



REPUBLIC OF KENYA

THE JUDICIARY



THE SUPREME COURT

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

HON. CHIEF JUSTICE'S KEYNOTE ADDRESS AT THE 2ND ANNUAL NATIONAL CONFERENCE ON CRIMINAL JUSTICE REFORMS - GREAT RIFT VALLEY LODGE, NAIVASHA, 10TH MAY 2022

**Dr. Fred Matiang'i – Cabinet Secretary -Ministry
of Interior and Coordination of National
Government,**

**Hon. (Rtd) Mr. Justice P. Kihara Kariuki –
Attorney General of the Republic of Kenya**

**Dr. Mercy Mwangangi, Chief Administrative
Secretary, Ministry of Health representing the
Cabinet Secretary for Health**

**Mr. Noordin Haji, Director of Public Prosecutions,
and the Vice Chairperson of NCAJ,**

**Justices of the Supreme Court of Kenya, Hon.
Justice Njoki Ndung'u and Hon. Mr. Justice Isaac
Lenaola,**



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Hon. Justice Daniel Musinga, President of the Court of Appeal

Hon. Anne Amadi, Chief Registrar of the Judiciary and Secretary NCAJ,

**Judges of the High Court, ELC and ELRC
Judicial Officers Present**

Hon. Lady Justice Grace Ngenye, Judge of the High Court of Kenya, and Chairperson NCCJR,

Mr. Hilary N. Mutyambai, Inspector General, National Police Service,

Mr. George M. Kinoti, Director of Criminal Investigations, Directorate of Criminal Investigations,

Brig, (Rtd) John Kebaso Warioba – Commissioner General, Kenya Prisons Service,

Mr. Wafula Chebukati – Chairperson, Independent Electoral and Boundaries Commission,



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**Ms. Roseline Odhiambo Odede, Chairperson
Kenya National Commission on Human Rights,**

**Mr. Twalib Mbarak, Chief Executive Officer,
Ethics and Anti-Corruption Commission,**

**Commissioner Rev. Dr. Samuel Kobia –
Chairperson, National Cohesion and Integration
Commission,**

**Mr. Eric Theuri – President, Law Society of
Kenya,**

**H.E Henriette Geiger, European Union
Ambassador to Kenya**

**Excellency Ambassadors and Members of the
Diplomatic Corps,**

Esteemed Partners,

Distinguished Guests,

Ladies and Gentlemen,

Good Morning!



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1. Allow me to start by commending and thanking the entire team of the National Council on the Administration of Justice (NCAJ) and partners for organizing this second Annual National Criminal Justice Reforms Conference.
2. The importance of this Conference cannot be gainsaid. The Conference brings together State and non-State justice sector actors of all levels, practitioners, academicians, and persons interacting with the criminal justice system.
3. The Conference allows sharing unique experiences and best practices, reflecting on challenges impeding efficient service delivery, and collaboratively generating workable solutions geared towards reform. For reforms to be



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impactful and sustainable, all stakeholders must read from the same script, especially those whose roles interlink at various stages. We must constantly remember that we are more or less joined at the hip and we therefore must become each other's keepers given that failure by one of us affects nearly all of us.

4. The impetus for reforms is the requirement that the Criminal Justice System aligns with the Constitution of Kenya, 2010, which envisages a **rights-based approach to the administration of justice in Kenya.**
5. A failure to affirm the dignity of any person in contact or conflict with the law and a failure to uphold their rights at any stage of the criminal justice process is a miscarriage of justice.



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Therefore, this year's theme "*Towards a Rights-Based Criminal Justice Sector*" is indeed fitting.

Distinguished guests,

6. I acknowledge with great appreciation that the criminal justice reform agenda has gained a lot of momentum over the past few years. Significant efforts have been made by all the institutions, individually and collaboratively.

7. I recall during the first Conference, the Director of Public Prosecutions highlighted positive reform initiatives the ODPP was pioneering targeted at reducing case backlog and decongesting detention facilities, such as diversion and plea bargaining, and urged Kenyans to embrace these new strategies. It is truly inspiring to see that



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these initiatives have taken root and the impact they have had on the criminal justice sector.

8. At this conference, we are looking at advancing the conversation concerning enhancing human rights in the criminal justice sector. In this regard, several reformative initiatives took root amidst the Covid-19 pandemic.
9. The earlier stages of the pandemic saw a lot of Prison decongestion initiatives targeted at releasing minor offenders to serve non-custodial sentences. I am delighted to note that one of the sub-themes for discussion during this Conference critically examines non-custodial and indeterminate sentences.



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10. In addition, the pandemic triggered a lot of innovation around the automation of the criminal justice sector. It also forced the sector to analytically look at how petty offenders are handled and processed through the system.

11. Our focus going forward should shift to how we can take full advantage of technology to enhance the efficiency of court processes and enhance litigants' court experience.

12. The Judiciary is keen on enhancing human rights in the criminal justice sector by providing alternatives in the form of Alternative Justice System (AJS). AJS is a key component of community-driven justice. It reflects the lived realities of the people and, therefore, more accessible to people. The use of non-state justice



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systems such as council of elders, extended family members, *nyumba kumi*, and religious institutions provides a different and sometimes more effective way to enhance access to justice, in a manner that is guided towards upholding the constitutional imperatives of rights, duties and obligations.

Distinguished guests,

13. There is an urgent need for us as institutions of the criminal justice sector to inculcate mainstream programs geared towards identifying and protecting the vulnerable members of our society.

14. In this regard, the Judiciary has made great strides by establishing a specialized Sexual and



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Gender-Based Violence Court at the Shanzu Law Courts in Mombasa, with plans for roll-out to other parts of the country in the near future. We have engaged scientists and experienced legal and medical professionals to conduct a gap-analysis study to inform key policy directives aimed at ensuring that sexual and gender-based violence cases are handled in the most efficient way possible.

15. As I often remark, the Judiciary is a downstream institution, we process what is handed from the investigating and prosecution Agencies. As such, we applaud the National Government for setting up the Policare programme to streamline police engagement in this area. Our teams will collaborate to find interfaces and nodes of



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coordination to support Kenyan citizens stem out sexual and gender-based violence.

16. That said, there is still room for improvement. Children, victims of Sexual and Gender-Based Violence, mentally ill persons, the elderly, amongst others, face additional and even more significant obstacles when they encounter the criminal justice system.

17. I note with concern that despite the High Court declaring the levying of fees for issuance and filling of the P3 form unconstitutional, and despite the commendable interventions that the Ministries of Health and Gender continue to pursue in this area, the practice of charging victims to have the form filled remains rampant across the country.



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18. It is imperative that all justice sector institutions be inclusive and serve the needs of all segments of society by paying particular attention to those most vulnerable and neglected. This also aligns with our collective NCAJ Strategic Plan which prioritizes improving access to justice for vulnerable groups across the justice sector, particularly children, persons with physical or mental illness, the elderly, and minorities in marginalized communities. I am therefore confident that we will resolve these challenges.

Ladies and Gentlemen,

19. One of the vices that hamper human rights in the Criminal Justice system is corruption. I am happy to state that in February 2022, the NCAJ gazetted a Committee on Anti-Corruption, which



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comprises State and non-State Agency actors mandated to identify the bottlenecks and challenges in the fight against corruption; and propose mechanisms to facilitate the efficient and effective investigation, prosecution, and adjudication of corruption cases.

20. The fight against corruption is a joint endeavour. Corruption in one Agency within the sector affects the entire criminal justice system negating our mutual duty to defend the Constitution. With the support of the Ethics and Anti-Corruption Commission, the Judiciary has engaged in a rigorous anti-corruption audit of the Judiciary and the systems and processes within it.

21. The avenues and opportunities for corruption are largely a function of distortions of laws, policies,



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practices, and processes in order to favour personal or private interests. In addition, weak systems and processes create loopholes for corruption to thrive. Thus, the need to seal them to eliminate opportunities for corruption. Our pursuit of enhanced fight against corruption through proactive systemic audit of the Judiciary's systems and operations is informed by the reality that fighting and winning the war against corruption will not be won by isolated and sporadic acts focused on incidents of individuals caught in the act as it were. Rather, we must adopt a root and branch systems review of the Judiciary's entire operations to tackle and eliminate the avenues and loopholes that are prone to be exploited by those who could be tempted to engage in unethical and corrupt acts.



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22. The audit has yielded a team of dedicated Ethics and Integrity officers linked to the Office of the Judiciary Ombudsman who will extend the anti-corruption work to stations, departments, units, offices, personnel desks, until every segment of the institution is corruption proof.

23. We hope that through the NCAJ Taskforce on Anti-Corruption chaired by Madam Dorcas Oduor (ODPP), we can make more strides towards ridding the Sector of this vice of corruption.

**Distinguished Guests,
Ladies and Gentlemen,**

24. I am cognizant of the fact that we are in an election year. We must therefore engage on issues concerning promoting accountability for electoral offences to ensure free, fair, and credible



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elections and to ensure that Human Rights are promoted and protected during the whole process. No doubt, Kenyans are keen to hear what measures have been set to ensure they are protected, and offenders are brought to book.

25. We will all engage in a conversation on elections in the High-Level Panel following this opening session. As the persons responsible for the core Agencies mandated to support the delivery of free, fair, and credible elections, our commitments will reassure Kenyans that indeed, the elections will be free, fair and credible.

**Distinguished Guests,
Ladies and Gentlemen,**

26. I would be remiss if I did not thank and congratulate all the researchers and authors who



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submitted abstracts and papers to enrich the knowledge base around the subthemes of the Conference. It demonstrates the keen interest Kenyans have taken toward the reform agenda. The importance of a research and data-informed approach to reform cannot be over-emphasized.

27. The deliberations during this Conference will significantly shape the future of the criminal justice reform agenda. The outcome of this Conference should be geared towards the generation of practical, collaborative approaches and strategies aimed at addressing all challenges identified.

Finally, Ladies and Gentlemen,



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28.I wish all delegates in attendance physically, and those joining virtually fruitful and meaningful deliberations that accord with the core values of NCAJ: Accountability Constitutionalism, Consultation, Interdependence, Public Service, and Innovation.

Thank you and God Bless You.

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