



CODING FOR LAWYERS

It is important for lawyers to learn the fundamentals of coding as the legal industry becomes more tech and data driven. Lawyers Hub has taken the initiative to ensure that its members develop these skills by curating a coding course that is set to start on the 1st of October 2021.

DATA PROTECTION

Professional footballers threaten data firms with GDPR legal action



DIGITAL CURRENCIES

Tala raises \$145m Series A round for expansion into crypto

The round backed by Upstart and The Stellar Development Foundation will go towards personalized credit options by leveraging crypto and decentralised finance.



Newsletter

ISSUE 11 | OCTOBER 20 | 2021

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STARTUPS



SemaBox partners with MarkUp Kenya for AgriBusiness Podcast Series

SemaBox, podcasting studio and incubator, has partnered with MarkUp Kenya and the EU for agri-business podcast series, 'Mazao Talks'. MarkUp Kenya is a regional development initiative funded by the European Union (EU) as part of the 11th European Development Fund, that provides support

to small and medium-sized enterprises (SMEs) in the East African Community (EAC).

The first season of the podcast will focus on agri-business development for the youth in 12 counties of Kenya where the MarkUp project is implemented.

Kenyan Startup Semy invests in Ivory Coast-based logistics startup Kamtar

Kenyan logistics startup Semy has invested in Ivory Coast based startup Kamtar as part of its Pan African expansion. The startup which currently operates in Kenya, Tanzania and Uganda hopes to expand into Senegal and other Francophone African markets by 2022. Kamtar is a digital logistics startup with 5,000 drivers on its network, which connects SMEs and corporate businesses to truckers and allows for effective delivery operations.



French government commits \$150m funding for African tech startups through Digital Africa initiative

French President, Emmanuel Macron, has committed \$150m towards equipping African tech entrepreneurs with resources they need to scale their innovations. This is through the Digital Africa program which brings together startups, academia, and other enablers to help develop the African startup space.

Vodacom Financial and Digital Services Launches VodaPay

Vodacom Financial and Digital Services has launched VodaPay, a super app available on both Play Store and App Store. The App, backed by Alipay Technology, delivers a digital shopping, lifestyle and financial platform for both consumers and businesses. Users will also earn rewards from multiple transactions on the platform.



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BLOCKCHAIN & DIGITAL CURRENCIES

Binance Launches \$1b Crypto Growth Fund for Blockchain



■ Binance, the largest cryptocurrency exchange, has launched a \$1 billion growth fund in support of the Binance Smart Chain blockchain, with the goal of helping to accelerate adoption of digital assets and blockchain technology.

Tala raises \$145m Series A round for expansion into crypto

■ Tala, a digital lender serving emerging markets, has raised a \$145m Series E round. The round backed by Upstart and The Stellar Development Foundation will go towards personalized credit options by leveraging crypto and decentralised finance. Fintech hopes to introduce news products that make crypto affordable to its users.



LEGAL TECH NEWS

Liquid Intelligent Technologies Partners with Africa Legal to Boost Legal Training

■ Liquid Intelligent Technologies Partners, one of Africa's leading digital infrastructure providers, and Africa Legal have partnered to offer three new and affordable hour-long training courses becoming available for lawyers and entrepreneurs. The online course themes will be, Leveraging off Legal Technology to Grow Your Firm, Change Management for Lawyers and the Fundamentals of Business Law for Entrepreneurs.



ARTIFICIAL INTELLIGENCE NEWS

The UK Department for Digital, Culture, Media and Sport (DCMS) seeks to reexamine Human Intervention in AI

■ The UK's Department for Digital, Culture, Media and Sport (DCMS) has published a consultation that proposes the removal of Article 22 of GDPR. Article 22 focuses specifically on the right to review fully automated decisions. Experts argue that the right to human review of automated decisions is important as it prevents the occurrence of any bias, pushing for legal protection of this right.



Nigerian LegalTech Startup, Definly, raises \$2.2m Seed Round

■ Definly, a Nigerian legal technology startup, has announced a £2.2 million funding round. The startup uses artificial intelligence (AI) to simplify the drafting, reading, and understanding of contracts. The firm hopes to use the latest funding to "accelerate product development, expand its world-class team, and drive further expansion into markets beyond the UK."



DATA PROTECTION



Photo: www.scisports.com

Professional footballers threaten data firms with GDPR legal action

■ Led by former Cardiff City, Leyton Orient and Yeovil Town manager Russell Slade, 850 players want compensation for the trading of their performance data over the past six years together with an annual fee from the companies for any future use. Slade's legal team said the fact players receive no payment for the unlicensed use of their data contravenes

General Data Protection Regulation (GDPR) rules that were strengthened in 2018. "Letters before action" have been sent to 17 big firms, alleging data misuse. This move by hundreds of footballers threatening legal action against the data collection industry, has the potential of completely changing how players' information is handled.

Judge in UK rules Amazon Ring doorbell audio recordings breach data protection laws

■ A judge in England has ruled that an Amazon Ring doorbell's functions broke the Data Protection Act after a neighbour dispute, over claims of a gang of armed robbers trying to steal an Audi, ended up in court. Dr Mary Fairhurst took her neighbour Jon Woodard to court after alleging that his mass of CCTV cameras, including an Amazon Ring doorbell camera, amounted to harass-

ment, a nuisance and a breach of the Data Protection Act. Ruling in Fairhurst's favour, the judge said that while Woodard's rights to film his doorstep were stronger than his neighbour's right to walk around free from CCTV surveillance, Woodard couldn't lawfully record audio from the camera, which was sensitive enough to pick up conversations more than 40 feet away.



DATA PROTECTION

Irish privacy watchdog endorses Facebook's approach to data protection

■ A draft decision from Ireland's Data Protection Commissioner (DPC) endorsing Facebook's legal basis for processing personal data has been met with criticism by a data protection activist who says the platform is trying to bypass EU privacy laws. The draft decision said that "there is no obligation on Facebook to seek to rely solely on consent for the purposes of legitimising personal data processing where it is offering a contract to a user which some users might assess as one that

primarily concerns the processing of personal data."

Facebook has taken a unique approach by including data processing specifications in its general terms and conditions. Subsequently, the internet giant interprets the agreement as a contract rather than consent. Critics said this is an illegal loophole that the company uses to bypass the strict requirements GDPR imposes. Notably, that consent must be informed, given freely, specific and can be withdrawn at any time.

INTELLECTUAL PROPERTY



Women left behind: Gender gap emerges in Africa's vaccines

■ Even though data on gender breakdown of vaccine distribution are lacking globally, experts are seeing a growing number of women in Africa's poorest countries consistently missing out on vaccines. Officials who already bemoan the inequity of vaccine distribution between rich and poor nations now fear that the stark gender disparity means African women are the least vaccinated population in the world. Delays in getting vaccines to impoverished countries allowed misinformation to flourish and, with female literacy a challenge across Africa, women have long relied on word of mouth for information. In countries like South Sudan, Gabon and Somalia,

fewer than 30% of those who received at least one dose in the early stages of COVID-19 immunization campaigns were women.

In those countries — as elsewhere in the world, especially impoverished nations in parts of the Middle East and Asia — women face other obstacles accessing vaccines. Some need their husbands' permission or lack the technology to make appointments. Sarah Hawkes, director of the Centre for Gender and Global Health at University College London, said some hope exists and that initial imbalances in COVID-19 immunization rates between men and women will continue to even out once countries have steady vaccine supplies.

Francis Atwoli moves to trademark viral slogan "Alaaar!"

■ Francis Atwoli, Secretary General of the Central Organization of Trade Unions (COTU), has applied to the Kenya Industrial Property Institute (KIPI) for exclusive rights for the use of the viral exclamation: Alaa!

What this means is that should he get the green light, then members of the public will be required to seek permission or pay him before using Alaa! on anything, online or offline. Or anywhere. Atwoli contends in his ap-



plication that the phrase has no English translation, claiming that the slogan, or chant, is a unique exclamation attributed to him publicly.

Trademark Board Approves Registration for 'Republic of London'

■ The Trademark Trial and Appeal Board ruled that "Republic of London" can be registered as a trademark for clothing because such a place doesn't exist. The board reversed an examining attorney's refusal to register the mark, saying the examiner erred in finding that the mark was geographically misdescriptive. The mark must be consid-

ered in its whole, the TTAB said in a precedential decision, leading the board to conclude that there is no place called "Republic of London."

Because the geographic location is fictitious, consumers won't necessarily assume that the clothing is manufactured or sold in London, England, the Board stated.

DIGITAL IDENTITY

Kenya's digital ID ruled illegal until data protection impact assessment completed

National biometrics-backed digital ID system Huduma Namba has been struck a blow by the High Court, which ruled it incompatible with Kenya's Data Protection Act, and therefore illegal. Yash Pal Ghai, a legal scholar associated with constitutional law lobby Katiba Institute, took the government to court to challenge the issuance of Huduma Namba cards prior to the completion of a data pro-

tection impact assessment. The government has been ordered to conduct a DPIA to comply with section 31 of the data protection act before continuing with the digital ID system's rollout. The government has since spent Sh10 billion (roughly US\$90.2 million) on Huduma Namba so far, and more than 10 million Huduma Namba digital ID cards have already been issued.

Equifax Launches Digital Identity as a Service

Equifax, has announced the launch of its new Digital Identity as a Service capability as well as an Innovation Partnership with Bonifii as a first adopter of the new solution. Equifax Digital Identity as a Service combines data and analytics with modern cryptography to provide a higher degree of trust without sacrificing user experience. Adding Digital Identity as a Service to Bonifii's

MemberPass product is expected to help enable credit unions to more confidently onboard members. It is projected that Digital Identity as a Service will give consumers greater control over what information is shared, enhance protections against synthetic identity fraud and third-party account takeover, and strengthen user profiles with differentiated data only Equifax can provide.

The Unconstitutionality of Huduma Namba: How We Got Here



The Nubian Rights Forum Petition

The Nubian Rights Forum, Kenya Human Rights Commission, and the Kenya National Commission on Human Rights filed, now consolidated, petitions 56, 58, and 59 of 2019 against seven respondents including the AG and CS, Ministry of Interior following the commencement of the Act, and the rollout of the mass registration exercise initiated by the Ministry. The mass registration exercise led to the enrollment of 36 million Kenyans.

The petition filed in February 2019 is considered critical jurisprudence in global Digital Identity spheres alongside India's Aadhaar and Jamaica's National Identification Number decisions.

In their submissions, the petitioners raised various procedural and substantive issues including, lack of adequate public participation, infringement on the right to privacy, discrimination against marginalized communities, including Nubians and Somali Kenyans who have for long struggled with access to identification documents.

The infringement on the right to privacy was of particular interest, given the absence of an enabling legislative framework at the time.

In April 2019, the Court issued conservatory orders permitting the rollout of Huduma Namba subject to certain conditions, including that the respondents do not set enrollment deadlines or have enrollment as a condition to accessing government service. The Court also found the collection of DNA and GPS to be unnecessary and intrusive.

The Data Protection Act, 2019

Civil Society Organisations (CSOs) continued to work with Parliament towards a data protection framework.

Legislation on data protection was first proposed in 2009. The Bill was criticized for failing to outline personal information principles, among other issues. Subsequent attempts followed in 2012 and more notably in 2013 when the Commission for the Implementation of the Constitution (CIC) improved the Bill, forwarding it to the AG for approval. In 2014, the Kenyan Cabinet approved the Privacy and Data Protection policy, a primer for the Data Protection Bill. A complete version of the Bill was introduced in 2018, eventually leading to the Data Protection Act, 2019. The 2019 Act mirrors the GDPR in some ways, setting out fundamental data protection principles while recognizing the unique nature of privacy in the region.

The Act's enactment overshadowed the Proposed Huduma Bill, 2019, whose object was to establish NIIMS. The Bill featured clauses that contradicted international Human Rights principles, such as clause 8, which introduced a mandatory obligation to present your Huduma Namba to access primary healthcare and education services. The Bill's transitional provisions also allowed for amendments to the Elections Act, providing for automatic enrollment into the voters register upon attainment of 18. The Bill has since been reintroduced as the Huduma Bill, 2021.

The Registration of Persons Act was introduced in 1978 and is the primary law governing the registration of persons in Kenya.

The issue of identity in Kenya before 1978 was controversial. Previous laws were not only discriminatory but also humiliating. The Native Registration Ordinance that preceded the 1978 law required African Natives to wear identification documents around their necks. The Kipande, an identity document, featured personal details, ethnicity, fingerprints, and employment history. The Kipande became a popular surveillance tool for employers. Native Africans movement was often monitored, with settlers keeping track of laborers attempting to escape unwanted employment.

Statute Law (Miscellaneous Amendments) Act. No. 18 of 2018

The Act has been amended several times since then. In December 2018, the President assented to amendments that came into force in January of 2019. Through the Miscellaneous Amendment, the Act introduced SEC 9A on the National Integrated Identity Management System (NIIMS), intended to serve as a single source of truth for the personal information of all Kenyans and foreign residents in Kenya.

The NIIMS, popularly referred to as Huduma Namba - Swahili for service number, would collate all personal information held in other government databases into one centralized register, eventually issuing a Huduma Card. Additional amendments introduced unique identifiers, including biometrics and GPS, under the scope of the law.

The Data Protection Impact Assessment (DPIA)

The enactment of the Data Protection Act was of particular importance to the Nubian Rights Forum Petition and Katiba Institute Judicial Review Application for several reasons.

It gave legitimacy to the data collection process, guaranteed citizens that their data would be safe, and paved the way for enabling Regulations. More notably, it introduced the data protection impact assessment. The assessment under SEC. 31 requires that a prior assessment must be done where processing is likely to result in a high risk to the rights and freedoms of a data subject. The evaluation must include:

- A description of envisaged activities.
- Details on necessity.
- Potential risks to subjects' rights and freedoms.
- Mitigation measures.

The Nubian Rights Forum Judgement

Around 7:00 pm on January 30th, 2020, a High Court bench sitting at Milimani Law Courts delivered their judgment on the Nubian Rights Forum Petition. In a room composed of the petitioners, respondents, media, CSOs, and members of the Nubian Community, the Court permitted the rollout of NIIMS through a 202-page judgment.

The three judge bench of W.Korir, P. Nyamweya, and M.Ngugi, found there to have been sufficient public participation and no evidence of discrimination. The Court also found there to be potential of the limitation of the right to privacy since the Data Protection Act was still yet to be operationalized - the Office of the Data Protection Commissioner (ODPC) was still vacant at the time.

The Court called for the implementation of a clear legal framework for Digital ID. The petitioners were quick to appeal the decision, an appeal that has been delayed since February 2020 for reasons unknown.

In June of the same year, the National Treasury set aside 1 billion Kenyan Shillings for a second mass registration exercise, bringing the total cost of the activity to Sh10.6 billion.

Enabling Legislation

The Data Protection (Civil Registration) Regulations 2020 and the Registration of Persons (National Integrated Identity Management) Regulations 2020 were published in February 2020. When read together, the Regulations provide for the structure and components of NIIMS, the process for enrollment, and data protection safeguards.

The law provides for the issuance of a Huduma Card to all resident individuals enrolled in NIIMS.

Enter Huduma Cards

On October 20th, 2020, better known as Mashujaa Day, pending determination of the Huduma Namba Appeal, President Uhuru Kenyatta and 1st lady Margaret Kenyatta received

the first Huduma Cards. The Interior CS, Fred Matiang'i, announced that the cards were ready, and roll out would begin upon the appointment of the Data Commissioner.

Immaculate Kassait was appointed Kenya's first Data Protection Commissioner on November 16th, 2020. The Commissioner was previously Director at the Independent Electoral and Boundaries Commission

(IEBC), in charge of Voter Education, Partnerships, and Communication. The national rollout of the card began on December 1st, 2020.

The Judicial Review Application

Just as the Huduma Namba process had begun to gain some form of legitimacy, it faced what would be its most significant blow in a somewhat poetic turn of events. In a motion dated November 24th, 2020, the Katiba Institute, constitutional research, policy, and litigation institute, and profound Constitutional Law Scholar, Prof. Yash Pal Ghai, challenged the administrative actions of the respondents in rolling out the Huduma Card without a data protection impact assessment per SEC. 31 of the Data Protection Act, and against the Court's direction in the Nubian Rights Forum Case.

The applicant averred that the respondents processed personal data and launched Huduma Cards without complying with SEC. 31. The Institute sought prohibitory orders against the rollout of NIIMS without a DPIA, quashing orders on the decision to rollout NIIMS on the grounds that respondents acted ultra vires, and an order compelling the respondents to conduct a DPIA before rolling out Huduma Cards.

In a groundbreaking decision, Judge Ngaah Jairus ordered that the decision to roll out NIIMS be quashed and that the respondents be compelled to conduct a DPIA before processing NIIMS data and rolling out Huduma Cards.

The judge believed that the respondents had not appreciated the importance of the DPA concerning the processing and collection of personal data under NIIMS.

In his concluding remarks, the Learned Judge reflected on the pending Nubian Rights Forum Appeal, pondering the validity of SEC. 9A and the effect of sustaining the decision of any action taken based on the Statute Law (Miscellaneous Amendments) Act. No. 18 of 2018, including the motion by Katiba Institute.

The Learned Judge can be quoted saying, "I shudder to think that all these efforts, including the effort put in these proceedings, could be rendered of no legal consequence in the future."

Although the future of the Huduma Namba Appeal hangs in the balance, the decision is without a doubt a show of the importance of due process, and more significantly, the space that data privacy continues to occupy in our increasingly digitized society.

AFRICA TECH SUMMIT NAIROBI

February 23rd & 24th 2022

Africa Tech Summit Nairobi connects tech leaders from the African ecosystem and international players under one roof. Network with key stakeholders including tech corporates, mobile operators, fintechs, DeFi & crypto ventures, investors, leading start-ups, regulators and industry stakeholders driving business and investment forward. Following successful Summits in Rwanda, the fourth edition convenes in Nairobi, Kenya.



AFRICA TECH SUMMIT NAIROBI

THE FUTURE OF DATA MANAGEMENT IS IN THE CLOUD

OCTOBER 26TH 2021

The cloud is the new data and analytics platform. Cloud service providers and independent software vendors offer the basis for a new cloud-based ecosystem. This complimentary webinar explores the state of the data management platform, the transition to cloud and its implications, and what it means to operate successfully in the cloud or, more likely, multiple clouds. We will cover pros and cons of cloud adoption, financial governance for cloud, cloud data ecosystems, and the emerging practice of FinOps.

AFRICA TECH FESTIVAL

8-12 November 2021

Africa Tech Festival 2021 will take place virtually from the 8 - 12 November 2021. Along with its two anchor events, AfricaCom and AfricaTech, Africa Tech Festival is the largest and most influential tech event in Africa boasting more than 300 visionary speakers and over 10 premium conference tracks - each with razor-sharp focus, exploring the hottest connectivity and enterprise tech trends.

INFOCOMM CONFERENCE

OCTOBER 23RD-26TH 2021

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Join our membership and be a part of a great community that includes legal and tech professionals, students, startups, organizations and government representatives. Over the past year, members have benefited through Networking Opportunities, Collaboration Opportunities, Invitations to speak at events, Mentorship, Access to the Lawyer's Hub Innovation Space and to cutting-edge technology tools. This year, we have revamped our offers to make it even better and more accessible to many across Kenya & beyond our borders. These benefits include;

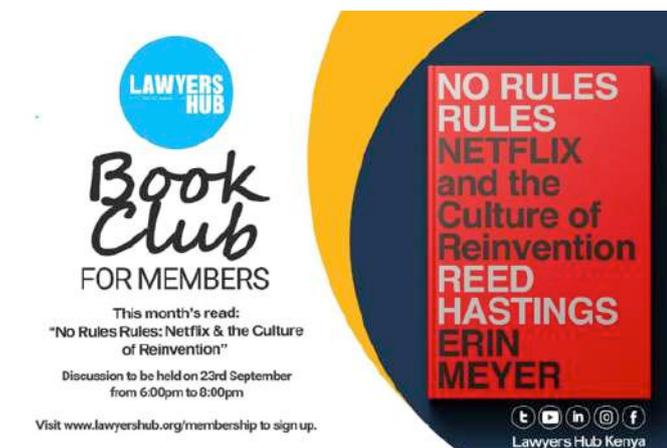
1. CODING FOR LAWYERS

It is important for lawyers to learn the fundamentals of coding as the legal industry becomes more tech and data driven. The Lawyers Hub has taken the initiative to ensure that its members develop these skills by curating a coding course that is set to start on the 1st of October 2021.



2. BOOK CLUB

September read: No Rules Rules; Netflix and the culture of Reinvention by Reed Hasting and Erin Meyer. Applications to join are open. 1st discussion will be held on 23rd September 2021.



3. DANCE CLASS

We care about our members' mental health and fitness as these are crucial to everyone's wellbeing. The Lawyers Hub hosts two choreographed dance classes every week that will tick all your mental health boxes in Upper Hill at Ack Garden House. You also get to network with working groups.

Your 1st dance class is on the house. Join us!

4. DISCOUNTS ON LAWYERS HUB AMENITIES

Have you been looking for an office to work from? Tired of working from home and need a change in work environment? Having issues with power or the internet? The Lawyers Hub has amazing deals on its amenities for members such as 10% discounts on virtual office, private office, hot desks, meeting and conference rooms, and event space with great features suited to help you take your business to the next level.

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