



NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE

STRATEGIC GUIDING FRAMEWORK FOR GREENING KENYA'S JUSTICE SYSTEM 2024





Published by

National Council on the Administration of Justice

5th Floor, Mayfair Center

Ralph Bunche Road

P.O. Box 30041-00100

Nairobi, Kenya

Contact Information

Email: ncaj@court.go.ke

Website: www.ncaj.go.ke

This publication may be reproduced in whole, in part, or in any form for educational or non-profit purposes without special permission from the copyright holder, provided the source is acknowledged.

The Development of this Strategic Guiding Framework was supported by:



**Food and Agriculture
Organization of the
United Nations**



NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE

MANDATE

The National Council on the Administration of Justice (NCAJ) is established as a high-level policymaking, implementation and oversight body comprising state and non-state justice actors. The Council is mandated to ensure a coordinated, efficient and consultative approach in the administration of justice, and reforming the Kenyan justice system



VISION

A coordinated and cohesive justice sector serving the people in Kenya.



MISSION

To ensure a coordinated and consultative approach in the administration of justice by bringing together key actors to collectively develop and pursue reform priorities and strategies.



VALUES

- | | |
|---|--|
| <input type="checkbox"/> Accountability | <input type="checkbox"/> Constitutionalism |
| <input type="checkbox"/> Consultation | <input type="checkbox"/> Interdependence |
| <input type="checkbox"/> Public Service | <input type="checkbox"/> Innovation |

FOREWORD



Climate change is a critical concern in Kenya, with various sectors taking measures to counter its adverse impacts. To mitigate the adverse effects of climate change, the justice sector is expected to remain steadfast due to its crucial role in greening through upholding the rule of law, protecting rights and ensuring societal fairness. Fundamentally, the justice sector is committed to a coordinated approach in tackling the impact of the triple planetary crisis of climate change, biodiversity loss and pollution. The coordination of Kenya's justice system is vested under the National Council on the Administration of Justice (NCAJ), established under the Judicial Service Act 2011. Through NCAJ, this Strategic Guiding Framework for Greening Kenya's Justice System was developed.

The Framework calls for justice system agencies to integrate green practices into their core functions as a guide towards environmentally friendly practices. It outlines various elements of greening, such as functional, physical, policy, legislative, rights-based, procedural, technology adoption, community engagement, and human resources, all of which are to be undertaken by NCAJ and its agencies. These elements embody a holistic approach to protecting our environment, marking a step forward in the quest for a more harmonious relationship with nature.

This Framework emphasises the vision of having a country where justice is an enabler of ecological preservation. Through the implementation of comprehensive greening measures in this Framework, the justice system is primed to advocate environmental responsibility and practice it, setting a benchmark for sustainable operations. The Framework manifests a profound recognition that the fight against environmental crimes necessitates not just reactions but pre-emptive and swift actions underpinned by an unwavering commitment by the Justice system. Hence, inculcating a culture of environmental consciousness into Kenya's justice system will remain a priority.

The quest to embed sustainability within the justice system requires a deep commitment to change and a concerted effort to protect Kenya's environment for future generations. Further, the push for a greener justice system requires relentless efforts as it is about reorienting practice constructs to sustain a liveable planet for tomorrow. The vision is about embedding green ethos into the justice sector fabric, cultivating a culture where green practices are fundamental to every decision and action. With this Framework, the justice system will remain innovative in addressing environmental challenges.

Hon. Justice Martha K. Koome, EGH
Chief Justice of the Republic of Kenya &
Chairperson, National Council on the Administration of Justice

ACKNOWLEDGEMENTS



This Strategic Guiding Framework for Greening Kenya’s Justice System affirms the commitment to embracing sustainability as a cornerstone of justice. It signifies a renewed pursuit of protecting the environment and upholding the rule of law. The development of this Framework signifies strong commitment and concern by justice system institutions to preserve nature for future generations. It aims to foster a shared commitment towards a more resilient and environmentally conscious justice system ready to confront emerging ecological challenges. For this reason, the tremendous efforts of the justice sector actors are exceptionally acknowledged and appreciated.

I express profound gratitude to the NCAJ, led by its Chairperson, the Hon. Justice Martha K. Koome, the Chief Justice of the Republic of Kenya, for its steadfast dedication to green Kenya’s justice system. I am immensely thankful to all other Council members for their enormous contribution and for providing crucial information for developing this Framework. Moreover, the contribution of technical representatives of NCAJ agencies through Focus Group Discussions was phenomenal.

The NCAJ Secretariat’s dedication to developing this Framework is highly appreciated. Special appreciation goes to Dr. Moses Marang’a, the Executive Director, and Ms Cynthia Olwande, Head of the Monitoring, Evaluation and Learning Department, for their hard work while developing this Framework. Ms. Susan Ouko, Head of the Criminal Justice Reforms Department, Mr. Edgar Ayongah, Ms. Irene Ndirangu, and Mr. Eliud Githua also provided remarkable support in developing this Framework. Additionally, Prof. Jack Mwimali, Editor/CEO at the National Council for Law Reporting and Mr. Dominic Nyambane, Assistant Director of Planning and Organisational Performance at the Judiciary, offered exceptional expertise that improved this Guiding Framework.

Lastly, I extend special appreciation to the Government of Kenya, the United Nations Environment Programme (UNEP), the Food and Agriculture Organization (FAO) and the Federation of Women Lawyers (FIDA-Kenya) for the financial support towards developing this Framework. This Guiding Framework will nurture a justice system that is inspired by the cause of safeguarding the environment for posterity. It affirms that Kenya’s justice system is a formidable environmental protection champion committed to promoting a harmonious coexistence between nature and humanity.

Hon. Winfridah B. Mokaya
Chief Registrar of the Judiciary &
Secretary, National Council on the Administration of Justice

ABBREVIATIONS AND ACRONYMS

CSOs	-	Civil Society Organisations
EACC	-	Ethics and Anti-Corruption Commission
EGB	-	Employee Green Behaviour
EMCA	-	Environment and Management Co-ordination Act
FAO	-	Food and Agriculture Organization
FGD	-	Focus Group Discussions
FIDA	-	Federation of Women Lawyers
GES	-	Green Economy Strategy
GHG	-	Greenhouse Gases
GJS	-	Greening the Justice System
HRM	-	Human Resource Management
ICT	-	Information and Communications Technology
KGI	-	Key Greening Indicators
LSK	-	Law Society of Kenya
MTP	-	Medium Term Plan
NAP	-	National Action Plan
NCAJ	-	National Council on the Administration of Justice
NCCAP	-	National Climate Change Action Plan
NDC	-	Nationally Determined Contribution
NEMA	-	National Environment Management Authority
NLAS	-	National Legal Aid Service
NPS	-	National Police Service
OAG&DOJ	-	Office of the Attorney General and Department of Justice
ODPP	-	Office of the Director of Public Prosecution
PACS	-	Probation and Aftercare Service
SDGs	-	Sustainable Development Goals
UN	-	United Nations
UNEP	-	United Nations Environment Programme
UNODC	-	United Nations Office on Drugs and Crime

TABLE OF CONTENTS

FOREWORD	iii
ACKNOWLEDGEMENTS	iv
ABBREVIATIONS AND ACRONYMS	v
TABLE OF CONTENTS	vi
EXECUTIVE SUMMARY	vii
1. BACKGROUND	1
1.1 Introduction	3
1.2 Objectives of the Strategic Guiding Framework.....	3
1.3 Rationale for the Strategic Guiding Framework.....	4
1.4 Methodology for Developing the Strategic Guiding Framework.....	4
1.5 Scope of the Strategic Guiding Framework.....	4
2. ESSENTIAL ELEMENTS FOR GREENING THE JUSTICE SYSTEM	5
2.1 Introduction	7
2.2 Elements for Greening the Justice System.....	7
2.2.1 Functional Greening.....	7
2.2.2 Physical Greening.....	9
2.2.3 Policy Greening.....	9
2.2.4 Legislative Greening.....	9
2.2.5 Procedural Greening.....	10
2.2.6 Technology Adoption Greening.....	10
2.2.7 Human Resource Greening.....	10
2.2.8 Community Engagement Greening.....	11
2.2.9 Rights-Based Greening.....	11
3. GREENING KENYA'S JUSTICE SYSTEM	13
3.1 Introduction	15
3.2 Legal Framework for Greening Kenya's Justice System.....	15
3.3 Policy Framework for Greening Kenya's Justice System.....	17
3.4 Institutional Framework for Greening Kenya's Justice System.....	19
3.5 Extent, Depth and Recommendations for Greening Kenya's Justice System	25
4. IMPLEMENTATION OF GREENING IN KENYA'S JUSTICE SYSTEM	27
4.1 Introduction	29
4.2 Essential Greening Implementation Steps	29
4.3 Green Monitoring, Evaluation, Reporting and Learning.....	29
4.3.1 Monitoring and Evaluation.....	29
4.3.2 Reporting.....	30
4.3.3 Learning.....	30
4.4 Review of the Strategic Guiding Framework.....	30
APPENDICES	31
A. Implementation Matrix for Greening Kenya's Justice System.....	33
B. Questionnaire for Gathering Feedback on Greening Kenya's Justice System.....	60
C. Template for use in Monitoring Progress on Greening the Justice System.....	61

EXECUTIVE SUMMARY



The modern world requires the pursuit of justice and environmental stewardship to meld seamlessly at a balanced scale. This reality underscores the profound urgency of integrating environmental strategies within the justice system's functioning and service delivery. Consequently, this Strategic Guiding Framework for Greening Kenya's Justice System was developed to support a coordinated environmental protection and sustainability approach.

The Framework responds to the global call for ecological stewardship, drawing from Kenya's commitment and obligations to the achievement of Sustainable Development Goals and Agenda 2063. It also responds to the aspirations set out in Kenya's Vision 2030, especially the Medium-Term Plan IV (2023-2027), which mainstreams climate change interventions across sectors of the economy. Central to this Framework is the justice system's active role in upholding the rule of law while nurturing environmental sustainability and protecting those who are most vulnerable and marginalised.

The Framework focuses on greening initiatives for the Justice System and its institutions and provides a roadmap for implementation. It was developed through a comprehensive analysis of policy, legal and institutional frameworks and a rigorous examination of opportunities for greening the justice system. It covers an in-depth review of institutional blueprints, strategic documents and reports. Moreover, stakeholder engagement through a Focus Group Discussion with justice sector actors was done. The discussions were supplemented using insights from the NCAJ Research Paper titled *Greening the Justice System: Theories, Frameworks, Elements and Practice Imperatives*.

Greening the justice system consists of numerous interconnected elements, each with a wide array of practice recommendations. These greening elements are functional, physical, legislative, policy, procedural, technology adoption, human resources, rights-based and community engagement. They are expounded as follows:

Functional Greening: Integrating environmental sustainability goals and practices in the undertaking of mandates of justice sector agencies.

Physical Greening: Encompassing green practices in constructing and renovating justice sector buildings to enhance biodiversity and mitigate climate change's adverse impacts.

Policy Greening: Developing or revising policies to promote sustainable practices and ensure the justice system responds effectively to emerging environmental threats.

Legislative Greening: Developing or reviewing laws while ensuring compliance with emerging regulations on greening and environmental protection.

Procedural Greening: Revolutionising institutional operational processes and procedures to minimise GHG emissions and mitigate against the adverse effects of climate change.

Technology Adoption Greening: Integrating technology within the justice sector to protect the environment, minimise the carbon footprint and promote sustainability.

Human Resource Greening: Using Human Resources Management practices to reinforce sustainable practices and increase employee commitment to environmental protection.

Rights-Based Greening: Addressing environmental challenges by embracing and embedding inherent rights, humans and non-humans, on environmental protection.

Community Engagement Greening: Deepening society's comprehension of its role and that of the justice sector in environmental protection and sustainable development.

The Framework recommends a structured approach for justice sector agencies to embed sustainability into their core functions and daily operations. For each of the aforementioned greening elements, a detailed Implementation Matrix has been provided. The Matrix captures greening programs and activities, each with Key Greening Indicators to measure achievements. Four implementation steps have been proposed, namely, conceptualisation, planning, execution and entrenching sustainability safeguards. These steps are summarised as follows:

Conceptualisation entails determining the greening goals and targeted interventions and gaining leadership support.

Planning covers the identification of Key Greening Indicators and strategies for implementation.

Execution involves actual greening by implementing the planned greening projects, programs and activities.

Entrenching Sustainability entails institutionalising greening and rendering it part of the institutional ethos, work methods and learning process.

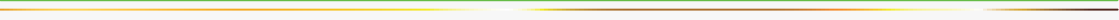
For seamless implementation, justice sector agencies are urged to form institutional implementation committees to guide the greening process, address emerging challenges and opportunities, and advise their leadership. Further, the agencies should develop their Action Plans to cover their sub-units, directorates, departments or regional offices. While implementing greening practices, the Framework emphasises the importance of monitoring, evaluation, reporting and learning at the sectoral and institutional levels.

Marang'a W. Moses, Ph.D., MBS
Executive Director
National Council on the Administration of Justice



BACKGROUND





1. BACKGROUND

1.1 Introduction

The escalating climate change crisis remains a pressing global issue, presenting significant risks to environmental sustainability and the well-being of future generations. Further, the adverse effects of climate change threaten the observance of the rule of law and the maintenance of social order. In response to the challenges associated with climate change, governments, policymakers, individuals, international entities and academic institutions have been instituting measures to counteract the detrimental effects.

For instance, the Sustainable Development Goals (SDGs) emphasise the critical need for actions that foster sustainable development and tackle a spectrum of global challenges, including climate change, environmental degradation, poverty, inequality, and the pursuit of peace and justice. On a regional scale, the African Union's Agenda 2063 sets forth a vision for Africa's socio-economic transformation, acknowledging the profound impact of climate change on the continent's development, particularly concerning food security and socio-economic stability.

In Kenya, the dedication to mitigate the harmful effects of climate change has remained a priority. For instance, the Kenya Vision 2030 articulates initiatives to bolster environmental sustainability, with further elaboration in successive Medium-Term Plans. To realise the aspirations of the Vision, the justice system remains at the forefront, especially in addressing the climate change crisis through enforcing the rule of law. The justice sector, recognising its essential role, is committed to enhancing environmental protection and advancing greening initiatives.

For this reason, the National Council on the Administration of Justice (NCAJ) has developed this Strategic Guiding Framework for Greening Kenya's Justice System. The development of the Framework aligns with NCAJ's mandate of ensuring a coordinated and reforming justice sector. The Framework will serve as a comprehensive guide, offering both overarching and institution-specific recommendations for environmental protection. It guides justice sector stakeholders on strategic actions for ecological sustainability.

The Framework will empower the justice sector to optimally contribute to environmental stewardship by providing a structured approach to greening. It will serve as a blueprint for the efficient and effective greening of justice sector institutions. The Framework integrates sustainable practices into the justice system's core function, reinforcing Kenya's commitment to environmental preservation and climate action. In addition, the Framework guides the justice sector in safeguarding the environment for present and future generations.

1.2 Objectives of the Strategic Guiding Framework

The objectives of this Strategic Guiding Framework are:

- i. To ensure a coordinated approach to environmental protection and sustainability by Kenya's Justice System.
- ii. To integrate environmental protection and sustainability practices into the functioning of the Justice System agencies.
- iii. To guide Justice Sector agencies on the effective implementation of greening initiatives.

1.3 Rationale for the Strategic Guiding Framework

The Strategic Guiding Framework presents a comprehensive set of strategies and interventions designed to embed environmental sustainability within the core functions and daily operations of justice sector actors in Kenya. It addresses the unique needs and responsibilities of justice sector agencies under the collaborative umbrella of the NCAJ. The Framework also seeks to ensure that the greening agenda is cascaded across the justice system, facilitating a unified and practical approach to strengthen environmental stewardship and sustainable development.

The Framework will also serve as the overarching guide for developing institutional Action Plans for greening the justice sector agencies. Thus, it will be a useful reference point for expanding or customising individual institutional needs. The Framework not only delineates steps for implementation but also establishes a shared vision for a greener, more resilient justice system prepared to meet Kenya's environmental challenges for posterity. It emphasises the importance of accountability in preserving the environment.

1.4 Methodology for Developing the Strategic Guiding Framework

A comprehensive analysis of the existing functional, policy, legal and practice imperatives was undertaken to develop this Strategic Guiding Framework. The analysis covered the greening initiatives within the justice sector institutions drawing from international and regional treaties, policies, laws and practices. In the analysis, a thorough review of institutional blueprints, strategic documents and reports, and engagement of stakeholders was carried out by NCAJ. Moreover, the NCAJ Research Paper titled *Greening the Justice System: Frameworks, Theories, Elements and Practice Imperatives*, also informed the recommendations provided in this Framework.

To support the analysis, a Focus Group Discussion (FGD) was convened having technical experts from justice sector agencies, offering a platform to share perspectives on greening. The discussions were supplemented by technical experts filling out a questionnaire that delved into existing and proposed greening initiatives. These methods provided a robust approach for assessing and recommending optimal measures and initiatives for greening. This methodology has laid the groundwork for future enhancements, ensuring that Kenya's justice system aligns with global strides in environmental conservation.

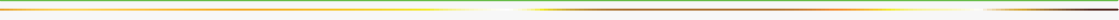
1.5 Scope of the Strategic Guiding Framework

This Strategic Guiding Framework covers the greening of Kenya's Justice System. However, other justice systems across the world can draw essential inferences. The Framework covers the agencies with both primary and supporting functions. It delves into diverse aspects or tenets of greening, as elucidated in Chapter Two. Although the time scope for the implementation is continuous, most of the recommendations in the Implementation Matrix are short-term in nature (less than a year), with a few ones extending to mid-term (between 1 and 3 years) and long-term (3 to 5 years).



ESSENTIAL ELEMENTS FOR GREENING THE JUSTICE SYSTEM





2. ESSENTIAL ELEMENTS FOR GREENING THE JUSTICE SYSTEM

2.1 Introduction

Greening the justice system consists of numerous and interconnected elements. These elements form the essential tenets deemed crucial for greening. This chapter, therefore, explains each of these elements to render a shared understanding of what greening entails. Drawing from these elements, justice actors can adopt or expound the recommendations for each one or customise them to suit their suitability for implementation. Whereas all the elements are essential, it is imperative that justice sector actors prioritise greening their core mandates or functions.

2.2 Elements for Greening the Justice System

The overarching elements for greening the justice system are functional, physical, legislative, policy, procedural, technology adoption, rights-based, community engagement and human resources. The figure below summarises these greening elements.



These elements have been conceptualised from diverse sources. Notably, greening theories, legal and normative frameworks, principles, and global practice imperatives have underpinned these elements¹. For instance, several principles underpin greening elements, namely, the principles of efficacy, legality, social and ecological dominance, and coherence. The principle of efficacy focuses on having a well-designed and evidence-based strategy

¹ See details in the NCAJ Research Paper titled *Greening the Justice System: Frameworks, Theories, Elements and Practice Imperatives*.

for environmental protection, advocating for continuous measurement and determination of progress through having a supporting monitoring and evaluation framework. Also, non-interference with fundamental rights and freedoms is crucial as a principle. Additionally, the principle of social and ecological dominance provides a new frontier for measuring climate change risk. Moreover, there is a need for coherence in the implementation of the interconnected greening programmes, pointing to the need for a systems approach to crosscutting justice sector greening interventions.

2.2.1 Functional Greening

Functional greening requires the inclusion of environmental sustainability goals and practices into the institutions' core mandates. The aim is to enhance service delivery while mitigating the negative effects of climate change. Further, functional greening calls for agencies to work collaboratively and ensure that environmental protection is taken into consideration during service delivery. The following are highlights of some interventions on functional greening across the justice sector.

Greening Investigations and Arrests

To address the challenges of environmental protection, greening in the upstream of the justice system by all law enforcement and investigative agencies is essential. First, setting timelines for investigating environmental offenses is crucial to speed up the justice process. The setting of timelines would ensure that infractions are dealt with swiftly, minimizing damage and deterring potential violators. Moreover, prevention plays a key role. By intensively monitoring protected areas, individuals or corporations that are more likely to commit environmental offenses, it is possible to pre-empt and stop many violations.

Greening Prosecutorial Process

In a world increasingly aware of the fragility of its ecosystems, the quest for effective prosecution of environmental crimes underscores new dimensions. With the complexities of environmental conservation, the development of specialised prosecutorial guidelines is crucial as a foundation for holding individuals and corporations accountable for their actions. The journey towards environmental justice also involves identifying and prosecuting those who cause harm. Also equipping prosecutors with the knowledge and tools for effective trial is paramount. In cases of minor environmental offences, offenders can be offered a chance to make amends through eco-friendly community projects as an alternative to prosecution. For those facing the criminal justice system, providing affordable bail and bond terms with environmental protection clauses is desirable.

Greening the Trial Process

Strengthening environmental justice requires a transformative approach to mitigate challenges posed by environmental harms and crimes. Central to this transformation is revamping the trial and sentencing approach to ensure that penalties for environmental offences are not only just but also effective deterrents. The approach further entails courts awarding appropriate compensatory and restorative orders where environmental harms and crimes are committed. Hence, recognising the importance of timely justice and establishing

timelines that expedite the resolution of environment-related cases is required.

Moreover, expanding community justice centres and other alternative environmental dispute resolution systems should be explored. These avenues offer a more localised and accessible means for resolving environmental disputes, embodying a community-centric approach to environmental justice. Establishing and operationalising specialised courts is another pivotal intervention for enhancing access to justice by focusing on environmental cases. Additionally, the promotion of jurisprudence that upholds the sustainability of the environment is recommended. The promotion entails a deep commitment to legal principles and practices that penalise environmental harm and proactively safeguard the environment for future generations.

Greening Correctional Services

The concept of integrating environmentally friendly practices within correctional facilities has gained momentum. A desirable scenario is where the offenders are not just serving time but are also being trained on green economy and sustainability. By promoting sustainable and ethical processes, products, and partnerships, these facilities can become exemplary models of eco-consciousness. This shift can also affect the broader market as the products and services emerging from these institutions begin to reflect a commitment to environmental sustainability. Adjusting offender re-entry programs to include a comprehensive understanding and skills in the green economy would support sustainability since offenders would be prepared to adequately reintegrate into society as informed citizens.

Greening the Legal Practice and Education

The need for continuous legal reforms and interventions on greening is paramount. Reducing the legal sector's environmental footprint and embracing more sustainable ways of conducting business is encouraged. For instance, law firms can adopt and promote sustainable practices by institutionalising public interest litigation specifically focused on environmental harms and crimes. This initiative aims not only to bring justice to those directly affected but to also set a precedent that discourages future violations. The legal community can also offer pro-bono legal services to the most vulnerable and marginalised, particularly those affected by climate change, as they endure devastating effects without resources to seek redress. Additionally, upscaling advisories to public-sector institutions on compliance with national and international environmental obligations while proposing amendments or enacting new environmental protection legislation is desirable.

2.2.2 Physical Greening

The physical greening of the justice sector is multifaceted. From the grand scale of building design to the everyday choices in office supplies and transportation, it embodies a profound respect for the environment. It involves integrating greening practices in constructing and renovating buildings to enhance biodiversity, mitigate the impacts of climate change, and bolster environmental sustainability. It is vital in ensuring that physical amenities and office equipment are environmentally friendly and green-compliant. Moreover, physical greening

entails creating multi-purpose or multi-institutional buildings to reduce travel distances, enhance fuel economy and lower greenhouse emissions.

The commitment to physical greening should also be reflected in the choice of materials, energy sources, and design to minimise environmental impact. Using alternative energy sources like solar, wind and geothermal should be a priority. It also involves embracing energy-efficient equipment and transportation, like green fleets to reduce waste and carbon emissions. The push for energy efficiency extends to simple yet impactful measures related to office operations, such as turning off unnecessary lights and deploying intelligent power strips for computers and other plug-in devices. It is also crucial for the justice system agencies to manage resources and waste disposal conscientiously.

Tree planting by the justice sector institutions is also an essential aspect of physical greening as it reinforces the sector's commitment to environmental protection. Additionally, having green spaces within the justice system institutions promotes physical greening and improves the overall tranquillity of justice sector institutions. To achieve this, buildings and facilities associated with the justice sector should be built or refurbished to meet green building standards.

2.2.3 Policy Greening

Policy greening involves developing policies that promote environmentally sustainable practices. These policies are paramount to ensure a sustainable justice system. It is essential to develop a comprehensive justice sector policy or strategy to guide actions and decisions. The policies should be designed to uphold the rule of law, protect environmental and human rights and ensure that the justice system responds effectively to emerging threats with resolve. Policy greening also supports the justice system to foster a more holistic approach to sustainability that respects and learns from the long-standing relationship between humans and their natural environment. Further, there is need for establishing a robust framework to monitor and evaluate progress, ensuring that green initiatives translate into tangible actions and outcomes.

2.2.4 Legislative Greening

In the realm of legal reform, a significant emphasis is being placed on legislative greening. Legislative greening entails developing new laws or reviewing existing ones to ensure their compliance with emerging dictates of greening and environmental protection. The aim is to enhance the justice system's legal processes that support administration of justice. By strengthening environmental law and the legal frameworks, the justice system can adequately safeguard the environment. This commitment extends to legal education and training, ensuring that those who enforce and interpret the law are well-versed in the nuances of environmental protection. Another integral component of legislative greening is strengthening mechanisms for enforcing environmental rights and holding governments and private institutions accountable for environmental harms and crimes.

2.2.5 Procedural Greening

Procedural greening is about fostering a sustainable relationship between society and the justice system by revolutionizing operational procedures to protect the well-being of future generations. Procedural greening provides that the justice sector embrace sustainability as a guiding principle for operations. Hence, procedural greening entails ensuring that the ideal greening practices are embedded in most or recurrent procedures in justice sector institutions. At its core, procedural greening prioritizes ethical and sustainable resource management. This includes, but not limited to, entrenching robust procurement, financial and human resource procedures. Moreover, conducting in-depth research on greening and environmental protection to uncover new insights is essential.

2.2.6 Technology Adoption Greening

Technology adoption greening refers to the process of integrating environmentally friendly technology and practices within the justice sector to reduce the environmental impact, increase energy efficiency and promote sustainability. It also aims to enhance the efficiency of existing institutional processes and procedures to minimise the carbon footprint of the sector to a more sustainable environment. The digitalisation of these processes would reduce mobility, wastage and use of paper and enhance virtual engagements, among other interventions. Adoption of technology would ensure that the justice sector's environmental footprint is considerably diminished and access to justice enhanced.

2.2.7 Human Resource Greening

Human resource greening entails using Human Resources Management (HRM) practices to reinforce environmentally sustainable practices amongst employees. It is a strategy aimed at fostering deep-rooted employees' respect and responsibility towards the environment. The Strategy provides a transformative approach that marries traditional human resource management policies with the urgent necessity for sustainability. Green HRM recognises that leadership within an institution plays a pivotal role in greening the justice system. Establishing a leadership network dedicated to environmental sustainability is, therefore, desirable to facilitate the sharing of knowledge. Moreover, instilling a culture where every employee's action is measured against its environmental impact is encouraged. This should be coupled with training and continuous professional development.

Whether reducing waste, promoting recycling or making more energy-efficient choices, Employee Green Behaviour (EGB) contributes to a sustainable future. Moreover, integrating environmental sustainability goals into employees' performance metrics would align personal achievements with green values and planetary well-being. Holding everyone accountable, from the newest recruit to the highest-ranking official, is essential. Therefore, by cultivating EGB, integrating sustainability into performance metrics, promoting a green culture, establishing a leadership network, implementing compliance measures, and enhancing employee capacity, the justice system can lead by example in the global quest for environmental sustainability.

2.2.8 Community Engagement Greening

Community engagement plays a vital role in creating a greener, more resilient justice system that prioritises environmental well-being for present and future generations. It is crucial in ensuring the successful implementation of greening initiatives to deepen the comprehension of the justice sector's pivotal role in upscaling climate change actions. The ultimate goal is championing green practices within justice agencies and the broader community, bolstering environmental preservation. Envisioning a sustainable relationship between the community and the justice system would support the responsible use of resources and generate both absorbable and sustainable outcomes by society.

Integral to revamped community engagement are targeted interventions designed to make a tangible impact on lives. These include raising public awareness about evidence-based environmental justice administration approaches and informing future operations. Recognising the vital role of education, engaging young people who might be predisposed to committing environmental crimes is required. Furthermore, the initiative calls upon the private sector to adopt a proactive stance in accountability and transparency, ensuring their operations do not contribute to environmental degradation.

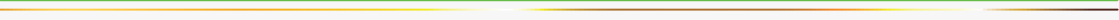
2.2.9 Rights-Based Greening

Rights-based greening represents an innovative path to confronting environmental challenges by respecting inherent rights and embracing intersectionality of the environment with human and non-human rights. Central to rights-based greening is the justice sector's active role in upholding justice, nurturing environmental sustainability, and protecting the most vulnerable and marginalized. In seeking solutions, the justice sector should advocate and adopt environmental human rights as a foundational principle for environmental protection. Additionally, rights-based greening should be mainstreamed in all justice system's greening elements to signal a deeper commitment to their holistic implementation.



GREENING KENYA'S JUSTICE SYSTEM





3. GREENING KENYA'S JUSTICE SYSTEM

3.1 Introduction

In developing this Strategic Guiding Framework, it was paramount to determine the extent and depth of greening Kenya's justice system and consequently guide or provide recommendations for greening. To achieve this, a review of legal, policy and institutional imperatives with a bearing on the greening was done. Secondly, a Focus Group Discussion (FGD) was organised, and a questionnaire was administered to members of the NCAJ Technical Committee. The feedback obtained was then analysed, and an Implementation Matrix was prepared. To supplement the recommendations in the Implementation Matrix, useful insights were also drawn from the NCAJ Research Paper titled *Greening the Justice System: Frameworks, Theories, Elements and Practice Imperatives*.

Therefore, this Chapter has provided a review of the existing legal, policy and institutional imperatives that support the greening of Kenya's justice system. The Chapter has also provided recommendations for greening Kenya's Justice System, most of which have been synthesised in the Implementation Matrix (*See Appendix A*). From the analysis of questionnaires, review of the regulatory framework and drawing of insights from research work, evidence exists on greening Kenya's Justice System. However, the depth and extent of greening remain an area of continuous exploration and improvement. It is envisaged that the myriad recommendations in the Implementation Matrix will offer a vantage starting point.

3.2 Legal Framework for Greening Kenya's Justice System

Legal issues intersect with environmental agendas and concerns from different perspectives. Primarily, a symbiotic relationship exists between the observance of the rule of law and environmental protection. A supportive legal framework would help mitigate negative environmental impacts and support sustainability. Conversely, mitigating climate change adversities would create a peaceful society with fewer challenges for the justice actors and the society. Some legal imperatives with a significant bearing on greening Kenya's justice system are highlighted below.

The Constitution of Kenya

The Constitution provides and embeds the principles of environmental sustainability and action on climate change. The preamble to the Constitution recognises the country's commitment to preserving the environment as a heritage and ensuring its sustainability for future generations. Further, Article 2(5) allows for the adoption of international environmental laws into Kenya's legal framework and establishes that the general principles of international law, including those of international environmental law, are part of Kenyan law. Specifically, Article 2(6) states that any treaties or conventions ratified by Kenya shall be part of the law in Kenya. Kenya has either signed, acceded to or ratified most global and regional treaties on environmental matters.

Article 10 of the Constitution recognises sustainable development as a national value and principle of governance, emphasising the importance of environmental protection. The Constitution also accentuates the need to safeguard the environment to enhance human dignity. This is drawn from Article 10(2)(b), which states that respecting human dignity and rights and protecting marginalised groups are part of the national values and principles of governance. Therefore, implementing interventions to assist vulnerable and marginalised persons affected by climate change is crucial. Moreover, the right to a clean environment is considered a human right in Kenya. Article 42(a) recognises the right to have the environment protected for the benefit of present and future generations. Further Article 69(2) compels every person to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development.

Environment and Management Co-ordination Act (EMCA), 1999 (CAP. 387)

The Act is one of Kenya's premier environmental law statutes and provides for establishing legal and institutional guides for the management of the environment. This has been achieved by establishing the National Environmental Management Authority (NEMA) and formulating the National Environmental Action Plan. The primary objective underlying the enactment of EMCA was to bring harmony in managing the country's environment. The Act has many provisions that underpin the greening of the justice system. Notably, it provides for conducting Environmental Impact Assessments (EIAs) for proposed projects for potential environmental impacts. Violating this provision may require the involvement of the justice system actors if there is a need for arrest, prosecution and trial.

Further, the Act emphasises adherence to environmental quality standards and controlling pollution. It also provides for enforcing established benchmarks to safeguard the environment against various forms of pollution, including developing guidelines for the proper disposal of waste. Additionally, the Act emphasises the need for public participation in environmental education, recognising the significance of public engagement and awareness in fostering a culture of environmental responsibility. These actions necessitate the intervention by justice system institutions whenever violations occur.

Climate Change Act, 2023 (CAP. 387A)

The Climate Change Act integrates environmental conservation with the nation's economic framework, from developmental planning to shaping decisions and actions towards a sustainable future. It sets out a regulatory framework for responding to climate change and transitioning to low-carbon emissions, marking a pivotal shift towards sustainability. It envisions the existence of comprehensive programmes to bolster the resilience of humans and natural ecosystems against the evolving threats of climate change. Moreover, it places a high value on community involvement and responsibility, advocating for a participatory approach to climate change solutions.

A crucial aspect of the Act is the embedding of the principle of sustainable development into the core of planning and decision-making processes related to climate change. It aims to integrate climate change considerations into the broader exercise of power, promoting a cooperative climate governance framework that bridges the gap between national and local levels of administration. It supports efficient mobilization and transparent management of financial resources for climate change initiatives.

The Act reinforces the National Climate Change Action Plan (NCCAP) and the Green Climate Fund (GCF), which are instrumental in Kenya's quest for sustainable development. It underscores the importance of strict regulation enforcement and accountability. Additionally, the Act encourages green investments and supports sustainable practices such as the use of renewable energy and other climate-resilient projects in the justice sector and beyond. It is essential in guiding the integration of the NCCAP into the justice sector's strategies and actions.

Sustainable Waste Management, 2022 (CAP. 387C)

This legislation establishes a legal and institutional framework for sustainable waste management in line with the constitutional right to a clean and healthy environment. It also requires integration of sustainable consumption into daily practices and behaviours. Consequently, the justice sector should ensure that it enhances sustainable waste management through the interpretation and enforcement of pollution control clauses, regulations and principles.

Energy Act, 2019 (CAP. 314)

The Energy Act aims to promote the use of alternative, sustainable, and renewable energy sources to support environmental efforts and combat climate change. The Act regulates renewable energies such as biodiesel, bioethanol, biomass, solar, wind and hydropower. The Act also mandates the government to ensure affordable energy services for the public. Given its comprehensive coverage of energy-related issues, it is essential for the justice sector to embrace renewable energy sources and strengthen the implementation of this Act.

3.3 Policy Framework for Greening Kenya's Justice System

Several policies in Kenya address various aspects of environmental sustainability. Although most of them do not explicitly focus on greening the justice system, myriad inferences can be drawn. A few of the overarching ones are highlighted below.

Vision 2030 and Medium-Term Plans

Launched in 2008, Kenya's Vision 2030 Blueprint supports the social development of Kenyans, securing their right to a healthy and clean environment. The implementation of the Vision has been broken down into five-year Medium Term Plans (MTPs). With respect to reducing the adverse impacts of climate change, MTP II (2013-2017) provided the foundation of the National Climate Change Action Plan I (2013-2017).

The MTP III (2018-2022) delved further into the National Climate Change Action Plan II (2018-2022), focusing on promoting low-carbon climate resilience and green growth development. MTP IV (2023-2027) continues to mainstream climate change interventions across all sectors of the economy, implement best practices, and accelerate the achievement of the SDGs and Agenda 2063. The justice actors are expected to enforce and advocate for sustainable initiatives and internally adhere to environmental safeguards.

Green Economy Strategy, 2016-2030

The Green Economy Strategy (GES) 2016-2030 aims to assist Kenya in achieving a low-carbon, resource-efficient, equitable and inclusive socio-economic transformation. This is to be realised through, among others, economic resilience, resource efficiency, sustainable management of natural resources, and development of sustainable infrastructure. GES has five focal areas, namely, sustainable infrastructure development, building resilience, sustainable natural resources management, resource efficiency, social inclusion and sustainable livelihood. A set of principles guides the implementation of GES. These are equity and social inclusion, resource efficiency, polluter-pays-principle, precautionary principle, good governance and public participation.

Though one of the implementation principles of GES is that of good governance, the enhancement of the rule of law is mentioned but not elaborated. To address this gap, this Strategic Guiding Framework for greening the justice system has unpacked the nexus between the rule of law as a function of justice system agencies and the utility of environmental protection. Under the Paris Agreement, Kenya is obligated to submit its Nationally Determined Contribution (NDC) every five years. The NDC commits Kenya to a 32 per cent reduction in greenhouse gas emissions by 2030. The justice sector is crucial in enabling these actions.

National Climate Change Action Plan (NCCAP), 2023-2027

The NCCAP aims to support Kenya's development goals by providing mechanisms and measures to achieve low-carbon and climate-resilient development. The Action Plan also serves as a crucial tool to support the implementation of the NDC measures in line with the aspirations of Vision 2030. It focuses on adaptation and mitigation actions across policy and regulatory environments, capacity building, knowledge management, technology and innovation, climate finance, and monitoring, reporting and verification. Moreover, NCCAP advocates a shared responsibility and effective coordination between the national and county governments on climate change issues during implementation. Given this perspective, the justice sector has the opportunity to leverage pre-existing mechanisms to facilitate capacity development and the exchange of knowledge among justice.

NCAJ Strategic Plan, 2021- 2026

The NCAJ Strategic Plan 2021-2026 aims to ensure a coordinated justice sector in line with the aspirations of the Judicial Service Act 2011. NCAJ is established as a high-level policymaking, implementation and oversight body to ensure a coordinated, efficient and consultative approach in the administration of justice, and reforming the Kenyan justice system. It is comprised of both state and non-state actors. Under the Strategic Plan, the deepening of criminal justice and civil justice reforms is paramount, coupled with ensuring a coordinated justice sector. Greening the justice system, therefore, is a reform imperative touching diverse aspects of the administration of criminal and civil justice, a coordinated justice sector and access to justice for the vulnerable groups.

Kenya National Adaptation Plan (NAP), 2015-2030

The NAP is a part of Kenya's adaptation strategy demonstrating the country's commitment to implementing the NCCAP through mainstreaming adaptation across all sectors. The rationale for the NAP is that all our socioeconomic sectors are vulnerable to climate change impacts. It focuses on current and future climate trends, identifies vulnerabilities to climate change, and facilitates the integration of climate change adaptation into new and existing policy and legal frameworks. The Plan also covers monitoring and evaluation processes for the short, medium and long strategies and programmes. The justice sector can integrate climate action into its functioning and ensure that the appropriate public and private sector actors effectively implement measures to improve climate change adaptation. The justice system is also pivotal in the rule of law aspects related to NAP.

Sessional Paper No. 5 of 2016 on National Climate Change Framework Policy

The Sessional Paper No. 5 of 2016 on the National Climate Change Framework Policy was developed to facilitate a unified approach to addressing both national and global challenges associated with climate change. The Policy links sustainable national development and climate change to achieve low-carbon, climate-resilient development. It also aims at facilitating a coordinated, coherent and effective response to the local, national and global challenges and opportunities presented by climate change. Moreover, it provides that an institutional coordination mechanism be established to enhance multi-sectoral responses to climate change. The NCAJ, being the coordinating body for the justice sector, is primed to partner with other coordinating bodies and ensure that greening initiatives are adopted and implemented throughout the justice sector.

National Energy Policy, 2018

The Policy provides a comprehensive framework for facilitating clean, sustainable, affordable, competitive, reliable and secure energy while protecting the environment. It also aims at addressing the challenges facing the energy sector, among them, improving the quantity, reliability and quality of supply; reduction in high initial capital outlay. Further, it emphasises the use of renewable energy, namely geothermal, hydro, solar, wind, ocean energy, biomass, biofuels and biogas, to supply energy needs to current and future generations. The Policy recognises that establishing a robust legal and regulatory framework is crucial for effectively implementing and managing energy policies. It proposes various initiatives to ensure that the power generation capacity in the country is enhanced and diversified. The justice system's role in the Policy is to strengthen the administration of justice aspects related to the Policy and also ensure it uses renewable energies in its institutions.

3.4 Institutional Framework for Greening Kenya's Justice System

Strong institutions are a foundational basis for innovative mechanisms necessary to promote and contribute to greening and environmental sustainability. The following institutions provide the impetus for actions and decisions towards greening Kenya's Justice System. It is important to note that not all institutions analysed herein play a primary role, especially

when the justice system mandate is analysed from investigative, arrest, prosecution, trial and rehabilitation roles and the wider administration of civil justice functions. Some institutions play a crucial supportive role in the administration of justice, whose totality has a huge impact on the justice system's functioning.

Ministry of Environment, Climate Change and Forestry

The Ministry of Environment, Climate Change and Forestry is established to conserve, protect, and manage the environment and natural resources to support biodiversity and socio-economic transformation. On the strategic front, the Ministry endeavours, among others, to enhance environmental, climate change and forestry governance, and work towards having a resilient environment and forest ecosystems. Moreover, the following institutions support the Ministry in implementing its mandate.

a. National Environmental Management Authority (NEMA)

The National Environmental Management Authority (NEMA) is established under Section 7 of EMCA to exercise general supervision and coordination over matters relating to the environment and as the principal instrument of the Government in the implementation of all policies relating to the environment. It investigates complaints against individuals regarding suspected cases of environmental degradation or malpractices. NEMA also safeguards and strengthens the resilience of vulnerable communities from the adverse effects of climate change. The justice system acts as an enabler to enhance the mandate of NEMA, especially in investigations, arrests and trials of those violating environmental dictates and regulations.

b. National Climate Change Council

The Council, established under Section 5 of the Climate Change Act, ensures that the national and county governments mainstream the climate change function. It approves and oversees the implementation of the NCCAP and provides policy direction on climate change. This also entails collating and disseminating information relating to climate change to the national and county governments, the public and other stakeholders.

c. Climate Change Directorate

The Directorate is the lead governmental agency on national climate change plans and actions established under Section 9 of the Climate Change Act within the Ministry responsible for environmental matters. It provides support on climate change to the various ministries, agencies, and county governments. The Directorate is crucial to enhancing Kenya's resilience to the climate crisis, reducing GHG emissions and promoting sustainable development.

National Council on the Administration of Justice

The NCAJ was established under the Judicial Service Act of 2011 (CAP. 8A) to enhance the coordination of the administration of justice and reforms. As part of coordination, NCAJ strives to ensure that the justice sector promotes environmental sustainability and protects environmental rights. At the national level, NCAJ coordinated the development of this Guiding Framework and will be undertaking diverse actions enumerated in the

Implementation Matrix. As an intervention, the NCAJ established the Environment and Land (E&L) Justice Court Users Committees (CUCs) to improve justice delivery at the grassroots. These specialised CUCs streamline handling cases in the Environment and Land Courts. At the end of FY 2022/23, there were 37 E&L justice CUCs in Kenya. Beyond addressing inefficiencies in resolving environmental cases, the CUCs have been planting trees and undertaking public awareness campaigns about environmental and land issues.

National Police Service

The National Police Service (NPS) is established under the Constitution, the National Police Service Act, 2011 (CAP. 84), and the National Police Service Commission Act, 2011 (CAP. 85). The Service is crucial in maintaining law and order and supports other investigative and enforcement agencies on environmental protection matters. Though the NPS Strategic Plan does not explicitly provide for greening, the Service has aided the investigations of environmental crimes, and has been undertaking diverse greening initiatives, notably tree planting and digitisation.

Office of the Director of Public Prosecutions

The Office of the Director of Public Prosecutions (ODPP) has the mandate under the Constitution and the ODPP Act, 2013 (CAP. 6B) to institute and undertake the prosecution of criminal matters. Several environmental malpractices constitute crimes and are thus prosecuted by the ODPP. Although the ODPP's Strategic Plan (2016-2021) does not explicitly provide for greening, the Office has remained at the forefront of prosecuting environmental crimes. It has also developed a digital case management system with a high potential to reduce its carbon footprint.

Judiciary

Article 10 of the Constitution entrusts the Judiciary to administer justice through its courts. The Judiciary has been playing a vital role in greening by resolving environmental-related disputes. The Judiciary, through its Social Transformation through Access to Justice (STA) Blueprint, emphasises the need to enhance greening and the role of technology in service delivery. This emphasis is expected to assist the Judiciary in cutting down GHG emissions. The continuous judicial training on environmental law and practice has been empowering judges and judicial officers with the knowledge and skills to champion the cause of climate change. Venturing into sustainable energy, several court stations have turned to alternative sources such as solar power and biotechnology for waste management. The Judiciary has also operationalised specialised environmental courts and the National Environment Tribunal, delivering justice and contributing to the growth of environmental jurisprudence. Moreover, the technological transformation through diverse e-platforms, Case Tracking System and Enterprise Resource Planning (ERP) is crucial for greening.

Office of the Attorney General and Department of Justice

The Office of the Attorney General and Department of Justice (OAG&DOJ), established under the Attorney General Act, 2012 (CAP 6A), is mandated to promote the rule of law

and protect the public interest. The OAG&DOJ provides legal advisory to the Government, undertakes legislative drafting and civil litigation, and provides public trustee services. It also advises the Government on international law, agreements and treaties. Crucially, the OAG&DOJ recognises climate change as a formidable national challenge and has its Strategic Plan for 2023/24 to 2027/28 outlining a commitment to a greener future. The Plan pledges to develop socially responsible strategies to mitigate the Office's climate impact. It emphasises integrating green practices and processes in operational decisions for environmental stewardship. The Office is also supported by Witness Protection Agency, Victim Protection Board, National Legal Aid Service and National Council for Law Reporting (NCLR).

- a. ***Witness Protection Agency:*** Under the Witness Protection Act, 2011 (CAP. 79), the Agency's purpose is to provide a framework for giving special protection to witnesses with vital information who face potential risk or intimidation due to their cooperation with law enforcement agencies. The Agency's role in environmental sustainability is to provide special protection to witnesses who provide information to law enforcement agencies processing environmental crimes.
- b. ***Victim Protection Board:*** The Board is established to protect the dignity of vulnerable victims by establishing support programmes that assist and protect them, prevent victimisation at all levels, and provide information, reparations, and compensation from the offender. Additionally, the Victim Protection Act, 2013 (CAP. 79A) provides that the Board pursue restorative justice responses in a bid to support reconciliation. Therefore, the Board has a role in providing support to vulnerable victims affected by the impacts of climate change.
- c. ***National Legal Aid Service:*** The National Legal Aid Service (NLAS) is mandated under the Legal Aid Act, 2016 (CAP 16A), to provide legal aid services to indigent, marginalised, and vulnerable persons and promote legal literacy in Kenya. Therefore, it has a role in providing legal aid services to vulnerable and marginalised persons affected by climate change-related activities.
- d. ***National Council for Law Reporting:*** The National Council for Law Reporting (NCLR) is established under the NCLR Act, 1994 (CAP. 19A). It is responsible for preparing and publishing reports, referred to as Kenya Law Reports, which contain the courts' judgments, rulings and opinions. In this regard, the Council has an obligation to upscale the publication of reports related to environmental stewardship and greening.

State Department for Correctional Services

The State Department, domiciled under the Ministry of Interior and National Administration, has two primary correctional institutions, the Kenya Prisons Service and the Probation and Aftercare Services Department. Their roles and implications on greening the justice system are expounded below.

- a. ***Kenya Prisons Service***

The Kenya Prisons Service (KPS) is established as a disciplined entity under the Prisons Act (CAP 90) and Borstal Institutions Act (CAP 92) of the Laws of Kenya. The primary

responsibility of the Service is to contain and rehabilitate offenders. The KPS has been at the forefront of turning prisons and neighbouring communities into green ecosystems and reforming prisoners into climate change ambassadors. Among the green focus areas by KPS are planting of trees, water recycling, training of staff, sensitisation of inmates, carpooling, and proper waste management, including recycling waste and farming. In 2024, in support of the H.E. the President's '15 Billion Trees' restoration programme, KPS committed to providing 2.1 million tree seedlings for planting. The KPS has also collaborated with the Ministry of Environment and Forestry to plant 12.5 million seedlings across 43 prisons in the country. By June 2024, KPS had trained 7000 out of 62841 inmates on environmental protection, with 95 per cent of staff having been trained on green reintegration programmes.

b. Probation and Aftercare Services

The Service derives its mandate from the Probation of Offenders Act (CAP 64) and Community Services Orders Act (CAP 93). It oversees the rehabilitation and reintegration of offenders serving non-custodial sentences within the community after the resolution of cases by the courts. The court orders, as provided by the Act, include environmental conservation. The Community Service Order programme has anchorage on the Community Service Orders Act, 1998 (CAP. 93) to provide alternatives to imprisonment for offences attracting imprisonment terms not exceeding three years or those which the court determines that a term of three years or less would be appropriate. The Community Order program has been instrumental in environmental conservation across the country as those serving under the CSO program contribute to safeguarding the environment.

Law Society of Kenya

The Law Society of Kenya (LSK), which comprises practising advocates as members, was established in 2014 through the LSK Act, 2014 (CAP. 18). Its members represent individuals in courts during the litigation of environmental-related cases, playing a critical role in the advancement of the rule of law. The LSK Strategic Plan (2023-2027) has commitments towards enhancing environmental governance and upscaling mechanisms to support public interest cases thus protecting the environment.

Ethics and Anti-Corruption Commission

The Commission is established under Section 3(1) of the Ethics and Anti-Corruption Commission Act, 2011 (CAP 7H) to combat and prevent corruption, economic crime and unethical conduct. This function is realised through law enforcement, prevention, public education, and promotion of standards and practices of integrity, ethics and anti-corruption. Though a review of the Commission's Strategic Plan (2023-2028) has not provided initiatives towards environmental sustainability, the Commission has been participating in diverse tree-planting initiatives. The Commission is also expected to upscale the fight against corruption cases related to the environment.

Kenya National Commission on Human Rights

Established under Article 59 of the Constitution and the Kenya National Commission on Human Rights Act, 2011 (CAP 71), the Commission promotes and protects human rights in Kenya through monitoring, investigations and advocacy. The agency also acts as a watchdog over the Government in observance of human rights. In its Strategic Plan (2023–2028), the Commission considers climate justice as an emerging human rights issue and prioritises enhancing knowledge on climate justice.

National Land Commission

The National Land Commission, a constitutional commission established under Article 67 and the National Land Commission Act, 2012 (CAP. 281), investigates and resolves land-related disputes and recommends land policies to the government. Although NLC's Strategic Plan (2021–2026) has focused on the environment and climate change, it is not in the context of greening the justice system but in relation to natural resources and land management in line with its core mandate. By expeditiously and conclusively resolving land disputes, the Commission plays a crucial role in greening the justice system, especially ensuring that not all disputes end up in courts.

Commission on Administrative Justice

The Commission is established under Article 59(4) of the Constitution and the Commission on Administrative Justice Act, 2011 (CAP. 7J) to investigate complaints of abuse of power or manifest injustice within the public sector. The Commission ensures that administrative complaints related to environmental governance are expeditiously resolved. By upscaling this role, these complaints would not enter or clog the judicial system, implying a quick response to environmental challenges.

Council of Governors

The Council of Governors (COG), established under Section 19 of the Intergovernmental Relations Act (CAP 265F), is mandated to facilitate the sharing of best practices and enhance a collective voice in policy matters related to the County Governments. Under these functions, the COG has a role in enhancing environmental conservation and overall environmental sustainability at the devolved units. The COG can guide Counties on coordinated greening initiatives on a broad range of issues, including the formulation of Green County By-laws.

Independent Policing Oversight Authority

The Authority was established under the Independent Policing Oversight Authority Act, 2011 (CAP. 86) to hold the police accountable to the public in performing their functions. The Authority has a role to monitor and investigate operations related to environmental malpractices by the police.

Directorate of Children's Services

The Directorate of Children's Services (DCS) is integral to the protection and advancement of children's rights and welfare in Kenya, as outlined in the Children Act 2022 (CAP 141).

This role is realised through the establishment, provision, promotion, coordination and supervision of services and facilities designed to protect the well-being of children. Given the heightened vulnerability of children to the adverse effects of climate change, such as increased malnutrition, disease, and disruption of education, it would be necessary for the DCS to incorporate environmental sustainability into its strategic agenda and core functions.

Ministry of Defence

The Ministry of Defence is established under Executive Order No. 2 of 2023 and is obligated to facilitate and support the Kenya Defence Forces. One of its functions is to assist and cooperate with other criminal justice agencies during emergencies, disasters, and instances of widespread breach of peace. These functions, including court-martial functions of the defence forces, can be approached from a green perspective.

Independent Electoral and Boundaries Commission

The Independent Electoral and Boundaries Commission (IEBC) is established under the IEBC Act, 2011 (CAP. 7C). The IEBC, in promoting environmental sustainability, is required to enhance green practices, especially in voter education, green voting, green elections, and green electoral technology..

Civil Society Organisations and Development Partners

The Civil Society Organisations (CSOs) and development partners play a crucial role in the justice sector, especially in providing technical and financial support to programs, including those on environmental justice. They also promote transparency and accountability through advocacy and awareness creation. Moreover, their heightened focus on upholding human and environmental rights supports greening. Therefore, strengthening environmental stewardship in the roles of CSOs and development partners would be pivotal for the justice sector greening.

Academic and other Training Institutions

The institutions of higher learning offer education to most justice sector employees before and during employment. This covers diverse fields of knowledge like law, criminology, and other social sciences. To reduce the knowledge gap among justice sector practitioners, these institutions can incorporate environmental courses as core units within their programs. These institutions should also continuously provide extensive information on climate change and recommendations for promoting environmental conservation and sustainability.

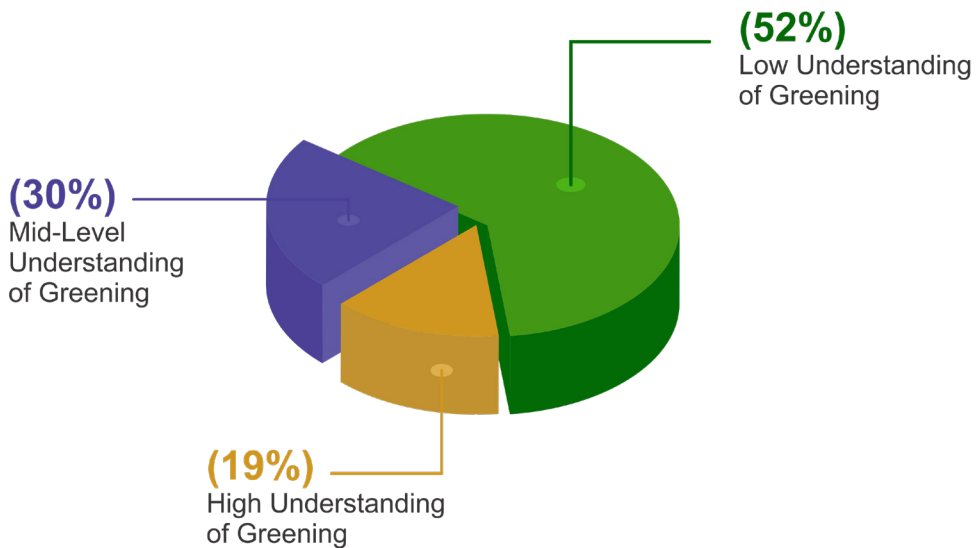
Other training institutions serving the justice system also have a role in greening. For instance, the Council for Legal Education, established under the Legal Education Act, 2012 (CAP 16B), is mandated to regulate legal education and training in Kenya. Its role in promoting environmental sustainability is to ensure that the legal fraternity is provided with quality education and training in relation to environmental law and practice. The Council can achieve this by incorporating environmental protection safeguards into the legal education programmes.

3.5 Extent, Depth and Recommendations for Greening Kenya’s Justice System

A questionnaire was administered (See Appendix B) to assess the existing and potential greening practices amongst the justice sector agencies. The practices covered functional, physical, legislative, policy, procedural, technological, human resources, rights-based and community engagement elements of greening. Detailed results of the analysed questionnaires covering the optimal greening practices were synthesised in the Implementation Matrix (Appendix A). To ensure that a limited understanding of greening did not bias the outcomes of the FGD, a two-step assessment through the administration of questionnaires was done, one before a short sensitisation on greening and the second after.

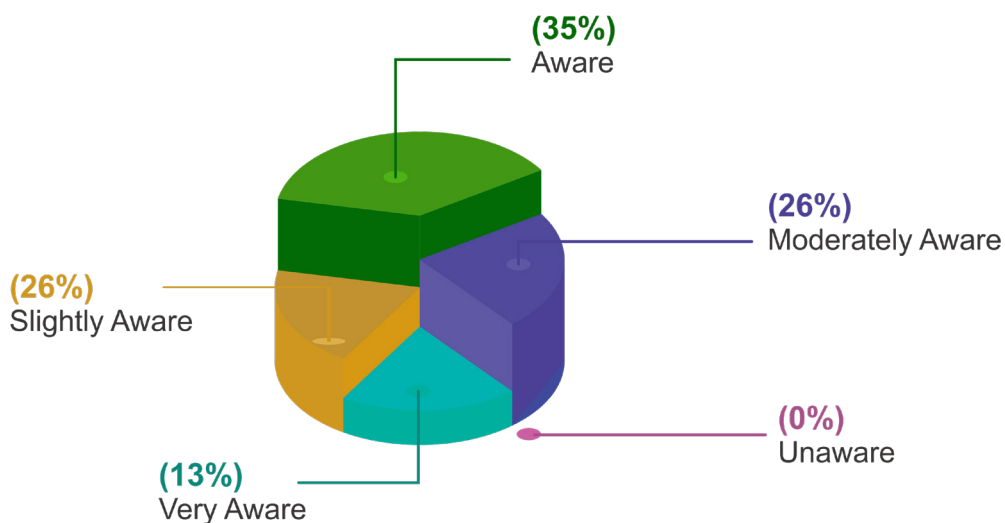
The results of the pre-sensitisation questionnaire are summarised in the Figure below.

Pre-sensitisation assessment of the Justice System Greening



The Figure shows that 52 per cent of respondents had a low understanding of the concept of greening the justice system. This suggests that justice sector actors should upscale training and sensitisation of their employees as a primary step. Further, 30 per cent had mid-level understanding, while 19 per cent had a relatively high level of understanding. However, upon training, the understanding level changed as those who thought they understood gained new paradigms on greening, and those with low understanding became more enlightened. The analysis of post-sensitisation feedback on the level of understanding is illustrated in the Figure below.

Post-sensitisation assessment of the Justice System Greening

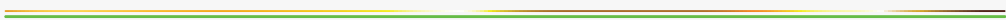
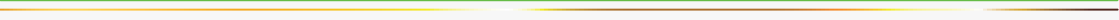


From the Figure above, 26 per cent were moderately aware, while 35 per cent were aware following the brief sensitisation. This points to the need to develop comprehensive training on greening and not rely on moderate sensitisations of approximately 2 hours. The Figure points out the utility of the justice system having Trainers of Trainers (ToTs) on greening. The ToTs should be adequately versed with the contents of this Strategic Guiding Framework.



IMPLEMENTATION OF GREENING IN KENYA'S JUSTICE SYSTEM





4. IMPLEMENTATION OF GREENING IN KENYA'S JUSTICE SYSTEM

4.1 Introduction

The justice system is poised to play a pivotal role in greening, demonstrating that the pursuit of justice and the preservation of the environment can go hand in hand. Realising the goals of greening requires a robust, coordinated and deliberate implementation. Further, it requires a strong commitment to ensure that every facet of the justice sector contributes to environmental sustainability. Through inculcating a culture of continuous improvement and entrenching robust monitoring, evaluation, reporting and learning, the greening of the justice system can be upscaled.

4.2 Essential Greening Implementation Steps

The following implementation steps are proposed for greening the justice system and its institutions.

1. ***Conceptualisation and Canvassing for the Leadership Support:*** At the onset, it is important to conceptualise the institution's greening objectives. This should cover the determination of greening goals and interventions and the preparation of an Action Plan. It is essential to gain support from the leadership and management, followed by the appointment of green champions.
2. ***Planning to Green:*** This step involves the identification of Key Greening Indicators (KGIs) and implementation strategies, including a detailed analysis of the required resources. Further, quick wins should be selected. Moreover, the assessment of employee comprehension and commitment to greening should be done at this stage.
3. ***Execution of Greening:*** This step entails implementing the planned greening initiatives. Various greening projects, programs and activities should commence and be sustained. Regular monitoring, planned evaluation and reporting should be pursued against the pre-identified KGIs.
4. ***Entrenching Sustainability Safeguards on Greening:*** This step aims to enhance the longevity and effectiveness of the justice system and its agencies' greening efforts. It involves institutionalising greening and making it part of the institutional ethos and work method. Moreover, learning should be embedded as part of entrenching sustainability.

4.3 Green Monitoring, Evaluation, Reporting and Learning

4.3.1 Monitoring and Evaluation

Effective monitoring and evaluation are essential for decision-making and successful greening of the justice system. It is vital to track progress, identify challenges and make necessary adjustments. Hence, annual monitoring should be undertaken. This should entail formulating greening indicators, data collection, analysis and reporting. The Implementation Matrix provides detailed KGIs. These indicators, covering all greening elements, will help monitor whether the justice system or its institutions have made progress on greening. Justice sector agencies should customise the template in Appendix C to aid in tracking their progress on greening.

Evaluation should be carried out to establish the level and impact of greening the justice system and its institutions. The NCAJ will facilitate discussions to address sectoral challenges and recalibrate strategies as needed. Although the Framework is not time-bound on implementation, evaluation every 3 to 5 years is recommended. However, ad-hoc evaluation may be undertaken as needed.

A structured data collection for monitoring and evaluation should be pursued to gather relevant information on greening. Data collection, qualitative or quantitative, may entail the use of questionnaires, checklists and other tools to cover the environmental issues that are being tracked. The data collection practice should be standardised across justice sector agencies to ensure consistency in sectoral reporting. During monitoring and evaluation, the engagement of stakeholders at all levels should be done to accentuate and recalibrate greening strategies as necessary.

4.3.2 Reporting

Comprehensive and regular reporting will aid the justice system in strengthening its accountability to environmental protection. Periodic reporting mechanisms will be established to facilitate the systematic dissemination of information and to identify and track the trends. This will aid in informing future adjustments and approaches. Hence, periodic institutional reports will be prepared. The Administration of Justice in Kenya Annual Report will cover progress on the greening of the justice system as a whole.

4.3.3 Learning

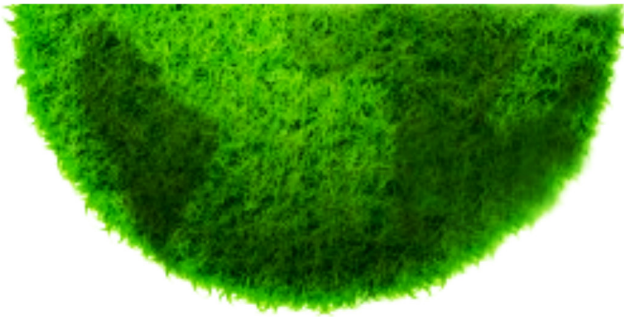
Learning will involve using insights from the monitoring and evaluation process to enhance adaptability and responsiveness to climate change and environmental sustainability. Continuous engagement of stakeholders about greening the justice sector will inform policy and reforms. This will include holding forums for stakeholders to raise concerns, suggest improvements and provide feedback on the effectiveness of greening. To improve the overall effectiveness of greening initiatives, lessons learned from the implementation will inform continuous improvement and adjustments to ensure the justice sector remains responsive to evolving environmental challenges.

4.4 Review of the Strategic Guiding Framework

The Framework will be reviewed every five years, or within a lesser period, as needed to ensure that the justice sector remains responsive to evolving environmental challenges. The review will entail engaging stakeholders, gathering feedback, and conducting thorough assessments of the progress and the effectiveness of existing greening practices.



APPENDICES





APPENDICES

A. Implementation Matrix for Greening Kenya’s Justice System

Overarching Recommendation:

The Justice System Agencies to develop a customised Action Plan drawing from this Implementation Matrix covering their unique circumstances, sub-units, directorates, departments or regional offices

FUNCTIONAL GREENING			
Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
National Police Service	Upscale green investigations and arrests	Develop guidelines for green investigations and arrests	Guidelines developed % of police officers trained on the guidelines
		Timely investigate, arrest and process perpetrators of environmental crimes	No. of investigations concluded with set timelines No of arrested perpetrators
		Develop an action plan on green deterrence, investigations & arrests of environmental crimes	Action Plan developed
		Partner and support other agencies on surveillance of strategic natural resources like forests, wildlife, oceans and beaches, and in prevention of illegal dumping	No of partnerships and support programmes No of surveillance undertaken
		Monitor and report progress made on green deterrence, investigations and arrests	% change from baseline data M&E reports prepared
		Engage the public on environmental crimes and caution potential offenders	No. of potential offenders cautioned No. of public engagements on environmental crimes undertaken
		Train officers on green investigations and arrests of environmental crimes	No. of training fora held % of officers trained
		Establish rapid response mechanisms to enforce the rule of law in cases of sudden adverse impacts on the environment.	Rapid response mechanisms put in place

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
		Enhance operations of specialised units on investigating environmental crimes	No. of officers attached to the specialised unit No. of complex reported cases successfully investigated and handed over for prosecution No. of officers deployed to other agencies to assist in environmental protection
Ethics and Anti-Corruption Commission	Strengthened operations to reduce corruption malpractices related to the environment	Review or develop and operationalise investigations guidelines on corruption cases related to environmental issues	Guidelines reviewed or developed No. of officers trained on the manual
		Quick investigations and processing of corruption cases related to environmental protection	No. of environmental crimes with corruption element timely investigated and processed for prosecution
	Promote ethical practices in projects related to environmental protection	No. of environmental projects assessed/ reviewed to promote ethical practices.	
Independent Policing Oversight Authority	Strengthened police accountability on environmental protection	Update or develop guidelines on effective oversight of environmental malpractices associated with the police	Guidelines updated or developed
		Sensitise police officers on environmental protection	No. of police officers sensitised
		Conduct investigations on environmental malpractices associated with the police	No. of investigations conducted No. of cases concluded
Ministry of Environment, Climate Change and Forestry	Heightened support to green deterrence, compliance, investigations, prosecution, trial and correction, processes	Train or sensitise justice actors on effective environmental protection covering, among others, deterrence, compliance, investigations, prosecution, trial, correction, legal representation and accountability	No. of justice sector actors trained or sensitised No. of diverse Information, Education and Communication (IEC) materials developed and disseminated No. of trainings held

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators	
		Conduct joint surveillance of environmentally protected areas with justice sector agencies	No. of joint surveillances undertaken	
		Enhance enforcement of court orders	No. of environmental regulations and court orders complied with	
	Strengthened justice system capacity to make informed and strategic decisions on environmental protection, management and conservation	Support justice sector research, surveys and reporting on environmental protection, management, conservation and sustainability	No. of research, surveys and reports done supported	
			Amount contributed to justice sector publications, surveys or reports	
			No. of research publications, surveys or reports	
	Improve justice sector policy environment on environmental safeguards	Train justice actors on holding corporations accountable for harms and crimes to the environment	No. of trainings to justice sector actors	
			Develop guidelines for justice sector agencies to ensure compliance with environmental regulations	No. of guidelines developed or reviewed
				% of employees trained on implementation of the guidelines
	Office of the Director of Public Prosecution	Enhancing green prosecution	Timely prosecute individuals or corporations who have caused environmental crimes	No. of individuals or corporations prosecuted on environmental crimes
				No. of convictions realised
% increase in prosecution of individuals and corporations				
Develop or update prosecution guidelines and toolkit to support efficient and effective prosecution of environmental crimes			No. of guidelines or toolkits developed or updated	
			Monitoring and evaluation tool developed	
			Monitoring report prepared	

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
		Train or sensitise prosecutors on timeous prosecution of environmental crimes	No. of prosecutors trained No. of environmental cases prosecuted/tried within internally set timelines
		Divert offenders to eco-friendly community service programmes	No. of offenders diverted
		Analyse environmental harms that are not necessarily classified as crimes and propose/initiate legal amendments	No. of harms analysed
			No. of legal amendments proposed or initiated
		Document timelines for expeditious prosecution of environment-related cases.	No. of documented or set timelines
			No. of cases prosecuted within set timelines
		Establish special prosecution offices, or prosecutors, for environmental crime	No. of offices, or prosecutors, established or earmarked
Collaborate with other agencies for effective prosecution of environmental crimes	No. of joint engagements undertaken		
Judiciary	Institutionalising environmental safeguards while resolving cases in courts	Reduce timelines for the resolution of environment-related crimes and civil cases	No. of set timelines for resolving environment-related cases
			No. of cases resolved within set timelines
			% reduction in time taken from filing to resolution
		Upscale alternative dispute resolution (ADR) mechanisms for environmental related cases	No. of cases referred to ADR
No. of cases resolved within set ADR timelines			

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators	
			No. of interactive ADR centres on environmental justice established	
			No. of employees sensitised on environmental justice ADR	
		Establish, operationalise and strengthen specialised courts and tribunals handling environmental related cases	No. of specialised courts and tribunals established and operationalised	
			No. of employees sensitised on environmental issues	
			% growth of employees in specialised courts and tribunals	
		Support compliance of court orders on environmental cases	No. of status conferences held to monitor compliance	
			No. of court orders and compliance reports made public	
		Use alternatives to custodial sentencing to support greening	No. of non-custodial sentences supporting environmental protection	
		Embedding environmental safeguards in court registry functions	No. of registry functions with environmental safeguards.	
		Enhancing the growth of jurisprudence to mitigate adverse impacts of climate change	Promote jurisprudence on environmental protection	No. of annual court decisions with jurisprudential value
				No. of expert forums or peer reviews held & No. of outcomes of such forums extensively cascaded to all other employees
				No. of local, regional and international exchange programmes on environmental jurisprudence held & No. of outcomes of such forms extensively cascaded to employees
No. of disseminated environmental law compendium				

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
	Awareness creation on environmental sustainability through courts	Sensitise employees on environmental issues, greening and climate change	No. of sensitisation forums held No. of employees sensitised
		Enhance participation of judges, judicial officers and staff towards environmental sustainability	No. of greening programmes spearheaded by Magistrates' and Judges' Association, Staff Association or KJA No. of outcomes of such collaboration effectively cascaded to local level
		Upscale protection of witness of environmental crime cases	No. of protected witnesses % increase in protected witnesses
		Develop criteria to protect at-risk witnesses to environmental crimes	Criteria developed
Witness Protection Agency	Enhancing protection of witnesses in environmental crimes	Review existing laws, policies and guidelines to incorporate environmental safeguards	No. of laws, policies and guidelines reviewed No of environmental safeguards in the reviewed laws, policies and guidelines
		Advise agencies on witness protection strategies related to environmental crimes	No. of agencies advised on witness protection measures No. of agencies or persons trained or sensitised
		Upscale protection of victims of environmental crimes	No. of protected victims % increase in protected victims
		Develop criteria for protecting victims to environmental crimes	Criteria developed
Victim Protection Board	Enhancing the protection of vulnerable victims due to climate change and environmental degradation	Conduct periodic assessments to identify victims disproportionately affected by environmental crimes	No. of assessments completed

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
State Department of Correctional Services	Strengthened policy and regulatory environment for greening correctional services	Support and oversee the development of policies and guidelines on greening correctional services	No. of policies or guidelines developed and being implemented
			No. of correctional officers trained
Kenya Prisons Service	Eco-friendly containment of prisoners	Pursue measures to ensure convicted population is within the ideal for each correctional facility	No. of measures being implemented
			No. of facilities rehabilitated or refurbished
	Increasing forest and tree cover through prisons' rehabilitative programs	Upscale tree planning in prisons	No. of trees planted
			Increase tree seedbeds prisons
	Integrate greening into the rehabilitation programs	Sensitise key internal stakeholders on environmental protection as part of their reintegration process	% of convicted persons trained on environmental protection as part of their reintegration programmes
			% of prison officers trained or sensitised on integrating greening in reintegration programmes
Engage convicted person on greening rehabilitative initiatives			No. of initiatives undertaken
Use environmentally friendly materials at prisons production industry		% composition of biodegradable materials in prisons products	
Probation & Aftercare Department	Enhancing environmental education on rehabilitation of offenders and ex-offenders	Incorporate environmental education into rehabilitation programmes for offenders and ex-offenders	No. of rehabilitation programmes with environmental education
		Facilitate vocational training in eco-friendly industries for offenders and ex-offenders	No. of offenders or ex-offenders trained

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators	
	Establishing green offender resettlement, reintegration engagement programmes	Establish resettlement and reintegration programmes on environmental sustainability	% of PACS officers trained in implementing the resettlement and reintegration programmes	
			% of offenders trained and engaged in the programmes	
	Entrenching greening in probation reports to courts	Embed environmental safeguards in probation reports to courts	No of green advisories in the reports	
			No. of environmental sustainability programmes under CSO	
				No. of offenders under CSOs serving on environmental protection programs
				No. of PACS officers trained on environmental protection
Strengthening Community Service Order (CSO) programme to support justice sector greening and overall environmental sustainability	Upscale greening programmes by CSO Committee	No. of programmes with greening outputs undertaken by CSO Committee		
		Prepare CSO reports supporting environmental conservation		
			No. of reports prepared and disseminated	
Office of the Attorney General and Department of Justice	Entrenching green legislative drafting	Advice MDAs on environmental safeguards in legislations being drafted	No. of green clauses in the new or reviewed laws	
		Review existing internal policies and laws to identify gaps on environmental safeguards	No. of recommendations on gaps No. of laws revised and/or developed	
	Provision of Green Legal Advisory	Train or sensitise state counsel and government officers on integration of environmental issues	No. of state counsel and officers trained	

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
		Advice on implementation of Kenya's action points from international laws, agreements and treaties on environmental protection	No. of action points prepared and disseminated
			No. of international laws, agreements or treaties fully domesticated
			Periodic reports on operationalisation prepared
		Develop IEC materials on legal advisory related to greening, climate change and environmental protection	No. of IEC materials developed, published and disseminated
			% of justice sector agencies sensitised
		Sensitise justice sector employees and users on environmental laws and regulations	No. of forums for justice sector actors and users organised
		No of employees sensitised	
	Strengthening Environmental Compliance and Enforcement	Advice on compliance with court orders and administrative decisions on environmental issues	No. of advisories being implemented
		Recommend administrative penalties and sanctions on non-compliance with environmental laws, court orders and administrative decisions	No. of recommendations made
	Strengthening green civil litigation	Prioritise expeditious litigation on environmental related disputes	No of cases resolved within set timelines
Embedding environmental safeguards in OAG & DOJ services delivery	Identify and operationalise areas of greening in the provision of all OAG & DOJ services	No. of environmental safeguards identified and entrenched in OAG & DOJ services provided	
National Legal Aid Service	Promotion of green legal literacy	Provide pro bono legal aid services on environmental related cases	No of cases handled
		Conduct community outreach programmes to identify legal environmental needs	No. of community outreach programmes held
			No. of environmental legal needs identified and addressed

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
	Upscale provision of Community Legal Services	Provide free legal advice on environmental matters to the marginalised and vulnerable	No. of eco-friendly legal clinics done
			No. of marginalised persons assisted
	Promotion of Green ADR Mechanisms	Offer training and capacity-building to officers on ADR techniques for resolving environmental disputes	No. of training sessions held
			% or No. of officers trained
Academia and Council for Legal Education	Integration of environmental sustainability in legal education	Develop and operationalise training modules covering green deterrence, investigations, prosecution, trial, correctional services and legal representation	No. of training modules developed and operationalised
			No. of persons trained
			No. of academic institutions with compliant modules
			No. of forums, seminars or conferences held
Law Society of Kenya	Green legal empowerment	Offer pro-bono legal services to parties affected by climate change	% of firms or advocates offering pro bono legal services on environmental matters
			No. of environmental related cases where LSK members are offering pro bono legal services
			No. of legal clinics and workshops held
			No. of sensitisation engagements held
		Sensitise members on environmental law, rights, legal remedies and emerging jurisprudence	No. of advocates sensitised
			No. of Continuous Professional Development (CPD) events conducted covering environmental safeguards
			No. of environmental ethics or considerations integrated
			% level of compliance
Integration of environmental ethics into the LSK Code of Standards			

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
National Council for Law Reporting	Enhancing access to information on green laws, regulations and decisions	Revise, consolidate and publish laws and regulations covering greening	No. of laws revised
			No. of laws consolidated
			No. of laws published and disseminated
			No. of decisions published and disseminated
	Promotion of environmental jurisprudence and best practices	Publish environmental related law reports	No. of reports published
			Monitor and track judgements related to greening domestically, regionally and internationally
No. of judgements tracked			
		Develop, publish and disseminate a compendium of environmental jurisprudence on climate justice	Monitoring reports developed
National Land Commission	Enhancing the administration of justice of land justice	Enhance collaboration with relevant government agencies to timeously resolve land disputes	No. of disputes resolved within set timelines
			Upscale the use of technology on adjudication and resolution of land disputes
		Develop and implement a framework for engaging criminal justice actors on land protection	Technology framework developed and being used successfully
			No. of criminal justice intuitions engaged or trained
			Framework developed and implemented
			No. of engagements with criminal justice actors undertaken
		No. of measures being implemented from the engagements	

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
Council of County Governors	Promotion of environmental protection at Counties' legal functions and departments	Train County attorneys on climate change and environmental protection	No. of county attorneys trained
		Develop or review county laws, policies, rights on environmental protection	No of laws developed or reviewed
		Expediently resolve disputes related to environment and sustainable waste management	No. of disputes prioritised and resolved within internally set timelines
		Foster inter-county collaborations on green justice initiatives and best practices	No. of inter-county collaborative for a organised
	Enhance linkages with criminal justice agencies on environmental protection	Create and pursue partnership with criminal justice agencies on deterrence, investigations, arrests, prosecution and trial of environmental related cases	No. of partnerships undertaken
			No of joint interventions undertaken
Independent Electoral and Boundaries Commission	Integration of greening on electoral justice processes and functioning	Upscale digitisation of electoral processes highly prone to disputes	No. of processes digitised
		Embed green practices on electoral justice processes and reforms notably provision of security, handling of electoral malpractices, and dispute resolution	No. of green policies, laws or regulations developed, reviewed or being implemented
			No. of technological safeguards implemented
			No. of voters sensitised on environmental issues
Ministry of Defence	Integrating green practices on justice related issues	Incorporate environmental considerations to access to justice mechanisms	No. of considerations incorporated
		Support to criminal justice agencies on diverse issues of protecting the environment	No of support areas

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
Directorate of Children Services	Strengthening mechanisms to protect children from injustices arising from the adverse effects of climate change	Develop and operationalise necessary processes and procedural safeguards to protect children from injustices arising from the adverse effects of climate change	No. of safeguards developed
			No. of safeguards fully operationalised
			No. of rescued or protected children
		Revamp existing facilities to support the protection of children from injustices arising from the adverse effects of climate change	No. of revamped facilities
Commission on administrative justice	Strengthening green administrative actions	Investigate and resolve complaints in environmental governance and malpractices	No. of green indicators developed, tracked and reported
			No of cases on environmental malpractices timely investigated and concluded
			No. of green reform instruments (Policies, laws, and administrative reforms) developed
		Upscale public interest litigation on environmental harms and crimes	No. of public interest litigation matters instituted
			No. of successful public interest litigation matters settled
		Strengthen greening in the devolved administrative structures	No. of complaints on environmental malpractices timely investigated and concluded at devolved units
			No. of disputes resolved through ADR or AJS
		Enhance reporting and access to information on environmental matters by public entities	% compliance on reporting
			% improvement on access to information

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
Private sector	Upscaling green partnerships towards efficient and effective administration of environmental justice	Develop a framework to guide the reduction of environmental harms and crimes by private sector	No. of frameworks developed No. of companies compliant to the framework No. of sustainability reports published
		Establish and implement awards for the compliant private sector institutions on non-commission of environmental harms and crimes	No. of companies awarded for non-commission of environmental harms and crimes
		Develop Environmental, Social and Governance (ESG) metrics for the private sector	No. of private sector companies adopting ESG reporting
		Integrate green initiatives on Justice Sector CSR programmes	No. of CSR activities undertaken
		Support green initiatives by justice sector agencies	No. of justice sector initiatives supported
			Award schemes established
Civil Society Organizations and Development Partners working in the Justice Sector	Strengthening justice system capacity to protect the environment	Support the roll-out and operationalisation of climate justice centres and knowledge resource hubs	No. of climate justice centres established No. of justice sector actors trained or agencies supported No. of paralegals and environmental rights defenders trained on community climate justice
		Support training and sensitisation of paralegals, environmental rights defenders and government employees on climate change and environmental protection.	No. of paralegals, environmental rights defenders and government employees trained or sensitised No. of training curricula developed
		Enhance access to justice on climate change vulnerability cases	No. of public interest litigation matters instituted and supported

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
		Support the development of greening and climate change action plans or toolkits for the justice sector agencies	No. of toolkits developed
		Enhance access to justice for vulnerable persons due to climate change	No. of programmes supported
	Provision of technical and financial support to justice sector greening programmes	Offer technical support to justice sector agencies on greening and climate change mitigation measures	No. of technical officers embedded in the justice sector agencies to support diverse programs
		Provide financial support to green the justice system	Amount of financial resources provided
		Undertake green fundraising for justice sector greening initiatives	% of resources mobilised
	Promotion and enforcement of environmental human rights	Enhance capacity of justice actors on observance and protection of environmental rights	No. of justice actors trained or sensitised
		Enhance capacity of communities and grassroots organisations to advocate for their rights effectively	No. of persons trained or sensitised
	NCAJ	Deepening administration of justice reforms on environmental protection	Undertake civil and criminal justice reforms and interventions to support green justice
No. of justice sector actors and CUCs trained on finalised reform instruments			
No. of environmental clauses added to the existing reform instruments			
No. of interventions on environmental safeguards undertaken			

FUNCTIONAL GREENING

Agency	Greening Strategy	Greening Programme or Activity	Key Greening Indicators
		Undertake reforms and interventions to enhance administration and access to justice for the vulnerable and marginalised persons (Children, women, intersex persons, SGBV victims, youth, among others) due to climate change.	<p>No. of green reforms undertaken or being implemented</p> <p>No. of justice sector actors and CUCs trained on finalised reform instruments</p> <p>No. of vulnerable groups sensitised on environmental protection and climate change mitigation</p> <p>No. of environmental advocacy programmes undertaken</p>
		Integrate environmental safeguards into NCAJ Secretariat programmes, operations and activities	No. of safeguards integrated into Secretariat programmes, operations and activities
	Strengthening coordination mechanisms for greening the justice system	Assist agencies to develop or customise action plans on greening	No. of action plans developed by agencies through the assistance of NCAJ
		Upscale greening interventions at the grassroots through CUCs	No. of greening interventions undertaken by CUCs
		Coordinate joint trainings and sensitisations through CUCs for the justice sector actors on diverse facets of greening	No of joint trainings undertaken and persons trained or sensitised
			No of CUCs trained or sensitised
		Support justice sector green fundraising	% of resources mobilised
		Undertake justice sector M&E on greening covering all the elements	No. of M&E reports prepared or Embedded M&E Sections included in other reports
			No. of research outputs on greening of the justice system
	Determine baseline statistics on the justice sector greening	No. of greening indicators with baseline data	

PHYSICAL GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
All Agencies	Improvement of justice sector physical infrastructure to protect the environment	Audit justice sector buildings on green standards	% of compliant buildings
		Procure energy efficient machines and vehicles	No of machines and vehicles procured
		Upscale the use of alternative energy sources such as wind, solar, and geothermal across the justice system institutions	% increase in use of alternative energy sources
		Instil environmental safeguards in the justice sector constructions	No. of constructions or refurbishments done using sustainable materials
			No. of multi-institutional buildings constructed
	Adopting compliant mobility practices by justice sector agencies	Procure environmentally sustainable fleet to reduce GHG emissions	% of buildings with natural ventilation
			% of new vehicles using fuel with higher ethanol and biodiesel concentrations
		Reduce emissions from travel by justice sector employees	% of new e-vehicles and e-bikes
			No. of justice agencies utilising carpool

PHYSICAL GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
			No. of agencies implementing hybrid working arrangements
		Build justice institutions in close proximity	No. of justice agencies built in close proximity
			No of shared office structures
	Effective use of institutional land for environmental and natural resource protection	Plant trees on institutional lands and other public areas	No of trees planted by justice sector agencies and employees annually
		Establish green spaces within the premises of the justice system institutions	No. of green spaces established
	Improved waste management methods within and beyond the justice system	Entrench a sustainable waste management system	No. of waste audit reports developed and measures being implemented
			No. of agencies implementing sustainable waste management
		Procure cost-effective biodegradable single-use items	No. of biodegradable items procured
		Expediently resolve cases on waste management malpractices	No of cases timely processed and trial finalised.

POLICY GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
All Agencies	Green policy development and implementation	Develop a green strategy or policy for individual institutions	No. of greening strategies and policies developed
		Establish a framework for monitoring and evaluation of the green strategy	No. of frameworks developed
		Strengthen implementation and expansion of sustainability policies	No. of greening policies developed or improved
		Entrench global standards on policies for greening the justice system	No. of standards embedded
		Review greening guidelines to respond to emerging environmental issues	No. of revised guidelines
	Development of greening guidelines and best practices	Conducting research on greening the justice system and environmental protection	No. of policy advisories generated through research
		Conduct research on greening and environmental protection to inform policy	No. of research recommendations adopted
			No. of research papers finalised and disseminated
		Develop comprehensive greening guidelines for the individual institutions	No. of green guidelines developed

POLICY GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
		Implement adaptation strategies and policies	No. of measures established
		Develop policies on reduction of GHG emissions	No. of policies procured

LEGISLATIVE GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
All Agencies	Strengthening legislative reform	Develop or review existing laws to support greening in the justice system	No. of laws developed or reviewed
		Adopt and align with international laws and policies for effective enforcement of environmental laws	No. of laws adopted
			No. of laws domesticated
		Track ongoing legislative reform on environmental issues	No. of monitoring reports prepared and disseminated
	Strengthening enforcement of environmental laws	Track the compliance with environmental laws	Compliance reports prepared and disseminated
		Enforce compliance	% compliance level

PROCEDURAL GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
All Agencies	Entrenching green and sustainable operational procedures in the justice system	Ensure institutional and sectoral procedures are green compliant	No. of procedures that are green compliant
		Ensure all procurement and financial practices are environmentally friendly	No. of compliant procurement and financial practices
		Monitor GHG emissions by justice system agencies and taking steps to mitigate any increase	% reduction of GHG emissions
			No. of sectoral and institutional monitoring reports prepared
		No. of agencies implementing measures to reduce GHG emission	
Review and map recurrent procedures and practices to ensure compliance with environmental sustainability standards	No. of procedures and practices reviewed for compliance		
	No. of procedures rectified		

TECHNOLOGY ADOPTION GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
All Agencies	Leveraging on technology to green the justice system operations and service delivery	Establish (or link existing systems) integrated information and data management and sharing system within the justice sector for enhanced service delivery	Policies on integration developed No. of integrated or linked systems developed and in use No. of justice sector agencies utilising the system
		Adopt videoconferencing instead of physical appearances for clients seeking justice	% increase in the utilisation of videoconferencing
		Automate e-payments and other online services	% increase in use of e-platforms within justice agencies
		Improve internet connectivity	No. of justice sector institutions with high-speed internet connectivity
	Adopted paperless practices	Use technology to achieve paperless practices	% reduction in paper use
		Share evidence, reports and payments electronically	% or volume of documents being shared electronically.
		Adopt electronic information storage to reduce paper consumption	% increase in the use of electronic storage methods % increase in electronically stored information

HUMAN RESOURCE GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators	
All Agencies	Improved environmental compliance during the recruitment of justice sector employees	Entrench environmental safeguards in the justice system recruitment	% of green compliant recruitment adverts	
			% of recruited individuals with a pro-environmental attitude	
			No. of green values included in recruitment adverts	
		Incorporate green training and sensitisation of recruited employees	% of new employees trained or sensitised on greening	
			Create a pro-environmental justice sector image to attract potential employees with greening values, expertise and motivation	No. of institutions with green institutional branding
				No. of green IEC materials developed
	Reviewed sector career progression to accommodate environmental safeguards	Offer employees developmental career paths and work assignments with environmental sustainability clauses	No. of employees whose career path is compliant to environmental dictates	
% of employees given assignments with environmental protection clauses				

HUMAN RESOURCE GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators	
		Promote sustainability by having green reward and compensation structures	% of agencies with a green reward and compensation structure	
		Upscale greening feedback to employees	% of work environment satisfaction surveys undertaken and disseminated	
			No. of staff meetings on greening	
	Empowered leadership and management justice sector teams on environmental protection		Supporting and strengthening environmental transformational leadership.	No. of leaders and managers sensitised on greening
			Promote a green culture within the justice system's agencies	No. of strategic plans/work plans with embedded green initiatives
			Establish leadership caucuses for sharing environmental knowledge and issues	No. of caucuses held
			Offer specialised training on greening leaders and managers	No. of leaders and managers trained
	Empowered justice system employees to mitigate adverse effects of climate change		Sensitise employees on reducing counterproductive sustainability behaviours	No. of employees sensitised
				% reduction in employee counterproductive behaviour

HUMAN RESOURCE GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
		Organise seminars to advance scientific knowledge on environmental sustainability matters in the justice system	No. of seminars organised
		Train or sensitise justice system employees on reduction of carbon footprint	No. of employees trained or sensitised
			% reduction in GHG emissions
	Improved employee performance in safeguarding the environment	Promote environmental awareness	No. of green corners established.
		Incorporate environmental sustainability goals into employees' performance metrics	No. of performance indicators on environmental protection
		Train supervisors on setting green performance goals and evaluating EGB	No. of supervisors trained
		Have green rewards and compensation structures	No. of green rewards given to employees
		Train staff on setting green performance goals and targets	No. of green indicators in staff appraisal

RIGHTS-BASED GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators	
All Agencies	Deepened human rights approach to greening the justice system	Entrench rights-based approach in all other elements of justice system greening	No. of green laws, policies, procedures and physical infrastructures with human rights provisions	
			No. of core greening functions with embedded human rights provisions	
			No. of reports developed	
			No. of actions undertaken from the reports	
	Reduction of vulnerability and marginalisation due to climate action	Provide pro bono legal aid on environmental cases associated with vulnerable groups	No. of pro bono legal aid cases offered	
			Sensitise marginalised groups on environmental rights	No. of sensitisation forums held
				No. of marginalised groups sensitised
			Conduct legal clinics targeting vulnerable persons	No. of legal clinics held
			Enhance the use of alternative rehabilitative programs in the justice system	No. of alternative rehabilitative programmes/ methods used

COMMUNITY ENGAGEMENT GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
All Agencies	Heightened justice system engagement with the community on environmental protection and accountability	Hold awareness forums/campaigns on climate change, environmental sustainability and justice	No. of awareness forums held
		Conduct survey or assessments to establish awareness levels	No. of surveys or assessments conducted
		Educate persons predisposed to crimes on employment opportunities associated with environmental protection	No. of persons engaged
		Engage community members in environmental CSR projects	No. of CSR projects undertaken
		Train employees and community representatives on locally led climate action	No. of persons trained
		Enhance advocacy on the implementation of the SDGs on rule of law and greening	No. of advocacy forums held
		Support or participate in environmental activism	No. of forums supported

COMMUNITY ENGAGEMENT GREENING

Agency	Greening Strategy	Greening Activity	Key Greening Indicators
		Upscale reporting of climate-related justice information to ensure consumers, investors, and the public make informed decisions	No. of reports developed and shared
		Forge partnerships with environmental experts, research institutions and CSOs specialising in environmental sustainability	No. of partnerships established
	Deepened knowledge sharing, collaboration and capacity building on environmental protection at community level by the justice system	Establish knowledge-sharing platforms, such as webinars, seminars and online forums with the community on greening through the justice system	No. of knowledge-sharing platforms established and used
		Develop IEC material, including guides, manuals and posters on community greening interventions by justice system	No. of IEC Materials developed and disseminated
		Engage the media on greening by the justice sector and the community	No. of media engagements

B. Questionnaire for Gathering Feedback on Greening Kenya’s Justice System

Name of Institution/Organization:

A. What is the familiarity level of greening initiatives within your Agency?

Unaware Slightly Aware Moderately Aware Aware Very Aware

B. Highlight the initiatives and recommendations by your agency on greening

1. Functional Greening

.....

2. Physical Greening

.....

3. Policy Greening

.....

4. Legislative Greening

.....

5. Procedural Greening

.....

6. Technology Adoption Greening

.....

7. Rights-Based Greening

.....

8. Capacity Building Greening

.....

9. Human Resource Greening

.....

10. Any other greening element

.....

C. What other comments or suggestions do you have on improving the strategy?

.....

C. Template for use in Monitoring Progress on Greening the Justice System

Greening Element	Greening programme or activity	KGI	Baseline	Target	Achievement	Remarks
1. Functional						
2. Physical						
3. Policy						
4. Legislative						
5. Procedural						
6. Technology Adoption						
7. Rights-based						
8. Community engagement						
9. Human Resource						

NB

- Extensive unpacking of each element above is highly recommended
- Deliberate and accurate determination of applicable baseline is essential



NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE

STRATEGIC GUIDING FRAMEWORK FOR GREENING KENYA'S JUSTICE SYSTEM 2024

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

The Development of this Strategic Guiding Framework was supported by:



Food and Agriculture
Organization of the
United Nations

