



THE JUDICIARY



THE SUPREME COURT

OFFICE OF THE CHIEF JUSTICE / PRESIDENT, SUPREME COURT OF KENYA

HON. CHIEF JUSTICE’S REMARKS DURING THE LAUNCH OF THE SERVICE MONTH FOR CHILDREN MATTERS – 26TH NOVEMBER 2021

THEME: ‘A JUSTICE SYSTEM FIT FOR CHILDREN’

1. The month of November is an important one for children, as it is when we celebrate the international day of the Child. First proclaimed in 1925 during the World Conference on Child Welfare in Geneva, the International Children Day is celebrated worldwide on 20th November every year. It converged global attention towards pertinent issues of children welfare and wellbeing. The Kenyan Judiciary marks this significant commemoration throughout the month of November through targeted service weeks to address cases involving and affecting children.
2. Our institutional policies follow the Constitution’s directive, to protect and defend the rights of all, especially, the vulnerable. As a result, the Judiciary’s vision, **‘Social Transformation through Access to Justice (STAJ)’** and the **National Council on Administration of Justice’s (NCAJ) Strategic Plan**



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2021-2026 place an emphasis on enhancing access to justice for vulnerable groups, including children. This means that we have made a commitment as the Judiciary and Actors in the Justice Sector to enhance efforts aimed at improving the responsiveness of the justice system in children's matters.

3. One such effort is the **Annual Children Matters Service Month** that we are launching today. November was institutionalized as the annual Children Matters Service Month in our quest to ensure expeditious disposal of children matters.
4. I thank the NCAJ's Special Taskforce on Children Matters, led by the Honorable Justice Teresia Matheka, for the great work they are doing in pursuit of our goal of putting in place a child-friendly justice system.
5. I wish to thank our Partners, the US Department of Justice, International Development Law Organization (IDLO), UNICEF, FIDA, International Justice Mission, Save the Children and World Vision for supporting the Taskforce in its quest to ensure the clearing of the backlog of cases involving children matters since 2016. Through this collaboration and partnership in mounting of Service Weeks and Service Months for Children's Matters, more than **6,000** children cases have been cleared from the system.



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Ladies and Gentlemen,

6. The NCAJ Taskforce on Children's Matters, having identified the backlog of children cases as one of the hindrances of administration of justice towards this critical mass of our society, who make **51%** of our population, embarked on a process to clear backlog of children cases by holding service weeks in various hotspot courts and establishing the Judiciary Service Month for Children matters.

7. I congratulate the Taskforce who through their work have highlighted the plight of children in the justice system and managed to reduce the backlog of cases involving and affecting children. The Taskforce has managed to train various courts on the application of the principle of the ***best interest of the child***, the use of mediation and plea bargains in a bid to ensure child friendly and expeditious disposal of the cases involving our children. The Taskforce has further developed tools and protocols to guide the court during the service week and adjudication of children matters. It is my hope and expectation that judicial officers shall utilize the said tools which will enable to uphold the rights of the child.



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Ladies and Gentlemen,

8. As we launch another Service Month, I give the directive that we use this period to clear pending cases involving and affecting Children. While the Judiciary's **Social Transformation through Access to Justice (STAJ)** vision expects that all matters will be concluded within 3 years in Trial Courts and 1 year in Appellate Courts; children's matters ought to be **concluded within 6 months due to the impact that they have on the vulnerability of children.**
9. The **Status Report on Children in the Justice System in Kenya**, by the Taskforce indicates that **4 out of every 5 children** in statutory children's institutions under the Department of Children's Services have never committed a crime. This means that the Judiciary as the custodians of justice has subjected **96% of children** to a life that they should not have encountered in the first place, a life in the justice system which was not designed for our children. I take this opportunity to encourage my colleagues in the judiciary to use incarceration of children as a last resort as provided for **within Article 53** of the Constitution.
10. In addition, the ODPP and the Taskforce have developed various regulation and tools on diversion of children matters. I would like to encourage all the



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justice actors to make use of these guidelines. It is our **duty to ensure that children are diverted** from the justice system as much as possible to enable attain their full rights as espoused within our laws.

Ladies and Gentlemen,

11. **The Status Report on Children in the Justice system** found that some of the factors that lead to the delay and denial of justice for children who are victims of crimes and those in conflict of the law include: **One**, neither the victims (mostly girls) nor their parents report the incidents immediately. **Two**, many parents are not cooperative on matters of defilement and prefer out of court settlements. **Three**, witnesses do not show up despite being summoned by the police. **Four**, this is made worse by the lack of psychosocial support, for example, counselling for child victims and witnesses. and **Five**, lack of legal aid to children who are victims of crime and children in conflict with the law.
12. The Judiciary encourages a **coordinated and multi-sectoral approach** in tackling these systemic challenges faced in the delivery of justice to children. I want to appreciate and laud the spirit of **collaboration and partnership** that has been demonstrated by the actors in the Justice sector working under the auspices of the NCAJ's Special Taskforce on Children Matters. It is the spirit of **inter-agency collaboration**



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that animates the 2010 Constitution that will enable us deliver on our **shared responsibility** of providing access to justice to children who are considered a vulnerable group under Article 21(3) of the Constitution.

13. In furtherance of this spirit of collaboration and partnership, I direct all court stations to put in place **Children's Court User Committees as forums to coordinate matters relating to the delivery of justice in children's matters and as a vehicle to sensitize the community** on matters related to child justice.
14. The Children's Court User Committees ought to engage in creation of awareness on children rights within the community and encourage child protection during this month and even after. They ought to use the Service Month to sensitize court users and members of the community on emerging issues in child protection and alternative dispute resolution mechanisms to resolve children matters.
15. The **Status Report on Children in the Justice System** highlights the gaps in legislative and policy reforms, quality of care and infrastructure and in coordination and sensitization of child justice actors. The **Status Report** also highlights the **"BIG 7" Agenda for Child Justice** which shall ensure that



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issues on access to Justice for Children are addressed. One of the priority areas identified in the Report is the need to enact the Children's Bill which is intended to align the laws on children to the 2010 Constitution and address emerging concerns on children's protection and vulnerability. I take this opportunity to appeal to the Legislature and other stakeholders to fast-track the enactment of the Children's Bill into law.

16. I also urge the County Governments and National Government to see to it that we have in place Child Protection Units in all Police Stations. This will go a long way in ensuring that all children in conflict with the law or who are victims of crime have access to comprehensive care services including psychosocial support and legal aid. This is important to avoid the potential of traumatizing children in conflict with the law or those that are victims of crime.

17. We are working through the Judicial Education programmes, coordinated by the Kenya Judiciary Academy, to sensitize all judicial officers and judges on Child Justice. This will ensure that our justice system is child-friendly.

Ladies and Gentlemen,

18. The Service Month that we are launching provides an opportunity to the courts to serve and protect the



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rights of a vulnerable group in our society. In this and every month of November, starting this year, I direct that, all the courts shall be expected to promote the rights of the child through conducting activities geared towards protection of children. The courts will also be expected to prioritize children's cases and conduct service weeks for cases which have been ongoing for more than 6 months. In this regard, my office will be looking forward to receiving a conclusive and detailed report that shall indicate the number of cases pending and the number of cases cleared. This shall help in collection of data on the number and situation of children in the justice system.

19. I want to thank the Makadara Court User Committee for planning and executing this very important Launch of the service month. I want to recognize the various technical teams that have enabled this and the service weeks to be possible.

20. I now declare the Children Service Month of 2021 officially launched.

Thank you.

**Hon. Justice Martha Koome, EBS,
Chief Justice, and President of the Supreme
Court of Kenya**



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