



NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE

COMMUNIQUÉ ON

ENHANCING THE ADMINISTRATION AND ACCESS TO JUSTICE IN ADDRESSING SEXUAL AND GENDER-BASED VIOLENCE

By the
NATIONAL COUNCIL ON
THE ADMINISTRATION OF JUSTICE (NCAJ)

Made on
18TH OCTOBER 2023

During
THE INAUGURAL CONFERENCE ON SGBV

Held at
The Safari Park Hotel, Nairobi on 17th and 18th October 2023



Preamble

APPRECIATING that SGBV is a vice affecting Kenyan Society, costly across all spectrums and requires unique interventions.

RECOGNISING that addressing SGBV has become a national priority, supported by strong international and regional backing.

NOTING that the Kenyan Constitution mandates all state organs to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.

FURTHER NOTING that SGBV constitutes a breach of fundamental rights to life, liberty, dignity, equality between women and men, non-discrimination, and physical and mental integrity.

TAKING COGNIZANCE of the need for the justice system to respond to Sexual and Gender-Based Violence effectively.

ACKNOWLEDGING the role of NCAJ to ensure a coordinated, efficient, and consultative approach to the administration of justice in Kenya and reforming the justice system.

REITERATING that NCAJ has prioritized addressing SGBV as a strategic focus area under the enhancement of Access to Justice for the Vulnerable Persons.

COMMENDING the efforts made by the NCAJ to convene the inaugural national conference on SGBV towards reinforcing the Government's commitment to the practical, efficient, collaborative and coordinated delivery of justice for victims of SGBV.

COLLECTIVELY ENDORSING the importance of a Whole Justice System to ensure efficient and effective administration of justice.

APPRECIATING the need for a renewed focus on the survivors of SGBV, addressing their challenges and justice needs expeditiously.

WORKING TOWARDS entrenching service delivery methods that support the continued participation of survivors in the quest to eliminate SGBV.

APPRECIATING the unique intervention mechanisms required to address Sexual and Gender-Based Violence in the criminal justice system.

UNDERSCORING the need to entrench a survivor-centered approach to enhance access to justice on SGBV, right from the investigations, prosecution, trial and post-trial processes.

ACKNOWLEDGING the potential of technology to enhance efficient and effective dispensation of justice.

RECOGNISING the need to entrench collaborative approach and enhanced data sharing in addressing the SGBV.

AIMING at the need to implement the 12 commitments the Government of Kenya made during the Generation Equality Forum, 2021.

APPRECIATING the renewed partnership between state and non-state actors demonstrated in the Planning and undertaking of the Inaugural National Conference on SGBV.

Now THEREFORE, and broadly, the following commitments and Action-Points were recognised as a priority during the Conference:

A. Survivor Centred Interventions and Opportunities at the Grassroots

- Actors to enhance the involvement of survivors in addressing SGBV.
- All stakeholders involved in addressing SGBV to collaborate in the development of comprehensive policy, legal and administrative frameworks that prioritize the well-being of survivors in the administration and access to justice on SGBV.
- The Government to ratify the diverse protocols, including but not limited to Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, among other international instruments addressing SGBV.
- Legal, policy and administrative reforms to be data-driven through enhanced data collection, analysis and sharing.
- The Justice and Legal Affairs Committee (JLAC) of the National Assembly is firmly committed to supporting legal reforms proposed by the NCAJ and other agencies focusing on SGBV. These reforms include, among others, amending the SOA Act 2006 and its attendant laws.
- Establish psychosocial support programs for justice actors and survivors.
- Pre-trial counselling to consider issuing post-judgment psychosocial support orders.
- All agencies to collaborate to operationalize one-stop centres for handling SGBV cases.
- Justice sector institutions to conduct awareness campaigns among the public regarding the efficiency in documentation especially on no-payment policy for P3 forms, among others.

B. Reduction of Bottlenecks to Expedite the Disposal of SGBV Cases in Kenya

- Develop a comprehensive checklist of how to handle SGBV evidence by all justice actors.
- Justice sector institutions to enhance internal efficiency to ensure SGBV victims pass through their institutions expeditiously without delay.
- The Government to facilitate the establishment and operationalisation of a Public Defender Office to provide legal representation to vulnerable persons.
- The NCAJ to develop an enabling policy and legal framework to entrench the provision of legal aid services by the proposed Public Defender Office.
- The NCAJ to timeously address the issues raised during CUCs and other grassroots forums.
- The Government, through the Ministry of Health to enhance the capacity of police doctors to improve service delivery to SGBV victims.
- The NPS to operationalize more Child Protection Units and strengthen Policare.

C. Leveraging on Innovation and Technology

- NCAJ to enhance the uptake of forensic technologies and management.
- The Judiciary to fully digitize the Sexual Offences Register to allow more comprehensive access by the public.
- The capacity of Government Chemist to be enhanced to address DNA evidence backlog and development of a DNA data base.
- NCAJ to support Government Chemist towards enhanced service delivery,
- NCAJ actors to strive towards the development of a data sharing management system.

D. Global and Regional Lessons on Addressing SGBV

- Actors to recognize Intimate Partner Violence (IPV) as one of the foundational causes of SGBV. The justice actors collaboratively develop mechanisms to handle IPV.
- NCAJ to sensitize justice actors and the community on the Romeo and Juliet clauses enshrined in the Constitution and growing jurisprudence to ensure its appropriate handling. There is need to promote age-appropriate sexual education to enhance the understanding of consent.
- The adolescents to be part of SGBV interventions as they are engaged in consensual sexual activities.
- All actors to undertake sustainable resource mobilization to ensure that the solutions identified are adequately realized.
- Actors to fully implement the provisions of the Children's Act 2022.

E. Emerging Issues on SGBV and the Required Optimal Interventions

- Actors to employ CUCs to address issues arising in handling SGBV matters.
- Government to enhance one stop centres for agencies in handling SGBV.
- Enhance training and sensitisation of all relevant stakeholders handling FGM.
- Actors to identify and address the root causes of human trafficking at the grassroots level.
- Actors to enhance the rolling out of prevention models on Intimate Partner Violence.

F. The Socio-economic Costs of SGBV in Kenya

- Undertake an extensive study on the resources required for the efficient and effective administration of justice across the justice sector chain.
- Establish, strengthen and operationalise GBV Violence and Recovery Centres in all Level 5 Hospitals across the country.
- Implement its commitment made during the Generation Equality Forum, 2021 to create a budget line for GBV to adequately build the capacity of actors handling GBV.
- Operationalise the GBV Information System
- The NCAJ to leverage on support from development partners in addressing SGBV.



The National Council on the Administration of Justice
5th Floor, Mayfair Center, Ralph Bunche Road
P.O. Box 30041 - 00100, Nairobi, Kenya

Email: ncaj@court.go.ke
Website: www.ncaj.go.ke

SUPPORTING PARTNERS

