



NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE

# ENHANCING THE ADMINISTRATION AND ACCESS TO JUSTICE IN ADDRESSING SGBV



## REPORT ON

*The Inaugural National Conference on  
Sexual and Gender Based Violence*

2023





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# ENHANCING THE ADMINISTRATION AND ACCESS TO JUSTICE IN ADDRESSING SGBV

## REPORT ON

### *The Inaugural National Conference on Sexual and Gender Based Violence*

2023

## SUPPORTING PARTNERS



## NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE



### 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

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

## FOREWORD



The National Council on the Administration of Justice (NCAJ), under its mandate and functions espoused in the Judicial Service Act 2011, organised and hosted the Inaugural National Conference on Sexual and Gender-Based Violence (SGBV). The Conference, themed *Enhancing the Administration and Access to Justice for Victims of SGBV*, broadly focused on Survivor-centred interventions and grassroots opportunities, strengthening legal, policy and administrative reforms to address SGBV, Innovation and technological approaches to prevent and respond to SGBV, Justice sector preparedness during emergencies, Effective

strategies for prevention of SGBV among vulnerable groups, and Socio-economic costs of SGBV.

The Conference was attended by international and national participants comprising the NCAJ Council and committees' members, government officials, development partners' representatives, survivors of SGBV, civil society organisations' actors, among others. This report details the proceedings of the Conference and provides the myriad practice interventions deemed optimal to address the SGBV in Kenya. It further provides policy and legal reforms required to address SGBV.

The Conference was a bold manifestation of Kenya's strong commitment to enhancing access to justice for SGBV survivors through a coordinated multi-sectoral approach. The need to sustain a supportive justice sector environment that addresses the complex needs of survivors and their families was emphasised. The Conference reaffirmed stakeholders' commitment to scaling up survivor-centred response and prevention mechanisms detailed in the Report's Action Plan.

I extend my full support and that of the Council in combating SGBV. I urge all justice sector actors to prioritise implementing the action points earmarked in this Report. May our collective and coordinated endeavours yield a better future for Kenya, free from SGBV.

**Hon. Justice Martha K. Koome, EGH**

**The Chief Justice and President of the Supreme Court of Kenya & Chairperson - National Council on the Administration of Justice**

## ACKNOWLEDGEMENTS



Special appreciation goes to the Council for approving the undertaking of the Inaugural National Conference on SGBV. The Council has continued to play a critical role in fortifying collaboration and reforms in the justice system as required by the Judicial Service Act 2011.

I acknowledge and thank the NCAJ Committee on Review of Laws on Sexual Offences and Gender-Based Violence in Kenya under the leadership of Ms. Nancy Ikinu (Chairperson FIDA), who, on behalf of the Council, ensured the success of the Conference. I recognize the dedication of the Committee members comprising Mr. Desire Njamwea (NGEC and vice-chairperson), Prof. Marion Mutugi (KNCHR), Dr. Kizzie Shako and Dr. Alice Macharia (Judiciary), Dr. Resila Onyango and Ms. Judy Larnet (NPS), Dr. Rose Wafula and Dr. Judith Awinja (MoH), Ms. Jacqueline Njagi (ODPP), Ms. Claris Gatwiri (OAG&DOJ), Mr. Armstrong Rotich (WPA), Mr. John Ngugi (NCRC), Ms. Marygorrett Mogaka (DCS), Ms. Fatuma Mohammed (IPOA), Dr. Christine Obondi (PACS), Ms. Irene Ndegwa (LSK), Ms. Judy Gitau (Equality Now), Ms. Irene Kabua (KLRC), Ms. Wairimu Munyinyi (COVAW), Ms. Isabella Mwangi (CREAW), Ms. Renee Ngamau (Cleanstart Solutions), Mr. Bildad Keke (VPB) and the joint secretaries Ms. Roselyne Kabata (UNICEF) and Ms. Waturi Esiera (NCAJ).

I profoundly extend my gratitude to the NCAJ Secretariat Staff for the extensive support to the Committee in the planning and execution of the Conference and the writing of this report. Additionally, I sincerely thank the rapporteurs who diligently captured the Conference proceedings, namely, Ms. Irene Ndirangu, Ms. Norah Mutua, Ms. Christabel Odhiambo, and Mr. Eliud Githinji, who also undertook the graphic designing of the report.

Special appreciation goes to UNWOMEN, UNICEF, UNODC through the EU-PLEAD support, UNFPA, IDLO, UNHCR, Equality Now, FIDA-Kenya, COVAW, Centre for Reproductive Rights, CREAM and CleanStart International for technical and financial support towards the successful holding of the Conference and preparation of this report.

**Dr. Moses W. Marang'a, MBS**

**The Executive Director,**

**National Council on the Administration of Justice**

## ABBREVIATIONS AND ACRONYMS



<b>ADR</b>	Alternative Dispute Resolution
<b>AJS</b>	Alternative Justice System
<b>COG</b>	Council of Governors
<b>COVAW</b>	Coalition on Violence Against Women
<b>CREAW</b>	Centre for Rights Education and Awareness
<b>CUC</b>	Court Users Committees
<b>DCI</b>	Directorate for Criminal Investigations
<b>DCS</b>	Directorate for Children’s Services
<b>DNA</b>	Deoxyribonucleic Acid
<b>EU</b>	European Union
<b>FGM</b>	Female Genital Mutilation
<b>FIDA</b>	Federation of Women Lawyers
<b>GAP</b>	Gender Action Plan
<b>GBVRC</b>	Gender Based Violence Recovery Centre
<b>ILO</b>	International Law Organisation
<b>IPOA</b>	Independent Police Oversight Authority
<b>IPV</b>	Intimate partner Violence
<b>JLAC</b>	Justice and Legal Affairs
<b>KLRC</b>	Kenya Law Reform Commission
<b>KNCHR</b>	Kenya National Commission on Human Rights
<b>LRF</b>	Legal Resources Foundation
<b>LSK</b>	Law Society of Kenya
<b>MISP</b>	Minimum Initial Service Package
<b>MoH</b>	Ministry of Health
<b>MoINA</b>	Ministry of Interior and National Administration
<b>MoGCAH</b>	Ministry of Gender, Culture, the Arts and Heritage
<b>NASCOP</b>	National AIDS and STIs Control Programme
<b>NCAJ</b>	National Council on the Administration of Justice
<b>NCCJR</b>	NCAJ Committee on Criminal Justice Reforms
<b>NCCS</b>	National Council for Children’s Services

<b>NCRC</b>	National Crime Research Centre
<b>NGEC</b>	National Gender and Equality Commission
<b>NLAS</b>	National Legal Aid Services
<b>NPS</b>	National Police Service
<b>OAG &amp; DOJ</b>	Office of the Attorney & Department of Justice
<b>ODPP</b>	Office of the Director of Public Prosecutions
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>PACS</b>	Probation and After Care Services
<b>SGBV</b>	Sexual and Gender Based Violence
<b>STAJ</b>	Social Transformation through Access to Justice
<b>SOA</b>	Sexual Offences Act
<b>SSVK</b>	Survivors of Sexual Violence in Kenya
<b>UNCDF</b>	United Nations Capital Development Fund
<b>UNFPA</b>	United Nations Populations Fund
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>VPB</b>	Victim Protection Board
<b>WKF</b>	Wangu Kanja Foundation
<b>WPA</b>	Witness Protection Agency

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# COMMUNIQUÉ FOR THE INAUGURAL NATIONAL CONFERENCE ON SGBV IN KENYA

## Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **A. SURVIVOR CENTRED INTERVENTIONS AND OPPORTUNITIES AT THE GRASSROOTS**

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

## **B. REDUCTION OF BOTTLENECKS TO EXPEDITE THE DISPOSAL OF SGBV CASES IN KENYA**

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

## **C. LEVERAGING ON INNOVATION AND TECHNOLOGY**

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

## **D. GLOBAL AND REGIONAL LESSONS ON ADDRESSING SGBV**

- Actors to recognize Intimate Partner Violence (IPV) as one of the foundational causes of SGBV. The justice actors collaboratively develop mechanisms to handle IPV.
- NCAJ to sensitize justice actors and the community on the Romeo and Juliet clauses enshrined in the Constitution and growing jurisprudence to ensure its appropriate handling. There is need to promote age-appropriate sexual education to enhance the understanding of consent.

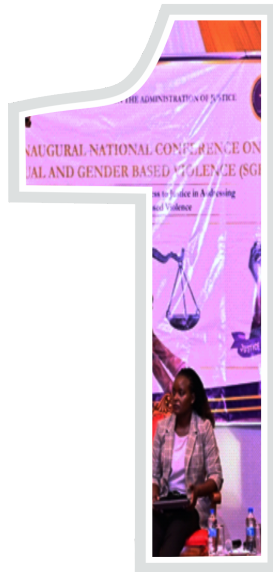
- The adolescents to be part of SGBV interventions as they are engaged in consensual sexual activities.
- All actors to undertake sustainable resource mobilization to ensure that the solutions identified are adequately realized.
- Actors to fully implement the provisions of the Children's Act 2022.

## **E. EMERGING ISSUES ON SGBV AND THE REQUIRED OPTIMAL INTERVENTIONS**

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

## **F. THE SOCIO-ECONOMIC COSTS OF SGBV IN KENYA**

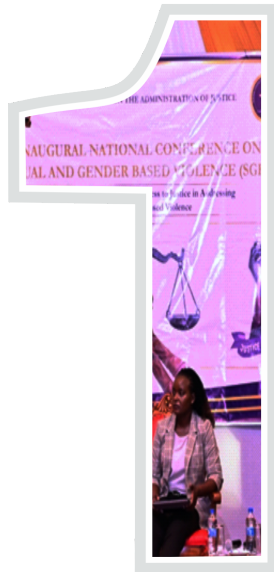
- Undertake an extensive study on the resources required for the efficient and effective administration of justice across the justice sector chain.
- Establish, strengthen, and operationalise SGBV Violence and Recovery Centres in all Level 5 Hospitals across the country.
- Implement its commitment made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



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# BACKGROUND

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## BACKGROUND

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# 1. BACKGROUND



## 1.1 Introduction

The justice system in Kenya plays a crucial role in addressing sexual and gender-based violence (SGBV). The effects of SGBV are devastating, adversely impacting the survivor's immediate and long-term physical and mental health, well-being and relationships. The vice undermines the promotion and defence of human rights, burdens the justice and health systems, and exacerbates the suffering of survivors or victims. For instance, the Kenya Demographic and Health Survey, 2022, reveals that over 40 percent of women have experienced physical or sexual violence from an intimate partner during their lives.

To enhance the administration of justice and reforms in addressing the challenges associated with SGBV, the National Council on Administration of Justice (NCAJ)<sup>1</sup> established a committee to, among others, review laws and policies on SGBV. To enhance the administration of justice at the grassroots level, NCAJ also created specialized court users' committees (CUCs) on SGBV. Drawing from the NCAJ Strategic Plan 2021-2026, access to justice for vulnerable groups, especially the victims of sexual and gender-based violence (SGBV) is a significant and strategic focus area. The rationale is to address SGBV in its various forms. Some of the forms of SGBV include, among others, intimate partner violence<sup>2</sup>, sexual violence, harmful cultural practices such as forced child marriages<sup>3</sup>, wife inheritance and Female Genital Mutilation (FGM)<sup>4</sup>.

To provide and entrench rigorous and extensive discussions and stakeholders' engagement in the fight against SGBV, NCAJ organised the Inaugural National Conference on SGBV. The Conference was held on 17th and 18th October 2023 at the Safari Park Hotel, Nairobi. The Conference manifested Kenya's government's dedication to ensuring effective, efficient, collaborative and coordinated delivery of justice for SGBV victims. It brought together diverse stakeholders from the justice sector, including those responsible for the investigation, arrest, prosecution and trial of SGBV perpetrators, along with development partners, civil society organizations, the private sector and other entities. This report provides the proceedings, thematic discussions, recommendations and commitments made during the Conference.

## 1.2 Objectives of the Inaugural National Conference on SGBV, 2023

The Conference aimed to bring together the justice sector actors to discuss, engage and share knowledge and experiences in handling SGBV under the theme, *“Enhancing the Administration and Access to Justice in Addressing SGBV.”*

<sup>1</sup> The National Council on Administration of Justice (NCAJ) was established in 2011 under the Judicial Service Act (No.1 of 2011) as a high-level policymaking, oversight and coordinating body composed of State and Non-State justice sector actors. The NCAJ is mandated to ensure a coordinated, efficient, effective and consultative approach in the administration of justice and reform of the justice system.

<sup>2</sup> Behaviour by an intimate partner or ex-partner that causes physical, sexual, or psychological harm, including physical aggression, sexual coercion, psychological abuse, and controlling behaviours.

<sup>3</sup> Any formal marriage or informal union between a child under the age of 18 and an adult or another child. Child marriage is a form of forced marriage, given that one and/or both parties have not expressed full, free and informed consent.

<sup>4</sup> All procedures involving partial or total removal of the female external genitalia or other injury to the female genital organs for non-medical reasons.

Specifically, the Conference focused on:

- i. Survivor-centred interventions and grassroots opportunities.
- ii. Sealing loopholes affecting the expeditious disposal of SGBV cases while respecting victims' rights.
- iii. Effective approaches for addressing SGBV amongst children, adolescents, women, old persons, and other vulnerable groups in Kenya, drawing from global and regional lessons.
- iv. Innovation and technological approaches to prevent and respond to SGBV.
- v. Justice sector preparedness during emergencies.
- vi. Emerging issues on SGBV and optimal interventions.
- vii. The socio-economic costs of SGBV and crucial reforms in the criminal justice system.
- viii. The rights of victims, perpetrators and witnesses of SGBV.
- ix. Kenya's priority reforms for eliminating SGBV.
- x. Strengthening legal and policy reforms to address SGBV.
- xi. Strengthening partnerships with county governments to address SGBV.

The objectives were to be realised through high-level speeches and panel discussions. On the first day, Tuesday, 17th October 2023, there was an opening session followed by panel discussions on Survivor-Centred Interventions and Opportunities at the Grassroots; Reducing Bottlenecks Affecting Expeditious Disposal of SGBV Cases in Kenya; Sealing the Loopholes while Observing the Rights of Victims; Innovation and Technological Underpinnings on Prevention and Response to SGBV; and Justice Sector Preparedness to Barriers during Emergencies.

On the second day, Wednesday, 18th October 2023, other panel discussions were held towards realising the Conference's objectives. These were: Global and Regional Lessons on Addressing SGBV, What Can Work for Children, Adolescents, Women, Old Persons and other Vulnerable Groups in Kenya; Strategic Presentations on Emerging Issues on SGBV and the Required Optimal Interventions; Socio-Economic Costs of SGBV in Kenya; and Addressing Costly yet High-Impact and Crucial Reforms in the Criminal Justice System.

### **1.3 Organisation of the Conference Report**

The next chapter of the report covers the opening session that culminates with the official opening and the keynote address by Hon. Justice Martha Koome, the Chief Justice of the Republic of Kenya and Chairperson of NJAC. Chapter Three covers deliberations on reducing bottlenecks affecting the expeditious disposal of SGBV cases, followed by innovation and technological underpinnings on prevention and response to SGBV in Chapter Four. Chapter five gives highlights of global and regional lessons on addressing SGBV. Next is chapter six on strategic presentations on emerging issues on SGBV and the required optimal interventions. The final chapter is on the Conference closure and further provides a plan of action for implementing the Conference recommendations.



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## CONFERENCE OPENING SESSION

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## CONFERENCE OPENING SESSION

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## 2. CONFERENCE OPENING SESSION



### 2.1 Welcoming Remarks

Hon. Anne A. Amadi, the Chief Registrar of the Judiciary and Secretary of NCAJ at the time of the Conference, welcomed the participants. She emphasised that the NCAJ was dedicated to ensuring a coordinated, efficient, effective, and consultative approach to administration of justice. She indicated that one of the pressing issues that required the justice sector's urgent attention was SGBV. She reiterated that the vice poses unique challenges to the victims and necessitates special attention from players involved in the administration and access to justice.

The NCAJ Secretary emphasised the utility of strengthening the collaboration among various stakeholders to reduce SGBV and heighten within-institutional efforts. She indicated that the Conference was driven by a profound sense of purpose and a common cause transcending boundaries, ideologies and backgrounds. The collective aim of the Conference was to reflect on the challenges hindering efficient service delivery for SGBV victims and witnesses and to generate practical solutions.

The NCAJ Secretary averred that the Conference would mark a continuation of the journey to examine obstacles in the expeditious disposal of SGBV cases. A strategic outcome would be the commitment that Kenya would reduce SGBV. She reiterated that NCAJ was dedicated to upholding the rule of law and enhancing efficiency in the policing, prosecution and trial processes of SGBV cases.

## Delegates attending the Conference



## Judges who participated in the Conference



*From Top Left: Hon. Lady Justice Grace Ngenye (Judge of Appeal & Chairperson of the NCCJR), Hon. Lady Justice Lilian Mutende (Chairperson of the National CSOs Programme), Hon. Justice Isaac Lenaola (Judge of the Supreme Court of Kenya and the Chairperson of the NCAJ Working Committee on ICT), Hon. Justice Alfred Mabeya (Chairperson of the NCAJ Standing Committee on Court Users Committees)*

## Senior Government Officials who participated in the Conference



*Left to Right: Hon. Harriet Chiggai (Special Advisor to H.E. the President on Women's Rights), Ms. Salome Beacco (PS, State Department for Correctional Services)*

## Members of Parliament who participated in the Conference



*From Top Left: Hon. Beatrice Elachi (Deputy Chairperson, KEWOPA), Hon. Kajwang Francis, Hon. Paul Otiende, Hon. Mutuse Eckomas Mwangi, Hon. George Murugara, Hon. John Kaguchia, Hon. Mogaka Stephen*

## 2.2 Justice System Priority Reforms on Elimination of SGBV



Ms. Nancy Kang'ethe, the Chairperson NCAJ Committee on the Review of Laws and Policies on SGBV in Kenya, expressed that the Conference was an opportunity to enhance the administration and access to justice in addressing SGBV in Kenya. She reiterated that the Conference was in line with the mandate that the NCAJ Council gave to the Committee on the Review of Laws and Policies on the Administration of Justice of Kenya.

She highlighted that the Committee was gazetted to:

- i. Review of the Sexual Offences Act (SOA) and other laws, policies, guidelines, rules related to the efficient administration of justice for the SGBV;
- ii. Identify areas of inter-agency collaboration and cooperation;
- iii. Monitor the prevalence of SGBV and the effectiveness of the control measures and advise the Council; AND
- iv. Oversee and standardize the sensitization and training programs related to the SOA and other laws on SGBV and the sexual offenses policies and guidelines.

The Committee in achieving its mandate was in the process of reviewing the Sexual Offences Act, 2006 and its attendant laws, developing the justice sector SGBV policy and strategy, developing the rules on victim protection under SGBV and developing rules around forensic management of evidence on SGBV.

The Conference's theme on *'Enhancing the Administration and Access to Justice in Addressing SGBV'* was deliberately chosen due to the concern of vulnerable persons in the Kenyan society. The Chairperson noted that collective effort was required to ensure that the victim and survivor's rights to access justice are not forgotten and that the trial process is timeous.

Therefore, the Conference was of great significance to all stakeholders handling SGBV and the NCAJ SGBV Committee. It sought to update the collective understanding of emerging issues that impede the implementation of policies, rules and strategies related to the efficient administration of justice for SGBV. She finalised by thanking the participants for attending the Conference and wished them fruitful deliberations.

## 2.3 Innovations and Options for Seamless Prosecution of SGBV



Ms. Jacinta Nyamosi, Deputy Director of Public Prosecutions, represented Mr. Renson Ingonga, the Director of Public Prosecutions. She reported that the Office of the Director of Public Prosecutions (ODPP) had developed various innovations to enhance efficiency in prosecuting SGBV matters.

She reported that the legal, institutional and regulatory framework on SGBV required adequate measures, strategies, programmes and interventions to deal with SGBV cases. This would also include building the capacity of all key players and stakeholders for effective prevention,

protection, prosecution, rehabilitation and management of SGBV cases.

Ms. Jacinta Nyamosi reported that the ODPP had embraced human rights and victim-centred approaches and considered the needs, interests and concerns of SGBV victims while balancing the perspective of equality, non-discrimination and rights to dignity. The innovations by ODPP included the development of Decision to Charge Guidelines, Rapid Reference Guide for Prosecuting of SGBV Cases in Kenya, Rapid Reference Guide and Standard Operating Procedures for Prosecution of Female Genital Mutilation (FGM), and Diversion Policy and Guidelines.

In addition to the policies and guidelines, the ODPP has been utilising technology to enhance access to justice through Uadilifu Case Management System, and embraced continuous virtual training of prosecutors on emerging sexual offences. Further, the ODPP had established two units, the SGBV Division and the Victim and Witness Support Unit. The Division handles all sexual offences and advise the agencies and members of the public on prosecuting SGBV. The Unit ensures that victims are supported and protected.

In the spirit of collaboration, the ODPP has been undertaking joint training forums with stakeholders to reinforce their understanding and synergy in matters related to SGBV. She reiterated that efforts by all actors, state and non-state, should be towards developing programs to enhance access to justice for the survivors and victims of sexual offenses.

## 2.4 Strengthening Policy and Legal Frameworks to Address SGBV



Ms. Christine Agimba, the Chairperson of the Kenya Law Reform Commission, expressed the commitment by the Kenyan Government on increasing gender desks and implementing the anti-FGM law to safeguard the dignity of young girls and women.

Ms. Agimba affirmed the need for fast-tracking legal and policy reforms. These would cover, among others, the Sexual Offences Act, the Penal Code, the Persons with Disabilities Act, the Evidence Act, and other attendant laws. The review would ensure that the laws upheld the values and principles enshrined in the Constitution.

She emphasised that the review will factor-in the functional responsibility to ensure that roles are clearly defined and responsible parties held accountable. The review would entail establishing a cost-effective policy and legal framework that would clearly indicate each organisation's responsibility. Further, the review will address the prevailing challenges in society when handling SGBV cases and ensure that all vulnerable groups are included in the amended laws.

## 2.5 Partnerships with County Governments in Addressing SGBV



Ms. Mary Mwiti, the Chief Executive Officer of the Council of Governors, represented Hon. Anne Waiguru, the Chairperson of the Council of Governors. She thanked NCAJ for its unwavering commitment to promoting justice, equality, and the elimination of SGBV in Kenyan society, noting that SGBV is still a major challenge that affects countless lives. She stated that the Council of Governors was committed to the fight against SGBV with unwavering determination and resolve.

She echoed that SGBV was not merely a concern for the National Government but also profoundly affected the counties, towns and villages. She reiterated that County governments play a vital role in addressing this pressing problem, mainly because the county governments are closest to the people at the grassroots. The County Governments understands the unique challenges of the communities and can, therefore, implement tailored interventions that address the specific needs of those affected by SGBV.

To tackle SGBV within the counties, Ms. Mwiti explained that the county governments had adopted multi-faceted strategies focused on prevention, response, protection and economic empowerment for survivors of SGBV. The county governments had made significant efforts towards developing legislation and policies that address SGBV. The efforts have created a good environment for dealing with SGBV cases and ensuring perpetrators are held accountable. The development of the county-specific SGBV laws and policies such as those in Taita Taveta, Wajir, Meru, Nairobi, Embu, Makueni, among other things, are examples of a localized approaches to tackling SGBV.

Ms. Mwiti affirmed that county governments recognized the urgent need to provide safe spaces for SGBV survivors by establishing Gender-Based Recovery Centres. As a result, several counties, including Makueni, Homabay, Samburu, Kajiado and Wajir, established Gender-Based Violence Recovery Centres (GBVRCs) to provide post services for survivors. In addition, county governments have established Gender-Based Violence Technical Working Groups. The Technical Working Groups aim at enhancing prevention and response to SGBV at the county level.

She noted that SGBV disproportionately affects women and girls and, as a result, causes a cycle of violence and poverty that is difficult for survivors to escape. To address this issue, the counties are empowering women economically by establishing Women Economic Empowerment Funds, providing financial support and access to loans at subsidized rates, enabling survivors to start or expand their businesses. The county governments are also providing women with tools of trade and other avenues of empowerment.

The county governments have recognised and appreciated the significance of partnering with external stakeholders including development partners and non-governmental organisations. For example, Homabay County collaborated with the Gender Violent Recovery Centre at Nairobi Hospital to establish the Homabay GBVRC Hope Centre. She further highlighted that the Council of Governors Gender Committee has been collaborating with various institutions, including UN Women and the National Gender and Equality Commission (NGEC) to provide technical expertise and resources aimed at combatting SGBV.

## 2.6 From Europe to Kenya: A Partner Perspective on SGBV Prevention



H.E. Henriette Geiger, the European Union Ambassador to Kenya, gave her remarks the partner's perspective on SGBV prevention and promoting gender equality. The Ambassador reported that combating SGBV prevention was part of the European Union's (EU) agenda, and that the EU shared a commitment with Kenya to eradicate SGBV and promote gender equality. For instance, the EU supported the development of a Gender Action Plan (GAP), a comprehensive strategy designed to integrate gender considerations, promote gender equality, and empower women and

girls in partner countries.

She indicated that partner countries share with the EU progress realised and lessons learnt on the implementation of GAP. They also ensure equal participation and freedom from gender violence and advocate for economic and social empowerment. Towards this, the Government of Kenya committed to eradicating FGM by 2026.

The Ambassador reiterated that the EU would continue to support the Kenyan Government in the prevention and eradication of SGBV incidences in the following ways:

- Hiring of consultants to support gender finance.
- Continued support of programmes to eradicate FGM and child marriages.
- Capacity building to enhance the provision of healthcare and justice services.
- Enhance response initiatives at the county level through CSOs.

The Ambassador informed the participants that in 2024, the EU would roll out 4 million Euros to support duty bearers in eradicating FGM. This funding would be distributed between the national and county levels targeting improving multi-stakeholder collaboration, particularly in underserved counties notably Embu, Taita Taveta, Tharaka Nithi, Garissa and Wajir.

## 2.7 Navigating Challenges and the Role of the Correctional Services



Ms. Salome Beacco, the Principal Secretary for Correctional Services, expressed that the State Department for Correctional Services is mandated to contain and provide safe custody for inmates, rehabilitate, reform and reintegrate offenders. The rehabilitation of offenders is done by the Kenya Prisons Service and the Probation and After Care Services Directorate. The Prisons Service endeavours to empower the inmates by engaging them in various vocational training programmes to improve their skills and enable them to earn a decent life after their release. Further, the probation

and After-Care Service Directorate supervises, rehabilitates and reintegrates the offenders as they serve community-based sanctions.

The PS stressed that SGBV has tremendous societal costs as it affects the public well-being, health, safety, law enforcement, public programmes and budgets. Sexual and Gender-based offenders are considered high-risk offenders, and the corrective service-to-offender ratio employed to supervise them is very high. To keep the sexual offenders' inmates behind bars approximately costs the country at least three Kshs 300 per day. As of 9th October 2023, the state Department for Correctional Service had 8,626 SGBV convicted prisoners and 2,256 remandees, bringing the total number of offenders to 10,883 under the management of the Kenya Prisons Service. Therefore, an average of Kshs 3,200,000 is spent daily to keep SGBV offenders behind bars.

She highlighted that the provision of correctional services faces many challenges. The challenges include inadequate tailor-made rehabilitation programmes within the correctional services. The rehabilitation programmes that are currently offered at the facilities do not fully address the criminogenic nature of the offenders or prevent their recidivism. Further, Correctional Services Department faces financial constraints which prevent the establishment of specialised programmes that are suited for SGBV offenders and their victims. Another challenge is a slow trial process, leading to increased remandees.

There also exist legal loopholes. For instance, the Prevention of Domestic Violence Act 2015, which mentions the roles of probation officers lacks rules or regulations of practice. Further, the Victim Protection Act No. 17 of 2014 states that the probation officer provides information reports to the courts, gives victim impact statements, and undertakes reconciliation and mediation. However, in practice, the probation officers do not have adequate resources to facilitate the health care of victims or to optimally perform this role. Also, the Prohibition of FGM Act No. 32 of 2011 would require rules or regulations to guide the implementation of some of its provisions.

## 2.8 Keynote Address and Official Opening



Hon. Justice Martha Koome, the Chief Justice of the Republic of Kenya and Chairperson of NCAJ, began her address by celebrating the collaborative spirit and determination of all stakeholders present at the Conference to tackle SGBV and to ensure that every Kenyan, regardless of their background or gender, can access justice without hindrance. She urged all stakeholders and agencies to work towards a society free of SGBV, where the dignity of every person is recognized and every voice is heard.

The NCAJ Chairperson echoed that the efficiency and effectiveness of various interventions in the justice sector, such as effective investigations and adequate witness protection, were crucial in bridging the gap between survivors' trauma and hope for a better future. She further averred that there was a need to enhance the capacity to manage and protect evidence, and enhance forensic investigations. In addition, the justice sector needs to augment legal representation on SGBV cases for effective trial.

The Hon. Chief Justice stressed the importance of frontline teams adopting active case management methods to reduce delays in investigations, hearings and determination of cases. Further, a better understanding of the unique needs of SGBV victims is crucial. She reassured Kenyans that NCAJ and its actors remain committed to enhancing their efficiency and effectiveness in dealing with SGBV cases from upstream at the police level to downstream at trial and reintegration.

For the Justice Sector, the Chairperson indicated that NCAJ launched SGBV Court User Committees at Shanzu in November 2022. In the Judiciary, she acknowledged the proactive measures taken to address SGBV, especially developing the Judiciary SGBV Strategy in 2023 to strengthen the efforts of addressing SGBV at the trial level. In addition, the Judiciary had rolled out 12 SGBV courts across the country, targeting highly affected areas. The Judiciary was also in the process of developing Practice Directions on SGBV.

The Hon. Chief Justice acknowledged that while significant progress had been made, much work remains to be done, noting that it was imperative for all actors to collectively advocate for legal and policy reforms and a transformative shift in societal norms that perpetuate SGBV. She called upon all stakeholders to work collaboratively to address the root causes and consequences of SGBV. The Hon. Chief Justice as the Chairperson of NCAJ then officially opened the Conference and wished the participants fruitful deliberations and meaningful commitments and actions for addressing SGBV.





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## SURVIVOR CENTRED INTERVENTIONS AT THE GRASSROOTS

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## SURVIVOR CENTRED INTERVENTIONS AT THE GRASSROOTS

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### 3. SURVIVOR CENTRED INTERVENTIONS AT THE GRASSROOTS

#### 3.1 Introduction

The interdisciplinary discussion focused on a ‘survivor-centred approach’ using a grassroots intervention lens. A central concept within this discourse was the need for justice system institutions to not only handle victims with compassion and dignity, but ensure that the execution of their mandate engenders victims’ rights as per the dictates of the constitution.

The session began with a survivor sharing her story on SGBV at the hands of her ex-partner. In 2019, the survivor’s ex-partner released her intimate images to the public to retaliate for ending their relationship. The survivor became depressed and had constant thoughts of suicide. The survivor asserted that there is a need to enhance the law on sharing non-consensual intimate pictures similar to the threshold of copyright infringement law. She had, therefore, begun collecting signatures for a petition towards realising this provision.

#### 3.2 Panel Discussion and Plenary

The panel was moderated by Dr. Joyce Mwikali Mutinda the Chairperson NGENC and comprised of Hon. Beatrice Elachi (Member of Parliament and Deputy Chairperson, KEWOPA), Ms. Renee Ngamau (Board Member, Clean Start International), Hon. Harriet Chiggai (Special Advisor to H.E. the President on Women’ Rights), Ms. Teresa Mugadza (Country Manager, International Development Law Organization), Mr. Mahboob Ahmed Bajwa (Deputy Country Representative, UNICEF), Hon. George Murugara (Chairperson JLAC of the National Assembly), and Hon. Justice Alfred Mabeya (Chairperson, NCAJ Standing Committee on Court Users Committees).



*From Left to Right: Dr. Joyce Mwikali Mutinda, Hon. Beatrice Elachi, Ms. Renee Ngamau, Hon. Harriet Chiggai, Ms. Teresa Mugadza, Mr. Mahboob Ahmed Bajwa and Hon. Justice Alfred Mabeya.*

### **Hon. Harriet Chiggai**

Hon. Harriet Chiggai, the Special Advisor to H.E. the President of the Republic of Kenya on Gender Matters, reiterated the need for all justice actors to strengthen collaboration and consolidate the efforts toward addressing SGBV. The actors also need to adopt a comprehensive and joint government approach to enhance service delivery. The Office of the Special Advisor had identified shortcomings in addressing SGBV and commenced measures to ensure the implementation of gender policies across the government, emphasizing the importance of having and processing gender-aggregated data amongst justice actors. She highlighted that the government was conducting research in seven counties to support and inform the fight against SGBV. She noted that adequate data would lead to informed decision-making. She further highlighted the necessity of having sufficient resources for building safe houses for the SGBV survivors in the counties.

### **Hon. Justice Alfred Mabeya**

Hon. Justice Mabeya asserted that SGBV has remained a scourge in society, with the justice sector not managing it adequately, especially at the grassroots. The Judge, therefore, advocated the urgency to expedite justice sector service delivery, especially during the collection, preparation, and preservation of evidence. For instance, access to the P3 forms was still being charged despite a no-payment policy, creating further vulnerabilities. Further, the justice sector had not realised considerable gains in the provision of psychosocial support to both the survivors and justice sector actors handling victims. Therefore, there is a need to address these inefficiencies for posterity.

### **Hon. Beatrice Elachi**

Hon. Elachi reported that there was an omnibus framework aimed at amending the Acts relating to SGBV. Additionally, she highlighted that the Justice and Legal Affairs Committee (JLAC) would support the development of legal reform frameworks on SGBV, such as the Sexual Offences Amendment Bill. She further explained that safe houses for survivors require programmes for reintegration into a society free from GBV. The safe houses should be built to ensure that the victims and children are reintegrated into society as whole persons.

### **Hon. George Murugara**

Hon. Murugara, Chairperson of the Justice and Legal Affairs Committee (JLAC) of the National Assembly, stated that the paramount mandate of Parliament was to make laws. He noted that JLAC was committed to ensuring that SGBV was appropriately addressed in society. However, JLAC needs to be moved by legislative proposals by justice sector agencies. The Chairperson JLAC urged the justice sector agencies to Fast-track any pending proposals and gave assurances of the commitment and support by the Parliament.

## **Ms. Teresa Mugadza**

Ms. Mugadza asserted that SGBV occurs in the context of the community. Therefore, the community should be at the forefront in creating responses and solutions for SGBV. The role of communities in response and prevention needs to be holistic and with diverse approaches. She pointed out that additional efforts are required despite considerable effort by actors in the fight against SGBV. She advised that actors should concentrate on the crucial strategies for responses and prevention, and their anchorage in the community.

She reported that interventions are more effective, especially when working with women-centred Civil Society Organisations (CSOs). She noted that it was essential to involve religious institutions to help address the stigma associated with reporting SGBV incidents and dealing with the perpetrators. Moreover, there is a need to economically empower victims to ensure they are not financially dependent on the perpetrator. It would be prudent for actors to employ such interventions in a holistic approach.

Ms Mugadza reported that other jurisdictions had adopted survivor-centred legislative frameworks that Kenya can adopt. However, local reforms should be anchored on data and context. In addition, it is essential to look at SGBV outside the criminal law context. There is a need to look at civil laws that perpetuate SGBV, e.g., family and succession laws, which sometimes disproportionately affect victims and make it harder for them to leave abusive situations.

She highlighted success stories in the administration of justice for SGBV. These include one-stop shop centres where victims can access justice through an integrated service delivery system. Additionally, providing legal aid for survivors would ensure that the victims' needs and rights are adequately provided for. She suggested that Kenya can benchmark on South Africa's Domestic Violence Act, which is relatively more comprehensive.

## **Ms. Renee Ngamau**

Ms. Renee Ngamau emphasized that data was necessary to support reforms on SGBV. She reiterated the importance of data collection on intimate partner violence as this form of violence is severely underreported. Additionally, old and anecdotal data points led to false equivalences and resulted in a lack of unified and effective responses in addressing SGBV. Where data exists, she reiterated that there is a need to analyze and disaggregate by gender, socio-economic status and education. Further, to prevent the recurrence of SGBV, she recommended a heightened focus on the rehabilitation of prisoners within the correctional facilities.

Ms. Ngamau reported that 73 per cent of female offenders were uneducated, indigent, SGBV victims, single mothers, had no family support and were petty offenders. During the period between arrest and trial, most of these offenders are not able to raise bail, therefore leaving their children unattended, especially where the offenders are single mothers. This has resulted in a thriving underage prostitution industry for survival, protection and food, hence the urgency to address the root causes.

## Mr. Mahboob Ahmed Bajwa

Mr. Bajwa reported that the legislative system in Kenya was robust, especially the investigatory and prosecutorial ambits. However, preventive mechanisms are more important, and there is a need to strengthen reporting mechanisms. In the pursuit of justice for the survivors, it is essential to identify and acknowledge that there are aggravating causes of SGBV cases, such as climate change and generational poverty, which have propagated the sale of assets and early marriages. Therefore, employing a holistic approach where county and national governments work together is essential. In addition, community mobilisation is vital since SGBV is a crime that adversely affects the community.

He emphasised that all actors across the sectors must contribute to reducing vulnerabilities and potential offending. He noted that the fragility of an individual was directly correlated to their vulnerability. The overall role of the government is to ensure that international instruments are ratified and come into force in the respective countries. Such a ratification would safeguard and protect the vulnerable groups. For instance, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, among other international instruments, would be suitable for addressing SGBV.

## Plenary

There was broad consensus on the utility of addressing SGBV cases holistically. One of the survivors highlighted that offenders are not able to access certificates of good conduct, consequently reoffending since they are unable to be re-employed and make a decent living. It was noted that there is a call for parliamentary action to amend the law and ensure that previous criminal records are sealed after a certain number of years. It was indicated that the Power of Mercy Advisory Committee (POMAC) is working on this provision.

Further, it was emphasised that imprisonment only partially addresses the needs of the survivors since such needs go beyond criminality. It only addresses the criminal aspect since the justice system is mainly geared towards retributive justice rather than rehabilitative. Therefore, the provision of care and amenities to survivors is ideal.

Hon. Tom Otiende emphasised the significance of involving men in the discourse on combating SGBV. He outlined that men are integral members of society, affirming the importance of having men as advocates against SGBV. He suggested this could decrease the prevalence of SGBV.

The trial of SGBV cases was highlighted to be tilted heavily in favour of the offender. It was pointed out that the offenders knew their rights, some had access to court files, and, in some instances, some had defence counsel representation. In comparison, victims/survivors often rely on counsel from the Office of the Directorate of Public Prosecution (ODPP). The Conference acknowledged the importance of ensuring that victims' views, interests and concerns were considered.

### 3.3 Recommendations

- Actors to enhance the involvement of survivors in addressing SGBV.
- Develop comprehensive policy, legal and administrative frameworks that prioritize the well-being of survivors in the administration and access to justice on SGBV.
- The Government to ratify the diverse protocols, including but not limited to Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, among other international instruments addressing SGBV.
- Reforms to be data-driven through enhanced data collection, analysis and sharing.
- The Justice and Legal Affairs Committee (JLAC) of the National Assembly to firmly support legal reforms proposed by the NCAJ and other agencies focusing on SGBV. These reforms include, among others, amending the Sexual Offences Act of 2006 and its attendant laws, including the Evidence Act.
- Establish psychosocial support programs for justice actors and survivors.
- Provide pre-trial counseling and post-judgment psychosocial support to victims.
- Agencies to operationalize one-stop centers for handling SGBV cases nationwide.
- The NCAJ through the Court Users Committees to conduct awareness campaigns among the public and practitioners on SGBV, the no-payment policy for P3 forms, among other issues.
- Provide adequate resources for building safe houses in the counties.





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REDUCING BOTTLENECKS  
AFFECTING EXPEDITIOUS DISPOSAL  
OF SGBV CASES IN KENYA:  
SEALING THE LOOPHOLES WHILE  
OBSERVING THE RIGHTS OF VICTIMS

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REDUCING BOTTLENECKS  
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## 4. REDUCING BOTTLENECKS AFFECTING EXPEDITIOUS DISPOSAL OF SGBV CASES IN KENYA: SEALING THE LOOPHOLES WHILE OBSERVING THE RIGHTS OF VICTIMS

### 4.1 Introduction

The criminal justice sector faces diverse challenges that affect the efficient administration and access to justice for SGBV victims. Hence, identifying and implementing mechanisms for expeditious investigation and prosecution of SGBV matters in line with international human rights standards is vital.

### 4.2 Panel Discussion and Plenary

The high-level panel discussion was moderated by Ms. Rose Wachuka, Chief of Staff in the Office of the Chief Justice, and comprised of Hon. Caroline Kabucho, Registrar Magistrates' Court, Dr. Rose Wafula, NASCOP under the MoH, Ms. Jacinta Nyamosi, Deputy Director at ODPP, Ms. Terry Mueni Mutisya, Officer-in-Charge Anti-Human Trafficking and Child Protection Unit, and Mr. Eric Theuri, President, Law Society of Kenya. The expected outcome of the discussion was to identify solutions for expeditious dispensation of SGBV cases in Kenya.



*From Left to Right: Ms. Rose Wachuka (Chief of Staff, Office of the Chief Justice), Hon. Caroline Kabucho (Registrar, Magistrates' Court), Dr. Rose Wafula (NASCOP, MoH), Mr. Eric Theuri (President, LSK), Ms. Terry Mueni Mutisya (Officer-in-Charge Anti-Human Trafficking and Child Protection Unit, DCI) and Ms. Jacinta Nyamosi (Deputy Director, ODPP)*

## **Hon. Caroline Kabucho**

In its efforts to address the bottlenecks on access to Justice for survivors of SGBV, the registrar reported that the Judiciary established specialised SGBV courts to handle sexual offences and other related SGBV matters. These courts apply the same rules of evidence as criminal law. At the time of the conference, there were 12 SGBV courts out of 137 total law courts established and operationalised in Kenya. She reported that the SGBV courts will be pivotal for the implementation of the Social Transformation through Access to Justice (STAJ) framework.

On efficiency, the case clearance rate for the SGBV cases had improved in FY 2022/23 to 105 per cent from 71 per cent in FY 2021/22. She emphasised the need to ensure the victims are not traumatised within the justice sector, as it was possible to have survivors of SGBV heard on the first day of trial. The registrar indicated that the number of missing court files had reduced due to collaboratively working with the Office of the Director of Public Prosecutions (ODPP) Uadilifu system to track the movement of files and identify matters that would cause delays. However, she noted that despite all these commendable improvements, there had been a challenge differentiating SGBV matters from criminal matters from the justice system.

Additionally, the Judiciary had established mechanisms to ensure that judicial officers had access to mental healthcare by providing medical insurance. Additionally, a best practice was shared from the Shanzu SGBV Court, in which magistrates presiding over SGBV matters were rotated to ensure they had a mental break from the trauma caused by cases. She indicated that some courts have facilities to provide separate rooms for children to protect them from facing their perpetrators in court. Also, having virtual courts and e-filing reduced the adjournments in proceedings, thus quickening the dispensation of SGBV matters.

## **Dr. Rose Wafula**

Dr. Rose Wafula highlighted that the role of the MoH in SGBV is to provide the victims with emergency and long-term healthcare needs. The Ministry ensures prevention, promotion of interventions and response to the needs of survivors seeking health services. Further, the Ministry is implementing diverse policies and laws such as the Social Health Insurance Act, the Digital Health Act, the Primary Health Care Act, and the Facility Improvement Financing Act. These laws have enabled the Ministry to standardise healthcare services across 6,000 facilities. The Ministry has also trained healthcare workers on handling SGBV survivors at triage and using rape kits, and handling evidence collected by the kits. In addition, healthcare workers have been trained in preparing survivors for trial and providing expert witnesses for the prosecution.

She noted the challenge of the subversion of the no-payment policy on issuing P3 forms. This resulted from a gap in resource provision, which had allowed for the subversion by service providers. Therefore, there was a need to review the policy, enhance the relevant officials' capacity to provide these services and follow up on accountability mechanisms to enforce the non-payment policy.

Dr. Wafula reported that the Ministry had deployed a standard quality assurance tool nationwide. She recommended the reduction of the cost of Post Rape (PR) kits. She noted that once evidence was collected, there was a low uptake of the evidence by police officers due to inadequate reporting by victims. The slow uptake had resulted in a backlog of evidence at the storage facilities.

### **Ms. Jacinta Nyamosi**

Ms. Nyamosi reported that the ODPP had undertaken initiatives to create a more child-friendly and victim-sensitive environment. Prosecutors have been trained to handle children's matters with care. In addition, ODPP has established an SGBV division whose prosecutors have been identified to ensure that they are passionate and well-trained. The Office employs Decision to Charge and plea bargaining, especially in Romeo and Juliet cases, and provides other forms of support. She noted that the P3 forms and physical evidence were crucial in the prosecutorial process. However, should this not be presented as evidence in a matter, the ODPP would still rely on other evidence presented to ensure that the victims access justice.

She reported that although there was a great benefit to having multi-door access to justice, using the Alternative Justice System (AJS) to handle SGBV cases, especially defilement cases is not ideal. Ms. Nyamosi reported that this was repugnant to the law and goes against the protection of public safety. The AJS compromises SGBV cases and should not hold space for handling sexual offences. She noted that there was a need to sensitise the communities at the grassroots on why it is necessary to report these cases.

### **Ms. Terry Mueni Mutisya**

As the representative from the Directorate of Criminal Investigations, Ms. Mutisya noted that one bottleneck affecting the effective fight against SGBV was on issuing of P3 forms. Also, there exists a gap in the training of police officers on handling SGBV survivors to preserve their dignity and avoid re-traumatisation. At the time of the conference, infrastructural facilities were not fully inclusive of persons with disabilities. Notably, in some areas, accessibility to police stations was limited due to vast geographical distances.

She further highlighted that lengthy investigative, trial process and records management were bottlenecks that resulted in fatigue and low cooperation from witnesses. Additionally, there is a need to enhance the evidence collection and storage facilities of both the police and healthcare facilities.

### **Mr. Eric Theuri**

Mr. Theuri, the LSK President, indicated that the Society has been encouraging its members to provide pro bono legal aid services to members of the public, specifically victims of SGBV, to enhance access to justice. However, Mr. Theuri noted that advocates could do more. He called for strengthening collaboration with investigators from the beginning when an SGBV incident was reported. The partnership would ensure that the gaps identified during the investigative processes, such as the supply of evidence from both investigative officers and advocates, would be minimised.

He acknowledged that there was a gap regarding the sensitisation of advocates on handling SGBV victims. To address this, LSK was partnering with other stakeholders to develop a curriculum on continuous professional development to equip advocates handling SGBV victims and witnesses with the necessary skills for the trial process. The curriculum would also improve understanding of an advocate's role in managing SGBV victims.

He reiterated that adjournments sometimes caused delayed cases due to the adversarial trial system, resulting in witness fatigue. It was, therefore, essential for the advocate to balance their responsibilities as an officer of the court and their duties to their clients to ensure that justice is served. Lastly, he averred that there was a need for a coordinated multi-sectoral approach towards developing and implementing strategies for handling SGBV matters.

## Plenary

It was emphasised that policy actors should include SGBV victims during the development of reforms. The inclusion would allow reform initiatives to reflect the reality of affected persons and enhance the protection of the family unit to address SGBV cases. In addition, it would improve awareness of the processes in the justice sector. For example, the public would know the investigative and trial processes required to ensure successful outcomes. Public awareness programs could be undertaken through CUCs.

It was essential to put in place mechanisms and procedures to reduce the re-victimisation of survivors. In other jurisdictions, victims are not required to appear before the court to safeguard the victim's well-being, something the Kenyan Justice system could consider. Additionally, there was a need to ensure that institutional reforms were necessary to improve the procedures of handling survivors of SGBV with care and build the confidence and trust of the public in the Criminal Justice Sector.

The referral system to assess the age of minors was noted as insufficient due to a lack of resources and capacity within the justice system. These procedures for age assessment required enhanced collaboration between the National Police Service and the MoH to ensure that the evaluation was done before the beginning of the trial process.

It was noted that there have been poor reporting mechanisms, especially in police stations. Therefore, there is a need to expeditiously finalise SGBV cases in courts through strengthened collaboration amongst actors to increase public trust in the justice system, and consequently enhance the reporting.

### 4.3 Recommendations

- Actors to develop comprehensive guidelines to ensure the efficient disposal of SGBV cases by, among other things, the handling of evidence through utilisation of an inclusive checklist, and specify the timelines for issuing and processing P3 forms.
- Justice sector institutions to enhance internal efficiency to ensure SGBV victims pass through their institutions expeditiously without delay.
- The Government to facilitate the establishment and operationalisation of a Public Defender Office for the provision of legal representation to indigent accused persons.
- The NCAJ to develop an enabling policy and legal framework to entrench the provision of legal aid services by the proposed Public Defender Office and paralegals.
- Actors to collaboratively remedy the gaps in the administration of justice for SGBV cases.
- The NCAJ to timeously address the issues raised during CUCs and other grassroots forums.
- The Government, through the MoH to enhance the capacity of police doctors to reduce the rates of burnout and improve service delivery to SGBV victims.
- The NPS to operationalise more Child Protection Units.
- Enhance evidence collection and storage facilities of both the police and healthcare facilities.





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INNOVATION AND TECHNOLOGICAL  
UNDERPINNINGS ON PREVENTION AND  
RESPONSE TO SGBV:  
JUSTICE SECTOR PREPAREDNESS TO  
BARRIERS DURING EMERGENCIES

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INNOVATION AND TECHNOLOGICAL  
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## 5. INNOVATION AND TECHNOLOGICAL UNDERPINNINGS ON PREVENTION AND RESPONSE TO SGBV: JUSTICE SECTOR PREPAREDNESS TO BARRIERS DURING EMERGENCIES

### 5.1 Introduction

The conference allowed stakeholders to explore innovative ICT platforms that support survivors in reporting incidents of SGBV digitally. It would be ideal for the justice sector actors to be ahead of the perpetrators in effectively using technology to prosecute SGBV cases perpetuated through technology. When assisting victims of gender-based violence, gender-based technological solutions would enhance safety and privacy, bolstering the foundations of ethical norms and regulations.

### 5.2 Panel Discussion and Plenary

The panel discussion was moderated by Prof. Marion Mutugi (Commissioner, Kenya National Commission on Human Rights) and comprised of Hon. Justice Isaac Lenaola, Judge of the Supreme Court of Kenya and the Chairperson of the NCAJ Working Committee on ICT, Ms. Anu Ala-Rantala, the Embassy of Finland Action leader on Technology & Innovation for Gender Equality, Dr. John Wafula from the United Nations Population Fund (UNFPA), Dr. Joseph Kimani from the Government Chemist and Ms. Catherine Lomaria, the Deputy Officer in Charge Cybercrimes and Digital Forensics, Directorate of Criminal Investigations (DCI).



*From Left to Right: Prof. Marion Mutugi (Commissioner, KNCHR), Ms. Catherine Lomaria (Deputy Officer in Charge Cybercrimes and Digital Forensics, DCI), Dr. John Wafula (UNFPA), Ms. Anu Ala-Rantala (the Embassy of Finland Action leader on Technology & Innovation for Gender Equality), Dr. Joseph Kimani (Government Chemist) and Hon. Justice Isaac Lenaola (Judge of the Supreme Court of Kenya and the Chairperson of the NCAJ Working Committee on ICT)*

## Hon. Justice Isaac Lenaola

Hon. Justice Isaac Lenaola highlighted that the justice sector actors have come a long way in using technology to improve access to justice. Technological advancements such as the operationalisation of virtual courts are noteworthy. However, regarding SGBV and technology, the technology existed decades after SGBV.

Justice Lenaola noted that the use of technology in Kenya is primarily affected by the low digital literacy rate. Digital literacy in Kenya could be increased since most Kenyans own smartphones. The larger population of Kenyans own mobile phones to make calls, send messages, or access the internet but need to be made aware of the digital footprints left behind by the simple tasks carried out on the device. He further stated that more can be done with proper access to information and technology. The larger Kenyan population needs to know how and where to access information on SGBV and justice.

The Judge reiterated the need to enhance security measures to protect a person's confidential information. There has been an emerging trend of former or current romantic partners maliciously sharing explicit material acquired during their intimate relationship with third parties, the revenge pornography. Therefore, developing policies and laws that safeguard the privacy of persons is essential. For instance, police and investigating officers are unaware of the appropriate action to take when handling such matters and the victims while reporting.

Justice Lenaola noted that it was important for justice sector actors to develop technologically and in tandem to avoid actors being left behind. Currently, the Judiciary is ahead of other government agencies regarding digitising services, which can lead to cases falling through the cracks. Enhanced training and capacity of all justice actors would ensure the justice system is ahead of the curve.

Hon. Justice Isaac Lenaola reported that the Judiciary has adopted new approaches to hearing SGBV cases. The courts are accepting pre-recorded evidence provided by the victim to avoid re-traumatisation of the victim. In some areas, victims who report their abuse face stigma from the community. Therefore, voice and image distortion would provide a better hearing of the victim's testimony. During the COVID-19 pandemic, the Judiciary embraced technology and utilised virtual courts, which had previously been considered impractical.

Further, the Judiciary launched the digital sexual offenders' registry. The automated register provides a comprehensive database that holds crucial information and records of all convicted sexual offenders. Justice Lenaola reported that the sexual offenders register is not yet available to the public, and perhaps it should be made available to the public online. Further, developing policies and guidelines for digital sexual offenders' registers is essential. The register will facilitate the tracking of sexual offenders as a proactive and preventive measure since some sexual offenders are repeat offenders.

## **Ms. Anu Ala Rantala**

Ms. Rantala gave her views on the best practices for the use of technology to enhance prevention, response and access to justice for survivors/victims of SGBV. Through technology, information on how and where to access services by a survivor has been made accessible to the larger population. Notably, people visit websites to search for information on what to do if they experience any form of SGBV. These online services also enhance access to services such as legal aid and counselling for victims who cannot access them. However, accessibility depends on the country's digital literacy and infrastructural capacity.

She further emphasised that duty bearers can utilise technology to reduce case backlog. For example, in Finland, data collected from helplines enhances the interventions on SGBV cases. She reported that through the use of technology, survivors can virtually attend SGBV cases to avoid re-traumatisation of the victim. It is essential for technological advancements to be people-centred and hence friendly, which would encourage both the justice sector actors and the public to use it.

Ms. Rantala emphasised that technological advancements should be gender-sensitive to ensure that women and girls have equal opportunities. She stated that this can be achieved by increasing participation for girls and women in STEM subjects, making technology and innovation more feminist. Further, encouraging technology companies to employ and train more women and girls is highly recommended.

## **Dr. John Wafula**

Dr. Wafula highlighted that technology helps respond to SGBV in emergencies and humanitarian settings in modern times. He stated that the elimination of online gender-based violence was included in the National Action Plan 2020-2030 and aimed at eradicating online gender-based violence. He reported that the UNFPA has a cluster system for SGBV cases to facilitate easy identification of cases that require urgent intervention. Under the UNFPA cluster, SGBV cases are given special priority or classified as critical. In case of emergency services, UNFPA has supported hotlines such as 1195/1198 for psychosocial support to survivors. The hotlines are used to gather data for improving service delivery and to strengthen advocacy positions and policies in the country.

Dr. Wafula indicated that UNFPA developed an innovation known as the Minimum Initial Service Package (MISP) calculator. The calculator is used to estimate the number of women of reproductive age who were more likely to be victims of GBV. The estimates from the data can be used to create awareness and develop the necessary response and prevention mechanisms. In addition to the MISP calculator, UNFPA has developed a software application known as the SGBV Pocket Guide. The Guide contains helpful information for survivors on having a quality life after such incidents.

He reported that UNFPA has taken measures to ensure that amid disasters and emergencies, technological advancements can be used to facilitate movement and the delivery of services

and commodities to the survivors within the required 72-hour time frame. The organisation is exploring the use of drones to enhance service delivery. Additionally, technology can improve the general public's awareness of matters of SGBV, what SGBV constitutes, and where survivors can access medical services or justice if SGBV has occurred.

### **Ms. Catherine Lomaria**

Ms. Lomaria highlighted that digital forensics is essential in investigating SGBV cases. She stated that the Digital Forensics and Cybercrimes Labs have existed since 2008/2009. The DCI supports the investigators from the NPS at the ground level during the investigation stage. The DCI also guides police officers in dealing with cases with an element of SGBV.

She affirmed that the mode of digital evidence acquisition has changed due to technological advancements. International service providers have been making cloud storage available to the users of their software applications. However, they provide heavily regulated cloud storage services, posing a challenge in collecting digital evidence. Therefore, it is paramount for service providers to have guidelines that would enable officers to access a suspect's cloud storage information if needed.

Ms. Lomaria noted that instances of cyberbullying have been increasing, especially on websites and private forums that are not adequately regulated. The website users can post and bully others anonymously using pseudo accounts on social media platforms such as Facebook, Instagram and X. The existence of the dark web, where the search engines are not indexed, also poses a challenge due to the circulation of child pornography materials.

### **Dr. Joseph Kimani**

Dr. Kimani informed participants that the Government Chemist remains steadfast, as per its mandate, in forensic analysis of evidentiary samples in SGBV cases that include homicide and drug-facilitated assault. The mandate has been achieved through working collaboratively with the DCI Forensics Laboratory. Three nationwide laboratories in Nairobi, Kisumu and Marsabit counties conduct DNA analysis.

Dr. Kimani noted that using DNA fingerprinting technology is an advancement from blood typing techniques and would be more accurate in producing reliable evidence. The use of blood typing techniques has proved to be a challenge for the laboratories in instances of rape, defilement, or where biological material has been left behind at the crime scene or in the body of the victim. The challenge is occasioned by the fact that approximately 50 per cent of the Kenyan population have Blood Group O and would therefore be considered suspects. Thus, it is vital to use the genetic marker systems that profile the DNA collected from the crime scenes and analyse it to link the evidence to one person.

Establishing a criminal DNA Data Bank in Kenya and borrowing from international best practices would assist the investigation and prosecutorial processes for serial offenders. Currently, no laws and policies are up to date with the current technological advancements, especially the operationalisation of a DNA data bank. The existing law that provides for the

use of DNA results as evidence, is the Sexual Offences Act of 2006.

Dr. Kimani attributed the backlog of cases in the government chemist system to myriad factors, such as complexity, sample evidence to be analysed, shortage of capacity in the institution, and high infrastructure costs. For instance, analysing a single sample of DNA costs approximately USD\$100, which would soon increase due to the use of new testing innovations such as the Next Generation Sequence and emerging disasters like killings in Shakahola, which further diminish the capacity of the laboratories.

## Plenary

The sexual offenders' register ought to be digitised while the Sexual Offences Act be amended to accommodate the digitalisation change. The register should also be available to the public. The purpose of digitising the register is to safeguard the protection of the public. Like in Finland, the register is made public and accessible to employers who work with children and vulnerable groups as a security measure. However, viewing the register needs to be controlled to balance the rights of privacy with the protection of the public. The regulations on access to the register should be effected by having guidelines.

It is critical to increase the resources provided to the Policare centres to ensure they are operationalised and enhance service delivery. It was noted that the centres had yet to be rolled out across the country, and those established needed to be fully operational.

The counselling services that were being offered during victim support were not adequate. It was suggested that the justice sectors should identify ways to provide good post-judgment psychosocial support to the victims. It was recommended that judges and magistrates could issue orders requiring victims to get counselling for a specified period and a report on the survivor's progress to be sent to the court.

There is an urgency to enhance the capacity of forensic experts in collecting and preserving evidence. The rationale was that the quality of the evidence collected depends on the collection and preservation. Awareness creation, capacity building and training in forensics were also recommended.

It was noted that the justice sector was not adequately responsive to technologically-savvy offenders. Hence, the actors would be required to identify ICT solutions and innovative platforms responsive to SGBV matters.

### 5.3 Recommendations

- Enhance the uptake of forensic technologies and management.
- The Judiciary to fully digitize the Sexual Offences Register to allow more comprehensive access by the public.
- Develop policies and guidelines for digital sexual offenders' registers
- The capacity of Government Chemist to be enhanced to address DNA evidence backlog and development of a DNA data base.
- Support Government Chemist towards enhanced service delivery.
- NCAJ actors to develop data sharing management system.
- Upscale awareness creation, capacity building and training in forensics.
- Offer adequate psychosocial support to the victims' post-judgment.
- Advance from blood typing techniques to DNA fingerprinting technology.
- Enhance training for actors to ensure that the justice system is ahead in technology.



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GLOBAL AND REGIONAL LESSONS  
ON ADDRESSING SGBV:  
WHAT CAN WORK FOR CHILDREN,  
ADOLESCENTS, WOMEN, OLD PERSONS  
AND OTHER VULNERABLE GROUPS

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GLOBAL AND REGIONAL LESSONS  
ON ADDRESSING SGBV:  
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## 6. GLOBAL AND REGIONAL LESSONS ON ADDRESSING SGBV: WHAT CAN WORK FOR CHILDREN, ADOLESCENTS, WOMEN, OLD PERSONS AND OTHER VULNERABLE GROUPS



### 6.1 Introduction

#### 6.1.1 Recap of Day One and Welcoming Remarks for Day Two



Dr. Moses Marang'a, the Executive Director of NCAJ, gave an elaborate recap of the Conference proceedings for day one. He then invited Ms. Nancy Ikinu, the Chairperson of the NCAJ Committee on Review of Sexual Laws and Policies, to give welcoming remarks.



Ms Ikinu welcomed participants to the conference's second day and gave critical highlights of the day's programs. She noted that the international community had established frameworks on gender equality and non-discrimination. She highlighted that Kenya has ratified and domesticated various global and regional instruments to reduce SGBV while upholding human rights and the rule of law. However, the Kenyan justice system has been relatively slow to adopt and adapt to some international best practices on SGBV, hindering the efficient and effective administration of justice for victims and their families.

#### 6.1.2 Background to the Panel Discussion

To enhance vulnerable groups' access to justice, it is vital to analyse their challenges and map solutions. Hence, focusing on what can work for children, adolescents, women, old persons, persons living with disabilities, and other vulnerable groups is crucial. Further, inclusivity is paramount for entrenching a survivor-centred justice system and requires reducing all vulnerabilities. As a first step, taking appropriate steps towards providing access to justice for the survivors of SGBV without leaving anyone behind is critical.

## 6.2 Panel Discussion and Plenary

The panel was moderated by Ms. Anne Ileri (CEO FIDA-Kenya) and comprised of Hon. Jackie Kibosia, a magistrate and member of the NCAJ Committee on Administration and Access to Justice for Children, Ms. Mary Njeri, Representative, UN-WOMEN- Kenya, Ms. Jessica Gorham, Regional Advisor on GBV, UNFPA, Dr. Godfrey Dalitso Kangaude, Rhodes University South Africa/Centre for Reproductive Rights and Dr. Fatma Ali, Board Chairperson, Coalition on Violence Against Women (COVAW).



*From Left to Right: Ms. Anne Ileri, Hon. Jackie Kibosia, Ms. Mary Njeri, Ms. Jessica Gorham, Dr. Fatma Ali and Dr. Godfrey Dalitso*

### Hon. Jackie Kibosia

Hon. Kibosia informed the gathering that a significant step towards reforming the justice sector on handling children was the commencement of the Children Act, 2022. The Act advocates for child participation during court proceedings. Further, the children in need of care and protection under both the civil and criminal space have been taken care-of in the Act. Further, the Act requires having care and protection files to manage children's cases.

She stated that some Children's Courts in Kenya have started implementing innovative and inclusive practices such as trauma therapy, which have proven to be effective in handling SGBV cases involving children. For instance, in Makadara Law Courts, child therapists have been made available to ensure that children are supported through the progress of the cases. The Court has focused on using narration, art and play therapy to understand the child's mental state. Further, child participation has been enhanced by opening up and deformalizing the court processes. She indicated that some courts have designated child-friendly spaces and holding areas where children's cases are handled.

## Ms. Mary Njeri

Ms. Njeri explained that economic empowerment goes a long way in reducing the vulnerability of women to gender-based violence as it reduces the dependency on their partners. She indicated that her organisation has been working to reduce the vulnerability of women through a leadership programme that encourages them to take up positions in society and advocate for their rights. Ms Njeri noted that the COVID-19 pandemic came when it was least expected, with long-term effects. The prevention measures undertaken by governments, such as curfews and mandatory isolation for its citizens, sparked a rise in the levels of SGBV worldwide. It was, therefore, essential to learn lessons on what would have been done differently.

She highlighted that one of the challenges that affect access to justice for vulnerable groups is the normalisation of social norms that yield abuse. For instance, stereotypes are normalised to denote that women do not deserve success. She noted that Kenya has good laws that are in place. However, the members of the society tend to discriminate against the victims and survivors of SGBV. For example, when the breadwinner of a household is accused of SGBV, the cases filed against them are dropped because the family's financial capacity is diminished. She highlighted the problem of witness protection, especially when an alleged perpetrator is a person of influence. It is, therefore, necessary to have measures that promote witness protection.

Ms. Njeri urged the Judiciary to improve the accessibility of the courts to persons with visual impairment and physical disability. She also recommended that the justice system focus more on establishing shelters for women to restart their lives and be economically empowered to sustain themselves. Further, availing data on drivers of SGBV to inform solutions on curbing the rapid growth of the vice is critical.

## Ms. Jessica Gorham

Ms. Jessica Gorham reminded participants that one key lesson from COVID-19 was that hotlines are important for psychosocial support and emergency services. During the COVID-19 emergency, in-person service delivery was restricted during the pandemic, affecting the rate of referrals as the majority come from medical centres. At the time of the pandemic, medical centres had been limited to urgent medical interventions, and hence, violence against women was not considered an urgent matter.

During the COVID-19 pandemic, a vast majority of the cases that were reported through the hotlines were violence against women. She noted that the most prevalent form of violence is Intimate Partner Violence (IPV). The reality is that many women globally face much domestic abuse at the hands of the very people who are meant to protect them, with the society having normalised this form of violence to the extent that it is not considered a medical emergency.

The pandemic led to the discovery that men and adolescent boys also face gender-based violence. About 24 per cent of the hotline calls during the pandemic in countries such as Zimbabwe were male survivors of SGBV. There is a need to have the necessary services to meet the need to address the problem of violence against men and adolescent boys.

Ms. Gorham reported that in conflict areas such as South Sudan, Gaza, Somalia and Mozambique, access to SGBV-related services is a necessity. The UNFPA has since been able to deliver some of the required services. The critical factor in such situations was the enhancement of access to justice for the victims/survivors of SGBV through the use of mobile courts. She reaffirmed the utility of informing the public about mobile courts' role and where to receive such services.

### **Dr. Godfrey Dalitso Kangaude**

Dr Kangaude highlighted that the statistics in Kenyan prisons show that a high number of adolescents are convicts of consensual sexual relationships with their peers, what is commonly referred to as “Romeo and Juliet cases”. He noted that the growing numbers should concern the justice sector.

He stated that the legal justification of defilement laws, from the historical perspective, was to protect the girl child from any sexual contact before she got married to protect her virginity. The colonial laws were, therefore, indiscriminate. He further stated that he was not advocating for a vacuum in laws that would govern adolescents' sexual conduct but that the legal regime need not be punitive. Harsh forms of punishment like imprisonment are too extreme and would entrench the system of violence. The law needs to factor in that the adolescent boy is equally a minor, and it would be unjust to punish one on behalf of another. Fundamental principles such as participation, non-discrimination, the child's best interest, life survival, and evolving capacity of the adolescent need to be considered.

Dr. Kangaude reported that in South Africa, the *Teddy Bear Clinic for Abused Children and Another v Minister of Justice and Constitutional Development and Another* caused reforms of South African laws on the sexual conduct of adolescents by decriminalising sexual conduct among adolescents. The justification of the Judge in the *Teddy Bear* case was that there was a need to prevent adolescents from having sexual relationships, but it did not justify the use of jail terms as a measure. The solution would be to address sex among teenagers with social interventions.

### **Dr. Fatma Ali**

Dr. Fatma Ali highlighted that data dissemination was one of the regional lessons and practices that COVAW borrowed and is being implemented to enhance access to comprehensive SGBV services in Kenya. She emphasised the use of the toll-free helpline number 800720553 to assist vulnerable groups such as women and girls. There is a need to create awareness to avoid stigma, reduce the silence of the family members, encourage reporting, and enhance psychosocial support to the victims and the caregivers.

## Plenary

During the plenary session, the importance of delineating Romeo and Juliet cases from cases where adolescents are violent towards their peers was emphasised. Hence, a multifaceted approach to address this issue is required. Further, it is essential to handle and treat appropriately the hypersexual children who grew up in violent homes or those who had been exposed to sexual violence early. Policymakers should appreciate that child capacity is ever-evolving, so there should be age-appropriate sexual education. Additionally, undertaking criminogenic assessments for children in conflict with the law exposed to SGBV matters was emphasised in identifying and analysing their propensity to engage in criminal behaviour.

From the panel discussions, it was evident that there is urgency to support SGBV victims through the processes of healing until reintegration into society, pinpointing Ghana, which has established a trust fund for SGBV victims. In addition, the United Kingdom established protection orders in collaboration with the police, which could be integrated into Kenya through the Victims Protection Board. Additionally, the victim care package should be made available to all victims of SGBV to enhance compliance with Article 43 of the Kenyan Constitution.

It was acknowledged that most women were likely to suffer from violence throughout their lives. It was, therefore, prudent to ensure that access to healthcare services and justice remain at the heart of effective response and prevention of SGBV. Institutionalising therapy and behavioural change with sustained interventions for survivors of IPV were recommended.

Kenya has made commitments both regionally and globally to provide for the norms and standards for the prevention and response to violence against women. It was noted that the 77th Session of the African Commission on People and Human Rights emphasised pursuing measures to support women's lives.

### 6.3 Recommendations

- Actors to recognize Intimate Partner Violence (IPV) as one of the foundational causes of SGBV. The justice actors to develop mechanisms to handle IPV and institutionalise therapy and behavioural change with sustained interventions for survivors of IPV.
- NCAJ to sensitize justice actors and the community on the Romeo and Juliet clauses enshrined in the Constitution and growing jurisprudence to ensure its appropriate handling.
- Promote age-appropriate sexual education to enhance the understanding of consent.
- Delineate Romeo and Juliet cases from cases where adolescents are violent towards their peers.
- Engage adolescents in SGBV interventions since they are involved in consensual sex.
- Undertake sustainable resource mobilisation to ensure that the solutions identified are adequately realized.
- Actors to fully implement the provisions of the Children's Act 2022.
- Undertake criminogenic assessments for children in conflict with the law and who have been exposed to SGBV matters to analyse their propensity to engage in criminal behaviour.



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STRATEGIC PRESENTATIONS  
ON EMERGING ISSUES ON SGBV  
AND THE REQUIRED OPTIMAL  
INTERVENTIONS

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STRATEGIC PRESENTATIONS  
ON EMERGING ISSUES ON SGBV  
AND THE REQUIRED OPTIMAL  
INTERVENTIONS

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## 7. STRATEGIC PRESENTATIONS ON EMERGING ISSUES ON SGBV AND THE REQUIRED OPTIMAL INTERVENTIONS

### 7.1 Introduction

Diverse emerging issues and challenges of addressing SGBV require quick and strategic responses. For instance, expeditious disposal of SGBV cases by courts requires strong collaboration of agencies and eliminating unnecessary adjournments to meet set timelines on case resolution. Further, solid partnerships and cooperation between the justice system actors with MoH, County Governments, development partners and CSOs who offer safe shelters and the Gender-Based Violence Recovery Centres (GBVRC) are vital.

### 7.2 Panel Discussion and Plenary

Hon. Hellen Onkwani (Senior Principal Magistrate and Secretary of the International Association of Women Judges, Kenyan Chapter) moderated the panel discussion. The panel comprised Ms. Anne Makori (Chairperson, IPOA), Ms. Elizabeth Washika (NASCOP, MoH), Ms. Charity Kagwi (Head of Crime Prevention and Criminal Justice Pillar, UNODC), and Ms. Wangechi L. Wachira (Executive Director, Centre for Rights Education and Awareness).



*From Left to Right: Hon. Hellen Onkwani (Senior Principal Magistrate & Secretary, International Association of Women Judges, Kenyan Chapter), Ms. Charity Kagwi (Head of Crime Prevention and Criminal Justice Pillar, UNODC), Ms. Anne Makori (Chairperson, IPOA), Ms. Elizabeth Washika (NASCOP, MoH) and Ms. Wangechi Wachira (Executive Director, CREAW)*

### Ms. Anne Makori

Ms. Makori informed the discussants and attendees that IPOA had taken Strategic interventions in the fight against SGBV, which included support to Policare, Child Protection Units, gender desks, and internal capacity to address SGBV matters. However, she indicated

gaps exist in police officers handling SGBV-related cases. Further, there was a concern that victims' privacy and confidentiality while receiving services at the gender desks were not adequately safeguarded. In addition, there has been a lack of proper linkages between healthcare institutions and investigating officers. The ineffective linkages could be attributed to the weak policies and institutional frameworks, inadequate capacity of actors to handle SGBV cases, and lack of integrated data-sharing platforms. Further, supportive measures are required to support the sustainability of innovations such as Policare.

### **Ms. Elizabeth Washika**

Ms. Washika noted that FGM presents itself in a dynamic nature propelled by cultural practices. She indicated that the Ministry of Health has created diverse interventions for addressing FGM. For instance, community health promoters develop linkages between the ministry and the community in health matters by passing information, creating awareness and reporting, and training on managing FGM. Drawing from Kenya Demographic Health Survey reports, she pointed out that FGM has been reducing.

She highlighted that the ministry is taking measures to enhance the quality of samples and evidence. These measures include guiding healthcare providers in collecting and preserving the samples, availing quality tools and equipment, and educating the healthcare providers on the proper handling of samples. Further, there is collaboration to create a seamless process from the healthcare process to prosecution, creating awareness and educating the survivors, sample collection processes, and maintaining the chain of custody in picking the samples. She was concerned about the legally acceptable duration of storing evidence samples in a healthcare facility.

### **Ms. Charity Kagwi**

Ms. Charity Kagwi reported that human trafficking, an organised crime, has a significant relationship with SGBV, with job seekers being trafficked as a primary concern. She opined that the vice is perpetuated through elaborate and organised cartels that aid human trafficking. The organised cartels have led to low conviction rates due to a lack of evidence. She emphasised that interventions in human trafficking should begin at the grassroots, with all actors having a role to play.

She reported that there are established strategies, policies, and legislative frameworks globally for addressing human trafficking. Therefore, Kenya can adopt these international best practices, such as one-stop centres in hospitals, which would nurture a victim-centred approach and inter-agency cooperation and encourage timely addressing of SGBV matters. She indicated that Nairobi Women's Hospital assists in collecting evidence samples and offers psychosocial support for SGBV victims. She concluded that UNODC was committed to working with the police and other actors to facilitate establishing one-stop shops in hospitals.

## Ms. Wangechi L. Wachira

Ms. Wachira reported on the interventions implemented by CREAM to handle SGBV matters, such as setting up a toll-free line (0800720186) to support victims of GBV with legal advice and representation. Other interventions include undertaking public interest litigation in collaboration with other women's organizations. Additionally, CREAM offers psychosocial support through counselling post-judgment and creates community awareness through schools and radio stations.

Ms. Wachira further indicated that CREAM had established a women survivors' fund, Jasiri Fund. The fund provides women, SGBV victims, with a credit worth Kenya Shillings ten thousand to five hundred thousand. The grant is only accessible to GBV victims and attracts 3 per cent annual interest. Further, CREAM contributed to the national discourse on SGBV by publishing and disseminating the SGBV report developed after conducting research in Nairobi, Meru and Kitui counties. In addition, CREAM facilitated testing of SGBV prevention models through engagement with couples to prevent Intimate Partner Violence (IPV).

### Plenary

The justice sector actors have been facing challenges regarding emerging SGBV-related issues such as online sexual exploitation, sex trafficking of adults and children and live-streaming of pornographic materials. Also, online evidence has proven challenging to preserve and trace, especially during live streaming. Therefore, investigators have been unable to charge perpetrators of these offences appropriately. Consequently, assistance to victims has not been optimal. It was additionally suggested that actors should appropriately collaborate when handling SGBV matters.

The justice sector institutions require enhanced and adequate resources to provide legal aid. Further, religious institutions should be involved at the grassroots to safeguard against harmful social norms. Moreover, increasing the finances of institutions dealing with SGBV to establish shelters and one-stop centres for survivors was emphasized.

### 7.3 Recommendations

- Actors to use CUCs in addressing issues arising in handling SGBV.
- The government to enhance one-stop centres for agencies handling SGBV.
- Enhance training and sensitisation of all relevant stakeholders handling FGM.
- Actors to identify and address the root causes of human trafficking at the grassroots.
- Actors to enhance the rolling out of prevention models on Intimate Partner Violence.
- Entrench a seamless process from the healthcare to prosecution and create awareness among survivors regarding the sample collection processes and the chain of custody.





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THE SOCIO-ECONOMIC COSTS  
OF SGBV IN KENYA:  
ADDRESSING COSTLY YET HIGH-IMPACT  
AND CRUCIAL REFORMS IN THE  
CRIMINAL JUSTICE SYSTEM

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THE SOCIO-ECONOMIC COSTS  
OF SGBV IN KENYA:  
ADDRESSING COSTLY YET HIGH-IMPACT  
AND CRUCIAL REFORMS IN THE  
CRIMINAL JUSTICE SYSTEM

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## 8. SOCIO-ECONOMIC COSTS OF SGBV IN KENYA: ADDRESSING COSTLY YET HIGH-IMPACT AND CRUCIAL REFORMS IN THE CRIMINAL JUSTICE SYSTEM

### 8.1 Introduction

Kenya has struggled to adequately meet the costs of handling SGBV cases, affecting timely access to justice for the victims and survivors. Inefficiencies arise due to inadequate resources from the family unit to the government. For instance, victims of SGBV, across all ages and gender, are more likely to withdraw their complaints and not cooperate with the prosecution due to being financially dependent on the perpetrator.

### 8.2 Panel Discussion and Plenary

The panel consisted of Hon. Lady Justice Grace Ngenye, Judge of Appeal and the Chairperson of NCAJ Criminal Justice Reforms Committee, Dr. Christine Obondi, the Ag. Secretary in the Probation and Aftercare Services Directorate, Dr. Joyce Mwikali Mutinda, the chairperson of the National Gender and Equality Commission (NGEC); Ms. Judy Gitau, the Regional Coordinator of Equality Now; Dr. Kizzie Shako from UNODC Kenya and Mr. Esau O. Riaroh the Executive Director of Legal Resources Foundation. The panel discussion moderator was Ms. Renee Ngamau, a board member of Cleanstart Solutions.



*From Left to Right: Hon. Lady Justice Grace Ngenye, Dr. Christine Obondi, Dr. Kizzie, Ms. Renee Ngamau Ms. Judy Gitau, Mr. Esau Riaroh and Dr. Joyce Mwikali Mutinda*

## **Hon. Lady Justice Grace Ngenye**

Justice Ngenye informed the participants that the NCAJ Committee on Criminal Justice Reforms (NCCJR) is a multi-agency in nature with the mandate to spearhead a comprehensive review and reform of Kenya's criminal justice system with a focus on penal laws and its attendant policies, laws, and regulations. Since its inception, the Committee has interacted with stakeholders who work within the criminal justice system to undertake reforms.

In its work, the Committee realised there were issues regarding underreporting offences, mainly because of cultural norms and stigmatisation and inadequate resources to fund the reform agenda. Further, justice actors are not sufficiently trained in handling SGBV victims and the evidence. The inadequate training had inadvertently led to bias and discrimination by some justice sector officers, with insensitivity occasioning more harm to the victims. The judge emphasised more collaboration across the justice chain to ensure the survivor was at the centre.

Justice Ngenye reported that NCCJR has developed the Penal Code and Criminal Procedure Code Amendment Bills to protect vulnerable persons in the criminal justice system. The Criminal Procedure Code provides mechanisms to determine whether an accused person is suitable for trial. The rationale for the amendments was to, among others, address the challenges faced by offenders having mental illness during the trial process. Additionally, enhanced access to treatment and rehabilitation rather than imprisonment and punishment should be emphasised.

## **Dr. Christine Obondi**

Dr. Obondi indicated that the interventions by the justice sector agencies have huge socio-economic costs to the state. For instance, there are special-category offenders with underlying mental illness who are housed in Mathari Hospital. However, the cost of handling such offenders is multifaceted and huge. It is essential to have proper mechanisms to ensure such offenders receive adequate treatment and rehabilitation as recommended by probation officers.

Regarding minor offenders, the Probation and Aftercare Services Directorate provides diverse rehabilitation and reintegration programmes to reduce recidivism. These programmes are tailor-made for the offender following a report prepared by a probation officer. These programmes include but are not limited to formal vocational education and restorative justice programmes between the offenders and victims, offenders and their families or communities.

These programmes are costly since probation officers must be well-equipped and trained for successful implementation. There has been a gap, though partners have been supportive. She affirmed that while partners offer a sound support system, such funding is not adequately sustainable.

## **Dr. Joyce Mwikali Mutinda**

Dr. Mutinda reported that in 2016, NGECE published two reports on GBV, namely, *Cost of Providing the Services and the Economic Burden on Survivors*. The data in these reports was collected in 2014 and 2015 and published in 2016. Hence, the government should adequately fund new data collection as there was an overreliance on development partners to support such an initiative. She affirmed that this needed to be more sustainable, and there was a need to bolster and ring-fence funding from the national budget to address SGBV efficiently and effectively.

She pointed out that effective coordination between all actors, both state and non-state, towards the delivery of services for victims of SGBV is crucial. Coordination of efforts by stakeholders would lead to efficient use of resources as everyone's efforts would be consolidated. For instance, establishing Policare was a good step towards realizing effective coordination. She informed the participants that stakeholders need to be sharing data for posterity.

## **Ms. Judy Gitau**

Ms. Gitau noted that there had been discrepancies between the P3 form and Post-Rape Care forms, provided at police stations and hospitals, respectively. She recommended that the forms be shorter and more straightforward to enhance access to justice and reduce the costs of acquiring the forms by the survivors and the cost of production by the government. In addition, it is essential to secure budgetary allocation towards the facilitation of this service.

Ms. Gitau underscored the urgency to develop a singular curriculum for training all justice sector actors to ensure harmonious and multi-sectoral training and alignment. The Committee on SGBV should be aware of the evolving nature of SGBV and respond appropriately. Further, a comprehensive approach to dealing with caseloads in the justice sector is required, supported by adequate capacity and resources.

She reiterated that prevention interventions should be consistent and anchored in programmes and strategies. The Gender Equality Forum, for instance, established a framework based on 12 commitments to advance gender equality and eliminate all forms of GBV. Robust policy, legislative and institutional frameworks already exist and should be leveraged by all actors handling SGBV. She appreciated the existence of the resourcing gap and reiterated the need to ring-fence resources.

## **Dr. Kizzie Shako**

Dr. Shako stated that in an ideal setting, all actors handling SGBV cases should have adequate resources to ensure that they are well-equipped and that there is a proper work environment to handle evidence, conduct sufficient investigations, and provide psychosocial support for victims. Operationalising SGBV recovery centres across the country is required. Further, despite the study on financing by NGECE, it is necessary to improve on it as it was not extensive.

As a former police doctor, she noted that the justice system is reactionary and that actors implement few preventive strategies. She indicated that identifying and implementing mitigating strategies would go a long way in ensuring that the costs incurred by the government and the mental cost to the victim are significantly reduced. She suggested that the starting point should be to interrogate the factors that cause an individual to become susceptible to SGBV or become a perpetrator, such as mental health, age, exposure to early childhood violence, relationships, and the community to which they belong.

### **Mr. Esau O. Riaroh**

Mr. Riaroh reported that the Legal Resources Foundation (LRF) has been working with grassroots organisations to enhance public awareness of SGBV and identify its root causes. In addition, LRF has supported the training of judicial officers on the need for psychosocial support in their duty to ensure that the judicial officers were not mentally and emotionally overwhelmed with the trauma of the cases. Police officers have also been trained on their roles and responsibilities when handling SGBV cases, focusing on enhancing sensitivity towards the victim. Moreover, the training focused on ensuring police officers do not use AJS to handle SGBV cases, especially defilement. Therefore, multisectoral training was needed to guarantee collaboration among the actors toward the administration of justice for the SGBV survivors.

He noted that even though the government had set aside funds for handling SGBV cases, it was important that the funds trickle down to all relevant actors to ensure that the identified intervention programs were successful and sustainable. For instance, LRF had previously provided P3 forms at no cost to the survivors in response to inadequate enforcement of the no-payment policy. Further, Mr. Riaroh emphasised that there was a need for all justice actors and healthcare workers to understand and appreciate their roles when handling SGBV cases.

### **Plenary**

The justice sector should ensure victims have access to justice with minimal socio-economic burden. There is also the need to implement commitments made during the Generation Equality Forum, 2021 on the creation of a budget line for SGBV to support actors handling GBV. There is insufficient data on SGBV-related cases, with one notable cause being insufficient funds to streamline data management.

During the plenary, a case was shared by a representative from the Centre for Reproductive Rights on the cost implications that survivors of SGBV undergo. The case involved a minor who became pregnant after being defiled, experienced pregnancy complications, and sought emergency care at the nearby clinic. The minor then proceeded to attempt an abortion procedure at home but later suffered complications and died. The costs incurred resulting from the attempted abortion amounted to approximately Kshs 100,000, further victimising the deceased and her family.

### 8.3 Recommendations

- Undertake an extensive study on the resources required for the efficient and effective administration of justice across the justice system.
- Establish, strengthen and operationalise SGBV Recovery Centres in level 5 Hospitals nationwide.
- Implement the commitment made during the Generation Equality Forum of 2021 on creating a budget line for SGBV to build the capacity of actors handling GBV adequately.
- Operationalise the SGBV Information System.
- The NCAJ and its agencies leverage support from development partners and civil society organizations in addressing SGBV.





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## CONFERENCE CLOSURE AND PLAN OF ACTION

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## CONFERENCE CLOSURE AND PLAN OF ACTION

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## 9. CONFERENCE CLOSURE AND PLAN OF ACTION



### 9.1 Closing Remarks

Mr. Nicholas Kamwende, Deputy Director DCI, gave the closing remarks on behalf of the Inspector General of Police. He thanked all the participants, especially the SGBV survivors, for attending the Conference. He then went ahead and concluded by reading the Communiqué. He urged participants and agencies represented to commit to achieving the commitments identified towards eradicating SGBV and enhancing access to justice for victims.

Mr Kamwende noted that the SGBV remains the most underreported crime globally. He underscored enhanced reporting through the existing avenues such as the gender desks, the Children Protection Units, and the DCI's anonymous reporting tool, 'Fichua kwa DCI'. He highlighted that the NPS had been working with actors, especially healthcare workers, to ensure that victims were at the centre of efficient service delivery. Mr Kamwende reiterated that sexual offences, especially defilement, should not be subjected to ADR mechanisms as the victims deserve justice. He emphasised that the justice system needed to protect victims of SGBV as they are vulnerable.

### 9.2 Plan of Action

The Conference participants acknowledged the need for reforms in the justice sector focusing on addressing SGBV and anchored on a results-based framework on commitments made. The Conference allowed stakeholders to inform the discourse and provide workable solutions. Ultimately, the commitments should enter into the justice system's policy and strategy for addressing SGBV. Further, implementing actions should be embedded in the respective agencies' annual plans to monitor progress. The NCAJ is to coordinate a multi-sectoral implementation of cross-cutting programmes. The implementation is expected to be realised within two years and inform the discussions in the subsequent National SGBV Conference.

## Plan of Action Matrix

*KEY: All Agencies mean both state and non-state actors who, in executing their mandate, play a crucial role in enhancing the administration and access to justice in relation to SGBV. Collaboration and support by as many actors as possible will be the norm during the implementation.*

No.	Action/Recommendation	Indicative Lead Agency(ies)	Indicative Supporting Agency(Ies)
SURVIVOR CENTRED INTERVENTIONS AND OPPORTUNITIES AT THE GRASSROOTS			
1	Actors to involve survivors in addressing SGBV.	<ul style="list-style-type: none"> <li>• MoGCAH</li> </ul>	<ul style="list-style-type: none"> <li>• All agencies</li> </ul>
2	Stakeholders involved in addressing SGBV collaborate in developing comprehensive policy, legal and administrative frameworks that prioritize the well-being of survivors in the administration and access to justice.	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>	<ul style="list-style-type: none"> <li>• VPB</li> <li>• All Agencies</li> </ul>
3	The Government to ratify the diverse international protocols and instruments, including but not limited to the Protocol on the Sale of Children, Child Prostitution and Child Pornography.	<ul style="list-style-type: none"> <li>• OAG&amp;DOJ</li> <li>• MoGCAH</li> </ul>	<ul style="list-style-type: none"> <li>• NCCS</li> <li>• Ministry of Labour &amp; Social Protection</li> </ul>
4	Legal, policy and administrative reforms to be data-driven through enhanced data collection, analysis and sharing.	<ul style="list-style-type: none"> <li>• NCAJ</li> <li>• MoGCAH</li> </ul>	<ul style="list-style-type: none"> <li>• KNBS</li> <li>• All Agencies</li> </ul>
5	The Justice and Legal Affairs Committee (JLAC) of the National Assembly to support legal reforms proposed by the NCAJ and other agencies focusing on SGBV.	<ul style="list-style-type: none"> <li>• JLAC</li> <li>• NCAJ</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
6	Establish free psychosocial support programs for justice actors and survivors.	<ul style="list-style-type: none"> <li>• MoGCAH</li> <li>• COG</li> <li>• VPB</li> </ul>	<ul style="list-style-type: none"> <li>• NCAJ</li> <li>• ODPP</li> <li>• All Agencies</li> </ul>
7	Pre-trial directions to consider issuing post-judgment psychosocial support orders with VPB following up on orders made. The practitioners should be sensitised on the necessity of psychosocial support.	<ul style="list-style-type: none"> <li>• Judiciary</li> <li>• ODPP</li> </ul>	<ul style="list-style-type: none"> <li>• MoGCAH</li> <li>• VPB</li> </ul>
8	Operationalize one-stop centres for handling SGBV cases.	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>
9	Conduct awareness campaigns among the public and practitioners through the CUCs on SGBV, the no-payment policy for P3 forms, among other issues.	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>

10	Provide adequate resources for building safe houses in the counties.	<ul style="list-style-type: none"> <li>• COG</li> <li>• DCS</li> </ul>	<ul style="list-style-type: none"> <li>• NCCS</li> </ul>
<b>REDUCTION OF BOTTLENECKS TO EXPEDITE THE DISPOSAL OF SGBV CASES IN KENYA</b>			
11	Develop a comprehensive checklist of handling SGBV evidence by all justice actors.	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
12	Enhance internal efficiency to ensure SGBV victims pass through their institutions expeditiously without delay.	<ul style="list-style-type: none"> <li>• All Agencies</li> <li>• VPB</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
13	Facilitate the establishment and operationalisation of a Public Defender Office to provide legal representation	<ul style="list-style-type: none"> <li>• NLAS</li> <li>• VPB</li> </ul>	<ul style="list-style-type: none"> <li>• OAG&amp;DOJ</li> </ul>
14	Develop an enabling policy and legal framework to entrench the provision of legal aid services by the proposed Public Defender Office.	<ul style="list-style-type: none"> <li>• NLAS</li> </ul>	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>
15	Timeously address the issues raised during CUCs and other grassroots forums.	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
16	Enhance the capacity of police doctors to improve service delivery to SGBV victims.	<ul style="list-style-type: none"> <li>• MoH</li> </ul>	<ul style="list-style-type: none"> <li>• NPS</li> </ul>
17	Increase and operationalize more Child Protection Units.	<ul style="list-style-type: none"> <li>• NPS</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
18	Enhance evidence collection and storage facilities of both the police and healthcare facilities.	<ul style="list-style-type: none"> <li>• NPS</li> <li>• MoH</li> </ul>	<ul style="list-style-type: none"> <li>• Judiciary</li> <li>• ODPP</li> </ul>
<b>INNOVATION AND TECHNOLOGICAL UNDERPINNINGS ON PREVENTION AND RESPONSE TO SGBV</b>			
19	Coordinate the uptake of forensic technologies and management.	<ul style="list-style-type: none"> <li>• DCI</li> <li>• MoINA</li> </ul>	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>
20	Fully digitize the Sexual Offences Register to allow more comprehensive access by the public.	<ul style="list-style-type: none"> <li>• Judiciary</li> </ul>	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>
21	Enhance the capacity of the Government to address the DNA evidence backlog and develop a DNA database.	<ul style="list-style-type: none"> <li>• Government Chemist</li> </ul>	<ul style="list-style-type: none"> <li>• MoINA</li> <li>• DCI</li> </ul>
22	Support Government Chemist towards enhanced service delivery.	<ul style="list-style-type: none"> <li>• NCAJ</li> <li>• National Treasury</li> </ul>	<ul style="list-style-type: none"> <li>• DCI</li> <li>• All Agencies</li> </ul>
23	Develop a data sharing management framework.	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
24	Upscale awareness creation, capacity building and training in forensics.	<ul style="list-style-type: none"> <li>• DCI</li> <li>• Government Chemist</li> </ul>	

25	Offer adequate psychosocial support to the victims' post-judgment.	<ul style="list-style-type: none"> <li>• PACS</li> <li>• COG</li> <li>• VPB</li> </ul>	<ul style="list-style-type: none"> <li>• Community</li> </ul>
26	Advance from blood typing techniques to DNA fingerprinting technology.	Government Chemist	<ul style="list-style-type: none"> <li>• DCI</li> </ul>

### GLOBAL AND REGIONAL LESSONS ON ADDRESSING SGBV

27	Actors to recognize Intimate Partner Violence (IPV) as one of the foundational causes of SGBV. The justice actors to develop mechanisms to handle IPV and institutionalise therapy and behavioural change with sustained interventions for IPV survivors.	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
28	Sensitize justice actors and the community on the Romeo and Juliet clauses enshrined in the Constitution and growing jurisprudence to ensure appropriate handling.	Agencies training institutions	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
29	Promote age-appropriate sexual education to enhance the understanding of consent.	<ul style="list-style-type: none"> <li>• Ministry of Education</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
30	Engage adolescents in SGBV interventions since they are involved in consensual sex.	<ul style="list-style-type: none"> <li>• NCCS</li> </ul>	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>
31	Undertake sustainable resource mobilization to ensure that the solutions identified are adequately realized.	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>
32	Fully implement the provisions of the Children's Act 2022.	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>	<ul style="list-style-type: none"> <li>• NCAJ</li> </ul>
33	Undertake criminogenic assessments for children in conflict with the law, and who have been exposed to SGBV matters to analyse their propensity to engage in criminal behaviour.	<ul style="list-style-type: none"> <li>• DCS</li> <li>• DCI</li> </ul>	<ul style="list-style-type: none"> <li>• Other criminal justice actors</li> </ul>

### EMERGING ISSUES ON SGBV AND THE REQUIRED OPTIMAL INTERVENTIONS

34	Use CUCs and other grassroots mechanisms to address issues arising in handling SGBV matters.	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>	
35	Enhance one-stop centres for agencies in handling SGBV.	<ul style="list-style-type: none"> <li>• All Agencies</li> </ul>	
36	Enhance training and sensitisation of all relevant stakeholders handling FGM.	<ul style="list-style-type: none"> <li>• Anti-FGM Board</li> </ul>	
37	Identify and address the root causes of human trafficking at the grassroots level.	<ul style="list-style-type: none"> <li>• DCI</li> <li>• CUCs</li> </ul>	<ul style="list-style-type: none"> <li>• Counter-Trafficking Advisory Committee</li> </ul>

38	Develop prevention and response models on Intimate Partner Violence.	• NCAJ	• All Agencies
39	Entrench a seamless process from the healthcare to prosecution and create awareness among survivors regarding the sample collection processes and the chain of custody.	• MOH • NPS	• ODPP • Judiciary
<b>THE SOCIO-ECONOMIC COSTS OF SGBV IN KENYA</b>			
40	Undertake an extensive study on the resources required for the efficient and effective administration of justice across the justice system regarding SGBV.	• NCAJ • NGENC	• All Agencies
41	Establish, strengthen and operationalise GBV Recovery Centres in Level 5 Hospitals nationwide.	• County Government	• MOH
42	Implement commitments made during the Generation Equality Forum 2021 to create a budget line for GBV to build the capacity of actors handling GBV adequately.	• MoGCAH • National Treasury	All Agencies OAG&DOJ
43	Operationalise the GBV Information System. This to cover harmonisation of GBV Data Collection Systems among agencies and enhance the capacity of agencies	• NGENC • NCAJ	• All Agencies
44	Leverage support from partners in addressing SGBV.	• NCAJ • All Agencies	• NCAJ • All Agencies

### 9.3 Monitoring the Implementation Progress

The Plan of Action will be monitored periodically through reports by the NCAJ and the relevant agencies. The implementation timeline covers two years, commencing January 2024, after which a wholesome assessment or evaluation of the progress realised will be undertaken. Effective implementation will require adequate funding from the Government of Kenya and its partners.

## ANNEXURES



### Annex 1: Conference Program

DAY ONE: TUESDAY 17 <sup>TH</sup> OCTOBER, 2023	
8.00 – 8:30am	<b>Registration and Welcoming of Guests-</b> <i>Protocol Team &amp; NCAJ Secretariat</i>
<b>OPENING CEREMONY</b>	
Session Lead: Dr. Moses W. Marang’a, MBS, Executive Director, NCAJ	
8:30 – 8.45 am	<ol style="list-style-type: none"> <li><b>1. National Anthem &amp; EAC Anthem</b></li> <li><b>2. Opening Prayer</b> – Ms. Anne Thiong’o, DCS</li> </ol>
Session Lead: Hon. Anne A. Amadi, Chief Registrar of the Judiciary & Secretary NCAJ	
8.45 -10.00am	1. Welcoming Remarks, Objectives and Coverage of the Conference Hon. Anne A. Amadi - Secretary, NCAJ
	2. Amplifying the Voices of Victims/Survivors A short presentation AND/OR video from a victim
	3. Kenyan Justice System Priority Reforms on Elimination of SGBV. Ms. Nancy Ikinu, Chairperson of the NCAJ Committee on the Review of Laws and Policies on SGBV
	4. Strengthening Legal and policy reforms in addressing SGBV Ms. Christine Agimba Chairperson, KLRC
	5. Innovations and Options for Seamless Prosecution of SGBV Ms. Jacinta Nyamosi, Deputy Director of Public Prosecution
	6. Role and Partnerships with County Governments in addressing SGBV at Grassroots Level. Ms. Mary Mwiti, Chief Executive Officer, Council of Governors
	7. From Europe to Kenya: A Partner Perspective on SGBV Prevention and Support to Victims. H.E. Henriette Geiger, European Union Ambassador to Kenya
	8. Navigating Challenges and Transforming Justice: Addressing Sexual and Gender-Based Violence within the Correctional Services System in Kenya Ms. Salome Beacco, PS, State Department for Correctional Services
	9. KEYNOTE ADDRESS & OFFICIAL OPENING Hon. Justice Martha K. Koome, EGH, Chief Justice & Chairperson of the NCAJ
10.30-11.00am	GROUP PHOTO AND TEA BREAK

### HIGH LEVEL PANEL DISCUSSION 1: (Main Hall)

*Topic: Survivor Centred Interventions and Opportunities at the Grassroots*

*Moderator: Dr. Joyce Mwikali Mutinda, PhD, EBS Chairperson NGEN*

	<i>Short video and/or presentation by a Survivor to introduce the discussion</i>
10.30am – 1.00pm	10. Hon. Harriet Chiggai, Cabinet Secretary & Special Advisor to H.E. the President
	11. Hon. Justice Alfred Mabeya, Chairperson of the NCAJ Standing Committee on Court Users Committees (CUCs)
	12. Hon. Beatrice Elachi, Member of Parliament, Deputy Chairperson, KEWOPA
	13. Hon. George Murugara, Chairperson, Justice and Legal Affairs Committee
	14. Ms. Teresa Mugadza, Country Manager - IDLO
	15. Mahboob Ahmed Bajwa, Deputy Country Representative, UNICEF
	16. Ms. Renee Ngamau, Board Member, Cleanstart International
	INTERACTIVE PLENARY

### HIGH LEVEL PANEL DISCUSSION 2: (Main Hall)

*Topic: Reducing Bottlenecks Affecting Expedious Disposal of SGBV Cases in Kenya: Sealing the loopholes while observing the rights of victims*

*Moderator: Ms. Rose Wachuka, MBS, Chief of Staff, Office of the Chief Justice*

	<i>Video and Live experience of a survivor</i>
2.00pm - 4.00pm	1. Mr. Eric Theuri, President, Law Society of Kenya
	2. Hon. Caroline Kabucho, Registrar Magistrates' Court
	3. Ms. Jacinta Nyamosi, Deputy Director, Directorate of Public Prosecutions.
	4. Ms. Terry Mueni Mutisya, Anti-Human Trafficking and Child Protection Unit
	5. Dr. Rose Wafula, NASCOP MoH
	INTERACTIVE PLENARY

### LUNCH

### HIGH LEVEL PANEL DISCUSSION 3: (Breakaway Hall 1)

*Topic: Innovation and Technological Underpinnings on Prevention and Response to SGBV: Justice Sector Preparedness to Barriers during Emergencies*

*Moderator: Prof. Marion Mutugi, Commissioner, KNCHR*

	<i>Short Video and/or live experience to introduce the discussion</i>
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2.00pm– 4.00pm	1. Hon. Justice Isaac Lenaola, Supreme Court Judge and Chairperson of NCAJ Working Committee on ICT
	2. Ms. Anu Ala-Rantala, Embassy of Finland, Generation Equality Forum Action leader on Technology & Innovation for Gender Equality.
	3. Dr. John Wafula, UNFPA
	4. Dr. Joseph Kimani, Government Chemist
	5. Ms. Catherine Lomaria, Cybercrimes and Digital Forensics, DCI

**DAY TWO: WEDNESDAY 18<sup>TH</sup> October, 2023**

**HIGH LEVEL PANEL DISCUSSION 4: (Main Hall)**

*Topic: Global and Regional Lessons on addressing SGBV: What can work for Children, Adolescents, Women, Old Persons and other Vulnerable Groups in Kenya*

*Moderator: Ms. Anne Ileri, CEO FIDA*

	<i>Short video and/or live presentation to introduce the discussion</i>
8.00am – 10.00am	1. Hon. Jacqueline Kibosia, Member, NCAJ Committee on Administration of Justice for Children.
	2. Ms. Mary Njeri, UN-WOMEN- Kenya
	3. Dr. Godfrey Dalitso Kangaude, Rhodes University South Africa & CRR
	4. Jessica Gorham, Regional Advisor on GBV, UNFPA
	5. Dr. Fatma Ali, Board Chairperson, COVAW
	<i>INTERACTIVE PLENARY</i>

**HIGH LEVEL PANEL DISCUSSION 5: (Breakaway Hall 1)**

**STRATEGIC PRESENTATIONS ON EMERGING ISSUES ON SGBV AND THE REQUIRED OPTIMAL INTERVENTIONS**

*Moderator: - Hon. Hellen Onkwani, Senior Principal Magistrate and Secretary LAWJ - Kenyan Chapter*

10.30am - 1.00pm	1. Ms. Anne Makori Chairperson, IPOA
	2. Ms. Elizabeth Washika, NASCOP MoH
	3. Ms. Charity Kagwi – Head of Crime Prevention & Criminal Justice Pillar, UNODC
	4. Ms. Wangechi L. Wachira – ED, Centre for rights Education and Awareness
	<i>INTERACTIVE PLENARY</i>

**TEA BREAK**

## HIGH LEVEL PANEL DISCUSSION 6: (Main Hall)

*Topic: The Socio-economic costs of SGBV in Kenya: Addressing Costly yet high-impact and Crucial Reforms in the Criminal Justice System*

**Moderator:** Ms. Renee Ngamau (*Global Board Amnesty International, Advocate of the High Court of Kenya, Director Cleanstart, Member NCAJ Committee on Review of Sexual Offenses Laws and Policies*)

### *5 - Minutes video to introduce the discussion*

**10.30 - 1.00pm**

1. Hon. Lady Justice Grace Ngenye, Judge of Appeal & Chairperson of Criminal Justice Reforms Committee of NCAJ
2. Ms. Christine Obondi, State Department for Correctional Services
3. Dr. Joyce Mwikali Mutinda, PhD, EBS Chairperson NGENC
4. Ms. Judy Gitau, Regional Coordinator Africa, Equality Now
5. Dr. Kizzie Shako, UNODC Kenya
6. Mr. Esau O. Riaroh – Legal Resources Foundation

### *INTERACTIVE PLENARY*

**OFFICIAL CLOSURE: Session Lead: Dr. Moses W. Marang'a, Executive Director, NCAJ**

**2.00pm – 3.00pm**

- **Communique on Commitments & Actions**  
*Mr. Nicholas Kamwende, Deputy Director DCI for Inspector General of Police*
- **National Anthem**

## Annex 2: List of Participants

PARTICIPANT	AGENCY	PARTICIPANT	AGENCY
Hon. Justice Martha Koome, Chief Justice	Judiciary	Mohamed Kalaya	Media
Hon. Anne Amadi, CRJ	Judiciary	Onyango Venah	Media
Hon. Justice Isaac Lenaola	Judiciary	Nice Wambui	Media
Hon. Justice Grace Ngenye JA	Judiciary	Collins Macharia	Media
Hon. Justice Alfred Mabeya	Judiciary	Linda Kiyeng	Media
Hon. Lady Justice Lillian Mutende	Judiciary	Mark Mwaniki	Media
Hon. Lady Justice Cecilia Githua	Judiciary	Gilbert Wamalwa	Media
Hon. Caroline Kabucho	Judiciary	Derrick Amusavi	Media
Hon. Hellen Onkwani	Judiciary	Amos Pesi	Media
Hon. Koech C Betty	Judiciary	Collins Macharia	Media
Hon. Joe Omido	Judiciary	Maria Juma	Media
Hon. Jackie Kibosia	Judiciary	Erastus Kibon	Media
Rose Wachuka	Judiciary	Samuel Mwangi	Media
Hon. Beatrice Elachi	National Assembly	Boniface Mutunga	Media
Hon. John Kaguchia	National Assembly	Catherine Maithya	Media
Hon. Otiende Amollo	National Assembly	Philip Gachegu	Media
Hon. Kajwang' Francis	National Assembly	Gideon Mutheka	Media
Hon. Mutuse E.Menge	National Assembly	Spenar Ontuga	Media
Hon. Mogaka Stephen	National Assembly	Peter Chege	Media
Hon. George Murugara	National Assembly	Abdinur A Roba	Media
Anne Ileri	FIDA	Abdirahaman Jilo	Mercy Cops
Nancy Ikinu	FIDA	Janet Khisa	MoH
Anu Ala Rantala	Embassy of Finland	Clement Kalesinger	MoH
Teresa Mugadza	IDLO	Rose Orre	MoH
Mahboob Ahmed Bajwa	UNICEF	Elizabeth Kigen	MoH
Renee Ngamau	Clean Start	Dr. Rose Wafula	MoH
Jacinta Nyamosi	ODPP	Monicah Mwendu Musau	MoH

Nicholas Kamwende	DCI	Shadrack Elim	MoH
Christine Agimba	KLRC	Elizabeth Kigen	MoH
Mary Mwiti	Council of Governor	Fatuma Ibrahim Issa	MoH
Henriette Geiger	European Union	Celina Kithinji	MoH
Salome Muhia Beacco	Correctional Services	Hassan Mohammed Odo	MoH
Hon. Harriet Chiggai	Special Advisor to HE the President	Truphosa Achar	Ministry of Lands Public Works
Dr. Joyce Mutinda	NGEC	Atulo Joseph	Mtoto News International
Dr. Rose Wafula	MoH	Ronald Onyale	National AIDS and STI's Control Programme
Eric Theuri	LSK	Fridah Ngari	National Assembly
Prof.Marion Mutugi	KNCHR	Ken Mayaka	National Assembly
Terry Mueni Mutisya	DCI	Regina Mohono	NCCS
Catherine Lomaria	DCI	Jackie Mulwa	NCAJ
Dr. John Wafula	UNFPA	Susan Ouko	NCAJ
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