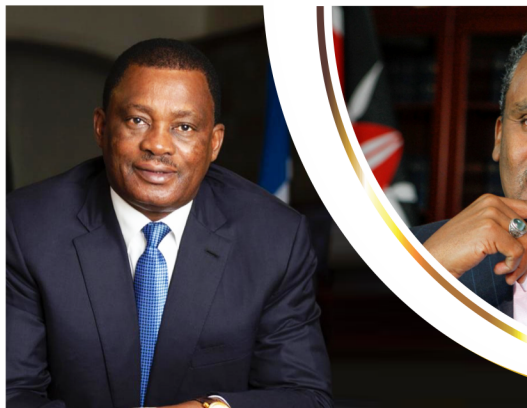




# ADMINISTRATION OF JUSTICE IN KENYA ANNUAL REPORT

2022 - 2023



NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE  
(NCAJ)





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# ADMINISTRATION OF JUSTICE IN KENYA ANNUAL REPORT

2022 - 2023

The preparation and launch of this report was supported by:





## VISION

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



## MISSION

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



## VALUES

- 
- |                  |                     |
|------------------|---------------------|
| ■ Accountability | ■ Constitutionalism |
| ■ Consultation   | ■ Interdependence   |
| ■ Public Service | ■ Innovation        |

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## FOREWORD

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In pursuit of a coordinated, effective, efficient and collaborative approach in the administration of justice and reform of the Kenyan justice system, the National Council on the Administration of Justice (NCAJ) was established through the Judicial Service Act 2011 as the legal body to spearhead this vital role. Consequently, the NCAJ strives to strengthen and enhance the coordination of the justice system to ensure that Kenyans and other persons residing within our borders access justice as envisioned in the Constitution of Kenya, 2010. To realise this aspiration, the NCAJ Strategic Plan 2021–2026 outlines priority programs on: Strengthening justice sector coordination mechanisms; Deepening criminal and civil justice reforms; Enhancing access to justice for vulnerable persons; and Facilitating grassroots engagements through Court Users Committees (CUCs) and other forums. These programs align with Kenya’s development agenda as articulated in Vision 2030 and the Medium-Term Plan III. The programs are also consistent with international commitments to promoting a peaceful and inclusive society, as reflected in the Sustainable Development Goals, international laws and protocols.

The Annual Report on Administration of Justice 2022-2023 has been developed in keeping with the requirements of Section 37 of the Judicial Service Act, 2011. The report provides the legal, policy and administrative reforms realised in the administration of justice in Kenya, through NCAJ, both at the Council and local levels, and through diverse state and non-state actors. The report documents various citizen-centric strategic interventions through the CUCs and other grassroots collaboration mechanisms, especially positive partnerships with the County Governments. The report further outlines strategic and priority programs for the justice sector’s transformation in FY 2023/24.

I applaud NCAJ Agencies and other partners for their tremendous efforts and achievements, conveyed in this Report. I am also greatly indebted to the Heads of NCAJ agencies and their technical personnel for their involvement in the Council programs throughout the year. With exemplary performance from the NCAJ Working Committees and Secretariat, the Council will continue to deliver on its mandate. To remove obstacles that prevent the effective administration of justice and advance access to justice for all, the Council will take a comprehensive and the whole-of-government approach to service delivery. We will keep leveraging on technological advancement to promptly serve clients seeking services in the justice system. We will also continue to take deliberate actions targeting access to justice for the most vulnerable members of our community.

As the NCAJ, we reaffirm our dedication to attaining a coordinated and coherent justice system that serves the people of Kenya. As we continue to serve the nation, I encourage all NCAJ institutions and partners to unreservedly focus on the priorities outlined in this Report. Together, let us turn these priorities into action and forge a path towards a more just and peaceful society.

**Hon. Justice Martha K. Koome, EGH**  
**Chief Justice and President of the Supreme Court of Kenya &**  
**Chairperson - National Council on the Administration of Justice**

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## ACKNOWLEDGEMENTS



The NCAJ leadership has demonstrated exceptional and unwavering commitment to accomplish the milestones presented in this Annual Report on the Administration of Justice in Kenya for the Financial Year 2022/23. I deeply appreciate all the Agencies and partners within the justice sector for their invaluable efforts and contributions under the leadership of the Hon. Chief Justice as NCAJ Chairperson. I also thank all the institutions and agencies that contributed to the development of this report through the submission of data and information.

I further acknowledge the Chairpersons of the NCAJ Working Committees who handled the delegated assignments from the Council, offered leadership and guidance to their Committees, and spearheaded the undertaking of the reform agenda. I thank all Court Users' Committees (CUCs) for their exemplary performance in enhancing the administration of justice at the grassroots. The myriad achievements could not have been possible without the input of the NCAJ Secretariat, which supported and facilitated the Council, the Working Committees and the CUCs. The continuous monitoring of progress and keeping the Council abreast of the required interventions was phenomenal.

Special appreciation goes to the Committee drawn from NCAJ Agencies that diligently gathered information, processed it, and timely wrote this report. The Committee was led by Dr. Moses Marang'a (Executive Director of NCAJ) as the Chairperson, Ms. Susan Ouko (Head of the Criminal Justice Reforms Department of NCAJ) as the Secretary, Prof. Jack Mwimali (Editor/CEO - National Council for Law Reporting), Dr. Miriam Nyamwamu (Assistant Commissioner of Prisons, Kenya Prisons Service), Ms. Christine Gakobo (Senior Assistant Director of Public Prosecutions and Deputy Head Prosecution Training Institute - Office of the Director of Public Prosecutions), Ms. Catherine Mugwe (Assistant Inspector General of Police and Head of Training - National Police Service), Mr. Kennedy N. Mutiso (Senior State Counsel - Office of the Attorney General and Department of Justice), Ms. Hannah W. Maingi (Deputy Director in Charge of Court Services - Probation and Aftercare Service), Ms. Hellen Musyoki (Senior Economist in the Judiciary), and Ms. Anne Thiong'o (Assistant Director Children Services - Directorate of Children Services).

Further, other Committee members included the NCAJ Secretariat staff, namely Ms. Margaret Wanyoike (Head of the Council Coordination Department), Ms. Sylvia Yiantet (Head of the Court Users' Committees Department and Ag. Head of the Civil Justice Reforms Department), Ms. Waturi Esiera (Head of the Access to Justice for Vulnerable Groups Department), Ms. Cynthia Olwande (Head of the Monitoring Evaluation and Learning Department), Ms. Jackie Mulwa (Head of the Human Resource & Administration Department), Mr. Mohamed Abdiqafar Issak (Head of the Finance & Accounts Department) and Ms. Wendy Wairimu. I also express my gratitude for the assistance provided by other Secretariat staff, namely Mr. Peter Oko, Ms. Emily Maranya, Mr. Edgar Ayongah, Ms. Angelica Omondi, Ms. Merioth Ndumu, Ms. Irene Ndirangu, Ms. Juliet Owala, Mr. Samson Odhiambo, Mr. Stephen Kimaiyo, Mr. John Ogola and Mr. Eliud Githua.

We sincerely thank the justice sector stakeholders who partnered with NCAJ and provided immense technical and financial support to develop this publication. These partners were the United Nations Office on Drugs and Crime (UNODC) through the European Union-funded PLEAD partnership, the International Development Law Organization (IDLO), the UN-Women, the International Justice Mission (IJM), the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI), Centre for Reproductive Rights and Equality Now. Their support and partnership was phenomenal.

**Anne A. Amadi, CBS**

**Chief Registrar of the Judiciary of Kenya &  
Secretary - National Council on the Administration of Justice**

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## ABBREVIATIONS AND ACRONYMS

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<b>ADR</b>	Alternative Dispute Resolution
<b>AJS</b>	Alternative Justice System
<b>ATPU</b>	Anti -Terrorism Police Unit
<b>CAJ</b>	Commission on Administrative Justice
<b>CCR</b>	Case Clearance Rate
<b>CCUCs</b>	Children Court Users' Committees
<b>CJCUCs</b>	Commercial Justice Court Users' Committees
<b>CJS</b>	Criminal Justice System
<b>CLE</b>	Council for Legal Education
<b>COG</b>	Council of Governors
<b>CSO</b>	Community Service Order
<b>CSOs</b>	Civil Society Organizations
<b>CUCs</b>	Court Users' Committees
<b>DCI</b>	Directorate of Criminal Investigations
<b>DCS</b>	Directorate of Children Services
<b>DPP</b>	Director of Public Prosecutions
<b>EACC</b>	Ethics and Anti-Corruption Commission
<b>ELC</b>	Environment and Land Court
<b>ELRC</b>	Employment and Labour Relations Court
<b>FIDA-K</b>	Federation of Women Lawyers- Kenya
<b>FY</b>	Financial Year
<b>GOK</b>	Government of Kenya
<b>HOD</b>	Head of Department
<b>ICJ-K</b>	International Commission of Jurists- Kenya
<b>ICT</b>	Information Communication Technology
<b>IDLO</b>	International Development Law Organization
<b>IEBC</b>	Independent Electoral and Boundaries Commission
<b>IFMIS</b>	Integrated Financial Management Information System
<b>IJM</b>	International Justice Mission
<b>IPICC</b>	Intersex Persons Implementation Coordination Committee
<b>IPOA</b>	Independent Policing Oversight Authority
<b>JLAC</b>	Justice and Legal Affairs Committee
<b>JSC</b>	Judicial Service Commission
<b>KHRC</b>	Kenya Human Rights Commission
<b>KMJA</b>	Kenya Magistrates and Judges Association
<b>KNBS</b>	Kenya National Bureau of Statistics
<b>KNCHR</b>	Kenya National Commission on Human Rights
<b>KPS</b>	Kenya Prisons Service

<b>KRAs</b>	Key Result Areas
<b>LRF</b>	Legal Resources Foundation
<b>LSK</b>	Law Society of Kenya
<b>MTEF</b>	Medium Term Expenditure Framework.
<b>MTP</b>	Medium Term Plan
<b>NCAJ</b>	National Council on the Administration of Justice
<b>NCCJR</b>	National Committee on Criminal Justice Reforms
<b>NCLR</b>	National Council on Law Reporting (Kenya Law)
<b>NCRC</b>	National Crime Research Centre
<b>NG-CDF</b>	National Government - Constituency Development Fund
<b>NGEC</b>	National Gender and Equality Commission
<b>NLAS</b>	National Legal Aid Service
<b>NLC</b>	National Land Commission
<b>NPS</b>	National Police Service
<b>OAG &amp; DOJ</b>	Office of the Attorney General and Department of Justice
<b>OCSEA</b>	Online Child Sexual Exploitation and Abuse
<b>ODPP</b>	Office of the Director of Public Prosecutions
<b>PACS</b>	Probation and Aftercare Services
<b>PLEAD</b>	Programme for Legal Empowerment and Aid Delivery in Kenya
<b>SDGs</b>	Sustainable Development Goals
<b>SGBV</b>	Sexual and Gender Based Violence
<b>SOA</b>	Sexual Offences Act
<b>SOJAR</b>	State of the Judiciary and the Administration of Justice Report
<b>SP</b>	Strategic Plan
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commission for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>USDOJ</b>	United States Department of Justice
<b>VPB</b>	Victim Protection Board
<b>WPA</b>	Witness Protection Agency

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## EXECUTIVE SUMMARY



### Background

The preparation of the Administration of Justice Annual Report by NCAJ is a statutory requirement under Section 37 of the Judicial Service Act 2011. The report provides detailed information on the achievements realized in the administration of justice in Kenya in FY 2022/23. This report was prepared by a multi-agency team drawn from the NCAJ Secretariat, Office of the Attorney General, Judiciary, National Police Service, Office of the Director of Public Prosecutions, Kenya Prisons Service, Probation and Aftercare Services and the Directorate of Children Services. In FY 2022/23, there was continuous monitoring of the progress realised in the administration of justice. At the end of the Financial Year (FY), information was sought from NCAJ's state and non-state actors. Published government institutions' reports also provided useful information that added value to this report. The chapters are primarily organized according to the strategic focus areas of NCAJ as outlined in the Strategic Plan 2021-2026.

### Highlights of Key Achievements

#### *Strengthening Coordination in the Administration of Justice*

Upon the end of the General Elections and the formation of a new Government in the FY 2022/23, NCAJ welcomed new Council Members as specified under Section 34 of the Judicial Service Act, 2011. To strengthen the coordination of the administration of justice, the Council approved diverse justice sector reform instruments during its statutory meetings. A phenomenal achievement during the year under review was the preparation of the Inaugural Administration of Justice in Kenya Annual Report 2021-2022. The Report was launched at an event that was graced by H.E. Dr. William Samoei Ruto, CGH, the President of the Republic of Kenya. To establish and maintain strong partnerships, NCAJ collaborated with development partners, civil society organizations and other government institutions to enhance service delivery in the justice sector.

#### *Deepening Criminal Justice Reforms*

Various legislative reforms in the criminal justice system were undertaken to enhance the delivery of fair and just outcomes to the public. The draft Penal Code and Criminal Procedure Code bills were finalised. A key milestone was the development of the Sentencing Policy Guidelines (2023) for enhancing predictability in the sentencing regime in Kenya in line with international best practices. To sustain the fight against corruption, diverse interventions were carried out. The agencies within the criminal justice sector continued to deliver on their mandates. The NPS processed 97,301 serious crime incidents, the EACC processed 5,349 complaints, and the IPOA conducted 2,077 investigations. The ODPP processed 299,483 criminal cases, appeals and applications while courts resolved 231,656 cases. The Kenya Prison Service closed the year with a population of 61,915, indicating an urgent need to strengthen decongestion mechanisms. The Probation and Aftercare Service (PACS) supervised 46,504 persons under probation orders, community service orders and aftercare programmes.

#### *Strengthening Civil Justice Reforms*

In the civil justice arena, the NCAJ Standing Committee was officially gazetted to identify, review and formulate policy, legal and institutional reforms for the efficient functioning of the civil justice system in Kenya. Under the leadership of the Hon. Attorney General, the Committee mapped the broad reform areas, notably the nexus between formal and informal civil justice, digitization of the civil justice sector, enhancing

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efficiency in land justice, succession matters, and commercial and labor-related disputes. The Committee also identified the expeditious disposal of civil cases as a priority. In the period under review, 187,606 civil matters were resolved in courts. These matters comprised constitution petitions, commercial cases, arbitration disputes and family disputes, among others. In FY 2022/23, the uptake of alternative dispute resolution (ADR) mechanisms increased and there was enhanced enforcement of arbitral awards. Moreover, dispute resolution through administrative petitions and complaint-handling mechanisms was undertaken.

### *Enhancing Access to Justice for Vulnerable Groups*

Numerous legal, policy and administrative reforms were undertaken to enhance access to justice for vulnerable groups. To enhance administration and access to justice for children, the NCAJ organised the National Service Month on Children Matters and held the 2nd Child Justice Summit. The development of the Rules and Regulations supporting the Children Act 2022 commenced. To enhance access to justice for intersex persons, the drafting of the Intersex Persons Bill, 2023, continued. An assessment of mental health facilities was also undertaken to strengthen justice for persons with mental illness. To enhance access to justice for victims of Sexual and Gender-Based Violence (SGBV), NCAJ launched SGBV CUCs and commenced the review of the Sexual Offences Act 2006 and other attendant laws. Further, the Judiciary developed its Child Justice and SGBV Strategies. The legal Aid Act 2016 was also translated into braille and audio-visual versions to support visually and hearing-impaired persons.

### *Enhancing the Administration of Justice at the Grassroots through CUCs*

During the reporting period, there was a renewed focus on enhanced administration and access to justice at the grassroots through CUCs. The number of CUCs rose from 236 at the end of FY 2021/22 to 256 CUCs at the end of the review period, an 8 per cent increase. The CUCs were trained and sensitized on diverse laws, policies and emerging issues. Moreover, CUCs were guided on enhancing justice sector services at the grassroots, and improved linkages with the Council. Various CUCs across the country improved efficiency at their local level, and resolved local challenges. Further, the NCAJ engaged regionally and internationally to entrench the best practices.

### *Capacity improvement in the Justice Sector*

Diverse achievements enhanced the justice sector's human resource, infrastructural and ICT capacities. To support secretariat work, the European Union, through the Programme for Legal Empowerment and Aid Delivery (PLEAD) I program, donated 44 laptops and desktop computers for the NCAJ Secretariat and the best-performing CUCs for the FY 2022/23. To enhance the performance, delinking of the NCAJ performance management from that of the Judiciary was undertaken, resulting in the execution of eight Performance Management and Measurement Understandings up from a single one previously executed under the Judiciary. The innovative strategic shift enhanced the performance and support of the Council due to the increased number of programs under performance measurement.

### *Financial resources and utilisation*

During the period under review, the total funding by the Government for some core NCAJ agencies in FY 2022/23 was KShs 199.82 billion out of a resource requirement of KShs 292 billion, yielding a resource gap of KShs 92.9 billion. The NCAJ secretariat received an allocation of KShs 78.8 Million against the estimated resource requirement of KShs 512 Million. The deficit adversely affected the uptake of the planned programs. Significant milestones were made towards financial independence in the Justice sector with the operationalization of the Judiciary Fund and the creation of financial autonomy for the National Police Service. Further, the second phase of the funding partnership with the European Union under the PLEAD in Kenya was launched.

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## Challenges Experienced in the Administration of Justice, FY 2022/23

In the quest to enhance the administration of justice, various challenges were experienced. These included delays in investigations, prosecution and trial process. Overcrowding continued to affect the prison facilities. Slow adoption of technology and limited systems' integration affected the efficient administration of justice. Low access to legal aid services affected access to justice. Further, there were inefficiencies in the expeditious handling of vulnerable groups in the justice sector. The justice sector agencies had limited human resource capacity including low knowledge and expertise- on climate change action and expectations. A perennial challenge of inadequate finances adversely affected the uptake and implementation of programmes.

## Priority Programmes and Activities on Administration of Justice, FY 2022/23

In line with NCAJ Strategic Plan 2021-2026, a raft of priority programmes are lined up for implementation in FY 2023/24. To enhance coordination in the justice sector, NCAJ will work towards the finalisation of the NCAJ Bill. The Council and its Committees will relentlessly pursue myriad strategic reform programs.

To deepen criminal justice reforms, NCAJ will conduct extensive training and sensitization of justice sector actors. Prison decongestion exercises will be up-scaled while measures to increase pro bono legal services will be revamped. Expediting the trial of anti-corruption and economic crimes cases will be prioritised. Also, reforms to strengthen the enforcement of traffic laws will be targeted. To strengthen civil justice reforms, NCAJ will prioritise the review of legal, policy and administrative gaps in land justice, employment and labour justice, and succession cases. Access to information on civil justice will be enhanced in line with the evolving civil practice landscape. Moreover, NCAJ will upscale the Service Delivery Initiatives to reduce the backlog of civil cases.

To enhance access to justice for vulnerable groups, the Rules and Regulations for the Children Act 2022 will be finalised. In promoting the rights of SGBV victims, the review of the sexual offenses law and its attendant laws will remain a priority. A high-level National Conference on SGBV will be held, with the development of the SGBV policy and strategy being pursued. Enhancement of stakeholder engagements through CUCs will be sustained. The CUCs will be empowered to facilitate the administration of justice at the local level. A renewed partnership with County Governments will be prioritized for expeditious delivery of justice at the local level.

To support the administration of justice, NCAJ will reinvigorate its monitoring and evaluation system by developing guidelines, procedures and tools. Additionally, conducting research on emerging justice-related issues and spearheading service delivery initiatives will be targeted. To enhance the uptake of ICT in the justice sector, the pursuit of integrating ICT systems in the justice sector will remain a focal area. Moreover, developing guidelines for the use of technology in the delivery of justice will be pursued. To strengthen partnerships and justice sector collaboration, there will be a rejuvenated engagement with development partners, the private sector and CSOs in the technical, programmatic and financial arena.

**Marang'a W. Moses, Ph.D., MBS**

**The Executive Director**

**National Council on the Administration of Justice**

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Chapter

1

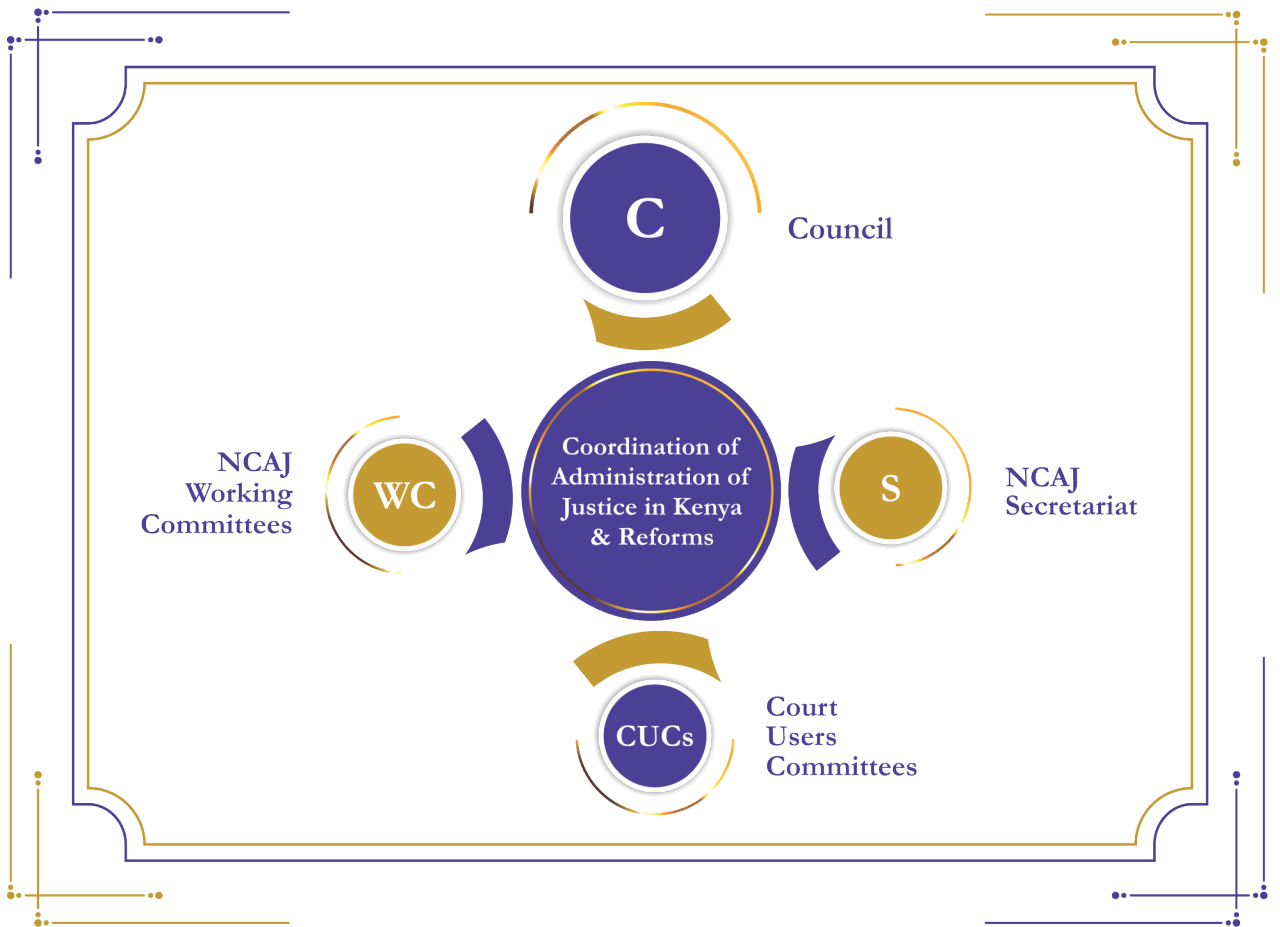


BACKGROUND

# 1



## THE NCAJ



### 1.1 Introduction

The justice system is a complex and interdependent system comprising various state and non-state actors working collaboratively as per their mandates to uphold the rule of law, resolve disputes and protect human rights. The system is a critical component of any government as it fosters social and economic development. The smooth and effective functioning of the justice sector entails collaboration and partnership amongst the actors to deliver justice services. Due to various bottlenecks in service delivery, the justice system institutions always strive to enhance efficiency and strengthen partnership. Thus, a coordinated, effective, efficient and consultative approach to the administration of justice is transformative and timeous in service delivery. Such an efficient system minimizes undue burdens to litigants and ultimately nurtures an environment that commands and exudes public trust and confidence.

To entrench an efficient and client-centric justice system in Kenya, the National Council on the Administration of Justice (NCAJ) was established as an umbrella body to coordinate the administration of justice and spearhead reforms in the justice system. The NCAJ comprises state and non-state agencies working in sync to efficiently deliver justice to all. The NCAJ, as a top-level decision-making body, also has grassroots institutions to allow operational implementation of reforms and coordination. Thus, at the local level, NCAJ provides for community participation, performance improvement, problem-solving, and the best use of limited resources.

Pursuant to the requirements of the Judicial Service Act 2011, NCAJ is required to prepare an annual report on the administration of justice in Kenya. The report, to be eventually submitted to the National Assembly, provides a comprehensive assessment and status of the achievements in the administration of justice. Therefore, and in compliance with the law, this report on the administration of justice in the Financial Year (FY) 2022/23 has been prepared. The report provides a broad background of coordination mechanisms, progress in criminal and civil justice sector reforms, and the strides realised in enhancing access to justice for vulnerable persons. The report further articulates the achievements in the grassroots administration of justice through Court Users' Committees (CUCs) and other local initiatives, and the status of the justice sector's financial and other capacities. The report culminates by articulating the strategic priority areas for implementation in FY 2023/24.

### 1.2 Establishment, Mandate, Composition and Structure of NCAJ

#### 1.2.1 Establishment and Overall Mandate of NCAJ

The NCAJ was established in 2011 as a high-level policymaking, implementation and coordinating body under Section 34 of the Judicial Service Act (No. 1 of 2011). The core mandate of the NCAJ is to facilitate holistic reforms within the justice system and ensure a coordinated, effective, efficient and consultative approach to the administration of justice. To achieve this, NCAJ formulates laws and policies related to justice matters, monitors their implementation, and constantly reviews strategies for the efficient administration of justice in Kenya.

#### 1.2.2 Composition of NCAJ

The NCAJ comprises many institutions, some expressly provided for in the statute, while others co-opted. As per Section 34 of the Judicial Services Act 2011, NCAJ has sixteen members, namely;

- a. The Chief Justice as the Chairperson;
- b. The Cabinet Secretary for the time being responsible for matters relating to the Judiciary, or his or her representative appointed in writing;

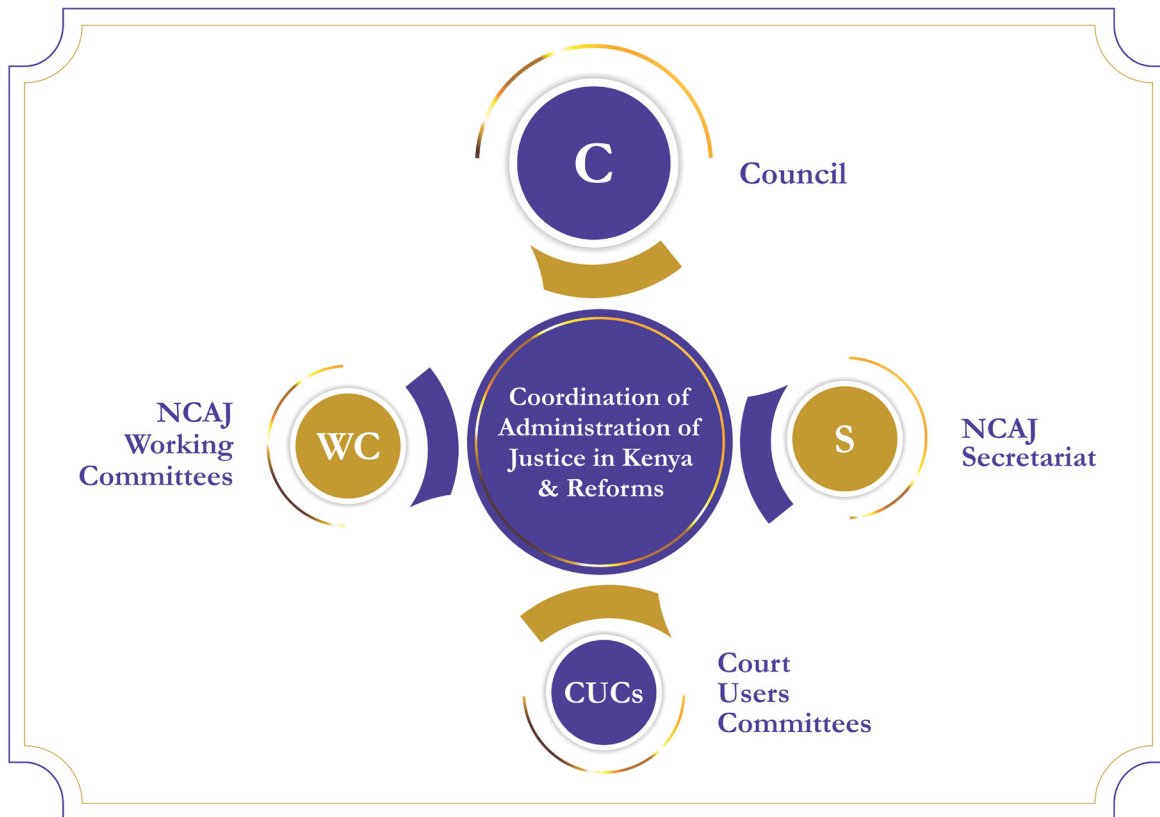
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- c. The Attorney General, or his or her representative appointed in writing;
  - d. The Director of Public Prosecutions, or his or her representative appointed in writing;
  - e. The person for the time being exercising command over the National Police Service, or his or her representative appointed in writing;
  - f. The Commissioner of Prisons, or his or her representative appointed in writing;
  - g. The Chairperson of Law Society of Kenya, or his or her representative appointed in writing;
  - h. The Principal Secretary for the time being responsible for matters relating to the Cabinet and the public service, or his or her representative appointed in writing;
  - i. the Principal Secretary for the time being responsible for matters relating to gender, women and children's affairs, or his or her representative appointed in writing;
  - j. The Principal Secretaries for the time being responsible for matters relating to labour, environment and land, or their representatives appointed in writing;
  - k. The Director of Witness Protection Agency, or his or her representative appointed in writing;
  - l. The Director of Probation and After-care Services, or his or her representative appointed in writing;
  - m. A representative of an organisation or association dealing with human rights issues and the provision of legal aid to women;
  - n. A representative of an organisation or association dealing with human rights issues and the provision of legal aid to children;
  - o. A representative of the private sector; and
  - p. A representative of Non-Governmental Organisations dealing with human rights issues and the provision of legal aid.

Since its establishment in 2011, NCAJ has co-opted other agencies to support justice sector reform agenda. These are the Ministry of Defence, Ministry of Health, Kenya Law Reform Commission, Commission on Administrative Justice, Kenya National Commission on Human Rights, Independent Electoral and Boundaries Commission, Ethics and Anti-Corruption Commission, Independent Police Oversight Authority, Council for Legal Education, Council of Governors, Department of Children's Services, Directorate of Criminal Investigation, National Transport and Safety Authority.

Other agencies are the National Lands Commission, Victim Protection Board, National Crime Research Centre, State Department for Correctional Services, National Legal Aid Service, Community Service Order, and National Council for Law Reporting. Civil Society Organisations, non-governmental Organisations, and the Private Sector are also represented in the NCAJ. Other Council members are FIDA-Kenya, Equality Now, International Commission of Jurists-Kenya, The Cradle, Kenya Private Sector Alliance (KEPSA), Kenya Association of Manufacturers, Kenya Human Rights Commission, Legal Resources Foundation and Kenya Magistrates and Judges Association.

### 1.2.3 Structure of NCAJ

The NCAJ encompasses the Council, the Secretariat, Working Committees and Court Users' Committees.



#### *The Council*

The Council, as elaborately explained in Section 1.2.2, is the highest institution of governance mandated to coordinate the administration of justice and lead the reform agenda. The Council has four subcommittees supporting it in the undertaking of its responsibilities. These are the Executive, the Finance and Administration, the Communication and Information Management, and the Administration of Justice and Implementation subcommittees.

#### *The Working Committees*

The NCAJ Working Committees undertake technical assignments and spearhead the development of policy and legal reform documents in accordance with the terms of reference as per their establishing Gazette Notices, the NCAJ Strategic Plan, and the directives of the Council. The Committees have a multi-agency membership with the Chairpersons appointed from NCAJ agencies. Further, the secretaries to the Working Committees are from the NCAJ Secretariat to ensure seamless coordination, information flow, centralised resource planning, budgeting and resource mobilisation, coordinated monitoring and reporting.

#### *The Secretariat*

The NCAJ Secretariat serves as the administrative hub of NCAJ, acting as an essential liaison between the Council, the Working Committees and the CUCs. The Secretariat also drives the reform agenda on behalf of the Council for priorities not domiciled under the mandate of Working Committees, oversees the Council programs, and supports the Working Committees and CUCs in carrying out their mandate. The Secretariat also coordinates the monitoring function of justice sector programs on behalf of the Council.

## The Court Users Committees

The NCAJ model is hinged on a robust feedback mechanism from the grassroots through CUCs to the Council at the apex. The CUCs bring together actors in the justice sector to ensure a coordinated and consultative approach to the administration of justice at the local level. The CUCs ensure that justice is administered efficiently within the court's jurisdiction, promote collaboration among diverse justice sector stakeholders, resolve grassroots disputes by providing local solutions, and ensure the performance and accountability of the actors at the service delivery level. The CUC membership largely corresponds to that of the Council, and convene on quarterly basis.

### 1.3 Mandates of Select NCAJ Agencies

A total of 42 members represent various agencies and institutions with varied mandates under the NCAJ's coordination umbrella. Some are Council members due to roles specified in Section 34 of the Judicial Service Act, while other agencies have been co-opted over time because of their functions in the administration of justice. Some agencies have broad responsibilities not directly linked to administering justice but are essential to the justice sector. Nonetheless, all member agencies leverage on their unique mandates to collectively enhance the justice system's effectiveness. Table 1.1 provides the foundational NCAJ member agencies and highlights their respective mandates:

**Table 1.1: Highlights of the mandate of select NCAJ member agencies**

INSTITUTION	MANDATE
Judiciary	Established under Chapter 10, Article 159 of the Constitution of Kenya and conferred with Judicial authority exercisable by Courts and Tribunals on behalf of the people of Kenya.
Office of the Attorney General and Department of Justice (OAG&DOJ)	Established pursuant to Article 156 of the Constitution of Kenya and Office of the Attorney General Act No. 49 of 2012. The OAG & DOJ is the legal advisor to the Government. The Office promotes the rule of law, protects the public interest, and represents the Government in court. The Attorney General also functions as the Cabinet Secretary in charge of justice-related matters.
Office of the Director of Public Prosecutions (ODPP)	The ODPP derives its mandate from Article 157 of the Constitution to institute and undertake prosecution of criminal matters and all other aspects incidental thereto. The DPP makes the decision to charge and determines what charges should be preferred in a criminal case.
National Police Service (NPS)	The National Police Service (NPS) is provided for by the Constitution, the NPS Act 2011 and the NPS Commission Act 2011. The NPS is mandated to ensure the safety and security of citizens, maintain the rule of law, and uphold human rights. It protects Kenya's territorial integrity, sovereignty, citizenry, property, rights, freedoms and other national interests.
Kenya Prisons Service (KPS)	Established as a uniformed and disciplined entity under the Prisons Act Cap 90 and Borstal Institutions Act, Cap 92 Laws of Kenya. Its primary responsibility is to contain and rehabilitate criminals. The Service is domiciled under the Ministry of Interior and Coordination of National Government.
Probation and Aftercare Services (PACS)	Probation and Aftercare Service derives its mandates from the Probation of Offenders Act, Cap 64 and Community Services Orders Act, No. 10 of 1998. It oversees, rehabilitates and reintegrates offenders serving non-custodial sentences within the community after the resolution of cases by courts. The Department also prepares advisory reports for courts and judicial authorities to use in determining bail, sentencing, and pre-release decisions.

Ethics and Anti-Corruption Commission (EACC)	Established under Section 3 (1) of the Ethics and Anti-Corruption Commission Act, 2011 to combat and prevent corruption, economic crime and unethical conduct through law enforcement, prevention, public education, and promotion of standards and practices of integrity, ethics and anti-corruption.
Witness Protection Agency (WPA)	Established under Section 3A (1) of the Witness Protection Act, 2011. The agency is responsible for protecting and assisting witnesses and whistle-blowers who are in danger as a result of their cooperation in criminal proceedings to ensure their participation in the justice system without fear of harm or intimidation.
Kenya National Commission on Human Rights (KNCHR)	An independent national human rights institution created by Article 59 of the Constitution and the Kenya National Commission on Human Rights Act, 2011. 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.
Commission on Administrative Justice (CAJ)	A constitutional commission established under Article 59 of the Kenyan Constitution and the Commission on Administrative Justice Act, 2011. Its core mandate is to promote and protect administrative justice by addressing maladministration in the public sector through investigation, alternative dispute resolution and advocacy.
National Land Commission (NLC)	Established under Article 67 of the Constitution and executes its mandate as per the National Land Commission Act 2012, Land Act 2012, Land Registration Act 2012 and National Land Policy 2009. The Commission investigates and resolves land-related disputes, and recommend land policies to the government.
Law Society of Kenya (LSK)	Established under the Law Society of Kenya Act, 2014 and is composed of practicing advocates. The members of the bar represent individuals in courts in the litigation process, thus playing a critical role in the advancement of the rule of law. The LSK also develops policies and promotes professionalism in the legal profession, and assists the public on issues related to or incidental to the law.

#### 1.4 Legal, Policy and Strategic Anchorage of Administration of Justice in Kenya

Globally, the Kenyan government is committed to achieving the UN Sustainable Development Goals (SDGs) Agenda 2030, which emphasizes the need for a just society. In particular, SDG 16 aims to promote peace, justice, and strong institutions which enhances access to justice for all. The SDG 5 recognizes the need for legal reforms to eliminate discriminatory laws and practices, promoting equal rights and access to justice for women and girls. The SDG 10 recognizes the need to address inequalities by enhancing equal access to legal remedies for marginalized and vulnerable populations. Further, SDG 17 underscores the importance of collaboration among governments, civil society, and other stakeholders to strengthen the rule of law and enhance justice systems.

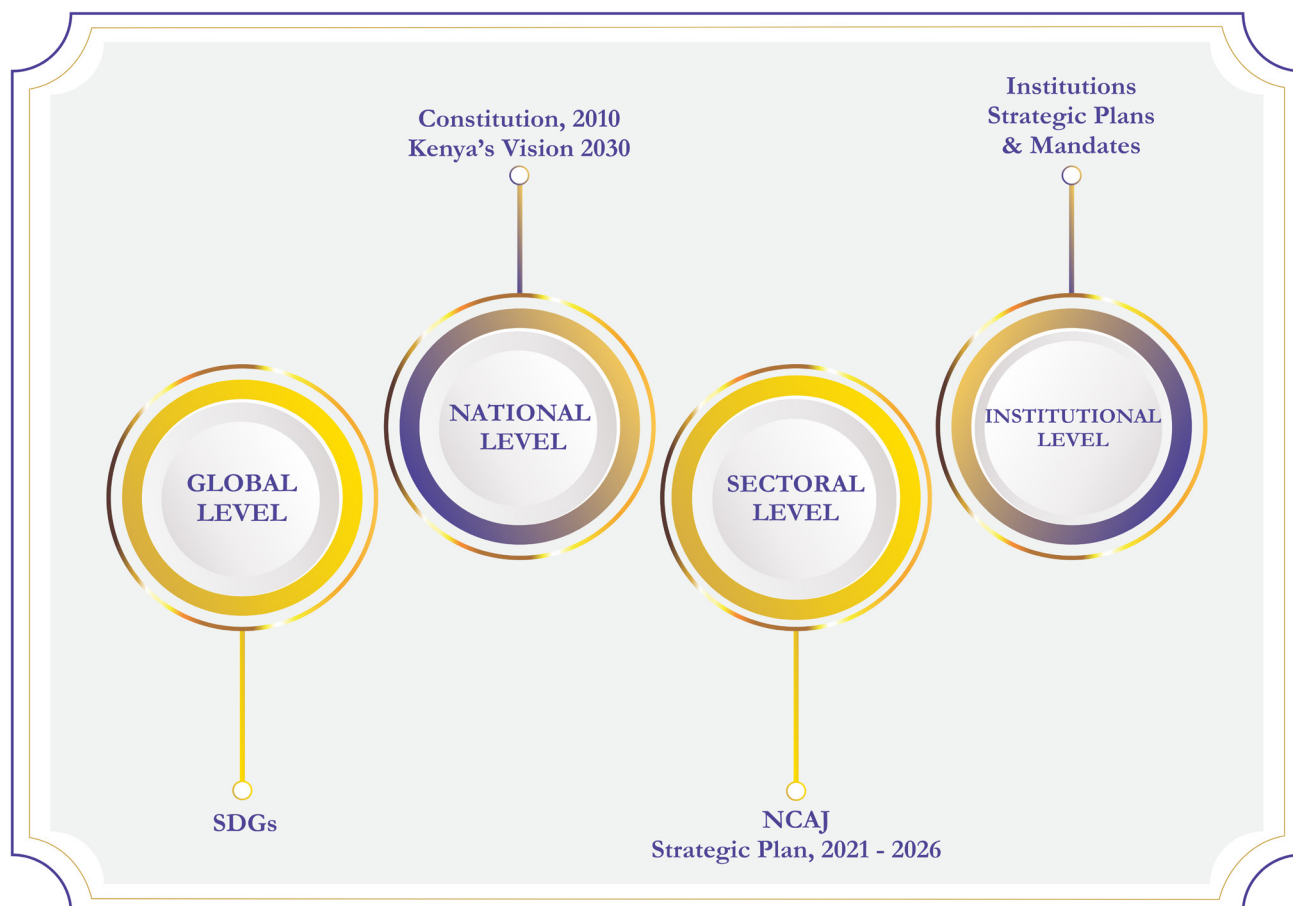
At the national level, the Kenyan Constitution recognizes the importance of having a government-based approach to the realisation of fundamental values such as human rights, equality, freedom, democracy, social justice and the rule of law. Article 10(2) (b) of the Constitution envisions a free and open society founded on human dignity, equality, equity and freedom. Further, Kenya's Vision 2030 aims to create a transformed society that observes the rule of law and human rights, recognizing their crucial role in supporting a modern, market-based economy. The Vision envisages aligning the national policy and legal framework with human rights and gender equity commitments, increasing access and quality of public services and reducing barriers to justice. The ultimate goal is a society where legal and judicial institutions' functional capability is streamlined to enhance inter-agency cooperation, inculcate a culture of compliance with laws, and foster transparent and accountable government institutions.

The Medium-Term Plans (MTP) are the means by which the Vision is implemented. The MTP III (2018-2022) emphasizes, among others, the need for continuous public sector and governance reforms and maintenance of law and order. Among the strategic focus areas are modernization of the police service, strengthening prosecution services, implementing the Bill of Rights, ensuring prompt resolution of cases, increasing the ratio of justice sector employees to the population, providing legal aid to vulnerable groups, establishing courts and case management systems, improving witness protection, promoting alternative justice systems and enhancing enforcement of anti-corruption laws.

At the sectoral level, NCAJ plays a crucial role in advancing national aspirations on matters of justice by ensuring a coordinated, fair, effective and consultative approach to the administration of justice. To strengthen coordination and reforms in the justice sector, the NCAJ Strategic Plan (2021-2026) provides seven Key Result Areas (KRAs) that encompass legal, policy and institutional priorities. Each KRA has priority programs and activities. The Key Result Areas (KRAs) delineated in the (NCAJ) Strategic Plan (SP) 2021-2026 are: Strengthened NCAJ coordinating mechanisms; Deepened criminal justice sector reforms, Strengthened CUCs for effective coordination of the administration of justice; Strengthened partnerships and stakeholder engagement; Effective monitoring and evaluation of programs in the justice sector; Improved access to justice for vulnerable groups; and Deepened civil justice sector reforms.

At the institutional level, justice sector agencies undertake their constitutional mandates, which, by doing so, ultimately yields an effective justice sector. Their mandates are mainly broken down into priority areas through Strategic Plans, and further implemented through annual work plans.

## STRATEGIC ANCHORAGE OF ADMINISTRATION OF JUSTICE IN KENYA





### 1.5 Rationale, Scope and Methodology for the Preparation of the Report

The Administration of Justice in Kenya Annual Report is prepared in keeping with the requirements of Section 37 of the Judiciary Service Act, 2011. The Report provides the status of the achievements in the administration of justice in Kenya, especially on coordination and policy, legal and administrative reforms. Therefore, the scope of the Report is on the administration of justice in Kenya in FY 2022/23. Further, priority programmes for the FY 2023/24 are highlighted. The Report covers all the NCAJ Key Result Areas as per the Strategic Plan 2021-2026, which, in general, has informed the conceptualization of the main chapters.

The Report is prepared by the NCAJ Secretariat and a multi-agency team drawn from the NCAJ member institutions. During the reporting period, the Secretariat continuously undertook monitoring of the progress realized in the administration of justice, including review and analysis of the progressive information contained in the minutes received from the CUCs across the country. At the end of the reporting period, information was formally sought from state and non-state actors through a prescribed template, and feedback was transmitted to the Secretariat for collation. In some instances, data was sourced from published government institution reports. As a quality assurance protocol, the information in the Report was corroborated through comparison to that available on the official websites and social media accounts, and also through follow-up calls.



Chapter

2



COORDINATION  
AND LEADERSHIP  
IN THE JUSTICE  
SECTOR

# 2



### 2.1 Introduction

The efficient and successful administration of justice in Kenya requires a well-coordinated justice sector. Additionally, the NCAJ needs a strengthened leadership and governance structure to fulfil its mandate as outlined in the Strategic Plan 2021–2026. This Chapter details the advancements in justice sector coordination and leadership for optimal service delivery. The Chapter also highlights the coordination and leadership role of the Council assisted by Working Committees, Secretariat, and CUCs at the grassroots. Some of the significant elements of partnership and collaboration between NCAJ and various justice system players are also provided in this Chapter.

### 2.2 Coordination and Leadership in the Administration of Justice

#### 2.2.1 The Council

During the reporting period, notable transitions within the NCAJ leadership occurred. The NCAJ welcomed the following new members to its leadership after General Elections and the subsequent transition in Government.



**Hon. Felix K. Koskei**  
*Chief of Staff & Head of Public Service*



**Hon. Justin B. N. Muturi, EGH**  
*Honorable Attorney General*



**Eng. Japhet Koome, EBS, HSC, 'ndc' (K)**  
*Inspector General, National Police Service*



**Hon. Aden Duale, EGH**  
*Cabinet Secretary, Ministry of Defense*



**Dr. Susan Nakhumicha Wafula**  
*Cabinet Secretary, Ministry of Health*



**Hon. Anne Waiguru, EGH, OGW**  
*Chairperson, Council of Governors*



**Hon. Generali Nixon Korir**  
*PS, Ministry of Lands, Housing and Urban Development*



**Eng. Festus K. Ng'eno**  
*PS, State Department for Environment and Climate Change*



**Ms. Salome Muhia**  
*PS, State Department for Correctional Services*



**Mr. Geoffrey E. Kaituko, ACIARB**  
*PS, Ministry of Labour and Social Protection*



**Mr. Amin Mohamed Ibrahim**  
*Director of Criminal Investigations*



**Mr. William Kimanthi**  
*Chairperson, National Legal Aid Services*

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The Council established an ad-hoc Committee to review matters pertaining to witness expenses, facilitation for pro-bono legal services, and where such funding ought to be domiciled. The Subcommittee comprises the Hon. Attorney General, the Director of Public Prosecutions, the National Police Service, the Ethics and Anti-Corruption Commission, the Community Service Orders Programme, the Kenya Magistrates and Judges Association, the Law Society of Kenya, the Independent Police Oversight Authority, the Judiciary, the National Legal Aid Services, and the Witness Protection Agency. Guidance on the issue was to be finalised in FY 2023/24.

### 2.2.2 Working Committees

The Council creates and gazettes Working Committees to spearhead specific legal, policy, and administrative reforms. Information on the Terms of Reference (TORs) of these Committees is provided in the Appendices. To successfully carry out their duties, these Committees may also engage technical experts to assist them. The NCAJ had nine Working Committees, namely:

- i. Committee on Criminal Justice Reforms - The Committee has 36 representatives of Agencies and is chaired by Hon. Lady Justice Grace Ngenye, a Judge of the Court of Appeal.
- ii. Committee on Civil Justice Reforms - The Committee comprises 15 members and is chaired by the Hon. Justin B. N. Muturi, the Attorney General.
- iii. Standing Committee on Court Users - The Committee has 24 members, with Hon. Justice Alfred Mabeya, a Judge of the High Court of Kenya, serving as its chairperson.
- iv. Committee on Anti-Corruption - The Committee comprises 12 members, with Ms. Dorcas Oduor SC, Secretary Public Prosecution, serving as its chairperson during the period under review.
- v. Standing Committee on the Administration of Justice for Children - The Committee comprises 23 members, with Hon. Lady Justice Teresia Matheka, a Judge of the High Court of Kenya, serving as its chairperson.
- vi. Committee on Traffic Reforms - The Committee has 17 members, with Mr. Noordin Haji, the then Director of Public Prosecution, serving as its chairperson during the review period.
- vii. Committee on ICT - The Committee has 20 members, with Hon. Justice Isaac Lenaola, serving as the chairperson.
- viii. Committee on the Review of Laws and Policies on SGBV - The Committee comprises 19 members, with Ms. Nancy Ikinu, chairperson of FIDA-Kenya, serving as its chairperson.
- ix. Ad-hoc Committee on Elections Preparedness - During the review period, the ad-hoc Committee on Elections Preparedness was chaired by Mr. Wafula Chebukati, the then IEBC chairperson.

### 2.2.3 The Secretariat

The NCAJ Secretariat continued supporting the Council and its committees to realise its mandate. The Departments of the Secretariat undertook strategic, technical and operational assignments to support the realization of the NCAJ mandate.

During the year under review, the following Departments existed at NCAJ:

1. ***Council Coordination Department***, which is responsible for ensuring that the Council functions optimally in coordinating the administration of justice in Kenya.

2. The *Criminal Justice Reforms Department*, which coordinates the reform agenda in the criminal justice sector and supports the Criminal Justice Reforms, Anticorruption and Traffic Reforms Working Committees.
3. *Civil Justice Reforms Department*, which assists the Council and its working committees in undertaking broad civil justice reforms and coordination.
4. *Court Users Committees Department*, which handles all CUC matters and other issues on the administration of justice at the grassroots.
5. *Access to Justice for Vulnerable Groups Department*, which supports the enhancement of the administration and access to justice for vulnerable groups.
6. *Strategy, Monitoring and Evaluation Department*, which spearheads sectoral and internal planning, monitoring and evaluation of the administration of justice, and undertakes research and data management.
7. *Human Resource and Administration Department*, which is responsible for handling human resource affairs of the Secretariat and offering administrative support.
8. *Finance and Accounts Department*, which manages NCAJ finances to facilitate the other departments in the undertaking of their programs.
9. *Supplies Chain Unit*, which is responsible for procurement of goods and services.

#### 2.2.4 Court Users' Committees

The CUCs are forums that bring together players, both state and non-state, involved in the administration of justice at the local level. They are domiciled at the grassroots level, specifically at the court level, with the primary mandate of ensuring the efficient administration of justice within the court's jurisdiction. The CUCs ensure accountability and performance of the justice actors and cultivate partnerships amongst them. The membership of CUCs primarily mirrors that of the Council.

In the year under review, an additional 7 Children CUCs, 10 Magistrates' Court CUCs, and 2 Tribunal CUC were established, bringing the total number of CUCs at the grassroots in Kenya, an 8 percent increase. Figure 2.1 shows the growth in the number of CUCs for the past three years.

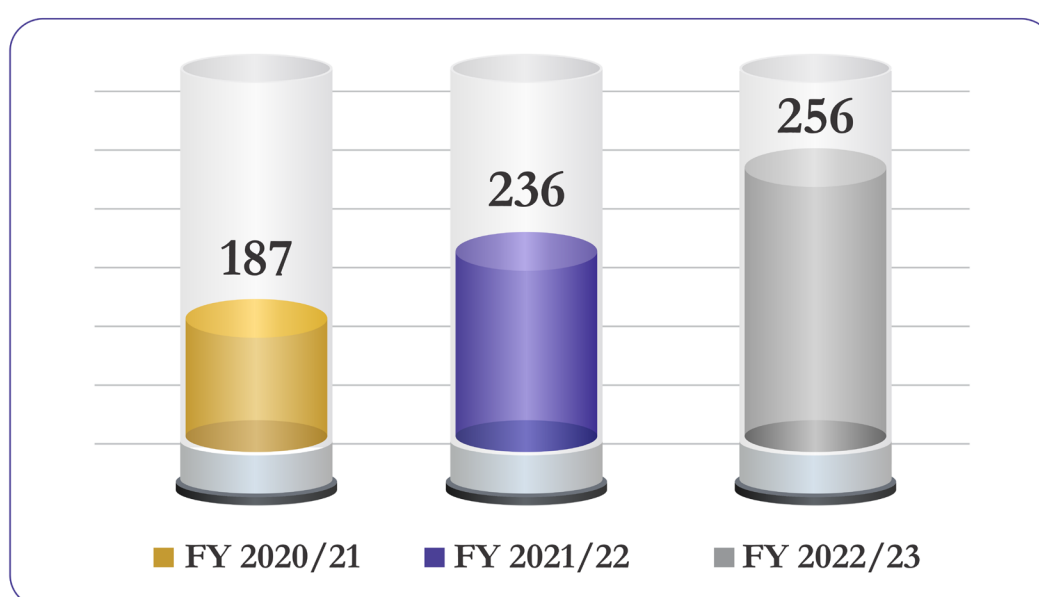


Figure 2.1: Growth of CUCs, FY 2020/21- FY 2022/23

The growth depicted in Figure 2.1 points to increased accountability at the local level and enhanced citizen engagement. Details on specific numbers of CUCs are shown in Table 2.1.

**Table 2.1: Number of CUCs by Type, FY 2020/21-2022/23**

Nature of CUC	FY 2020/21	FY 2021/22	FY 2022/23
High Court (Or County) CUCs	40	40	40
Employment and Labour Justice CUCs	2	2	4
Environment and Land Justice CUCs	2	37	37
Magistrates' Court CUCs	123	125	133
Child Justice CUCs	2	7	14
Commercial Justice CUCs	1	5	5
Kadhis Court CUCs	14	14	14
SGBV CUCs	0	0	1
Tribunals CUCs	3	6	8
Total	187	236	256

The highest number of CUCs remained at the magistrates' courts, followed by high court/county CUCs and the environment and land justice CUCs.

## 2.3 Status of Programmes and Activities Undertaken by the Council

### 2.3.1 Coordination of the Justice Sector in Supporting August 2022 General Elections

The Council convened a meeting on 29th July 2022 to deliberate on the state of justice sector agencies' preparedness and state of readiness for the 8th August 2022 general elections in Kenya, and coordinate their efforts towards seamless support to ensure the observance of the rule of law. The meeting culminated with a press briefing to reassure Kenyans on the commitment by justice sector agencies in supporting the holding of peaceful elections.





*Mr. Noordin Haji the then Director of Public Prosecution & Vice Chairperson of NCAJ, together with Mr. Wafula Chebukati (the then Chairperson IEBC & Chairperson NCAJ Ad-hoc Committee on Election Preparedness) and other Council members during a press brief on NCAJ's support and preparedness to peaceful elections.*

Other NCAJ Agencies also undertook diverse programmes and initiatives to support the successful undertaking of the elections. For instance, the Office of the Director of Public Prosecution developed the ODP Election Compendium 2022 and the Rapid Reference Guide to provide easily accessible resources to facilitate a coherent and expeditious prosecution of electoral offences. The Judiciary Committee on Elections facilitated the training for Judges magistrates on election disputes resolution and prepared an election compendium as a quick reference guide to election law.

The National Police Service trained and sensitised its personnel to ensure the service was well prepared to handle threats to election and insecurity.

The Kenya Law Reform Commission (KLRC) provided technical assistance to the Registrar of Political Parties, the IEBC, the Political Parties Disputes Tribunal (PPDT), the Justice and Legal Affairs Committee (JLAC) of parliament, and the Judiciary Committee on Elections (JCE) in various legal reforms to support 2022 general elections. These were the Political Parties (Amendment) Act, 2022; The Political Parties Disputes Procedure (Amendment) Regulations; Prepared the Elections (Parliamentary and County Elections) (Amendment) Petitions Rules, 2022; Prepared the Court of Appeal (Elections Petition) (Amendment) Rules, 2022; The Elections (Amendment) Act, 2022; Review of the Election Campaign Financing (Amendment) Bill, 2022.

Kenya National Commission on Human Rights (KNCHR) established a situation room, toll-free telephone number, and SMS platform to collect data from the field during the campaign. The Commission also conducted training and deployed election monitors across the country and undertook a public education campaign using social media and community radio to educate the public on human rights and elections and complement voter education by IEBC. The Law Society of Kenya (LSK) trained advocates on e-filing, focusing on the petitions that would arise. The LSK members were also involved in election monitoring in collaboration with state Actors.

### 2.3.2 Holding of High-Level Council, Working Committees and CUCs Forums

The NCAJ undertakes its mandate primarily through organizing high-level forums with representation from member agencies. The high-level forums and meetings are often for coordination and reform agenda.

During the period under review, the Council held three meetings in July, September and February to deliberate on coordination of the administration of justice and the reform agenda. The reform instruments, mainly policy, legal and administrative reforms that the Council approved for use in the justice sector, are contextualized in detail and thematically in other chapters.



*Mr. Mohamed Amin, Director of the Directorate of Criminal Investigation and Mr. Eric Theuri, the President Law Society of Kenya during a Council Meeting*

The summary of meetings held by the NCAJ and its Working Committees to look into diverse programmes supporting the administration of justice in Kenya during the period under review are given in Table 2.2.

**Table 2.2: Meetings held by NCAJ Working Committees, FY 2022/23**

Committee	Number of Meetings Held
1 Council	3
1 Technical Committee	3
2 Standing Committee on Court Users	3
3 Committee on Criminal Justice Reforms	13
4 Standing Committee on the Administration of Justice for Children	12
5 Committee on Traffic Reforms	2
6 Committee on the Review of Laws and Policies on SGBV	6
7 Committee on Anti-Corruption	4
8 Committee on ICT	3
9 <b>Total</b>	49

In total, 49 meetings were held by the Working Committees to enhance the coordination of the administration of justice. During these meetings, diverse reform agenda were deliberated and approved. Table 2.3 highlights the meetings that were held by CUCs at the local level.

**Table 2.3: Meetings held by different CUCs' Types, FY 2022/23**

Nature of CUC	Number of CUCs Meetings Held
High Court (Or County) CUCs	70
Employment and Labour Justice CUCs	4
Environment and Land Justice CUCs	48
Magistrates' Court CUCs	241
Child Justice CUCs	6
Commercial Justice CUCs	8
Kadhis Court CUCs	26
SGBV CUCs	4
Tribunals CUCs	8
Total	415

Detailed information on CUCs' achievements are provided in Chapter 6 and in the appendices.

### 2.3.3 Organisation and Holding of Conferences on the Administration of Justice

The NCAJ organized and coordinated the 2nd Annual Child Justice Summit themed *A New Dawn for the Child in Kenya - Opportunities in the Children Act, 2022*. The Conference brought together both state and non-state players in the justice sector. The Summit's focus was enhancing the administration of justice for children through a child-friendly justice system as envisioned in the Children Act 2022. The outcomes and commitments made during the Conference are in detailed Chapter Five.



*The 2<sup>nd</sup> Annual Child Justice Summit held on the 28<sup>th</sup> and 29<sup>th</sup> of November, 2022*

### 2.3.4 Development of the Inaugural Annual Administration of Justice Report

During the reporting period, NCAJ developed and launched the Inaugural Administration of Justice Annual Report in Kenya 2021/22. The Report, prepared in observance of the requirements of the Judicial Service Act 2011, was the first since the formation of NCAJ in 2011. The Report encapsulates the strides made in the effective administration of justice, in line with the NCAJ Strategic Plan. The launch of the report was graced by H.E. Dr. William Samoei Ruto, CGH, the President of the Republic of Kenya.



*H.E. Dr. William Samoei Ruto, CGH, the President of the Republic of Kenya, graced the occasion of the launch of the Inaugural Administration of Justice in Kenya Annual Report, 2021/22*



*The Hon. Chief Justice & the Chairperson of NCAJ during the launch of the Administration of Justice in Kenya Annual Report, 2021/22*



*The Attorney General during the launch of the Administration of Justice in Kenya Annual Report, 2021/22*



*The Director of Public Prosecution & the Vice Chairperson of NCAJ during the launch of the Administration of Justice in Kenya Annual Report, 2021/22*



*H.E. Dr. William Samoei Ruto, CGH, the President of the Republic of Kenya, together with the Chief Justice of Kenya & the Chairperson of the NCAJ during the launch of the Administration of Justice in Kenya Annual Report, 2021/22.*



*H.E. Dr. William Samoei Ruto, CGH, the President of the Republic of Kenya, and the Chief Registrar of Judiciary & the secretary NCAJ during the launch of the Administration of Justice in Kenya Annual Report, 2021/22.*



*H.E. Dr. William Samoei Ruto, CGH, the President of the Republic of Kenya, and the NCAJ Executive Director during the launch of the Administration of Justice in Kenya Annual Report, 2021/22*

### 2.3.5 Benchmarking on Best Practices on the Administration of Justice

#### *Sharing best Practices on Grassroots Administration of Justice with South Sudan*

The NCAJ hosted a delegation from the Judiciary of South Sudan led by Hon. Justice Stephen Simon Benjingwa, President of the Court of Appeal for the Greater Equatorial Circuit. The main goal of the engagement was to share experiences on Gender-Based Violence (GBV), juvenile courts, case flow management, sentencing systems, and the relevance of CUCs. Chapter six provides more details of the engagement.



*The NCAJ Executive Director, joined by other NCAJ staff, presents the Inaugural Administration of Justice Annual Report to Hon. Justice Stephen Simon Benjingwa, President of the Court of Appeal for Greater Equatorial Circuit in South Sudan at the NCAJ offices.*

#### *Experiential Learning in Japan on Delinquency Prevention and Community-based Rehabilitation of Children in Conflict with the Law*

In February 2023, select members drawn from the NCAJ Standing Committee on the Administration of Justice for Children and the Secretariat toured Tokyo Japan to explore the emerging issues and best practices on delinquency prevention and community-based rehabilitation of children in conflict with the law. The outcome of the engagement was a publication on ***“Delinquency Prevention and Community-Based Rehabilitation of Children in Conflict with The Law.”*** Chapter 5 provides the recommendations that arose from the paper, and which were subsequently submitted to the Standing Committee on the Administration of Justice for Children for implementation.



*Closing ceremony for the study tour, Tokyo Japan February 2023*

***Participation in an International Conference for the Justice Sector Actors in Vienna***

Kenyan justice sector actors participated in the 32nd Commission on Crime Prevention and Criminal Justice (CCPCJ) on *Addressing Challenges in the Treatment of Offenders: The Practical Application of the Existing UN Standard and Norms on Reducing Reoffending*. The meeting was held in Vienna, Austria between 22nd and 26th May 2023.



*The Kenyan Delegation to the 32<sup>nd</sup> Commission on Crime Prevention and Criminal Justice*

### 2.3.6 Partnerships and Stakeholders Engagement

One of the NCAJ Key Result Areas provided in the Strategic Plan 2021-2026 is strengthened partnerships and stakeholder engagement. During the Year under review, NCAJ engaged diverse stakeholders drawn from the development partners, civil society organizations, and other government institutions to forge strong partnerships. Notable engagements included those with UNODC through the European Union-funded PLEAD Project, the Raoul Wallenberg Institute, the United Nations Asia and Far East Institute (UNAFEI), the Embassy of Kenya in Japan, International Development Law Organization (IDLO), United Nations Children Fund (UNICEF), Centre for Reproductive Rights, the International Justice Mission (IJM), Legal Resources Foundation (LRF), Microsoft, and the United States Department of Justice (USDOJ). The collaboration was centered on renewed technical and strategic partnerships in the administration of justice.



*Courtesy call to NCAJ by Dr. Najat M'jid Maalla, the UN Special Representative of Secretary-General on Violence Against Children, Prof. Phillip Jaffe, the Vice Chair of the UN Committee on the Rights of the Child, and Edith Bardel Child Protection Officer, Office of the Special representative. The NCAJ was represented by Dr. Moses Marang'a the Executive Director, Ms. Waturi Esiera the Head of Vulnerable Groups Department. and Ms. Sylvia Yiantet, Head of CUCs Department*

The NCAJ Strategic Plan 2021-2026 envisages a justice Sector with a robust monitoring, evaluation and reporting framework. To actualise this aspiration, NCAJ Secretariat monitors the progress realised every quarter and submits a report to the Council. The monitoring covers cross-cutting programmes within NCAJ and collaborative programmes in the Justice sector. During the period under review, the NCAJ staff were sensitized on performance tracking and management, with the Heads of Department subsequently signing Performance Understandings with the Executive Director. Further, the Executive Director signed a Performance Understanding with the Chairperson NCAJ witnessed by Secretary. The aim was to enhance Secretariat performance to support Council work and ensure that achievements are monitored, documented and reported.



*Execution of Performance Management and Measurement Understandings 2022/23 for the NCAJ Secretariat to enhance performance and monitor progress in the administration of justice in Kenya.*



Chapter

3



PROGRESS AND  
REFORMS IN  
CRIMINAL JUSTICE

# 3



*NCAJ Committee on Criminal Justice Reforms (NCCJR)  
Workshop held in September 2022 to review  
the Sentencing Policy Guidelines*



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## CHAPTER 3: PROGRESS AND REFORMS IN CRIMINAL JUSTICE

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### 3.1 Introduction

The criminal justice system (CJS) aims at delivering fair and just outcomes to the public in compliance with constitutional and other legal provisions. The CJS further aims to protect the innocent, keep the communities safe, prosecute those suspected of criminal conduct, convict offenders, rehabilitate the offenders and support the victims of crime. This Chapter provides the achievements realised in the administration of justice and reforms in the CJS in Financial Year (FY) 2022/23. The Chapter further highlights the challenges experienced by the sector during the period under review and makes recommendations for enhancing efficiency and effectiveness in service delivery.

Sustaining legal and policy reforms, and continuous improvement of administrative processes is crucial to the realisation of the aspirations of a CJS. The ongoing reforms and the undertaking of myriad programmes are geared towards the realisation of the Constitution aspirations of access to justice for all persons. The ultimate aim of the reforms and programmes is to promote a peaceful and inclusive society as envisaged in Kenya's Economic Development Blueprint, the Vision 2030, and in the United Nations Sustainable Development Goal (SDG) Number 16. The Vision envisages a secure, just, cohesive and democratic society that would facilitate socio-economic and political development. The Medium-Term Plan (MTP) III (2018-2022) of the Vision 2030, specifically lays emphasis on, among others, public sector and governance reforms, administration of justice, maintenance of law and order, strengthening the police and prosecution services, implementing the bill of rights, prompt resolution of cases, improving witness protection, and enhancing enforcement of anti-corruption laws.

To achieve these national aspirations, the National Council on Administration of Justice (NCAJ) is mandated to ensure the administration of justice in Kenya is approached in a coordinated and consultative manner. The Council aims to deepen reforms within the criminal justice sector. As elaborated in Chapter 2, NCAJ realises this through its Working Committee that handle and spearhead reforms in the criminal justice sector. For the envisaged reforms to be realised, efficient coordination is crucial coupled with strengthened institutions that are able to effectively perform their legal mandates.

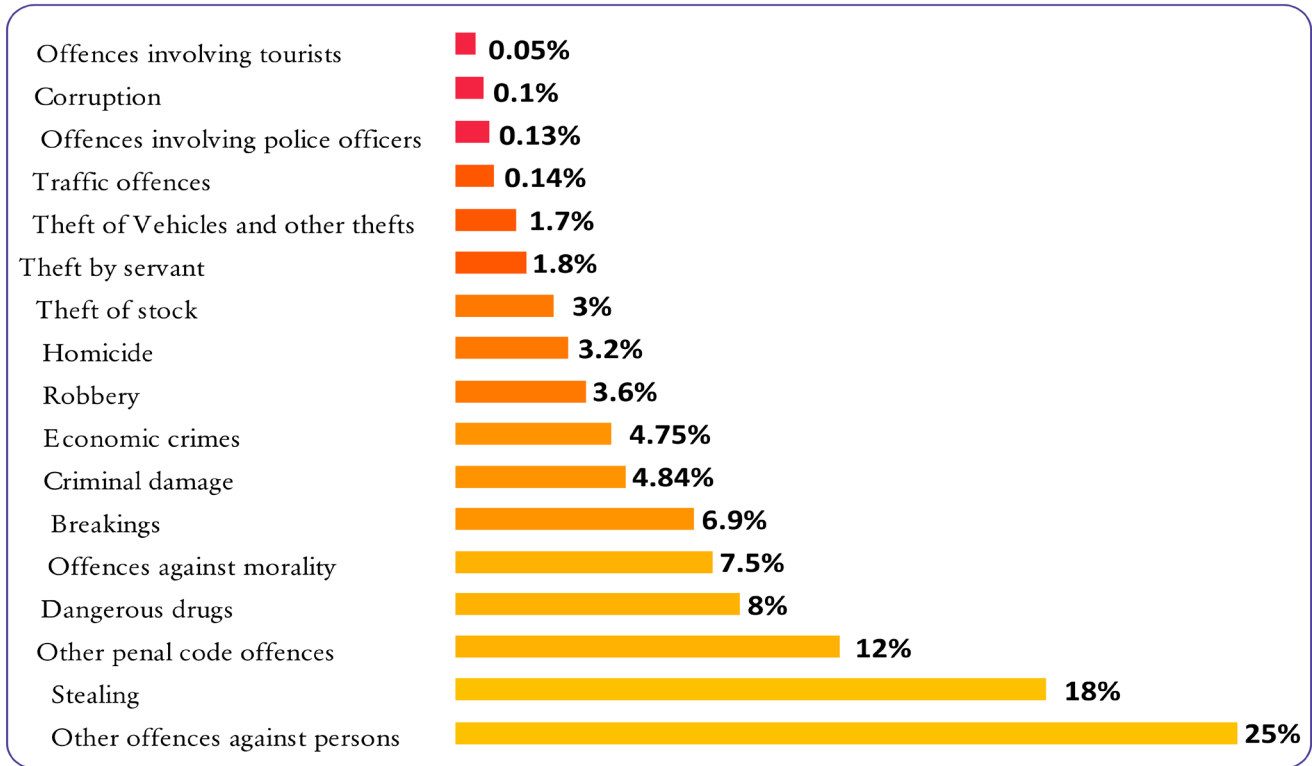
### 3.2 Progress in the Administration of Criminal Justice

Many institutions play crucial roles in the criminal justice sector. However, due to their respective mandates, some institutions play a core role, notably the National Police Service (NPS), the Office of the Director of Public Prosecution (ODPP), the Ethics and Anti-Corruption Commission (EACC), the Independent Policing and Oversight Authority (IPOA), the Witness Protection Agency (WPA), the Judiciary, the Kenya Prisons Services (KPS), the Probation and Aftercare Service (PACS), and Directorate of Children Services (DCS). This section has emphasised on the progress realised by these institutions, especially on their legal mandate, whose execution supports the efficient administration of justice.

#### 3.2.1 Criminal Cases Processed by the National Police Service

In the execution of its mandate to maintain law and order and provide national security, the National Police Service (NPS) investigates crimes and apprehends persons suspected of carrying out criminal activities. During the period under review, 97,301 serious crimes were processed by the NPS across the country.

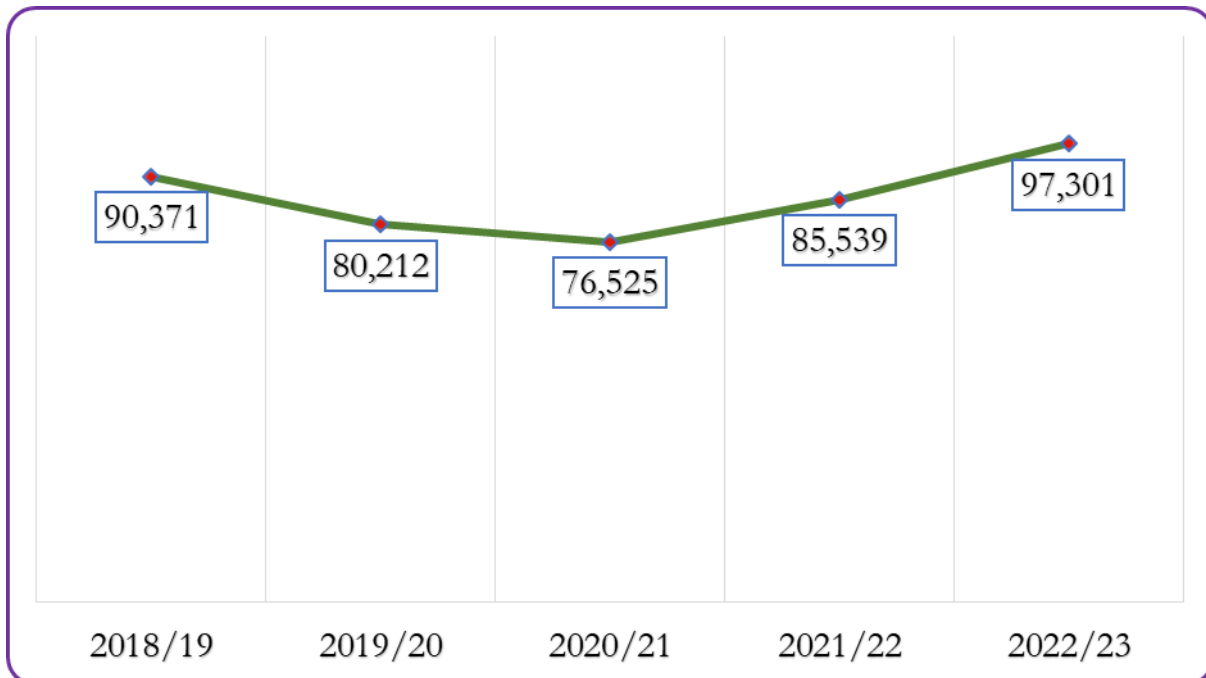
Figure 3.1 illustrates the average serious crimes reported to the police by type.



**Figure 3.1: Percentage serious crimes reported to the police by type, FY 2022/23**

*Source: NCAJ Analysis using NPS Data*

The most prevalent crimes were offenses against persons (assault, affray and creating disturbance) at 25 percent, followed by stealing at 18 per cent. The crime trend between FY 2018/19 and FY 2022/23 is given in Figure 3.2.



**Figure 3.2: Serious crimes reported to the police, FY 2018/19 – FY 2022/23**

*Source: NCAJ Analysis using NPS Data*

From Figure 3.2, serious criminal activities declined between FY 2018/19 to 2020/21, followed by a gradual increase to 97,301 during the year under review. The decline in reported cases of crimes especially in FY 2020/21, could be partly attributed to the COVID-19 pandemic measures on restriction of movement. Table 3.1 provides the trend of serious crimes by type.

**Table 3.1: Serious crimes reported to the police by type, FY 2018/19 – FY 2022/23**

Categories	2018/19	2019/20	2020/21	2021/22	2022/23
Homicide	2,973	2,966	3,288	3,128	3,102
Offences against morality	7,841	8,076	9,361	7,663	7,259
Other offences against persons	26,300	22,116	21,777	22,899	23,875
Robbery	2,783	2,670	2,316	2,801	3,530
Breakings	5,772	5,348	4,387	5,507	6,740
Theft of stock	1,891	1,728	1,740	2,322	2,927
Stealing	13,421	11,425	9,751	13,142	17,386
Theft by servant	2,346	1,737	1,707	1,752	1,762
Theft of Vehicles and other thefts	1,314	1,066	1,219	1,335	1,666
Offences Concerning Dangerous drugs	7,391	7,018	4,738	6,390	8,077
Traffic offences	325	295	113	174	132
Criminal damage	4,873	3,912	4,294	4,694	4,707
Economic crimes	4,415	4,081	3,821	4,258	4,619
Corruption	126	100	142	93	96
Offences involving police officers	184	85	60	70	131
Offences involving tourists	97	30	33	18	46
Other penal code offences	8,319	7,559	7,778	9,293	11,246
<b>Total</b>	<b>90,371</b>	<b>80,212</b>	<b>76,525</b>	<b>85,539</b>	<b>97,301</b>

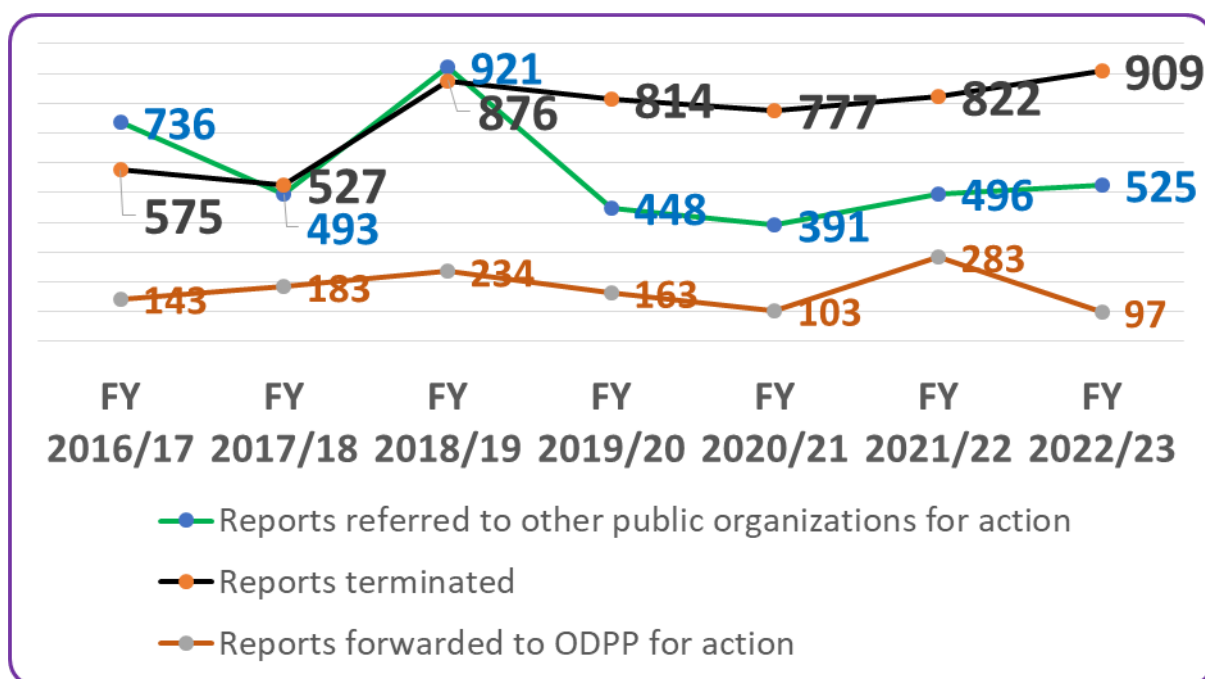
*Source: NCAJ analysis using NPS data*

Offences against persons remained the bulk of crimes, followed by stealing and offences concerning dangerous drugs over the years. During the year under review, out of 97,301 serious crimes, 23,875 were offences against persons, 17,386 were stealing, and drug-related offences were 8077. Whereas the rates of homicide, corruption and economic crimes remained relatively constant, offences against morality peaked at 9,361 in 2020/21 and declined to 7,259 in 2022/23. Over time, there was a significant increase in property-related crimes, such as stealing, reaching 17,386 cases in 2022/23.

### 3.2.2 Cases Handled by the Ethics and Anti-Corruption Commission

The mandate of the Ethics and Anti-Corruption Commission (EACC) is to combat and prevent corruption, economic crime and unethical conduct in Kenya. The mandate is realised through law enforcement, prevention, public education, and promotion of standards and practices of integrity, ethics and anti-corruption. The EACC receives diverse complaints. Once the complaints are received, they are either terminated or referred to the relevant public bodies for action. Upon completion of investigation the Commission reports to the Director of Public Prosecutions on the results of the investigation, including any recommendations on prosecution for corruption or economic crimes.

During the period under review, a total of 97 cases were forwarded to ODPP, while 525 were forwarded to other public organisations. Over the same period, 909 cases were terminated. The trend of the cases of the processed cases by EACC is highlighted in Figure 3.3.



**Figure 3.3: Processed reports by EACC, FY 2018/19 – FY 2022/23**

*Source: NCAJ analysis of EACC data published in the KNBS Economic Survey 2023*

From Figure 3.3, the reports forwarded to ODPP reduced slightly between FY 2021/22 and the year under review. Those that were referred to other public organisations slightly increased from 496 in FY 2021/22 to 525 in FY 2022/23.

Detailed analysis of cases reported and processed by EACC is shown in Table 3.2.

**Table 3.2: Anti-corruption reports processed by EACC**

Matters processed	2018/19	2019/20	2020/21	2021/22	2022/23
1) Reports for investigation	3,482	2,221	2,032	1,916	1,952
2) Reports referred to public organizations	921	448	391	496	525
3) Reports pending more information	226	125	73	162	121
4) Complainants advised on where to report	3,803	2,308	1,621	1,652	1,745
5) Reports Terminated	876	814	777	822	909
6) Reports forwarded to ODPP	234	163	103	283	97
<b>Total Matters Processed</b>	<b>9,542</b>	<b>6,079</b>	<b>4,997</b>	<b>5,331</b>	<b>5,349</b>

*NCAJ analysis using EACC data published in the KNBS Economic Survey 2023*

From Table 3.2, reports pending more information were 121 at the end of FY 2022/23. The complaints where clients were given an advisory were 1,745, up from 1,652 in the previous period.

Diverse actions were taken on the cases that were submitted to the ODPP. The specific actions are provided in table 3.3.

**Table 3.3: Reports from EACC processed by ODPP, FY 2020/21 – FY 2022/23**

Action Taken	2018/19	2019/20	2020/21	2021/22	2022/23
1. Recommendation to prosecute accepted	82	57	22	12	2
2. Recommendation for administrative or other action accepted	35	23	11	14	62
3. Recommendation for closure accepted	31	22	21	32	3
4. Files returned for further investigations	50	59	50	96	62
5. Reports awaiting DPP Action	-	-	-	-	19
<b>Total</b>	<b>198</b>	<b>161</b>	<b>104</b>	<b>154</b>	<b>148</b>

*Source: NCAJ analysis using data submitted from ODPP*

In the year under review, the ODPP processed 148 matters that had been received from EACC. Out of these matters, two were accepted for prosecution, 62 for administrative actions, while another 62 were returned for further investigations. At the end of the review period, 19 cases were yet to be finalised.

### 3.2.3 Criminal Cases Processed by the Independent Policing Oversight Authority

The Independent Police Oversight Authority (IPOA) provides for civilian oversight over the work of the police in Kenya and is responsible for monitoring police operations affecting members of the public and investigating instances of police misconduct. The Authority also carries out inspection of police premises to ensure that the standards regarding the treatment of suspects and detainees are in line with the principles laid down in the Constitution. Table 4 details the matters handled by IPOA from FY 2018/19 to FY 2022/23.

**Table 3.4: Matters handled by IPOA from FY 2018/19 – FY 2022/23**

Matters Handled	2019/20	2020/21	2021/22	2022/23	% Change
No. of inspections carried out in police premises	439	272	615	752	22%
No. of police operations monitored	76	67	70	122	74%
No. of investigations	763	625	781	995	27%
No. of Cases Forwarded to ODPP	114	141	135	208	54%
<b>Total No. of matters processed</b>	<b>1,392</b>	<b>1,105</b>	<b>1,601</b>	<b>2,077</b>	<b>30%</b>

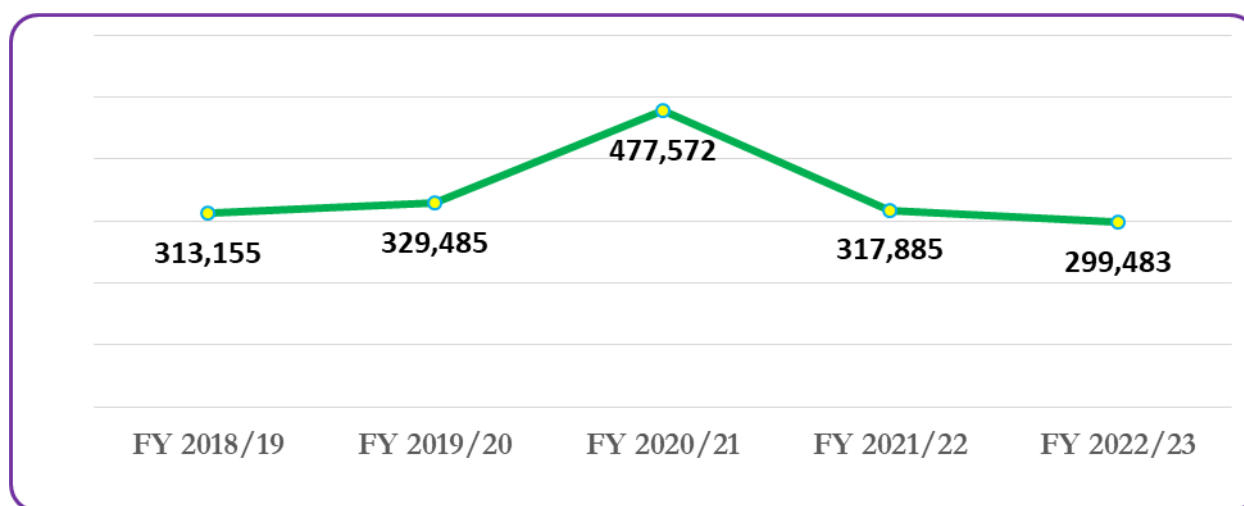
*Source: NCAJ analysis using data submitted from IPOA*

There was an overall increase in the Authority's caseload and activities in FY 2022/23 compared to the previous fiscal year. The inspections carried out in police premises increased by 22.28 per cent, while the monitoring of police operations rose by 74.29 per cent. The Authority conducted 27.38 per cent more investigations in FY 2022/23 as compared to FY 2021/22, signaling a rise in criminal inquiries and public awareness on the Authority's role. Cases forwarded to the Office of the Director of Public Prosecutions increased by 54.07 per cent.

### 3.2.4 Criminal Cases Processed by the Office of the Director of Public Prosecutions

The ODPP is mandated to exercise state powers of prosecution of all criminal matters in all courts and all other aspects incidental thereto, save for matters in the court martials. To this end, the ODPP prosecutes criminal applications, criminal trials and criminal appeals, and handles extradition and mutual legal assistance cases. The ODPP also gives directions on inquiries, addresses complaints and gives advice on files submitted to it.

The trend of cases that ODPP handled from FY 2018/19 to FY 2022/23 are shown in Figure 3.4.



**Figure 3.4: Cases processed by ODPP, FY 2018/19 – FY 2022/23**

*Source: NCAJ Analysis using data from the published ODPP Report*

There was a decrease in criminal trial cases handled between FY 2020/21 and FY2021/22, a decrease that continued in the period under review. The downward trend may be attributed to the sustained policy interventions that ensured the decisions to charge were only made in matters with strong evidence that would merit a conviction. Further, sensitization of the stakeholders, such as the NPS in the Decision to Charge and Diversion Guidelines, may have resulted in the reduction of cases filed in the Judiciary. The details of the cases processed by ODPP are provided in Table 3.5.

**Table 3.5: Cases processed by ODPP by type, FY 2018/19 – FY 2022/23**

Description	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
Criminal Trial	291,053	310,313	448,762	289,880	277,562
Criminal Appeals	10,575	8,957	10,658	9,971	9,938
Criminal Applications	6,342	5,329	6,741	7,000	4,720
Extradition & MLA	80	36	33	47	48
Advice Files	2,658	2,730	7,843	7,902	5,844
Complaints	2,527	2,128	3,546	3,085	1,371
<b>TOTAL</b>	<b>313,235</b>	<b>329,493</b>	<b>477,583</b>	<b>317,885</b>	<b>299,483</b>

*Source: NCAJ Analysis using data from the ODPP*

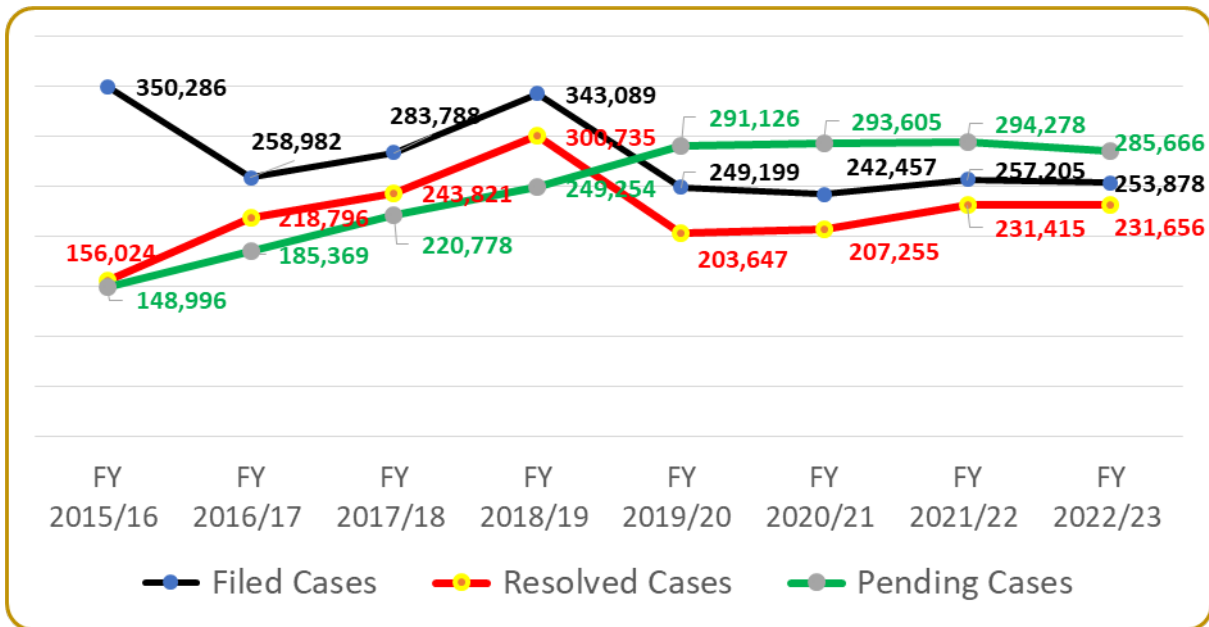
The bulk of cases processed by ODPP were criminal trials, which stood at 277,562 cases during the year under review, down from 289,880 cases in the previous period. In FY 2021/22, the cases processed stood at 317,885. Criminal trials reduced marginally from 9,971 in FY 2021/22 to 9,938 during the year under review. In FY 2022/23, a total of 4,720 criminal applications were handled, down from 7,000 that were recorded in the previous period. The reduction of cases processed by the ODPP can be attributed to enhanced efficiency following the implementation of the Decision to Charge Guidelines and a heightened increase in the use of plea bargaining as an alternative to trial and increased the uptake of diversion as an alternative to prosecution.

### 3.2.5 Criminal Cases Handled by Courts

During the period under review, criminal cases were filed in courts for determination. To resolve the cases, diverse criminal justice actors came into play. The optimal performance of courts, therefore, requires seamless and coordinated undertaking of institutions' roles in the trial process to achieve the greater good of justice.

#### *Filed, resolved and pending criminal cases in all Courts*

Figure 3.5 shows the trend of filed, resolved, and pending criminal cases in the courts between FY 2018/19 and 2022/23.



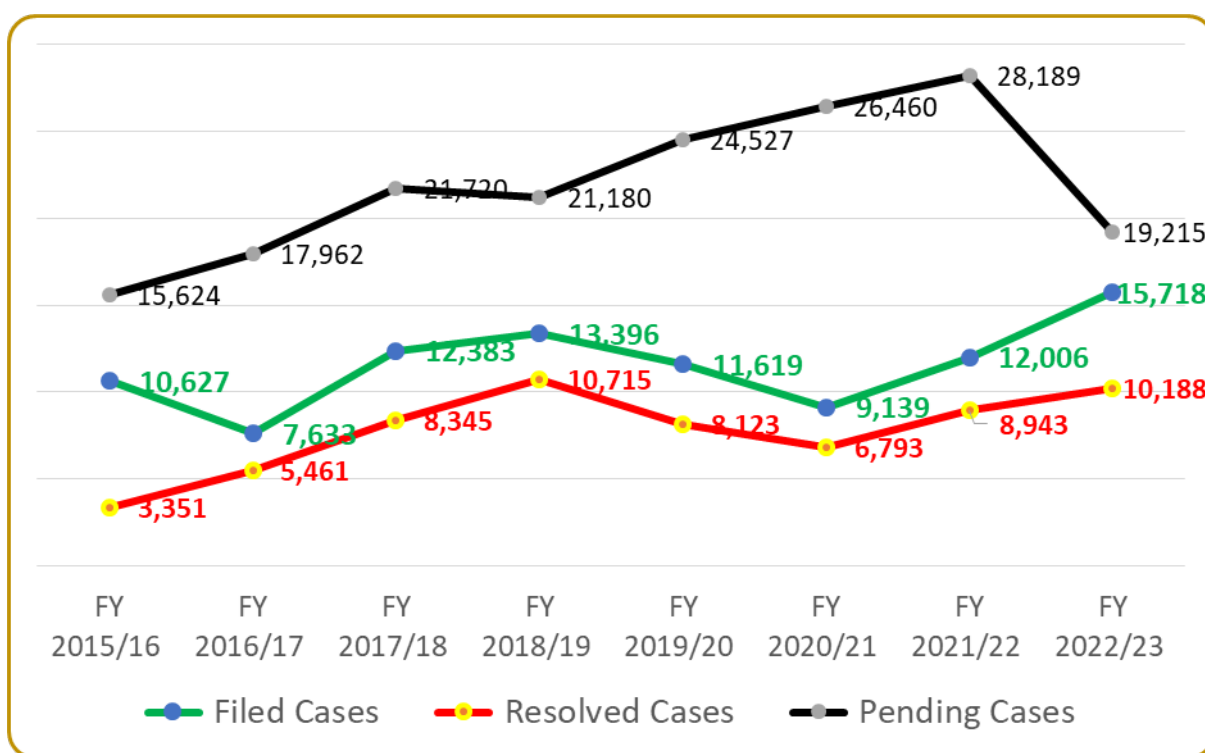
**Figure 3.5: Criminal cases handled by all courts, FY 2018/19 – FY 2022/23**

*Source: NCAJ Analysis of data from various editions of published SOJAR*

Figure 3.5 indicates that a total of 235,763 criminal cases were filed in all courts in FY 2022/23, while 231,656 cases were resolved. The resolved cases remained lower than the cases filed, resulting in a rise in pending cases. At the end of the period under review, 285,666 criminal cases were pending in all courts. The high pendency of cases points to the need to enhance the capacity of justice actors to ensure that adjournments are reduced.

#### *Filed, resolved and pending criminal cases in superior courts*

The filed cases in superior courts increased from 12,006 to 15,718 between FY 2021/22 and FY 2022/23. Also, the resolved cases rose from 8,943 in the FY 2021/22 to 10,188 during the period under review. Information on the demand for justice, the supply of justice, and the resulting pendency of cases in superior courts is highlighted in Figure 3.6.



**Figure 3.6: Criminal cases handled by superior courts, FY 2018/19 – FY 2022/23**

*Source: NCAJ Analysis using data from various editions of published SOJAR*

At the end of the review period, 19,215 cases remained unresolved in superior courts, a decline from 28,189 that was recorded in the previous period. The filed cases in superior courts remained higher than the resolved cases, yielding less than 100 per cent Case Clearance Rate (CCR). This resulted in a rise in pending cases, as depicted by the uppermost curve in Figure 3.6. Table 3.6 gives detailed statistics on cases handled in superior courts.

**Table 3.6: Criminal cases handled in superior courts, FY 2017/18-2022/23**

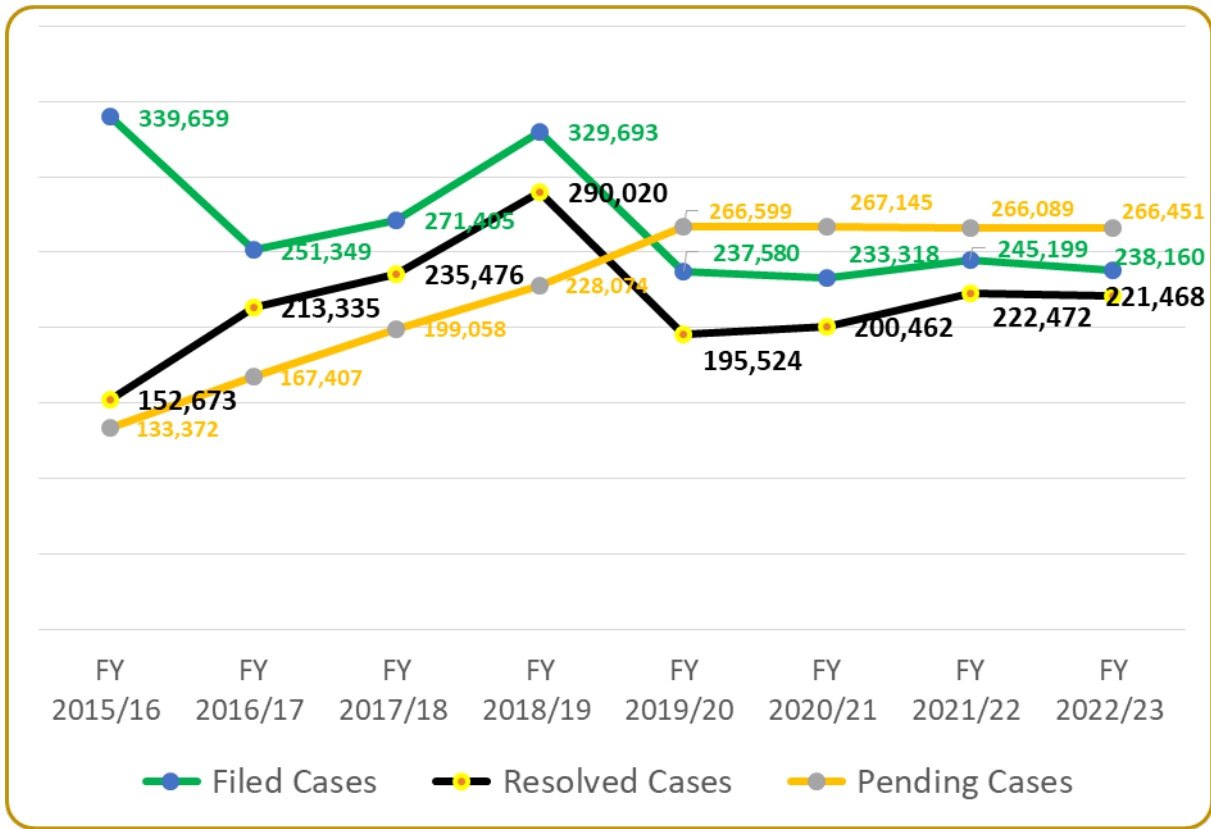
Court Type	Cases	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	Change
Court of Appeal	Cases Filed	585	557	355	489	413	-15.5%
	Cases Resolved	310	0	271	200	454	127.0%
	Cases Pending	1,839	2,069	2,153	2,442	3,121	27.8%
High Court	Cases Filed	12,811	11,062	8,784	11,517	15,305	32.9%
	Cases Resolved	10,405	8,123	6,522	8,743	9,734	11.3%
	Cases Pending	19,341	22,458	24,307	25,747	16,094	-37.5%
All Superior Courts	Cases Filed	13,396	11,619	9,139	12,006	15,718	31%
	Cases Resolved	10,715	8,123	6,793	8,943	10,188	14%
	Cases Pending	21,180	24,527	26,460	28,189	19,215	-32%

*Source: NCAJ Analysis of data from various editions of published SOJAR*

Overall, the cases filed in superior courts remained slightly higher than those resolved, translating to a 75 per cent CCR. Though pending cases were expected to increase as a result of a less 100 per cent CCR, they however reduced. The reduction is attributed to an audit that was undertaken to confirm the exact number of cases.

***Filed, resolved and pending criminal cases in subordinate courts***

Magistrates’ courts are the only courts that handle criminal cases in subordinate courts. During the period under review, 238,160 cases were filed in Magistrates’ Courts, down from 245,199 in the previous period. Figure 3.7 portrays the number of filed, resolved, and pending cases in courts over time.



**Figure 3.7: Criminal cases handled by subordinate courts, FY 2018/19 – FY 2022/23**

*Source: NCAJ Analysis using data from various editions of published SOJAR*

The pending cases have been on an increasing trend between FY 2021/22 and 2022/23. However, there was a minor increase between the previous period (266,089) and the year under review (266,451). The filed cases reduced from 245,199 in FY 2021/22 to 239,160 in FY 2022/23. Also, the resolved cases reduced from 245,199 in FY 2021/22 to 238,160 in FY 2022/23. Details on the filed, resolved and pending criminal cases in subordinate courts are provided in Table 3.7.

**Table 3.7: Criminal cases handled in subordinate courts, FY 2018/19 – FY 2022/23**

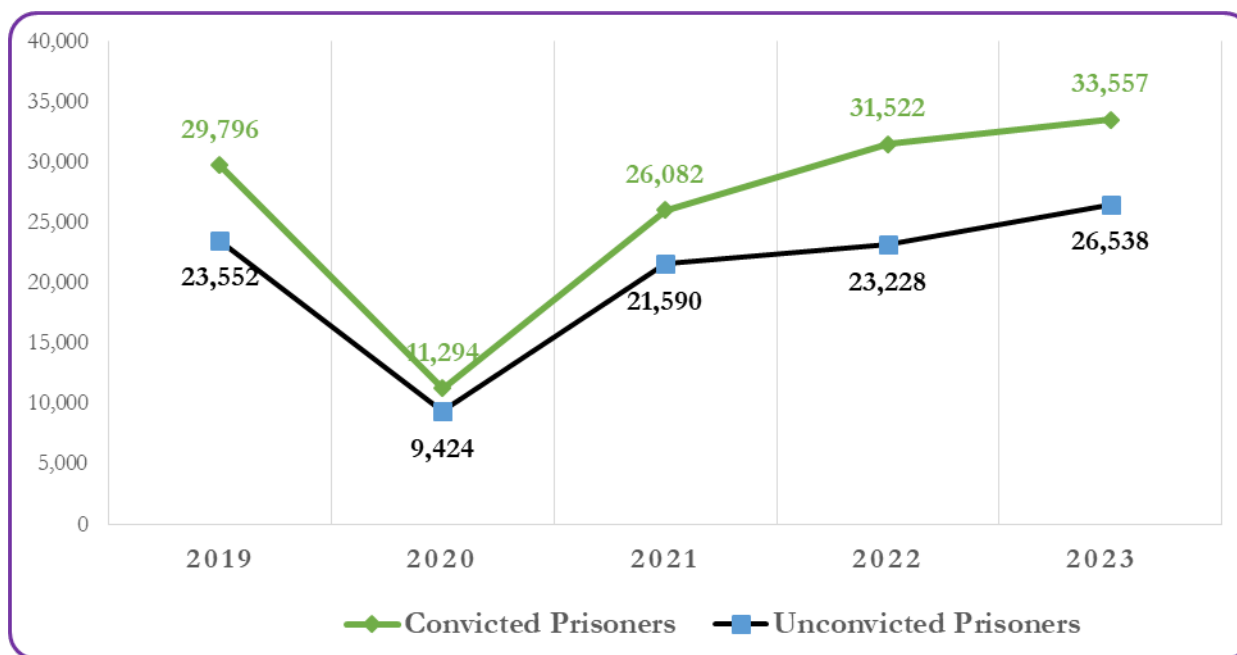
Court	Cases	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
Magistrates’ Courts	Cases Filed	329,693	237,580	233,318	245,199	238,160
	Cases Resolved	290,020	195,524	200,462	222,472	221,468
	Cases Pending	228,074	266,599	267,145	266,089	266,451

*Source: NCAJ Analysis using data from various editions of published SOJAR*

During the period under review, the resolved cases declined slightly from 222,472 recorded in the previous to settle at 221,468. Pending cases at the end of the review period rose from 266,089 in FY 2021/22 to 266,451 at the end of FY 2022/23.

### 3.2.6 Committal of Offenders to Prisons

Conviction and subsequent imprisonment are some of the outcomes of the trial process of cases through courts. The number of convicted and unconvicted offenders has risen over time, as depicted in Figure 3.8.



**Figure 3.8: Daily average prisons population, 2018 – 2023**

*Source: NCAJ Analysis using KPS data*

Table 3.8 shows that the percentage of persons incarcerated without being convicted remained relatively high compared to that of the convicted persons, as illustrated in Table 3.8. During the reporting period, the number of convicted and unconvicted prisoners was 61,915, the highest number recorded in the five-year period. This could be attributed to the inability of petty offenders to meet bail or bond terms or pay the fines imposed upon conviction.

Details of persons committed to prisons are provided in Table 3.8.

**Table 3.8: Daily average prison population, 2019 – 2023**

	2019	2020	2021	2022	2023
<b>Convicted Prisoners</b>					
Males	28,289	10,727	24,331	30,081	33,787
Females	1,507	567	1,751	1,441	1,770
Convicted Prisoners	29,796	11,294	26,082	31,522	35,557
<b>Unconvicted Prisoners</b>					
Males	21,482	8,725	19,954	21,480	24,885
Females	2,070	699	1,636	1,748	1,473

Unconvicted Prisoners	23,552	9,424	21,590	23,228	26,358
<b>Total Prisoners</b>	<b>53,348</b>	<b>20,718</b>	<b>47,672</b>	<b>54,750</b>	<b>61,915</b>
% Convicted Prisoners	56%	55%	55%	58%	57%
% unconvicted Prisoners	44%	45%	45%	42%	43%
% Male Prisoners	93%	94%	93%	94%	95%
% Female Prisoners	7%	6%	7%	6%	5%

*Source: NCAJ Analysis using KPS data*

Table 3.8 shows that male prisoners accounted for 95 per cent in FY 2022/23, while female prisoners accounted for 5 per cent. Further, the convicted prisoners stood at 57 per cent at the end of the review period, while the unconvicted ones were 43 per cent.

Detailed analysis of convicted and unconvicted persons for the period 2019 to 2022 is given in Table 3.9.

**Table 3.9: Analysis of convicted and unconvicted persons, 2019 -2022**

	2019		2020		2021		2022	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>Sentenced to</b>								
Less than one month	16,400	1,643	3,563	522	12,579	1,198	12,767	1,209
1 month to 2yrs	42,712	7,627	17,254	2,854	37,171	6,885	37,928	6,487
Above 2 years	7,797	538	4,642	321	6,881	403	7,073	537
Life Imprisonment	507	4	128	2	268	5	318	7
Death Sentence	114	5	20	0	72	1	93	1
<b>Total convicted prisoners</b>	<b>67,530</b>	<b>9,817</b>	<b>25,607</b>	<b>3,699</b>	<b>56,971</b>	<b>8,492</b>	<b>58,179</b>	<b>8,241</b>
Committed for civil Debt	503	145	178	22	307	115	505	137
Committed to Remand	129,049	12,251	52,446	4,167	87,824	6,412	94,632	78,85
<b>Total Remandees</b>	<b>129,552</b>	<b>12,396</b>	<b>52,624</b>	<b>4,189</b>	<b>88,131</b>	<b>6,527</b>	<b>95,137</b>	<b>8,022</b>
<b>Total Committed to Prisons</b>	<b>197,082</b>	<b>22,213</b>	<b>78,231</b>	<b>7,888</b>	<b>145,102</b>	<b>14,919</b>	<b>153,316</b>	<b>16,263</b>
Previously Convicted	16,484	1,265	7,780	391	9,876	645	10,537	963
Previously Convicted (%)	24%	23%	30%	11%	17%	8%	18%	12%
Convicted (%)	34%	44%	33%	47%	39%	57%	38%	51%
Unconvicted (%)	66%	56%	67%	53%	61%	44%	62%	49%
% Sentenced to < One Month	24%	17%	14%	14%	22%	14%	22%	15%

*Source: NCAJ Analysis using KPS data and published KNBS Economic Survey 2023*

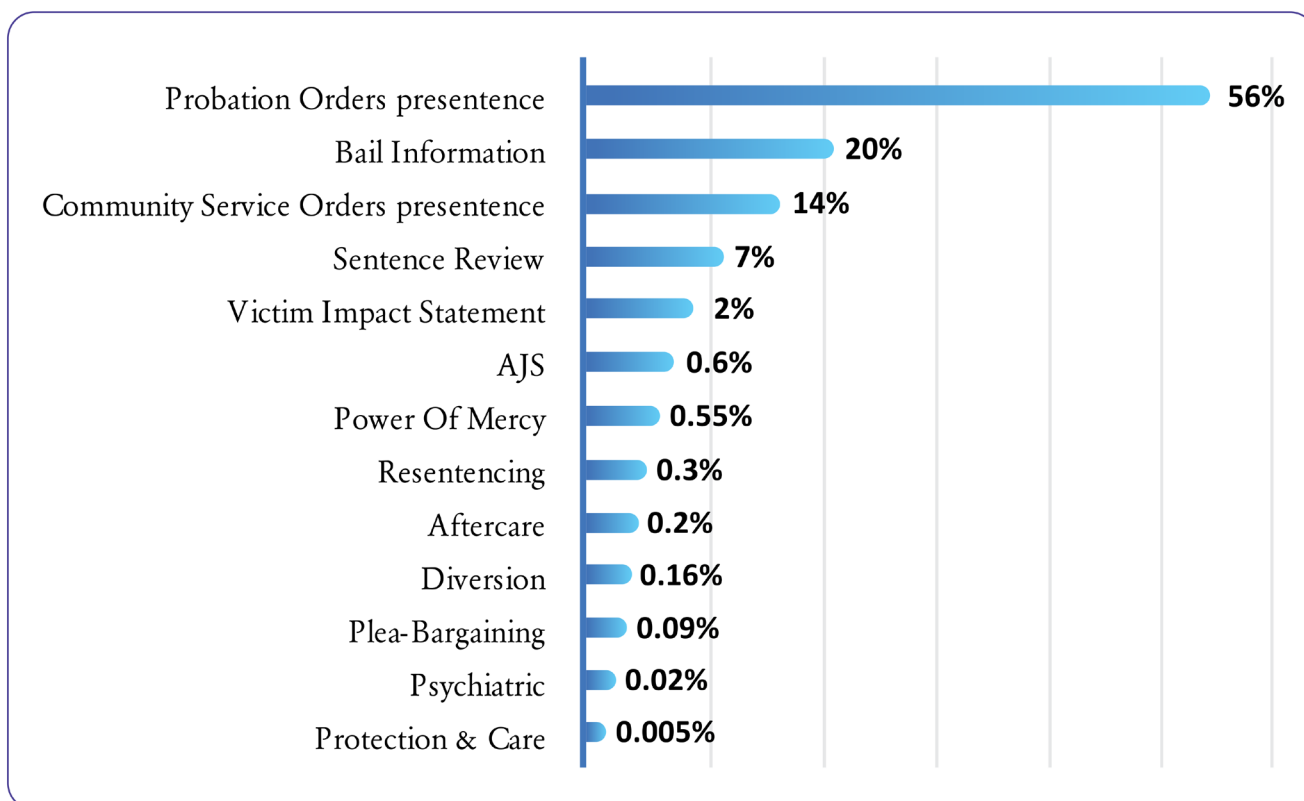
From Table 3.7, the following facts and issues stand out:

- There is a significantly higher number of male prison population than the female; population. The number of persons previously convicted persons stood at 10,537 male and 963 female persons.
- Recidivism rose during the review period as the total of previously convicted in FY 2021/22 increased from 10521 (9,876 male and 645 female) to 11,500 (10,573 male and 963 female) in FY2022/23.
- Persons sentenced to less than one month in prison stood at 22 per cent and 15 per cent male and female, respectively.
- The number of remandees rose from 94,658 in FY 2021 to 103,159 in 2022.
- Persons sentenced to death increased from 73 in 2021 to 94 in 2022.

### 3.2.7 Probation and Aftercare Services

Within the criminal justice system, not all individuals are sent to prison upon conviction. Some offenders receive probation orders or community service sentences. At various stages of the justice process, including pre-trial, sentencing and post-sentencing, the courts request Social Inquiry Reports (SIRs) from Probation and Aftercare Service (PACS) to help inform appropriate decision-making. Non-custodial measures reduce government expenditure, family disintegration, poverty, and stigma associated with imprisonment.

During the year under review, 63,581 referrals were received, and SIRs were generated and presented to the courts. Figure 3.9 gives the percentage distribution of the 63,581 referrals.



**Figure 3.9: Percentage of referrals to PACs by type, FY 2022/23**

*Source: NCAJ Analysis using data from PACS*

Detailed analysis of the cases referred to PACS is provided in Table 3.10

**Table 3.10: Distribution of nature of cases referred to PACS, FY 2022/23**

Nature of Referral	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	TOTAL
Aftercare	26	23	23	38	110
Bail Information	2,682	2,344	3,877	3,533	12,436
CSOs Presentence	1,805	1,396	2,714	2,692	8,607
Diversion	36	27	19	22	104
AJS	132	75	90	90	387
Probation Orders presentence	8,333	7188	9,876	9,909	35,306
Plea-Bargaining	9	6	34	10	59
Power of Mercy	320	6	16	6	348
Resentencing	80	8	27	104	219
Sentence Review	830	172	2,826	707	4,535
Victim Impact Statement	323	146	647	341	1,457
Psychiatric	2	1	6	1	10
Protection & Care	-	-	-	3	3
<b>TOTAL</b>	<b>14,578</b>	<b>11,392</b>	<b>20,155</b>	<b>17,456</b>	<b>63,581</b>

*Source: NCAJ Analysis using data from PACS*

From Table 3.9, probation orders presentence were the bulk of referrals at 35,306 followed by Bail Information at 12, 436 and CSOs presentence at 8,607.

In FY 2022/23, PACS supervised 46,504 cases under Probation Orders, Community Service Orders and aftercare sanctions as indicated in Table 3.11. The offenders on supervision received various services including counselling, skills development and educational support.

**Table 3.11: Distribution of offenders under supervision per programme**

Programme	Adult Male	Boys	Adult Female	Girls	Total
Probation Orders Presentence	17,791	2,089	3,162	287	23,329
Community Service Orders Presentence	18,364	412	4,110	20	22,906
Aftercare	22	214	22	11	269
<b>Total</b>	<b>36,177</b>	<b>2,715</b>	<b>7,294</b>	<b>318</b>	<b>46,504</b>

*Source: NCAJ Analysis using data from PACS*

During the period under review, offenders on probation orders pre-sentence were 23,329 while those serving community service orders pre-sentence were 22,906. Further, those who were under aftercare services stood at 269.

### 3.3 Legal, Policy and Administrative Reforms in the Criminal Justice

During the period under review, several legal, policy and administrative reforms were undertaken to enhance the administration of criminal justice in Kenya. While NCAJ Spearheaded some of the reforms directly, other crucial reforms with a high propensity to impact the administration of justice were undertaken by the justice sector agencies. The achievements realised on this are explained in the following subsections.

#### 3.3.1 Legal Reforms

##### *Review of the Penal Code and the Criminal Procedure Code*

In the period under review, the NCAJ, through its Committee on Criminal Justice Reforms (NCCJR), undertook a comprehensive and holistic review of Penal Code and the Criminal Procedure Code to ensure sustainable access to justice for all persons, including vulnerable and marginalized populations.

The NCCJR engaged with key stakeholders, institutions, experts, and members of the public, including prisoners at the Naivasha and Nyeri Maximum, Medium, and Women's Prisons, on the proposed amendments to the Penal Code and the Criminal Procedure Code. The engagement with prisoners was undertaken in partnership with Justice Defenders. During the deliberations, the NCCJR received oral and written memoranda for consideration in the legislative review process. The Committee also engaged with judicial officers during the Magistrates Colloquia and with the members of the Legal, Constitutional Affairs, and Intergovernmental Relations Committee of the Council of Governors.



*The Council of Governors Legal, Constitutional Affairs and Intergovernmental Committee meeting with key stakeholders including the Deputy Chief Justice, Her Ladyship, Philomena Mwilu, the Rt. Hon. Amason Kingi, speaker of the Senate, National Assembly, Hon. Lady Justice Grace Ngenye JA & Chairperson of the NCAJ Committee on Criminal Justice Reforms (NCCJR) and representatives from ODPP, EACC, KLRC, CAF, CAJ among other stakeholders.*



*Hon. Christine Njagi (Magistrate) engaging inmates at the Naivasha Maximum Prison on the proposed amendments to the Penal Code and the Criminal Procedure Code in February 2023*

*NCCJR Committee members engaging with inmates at the Nyeri Medium and Women's Prisons*

### ***Bail and Bond Bill***

The draft Bail and Bond Bill (2020) developed by the now defunct Bail and Bond Implementation Committee was handed over to the Office of the Attorney General during the review period. The draft Bill gives effect to Article 49 (1)(h) and (2) of the Constitution by making provision for the administration of the right to bail and bond. It seeks to guide what would be deemed as compelling reasons that could lead to the denial of bail or bond to an accused person.

### ***The Narcotics Drugs and Psychotropic Substances Control Amendment Act No. 4 of 2022***

During the period under review, diverse amendments to the Act, spearheaded by the National Authority for the Campaign against Alcohol and Drug Abuse (NACADA), were undertaken with input from all stakeholders in the criminal justice sector. The amendments are intended to address the gaps in existing offences by adding new offences relating to: aiding or colluding with suspects to commit offences related to possession and trafficking; conspiring with persons outside or inside Kenya to commit offences related to drug manufacturing; possession and trafficking in or outside Kenya; use of precursor chemicals to manufacture narcotic drugs; and to impose stiffer sentences as a deterrence.

### ***The Statute Law Miscellaneous Amendment Bill, 2022***

This amendment Bill sought to amend the following laws:

a) *The Evidence Act,*

The proposed amendments sought to delete the words “*a mentally disordered person or a lunatic*” and substitute with “*a person with a mental disability*”. This was aimed at removing the stigma attached to mental illnesses by using words that are not demeaning or degrading.

b) *The Anti-Corruption and Economic Crimes Act (ACECA)*

The proposed amendments sought to harmonise the provisions of ACECA with the functions of the Director of Public Prosecutions under Article 157 of the Constitution. The amendments further sought to allow the Ethics and Anti-Corruption Commission to seek court orders for State Officers under investigation or those charged with corruption or economic crimes to be barred from accessing their offices or exercising the powers of those offices.

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### *The Bribery Act, 2016 (No.47 of 2016) and Guidelines*

The Ethics and Anti-Corruption Committee, in collaboration with the Office of the Attorney General and Department of Justice (OAG&DoJ), proposed amendments to the Bribery Act, 2016 to include both private and public entities to prepare procedures for the prevention of bribery cases. The Guidelines would provide these entities with regulations to implement the provisions of the Act.

### *The Persons with Disability Bill, 2023*

The Bill sought to repeal the Persons with Disabilities Act, No. 14 of 2003, and have in place a law that is consistent with Article 54 of the Constitution. It provides for the institutional framework for protecting, promoting and monitoring the rights of persons with disabilities. It further places emphasis on the human rights approach towards the realisation of persons with disabilities in Kenya and the societal responsibility to protect and promote them.

### *The Witness Protection (Amendment) Bill, 2023*

The Bill initiated by the Witness Protection Agency (WPA) sought to amend the Witness Protection Act No. 16 of 2006 to align the provisions of the Act with international, regional, and national instruments on witness protection, to ensure comprehensive protection of potential witnesses during the investigative process and to improve witness protection services in the Republic of Kenya. The Bill was presented before stakeholders and JLAC for their comments and input.

### *The Witness Protection (Reciprocal Protection Arrangements) Regulations, 2023*

The Witness Protection Agency (WPA) validated the draft Witness Protection (Reciprocal Protection) Regulations, 2023, to give effect to Part III A of the Witness Protection Act. The Regulations provide for the admission of an international witness into Kenya and the relocation of Kenyan Witnesses into a Witness Protection Programme of a foreign country.

### *The Review of Kenya Prisons Service Act, Borstal Institutions Act and Probation of Offenders Act*

The State Department for Correctional Services appointed a committee to spearhead the review of the Kenya Prisons Service Act (CAP 90), the Borstal Institutions Act (CAP 92), the Probation of Offenders Act (CAP 64), and the Community Service Orders Act (CAP 93). The review of cap 90 commenced in March 2023. The proposed amendments were intended to align the laws with the Constitution of Kenya, international standards and current practices in the management of offenders.

## **3.3.2 Policy Reforms**

During the reporting period, NCCJR and other agencies in the criminal justice sector developed policy reforms that impacted the administration of justice as follows:

### *Revised Sentencing Policy Guidelines (2023)*

During the reporting period, NCCJR reviewed the Sentencing Policy Guidelines 2016 (SPGs) by undertaking a survey to assess the extent to which Magistrates and Judges were utilizing the SPGs (2016). The NCCJR further carried out an extensive consultative engagement with the justice sector actors, including Magistrates, Judges, expert representatives from state and non-state agencies within the CJS, and representatives from various NCAJ Working Committees. The feedback from the consultative meetings was incorporated into the draft SPGs and subjected to validation by stakeholders. The NCAJ Council adopted the Revised SPGs on 15th February 2023.



*Members of the NCAJ Committee on Criminal Justice Reforms (NCCJR) during the workshop to review and validate the revised Sentencing Policy Guidelines in December 2022*



*Members of the NCAJ Committee on Criminal Justice Reforms (NCCJR) and the NCAJ Technical Committee during the review and validation meeting for the revised Sentencing Policy Guidelines in January 2023*

The SPGs (2023) aim to standardize sentencing processes and procedures in all of Kenya’s criminal courts and provide a framework within which Magistrates and Judges can exercise their discretion during sentencing in a manner that is objective, fair, accountable, proportional, inclusive, impartial, consistent, uniform and respectful of the human rights of all parties. The SPGs further aim to enhance the protection of vulnerable persons, enhance the use of non-custodial measures, promote restorative justice values during sentencing, complement plea bargaining processes, facilitate the participation, involvement of victims and protected witnesses in the sentencing process.

The key highlights of the SPGs include the introduction of a new and innovative chapter providing detailed steps towards a Guided Approach to Sentencing (GATS), guidance on the committal of children in conflict with the law to reflect the spirit of the Children Act, 2022, guidance on conducting resentencing hearings, and guidance on emerging discourse with relevance to sentencing, in particular the attention and care owed to victims of crime, those with mental disability, pregnant and lactating mothers, children and intersex persons. The effective implementation of the Guidelines will greatly contribute towards enhancing the coordination of all agencies involved in the sentencing process as well as in the supervision of the sentences.



*The NCCJR Expert Review Meeting with a select team of Judges and Magistrates on the development of the revised Sentencing Policy Guidelines in January 2023*

### ***Strengthening Mechanisms for Addressing Corruption and Economic Crimes in the Criminal Justice System***

The NCAJ Committee on Anti-Corruption spearheaded the development of the draft Guidelines to expedite the hearing of corruption and economic Crimes Cases by Special Magistrates’ Courts in Kenya. The Guidelines were aimed at enhancing seamless service delivery and coordination of criminal justice sector agencies with a role in the cases brought before the Special Magistrates’ Courts.

The Office of the Attorney General and Department of Justice developed a policy implementation action plan for the implementation of the National Ethics and Anti-Corruption Policy, which would ensure that stakeholders and the public understand their respective roles in the policy implementation process.

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### *Development of Victims and Witnesses Facilitation Guidelines*

The ODPP, in collaboration with the International Justice Mission (IJM), developed the Victims and Witnesses Facilitation Guidelines that ensure vulnerable victims and witnesses are facilitated to participate effectively in legal proceedings, hence enhancing access to justice.

### *Rapid Reference Guide for Prosecution of Offences under the Prevention of Torture Act*

The ODPP developed the Rapid Reference Guide for the Prosecution of Offences under the Prevention of Torture Act. The guide is a reference point for prosecutors in the prosecution of human rights violations as a result of excesses by law enforcement officers. Alongside the Rapid Reference Guide, the Police Accountability Case Digest contains case summaries to supplement the prosecution's tools for the litigation of complex cases involving serious human rights violations committed by law enforcement officials.

### *The Standard Operating Procedures for Investigations and Prosecution of Trafficking in Persons in Kenya.*

The National Police Service (NPS) developed the Standard Operating Procedure for Investigations and Prosecution of Trafficking in Person offenses in Kenya.

### *Policy Documents to enhance the efficiency of Probation and Aftercare services*

The PACS developed several policy documents, namely:

- Victims Service Charter;
- A Training Curriculum and Training Manual for Community Probation Volunteers;
- The PACS Practice Guidelines aimed at standardizing service delivery;
- Enhanced Course for Probation Officers; and
- Facilitator's Training Manual.

### *Strategy for the Implementation of the Article 26(4) and Article 43(1) of the Constitution of Kenya*

Following the High Court decisions in *Federation of Women Lawyers (FIDA – Kenya) & 3 others v Attorney General & 2 others*; *East Africa Center for Law & Justice & 6 others (Interested Party) & Women's Link Worldwide & 2 others (Amicus Curiae) [2019] eKLR* and *PAK & another v Attorney General & 3 others (Constitutional Petition E009 of 2020) [2022] KEHC 262 (KLR)*, the Center for Reproductive Rights (CRR) developed strategies for advancing legal and policy reform, political and community mobilization and strengthening health systems to implement the High Court of Kenya's decision.

### **3.3.3 Administrative Reforms and Other Initiatives**

#### *Initiatives on Prevention and Processing of Land Related Crimes*

The NCAJ participated in the ELC at 10 Conference held at the Pwani University in Kilifi in November 2022. In a panel coordinated by NCAJ, experts from the justice sector discussed the nexus between land justice, crime and vulnerability in Kenya. The panel was moderated by Professor Jack Mwimali, the Chief Executive Officer/Chief Editor at the National Council for Law Reporting, and expert panellists included Hon. Lady Justice Grace Ngenye, Judge of the Court of Appeal and Chairperson of NCCJR, Commissioner George Mutonya from the Land Fraud Department at the Directorate of Criminal Investigations and Ms. Anne Ireri, the Executive Director of FIDA-Kenya.

The identified main factors leading to the commission of land-related crime were the slow processing and issuance of Title Deeds and poor record keeping by relevant State agencies, historical land injustices, and the abundance of idle and undeveloped land across the country..

Women were identified as a category of vulnerable persons who encounter threats to their livelihoods owing to land-related crime and injustice. The entrenched patriarchal attitudes in Kenya were noted to be holding back women’s rights over land, despite the Constitution granting women rights to own and inherit land and to exert joint control over family resources. For example, disinheritance and dispossession were identified as being major contributors to exposing women to sexual and gender-based violence because of homelessness and the rise in informal settlements. Women have not been adequately empowered to identify and fight for their rights as they pertain to land matters, undermining their ability to improve their productivity as well as their economic status.



*Left to right: Prof. Jack Mwimali - CEO/Chief Editor at the National Council for Law Reporting, Commissioner George Mutonya – Head of Land Fraud Unit at the DCI, Hon. Lady Justice Grace Ngenye, Judge of the Court of Appeal and Chairperson of NCCJR, and Ms. Anne Ileri - the Executive Director of FIDA-Kenya*

### ***Administrative Reforms at the National Police Service, Kenya Prisons Service and the National Youth Service***

The National Taskforce on Improvement of Terms and Conditions of Service and other Reforms for Members of the National Police Service, Kenya Prisons Service and the National Youth Service appointed by H.E. the President of the Republic of Kenya, commenced the process of collecting views from the public and stakeholders in the security sector. The Taskforce sought to identify legal, policy, administrative, institutional and operational constraints on effective service delivery by the above agencies. All stakeholders including members of the public were invited to submit views and recommendations to the Taskforce.



*The IG National Police Service and service commanders giving their views to Taskforce on Police Reforms.*

The NCAJ submitted views and recommendations to the Taskforce in March, 2023. NCAJ was represented by Justice Grace Ngenye, the Chairperson of the National Committee on Criminal Justice Reforms (NCCJR). The submissions focused on the handling of petty offenders and the establishment of a Court of Petty Sessions. It was identified as a significant initiative that would reduce the rate of recidivism in the criminal justice system. The Taskforce recommended that NCAJ should continue to explore the different avenues of dealing with petty offenders to effectively decongest prisons.

Additionally, data collection within the criminal justice system was noted to be in disharmony. This was attributed to the manual collection of data, which caused inconsistencies. Further, data is not shared between the criminal justice sector players, making sectoral data analysis difficult. The recommendation was that the justice sector should leverage technology and develop an integrated data management system, which would be instrumental in identifying gaps.

### ***Opening of New Court Stations***

The Judiciary through Gazette Notice No. 11431, dated 23rd September 2022, established two Court of Appeal Stations in Nakuru and Eldoret. Further, according to Gazette Notice No. 656, issued in January 2023, the Kapsabet High Court was instituted, and concurrently, the Lamu High Court Sub-Registry was established as per Gazette Notice No. 5471 from April 2023. These courts are intended to enhance access to justice for the residents in these regions.

### ***Launch of e-filing by the Judiciary***

As part of their policy reforms, the Judiciary launched e-filing in Mombasa, Siaya, Kisumu and Homabay Counties in the FY 2022/23. The e-filing initiative is a strategy developed towards the utilization of technology to enhance the expeditious delivery of justice through efficiency.

### *Judicial Advocate Management System*

The Law Society of Kenya (LSK) provided updated information on the status of its members in support of the revamping of the Judicial Advocate Management system to minimize the incidents of masquerades and unqualified persons appearing before the court on behalf of unsuspecting clients.

### *Enhancement of organisational culture for effective service Delivery by ODPP*

The ODPP established the Office of Change Management (OCM) to enhance professional culture. To operationalize OCM, the Office appointed Change Agents from all ODPP stations countrywide to facilitate the implementation of the ODPP's Change strategy. This strategy has transformed the prosecution services. The ODPP also developed a policy framework toward equipping prosecutors with the tools to strengthen service delivery and enhance access to justice. Further, the ODPP increased sensitization on the Plea-Bargaining Rules and Guidelines, whose aim is to expedite the delivery of justice and reduce case backlog.



*The ODPP in collaboration with the UNODC and the European Union during the launch of ODPP Code of Conduct and Ethics and other policy documents*

### *Operationalization of Case Recording and Transcription System*

The Judiciary installed and operationalised the Case Recording and Transcription System (CRTS) in all Supreme Court sessions. The Court of Appeal (COA) also adopted CRTS in Nairobi, Kisumu, Nyeri, Mombasa, and Malindi sub-registries. The adoption of CRTS has ensured court proceedings are timely availed to all in a timely manner.

### *Enhanced Uptake of Plea bargaining at EACC*

The Ethics and Anti-Corruption Commission embraced the use of plea bargaining to determine corruption and economic crimes cases expeditiously. The Commission embraced inter-agency collaboration and held consultative and case preparation meetings with the ODPP in respect of cases in the Special Magistrates' Courts to enhance the success rates in handling such cases.

### *Traffic Reforms*

To enhance the efficient management of traffic in Kenya, a phenomenon that involves key justice sector actors, the National Transport and Safety Authority (NTSA) revamped its Transport Integrated Management System to enable customers to access online services effectively. It also upgraded the Driver Training and Licensing platform with end-to-end visibility of driver's management, including offenses profile and point management recording and management capability.

### *Portable Witness Protection Box*

The Witness Protection Agency (WPA) introduced a portable witness protection box to aid in the protection of threatened and intimidated witnesses. The Witness Protection boxes included voice distortion equipment. The use of virtual link technology by protected persons when giving evidence in court will also add to protective measures for witnesses.

### *Decongestion of the Remand Facilities*

The Judiciary, ODPP, NPS, KPS, KNCHR, LSK and IJM conducted decongestion of the remand facilities through the All for Justice Phase II program. The Chairperson of the National Community Service Orders (CSO) Committee further spearheaded the decongestion exercise in various prisons, resulting in the release of 3,042 prisoners during the year under review.



*Launch of All for Justice Phase II and Malalamishi System*



*Stakeholders during the decongestion exercise held at the Nairobi Remand and Allocation Maximum Prison in May 2023*

As part of decongestion, offenders planted 1,001,523 trees across the country and maintained tree nurseries with a total of 87,607 seedlings as part of the Community Service Orders (CSO).



*The PS State Department for Correctional Services during the tree planting exercise at Marmanet Forest*

**Case Digest on Anti-Corruption and Economic Crimes**

The OAG&DoJ spearheaded the development of a case digest on anti-corruption and economic crimes as a “one stop shop” tool for research which provides an analysis of the decisions and judgments made in anti-corruption and economic crimes. It summarizes growing jurisprudence on anti-corruption and economic crimes and an anatomy of corruption in Kenya.

**Systems and Process Audits by EACC**

The EACC undertook a systems/process audit for various government agencies resulting from investigations conducted. The EACC was cognizant that implementation of the audit results was necessary for sealing corruption loopholes.

## *Enhanced Complaints Referral System by the Commission on Administrative Justice*

The Commission on Administrative Justice enhanced its referral system by strengthening linkages with the actors in the criminal justice sector, including the Directorate of Criminal Investigations (DCI), the Internal Affairs Unit of the National Police Service, and the Office of the Director of Public Prosecutions.

### **3.4 Sensitization and Capacity-Building in the Criminal Justice System**

#### **3.4.1 Sensitization and capacity-building by NCAJ**

The NCAJ Committee on Criminal Justice Reforms (NCCJR) trained and sensitized 400 Magistrates on the Revised SPGs (2023) during the Magistrates' Colloquium held in February 2023. The key areas of focus included the resentencing processes and the Guided Approach to Sentencing (GATS). The engagement also provided an opportunity for the Committee to engage the Magistrates as key stakeholders on the amendments proposed to the Penal Code and the Criminal Procedure Code.



*Hon. Lady Justice Grace Ngenye, Judge of the Court of Appeal & Chairperson, NCCJR sensitizing the Magistrates on the revised Sentencing Policy Guidelines and the proposed Amendments to the Penal Code and Criminal Procedure Code during the Magistrates' Colloquium on 7<sup>th</sup> February, 2023.*

The NCCJR commemorated the Africa Pre-trial Detention Day on 25th April 2023, which brought together State and non-state justice sector actors to track the progress on the implementation of the Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa. Further, NCCJR disseminated and sensitized stakeholders on the NCAJ Law and Practice Guidelines on Arrest and Conditions of Pre-trial Detention in Kenya, which are aimed at enhancing procedural efficiency, professionalism, and accountability in the protection of the rights of arrested persons, more so for vulnerable groups including (women, children, persons living with disabilities, the elderly, terminally ill, intersex persons, foreigners, asylum seekers, refugees and stateless persons).



*Mr. Wilfred Nderitu SC, Vice-chairperson of NCCJR and representative from the Law Society of Kenya giving remarks during the opening session of the Kenya National Commission on Human Rights commemoration of the Africa Pretrial Detention Day held on 25th April 2023*

*Dr. Miriam Nyamwamu sensitizing State and non-State justice sector actors on the NCAJ Guidelines on Law and Practice on Arrests and Conditions of Pre-Trial Detention in Kenya*

### 3.4.2 Sensitization and Capacity-Building by NCAJ Agencies

The NCAJ agencies spearheaded diverse trainings with potential positive impact on enhancing the administration of justice in Kenya. Some of the notable sensitizations and capacity-building initiatives that were undertaken during the period are;

1. *The Office of the Director of Public Prosecutions (ODPP)* conducted sensitisation programmes on the Diversion Policy and Guidelines across the country, with a view to enhancing the uptake of alternatives to prosecution initiatives, increasing the number of diverted cases, thus contributing towards the reduction of case backlog, efficient utilization of court resources and case clearance times. Further, the ODPP, with support from the International Justice Mission (IJM), developed an e-learning system for the Guidelines on the Decision to Charge Learning Management Software, which was designed to train prosecutors on the Guidelines.
2. *The Probation and After Care Services (PACS)*, through the National Community Service Orders (CSO) Committee, sensitized 90 Magistrates on the benefits of CSO programmes and the importance of monitoring and evaluation in CSO and offender supervision and rehabilitation.
3. *The Legal Resources Foundation (LRF)* enhanced public awareness of the criminal trial process and alternatives to incarceration through interactive radio sessions at HAKI FM for members of the public.
4. *The Clean Start Africa* introduced the Ufunuo Leadership Programme, a comprehensive six-week initiative tailored for incarcerated and formerly incarcerated women, providing essential training geared towards facilitating the seamless reintegration of these women into society, establishing collaborations with criminal justice sector actors, and bolstering the rehabilitation and successful reintegration of women into the broader community. In collaboration with Crevit Mullier, Clean Start Africa also trained Judges of the Supreme Court of Kenya, Magistrates' and Kadhis on Therapeutic Jurisprudence.
5. *The Kenya Magistrates and Judges Association* enhanced capacity development through the adoption of ICT, specifically webinars, to continue training and sensitization of Judges and Judicial Officers on emerging trends in adjudication of cases. In addition, the Association increased its focus on utilizing the fourteen KMJA regions for training workshops. Lastly, desk research was conducted toward the development of a draft guidebook on anticorruption in partnership with the Kenya Association of Manufacturers.

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6. *The Kenya prisons Service* oversaw the training of approximately 100 paralegals (both staff and inmates) in some penal Institutions. Kenya Prisons Service (KPS) partnered with stakeholders Justice Defenders, Legal Resources Foundation (LRF) and Kituo Cha Sheria to conduct the training.
  7. *The Center for Reproductive Rights* partnered with the Kenya Judiciary Academy and other CSO partners to train 70 legal researchers on regional and international instruments on women's rights. During the training, the Center shared some of the progressive standards on sexual and reproductive rights set by regional and international treaty bodies, as well as progressive jurisprudence from the National Courts in Kenya.

### 3.5 Research in the Criminal Justice System

Research in the criminal justice sector, especially on emerging crimes and other justice issues, is crucial for policy, legal and administrative reforms. To this end, NCAJ and its agencies undertake research to ensure that decision-making and interventions are grounded on a rigorous exploration of emerging issues. During the period under review, the NCRC undertook research on national crime mapping, victimization, and public perceptions and experiences on access to criminal justice in Kenya.

### 3.6 Challenges and Recommendations on Efficient Administration of Criminal Justice

#### 3.6.1 Challenges

The diverse challenges that hindered the efficient administration of criminal justice encountered in the period under review included:

- Delays in CJS processes, notably investigations, prosecution and trial process.
- Rising congestion of prison facilities occasioned by, among others, low infrastructure development, high bail and bond terms, fines, and inadequate uptake to alternatives to imprisonment, especially for non-serious offenses.
- Perceptions and incidents of corruption in criminal justice institutions, coupled with the filing of numerous applications, caused delays in completing corruption-related cases timely.
- Challenges in physical access to CJS institutions, particularly in the marginalized regions of the country. The vast distance between some police stations, detention facilities, and courts.
- Low uptake of technology and interlinkages in the criminal justice system.
- Incidents of inter-agency conflicts in interpreting conflicting or unclear roles.
- Poor relations between the public and some justice sector actors affected service delivery.
- Slow uptake on the use of alternatives to prosecution and trial initiatives.
- Reluctance of witnesses to testify, withdrawal, fatigue, intimidation, inadequate resources and amenities to facilitate and protect them, and getting vulnerable witnesses to testify.
- Inadequate access to legal aid services, especially for vulnerable offenders.
- Inadequate access to psychosocial support and counselling services for victims and offenders.
- Inadequate funding adversely affected the full realisation of the agencies' mandates.
- Data collection within the criminal justice system is in disharmony. This is attributed to the manual collection of data, which causes inconsistencies. In addition, data is not optimally shared between the criminal justice sector players, making sectoral data analysis difficult.

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### 3.6.2 Recommendations

To address the challenges faced, the NCAJ will continue to coordinate diverse policy, legal and administrative reforms, and lobby for partnerships for the agency-driven initiatives. The coordination will require support and partnership from other GOK agencies, development partners and CSOs. The interventions will include but are not limited to:

- Quicken investigations, prosecution and trial of cases. The criminal justice agencies to institute measures to reduce institutional delays that lead to unnecessary case adjournments.
- Prioritise case backlog reduction is crucial. All NCAJ agencies to effectively and timely play their role in resolving delayed cases.
- Raise public awareness of the mandates of players in the CJS to enhance stakeholders' collaboration and coordination for effective justice delivery.
- Undertake joint training for cross-cutting criminal justice issues.
- Impose reasonable bail/bond terms and use diversion, plea bargaining, and non-custodial sentences on petty offenders to ease congestion in prisons.
- Increase sharing of office space to accommodate other agencies within the CJS.
- Enhance two-way information sharing with the public.
- Simplify land laws and package the legal information in a manner that can easily be accessed and referenced by any citizen, and expand access to legal aid services to the grassroots at the community level through frequent legal aid clinics.
- State agencies to sensitise the public on succession and land matters which are leading to crime.
- Lobby for increased budgetary allocation to, among others, facilitate investigations, prosecution, trial, witness facilitation, legal aid, custodial services, rehabilitation and aftercare services, construction of physical facilities, and acquisition of technology.
- Leverage technology and develop an integrated data management system to facilitate accurate, evidence-based decision-making.

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Chapter

4



PROGRESS AND  
REFORMS IN  
CIVIL JUSTICE

# 4



*The Attorney General of Kenya, Hon. Justin B. N. Muturi during the handing over ceremony and meeting with the HODs at the State Law office*

## CHAPTER 4: PROGRESS AND REFORMS IN CIVIL JUSTICE

### 4.1 Introduction

This chapter provides the progress, reforms and challenges encountered in the administration of civil justice in Kenya in FY 2022/23, with a particular focus on the instrumental roles played by the critical stakeholder in the civil justice space. Civil Justice refers to the area of law that deals with resolution of disputes between individuals and/or organisations, where an individual/organisation has been injured or harmed by another person/organisation. The system is in place to help individuals hold others accountable for wrongdoing. It encompasses various legal disputes such as property claims, breaches of agreements, divorces, child support, class action lawsuits, employment and labour relation claims, and personal injury, among other disputes. Civil justice is primarily concerned with resolving disputes between private parties and aims to provide remedies and compensation to the injured party rather than punishing the wrongdoer. The civil justice system is responsible for providing a fair and orderly process for parties to resolve their disputes, whether through litigation in a court of law or by negotiation, mediation, arbitration and traditional and customary modes.



Civil justice has three components: namely, the institutional, the professional, and the procedural components. In Kenya, the institutional component revolves around the work of the Judiciary, who resolve or adjudicate civil disputes when they arise, the Attorney General, who represents the government in all civil cases as stipulated in section 5(1) (i) of Act. No. 49 of 2012 and other State as well as non-state actors, who operate within the various mechanisms of administration of justice. The professional component is anchored in institutional independence and integrity that provides a backdrop to fair, impartial and timely adjudication of conflicts. The procedural component, on the other hand, revolves around processes through which civil dispute resolutions are done. This is mainly through litigation, alternative dispute resolution and complaint and investigation mechanisms. Ultimately, the intention is to ensure that the citizenry, who are the claimants and/or the respondents in any civil claim, can access justice effectively and promptly.



#### 4.2 Progress in Administration of Civil Justice within the NCAJ in FY 2022-23

The NCAJ embarked on reforms in civil justice to complement the various reforms already being undertaken in the criminal justice sector and other areas. This aimed at addressing the numerous challenges, including delays, inefficiencies, and limited access to justice for marginalized groups, which for a long time characterised the civil justice process in Kenya. The challenges hindered timely resolution of disputes, thereby undermining public confidence in the justice system.

As a strategic move, the NCAJ Standing Committee on Civil Justice was officially gazetted in July 2022, with the mandate of examining and addressing the most pressing issues in the administration of, and access to, civil justice in Kenya in accordance with the Constitution. Under the leadership of the Hon. Attorney General, the multi-agency Committee has representation from the Judiciary (Civil Justice Courts), the Office of the Attorney General and Department of Justice (OAG&DOJ), the Kenya Law Reform Commission (KLRC), the Asset Recovery Agency (ARA), the National Legal Aid Service (NLAS) and the National Land Commission (NLC). Other members of the Committee were the Ethics and Anti-Corruption Commission (EACC), the Law Society of Kenya (LSK), the National Environmental Management Authority (NEMA), the Chartered Institute of Arbitrators (CIArb), the Council of Governors (COG), the Kenya Private Sector Alliance (KEPSA) and the Kenya Human Rights Commission (KHRC).

During the period under review, the Committee examined its mandate and identified areas of the sector that needed attention towards impacting positively on the lives of people of Kenya. These included: Addressing the nexus between formal and informal civil justice; digitization of the civil justice sector; and legal, policy and administrative action in constitutional petitions, employment and labour relations, succession matters, commercial disputes and environment and land justice. The Committee also identified the expeditious disposal of civil justice matters in the courts, enabling civil justice conversations at the grassroots through Court User Committees, and ensuring inter-agency coordination of civil justice reforms towards ensuring access to justice & curbing duplicity of intention as key areas of focus during its tenure.



*The Chairperson of the NCAJ Working Committee on Civil Justice Reforms, Hon. Justin B. N. Muturi, the Attorney General, during the inaugural meeting with the members of the committee*

### 4.3 Progress in Administration of Civil Justice within the NCAJ Agencies in FY 2022-23

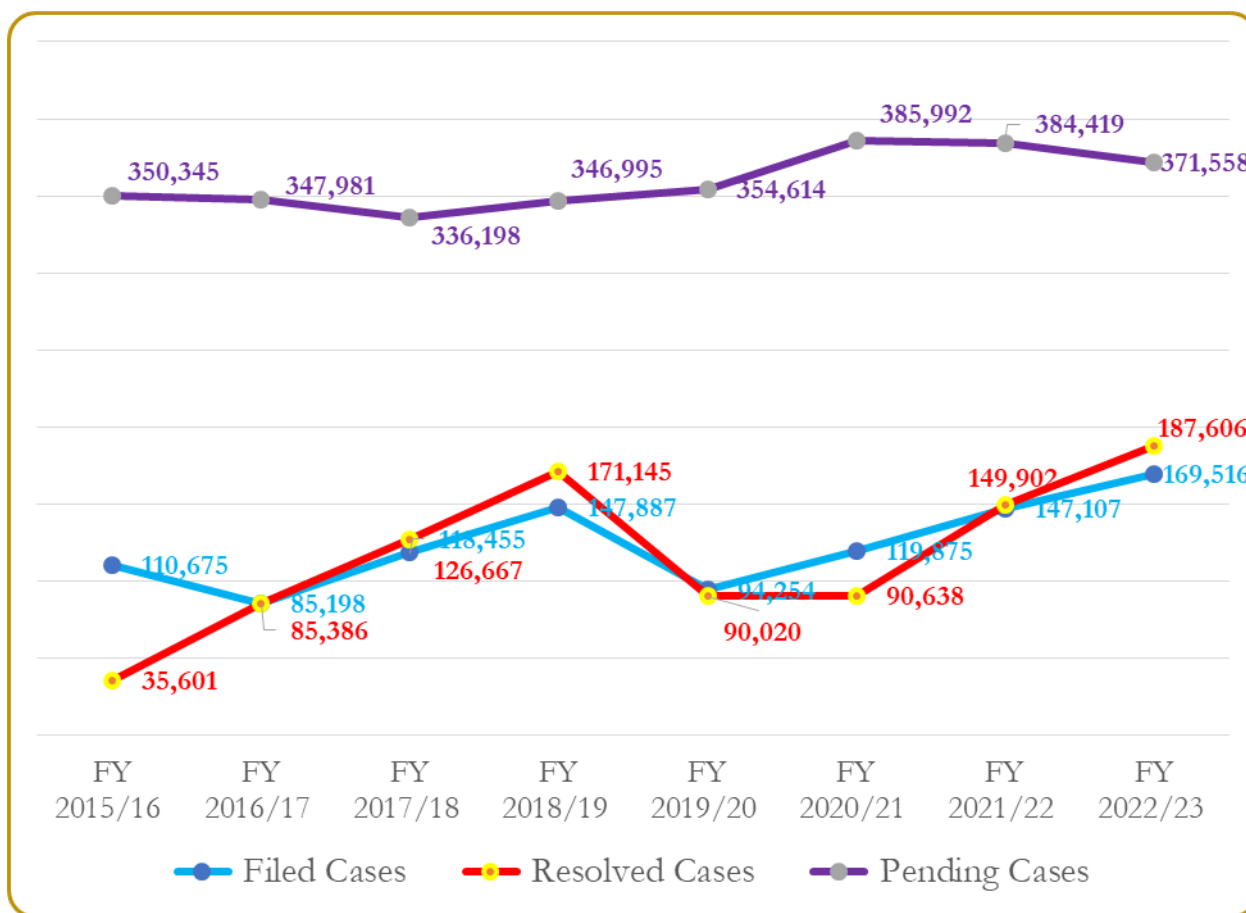
#### 4.3.1 Progress in Civil Litigation

Individuals and entities seeking civil dispute resolutions file cases in the courts for litigation. Civil litigation in Kenya follows formal legal procedures, which may include pre-trial negotiations, the presentation of evidence, and legal arguments before a judge or a magistrate. The outcome of a civil case may involve the issuance of a court order for monetary damages, injunctive relief, or other remedies as determined by the court. Civil cases are typically filed in the civil courts, including the Magistrates’ Courts, the High Court, the Employment and Labour Relations Court and the Environment and Land Court. The specific court in which a case is filed depends on factors like the nature of the dispute and the pecuniary amount involved.



*Hon. Chief Justice, Martha K. Koome, EGH., together with the Hon. Attorney General, Justin B. N. Muturi after the Attorney General was sworn in as a member of the Judicial Service Commission*

In the financial year under review, a total of 169,516 civil matters were filed with 187,606 matters being resolved. A total of 371,558 matters remained pending signifying a 3 per cent reduction. The trend of the filed, resolved and pending civil cases is shown in Figure 4.1.



**Figure 4.1: Trend of civil litigation in all courts, FY 2015/16 - 2022/23**

*Source: NCAJ Analysis using data from various editions of published SOJAR*

The reduction in pendency implied that there was a general enhancement of service delivery in the civil justice sector, with resolved cases being more than the filed cases. The specific statistics for different types of courts are provided in Table 4.1.

**Table 4.1: Civil litigation in all courts, FY 2018/19- 2022/23**

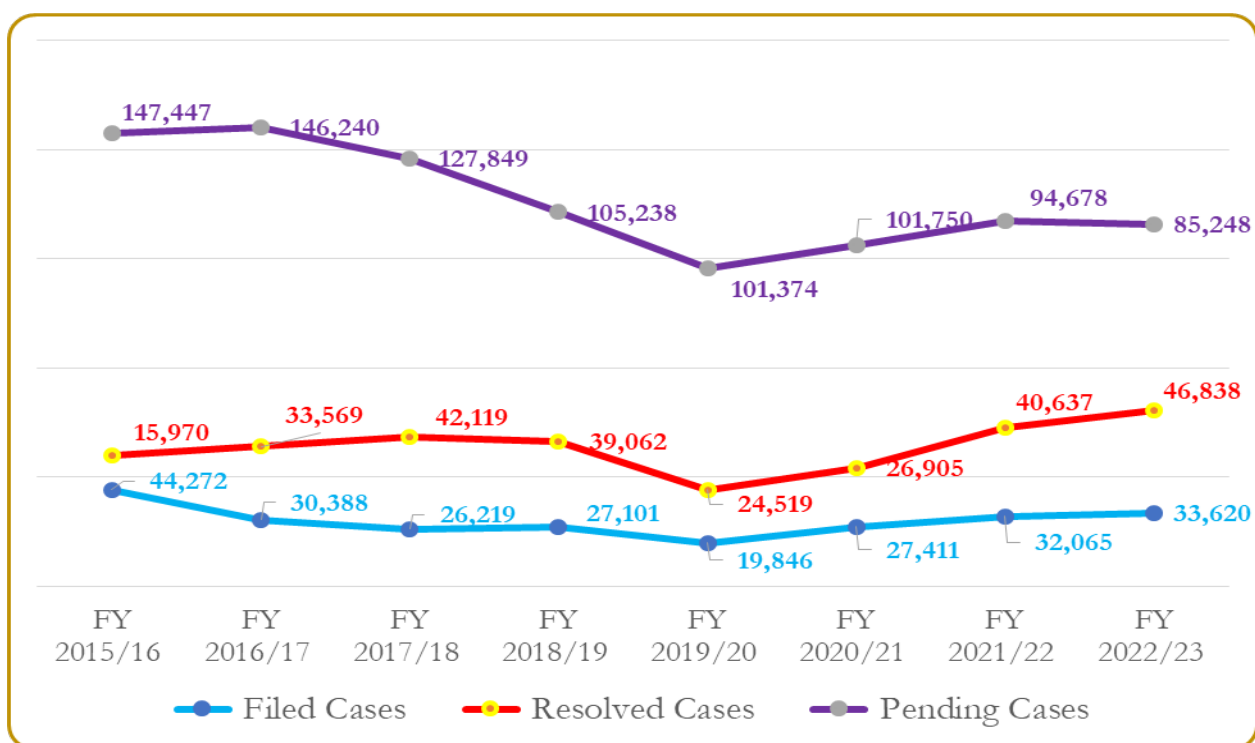
Court Type	Case handled	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	% Change 21/22 to 22/23
All Courts	Filed	147,887	94,254	119,875	147,107	169,516	15%
	Resolved	171,145	90,020	90,638	149,902	187,606	25%
	Pending	346,995	354,614	385,992	384,419	371,558	-3%

*Source: NCAJ Analysis using data from various editions of published SOJAR*

## A. Civil Litigation in Superior Courts

The Kenyan judicial system is divided into superior and subordinate courts. The superior courts consist of the Supreme Court, the Court of Appeal, the High Court, the Employment and Labour Relations Court (ELRC) and the Environment and Land Court (ELC). Besides handling appeals, the superior courts, with the exception of the Court of Appeal, have original jurisdiction on some civil matters.

Over the years, the superior courts have seen an increase in the matters coming before the respective judges, most of which have been resolved. However, there were still pending matters that accrued from the previous financial years, which continued to be a burden to the administration of justice. In the superior courts, 33,620 civil matters were filed, 46,838 were resolved and 85,248 were pending at the end of FY 2022/23. The change over time for the filed, resolved and pending civil cases in Kenya is shown in Figure 4.2.



**Figure 4.2: Trend of civil litigation in superior courts, FY 2015/16 - 2022/23**

*Source: NCAJ Analysis using data from various editions of published SOJAR*

Figure 4.2 shows that cases filed declined marginally between the FY 2016/17 to 2019/20, followed by a slight increase up to the end of 2021/22 FY. Filed cases rose marginally from 32,065 recorded in the previous period to 33,620 during the year under review. The pending civil cases did not increase due to a high case clearance rate of above 100 per cent. Specific caseload information for various courts is provided in Table 4.2.

**Table 4.2: Civil litigation in superior courts, FY 2018/19- 2022/23**

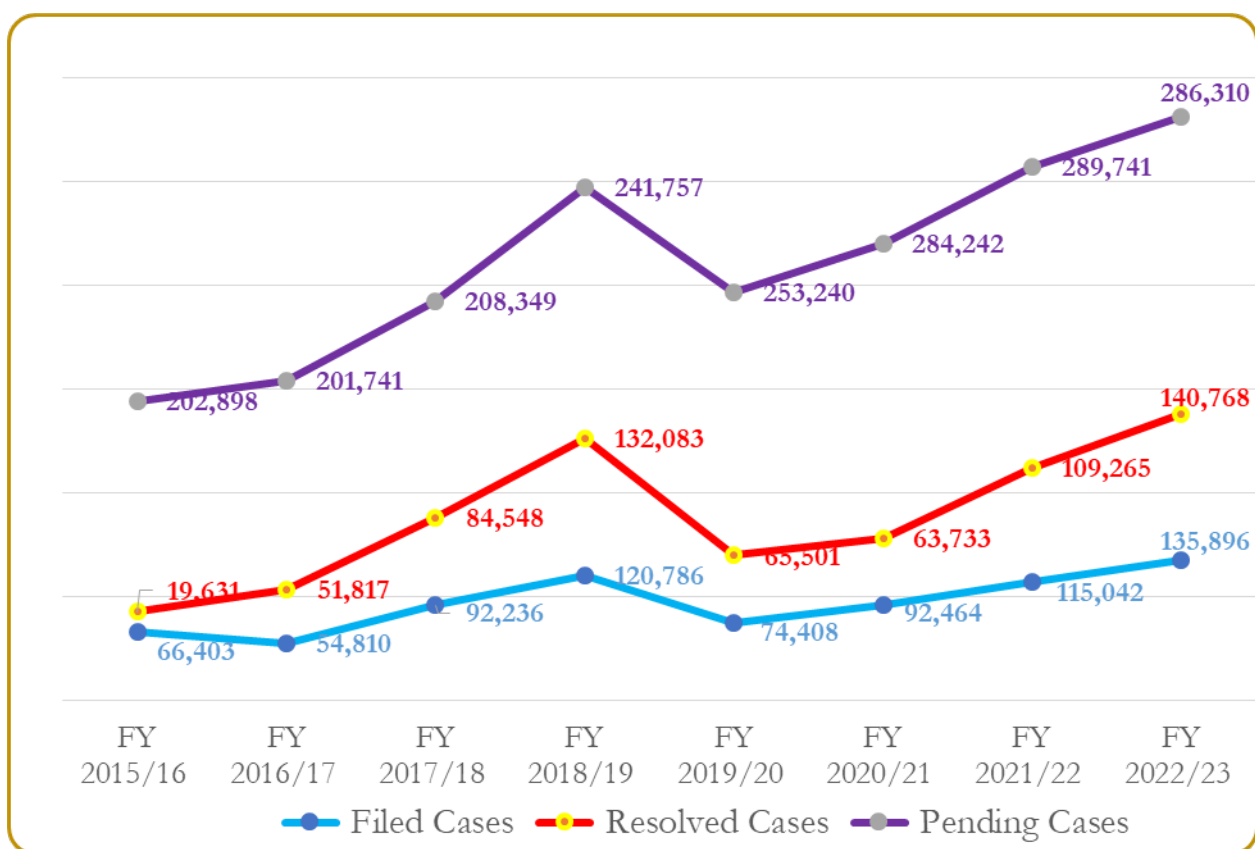
Court Type	Case handled	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	Change
Supreme Court	Filed	96	72	47	41	59	83%
	Resolved	89	76	62	63	58	51%
	Pending	93	89	74	52	54	-38%
Court of Appeal	Filed	1,955	2,063	2,150	2,345	1,879	26%
	Resolved	990	745	969	1,020	934	78%
	Pending	4,211	5,529	6,637	7,962	8,907	9%
High Court	Filed	17,884	12,540	17,440	19,760	15,673	2%
	Resolved	26,593	14,612	17,692	25,628	22,793	14%
	Pending	68,136	66,957	66,594	57,105	49,986	-8%
ELRC	Filed	2,672	2,015	2,918	3,518	3,808	10%
	Resolved	4,228	3,568	2,434	5,662	3,870	6%
	Pending	13,778	12,907	14,040	11,943	11,881	-18%
ELC	Filed	4,494	3,156	4,856	6,401	5,752	3%
	Resolved	7,162	5,518	5,748	8,264	6,814	16%
	Pending	19,020	15,892	14,405	17,616	16,554	-20%
All superior Courts	Filed	27,101	19,846	27,411	32,065	27,172	5%
	Resolved	39,062	24,519	26,905	40,637	34,469	15%
	Pending	105,238	101,374	101,750	94,678	87,381	-10%

*Source: NCAJ Analysis using data from various editions of published SOJAR*

From Table 4.2, the demand for justice in superior courts, depicted by the number of filed cases increased by 5 per cent. On the other hand, the supply of justice, depicted by resolved cases, increased by 15 per cent. The overall caseload at the end of the period under review was 87,381, a 10 per cent decline in comparison to the previous period. The courts also continued to deliver landmark judicial decisions with immense jurisprudential value in settling important constitutional and legal questions that affect civil justice.

### **B. Civil Litigation in Subordinate Courts**

Within the subordinate courts system, Magistrates Courts, Small Claims Court, Kadhi's Court and Tribunals exist. During the year under review, 135,896 civil cases were filed while 140,768 were resolved. At the end of the period under review, 286,310 cases were pending in the subordinate courts. Figure 4.3 shows the trend of caseload between the FY 2015/16 and 2022/23.



**Figure 4.3: Trend of civil litigation in subordinate courts, FY 2018/19- 2022/23**

*Source: NCAJ Analysis using data from various editions of published SOJAR*

The civil matters pending at the subordinate courts have been on a steady increase necessitating the operationalisation of the small claims' courts, among other initiatives by the Judiciary. The aim is to clear these cases in the magistrates' court, thus enhancing access to justice. The details of the change in civil cases for the last 5 years is shown in Table 4.3.

**Table 4.3: Civil litigation in subordinate courts, FY 2017/18 - 2021/22**

Court Type	Cases handled	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	% Change 21/22 to 22/23
Magistrate Court	Filed	105,720	61,258	77,152	91,748	88,695	-3%
	Resolved	123,312	55,972	52,810	86,010	98,695	15%
	Pending	209,313	217,265	245,309	255,734	253,007	-1%
Small Claims Court	Filed	-	-	1,023	8,503	27,161	219%
	Resolved	-	-	637	8,226	21,210	158%
	Pending	-	-	386	1,239	7,264	486%
Kadhis Court	Filed	8,439	7,207	8,954	9,017	11,850	31%
	Resolved	6,250	5,261	7,230	6,540	11,490	76%
	Pending	6,005	7,817	8,062	10,404	3,482	-67%

Court Type	Cases handled	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	% Change 21/22 to 22/23
Tribunals	Filed	6,627	5,943	5,335	5,774	8,190	42%
	Resolved	2,521	4,268	3,056	8,489	9,373	10%
	Pending	26,439	28,158	30,485	22,364	22,557	1%
All	Filed	120,786	74,408	92,464	115,042	135,896	18%
	Resolved	132,083	65,501	63,733	109,265	140,768	29%
	Pending	241,757	253,240	284,242	289,741	286,310	-1%

*Source: Published SOJAR, - court was not in existent*

In the subordinate courts, litigation demand increased by 18 per cent between the FY 2021/22 and 2022/23. Also, the provision of justice depicted by the resolution of cases rose by 29 per cent over the same comparative period. Overall, the pendency of civil cases in subordinate courts reduced by 2 per cent.

### 4.3.2 Progress in Civil Justice Processes within the Attorney General's Office

The Attorney General, as the principal legal advisor to the government, has played a pivotal role in shaping civil justice reform in Kenya. The role of the Attorney General's office is multifaceted, encompassing both advisory and supervisory functions. In his roles, he represents the interest of the governments in civil litigation including in constitutional cases, administrative law cases, in land and property disputes and in tort claims against government. The Attorney General's Office also handles contract disputes, judicial review, human rights cases, public interest litigation and international disputes.

The mandate of the Civil Litigation Department under the State Law Office (SLO) is drawn from Article 156 (4)(b) and (c) of the Constitution and Section 5(1)(i) and (j) of the Office of the Attorney General Act. The Department represents the national government in court on all civil and constitutional matters, arbitration and other forms of alternative dispute resolution such as mediation, negotiations and adjudication. It also represents the national government in matters before foreign courts and tribunals.



*The Attorney General of Kenya, Hon. Justin B. N. Muturi during the handing over ceremony and meeting with the HODs at the State Law office*

In FY 2022/23, 5,573 civil cases were filed in OAG & DOJ across the country, with 2,796 being concluded. Table 4.4 shows the details of these cases per station across the country.

**Table 4.4: Civil registered and processed by the State Law Office, FY 2022/23**

State Law Office	Filed cases	Concluded cases	Pending cases
Nairobi (headquarters)	2504	1,498	1006
Mombasa	336	232	4309
Malindi	237	119	1369
Kisumu	278	80	1880
Kakamega	256	143	1915
Nyeri	118	65	689
Meru	276	116	2750
Embu	192	50	495
Eldoret	490	140	2814
Kisii	375	130	2705
Machakos	179	33	249
Nakuru	291	182	2558
Kericho	41	8	411
<b>All Stations</b>	<b>5,573</b>	<b>2,796</b>	<b>23,150</b>

*Source: OAG&DOJ*

### 4.3.3 Progress by Thematic Areas of Civil Justice

#### a) *Environment and Land Justice*

During the period under review, a total of 6,585 cases were filed in ELC. Over the same period, a total of cases 9,612 were resolved. At the end of reporting period, 14,069 cases were pending at the ELC. As explained in the Chapter 6 on CUCs, service delivery and justice sector institutional transformation is effected at the grassroots and issues from there are cascaded upwards to the national level decision makers who sit at the NCAJ Council. In the reporting period, there were thirty-seven (37) Environment and Land Court User Committees (E&L CUCs). These CUCs ensure a coordinated, efficient, effective and consultative approach in the administration of justice by supporting the NCAJ function in the various court stations.

#### b) *Commercial Justice*

In FY 2022/23, the justice sector handled diverse cases with a potentially huge impact on commercial justice and, consequently, the business and investment environment. These cases, in the main, entailed commercial cases, tax appeals tribunal cases and small claims cases. At Milimani Commercial Division in Nairobi, 2,401 cases were filed, while 3,492 were resolved. This translated to a case clearance rate of 145 per cent, signifying that commercial disputes that had accumulated in courts over time were reduced. Over the same period, 129 tax appeals matters were filed, with 215 being resolved across the country. Hence, previous pending tax appeal cases were reduced, positively impacting the investment environment. Further, 27,161 cases were filed in all Small Claims Courts in Kenya, with 21,210 being resolved. This demonstrates that the innovative venture by the Judiciary to create this court has transformed the resolution of commercial disputes whose claims amount to less than 1 million Ksh. To strengthen collaboration and partnership in handling commercial disputes, NCAJ, through the support of IDLO, operationalised five Commercial Justice Court User Committees (CJCUCs) at Nairobi, Mombasa, Nakuru, Kisumu and Eldoret.

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### c) *Employment and Labour Relations Justice*

The employment and labour relations cases forms an important component of civil justice cases. During the period under review, a total of 3,880 ELRC cases were filed. A total of 5,989 cases were resolved. At the end of the review period, 9,765 cases were pending. Further, two (2) Employment and Labour Relation CUCs fully operated.

### d) *Family and Succession Matters*

Family justice is an important component of civil justice. In the period under review, 4,599 cases involving family issues, notably divorce and succession, were filed in all High Court stations in Kenya, representing 21 per cent of all cases. Over the same period, 10,433 cases were resolved, implying that old cases in the justice system were reduced. Over the same period, justice sector agencies handled matters and disputes related to children, a crucial component of a family setup. The information on children matters and cases handled in the justice system is elaborated in Section 5.2.

## 4.3.4 Adoption of Alternative Dispute Resolution Mechanisms

The Alternative Dispute Resolution (ADR) mechanisms have gained prominence in Kenya as a means to resolve disputes outside of traditional litigation processes. The Constitution of Kenya gives centrality to alternative dispute resolution mechanisms, providing in Article 159(2)(c) that in exercising judicial authority, the courts and tribunals shall be guided by among others, the principle that “Alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted”. During the period under review, the NCAJ agencies addressed this provision in the following ways.

### a) *Court Annexed Mediation*

As a form of diversion of legal disputes, cases brought to court for litigation are referred to mediation for possible settlement. Being harmonious and quicker, the process allows people engaged in disputes to maintain their relationship after settlement. In FY 2022/23, a total of 4,708 were diverted to mediation, with 4,451 being settled. The monetary value of the 4,708 cases was 34 billion, with the settled matters having a value of Ksh 9 billion.

### b) *Enforcement of Arbitral Processes and Awards*

Under section 6(1) of the Arbitration Act, the court may stay the proceeding and refer the parties to arbitration in cases where the matter is a subject to an arbitration agreement. Under section 10 of the Act, no court shall intervene in matters governed by the Act, except in situations enumerated therein. Moreover, where there is an arbitral award, it shall be recognized as binding and, upon application in writing to the High Court, it shall be enforced as if it were the decree of that court (Section 7(2) of the Arbitration Act).

During the reporting period, courts continued to uphold and enforce arbitral awards to facilitate alternative dispute resolution. In *Loxea Limited (Formerly Tsusho Capital Kenya Ltd) v Vehicle Equipment and Leasing Ltd* (Arbitration Cause E026 of 2022) [2023] KEHC 2888 (KLR) (Commercial and Tax) (17 March 2023) the High Court held that “in considering the application for setting aside an Arbitral award, the court should at all material times have in its mind that an arbitration is matter of agreement or contract between parties and the court’s mandate does not extend to hearing the claims of factual or legal error by an arbitrator as an appellate court does in reviewing decisions of lower courts.” Thus, courts continued to enforce arbitral awards as decisions of the Court (e.g. in *Insurance Training & Education Trust t/a College of Insurance v Orange Works Limited* (Arbitration Cause E032 of 2022) [2023] KEHC 1680 (KLR) (see e.g. Commercial and Tax) (27 February 2023; and *Kenya Technical Teachers College v Will Developers & Construction Limited & another* (Arbitration Cause E014 of 2021) [2022] KEHC 106 (KLR) (Commercial and Tax) (18 February 2022)).

### c) *Arbitration of Disputes Processed through OAG & DOJ*

The OAG & DOJ adopted the use of mediation, arbitration, adjudication and negotiation to resolve disputes both internationally and locally that they were involved in. The Civil Litigation Department, Commercial and Arbitration Division in the State Law Office was involved in the defense of arbitration cases against the government of Kenya. The successful defense of these arbitrations resulted in savings to the exchequer as follows: -

- i. *Arbitration between Golden Cara Investments Ltd & Ministry of Transport, Infrastructure, Housing and Urban Development:* In a claim for Kshs. 912,669,419.06, the Arbitrator awarded is Kshs. 109,893,765.40, thus creating savings to the government amounting to Kshs. 802,775,653.66.
- ii. *Arbitration between Ongata Works Limited & The Principal Secretary, State Department for Public Works:* In a claim for Kshs. 711,608,181.12, the Arbitrator awarded the Claimant Kshs. 147,888,066.31, yielding a saving of Kshs. 534,011,902.74 to the Government.
- iii. *Arbitration between Milicons Limited & National Commission for Science, Technology & Innovation:* In a claim for Kshs. 801,105,973.57, the Arbitrator awarded the Claimant Kshs. 108,371,326.93, yielding savings of Kshs. 692,734,646.64.
- iv. *Arbitration between Sensei Limited & Agricultural Development Authority:* The Arbitrator published the final award where the Tribunal dismissed the Claimant's claims with no orders as to costs.

#### 4.3.5 Dispute Resolution through Administrative Petitions and Complaint Handling

Administrative petitions and complaint handling through specific institution have been recognised in the Constitution of Kenya and under specific legislation as complementary modes of civil dispute resolution. A number of NCAJ agencies undertook resolution of civil disputes under their respective mandates.

- The Commission on Administrative Justice (CAJ) is mandated to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector as well as to inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service.

In the reporting period, the CAJ received 3,894 complaints, out of which 2,093 cases were resolved while 1,801 complaints were undergoing inquiries and investigations, had summons and notice to show cause sent out or were being addressed through ADR. Further through the Ombudsman Mashinani, CAJ conducted four forums in Kawangware, Kiambu, Korogocho, and Kangemi to mobilise community members to champion accountability in public institutions, reaching out to over five hundred people.

- The Kenya National Commission on Human Rights (KNCHR) receives and investigates complaints about alleged abuses of human rights and is required to take steps to secure appropriate redress where human rights have been violated. During the review period, KNCHR handled a total of 1,898 complaints, which included a screening of 1,044 new petitions, inquiry letters, telephone calls and email correspondence. The follow-up actions involved corresponding with relevant institutions, preparing legal opinions, and preparing parties for ADR and case file reviews. The complaints received were addressed through the legal advice, preliminary inquiries, and referral of non-admissible cases to other partners for interventions. Further, 41 cases were admitted for further investigations on various categories of rights. Where violations were established, appropriate redress measures were taken.
- The National Land Commission (NLC), under section 5 of the National Land Commission Act, has the duty to investigate present or historical land injustices, and recommend appropriate redress. It is also required to develop and encourage alternative dispute resolution mechanisms in land dispute handling

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and management. In this respect, the Commission, received 3,663 historical land injustices claims 126 were heard and determined. Of the determined cases, 35 were challenged in court, and others are processed at various stages. The NLC received 4,000 complaints processed through ADR mechanisms. At the end of the period under review, the NLC was handling 2,925 court cases in the Court of Appeal, ELC and magistrate's courts across the country.

#### 4.3.6 Institutionalization of Civil Justice Activities by NCAJ Agencies in FY 2022-23

The NCAJ agencies continued to undertake critical activities aimed at enhancing civil justice in Kenya during the period under review. These include:

- The CLE reviewed the curriculum for Community Paralegals Training from National Legal Aid Service. The Commission also developed a Standard Curriculum on Paralegal Education, which will be a reference document for paralegal education providers.
- The IEBC had several engagements with the Agencies Committees on Elections in an effort to sensitize them about the election process in readiness for the August 2022 elections. The Commission also trained its external counsel on the electoral process and changes made in readiness for the election petitions that would arise after declaration of results. Further, IEBC entered into a memorandum of understanding with the Political Parties Dispute Tribunal on their jurisdiction to hear and determine party list and party nomination matters.
- The ICJ Kenya undertook capacity building project titled *Strengthening Judicial Capacity on Electoral Technology Ahead of the 2022 General Election in Kenya*. The project was aimed to equip Kenya's Judiciary with knowledge and strengthen its capabilities in assessing the merit of legal challenges brought to the electoral court involving electoral disputes around the use of technology in elections. Under the project, ICJ Kenya partnered with Judiciary Committee on Elections and the Kenya Judiciary Academy to conduct a series of trainings for the Judiciary from the Magistracy to the Supreme Court. The training covered the use of election technology and how legal procedures could be adapted to support the assessment of challenges regarding election technology during elections. In addition, ICJ Kenya developed a publication titled *Election Technology and Electoral Justice in Kenya*.
- The KEPSA supported the implementation of the Ajira digitization project supporting court transcription that had been piloted in all 37 counties as of May 2023 and in over 350 courts across the country. Ajira project supported Data Entry and Scanning which catalysed e-filing in many courts thereby supporting in Haki Popote initiative as well as the Comprehensive Virtual hearing of cases. Equally, the administration of case files is enhanced through Mass Scanning support.
- Kenya Law partnered with tribunals through the office of Registrar Tribunals (established by the Judicial Service Commission) so as to ensure the publication of their decisions on the Kenya Law website. A special database was created to host the tribunal decisions and these were made available to the public through the Kenya Law website.
- The Law Society of Kenya (LSK) activities in FY 2022/23 focused on advocating for the rule of law, engaging with government officials and law enforcement agencies, collaborating with stakeholders, and addressing critical issues on legal practice reforms. The LSK instituted 45 cases during the year under review. To ensure compliance with the Constitution and the rule of law, LSK played a vital role in facilitating constructive contributions to 18 legislations, aligning them with constitutional principles. These are;
  1. Fair Administrative Action Rules, 2022
  2. Draft Rules for Admission of Advocates

3. The Draft Advocates Bill, 2020
4. Statute Miscellaneous Amendment Bill, 2020
5. Public Finance (Amendment) Bill, 2022- legislation on public debt
6. Power of Mercy Draft Bill 2022
7. Elections Finance Bill 2022
8. Draft Motor Vehicle Inspection Regulations, 2022
9. Draft Traffic (Drunk Driving) Rules, 2022 10. Draft Advocates Bill, 202
11. The Online Hearing Procedure Guidelines, 2023 for the Public Procurement Administrative Review Board
12. Public Private Partnership Regulations, 2022 (establishment of the Petitions Committee)
13. The Independent Electoral and Boundaries Commission (Amendment) Bill, 2022
14. Motor Vehicle Inspection Regulations, 2022 & Draft Traffic (Drunk Driving) Rules 2022
15. Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills No. 60 of 2022)
16. Excise Duty (Excisable Goods Management System) Regulations, 2023
17. Gazette Notice No. 15792 on the National Taskforce on Improvement of the Terms and Conditions of Service of the National Police Service and Kenya Prisons Staff.
18. The Privatisation Bill, 2023

The LSK engaged the Cabinet Secretary for Lands & Physical Planning to address challenges arising from changes affecting land transactions to align the changes with the practicalities of land transactions and the law. A Rapid Response Team was formed to address these concerns promptly, ensuring that land transactions align with practice and legal requirements. Additionally, the LSK lobbied for adequate compensation for pro-bono lawyers and for the safety of advocates in the line of duty, especially terror attack prone areas.

#### **4.4 Legal, Policy and Administrative Reforms in Civil Justice in FY 2022-23**

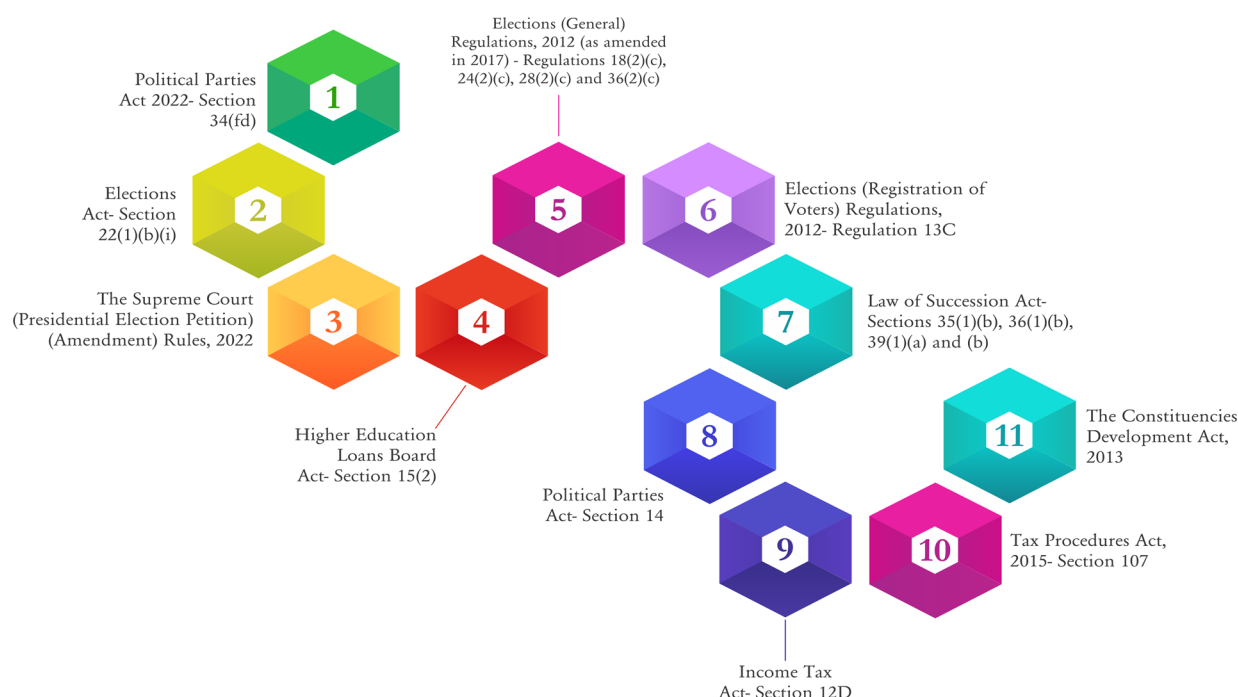
Notable accomplishments in respect of the legal, policy and administrative reforms in the year under review included: the enhancement of case management and reduction of backlog; the use of alternative dispute resolution; the establishment of specialised courts, the integration of technology in court processes, infrastructure development and the stakeholder partnerships. The accomplishments contributed to a more effective civil litigation as highlighted bellow.

##### **4.4.1 Legal Reforms Relating to Administration of Justice**

###### **a) *Declaration of Unconstitutionality of Diverse Provisions in Statutes***

Kenyan courts have, from time to time, declared certain laws unconstitutional. These declarations typically arise from legal challenges brought by individuals, organizations, or public interest groups who believe that specific laws violate the Kenyan Constitution. The High Court, the Court of Appeal and the Supreme Court, have the authority to review and, if necessary, declare laws null and void in line with the Constitution.

## Provisions of Statutes Declared Unconstitutional in FY 2022/23



**Table 4.5: Provisions of statutes declared unconstitutional in FY 2022/23**

No	Section Declared Unconstitutional	Reasoning	Case
1	Political Parties Act 2022- Section 34(fd)	Unconstitutional as regulation of political party nominations was the mandate of Independent Electoral and Boundaries Commission and not the Registrar of Political Parties.	Thuranira & 4 others v Attorney General & 2 others; Registrar of Political Parties & 3 others (Interested Party) (Petition E043, E057 & E109 of 2022) [2022] KEHC 482 (KLR)
2	Elections Act- Section 22(1)(b)(i)	University degree qualification a pre-condition to nomination for election and/or political party lists for Members of Parliament declared unconstitutional as it contravenes articles 24, 27, 38(3) and 56 of the Constitution.	Wambui & 10 others v Speaker of the National Assembly & 6 others
3	The Supreme Court (Presidential Election Petition) (Amendment) Rules, 2022	Declared unconstitutional for want of public participation.	Constitutional Petition 28 of 2021 & Petition E549, E077, E037 & E065 of 2021 (Consolidated)
4	Higher Education Loans Board Act- Section 15(2)	Declared unconstitutional to the extent that it leads to interest rates and fines becoming more than the principal amount advanced.	Ombati v Chief Justice & President of the Supreme Court & another (Petition E242 of 2022) [2022] KEHC 11630 (KLR)

No	Section Declared Unconstitutional	Reasoning	Case
5	Elections (General) Regulations, 2012 (as amended in 2017) - Regulations 18(2)(c), 24(2)(c), 28(2)(c) and 36(2)(c)	Regulations found to be in contravention of Articles 2(4), 10, 27, 31, 38(3), 83(3), 99(1)(c), 137(1)(d) and 193(1)(c) of the Constitution and the Data Protection Act.	Mugure & 2 others v Higher Education Loans Board (Petition E002 of 2021) [2022] KEHC 11951 (KLR) (Civ) (19 August 2022)
6	Elections (Registration of Voters) Regulations, 2012- Regulation 13C	Unconstitutional for unreasonably restricting voters' right to transfer their votes freely and for lack of public current participation.	Free Kenya Initiative & 17 others v Independent Electoral & Boundaries Commission & 5 others; (Constitutional Petition E160 of 2022 & Petition E219, E225 & 12 of 2022 (Consolidated)) [2022] KEHC 10217 (KLR)
7	Law of Succession Act- Sections 35(1)(b), 36(1)(b), 39(1)(a) and (b)	Declared unconstitutional for being restrictive of the women and female child's right to inherit in equal measure and circumstances as the men and male child.	Sumba & 4 others v Independent Electoral & Boundaries Commission & another (Constitutional Petition E435 of 2022) [2022] KEHC 13196 (KLR)
8	Political Parties Act- Section 14	Declared unconstitutional to the extent that it required a sitting member of county assembly to resign as a precondition to switching political parties for purposes of general elections within 180 days preceding the date of the general elections.	Ripples International v Attorney General & another (Constitutional Petition E017 of 2021) [2022] KEHC 13210 (KLR)
9	Income Tax Act- Section 12D	Violates tax payers' rights to fair treatment and dignity	Mbae v Speaker, County Assembly of Nakuru & another (Constitutional Petition E004 of 2022) [2022] KEHC 3313 (KLR) (7 July 2022) (Judgment)
10	Tax Procedures Act, 2015- Section 107	Declared unconstitutional for allowing KRA to usurp the prosecutorial powers of the DPP; the gazette notice No. 3523 published on April 15, 2021 was also unconstitutional and the appointments made under the impugned gazette notice were illegal.	Neutral citation: [2022] KEHC 3313 (KLR)
11	The Constituencies Development Act, 2013	Declared unconstitutional for violating the constitutional principles of separation of power, accountability, good governance public finance and division of revenue	Kenya Revenue Authority v Waweru & 3 others (Civil Appeal E591 of 2021) [2022] KECA 1306 (KLR)

During the reporting period, the NCLR compiled law reform issues raised by the courts in the judgments during the year and forwarded the same to the Attorney General's office and the Kenya Law Reform Commission for driving the legal reform process. It is however important to note that the declaration of unconstitutionality does not remove these laws or sections of the law from the statute book.

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There is, therefore, need for Attorney General, Kenya Law Reform Commission and Parliament to amend the impugned laws to bring them in line with the Constitution and Kenya's obligations under international law.

#### b) *Proposals for Statutory Reforms by NCAJ Agencies*

Various NCAJ agencies worked towards legal reforms, which, if enacted, would further enhance the administration of justice in Kenya. In this regard, the Kenya National Commission on Human Rights (KNCHR) reviewed various Bills and submitted memoranda and advisories to Parliament as follows:

- The Persons with Disabilities Bill, 2023 was submitted to the Senate Committee on Labour and Social Welfare;
- The Public Service (Values and Principles) Amendment Bill, 2022 was submitted to the National Assembly Departmental Committee on Labour;
- The Finance Bill, 2023 was submitted to the Finance and Planning Committee of the National Assembly;
- The Assisted Reproductive Technology Bill, 2022 was submitted to the Senate Committee on Health.
- The Kenyan Sign Language Bill, 2023 was submitted to the Senate Committee on Education;
- The West Pokot County Reparation Bill was submitted to the West Pokot County Assembly.

The Ethics and Anti-Corruption Commission (EACC), for its part, also embarked on a number of legislative reform activities, among them the presentation of the Conflict of Interest Bill, 2022 to Parliament. EACC in collaboration with the OAG&DOJ also proposed to Parliament the amendment of the Leadership and Integrity Act, 2012 (No. 19 of 2012) to allow EACC to verify the suitability of candidates applying to be appointed to a public entity, and make recommendation to the recruiting entity on the integrity suitability of the candidates. Further, the proposed amendments cover proposals to allow the High Court on application by any person, to invalidate the assumption of office by a state officer for breach of specific leadership and integrity code was made.

The IEBC presented draft Bills and proposition of amendment of laws in readiness of the general elections. These included:

- The Elections (Voter Registration) (Amendment) Regulations, 2022;
- Elections (General) Regulations (Amendment) Regulations, 2022;
- Elections (Party Primaries and Party Lists) (Amendment) Regulations 2022; and
- Elections (Technology) Amendment Regulations, 2022.

These laws, however, had not been enacted by Parliament at the end of the review period, and were therefore to be prioritised in FY 2023/24.

#### 4.4.2 **Policy Reforms by NCAJ Agencies**

Towards improving the efficiencies and effectiveness of administration of civil justice, NCAJ member agencies developed policies geared towards addressing gaps, challenges observed in the justice system. Below is a highlight of the various policies developed:

- To enhance access to justice to the indigent, the OAG & DOJ, working alongside the Kenya Law Reform Commission, developed Legal Aid (General) Regulations 2022, which were approved by Parliament.
- The OAG & DOJ and KNCHR in collaboration with other agencies launched and implemented the National Action Plan on Business and Human Rights (NAP-BHR) which was officially adopted by

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Parliament on November 9<sup>th</sup>, 2022, establishing it as an official government policy under Sessional Paper No. 3 of 2021. The NAP-BHR seeks to promote the respect for human rights within businesses through enhancing compliance with human rights obligations.

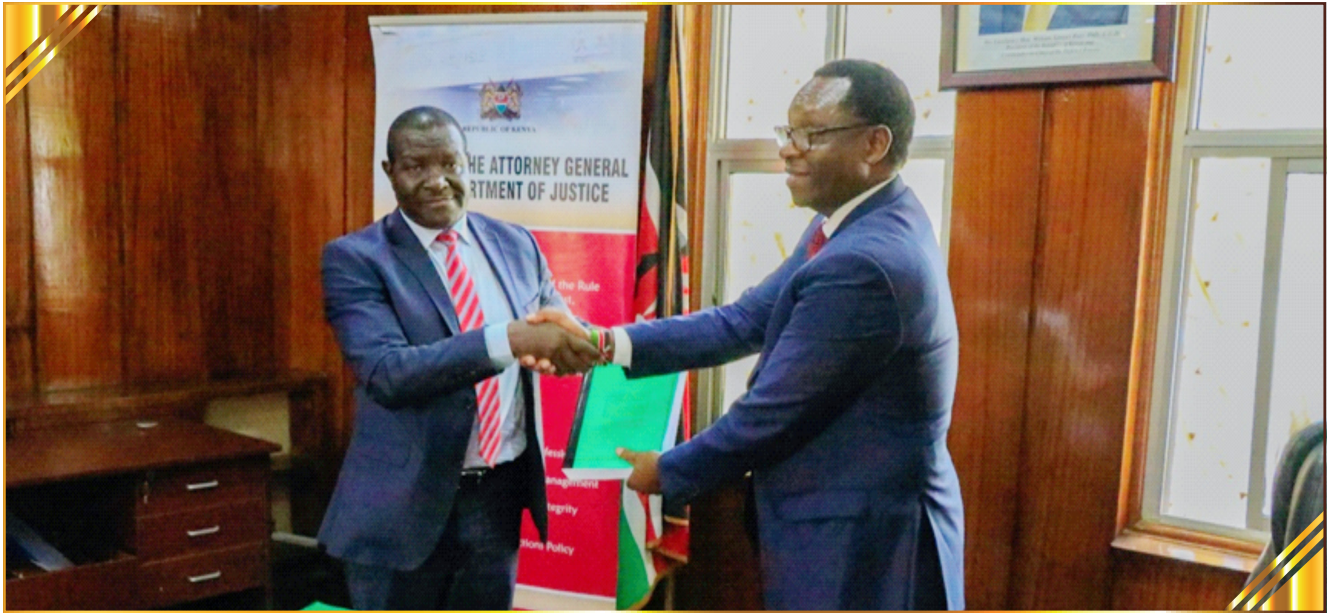
- In line with the Kenyan constitutional imperative on public participation, the OAG & DOJ developed the Public Participation Policy and submitted it to the Cabinet, which approved it as sessional paper no. 3 of 2023. By the end of the reporting period, the Policy was awaiting publication at the Government printer before being tabled in Parliament. The KNCHR submitted an advisory on Kenya's National Policy on Albinism to the Hon. Attorney General in May 2023 for consideration.
- Within that period, ICJ Kenya developed a publication titled *'A Review of the Legal and Policy Frameworks on the Right to Health in Kenya'*. This publication underscores how strengthening legislative and policy reforms and interventions is essential to improve access to health services at the national and county level.

#### 4.4.3 Administrative Reforms and Initiatives by Specific NCAJ Agencies

Key players in the NCAJ undertook measures to enhance the administrative environment and efficiency while undertaking their own mandate, and through collaboration.

##### *The Office of the Attorney General (OAG&DOJ):*

- Enhanced the legal expertise of its staff, including lawyers and legal advisors, through training, capacity-building programs, and recruitment of qualified legal professionals. In the year under review, a total of 174 new state counsels were recruited, while a total 121 State Law Office State Counsel were trained on emerging and specialized areas of the law.
- On case management, the OAG embarked on digitization of its case management system to enhance efficient service delivery to government and the public. These improvements included advancement in case management systems and in procedures for handling legal cases.
- To offer efficient legal advisory services, the AG continuously provided legal advice to government ministries, departments, and agencies to ensure that government actions were legally sound and in accordance with the law. The office undertook review of guidelines to Ministries in the provision of Legal services to assist them develop efficient processes. With regard to the advisory mechanisms, the AG's office worked on improving advisory mechanisms to facilitate timely and accurate legal guidance to government entities through various circular and advisories. In addition, a complaints handling mechanism was developed and implemented to facilitate efficient service delivery.
- In respect to the use of technology, the AG's office leveraged on technology for legal research, case management, and communication within the office. To this end, the office established smart court rooms for State Counsels to attend court sessions virtually. In addition, ICT Steering & Technical Committees was established to actualize on the technical needs of officer in the technology space.
- A Communication Strategy was developed and is being implemented to effectively assist the service delivery of State Law Office services.



*The Hon. Kennedy Ogeto, Solicitor General Emeritus handing over OAG&DOJ report of all duties under the mandate of departments to the incoming Solicitor General of Kenya, Hon. Shadrack Mose.*

- Additionally, the Office of Attorney General sensitized stakeholders in the justice system on civil justice. These exercises were conducted in 12 counties targeting the opinion leaders such as the *nyumba kumi* leaders, youth leaders, women leaders, religious leaders and community-based groups. The national government administration officers including the County Commissioners, Deputy County Commissioners, Assistant County Commissioners, Chiefs and Assistant Chiefs were also sensitized by State Counsels on an array of legal matters that involve their day to day lives like the Constitution, provisions on consumer protection and in human rights. Citizens were also sensitized on the mandate of the Advocate Complaints Commission, Public Trustee and all other departments under OAG&DOJ and their roles in the civil justice system.



*Chief State Counsel, from OAG&DOJ, issue a copy of the Constitution to the Deputy County Commissioner Nakuru County during the civic education exercise on the Constitution*



*State Counsels from OAG&DOJ and Witness Protection Agency during a county civic education to exercise to members of the public in the FY 2022/23*



*Participants drawn from NGAO in Bomet County being sensitized on aspects of civil justice by State Counsel from OAG&DOJ*

### ***The Judiciary:***

- Supreme Court established and operationalized 2 sub-registries in Mombasa and Kisumu and another sub-registry was gazetted and established at Forodha House during the election petitions.
- Kakamega, Bungoma and Malindi ELRC sub-registries were upgraded to fully fledged courts. New ELRC sub-registries were operationalized in Nyamira and Kisii.
- Established two Environment & Land Court (ELC) divisions, namely, the Environment and Planning Division and the Land Division. In June 2023, an Environment and Land Court station was established in Voi, and gazetted and two (2) Environment and Land Court Sub-Registries were established in Kabarnet and Lamu.

- Operationalised additional Small Claims Courts. The Meru Small Claims Court was operationalized and another Small Claims Court was established in Siaya during the review period, bringing the total number of operational courts and sub registries to fourteen.
- Modernized courts through the upscaling of the Judiciary e-Filing system. This was launched in three Small Claims courts in Milimani, Mombasa and Kisumu. The adoption of this electronic filing systems allows parties to submit court documents electronically, reducing paperwork and streamlining court processes. Moreover, video conferencing facilities were installed in six ELC court stations, namely: Milimani, Eldoret, Kisumu, Mombasa, Nyeri and Thika. The use of video conferencing technology for remote court hearings, makes it more convenient for parties, witnesses, and legal practitioners to participate in proceedings.

## 4.5 Challenges and Recommendations on Civil Justice Reforms

### 4.5.1 Challenges

The following challenges delayed the civil justice reforms during the period under review, and adversely affected the administration and access to civil justice.

- Inadequate public awareness of the duties and functions of public institutions adversely affected expeditious access to civil justice, and posed a danger to citizens being extorted.
- Delays in the conclusion of civil cases in courts was experienced depicting inefficiency in the justice sector. Such cases have diverse reasons for their adjournment occasioned by different players.
- The civil justice sector and other agencies needed help implementing some of the judgments and orders issued by courts. There was also delay in verification of court orders.
- Some State actors failed to timely comply with court orders, adversely affecting citizens pursuing civil justice through the court process.
- Issuances of excessive awards at times harboured efficient administration as this led to parties appealing such awards, and even financial challenges in implementation.
- Understaffing in the justice sector institutions adversely affected the speed of service delivery. Inadequate training also impacted negatively on service delivery.
- There is a need to quicken legal reforms and amendments of laws and adapt them to fit the practical aspect of civil practice in Kenya.
- Inadequate funding to justice institutions and entities that handle civil justice occasioned delays in undertaking some of the planned programs.

### 4.5.2 Recommendations

The following recommendations are proposed for enhancing civil justice reforms and increasing efficiency in the Kenya civil justice system.

- Increased budget targeting priority programs on civil justice reforms to facilitate agencies in actualising their mandate effectively and recruiting more staff.
- Greater emphasis and prioritisation should be placed on public interest matters, including the implication of judgments and court orders.
- A survey on the enforceability of the awards given by the courts needs to be carried out to unearth the underlying challenges and develop a strategy to guide compliance.
- Enhancing civic education on justice system institutions processes is crucial. Civil education should cover, among others, the advancement and use of technology, emerging laws and policies, citizens' expectations, and functions of various civil justice actors.
- Undertaking service delivery initiatives to clear civil case backlog and reduce high pendency of civil cases is crucial.

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Chapter

5



ADMINISTRATION  
OF JUSTICE FOR  
THE VULNERABLE  
GROUPS

# 5



*The Celebration of the Day of the African Child, 2023 and the Launch of the Training Manual for Social Service Workforce on OCSEA on 16<sup>th</sup> June, 2023 in Busia County, Kenya.*

### 5.1 Introduction

Vulnerable persons are individuals who are susceptible to harm, exploitation or other risks and therefore require special protection and support. The Constitution of Kenya takes cognizance of the vulnerable persons with Article 21(3) placing a statutory obligation on agencies to treat every individual equally and with dignity and, wherever possible, make available the services, provide infrastructure, and ease the processes that enhance access to justice for the vulnerable groups within society. Among the vulnerable persons protected by the Constitution are women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.

Kenya has committed to a human rights-based approach to enhance access to justice for vulnerable groups. On many fronts, Kenya has developed strategies that champion the efficient administration of justice for vulnerable persons. The National Council on Administration of Justice (NCAJ), through its Committees on the Review of Laws and Policies on Sexual and Gender-Based Violence (SGBV) and the Administration of Justice for Children, and other initiatives spearheaded at the Secretariat level, remained at the forefront in addressing the justice needs for vulnerable persons. Further, state and non-state agencies of the NCAJ, in the execution of their mandates, made remarkable strides to ensure vulnerable persons access justice.

This Chapter outlines the achievements realised by NCAJ agencies in administration and access to justice for vulnerable persons in Financial Year (FY) 2022/23. It identifies the achievements in the justice sector in fostering progressive interventions to enhance the rights and welfare of vulnerable persons. Further, the Chapter explicates legal, policy and administrative reforms realised in administration and access to justice for vulnerable persons. The Chapter also highlights the challenges faced by justice actors towards the effective administration of justice, and the ensuing recommendations.

### 5.2 Administration of Justice for Children

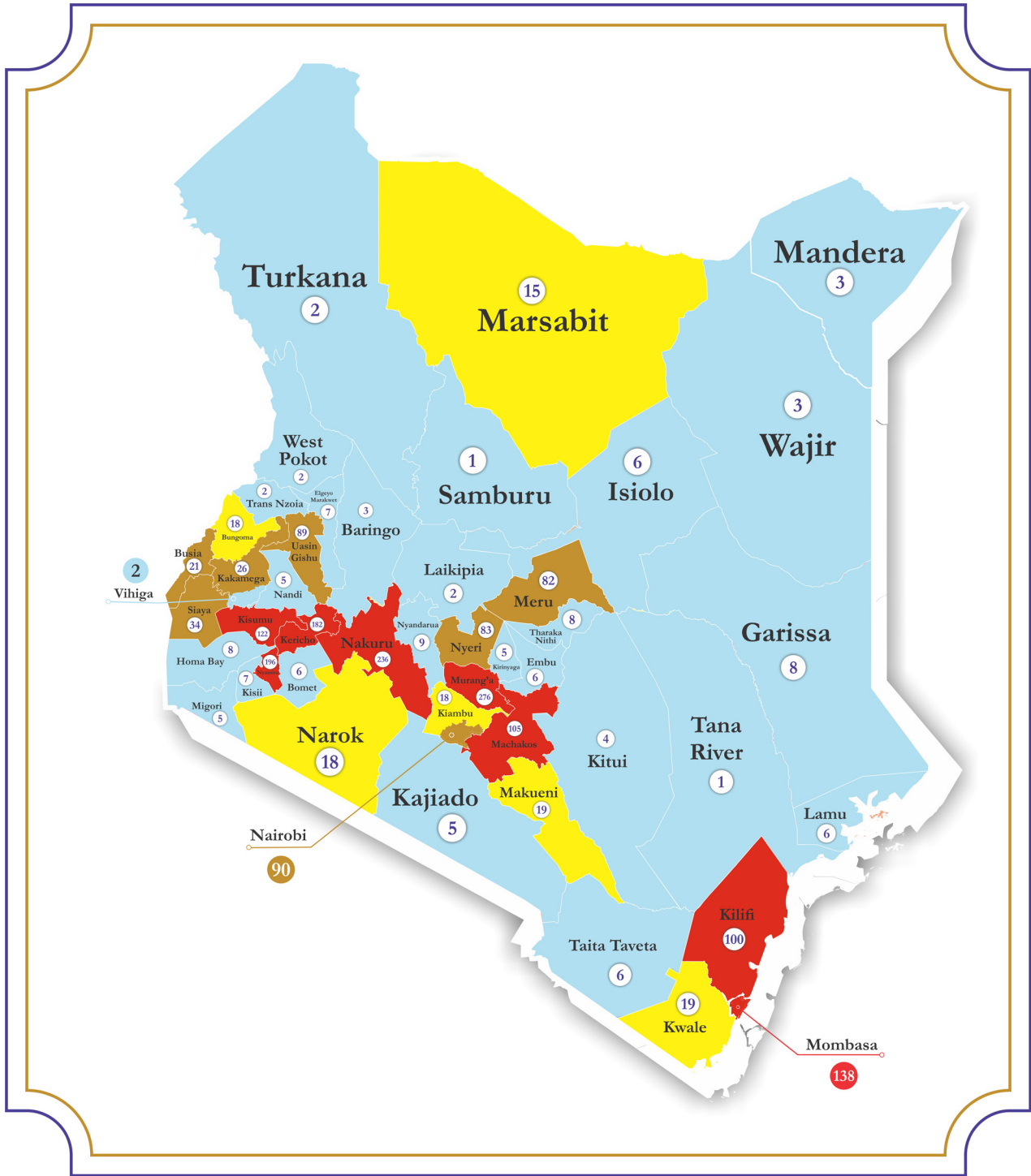
In Kenya, children come into contact with the justice system as victims, witnesses, in conflict with the law or in need of care and protection. Despite these circumstances, most of these children have limited knowledge of their rights and are not in a position to claim their rights. The way they are treated while in contact with the justice system is crucial for their rights, rehabilitation reintegration back into the society.

#### 5.2.1 Handling of Children by the Directorate of Children Services

##### a) *Handling of Child Offenders*

The Directorate of Children's Services (DCS), which draws its mandate from the Children Act 2022, and Executive Order No. 1 of 2023, is mandated to safeguard the rights and welfare of children. The Directorate manages children's remand homes, reception, assessment and classification centres, rehabilitation schools, rescue centres, and protection centres. Further, DCS investigates, assesses and prepares inquiry reports as per the Children Act, 2022, other laws, or following the directions of a court, and safeguards the welfare of a child placed under care.

## Child offenses by County, FY 2022/23



**KEY**

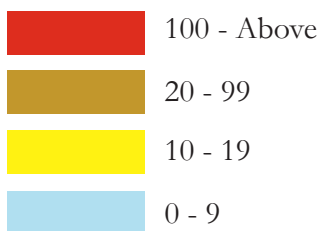
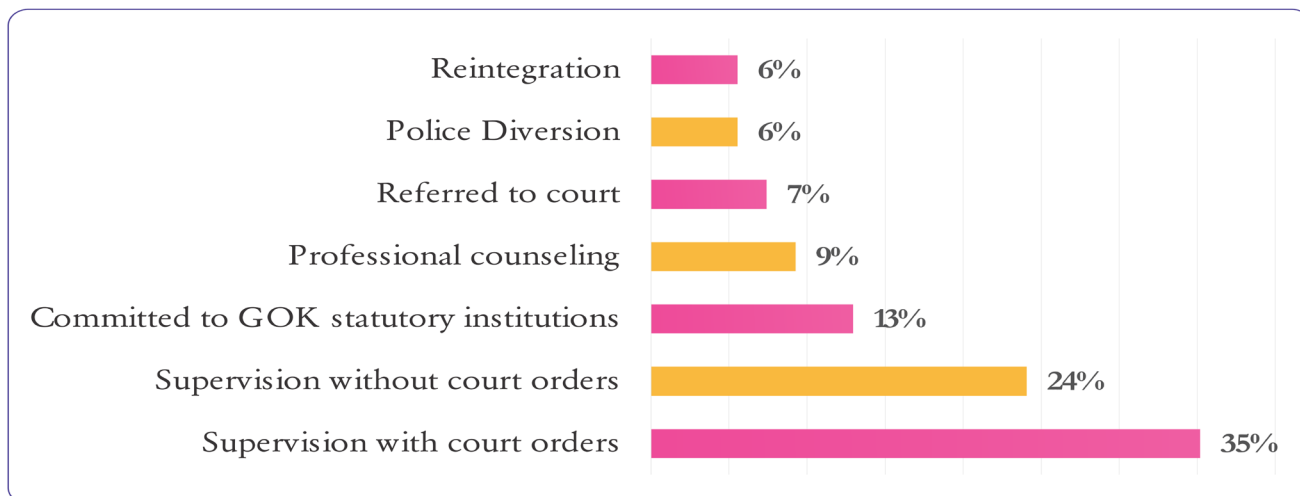


Table 5.1 provides the caseload for child offenders from various counties in Kenya. Details of the specific offenses for each county are provided in Appendix 6.

**Table 5.1: Child offenses by County, FY 2022/23**

County	Number of Offenses
1. Baringo	3
2. Bomet	6
3. Bungoma	18
4. Busia	21
5. Elgeyo/Marakwet	7
6. Embu	6
7. Homa Bay	8
8. Isiolo	6
9. Kajiado	5
10. Kakamega	26
11. Kericho	182
12. Kiambu	18
13. Kilifi	100
14. Kirinyaga	5
15. Kisii	7
16. Kisumu	122
17. Kitui	4
18. Kwale	19
19. Laikipia	2
20. Lamu	6
21. Machakos	105
22. Makueni	19
23. Marsabit	15
24. Meru	82
25. Migori	5
26. Mombasa	138
27. Murang'a	276
28. Nairobi	90
29. Nakuru	236
30. Narok	18
31. Nyamira	196
32. Nyandarua	9
33. Nyeri	83
34. Siaya	34
35. Taita Taveta	6
36. Tana River	1
37. Tharaka - Nithi	8
38. Trans Nzoia	2
39. Turkana	2
40. Uasin Gishu	89
41. Vihiga	2
42. Wajir	3
<b>Grand Total</b>	<b>1,990</b>

The total number of reported offenses committed by children in the FY 2022/23 was 1,990. Among the Counties with the highest number of offenses were Murang'a, Nakuru, Nyamira, Kericho, and Mombasa. The DCS undertook various interventions during the review period. Figure 5.1 summarises the percentage interventions that were undertaken to handle children.



**Figure 5.1: Child offender interventions**

*Source: NCAJ analysis using sample data submitted by the Directorate of Children Services*

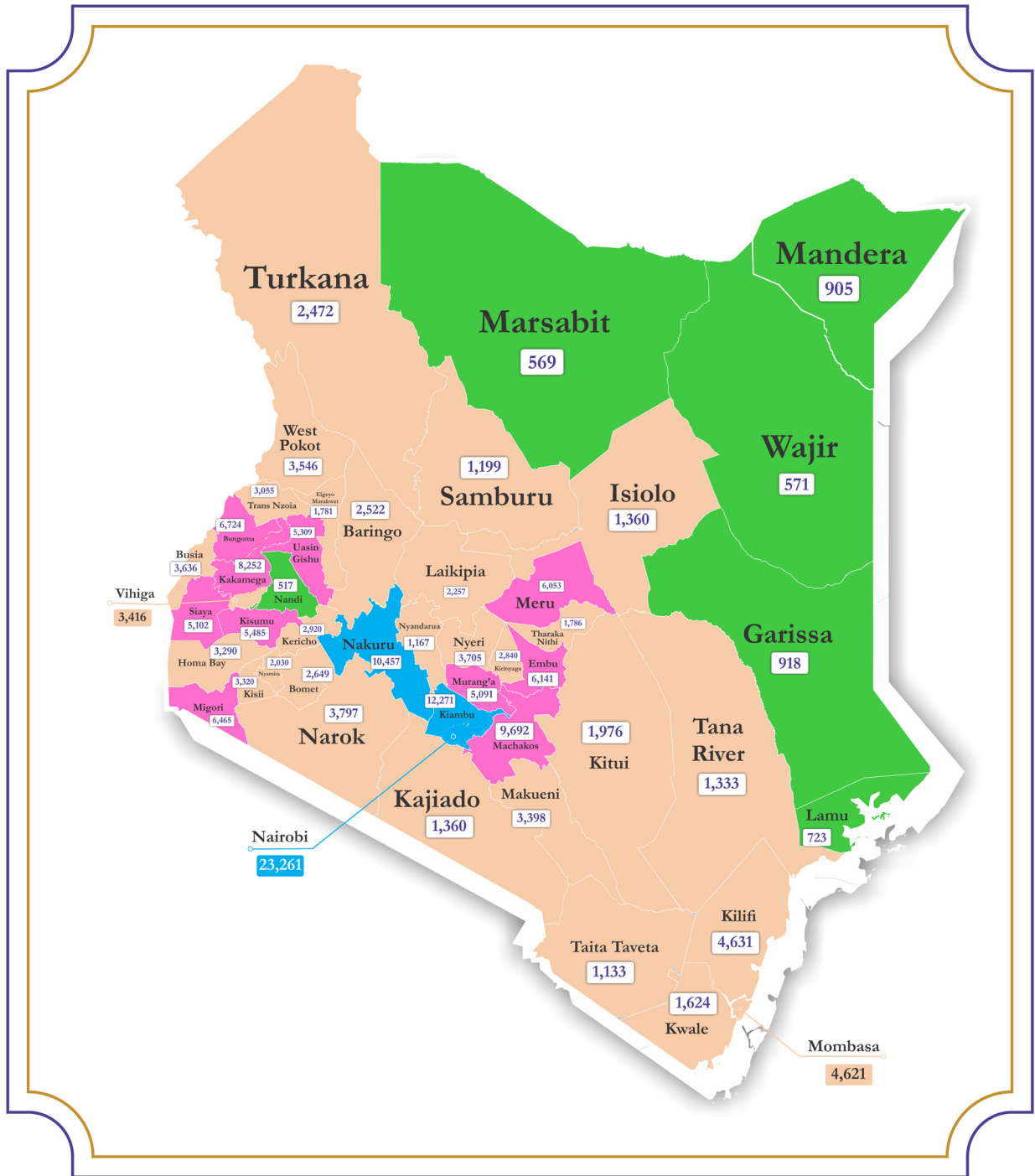
From Figure 5.1, supervision of children following court orders was the bulk of interventions at 35 per cent, followed by supervision without court orders at 24 per cent. Thirteen (13) per cent of children were committed to Government statutory institutions, with 9 per cent of the child offenders being subjected to professional counselling.

**b) Handling of Children Who Are Victims of Violence**

**Violence Against Children**

Children in Kenya continue to experience various forms of violence. They are subject to physical violence, sexual violence, emotional violence, and harmful cultural practices such as female genital mutilation (FGM) and early marriage. Some children have also experienced or been exposed to trafficking, drugs and alcohol, radicalization, hazardous labour, and online violence. To fulfill its mandate, the Directorate of Children Services routinely collects data to ascertain and track the progress in its interventions toward the social protection of children.

## Cases on Violence Against Children by County, FY 2022/23



### KEY



During the period under review, a total of 188,760 children experienced various forms of violence. Table 5.2 highlights the statistics on Violence Against Children (VAC) across the country.

**Table 5.2: Cases on Violence Against Children by County, FY 2022/23**

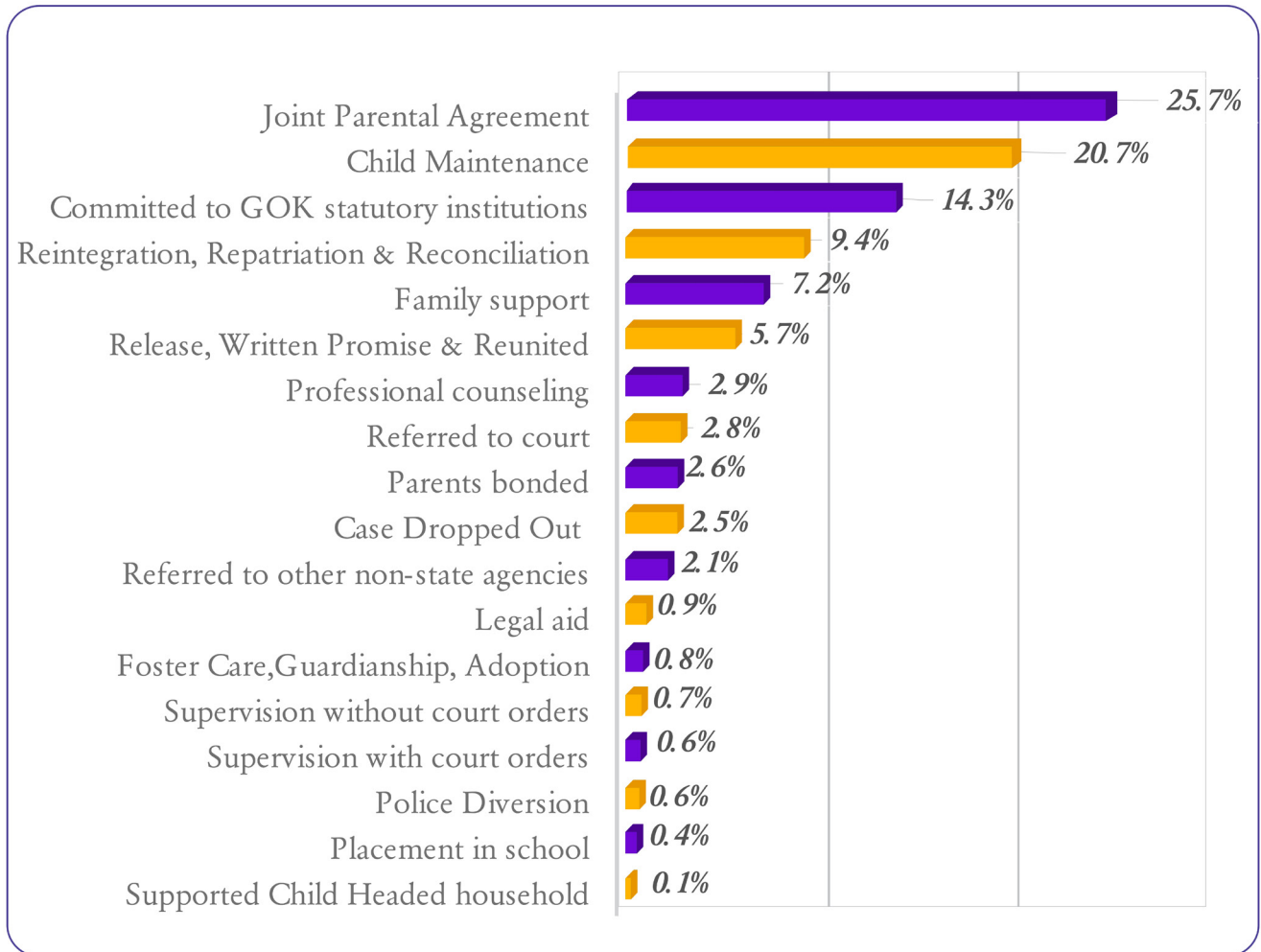
	County	Cases on Violence Against Children
1	Baringo	2,522
2	Bomet	2,649
3	Bungoma	6,724
4	Busia	3,636
5	Elgeyo/Marakwet	1,781
6	Embu	6,141
7	Garissa	918
8	Homa Bay	3,290
9	Isiolo	1,360
10	Kajiado	2,790
11	Kakamega	8,252
12	Kericho	2,920
13	Kiambu	12,271
14	Kilifi	4,631
15	Kirinyaga	2,840
16	Kisii	3,320
17	Kisumu	5,485
18	Kitui	1,976
19	Kwale	1,624
20	Laikipia	2,257
21	Lamu	723
22	Machakos	9,692
23	Makueni	3,398
24	Mandera	905
25	Marsabit	569
26	Meru	6,053
27	Migori	6,465
28	Mombasa	4,621
29	Murang'a	5,091
30	Nairobi	23,261
31	Nakuru	10,457
32	Nandi	517
33	Narok	3,797
34	Nyamira	2,030
35	Nyandarua	1,167
36	Nyeri	3,705
37	Samburu	1,199
38	Siaya	5,102
39	Taita Taveta	1,133
40	Tana River	1,333
41	Tharaka - Nithi	1,786
42	Trans Nzoia	3,055
43	Turkana	2,472
44	Uasin Gishu	5,309
45	Vihiga	3,416
46	Wajir	571
47	West Pokot	3,546
	<b>Grand Total</b>	<b>188,760</b>

*Source: NCAJ analysis using data submitted to the Directorate of Children Services*

From Table 5.2, Nairobi, Kiambu and Nakuru Counties had the highest VAC cases in the FY 2022/23. These counties, therefore, require special focus to alleviate the challenge.

### Interventions undertaken by DCS to Address Violence Against Children

The DCS has remained at the forefront in addressing violence against children through undertaking of diverse initiatives. Figure 5.2 summarises the interventions that DCS undertook for the children who had experienced violence. The summary is analysed using data select from Homabay, Kisii, Kisumu, Migori, Nyamira and Siaya Counties, but nonetheless is indicative of the situation on interventions.



**Figure 5.2: Percentage interventions on violence against children**

*Source: NCAJ analysis using sample data of 6 Counties submitted by the Directorate of Children Services*

Figure 5.2 illustrates the percentage of social interventions undertaken by the Directorate of Children Services to protect children against violence. Most of the interventions were through the execution of joint parental agreements at approximately 26 per cent, followed by child maintenance at 21 per cent. The analysis demonstrates the family unit’s central responsibility in enhancing a child’s well-being and development. Supporting the family unit by promoting positive parenting practices and economic strengthening is crucial in reducing violence against children.

## 5.2.2 Handling of Children in Courts

During the period under review, courts continued to handle children’s cases. A total of 4,983 cases of children in conflict with the law were filed in courts. Over the same period, 4,866 were resolved. At the end of the FY, 9,476 cases of this nature were pending. Regarding cases of children of civil nature, 7,577 cases were filed in courts, with 9,141 being resolved. At the end of FY 2022/23, 15,437 cases were pending.

Among the specialised children’s courts, Milimani Children’s Court had 7,653 cases pending at the end of the FY, while in Tononoka Children’s Court, 1225 were pending. A summary of the caseload for these two courts is provided in Table 5.3.

**Table 5.3: Caseload statistics for children accessing courts, FY 2022/23**

Children Court	Filed cases			Resolved cases			Pending cases		
	Criminal	Civil	All Filed	Criminal	Civil	All Resolved	Criminal	Civil	All Pending
<b>Milimani</b>	659	2043	2702	2028	2162	4190	968	6685	7653
<b>Tononoka</b>	170	929	1099	178	1020	1198	400	825	1225
	829	2972	3801	2206	3182	5388	1368	7510	8878

## 5.2.3 Legal and Policy Reforms on Administration of Justice for Children

### *Development of Rules in Support of the Children Act, 2022*

The Children Act 2022 commenced enforcement in July 2022. During the period under review, the process of developing the rules of practice in support of the children Act commenced. The rules aim at regulating the procedure and practice in courts with regard to matters relating to adoption, foster care placement, guardianship, and children in conflict with the law. The process was spearheaded by the Judiciary Rules Committee and the NCAJ Standing Committee on the Administration of Justice for Children. At the end of the period under review, the following draft court rules of procedure and practice were prepared.

- i The Children (Adoption Proceedings) Rules, 2023;
- ii The Children (Foster Care) (Procedure and Practice) Rules, 2023;
- iii The Children (Guardianship) (Procedures) Rules, 2023; and
- iv The Children (Children in Conflict with The Law) (Procedure and Practice) Rules, 2023

The rules are to be finalised in FY 2023/24 after the undertaking of stakeholder’s engagement.



*The Judiciary Rules Committee, led by Hon. Justice Odunga, JA, and the NCAJ Standing Committee on the Administration of Justice for Children during the development of the Rules for the Children Act 2022*

### *Development of Regulations in Support of the Children Act, 2022*

The Children Act 2022 envisions a child-friendly justice system that fully protects and preserves children's rights. While most of the provisions of the Act are self-actualizing and place immediate obligations on all agencies of the state to fulfil, respect, and promote the child's rights, the Act envisions the Cabinet Secretary to develop the Regulations. In this regard, the National Council for Children Services (NCCS) commenced the development of the regulations, a process expected to be finalised in FY 2023/24.

### *Development of the National Strategy on Justice for Children, 2023-2028*

To address gaps and challenges faced in the administration and access to justice for children, NCAJ developed the National Strategy on Justice for Children, 2023-2028. The Strategy seeks to ensure a coordinated approach in administration of justice for children in Kenya and ensure optimal prioritisation of interventions for the child's best interests. The Strategy identifies priority areas of interventions to be implemented by all agencies forming part of the justice chain link.



*Hon Justice Teresia Matheka, Chairperson NCAJ Standing Committee and members of the committees on the Administration of Justice for Children, spearheaded the process of developing NCAJ Justice for Children Strategy, 2023-2028.*

### *Development of the Training Handbook on the Investigation and Prosecution of OCSEA Cases in Kenya*

The NCAJ, in partnership with UNICEF, finalised the development of the Training Handbook on the Investigation and Prosecution of Online Child Sexual Exploitation and Abuse (OCSEA). The training Handbook combines standardized powerpoints and recordings on OCSEA. The Handbook has, in particular, addressed the need to embed timely, victim-centred, individualized, trauma-informed, culturally competent, and comprehensive services to victims of OCSEA. It also addresses the need for enhanced oversight to ensure perpetrators and facilitators of OCSEA are held to account through the criminal justice system and services are designed to prevent first-time offending and re-offending. During the period under review, two cohorts of trainer of trainers (ToTs) were trained in partnership with UNICEF.



*Award of certificates to Trainers of Trainers on the Investigation and Prosecution of OCSEA in Kenya.*



*Launch of the Training Handbook on the Investigation and Prosecution of OCSEA in Kenya.*

***Training Manual for the Social Service Workforce on Online Child Sexual Exploitation and Abuse (OCSEA)***

In the year under review, the Training Manual for the Social Service Workforce on Online Child Sexual Exploitation and Abuse (OCSEA) was developed through a multi-agency process under the leadership of DCS. The Manual provides valuable information and tools aimed at enhancing the capacity of the social service workforce to identify, prevent and respond to OCSEA. It covers various topics, including types of online abuse, the grooming process, the signs and indicators of abuse, and the legal and ethical considerations of reporting abuse. Additionally, it captures measures to minimise and manage stress, fatigue and burnout in the social service workforce. The Manual will ensure OCSEA prevention and response is included in pre-service and in-service training for the social service workforce. Further, the Manual will enhance the capacity of the social service workforce to prevent and identify OCSEA as well as respond to and deliver quality, efficient and comprehensive support services and referrals for victims of OCSEA.



*Celebration of the Day of African Child in June 2023 in Busia.*

### ***Development of Training Guidelines for Children Matters***

The ODPP developed these Guidelines to enhance the capacity of prosecutors to handle children who may be victims, witnesses, or in conflict with the law. These Guidelines will supplement the ODPP’s “Prosecutor’s Guide to Children in the Criminal Justice System. The Guidelines outline the best practices in law, guiding principles in child justice, forensic interviewing of children, diversion and plea bargaining in children matters, and handling online child sexual exploitation and abuse, among others. The ODPP, through the Prosecution Training Institute (PTI), organized a Training of Trainers (TOT) on Child Justice, where 62 prosecutors were trained.

### ***Development of the Judiciary Child Justice Strategy, 2023-2030***

The Judiciary took strides toward enhancing access to justice for children by developing the Judiciary Child Justice Strategy. The strategy has canvassed the issue of access to justice for children with a specific focus on the courts’ role in upholding the children’s rights and access to justice

### ***Development of the National Framework for the Implementation of Kafaalah Care for Children in Kenya***

The National Council on Children Services developed the Framework for children practitioners- as a national guide to support the systematic, safe and standardised placement of children in need of Kafaalah care. The Kafaalah care is a child protection measure practised within the Muslim community.

### ***Development of Child and Youth Justice Strategy***

Probation and Aftercare Service (PACS) developed the Child and Youth Justice Strategy (2021 – 2025), to guide on the management of children and youth under the supervision of PACS.

## **5.2.4 Strategic Initiatives for Enhancing the Administration of Justice for Children.**

### **Undertaking the Child Justice Service Month**

The Child Justice Service Month is a child-centred service delivery initiative (SDI) held annually in November, bringing together key stakeholders and partners under the NCAJ to address inefficiencies affecting the administration and access to justice for children. Among the key deliverables of the Child Justice Service Month is the clearance of children cases backlog, and sensitization of the Children Court Users Committees (CCUC) and the community on their roles and responsibilities as outlined in the Children Act 2022. At the end of the Service month, 1,095 children cases were handled by NCAJ agencies.

### ***Holding of the Annual Child Justice Summit***

The NCAJ organised the 2nd Annual Child Justice Summit on the 28th and 29th of November, 2022, as a culmination of the November Child Justice Service Month. The theme of the Summit was ***A New Dawn for the Child in Kenya: Opportunities in the Children Act, 2022.*** The participants comprised children, state and non-state actors drawn from various parts of the world. The Summit aimed to sensitize children and justice agencies on the Children Act 2022 and examine emerging issues affecting children. Further, participants shared lessons learnt in the previous year, explored current best practices and paradigms, and renewed commitments for interventions by the justice sector actors.



*The 2nd Annual Child Justice Summit held on 28th and 29th November, 2022 at Safari Park Hotel, Nairobi*

### *Sensitization and Outreach programmes on the Administration of Justice for Children*

The NCAJ Standing Committee on the Administration of Justice for Children in Kenya sensitised National Legal Aid Services (NLAS), the Office of Director of Public Prosecutions (ODPP), and the Association of Play Therapy Kenya on their role in the Children Act 2022, the child-centred approach, judicial perspectives on emerging issues and jurisprudence in handling child victims of SGBV. Through HAKI FM, LRF provided a platform for public education on the administration of justice using a vulnerability lens. Various radio shows were conducted on topical issues ranging from the rights of vulnerable groups, how justice actors should handle this category of cases, and providing a platform for referral where rights have been violated.

### *Celebration of the Day of the African Child*

The Day of the African Child is an annual celebration coordinated by the African Union and convened by the National Council for Children Services every 16th of June. The theme of the celebration during the period under reference was The Rights of the Child in the Digital Environment. The theme resonated with the negative influence the internet has had on children as an emerging issue. The climax of the event was the launch of *The Training Manual for Social Service Workforce on Online Sexual Child Exploitation and Abuse (OCSEA)*.



*The Celebration of the Day of the African Child, 2023 and the Launch of the Training Manual for Social Service Workforce on OCSEA on 16th June 2023 in Busia County, Kenya.*

### *Sensitisation on the Child Care Policy for Children Accompanying Mothers in Prison*

During the period under review, the Kenya Prison Service sensitised 179 prison officers on the Child Care Policy for Children accompanying their mothers in Prison. Some of the areas covered include the welfare and wellness of the children, health care, education, and parental responsibility. The sensitisation also covered the reintegration of children into their communities and the importance of opening a Protection and Care File (P&C file) for every child accompanying their mothers in prison.

### *Setting up of Child-Friendly Interview Rooms*

The ODPP Children Division spearheaded the setting up child-friendly interview rooms in Mombasa, Nakuru, Kisumu, Lamu, Kajiado, and Kiambu. The rooms are designed to guarantee privacy and meet children's needs to make them feel physically and psychologically secure during the interview.

### *Rolling out of Legal Aid Mobile Clinics*

The National Legal Aid Service enhanced client outreach and public awareness by rolling out mobile legal aid clinics. This initiative provided an opportunity to inform the community about available legal aid services for eligible persons, including persons with disabilities. The clinics were conducted in Lamu, Wajir, Mandera, Isiolo School of the Deaf, Marsabit, Garissa, Nairobi, Mombasa, Kisumu, Uasin Gichu, Nakuru and Tana-River. The capacity-building activities covered alternative justice systems, the Children Act, 2022, e-filing and strategic leadership.

### *Launch of SPOT-IT Initiative*

The DCS, in partnership with Safaricom and UNICEF, launched Spot-IT, a campaign to promote awareness about all forms of violence against children and to advocate for change.

#### **5.2.5 Grassroots Monitoring of the Administration of Justice for Children**

In the period under review, the NCAJ Standing Committee on the Administration of Justice for Children undertook outreach programs in Kakuma, Oropoi, Letea, Lokichogio, and Gold Nadwat. The Committee sensitised the community regarding access to justice for children in contact and conflict with the law, service provision and SGBV referral pathways. During the outreach programme, it was noted that access to justice for children was being hindered by long distances to courts and police stations, resulting in underreporting of cases. Other challenges that adversely affected the administration of justice for children were harmful cultural beliefs, hunger, child marriages and teenage pregnancy. To enhance access to justice for children, the Committee recommended opening a court and a police station in the Oropoi area, 102 kilometres from Kakuma Law Courts.

### **5.3 Administration of Justice on Sexual and Gender-Based Violence**

Sexual and Gender-Based Violence is a human rights violation with significant concern to the justice system institutions, health sector and community at large. The adverse effects of SGBV inflicts physical, emotional, psychosocial and economic harm on the entire spectrum of age groups and gender in society. Limited access to justice in such circumstances further aggravates the harm to survivors and their families. Additionally, the adverse effects of SGBV impact children, adolescents, youth, young adults, middle age and even elderly persons. Therefore, addressing SGBV requires the actors in the administration of justice to be responsive and efficient. To address SGBV, the NCAJ acknowledges and appreciates a multi-sectoral approach. This section outlines the achievements realised in addressing SGBV in Kenya in FY 2022/23..

#### **5.3.1 SGBV Offenses Committed**

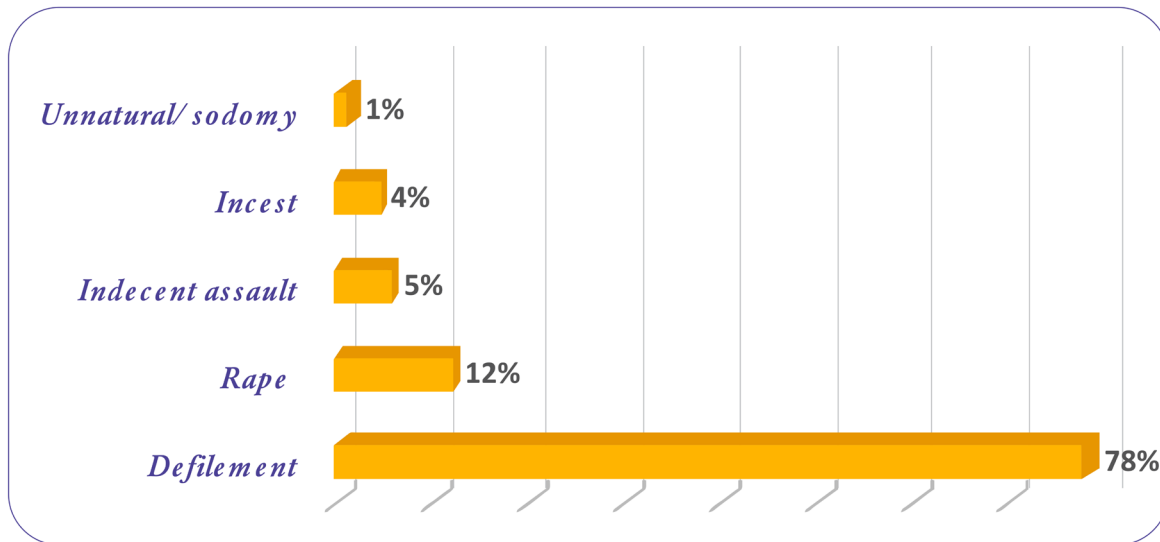
During the review period, diverse sexual-related offenses were committed. Table 5.4 provides this information.

**Table 5.4: Persons reported to have committed different types of sexual offences**

OFFENCE	2018		2019		2020		2021		2022	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Rape	875	46	923	27	924	49	955	58	792	35
Defilement	4494	273	5,094	303	6,512	289	6,275	217	5,415	115
Incest	277	31	240	21	288	35	352	15	254	25
Unnatural/sodomy	67	4	89	2	52	2	79	9	79	7
Indecent assault	131	10	208	40	235	32	287	28	311	64
<b>TOTAL</b>	<b>5,844</b>	<b>364</b>	<b>6,554</b>	<b>393</b>	<b>8,011</b>	<b>407</b>	<b>7,948</b>	<b>327</b>	<b>6,851</b>	<b>246</b>

*Source: NCAJ analysis using data published by KNBS Economic Survey, 2023*

From Table 5.4, defilement remained the most prevalent offense over time, followed by rape and indecent assault. This indicates that a strategic focus to control defilement needs to be heightened. Figure 5.3 summarises the percentage of offenses committed.



**Figure 5.3: Percentage of Sexual Offences Committed**

*Source: NCAJ analysis using published KNBS Economic Survey, 2023*

### 5.3.2 Handling of SGBV Cases in Courts

During the period under review, Shanzu specialised SGBV court was fully operational in the Judiciary. However, SGBV cases were handled by other magistrate courts across the country. In FY 2022/23, a total of 8,444 SGBV-related cases were filed in Magistrates’ Courts across the country, with 10,222 being resolved. This translated into a case clearance rate of 121 per cent, implying that courts managed to reduce the SGBV backlog during the period under review. At the end of the review period, 23,615 SGBV cases were pending nationwide.

### 5.3.3 Legal and Policy Reforms on Administration of Justice on SGBV

#### *Development of National Justice Sector Strategy on SGBV in Kenya*

To enhance administration and access to justice in addressing SGBV, the NCAJ Committee on the Review of Laws and Policies on SGBV in Kenya commenced the development of a National Justice Sector Strategy on SGBV. The policy is expected to, among others, provide a coordinated mechanism for effective and speedy trial of perpetrators of SGBV cases.



*Consultative Workshop of the NCAJ Committee on the Review of SGBV Policies and Laws in Kenya held in April 2023.*



*Members of the NCAJ Committee on the Review of Laws and Policies on SGBV in Kenya during a forum to on the review of Sexual Offenses Act and its Attendant Laws.*

***Development of Judiciary Strategy on SGBV***

The Judiciary developed a Strategy to provide coherent structures for the SGBV courts. The Strategy embeds a victims/survivors-centred approach in proposing the rollout of SGBV Courts and advocating for the placement of the needs and priorities of victims and survivors at the forefront of judicial responses. The Strategy implementation mechanism includes institutional and governance arrangements with reduced bureaucracy to ensure greater clarity and accountability for actions.



*Hon. Chief Justice Martha K. Koome, joined by the Deputy Chief Justice, Hon. Lady Justice Philomena Mbete Mwilu, and Dr. Kizii Shako, Judiciary advisor on SGBV, during the launch of the Strategy on SGBV*

### ***Development of Rapid Reference Guide for the Prosecution of SGBV***

Although Kenya has an elaborate legal framework for SGBV, the successful prosecution of offenders in the country remains relatively low, and this has been attributed to a myriad of factors. To address this, the ODPP developed the *Rapid Reference Guide on the Prosecution of Sexual and Gender-Based Violence Cases in Kenya* to guide prosecutors and other stakeholders to adhere to national, regional and international laws and standards when handling SGBV cases. The guide further equips prosecutors with the requisite tools when handling SGBV offenses. The ODPP further developed training tools to sensitise criminal justice actors on SGBV.

#### **5.3.4 Strategic Initiatives for Enhancing the Administration of Justice on SGBV**

During the period under review, NCAJ agencies and other justice sector players instituted the following measures and initiatives to address SGBV.

- The Judiciary launched specialized Sexual and Gender-Based Violence Courts in Siaya, Kisumu, Kibera, Makadara, Meru, Nakuru, Kiambu, Machakos, Kisii, Kitale and Kakamega. The launch of the specialized courts aimed at reducing barriers on access to justice for victims of SGBV. Further, the Judiciary launched the Digital Sex Offenders Registry. The automated register provides a comprehensive database that will hold crucial information and records of all convicted sexual offenders.
- The Kenya Judiciary Academy partnered with the Center for Reproductive Rights (CRR) and other CSOs to train 70 legal researchers on regional and international instruments on women's rights. During the training, CRR shared some standards on sexual and reproductive rights set by regional and international treaty bodies as well as progressive jurisprudence. Further, CRR spearheaded advocacy on policy and legislative barriers hindering access to sexual and reproductive health information and services.
- A sensitization forum on SGBV was held at Makadara Law Courts to mark the annual UN International Day of Women Judges on 10th March 2023. The sensitisation included the impact and various interventions undertaken in addressing the administration of justice for SGBV victims and survivors, challenges experienced by CUCs in undertaking the interventions, the construction of safe houses by counties, and the establishment of more SGBV courts in the country.

- Victims and Witnesses Psychosocial Support Network was formed to coordinate the protection of victims and witnesses by offering appropriate psychosocial support to enable them to participate effectively in the court process in a less stressful, non-emotional, and friendly experience. The Network of care consists of state and non-state actors in the criminal justice system, including the ODPP, Nairobi County Government-Mental Health Unit, Victim Protection Board, Witness Protection Agency, IPOA, Internal Affairs Unit, Kenya National Commission on Human Rights, IJM, Green String Network, Shield for Justice and Independent Medico-Legal Unit. In 2023, the Network launched a booklet titled, *The Role of Psychosocial Support in Advancing Justice*, which provides unique solutions concerning mental health and psychosocial support within the criminal justice system.



*Launch of the booklet on the Role of Psychosocial Support in Advancing Justice in March 2023*

#### 5.4 Administration of Justice for Intersex Persons

The plight of intersex persons has not been upscaled exposing them to numerous human rights violations among other challenges. To address the challenges faced by intersex persons, the justice sector undertook the following diverse reforms:

- The Intersex Persons Implementation Coordination Committee (IPICC) developed Intersex Persons Bill, 2023. The objective of the Bill is to provide for the recognition, protection and safeguarding of the human rights of intersex persons in Kenya. The Bill also provides for the equalisation of opportunities, affirmative action and non-discrimination.
- Towards enhancing access to justice and inclusivity, the Children Act, 2022 recognises the rights of intersex children and brings to an end their historical indirect discrimination. Intersex persons are further emphasised under section 144 (z) of the same Act, which provides that intersex children be categorised as children in need of care and protection. This legislation gives effect to Article 27 of the Constitution of Kenya, which provides safeguards and protection against discrimination of persons based on sex, placing an obligation on agencies to deliver responsive services.

- Commemoration of the International Intersex Awareness Day was conducted in Vihiga County on 13th June 2023, reaching out to a total of 300 persons. The IPICC and KNCHR conducted public sensitisation fora in 25 counties to sensitise the public and advocate the rights of intersex persons in Kenya. The sensitisations raised awareness amongst the public on the IPICC Information Management System, which is a database that aims to report the actual challenges facing intersex children and adults in Kenya.
- The Sentencing Policy Guidelines, finalised during the period under review, recognises the protection of intersex persons who are in conflict with the law. At the point of sentencing or issuance of committal orders relating to intersex persons, the policy advocates that courts should give appropriate directions, taking into account all the relevant circumstances, to protect their dignity.

## 5.5 Administration of Justice for Persons with Mental Illness

Mental illnesses are impairments or conditions that have a long-term effect on a person's mental well-being and include schizophrenia, bipolar disorder, acute depression, phobias, epilepsy, alcohol and drug use disorders and intellectual impairments. While mental health is linked to virtually every critical issue in development, people living with mental illness are the most likely to be excluded from development interventions. Persons with disabilities, particularly those with mental illnesses, are often discriminated against and marginalised.

To reduce discrimination against persons with mental illness, especially in access to justice, the justice sector strives to remain at the forefront. In FY 2022/23, the following reforms were conducted to enhance administration and access to justice for persons with mental illness and explore other reform priorities.

- ***Launch of the Report on Quality Rights Assessment of Mental Health Facilities in Kenya.*** The KNCHR, in conjunction with Kabarak University, the Ministry of Health, the Directorate of Mental Health and other organisations, conducted sensitisations and launched a report on the Quality Rights Assessment of Selected Mental Health Facilities in Kenya, 2023. The report sheds light on the status of mental health care units and recommends areas of improvement.
- ***Mapping of Organisations dealing with Persons with Psychosocial and Intellectual Disabilities in Kenya.*** The KNCHR mapped the organisations dealing with persons with psychosocial and intellectual disabilities in Kenya. This reform initiative seeks to create a robust advocacy platform to monitor organisations that support vulnerable persons with psychosocial and intellectual disabilities. The report recommends legal, policy and administrative reforms to ensure access to justice and equality.
- ***Capacity Building of Practitioners Handling Vulnerable Persons with Mental Illness.*** In recognition of the various levels of mental illnesses, the NCAJ mobilised a panel of ten representatives from the child justice agencies to sensitise 100 counsellors and psychologists on their role in therapeutic jurisprudence as espoused in the Children Act, 2022. The webinar called for collaboration amongst the Directorate of Children Services, PACS and Kenya Prisons Services to work with counsellors and psychologists.

## 5.6 Administration of Justice for Other Vulnerable Groups

Among the core principles of the 2030 agenda for Sustainable Development Goals (SDGs) is the call to Leave No One Behind (LNOB). Though tremendous strides are yet to be realised across all categories of vulnerable persons, NCAJ recognises the need to widen its focus programs to support as many vulnerable persons as possible access justice. In FY 2022/23, the following achievements were realised by diverse justice sector actors in addressing access to justice for other vulnerable persons not captured in the previous subsections.

- *The KNCHR* inspected places of detention to monitor the situation of both adults and child migrants. The KNCHR developed human rights standard operating procedures (SOPs) for monitoring the human rights situation of migrants incarcerated in Kenya's detention and other holding facilities. This development was done under a project dubbed 'Migration and Human Rights,' which seeks to advocate for a human rights-based approach (HRBA) in migration governance to strengthen efforts in countering human trafficking and smuggling of migrants. A total of 16 institutions were visited during the piloting period, at Taita Taveta, Mombasa, Tana River, Kilifi, Kwale, Nyeri, and Kirinyaga Counties. These include the Hola, Kwale, Malindi, Shimo Medium, Shimo Maximum, Shimo women, Wundanyi, Taveta, Voi, Kingorani, Nyeri maximum G.K prison, Nyeri Children remand, Othaya Police station, Wamumu Rehabilitation school and Nyeri police station.
- *The OAG & DOJ, together with the State Department of Gender*, undertook a mapping of discriminatory laws against women and their implications therein. One such law was the Victim Protection Act 2014, in which there was development of an Amendment Bill proposing several amendments that would align the Act with the Constitution of Kenya 2010.
- *The Commission on Administrative Justice*, also known as the Office of the Ombudsman, with support from the Ogiek People Development Programme, held consultative meetings on 18th January 2023 and 3rd May 2023 with government agencies bearing responsibility for implementation of the African court decision in favour of the Ogiek Community. The Commission in association with non-government organizations undertook sensitization and legal aid programs in remote parts of the country focusing on enhancing access to justice for vulnerable groups. This included a partnership with Come Together Widows and Orphans Organization that advocates for the rights of widows. Through this partnership, the Commission reached about 3,000 widows and supported those with complaints on access to administrative justice, including access to social support services for the aged and pensions. Internally, the Commission strengthened its establishment by recruiting officers to handle sign language interpretation.
- *The Kenya Magistrates and Judges Association (KMJA)* in its annual General Forum held in December 2022, sensitised judges and magistrates on their role in protecting the rights of vulnerable persons.
- *The Law Society of Kenya* broadened its *pro bono* database to embrace a greater number of those offering legal services to children and persons with disabilities. The reform aims to promote access to justice to assist vulnerable populations.
- *The ICJ-Kenya* undertook a cost-benefit analysis of Legal Aid in Kenya to provide persuasive information and data. This demonstrates the importance and benefit of investing in legal aid programs. This report will enable law enforcers to make informed decisions on allocating funding more efficiently and effectively.
- *The Center for Reproductive Rights* represented a vulnerable woman before the Court of Appeal at Kisumu. The appeal was lodged by the County Government of Bungoma challenging a High Court decision on maternal healthcare in Kenya. The representation was in line with the full realization of the rights of women and girls pursuant to Article 43(1) of the Constitution and in line with Regional and International standards and obligations.
- *Clean Start Africa* under the Ufunuo Programme, trained 233 women across ten prisons with essential skills to support their reintegration back to society. Clean Start Africa has also supported educational opportunities for 13 young girls and mentored 61 girls within Kamae Borstal Institution, Dagoretti and Kirigiti Rehabilitation Schools. .

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## 5.7 Research on Administration of Justice for Vulnerable Groups

The following research focusing on advising policy and administrative reforms regarding the administration of justice for vulnerable persons was undertaken;

### a) *Delinquency and community-based rehabilitation of children in conflict with law*

The study was undertaken through the support of the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI). The study interrogated the existing practices in Kenya, compared them with those of Japan, and recommended areas of intervention and improvement. From the study's findings, enhanced support to the Children Protection Units, admonishing of potential child offenders by the police, and employing professionals trained in child protection in child-holding institutions, were recommended. Further, the study shows the importance of entrenching vital community interventions and revitalizing the volunteer probation system into a transformative model would prevent child delinquency. Additionally, advocated for the employment support system to reduce recidivism among young offenders.

### b) *Access to learning opportunities for children and youth in conflict with the law in child-holding institutions*

The *Rise* Project, coordinated by DCS and Tree of Life Kenya seeks to contribute to equitable access and equal opportunities for development, education, and socio-occupational inclusion of children and youth, both vulnerable and in conflict with the law in Kenya. A survey was carried out in select remand homes, reception centres, rehabilitation schools, borstal institutions, probation hostels, and public primary schools. The survey recommended the need to strengthen coordination between the different agencies and ministries dealing with the provision of education and health services in child-holding institutions. Enhancing the quality of the educational services to new standards of competency-based curriculum (CBC) and creating linkages with the private sector was also recommended. Further, the survey revealed the need to build capacity among teaching and medical staff and strengthen community-based reintegration of minors. Additionally, enhanced support to children and youth in the statutory institutions on preventing diseases and equipping health facilities.

### c) *Status of Child Protection in Charitable Institutions in Kenya*

Prepared a Status of Child Protection in Charitable Institutions in Kenya, which informed the National Care Reform Strategy for Children in Kenya FY 2022/23. The report identified factors that contribute to the placement of children in charitable children institutions (CCIs), and established the status of child protection in the CCIs.

### d) *Rethinking the Bars: Access and Administration of Justice for Women Who Commit Petty Offences.*

Cleanstart published a study titled *Rethinking the Bars: Access and Administration of Justice for Women Who Commit Petty Offences.* The study identifies unique challenges affecting women who commit petty offenses, pinpointing issues for law enforcement and implementation of existing guidelines, and recommending better alternatives for resolving cases..

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## 5.8 Challenges and Recommendations on Administration of Justice for Vulnerable Groups

### 5.8.1 Challenges

In FY 2022/23, the efficient and effective administration and access to justice for vulnerable persons was impeded by several challenges, notably;

- Slow pace of legal, policy and other institutional reforms targeting the administration and access to justice for vulnerable persons.
- Inadequate financial resources for the justice sector institutions to undertake planned programmes.
- Inadequate specialised personnel to handle issues of vulnerable persons.
- Low utilization of virtual justice centres and online platforms by vulnerable persons. Further, there was inadequate ICT equipment and connectivity friendly to vulnerable persons.
- The slow pace of trials led to an accumulation of case backlog.
- Inadequate legal representation for vulnerable persons
- Legislations not translated into braille for visually impaired persons.
- Inadequate physical infrastructure across justice sector institutions to safeguard and support vulnerable persons and witnesses
- Inadequate knowledge of management of SGBV victims and handling of evidence by justice sector practitioners
- Inadequate of safe houses for survivors of SGBV.
- Slow uptake of diversion programs by justice actors for vulnerable persons.
- Low public and institutional awareness of the rights of vulnerable persons.

### 5.8.2 Recommendations

To address the challenges, the following interventions are recommended.

- Courts to give reasonable bail and bond terms to vulnerable persons.
- Enhance uptake of diversion and plea bargaining by justice actors to reduce backlog of cases involving vulnerable persons.
- Conduct regular service weeks targeting delayed cases of vulnerable persons.
- • Heighten grassroots complaints handling mechanisms to enhance access to justice for vulnerable groups.
- Increase provision of legal aid services as provided in the Legal Aid Act of 2016 and enlist lawyers who can provide legal aid to vulnerable persons.
- Construct statutory safe houses and rescue centres for vulnerable persons who are victims of crime and gender-based violence.
- Improve physical infrastructure of justice institutions for accessibility by vulnerable persons.
- Mobilize resources to support the construction of children's remand homes, protection units, and rescue centres.
- Enhance partnership and collaboration for resource mobilization.
- Provide adequate witness protection boxes and safe houses for vulnerable persons.
- Sensitize justice sector personnel on the proper management of SGBV victims.
- Sensitize justice sector agencies and public on the rights of vulnerable persons.
- Translate legislation into braille and local languages.

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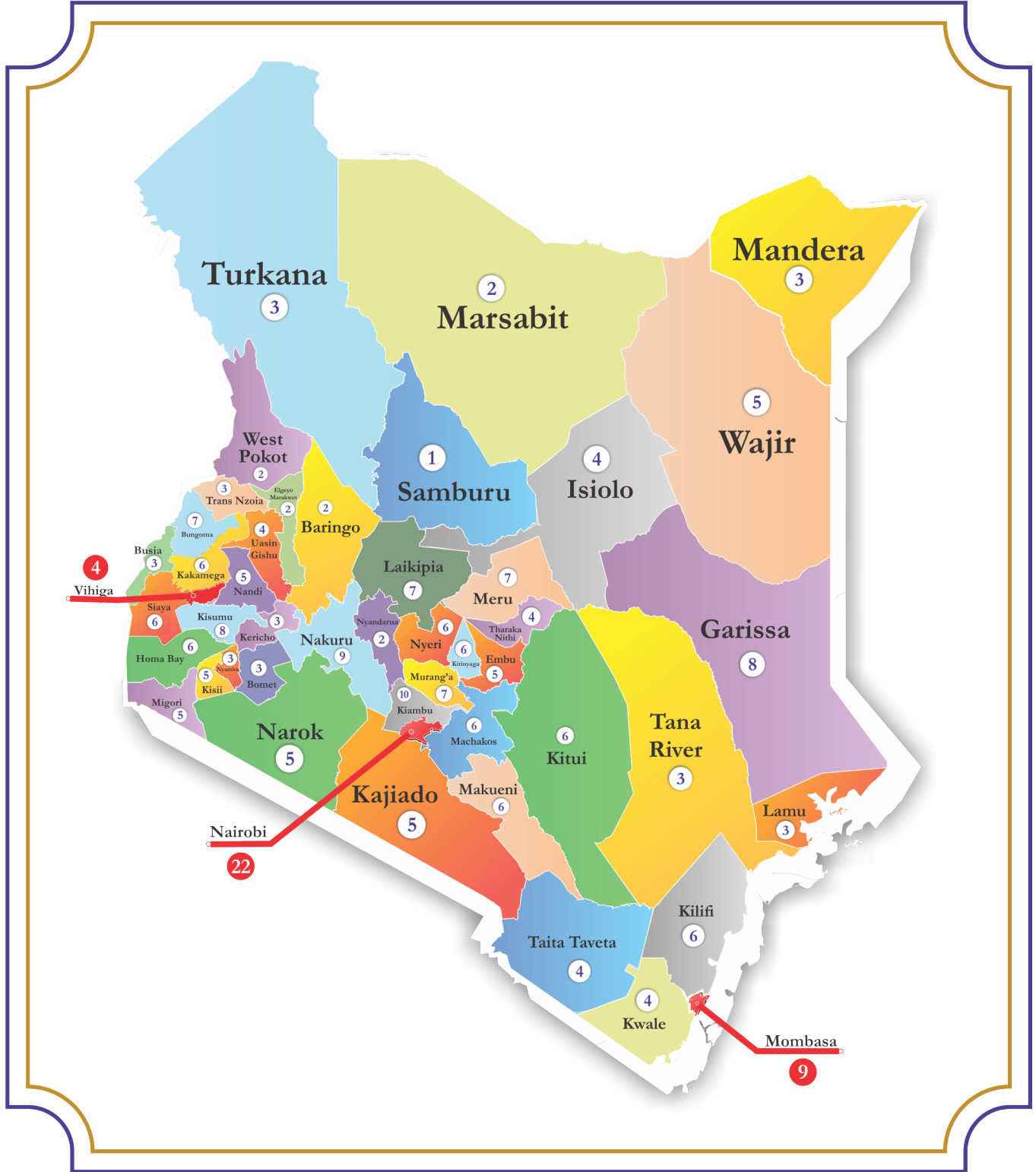
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Chapter



6

ADMINISTRATION  
OF JUSTICE AT  
THE GRASSROOTS  
THROUGH COURT  
USERS' COMMITTEES

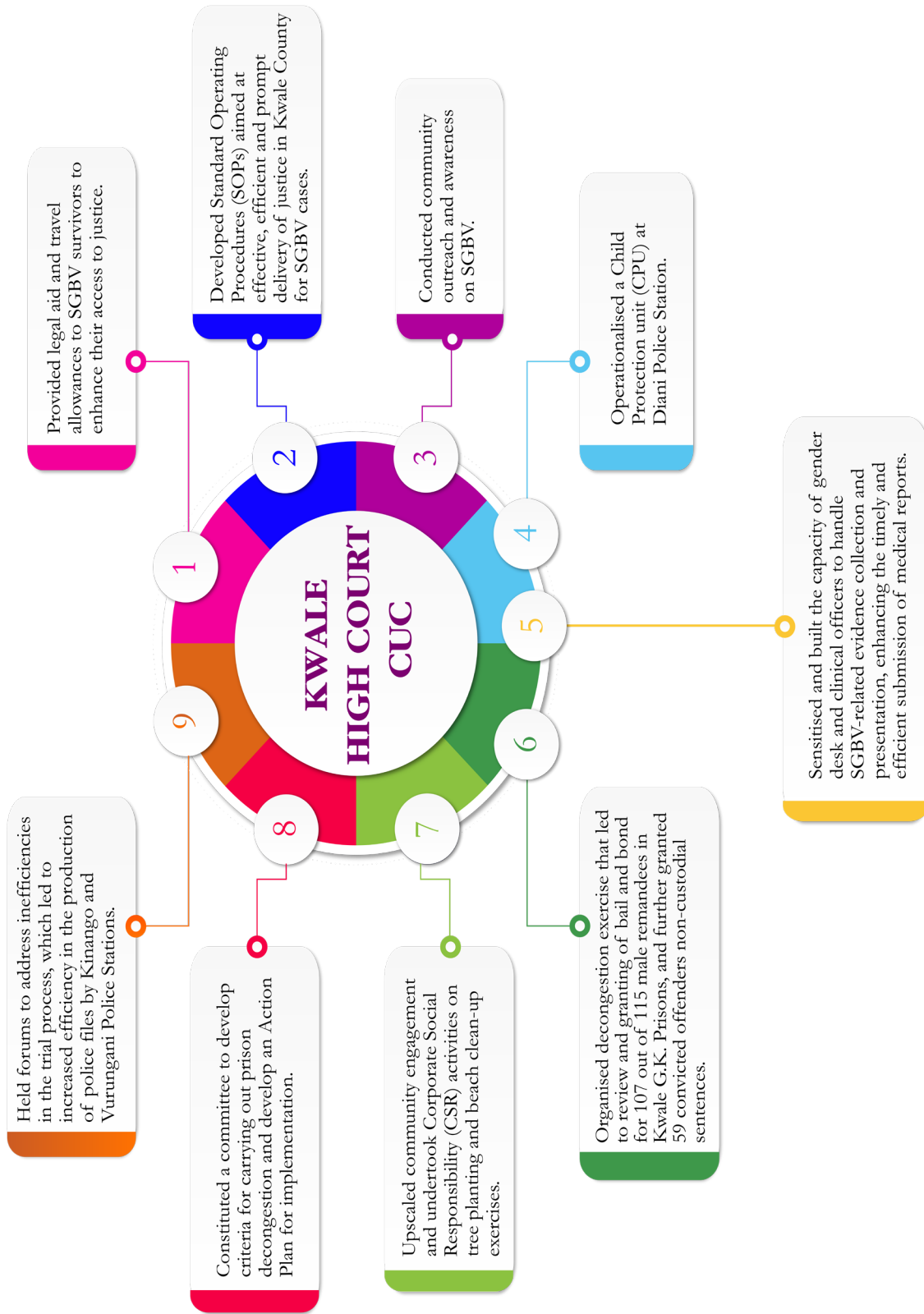


Number of CUCs per County

## A Success Story at the Grassroots: Malindi Magistrates' CUC



## A Success Story at the Grassroots: Kwale High Court/ County CUC



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## CHAPTER 6: ADMINISTRATION OF JUSTICE AT THE GRASSROOTS THROUGH COURT USERS' COMMITTEES

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### 6.1. Introduction

This chapter provides information on the achievements realised in the administration of justice at the grassroots through Court User Committees (CUCs) in Financial Year (FY) 2022/23. To promote a coordinated, effective, efficient, and consultative approach in the administration of justice at the grassroots level, Section 35 of the Judicial Service Act, 2011 provides for the establishment of CUCs under the NCAJ. The CUCs bring together state and non-state actors to deliberate and address justice sector issues at a local level. As a result, CUCs create strategic partnerships that offer solutions for the efficient administration of justice at the grassroots level.

The strategic priorities for CUCs include spearheading initiatives for expeditious dispensation of justice, for instance, reduction of case backlog and general pendency, efficient case management, and effective application of bail and bond. Further, CUCs coordinate programmes for improving conditions of detention, enhancing communication and handling local challenges on infrastructure, ICT, mobility, among others.

At the end of the reporting period, there were 40 CUCs at the High Court, four at ELRC, 37 dealing with environment and land justice, five handling commercial justice, 133 CUCs at the Magistrates' Courts, one specialized SGBV CUC, 14 dealing with child justice, 14 at Kadhis' Courts and eight at the Tribunals. This Chapter provides in-depth information on CUCs' achievements in addressing local justice challenges and cross-cutting proposed policy, legal and administrative reforms for FY 2022/23.

The information on the achievements, challenges and proposed reform areas emanates from the grassroots through the minutes of meetings held by CUCs. To undertake these meetings, the CUCs were facilitated from the NCAJ budget with KShs 30,000 per quarter to organise their quarterly forums. Due to the inadequacy of this allocation, CUCs created partnerships with justice actors at the local level to undertake some of their coordination assignments. Detailed information on the number of CUC meetings held and support from partners are provided in Annexes 3 and 4, respectively.

Once CUC minutes and reports are received at the NCAJ secretariat, they are analysed and action points on broad policy, legal and administrative reforms are presented to the Council for guidance. Additionally, other NCAJ Working Committees benefit from a wide array of synthesized information from CUCs. The information covers, among others, criminal and civil justice reforms, access to justice for children, access to justice for SGBV cases, infrastructural support and ICT capacities.

### 6.2. Interventions to Enhance Administration of Justice at the Grassroots through CUCs

In FY 2022/23, several interventions were undertaken with respect to enhancing the administration of justice at the grassroots through CUCs. Some of the interventions are highlighted in subsections below:

#### 6.2.1. Launch and Operationalisation of Sexual and Gender Based Violence (SGBV) CUCs

In November 2022, NCAJ launched the National SGBV CUCs at an event held at Shanzu Law Courts. The operationalization of the specialized CUC was intended to strengthen the operations of the SGBV Court, given the unique nature of SGBV-related offences. After the launch, the Shanzu CUC was facilitated to undertake its first meeting and map out priority areas of interventions on access to justice at their level. The launch was supported by Equality Now, United Nations Office on Drugs and Crime (UNODC), International Development Law Organization (IDLO), Centre for rights Education and Awareness (CREAW), FIDA-Kenya, and the International Association of Women Judges - Kenya Chapter.



*Launch of the National SGBV Court Users' Committee in November 2022.*

## 6.2.2. Training and Capacity-Building of CUCs

### *Training on SGBV*

The NCAJ convened a needs-based capacity-building forum for CUCs on sexual and gender-based violence, female genital mutilation and child marriage. Further, the training aimed at strengthening CUC leadership and governance for effective administration of justice. A total of 20 CUC Chairpersons and members were trained, drawn from Kerugoya, Busia, Kisumu, Tawa, Winam, Narok, Kajiado, Loitoktok, Kwale and Makindu. The training was undertaken in partnership with Equality Now.

### *Training on Commercial Justice CUCs*

Commercial Justice CUCs (CJCUCs) aim to create avenues to support administration and access to commercial justice. The NCAJ convened and held inaugural forums for the CJCUCs in the five major commercial hubs, namely, Eldoret, Kisumu, Nairobi, Nakuru and Mombasa. A total of 170 CUC members were trained and sensitized on the enhancement of commercial justice. The training was conducted through the support from IDLO.

### *Induction and Training on Tax Justice*

A total of 21 members of the Tax Appeals Tribunal Users' Committee were inducted and trained on the CUCs' Guidelines and effective coordination of tax justice actors to ensure efficiency in the delivery of justice.



*Inaugural Meeting of the Tax Appeals Tribunal Users Committee held in Nairobi in March 2023*

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### *Training in Administration and Access to Justice for Children*

The Child Justice CUCs (CCUCs) were trained on case management, referral pathways, child protection, perspectives for witness protection, the Children Act 2022, innovative approaches in interviewing Children-Art and play therapy. The training was undertaken for Wajir, Nakuru, Garsen and Mandera CUCs.

### *Training on Natural Resource Management and Alternative Justice System (AJS)*

Three Environment and Land CUCs drawn from Kilifi, Kiambu and Kajiado Counties were trained in natural resource management and AJS. The scope of the training covered the legal and constitutional imperatives of AJS, AJS typology and sustainable utilization of the major natural resources.

### *Training on Alternative Dispute Resolution (ADR) Mechanisms*

The NCAJ trained and sensitized 40 members of the Mandera CUC on the role and mandate of CUCs, emerging issues on the administration of justice in Kenya, and the strategies for having an effective CUC, especially on dispute resolution. During the training, the CUC members were taken through the Alternative Justice System (AJS), the Court Annexed Mediation (CAM) processes, the safeguards and key considerations in understanding SGBV and the nexus between human rights and justice, among other areas.

### **6.2.3. Benchmarking on Best-Practises on Grassroots Administration of Justice**

The NCAJ Secretariat hosted a delegation from the Judiciary of South Sudan led by Hon. Justice Stephen Simon Benjingwa, President of the Court of Appeal for Greater Equatorial Circuit, on 31st January 2023. The key objective of the benchmarking was to build the capacity of the delegation from the Gender-Based Violence (GBV) and Juvenile Courts and share best practices on case-flow management and tracking, effective and functional sentencing systems, and the operational role and impact of the relevant Court Users' Committees (CUCs) in Kenya.

The delegation also visited and held discussions with other justice sector institutions, including the State Department for Gender, Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programs, Office of the Director of Public Prosecutions (ODPP), National Police Service (NPS), and the Kenya National Commission on Human Rights (KNCHR). Additionally, the delegates visited Kamae Girls Borstal Institution and Youth Corrective and Training Centre (YCTC) at the Kamiti Command to understand the role of borstal institutions in reforming juvenile offenders in conflict with the law.

### **6.2.4. Enhancing Efficiency on Arrest, Prosecution and Trial of Drug-Related Offences**

The NCAJ facilitated a round table meeting for the Jomo Kenyatta International Airport (JKIA) Law Court Users' Committee in June 2023, bringing together 60 justice sector actors from ODPP, Magistrates, Judges, Investigating Agencies from the various anti-narcotics units, the Government chemist, amongst others. The discussion focused on transnational organized crime including drugs, wildlife and human trafficking. Further, the discussion focused on increased coordination and collaboration among the justice sector actors to ensure efficient administration of justice. The complexities of these crimes require continuous engagement between stakeholders involved in handling such cases.



*Participants during the JKLA CUC Roundtable discussion on Drugs and Crime in June 2023 in Nairobi County*

#### **6.2.5. Strengthening of CUCs Operations through Effective Monitoring of Programmes**

The NCAJ Standing Committee on Court Users' in Kenya conducted spot-checks aimed at monitoring CUC activities to understand grassroots opportunities and challenges affecting CUC operations. Further, the exercise aimed at sensitizing CUC members to enhance their effectiveness. The exercise covered 10 CUCs: Homa-Bay, Ndhiwa, Rongo, Ogembo, Keroka, Nyamira, Kisii, Kehancha, Migori and Oyugis Law Courts CUCs.



*Kehancha CUC members during the spot check visit led by Hon. Justice Alfred Mabyea, Judge of the High Court of Kenya and the Chairperson of the NCAJ Standing Committee on CUCs in Kenya*

The critical challenges faced by the CUCs that were highlighted from the visits include inadequate child friendly holding facilities for children in need of care and protection and those in conflict with the law, the high cost of transporting children in conflict with the law to the children’s protection centres, lack of safe houses for victims of FGM and SGBV, prison congestion, insufficient number of courtrooms and insufficient ICT capacity of some justice sector actors.

The CUCs, therefore, recommended that more children holding centres, protection units and rescue centres be established as a priority within the Nyanza region. Further, the CUCs proposed adopting non-custodial sentencing methods, the need for e-filing integration amongst the justice sector agencies and increased ICT capacity for the justice sector. There is a need for further training and sensitization of CUC members on topical emerging areas such as the Children Act 2022, AJS, probate and succession procedures, ADR and other areas relevant to the administration of justice.

Arising from these engagements, feedback from other regions, and in pursuit of a coordinated justice system at the local level, the NCAJ initiated the development of various guidelines to operationalise and standardize operations of specialised CUCs. These are Commercial Justice Court Users’ Committees Guidelines and Operational Plan, Sexual and Gender-Based Violence Court Users’ Committees Guidelines, and Environment and Land Court Users’ Committees Guidelines. The Guidelines are to be finalised in FY 2023/24.

### *Development of the CUC Monitoring, Reporting, and Analysis System (MoRAS)*

Monitoring systems are effective tools for enhancing quality and prompt reporting. Following the extensive reporting gaps amongst CUCs, NCAJ initiated the development of a CUCs Monitoring, Reporting, and Analysis System (MoRAS). The MoRAS is an initiative to enhance documentation and reporting, ultimately informing grassroots-level reforms. The MoRAS seeks to automate the end-to-end reporting platform for CUCs across the country.

### *Monitoring of CUC Activities by the NCAJ Standing Committee on Court Users’ in Kenya*

The Standing Committee on Court Users’ in Kenya identified key priority areas based on outputs from the analysis of CUC minutes for the FY 2022/23. Some key priority areas identified include prison decongestion and the need for automation of CUC reporting and analysis. Further, there is need for increased resource allocation for CUC operations country-wide.



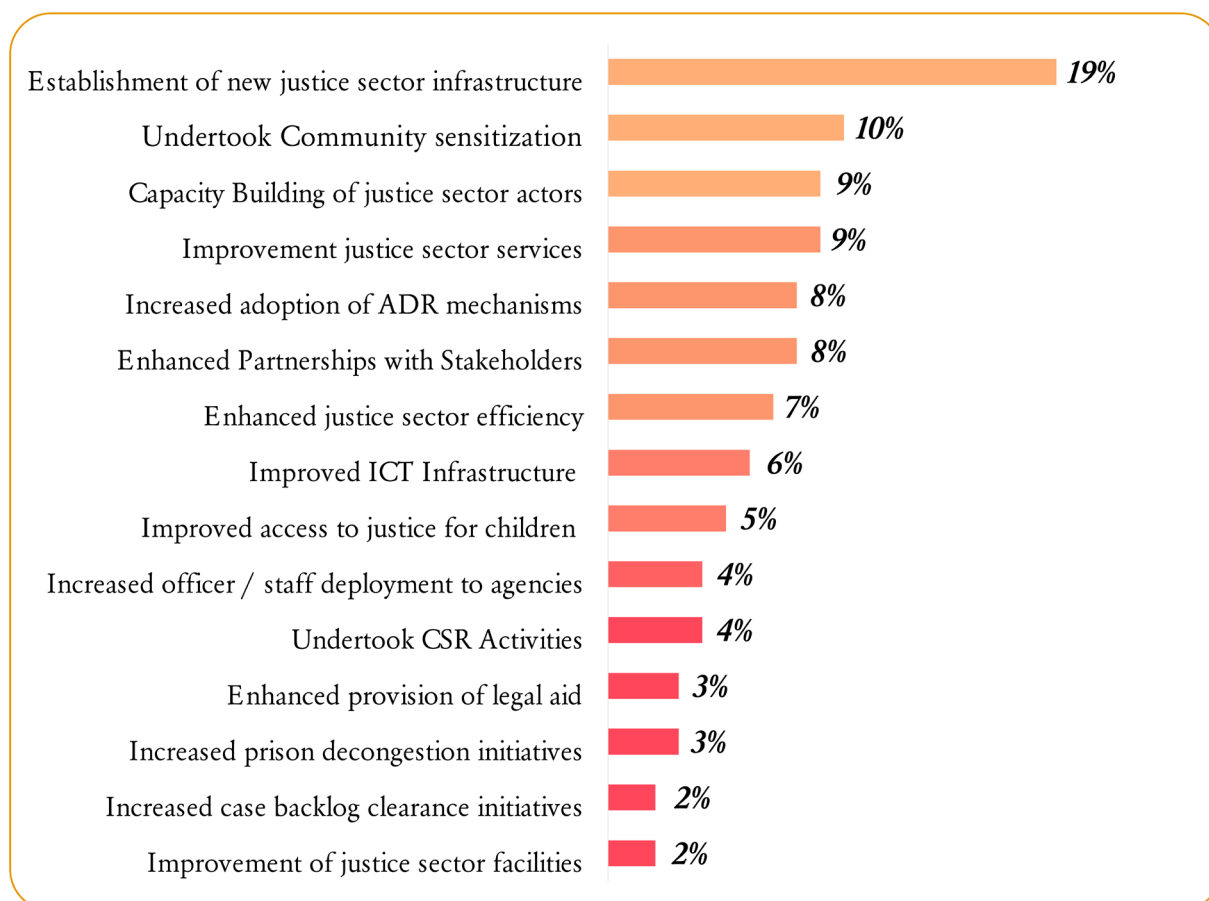
*A meeting of the NCAJ Standing Committee Workshop on identifying key priority areas for CUCs held between 15<sup>th</sup>-18<sup>th</sup> March, 2023 at Lake Elementaita*

### 6.3. Achievements, Challenges and Proposed Reform Areas by Different Types of CUCs

#### 6.3.1. High Court/County CUCs

##### *Achievements of the High Court/ County CUCs*

The establishment of Court User's Committees (CUCs) at the County (High Court) level was occasioned by the need to examine all aspects related to the administration of justice in the counties. In the reporting period, there were a total of 40 High Court CUCs. The achievements of the CUCs are summarized in Figure 6.1.



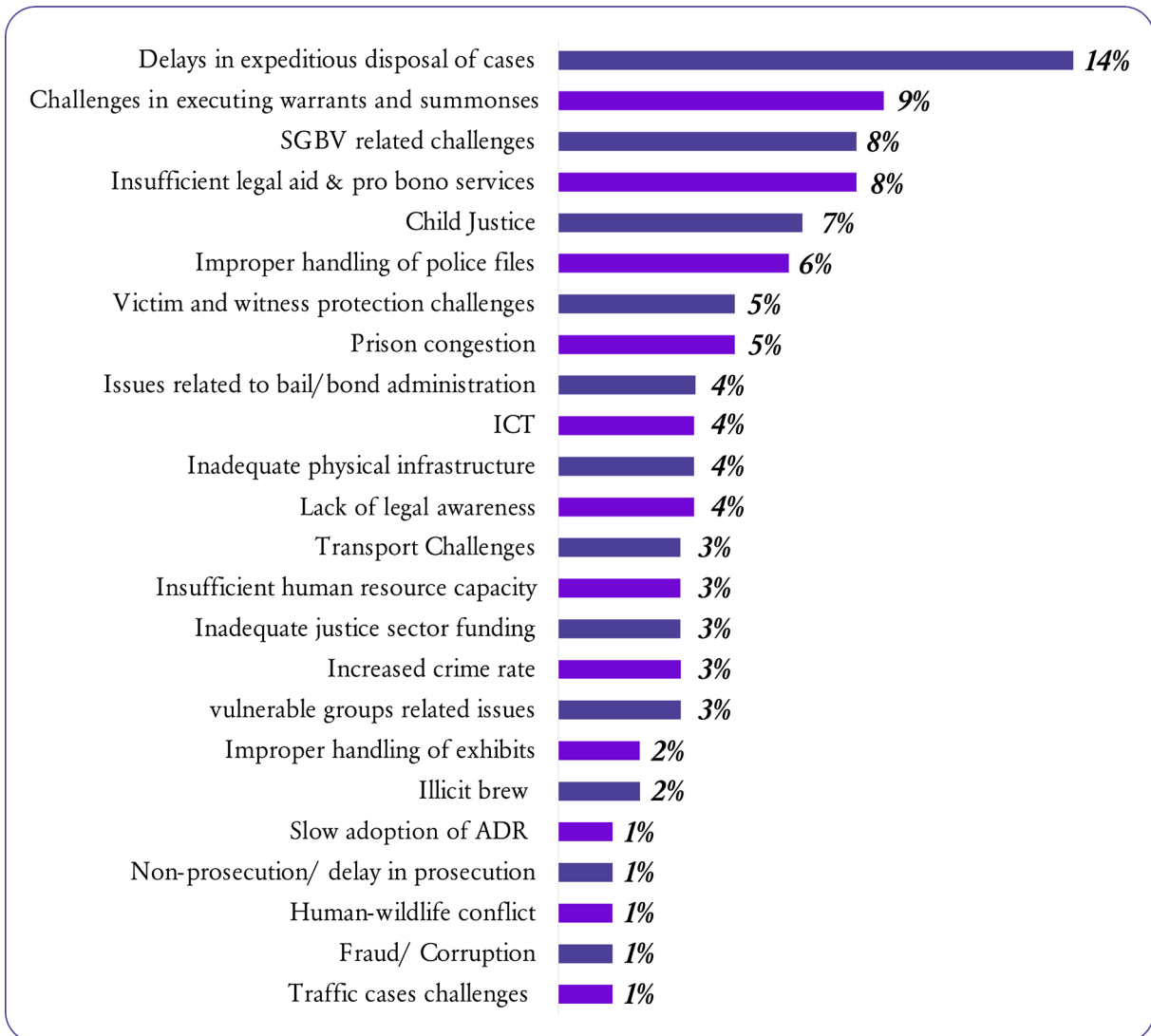
**Figure 6.1: Key achievements by County CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

From Figure 6.1, it is noted that numerous County CUCs focussed on establishing new physical infrastructure across the sector, conducting public sensitization engagements on justice sector issues, facilitating capacity-building programmes among stakeholders and implementing mechanisms to improve service delivery.

### Challenges Noted by the High Court / County CUCs

Figure 6.2 details the varied challenges that the CUCs at the High Court level experienced and discussed in the year under review.



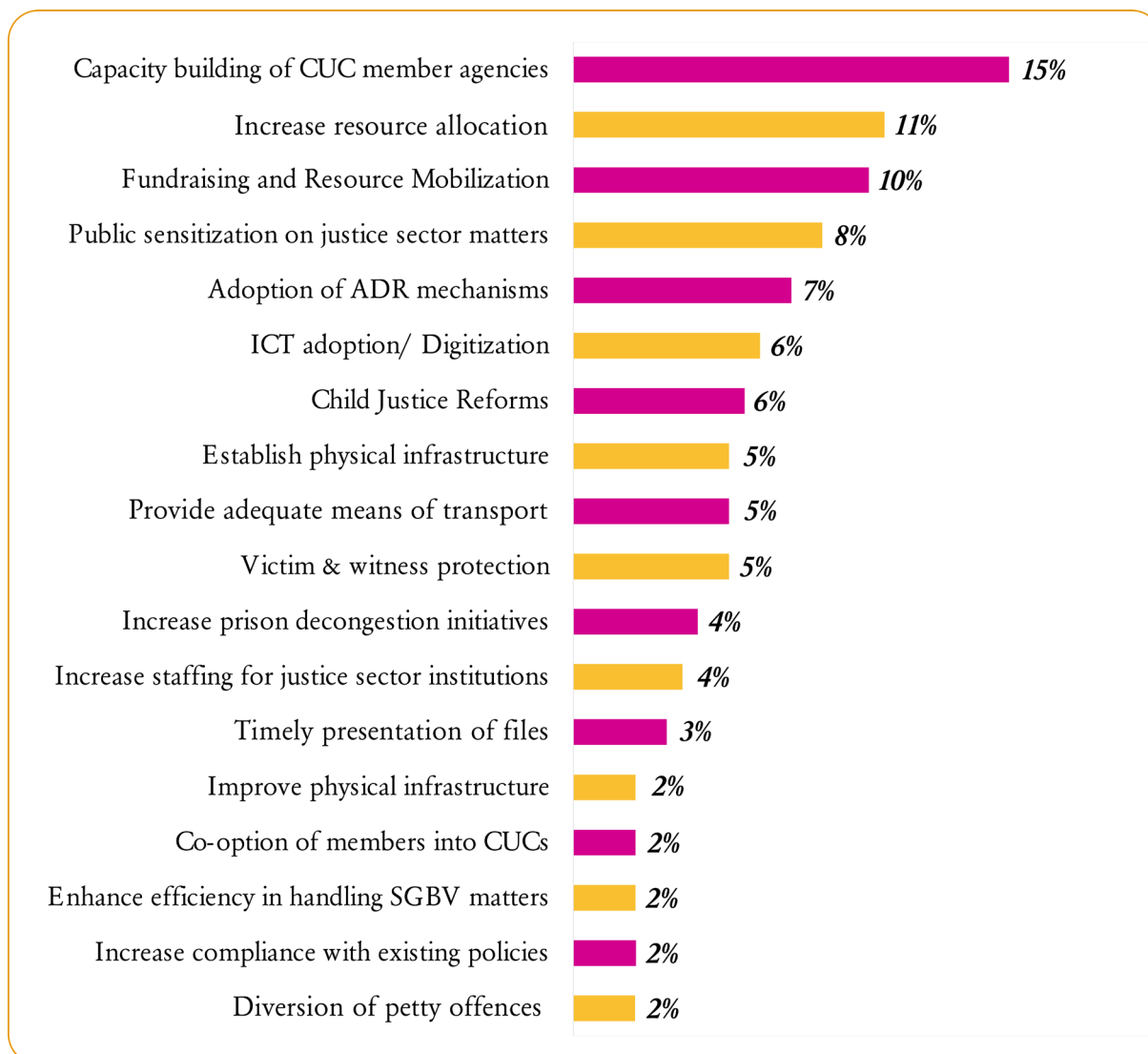
**Figure 6.2: Key challenges faced by County CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

During the period under review, challenges concerning delays in expeditious disposal of cases and service delivery, handling of SGBV and inadequate legal aid were prominent. Further, issues related to the administration of justice for children, victim and witness protection, prison congestion, slow implementation of ADR and vulnerable groups-related issues were also reported as challenges that require further attention.

### Areas of Reforms Proposed by the High Court/ County CUCs

To address the challenges affecting County CUCs and enhance achievements, a summary of the proposed reform areas is provided in Figure 6.3.



**Figure 6.3: Proposed reform areas by County CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

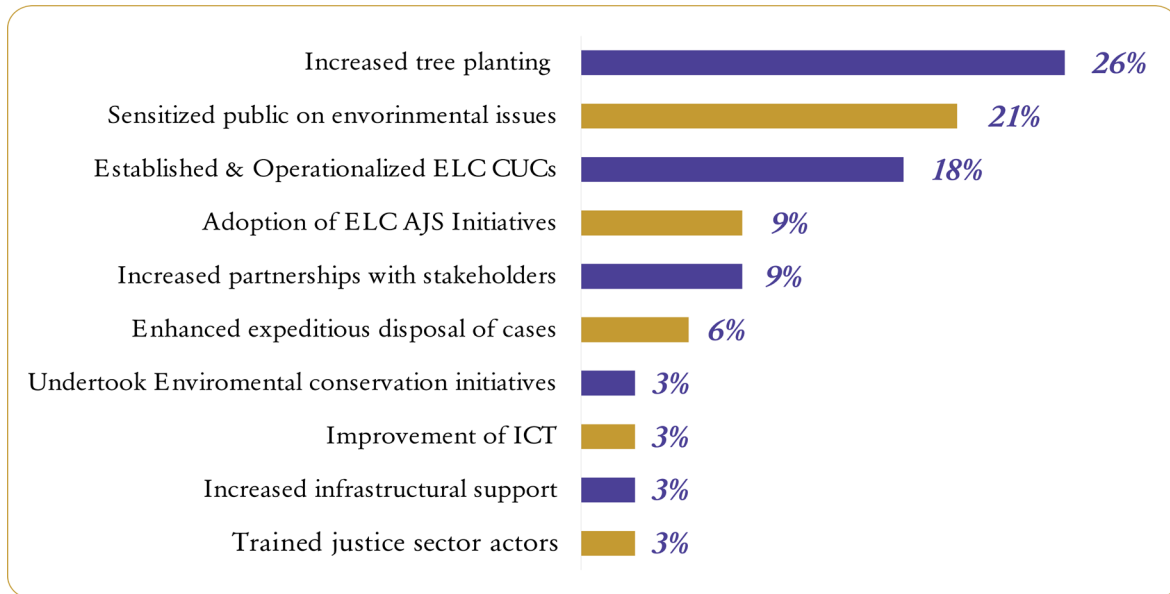
The proposed priority reform areas include increase in capacity building of justice sector actors at the county level, improvement in resource allocation, increase in the uptake of ADR and ICT integration across the justice sector. Further, the need to establish and implement mechanisms to ensure the effective handling of children and other vulnerable groups and address emerging issues, such as efficiency in handling SGBV matters, were noted to be priority concerns. Regarding petty offences, proposed reform areas included increase in sensitization of judicial officers to enhance the application of non-custodial modes of sentencing.

#### 6.3.2. Environment and Land Justice CUCs

##### *Achievements of the E&L Justice CUCs*

Environment and Land (E&L) Justice CUCs were established as specialized CUCs to facilitate the seamless handling of cases brought before the Environment and Land Courts. The E&L CUCs draw their membership from justice sector actors with a role in environment, land and climate justice.

During the period under review, 37 E&L CUCs existed across the country. Their reported achievements are summarized in Figure 6.4.



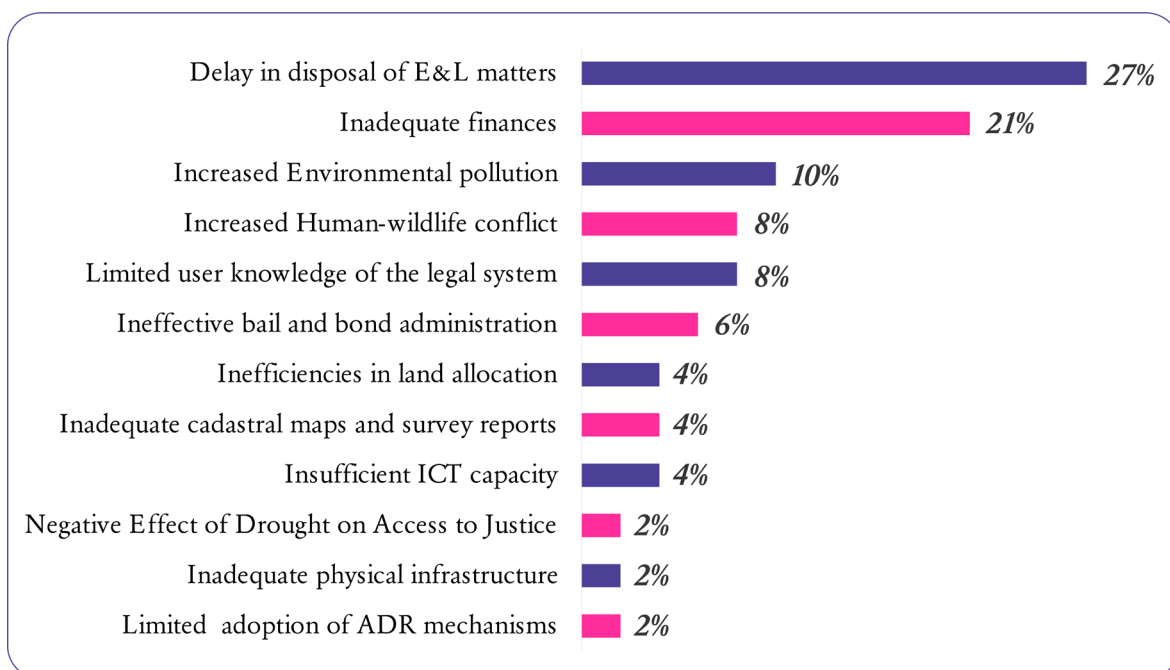
**Figure 6.4: Key achievements by E&L Justice CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

To contribute to global reforestation efforts and increase the national forest cover, the E&L CUCs undertook tree planting initiatives in many areas and sensitized the public on climate change, environment and land-related issues. Thika E&L CUC successfully lobbied and mobilized partners in the county to donate land for the construction of environment and land infrastructure. Further, various E&L CUCs undertook training and capacity building of justice sector actors on environment and land-related issues.

### Challenges Noted by E&L CUCs

The E&L CUCs noted the following challenges in the administration of environment and land justice during the reporting period.



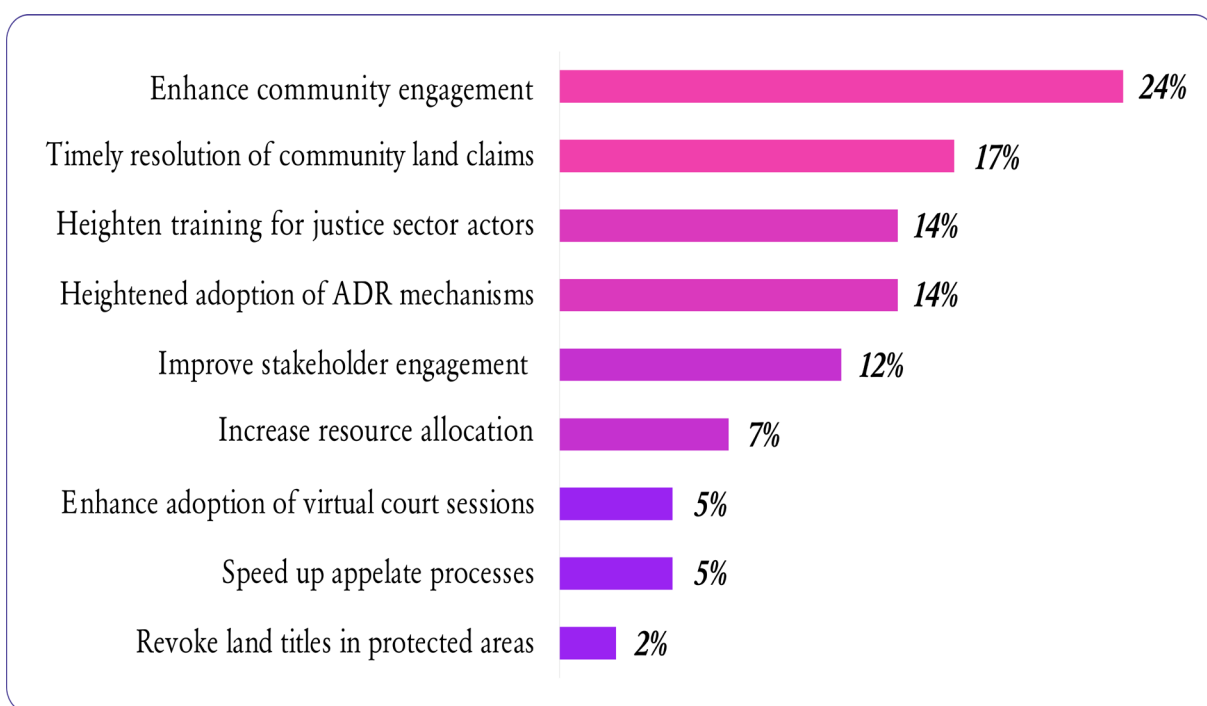
**Figure 6.5: Key recurrent challenges faced by E&L CUCs, FY 2022/23.**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

A cross-cutting challenge reported by the E&L CUCs was the delay in resolution of cases brought before the courts at 27 per cent, closely followed by inadequate justice sector funding, which hampered efficient service delivery. There was a notable increase in environmental pollution (10%) and, in particular, an upsurge in the use of banned plastic bags, increased charcoal burning and irregular waste disposal. Despite the extensive sensitization engagements undertaken in the reporting period, it was noted that there is still need for continued publicity of the specialized court and system for matters of environment and land. E&L CUCs also reported challenges in the administration of bail and bond for wildlife crimes, resulting in accused persons absconding. The negative effects of drought, inadequate physical infrastructure and limited adoption of alternative dispute resolution mechanisms were also reported as challenges hindering access to justice.

### *Areas of Reforms Proposed by the E&L CUCs*

Figure 6.6 summarizes the proposed reform areas highlighted by CUCs to enhance efficiency in the administration of the environment and land justice sector.



**Figure 6.6: Proposed reform areas by E&L CUCs, FY 2022/23**

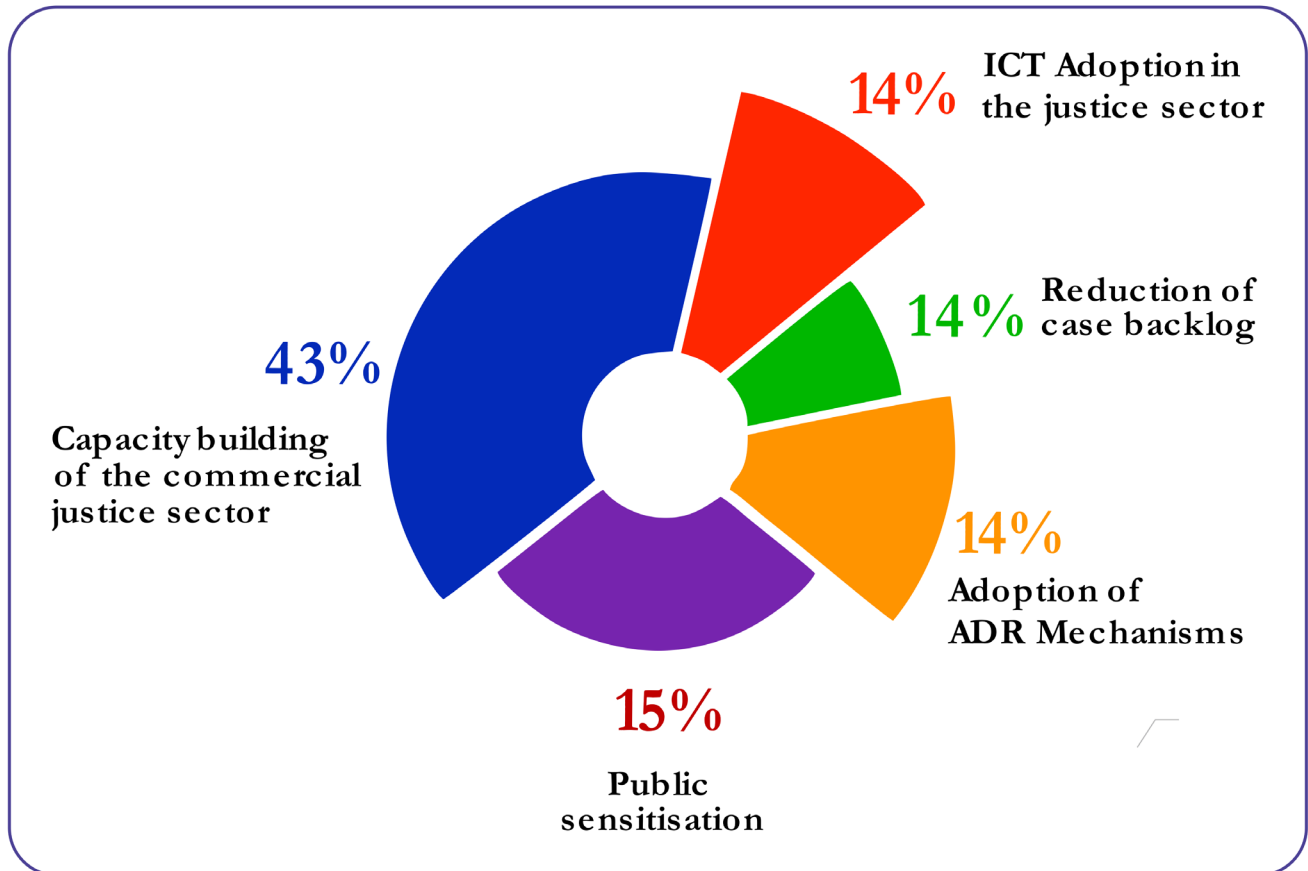
*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

The need to involve the community and other stakeholders in environmental conservation; timely resolution of disputes of claims on community land; increase in capacity building for the justice sector actors; and uptake of ADR in E&L matters came at the top of the list of proposed reforms by a majority of the E&L CUCs at 24 per cent, 17 per cent and 14 per cent, respectively. Environment and land justice sector actors proposed an increase in resource allocation to effectively address issues related to climate change and environmental justice (7%). The need to revoke land titles in protected areas was also highlighted for urgent address.

### 6.3.3. Commercial Justice CUCs

#### *Achievements of the CJCUCs*

Commercial Justice CUCs (CJCUCs) are specialized CUCs primarily established to enhance access to commercial justice for the business community and improve the ease of doing business in Kenya. During the year under review, there were five CJCUCs. Their achievements as illustrated in Figure 6.7.



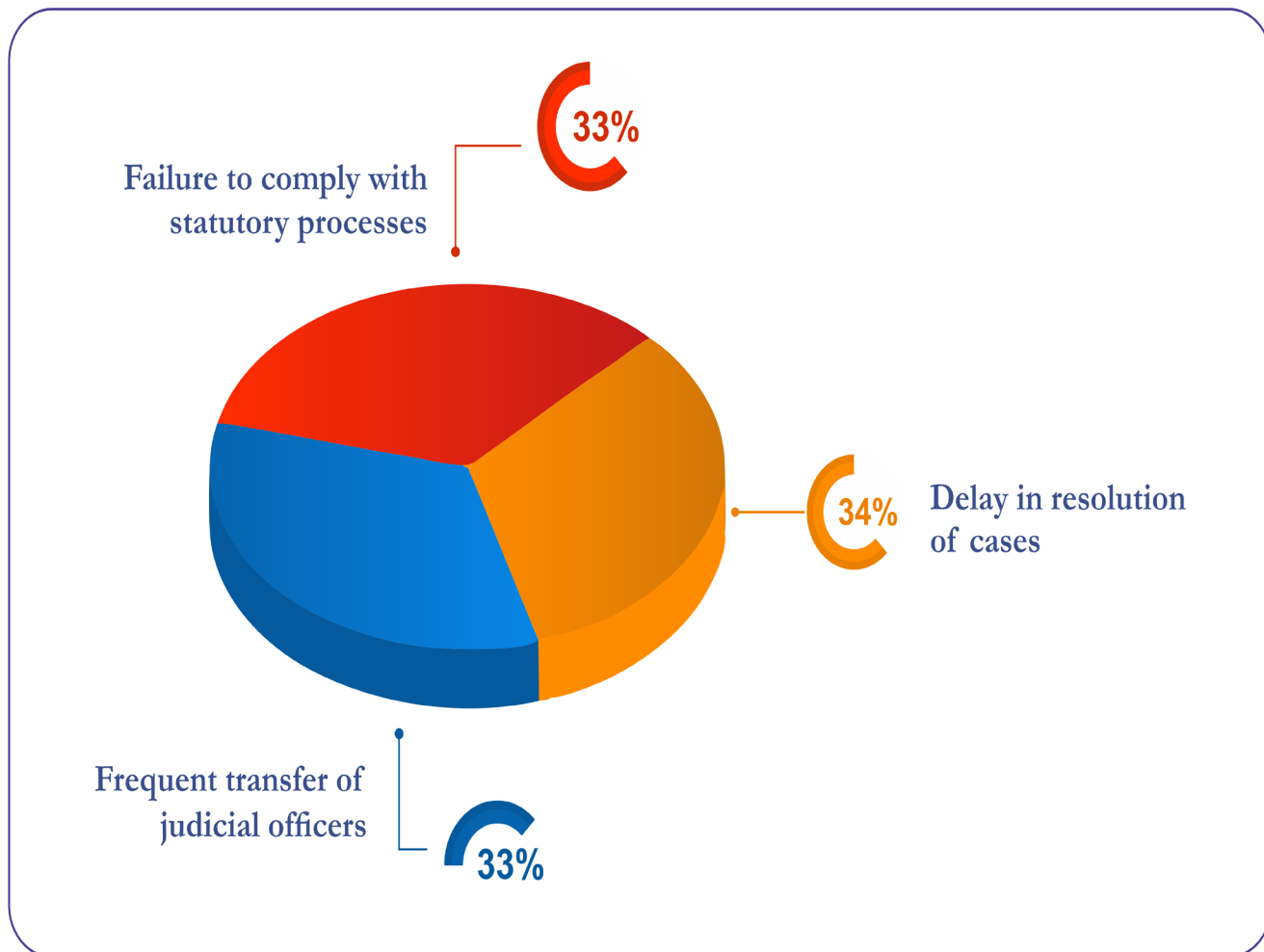
**Figure 6.7: Summary of achievements by CJCUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

Most CJCUCs undertook capacity building initiatives for the commercial justice sector actors to better equip them with knowledge on emerging areas such as tax administration, arbitration and intellectual property during the period under review. Public sensitisation stood at 15 per cent while initiatives on ICT adoption, case backlog reduction, and use of ADR stood at 14 per cent each.

### Challenges Noted by CJCUCs

The CJCUCs noted the following challenges experienced in the administration of commercial justice at the grassroots as shown in Figure 6.8.



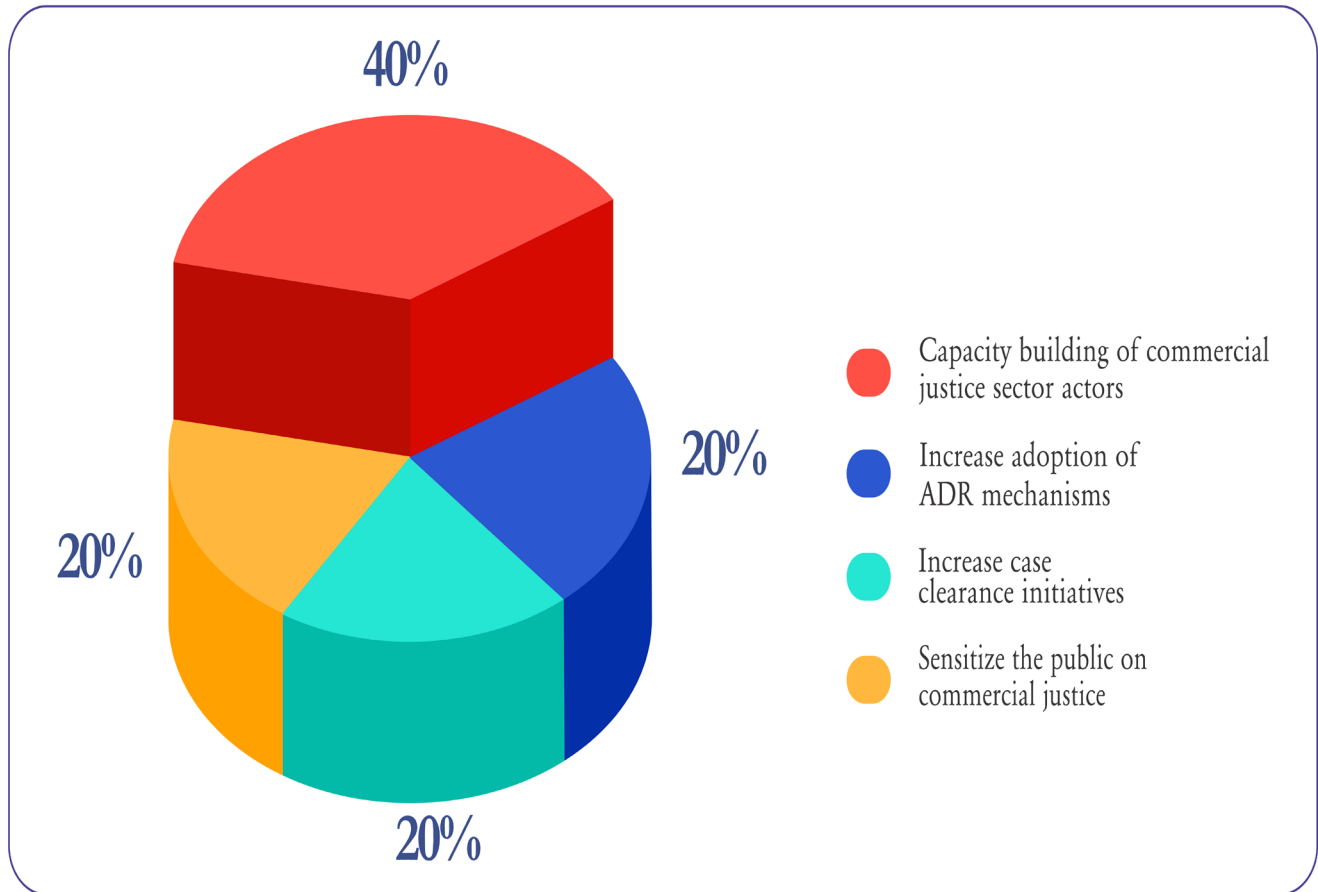
**Figure 6.8: Summary of challenges by CJCUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

Delays in the resolution of cases stood at 34 per cent, while frequent transfers of judges and judicial officers stood at 33 per cent. Failure to comply with certain statutory provisions were also noted to negatively impact the business community resulting in continuous litigation.

### Areas of Reforms Proposed by the CJCUCs

To ensure a coordinated, efficient, effective and consultative approach in the administration of commercial justice, the CJCUCs proposed interventions in Figure 6.9.



**Figure 6.9: Summary of proposed reforms by CJCUCs, FY 2022/23**

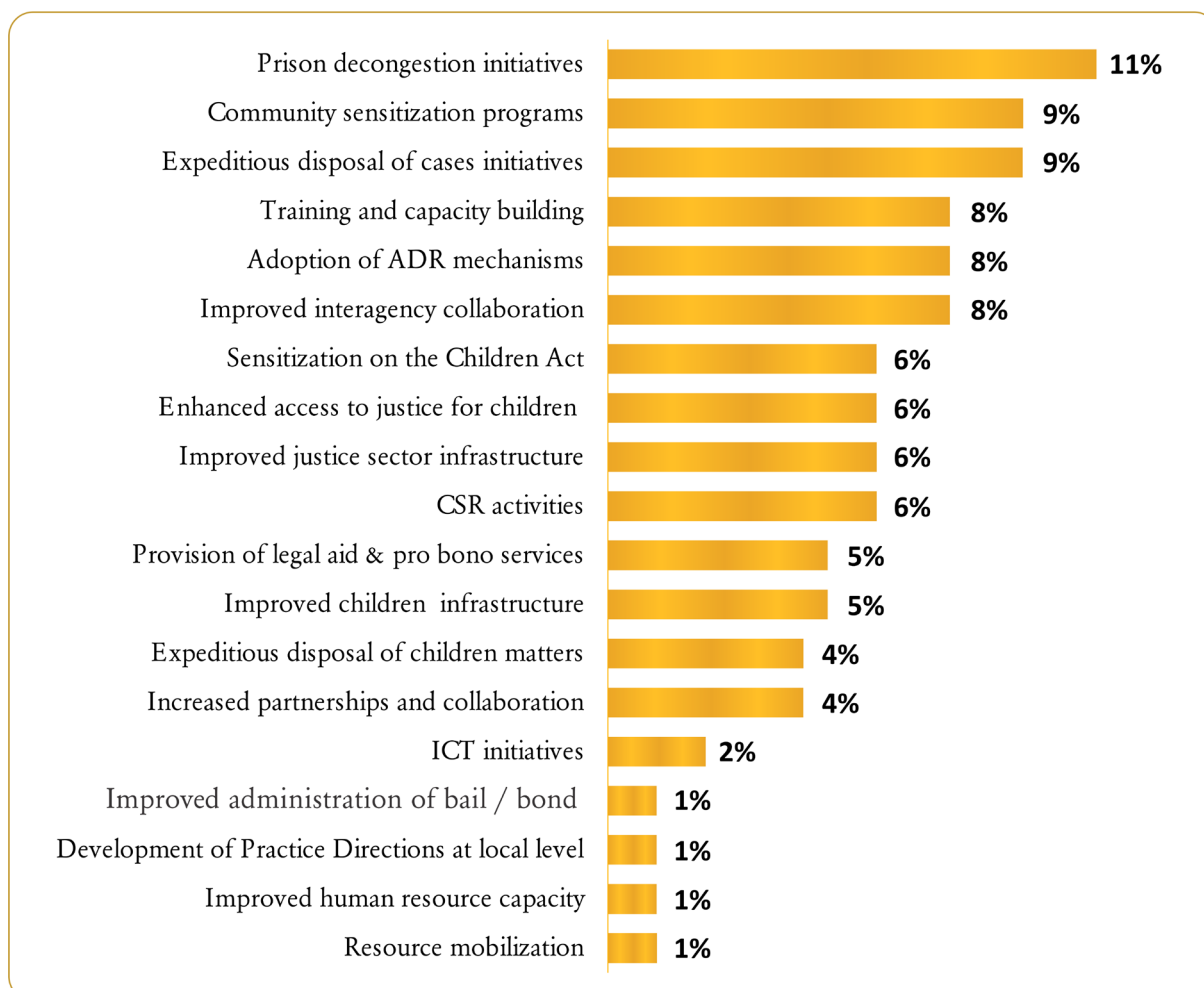
*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

To enhance the commercial justice sector's knowledge in a dynamic commercial sector, CJCUCs propose enhanced capacity building for all actors. A further proposal was carrying out initiatives such as the undertaking of Rapid Result Initiatives (RRIs) and case backlog initiatives to increase case clearance rate.

### 6.3.4. Magistrates' Court CUCs

#### *Achievements of the Magistrates' Courts CUCs*

Towards enhancing the efficient administration of justice at the grassroots and providing local solutions to challenges hindering seamless service delivery, the 130 Magistrate CUCs across the country realized the achievements summarized in Figure 6.10.



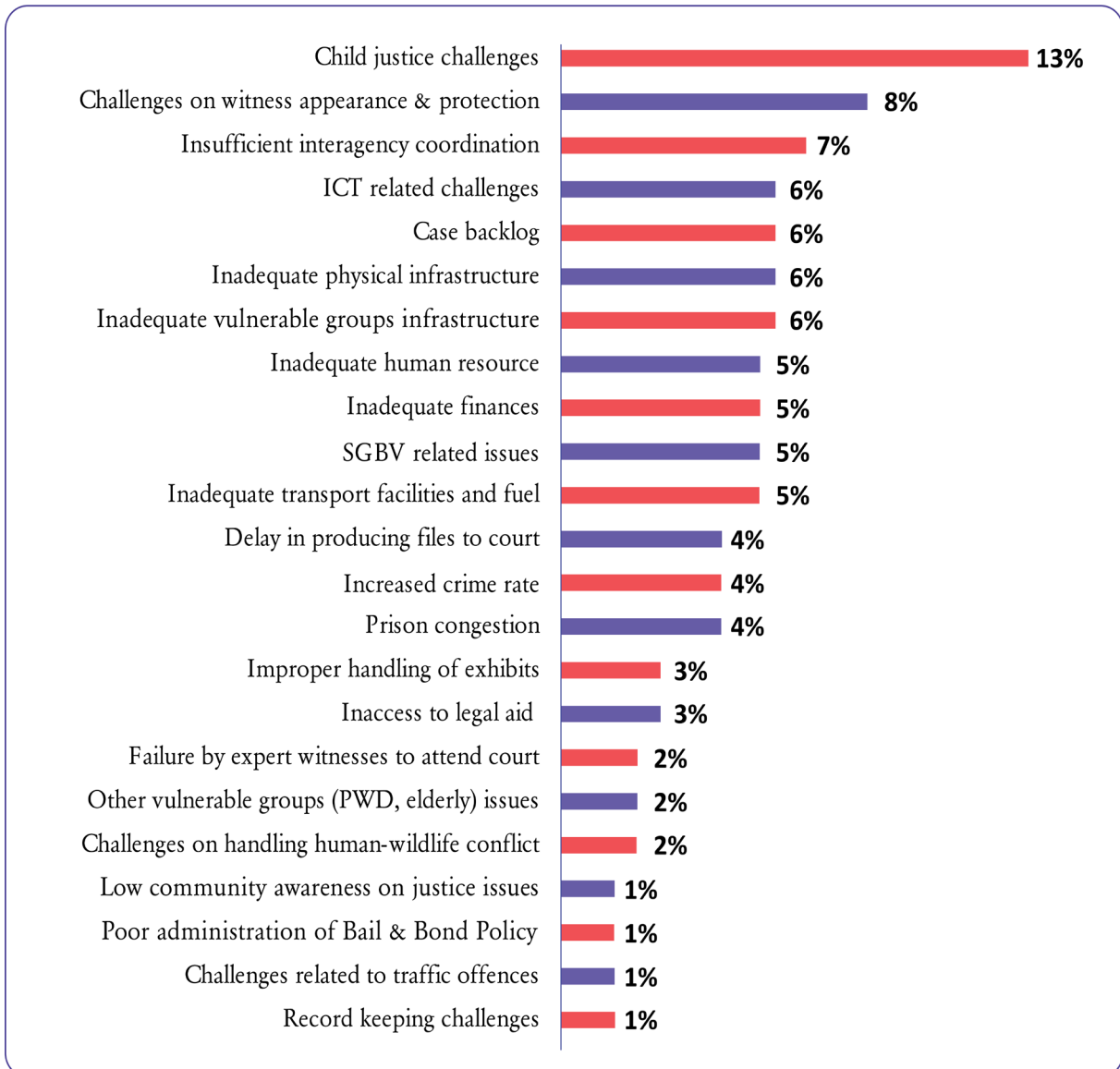
**Figure 6.10: Summary of achievements by Magistrates' CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

To address the overcrowding in the prisons, Magistrates CUCs engaged in decongestion exercises, which stood as the highest achievement at 11 per cent. A reported increase in the adoption of ADR mechanisms was reported at 8 per cent, which in part contributed to the expeditious disposal of cases at 9 per cent. There was a concerted effort by the justice sector actors to sensitize the actors and the public on the Children Act at 6 per cent. The undertaking of pro bono and legal aid service initiatives to enhance access to justice stood at 5 per cent. While there is an apparent need for more funding and resource mobilization, few CUCs successfully mobilized resources during the Financial Year to enable them to undertake their mandates effectively.

### Challenges Noted by the Magistrates' CUCs

The Magistrates' CUCs noted the challenges depicted in Figure 6.11 in the administration of justice at the grassroots level.



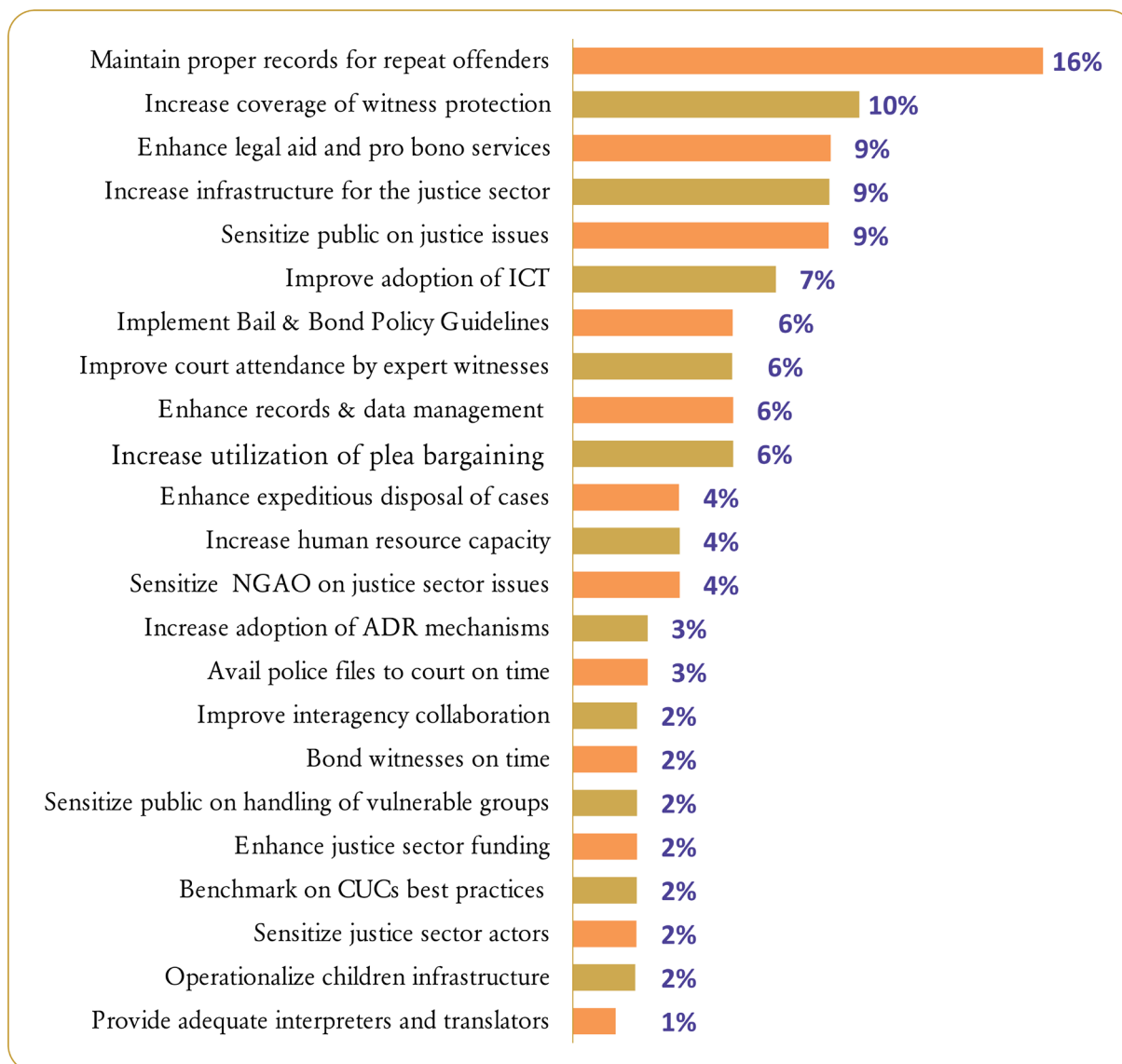
**Figure 6.11: Recurrent challenges experienced by Magistrates CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

Issues related to the administration of justice for children, such as delays in concluding cases and increased incidences of defilement, were the highest reported challenges at 13 per cent at the Magistrates CUCs. Witness protection at the grassroots was also a major challenge at 8 per cent. Further, there is a need to address ICT and case backlog challenges, which stood at 6 per cent each.

### Areas of Reforms Proposed by the Magistrates CUCs

The Magistrates CUCs proposed interventions to enhance the delivery of justice at the grassroots. A summary is given in Figure 6.12.



**Figure 6.12: Proposed reform areas by magistrates' CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

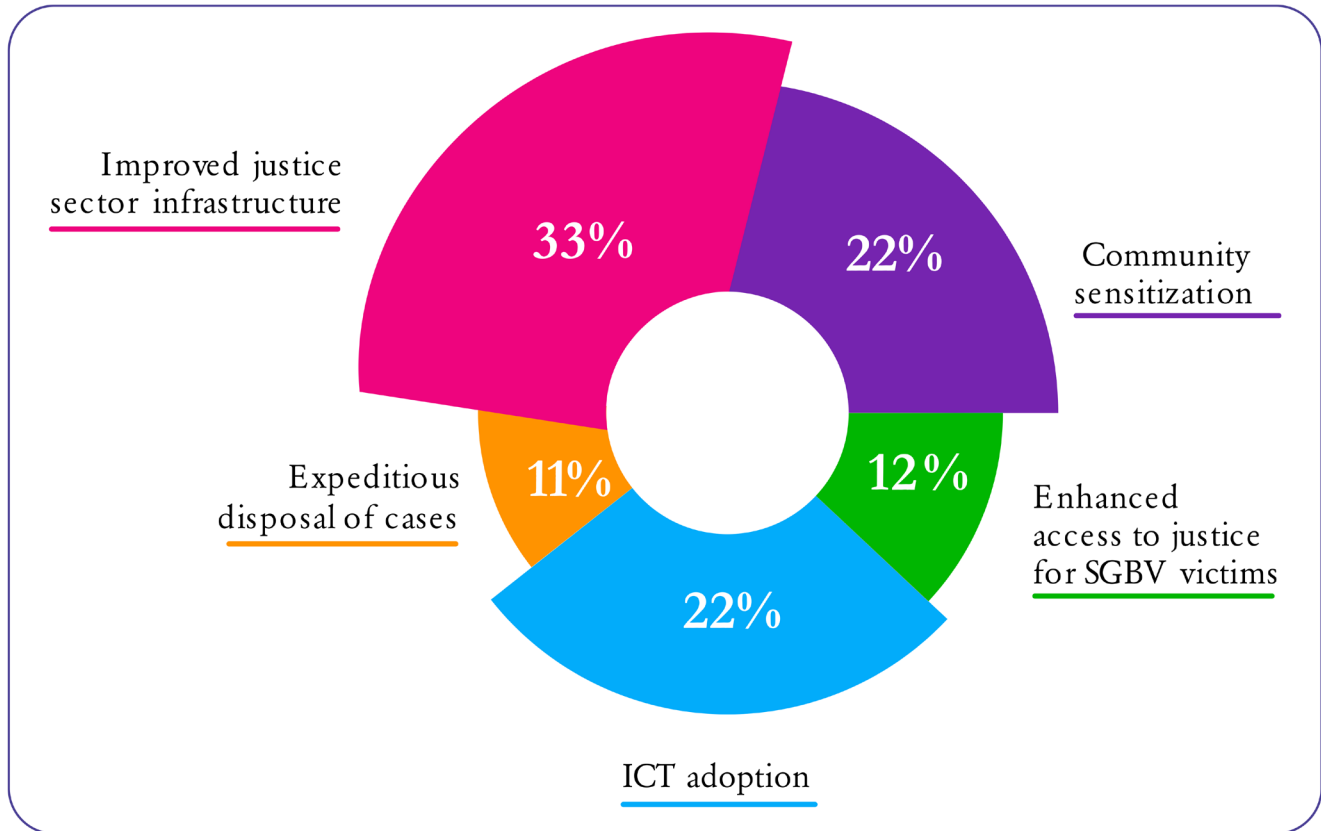
The CUCs noted the need to establish mechanisms to facilitate integrated record-keeping and information sharing within the justice sector to ensure repeat offenders are effectively handled, including during sentencing. The need to offer witness and victim protection to reduce interference and intimidation and the need to effectively enhance the administration of justice, especially for vulnerable groups, legal aid and pro bono schemes were noted. To aid prison decongestion, especially of remandees, the CUCs proposed the upscaling of the implementation of the Bail and Bond Policy Guidelines and alternatives to prosecution, such as plea bargaining and diversion.

### 6.3.5. Kadhis' Court CUCs

The Kadhis' CUCs were established to enhance the administration of justice in Kadhis' Courts. During the reporting period, there were 14 Kadhis' Court CUCs.

#### *Achievements of the Kadhis' CUCs*

During the year, the Kadhis' CUCs undertook several initiatives to enhance access to justice. The summary of achievements by the Kadhis' CUCs is given in Figure 6.13.



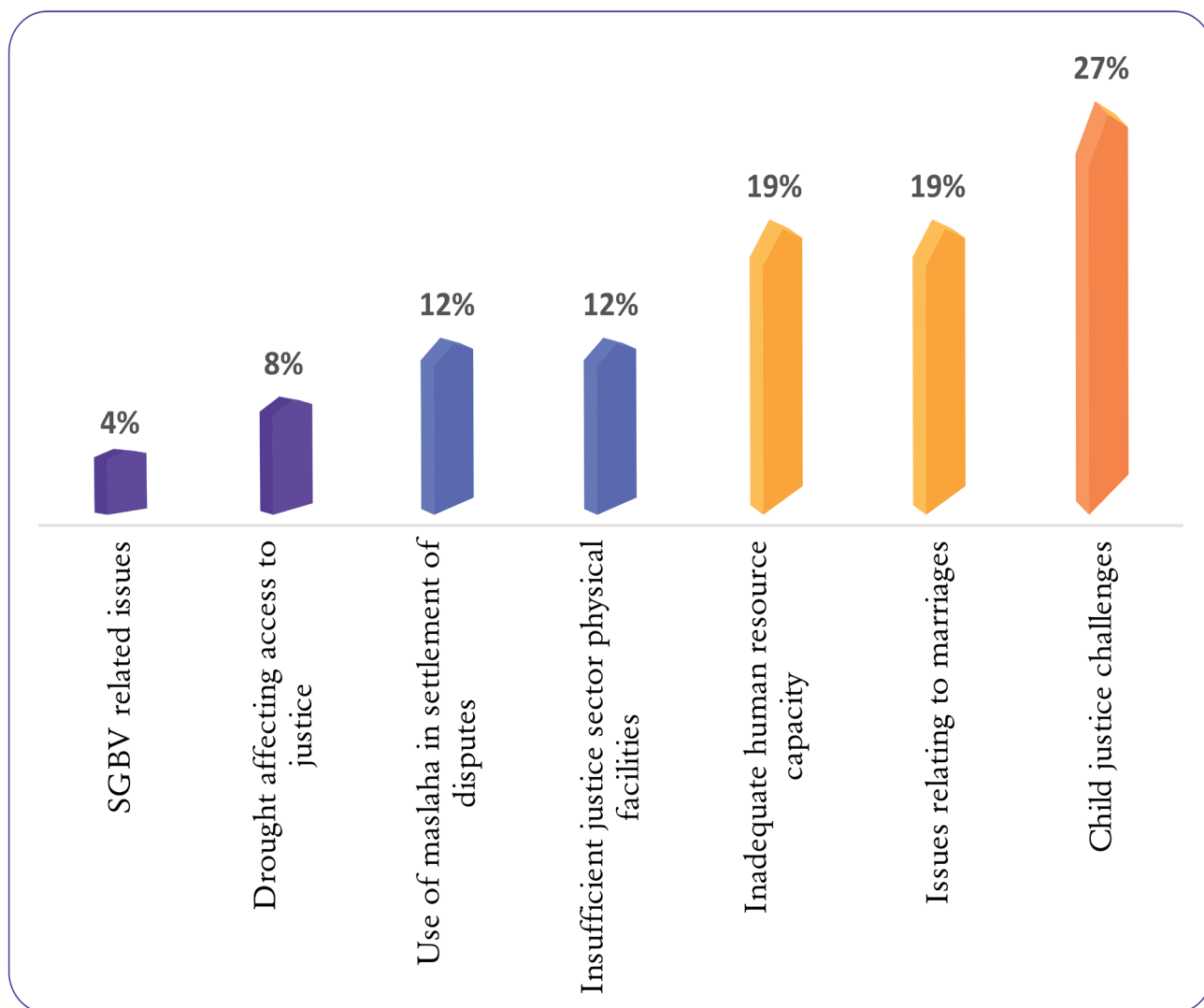
**Figure 6.13: Summary of achievements by Kadhis' CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

During the Financial Year, some Kadhis' CUCs undertook and successfully improved infrastructure within their respective jurisdictions. This achievement was the highest at 33 per cent followed by the adoption ICT and community sensitisation, both at 22 per cent. To improve access to justice, Kadhis' CUCs undertook expeditious disposal of cases initiatives at 11 per cent and addressed access to justice issues on SGBV, also at 12 per cent.

### Challenges to administration of justice noted by the Kadhis' CUCS

In the year under review, Kadhis' CUCs reported the following challenges to the administration of justice as summarised in Figure 6.14.



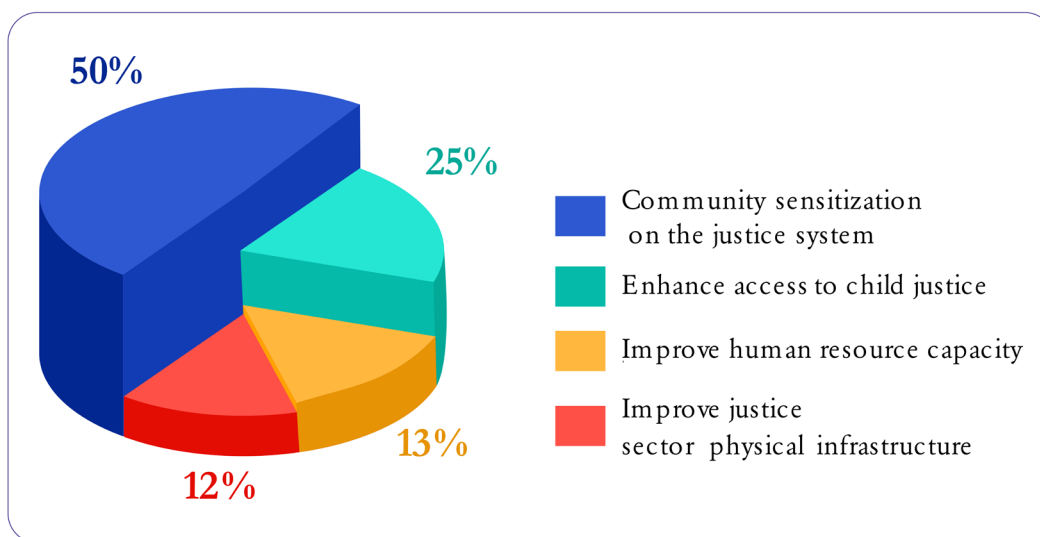
**Figure 6.14: Summary of challenges by Kadhis' CUCs, FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

The CUCs reported increased child justice challenges, such as increased child custody and maintenance cases and parental neglect at 27 per cent. Further, the resolution of divorce cases falling within the court's jurisdiction experienced challenges at 19 per cent owing to failure to comply with the statutory registration of marriages and obtain marriage certificates. An acute shortage of human and physical resources was also noted as a challenge hindering the effective administration of justice.

### Areas of Reforms Proposed by the Kadhis' CUCs

The summary of proposed reform areas by the Kadhis' CUCs is given in Figure 6.15.



**Figure 6.15: Summary of proposed reform areas by Kadhis' CUCs, FY 2022/23**

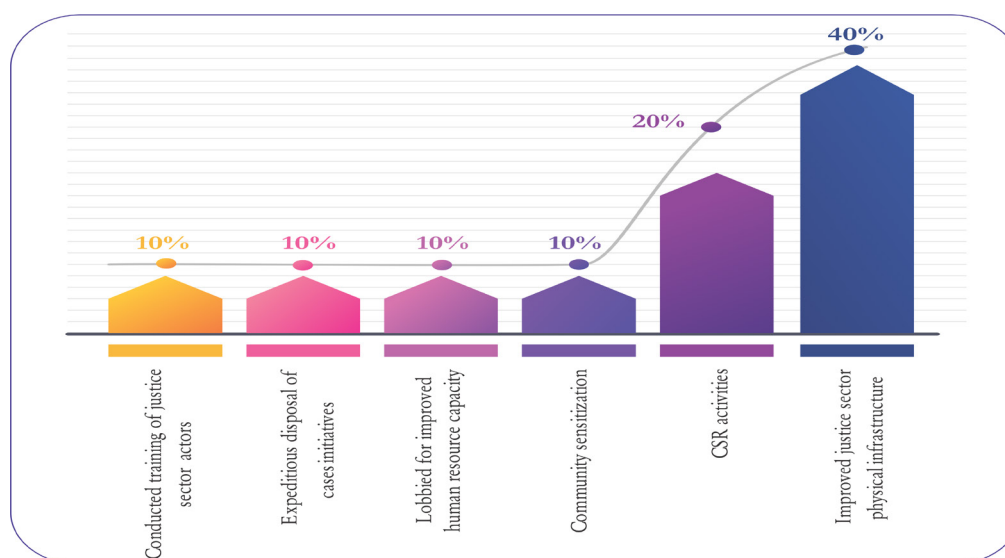
*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

The most salient proposed reform areas identified by Kadhis' Court CUCs was the need to sensitize the public on the justice system and processes continuously at 50 per cent. Enhancing access to justice for children was the second at 25 per cent, especially through increase in protection of their human rights and sensitization of stakeholders. The overall improvement of the justice sector's human and physical resources capacity was also recommended.

### 6.3.6. Children's Court CUCs

#### Achievements of the CCUCs

The Children's Court CUCs (CCUCs) are essential to administering justice at the grassroots for children in contact with and in conflict with the law. The role of these CUCs remains fundamental, especially with the enactment of the Children Act (No. 29 of 2022). During the reporting period, 7 CCUCs were established and operationalized, bringing the total number of CCUCs to 14. Summarized in Figure 6.16 are the achievements reported by the CCUCs in FY 2022/23.



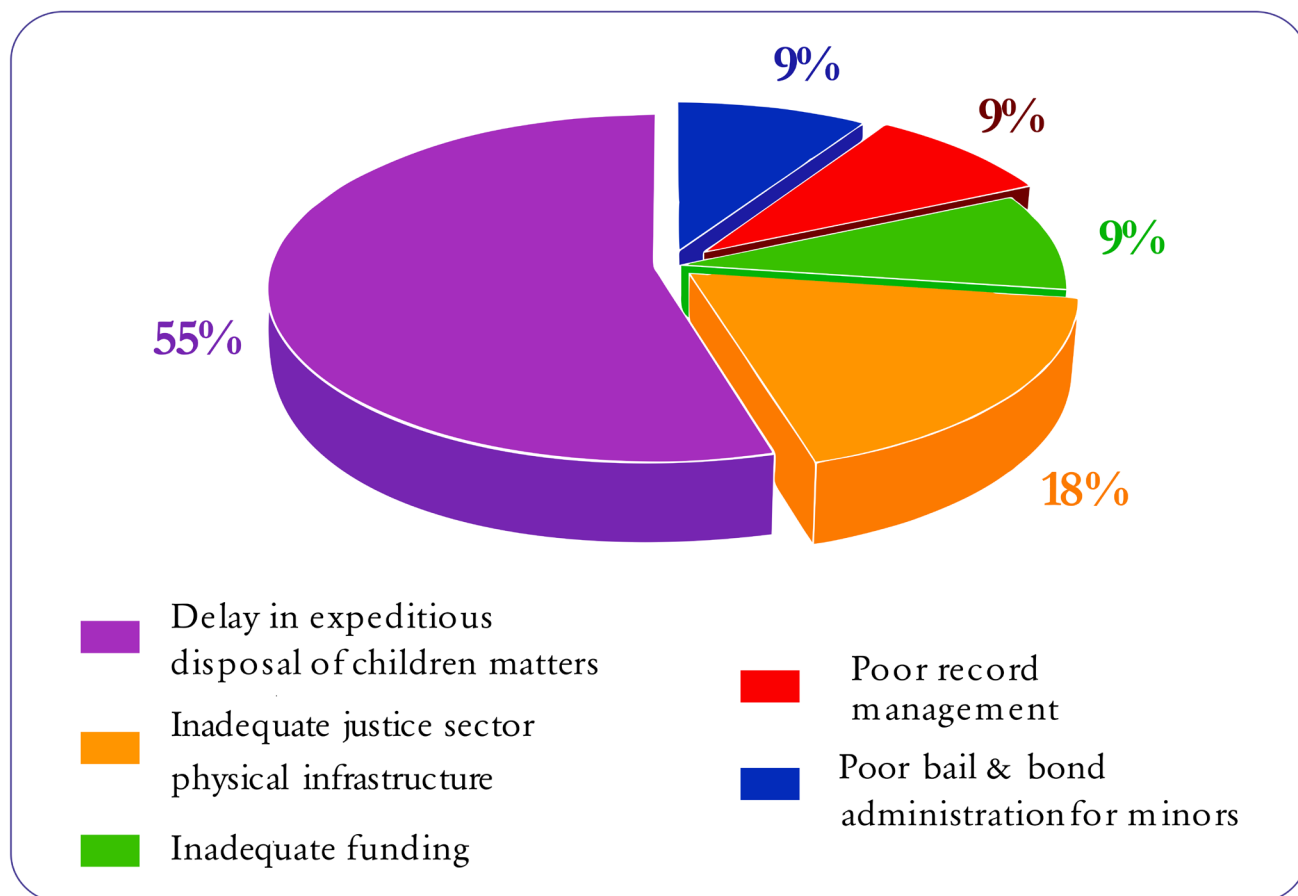
**Figure 6.16: Summary of achievements by child justice CUCs (CCUCs), FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

In the reporting period, most CCUCs activities aimed to improve the justice sector’s physical infrastructure (including children’s court stations and holding facilities). Members of the CCUCs also visited and donated to children’s remand homes, borstal institutions, and undertook other CSR activities. The CCUC members further lobbied their respective justice sector institutions to improve their staffing in courts, such as Milimani Children’s Court. They undertook initiatives to expedite the disposal of cases, thereby enhancing access to justice for children.

### Challenges Noted by the CCUCs

The CCUCs noted challenges experienced in the execution of their role in enhancing the administration of justice for children as summarized in Figure 6.17.



**Figure 6.17: Summary of challenges by child justice CUCs (CCUCs), FY 2022/23**

*Source: NCAJ Analysis using Submitted CUC Minutes for the FY 2022/23*

The CCUCs noted delays in the expeditious disposal of children matters, which was the major challenge at 55 per cent. The challenge was occasioned by, among others, delays in obtaining age assessments and delays in arraigning children in conflict with the law to court. Inadequate physical infrastructure was also a major challenge at 18 per cent. Poor record management, inadequate funding, and poor bail and bond administration also adversely affected the efficient administration of justice for children.

### Areas of Reform Proposed by the CCUCs

The CCUCS noted the need to conduct periodic service weeks to handle child justice-related issues and leveraging on ICT to facilitate the timely conclusion of children’s matters. Further, they proposed the improvement of the physical infrastructure for the child justice sector institutions and the allocation of adequate funding to ensure efficient implementation of their respective mandates. Sensitisation on proper implementation of Bail and Bond Policy Guidelines in respect of the child justice sector was also recommended.

## 6.4. Achievements, Challenges and Proposed Reform Areas by CUCs on Diverse Themes

During the reporting period, CUCs across the country undertook activities to enhance the efficient administration of justice at the grassroots. The achievements, challenges and proposed reforms arising from CUCs are summarized in the subsequent subsections by diverse justice themes.

### 6.4.1. Criminal Justice Reforms

#### *Achievements noted in the CUCs in Criminal Justice Sector*

Some notable achievements by the CUCs include:

- Prison decongestion exercises.
- The training of police and prison officers on committal warrants and register movement.
- The sensitisation of the police officers on timely presentation of police files to court.
- The increase in the uptake of non-custodial sentences as an alternative to imprisonment.
- The improvement in the production of witnesses to court through effective collaboration.
- The empowerment of probationers who have been released through income-generating activities and providing guidance and counselling.
- The sensitization of CUC members on non-custodial court sanctions to uphold the human rights of the probationers.
- The training of CUC members on the Diversion and Plea-Bargaining Policy Guidelines as alternatives to prosecution.
- The provision of remandees with legal aid assistance by helping them obtain prosecution materials, typing of proceedings and plea bargaining for expeditious disposal of cases.
- The establishment of an integrity assurance desk to handle bribery and corruption issues at the registries.



*Mpeketoni CUC members during a prison sensitization activity on Countering Violent Extremism (CVE) at Hindi GK Prisons in June 2023*

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### *Challenges Noted by the CUCs in the Criminal Justice Sector*

Some of the notable challenges highlighted by the CUCs include:

- Prison overcrowding occasioned by, among others, slow uptake of diversion, plea bargaining, inadequate use of bail and bond, and the use of custodial sentencing.
- Prison congestion by petty offenders.
- Increase in non-compliance with traffic regulations.
- Inadequate mechanisms to secure the attendance of accused persons released on bail in court.
- Delays in availing police files to court on time, delaying timely disposal of cases.
- Inadequate support mechanisms to facilitate seamless integration of offenders back into society, contributing to recidivism.
- Inadequate mechanisms to ensure accurate verification of sureties.
- Inadequate linkages between consulate offices and CJS agencies to provide interpreters for immigrant remandees and to facilitate seamless repatriation of immigrant offenders.
- Insufficient uptake of the Active Case Management Guidelines, resulting in court delays.
- Delay in supplying relevant documents to accused persons.
- Delay in cash bail reimbursement.
- Lengthy duration taken to address court cases yielding witness fatigue, interference and poor follow-up by complainants on their reported cases leading to dismissal.
- Encroachment of land in protected areas.

### *Areas of Criminal Justice Reforms Proposed by the CUCs*

In light of the foregoing challenges, the following reforms were proposed by the CUCs to enhance access to justice:

- Training and sensitization of Judicial Officers on alternatives to incarceration and the use of non-custodial measures to mitigate the imprisonment of petty offenders.
- Increase in the frequency of prison decongestion initiatives across the country.
- Provision of IEC materials across detention facilities to provide access to information on initiatives such as plea bargaining and other alternatives to prosecution.
- Establishment of mechanisms to facilitate adequate verification of security documents before bond approval.
- Establishment of mechanisms to facilitate timely bonding of witnesses to enhance appearance to court.
- Establishment of mechanisms to secure the attendance of accused persons released on bail in court.
- Timely provision of relevant documents to accused persons.
- Compliance, enforcement and prosecution of traffic offenders.
- Automation of cash bail refund process to increase efficiency.

#### **6.4.2. Civil Justice Reforms**

### *Achievements Noted by CUCs in Civil Justice Reforms*

Notable achievements in civil justice reforms include:

- The increase in uptake and filing of matters at the Small Claims Court, reducing case backlog at the Magistrates Courts.

- The launch and operationalization of Court Annexed Mediation Registries in courts to facilitate court users with access to mediation as an alternative dispute resolution mechanism.
- The increase in awareness of Alternative Justice System (AJS) amongst CUCs across the country.
- The increased in the awareness amongst National Government Administration Officers (NGAO) on succession matters and alternative dispute resolution mechanisms.



*Mandera CUC members during an AJS Training in March 2023*

### ***Challenges Noted by the CUCs in Civil Justice Reforms***

The challenges encountered in the civil justice reforms reported in the period under review:

- Abandonment of land cases after filing, leading to case backlog.
- Inadequate participation by NGAO officers in facilitating out-of-court dispute resolution succession matters.
- Slow processing of succession matters due to administrative inefficiencies like delay in gazettelement of succession and probate matters and issuance of grants.
- Inconsistent practices in different courts of the same status.
- Multiplicity of land cases in court and rising prevalence of fraudulent land titles.
- Lengthy intervals between case mentions and delays in obtaining judgements, rulings and proceedings and execution of court orders.
- Inadequate uptake of ADR to resolve civil disputes.
- Delays by parties in complying with court orders.

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### *Areas of Reforms Proposed by the CUCs for the Civil Justice Sector*

In light of the foregoing, the following reforms would enhance access to civil justice through CUCs:

- Promotion and sensitization of AJS and other ADR mechanisms among justice sector actors and the public.
- Training and sensitization of NGAO on their role in succession matters.
- Establishment and operationalization of more Small Claims Courts.
- Increase in the number of AJS volunteers and ensure timely payment of ADR professionals.
- Fast tracking of adjudication of community land in the counties.
- Survey, gazettelement and reclaiming of all protected areas.
- Investigation and revocation of fraudulent land titles.
- Enhancement of collaboration amongst justice sector actors to ensure timely processing of probate and succession matters.

#### **6.4.3. Access to Justice for the Vulnerable Groups**

##### *Achievements Noted in the Access to Justice for the Vulnerable Groups*

Key achievements in the access to justice for vulnerable groups noted during the period under review include:

- The establishment of seven CCUCs during the period.
- Expeditious resolution of children matters.
- Increase in the uptake of diversion in handling of children in conflict with the law.
- Sensitisation of CUC members on the Children Act 2022 in some regions.
- Prioritization of expeditious trial of sexual offences cases involving minors.
- Acquisition of a Braille unit for the visually impaired at Milimani High Court, Anti-Corruption Division.
- The training of chiefs on GBV in counties such as Homa Bay, Tharaka Nithi and Kirinyaga.

##### *Challenges Noted in Access to Justice for the Vulnerable Groups*

The following challenges were reported with respect to access to justice by the vulnerable groups:

- The process of having P3 forms filled by professionals is long, tedious, and costly for many SGBV victims. In some instances, the P3 Forms contain contradicting information.
- The increase in cases of early marriages and a rising number of children in need of care and protection.
- The few Borstal Institutions across the country, and the distance between them is large, rendering the handover process long.
- The lack of protection and care files for children in conflict with the law.
- The lack of legal representation for people living with disabilities.
- Delays in the assessment of age and mental health status.
- Stigmatization of vulnerable persons, including defilement victims and intersex persons.
- Absence of infrastructure to support victim interaction in the courtroom.
- Double registration of refugees.
- Failure to honour Parental Responsibility Agreements.

## *Areas of Reforms Proposed to Enhance Access to Justice for the Vulnerable Groups*

The following reforms were proposed to enhance access to justice by the vulnerable groups at the CUC level:

- Establishment of more Children Court Users' Committees (CCUCs) to handle grassroots challenges in the administration of children matters across the country.
- Increase in the sensitization of justice sector actors on handling defilement cases at all stages of the CJS chain.
- Enhancement of timely filing and processing of P3 forms.
- Sensitization of justice sector actors on the need to use PRC forms in children matters.
- Establishment and operationalization of more specialized SGBV courts in the country.
- Establishment of mechanisms to ensure effective and accurate record-keeping for children in conflict with the law.
- Enhancement of the legal aid scheme for vulnerable groups.

### **6.4.4. Infrastructural Improvement in the Justice System**

#### *Achievements on Infrastructure in the Grassroots*

The following achievements were witnessed at the grassroots as supported by the CUCs:

- Construction of children holding cells in Voi, Dadaab, Kandara and Ndhiwa.
- Installation of water tank at Madiany Law Courts.
- The opening of women's rescue centre in Bungoma County.
- The establishment of two modern data centres to increase the automation at Makueni.
- Provision of modern printers to some court stations to help digitise all court records.
- Improvement of Kadhis' Court facilities.
- Procurement of means of transport for children to and from YCTC.



*Kericho County CUC Chairperson, Hon. Justice Joseph Serгон, leads CUC members in receiving a motor vehicle to enhance access to justice at the grassroots in April 2023.*

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### *Challenges Experienced in Infrastructural Development at the Grassroots*

Some challenges noted at the CUCs level include:

- Inadequate means of transport to ferry children in conflict with the law, prisoners to court and justice sector actors in performing their work.
- Budgetary constraints that hinder the optimal performance of the justice sector.
- Shortage of counsellors, social workers, clinicians, and nurses at health facilities.
- Inadequacy of resources to operationalize mobile courts in remote areas.
- Insufficiency of Children Protection Units (CPUs) and inadequacy in sensitization of stakeholders.
- Insufficiency of office equipment.

### *Areas of Infrastructural Reforms Proposed*

The CUCs note the following recommendations for reforms:

- Establishment of child-friendly holding areas both at police stations and in prisons.
- Establishment of new court stations and introduction of mobile courts.
- Devolving of psychosocial support services to the counties.
- Deployment of additional judges.
- Provision of adequate means of transport to the justice sector.
- Allocation of adequate funds to the justice sector.
- Recruitment of more counsellors, social workers, clinicians, and nurses at health facilities.

### **6.4.5. Digitisation in the Justice System**

#### *Achievements in Digitisation of the Justice System at the Grassroots*

The following were achieved by the CUCs at the grassroots:

- Increase in infrastructure for virtual court hearings in Sirisia, Maseno and Marsabit Law Courts.
- Operationalization of electronic date fixing in various courts.

#### *Challenges Noted in the Digitisation at the Grassroots*

The following challenges in digitisation were noted by the CUCs

- The inadequacy of fit-for-purpose ICT equipment.
- Unreliable internet connectivity affecting virtual proceedings.
- Frequent power outages affecting operations of courts and virtual hearings.
- Network failures affecting electronic filing.

#### *Areas of Proposed Reforms on Digitisation at the Grassroots*

- Adoption of hybrid system of hearing matters.
- Installation of generators & solar systems.
- Training and building the capacity of justice sector staff on ICT.
- Equipping the justice sector with adequate fit-for-purpose ICT equipment.
- Upgrading of internet connectivity in the justice sector institutions.

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## 6.5. Proposed Interventions by CUCs by Reform Category

### 6.5.1. Legislative Reforms

The following legislative interventions were proposed by the CUCs to improve access to justice at the grassroots

- Reform to reduce instances of heavy enforcement of petty offences sentences causing overcrowding in prisons.
- Reforms to ensure adequate legal representation for children in contact and in conflict with the law.
- Reforms to remove the overlap in the jurisdiction of Political Parties Dispute Tribunal PPDT, IEBC and Registrar of Political Parties.

### 6.5.2. Policy Reforms

The following policy interventions were proposed by the CUCs to improve access to justice at the grassroots:

- Enhancement of diversion and plea-bargaining through adoption and operationalisation of policies and guidelines.
- Development of local SOPs on age assessment.
- Implementation of the ADR Policy to enhance expeditious dispute resolution.
- Increase the uptake of bail and bond as per the policy guidelines to reduce prison congestion.
- Prioritise development of infrastructure targeted at vulnerable groups, notably children, women, PWDs and intersex persons.
- Enhance victim and witness protection measures to minimise interference in sexual offences cases.
- Develop and implement policies to reduce frequent adjournment of cases.
- Develop policy to address the lenient bail and bond terms on offences touching on forests.
- Streamline the cashless system to assist in the processing of witness expenses.
- Maintain and document data on diverted matters.
- Devolve the National Forensic Laboratory to the County level.
- Establish additional mobile courts.
- Clearly designate Children's Courts to hear children matters.
- Execute warrants of arrest expeditiously.
- Notify NTSA and NLC when documents are deposited as security in court.

### 6.5.3. Administrative Reforms

The following administrative interventions were proposed by the CUCs to improve access to justice at the grassroots

- Improvement in the production of witnesses to court.
- Introduction of express cards for SGBV survivors as was done in the Sub-County Hospitals in Othaya
- Undertake measures to ensure timely signing of court decrees.
- Undertake measures to address delay in payments for pauper briefs.
- Undertake measures to address the delay in payments for compulsory acquisition of land.
- Undertake measures to address the failure to execute arrest warrants.

- Address failure to bond witnesses.
- Employ measures to reduce delays in typing of proceedings.
- Address laxity in communication when the court diary changes.
- Improve resources for CUCs and justice sector institutions.
- Enhance age assessment.
- Undertake measures to minimise the double registration of refugees.
- Ensure diversion of cases is carried out in strict adherence to policy guidelines and ensure proper documentation for transparency and accountability.
- Develop measures to avail police files on time.
- Conduct frequent prison mentions to aid in decongestion.
- Ensure that production orders are addressed directly to KPS.
- Ensure timely signing of committals and probation orders.

## **6.6. Achievements Realised by CUCs in Individual Counties**

Primarily, most of the programmes and activities carried out by the CUCs in FY 2022/23 aimed to enhance access to justice at the grassroots level by addressing local service delivery challenges. Consequently, this section provides detailed and cumulative achievements for CUCs across all counties.

### **1. Baringo County**

- Construction of premises with support from Tiaty NG-CDF in anticipation of Chemolingot Law Courts.
- Operationalization of mobile court sessions in Nginyang.

### **2. Bomet County**

- Enhanced reintegration of released inmates and probationers into the community.
- Coordinated issuance of IDs to marginalized communities.
- Trained on National Legal Aid Act.
- Adopted Court Annexed Mediation.
- Conducted a tree planting activity at Bomet Law Courts.
- Enhanced uptake of Active Case Management.
- Appointed liaison officer from the NPS to ensure effective coordination with ODPP.

### **3. Bungoma County**

- Trained about 100 healthcare workers on SGBV.
- Created SGBV clinics to give priority and a conducive environment for victims.
- Established a designated children's court at Sirisia Law Courts.
- Decongested prisons by conducting mentions and hearings.
- Reduced court brokers.
- Opened a women's rescue centre at Ndengelwa.
- Embraced virtual court proceedings.
- Adopted diversion in children matters.
- Expeditious disposal of children matters.
- Ensured that minors had legal representation.
- Increased number of referrals to Probation Officers.

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#### 4. *Busia County*

- Completion of Port Victoria Law Courts.
- Introduction of serialized warrants.
- Held the Environment and Land Court (ELC) open day.
- Planted 1200 tree seedlings.

#### 5. *Elgeyo Marakwet County*

- Commissioned the Iten E&L CUC.
- Planted trees at Kapchemutwa Forest.

#### 6. *Embu County*

- Completed and occupied the new court building.
- Appointed liaison officers for each police station to improve cooperation with the ODPP.
- Coordinated timely issuance of court dates.
- Reduced instances of missing files.
- Disposed of all pending inquests.
- Conducted public sensitization on SGBV, HIV/AIDS and teenage pregnancies.
- Conducted training of CUC members on the Children Act, 2022 and mediation.
- Increased the uptake of *pro bono* legal services in children matters, leading to timely dispensation of justice.
- Improved registration of pleas.
- Reduced case backlog through the introduction of a civil service week.

#### 7. *Garissa County*

- Engaged *pro bono* advocates to assist minors in conflict with the law.
- Established a children-holding cell at Dadaab Police Station.
- Trained police officers across the camps and the Dadaab police station.
- Reinstated registration of refugees.
- Engaged the National Registration Bureau to mitigate double registration.
- Trained medics on examining SGBV survivors to understand the gaps and improve the filing of the P3 forms.
- Sensitized CUC members on the jurisdiction of the Kadhis' court.

#### 8. *Homa Bay County*

- Improved bonding of witnesses.
- Improved availing of case files in courts.
- Acquired land from the community to construct of a children's holding facility.
- Expeditiously disposed sexual offences matters involving minors.
- Sensitized NGAO on succession matters.
- Undertook tree planting activities.
- Conducted public sensitization on SGBV, traffic laws and road safety.
- Completed the construction of children holding cells in Mbita.
- Improved case clearance rate.

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## 9. *Isiolo County*

- Formed a Council of Elders from the Somali, Samburu and Turkana communities to help in AJS.
- Assisted remandees in getting prosecution materials, typing of proceedings and plea bargaining.
- Trained and sensitized Child Justice CUC.

## 10. *Kajiado County*

- Trained members on AJS.
- Institutionalized AJS service week.
- Operationalised Court Annexed Mediation.
- Resolved disputes through AJS and other ADR mechanisms.

## 11. *Kakamega County*

- Reduced number of missing files.
- Improved interagency cooperation by justice sector actors.
- Reduced offences related to illicit brews.
- Rolled out mentorship programs in schools.
- Reduced defilement cases due to public sensitization.
- Conducted a prison decongestion exercise.
- Conducted sensitization with medical officers on expert witness testimonies.
- Sensitized the public on SGBV and the Children Act, 2022.
- Visited a Children's Home in Bukura as a Corporate Social Responsibility (CSR) activity.
- Cleared case backlog for children matters.

## 12. *Kericho County*

- Undertook mediation training for CUC members.

## 13. *Kiambu County*

- Timely processed emergency orders for placement of children.
- Visited the paediatric and new-born units at Gatundu Hospital, Kiambu Children Remand, Ngarariga and Kamirithu Secondary Schools during Child Justice Month.
- Conducted a prison decongestion exercise.
- Enhanced coordination between various justice sector actors.
- Adopted strategies to reduce case adjournments.
- Visited children remand homes.
- Conducted training on the Children Act, 2022 and financial management for members.
- Operationalised electronic date fixing for the court.
- Established the Limuru CCUC.

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#### 14. Kilifi County

- Trained CUC members on anti-corruption and integrity.
- Rolled out a program to register children 0-17 years of age whose details weren't captured at birth to assist in dealing with discrepancies in the age assessment process.
- Held a public awareness and sensitization forum for teachers, parents and pupils at local schools, covering, among others, a sensitization session on the Children Act 2022.
- Sensitized boda-boda riders and other target groups on diverse justice issues.
- Strengthened local partnerships by undertaking Corporate Social Responsibility (CSR) activities.
- Enhanced the availability of police files to court through on-time information sharing with the police about court attendance, a major challenge that had affected the courts.
- Developed Shanzu Counter Terrorism Court Guidelines.
- Inducted and operationalized the SGBV CUC.
- Procured a TV set for Kaloleni GK Prisons.
- Conducted a prison decongestion exercise.
- Sensitized Mariakani community on dispute resolution in land-related matters.
- Improved production of police files to Prosecution Counsel and Court by Rabai Police Officers.
- Sensitized CUC members on diversion and plea bargaining, ADR, sexual and reproductive health rights, GBV policies, legal framework and harm reduction.
- Sensitized justice sector actors on peace and violence for youth and parents.
- Developed a step-by-step procedure for opening a protection and care file and disseminated it to police stations, enhancing expeditious disposal of children's cases.
- Reviewed and reduced bail and bond terms for children in conflict with the law.
- Trained security and government agencies on handling of marginalised populations.
- Heightened partnership with the local administration on a multi-door problem-solving approach.
- Developed and disseminated a step-by-step procedure for opening a protection and care file to all police stations within the jurisdiction.
- Identified additional children's home and rescue Centre for children in urgent need of care and protection.
- Developed Standard Operating Procedures (SOPs) on age assessment.
- Coordinated renovation of the Marafa Mobile Court.
- Provided a suitable secluded waiting area for use by children while testifying.
- Planned, executed and completed the Child Justice Service Month 2022.

#### 15. Kirinyaga County

- Adopted Court Annexed Mediation (CAM) leading to expeditious disposal of cases.
- Improved arraignment of remandees to court.
- Reduced case backlog.
- Underwent training on election petitions.
- Constructed new toilet facilities and upgraded existing facilities targeting remandees and those in custody.
- Established children's holding facilities at Makutano Police Station.

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- Sensitized the public on proper hygiene while handling food.
  - Trained NGAO on writing succession introduction letters.

#### **16. Kisii County**

- Obtained a parcel of land from the County Government to develop justice sector infrastructure.
- Conducted prison decongestion exercises.

#### **17. Kisumu County**

- Reduced missing files.
- Sensitized CUC members on AJS.
- Launched and operationalized Kisumu CCUC.
- Improved production of remandees to court.
- Issued remandees with witness statements in good time.
- Launched the Maseno Children's Court Users' Committee.
- Acquired a television to facilitate virtual court hearings.
- Embraced ADR.
- Conducted training for Chiefs on the law of succession.
- Organized a legal aid clinic at Tamu Law Court.

#### **18. Kitui County**

- Launched and operationalised the Kitui E&L CUC.
- Conducted a tree planting exercise.
- Reduced the number of brokers in court significantly.
- Established and maintained a register for convicted sexual offenders.
- Appointed a liaison officer, resulting in the timely presentation of police files to court.
- Donated a TV set to Mutomo GK Prisons.
- Increased uptake of ADR.
- Expedient disposal of children matters.

#### **19. Kwale County**

- Provided legal aid and travel allowances to SGBV survivors to enhance their access to justice.
- Developed Standard Operating Procedures (SOPs) aimed at effective, efficient and prompt delivery of justice in Kwale County for SGBV cases.
- Conducted community outreach and awareness on SGBV.
- Operationalised a Child Protection unit (CPU) at Diani Police Station.
- Sensitized and built the capacity of gender desk and clinical officers to handle SGBV-related evidence collection and presentation.
- Reviewed and granted 107 out of 115 male remandees in Kwale G.K. Prisons bail and bond to decongest prison, and further granted 59 convicted offenders non-custodial sentences.
- Upscaled community engagement and undertook Corporate Social Responsibility (CSR) activities on tree planting and beach clean-up exercises.
- Constituted a committee to develop criteria for carrying out prison decongestion and develop an Action Plan for implementation.

- Held forums to address inefficiencies in the trial process, which led to increased efficiency in the production of police files by Kinango and Vurungani Police Stations.
- Improved efficiencies in the clearance of case backlog.
- Increased partnership with county government and access to justice for SGBV.
- Improved deployment of staff at the courts.

## 20. Laikipia County

- Improved availing of police files and witnesses to court.
- Obtained a provisional court building from Laikipia County Government pending the completion of construction of court premises.
- Supported the operationalising of Rumuruti Law Courts.
- Held a *pro bono* legal consultation camp.
- Established and operationalized the Rumuruti CUC.

## 21. Lamu County

- Undertook community sensitization programs through radio sessions, school visits and the Lamu Cultural Festival.
- Obtained land parcels from the Lamu County Government for use by the Judiciary.
- Undertook files disposal and destruction of 10,000 old court files.
- Trained CUC members on the UN Standard Minimum Rules for the Treatment of Prisoners.
- Strengthened coordination on matters of justice between state and non-state actors.
- Created awareness of Countering Violent Extremism among CUC members and community representatives.

## 22. Machakos County

- Increased adoption of mediation, especially for family matters.
- Improved the production of witnesses to court.
- Operationalized the Machakos E&L CUC.
- Conducted a sensitization campaign on SGBV and reproductive health in schools.
- Conducted a sensitization of CUC members on diversion for children in conflict with the law.
- Improved filing of cash bail receipts.
- Visited Kitengela GK Prisons and conducted a decongestion exercise.
- The NPS appointed liaison officers to increase efficiency.
- Improved serialization of committal warrants.
- Prioritized handling and conclusion of children matters.
- Launched and operationalized Mavoko CCUC.

## 23. Makeni County

- Established two modern data centres to increase the automation implementation capacity.
- Provided modern printers to court stations that would help digitize all court records.
- Conducted training for CUC members on GBV, stakeholder engagements, human rights and evidence preservation.
- Timely signed court decrees.

- Visited various children's homes and prisons as CSR activities.
- Established a Gender Recovery Centre at Wote.
- Expeditiously disposed children matters during the service month.

#### **24. Mandera County**

- Trained CUC members on children matters.
- Community sensitization on divorce in Bulla Mpya, Bulla Dana and Dandu.

#### **25. Marsabit County**

- Deployed court interpreters to ensure effective and timely disposal of matters.
- Improved quality of virtual proceedings.
- Reduced instances of missing police files.
- Expeditiously disposed children matters.

#### **26. Meru County**

- Improved availing police files to the ODPP.
- Established a timber yard by Meru GK Prisons to enhance the rehabilitation of prisoners by teaching carpentry and woodwork.
- Facilitated decongestion of Uruku GK Prisons through review of bail/ bond.

#### **27. Migori County**

- Addressed staffing shortages at the ODPP through lobbying for more prosecutors.
- Conducted training for chiefs on GBV.
- Expeditiously handled children matters.
- Renovated Kehancha Police Station through Kuria West NG-CDF.

#### **28. Mombasa County**

- Launch and operationalisation of the Mombasa Small Claims Court.
- Enhanced collaboration between ODPP and DCI towards verification of sureties.
- Embraced diversion with positive impacts to the community.
- Established gender desks at police stations.
- Undertook tree planting activities.
- Organized a legal aid clinic and sensitization on the ELC.
- Conducted sensitization through radio shows.
- On-time payments for pro-bono services.
- Constructed a rescue centre through County Government under the GBV Department.

#### **29. Murang'a County**

- Established and operationalized a customer service desk at Kangema and Murang'a Law Courts.
- Established a CCUC for Murang'a Law Courts.
- Ensured availability of pro bono advocates for children in conflict with the law at Kangema Law Courts.
- Sensitized public on the workings of the Judiciary through a public kiosk.
- Improved availing of police files.
- Established children and women holding cells in Kandara police station.
- Operationalised Kenol Law Courts and the CUC.
- Sensitized CUC members on the Children Act, 2022.

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### 30. *Nairobi City County*

- Procured a laptop for Nairobi Remand for use during virtual proceedings.
- Acquired a Braille unit for the visually impaired at Milimani High Court (Family Division).
- Revamped Toto Corner at Milimani High Court Family Division.
- Reviewed and launched a revised Service Charter for the Milimani Family Division.
- Conducted training on screening of matters to be referred to CAM.
- Promoted the use of ADR.
- Established integrity assurance desk at Milimani Commercial Law Courts to handle bribery and corruption issues at the registry.
- Established a pro bono legal office at Kibera Law Courts.
- Undertook prison decongestion service weeks.
- Trained paralegals on ADR.

### 31. *Nakuru County*

- Adopted AJS for expeditious dispute resolution.
- Established and operationalised the Nakuru E&L CUC and ELRC CUC.
- Aailed previous records for repeat offenders.
- Uptake and filing of matters at the Naivasha Small Claims Court.

### 32. *Nandi County*

- Operationalised new courts at Tinderet and Kabiyet in Nandi County.
- Registration of charge sheets is timely.
- Timely processing of pre-sentence and pre-bail reports.
- Sensitized the CUC members on the Children Act, 2022 and the role of the Probation department.

### 33. *Narok County*

- Incorporated AJS to aid in the expeditious disposal of cases.
- Tree planting exercise as part of CSR activities.
- Upgraded internet connectivity at Kilgoris ELC.
- Instituted an AJS service week.

### 34. *Nyamira County*

- Established a Prisons Liasion Office to enhance interagency collaboration.
- Lobbied for increased number of prosecutors.
- Increased adoption of diversion to aid in prison decongestion.
- Conducted a prison visit as part of a prison decongestion exercise.
- Established and operationalized the Nyamira County CCUC.
- Trained 30 community monitors to monitor and report SGBV-related issues.

### 35. *Nyandarua County*

- Decongested prisons through the use of plea bargaining, ADR and diversion
- Visited Mwiteithia Secondary School, Nakuru Remand Home and Tumaini Children's Home on CSR
- Trained members on pro bono services

- 
- Undertook CUC member training on intersex persons.
  - Operationalised the new Ol Kalou Law Courts.

### **36. Nyeri County**

- Implemented care reform strategy for children.
- Operationalised a Small Claims Court.
- Sensitised members on AJS.
- Formed Nyeri CCUC.
- Adopted AJS to aid in prison decongestion and expeditious disposal of cases.
- Introduced express cards for SGBV survivors in the Sub-County Hospital.
- Conducted sensitizations to CUC members on witness protection and intersex persons.
- Conducted a sensitisation in Chieni and Ririti Primary Schools on defilement cases.

### **37. Samburu County**

- Undertook prison decongestion activities.
- Reduced caseload by adopting AJS.

### **38. Siaya County**

- Enhanced timely registration of pleas.
- Adopted non-custodial sentences.
- Adopted ADR for dispute resolution.
- Provided counselling services for people with mental health challenges.
- Established and operationalised the Madiany CUC.
- Installed water tank at court premises donated by Rarieda NG-CDF.

### **39. Taita Taveta County**

- Completed construction of children and women holding cells.
- Sensitized of CUC members on diversion and plea bargaining.
- Community sensitization on criminal justice matters.

### **40. Tana River County**

- Goodwill and partnerships between CUCs, CSOs and donors.
- Provided a laptop, computer and Wi-Fi to Hola Police Station.

### **41. Tharaka Nithi County**

- Cleared pending payments of pro bono services at the High Court
- Launched a Court Annexed Mediation facility.
- Trained and sensitized NGAO.
- Conducted tree planting and market cleaning activities.
- Introduced Succession Service Week to clear the backlog.
- Obtained title deed for the court land at Marimanti.

### **42. Trans Nzoia County**

- Increased number of referrals to the Probation Department.

- 
- Improved interagency collaboration between the Judiciary and Probation department.
  - Enhanced adequate ICT infrastructure for the DCS.

#### **43. Turkana County**

- Launched Kakuma CCUC.
- Conducted community outreach activities.
- Trained and sensitized on the Children Act, 2022.

#### **44. Uasin Gishu County**

- Supported the resolution of cases within 30 days in the Small Claims Court.

#### **45. Vihiga County**

- Engaged in tree planting activities.
- Sensitized members of the public on environmental, children and SGBV-related issues.
- Timely execution of court orders for Vihiga and Mbale Police stations.
- Established SGBV desks in all police stations within Hamisi sub county.
- Conducted sensitization of the Children Act, 2022 to CUC members.
- Police and prison officers trained on committal warrants and register movement.

#### **46. Wajir County**

- Automated court processes.
- Expeditiously disposed cases.

#### **47. West Pokot County**

- Expeditiously disposed cases through mobile courts.
- Increased uptake of ADR in resolving disputes.
- Established an AJS desk at Kacheliba Police Station.

### **6.7. Achievements Realised by Tribunals' Users Committees**

#### **1. HIV and AIDS Tribunal**

- Collaborated with other stakeholders to implement its programmes and activities countrywide.
- Collaborated with County Governments to bring services closer to the people.
- Piloted programmes for satellite courts.
- Developed policy documents.
- Increased the number of cases reported.
- Reduced case backlog.

#### **2. Political Parties Dispute Tribunal**

- Organised induction and operationalized the TUC.

#### **3. Tax Appeals Tribunal**

- Organised induction and operationalized the TUC.



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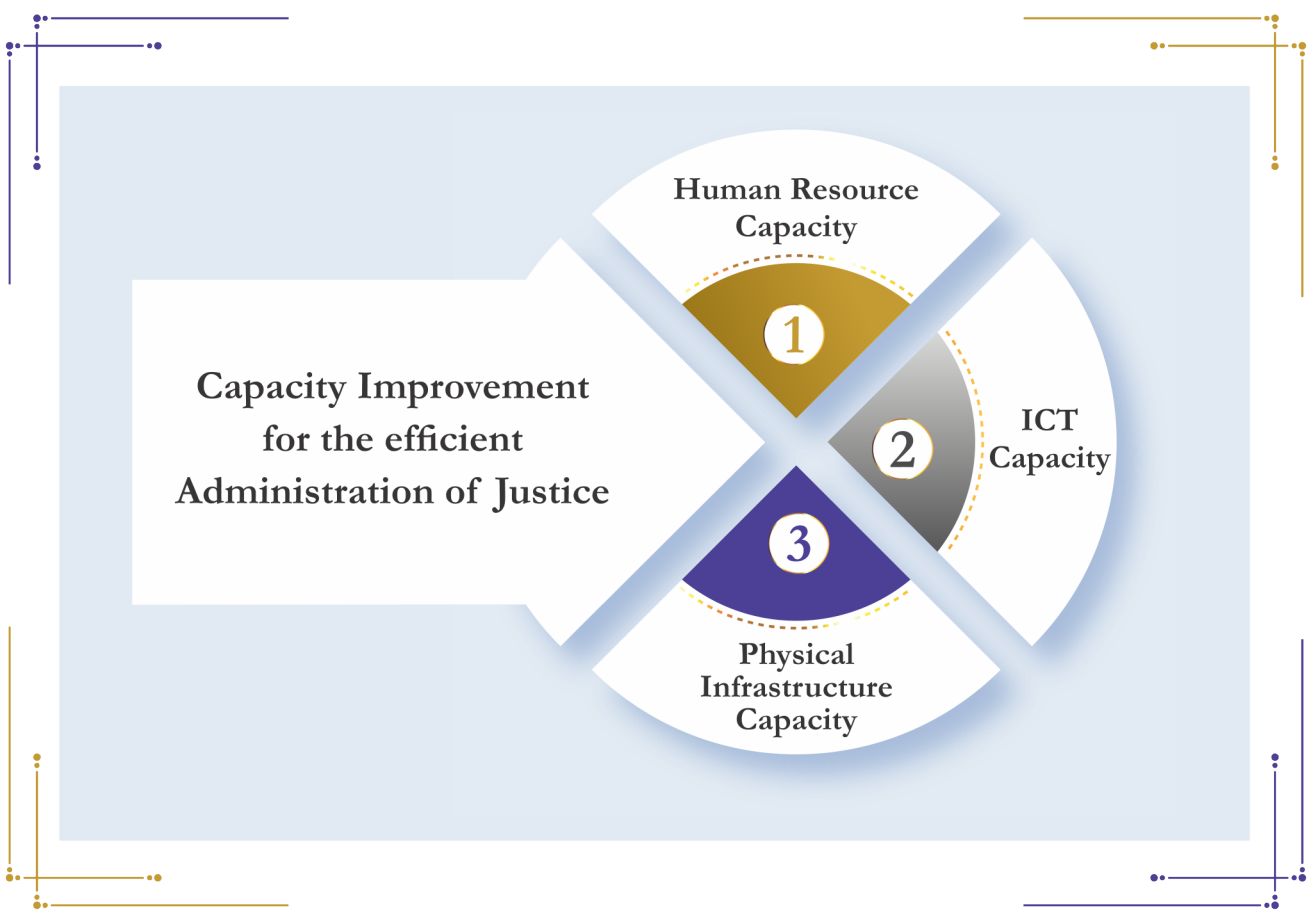
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Chapter

7



JUSTICE SECTOR  
CAPACITY AND  
SUSTAINABILITY



### 7.1 Introduction

This Chapter provides information on the human resource, infrastructural and information communication technology (ICT) capacities in the Justice Sector and the National Council on the Administration of Justice (NCAJ) Secretariat for the FY 2022/23. The Chapter further highlights the achievements, gaps and challenges experienced by the players in the Justice sector in strengthening their employees' capacity, physical infrastructure and the uptake of technology.

Adequate and highly trained human resource remains crucial for the justice sector. Since the justice sector is human resource intensive in service delivery, a talented and well-facilitated workforce is crucial for effective administration and access to justice. To deliver justice services, the availability and accessibility of physical infrastructure and amenities for justice sector institutions is crucial. Adequate and modern working tools, equipment and furniture are equally important. Further, safety in the workplace, both for the justice sector employees and clients, is essential.

In modern public service, especially in justice sector institutions, ICT adoption and increased uptake remain fundamental enablers. The lockdowns resulting from the COVID-19 pandemic necessitated the justice sector institutions to embrace ICT to serve clients in difficult situations. This experience was an eye-opener to most institutions on the magnitude in which ICT can act as an enabler in accessing justice sector services. Consequently, acquiring and implementing quality and integrated ICT solutions is crucial for the justice sector to effectively and efficiently fulfil its mandate.

### 7.2 Justice Sector Capacity



## 7.2.1 Justice Sector Human Resource Capacity

### *Staff Requirements and Recruitment in the Justice Sector*

Although various justice sector agencies continued to undertake recruitment and appointments to fill the human resource gap, the sector faced challenges in carrying out its tasks due to understaffing. In the year under review, within selected 17 NCAJ agencies, there were 44,906 employees against a total required staff establishment of 60,998, representing a 26 per cent gap. This information is elaborated in Table 7.1.

**Table 7.1: Number of employees in select NCAJ agencies, FY 2022/23**

No.	Agency	Approved Establishment	Employee Complement (In-Post)					No. of Persons with disability	% Gap of Employee Staffing
			Female	Male	Intersex	Total	Gap		
1	The Judiciary	10,105	3,146	3,047	0	6,193	3,912	109	39%
2	OAG & DOJ	1659	651	443	0	1,094	564	27	34%
3	ODPP	2286	696	602	0	1,298	988	24	43%
4	KPS	37868	7,338	23,898	0	31,236	6,632	91	18%
5	IEBC	1,045	319	564	0	883	162	9	16%
6	PACS	1,874	658	622	0	1,280	594	25	32%
7	NTSA	729	274	420	0	694	35	9	5%
8	EACC	1508	309	457	0	766	742	6	49%
9	KNCHR	400	59	67	3	129	271	2	68%
10	CAJ	292	56	54	0	110	182	1	62%
11	NCLR	163	44	32	0	76	87	3	53%
12	KLRC	270	32	36	0	68	202	0	75%
13	NLAS	100	17	9	0	26	74	0	74%
14	CLE	69	20	20		40	29	1	42%
15	NCRC	134	9	14	0	23	111	0	83%
16	WPA	296	45	70	0	115	181	0	61%
17	DCS	2200	443	432	0	875	1,325	0	60%
<b>Total</b>		<b>60,998</b>	<b>14,116</b>	<b>30,787</b>	<b>3</b>	<b>44,906</b>	<b>16,091</b>	<b>307</b>	<b>26%</b>

Recruitment and appointment of employees help justice sector institutions to find suitable candidates for vacant positions, adapt to the changing demands of the sector, and improve morale. By investing in recruitment, justice sector institutions ensure that they have the workforce they require to efficiently administer justice and ensure its accessibility.

The number of employees recruited and appointed in select NJAJ Agencies in the FY 2022/23 is given in Table 7.2.

**Table 7.2: Employee recruitment and appointments, FY 2022/23**

No	Institution/Agency	Female	Male	Total	PWD
1	The Judiciary	306	216	522	0
2	OAG & DOJ	94	67	161	2
3	ODPP	107	151	258	16
4	KPS	1183	3991	5174	0
5	IEBC	2	7	9	0
6	PACS	0	0	0	0
7	NTSA	15	25	40	2
8	EACC	9	6	15	0
9	KNCHR	4	2	6	0
10	CAJ	6	10	16	0
11	NCLR	0	2	2	1
12	KLRC	0	0	0	0
13	NLAS	0	0	0	0
14	CLE	2	3	5	0
15	NCRC	0	1	1	0
16	WPA	4	3	7	0
17	DCS	97	103	200	0
	<b>Total</b>	<b>1,829</b>	<b>4,587</b>	<b>6,416</b>	<b>21</b>

A total of 6,416 employees were recruited among the select Justice Sector agencies during the reporting period. Out of these, 21 were persons living with disabilities.



*Pass-out parade of newly recruited Prison Officers, FY 2022/23*

### *Employees Succession Management in the Justice Sector*

Institutions profile their staff according to their ages for succession management. This information also assists the institution in addressing demands of their staffing brought about by the age group and generation. Table 7.3 provides the details.

**Table 7.3: NCAJ agencies employees by age, FY 2022/23**

No	Institution/Agency	Total	18-29 yrs	30-39 yrs	40-49 yrs	50 yrs and above
1	The Judiciary	6,193	1,232	2,371	1,730	860
2	OAG & DOJ	1,095	115	461	297	222
3	ODPP	1,298	144	714	328	112
4	KPS	31,843	9,173	11,506	6,055	5,109
5	IEBC	880	13	299	322	246
6	NTSA	692	64	361	209	58
7	EACC	766	15	333	299	119
8	KNCHR	130	8	33	63	26
9	CAJ	110	4	49	47	10
10	NCLR	74	4	26	38	6
11	KLRC	68	1	37	7	23
12	NLAS	26	-	13	11	2
13	CLE	40	2	18	15	5
14	NCRC	23	-	11	9	3
15	WPA	115	3	46	51	15
	<b>Total</b>	<b>43,353</b>	<b>10,778</b>	<b>16,278</b>	<b>9,481</b>	<b>6,816</b>

Out of the total of 43,353 employees, 6,816 were 50 years and above. The undertaking of succession and retirement planning in advance would ensure that necessary skills and knowledge is transferred.

### *Exit from Service of Employees in the Justice Sector*

A total of 1,064 exited the justice sector institutions after attaining the mandatory retirement age as reflected in Table 7.4.

**Table 7.4: Exit from service of NCAJ agencies' employees, FY 2022/23**

No	Agency	Mandatory age	50 year Rule	End of contract	Death	Resignation	Dismissal	Transfer	Total
1	The Judiciary	88	0	0	16	43	19	0	166
2	OAG & DOJ	28	1	4	1	2	1	114	151
3	ODPP	7	1	0	2	17	2	7	36
4	KPS	150	68	3	116	8	98	16	459

5	IEBC	5	2	0	2	2	0	0	11
6	PACS	23	0	0	3	3	0	158	187
7	NTSA	0	0	1	0	10	1	1	13
8	EACC	8	0	3	0	10	1	0	22
9	KNCHR		0	2	0	1	0	0	3
10	CAJ	0	2	1	0	3	0	0	6
11	NCLR	0	0	0	0	0	0	0	0
12	KLRC	1	0	0	0	2	0	0	3
13	NLAS	0	0	0	0	0	0	0	0
14	CLE	0	0	0	0	1	0	0	1
15	NCRC	1	0	1	0	1	0	0	3
16	WPA	1	0	1	0	1	0	0	3
	<b>Total</b>	<b>312</b>	<b>74</b>	<b>16</b>	<b>140</b>	<b>104</b>	<b>122</b>	<b>296</b>	<b>1,064</b>

During the period under review, 312 out of the 1064 staff that left the institutions had attained the mandatory retirement age, while 140 of them left due to natural attritions. A total of 104 staff resigned from various agencies while 122 were dismissed on different grounds.

### 7.2.2 Justice Sector Infrastructural Capacity

To improve the accessibility of services and enhance access to justice, the proximity of services to the people through infrastructure enhancement was addressed during the reporting period as follows.

- The Office of the Attorney General and Department of Justice established a regional office in Kericho County.
- The Judiciary Rehabilitated buildings in 44 magistrate courts, refurbished the Forodha House. and completed the construction of court buildings in Embu Law Court and Port Victoria Court.
- The CAJ launched its regional office in Garissa County and, to increase the accessibility of their services to members of the public, continued to have presence in 12 Huduma centres spread across 12 counties, namely; Nairobi, Nakuru, Kajiado, Taita taveta, Kwale, Embu, Meru, Nyeri, Makueni, Kisii, Kakamega and Bungoma.
- Through the PLEAD 1 EU-funded programme, the following infrastructural improvements were undertaken.
  - i. Twenty-one (21) witness protection boxes were procured for the Witness protection agency.
  - ii. The office of the Director of Public Prosecution was provided with four Land Cruiser motor vehicles and 2 containerized offices in Winam & Shanzu.
  - iii. Sewerage improvements works was undertaken at Shanzu, Maseno, and Garsen Law Courts.
  - iv. Installation of solar systems for power backup at the Tawa, Kyuso, Mwingi, Garsen, Maseno, Shanzu and Tononoka Law Courts.

### 7.2.3 Justice Sector Information Communication and Technology Capacity

Standardization of ICT capacity and capability is a key factor to ensure timely service delivery across all the agencies. In this respect, the following progress was witnessed within the justice sector institutions.

#### *Review of Policy and Legal Environment for Justice Sector Digitization*

The NCAJ Working Committee on ICT was gazetted in 2022 to, among other things, identify legal, institutional, administrative and financial barriers that impede ICT uptake within the justice sector and to assess the ICT infrastructure required in Kenya for the effective and efficient administration of justice. The Committee developed a draft ICT Governance Structure to be adopted in the justice sector. This structure provides the frameworks, practices, and processes for the use of ICT with clear guidelines and standards to ensure that the sector leadership is involved in ICT decision-making processes and that all ICT projects and initiatives deliver value to the institutions as a strategic enabler of justice. This would provide order and reduce discretionary conduct and reactionary ICT activities. The Committee also undertook preliminary ICT infrastructure assessment for justice actors represented in the committee during the reporting period.

Through its Legal and Regulatory Sub-Committee, the Committee undertook a situational analysis, giving a background of the barriers impeding ICT uptake in the justice sector. Some of the identified barriers included outdated legislation, the lack of a legal framework supporting the uptake of e-justice, security and privacy concerns, and the lack of explicit provisions for the legal recognition of electronic documents and signatures, which made it difficult for the justice sector to fully take advantage of the benefits of ICT. Agencies were implored to provide at least 5% of institutional budgets to ICT and ring-fencing that budget item for justice sector institutions.

In partnership with UNODC under the EU PLEAD Program, the ICT Committee commenced discussions with the Estonian Centre for International Development (ESTDEV) to create synergies and build bridges between legal and ICT sector partners. The partnership aims to improve ICT knowledge and competence, capacity building and support of digitization, and identify existing gaps, needs, and required action in the ICT domain in the justice sector.

#### *Acquisition of ICT Hardware in the Justice Sector*

During the reporting period, most agencies acquired laptops, printers and desktop computers for their staff. Through the PLEAD I support, additional hardware was also procured for several of the justice sector entities as tabulated in Table 7.5.

**Table 7.5: ICT equipment donated to justice sector agencies through PLEAD**

Institution	Laptop	Keyboards and Mouse	Desktop Computers	Lenovo Monitor
The Judiciary	22	20	20	20
Witness Protection agency	22	20	20	20
Office of the Director Public Prosecution	22	20	20	20
Probate & Aftercare Services	22	20	20	20
<b>Total</b>	<b>88</b>	<b>80</b>	<b>80</b>	<b>80</b>



*The Hon Chief Justice and Chairperson of NCAJ receive computer donations from the EU Ambassador, HE. Henriette Geiger during PLEAD II Launch*

### *Acquisition and Development of ICT Software and Systems in the Justice Sector*

During the reporting period, various NCAJ agencies undertook ICT system development and other initiatives for integration as enumerated below.

- The NTSA implemented an upgraded Driver Training and Licensing platform with end-to-end driver management visibility. This includes offense profile, point recording and management capability, and a transport operator's module that manages public transport licensing and operations. A vehicle telematics platform and intelligent road safety management system (IRSMS) with a command centre that provides real-time data from vehicle speed limiters were adopted. A violations management platform was also adopted.
- To enable all existing courtrooms to utilise the central recording and storage system at the data centre, the Judiciary installed and migrated to the court recording and transcription system (CRTS) software for central recording. A transcription management system for the secondary data was installed in 37 courtrooms. The Judiciary engaged a new supplier for the supply and support of MS TEAMS software even as they continued to provide transcription services for court recordings in conjunction with the AJIRA project.
- The NPS commenced the development of a crime and intelligence information system to collect, collate, analyze and disseminate crime information. By the end of the reporting period, the system was 80 per cent complete.
- The Commission on Administrative Justice upgraded the complaint management system with the following new modules: the Access to Information portal, Investigations module, Research & Compliance modules and Performance Contracting Module.
- The DCI developed an automatic number plate reader system linked to the NTSA and an integrated information system within the digital occurrence book.

- The ODPP Uadilifu Case Management System was integrated in 21 out of 121 stations. The ODPP's *Malalamishi* platform sought to optimize case evaluation and complaints management. This innovative system aimed to empower the ODPP to review cases efficiently, pinpoint avenues for enhancement, and address citizen complaints transparently and precisely.
- The ODPP, in partnership with IJM Kenya, developed the Decision to Charge (DTC) App, a web-based application to complement the Uadilifu Case Management System. The platform allows prosecutors to fill in the decision to charge (DTC) forms online and offline from any location. The DTC App was borne out of the need to continuously develop and implement strategies for the efficient implementation and monitoring of the Decision to Charge Guidelines.
- The design, development and customization of an Integrated Public Complaints Referral Mechanism (IPCRM) to be hosted at the Ethics and Anti-Corruption Commission (EACC) was underway during the reporting period. This electronic information-sharing platform brings together the EACC, the Commission on Administrative Justice (CAJ), the Kenya National Commission on Human Rights (KNCHR), the National Cohesion and Integration Commission (NCIC), the National Anti-Corruption Campaign Steering Committee (NACCSC) and Transparency International (TI) Kenya Chapter. The platform is expected to integrate with each actor's complaints management system to undertake the referral function seamlessly.

### *Technical ICT Staff in the Justice Sector Agencies*

The number of ICT technical staff in the NCAJ institutions is limited. In the period under review, low numbers hampered the speed at which agencies adopted and implemented ICT initiatives. Information on the number of ICT staff in select NCAJ agencies is given in Table 7.6.

**Table 7.6: Technical ICT employees in NCAJ agencies, FY 2022/23**

No	Agency	Male	Female	Intersex	Total
1	The Judiciary	110	36	0	146
2	OAG & DOJ	3	3	0	6
3	ODPP	11	5	0	16
4	KPS	54	27	0	81
5	IEBC	50	15	0	65
6	PACS	1	1	0	2
7	NTSA	19	7	0	26
8	EACC	9	1	0	10
9	KNCHR	2	1	0	3
10	CAJ	2	1	0	3
11	NCLR	5	1	0	6
12	KLRC	2	0	0	2
13	NLAS	0	0	0	0
14	CLE	2	0	0	2
15	NCRC	0	2	0	2
16	WPA	2	3	0	5
17	IPOA	4	0	0	4
18	DCS	6	1	0	7
<b>Total ICT staff</b>		<b>282</b>	<b>104</b>	<b>0</b>	<b>386</b>

From Table 7.6, the select justice sector agencies collectively had 379 technical ICT employees supporting over 44,906 employees. Out of 386 technical ICT officers, 73 per cent are male while 27 per cent are female.

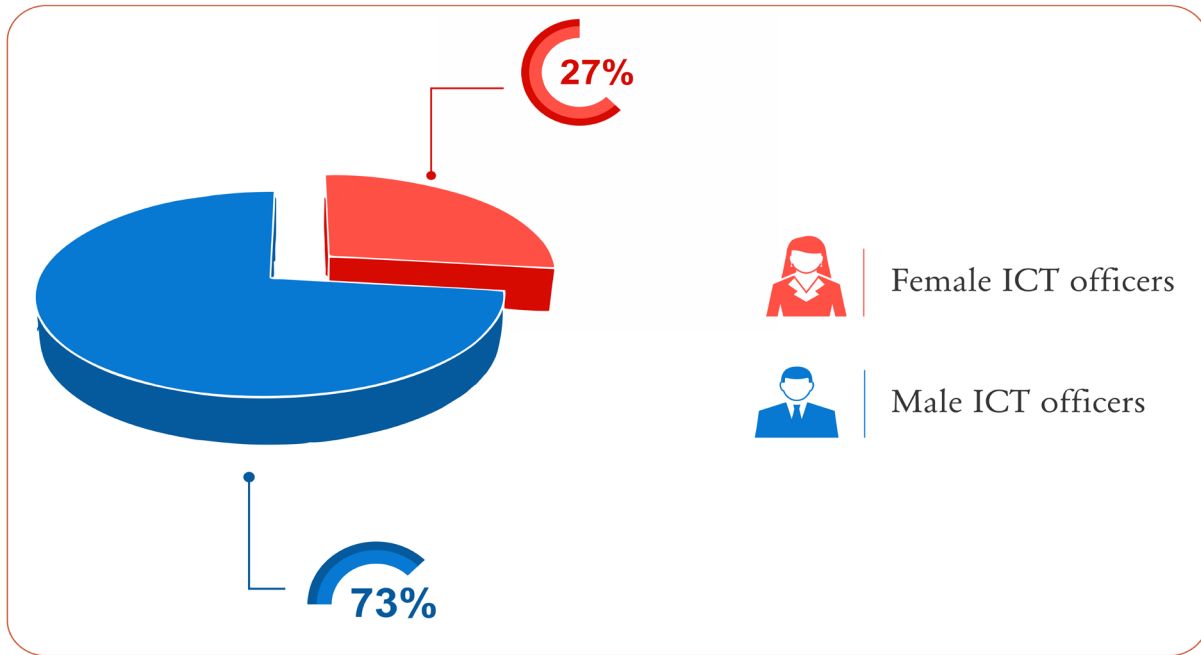


Figure 7.1: Percentage ICT officers by gender

### 7.3 NCAJ Secretariat Capacity

The NCAJ Secretariat plays a pivotal role in supporting the Council in coordination of the administration of justice and spearheading the reform agenda. Under the leadership of the Executive Director, the Secretariat ensures resolutions passed by the Council are implemented and provides technical and secretarial services to all the committees.

#### 7.3.1 NCAJ Secretariat Human Resource Capacity

##### *Staffing Level and Requirements of the NCAJ Secretariat*

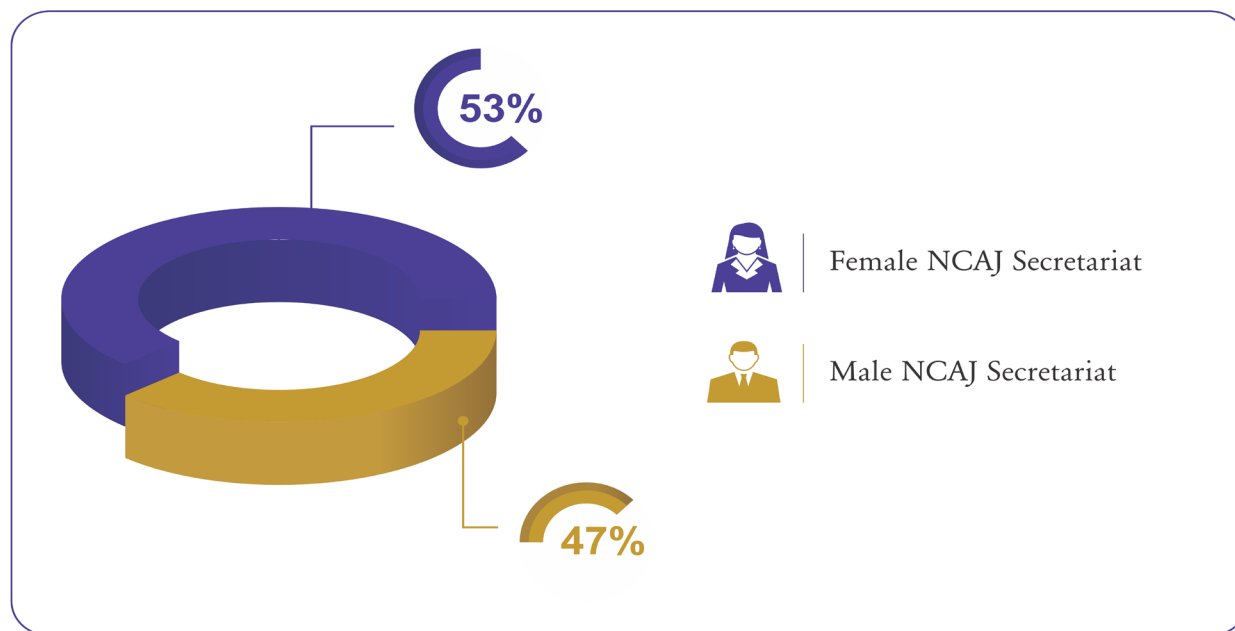
During the reporting period, the NCAJ Secretariat had 15 employees, out of which 12 had been deployed by the Judicial Service Commission (JSC) and Judiciary, while various partners had embedded the rest. Table 7.7 illustrates the Secretariat's staff establishment during the period under review.

Table 7.7: NCAJ secretariat staffing by department, FY 2022/23

Department/ Unit	Female	Male	Total
1. Office of the Executive Director	1	2	3
2. Criminal Justice Reforms Department	1*	0	1
3. Civil Justice Reforms Department	0	0	0
4. Access to justice for Vulnerable Groups Department	1*	0	1
5. Council Coordination Department	1	0	1
6. Court Users Committee Department	2	1*	3
7. Human Resource & Administration Department	1	2	3
8. Finance and Accounts Department	1	1	2
9. Supplies Chain Unit	0	1	1
10. Monitoring, Evaluation and Learning Department	0	0	0
<b>All Staff</b>	<b>8</b>	<b>7</b>	<b>15</b>

*\*supported by partners*

The establishment of 15 staff is less than the recommended establishment of 33 employees, implying a 55 percent deficit. As illustrated in Figure 7.2, 53 percent of the NCAJ secretariat were female, while the remaining 47 percent were male.



**Figure 7.2: Percentage composition of the NCAJ secretariat staff by gender**

### *Skills Development at NCAJ Secretariat*

Five Secretariat staff members were trained in various thematic areas to enhance their skill level. The Head of Accounts and the Head of Supply Chain undertook professional training in their respective areas of specialization, with the Office Assistant being trained on motorcycle defense riding. The Executive Director and the Head of the Department of Vulnerable Groups were trained on delinquency prevention and the community-based rehabilitation of children in conflict with the law. More training was earmarked for the next reporting period.

### *Internship and Attachment at NCAJ Secretariat*

In the course of the reporting period, the Secretariat received and attached eight students to various departments for a duration of between three and six months each to provide the young professionals with the opportunity to gain practical work experience, a crucial part of their career development. The internship program was expanded to accommodate young professionals who had finished their undergraduate degrees. The program draws a sizeable number of young professionals whose input goes a long way in preparing them for work-life exposure.

### *Enhancing Internal Policy Environment at NCAJ Secretariat*

The Secretariat engaged a communication strategy consultant to assist in developing the NCAJ communication strategy with the assistance of the UNODC. At the end of the reporting period, the draft Strategy had been subjected to two (2) stakeholder interactions with representatives from the NCAJ Council Members' institutions. The Strategy is to be completed in the FY 2023/24.



*Stakeholder Engagement for the NCAJ Communication Strategy*

### ***Performance Management at NCAJ Secretariat***

In FY 2022/23, the NCAJ’s leadership, through the Executive Committee, recognized the need for distinct and autonomous performance management for NCAJ, separating it from that of the Judiciary. The Performance Management Measurement Understanding (PMMU) is the primary tool for the overall Secretariat performance and that of the Departments. The performance targets are then cascaded to individual employees using the Performance Appraisal System (PAS).

Before the commencement of the period under review, the number of performance programmes averaged around 50 annually, with this number rising to 176 in FY 2022/23. The PMMUs rose to 8, a notable increase from the previous single PMMU when NCAJ Secretariat performance was domiciled within the Judiciary. The overall performance of the NCAJ Secretariat stood at 98 per cent during the review period, up from 85 percent recorded in the previous period.



*Handing over of signed PMMU for the FY 2022/23 by Chairperson and Secretary NCAJ to NCAJ Executive Director for implementation.*



*Performance Negotiation and Target Setting for FY 2022/23 between Chairperson NCAJ and the NCAJ Secretariat led by the Executive Director.*

### ***Improvement of Work Environment***

The NCAJ Secretariat held a staff retreat in Mombasa in March 2023 to review performance and explore areas of enhancing the work environment for optimal support to the Council. During the retreat, the staff participated in team-building exercises for improved performance. Diverse topics on employee wellness and team spirit were covered. To safeguard the office and boost security, a security personnel was deployed at NCAJ premises.



*Wellness and Team building Retreat for NCAJ Secretariat*

### **7.3.2 NCAJ Secretariat Infrastructural Capacity**

To ensure a conducive working environment, the NCAJ secretariat offices were renovated and refurbished, and additional furniture was provided for the staff. A section was set out to create a resource centre to provide the secretariat and NCAJ agencies with a one-stop library for materials and publications once fully stocked.

### 7.3.3 NCAJ Secretariat ICT Capacity

The Secretariat enhanced its ICT infrastructure and boosted Wi-Fi accessibility. The ICT support services were also reinforced to ensure seamless day-to-day operations. The Secretariat continued to increase its visibility in the social media space by timely and accurate updates of events on its social media accounts. To enhance its efficiency, the NCAJ Secretariat received 42 computers from UNODC through the European Union Funded PLEAD 1 project for internal use and external to CUCs. The staff, e-resource centre, the CUCs monitoring, reporting and analysis (MORAS) system and the proposed council e-board system were also allocated equipment to enhance performance.



*The Executive Director of NCAJ receiving ICT equipment from Ms. Irene Omari of UNODC under PLEAD I Project funded by the European Union.*

To enhance monitoring and reporting of the status of the administration of justice at the grassroots, a consultant was engaged through the IDLO to develop and implement CUCs MORAS system to enhance the efficiency of the Secretariat in reporting information from the grassroots.

## 7.4 Justice Sector Capacity Challenges and Recommendations

During the year under review, the Justice Sector faced diverse challenges on different capacities inadequacy. Useful lessons were also learnt leading to recommendations for future improvement.

### 7.4.1 Human Resource Capacity

#### *Challenges*

The following are some of the HR challenges that were reported to have been experienced in the justice sector during the period under review:

- Talent retention challenges due to restrictive organizational structure leading to a high turnover of specialized and highly skilled staff.

- Low morale due to poor remuneration yielding high staff turnover.
- Inadequate budgetary allocation and inadequate staff.
- Instances of increased workload leading to work-related stress and burnout.
- Limited resources hindering the Agencies from providing adequate training and professional development opportunities, leading to employees' skill gaps.
- Instances of an uncondusive work environment due to overcrowding.
- Sub-optimal succession management.
- Staff stagnation due to inadequate establishments for upward mobility.

### *Proposed Recommendations*

- Entrench progressive salary reviews to adequately remunerate professionals, hence reduce turnover and improve morale.
- Review career progression guidelines to ensure professionals are appropriately and strategically placed in terms of structure of the organization.
- Increase budgets to support the rapid upskilling of employees to keep up with evolving and emerging issues in the justice sector.
- Effective and efficient planning and implementation of the organizational structures.
- Prioritise staff recruitment and welfare programmes to build effective and efficient teams.
- Put in place a robust succession and retirement plan to promptly fill employee gaps.

#### **7.4.2 Infrastructural Capacity**

Inadequate funding, coupled with the scarcity of land, continued to hinder the provision and growth of infrastructure across the justice sector agencies. Hence, it is recommended that provisions be increased on budgets for capital projects, including exploring partnerships with financiers. The provision will facilitate the construction of new structures, upgrading the existing ones, and the purchase of motor vehicles.

#### **7.4.3 ICT Capacity**

##### *Challenges*

- Inadequate and/or lack of internet connectivity.
- Increased cybersecurity threats.
- Poor maintenance and lack of proper ICT training and sensitisation.
- Limited ICT staff across justice sector agencies.
- Inadequate training on ICT for employees leading to skills gap.
- The lack of an ICT system and budget allocation for the same has made integration of service delivery in the justice system difficult.

##### *Proposed Recommendations*

- Provide additional ICT budget to justice sector agencies.
- Lobby for adequate funding for ICT projects through NCAJ.
- Establish an ICT Directorates for all NCAJ actors.
- Acquire diverse and modern ICT equipment.
- Train staff on ICT.
- Conduct regular security assessments, implement advanced threat detection tools, and provide cybersecurity training and awareness to staff.

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Chapter

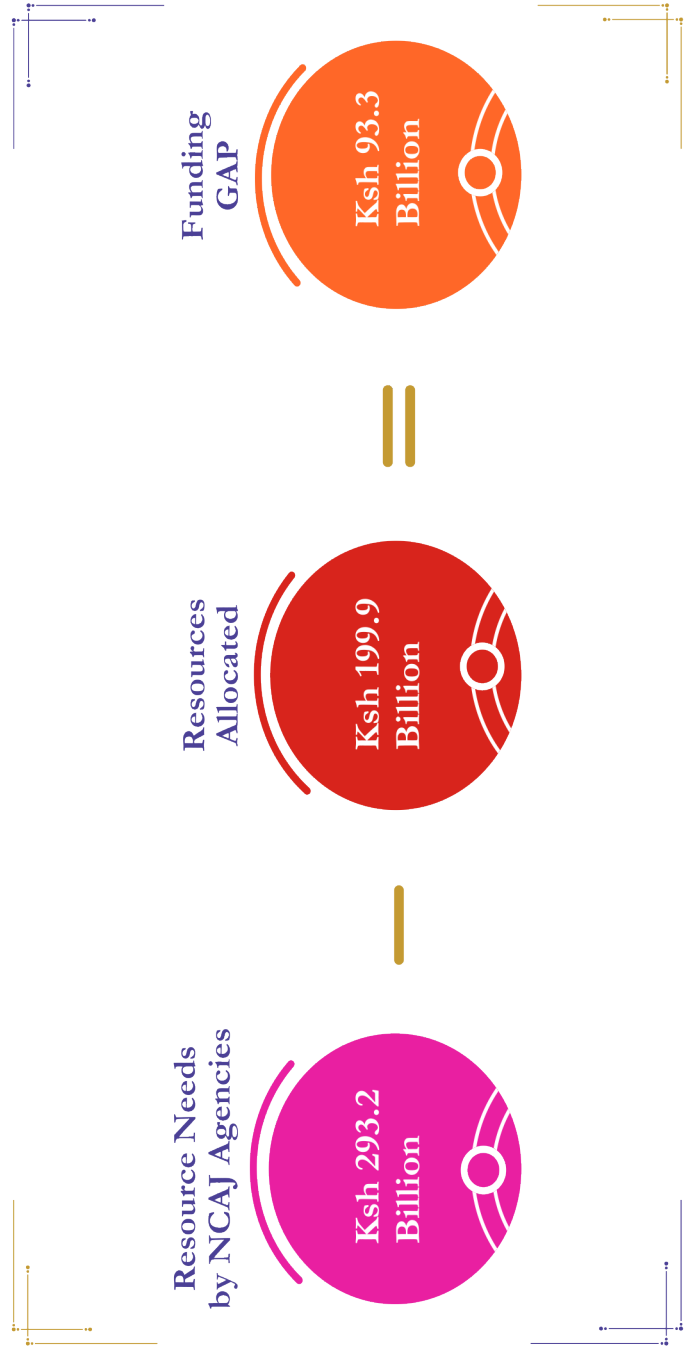
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8



NCAJ FINANCIAL  
RESOURCES AND  
UTILISATION



## 8.1 Introduction

Financial resources are essential to the coordination and reforming the justice sector. The successful implementation of programmes in the NCAJ Strategic Plan 2021-2026 is heavily reliant on adequate financial resources. Similarly, NCAJ agencies require optimal and reliable funding, amongst other needs, to execute their mandate and provide quality services to the public. In the FY 2022/23, NCAJ and its agencies were primarily funded by the Government. Additionally, there was financial partnership from the development partners, civil society organisations (CSOs) and the private sector.

This chapter provides an analysis of National Council on the Administration of Justice (NCAJ) and its agencies' financial requirements, allocation and mobilization, and budget absorption for FY 2022/23. The chapter also flags the financial gaps and their impact on the Administration of justice. The analysis further gives a comparison of the overall national budget and that of select NCAJ agencies. Lastly, the chapter highlights the justice sector financial constraints and ensuing recommendations for increasing justice sector financing.

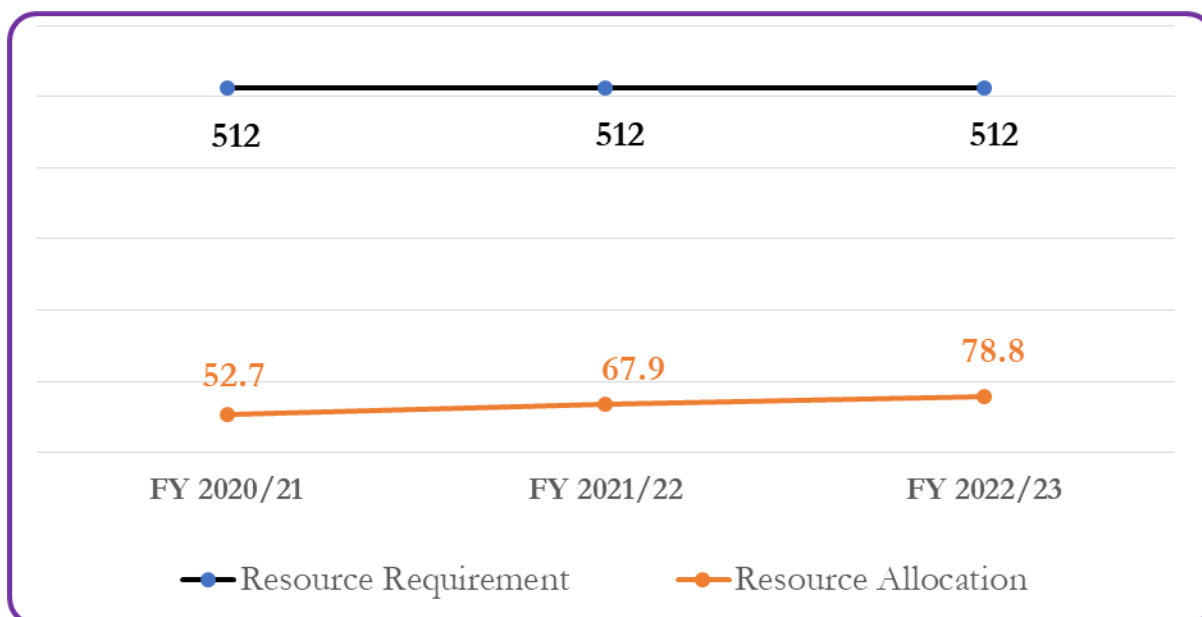
As elaborated in Chapter One, NCAJ comprises both state and non-state actors pursuant to Section 34 of the Judicial Service Act, 2011. Other agencies are co-opted to support the NCAJ's mandate of enhancing coordination and reforms in the Administration of justice. This chapter, however, focuses on state agencies whose primary mandate is linked to the Administration of justice and are funded through the exchequer. They are classified under the Governance, Justice, Law and Order (GJLO) Sector under the National Treasury's Medium Term Expenditure Framework (MTEF) for budgeting.

## 8.2 The NCAJ Budget Requirement, Allocation and Utilisation

The NCAJ Secretariat budget caters for the Secretariat, Council and its Committees. In the FY 2022/23, the NCAJ Secretariat budget was formulated, implemented and accounted for through the Judiciary budgeting process. The NCAJ Secretariat operated as a spending unit under the Judiciary, participating in the Judiciary budget preparation forums. Foremost, the Secretariat prepared and submitted the Medium-Term Expenditure Framework Report, outlining resource requirements and the performance review. Subsequently, and upon receipt of the budget ceiling, a final work plan and procurement plan for the FY 2023/24 were prepared covering the priority programmes for each Key Result Area (KRA) of the Strategic Plan 2021-2026.

### 8.2.1 Budget Requirement and Allocation for the NCAJ

The estimated annual budget requirement to finance the NCAJ programmes is KShs 512 million. However, the allocation to NCAJ from the Judiciary was KShs 78.8 million. This allocation comprises approximately KShs 30 million directly disbursed to CUCs, KShs 22.2 million for office operations, and approximately KShs 26.6 million for the personnel emoluments (PE) of NCAJ Secretariat that is directly processed and paid by the Judiciary. The allocation of KShs 78.8 million signified an underfunding of KShs 433.2 million, which hindered the implementation of most priority programmes. Figure 8.1 compares the NCAJ budgetary requirements and allocation between the FY 2020/21 and 2022/23.



**Figure 8.1: NCAJ Secretariat funding gap, FY 2020/21 to 2022/23 (KShs. Millions)**

Figure 8.1 shows that the NCAJ had an average resource requirement of KShs 512 million for the past three years and an average direct budgetary allocation of KShs 66.5 million.

### 8.2.2 Budget Utilisation at NCAJ

The entire allocation of KShs 22.2 million in FY 2022/23 was primarily utilised for office maintenance consumed (KShs 13.4 million) and rent payments (KShs 8.2 million.) Table 8.1 shows the approved NCAJ budget versus the actual expenditure for FY 2021/22 and FY 2022/23.

**Table 8.1: Expenditure analysis of the NCAJ budget, FY 2022/23 (KShs Millions)**

FY	FY 2021/22			FY 2022/23		
	Approved Budget	Actual Expenditure	Absorption	Approved Budget	Actual Expenditure	Absorption
Office operations & maintenance	12	11.1	93%	13.6	13.4	99%
Office rent	8.3	8.2	99%	8.6	8.2	95%
<b>TOTAL</b>	<b>20.3</b>	<b>19.3</b>	<b>95%</b>	<b>22.2</b>	<b>21.6</b>	<b>97%</b>

The NCAJ budget absorption improved from 95 per cent in FY 2021/22 to 97 per cent in FY 2022/23, as reflected in Table 8.1. The improvement in absorption rate is attributed to the operationalization of the NCAJ accounting System and the prompt release of funds by the Judiciary.

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### 8.2.3 Areas Adversely Affected by Budget Underfunding at NCAJ

The key priority areas adversely affected by low funding included the acquisition of the required staff, criminal and civil justice reforms, administration of justice for vulnerable persons, ICT uptake, and justice sector monitoring. However, some of the crucial priority programmes were carried out through the support of justice sector partners. Some of the specific areas that were adversely affected by underfunding were;

- Facilitation of the reforms spearheaded by the NCAJ Working Committees. These cover the development of laws, policies, guidelines and the associated IEC materials.
- Strengthening grassroots justice programmes and activities through the CUCs, including support for the quarterly meetings, provision of essential working tools, and training on emerging issues.
- Development, interlinking and maintenance of ICT systems.
- Coordination of implementation of measures to reduce corruption.
- Coordination of pro-bono legal services.
- Coordination of traffic reforms.
- Recruitment, training and capacity building of employees. Further, provision of the requisite working tools like computers, printers and office furniture was affected.
- Stakeholder engagement, civic education and public participation in legal and policy reforms.
- Undertaking of service delivery initiatives like coordinated prison decongestion exercises.
- Carrying out monitoring and evaluation programmes.

### 8.3 The Budgetary Requirement, Allocation and Utilisation for the NCAJ Agencies

The NCAJ agencies undertake programmes as per their mandate and whose implementation leads to the efficient and effective administration of justice in Kenya. In the reporting period, the prioritized programmes included, among others, the provision of national security, the provision of public prosecution services, the dispensation of justice, the provision of correctional and rehabilitation services, the promotion of good governance, civil justice reforms, and other rule-of-law interventions and initiatives. The implementation of these programmes was made possible through direct funding by the GoK and partnership with development partners.

#### 8.3.1 Resource Requirements for the NCAJ Agencies

The resource requirements for some select NCAJ agencies stood at KShs 293 billion in FY 2022/23. The requirement comprised KShs 35 billion (12%) for development activities and KShs 258 billion (88%) for recurrent expenditure.

Table 8.3 presents the NCAJ agencies' budgetary requirements for the recurrent and development expenditure.

**Table 8.2: NCAJ agencies budget requirements, FY 2022/23 (KShs Millions)**

No	Institution	Recurrent	Development	Total
1	The Judiciary	32,594	6,961	39,555
2	Office of the Attorney General	5,128	595	5,723
3	Office of the Director Public Prosecutions	3,984	555	4,539
4	National Police Services	122,321	20,240	142,561
5	Ethics and Anti-Corruption Commission	5,089	1,060	6,149
6	Kenya Prisons Service	42,465	3,227	45,692
7	Probation & Aftercare Department	5,246	355	5,601
8	Witness Protection Agency	856	-	856
9	Kenya Law Reform Commission	331	-	331
10	Victim Protection Board	38	-	38
11	National Council for Law Reporting	523	-	523
12	Council for Legal Education	359	-	359
13	Independent Police Oversight Authority	1,662	-	1,662
14	Kenya National Commission on Human Rights	571	-	571
15	National Land Commissions	4,943	525	5,468
16	Commission on Administrative Justice	1,404	-	1,404
17	National Transport and Safety Authority	2,711	1,170	3,881
18	National Crime Research Centre	199	-	199
19	Council of Governors	317	-	317
20	Independent Electoral and Boundaries Commission	27,302	-	27,302
<b>Total</b>		<b>258,042</b>	<b>34,688</b>	<b>292,731</b>

*Source: NCAJ analysis using data from the National Treasury Sector Budget Proposal Reports*

The National Police Service had the highest funding need of KShs 143 billion (49% of the listed agencies' requirements), while the Victims Protection Board recorded the lowest budgetary requirement of KSh38 million (0.01%) of the listed agencies' total financial requirement.

### 8.3.2 Resource Allocation for the NCAJ Agencies

In FY 2022/23, the overall resource allocation towards listed NCAJ agencies amounted to KSh199.82 billion compared to KSh166.15 billion allocated in FY 2021/22. This comprises KShs 3.9 billion (2%) for development activities and KShs 195.88 billion (98%) for recurrent expenditure.

Table 8.4 presents budgetary allocation to NCAJ agencies for FY 2022/23.

**Table 8.3: Budget allocation to the NCAJ Agencies, FY 2022/23 (KShs Millions)**

No	Institution	Recurrent	Development	Total
1	The Judiciary	19,232	1,900	21,132
2	Office of the Attorney General	4,686	97	4,783
3	Office of the Director Public Prosecutions	3,670	12	3,682
4	National Police Service	104,931	631	105,562
5	Ethics and Anti-Corruption Commission	3,521	47	3,567
6	Kenya Prisons Service	29,787	306	30,093
7	Probation & Aftercare Department	1,780	199	1,978
8	Witness Protection Agency	632	-	632
9	Kenya Law Reform Commission	293	-	293
10	Victim Protection Board	32	-	32
11	National Council for Law Reporting	365	-	365
12	Council for Legal Education	342	-	342
13	Independent Police Oversight Authority	927	-	927
14	Kenya National Commission on Human Rights	451	-	451
15	National Land Commissions	1,482	-	1,482
16	Commission on Administrative Justice	578	-	578
17	National Transport and Safety Authority	2,382	742	3,124
18	National Crime Research Centre	192	-	192
19	Council of Governors	211	5	216
20	Independent Electoral and Boundaries Commission	20,389	-	20,389
	<b>Total</b>	<b>195,883</b>	<b>3,939</b>	<b>199,821</b>

*Source: NCAJ analysis using data from the National Treasury*

Table 8.4 shows that the National Police Service received the highest budgetary allocation of KShs 105 billion (53 % of the listed agencies' budget), while the Victims Protection Board had the lowest allocation of KShs 32 million (0.02%).

### 8.3.3 Comparison of the National Budget and NCAJ Agencies' Budget

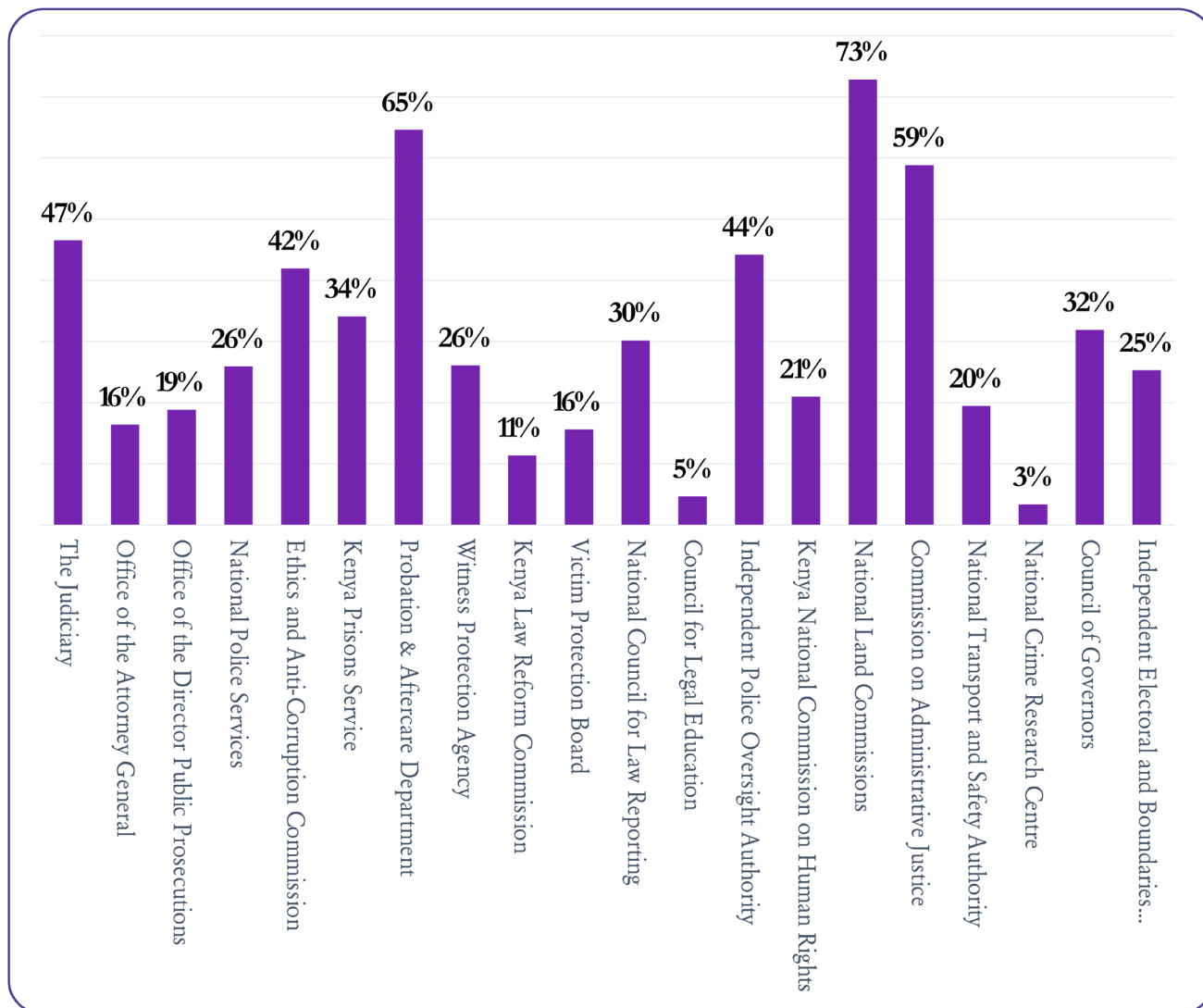
The National budget for the FY 2022/23 was KShs 3,663 billion, whereas that for NCAJ agencies was KShs 199.82 billion, representing 5.4 percent of the total national budget. The comparison between the total national budget and that allocated to the NCAJ agencies is shown in Table 8.2.

**Table 8.2: National budget Vs. NCAJ agencies' budget, FY 2022/23**

National Budget (KShs Billion)	3,663
NCAJ Agencies Budget (KShs Billion)	199.8
% Budget Allocation to NCAJ Agencies	5.4%

### 8.3.4 Resource Gap for the NCAJ Agencies

The total GoK funding for some core NCAJ agencies in the FY 2022/23 was KShs 199.82 billion out of a resource requirement of KShs 293 billion, yielding a resource gap of KShs 92.9 billion. This is despite an increase in the budget allocation of KShs 33.67 billion from KShs 166.15 billion in FY 2021/23 billion to KSh199.82 billion in FY 2022/23. Figure 8.2 shows the percentage resource gap by agency.



**Figure 8.2: Percentage funding gap for NCAJ agencies**

*Source: NCAJ analysis*

Figure 8.2 reveals that the budget allocation was less than the respective agencies' resource requirement. This slowed down service delivery hindering the efficient administration of justice.

### 8.3.5 Budget Utilisation by NCAJ Agencies

The FY 2022/23 gross expenditure amounted to Kshs 197.18 billion, recording an absorption rate of 99 per cent, compared to 95 per cent (KSh158 billion), recorded in FY 2021/22. Table 8.5 shows the expenditure analysis by the NCAJ Agencies for FY 2022/23.

**Table 8.4: Analysis of expenditure by NCAJ Agencies, FY 2022/23 (KShs Millions)**

No	Institution	Budget	Expenditure	Absorption
1	The Judiciary	21,132	20,178	95%
2	Office of the Attorney General	4,783	4,588	96%
3	Office of the Director Public Prosecutions	3,682	3,666	100%
4	National Police Services	105,562	105,562	100%
5	Ethics and Anti-Corruption Commission	3,567	3,470	97%
6	Kenya Prisons Service	30,093	30,001	100%
7	Probation & Aftercare Department	1,978	1,691	85%
8	Witness Protection Agency	632	634	100%
9	Kenya Law Reform Commission	293	293	100%
10	Victim Protection Board	32	32	100%
11	National Council for Law Reporting	365	364	100%
12	Council for Legal Education	342	311	91%
13	Independent Police Oversight Authority	927	901	97%
14	Kenya National Commission on Human Rights	451	450	100%
15	National Land Commissions	1,482	1,482	100%
16	Commission on Administrative Justice	578	569	98%
8	National Transport and Safety Authority	3,124	2,255	72%
18	National Crime Research Centre	192	189	98%
19	Council of Governors	216	215	100%
20	Independent Electoral and Boundaries Commission	20,389	20,333	100%
<b>Total</b>		<b>199,821</b>	<b>197,184</b>	<b>99%</b>

*Source: National Treasury Budget Books, 2022/23, MDAs & Controller of Budget Report, August 2023*

Table 8.5 shows that the agencies had a high budget absorption rate, implying they could have absorbed additional funds.

### 8.3.6 Resource Mobilization in the Justice Sector

The mainstream funding for NCAJ and its state agencies is through the National Exchequer funds appropriated by the National Assembly. However, other funding sources may include conditional and unconditional grants from development partners, internal and external borrowing and transfers from other government units.

In FY 2022/23, there was strengthening of partnership and collaboration with diverse partners for technical and financial support. The partnership and collaboration entailed engagement with development partners like the EU, UN bodies, IDLO, among others. Further, technical and financial cooperation from diverse national and internal CSOs as well as private sector was pursued.

A notable partnership was the EU-funded Programme for Legal Empowerment and Aid Delivery in Kenya (PLEAD) phase two, launched during the year under review and implemented by UNODC and UNDP. The expected strategic outcomes of PLEAD 2 are enhancing the criminal justice effectiveness in combating corruption, improving the administration and coordination of the justice sector, increasing the competence, quality and efficiency of criminal justice institutions, and enhancing access to legal aid, particularly for vulnerable persons. Under PLEAD 2, a partnership worth EUR 35.3 million was entered into and is scheduled to run until 2027. The programmes supported through PLEAD during the period under review have been reported in the other chapters.



*Heads of beneficiary institutions during the launch of the PLEAD 2*

During the period under review, the Council approved the engagement with World Bank for potential funding of the administration of justice programmes. The strategic initiative was delegated to the Hon. Attorney General, assisted by the Executive Director of NCAJ. Although various initial meetings were held with the Bank officials, more significant progress is expected in FY 2023/24.

#### **8.4 Financial Challenges and Recommendations**

The NCAJ and its agencies encountered numerous financial challenges during the period under review. This section covers the financial challenges the NCAJ and its agencies faced in the FY 2022/23 and the proposed interventions.

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### 8.4.1 Challenges

During the year under review, NCAJ and its agencies encountered financial challenges that slowed the uptake and completion of projects, programmes and activities. These challenges impacted negatively on the administration of justice. Some of them are:

- Inadequate funding of the justice sector institutions against the high demand for its services.
- Lack of a framework to operationalize the joint financing of NCAJ by member agencies. The current funding model heavily relies upon the Judiciary, yet NCAJ is a multi-institution body.
- Inflationary pressures adversely affected the acquisition of the desired level of goods and services and constrained NCAJ and its agencies' budgets.
- The delay in the release of exchequer led to an accumulation of pending bills and delayed project completion.
- Slow adoption of fully automated financial systems by some agencies with their services.
- Instances of budget cuts negatively affected some NCAJ agencies. This slowed the uptake of strategic programmes, especially those with a considerable impact on other agencies.
- On several occasions, changes and downtime experienced in IFMIS affected transaction processing time, slowing down operations.

### 8.4.2 Recommendations

The following are crucial recommendations to address some of the financial challenges encountered by NCAJ and its agencies and subsequently facilitate seamless coordination and reforms in the administration of justice.

- Using innovative service delivery models, such as online and virtual service delivery, remote consultations, or self-help resources, to expand access to justice sector services through a reduced-cost model.
- Enhancing coordination and undertaking of joint programmes to save on operational costs and better utilisation of limited resources. The NCAJ agencies will identify areas where they can cost-share without compromising service delivery.
- Undertaking some capital-intensive projects as an all-in-one structure that can house several NCAJ agencies.
- Adopting new and diverse resource mobilization strategies, including strengthening collaboration with myriad partners.
- Setting out an equalisation fund to upscale the programs in some institutions deemed to be at formative stages.
- Timely release of funds by the National Treasury to enhance program uptake, their timeous completion, and reduction of pending bills.
- Increasing investment in ICT to integrate financial processes and service delivery.
- Pursuing a public-private partnership (PPP) framework to fund some capital-intensive projects.
- Developing a funding framework for Agencies to support NCAJ programmes.
- Increasing funding to NCAJ and its agencies by the National Assembly. The increment should be able to address inflationary pressures and new programmes.



Chapter

9



**PRIORITY  
PROGRAMMES AND  
ACTIVITIES ON  
ADMINISTRATION  
OF JUSTICE FOR  
FY 2023/24**

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## KEY RESULT AREAS OF NCAJ

- Strengthened NCAJ coordinating mechanisms for improved access to justice.
- Deepened civil justice sector reforms.
- Improved access to justice for vulnerable groups.
- Effective monitoring and evaluation of programs in the justice sector.
- Strengthened partnerships and stakeholder engagement.
- Strengthened CUCs for effective coordination of the administration of justice.
- Deepened criminal justice sector reforms.

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## CHAPTER 9: PRIORITY PROGRAMMES AND ACTIVITIES ON ADMINISTRATION OF JUSTICE FOR FY 2023/24

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### 9.1 Introduction

The National Council on the Administration of Justice (NCAJ) Strategic Plan (SP) 2021-2026 is implemented through Annual Work Plans (AWPs), covering the priority programs for implementation under each Key Result Area (KRA). Similarly, NCAJ agencies have priority programmes under their respective AWPs in line with their mandate and whose implementation positively impacts the overall administration of justice. This Chapter, therefore, outlines the priority programs and crucial activities in the Administration of Justice for the Financial Year (FY) 2023/24 drawn from the NCAJ SP and further informed by priority reform areas of the justice sector agencies, both state and non-state.

### 9.2 Programmes and Activities on Council Coordination and Leadership

The priority programs and activities for enhancing coordination and leadership in the Justice Sector scheduled for execution in FY 2023/24 are:

- Finalise the development of the draft NCAJ Bill.
- Hold statutory Council forums and promptly disseminate the decisions to the relevant duty-bearers for action.
- Finalise the NCAJ Communication Strategy.
- Strengthen the NCAJ working committees for effective execution of their mandate.
- Strengthen justice sector partnership and engagement with the public.
- Coordinate engagements on financing of witness expenses and pro-bono legal services.
- Coordinate engagements on enforcement of court orders in matters dealing with evictions.
- Engage the Justice and Legal Affairs Committee of the National Assembly and other Parliamentary Committees in supporting justice sector legislative and other reforms.

### 9.3 Programmes and Activities on Criminal Justice Reforms

The priority programmes and activities to deepen criminal justice in FY 2023/24 are:

- Coordinate justice sector response to corruption and develop guidelines to expedite the trial of corruption and economic crime cases in specialised magistrates courts, and develop Grey Book of legislation and policies on anti-corruption.
- Initiate the development of a National Strategy or Framework for efficient coordination of alternative forms of dispute resolution. The NCAJ plans to increase sector-wide application of alternative and efficient forms of dispute resolution.
- Disseminate Sentencing Policy Guidelines 2023 and sensitise duty-bearers for effective implementation.
- Engage the National Assembly on Criminal Procedure Code and Penal Code.
- Coordinate multi-stakeholder prison decongestion exercises.
- Enhance the provision of legal aid.
- Finalise the development of a training manual on handling youth in the criminal justice system.
- Coordinate the implementation of guidelines on instant fines and the processing of traffic cases.

- Train criminal justice actors on the observance of human rights.
- Enhance access to mental health services for Criminal Justice System employees, victims, accused persons and convicts.
- Amend the National Police Service Standing Orders on the identification parade process.
- Initiate the development of the rules on forensic management of evidence.
- Organise the 3rd Criminal Justice Reforms Conference (2024).

#### 9.4 Programmes and Activities on Civil Justice Reforms

The priority programs and activities for the FY 2023/24 are as follows:

- Map all areas requiring reforms in civil justice and develop a detailed action plan.
- Initiate legal, policy and administrative reforms concerning the broad areas of civil justice, notably land justice, employment and labour justice, and handling of succession cases, among other areas.
- Engage Parliament and the OAG & DOJ to expedite legal reforms in the civil justice sector.
- Coordinate the assessment of existing laws and consider necessary reforms and amendments to align them with emerging realities of civil practice in Kenya.
- Initiate the development of a comprehensive strategy to ensure government agencies comply with court orders.
- Coordinate the processing and dissemination of legal information on civil justice.
- Convene the Inaugural Commercial Justice Conference in Kenya.
- Coordinate the implementation of service weeks, rapid result initiatives and active case management among civil justice actors to address case backlogs.
- Organize basic civil procedure and process training for police officers, to enable them aid individuals filing civil disputes at police stations.

#### 9.5 Programmes and Activities for Strengthening CUCs

The following programmes and activities will be prioritised in the FY 2023/24:

- Develop a National Strategy on CUC
- Develop a Legal Aid Strategy for CUCs.
- Develop and disseminate CUCs' guidelines on Commercial Justice, Environment and Land Justice, and Sexual and Gender-Based Violence.
- Develop an age-assessment guide or standard operating procedure (SOP) to enhance consistency in age assessment across all CUCs, especially amongst children.
- Conduct a training needs assessment and mapping of knowledge gaps for CUCs and sensitise them on identified emerging issues.
- Train National Government Administration Officers (NGAO) on emerging justice sector issues.
- Coordinate the establishment of gender-specific and child-holding cells in courts and police stations.
- Coordinate the undertaking of Service Delivery Initiatives (SDIs) on different thematic areas, including environment and land, children justice, succession matters, commercial justice, employment and labour relations, among others.

- Finalise and roll-out an automated CUC reporting system, Monitoring, Reporting and Analysis System (MORAS) and train users on the same.
- Create a documentary on CUCs conceptualisation, operations, successes and roles in the administration of justice.
- Monitor the activities of CUCs to assess compliance with mandate delivery.

## 9.6 Programmes and Activities for Enhancing Access to Justice for Vulnerable Groups

The following programmes will be prioritised to enhance access to justice for vulnerable groups in FY 2023/24:

### *Enhancing administration and access to justice for children*

- Develop and gazette Rules and Regulations on the Children Act 2022.
- Coordinate and undertake sector-wide training on the Children Act 2022, Report on Budgeting for Children and Throughcare and Aftercare Guidelines for Children.
- Finalise and disseminate the National Strategy on Justice for Children, 2023-2028.
- Develop a national framework on the diversion of children matters in Kenya.
- Coordinate the development of a child justice case digest.
- Hold an International Conference on Child Protection.
- Train actors on investigation and prosecution of Online Child Sexual Exploitation and Abuse.
- Develop guidelines on the examination of children in the justice system.
- Develop standard operating guidelines for the Wakili wa Watoto Clubs to enhance access to justice for children.
- Coordinate the National Service Month on Children Matters.

### *Enhancing administration and access to justice on Sexual and Gender-Based Violence*

- Develop a justice sector strategy on Sexual and Gender-Based Violence (SGBV).
- Develop a policy on the prevention and response to SGBV.
- Review the Sexual Offences Act (SOA), 2006 and other laws on SGBV.
- Initiate the development of Rules on victim protection under SGBV for the efficient administration of justice.
- Organise the Inaugural National Conference on SGBV and pursue the timeous implementation of commitments arising thereof.
- Develop a forensic mental health policy to improve access to justice for vulnerable groups.
- Standardise sensitisation on SGBV.
- Coordinate the establishment of safe-houses for victims of SGBV.

### *Other cross-cutting issues for enhancing administration and access to justice for vulnerable persons*

- Raise awareness and train actors on emerging justice issues, especially upscaling the observance of human rights for vulnerable persons.
- Strengthen the provision of pro-bono services for vulnerable groups in the justice system.
- Map out the justice needs for other vulnerable groups and develop an action plan.

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## 9.7 Programmes and Activities on Justice Sector Monitoring and Evaluation

The following programmes and activities will be prioritised on justice sector monitoring and evaluation:

- Develop the justice sector monitoring, evaluation and learning guidelines.
- Develop justice sector monitoring, evaluation and performance system.
- Prepare Standard Operating Procedures for the undertaking of justice sector Service Delivery Initiatives.
- Monitor and report progress on the administration of justice in Kenya.
- Develop NCAJ research guidelines.
- Develop NCAJ performance management system and monitoring system.
- Pursue ISO certification for the NCAJ Secretariat.
- Undertake research on diverse issues of administration and access to justice in Kenya.
- Strengthen performance management for the NCAJ Secretariat.

## 9.8 Programmes and Activities on Capacity Improvement in the Justice Sector

The following programmes are priorities for capacity improvement in the justice sector:

### *Human Resource Capacity*

- Recruit adequate Staff for the justice sector agencies.
- Enhance employee compensation and retention strategies.
- Review and align of career progression guidelines to foster strategic career development of justice sector employees.
- Enhance welfare programs to motivate the justice sector workforce.
- Enhance the staff capacity and work environment of the NCAJ secretariat, including hiring and training of staff members and providing physical infrastructure and ICT equipment.
- Intensify skills and competency development of justice sector employees.

### *ICT Capacity*

- Prepare an ICT governance structure for the justice sector.
- Undertake an audit of the existing sectoral ICT systems.
- Assess the integration of ICT systems for the justice sector institutions.
- Create a justice sector ICT curriculum to build the capacity of justice sector actors.
- Develop guidelines for the use of technology in delivery of justice.
- Coordinate the uptake of technology within the justice sector.
- Develop a monitoring framework for implementing ICT guidelines across the justice sector.
- Initiate the development of a digital evidence management system in the justice sector to secure evidence, its storage and transmission.
- Strengthen public awareness of ICT adoption, including e-filing and virtual court attendance.
- Finalise the development of diverse NCAJ operational policies and guidelines, notably the Communication Policy and Guidelines, Resource Mobilisation Strategy, Human Resource, Finance, Supply Chain and Performance Management Guidelines.
- Provide ICT equipment for the justice sector employees.

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### *Infrastructural Capacity*

- Increase financial allocation for the construction of new infrastructure and refurbishment of old ones, purchase of motor vehicles and other physical amenities.
- Collaborate with development partners and financial institutions to support the development of Justice Sector infrastructure.

### **9.9 Programmes and Activities for Enhancing the NCAJ and Justice Sector Financing**

Inadequate financial resources for the justice sector institutions remain a major bottleneck to programmes' uptake and implementation. In FY 2023/24, the following actions will be undertaken:

- Analyse the financial requirements and shortfall for the justice sector and engage the National Treasury and JLAC on increasing NCAJ funding.
- Engage diverse partners on the potential and continued partnership in the administration of justice initiatives, especially technical, programmatic and financial support.
- Finalise the development of the NCAJ Resource Mobilization Strategy and train the NCAJ secretariat on resource mobilisation.

### **9.10 Conclusion**

Whereas a lot of meaningful strides and achievements were experienced in the administration of justice in FY 2022-23, there has been challenges and useful lessons learnt, as highlighted in various chapters. The NCAJ seeks to build on them by improving and strengthening the frameworks for coordination and reforming the justice sector. With adequate budgetary allocation and financial support, the NCAJ, alongside its agencies and other players in the justice sector, will strive to achieve the priorities set above for FY 2023/24.





## APPENDICES



# APPENDICES

**Appendix 1: Highlights of the Terms of Reference for the NCAJ Working Committees****1) Highlights of TORs for the NCAJ Committee on Criminal Justice Reforms (NCCJR)**

- a) Identify and formulate policy, legal and institutional recommendations necessary for better functioning of the criminal justice system in Kenya.
- b) Establish and design mechanisms to ensure that Kenya's criminal justice system operates in a manner consistent and compliant with the provisions of the Constitution.
- c) Identify legal, institutional, administrative, and financial barriers that impede the efficient functioning of the criminal justice system and recommend interventions.
- d) Support inter-agency collaboration and cooperation to make the criminal justice system effective in serving the Kenyan public.
- e) Review laws and policies that criminalize petty offences and make recommendations on their decriminalization and reclassification.
- f) Formulate and review laws that would render efficient administration of criminal justice in compliance with the provisions of the Constitution.
- g) Oversee the implementation of the recommendations of various strategic publications by NCAJ on Criminal Justice Sector reforms.
- h) Enhance administration and access to criminal justice.
- i) Oversee the undertaking of studies to deepen, expand, and advise the efficient administration of criminal justice.
- j) Sensitize stakeholders and the public on the criminal justice reforms.

**2) Highlights of TORs for the NCAJ Civil Justice Reforms Committee**

- a) Identify, review, and formulate policy, legal and institutional recommendations necessary for better functioning of the civil justice system in Kenya.
- b) Establish and design mechanisms to ensure that Kenya's civil justice system operates in a manner consistent and compliant with the provision of the Constitution.
- c) Identify legal, institutional, administrative, and financial barriers that impede the efficient functioning of the civil justice system and recommend interventions.
- d) Formulate and review laws on efficient administration of civil justice.
- e) Enhance inter-agency collaboration on the efficient administration of civil justice and ensure its effectiveness in serving the Kenyan public.
- f) Oversee the implementation of the recommendations of various strategic publications by NCAJ on Civil Justice Sector reforms.
- g) Oversee the undertaking of studies to deepen, expand, and advise the efficient administration of civil justice.
- h) Sensitize relevant stakeholders and engage the public on civil justice reforms.

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### 3) Highlights of TORs for the NCAJ Committee on Traffic Issues

- a) Advice and make proposals on efficient administration of justice on traffic offenses.
- b) Explore and advice on the reclassification and decriminalisation of minor traffic offences.
- c) Review traffic the laws and guidelines, and develop traffic information handbook.
- d) Prepare guidelines on the use of technology in the management of traffic offenses.
- e) Enhance information sharing of traffic offenders among the justice sector actors.

### 4) Highlights of TORs for the NCAJ Committee on Review of Laws and policies on SGBV

- a) Review of the Sexual Offences Act (SOA) and other laws on sexual and gender-based violence (SGBV).
- b) Review of the Sexual Offences Act (SOA) and other laws on SGBV.
- c) Review and oversee the implementation of policies, guidelines, rules, and strategies related to the efficient administration of justice for the SGBV.
- d) Engage all relevant actors in the development of laws, policies, guidelines, and strategies on sexual offenses and gender-based violence.
- e) Develop rules on victim protection under SGBV for the efficient administration of justice.
- f) Identify areas of inter-agency collaboration and cooperation that would make lead to efficient operationalization of the Sexual Offences Act, policies, and guidelines for effective service to the public.
- g) Monitor the prevalence of SGBV and the effectiveness of the control measures and advice the Council.
- h) Disseminate information to relevant institutions through the Council for action, including the public.
- i) Oversee and standardize the sensitization and training programmes related to the SOA and other laws on SGBV, and the sexual offences policies and guidelines.

### 5) Highlights of TORs for the NCAJ Committee on ICT

- a) Identify legal, institutional, administrative, and financial barriers that impede ICT uptake within the justice sector and make recommendations to the Council.
- b) Assess and advise the Council on the ICT infrastructure required in Kenya for the effective and efficient administration of justice.
- c) Identify and advise the Council on the progressive attainment of seamless interagency linkages on administration and access to justice through technology.
- d) Oversee and guide joint and justice agency-specific capacity building on ICT.
- e) Oversee compliance with ICT guidelines in the justice sector.
- f) Oversee the implementation of the recommendations of various strategic publications by NCAJ on justice sector ICT needs in Kenya.
- g) Conduct continuous audits of ICT capabilities within the different NCAJ agencies and make recommendations to the Council.
- h) Oversee the undertaking of studies to deepen, expand, and advise the efficient use of technology in the administration of justice.

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- i) Ensure that ICT systems being developed from time to time by NCAJ agencies interlink, and that no Agency is left far behind in embracing the use of technology.
  - j) Carry out such functions as may be assigned by the NCAJ.

#### **6) Highlights of TORs for the NCAJ Committee on Child Justice**

- a) Formulate and review laws and policies relating to the efficient administration of justice for children.
- b) Implement, monitor, evaluate and review strategies for the administration of justice for children matters.
- c) Establish and promote inter-agency collaboration and co-operation on efficient administration of child justice.
- d) Identify legal, institutional, administrative, and financial barriers that impede the efficient administration of child justice and make recommendations to the Council.
- e) Promote social transformation through access to justice for children.
- f) Initiate and oversee the implementation of standards on the quality of child care and infrastructure.
- g) Mobilize resources for the efficient administration of justice for children.
- h) Organize and engage stakeholders on emerging issues relating to child justice.
- i) Oversee the implementation of the recommendations of various strategic publications by NCAJ on issues relating to child justice.
- j) Oversee the undertaking of studies to deepen, expand and advice the efficient administration of justice for children.
- k) Carry out such other functions as may be assigned by the Council.

#### **7) Highlights of TORs for the NCAJ Committee on CUCs**

- a) Establish and promote inter-agency collaboration and co-operation at the grassroots through CUCs.
- b) Identify legal, institutional, administrative, and financial barriers that impede the efficient functioning of the CUCs and make recommendations to the Council for consideration.
- c) Promote best practices on the functioning of CUCs.
- d) Prepare, review and ensure compliance with CUCs guidelines.
- e) Monitor and review the programmes, activities and reports of the CUCs and make recommendations to the Council.
- f) Mobilize resources to undertake CUCs programs and activities efficiently.
- g) To coordinate interventions to enhance the efficiency of CUCs.
- h) Enhance administration and access to justice through CUCs.
- i) Oversee the undertaking of studies to deepen, expand, and advise the efficient operations of CUCs.
- j) To carry out such other functions as may be assigned by the Council.

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## 8) Highlights of TORs for the NCAJ Committee on Anti-Corruption

- a) Review previous reports on anti-corruption in the criminal justice sector and make recommendations as appropriate.
- b) Identify the challenges in the fight against corruption and make recommendations.
- c) Propose mechanisms for efficient and effective investigations, prosecution, and adjudication of corruption cases.
- d) Recommend prioritized thematic approaches in the fight against corruption.

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## Appendix 2: Summary of the Previous Justice Sector Achievements on Policy, Legal and Administrative Reforms

### a) Policy, Legal and Administrative Reforms' Publications by NCAJ between 2011 to 30<sup>th</sup> June 2021

1. NCAJ Strategic Plan, 2012 – 2016.
2. Bail and Bond Bill, 2021
3. Bail and Bond Policy Guidelines.
4. Direction on Traffic Cases, 2016.
5. Enforcement Manual to Combat Illicit Trade in Kenya (1<sup>st</sup> Edition-2014).
6. Enforcement Manual to Combat Illicit Trade in Kenya (2nd Edition-2020).
7. Practitioners Guide for Enforcement Officers on Combating Illicit Trade, 2020.
8. Bail and Bond Trainers Manual, 2020.
9. Bail and Bond Training Course, 2020.
10. Bail and Bond Digest Volume 1.
11. Bail and Bond Digest Volume 2.
12. Court Users' Committees' Guidelines, 2019.
13. Status Report on Children in the Justice System in Kenya.
14. Fixing the broken child justice chain link.
15. Criminal Justice System in Kenya: An Audit, 2016.
16. Bail and Bond M & E Report.
17. Status Report on Implementation of the Bail and Bond Policy Guidelines.
18. Children's Bill, 2021 (Currently Children Act No. 29 of 2022).
19. Policy on Continuous Professional Development on Juvenile Justice, 2020.
20. Protocol on Service Week for Children Matters.
21. Curriculum for Child Care and Protection Officers & Facilitators Manual.
22. Protection and Care Form for children.

### b) Policy, Legal and Administrative Reforms' Publications by NCAJ between 1st July 2021 to 30th June 2022

1. Draft Amendment Bills to the Penal Code and Criminal Procedure Code.
2. Amendment of the Proceeds of Crime and Anti Money Laundering Act.
3. Law and Practice Guidelines on Arrest and Conditions of Pre-trial Detention.
4. Law and Practice Guidelines on the Management of Petty Offenders.
5. The Fair Trial Guide and Checklist.
6. Standard Operating Procedures on COVID – 19 response
7. POLICARE Policy and Guidelines
8. Standard Operating Procedures (SOPs) on Prevention and Response to Sexual Violence.

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9. Children Court Users' Committees Guidelines.
  10. CUCs sensitization Toolkit.
  11. NCAJ Inaugural Annual Report
  12. Status report on Persons with Mental Illness in Criminal Justice System.
  13. Sexual and Gender-Based Violence Information System in partnership with other stakeholders.
  14. Curriculum on Online Child Sexual Exploitation and Abuse (OCSEA).
  15. Standard Operating Guidelines on SGBV Case Management.
  16. Standard Operating Procedures on Kafalah.
  17. Report on budgetary needs for the child justice sector
  18. Child Care and Protection Officers and Facilitators Manual

**c) Policy, Legal and Administrative Reforms' Publications by other NCAJ Agencies between 1st July 2021 to 30th June 2022**

1. Witness Protection Regulations, 2022 – Witness Protection Agency.
2. National Correctional Policy – Kenya Police Service
3. Paralegal Policy - Kenya Prison Service.
4. Whistle Blower Policy – National Council on Law Reporting.
5. PCR Sheet for prosecuting child offenders – NPS.
6. Electoral Justice Compendium – ODPP
7. ODPP's decision to charge guideline – ODPP and IJM
8. Standardised Paralegal training curriculum - National Legal Aid Service & ICJ-Kenya
9. Pocket guide to election security 2022 - KPS
10. Research on Inclusion and Responding to Justice Needs for Persons with Mental Disability; An Access to Justice Manual for Persons with Mental Disability – ICJ-Kenya
11. Child and Youth Justice Strategy – Probation and Aftercare Services
12. Women's economic empowerment policy and status report – FIDA Kenya
13. Child Care Policy – Kenya Prison Service.
14. Political Parties Primaries Bill 2021 – OAG & DOJ and Kenya Law Reform Commission.
15. Conflict Resolution Policy – AOG & DOJ
16. Public Participation Policy – AOG & DOJ
17. Whistle-blowers Policy – AOG & DOJ
18. Supreme Court Case Digest - The National Council for Law Reporting (Kenya Law)
19. Citizens' Rights Case Digest - The National Council for Law Reporting (Kenya Law)
20. Agenda Four Case Digest - The National Council for Law Reporting (Kenya Law)
21. Commercial Law Case Digest - The National Council for Law Reporting (Kenya Law)
22. The Compendium of Laws on the Civic Space - KHRC.
23. Digital Space Case Digest - KHRC.
24. Democratic Gains and Pitfalls – KHRC.

### Appendix 3: Number of CUCs Meetings Held, FY 2022/23

No.	CUC Station	Number of Meetings Held
<b>County (High Court) CUCs</b>		
1.	Baringo County	-
2.	Bomet County	4
3.	Bungoma County	2
4.	Busia County	1
5.	Embu County	3
6.	Garissa County	4
7.	Homa Bay County	1
8.	Kajiado County	-
9.	Kakamega County	1
10.	Kericho County	3
11.	Kiambu County	-
12.	Kilifi County	3
13.	Kirinyaga County	-
14.	Kisii County	2
15.	Kisumu County	2
16.	Kitui County	2
17.	Kwale County	3
18.	Laikipia County	2
19.	Machakos County	1
20.	Makueni County	4
21.	Meru County	-
22.	Migori County	3
23.	Milimani Anti-Corruption & Economic Crimes Division	1
24.	Milimani Criminal Division	-
25.	Milimani Family Division	2
26.	Mombasa County	2
27.	Murang'a County	4
28.	Naivasha High Court	-
29.	Nakuru County	-
30.	Nandi County	2
31.	Narok County	-
32.	Nyahururu High Court	2
33.	Nyamira County	2
34.	Nyeri County	1
35.	Siaya County	-
36.	Taita Taveta County	2
37.	Tana River County	3
38.	Tharaka Nithi County	3
39.	Trans Nzoia County	3
40.	Turkana County	1
41.	Uasin Gishu County	1
42.	Vihiga County	-
43.	Wajir County	1
44.	West Pokot County	1
<b>Environment &amp; Land Justice CUCs</b>		
1.	Bungoma ELC	-
2.	Busia ELC	3

No.	CUC Station	Number of Meetings Held
3.	Chuka ELC	2
4.	Eldoret ELC	-
5.	Embu ELC	-
6.	Garissa ELC	4
7.	Homa Bay ELC	-
8.	Isiolo ELC	-
9.	Iten ELC	1
10.	Kajiado ELC	2
11.	Kakamega ELC	2
12.	Kapsabet ELC	2
13.	Kericho ELC	-
14.	Kerugoya ELC	-
15.	Kilgoris ELC	3
16.	Kisii ELC	-
17.	Kisumu ELC	-
18.	Kitale ELC	2
19.	Kitui ELC	3
20.	Kwale ELC	4
21.	Machakos ELC	1
22.	Makueni ELC	2
23.	Malindi ELC	3
24.	Meru ELC	-
25.	Migori ELC	-
26.	Mombasa ELC	3
27.	Murang'a ELC	4
28.	Nairobi ELC	-
29.	Nakuru ELC	-
30.	Nanyuki ELC	1
31.	Narok ELC	-
32.	Nyahururu ELC	2
33.	Nyamira ELC	2
34.	Nyeri ELC	-
35.	Siaya ELC	-
36.	Thika ELC	3
37.	Vihiga ELC	1

#### **Employment & Labour Relations CUCs**

1.	Bungoma ELRC	2
2.	Mombasa ELRC	-
3.	Nairobi ELRC	-
4.	Nakuru ELRC	1
5.	Eldoret ELRC	-
6.	Kericho ELRC	-
7.	Kitale ELRC	-
8.	Kisumu ELRC	-
9.	Kakamega ELRC	-
10.	Machakos ELRC	-
11.	Malindi ELRC	-
12.	Meru ELRC	-
13.	Nyeri ELRC	-

No.	CUC Station	Number of Meetings Held
<b>Commercial Justice CUCs</b>		
1.	Nairobi	2
2.	Mombasa	1
3.	Kisumu	3
4.	Nakuru	1
5.	Eldoret	1
<b>Magistrates' CUCs</b>		
1.	Baricho Magistrates' Court	1
2.	Bomet Magistrates' Court	4
3.	Bondo Magistrates' Court	1
4.	Bungoma Magistrates' Court	1
5.	Busia Magistrates' Court	1
6.	Butali Magistrates' Court	1
7.	Butere Magistrates' Court	4
8.	Chuka Magistrates' Court	3
9.	Dadaab Magistrates' Court	3
10.	Eldama Ravine Magistrates' Court	2
11.	Eldoret Magistrates' Court	-
12.	Embu Magistrates' Court	-
13.	Engineer Magistrates' Court	3
14.	Garissa Magistrates' Court	4
15.	Garsen Magistrates' Court	2
16.	Gatundu Magistrates' Court	2
17.	Gichugu Magistrates' Court	2
18.	Githongo Magistrates' Court	2
19.	Githunguri Magistrates' Court	2
20.	Hamisi Magistrates' Court	1
21.	Hola Magistrates' Court	2
22.	Homa Bay Magistrates' Court	1
23.	Isiolo Magistrates' Court	2
24.	Iten Magistrates' Court	2
25.	JKIA Magistrates' Court	1
26.	Kabarnet Magistrates' Court	3
27.	Kabiyet Magistrates' Court	1
28.	Kahawa Magistrates' Court	2
29.	Kajiado Magistrates' Court	1
30.	Kakamega Magistrates' Court	2
31.	Kakuma Magistrates' Court	2
32.	Kaloleni Magistrates' Court	2
33.	Kandara Magistrates' Court	2
34.	Kangema Magistrates' Court	2
35.	Kangundo Magistrates' Court	3
36.	Kapenguria Magistrates' Court	3
37.	Kapsabet Magistrates' Court	-
38.	Karatina Magistrates' Court	2
39.	Kehancha Magistrates' Court	1
40.	Kenol Magistrates' Court	1
41.	Kericho Magistrates' Court	3
42.	Keroka Magistrates' Court	1
43.	Kerugoya Magistrates' Court	3

No.	CUC Station	Number of Meetings Held
44.	Kiambu Magistrates' Court	1
45.	Kibera Magistrates' Court	2
46.	Kigumo Magistrates' Court	3
47.	Kikuyu Magistrates' Court	2
48.	Kilgoris Magistrates' Court	3
49.	Kilifi Magistrates' Court	3
50.	Kilungu Magistrates' Court	3
51.	Kimilili Magistrates' Court	3
52.	Kisii Magistrates' Court	1
53.	Kisumu Magistrates' Court	-
54.	Kitale Magistrates' Court	3
55.	Kithimani Magistrates' Court	1
56.	Kitui Magistrates' Court	3
57.	Kwale Magistrates' Court	1
58.	Kyuso Magistrates' Court	2
59.	Limuru Magistrates' Court	2
60.	Lodwar Magistrates' Court	2
61.	Loitoktok Magistrates' Court	-
62.	Machakos Magistrates' Court	-
63.	Madiany Magistrates' Court	2
64.	Makadara Magistrates' Court	2
65.	Makindu Magistrates' Court	2
66.	Makueni Magistrates' Court	-
67.	Malindi Magistrates' Court	4
68.	Mandera Magistrates' Court	4
69.	Mararal Magistrates' Court	2
70.	Mariakani Magistrates' Court	3
71.	Marimanti Magistrates' Court	1
72.	Marsabit Magistrates' Court	2
73.	Maseno Magistrates' Court	3
74.	Maua Magistrates' Court	4
75.	Mavoko Magistrates' Court	2
76.	Mbita Magistrates' Court	2
77.	Meru Magistrates' Court	-
78.	Migori Magistrates' Court	2
79.	Milimani Anti – Corruption Magistrates' Court	2
80.	Milimani Commercial Magistrates' Court	2
81.	Milimani Magistrates' Court	1
82.	Molo Magistrates' Court	2
83.	Mombasa Magistrates' Court	3
84.	Moyale Magistrates' Court	2
85.	Mpeketoni Magistrates' Court	3
86.	Msambweni Magistrates' Court	4
87.	Mukurwe-Ini Magistrates' Court	2
88.	Mumias Magistrates' Court	3
89.	Murang'a Magistrates' Court	4
90.	Mutomo Magistrates' Court	3
91.	Mwingi Magistrates' Court	1
92.	Nairobi City Court Magistrates' Court	-
93.	Naivasha Magistrates' Court	2

No.	CUC Station	Number of Meetings Held
94.	Nakuru Magistrates' Court	-
95.	Nanyuki Magistrates' Court	2
96.	Narok Magistrates' Court	-
97.	Ndhiwa Magistrates' Court	2
98.	Ngong Magistrates' Court	2
99.	Nkubu Magistrates' Court	2
100.	Nyahururu Magistrates' Court	2
101.	Nyamira Magistrates' Court	3
102.	Nyando Magistrates' Court	2
103.	Nyeri Magistrates' Court	1
104.	Ogembo Magistrates' Court	2
105.	Ol Kalou Magistrates' Court	1
106.	Othaya Magistrates' Court	3
107.	Oyugis Magistrates' Court	2
108.	Rongo Magistrates' Court	2
109.	Ruiru Magistrates' Court	-
110.	Rumuruti Magistrates' Court	2
111.	Runyenjes Magistrates' Court	2
112.	Shanzu Magistrates' Court	2
113.	Siakago Magistrates' Court	3
114.	Siaya Magistrates' Court	-
115.	Sirisia Magistrates' Court	3
116.	Sotik Magistrates' Court	1
117.	Tamu Magistrates' Court	2
118.	Taveta Magistrates' Court	3
119.	Tawa Magistrates' Court	1
120.	Thika Magistrates' Court	1
121.	Tigania Magistrates' Court	-
122.	Tinderet Magistrates' Court	1
123.	Ukwala Magistrates' Court	2
124.	Vihiga Magistrates' Court	2
125.	Voi Magistrates' Court	4
126.	Wajir Magistrates' Court	1
127.	Wang'uru Magistrates' Court	2
128.	Webuye Magistrates' Court	-
129.	Winam Magistrates' Court	1
130.	Wundanyi Magistrates' Court	1
<b>Child Justice CUCs*</b>		
1.	Tononoka Children's Court	3
2.	Milimani Children's Court	3
<b>Sexual and Gender Based Violence (SGBV) CUC</b>		
1.	Shanzu SGBV Court	4
<b>Kadhis' CUCs</b>		
1.	Balambala Kadhis'	2
2.	Bura/ Fafi Kadhis'	-
3.	Bute Kadhis'	2
4.	Chief Kadhi Mombasa	-
5.	Eldas Kadhis'	4
6.	Elwak Kadhis'	-
7.	Garbatullah Kadhis'	4

No.	CUC Station	Number of Meetings Held
8.	Habaswein Kadhis'	-
9.	Ijara Kadhis'	4
10.	Merti Kadhis'	-
11.	Modogashe Kadhis'	2
12.	Mpeketoni Witu Kadhis'	2
13.	Nairobi Upperhill Kadhis'	2
14.	Takaba Kadhis'	4
<b>Tribunals' Users Committees</b>		
1.	Business Premises and Rent Tribunal (BPRT)	-
2.	Cooperatives Tribunal	-
3.	HIV and AIDS Tribunal	3
4.	Rent Restriction Tribunal (RRT)	-
5.	Sports Tribunal	2
6.	Tax Appeals Tribunal (TAT)	1
7.	Political Parties Dispute Tribunal (PPDT)	2
<b>Total Number of CUC Meetings Held</b>		<b>422</b>

\* Other courts also formed ad-hoc CCUCs to discuss the child justice issues as need be.

#### Appendix 4: Strategic Partnership and Support to CUCs, FY 2022/23

Beyond the GOK allocation of Ksh 30,000/- per quarter of FY for the CUCs, most CUCs collaborated with diverse partners to undertake their meetings and programs. The details are provided below.

No.	County	CUCs Supported	Partner
1.	Baringo	Kabarnet Law Courts	NG-CDF Tiaty Citizen Participation Forum (CIPAF)
2.	Bomet	Bomet County CUC	National Organization for Peer Education (NOPE) I Choose Life (ICL)- Africa
3.	Bungoma	Bungoma County CUC	International Association of Women Judges (IAWJ)- Kenya Chapter
4.	Elgeyo Marakwet	Iten ELC	Neighbours in Action Kenya (NIAK)
5.	Garissa	Garissa County CUC	WomanKind Kenya (WOKIKE) Refugee Consortium Kenya (RCK) Supreme Council of Kenya Muslims (SUPKEM)
		Dadaab Law Courts	UNICEF Refugee Consortium Kenya (RCK) International Rescue Committee (IRC) UNHCR
6.	Homa Bay	Homa Bay County CUC	Rachuonyo North NG-CDF KELIN Kenya
		Mbita Law Courts	World Vision LVCT Mildmay International Kenya
		Ndhiwa Law Courts	Anglican Development Services (ADS)- Nyanza
7.	Isiolo	Isiolo Law Courts	Legal Resources Foundation (LRF)
8.	Kakamega	Butere Law Courts	National Empowerment Network of People Living with HIV/AIDS in Kenya (NEPHAK)
		Mumias Law Courts	Educational Assessment and Resource Centre (EARC)
9.	Kericho	Kericho County CUC	Unilever Kenya KTDA Finlays
		Kericho Law Courts	KNCCI- Kericho National Organization for Peer Education (NOPE) Legal Resources Foundation (LRF)
10.	Kiambu	Githunguri Law Courts	SYNOD Organization
		Kiambu Law Courts	FIDA Kenya

11.	Kilifi	Kilifi County CUC	Equality Now IJM Kenya
		Shanzu Law Courts	UNODC Okoa Sasa MUHURI
		Shanzu SGBV Court	IDLO Equality Now FIDA Kenya Childline Kenya
12.	Kisumu	Kisumu County CUC	FIDA Kenya CSO Network
		Kisumu CJCUC	IDLO
		Maseno Law Courts	Legal Resources Foundation (LRF) Support for Tropical Initiatives in Poverty Alleviation (STIPA) Kenya Child Fund
		Nyando Law Courts	Support for Tropical Initiatives in Poverty Alleviation (STIPA) Kenya
		Tamu Law Courts	UN Women
13.	Kitui	Kitui County CUC	Kenya Forestry Research Institute (KEFRI)
		Mutomo Law Courts	World Vision
14.	Kwale	Kwale County CUC	IJM Kenya Haki Yetu Sauti Ya Wanawake Pwani World Vision KNCHR Radio Kaya
15.	Lamu	Lamu Law Courts	World Vision MUHURI
		Mpeketoni Law Courts	UNODC
16.	Machakos	Kithimani Law Courts	Plan International
17.	Makueni	Makueni ELC	NEMA Makueni Sand Utilization Authority
		Kilungu Law Courts	Mobilization Agency for Paralegal Communities in Africa Trust (MAPACA)
		Makindu Law Courts	Mobilization Agency for Paralegal Communities in Africa Trust (MAPACA)
		Tawa Law Courts	Mobilization Agency for Paralegal Communities in Africa Trust (MAPACA)
18.	Marsabit	Marsabit Law Courts	FIDA Kenya
19.	Meru	Meru Law Courts	Ripples International
		Maua Law Courts	Hope Worldwide Kenya
		Githongo Law Courts	Ripples International

20.	Migori	Kehancha Law Courts	Catholic Medical Mission Board (CMMB) Pillars Core Foundation
		Migori Law Courts	Catholic Medical Mission Board (CMMB)
21.	Mombasa	Mombasa County CUC	Reach Out Centre Trust
		Mombasa ELC	Legal Resources Foundation (LRF)
		Mombasa CJCUC	IDLO
		Tononoka Children's Court	Clear Kenya FIDA Kenya UNODC International Centre for Reproductive Health (ICRH) Kenya Mombasa Cement Limited
22.	Murang'a	Kandara Law Courts	Del Monte Company
23.	Nairobi County	Nairobi CJCUC	IDLO Kenya Private Sector Alliance (KEPSA) Kenya Association of Manufacturers (KAM)
		JKIA Law Courts	UNODC
		Kibera Law Courts	Legal Resources Foundation (LRF) Pendekezo Letu
		Milimani Children's Court Milimani Family Division	World Vision IDLO
24.	Nakuru	Nakuru County CUC Nakuru CJCUC Naivasha Law Courts	KNCHR IDLO Shelter Yetu
25.	Nandi	Kapsabet Law Courts	Kenya Red Cross
26.	Nyandarua	Engineer Law Courts	Justice Defenders Bar Hostess Empowerment and Support Programme (BHESP)
27.	Nyeri	Karatina Law Courts Othaya Law Courts	FIDA Kenya FIDA Kenya
28.	Samburu	Maralal Law Courts	World Vision Compassion International Kenya Kenya Red Cross
29.	Siaya	Ukwala Law Courts	Malaika Foundation
30.	Taita Taveta	Taita Taveta County CUC	Sauti Ya Wanawake- Mwangea Branch World Vision
31.	Tana River	Tana River County CUC	MUHURI Teens Watch Centre
		Garsen Law Courts	GROOTS Kenya Pope Francis Rescue Centre Kenya Community Support Centre (KECOSCE)
		Hola Law Courts	Maendeleo Ya Wanawake



32.	Tharaka Nithi	Tharaka Nithi County CUC  Chuka ELC  Chuka Law Courts  Marimanti Law Courts	Ripples International Kituo Cha Sheria Gladif Kenya Child Welfare Society  KNCHR Equity Bank KCB  Khetia's Supermarket  Child Welfare Society Plan International Ripples International
33.	Turkana	Kakuma Law Courts	UNICEF UNHCR Refugee Consortium Kenya (RCK) World Vision Adventist Development and Relief Agency (ADRA) Kenya Terre des Hommes (TdH) Kenya UN Women
34.	Uasin Gishu	Eldoret CJCUC	IDLO
35.	Vihiga	Hamisi Law Courts	FIDA Kenya
36.	West Pokot	Kapenguria Law Courts	World Vision Child Protection Network

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## Appendix 5: Detailed CUCs' Achievements by Type of Court in Counties, FY 2022/23

### 1. MOMBASA COUNTY

#### Mombasa High Court CUC

- Launched and operationalized Small Claims Court.
- Improved working coordination between ODPP and DCI on verification of sureties.
- Increased uptake of diversion by stakeholders and the community.

#### Mombasa E&L CUC

- Engaged in tree planting and Corporate Social Responsibility activities.
- Convened a legal aid clinic.
- Sensitized the stakeholders on the Environment and Land Court.
- Established a media committee to lead sensitisation and awareness creation among stakeholders and the public.
- Convened ELC @10 Conference.
- Improvement of waste management at the Mwakirunge dumpsite.
- Increased commitment and partnership with stakeholders on environmental and land matters, e.g., the Governor and the National Environment Management Authority (NEMA).

#### Tononoka Children's CUC

- Installed solar panels to assist in solving the issue of power outages.
- Face-lifted the court premises through goodwill and partnership with Mombasa Cement.
- Child feeding program through member commitments and collaboration.
- On-time payments for pro-bono services.
- Constructed a rescue centre by the County Government to be run under the SGBV Department.

### 2. KWALE COUNTY

#### Kwale High Court CUC

- Provided legal aid and travel allowances to SGBV survivors to enhance their access to justice.
- Developed Standard Operating Procedures (SOPs) aimed at effective, efficient and prompt delivery of justice in Kwale County for SGBV cases.
- Conducted community outreach and awareness on SGBV.
- Operationalised a Child Protection unit (CPU) at Diani Police Station.
- Sensitized and built the capacity of gender desk and clinical officers to handle SGBV-related evidence collection and presentation, enhancing the timely and efficient submission of medical reports.
- Reviewed and granted 107 out of 115 male remandees in Kwale G.K. Prisons bail and bond to decongest prison and further granted 59 convicted offenders non-custodial sentences.
- Upscaled community engagement and undertook Corporate Social Responsibility (CSR) activities on tree planting and beach clean-up exercises.
- Constituted a committee to develop criteria for carrying out prison decongestion and develop an Action Plan for implementation.

- 
- Held forums to address inefficiencies in the trial process, which led to increased efficiency in the production of police files by Kinango and Vurungani Police Stations.

#### **Msambweni Magistrates' CUC**

- Improved efficiencies in the clearance of case backlog.
- Improved efficiencies duration taken to submit medical reports.
- Increased partnership with county government and access to justice for SGBV victims by creating an SGBV department.
- Improved deployment of staff at the courts.

### **3. KILIFI COUNTY**

#### **Malindi High Court CUC**

- Trained CUC members on anti-corruption and integrity.
- Increased community sensitization activities on justice sector matters, e.g. the Children's Act 2022 and SGBV.
- Engaged in tree planting and other CSR activities.

#### **Kilifi Magistrates' CUC**

- Rolled out a program to register children 0-17 years of age whose details weren't captured at birth to assist in dealing with discrepancies in the age assessment process.
- Held a public awareness and sensitization forum for teachers, parents and pupils at local Schools, covering, among others, a sensitization session on the Children Act 2022.
- Supported and survivors of sexual offences and interpreters through a partnership with the Red Cross.
- Established the office of the CUC Secretariat.
- Sensitized boda-boda riders and other target groups on diverse justice issues.
- Finalized all the pending children cases during the service month of November 2022.
- Strengthened local partnerships by undertaking Corporate Social Responsibility (CSR) activities at Mwangaza Children's Home and Mitsemerini Primary School.
- Enhanced the availability of police files to court through on-time information sharing with the police about court attendance, a major challenge that had affected the courts.

#### **Shanzu Magistrates' CUC**

- Enhanced security measures for the court.
- Developed Shanzu Counter Terrorism Court Guidelines.

#### **Shanzu SGBV CUC**

- Inducted and operationalized the SGBV CUC.
- Acquired a land parcel from Kilifi County Government for construction of the SGBV Court.

#### **Kaloleni Magistrates' CUC**

- Procured a TV set for Kaloleni GK Prisons.
- Sensitized CUC members on the Children Act, 2022.

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### **Mariakani Magistrates' CUC**

- Sensitized community on children's rights.
- Conducted a prison decongestion exercise.
- Expeditious disposal of remandee cases.
- Enhanced coordination amongst justice sector actors.
- Reviewed sentences to decongest prisons.
- Sensitized Mariakani community on dispute resolution in land-related matters.
- Improved production of police files to Prosecution Counsel and Court by Rabai Police Officers.
- Increased budgetary allocation for the court to enhance service delivery.

### **Malindi Magistrates' CUC**

- Sensitized CUC members on diversion and plea bargaining, sexual and reproductive health rights, GBV policies, legal framework and harm reduction.
- Sensitized justice sector actors on peace and violence for youth and parents.
- Reviewed and reduced bail and bond terms for children in conflict with the law.
- Established and operationalised thematic CUC subcommittees.
- Trained security and government agencies on the inclusion and handling of marginalised populations.
- Heightened partnership with the local administration on a multi-door problem-solving approach.
- Developed and disseminated a step-by-step procedure for opening a protection and care file to all police stations within the jurisdiction.
- Earmarked an additional children's home and rescue Centre for children in urgent need of care and protection.
- Developed Standard Operating Procedures (SOPs) on age assessment.
- Coordinated renovation of the Marafa Mobile Court.
- Increased partnership with stakeholders in training local leaders on ADR.
- Provided a suitable secluded waiting area for use by children while testifying.
- Planned, executed and completed the Child Justice Service Month 2022.

### **Malindi E&L CUC**

- Established and operationalized the Malindi E&L CUC.
- Engaged in tree planting and other CSR activities.
- Increased community sensitization on justice sector matters e.g., succession and adverse possession.

## **4. TANA RIVER COUNTY**

### **Garsen High Court CUC**

- Increased partnerships with stakeholders to resolve interfaith and tribal conflicts and negative cultural practices, especially through the Coast Interfaith Conference of Clerics to resolve interfaith and tribal conflict and address the negative cultural practices.

- 
- Innovated on public sensitization for justice issues through the use of Friday prayers at mosques and radio shows.
  - Provided ICT support equipment and internet connectivity to Hola Police Station
  - Hosted community sensitization and outreach programs through radio shows and mosque.
  - Improved security situation along the Lamu-Garsen road by coordinating and organising various initiatives.
  - Increased prison decongestion activities.
  - Operationalized a mobile court in Kipini.

#### **Hola Magistrates' CUC**

- Launched and operationalized Waldena Mobile Court.
- Conducted a prison decongestion exercise.
- Operationalized Hola Legal Aid Committee.

#### **Garsen Magistrates' CUC**

- Sensitized CUC members on the Children's Act 2022.

### **5. LAMU COUNTY**

#### **Lamu Magistrates' CUC**

- Conducted a prison visit to Hindi GK Prisons.

#### **Mpeketoni Magistrates' CUC**

- Strengthened coordination on matters of justice between state and non-state actors.
- Created awareness of Countering Violent Extremism among CUC members and community representatives.
- Sensitized civil servants and court users' committee members on post-election tolerance.
- Sensitized stakeholders on the Children Act, 2022 during the Child Justice Month.

### **6. TAITA TAVETA COUNTY**

#### **Voi Magistrates' CUC**

- Completed construction of children and women holding cells at the police station.
- Sensitized CUC members on diversion and plea bargaining.

#### **Wundanyi Magistrates' CUC**

- Conducted Community sensitization on criminal justice matters.

### **7. GARISSA COUNTY**

#### **Garissa High Court CUC**

- Improved equipment and facilities at the Garissa Police Station Child Protection Unit (CPU).
- Resolved 96 out of the 109 scheduled cases during the Child Justice Service Month.

- 
- Increased commitment and partnership with stakeholders and development partners e.g., donation by UNICEF towards support of children in contact with the law.
  - Capacity building of stakeholders on statement writing.

#### **Dadaab Magistrates' CUC**

- Engaged a *pro bono* Advocate to assist the minors in conflict with the law.
- Established a children's holding cell.
- Trained police across the camps and the Dadaab police station.
- Provided legal representation to vulnerable persons.
- Re-instated registration of refugees.
- Engaged the National Registration Bureau to mitigate double registration.
- Trained Medics on examining SGBV survivors to understand the gaps and improve the filing of the P3 forms.

#### **Balambala Kadhis' CUC**

- Sensitized CUC members on the jurisdiction of the Kadhis' court.

### **8. WAJIR COUNTY**

#### **Eldas Kadhis' CUC**

- Automated court processes.

#### **Bute Kadhis' CUC**

- Expeditious disposal of cases.

#### **Habaswein Kadhis' CUC**

- Established an SGBV complex at Habaswein Police Station.
- Reduced the number of SGBV cases.
- Conducted community sensitization on justice sector issues.

### **9. MANDERA COUNTY**

#### **Mandera Magistrates' CUC**

- Trained CUC members on children matters.

#### **Takaba Kadhis' CUC**

- Conducted Community sensitization on divorce in Bulla Mpya, Bulla Dana and Dandu.

### **10. MARSABIT COUNTY**

#### **Marsabit Magistrates' CUC**

- Deployed court translators to ensure effective and timely disposal of matters.
- Improved quality of virtual proceedings.
- Reduced instances of missing police files.

#### **Moyale Magistrates' CUC**

- Expeditious disposal of children matters.

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## 11. ISIOLO COUNTY

### Isiolo Magistrates' CUC

- Formed Council of Elders from Somali, Samburu and Turkana communities to help in AJS.
- Assisted remandees in getting prosecution materials, typed proceedings and plea bargaining.
- Trained and sensitized the CCUC.

## 12. MERU COUNTY

### Githongo Magistrates' CUC

- Improvement in availing police files to the ODPP.
- Established a timber yard with Meru GK Prisons to enhance the rehabilitation of prisoners by teaching carpentry and woodwork.
- Decongested Uruku GK Prisons through review of bail/ bond.

## 13. THARAKA NITHI COUNTY

### Chuka High Court CUC

- Enhanced efficiency in payment of *pro bono* Advocates; no payments are pending.
- Launched Court Annexed Mediation Facility.
- Improved case backlog clearance of succession matters.
- Capacity building of National Government Administration Officers (NGAO).

### Chuka ELC CUC

- Engaged in tree planting and other CSR activities.

### Chuka Magistrates' CUC

- Participated in launching of mediation within the courts.
- Introduction of a Succession Service Week to be held annually in April.

### Marimanti Magistrates' CUC

- Obtained a title deed for the court land.
- Re-established a mobile court at Kathangachini.

## 14. EMBU COUNTY

### Embu High Court CUC

- Completed and occupied the new court building.
- Improved coordination efficiency by appointing liaison officers for each police station.
- Improved efficiency in the issuance of court dates.

### Runyenjes Magistrates' CUC

- Reduced instances of missing files.
- Disposed of all pending inquests.
- Conducted public sensitization on SGBV, HIV/AIDS and teenage pregnancies.
- Increased coordination that led to expeditious disposal of cases.
- Sensitized CUC members on the Children Act, 2022 and mediation.

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### **Siakago Magistrates' CUC**

- Enhanced uptake of *pro bono* children matters leading to timely dispensation of justice.
- Improved registration of pleas.
- Reduced case backlog through a civil service week.
- Undertook sensitization on the Children Act, 2022.

## **15. KITUI COUNTY**

### **Kitui High Court CUC**

- Convened a CUC open day for sensitizing the public on justice sector issues.

### **Kitui E&L CUC**

- Launched and operationalized the E&L CUC.

### **Kitui Magistrates' CUC**

- Conducted tree planting exercise.
- Significantly reduced the number of masqueraders and brokers in court.
- Established and maintained a register for convicted sexual offenders.

### **Mutomo Magistrates' CUC**

- Appointed a liaison officer, resulting in the timely presentation of police files to court.
- Donated a TV set to Mutomo GK Prisons.
- Increased uptake of ADR.

### **Kyuso Magistrates' CUC**

- Expeditiously disposal of children matters.

## **16. MACHAKOS COUNTY**

### **Machakos High Court CUC**

- Increased adoption of mediation as an ADR mechanism, especially for family matters.
- Improved efficiency in witness production to court.

### **Machakos E&L CUC**

- Launched and operationalized the E&L CUC.

### **Kithimani Magistrates' CUC**

- Adopted ADR for dispute resolution.
- Provided priority to handle Children's matters.
- Conducted a sensitization campaign on SGBV and reproductive health in schools.

### **Kangundo Magistrates' CUC**

- Conducted a sensitization of CUC members on diversion for children in conflict with the law.
- Conducted sensitization programs on sexual offences and drug abuse in schools.

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### **Mavoko Magistrates' CUC**

- Improved filing of cash bail receipts.
- Visited Kitengela GK Prisons and conducted a decongestion exercise.
- The NPS appointed liaison officers to increase efficiency.
- Improved serialization of committal warrants.
- Prioritized handling and conclusion of children matters.
- Launched the Mavoko CCUC.

## **17. MAKUENI COUNTY**

### **Makueni High Court CUC**

- Improved ICT infrastructure and automation by establishing two modern data centres.
- Increased support to the CUC by providing modern printers to court stations.
- Built capacity of CUC members on matters of SGBV, stakeholder engagement, human rights and evidence preservation.
- Improved efficiency in the duration taken to sign court decrees.
- Increased engagement in CSR activities by visiting children's detention institutions and prisons.

### **Tawa Magistrates' CUC**

- Established a Gender Recovery Centre at Wote.

### **Makindu Magistrates' CUC**

- Expeditiously disposed children matters during the service month.
- Visited a children's home as a CSR activity.
- Improved follow-through for production orders.

## **18. NYANDARUA COUNTY**

### **Engineer Magistrates' CUC**

- Decongested prisons using plea bargaining, ADR and diversion.
- Visited Mwiteithia Secondary School, Nakuru Remand Home and Tumaini Children's Home on CSR.
- Trained members on *pro bono* services.
- Undertook CUC member training on intersex persons.

### **Ol Kalou Magistrates' CUC**

- Operationalized of new Ol Kalou Law Courts.

## **19. NYERI COUNTY**

### **Nyeri High Court CUC**

- Commenced Care Reform Strategy for Children.
- Established a Small Claims Court.
- Sensitization of CUC members on Alternative Justice Systems (AJS).
- Successful formation of the Nyeri Children's Court Users' Committee (CCUC).

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### **Nyeri Magistrates' CUC**

- Established a CCUC.

### **Othaya Magistrates' CUC**

- Adopted AJS to aid in prison decongestion and expeditious disposal of cases.
- Introduced express cards for SGBV survivors in the sub-county hospital.
- Conducted sensitizations to members on witness protection and intersex persons.

### **Karatina Magistrates' CUC**

- Conducted a sensitization in Chieni and Ririti Primary Schools on defilement.

## **20. KIRINYAGA COUNTY**

### **Kerugoya Magistrates' CUC**

- Adopted Court Annexed Mediation (CAM) leading to expeditious disposal of cases.

### **Baricho Magistrates' CUC**

- Conducted prison mentions twice a month.

### **Gichugu Magistrates' CUC**

- Improved on arraignment of remandees to court.
- Clearance of case backlog.

### **Wang'uru Magistrates' CUC**

- Underwent training on election petitions.
- Constructed new toilet facilities and upgrading of the sewer line.
- Conducted a service week targeting remandees and those in custody were prioritized.
- Established children's holding facilities at Makutano Police Station.
- Sensitized the public on proper hygiene while handling food.
- Trained NGAO on writing succession introduction letters.

## **21. MURANG'A COUNTY**

### **Murang'a High Court CUC**

- Established and operationalized a customer service desk at the court premises.

### **Murang'a Magistrates' CUC**

- Established a CCUC.

### **Kangema Magistrates' CUC**

- Aailed *pro bono* lawyers for children in conflict with the law.
- Launched Kangema CCUC.

### **Kigumo Magistrates' CUC**

- Sensitized members on the workings of the Judiciary public kiosk.

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### **Kandara Magistrates' CUC**

- Improved availing of police files.
- Established children and women holding cells.

### **Kenol Magistrates' CUC**

- Operationalized of Kenol Law Courts.
- Sensitization of members on the Children Act, 2022.

## **22. KIAMBU COUNTY**

### **Thika ELC CUC**

- Sensitized CUC members on Climate Change.
- Increased engagement in tree planting and other CSR activities.
- Increased partnership with the local government through donation of Gatwanyaga land to the CUC.

### **Gatundu Magistrates' CUC**

- Timely processed emergency orders for placement of children.
- Reduced number of remandees being held in prison.
- Speedy resolved justice sector issues through the CUC.
- Visited the paediatric and newborn units at Gatundu Hospital during Child Justice Month.

### **Kiambu Magistrates' CUC**

- Designated a court to deal with children's matters.
- Adopted the use of ADR for expeditious dispute resolution.
- Adopted use of plea bargaining and diversion for children matters.
- Sensitized members on the Children Act, 2022.

### **Kikuyu Magistrates' CUC**

- Reduced case backlogs.
- Conducted a prison decongestion exercise.
- Enhanced coordination between various justice sector actors.
- Adopted strategies to reduce case adjournments.
- Visited children remand homes.
- Conducted training on the Children Act, 2022 and financial management for members.
- Operationalized electronic date fixing for the court.

### **Limuru Magistrates' CUC**

- Established a CCUC.
- Visited Kiambu Children Remand, Ngarariga and Kamirithu Secondary Schools during Child Justice month.

### **Kahawa Magistrates' CUC**

- Conducted training on Active Case Management and alternative sentencing for CUC members.

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## 23. TURKANA COUNTY

### Kakuma Magistrates' CUC

- Launched the Kakuma CCUC.
- Conducted outreach activities.
- Trained and sensitized the public on the Children Act, 2022.

## 24. WEST POKOT COUNTY

### Kapenguria High Court CUC

- Improved case clearance rate occasioned by the mobile courts.
- Increased uptake of ADR in resolving disputes.
- Established an AJS desk at Kacheliba Police Station.

## 25. SAMBURU COUNTY

### Mararal Magistrates' CUC

- Reduced number of prisoners.
- Reduction in caseload due to the use of AJS.

## 26. TRANS NZOIA COUNTY

### Kitale High Court CUC

- Increased number of referrals to the Probation department.
- Improved interagency collaboration between the Judiciary and Probation department.
- Enhanced ICT infrastructure for the DCS.

## 27. UASIN GISHU COUNTY

### Eldoret CJCUC

- Resolved cases within 30 days by the Small Claims Court.
- Operationalized new courts at Tinderet, Kabiyeet and Kubujoy courts in Nandi County.

## 28. ELGEYO MARAKWET COUNTY

### Iten E&L CUC

- Commissioned the E&L CUC.
- Participated in a tree planting exercise at Kapchemutwa Forest.

## 29. NANDI COUNTY

### Kapsabet High Court CUC

- Registration of police charge sheets is timely.

### Kabiyeet Magistrates' CUC

- Sensitized the community on the court.
- Operationalized the CUC.
- Timely processing of pre-sentence and pre-bail reports.

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- Sensitized CUC members on the Children Act, 2022.
  - Trained CUC members on the role of the Probation department.

### **30. BARINGO COUNTY**

#### **Kabarnet Magistrates' CUC**

- Constructed Chemolingot Law Courts through funding from Tiaty NG-CDF.
- Operationalized mobile court sessions in Chemolingot.

### **31. LAIKIPIA COUNTY**

#### **Nanyuki High Court CUC**

- Improved availing of police files and witnesses to court.
- Lobbied for more staff at the ODPP.
- Obtained a provisional court building from the Laikipia County government pending the completion of the construction of court premises.
- Completed and operationalized Rumuruti law Courts.
- Held a *pro bono* legal consultation camp.

#### **Nyahururu High Court CUC**

- Operationalized Olkalau and Rumuruti Courts.
- Lobbied the ODPP for deployment of more prosecutors.

#### **Nanyuki Magistrates' CUC**

- Improved interagency coordination among the justice sector actors.

#### **Rumuruti Magistrates' CUC**

- Established and operationalized the CUC.

### **32. NAKURU COUNTY**

#### **Nakuru High Court CUC**

- Adopted of AJS for expeditious dispute resolution.

#### **Nakuru E&L CUC**

- Established and operationalized the E&L CUC.

#### **Nakuru ELRC CUC**

- Established and operationalized the ELRC CUC.

#### **Molo Magistrates' CUC**

- Minors are no longer held with adults in prisons.
- Availing previous records for repeat offenders.

#### **Naivasha Magistrates' CUC**

- The PACS officers undertook refresher courses on preparation of reports.
- Enhanced the uptake and filing of matters at the Small Claims Court.

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### 33. NAROK COUNTY

#### Kilgoris E&L CUC

- Incorporated the use AJS to decongest the courts.
- Undertook tree planting exercise.
- Upgraded internet connectivity for court.

### 34. KAJIADO COUNTY

#### Kajiado E&L CUC

- Trained CUC members on AJS.
- Instituted an AJS service week.

#### Ngong Magistrates' Court CUC

- Operationalized Court Annexed Mediation.
- Resolved disputes through AJS.

### 35. KERICHO COUNTY

#### Kericho High Court CUC

- Undertook a mediation training for CUC members.

### 36. BOMET COUNTY

#### Bomet High Court CUC

- Reintegrated released inmates into the community.
- Empowered probationers who have been released on review.
- Issued ID's to marginalized communities.
- Conducted training on the National Legal Aid Act.
- Established a forensic lab in the county.
- Adopted court Annexed Mediation.
- Participated in a tree planting activity at Bomet Law Courts.

#### Bomet Magistrates' CUC

- Case clearance surpassed 100%.
- Appointed a liaison officer from NPS to ensure effective coordination with ODPP.

### 37. KAKAMEGA COUNTY

#### Kakamega Magistrates' CUC

- Reduced the number of missing files.
- Formed a Bar-Bench committee to address issues of missing files.
- Improved cooperation from justice sector actors.
- Lobbied for an increased number of Judiciary staff.

#### Mumias Magistrates' CUC

- Reduced offences related to illicit brews.

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### **Butere Magistrates' CUC**

- Provided mentorship programs in schools.
- Reduced cases of defilement due to sensitization done.
- Conducted a prison decongestion exercise.
- Conducted sensitization with medical officers on expert witness testimonies.
- Conducted public sensitization on SGBV and the Children Act, 2022.
- Visited Spring of Life Children's Home in Bukura as a CSR activity.
- Cleared case backlog for children matters.

### **38. VIHIGA COUNTY**

#### **Vihiga E&L CUC**

- Launched ELC @10 initiatives.
- Engaged in tree planting in schools.
- Sensitized members of the public on environmental issues.
- Timely execution of court orders for Vihiga and Mbale Police stations.

#### **Vihiga Magistrates' CUC**

- Engaged in tree planting activities.

#### **Hamisi Magistrates' CUC**

- Set up SGBV desks at all police stations.
- Conducted sensitization of the Children Act, 2022 to members.
- Sensitized members of the public on children and SGBV-related issues.
- Police and prison officers trained on committal warrants and register movement.

### **39. BUNGOMA COUNTY**

#### **Bungoma High Court CUC**

- Trained about 100 health workers on SGBV.
- Created SGBV clinics at various facilities to give priority and a conducive environment for SGBV clients.
- Established a Children's Court at Sirisia station.

#### **Bungoma Magistrates' CUC**

- Conducted prison mentions and hearings.
- Reduced the number of court brokers.

#### **Kimilili Magistrates' CUC**

- Opened a women's rescue centre at Ndengelwa.

#### **Sirisia Magistrates' CUC**

- Embraced virtual court proceedings.
- Adopted diversion in children matters.
- Expedient disposal of children matters.
- Legal representation for all minors.
- Increased the number of referrals to probation officers.

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## 40. BUSIA COUNTY

### Busia High Court CUC

- Completed the construction of Port Victoria Law Courts.
- Introduced serialized warrants to curb the issue of prison sentences.

### Busia E&L CUC

- Held an E&L open day.
- Planted 1200 tree seedlings.

## 41. SIAYA COUNTY

### Bondo Magistrates' CUC

- Facilitated timely pleas delivery.

### Ukwala Magistrates' CUC

- Adopted the use of non-custodial sentences.
- Adopted ADR for dispute resolution.
- Provided counselling services for people with mental health challenges.

### Madiany Magistrates' CUC

- Established and fully operationalized the CUC.
- Installed a water tank at court premises donated by Rarieda NG-CDF.

## 42. KISUMU COUNTY

### Kisumu High Court CUC

- Reduced the number of missing files.
- Sensitized the CUC members on AJS.

### Kisumu CJCUC

- Launched and operationalized of the Kisumu CJCUC.
- Sensitized members on the Nairobi Centre for International Arbitration and Small Claims Court.

### Kisumu Magistrates' CUC

- Donated a TV screen to Kisumu GK Prisons.
- Sensitized CUC members on Alternative Justice Systems (AJS).

### Winam Magistrates' CUC

- Improved production of remandees to court.
- Remandees being issued with witness statements in good time.
- Sensitized members on human rights issues in non-custodial court sanctions.

### Maseno Magistrates' CUC

- Launched the Children's Court Users' Committee.
- Acquired a television set that would facilitate virtual court hearings.
- Conducted a decongestion of prisons exercise.

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### **Nyando Magistrates' CUC**

- Embraced ADR to enhance expeditious dispute resolution.
- Conducted training for chiefs on the law of succession.

### **Tamu Magistrates' CUC**

- Distributed of IEC material on AJS to the public.
- Organized a legal aid clinic.

## **43. HOMA BAY COUNTY**

### **Homa Bay High Court CUC**

- Improved bonding of witnesses.
- Facilitated timely availing of files.
- Acquired land from the community to construct a children's holding facility.
- Expeditious disposal of Sexual Offences Act (SOA) offences involving minors.
- Sensitized NGAO on succession matters.
- Acquired land for the construction of Kendu Bay Law Courts.

### **Homa Bay E&L CUC**

- Planted trees as a CSR activity.

### **Mbita Magistrates' CUC**

- Conducted sensitization on SGBV.

### **Ndhiwa Magistrates' CUC**

- Completed construction of children's holding cells.
- Conducted sensitization of boda-boda riders on traffic laws and road safety.
- Improved case clearance rate.

## **44. MIGORI COUNTY**

### **Migori High Court CUC**

- Lobbied to address staffing shortages at the ODPP.

### **Migori Magistrates' CUC**

- Conducted training for chiefs on SGBV.

### **Kehancha Magistrates' CUC**

- Expeditious disposal of children matters.
- Renovated Kehancha Police Station with assistance of the Kuria West NG-CDF.

## **45. KISII COUNTY**

### **Kisii High Court CUC**

- Received land donation from the county government.

### **Kisii Magistrates' CUC**

- Undertook prison decongestion exercises.

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### Ogembo Magistrates' CUC

- Conducted a prison decongestion exercise.

## 46. NYAMIRA COUNTY

### Nyamira High Court CUC

- Established a Prisons Liaison Office to enhance interagency collaboration with other justice sector actors.
- Lobbied for increased number of prosecutors.
- Increased adoption of diversion to aid in prison decongestion.
- Conducted a prison visit as a prison decongestion exercise.
- Established and operationalized the Nyamira County CCUC.

### Nyamira Magistrates' CUC

Trained 30 community monitors to monitor and report SGBV-related issues.

## 47. NAIROBI CITY COUNTY

### Milimani High Court Anti-Corruption & Economic Crimes Division CUC

- Provided office space for WPA within the court.
- Procured a laptop for Nairobi Remand for use during virtual proceedings.

### Milimani High Court Family Division CUC

- Acquired a Braille unit for the visually impaired.
- Revamped Toto Corner.
- Reviewed and launched a revised Service Charter for the Division.
- Conducted a training on screening of matters to be referred to CAM.
- Promoted the use of ADR.

### Milimani Commercial Magistrates' CUC

- Established an integrity assurance desk to handle issues of bribery and corruption.
- Creation of Milimani Chief Magistrate Family Court.

### Kibera Magistrates' CUC

- Established a *pro bono* legal office.
- Conducted Prison decongestion through service weeks and prison mentions.

### Milimani Anti-Corruption Magistrates' CUC

- Reduced case backlog.
- Substantial improvement of security within the court premises.
- Conducted Stakeholder Engaged workshop.

### Milimani Children's CUC

- Trained *pro bono* advocates.
- Renovated the children lobby in court.
- Raised funds for construction of children interview space "Totos Corner".
- Trained paralegal on ADR, Mediation and Arbitration.

### JKIA Magistrates' CUC

- Awarded the best court in the category of courts that handle criminal cases only.

## Appendix 6: Breakdown of Offences Committed by Children Per County, FY 2022/23

COUNTY AND OFFENSE TYPE	NUMBER OF OFFENSES
<b>BARINGO</b>	3
Child offender	3
Assault	1
House breaking/Burglary	1
Loitering	1
<b>BOMET</b>	6
Child offender	6
Arson	1
Attempted Defilement/Rape	1
Defilement	2
Loitering	1
Peddling of drugs	1
<b>BUNGOMA</b>	18
Child offender	18
Assault	1
Grievous bodily harm	1
Handling stolen property	1
House breaking/Burglary	6
Loitering	4
Preparing to commit felony	1
Theft	4
<b>BUSIA</b>	21
Child offender	21
Being a member of a gang	4
Breach of the Peace/Creating disturbance	1
Creating disturbance	1
Handling food	1
House breaking/Burglary	3
Loitering	6
Murder	1
Others	1
Stealing by servant	2
Theft	1
<b>ELGEYO/MARAKWET</b>	7
Child offender	7
House breaking/Burglary	2
Loitering	2

Possession of narcotics	1
Theft	2
<b>EMBU</b>	6
Child offender	6
Arson	1
Others	3
Theft	2
<b>HOMA BAY</b>	8
Child offender	8
Handling stolen property	1
Others	1
Theft	6
<b>ISIOLO</b>	6
Child offender	6
House breaking/Burglary	2
Lack of driving license	1
Sodomy	2
Theft	1
<b>KAJIADO</b>	5
Child offender	5
Arson	1
Murder	1
Theft	3
<b>KAKAMEGA</b>	26
Child offender	26
Assault	1
Attempted Defilement/Rape	1
Attempted murder / suicide	1
Creating disturbance	2
Grievous bodily harm	3
House breaking/Burglary	8
Preparing to commit felony	2
Robbery with Violence	1
Stock Theft	2
Theft	4
Unnatural Act	1
<b>KERICHO</b>	182
Child offender	182
Abandoned	1
Arson	8



Assault	9
Attempted murder / suicide	2
Begging	1
Being unlawfully in Kenya	1
Creating disturbance	8
Defilement	13
Grievous bodily harm	2
Handling food	4
Handling stolen property	1
House breaking/Burglary	22
Impregnated child	1
Loitering	53
Murder	5
Others	1
Possession of narcotics	1
Preparing to commit felony	2
Procuring abortion	2
Robbery with Violence	8
Stealing by servant	2
Stock Theft	1
Theft	33
Traffic Offence (Touting)	1
<b>KIAMBU</b>	18
Child offender	18
Being unlawfully in Kenya	1
Defilement	2
Handling stolen property	2
House breaking/Burglary	2
Impregnated child	2
Loitering	1
Peddling of drugs	2
Theft	6
<b>KILIFI</b>	100
Child offender	100
Assault	7
Attempted Defilement/Rape	1
Breach of the Peace/Creating disturbance	1
Child Delinquency	1
Creating disturbance	1
Defilement	7

Grievous bodily harm	5
Hostile witness	1
House breaking/Burglary	20
Impregnated child	1
Murder	2
Other Indecent act	2
Others	1
Preparing to commit felony	10
Robbery with Violence	7
Sodomy	1
Stealing by servant	1
Stock Theft	1
Theft	28
Unnatural Act	2
<b>KIRINYAGA</b>	5
Child offender	5
Handling stolen property	1
Peddling of drugs	1
Possession of narcotics	1
Sodomy	1
Theft	1
<b>KISII</b>	7
Child offender	7
House breaking/Burglary	3
Sodomy	1
Theft	3
<b>KISUMU</b>	122
Child offender	122
Assault	6
Attempted Defilement/Rape	3
Creating disturbance	3
Defilement	14
Gang Rape	2
Grievous bodily harm	1
Handling stolen property	1
Hostile witness	1
House breaking/Burglary	20
Loitering	1
Murder	2
Other Indecent act	1



Others	1
Possession of narcotics	7
Preparing to commit felony	2
Robbery	4
Robbery with Violence	10
Stealing by servant	12
Stock Theft	4
Theft	27
<b>KITUI</b>	4
Child offender	4
Theft	4
<b>KWALE</b>	19
Child offender	19
Theft	19
<b>LAIKIPIA</b>	2
Child offender	2
House breaking/Burglary	1
Other Indecent act	1
<b>LAMU</b>	6
Child offender	6
House breaking/Burglary	2
Loitering	1
Preparing to commit felony	2
Theft	1
<b>MACHAKOS</b>	105
Child offender	105
Aduction	2
Arson	8
Assault	3
Attempted Defilement/Rape	1
Being unlawfully in Kenya	1
Child Trafficking	1
Creating disturbance	2
Defilement	3
Escape from lawful custody	2
Gang Rape	3
Grievous bodily harm	2
Handling stolen property	1
House breaking/Burglary	20
Impregnated child	2

Indicent Assault (includes defilement)	2
Kidnapping	1
Loitering	4
Manslaughter	1
Other Indecent act	1
Others	5
Peddling of drugs	8
Poaching	1
Possession of narcotics	4
Preparing to commit felony	1
Robbery with Violence	1
Theft	24
Unnatural Act	1
<b>MAKUENI</b>	<b>19</b>
Child offender	19
Breach of the Peace/Creating disturbance	1
Creating disturbance	4
Grievous bodily harm	4
Handling stolen property	2
Preparing to commit felony	5
Sodomy	1
Unnatural Act	2
<b>MARSABIT</b>	<b>15</b>
Child offender	15
Assault	1
Attempted murder / suicide	1
Grievous bodily harm	1
House breaking/Burglary	2
Others	4
Robbery with Violence	1
Theft	5
<b>MERU</b>	<b>82</b>
Child offender	82
Arson	5
Assault	3
Breach of the Peace/Creating disturbance	1
Contempt of Court	1
Creating disturbance	2
Defilement	8
Grievous bodily harm	2



Handling food	1
Handling stolen property	1
House breaking/Burglary	12
Murder	2
Others	6
Possession of narcotics	2
Preparing to commit felony	2
Removing forest produce without permit	1
Robbery with Violence	8
Stealing by servant	19
Stock Theft	3
Theft	2
Unnatural Act	1
<b>MIGORI</b>	<b>5</b>
Child offender	5
Assault	2
Defilement	1
House breaking/Burglary	1
Theft	1
<b>MOMBASA</b>	<b>138</b>
Child offender	138
Assault	11
Attempted Defilement/Rape	1
Breach of the Peace/Creating disturbance	3
Creating disturbance	1
Defilement	30
Escape from lawful custody	1
Gang Rape	1
Handling stolen property	3
Harbouring an escapee	1
House breaking/Burglary	11
Kidnapping	1
Murder	1
Others	1
Possession of Military Attire	1
Possession of narcotics	6
Preparing to commit felony	9
Robbery	3
Robbery with Violence	16
Theft	37

<b>MURANG'A</b>	276
Child offender	276
Arson	7
Assault	1
Attempted Defilement/Rape	8
Attempted murder / suicide	1
Breach of the Peace/Creating disturbance	1
Creating disturbance	5
Defilement	28
Escape from lawful custody	1
Grievous bodily harm	5
Handling stolen property	10
Hostile witness	1
House breaking/Burglary	34
Indicent Assault (includes defilement)	5
Loitering	2
Lying/perjury	1
Murder	1
Other Indecent act	2
Others	13
Peddling of drugs	5
Possession of narcotics	40
Preparing to commit felony	5
Prostitution	1
Robbery with Violence	12
Sodomy	1
Stock Theft	6
Theft	78
Traffic Offence (Touting)	1
Unnatural Act	1
<b>NAIROBI</b>	90
Child offender	90
Assault	2
Attempted Defilement/Rape	1
Attempted murder / suicide	2
Begging	1
Breach of the Peace/Creating disturbance	1
Defilement	4
Escape from lawful custody	1
Extortion	1

Handling stolen property	1
House breaking/Burglary	4
Loitering	2
Murder	1
Other Indecent act	2
Others	1
Peddling of drugs	2
Possession of Fire Arms	3
Possession of narcotics	5
Robbery with Violence	2
Stealing by servant	4
Theft	50
<b>NAKURU</b>	<b>236</b>
Child offender	236
Arson	4
Assault	10
Attempted Defilement/Rape	2
Attempted murder / suicide	1
Being unlawfully in Kenya	1
Breach of the Peace/Creating disturbance	1
Child Trafficking	1
Creating disturbance	1
Defilement	9
Escape from lawful custody	1
Gang Rape	2
Grievous bodily harm	9
House breaking/Burglary	34
Loitering	2
Manslaughter	1
Murder	7
Others	28
Possession of narcotics	13
Preparing to commit felony	7
Removing forest produce without permit	3
Robbery	3
Robbery with Violence	8
Theft	80
Trespassing	4
Unnatural Act	4

<b>NAROK</b>	18
Child offender	18
Attempted Defilement/Rape	2
Creating disturbance	1
Defilement	1
House breaking/Burglary	1
Peddling of drugs	7
Robbery with Violence	2
Sodomy	1
Stealing by servant	1
Stock Theft	1
Theft	1
<b>NYAMIRA</b>	196
Child offender	196
Arson	6
Assault	5
Attempted Defilement/Rape	2
Child Trafficking	1
Contempt of Court	2
Creating disturbance	4
Defilement	26
Handling food	3
Handling stolen property	8
Hostile witness	2
House breaking/Burglary	41
Lying/perjury	1
Murder	4
Other Indecent act	1
Others	2
Poaching	1
Possession of narcotics	6
Preparing to commit felony	2
Procuring abortion	1
Robbery with Violence	9
Sodomy	1
Stock Theft	6
Theft	61
Unnatural Act	1
<b>NYANDARUA</b>	9
Child offender	9

Attempted murder / suicide	3
House breaking/Burglary	3
Loitering	2
Traffic Offence (Touting)	1
<b>NYERI</b>	<b>83</b>
Child offender	83
Assault	3
Attempted murder / suicide	3
Being unlawfully in Kenya	1
Defilement	2
Gang Rape	6
Handling stolen property	1
House breaking/Burglary	7
Indicent Assault (includes defilement)	1
Lack of driving license	1
Murder	1
Other Indecent act	5
Others	5
Peddling of drugs	1
Possession of narcotics	11
Preparing to commit felony	12
Robbery	1
Robbery with Violence	3
Sodomy	1
Stealing by servant	1
Stock Theft	1
Theft	16
<b>SIAYA</b>	<b>34</b>
Child offender	34
Assault	1
Concealing birth	1
Defilement	1
Extortion	1
House breaking/Burglary	2
Impregnated child	1
Manslaughter	1
Other Indecent act	1
Robbery	2
Theft	18
Unnatural Act	5

<b>TAITA TAVETA</b>	6
Child offender	6
Impregnated child	2
Other Indecent act	1
Peddling of drugs	1
Preparing to commit felony	1
Removing forest produce without permit	1
<b>TANA RIVER</b>	1
Child offender	1
Theft	1
<b>THARAKA - NITHI</b>	8
Child offender	8
Assault	1
Creating disturbance	1
Handling food	1
Labour	2
Loitering	3
<b>TRANS NZOIA</b>	2
Child offender	2
Theft	2
<b>TURKANA</b>	2
Child offender	2
Defilement	2
<b>UASIN GISHU</b>	89
Child offender	89
Arson	2
Assault	9
Attempted murder / suicide	1
Contradicting evidence	1
Creating disturbance	1
Defilement	9
House breaking/Burglary	23
Manslaughter	3
Murder	5
Possession of narcotics	2
Robbery with Violence	5
Stock Theft	1
Theft	24
Trespassing	2
Unnatural Act	1

<b>VIHIGA</b>	2
Child offender	2
Theft	2
<b>WAJIR</b>	3
Child offender	3
Attempted Defilement/Rape	1
Grievous bodily harm	1
Theft	1
<b>GRAND TOTAL</b>	1990

*Source: Submission to NCAJ by the Directorate of Children Services*





# ADMINISTRATION OF JUSTICE IN KENYA ANNUAL REPORT

2022 - 2023

*A unified justice sector serving the people in Kenya.*

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