

INTERSECTIONS BETWEEN FORTHCOMING TECHNOLOGIES AND ACCESS TO JUSTICE IN SUB-SAHARAN AFRICA

To ensure that people comply with the COVID-19 lockdown regulations, the South African government deployed the National Defense Force (SANDF). Which ended severely for those who found themselves defying the regulations as the SANDF started using force, to some extent, deadly force. For example, in the Alexandra township, situated north of Johannesburg, a man named Collins Khosa had sustained injuries and later died after he had a heated argument with the SANDF officers who used deadly force to make him comply with the lockdown regulations.

The violation of peoples' rights by state officials' abuse of powers has caught much attention across the globe: another example, George Floyd's death by the United States police officers. What makes matters worse is when people cannot challenge such injustice for many reasons, including a decline in the mechanisms of justice and the unaffordability of legal services-high litigation costs. In 2020, the South African Gauteng Provincial Legislature members revealed that only five out of 147 cases of police brutality had been resolved in the past five years.¹ These numbers represent a small proportion of Africa and the world. There are increasingly higher demands of mechanisms to access the courts and have peoples' matters resolved and heard.

This proposal explores some of the upcoming technologies and the possible opportunities they pose to the advancement of access to justice in the Southern African region. Many disciplines in Africa have resorted to technology in finding solutions to long-lasting problems. Which is noticed by the increase of tech hubs in Africa, from 442 in 2018 to 600 plus in 2020.² From this, African startups have raised more than 2 billion dollars.³ Further, we look at some of the key actors who are shifting their attention to Africa and the possible outcomes of their contributions to access to justice matters.

- **Generative Pre-Trained Transformer 3 (GPT-3) and the rise of Chatbots**

Artificial Intelligence (AI) is currently having a significant impact on how professionals render services and deliver value to users. From autonomous vehicles, speech generation and translation, predictions, finance, and further to the legal profession. In March 2020, OpenAI researchers presented a new AI software known as Generative Pre-Trained Transformer (GPT-3).⁴ GPT-3 is trained using Machine Learning methods to an extent where it can generate texts that are indistinguishable from those written by humans. It can generate a variety of texts, from essays, articles, poems and predict words that are most likely to come after the other. This piece of technology can be applied in various areas such as document automation, text generation, legal research, language translation to convert legalese language to plain language and enhance the accuracy of chatbot responses. This technology presents opportunities for regions like Sub-Saharan Africa, where many people face barriers in accessing the mechanisms of justice and submitting their complaints to relevant authorities. It is too early to assume that the chatbot technology is to autonomously render legal advice. However, it can be adopted for information capturing. For example, instead of having a person fill in a legal document, they can answer simple questions on the chatbot, which captures their information and complaints. Chatbots can also render basic

¹ Only 5 Out of 147 Police Brutality Cases in Gauteng Resolved in Past 5 Years, available at <https://www.sapeople.com/2021/01/19/only-5-out-of-147-police-brutality-cases-in-gauteng-resolved-in-past-5-years/>.

² Africa Now Has 643 Tech Hubs Which Play “Pivotal” Role For Business, *Forbes*, available at <https://www.forbes.com/sites/tobyshapshak/2019/10/30/africa-now-has-643-tech-hubs-which-play-pivotal-role-for-business/?sh=3ebfcc964e15>.

³ The Partech Africa Report is here, and it's the best yet with US\$2.02 B raised, Partech Report, available at <https://partechpartners.com/news/2019-partech-africa-report-here-and-its-best-yet-us-2-02-b-raised/>.

⁴ See the original GPT-3 paper, available at <https://arxiv.org/abs/2005.14165>.

guidelines, such as case follow-ups and basic legal procedural queries. A2J Author is another example of such a technology. It gives access to justice to self-represented litigants by allowing non-technical authors from the courts, clerk's offices, legal services organizations, and law schools to build and implement user-friendly web-based document assembly projects.⁵ Based on the current situation, there will soon be a high demand for such technologies in the Sub-Saharan regions.

- **Cloud Computing Systems, information storage and retrieval**

In 2019, 45 000 trust files went missing from the Pretoria High Court in South Africa after a storm damaged the storage facility.⁶ Such incidents exacerbate case backlogs and increase the demand for a virtual storage method that is not susceptible to such unforeseeable events. Companies like Clio are already flourishing in some parts of the world in providing virtual storage for legal services providers.⁷ In Sub-Saharan Africa, there is still a visible gap between the full utilization of technology to enhance reliability and efficiency in the justice system. There is still a demand for virtual storage.

- **Satellite Internet infrastructure, 5G and remote work**

In Africa, internet penetration is about 40 percent compared to 60 percent to the rest of the world.⁸ However, this is not a dead-end because companies like SpaceX and others are already exploring satellite technologies to provide global internet coverage.⁹ This technology, coupled with the capabilities of 5G, is to unlock vast opportunities for access to justices startups and Alternative Legal Services Providers (ALSP's) considering remote work in remote regions like Africa and Latin America. However, there is still more work, research and experiments needed to be conducted in this area to fully exploit the possible opportunities to benefit access to justice initiatives.

Several recognised names and entities are shifting to the African markets. The African Union adopted a decision to unite African economies through the Africa free trade area. As a result, this embraces vast investment opportunities as companies like Facebook are already on a mission to lower internet access costs through the Africa Simba initiative.¹⁰ In March 2020, Twitter CEO Jack Dorsey announced that he would be spending time in Africa as he foresees a rise in the continent's opportunities.¹¹ The legal profession can learn many lessons from these events. Delivering his presentation at the Bucerius Legal Technology Essentials, Professor Daniel Martin Katz calls this method 'arbitrage'. It means understanding what players from other markets are doing and applying the lessons to the problems you are trying to solve. This proposal is a quest to look at what players in other markets are doing and exploring the extent in which we can use that to enhance access to justice mechanisms in developing regions like Sub-Saharan Africa and Latin America.

⁵ See further details about A2J Author the platform, available at <https://www.a2jauthor.org/>.

⁶ 'Pretoria Master's Office missing 45,000 trust files, *Business Day*, available at <https://www.businesslive.co.za/bd/national/2019-10-17-pretoria-masters-office-missing-45000-trust-files/>.

⁷ See further information about Clio, available at <https://www.clio.com/>.

⁸ Internet World Stats, available at <https://www.internetworldstats.com/africa.htm>.

⁹ In Africa Legal Tech Faces a Challenge: Lack of Internet Access, *Artificial Lawyer*, available at <https://www.artificiallawyer.com/2021/02/01/in-africa-legal-tech-faces-a-challenge-lack-of-internet-access/>.

¹⁰ Facebook Looks to Build Underwater Ring Around Africa, *The Wall Street Journal*, <https://www.wsj.com/articles/facebook-looks-to-build-underwater-ring-around-africa-11554649200>.

¹¹ Twitter CEO Jack Dorsey is reconsidering his Africa move given coronavirus fears 'and everything else going on' *CNBC*, available at <https://www.cnb.com/2020/03/05/twitter-ceo-jack-dorsey-reconsidering-africa-move-on-coronavirus-fears.html>.