more targeted and effective service to users, and should provide them with information to help justify and support their case to management for example, additional funding and training.
10.3.2 Action By Decision Makers

Involvement of LSK in Legal Information Provision

There is a need to involve the Law Society of Kenya (LSK) in the provision of legal information in the country. LSK plays a significant role in the administration of justice in Kenya. It is represented in a number of legal bodies such as CLE, and the High Court Libraries Management Committee. LSK can assist in legal information development in compliance with section 4 (a) of the Law Society of Kenya Act, 1980 which charges it with the maintenance and improvement of the standard of conduct and learning of the legal profession in Kenya. LSK can assist in three ways:

i) By establishing its own library to supplement law court libraries. This library can be maintained using the annual membership subscriptions paid by advocates. It is interesting to note that, to date, LSK does not have its own library, in fact it does not have even a working collection. All this time it has been relying on law court libraries for information support. In comparison, in the UK for instance, the law societies have libraries of their own.

ii) By establishing a library fund using the annual membership fees paid by advocates and channelling it to the High Court librarian to be used to supplement the funding s/he receives from the Treasury for the maintenance of court libraries. The advantage with this option is that LSK would not be involved with other expenses that are generally associated with libraries, such as staffing, rent, etc. In support of this option, one advocate had this to say:

It is surprising what little attention has been placed on the role of the law library in the proper administration of justice. The reason must be, in my view, not the lack of recognition of the fact that law books are indispensable tools of legal practice and in the administration of justice, but the fact that maintenance of an effective library service requires substantial funds which can only be provided on self help or cost sharing basis....Let us do some arithmetic. We are supposed to be about 1200 advocates who are supposed to have taken out practising certificates this year. If each of them subscribed Kshs. 5,000 as an initial basic subscription, that would immediately establish a fund of Kshs. 6,000,000. If each advocate contributed Kshs. 2,500 annually (this is the kind of money most
advocates spend on the average every Saturday night out, and the equivalent of
Kshs. 200 per month) the annual revenue would be Kshs. 3,000,000. That
sounds to me like a reasonable contribution to the library budget annually. What
if the government through the Judicial Department contributed a similar sum?

(Kariuki, 1992, p.155).

iii) By using its good offices to put appropriate pressure on the government to
improve the funding of government maintained law libraries including academic law
libraries. This should not be a difficult task since LSK has close contacts with the
government. It is on the management committee of the High Court libraries, and
therefore, a major policy maker on legal information provision. Furthermore, the
Attorney-General, who is considered a leading key figure in the government, is a bona
fide member of LSK.

It is the view of the researcher that LSK can make a positive contribution to legal
information development in the country.

10.3.3 Recommendations for Further Research

In an attempt to improve the provision of legal information services in the country,
research in the following areas is strongly recommended:

a) Resource Sharing in Law Libraries

In view of the diminishing funding for law libraries and increasing needs for legal
information resulting from the growth of the legal profession, resource sharing appears
to be one of the possible solutions to the scarcity of information. However, before
such a programme is instituted, it would be advisable to carry out empirical research
into the subject to ascertain the feasibility of such an arrangement. The results of this
research would be invaluable both to law librarians and to the management of parent
organisations.
b) Evaluation of the Present Legal Research Skills Training Programme

A number of lawyers interviewed were not happy with the performance of lawyers currently graduating from the two legal institutions: the University of Nairobi and the Kenya School of Law. They felt that the lawyers were not sufficiently prepared for legal practice, and that whenever they were assigned to carry out legal research work, their performance was not up to standard. They argue that, those appearing in court, offer sub-standard presentations. In addition, they argue that a number of graduates avoid carrying out serious research work. As a result, they allege, some advocates prefer to appear before magistrates courts to avoid legal research work. It was stated that magistrates do not insist on the production of lists of legal authorities, as many of the judicial decisions are based on facts presented before the court by the parties involved.

It is the view of the researcher that this area needs to be investigated. There is a need to examine the present scheme for the teaching of legal research in the two institutions to ascertain its effectiveness in meeting the needs of the legal profession.

c) Marketing Legal Information Services

It is the view of the researcher that the funding problems experienced by law libraries have reached serious proportions because of the negative attitude of decision makers towards libraries. It is felt that, if this perception is reversed, the situation in law libraries is likely to improve drastically. The best way to change this perception is through the promotion of library services - by showing through actions that the law library can contribute positively to their work. The change of perception would go a long way towards improving the funding and staffing of the law library. This area needs to be adequately researched to find out the attitude of the management and users to law libraries: why they hold this opinion; and what can be done by the law librarian to reverse it. It is only by understanding the users' and management's view of the law library that the librarian will be able to devise appropriate methods for reversing the situation.
10.4 ACHIEVEMENTS OF THE RESEARCH

This work has endeavoured to investigate the provision of legal information to members of the legal community in the country through a study of three geographical areas. The research has unveiled valuable information about the work of members of the legal community, and how their work influences their need for information. It has revealed what their actual needs are; and the kind of information they require. It has revealed valuable information about the research habits of the community: how they seek information, where they seek information, how they use the information obtained; and the kind of problems they experience in seeking and using information. It has identified how these needs are met, or not met, by law libraries. The results of the research should be most useful to law librarians in the country and elsewhere on the African continent, since no similar research has been conducted in this area. It should help law librarians to plan the kind of information services to be offered to members of the legal profession.

It has always been the view of the researcher that, before any decision is made by a newly appointed librarian on the kind of information services to be provided to a community of users unknown to her/him, it is important that s/he conducts a user study to assess the characteristics of the community, the interests of its members, the kind of work they do, the environment in which the work is done, and their information needs. The results of such a study would enable the librarian to provide services that are directly geared to the needs of the users.

The research also endeavours to address the challenges presented by an earlier researcher. She observed:

No attempt to assess the research habits and information needs of lawyers [in Kenya] has been made. Certain pertinent questions which Kenyan planners of legal information need answers to before designing an option on legal information service for Kenya lawyers include the following: What is not being done? What are the present legal research habits of lawyers and other users of legal information? Is the information they need sufficiently accessible to them
at the moment? If there is information they need that is not sufficiently accessible, what is it?

(Uche, 1981, p.28)

In addition to the above, this study has shown that the provision of legal information in the three geographical areas of the study is not adequate. As a result, some of the information needs of the legal community are not met. The major causes of this problem are inadequate funding from the government and the negative attitude of decision makers in parent organisations and government hierarchy towards libraries. These two factors are the major barriers to the provision of effective information services in government maintained law libraries. If this situation is not addressed soon, it is likely to have a considerable effect on the administration of justice, legal practice and the training of lawyers in the country.
ABBREVIATIONS


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APPENDIX 1

SURVEY OF LEGAL INFORMATION PROVISION AND NEEDS OF THE LEGAL COMMUNITY IN KENYA

INTERVIEW SCHEDULE: LEGAL PRACTITIONERS

Organisation:

Date of the interview:

A: PERSONAL INFORMATION

Position of the interviewee:

[ ] Puisne Judge       [ ] Magistrate
[ ] Advocate           [ ] Other (specify)

Age: Gender:

[ ] under 21 yrs.       [ ] 21-30

[ ] 31-40               [ ] 41-50

[ ] Over 50

Experience in legal practice:

[ ] under 5 yrs         [ ] 5-10       [ ] 11-15

[ ] 16-20               [ ] over 20

365
B: GENERAL INFORMATION

1. How many law libraries do you have access to?

2. Have you ever undergone any training in legal research skills?
   If no, why?
   If yes, where did you do the programme?
   How effective was it?

3. Do you believe that formal legal research skills training programme can improve the quality of legal research?
   If no, please give reasons
   If yes, please state how

4. Do you personally enjoy carrying out legal research? Why?

C: INFORMATION NEEDS

1. What are the duties and responsibilities attached to your position?

2. What type of information do you typically require to satisfy your job requirement?

3. Do you have a personal collection of legal information materials in your office/chamber?
   If no, give reasons.
   If yes, please state the size and composition of the collection
   For what purpose do you use the office collection?

4. Who does the updating of your office collection?
5. Are there some instances when you have prepared a defence or decided a case in court or advised a client on a legal issue without resorting to any documented information source?  
If yes, please state how  
If no, please give reasons

6. For what purpose do you visit or use law libraries?

7. Which legal information materials do you use frequently?  
For what purpose do you use the materials?

8. Are there some instances when your work has been held up because you are waiting or searching for information?  
If yes, please specify

9. What problems do you experience in meeting your information needs?

10. In your view, how can law libraries most effectively meet your information needs?  
For what purpose do you use the office collection?

**D: INFORMATION SEEKING BEHAVIOUR**

1. How do you find out about new information?

2. Do you use other people to search for information for you?  
If yes, who do you use?

3. Do you verify the information provided by staff e.g. law clerks? Why?

4. How often do you look up the law in:  
a) a day?
b) a week?

5. How often do you visit or use the law library in:
   a) a day?
   b) a week?

6. Do you on some occasions have to seek information outside your law library?
   If no, why?
   If yes, where?

7. (a) Where do you prefer to start your research?
    (b) Which information sources do you prefer to start with?
    (c) Do you always start from the same resource? Why?

8. Why do you seek information during the opinion writing /defence process or when advising a client?

9. What percentage of your information searching time is done in the following places?
   a) courtroom
   b) library
   c) home
   d) chamber/office
   e) elsewhere

10. How accessible are your colleagues for you to ask for information?
11. How accessible are library staff for you to ask for information?
12. How would you rate yourself with regard to the ability to seek and find the information you need?
13. Do you use non-published literature in your legal research?
   If yes, for what purpose?

14. To what extent are your official and personal commitments a constraint to seeking information?

15. What methods do you use to identify and retrieve information from the law library?

E: INFORMATION SATISFACTION/EFFECTIVENESS

1. Are you satisfied with the general performance of your law library?
   Why?

2. How would you evaluate the library's information resources in terms of:
   a) currency of information?
   b) completeness of coverage?
   c) relevance of source?
   d) convenience of use?
   e) accessibility to the resources' contents?

3. Have you ever used the services of a computer in the retrieval of information?
   If yes, where and for what purposes did you use the computer?

4. Do you believe that the introduction of the electronic media can assist to meet your information needs? Why?

5. Are your legal and non-legal information needs being adequately satisfied by one single information source e.g. your law library?
   If yes, please state how
   If no, please give reasons.
6. Do you have access to all legal publications you require published outside Kenya?
   If yes, how?
   If no, why?

7. Do you have access to all legal publications you require published locally?
   If yes, how?
   If no, why?

8. In your view, should a law library procure materials in non-legal areas?
   Please give reasons.
INTerview schedule: Law teachers

Institution: 

Date of interview: 

A: Personal information

Position of the interviewee: 

Institution: 

Age: Gender: 

[ ] under 21 yrs. [ ] 21-30 

[ ] 31-40 [ ] 41-50 

[ ] over 50 

Experience in teaching and research: 

B: General information

1. How many law libraries do you have access to? 

2. Have you ever undergone any training in legal research skills? 

If no, please give reasons
If yes, where did you do the programme?
How effective was it?

3. Do you believe that formal training in legal research methods can improve the quality of legal research?
   If no, please give reasons
   If yes, please state how

4. Do you participate in departmental legal research education/information skills teaching?

5. Do you personally enjoy carrying out legal research? Why?

C: INFORMATION NEEDS

1. What are your main duties and responsibilities as a law teacher?

2. What type of information do you typically require to satisfy your requirements?

3. Do you have a personal collection of legal information materials in your office?
   If no, please give reasons.
   If yes, what is the size and composition of the collection?
   For what purpose do you use the collection?

4. Who does the updating of your office collection?

5. For what purpose do you visit or use law libraries?

6. Which legal information materials do you use frequently?
   For what purpose do you use the materials?
7. Are there some instances when your work has been held up because you are waiting or searching for information?
   If yes, please specify.

8. What problems do you experience in meeting your information needs?

9. In your view, how can law libraries most effectively meet your information needs?

D: INFORMATION SEEKING BEHAVIOUR

1. How do you find out about new information?

2. How often do you look up the law in:
   a) a day?
   b) a week?

3. How often do you visit or use the law library in:
   a) a day?
   b) a week?

4. Do you use other people to search information for you?
   If yes, who do you use?

5. Do you verify the information provided by staff e.g. teaching assistants? Why?

6. Do you on some occasions have to seek information outside the law school library?
   If yes, where?
   If no, why?
7. a) Where do you prefer to start your research?
b) Which information sources do you prefer to start with?
c) Do you always start from the same resource? Why?

8. What percent of your total information searching time is done in the following places?
   a) courtroom
   b) library
   c) home
   d) chamber/office
   e) elsewhere

9. How would you rate yourself with regard to the ability to seek and find the information you need?

10. How accessible are your fellow colleagues for you to ask for information?

11. How accessible are library staff for you to ask for information?

12. Do you use non-published (grey literature) materials in your legal research? If yes, for what purpose?

13. To what extent do you find a heavy teaching/research/administration load a constraint to information seeking? Please give reasons.

14. What methods do you use to identify and retrieve information from the law library?
E: INFORMATION SATISFACTION/EFFECTIVENESS

1. Are you satisfied with the general performance of your law library? Why?

2. How would you evaluate the library's information resources in terms of:
   a) currency?
   b) completeness of coverage?
   c) relevance of source?
   d) convenience of use?
   e) accessibility of the resources' contents?

3. Have you used the services of a computer in the retrieval of information?
   If yes, where and for what purpose?

4. Do you believe the introduction of the electronic media can assist to meet your information needs? Why?

5. Are your legal and non-legal information needs being adequately satisfied by one single information source e.g. your law library?
   If yes, state how.
   If no, please give reasons.

6. Do you have access to all legal publications you require published outside Kenya?
   If yes, please state how.
   If no, please give reasons.

7. Do you have access to all legal publications you require published locally?
   If yes, please state how.
   If no, please give reasons.
8. In your view, should a law library procure materials in non-legal areas? Please give reasons.
SURVEY OF LEGAL INFORMATION PROVISION AND NEEDS OF THE LEGAL COMMUNITY IN KENYA.

INTERVIEW SCHEDULE: LAW STUDENTS

Institution:

Date of the interview:

A: PERSONAL INFORMATION

Age: 

[ ] under 21 yrs. 

[ ] 21-30

[ ] 31-40

[ ] 41-50

[ ] over 50

What level is s/he? 

[ ] undergraduate (state class level)

[ ] postgraduate

Institution the student is attached to:
B: GENERAL INFORMATION

1. How many law libraries do you have access to?

2. Do you have a personal collection of legal information materials in your possession?

3. What is the size and composition of the collection?
   For what purpose do you use the collection?

4. Have you ever undergone training in legal research skills?
   If yes, how effective was the programme?
   If no, why?

5. Do you believe that training in legal research skills can improve the quality of legal research?
   If yes, please state how
   If no, please give reasons

C: INFORMATION NEEDS

1. What academic activities do you carry out as a law student?

2. What type of information do you require to meet your academic needs?

3. For what purpose do you visit or use law libraries?

4. Which legal information materials do you use frequently?
   For what purpose do you use the materials?

5. What problems do you experience in meeting your information needs?
D: INFORMATION SEEKING BEHAVIOUR

1. How do you find out about new information?

2. How often do you visit/use a law library?

3. Where else do you go for information other than the law school library?

4. a) Where do you prefer to start your legal research?
   b) Which information sources do you prefer to start with?
   c) Do you often start from the same resource? Why?

5. To what extent are congested lecture periods a constraint to seeking information?
   Please give reasons

6. How would you rate your ability to seek and find the information you need?

7. How accessible are library staff for you to seek information?

8. How accessible are your fellow students for you to ask for information?

9. How do you identify and retrieve relevant information from the law library?

E: INFORMATION SATISFACTION/EFFECTIVENESS

1. Are you satisfied with the performance of your law school library? Why?

2. How would you evaluate the library’s information resources in terms of:
   a) currency of information
   b) completeness of coverage
c) relevance of source
d) convenience of use
e) accessibility of the resources’ contents

3. Are your legal and non-legal information needs being adequately satisfied by one single information source eg your law library?
   If yes, please state how.
   If no, give reasons.

4. Do you have access to all legal publications you require published outside Kenya?
   If yes, please state how.
   If no, please give reasons.

5. Do you have access to all legal materials you require published locally?
   If yes, please state how.
   If no, please give reasons.

6. Have you ever used the services of a computer in the retrieval of information?
   If yes, where and for what purpose?

7. Do you believe that the introduction of the electronic media can assist to meet your information needs?
   If yes, please state how.
   If no, please give reasons.
SURVEY OF LEGAL INFORMATION PROVISION AND NEEDS
OF THE LEGAL COMMUNITY IN KENYA

INTERVIEW SCHEDULE: LIBRARY STAFF

Organisation:

Date of interview:

A: PERSONAL INFORMATION

Position of the interviewee:

Age: Gender:

[ ] under 21 [ ] 21-30

[ ] 31-40 [ ] 41-50

[ ] over 50

Qualification:

a) librarianship:

b) legal education:

Work experience in libraries in general:

Work experience in law librarianship:

381
1. What is the size of the law library's collection (volumes)?

2. How would you evaluate the library's information resources in terms of:
   a) depth of the collection?
   b) completeness of coverage?
   c) relevance of source?
   d) convenience of use?
   e) accessibility to the resources' contents?

3. What percentage of your total collection constitutes foreign published materials?

4. How do you obtain foreign published materials?

5. What problems do you experience in procuring overseas publications?

6. What problems do you experience in procuring locally produced materials?

7. What problems you experience in procuring the following materials?
   a) law books
   b) law reports
   c) law journals
   d) statutes
   e) abstracting and indexing materials

8. How up to date are your library's subscriptions to the following materials?
   a) law reports
   b) law journals
   c) newspapers
9. How current is the library’s collection of:
   a) textbooks
   b) practitioners’ books
   c) case books

10. How current is the library’s collection of statutes and subsidiary legislation?

11. Do you have gaps in your library collection?
    If yes, what are they?

12. What options do you use to satisfy information needs for materials you do not have in your collection?

13. How serious is the problem of book loss in your library?

14. What do you consider to be the cause of book loss?

C: LIBRARY FINANCES

1. Where does the library obtain its funding?

2. What is the library’s total annual allocation on information resources?

3. How adequate is your book fund in sustaining library requirements?

4. What percentage of your total book requirement is met by the book fund?

5. What is the library’s total annual allocation on expenses other than information resources (non-book expenses)?

6. Who plans and administers the library budgets?
D: LIBRARY PERSONNEL

1. What is the size of the library’s staff establishment?

2. How many qualified staff do you have?

3. Are you happy with this size and composition? Why?

4. What is the staff’s attitude towards work?

5. Are they well paid? Why?

6. Does the work they do match their education and training?

7. What staff development programmes do you have in your library?

8. What training programmes do you personally attend?

E: LIBRARY SERVICES

1. How many registered users do you have?

2. What type of enquiries do users make?

3. About how many reference enquiries are made in a day?

4. How many users do you serve in a day?

5. Do you serve users from outside your organisation?
   If no, please give reasons.

6. Do you carry out information search for your users?
7. What methods do you use to keep your users abreast of the law?

9. How do you satisfy the information needs of your users for materials you do not have?

10. Do you have a union list of periodicals or a union catalogue for law libraries? If no, how do you manage to run an inter-library loan programme?

11. What is the attitude of the management towards the library and its staff? Why do you think so?

12. Do you conduct legal research skills training programmes for your users? If no, why? If yes, how?

13. What methods do you use to evaluate your library services?
### User Activities Observed:

<table>
<thead>
<tr>
<th>Activity</th>
<th>9.00</th>
<th>10.00</th>
<th>11.00</th>
<th>12.00</th>
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</thead>
<tbody>
<tr>
<td>1. Consulting the Catalogue</td>
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<td>2. Asking Questions at the Enquiry Desk</td>
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<td>3. Consulting Law Books at Shelf</td>
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<tr>
<td>4. Consulting Law Reports at Shelf</td>
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<td>5. Consulting Law Journals at Shelf</td>
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<tr>
<td>6. Consulting Statutes</td>
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<tr>
<td>7. Borrowing and Returning Books</td>
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<td>8. Reading Newspapers</td>
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<td>9. Using Materials at Desk in the Library</td>
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<tr>
<td>10. Users Holding Discussions</td>
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<tr>
<td>11. Photocopying</td>
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**Total Users:**

**Additional Information:**
## OBSERVATION SCHEDULE

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<th>Date:</th>
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### User Activities Observed:  

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<td>4.00</td>
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<td>5.00</td>
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</table>

1. Consulting the Catalogue  
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11. Photocopying

**Total Users:**

**Additional Information:**
DATE:

PLACE OF OBSERVATION:

ADDITIONAL INFORMATION: