



REPUBLIC OF KENYA

THE JUDICIARY



THE SUPREME COURT

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

REMARKS BY HON. JUSTICE MARTHA KOOME, EGH, CHIEF JUSTICE & PRESIDENT OF THE SUPREME COURT OF KENYA DURING THE LAUNCH OF THE COMMERCIAL JUSTICE SECTOR COURT USER'S COMMITTEES – SAROVA PANAFRIC, 15TH JUNE 2022

Excellency Governors

Chief Administrative Secretary, Ministry of Industrialization, Trade and Enterprise Development

Distinguished Guests

Ladies and Gentlemen

1. It gives me great pleasure this morning to officiate the launch of the Commercial Justice Court Users Committees (CUCs). The Court Users Committees (CUCs) are platforms that bring together actors in the justice sector to engage, develop a shared understanding of access to justice, and promote effective partnerships for shared benefits. The underpinning rationale that has informed the establishment of the CUCs is to provide a platform where various actors in the justice sector can collaborate, participate and make contributions towards improving the delivery of justice in Kenya.
2. In the ‘**Social Transformation through Access to Justice (STAJ)**’ vision for the Judiciary, we have identified the need for each court station to be a “**centre of excellence**” in service delivery, which is to be achieved by each court coming up with interventions and innovations that will ensure efficiency and expeditiousness in service delivery.

These interventions and innovations are to be developed in a participatory and consultative manner by all the stakeholders. This brings out the centrality of the CUC's in our quest for transform the justice sector and ensure that ours is a people - centred system of administration of justice.

3. Though CUCs exist, most of them primarily focus on the criminal justice sector. As a reform agenda, and to ensure that all the aspects of our justice system function efficiently, we are now paying additional attention to the efficient administration of civil justice as a strategic venture. It is in furtherance of this new strategic focus that we are here to launch the Commercial Justice Court Users Committees (CUCs).
4. To start with, the Commercial Justice Court Users Committees will be domiciled in Kenya's five major

commercial centers, i.e., Nairobi, Kisumu, Mombasa, Nakuru, and Eldoret, before further opening in other major Kenyan commercial towns.

5. The Commercial Justice Sector CUCs will:

- Focus on the efficient and effective administration of commercial justice, including through the Small Claims Courts;
- Support and ensure sustained collaboration of the actors in the commercial sector;
- Provide a platform where bottlenecks currently facing the commercial justice sector will be addressed;
- Enhance public participation, feedback mechanisms, dialogue, and engagement in the delivery of commercial justice;

- Promote information sharing and learning between the business community and courts;
- Provide a forum to propose policies and legislation for effective justice delivery on disputes involving business transactions, entrepreneurship, and investments;
- Ensure a quality and efficient commercial justice system that is responsive to enhancing a conducive business climate and robust case management that includes standardization, regulations, and electronic case management systems;
- Support other ongoing initiatives such as automation improvements linking courts and players in the commercial justice sector, including but not limited to the ability to file,

serve, and pay fees electronically and access court information on business premises;

- Promote platform to support alternative dispute resolution methods for commercial matters, including arbitration and mediation; and
- Provide structured engagement of the business community in driving commercial justice reforms in the country.

6. To put this initiative in context, the launch of the Commercial Justice Sector CUCs speaks to the common desire by the stakeholders represented at this event of an efficient commercial justice sector that is critical for attracting foreign direct investment and ensuring a healthy and prosperous business environment in the country.

These are factors that are key to spurring economic growth.

7. It is a fact that there is a direct correlation between the ability of businesses to enforce their legal rights and the economic trajectory of a country. Private investments are adversely affected when commercial contracts are not timely enforced or characterized by delayed access to justice. With sub-optimal private investments, economic growth is reduced, affecting the tax base and consequent financing of public expenditure. Put differently, a judicial system characterized by huge commercial case backlogs, complex legal procedures for commercial dispute resolution, and low clearance rates of commercial disputes is an obstacle to a healthy business climate.
8. We are therefore determined to work to solve the systemic bottlenecks that are hindering our

commercial justice system from performing optimally. Towards this end, some of the interventions and initiatives that the Judiciary is pursuing include:

- Established a specialized division of the High Court to deal with commercial cases. I am happy to note that through sustained collaboration with various actors within the commercial justice sector and support from our development partners, we have been able to greatly enhance the quality of our judicial processes through the automation of court and registry processes which was first piloted at the Commercial & Tax Division;
- Mainstreaming of ADR to expeditiously deal with commercial disputes. Through these mediums and collaboration with partners,

resources that would have otherwise been held up in lengthy litigation have been released back to the economy for circulation; and

- Operationalizing the Small Claims Court to hear and determine commercial disputes whose value does not exceed Kshs. 1 million. The operationalization of the Small Claims Court in 2021 has enabled the Judiciary to hear and determine commercial disputes, releasing back to the economy Kshs 900 Million within one year from case filing since its operationalization. Today we are celebrating one year since the court was created. These determinations have been made within 60 days of case filing. Given the revolutionary impact of the Small Claims Court our focus going forward

it to roll out more of these courts throughout the country.

9. The need for more robust and enhanced collaboration amongst all actors in the commercial justice sector is therefore informed by the need to consolidate these gains and scale up these interventions. This we can only do if we join hands and work in a collaborative and co-ordinated manner. This is what we will do with the CUCs and I ask you to embrace them and participate actively in them to enable us benefit from your ideas on how to improve the performance of our courts.

10. I take this opportunity to thank the Embassy of the Kingdom of Netherlands for the continued financial support extended to the NCAJ through the International Development Law Organisation (IDLO), including facilitating this launch today. I also appreciate the commitment to further support

Commercial CUCs in the identified major Kenyan Commercial Centres, namely Nairobi, Kisumu, Mombasa, Nakuru, Eldoret and now, Kisii. To the Presiding Judges of Courts in these regions, please gather stakeholders and address the challenges facing commercial transactions and justice in your region. You have the requisite support to convene and strengthen CUCs in your regions.

11.I also thank the NCAJ Secretariat for your commitment to the reform agenda and for furthering the narrative of efficient administration of civil justice. To all our partners in commercial justice represented here, this is just the beginning of the engagement. I urge all of us to play your rightful role and support efficiency in delivering commercial justice for a prosperous Kenya. We appreciate and acknowledge that the end beneficiary is the Wanjiku, whom we owe the duty and responsibility to serve.

12.I cannot conclude without recognising the National Government represented here by CAS Hon. Osiany for the support to champion Commercial Justice in Kenya. The Ministry of Trade and the Ministry of EAC and Regional Integration supported the inception of the Small Claims Courts which have become a phenomenal game changer in the pathway towards people-centred access to justice. They have enhanced Kenya's ranking on the ease of doing business index and become a global reference point on the way to handle commercial disputes in the developing world.

13. Equally monumental are our Governors who have spared no effort to support these facilities and our commercial justice programmes. Our engagements have been very productive with most County Governments providing land to the

Judiciary to build Courts to facilitate service delivery. With continued collaboration, we can significantly improve the investment climate and confidence in the Counties.

14. With those remarks, I declare the Commercial Justice CUCs now officially launched.

Thank you and God bless you.

(Launch concept to follow)

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