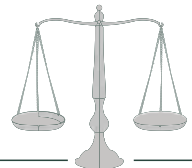


State of the Judiciary and the Administration of Justice Annual Report 2018 / 2019



STATE OF THE JUDICIARY AND THE ADMINISTRATION OF JUSTICE

ANNUAL REPORT
2018 - 2019



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The Annual State of the Judiciary and Administration of Justice Report (SOJAR) is published annually, pursuant to section 5 (2) (b) of the Judicial Service Act, 2011. The SOJAR has become the main channel through which the Judiciary communicates to the public about the progress and measures taken to ensure effectiveness in the administration of justice and the performance of the justice sector in general. We have tracked the productivity of our courts and reported on the progress and challenges in the performance of the essential aspects of our mandate. The annual reports have captured in great and useful detail, the transformation journey that the Judiciary has travelled through the years.

The report captures the main activities of the Judiciary for the Financial Year 2018/2019 and it highlights the achievements, progress and challenges during the period. More importantly, the report provides us with trends and patterns in the performance and exercise of our mandate, and a basis for reviewing and adjusting our operations to improve efficiency. We are, for instance, in the middle of a comprehensive reorganization of our institutional structures to enable optimal efficiency in operations and the information from

Foreword

this and previous reports have greatly enriched the exercise.

The report also captures the challenges that we face as an institution, some of which have become long-standing and require urgent attention. A review of this report, as well as past reports, reveals a common pattern: a growing workload in the courts against declining resources. In the year under review, the total caseload in the Judiciary grew by three percent from the 553,187 cases at the end of FY 2017/18 to 569,859 cases at the end of FY 2018/19. In FY 2016/2017, the workload increased by 15 percent. The analysis of the Judiciary finances in this report and previous reports shows a general decline in the amount of resources allocated to the Judiciary over the years.

The inevitable and overall effect of this trend is that the Judiciary is increasingly not in a position to cope with and adequately address the challenges. During the reporting period, for instance, the Judiciary operated with 55 percent of the required workforce. This essentially means that the Judiciary operated at slightly over a half of the requisite capacity to ensure institutional effectiveness.

Other challenges that have recurred through the years include the inadequacy of resources to assist in core areas of judicial transformation. For instance, expansion of physical infrastructure and ICT cannot be gainsaid. The Judiciary has consistently prioritized technology as a tool to enhance access to justice. However, many of the planned projects have not

taken off as a result of declining funds and abrupt budget cuts. The report also reveals slow progress in the completion of court construction across the country, especially the projects funded by the Government. As a matter of fact, none of the Government funded court buildings was completed during the year under review.

As the Judiciary, we shall continue to engage the other arms and institutions of government in order to address the above challenges, especially those that are gradually and evidently weakening the ability and capacity of the Judiciary to carry out its operations effectively. The Constitution and relevant laws provide safeguards to the Judiciary, which we shall rely on in addressing some of the challenges identified by the report.

Finally, I take this opportunity to thank Kenyans for the support to the Judiciary. I also extend my appreciation

to the entire Judiciary and indeed all the justice sector agencies whose activities form the content of this report. We shall remain committed to our core promise of ensuring effectiveness in the administration of justice.

Hon. Justice David Kenani Maraga, EGH
Chief Justice and President of the Supreme Court of Kenya
Chairman of the National Council on the Administration of Justice

23 January 2020



Note from the Office of the Chief Registrar

and eradication of corruption in the Judiciary. The Judiciary also finalized the evaluation process of the previous Strategic Plan (2014–2018) and the preparation of a new Strategic Plan whose launch is scheduled for the 3rd Quarter of the FY 2019/20.

The Office of the Chief Registrar of the Judiciary is responsible for coordinating, providing support and facilitating courts and administrative units to deliver services in consonance with the Constitutional mandate to deliver justice to all citizens efficiently, effectively and affordably. The Chief Registrar is therefore the bridge between the Administration of the Judiciary and the management and Staff on one hand, and the Judicial Service Commission (JSC) on the other hand.

I am glad to report that we shall soon operationalize the Judiciary Fund after the National Assembly approved the Judiciary Fund Regulations. Once fully operationalized, we hope to reduce the challenges of delayed payments for services rendered to the Judiciary. In the same vein, the roll out the Small Claims Court is imminent following the approved the Small Claims Court Rules by the National Assembly.

The Chief Registrar is also the Secretary to the National Council on the Administration of Justice (NCAJ) and thereby provides an important link between the Judiciary and the other players in the justice sector that come together under the umbrella of the NCAJ to ensure a coordinated approach to matters justice.

Another major undertaking has been the roll out of the Court Annexed Mediation (CAM) process. CAM has resulted in the fast tracking of the hearing and determination of cases and thus dealt with case backlog especially at the Magistrates Courts and in the High Court. Over 20 High Court stations and the magistrates' courts thereunder have benefitted from the roll out. It is encouraging to report that the public reception and uptake of mediation services has been very high. Courts to where the roll out has been undertaken will continue to receive the necessary support to ensure that the fruits of mediations are widespread and actualised.

In the year under review great strides were made to actualise the targets set out in the Sustaining Judiciary Transformation (SJT) blueprint which is in its 3rd year of implementation and which has specifically focused on the reduction of case backlog at all courts levels, mainstreaming the digitisation and automation of cases through the Case Tracking System (CTS) and administrative processes

We are happy to also report that the JSC which for a better part of the previous financial year operated at

half strength is now fully constituted following the re-election of Hon. Mr. Justice Mohammed Warsame to represent the Court of Appeal, the appointment of Commissioner Patrick Gichohi to represent the Public Service Commission, Prof. Olive Mugenda and Mr. Felix Koskei to represent the public and the election of Hon. Mr. Justice David Majanja and Mr. Macharia Njeru to represent the Kenya Magistrates and Judges Association (KMJA) and Law Society of Kenya (LSK) respectively. We also welcomed on board the new Deputy Chief Registrar of the Judiciary, Hon. Paul. N. Maina who joined us in August, 2018. The position has been vacant since December, 2014.

We embarked on the finalization of the policy preparation and the approval of the Organisation Review whose operationalisation will kick off in earnest in the next financial year with the reorganization of the current 17 cadres into the recommended 11 cadres. There will also be the re-designation of judicial staff and sensitization on the new structures and grading's.

We thus continue to implement our mandate as laid out in the Constitution and other statutes and legal instruments. We have consolidated the gains from the previous years and this year was no exception, the challenges faced notwithstanding. As will be gleaned in the statistics presented by our Directorate of Performance and Organisational Planning, we have

witnessed an improved case clearance rate, improved customer and staff satisfaction rate and an overall drop in corruption incidences in the Judiciary.

We have a vision to increase the physical infrastructure of the courts to cover all the 47 counties 290 sub counties in the country in accordance with the requirement of the Judicial Service Act. We have with the support of the World Bank through the Judiciary Performance Improvement Program (JPIP) completed and opened 8 courts and the remaining court will be completed and opened by 30th October, 2020.

We have also commenced the review of our policy documents in order to address the emerging issues since their launch and operationalization in the last 3-4 years. These include the Human Resources Manual and the Financial Procedures Manual, among others.

Our focus is thus undimmed and our commitment steady as we seek to fulfil our mandate and obligations to the consumers of justice in this country and beyond to ensure that they continue to enjoy excellent judicial services.

Thank you.

Hon. Anne A. Amadi, CBS

**Chief Registrar of the Judiciary, and Secretary,
National Council on the Administration of
Justice**

Acknowledgment

The Honourable Chief Justice constituted the Committee that was given the task of putting together this State of the Judiciary and Administration of Justice Report (SOJAR) for the Financial Year 2018/ 2019. We thank the members of the Committee for the individual and collective effort that went into preparation of the report. The SOJAR Committee comprised of Dr. Conrad M. Bosire (Chairperson), Irene Omari (Secretary), Hon. Joseph Were, Hon. Moses Wanjala, Mundia Muchiri, Jim Onaya, Lucy Njaramba, John Muriuki, Loise Mureithi, Edwin Mureti, Carolyne Barasa, Kwamboka Kiangoi, George Balazi, Josphat Karanja, Isaac Wamaasa, Jacky Mulwa, Dr. Masha Baraza, Fred Nyinguro, Anthony Sissey, Sophie Kaibiria, Lewis Butaki, Dr. Freda Githiru, Dr. Moses Maranga, Patrick Muchiri, James Kyeni, and Benson Letiktik.

We are grateful to the various directorates, registries, units and committees of the Judiciary provided information and material that went into the report. We also received institutional reports from the justice sector agencies as well as the committees of the National Council on the Administration of Justice (NCAJ). We thank the heads of the justice sector agencies and Committees of the NCAJ that submitted the reports. We specifically thank the persons from the various agencies that were tasked with compiling and submitting the institutional reports.

We thank the leadership of the Judiciary for both the opportunity to undertake this important exercise as well as the support that enabled us to complete and deliver the report.

Dr. Conrad M. Bosire
Chief of Staff

Chair of the State of Judiciary and Administration of Justice Report Committee
(2018/2019)

23rd January 2020

Executive Summary

The Constitution recognizes the people as the source of judicial power and authority. To this end, section 5(2) (b) of the Judicial Service Act requires the Chief Justice, as the head of the Judiciary, to report annually on the state of the Judiciary and the administration of justice. The Annual State of the Judiciary and Administration of Justice (SOJAR), thus, forms the basis of accountability in the exercise of power that is delegated by the people. This annual report covers activities of the Judiciary and those of agencies in the justice sector that are involved in the administration of justice in the country for the period 2018/ 2019.

The Constitution lays down the primary mandate of the Judiciary and provides broad direction on the manner in which judicial power and authority is to be exercised. Various laws flesh out this broad mandate into specific responsibilities that form the basis of the Judiciary's operations and activities. In order to internalise the constitutional and legal mandate vested in the Judiciary, the Judiciary has developed institutional policies and documents that further guide it in the pursuit of its core mandate and responsibilities.

The current Judiciary Blueprint, *Sustaining the Judiciary: A Service Delivery Agenda (2017-2021) (SJT)*. The SJT was launched in January 2017 and it continues to guide the transformation of the Judiciary as envisaged in the Constitution and enabling laws. The SJT, together with the Judiciary Corporate Strategic Plan (2014 - 2018) and other policy documents, continue to guide activities to of the Judiciary and formed the basis of the activities covered in this report. The activities of the Judiciary were led by the different delivery entities within the Judiciary (directorates, registries and units) and the report provides details of the key activities during the period 2018/2019. The activities of the agencies in the justice sector for the same period are also covered in the report. The report contains a total of 10 chapters.

Chapter one of the report covers the main activities and changes that took place within the leadership and management of the Judiciary during the year under review. The chapter highlights the changes in the Judicial Service Commission and the Judiciary leadership. Clearance of cases remains a top priority for the Judiciary leadership and the chapter provides an update on the clearance of

cases. The Chief Justice promised, during the launch of the SJT, to clear cases that were more than five years. At that time, there were 170,186 backlog cases of over five years in age and by June 2019, a total of 186,716 cases of over than five years had been cleared in all courts translating into an achievement level of 110 percent. However, new cases have since joined the 5-year bracket and a total of 39,781 remained unresolved as the end of the reporting period (June 2019).

The chapter also details the findings of the SJT Implementation Monitoring Committee (IMC) on the pace and progress in the implementation of the SJT. The IMC, which is chaired by the Deputy Chief Justice, carried out an assessment of implementation of the SJT pillars and the summary of findings of the Committee are presented. The chapter also showcases the Judiciary's innovativeness in the enhancement of justice through the implementation Court Annexed Mediation. 3,517 matters were referred to, out of which 2,593 were concluded and thereby releasing Sh.7.2 billion that was tied in litigation.

Chapter two of the report covers the main strategies and activities of the Judiciary that are aimed at enhancing access to justice. The first part of the chapter covers the strategies employed to enhance access to justice and these included: reduction of case backlog, use of technology to enhance to justice, improved human resource capacity, enhancing physical access through expansion of infrastructure, measurement of court performance, and embracing of alternative dispute resolution.

The second part of the chapter provides a caseload analysis for the period under review. At the beginning of review period, case backlog stood at 372,928 cases. At the end of the period under reference, case backlog stood at 341,056 cases signifying nine percent reduction and this was mainly through specific measures used to address backlog such as service weeks, adoption of “no adjournment policy”, circuit courts, amongst other. A total of 484,349 cases were filed in the all courts comprising 343,109 criminal cases and 141,240 civil cases out of which 469,359 cases were resolved in all courts comprising 300,728 criminal cases and 168,631 civil. The number of total pending cases went up by three percent from the 553,187 cases at the end of FY 2017/18 to 569,859 cases at the end of FY 2018/19.

Chapter three covers the activities undertaken by tribunals for the year. The first section of the chapter provides an update on the activities of the tribunals while the second section is dedicated to the emerging jurisprudence from the tribunals. The process of transitioning tribunals to the Judiciary continues and three tribunals transitioned to the Judiciary during the year under review. These were the Communication and Multi Media Appeals Tribunal, the Micro & Small Enterprises Tribunal, and the National Civil Aviation Appeals Tribunal. Other developments included the first Tribunals Symposium, which was attended by the leadership of

tribunals and focused on capacity building and partnerships for effectiveness in the administration of justice.

Chapter four of the report highlights the jurisprudence that emanated from the superior courts during the reporting period. The decisions reported were from the Supreme Court, the Court of Appeal, the High Court, the Environment and Land Court (ELC), and the Employment and Labour Relations Court (ELRC). The Chapter also includes a list of laws that have been declared unconstitutional by the courts.

Chapter five gives a comprehensive picture of human resources at the Judiciary and the activities and measures undertaken to ensure an optimal human resource outlay for overall efficiency. As at June 30, 2019, the Judiciary had 5,584 employees, against an approved establishment of 10,243 with a variance of 4,659 representing 45 per cent shortfall; the Judiciary is operating at 55 per cent of its optimum staffing level. During the review period, the Judicial Service Commission made a number of appointments and recruitments; the JSC concluded the recruitment process and appointed a Deputy Chief Registrar of the Judiciary, and 49 Resident Magistrates, of whom 33 (67%) were female and 16 (33%) were male. 188 employees exited from the Judiciary due to retirement, resignations, and death among other grounds. On disciplinary matters, the JSC received 162 complaints and petitions against judges. Of these, 124 complaints were concluded, while 38 were pending as at the end of the reporting period.

Chapter six covers activities undertaken in the area of capacity development and training, under the auspices of the Judiciary Training Institute (JTI). The Judiciary held the Annual Judges Colloquium in August 2018 where Hon. Chief Justice Mogoeng Mogoeng (South Africa) delivered a keynote speech. Other activities included the annual magistrates and kadhis colloquium (held in two phases in April 2019). The JTI also organised annual meetings of the various courts, induction of new judges and magistrates, special trainings (on elections, environmental matters, etc.) and regional and international engagements with other judicial training institutes.

Chapter seven reports on developments in the Judiciary's physical infrastructure. Improvement of physical access to courts remains a key priority for the Judiciary with the goal of enhancing the dispensation of justice by bringing judicial services closer to the people. During the period under review, activities undertaken included the, refurbishment, rehabilitation and construction of court buildings, including shelving of registries, installation of water tanks, construction of ablution blocks, customer care, waiting bays, and installation of solar systems. Three court buildings were completed, and 15 High Courts and 42 Magistrates' Courts renovated.. There were 38 on-going constructions of court buildings at the end of the reporting period. The main challenges experienced included budget cuts and uncertainty in funding and the details are highlighted in the chapter.

Chapter eight covers the activities and measures undertaken to leverage technology in the provision of judicial services and enhancing access to justice. Despite the uncertainty of funding and a declining budget, the Judiciary was able to undertake a number of activities and important developments. All the six courtrooms of the Commercial and Tax Division of the High Court at the Milimani Law Courts were equipped with court recording equipment; as at the end of the reporting period, the Division had recorded 2,500 case sessions in the six court rooms. The Judiciary has also been implementing the Case Tracking System (CTS). The system tracks the life cycle of a case, from registration to disposition and 40 law courts, five tribunals, and two mediation units have, so far, been installed with CTS. A total of 256,041 cases have been captured on the system during the period under review. In total, 467,041 cases had been entered in CTS. With regard to ICT infrastructure, a total of 1266 ICT equipment (desktop computers, laptops, printers and ipads) were bought and distributed to employees across various court stations. The Judiciary also acquired a private cloud solution to house all the systems.

Chapter nine provides information on financial and accounting issues within the Judiciary, A comparison of the Judiciary budgetary allocation vis-à-vis other organs and institutions of government is done to provide a broader context of the Judiciary's finances and financing. The chapter also contains sections Judiciary's resource requirements versus its allocation; approved budget estimates, and expenditure analysis. Other issues covered in the chapter include trends in revenue collection by courts, automation of financial systems in the Judiciary and other policy developments relevant to the management of Judiciary finances. The chapter notes that the establishment of the Judiciary Fund that has been pending has finally moved to a critical level with the approval of the Judiciary Fund regulations by Parliament. The Fund is at an advanced stage of being established.

Chapter ten provides an overview of the activities that were carried out by the other agencies in the justice sector. The chapter contains reports from 21 agencies (including committees of the National Council on the Administration of Justice). While the chapter contains individual institutional reports from the agencies and committees, the chapter has also highlighted overarching challenges in the administration of justice and challenges that require common approaches in addressing the same. Challenges highlighted in the chapter include: inadequate human and financial resources/ capacity, delays in the delivery of services, weak coordination among justice sector players, low uptake of technology in the delivery of services, low levels of public engagement and awareness, politicisation of justice processes, policy and legislative gaps, and corruption.

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Acronyms

AACD	African Anti-Corruption Day	DDD	Digital Divide Data
AACs	Area Advisory Councils	DIALS	Declarations of Income, Assets and Liabilities
ACHPR	African Commission on Human and Peoples' Rights	EACC	Ethics and Anti-Corruption Commission
ACM	Active Case Management	EFT	Electronic Fund Transfer
ADR	Alternative Dispute Resolution	ELC	Environment and Land Court
AG	Attorney General	ERP	Enterprise Resource Planning
AJS	Alternative Justice Systems	EWS	Early Warning Systems
APP	Africa Prison Project	GAA	Government Advertising Agency
APSEA	Association of Professional Societies of East Africa	GANHRI	Global Alliance of National Human Rights Institutions
ARIS	Anonymous Reporting Information System	GJLOS	Governance Justice Law and Order
ASK	Agricultural Society of Kenya	HRD	Human Rights Defenders
BBIC	Bail and Bond Implementation Committee	HRDs	Human Rights Defenders
BBPG	Bail and Bond Policy Guidelines	IACD	International Anti-Corruption Day
CAJ	Commission on Administrative Justice	IAU	Internal Affairs Unit
CARPS	Capacity Assessment and Rationalization Programme	ICJ	International Commission of Jurists
CASB	County Assembly Service Boards	ICMS	Integrated Court Management System
CCUCs	County Court Users Committees	ICT	Information Communication and Technology
CDF	Constituency Development Fund	ICTA	ICT Authority
CIC	Case Intake Committee	IEC	Information Education Communication
CJS	Community Justice System	IG	Inspector General
CKL	Child Line Kenya	IJM	International Justice Mission
CLE	Council for Legal Education	IJS	Informal Justice Systems
CMA	Capital Markets Authority	IPICC	Implementation Coordination Committee
CMS	Case Management System	IPOA	Independent Police Oversight Authority
COG	Council of Governors	ISCB	Intelligence Service Complaints Board
CoK	Constitution of Kenya	JATS	Judiciary Automated Transcription System
CPC	Criminal Procedure Code	JFMIS	Judiciary Information Management Information System
CPIMIS	Child Protection Information Management System	JICA	Japan International Cooperation Agency
CPSB	County Public Service Boards	JPIP	Judicial Performance Improvement Project
CPU	Child Protection Units	JSC	Judicial Service Commission
CRAs	Corruption Risk Assessment	JTF	Judiciary Transformation Framework
CRB	Credit Reference Bureau	JTI	Judiciary Training Institute
CRTS	Court Recording and Transcription System	KAA	Kenya Airports Authority
CSO	Community Service Order	KAM	Kenya Association of Manufacturers
CTS	Case Tracking System	KCA	Kenya Children Assembly
CUC	Court Users Committee	KCPE	Kenya Certificate of Primary Education
CVPT	Crime and Violence Prevention Training	KDF	Kenya Defence Forces
DCI	Director of Criminal investigation	KHRC	Kenya Human Rights Commission
DCRT	Daily Court Return Template	KIP	Kenya Integrity Plan
		KLIF	Kenya Leadership and Integrity Forum
		KLRC	Kenya Law Reform Commission

KMJA	Kenya Magistrates and Judges Association	OVC	Orphans and Vulnerable Children
KNCHR	Kenya National Commission on Human Rights	P&C	Protection and Care
KPS	Kenya Prisons Service	PASUNE	Paralegal Support Network
KRA	Kenya Revenue Authority	PEV	Post-Election Violence
KSG	Kenya School of Government	PIT	Prosecution Inspection Team
KWS	Kenya Wildlife Services	PLEAD	Programme for Legal Empowerment and Aid Delivery in Kenya
LAN	Local Area Network	PMERL	Planning and Reporting Template
LRF	Legal Resources Foundation	POEA	Public Officer Ethics Regulations
LSK	Law Society of Kenya	POMAC	Power of Mercy Advisory Committee
MAC	Mediation accreditation Committee	PRWG	Prison Reform Working Group
MAT	Multi-Agency Team	PSSB	Presidential Secondary School Bursary
MCAs	Member of County Assembly	PSVs	Public Service Vehicle
MDAS	Ministries/departments/agencies	RODI	Resources Oriented Development Initiatives
MDP	Mandatory Death Sentence	RTGS	Real Time Gross Settlement
MP	Member of Parliament	RWI	Raul Wallenberg Institute
MTI	Mediation Training International	SCC	Sector Coordinating Committee
MVI	Motor Vehicle Inspection	SIDA	Swedish International Development Cooperation Agency
NALEAP	National Legal Aid Program	SIL	Strategic Impact Litigation
NCAJ	National Council on the Administration of Justice	SJT	Sustaining Judiciary Transformation
NCCJR	National Committee on Criminal Justice Reforms	SOGIE	Sexual Orientation, Gender Identity and Expression
NCCS	National Council for Children Services	SOPs	Standard Operating Procedures
NCLR	National Council for Law Reporting	SPPS	Swedish Prisons and Probation Services
NCRC	National Crime Research Centre	SRC	Salaries and Remuneration Commission
NCWSC	Nairobi City Water and Sewerage Company	TDRM	Traditional Dispute Resolution Mechanisms
NEAP	National Ethics and Anti-Corruption Policy	TOCU	Trans- National Organized Crime Unit
NECS	National Ethics and Corruption Surveys	TOT	Training of Trainers
NEMA	National Environment Management Authority	UNCAC	United Nations Convention against Corruption
NFHR	National Framework on Human Rights	UNGASS	United Nations General Assembly Special Session
NGOs	Non-Governmental Organisations	UNICEF	United Nations Children's Fund
NHRI	National Human Rights Institution	UNODC	United Nations Office on Drugs and Crime
NLAS	National Legal Aid Service	UNSMR	United Nations Standard Minimum Rules for Treatment of Prisoners
NPA	National Plan of Action	USDOJ	United States Department of Justice
NPS	National Police Service	VAC	Violence Against Children
NPSC	National Police Service Commission	VPN	Virtual Private Network
NTSA	National Transport and Safety Authority	WPA	Witness Protection Agency
OCPD	Officer Commanding Police Division	WPP	Witness Protection Programme
OCS	Officer Commanding Station		
ODPP	Office of the Director of Public Prosecution		
ORMS	Offender Records Management System		

Chapter 1

LEADERSHIP AND MANAGEMENT

LEADERSHIP AND MANAGEMENT

1.1 Introduction

The Constitution establishes the Judiciary and vests it with core powers and responsibilities to ensure the effective administration of justice. The founding provisions of the Constitution recognise that the Judiciary draws its power from the people. Thus, the Judiciary like all public institutions exercises delegated power and is, thus, accountable to the people in the manner in which it exercise its powers and functions. The objectives, goals and purposes of judicial power are clearly set out in the Constitution. Article 159 is clear that the exercise of judicial power should pursue and entail equality, efficiency, diversity in the systems of administration of justice, the pursuit of justice without undue regard to technicalities and the general pursuit of the overall constitutional principles and objectives.

The Chief Justice is the head of the Judiciary and also the president of the Supreme Court of Kenya. The Deputy Chief Justice is the principal assistant to the Chief Justice and is also the Vice-President of the Supreme Court. The Chief Justice also chairs the Judicial Service Commission (JSC), the body that is charged with the overall responsibility of ensuring the independence and effectiveness of the Judiciary. The Chief Justice also chairs the National Council on the Administration of Justice (NCAJ) and the National Council for Law Reporting (NCLR). These responsibilities enable the Chief Justice to exercise leadership of the general administration of Justice.

The Office of the Chief Registrar is charged with the overall administration of the Judiciary and is assisted by the Deputy Chief Registrar. The Chief Registrar is also the Secretary to the JSC and the Accounting Officer of the Judiciary. Specific roles of the Chief Registrar include: Preparation and presentation of the Judiciary budget to Parliament, providing leadership in the management of human, financial and physical resources of the Judiciary, and ensuring general institutional effectiveness and efficiency.

The Judiciary structure comprises superior courts and the lower courts. The superior courts are the Supreme Court, the High Court, the Employment and Labour Relations Court (ELRC), and the Environment and Land Court (ELC). The leadership of the superior courts comprises the Chief Justice and the Deputy Chief Justice (Supreme Court), President of the Court of Appeal, the Principal Judge of the High Court, and the Presiding Judges of the ELRC and the ELC. In the year under review, the Judiciary leadership comprised of the following:



Chief Justice/ President of the Supreme Court:
Hon. Mr Justice David K. Maraga



Deputy Chief Justice/ Vice-President of
the Supreme Court:
Hon. Lady Justice Philomena M. Mwilu



President of the Court of Appeal:
Hon. Mr Justice William Ouko



Director, Judiciary Training Institute:
Hon. Mr Justice Kathurima M'inotia



Principal Judge, High Court:
Hon. Lady Justice Lydia Achode



Presiding Judge, ELRC:
Hon. Lady Justice Maureen Onyango



Presiding Judge, ELC:
Hon. Mr Justice Samson Okong'o



Chief Registrar:
Hon. Anne A. Amadi



Deputy Chief Registrar:
Hon. Paul Ndemo Maina

The lower courts comprise of the Magistrates' Courts and Kadhis' Courts. The Constitution also places tribunals under the Judiciary and they form part of the structure. The Judiciary governance structure is also composed of registries that support the various courts, and directorates and units that assist in the performance of the various administrative responsibilities of the Judiciary. The Judiciary governance structure also includes the Leadership Management Teams (LMTs) headed by heads of station and composed of the leadership at court stations.

1.2 Judiciary Transformation and institutional re-organisation

The adoption of the Constitution of Kenya 2010 set in motion a number of fundamental changes in the Judiciary. The Constitution required a wholesome transformation of the institution and a reorientation of institutional arrangements to enable the Judiciary deliver on its mandate and responsibilities as envisaged in the Constitution. The transformation journey is elaborated and provided for in the current Judiciary blueprint to lead the change. The first was developed soon after the promulgation of the Constitution, *Judiciary Transformation Framework (JTF)* that led judicial reform from 2012-2016. The blueprint, *Sustaining Judiciary Transformation: A Service Delivery Agenda (2017-2021)* (SJT), is currently guiding the Judiciary's transformation journey. The SJT is in its third year of implementation.

Judiciary transformation would not be complete without achieving an optimal level of human, financial and other institutional resources. It is with this in mind that an organisational review exercise was initiated to facilitate restructuring and comprehensive re-orientation of the systems of service delivery. The organisational review report was launched on September 13, 2018.

1.2.1 Progress in the implementation of the SJT blueprint

The SJT Implementation Monitoring Committee (IMC), under the leadership of the Deputy Chief Justice, continues to monitor and supervise the implementation of the blue print. The IMC is composed of four sub-committees - Communications, Leadership and Governance, Access to Justice and Clearance of Case Backlog, and the Advisory Sub-Committee on the Judiciary Digital Strategy.

During the period under review, the IMC submitted a progress report to the Chief Justice. The report detailed the progress as well as the challenges in the implementation of the targets. The implementation of SJT has embraced a bottom-up approach where court stations, divisions and directorates or units developed implementation plans and service charters that embraced all pillars of SJT. These are:

- Enhanced Access to Justice;
- Clearance of Case Backlog;
- Integrity and the Fight Against Corruption;
- The Judiciary Digital Strategy; and
- Institutional Leadership and Governance.

The IMC assessed the progress in the implementation of each of these pillars. There was significant progress in the key result areas such as clearance of the backlog

of cases that are five years and older, construction of court premises, digitization of court processes, restructuring of the Office of the Judiciary Ombudsman and entrenching performance management and measurement across the Judiciary.

Enhancing access to justice is the centre-pole of the SJT. This is pursued through a multiple channels. The Judiciary is expanding its physical infrastructure to accommodate more court buildings with the aim of establishing a high court in every county and a magistrates' court in each of the 290 sub-counties. At the time of assessment, there were 121 magistrates' court stations. New court stations were established in Ruiru, Msambweni (Diani Sub-County), Dadaab Sub-County in Garissa County. Some of the projects have been carried out in partnership with county governments, Members of Parliament and local leaders and residents. County governments and local leaders have been instrumental in identifying or donating land for court buildings and have, in some cases, constructed the buildings in consultation with the Judiciary.

Other channels of enhancing access to justice include the establishment of mobile courts; there were 59 of them across the country, including a new one at Ileret in Marsabit County. The Small Claims Courts (SCCs) are at an advanced stage of being established. Once in place, these courts will handle small claims in an expeditious manner, ensuring speedy dispensation of justice. The Small Claims Courts rules have been completed and await gazetting. A draft code of conduct for the adjudicators has also been developed.

Automation of court processes and digitalisation of judicial systems remains a high priority as a pillar of the SJT. During the year under review, a number of steps were taken, despite considerable resource challenges, to enhance access to justice through use of technology. Six courtrooms of the Commercial Division of Milimani High Court were installed with court recording equipment. A total of 40 law courts, five tribunals and two mediation units were installed with Case Tracking System. In total, **467,041** cases had been entered in CTS. The Judiciary also acquired a private cloud solution to house all the systems. More details regarding automation and use of technology are covered under chapter eight.

Access to justice also entails the entrenchment of alternative dispute resolution initiatives such as mediation, arbitration and traditional justice systems. This was undertaken through the Mediation Accreditation Committee, the Court Annexed Mediation Taskforce, and the Taskforce on Alternative Systems of Justice. The AJS Taskforce developed a draft AJS Policy that will be finalized in the next reporting period. The impressive rate of settlement of mediation matters is covered in the sections below.

The clearance of case backlog in courts is a key pillar of the SJT and a central focus of the Judiciary. In January 2017, the Chief Justice pledged that the Judiciary would clear all cases that were five years and older by December 2018. At the time the Chief Justice made the pledge, there were a total of 170,186 backlog cases of over five years in age. At the end of the year under review, a total of 186,716 cases of over than five years had been cleared in all courts. This translates into an achievement level of 110 per cent. However, due to transitioning of cases from below five years in age to over five years, a total of 39,781 cases aged above five years remained unresolved by the

end of June 2019.

At the beginning of the year under review, the total case backlog in the Judiciary was 372, 928 cases. A number of initiatives continue to be undertaken by the Judiciary to reduce the overall case backlog. These measures include: service weeks, mobile courts, circuit courts as well as emerging measures such as the Court-Annexed Mediation programme. These measures have collectively resulted in a nine per cent reduction of case backlog, as at the end of the year under review making the total case backlog to be 341, 056 cases. During the year under review, a total of 469,359 cases were resolved by courts against a total of 484,349 cases that were filed during the year. This translated to 97 per cent case clearance rate, which eased the growth rate of case backlog. Tribunals resolved a total of 2,521 cases during the year under review. More details regarding the Judiciary's case backlog and clearance are covered under Chapter two.

Improvement in case management in courts is vital to the expeditious disposal of cases and effective dispensation of justice. There are numerous complaints from litigants regarding adjournment of cases and delays in courts. This necessitated strict monitoring of court adjournments. The IMC reports that at the period of assessment, over 90 per cent of adjournments in the Magistrates' Courts, the High Court, ELC and ELRC were communicated to the parties in advance.

1.2.2 Judiciary Organisational Review

The Judiciary commenced an organisational review process geared towards ensuring there is optimal allocation of human and financial resources in order to enhance service delivery. The main objectives were:

- To undertake an organizational review of the Judiciary's directorates, units, and all court stations; the JSC Secretariat and the Judiciary Training Institute;
- To evaluate current job descriptions and establish any additional duties and responsibilities that reflect the qualifications and experience of the staff;
- To review the classification of jobs including the grading structure;
- To develop a reviewed organogram of the Judiciary's directorates, units, and all court stations; JSC Secretariat, and the Judiciary Training Institute (JTI);
- To recommend optimum establishment of the Judiciary's directorates, units, and all court stations, the JSC Secretariat and the JTI;
- To develop an implementation framework together with the projected costs

Among the challenges that were identified in the report include:

- Duplication of roles and functions within the courts/ registries, directorates/ units and offices
- Inadequate and unclear reporting and communication lines
- Unclear roles and responsibilities across offices
- Understaffing and overstaffing in the different units/ directorates and offices
- Inappropriate deployment of staff

Deployment of adequate and competent human resource skills in the relevant positions of responsibility is fundamental to the Judiciary's effectiveness. The exercise, therefore, entailed a number of processes of assessing and analyzing the

gaps in human resources and a restructuring of ensuring that the human resources are optimally placed. In order to achieve the above, the exercise entailed six comprehensive areas of reorganisation in the Judiciary.

(i) Organisation structure review and redesign (Revised Corporate and functional structures)

This entailed the design of a new organisation structure of the Judiciary, complete with the separation of judicial and administrative roles as well as the hierarchy and relations between the different tiers. The new structure helped to clarify the relation between the different structures (judicial and administrative) that form the Judiciary and the flow of roles, authority and relations.

(ii) Job Analysis (Revised Job Descriptions)

The Judiciary's institutional structures were seen to lack clarity and distinction between the different categories and positions of responsibility. There was need for a clearer basis of career progression based on the actual responsibilities in the different levels. The Organisational review process entailed a comprehensive job analysis and revision of job description.

(iii) Job Evaluation and Grading (Grading structure)

The previous job grading consisted of 17 job grades (PLS 1- PLS 17). A number of challenges were identified regarding this structure, such as lack of clear distinction between the job grades and the responsibilities and slow career progression among the different cadres. The Review developed a new Judicial Service Grading (JSG) Structure that collapsed the 17 job grades to 11.

(iv) Salary survey / Pay and benefits conversion and structure (Pay structure aligned to grading structure)

Among the challenges identified with the previous grading and salary structure was inconsistency in the salary notches and overlaps in salaries within the grades, and overstretched salary grades in some grades. As a result of the many job grades, there were non-progressive and very low salary increments within the grades. There was a clear need for salary review, especially after the adoption of the 11-tier grade structure. The new salary structure will take into account the new grading structure and ensure alignment of parameters with best practices.

(v) Review of Schemes of Service (Career Guidelines)

The Organisational Review process also entailed a review of the old schemes of service (2009) and the development of new career guidelines that are in congruence with the job evaluation and new grading structure. There are clearer terms of service in each grade and a more certain and defined part of career progression in the new scheme.

1.3 Judiciary innovativeness in access to justice: Unlocking the potential of Court Annexed Mediation

The Constitution lays down the principles of administration of justice and one of the cardinal principles is the requirement that the Judiciary should embrace alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms. From 2015, the Judiciary has been implementing a programme of Court Annexed Mediation to assist in a more efficient and effective disposal of matters that are pending in the courts.

The Court Annexed Mediation project commenced in 2015 with a framework for roll out of the pilot project. This involved legislative and policy reforms to accommodate mediation in the formal court process. The reforms included amendments to the Civil Procedure Act and Rules and a Bill on the Small Claims Court, which was enacted into Law as Act No. 2 of 2016.

The pilot phase was in the Commercial and Family Division of the High Court in Nairobi. Mediation has now expanded to 12 other Counties – Kakamega, Nyeri, Kisii, Kisumu, Mombasa, Nakuru, Eldoret, Garissa, Machakos, Embu, Kilifi and Nyamira. So far, 3517 matters have been referred to Mediation, 2593 concluded, with 1279 settled successfully at a settlement rate of 50 per cent. About Sh7.2 billion that had been held in litigation has been released through Court Annexed Mediation during the reporting period. The Mediation Accreditation Committee has so far accredited 645 mediators who are currently handling 411 commercial matters. The number of mediators currently stands at 541. During the reporting period, the number of concluded cases through mediation was 1109 matters with 543 settlement agreements.

The Judiciary, through the Court-Annexed Mediation Taskforce, has developed criteria for identification of the next courts to be covered for mediation. The criteria includes the average time for disposition of cases, backlog statistics, court user satisfaction and the number of pending cases.

A number of measures are being taken to ensure that mediation is streamlined and integrated in the justice system. The courts under construction will have mediation rooms and there will be comprehensive sensitization exercises targeting stakeholders such as lawyers and court user committees. As we mainstream mediation in the courts, we will address emerging challenges such as non-compliance by advocates and parties, resistance from legal practitioners, and sustainable funding to support the process.

Table 1.1: Summary Report For Court Annexed Mediation As At June 30, 2019**

	Milimani Stations (Nairobi)	Replication Stations Combined	All the Court Stations
Total referred	1,836	1,681	3,517
Total Concluded matters	1,508	1,085	2,593
Total No. of pending matters	328	596	924
No. of Settlement Agreements	708	571	1279
Settlement rate	47%	52.6%	50%

No. of Non- Settlements	563	253	816
Non-Settlement rate	37.3%	23.3%	30.30%
No. of Non- Compliance Certificates filed	148	162	310
Non- Compliance rate	9.8%	14%	11.90%
No. of Terminated matters	89	99	188
Termination rates	5.9%	9.1%	7.50%
Total Value of matters in Mediation	33,582,282,989	3,314,447,976.96	36,896,730,965.96
Total Value of matters with settlement agreements	5,803,910,599	1,439,682,233.9	7,243,592,832.9



Lady Justice O. Sewe, Lady Justice H. Omondi, The Governor of Uasin Gishu, H.E. Mr Jackson Mandago, Justice F. Ochieng, Justice S. Githinji, Chief Registrar of Judiciary, Registrar High Court, Magistrates, County leaders, Members of the CUC and the public during a procession to Eldoret Law Courts during the Launch of Court Annexed Mediation.

1.4 Judiciary management

Judiciary management is led by the Chief Registrar and comprises heads of the delivery units (Registries, Directorates and Units). The Judiciary Management Forum provides a platform for registrars, directors and heads of units to report progress and highlight challenges in their activities through monthly meetings.

Key activities performed by the Forum include:

- Consideration of key policies and strategies for the Judiciary
- Discussion of budget management and utilization of resources
- Putting in place measures to improve institutional performance
- Coordination of stakeholder engagements (including other Government agencies and development partners)

1.5. Transition and new leadership

The period under review saw various changes in the leadership of the Judiciary and the Judicial Service Commission. Hon. Justice Mohammed Warsame, Prof. Olive Mugenda, Mr. Felix Koskei, Mr. Patrick Gichohi, Attorney-General Kihara Kariuki, Mr Macharia Njeru and Hon. Mr Justice David Majanja were sworn in as commissioners of the Judicial Service Commission. Mr. Paul Ndemo Maina was also appointed as the Deputy Chief Registrar of the Judiciary.



Swearing in of Deputy Chief Registrar of the Judiciary, Mr. Paul Maina Ndemo



Swearing in of new JSC Commissioners

1.6 Tributes

The Judiciary lost 14 members of staff during the reporting period. The details are in Annexes to this report.

1.7. Key events presided over by the Judiciary Leadership in 2017/18

Key activities and events that were carried out by the Judiciary during the year under review included court visits and events, participation at high-level events and meetings, and other speaking engagements by the leadership of the Judiciary. The main events are highlighted below.

1.7.1 Court visits



During the reporting period, the Chief Justice presided over the inauguration of the new Court Complex at Makindu Law Courts on January 31, 2019



The Chief Justice also paid a visit to the Maralal Law Courts on April 23, 2019.



The Office of the Judiciary Ombudsman carried out visits to courts at Msambweni, Kwale, Kilifi, Shanzu, Mombasa, and Mariakani to address complaints, assess performance.



Members of the Judicial Service Commission visited Garissa High Court from March 23 to 24, 2019.



The CRJ visited Ruiru Law Courts on January 22, 2019 to assess the building constructed by the area Member of Parliament through NGCDF to house the proposed courts.

The Hon. DCRJ also visited the following courts; Kibera, Nyamira, Vihiga, Wajir, Ol Kalou, Nakuru, Maralal and Mukurweini to inspect ongoing infrastructure projects and also engage with the staff. In these engagements, he was able to address the concerns of the staff including staffing gaps, space and infrastructure challenges and evaluate the progress in implementing the Case Tracking System (CTS).

The supervision of the projects was meant to ensure that they are undertaken in a timely manner, especially considering that many of them are supported by the World Bank through the Judicial Performance Improvement Project (JPIP) which ends on October 30, 2020. The projects need to be concluded by March, 2020 to allow for the Defects Liability period and the release of the retainer to contractors.

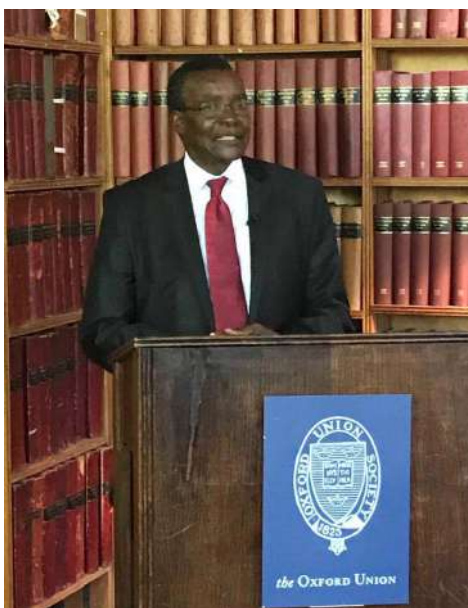
1.7.2 Awards and recognitions

Various members of the Judiciary were recognized for their excellence in their work by various bodies:

- The Chief Justice received a honorary doctorate degree from Andrews University, Michigan, USA on May 7, 2019
- The Chief Justice received a honorary doctorate degree from Daystar University on December 14, 2018 during the University's 41st Graduation Ceremony
- The Chief Justice received honorary doctorate degrees from the Adventist University of Africa (AUA) in June 2019.
- Lady Justice Mumbi Ngugi won the sixth CB Madan Award
- Justice George Odunga won the Jurist of the Year Award (JOYA)

1.7.3 Speaking engagements

- The Chief Justice delivered a keynote speech on the theme **“Constitutionalism in Africa: A Reflection on the Interface between Institutions, Leadership and Faith’** at the Oxford University on **June 4, 2019.**
- The Chief Justice attended the Law, Justice and Development Week organized by the World Bank, in Washington on November 7, 2018. He spoke about judiciary reforms.



1.7.4 Admission of Advocates and swearing in of commissioners

New advocates were admitted on October 1, 2018, November 29, 2018, March 13, 2019 and on March 14, 2019 . A total of 692 lawyers were admitted.

Table 1.2: Admission of Advocates

Date of Admission	Number of advocates admitted
1 October 2018	126
29 November 2018	102
13 March 2019	232
14 March 2019	232
Total	692

1.7.5 Swearing in ceremonies were officiated for the following offices during the period under review:

- Secretary/CEO Ethics and Anti-Corruption Commission (EACC) on 14th January, 2019
- The Vice-Chairperson and seven members of the Public Service Commission (PSC) on January 17, 2019
- Chairperson of the Communication and Media Appeals Tribunal on January 21, 2019
- Resident Magistrates on January 28, 2019
- Chairperson of the Cooperative Tribunal on March 11, 2019
- National Police Service Commission Chairperson and Members
- National Gender and Equality Commission (NGEC) CEO/Secretary
- The Inspector-General of Police on April 8, 2019
- The Tribunal Investigating the conduct of Judge J.B Ojwang, Judge of the Supreme Court of Kenya on April 8, 2019.
- The Chairperson of the Water Appeals Tribunal on May 6, 2019
- The JSC Commissioners on May 15, 2019
- The HIV Tribunal and Competition Tribunal on June 4, 2019
- The Tax Appeal Tribunal on June 10, 2019

1.7.6 Other major highlights for the year

- The Chief Justice hosted the President of the Swiss Confederation, H.E. Alain Berset at the Supreme Court on July 9, 2018.
- The Chief Justice attended the 2018 African Bar Association Annual Conference at the Kenyatta International Conference Centre (KICC) and addressed the conference on the theme: “Africa’s socio-economic and political future: Africa Union’s Agenda 2063 in perspective”
- The Chief Justice chaired full NCAJ Council meeting held on February 7, 2019.
- The Chief Justice led Judiciary in the launch of the 2017/18 SOJAR report, an event that was graced by H.E. the President, on February 28, 2019.
- The Chief Justice launched the Performance Management Measurement and Understanding Evaluation Report on May 17, 2019
- The Chief Justice hosted Chief Justice Mogoeng Mogoeng of South Africa who delivered a keynote address during the 2018 Annual Judges Colloquium
- The Chief Justice attended the all Africa Religious Liberty Congress in Rwanda, Kigali

- The Chief Justice attended the East African Magistrates and Judges Association Conference in Mombasa in October 2018.
- The Chief Justice presided over the launch of the Daystar University School of Law Campus on November 14, 2018.
- The Chief Justice presided over the launch of the Judiciary Organisational Review Report on November 15, 2019
- The Hon. DCJ hosted a performance management study visit by the secretariat of the Judicial Service Commission of Zimbabwe in November 2018. During the visit, led by the Deputy Chief Justice of Zimbabwe, Hon. Lady Justice E. Gwaunza, the Hon. DCJ outlined, inter alia, how the Judiciary management utilizes performance data to monitor implementation of strategic interventions, to inform policy decision-making and strategic planning.
- In April 2019, the Hon. DCJ hosted a study visit by the Ombudsman of Botswana at the Supreme Court in Nairobi.
- The Hon. DCJ launched the ELRC Open Day and thereafter hosted the judges of the ELRC for a workshop on implementation of the strategic blueprint, Sustaining Judiciary Transformation (SJT): A Service Delivery Agenda 2017-2021.
- In July 2018, the Hon. DCJ officiated at the opening of the Ngong Law Courts Service Week to clear backlog in cases involving children in conflict with the law.
- The Deputy Chief Justice visited and spoke to students at St. Martha's Mwitoti Mixed Secondary School, Butere Girls' High School and Moi Girls' High School Kamusinga.
- Under invitation by the Nairobi County Court Users Committee courtesy of Hon. Lady Justice Lesiit, the Hon. DCJ officiated at the presentation of desks and other items to Kangemi Primary School.



Hon. E. Tanui, Mr. B. Kimondo, Mr. John Ohaga, Justice Vincent Odunga, The Governor Machakos County H.E Mutua, Justice R. Mwongo, Com'r N. Kahiga, Hon. Alfred Kibiru, Hon. Nelly, Members of Court Annexed Mediation Secretariat and County Leaders during a Courtesy call to the governor.

1.8 Office of Judiciary Ombudsman

The Judiciary Ombudsman enforces administrative justice in the Judiciary by addressing mal-administration through effective complaint handling structures. The office receives and processes allegations of misconduct by judicial officers and other members of staff. It is mandated to receive, consider and process complaints from members of public who have grievances against the Judiciary and its employees. It further acts as an internal conflict redress mechanism amongst staff.

The office of the Judiciary Ombudsman experienced significant strides in its engagement with members of the public and Judiciary employees during the year under review. The office continued to play its public education role and to monitor effectiveness and efficiency in the delivery of judicial services from the public's point of view.

To ensure compliance with policies, procedures, directions and practices issued by Judiciary management from time to time, the office visited various court stations across the country conducting spot checks, interacted with *wananchi* through clinics and demystified the Judiciary and its processes to the public. The office continued to receive and process complaints and complements throughout the year. The office plays a major role in the fight against corruption by working with the relevant agencies to curb corruption practices in the workplace.

During the reporting period, the office partnered with the Ethics and Anti-Corruption Commission in training and equipping the Secretariat staff with skills in detecting corruption indicators and investigating complaints to logical conclusion hence elevating and certifying them to Integrity Assurance Officers. All staff in the secretariat also attended Judiciary sponsored training courses to boost their skills and knowledge in executing the office mandate.

To deliberate on its operations, review progress and procedures of performing duties and reenergized the staff, the office held a series of peer review meetings, team building activities and retreats in the reporting period.

1.8.1 Public Complaints Resolution and Referral Mechanism

In the period 2018/2019 the office of the Ombudsman cumulatively received and processed **1799** complaints. Out of these, **1064** cases were processed and closed successfully. This represents 59 per cent of the total complaints received. Some 127 cases were closed with workaround, meaning that there were chances that the cases would come up again as the matter was not fully resolved. Another 155 cases were merged since they had been lodged multiple times.

Table 1.3: OJO Data on Complaint Processing

State	2017/2018*	2018/2019
closed successful	319	1064
closed unsuccessful	0	3
closed with workaround	22	127
merged	13	155
new	419	143
open	306	307
Total	1079	1799

*The figures for 2017/2018 have been amended to reflect the correct position following the system upgrade and cleansing exercise that got rid of mass duplication of complaints and junk mail.

Table 1.4: Comparative Chart of Prevalent Complaints

SERVICES	2017/2018*	2018/2019	Change
Slow Service	265	440	175
Missing File	182	330	148
Cash Bail Refunds	13	65	52
Poor Service	243	385	142
Referral cases to Stakeholders	88	129	41
Employee Integrity	95	115	20
Delayed Rulings/Judgements	80	63	-17
Date allocation	7	137	130
Delayed Orders	95	112	17
Cannibalized files	11	14	3
Loss of Exhibits	0	9	9

Table 1.3 is a comparative of the prevalent complaints handled in the last two financial years. During the reporting period, with the exception of complaints on delayed rulings/ Judgments that reduced, an increase in the other complaints received in the various categories were registered.

Allocation of date

These complaints increased from seven in the previous reporting period to 137. This is attributed to the increase in the number of Kenyans seeking to file cases in court vis a vis the number of Judicial officers available. The court diaries once opened are quickly filled up resulting in complaints from litigants.

Cash Bail Refunds

Members of the public were also not pleased with the rate at which cash refunds were being processed resulting in 65 complaints compared to 13 in the previous year.

Slow Service and Poor Service

We continued to register significant complaints in this area from members of public. In the reporting period slow services increased by 175 (66 per cent), from 265 in FY

2017/2018 to 440 in the FY 2018/2019. Poor services, on the other hand, rose by 142, registering a 58 per cent increase, from 243 in FY 2017/2018 to 365 in the reporting period.

This could be attributed to the public becoming more aware of their rights and the opportunity to complain to the Ombudsman whenever they were unhappy with the services they received.

Missing Files

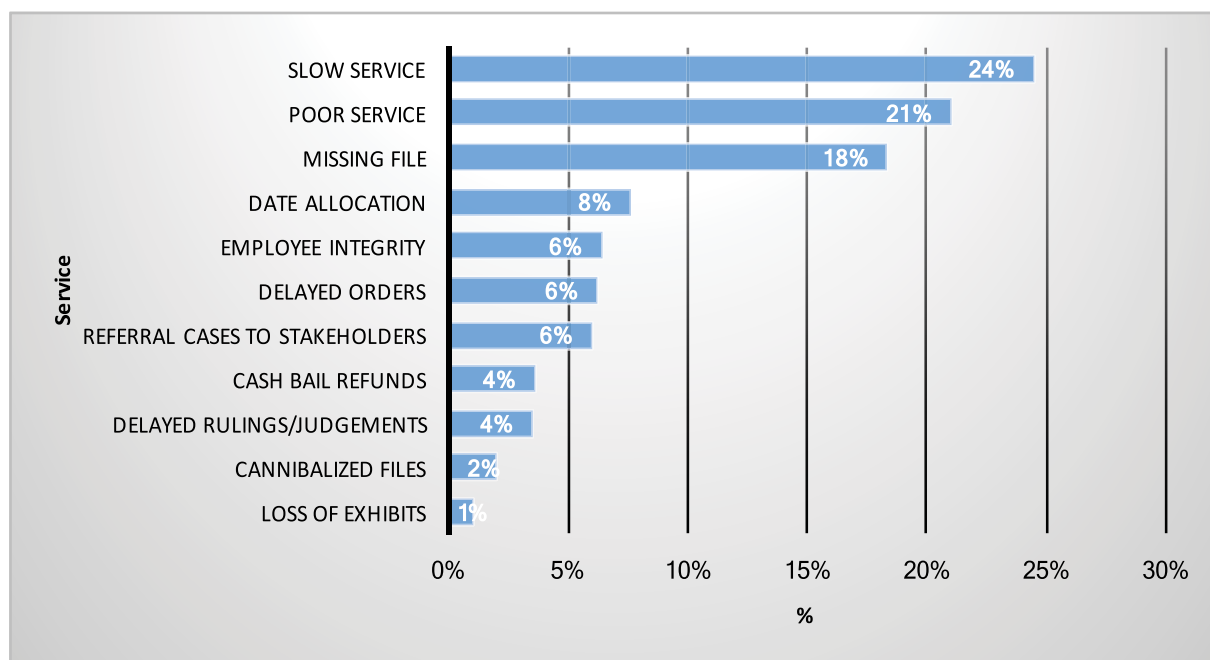
An 81 per cent increase was registered in complaints related to missing files. Continuous Vigil needs to be enforced to ensure that court employees desist from the practice of “misplacing” court records.

Employee Integrity

The office recorded a 21 per cent increase in complaints relating to employee Integrity. In the previous year, it recorded 95 complaints, while in the FY 2018/2019 there were 115 cases were recorded.

The office continues to ensure that prompt and swift action is taken to address any unethical conduct by Judiciary employees.

The complaints processed during the reporting period are represented below:



The aggressive exercise aimed at sensitizing the public about the office and its work continued throughout the reporting period, including in the prisons. Liaison officers continued to be trained to ensure they provided accurate and timely response to complaints in the system.

The table 1.4 outlines the trend of the various categories of complaints received and processed over the past six years

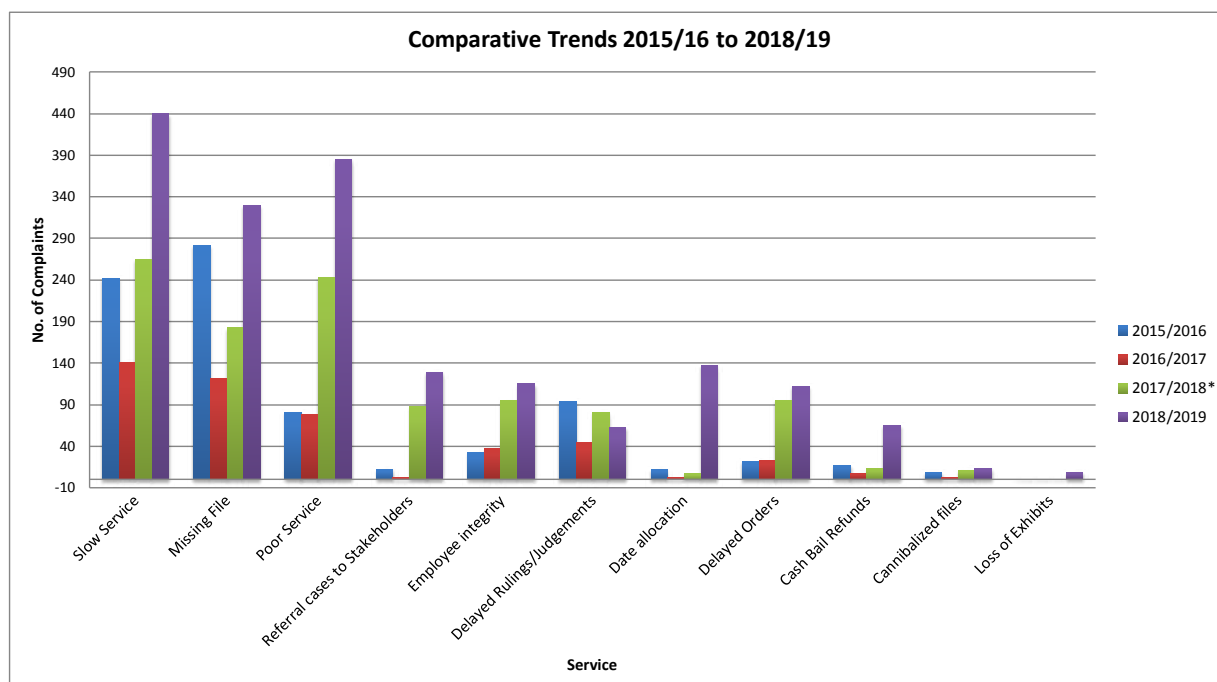
Table 1.5: Complaint Trends – FY 2015/2016 to FY 2018/2019

SERVICES	2015/2016	2016/2017	2017/2018*	2018/2019
Slow Service	242	141	265	440
Missing File	281	122	182	330
Poor Service	81	79	243	385
Referral cases to Stakeholders	12	2	88	129
Employee integrity	32	37	95	115
Delayed Rulings/Judgements	94	44	80	63
Date allocation	12	3	7	137
Delayed Orders	21	23	95	112
Cash Bail Refunds	17	8	13	65
Cannibalized files	9	3	11	14
Loss of Exhibits	0	0	0	9

Table 1.6: Complaint Trends in Percentage – FY 2015/2016 to FY 2018/2019

SERVICES	2015/2016	2016/2017	2017/2018*	2018/2019
Slow Service	30%	31%	25%	24%
Missing File	35%	26%	17%	18%
Poor Service	10%	17%	23%	21%
Referral cases to Stakeholders	1%	0%	8%	6%
Employee Integrity	4%	8%	9%	6%
Delayed Rulings/Judgements	12%	10%	7%	4%
Date allocation	1%	1%	1%	8%
Delayed Orders	3%	5%	9%	6%
Cash Bail Refunds	2%	2%	1%	4%
Cannibalized files	1%	1%	1%	2%
Loss of Exhibits	0%	0%	0%	1%

Fig 1.1: Comparative Complaint trends FY 2015/16 to FY 2018/19



1.8.2 OJO Outreach and Partnerships

The office is mandated to create awareness and enhance participation by members of the public in bringing to light maladministration and corrupt practices within the Judiciary. To achieve this, members of the public were sensitized on OJO's work. Complaints were received and processed during the 12 Agricultural Society of Kenya shows that the office participated in. A total of eight prison visits were carried out.

These outreach programmes provided opportunities for OJO to engage with the public and other stakeholders, educate them on Judiciary Processes and to receive and process complaints.

To enhance synergies in the fight against corruption, the Office of the Judiciary Ombudsman participated in the Commemoration of the International Anti-Corruption Day along with other referral partner network forums.

The office continued to partner with a development partner to foster engagement with the public and to sensitize them through distribution of IEC materials and conducting public awareness clinics.



Office of the Judiciary Ombudsman engaged members of the public on complaints processing at ASK shows around the country.



In April 2019, the Judiciary Ombudsman hosted the Ombudsman of Botswana, accompanied by representatives from the Commission for Administrative Justice Commissioner at the Supreme Court in Nairobi. During the meeting best practices and areas of collaboration were discussed.

1.8.3 Monitoring Compliance with Practice Directions and Service Charters

To monitor compliance with practice directions, test adherence to the timelines as provided for in the Service Charters and address public complaints at the source, the office during the reporting period undertook routine spot checks to Court stations.

During these visits the office sought to identify potential avenues for maladministration at court stations, followed up on complaints, sensitized staff and offered refresher training to the liaison persons on the complaints system.

During the reporting period, the office registered a 51 per cent increase in the number of court stations visited. This increase, from 36 to 70, led to a corresponding increase in the number of complaints received.



Chripine Otieno, an inmate at Kisumu Maximum security prison airs his grievances before a team from Ombudsman's office who visited the facility on February 25, 2019. [Denish Ochieng/Standard]

CHAPTER 2

ACCESS TO JUSTICE

ACCESS TO JUSTICE

2.1 Introduction

Promotion of access to justice is one of the principal functions of the Judiciary. Article 159 of the Constitution states that judicial authority is derived from the people, vests in and is exercised by courts and tribunals established under the Constitution. In exercise of the judicial authority, courts and tribunals are guided by the principles espoused therein namely; that justice shall be done to all irrespective of status, that justice shall not be delayed, that alternative forms of dispute resolution (including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms) shall be promoted, that justice shall be administered without undue regard to technicalities and that the purpose and principles of the Constitution shall be promoted and protected. Article 48 further mandates the state to ensure access to justice for all persons and whenever any fee is required, it should be reasonable and not impede access to justice.

This chapter provides detailed information on achievements that were realized by the Judiciary in promoting access to justice from July 2018 to June 2019. The information is explained in three sections. The first section explicates the strategic efforts and initiatives that were undertaken by the Judiciary to enhance access to justice. Among the efforts and initiatives, the key ones entailed: heightening of measures to reduce case backlog; continued digitization of the Judiciary processes; enhancement of human resource capacity; construction and refurbishment of courts; performance management and measurement; implementation of Alternative Dispute Resolution (ADR) mechanisms; and heightened inter-agency collaboration.

The second section provides the status on dispensation of justice by courts using caseload statistics covering filed cases, resolved cases, pending cases and case backlog. Caseload statistics provide factual quantitative information on service delivery by courts covering the demand for court services, the supply of court services and the net-workload for courts at the end of period under reference. These statistics are primarily used for: monitoring the progress realized in promoting access to justice; measuring performance of courts; informing promotion and placement of judges and judicial officers; and guiding allocation of financial resources to courts. Primary data on caseload was collected in court rooms, registries and chambers by court assistants and registry staff using Daily Courts Returns Template (DCRT) under the supervision of judges, judicial officers and senior staff. The analysis of data was done by the Directorate of Planning and Organization Performance (DPOP) yielding diverse statistical reports for use by both internal and external stakeholders.

The third section elucidates the extent of institutionalization of ADR mechanisms in the Judiciary. Prominence was accorded to Court Annexed Mediation (CAM) which is a key judiciary flagship project on ADR. The section therefore provides highlights on caseload statistics for CAM, monetary value of cases settled through CAM and efficacy of CAM.

SECTION I. ACCESS TO JUSTICE: STRATEGIC EFFORTS & INITIATIVES UNDERTAKEN TO ENHANCE ACCESS TO JUSTICE

Access to justice by citizens in any country is a key tenet for societal wellbeing, democracy, observance of human rights and is a key ingredient for economic growth. Kenyan Judiciary has always worked towards enhancing access to justice to all across space and time. The Judiciary achieves this through resolution of cases as mandated by the Constitution. Specifically, the mandate is realized through undertaking of strategic initiatives that advance access to justice. The strategies are domiciled in the Judiciary policy documents notably the Sustaining Judiciary Transformation (SJT) (2017-2021) and the Strategic Plan (2014-2019). The following strategies were used to promote access to justice during the period under review.

Reduction of Case Backlog

In the Judiciary, a case is classified as backlog if it remains unresolved one year upon its filing in a court. Within the Judiciary and in the wider justice sector, accumulation of case backlog in courts is undesirable phenomena and remains a live agenda for policy makers. Most importantly, case backlog is a major concern to legal practitioners, litigants and the public. Worldwide, members of the public expect that their cases are finalized within the shortest period after they have been filed in court of law. This is because case backlog depicts delayed justice and inefficiencies in the entire justice chain. Primarily, increase of case backlog over time is occasioned by resolved cases being less than the incoming matters, a phenomenon that is aggravated by interplay of factors within the justice sector institutions as well as social economic factors at the periphery of justice sector institutions.

Courts have targeted to resolve cases filed before them within the shortest possible period. At the beginning of review period, case backlog stood at **372,928** cases. Consequently, diverse case backlog reduction initiatives were instituted to curtail its growth, key among them holding of service weeks, circuit courts and mobile court stations as well as having reduction of case backlog as a performance indicator. The initiatives focused on court users who desired speedier courts on dispute resolution. At the end of the period under reference, case backlog stood at **341,056** cases signifying **nine percent** reduction.

Under the SJT, the Judiciary aimed at clearing all backlog cases older than five years. At the start of the SJT period, there were a total of 170,186 backlog cases of over five years in age in the Judiciary. At the end of the reporting period, a total of 186,716 cases of over than five years had been cleared in all courts translating into an achievement level of 110 per cent. However, due to transitioning of cases from below five years in age to over five years, a total of 39,781 cases aged above five years remained unresolved by the end of June 2019. In total, 469,359 cases were resolved by courts between July 1, 2018 and June 30, 2019 against a total of 484,349 cases that were filed over the same period. This translated to 97 percent case clearance rate that eased down the growth rate of case backlog. Further, a total of 2,521 cases were resolved by tribunals, impacting on reduction of case backlog and consequently enhancing access to justice.

Digitization of Court Processes

The Constitution envisages an efficient Judiciary where justice is dispensed expeditiously. To enhance efficiency, the Judiciary has embraced the use of technology as a key enabler of court and registry operations and performance. The technological front that the Judiciary aspires to attain is documented under its strategic blueprint, the SJT. The overarching aim of the Judiciary automaton is to integrate court procedures and practices with internet hence open the Judiciary more to the public, finalize matters expeditiously, serve customers fast, and support growth of jurisprudence. The key ICT targets under the digital strategy are; use of transcription system in courts, use of case tracking system (CTS) in registries, and availing of fast and reliable internet.

During the period, numerous achievements were realized in digital strategy front. On court transcription, six courtrooms of the Commercial Division of Milimani High Court were installed with court recording. On CTS, 40 law courts, five tribunals and two mediation units were installed with CTS. In total, **467,041** cases had been entered in CTS. A total of 1,266 ICT equipment (desktop computers, laptops, printers and ipads) were bought and distributed to employees across various court stations. The Judiciary also acquired a private cloud solution to house all the systems.

Improved Judiciary Human Resource Capacity

Judicial performance across nations is driven by among other factors, a robust, dynamic, and quality human resource. The Judiciary human resource comprises the judges and judicial officers who perform the noble role of dispensation of justice by resolving disputes in courts, as well as other staff who perform the critical support function. For the human resource to deliver on expeditious dispensation of justice, there is need for an optimal mass and spread of employees across diverse functions.

Consequently, the Judiciary worked towards increasing the number of employees through recruitment as well as training and capacity building of existing employees. The enhancement of capacity for judges and magistrates is the mandate of the Judiciary Training Institute (JTI) while the Directorate of Human Resources and Administration takes charge of capacity building for staff within the Judiciary. Detailed information on recruitments, trainings and other activities targeting the enhancement of human resource as a component of access to justice is comprehensively reported in Chapters 5 and 6 for the period under review.

Development of Court Infrastructure

Access to justice requires court buildings with adequacy of court rooms, registries, chambers, offices and public waiting areas. Physical access of litigants to courts without incurring of huge travel costs is also critical. Thirty-eight court buildings were under construction at the end of the review period. The Judiciary carried out refurbishments of 15 High Court buildings and 42 Magistrate Court buildings. Further, 57 court stations were undergoing major rehabilitation at the end of the period under review.

Implementation of Performance Management and Measurement

Judiciary has embraced performance management as a strategy for enhancing service delivery by Courts, Directorates, Registries and Semi-autonomous Agencies. This is in appreciation that work-related target setting, measuring the achievements realized and rewarding best performance enhances access to justice. At the beginning of each financial year, the Judiciary units namely; Courts, Directorates, Registries and Semi-autonomous Agencies set and sign annual performance targets in a document known as Performance Management and Measurement Understandings (PMMUs). The process was guided and led by Performance Management and Measurement Steering Committee (PMMSC) that comprises judges and magistrates. At the end of each FY, PMMSC evaluates performance and rewards the best performing units. In the PMMU document, access to justice is a broad performance indicator for all courts as a core mandate. The indicator is then broken down into numerous performance sub-indicators on diverse components of access to justice namely; case clearance rate, resolution of cases within set timelines, timely delivery of judgments and improved courts' productivity. During the year under review, evaluation of PMMUs for the previous year was done and the report launched. Further, a total of 276 implementing units signed PMMUs for the FY 2018/19.

Entrenchment of Alternative Dispute Resolution mechanisms

Judiciary has been pursuing Court Annexed Mediation (CAM) as its flagship ADR Mechanism. The CAM aims at speeding court process through the use of an alternative process that is less time consuming. The Mediation Taskforce was gazetted to oversee the implementation of CAM. Further, the Judiciary gazetted practice directions to guide the roll out of CAM to 13 stations. This was followed by the official launch of CAM in Eldoret after the pilot phase was concluded in Nairobi. The initiative has since been rolled out in other courts including Garissa, Nyeri, Kakamega, Kisii, Kisumu, Mombasa, Nakuru, Machakos, and Embu Law Courts. All civil matters filed in these courts were subjected to mandatory screening and those found suitable referred to mediation. Matters were also referred to mediation upon request by parties and further through issuance of directions during court sessions. The impact of CAM on promoting timeous access to justice has been tremendous during the period. For the cases that were referred for mediation, the average time to disposition from the date of referral of cases to mediators up to the time of their finalization was less in comparison to the time taken under the normal court process. This points that access to justice is speedier through mediation process and hence the need to continuously roll it out in all courts.

SECTION 2. ACCESS TO JUSTICE: CASE LOAD STATISTICS AND ANALYSIS

2.2 Overall Judiciary Caseload Statistics

2.2.1 Filed and Resolved Cases in the Judiciary

Filed cases (FC) refers to cases that are registered or initiated in a court of law by diverse parties seeking for a resolution. The number of filed cases provides quantitative information on the extent of demand for court services by the public. In response to the demand for justice, judges and judicial officers serving in courts hears the cases and resolves them thereby enabling access of justice. Hence, the number of resolved cases (RC) in a given period of time explains the extent that courts supply or render justice.

In the financial year (FY) 2018/19, a total of **484,349** cases were filed in all courts comprising **343,109** criminal cases and **141,240** civil cases. In the same period, a total of **469,359** cases were resolved in all courts comprising **300,728** criminal cases and **168,631** civil cases. Figures 2.1 a & b shows the trends for the filed and resolved cases in the Judiciary from FY 2014/15 to FY 2018/19.

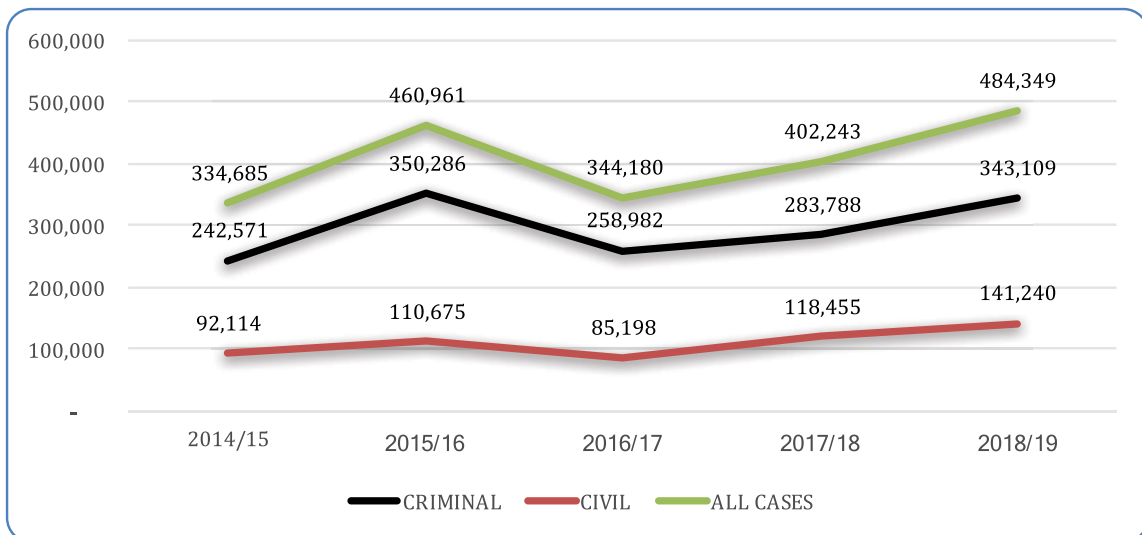


Figure 2.1a: Filed criminal and civil cases, FY 2014/15 to 2018/19

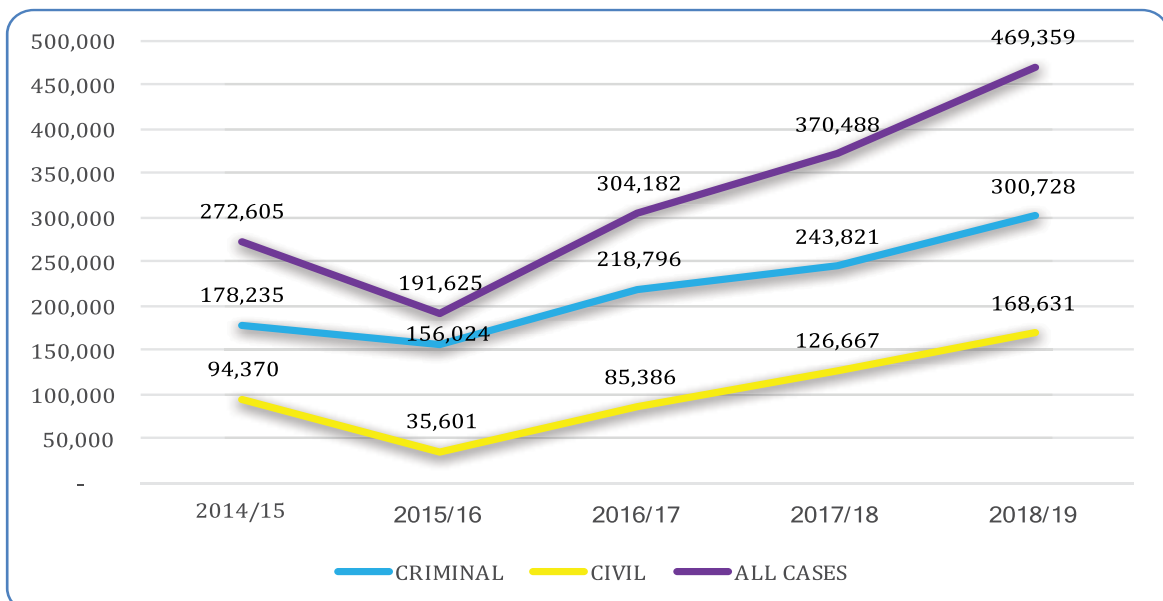


Figure 2.1 b: Resolved criminal and civil cases, FY 2014/15 to 2018/19

From Figure 2.1a & b, criminal cases were the bulk of both filed and resolved cases for the past five FYs in comparison with civil cases. In the FY 2018/19, the total resolved civil cases were more than the filed civil cases which points out that overall pending civil cases were reduced in the entire Judiciary. However, more criminal cases were filed than resolved implying that by the end of the period under review, the pending criminal cases increased. Further, the two figures depict that Kenyan courts are appropriately reacting to the increase of filed matters by resolving more cases. The specific information on filed and resolved cases disaggregated into broad case types namely criminal cases (CR) and civil cases (CC) for all court ranks is given in Table 2.1.

Table 2.1: Filed and resolved cases by court and broad case type, FY 2018/19

Court Rank	Filed cases			Resolved cases		
	CR	CC	ALL	CR	CC	ALL
Supreme Court	-	96	96	-	89	89
Court of Appeal	585	1,955	2,540	310	990	1,300
High Court	12,809	17,886	30,695	10,386	26,612	36,998
ELRC	-	2,672	2,672	-	4,228	4,228
ELC	-	4,494	4,494	-	7,162	7,162
Magistrate Court	329,715	105,698	435,413	290,032	123,300	413,332
Kadhi Court	-	8,439	8,439	-	6,250	6,250
All Courts	343,109	141,240	484,349	300,728	168,631	469,359

From Table 2.1, most cases were filed and resolved at Magistrate Court, followed by those filed at High Court. As expected, the least of the cases were filed at the apex court, the Supreme Court at 96.

2.2.2 Pending Cases in the Judiciary.

Pending cases refer to cases that remains unresolved at the end of a given time period. By the end of the FY 2018/19, there were 569,859 pending cases in the Judiciary, which comprised 249,264 criminal cases and 320,595 civil cases. The trend for the pending cases in the Judiciary for the past five FYs by broad case type is illustrated in Figure 2.2.

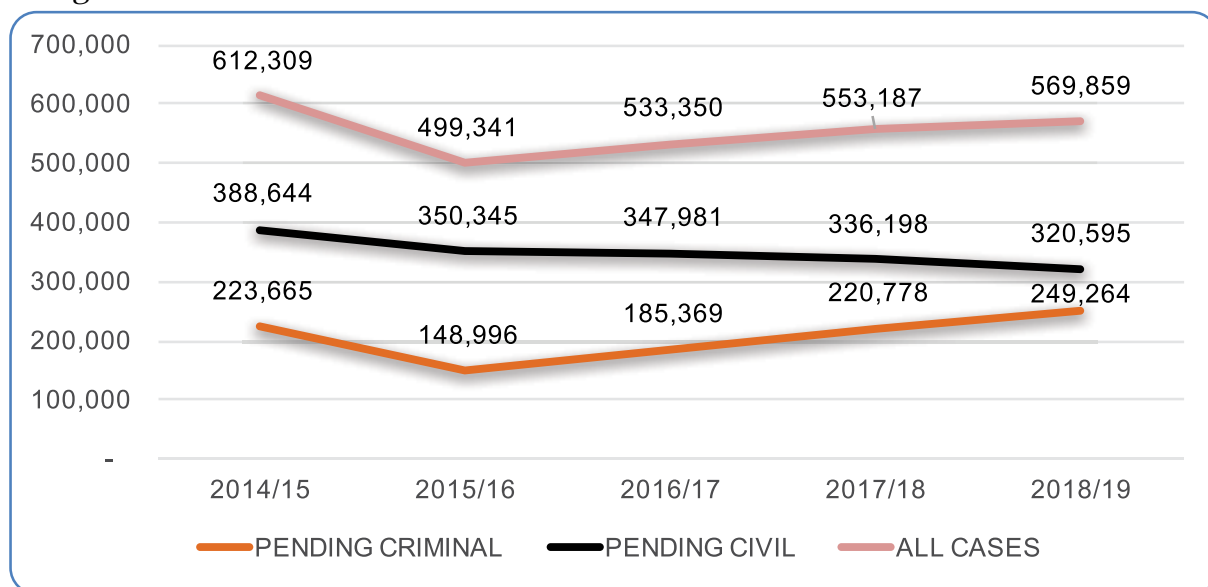


Figure 2.2: Pending cases by broad case type, 2014/15 to 2018/19

From Figure 2.2, the number of pending cases went up by 3 percent from the **553,187** cases at the end of FY 2017/18 to **569,859** cases at the end of FY 2018/19. Pending cases together with the subsequent filed cases shows the growth of court's workload and hence an increase implies the need for the Judiciary to institute measures to increase its workforce and infrastructure.

Civil cases remained the bulk of the pending cases for the past five reporting periods. The trend for overall pending cases mimicked that of criminal cases which was attributed to more filed criminal cases than civil cases over time. Detailed statistics on the trend for pending cases by court and case type are provided in Table 2.2.

Table 2.2: Pending cases by court and broad case type, FY2017/18 -2018/19

Court Rank	Pending cases June 2018			Pending Cases June 2019		
	CR	CC	ALL	CR	CC	All
Supreme Court		95	95		93	93
Court of Appeal	1,393	2,812	4,205	1,839	4,211	6,050
High Court	20,329	76,998	97,327	19,341	68,119	87,460
ELRC		15,733	15,733		13,778	13,778
ELC		24,380	24,380		19,020	19,020
Magistrate Court	197,964	209,667	407,631	228,084	209,303	437,387
Kadhi Court		3,816	3,816		6,071	6,071
All Courts	219,686	333,501	553,187	249,264	320,595	569,859

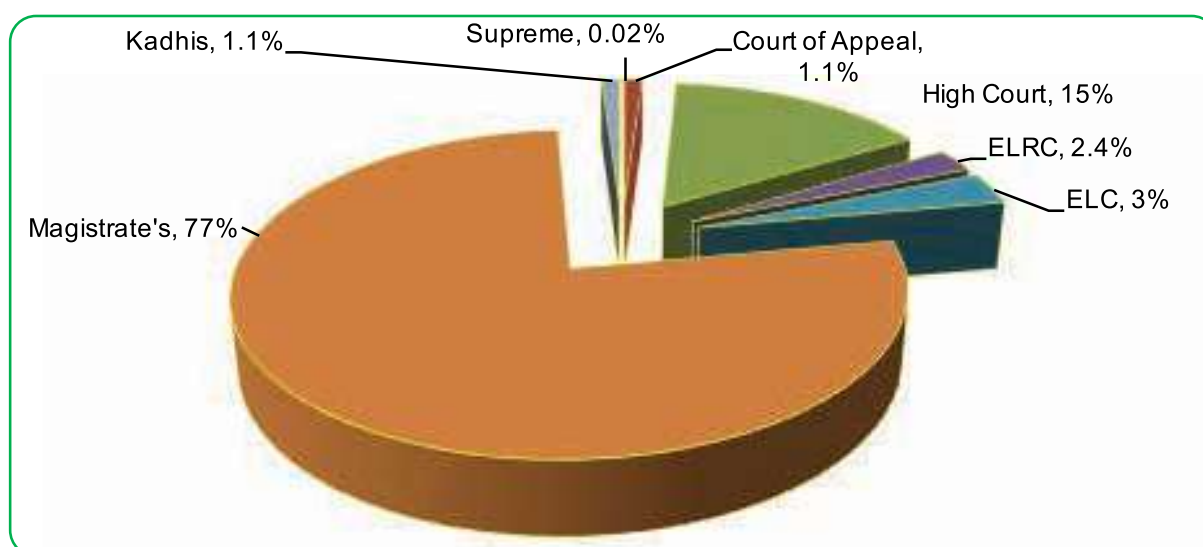


Figure 2.3: Percentage of Pending cases by Court Type, June 30, 2019

Out of all pending cases, 77 percent were in Magistrate Courts, 15 percent in High Court, 3 percent in ELC and 2.4 percent in ELRC. The other courts shared 2.6 percent.

2.2.3 Case Backlog in the Judiciary

Case backlog refers to unresolved cases after the expiry of set timelines. In Kenya, the maximum desirable timeline that a case ought to have been finalized from the date of filing is 1 year. At the end of the period under review, the total number of cases classified as backlog stood at **341,056** cases. The percentage case backlog by age is illustrated in Figure 2.4.

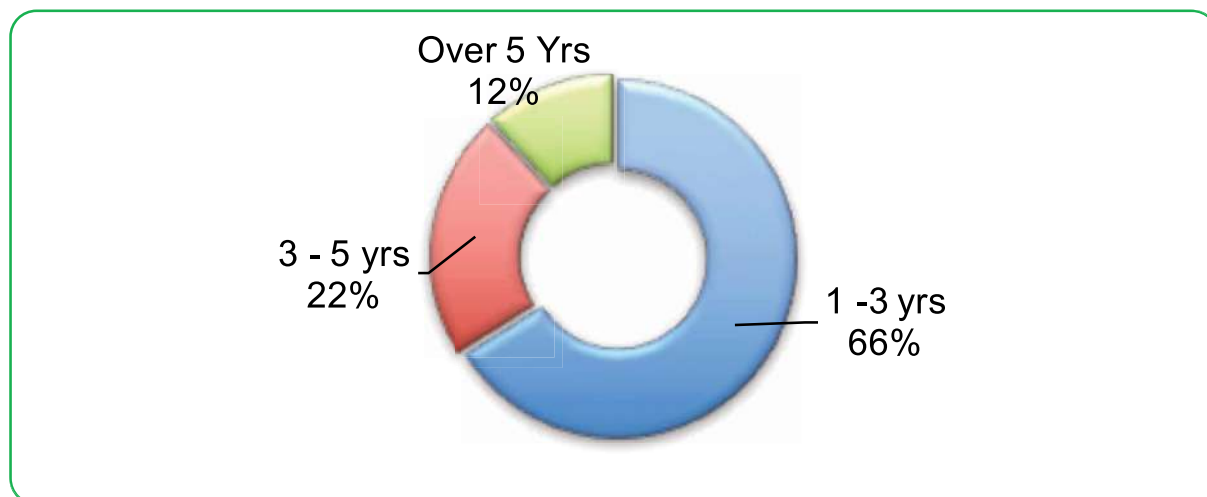


Figure 2.4: Percentage case backlog by age in the Judiciary, 30th June 2019.

Figure 2.4 shows that 67 percent of cases were aged between 1 and 3 years, 22 percent between 3 and 5 years and 12 percent were over 5 years in age. The statistics on case backlog for all courts are given in Table 2.3.

Table 2.3: Case Backlog as at June 30, 2019

Court Rank	1-3 years	3-5 years	5years and above	All Ages
Supreme Court	34	7	0	41
Court of Appeal	2,353	978	300	3,631
High Court	35,787	17,899	9,757	63,443
ELRC	7,707	3,510	391	11,608
ELC	6,819	5,241	3,966	16,026
Magistrate Court	171,618	48,283	25,367	245,268
Kadhi Court	1,004	35	0	1,039
All Courts	225,322	75,953	39,781	341,056

The two courts with the highest case backlog were Magistrate Court and High Court at **245,268** and **63,443** cases respectively. The Supreme Court and Kadhis' court had no case backlog aged over five years. The percentage case backlog by court is provided in Figure 2.5.

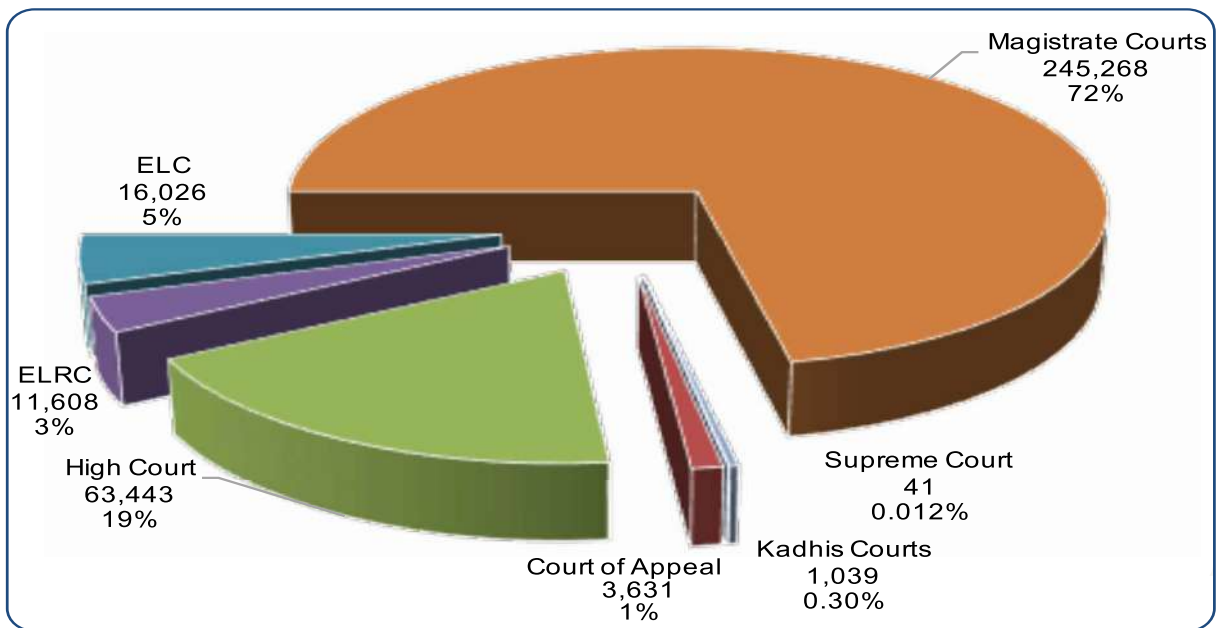


Figure 2.5: Percentage distribution of case backlog by court type, June 30, 2019

From Figure 2.5, magistrate court had the bulk of case backlog at 72 percent followed by high court at 19 per cent. Figure 2.5 further shows that the case backlog in Kadhis' court and Supreme Court was less than 1 percent at 0.3 and 0.012 percent respectively.

2.2.4 Reduction of Case Backlog in the Judiciary

Reduction of case backlog is priority area for the Judiciary. Under the SJT, reduction of case backlog is a key focal area. This is because huge case backlog depicts a situation of delayed justice. During the period, judiciary managed to reduce its case backlog by nine percent from 372,928 cases recorded at the end of FY 2017/18 to 341,056 cases at the end of FY 2018/19. Table 2.4 shows the percentage reduction of case backlog in the Judiciary.

Table 2.4: Reduction in Case Backlog between FY 2017/18 and 2018/19

Court Rank	Case Backlog June 30, 2018	Case Backlog June 30, 2019	Change in backlog
Supreme Court	44	41	-7%
Court of Appeal	2,862	3,631	27%
High Court	76,208	63,443	-17%
ELRC	11,143	11,608	4%
ELC	20,867	16,026	-23%
Magistrate Court	260,653	245,268	-6%
Kadhi Court	1,151	1,039	-10%
All Courts	372,928	341,056	-9%

Under SJT, Judiciary targeted to clear all cases aged five years and above. Details on

reduction of case backlog by court type under the SJT are provided in Table 2.5.

Table 2.5: SJT Implementation Status on Reduction of Case Backlog of over 5 Years in Age as at June 30, 2019.

Court Rank	SJT target on reduction of case backlog older than 5 years as at Jan 2017	Resolved cases older than 5 years between Jan 2017 and June 2019	Case backlog older than 5 years as at June 2019	% reduction of case backlog older than 5 years (Jan 2017 to June 2019)
Supreme Court	0	0	0	N/A
Court of Appeal	648	681	300	-54%
High Court	58,487	64,268	9,757	-83%
ELRC	771	1,083	391	-49%
ELC	4,146	9,252	3,966	-4%
Magistrate Court	106,134	111,432	25,367	-76%
Kadhi Court	0	0	0	N/A
All Courts	170,186	186,716	39,781	-77%

At the onset of SJT, there were **170,186** backlog cases in the Judiciary which were over 5 years old. As at June 30, 2019, total case backlog of over five years in age stood at **39,781**. The overall reduction in case backlog older than five years between January 1, 2017 and June 30, 2019 was therefore 77 per cent. However, the number of resolved cases that were older than five years between January 2017 and June 2019 stood at 186,716 surpassing the baseline statistics of 170,186 cases. The highest reduction was recorded in the High Court at 83 percent followed by the Magistrate Court at 76 per cent.

2.2.5 Court Performance Indicators

Institutionalization of performance management has been pursued as a strategic initiative for enhancing access to justice in the Judiciary. Some key performance indicators that Judiciary tracks are case clearance rate (CCR) and productivity. The CCR is the rate of resolution of cases measured by the percentage of resolved cases to the filed cases within a specified period. Productivity refers to the number of resolved cases in each court divided by number of judges and/or judicial officers in that court. The statistics on select performance indicators for courts are given in Table 2.6

Table 2.6: Case Clearance Rate by Court and Broad Case Type, FY 2018/19

Court Rank	Case Clearance Rate (CCR)				Productivity
	Criminal	Traffic	Civil	Overall	
Supreme Court	N/A	N/A	93%	93%	64
Court of Appeal	53%	N/A	51%	51%	198
High Court	81%	N/A	149%	121%	451
ELRC	N/A	N/A	158%	158%	352
ELC	N/A	N/A	159%	159%	211
Magistrate Court	88%	94%	117%	95%	973
Kadhish Court	N/A	N/A	74%	74%	112
All Courts	88%	94%	119%	97%	-

The ELC and ELRC registered the highest CCR at 159 and 158 percent respectively. A CCR that was above 100 percent showed that pendency for that court was reduced. The CCR for civil cases was greater than 100 percent which implied declining

pendency of civil cases. The CCR for criminal cases was 88 percent which pointed to an increase in pending criminal cases at the end of the period under review.

2.3 Supreme Court.

The Supreme Court is established under Article 163 of the Constitution and the Supreme Court Act, 2011. The court has exclusive original jurisdiction to hear and determine disputes relating to the election of the President as well as appellate jurisdiction to hear and determine appeals from the Court of Appeal. The Supreme Court also gives advisory opinions at the request of the National Government, State organ, or County Government. It is composed of seven judges and is headed by the Chief Justice and President of the Supreme Court.

2.3.1 Filed and Resolved Cases in the Supreme Court

In the FY 2018/19, **96** cases were filed while **89** were resolved in the Supreme Court. Figure 2.6 provides details on types of cases that were filed and resolved.

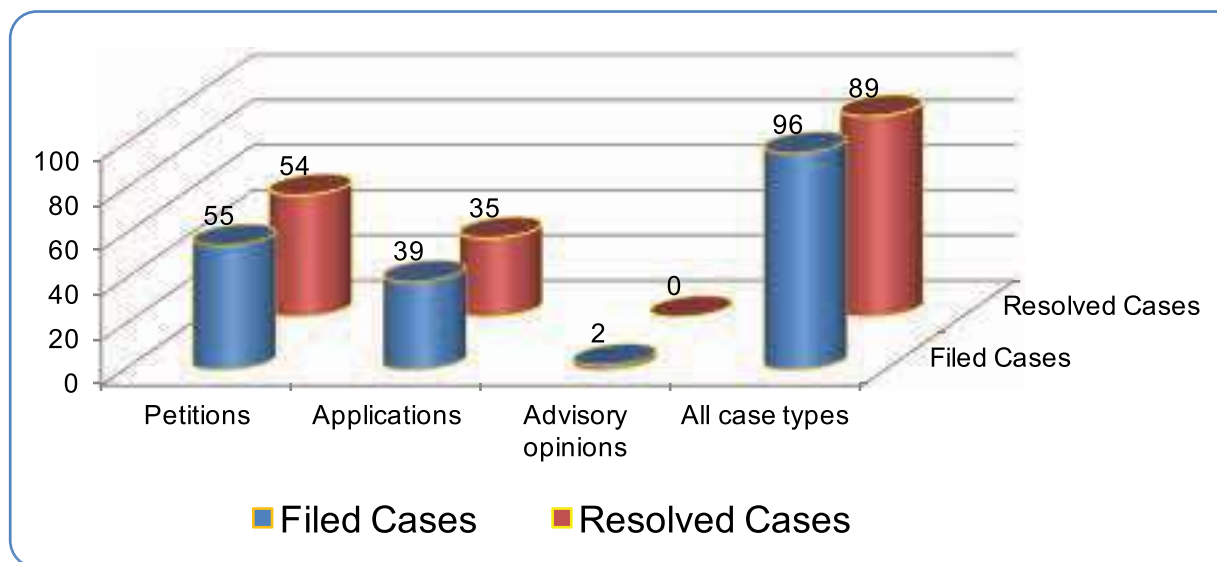


Figure 2.6: Filed and Resolved Cases by type, Supreme Court

As illustrated in Figure 2.6, majority of the filed cases were petitions followed by applications. For resolved cases, petitions and applications were the majority while advisory opinions were the least.

2.3.2 Pending Cases in the Supreme Court

By the end of FY 2018/19, there were **93** cases pending in the Supreme Court. The growth in pending cases in the Supreme Court for the last five years is highlighted in Figure 2.7.

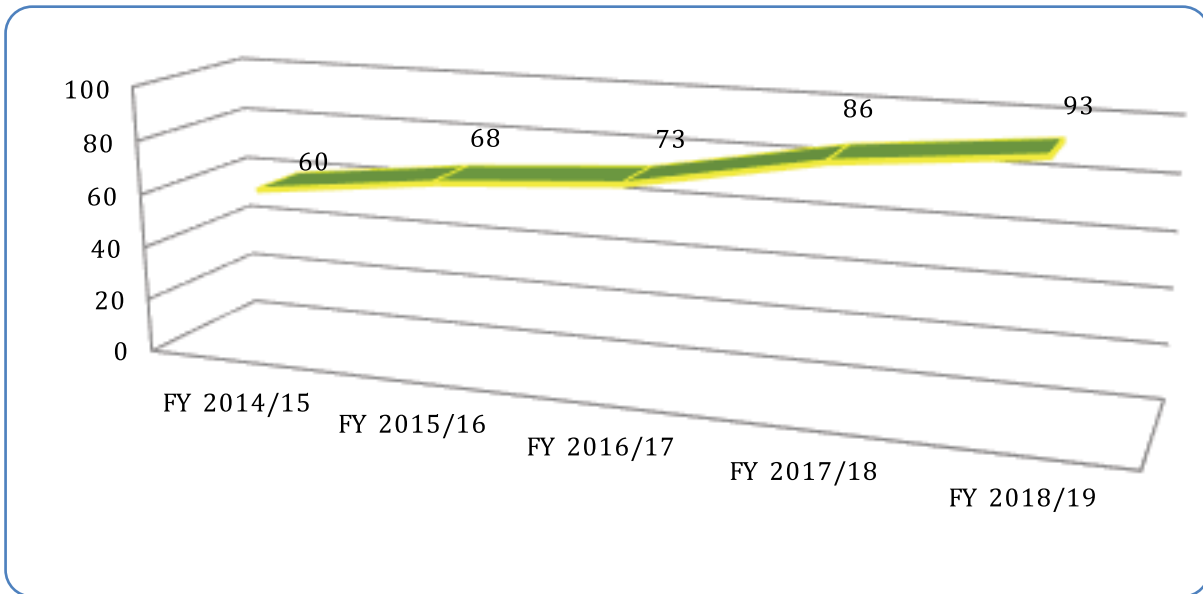


Figure 2.7: Growth in Pending Cases in Supreme Court, FY2014/15 – FY2018/19

Between the FY 2014/15 and 2018/19, there has been a 55 percent increase in the number of pending cases in the Supreme Court. This could be attributed to the growth of litigation rate in the court depicted by increasing filed cases. Details for the growth of pending cases by specific case types for the Supreme Court are expounded in Table 2.7.

Table 2.7: Pending Cases by Type, Supreme Court

Case Type	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Petitions	42	44	40	52	53
Applications	14	18	29	31*	33
Advisory opinions	4	6	4	3	7
All case types	60	68	73	86*	93

*Revised from 40 cases to 31 following a case audit

From Table 2.7, petitions were the bulk of pending cases at 53 followed by applications at 33 while advisory opinions were seven in the FY 2017/18. The trend for the specific case types compared across the years with no significant deviation.

2.3.3 Case Backlog at Supreme Court

At the end of the FY 2018/19, Supreme Court had 41 cases classified as backlog. The age of these cases is given in Table 2.8.

Table 2.8: Case backlog by Age for Supreme Court, June 30, 2019

Case Type	Backlog		Change in Backlog
	FY 2017/18	FY 2018/19	
1 – 3 Years	38	34	-11%
3 – 5 Years	6	7	17%
Over 5 Years	0	0	-
All Backlog	44	41	-7%

The Supreme Court reduced its case backlog by seven percent from 44 cases at the end of the FY 2017/18 to **41** cases at the end of FY 2018/19. Out of the 41 cases, 34 were aged between one and three years while the remaining seven were aged between three and five years.

2.4 Court of Appeal

The Court of Appeal (CoA) is established under Article 164 (1) of the Constitution and administered under the COA Organization and Administration Act of 2015. The jurisdiction of the CoA is provided under the Appellate Jurisdiction Act (Cap. 9) while its practice and procedure rules are regulated by the Court of Appeal Rules, 2010. Currently, there are 4 Court of Appeal stations namely Kisumu, Malindi, Nairobi and Nyeri.

2.4.1 Filed and Resolved cases in the Court of Appeal

A total of **2,540** cases were filed in the CoA during the FY 2018/19. Out of the **2,540** cases that were filed, **585** cases were criminal in nature while **1,955** were civil in nature. Further, **1,300** cases were resolved, out of which **310** cases were criminal in nature while **990** were civil in nature. Figure 2.8a & 2.8b highlights the trend for filed and resolved cases in the CoA since FY2013/14.

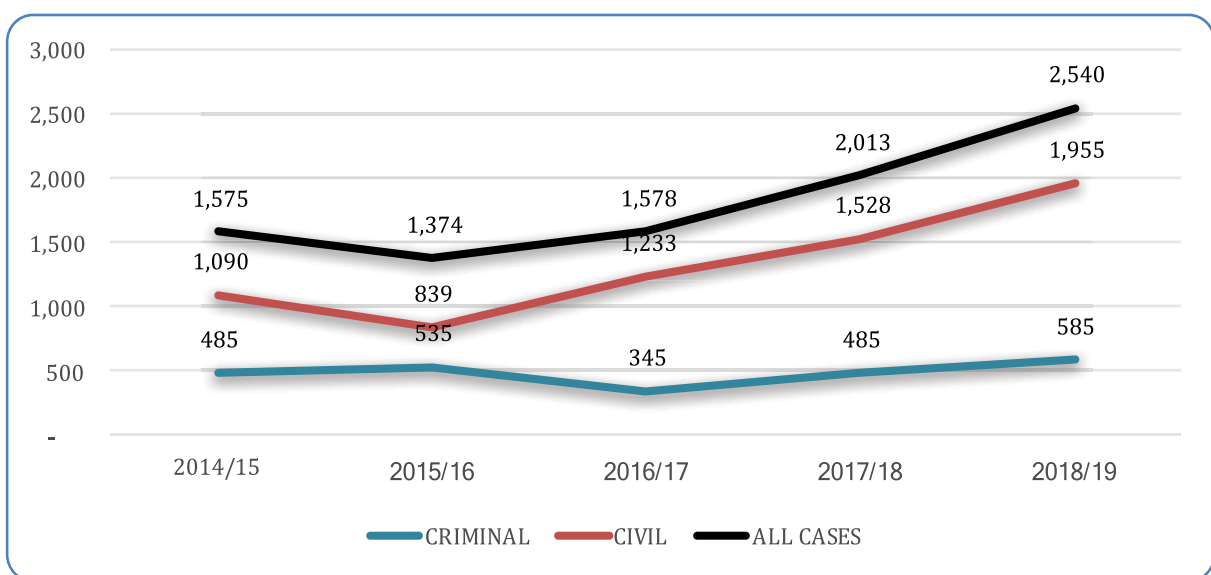


Figure 2.8.a: Filed Cases by Broad Case Types in CoA, FY2014/15 – 2018/19

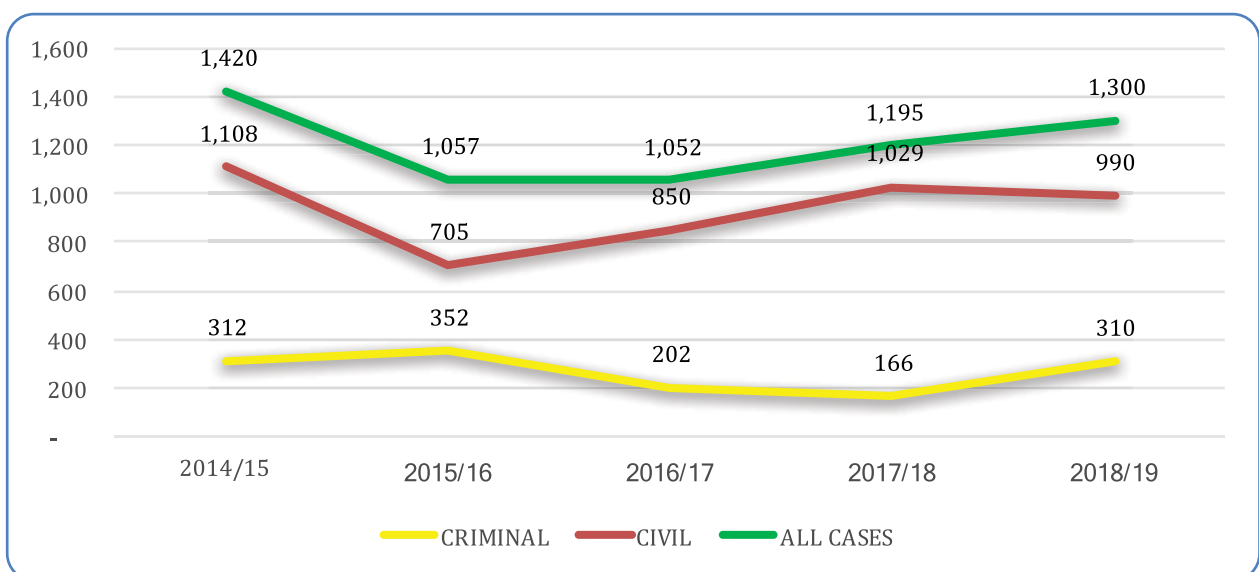


Figure 2.8.b: Resolved Cases by Broad Case Types in CoA, FY2014/15–2018/19

From Figures 2.8a & 2.8b, the number of filed and resolved cases for the CoA have generally been increasing over the years. Detailed analysis on filed and resolved cases for the COA stations is provided in Table 2.9.

Table 2.9: Filed and Resolved Cases by COA station and type, FY 2018/19

CoA Station	CR		CC		ALL	
	FC	RC	FC	RC	FC	RC
Kisumu	360	108	276	103	636	211
Malindi	43	40	243	176	286	216
Nairobi	34	100	929	608	963	708
Nyeri	148	62	507	103	655	165
All stations	585	310	1,955	990	2,540	1,300

From Table 2.9, the civil cases were filed more than criminal cases at **1,955** and **585** cases respectively. Similarly, most of the resolved cases were civil in nature at **990** cases as compared to criminal cases at **310** cases. The filed cases by specific case types are detailed in Table 2.10.

Table 2.10: Filed cases by type and COA station, FY 2018/19

Court Name	Criminal Appeal	Criminal Application	All Criminal Cases	Civil Appeal	Civil Application	All Civil Cases	All cases
Kisumu	293	67	360	163	113	276	636
Malindi	43	0	43	141	102	243	286
Nairobi	31	3	34	619	310	929	963
Nyeri	144	4	148	293	214	507	655
All	511	74	585	1,216	739	1,955	2,540

From Table 2.10 civil appeals were the bulk of the filed civil cases at 1,216 followed by civil applications at 739 cases. Criminal appeals were the majority of filed criminal cases at 511. Table 2.11 shows the resolved cases by specific case type per court station.

Table 2.11: Resolved cases by type and COA station, FY 2018/19

Court Name	Criminal Appeal	Criminal Application	All Criminal Cases	Civil Appeal	Civil Application	All Civil Cases	All Cases
Kisumu	101	7	108	61	42	103	211
Malindi	40	0	40	94	82	176	216
Nairobi	97	3	100	472	136	608	708
Nyeri	50	12	62	50	53	103	165
All	288	22	310	677	313	990	1,300

Table 2.11 shows that civil appeals were the majority of the resolved civil cases at 677 and civil applications was at 313. Criminal appeals were the majority of resolved criminal cases at 288.

2.4.2 Pending Cases in the COA

At the end of the FY 2018/19, a total of **6,050** cases were pending in COA. The civil cases were the bulk at 4,211 cases while criminal cases were 1,839. The growth in pending cases in COA by broad case type for the past four years is highlighted in Figure 2.8.

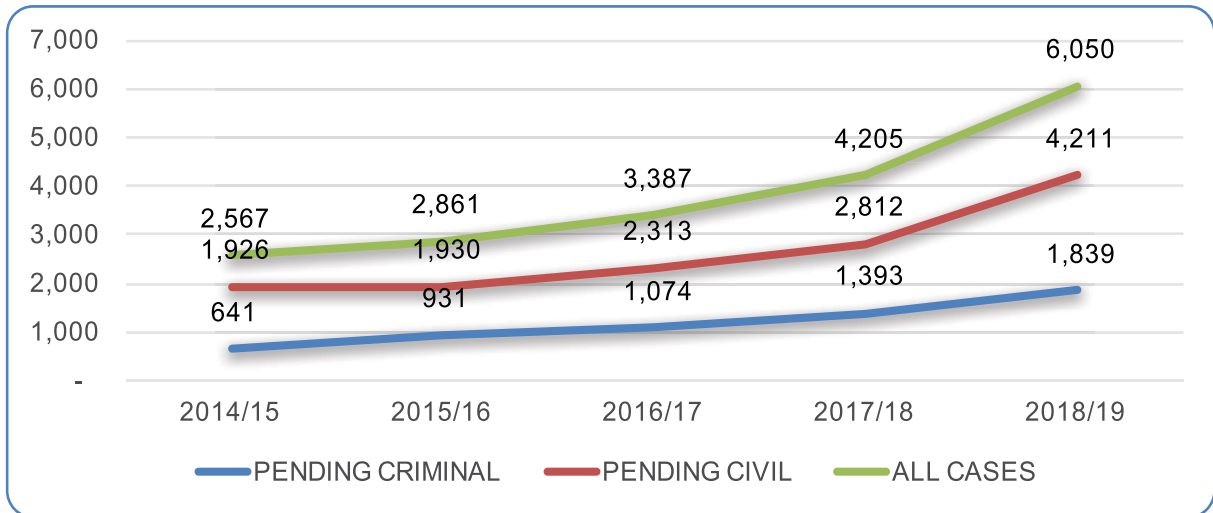


Figure 2.9: Pending Cases by Type for COA, FY 2014/15 – FY 2018/19

Figure 2.9 shows that pending cases in COA increased by 38 percent from 4,205 cases recorded in FY 2017/18 to 6,050 cases recorded in FY 2018/19. This increase in workload is a pointer on the need to have commensurate increase in labour force for the court to cater for the increasing workload. The percentage pending cases by COA station at the end of the FY 2018/19 is summarized in Figure 2.10.

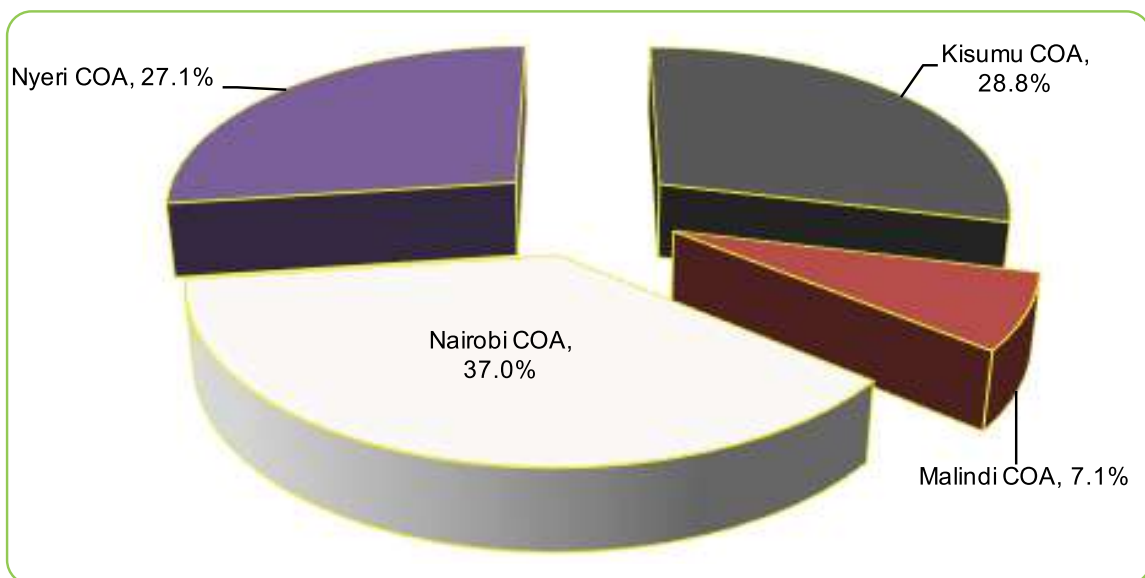


Figure 2.10: Percentage pending cases by COA stations

Nairobi COA had the majority of the pending cases at 37 percent followed by Kisumu at 28.8 per cent. Malindi COA station had the least pending cases at 7.1 per cent. Details on pending cases by broad case type and station are given in Table 2.12.

Table 2.12: Pending Cases by Type and COA station, 2017/18

Court Name	Criminal Appeal	Criminal Application	All Criminal Cases	Civil Appeal	Civil Application	All Civil Cases	Total Pending
Kisumu	1,052	65	1,117	495	128	623	1,740
Malindi	10	101	111	83	238	321	432
Nairobi	131	84	215	1,577	447	2,024	2,239
Nyeri	395	1	396	645	598	1,243	1,639
All Courts	1,588	251	1,839	2,800	1,411	4,211	6,050

Table 2.12 shows that Nairobi COA had the highest number of pending cases at **2,239** while Malindi had the least at **432** cases.

2.3.3 Case backlog in COA.

Out of the **6,050** pending cases in the COA, **3,631** were backlog. Figure 2.11 gives the case backlog by age in the COA.

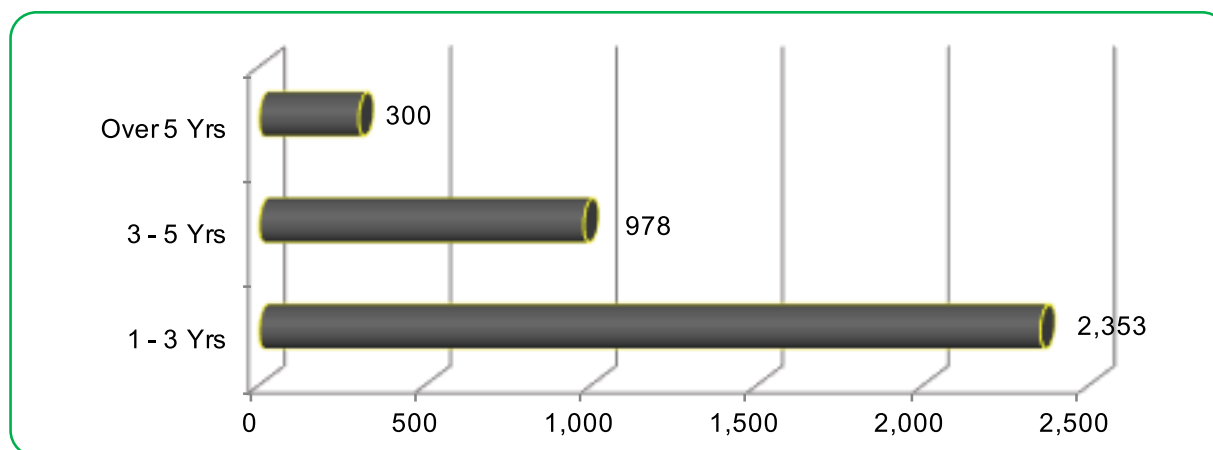


Figure 2.11: Case Backlog by Age in COA, 2018/19

Most of the backlog cases were aged between one and three years at 65 percent while the least were aged five years at were 8 per cent. The case backlog by age for different COA stations is detailed in Table 2.13.

Table 2.13: Case backlog by age and COA station, June 30, 2019

Court Name	Backlog June, 2018	1 - 3 years	3 - 5 years	Over 5 years	All Ages	Change in backlog
Kisumu	455	662	442	3	1,107	143%
Malindi	200	93	6	14	113	-44%
Nairobi	1,719	1,016	225	182	1,423	-17%
Nyeri	488	582	305	101	988	102%
All Courts	2,862	2,353	978	300	3,631	27%

Figure 2.13 shows that Nairobi COA station had the highest case backlog at the end of the review period at 1,423 cases followed by Kisumu at 1,107. Malindi had the least at 113 cases. The percentage distribution of case backlog by COA stations at the end of the review period is presented in Figure 2.12.

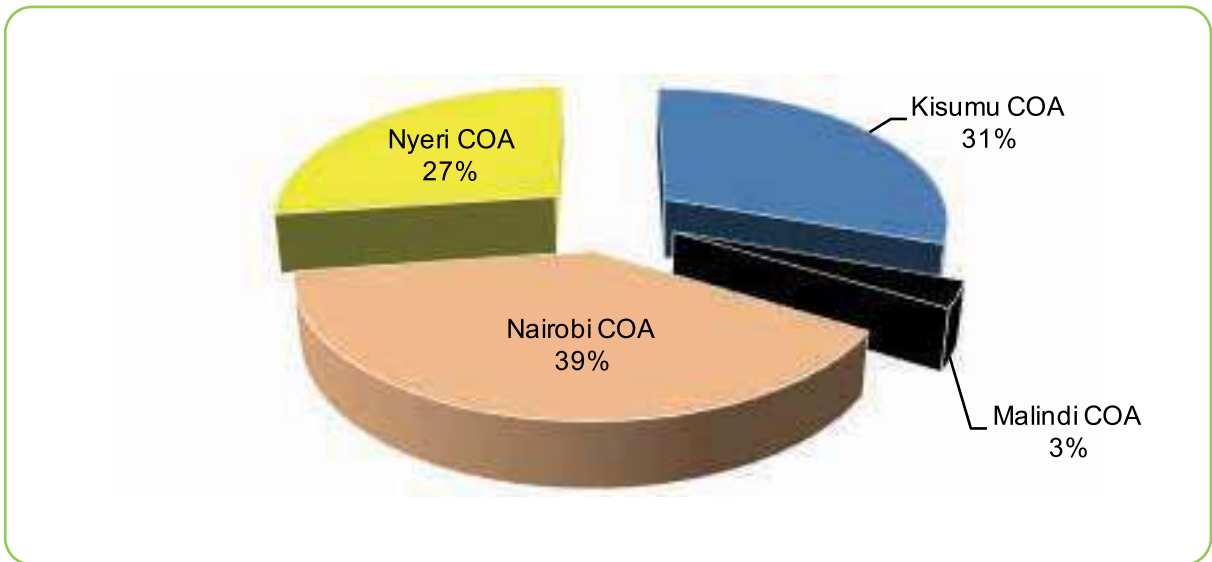


Figure 2.12: Percentage Distribution of Case Backlog in COA, FY 2018/19

Figure 2.12 shows that Malindi COA had the least backlog cases at 3 percent followed by Nyeri at 27 per cent. Nairobi had the highest share of case backlog at 39 per cent.

2.3.4 SJT Implementation Status on Reduction of Case Backlog in COA

COA had managed to reduce case backlog aged five years and above by 54 percent from 648 cases recorded in January 2017 to 300 cases by June 2019. Details on these cases are elaborated in Table 2.14.

Table 2.14: SJT Implementation status on reduction of case backlog

Name of Court	SJT target on reduction of case backlog older than 5 years as at Jan 2017	Resolved cases older than 5 years (Jan 2017 to June 2019)	Case backlog older than 5 years as at June 2019	% reduction in case backlog older than 5 years (Jan 2017 to June 2019)
Kisumu	11	54	3	-73%
Malindi	12	37	14	17%
Nairobi	619	485	182	-71%
Nyeri	6	105	101	1583%
All Courts	648	681	300	-54%

From Table 2.14, by the end of the FY 2018/19, Nairobi COA and Kisumu COA had both reduced the backlog cases of over five years from 619 cases to 182 cases and 11 cases to 3 cases respectively. The court resolved 681 cases aged five years and above which was more than the baseline target owing to resolution of additional cases that transited to over five years in age.

2.5 High Court

The High Court of Kenya is established pursuant to Article 165 of the Constitution of Kenya and is administered and organized under the High Court Organization and Administration Act No. 27 of 2015. The court enjoys unlimited original jurisdiction in criminal and civil matters, as well as on constitutional matters relating to rights and fundamental freedoms. In addition, the court has appellate and supervisory jurisdiction over subordinate courts and tribunals.

2.5.1 Filed and Resolved Cases in High Court

During the FY 2018/19, a total of **30,695** cases were filed in all High Court stations. This comprised **12,809** criminal cases and **17,886** civil cases. In the same period, **36,998** cases were resolved which comprised **10,386** criminal cases and **26,612** civil cases. The percentage distribution of filed and resolved criminal cases by case type is given in Figure 2.13.

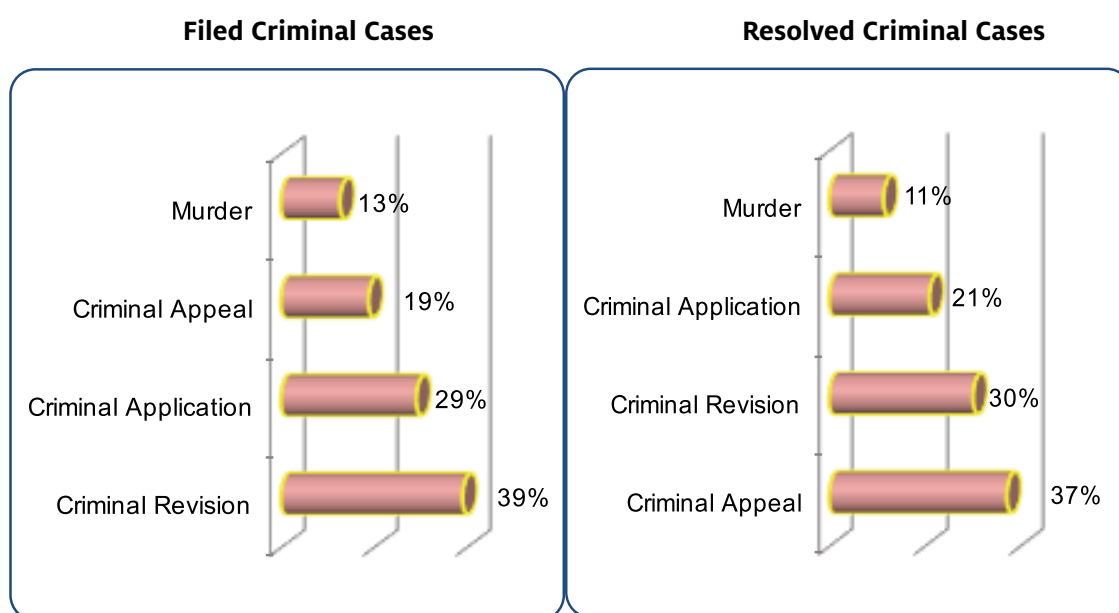
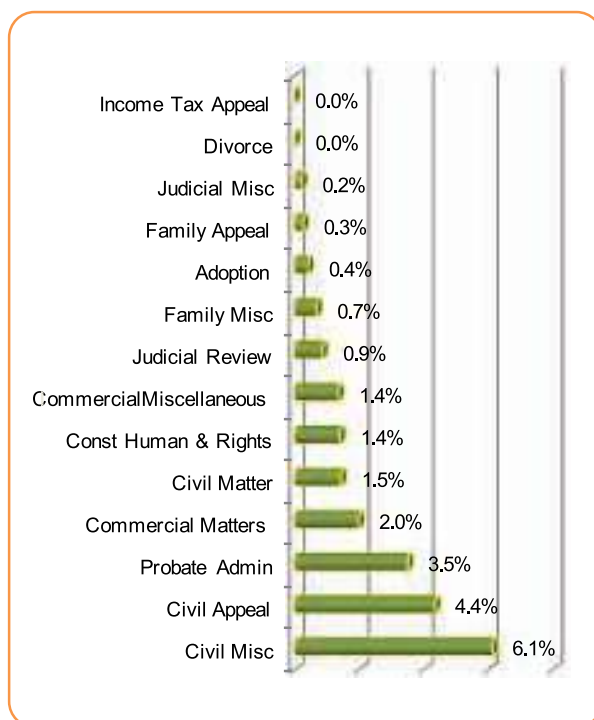


Figure 2.13: Percentage Distribution of Filed and Resolved Criminal Cases by Type in High Court, FY 2018/19.

Criminal revisions were the majority of filed criminal cases at 39 percent while murder cases were the least filed at 13 per cent. For the resolved cases, criminal appeals were the majority at 37 percent with murder cases being the least at 11 per cent. The percentage distribution of filed and resolved civil cases is illustrated in Figure 2.14.

Filed Civil Cases



Resolved Civil Cases

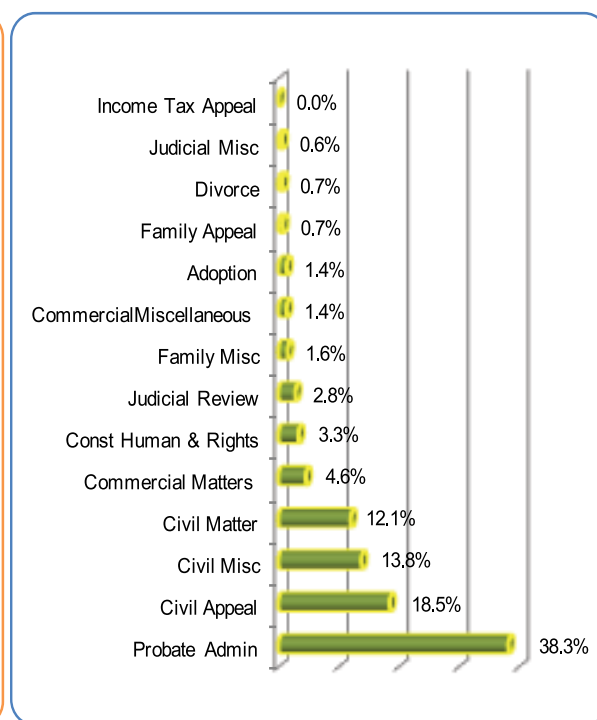


Figure 2.14: Percentage Distribution of Filed and Resolved Civil Cases in the High Court, FY 2018/19

As shown in Figure 2.14, miscellaneous civil cases were the most filed cases at 6.1 percent followed by civil appeal cases at 4.4 per cent. Income Tax appeals were the least filed cases at 0.01 per cent. For the resolved cases, probate and administration cases had the highest share at 38.3 percent while income tax appeals had the least at 0.01 per cent. Details on filed and resolved cases for individual high court stations and broad case type are given in Table 2.15.

Table 2.15: Filed and Resolved Cases by Broad Case Type in High Court, FY2018/19

Name of Court	Filed			Resolved		
	Criminal	Civil	All	Criminal	Civil	All
Bomet	160	125	285	64	56	120
Bungoma	178	221	399	296	432	728
Busia	22	360	382	62	143	205
Chuka	64	92	156	74	199	273
Eldoret	511	364	875	1,027	1,459	2,486
Embu	111	178	289	167	342	509
Garissa	257	80	337	144	114	258
Garsen	39	8	47	95	23	118
Homabay	246	47	293	143	122	265
Kabarnet	307	50	357	177	26	203
Kajiado	224	308	532	196	194	390
Kakamega	245	123	368	144	234	378
Kapenguria	41	19	60	41	23	64
Kericho	224	120	344	117	825	942
Kerugoya	25	81	106	259	172	431
Kiambu	624	878	1,502	481	586	1,067
Kisii	948	426	1,374	992	971	1,963
Kisumu	336	523	859	233	873	1,106

Name of Court	Filed			Resolved		
	Criminal	Civil	All	Criminal	Civil	All
Kitale	796	303	1,099	243	300	543
Kitui	197	51	248	252	249	501
Lodwar	35	0	35	70	29	99
Machakos	774	954	1,728	290	1,716	2,006
Makueni	268	215	483	64	303	367
Malindi	171	150	321	115	264	379
Marsabit	88	21	109	103	16	119
Meru	865	399	1,264	761	1,407	2,168
Migori	308	414	722	226	555	781
Milimani Anti-corr. Div.	98	119	217	49	47	96
Milimani Civil Div.	0	1,834	1,834	0	1,708	1,708
Milimani C. & Tax Div.	0	2,623	2,623	0	1,267	1,267
Milimani Const. Div.	0	406	406	0	375	375
Milimani Criminal Div.	1,741	0	1,741	897	0	897
Milimani Family Div.	0	2,452	2,452	0	4,435	4,435
Milimani Jud. Rev. Div.	0	379	379	0	439	439
Mombasa	691	1,351	2,042	343	3,442	3,785
Muranga	433	294	727	123	185	308
Naivasha	183	347	530	116	139	255
Nakuru	121	675	796	897	1,845	2,742
Nanyuki	244	54	298	156	34	190
Narok	96	141	237	54	53	107
Nyamira	108	87	195	275	199	474
Nyandarua	111	183	294	29	86	115
Nyeri	314	254	568	188	584	772
Siaya	438	129	567	315	105	420
Voi	167	48	215	108	36	144
All courts	12,809	17,886	30,695	10,386	26,612	36,998

From Table 2.15, out of the 30,695 cases that were filed in all high courts, Milimani Commercial and Tax division recorded the highest number at 2,623 while Milimani Family Division was second with 2,452 cases. The least number of cases were filed at Lodwar and Garsen stations at 35 and 47 respectively. Further, Milimani Family Division recorded the highest number of resolved cases at 4,435 cases followed by Mombasa High Court where 3,785 cases. Details on filed and resolved cases for all high court stations by specific case types are provided in the appendices.

2.5.2 Pending Cases in High Court

At the end the FY 2018/19, there were **87,460** pending cases in the High Court. These comprised **19,341** criminal cases and **68,119** civil cases. The trend for the pending cases in the High Court is shown in Figure 2.15.

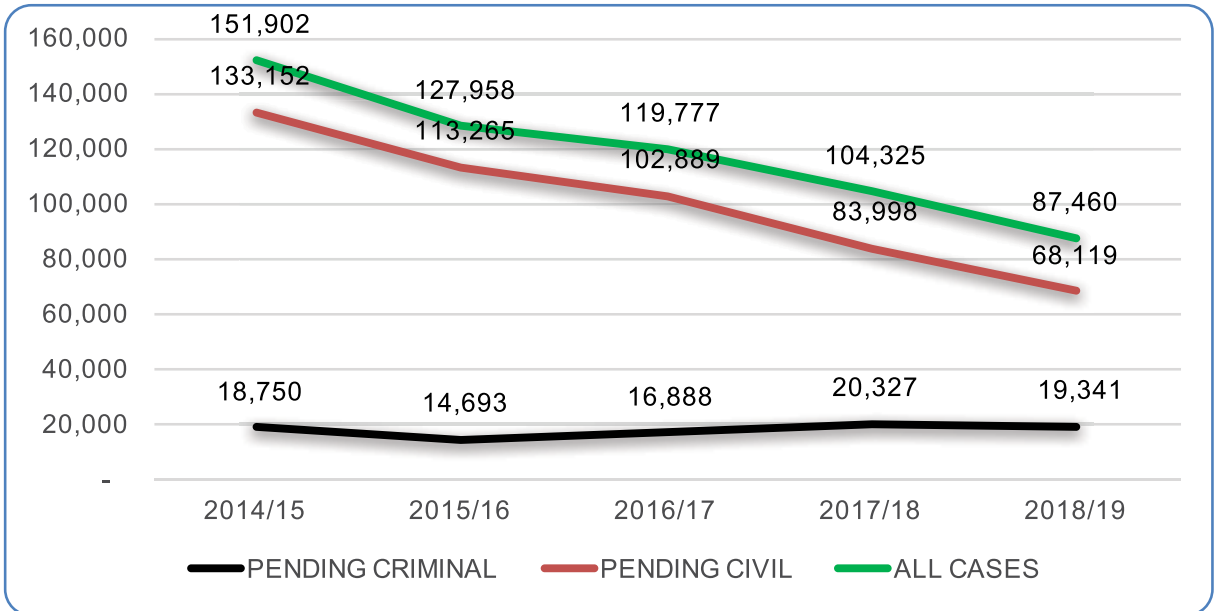


Figure 2.15: Pending Cases in High Court, FY 2014/15 – FY 2018/19

Figure 2.15 shows that pending cases in the High Court has been decreasing over the last five years. However, pending criminal cases marginally rose from 18,750 cases recorded in FY2014/15 cases to 19,341 cases in FY2018/19. The trend line for civil cases mimics that for the overall pending cases. The percentage pending cases by specific case types for the High Court is shown in Figure 2.16.

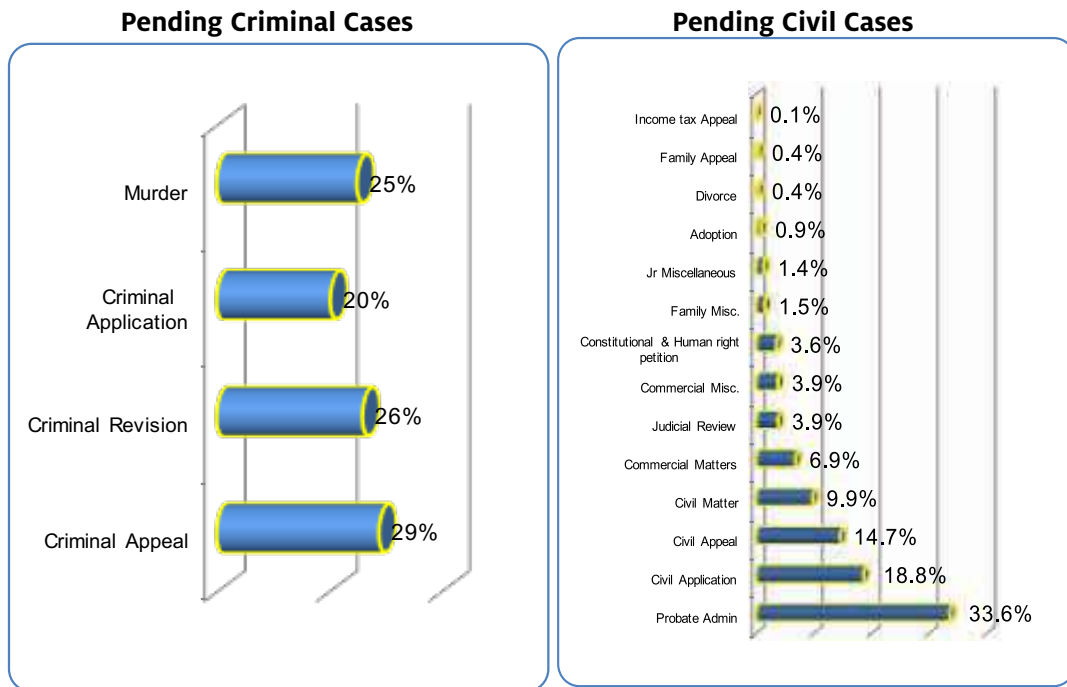


Figure 2.16: Percentage Distribution of Pending Cases in High Court, June 2019

From Figure 2.16, probate and administration cases comprised the bulk of pending civil cases in all high court stations at 33.6 percent followed by civil applications at 18.8 per cent. For criminal matters, criminal appeal cases were the bulk of pending cases at 29 per cent. Table 2.16 gives information on pending cases in all High Court stations at the end of the FY 2018/19.

Table 2.16: Pending Cases by Broad Case Type in High Court, June 30, 2019

HC Station	Pending Cases		
	CR	CC	All
Bomet	224	354	578
Bungoma	388	2,312	2,700
Busia	140	2,019	2,159
Chuka	80	526	606
Eldoret	1,104	1,848	2,952
Embu	454	2,328	2,782
Garissa	445	257	702
Garsen	74	60	134
Homabay	259	639	898
Kabarnet	293	73	366
Kajiado	120	241	361
Kakamega	616	2,671	3,287
Kapenguria	69	17	86
Kericho	444	1,018	1,462
Kerugoya	141	2,177	2,318
Kiambu	523	814	1,337
Kisii	151	309	460
Kisumu	502	1,236	1,738
Kitale	1,689	997	2,686
Kitui	368	291	659
Lodwar	57	27	84
Machakos	1,022	2,364	3,386
Makueni	272	243	515
Malindi	170	643	813
Marsabit	20	16	36
Meru	1,355	3,255	4,610
Migori	238	512	750
Milimani Anti-corr. Div.	93	108	201
Milimani Civil Div.	0	6,590	6,590
Milimani C. & Tax Div.	0	6,926	6,926
Milimani Const. Div	0	1,005	1,005
Milimani Criminal Div.	865	0	865
Milimani Family Div.	0	5,137	5,137
Milimani Jud. Rev. Div.	0	1,075	1,075
Mombasa	2,309	7,448	9,757
Muranga	1,202	2,524	3,726
Naivasha	105	459	564
Nakuru	986	6,274	7,260
Nanyuki	613	113	726
Narok	106	162	268
Nyamira	83	115	198
Nyandarua	211	234	445
Nyeri	578	2,270	2,848
Siaya	692	235	927
Voi	280	197	477
ALL COURTS	19,341	68,119	87,460

From Table 2.16, Mombasa had the highest number of pending cases at 9,757 followed by Nakuru at 7,260 cases. Marsabit had the least pending cases which stood at 36 cases followed by Lodwar at 84 cases. Information on pending cases by specific case types for all High Court stations is provided in the appendices.

2.5.3 Case Backlog in High Court.

Out of the **87,460** pending cases in the High Court, **63,443** cases were backlog. Figure 2.17 summarizes the case backlog in High Court by age.

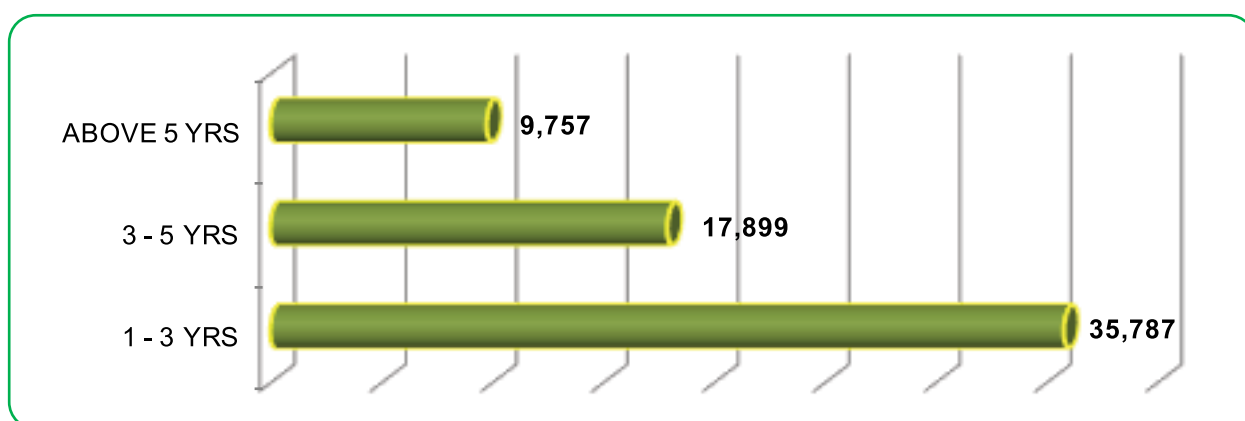


Figure 2.17: Case Backlog in the High Court, FY 2018/19

Out of the **63,443** backlog cases, **35,787** cases were aged between one to three years, **17,899** cases between three and five years while **9,757** cases were above five years. The distribution of case backlog across high court stations is presented in Table 2.17.

Table 2.17: Case Backlog by Age for High Court, June 30, 2019

High Court Station	Backlog 1_3 years	Backlog 3_5years	Over 5years	Total Backlog
Bomet	224	70	2	296
Bungoma	939	745	623	2,307
Busia	376	668	734	1,778
Chuka	478	16	6	500
Eldoret	1,528	1,000	588	3,116
Embu	1,269	1,048	178	2,495
Garissa	325	51	52	428
Garsen	77	12	5	94
Homabay	349	157	103	609
Kabarnet	84	0	0	84
Kajiado	12	9	1	22
Kakamega	610	703	1,288	2,601
Kapenguria	26	1	0	27
Kericho	499	346	279	1,124
Kerugoya	720	962	532	2,214
Kiambu	368	0	1	369
Kisii	96	0	81	177
Kisumu	623	240	18	881
Kitale	987	565	42	1,594
Kitui	242	153	18	413
Lodwar	42	9	0	51

High Court Station	Backlog 1_3 years	Backlog 3_5 years	Over 5 years	Total Backlog
Machakos	936	608	118	1,662
Makueni	24	10	0	34
Malindi	320	114	62	496
Marsabit	4	0	0	4
Meru	2,187	979	187	3,353
Migori	83	117	294	494
Milimani Anti-corr. Div.	4	3	0	7
Milimani Civil Div.	2,404	1,734	622	4,760
Milimani C. & Tax Di.	2,370	1,380	557	4,307
Milimani Const. DiV	550	85	8	643
Milimani Criminal Div.	441	91	44	576
Milimani Family Div.	1,276	706	757	2,739
Milimani Jud. Rev. Div.	354	297	50	701
Mombasa	6,764	1,056	638	8,458
Muranga	1,274	1,067	660	3,001
Naivasha	396	152	1	549
Nakuru	3,879	2,026	754	6,659
Nanyuki	381	33	14	428
Narok	23	13	0	36
Nyamira	34	17	0	51
Nyandarua	54	0	106	160
Nyeri	1,364	601	333	2,298
Siaya	509	0	0	509
Voi	282	55	1	338
All courts	35,787	17,899	9,757	63,443

From Table 2.17, Mombasa High court had the highest case backlog which stood at **8,458** cases followed by Nakuru High court at **6,659** cases.

2.5.4 SJT Implementation Status on Reduction of Case Backlog in High Court

Since January 2017, High Court reduced case backlog aged five years and above by 83 per cent. Detailed information on this reduction per station is given in Table 2.18.

Table 2.18: SJT implementation status on reduction of case backlog

High Court Name	Case Backlog of over 5 years as at Dec,2016	Case Backlog of over 5 years as at June 30, 2019	Resolved cases of over 5 years between January 2017 to June 2019	% Reduction in case backlog older than 5 years (Jan 2017 to June 2019)
Bomet	2	2	0	0%
Bungoma	1,664	623	1,030	-63%
Busia	728	734	249	1%
Chuka	0	6	124	—
Eldoret	1,404	588	1,629	-58%
Embu	1,295	178	644	-86%
Garissa	109	52	158	-52%
Garsen	6	5	26	-17%
Homabay	345	103	61	-70%
Kabarnet	0	0	0	—
Kajiado	7	1	10	-86%
Kakamega	1,739	1,288	554	-26%
Kapenguria	1	0	2	-100%
Kericho	1,232	279	1,724	-77%
Kerugoya	355	532	309	50%

High Court Name	Case Backlog of over 5 years as at Dec,2016	Case Backlog of over 5 years as at June 30, 2019	Resolved cases of over 5 years between January 2017 to June 2019	% Reduction in case backlog older than 5 years (Jan 2017 to June 2019)
Kiambu	0	1	2	–
Kisii	634	81	1,952	-87%
Kisumu	1,193	18	1,855	-98%
Kitale	1,381	42	1,865	-97%
Kitui	0	18	135	–
Lodwar	0	0	0	–
Machakos*	5,480	118	3,401	-98%
Makueni	0	0	48	–
Malindi	160	62	421	-61%
Marsabit	0	0	0	–
Meru	2,415	187	3,820	-92%
Migori	304	294	112	-3%
Milimani Anti-corr. Div.	0	0	7	–
Milimani Civil Div.	9,071	622	5,315	-93%
Milimani C. & Tax Div.	2,747	557	2,671	-80%
Milimani Const. Div	28	8	228	-71%
Milimani Criminal Div.	867	44	818	-95%
Milimani Family Div.	15,593	757	19,434	-95%
Milimani Jud. Rev. Div.	119	50	210	-58%
Mombasa	2,480	638	9,959	-74%
Muranga	161	660	389	310%
Naivasha	0	1	2	–
Nakuru	3,631	754	3,541	-79%
Nanyuki	11	14	0	27%
Narok	0	0	0	–
Nyamira	17	0	5	-100%
Nyandarua	0	106	2	–
Nyeri	3,307	333	1,554	-90%
Siaya	0	0	0	–
Voi	1	1	5	0%
All courts	58,487	9,757	64,268	-83%

Since January 2017 at the onset of SJT, High Court resolved a total of 64,268 cases aged five years and above which was more than the baseline target of 58,487 cases. This was occasioned by new cases that transited to age bracket of above over five years.

2.6 Employment and Labour Relations Court

The Employment and Labour Relations Court (ELRC) is established pursuant to Article 162(2) of the Constitution. It has jurisdiction over employment and labour disputes. There are six ELRC stations in Kenya located at Nairobi, Kericho, Kisumu, Mombasa, Nakuru and Nyeri. In addition to the six stations, ELRC has sub-registries in Meru, Bungoma, Eldoret, Malindi, Machakos and Garissa.

2.6.1 Filed and Resolved Cases in ELRC

During the period under review, a total of 2,672 cases were filed in all ELRC stations, down from 5,645 cases that were filed in the previous period. The resolved cases rose from 3,661 to 4,228 cases in FY 2018/19. Figure 2.18 presents the trend for the filed

and resolved cases by ELRC station for the FY 2014/15 to FY 2018/19.

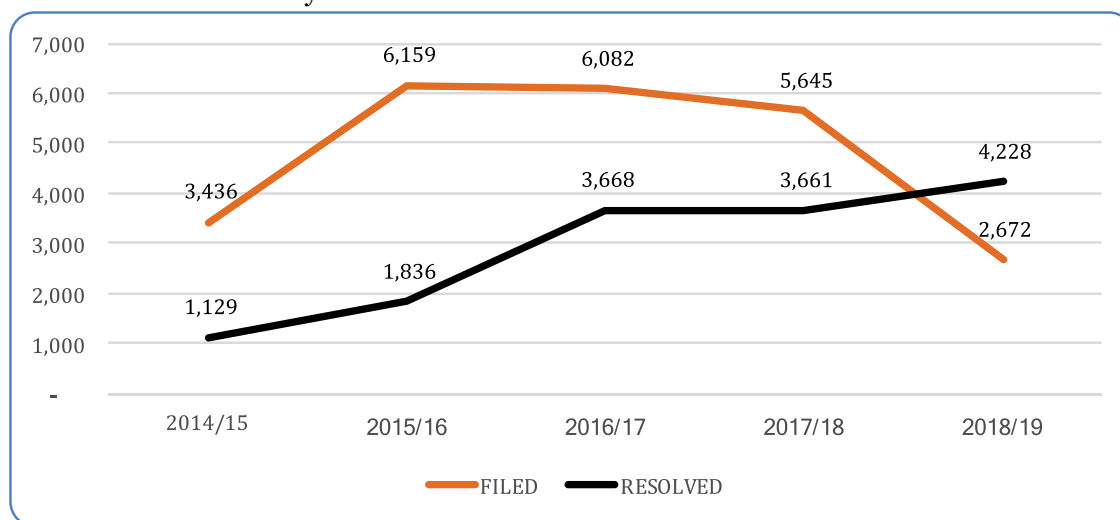


Figure 2.18: Filed and Resolved Cases by ELRC station

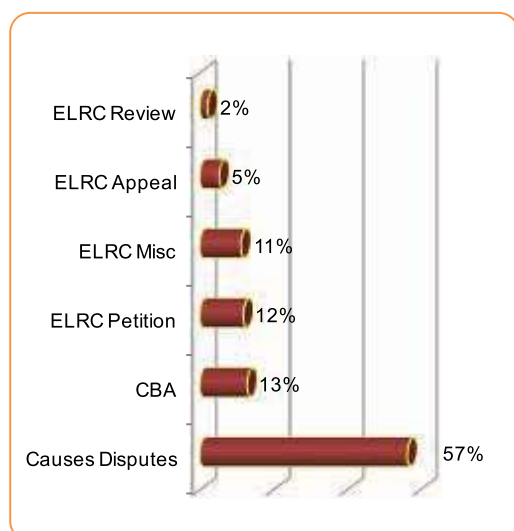
The trend for the filed and resolved cases over the past four FYs for ELRC stations is given in Table 2.19.

Table 2.19: Filed and Resolved Cases in ELRC stations, FY 2015/16 – FY 2018/19

Station	2015/16		2016/17		2017/18		2018/19	
	FC	RC	FC	RC	FC	RC	FC	RC
Kericho ELRC	225	75	116	105	124	180	96	32
Kisumu ELRC	476	56	499	179	581	227	360	367
Mombasa ELRC	700	249	1,045	646	861	455	155	397
Nairobi ELRC	3,160	1,518	3,631	1,980	3,114	2,324	1,801	2,593
Nakuru ELRC	463	231	391	285	360	182	169	389
Nyeri ELRC	305	274	400	473	605	293	91	450
All stations	5,329	2,403	6,082	3,668	5,645	3,661	2,672	4,228

Table 2.19 shows that cases resolved in ELRC has generally been increasing over time. In FY 2015/16, 2,403 cases were resolved, which increased to 4,228 in the FY 2018/19. Information on filed and resolved cases by type is illustrated in Figure 2.19.

Filed cases, ELRC



Resolved cases, ELRC

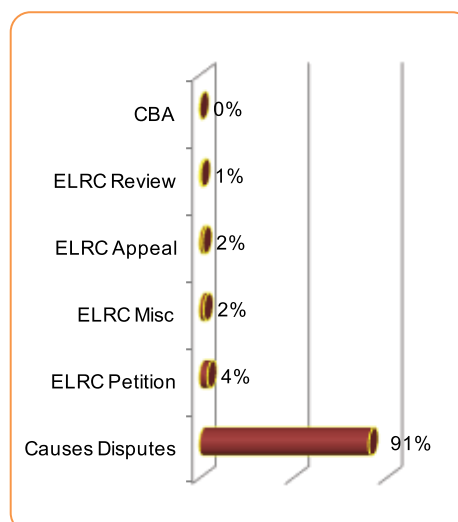


Figure 2.19: Percentage Distribution of Filed and Resolved Cases in ELRC, FY 2018/19

In the FY 2018/19, causes disputes were the bulk of the filed and resolved cases in ELRC at 57 percent and 91 percent respectively. Information on the type of filed and resolved cases is given in Table 2.20 and 2.21 respectively.

Table 2.20: Filed cases by type and ELRC station, FY 2018/19

Court Name	CBA	Causes Disputes	ELRC Petition	ELRC Misc.	ELRC Appeal	ELRC Review	All filed cases
Kericho	7	76	3	5	4	1	96
Kisumu	0	209	48	47	46	10	360
Mombasa	0	86	4	40	17	8	155
Nairobi	334	967	218	182	71	29	1,801
Nakuru	0	109	24	19	14	3	169
Nyeri	0	55	23	4	1	8	91
All Courts	341	1,502	320	297	153	59	2,672

Table 2.21: Resolved Cases by Type and ELRC Station, FY 2018/19

Court Name	CBA	Causes Disputes	ELRC Petition	ELRC Misc.	ELRC Appeal	ELRC Review	All resolved cases
Kericho	0	28	0	0	4	0	32
Kisumu	0	265	60	24	10	8	367
Mombasa	0	371	9	11	6	0	397
Nairobi	3	2,409	97	43	20	21	2,593
Nakuru	1	339	7	7	32	3	389
Nyeri	0	424	9	14	0	3	450
All Courts	4	3,836	182	99	72	35	4,228

Majority of the cases were filed and resolved at Nairobi ELRC station followed by Nyeri. The least number of filed and resolved cases were recorded in Kericho ELRC.

2.6.2 Pending Cases in ELRC.

At the end of the FY 2018/19, 13,778 cases were pending in ELRC down from 15,733 cases that were recorded at the end of FY 2017/18 indicating a 12 percent decrease. The number of pending ELRC cases for the past five years are presented in Figure 2.20.

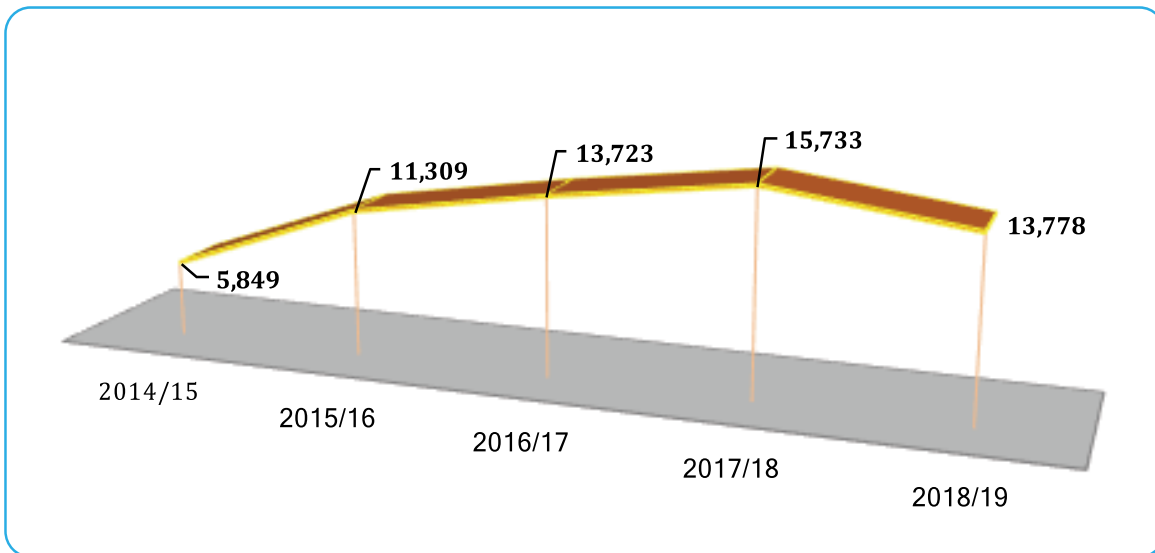


Figure 2.20: Pending Cases in ELRC, FY 2014/15 – FY 2018/19

The pending cases in ELRC dropped from 15,733 cases that were recorded at the end of FY 2017/18 to 13,778 at the end of the reporting period. This was as a result of the high case clearance rate that was realized by the court during the review period. Details on the growth of pending cases for ERLC stations are provided in Table 2.22.

Table 2.22: Pending cases in ELRC Stations, FY 2015/16 – FY 2018/19

Court Name	2015/16	2016/17	2017/18	2018/19
Kericho ELRC	299	310	254	318
Kisumu ELRC	862	1,182	1,544	1,132
Mombasa ELRC	1,418	1,817	2,233	1,991
Nairobi ELRC	7,416	9,067	9,857	9,065
Nakuru ELRC	1,046	1,152	1,338	1,124
Nyeri ELRC	268	195	507	148
All Courts	11,309	13,723	15,733	13,778

Nairobi and Mombasa ELRC stations have over the years had the largest number of pending cases. At the end of FY 2018/19, Nyeri had the least pending cases at 148. The percentage pending cases for ERLC by type are highlighted in Figure 2.21.

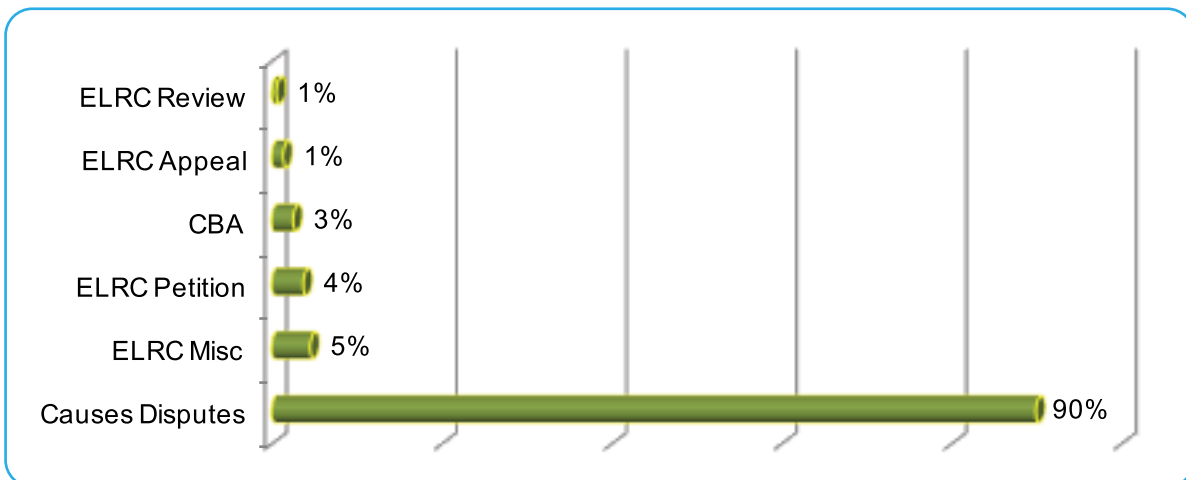


Figure 2.21: Distribution of Pending Cases by Case Type in ELRC, June 30, 2019

Figure 2.21 shows that cause disputes constituted the bulk of the pending cases in ELRC at 90 percent followed by miscellaneous cases at 5 per cent. The pending cases in all ELRC stations by case type are detailed in Table 2.23.

Table 2.23: Pending Cases by Type and ELRC Station, June 30, 2019

Court Name	CBA	Causes Disputes	ELRC Petition	ELRC Misc	ELRC Appeal	ELRC Review	All cases
Kericho	7	290	7	6	5	3	318
Kisumu	0	1,001	67	18	39	7	1,132
Mombasa	3	1,820	18	117	23	10	1,991
Nairobi	339	7,878	347	363	98	40	9,065
Nakuru	1	1,064	21	35	2	1	1,124
Nyeri	0	76	30	25	9	8	148
All courts	350	12,129	490	564	176	69	13,778

2.6.3 Case Backlog in ELRC

Out of the 13,778 cases that were pending in ELRC, 11,608 (84%) cases were backlog. Figure 2.22 shows the percentage case backlog by age in ELRC.

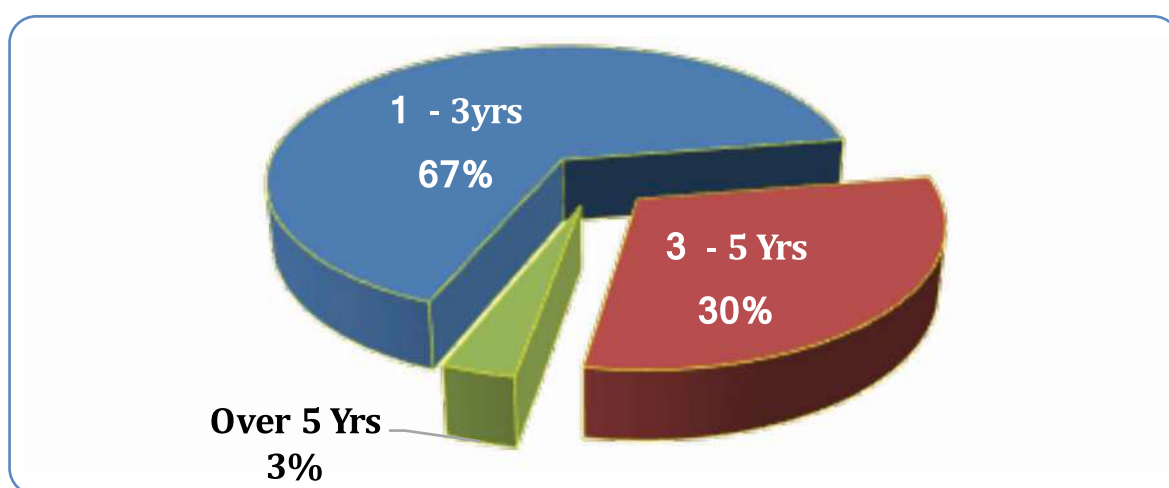


Figure 2.22: Percentage Case Backlog, ELRC, FY 2018/19

Figure 2.22 illustrates that 67 percent of case backlog was aged between one and three years, 33 percent between three and five years and 3 percent above five years. Case backlog for ELRC stations as at June 30, 2019 is given in Table 2.24.

Table 2.24: Case Backlog by Age and ELRC Station, June, 30 2019

Court Name	1-3 years	3-5 years	Over 5 years	ALL
Kericho ELRC	120	107	0	227
Kisumu ELRC	645	238	22	905
Mombasa ELRC	1,250	584	16	1,850
Nairobi ELRC	5,057	2,199	324	7,580
Nakuru ELRC	582	377	29	988
Nyeri ELRC	53	5	0	58
All Courts	7,707	3,510	391	11,608

The highest case backlog was recorded in Nairobi ELRC at 7,580 followed by

Mombasa at 1,850 cases. The least backlog was recorded in Nyeri ELRC at 58.

2.6.4 SJT Implementation Status on Reduction of Case Backlog in ELRC

The ELRC managed to reduce case backlog aged five years and above by 49 percent from **771** cases recorded at the onset of SJT strategy to **391** cases at the end of 2018/19 FY. Table 2.25 provides more details for each ELRC station.

Table 2.25: SJT Implementation Status on Reduction Of Case Backlog

Court Name	SJT target as at December, 2016 on reduction of Cases older than 5 years	Resolved 5 years and above cases from January 2017 to June 2019	Backlog over 5 years as at June, 2019 *	% reduction in cases above 5 years (Jan. 2017 to June 2019)
Kericho	0	0	0	N/A
Kisumu	43	31	22	-49%
Mombasa	1	24	16	1500%
Nairobi	717	1,019	324	-55%
Nakuru	10	2	29	190%
Nyeri	0	7	0	N/A
All Courts	771	1,083	391	-49%

The highest reduction was recorded at Nairobi ELRC station. At the end of the FY, ELRC had 391 backlog cases aged five years and above.

2.7 The Environment and Land Court

The Environment and Land Court (ELC) is established pursuant to Article 162 (2) of the Constitution. The court enjoys the same status as the High Court and has exclusive jurisdiction to hear and determine environment and land related disputes.

2.7.1 Filed and Resolved Cases in ELC

During FY 2018/19, a total of **4,494** cases were filed in all ELC stations while **7,162** cases were resolved. Information on filed and resolved cases in ELC for the past five FYs is illustrated in Figure 2.23.

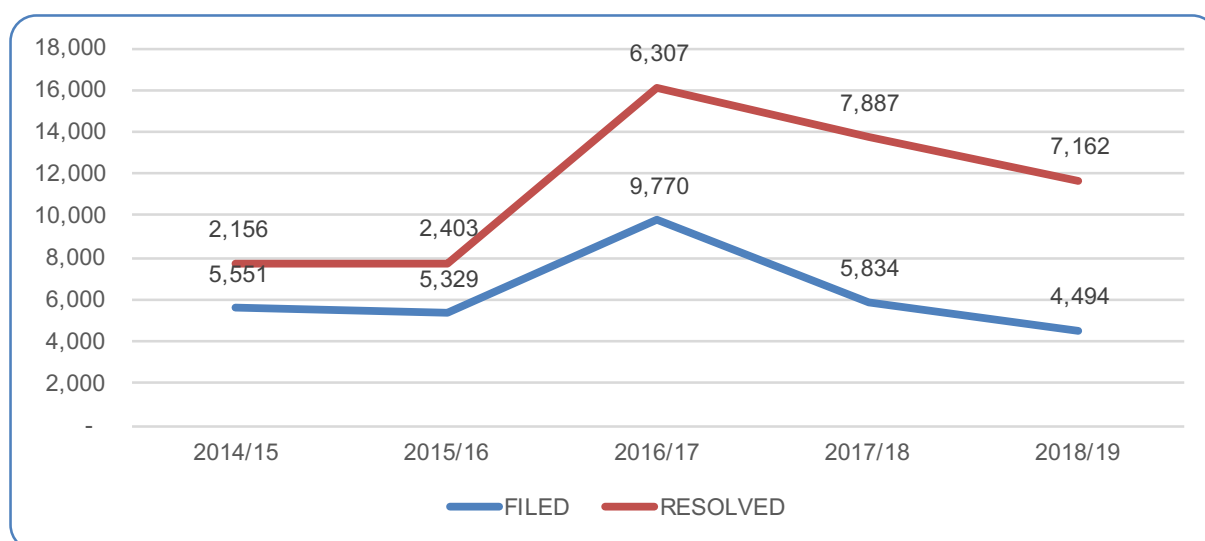


Figure 2.23: Filed and resolved cases in ELC, FY 2014/15 – FY 2018/19

During the period under reference, resolved cases reduced from 7,887 in FY 2017/19 to 7,162 in FY 2018/19. Further, a total of 4,494 cases were filed in FY 2018/19 down from 5,834 cases that were filed in the previous period. Detailed statistics on filed and resolved cases for all ELC stations over the past four FYs is given in Table 2.26.

Table 2.26: Filed and Resolved Cases in ELC, FY 2015/16 - FY 2018/19

ELC Station	2015/16		2016/17		2017/18		2018/19	
	FC	RC	FC	RC	FC	RC	FC	RC
Bungoma	112	144	263	436	107	195	111	83
Busia	144	14	267	209	140	65	85	195
Chuka	-	-	464	78	85	311	45	86
Eldoret	521	68	473	234	232	270	193	421
Embu	130	9	54	15	282	136	94	96
Garissa	-	-	62	32	68	24	27	31
Kajiado	-	-	201	18	88	177	112	317
Kakamega	262	10	117	16	294	600	221	444
Kericho	332	10	116	38	84	360	54	223
Kerugoya	875	217	308	190	125	154	60	38
Kisii	601	462	563	975	212	223	92	309
Kisumu	174	33	483	422	154	626	125	229
Kitale	193	98	388	307	89	175	118	129
Machakos	-	-	149	1,502	374	526	334	462
Makueni	-	-	327	2	92	167	52	96
Malindi	295	170	552	292	278	240	174	321
Meru	155	50	512	322	233	694	296	448
Migori	-	-	793	7	190	164	138	216
Milimani	1,437	141	936	428	991	963	806	1,811
Mombasa	408	250	445	474	494	521	467	387
Muranga	-	-	145	14	185	204	99	194
Nakuru	191	31	199	10	259	226	206	227
Narok	-	-	526	28	85	76	74	44
Nyandarua	-	-	418	22	107	59	68	157
Nyeri	329	129	318	220	163	587	99	108
Thika	-	-	691	16	423	144	344	90
All stations	6,159	1,836	9,770	6,307	5,834	7,887	4,494	7,162

- ELC station was not operational by then

Detailed statistics on types of cases that were filed and resolved in all ELC stations during the period under review are given in Table 2.27.

Table 2.27: Filed and Resolved Cases by Type in ELC Stations, FY 2018/19

Court name	Filed cases				Resolved cases			
	ELC matters	ELC Misc.	ELC Appeals	Total Filed cases	ELC matters	ELC Misc.	ELC Appeals	Total resolved cases
Bungoma	48	14	49	111	69	6	8	83
Busia	78	4	3	85	176	11	8	195
Chuka	27	4	14	45	62	2	22	86
Eldoret	125	29	39	193	378	7	36	421
Embu	48	12	34	94	67	8	21	96
Garissa	13	4	10	27	24	1	6	31

Court name	Filed cases				Resolved cases			
	ELC matters	ELC Misc.	ELC Appeals	Total Filed cases	ELC matters	ELC Misc.	ELC Appeals	Total resolved cases
Kajiado	64	34	14	112	254	48	15	317
Kakamega	134	47	40	221	367	46	31	444
Kericho	48	3	3	54	195	14	14	223
Kerugoya	38	12	10	60	30	3	5	38
Kisii	41	21	30	92	264	20	25	309
Kisumu	60	22	43	125	167	32	30	229
Kitale	98	12	8	118	121	4	4	129
Machakos	207	69	58	334	399	21	42	462
Makueni	45	2	5	52	80	2	14	96
Malindi	118	25	31	174	253	37	31	321
Meru	99	38	159	296	270	47	131	448
Migori	90	17	31	138	171	23	22	216
Milimani	498	182	126	806	1485	202	124	1811
Mombasa	355	43	69	467	349	12	26	387
Muranga	69	9	21	99	168	8	18	194
Nakuru	164	17	25	206	201	13	13	227
Narok	41	8	25	74	36	3	5	44
Nyandarua	51	4	13	68	120	10	27	157
Nyeri	39	18	42	99	76	11	21	108
Thika	242	34	68	344	74	10	6	90
All Courts	2,840	684	970	4,494	5,856	601	705	7,162

From Table 2.27, ELC matters were the bulk of filed and resolved cases. The least filed and resolved cases were ELC Miscellaneous.

2.7.2 Pending Cases in ELC

As at June 30, 2019, there were 19,020 cases that were pending in the ELC court. Figure 2.24 gives the change in pending cases in ELC over the past four years.

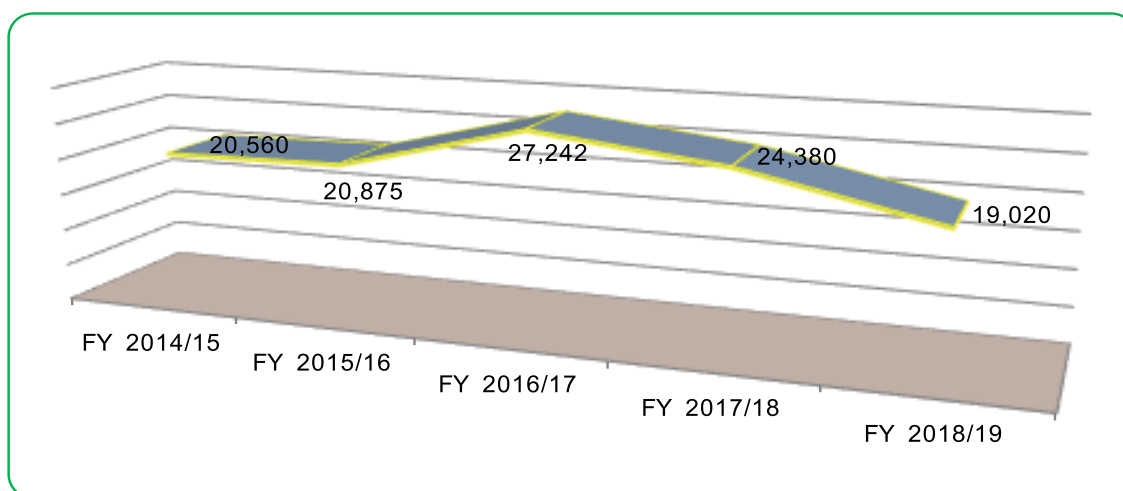


Figure 2.24: Pending Cases in ELC, FY 2014/15 to FY 2018/19

Between FY 2017/18 and 2018/19, there was a 22 percent drop of pending cases from 24,380 pending cases to 19,020 pending cases. This is attributed to the case clearance rate of 159 percent that was achieved during the period under review thereby guaranteeing non-increase in pendency of cases. The percentage pending cases by type for ELC as at June 30, 2019 is given in Figure 2.25.

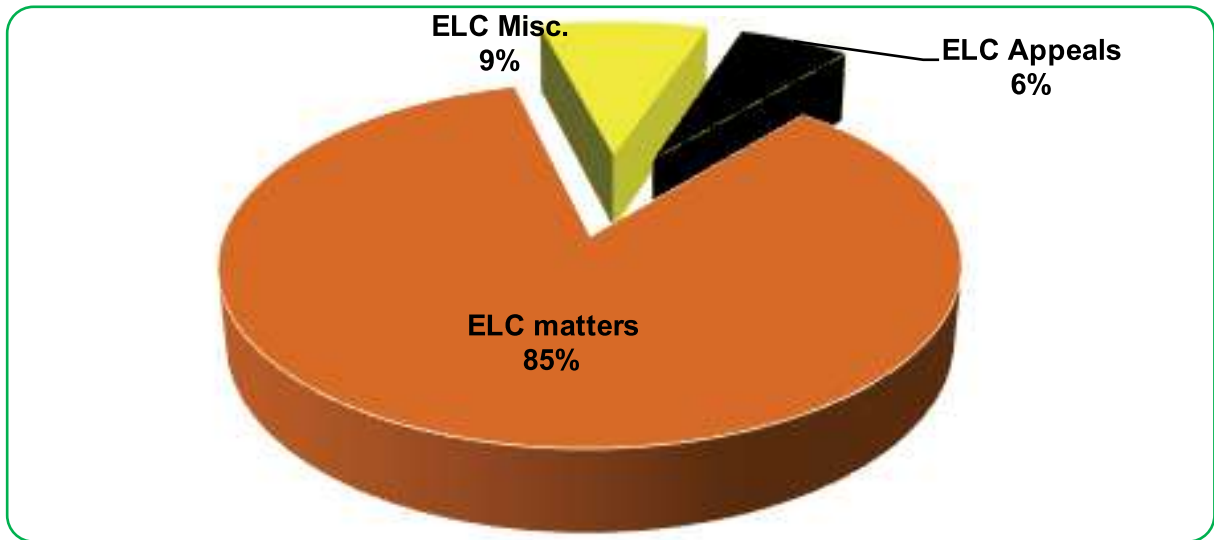


Figure 2.25: Percentage Pending Cases by Type in ELC, FY2018/19

Out of all pending cases, 85 percent comprised ELC matters followed by miscellaneous matters at 9 percent while appeals were the least at 6 percent. The number of pending cases for the ELC stations is given in Table 2.28.

Table 2.28: Pending Cases by Type in ELC, June 30, 2019

Station	ELC matters	ELC Misc.	ELC Appeals	All case types
Bungoma	375	106	53	534
Busia	417	7	5	429
Chuka	147	5	68	220
Eldoret	1,524	60	49	1,633
Embu	582	27	14	623
Garissa	42	14	8	64
Kajiado	240	4	2	246
Kakamega	444	14	36	494
Kericho	184	7	9	200
Kerugoya	651	105	159	915
Kisii	655	38	28	721
Kisumu	492	3	50	545
Kitale	758	7	8	773
Machakos	719	126	57	902
Makueni	135	16	3	154
Malindi	933	3	9	945
Meru	128	100	201	429
Migori	159	8	12	179
Milimani	2,583	544	81	3,208
Mombasa	1,400	420	99	1,919
Muranga	165	3	22	190
Nakuru	1,432	5	12	1,449

Narok	220	10	22	252
Nyandarua	225	3	14	242
Nyeri	597	37	45	679
Thika	947	49	79	1,075
All Courts	16,154	1,721	1,145	19,020

2.7.3 Case Backlog in ELC

The case backlog in ELC stood at 16,026 cases at the end of the FY 2018/19. The distribution of these cases by age is given in Figure 2.26.

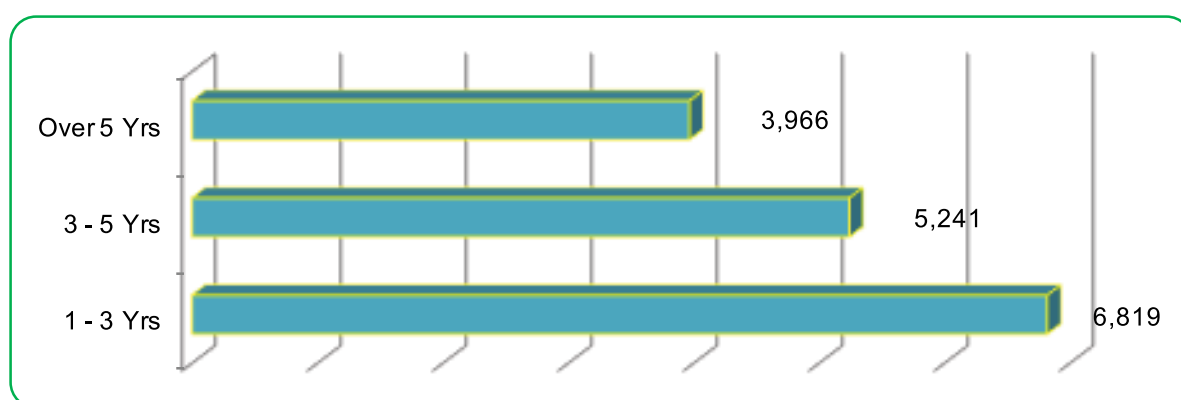


Figure 2.26: Percentage Distribution of Case Backlog in ELC, 2018/19

Most of the backlog cases were aged between one and three years at 6,819 cases while a total of 3,966 cases were aged above five years. The distribution of case backlog by age in ELC stations is given in Table 2.29.

Table 2.29: Case Backlog by Age for ELC, June 30, 2019

Court name	1-3 years	3-5 years	Over 5 years	All backlog
Bungoma	97	214	187	498
Busia	177	135	34	346
Chuka	175	1	1	177
Eldoret	494	588	369	1,451
Embu	256	282	18	556
Garissa	37	3	0	40
Kajiado	14	123	3	140
Kakamega	151	99	66	316
Kericho	108	29	11	148
Kerugoya	463	313	87	863
Kisii	197	177	274	648
Kisumu	123	106	222	451
Kitale	411	167	79	657
Machakos	277	170	125	572
Makueni	63	36	6	105
Malindi	526	156	95	777
Meru	82	117	52	251
Migori	101	26	1	128
Milimani	1,079	850	1,262	3,191
Mombasa	672	514	272	1,458
Muranga	75	55	57	187
Nakuru	274	524	450	1,248
Narok	157	15	7	179

Court name	1-3 years	3-5 years	Over 5 years	All backlog
Nyandarua	88	56	89	233
Nyeri	273	215	183	671
Thika	449	270	16	735
All Courts	6,819	5,241	3,966	16,026

Form Table 2.29, ELC stations that had the highest backlog cases were Milimani, Mombasa, Eldoret and Nakuru. Garissa and Kajiado had the least case backlog.

2.7.4 SJT Implementation Status on Reduction of Case Backlog in ELC

On reduction of case backlog of five years in age and above, a total of 9,252 backlog cases older than five years were resolved between January 2017 and June 2019. Detailed information on resolution of backlog cases older than five years is given in Table 2.30.

Table 2.30: Distribution of case backlog by age for ELC, June 30, 2019

Court Name	SJT target as at December, 2016 on reduction of Cases older than 5 years	Resolved backlog cases older than 5 years (Dec 2016 - June 2019) **	Backlog over 5 years as at June, 2019	% reduction in cases above 5 years (Jan. 2017 to June 2019)
Bungoma	372	283	187	-50%
Busia	34	145	34	0%
Chuka	0	246	1	-
Eldoret	611	538	369	-40%
Embu	11	90	18	64%
Garissa	0	29	0	-
Kajiado	0	2	3	-
Kakamega	67	356	66	-1%
Kericho	199	269	11	-94%
Kerugoya	55	90	87	58%
Kisii	150	524	274	83%
Kisumu	144	392	222	54%
Kitale	208	237	79	-62%
Machakos	0	1,259	125	-
Makueni	0	7	6	-
Malindi	158	294	95	-40%
Meru	145	1,045	52	-64%
Migori	0	98	1	
Milimani	988	2,157	1,262	28%
Mombasa	452	879	272	-40%
Muranga	0	0	57	
Nakuru	547	227	450	-18%
Narok	0	0	7	
Nyandarua	0	0	89	
Nyeri	5	59	183	3560%
Thika	0	26	16	
All Courts	4,146	9,252	3,966	-4%

At the end of the period, ELC cases aged five years and above stood at **3,966** cases. The ELC reduced case backlog of over 5 years by 4 per cent.

2.8 Magistrates Courts

Magistrates Courts are established pursuant to Article 169 of the Constitution. The Magistrates Courts Act, Act No. 26 of 2015 provides the general jurisdiction and administration of the Court. There were 124 magistrate court stations during the period under reference.

2.8.1 Filed and Resolved Cases in Magistrates Courts

During the FY 2018/19, a total of **435,413** and **413,332** cases were filed and resolved in all magistrate court stations respectively. The trend for the filed and resolved cases in the magistrates courts from FY 2014/15 to 208/19 is highlighted in Figure 2.27a & 2.27b.

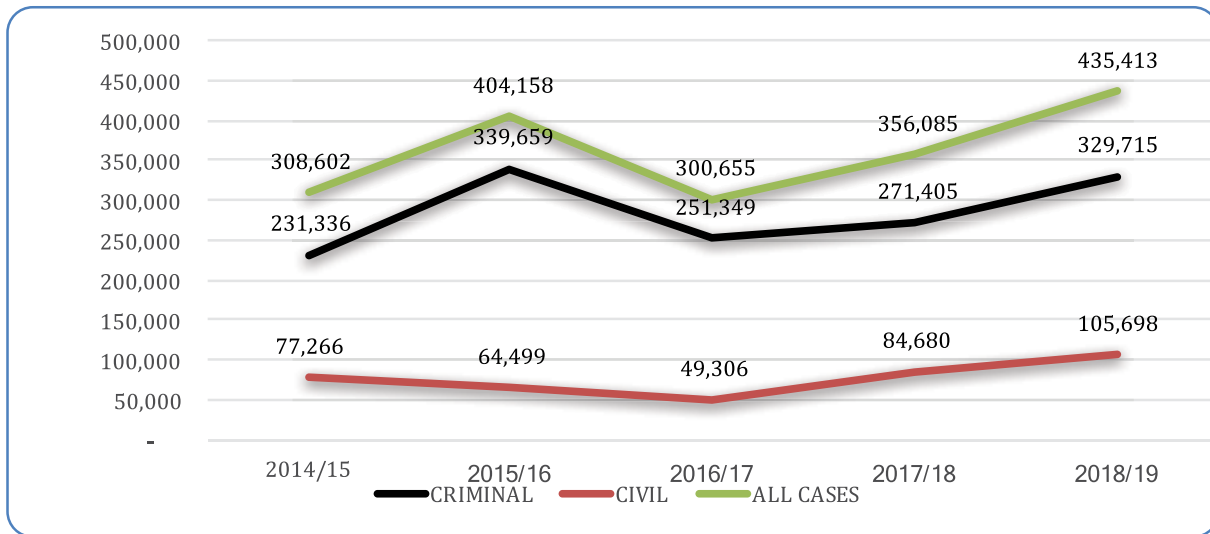


Figure 2.27a: Filed Cases by Type in Magistrates' Courts, FY 2014/15 - FY 2018/19

Figure 2.27a shows that filed cases increased by 79,328 cases from 356,085 cases filed in FY 2017/18 to 435,413 cases filed during the period under review. The filed cases comprised 329,715 criminal cases and 105,698 civil cases.

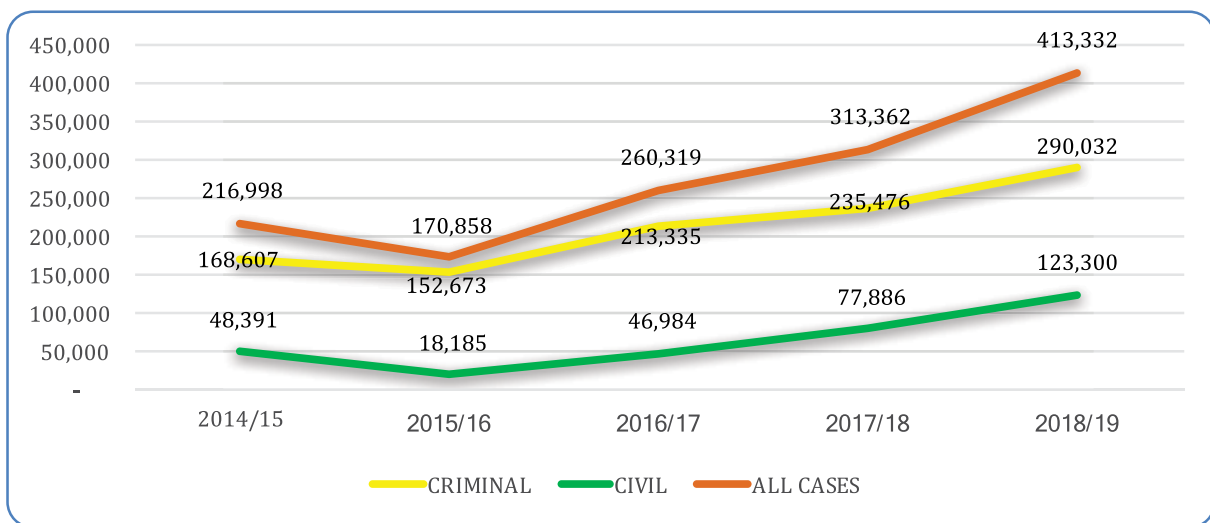


Figure 2.27b: Resolved Cases by Type in Magistrates' Courts, FY 2014/15 - 2018/19

The resolved cases increased by **99,970** cases from **313,362** cases resolved in FY 2017/18 to **413,332** cases resolved during the reporting period. The resolved cases comprised **290,032** criminal cases and **123,300** civil cases. The percentage filed and resolved cases in magistrates' courts is given in Figures 2.28 and 2.29.

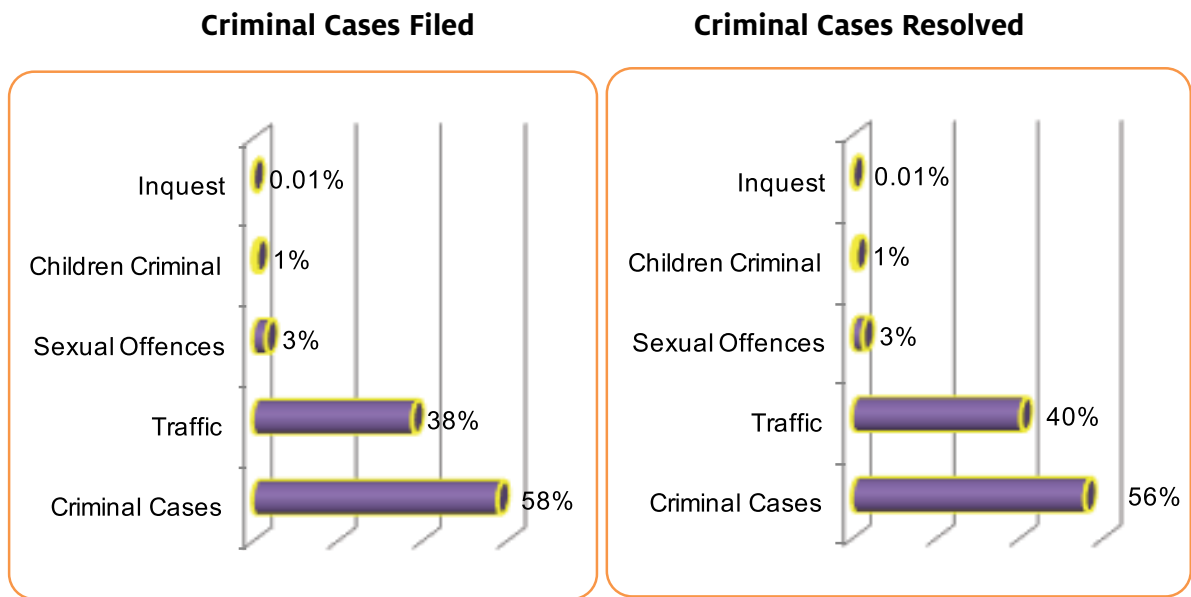


Figure 2.28: Percentage Filed and Resolved Criminal Cases in Magistrates' Courts, FY 2018/19

Figure 2.28 indicates that criminal matters comprised the bulk of the filed and resolved cases at 58 and 56 percent respectively. Inquest were the least filed and resolved criminal cases at 0.01 and 0.01 percent respectively.

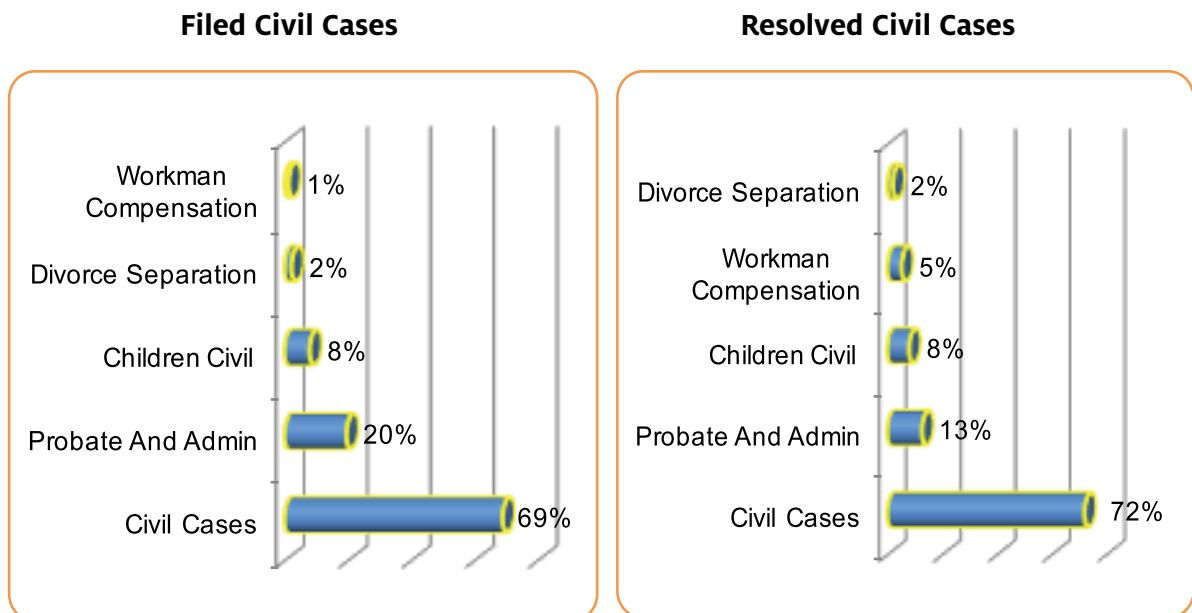


Figure 2.29: Percentage Filed and Resolved Civil Cases in Magistrates' Courts, FY 2018/19

From Figure 2.29, civil matters were the most filed and resolved cases at 69 and 72 percent respectively. Workman compensation matters were the least filed at 1

percent while divorce and separation were least resolved civil cases at 2 per cent. Detailed information on filed and resolved cases by case type and magistrates' court station is provided in the appendices.

2.8.2 Pending Cases in Magistrates' Courts

At the end of the FY 2018/19, there were **437,387** pending cases in magistrate court comprising **228,084** criminal cases and **209,303** civil cases. The evolution of pending cases in Magistrates' Court between FY 2014/15 and FY 2018/19 is illuminated in Figure 2.30.

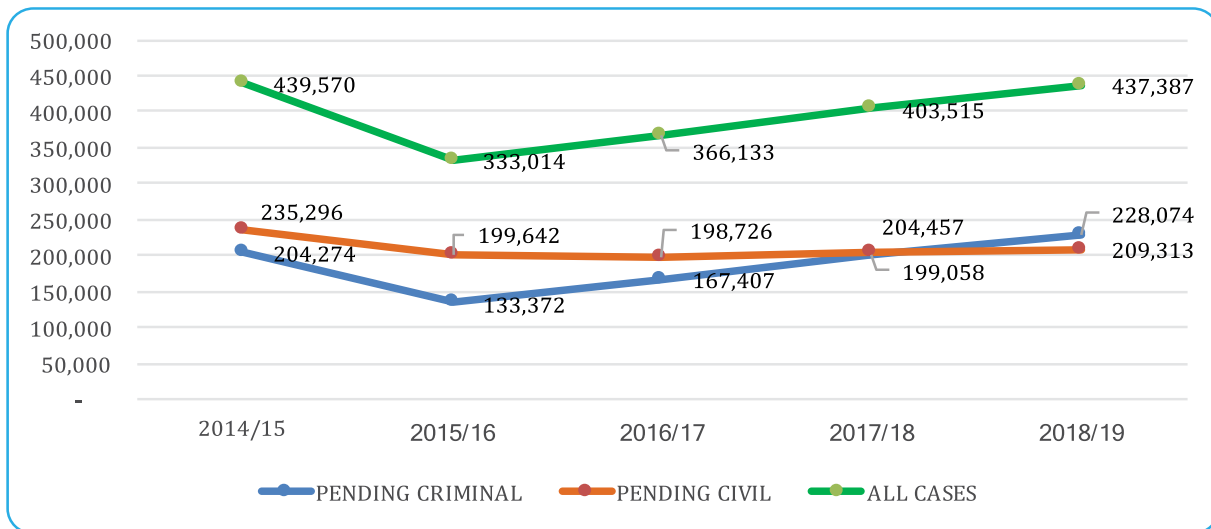


Figure 2.30: Pending Cases in Magistrates' Courts, FY 2014/15- FY 2018/19

Pending cases in magistrates' courts rose from 403,515 cases at the end of FY 2017/18 to 437,387 cases by June 2019. There was an 8 percent increase in pending cases between FY 2017/18 and FY2018/19. The percentage pending criminal and civil cases by type is given in Figure 2.32.

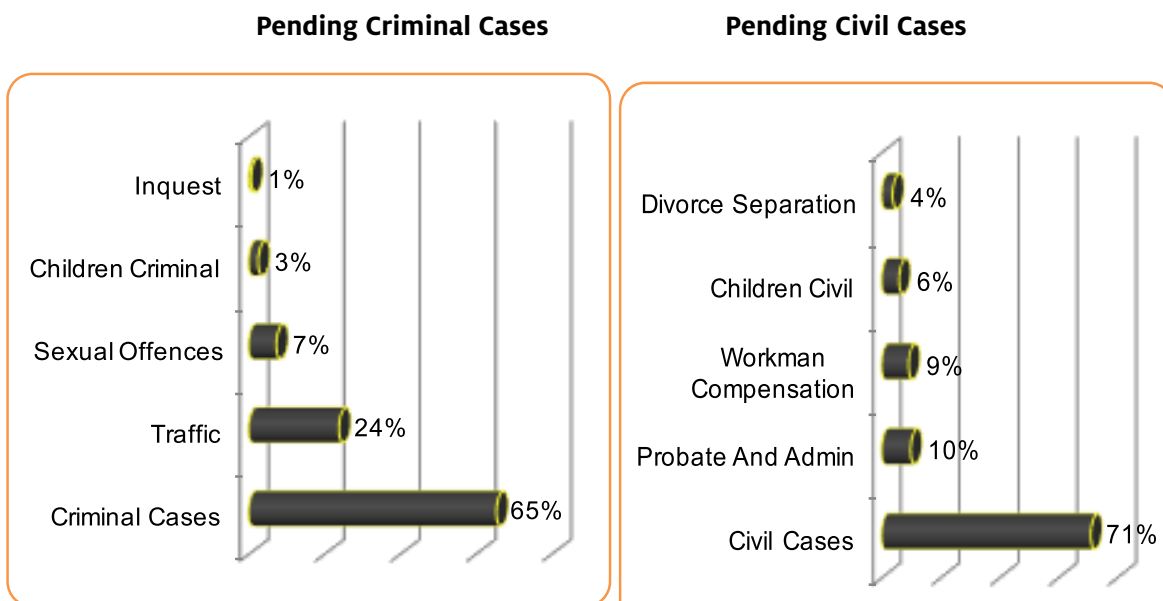


Figure 2.31: Percentage Pending Criminal and Civil Cases, Magistrate Court FY 2018/19

From Figure 2.31, majority of pending criminal cases were general criminal matters at 65 percent followed by traffic cases at 24 per cent. Inquest were the least pending criminal cases at 1 per cent. Civil matters were the highest pending civil cases accounting for 71 percent of total pending civil matters. Detailed statistics on pending cases for all magistrate court stations and case type are given in the appendices.

2.8.3 Case Backlog in Magistrates’ Courts

Out of the **437,387** pending cases in Magistrates’ Court, a total of **245,268** cases were backlog. The distribution of case backlog in magistrates’ courts is illustrated in Figure 2.32.

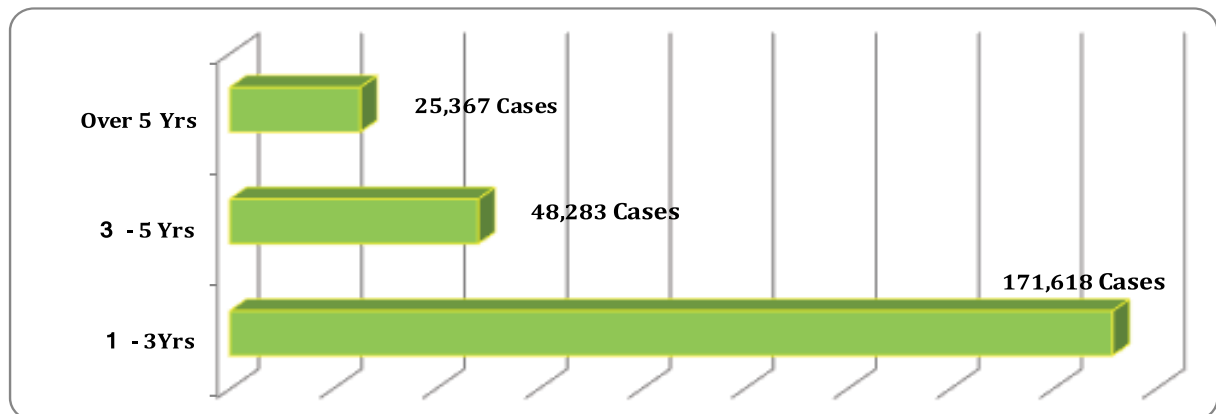


Figure 2.32: Distribution of Case Backlog by Age in Magistrates’ Courts, June 30, 2019

A total of 171,618 backlog cases were aged between one and three years, 48,283 cases between three and five years while 25,367 cases were over five years. Detailed statistics on case backlog for all magistrate court stations and on backlog reduction under SJT are given in the appendices.

2.9 Kadhis’ Courts

Kadhis’ Court is established under Article 170 of the Constitution. The court has limited jurisdiction to determine cases relating to personal status, marriage, divorce and inheritance in proceedings where both parties are Muslim by religion.

2.9.1 Filed and Resolved Cases in Kadhi’s court

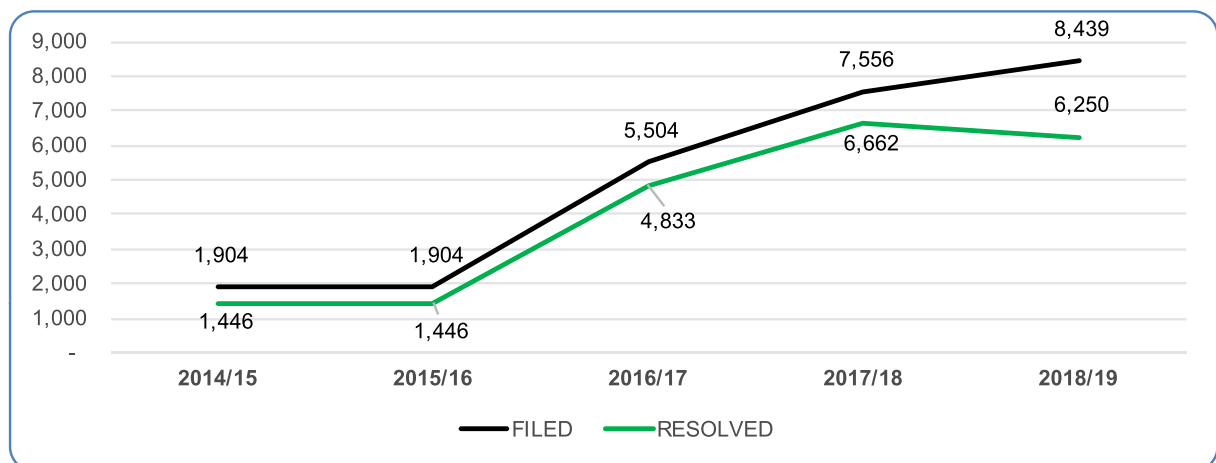


Figure 2.33: Filed and resolved cases in Kadhis’ Court, FY 2014/15 -FY 2018/19

The filed matters in the Kadhis' courts has been increasing over time as shown in Figure 2.33. The court has also been able to respond to the increasing demand for justice by resolving cases at an increasing rate. Table 2.31 gives statistics on filed and resolved cases in Kadhis' court stations for the period under review.

Table 2.31: Filed and Resolved Cases by Kadhis' Court Station, FY 2018/19

Kadhi Court	Filed Cases	Resolved Cases
Balambala	35	16
Bungoma	38	19
Busia	37	2
Bute	59	38
Dadaab	104	252
Eldas	28	35
Eldoret	99	90
Elwak	199	179
Faza	28	28
Garbatula	99	21
Garissa	504	325
Garsen	79	55
Habaswein	84	65
Hamisi	19	19
Hola	35	35
Homa bay	33	13
Ijara	229	222
Isiolo	323	292
Kajiado	97	75
Kakamega	98	56
Kakuma	22	18
Kericho	67	3
Kibera	77	64
Kilifi	153	107
Kisumu	186	77
Kitale	0	0
Kitui	36	34
Kwale	199	96
Lamu	90	52
Lodwar	0	0
Machakos	38	20
Makindu	0	0
Malindi	115	26
Mandera	166	141
Mariakani	294	180
Marsabit	36	21
Maua	16	20
Merti	132	84
Migori	17	8
Mombasa	1,508	1,422
Moyale	156	160
Mpeketoni	45	37
Msambweni	98	59
Murang'a	15	2
Mwingi	30	27
Nairobi	1,818	1,040
Nakuru	110	109
Nyeri	59	50

Kadhi Court	Filed Cases	Resolved Cases
Takaba	169	88
Thika	7	3
Vihiga	50	7
Voi	28	36
Wajir	475	422
TOTALS	8,439	6,250

The highest number of filed and resolved cases in Kadhis' courts was recorded in Nairobi and Mombasa stations. Overall, the Kadhis' courts achieved a case clearance rate of 74 per cent.

2.9.2 Pending Cases in Kadhis' Courts

The pending cases in the Kadhis' courts in FY 2018/19 were **6,071** cases. The trend on pendency of cases at Kadhis' courts is highlighted in Table 2.32.

Table 2.32: Pending Cases in Kadhis' Courts for the Period 2013/14 – 2018/19

Court Name	Pending cases 2013/14	Pending cases 2014/15	Pending cases 2015/16	Pending cases 2016/17	Pending cases 2017/18	Pending cases 2018/19
Balambala	-	-	-	4	5	24
Bungoma	28	25	38	3	14	33
Busia	-	-	-	13	16	51
Bute	-	-	32	1	9	30
Daadab	-	-	102	157	118	30
Eldas	-	-	-	32	50	43
Eldoret	-	-	55	5	6	15
Elwak	-	-	-	15	1	21
Faza Island	-	-	-	8	17	17
Garbatulla	-	-	-	14	31	109
Garissa	-	-	252	206	280	459
Garsen	31	40	67	73	111	135
Habaswein	-	-	23	57	33	52
Hamisi	-	-	-	45	49	49
Hola	28	50	54	33	7	7
Homabay	-	-	28	43	50	70
Ijara	-	-	20	28	26	33
Isiolo	29	29	138	54	33	64
Kajiado	8	8	5	15	16	38
Kakamega	-	0	32	127	98	140
Kakuma	-	-	26	11	25	29
Kericho	-	0	39	27	8	72
Kibera	22	26	23	10	18	31
Kilifi	-	-	55	102	28	74
Kisumu	-	7	5	9	34	143
Kitale						
Kitui	312	434	154	52	4	6
Kwale	79	90	120	34	40	143
Lamu	-	0	140	10	8	46
Lodwar						
Machakos	3	10	14	7	33	51
Makindu						
Malindi	107	104	126	80	36	125
Mandera	68	73	117	110	122	147

Court Name	Pending cases 2013/14	Pending cases 2014/15	Pending cases 2015/16	Pending cases 2016/17	Pending cases 2017/18	Pending cases 2018/19
Mariakani	-	-	15	3	37	151
Marsabit	121	121	96	21	78	93
Maua	-	-	-	2	7	3
Merti	-	-	-	3	37	85
Migori	-	12	6	7	15	24
Mombasa	1,246	1,106	894	1,081	1,271	1357
Moyale	61	61	48	86	67	63
Mpeketoni	-	-	-	4	12	20
Msambweni	-	-	-	30	40	79
Muranga	1	1	6	15	22	35
Mwingi	-	-	-	8	8	11
Nairobi	185	219	192	57	663	1441
Nakuru	-	-	41	152	12	13
Nyeri	20	20	25	9	35	44
Takaba	-	-	-	13	9	90
Thika	5	6	2	3	7	11
Vihiga						43
Voi	6	12	51	5	5	3
Wajir	4	4	213	131	165	218
All Courts	2,364	2,458	3,254	3,011	3,816	6,071

2.9.3 Case Backlog in Kadhis' Courts

Case backlog in Kadhis' court in FY 2018/19 stood at 1,039 cases down from 1,151 cases that were recorded at the end of the previous reporting period. Information on case backlog by age for the Kadhis' court stations is elaborated in Table 2.33.

Table 2.33: Case Backlog in Kadhis' Courts FY 2017/18 and 2018/19

Court Name	Case backlog - June 30, 2018	1-3 years	3-5 years	Over 5 years	All backlog
Balambala	1	1	0	0	1
Bungoma	2	0	0	0	0
Busia	5	15	0	0	15
Bute	1	2	0	0	2
Daadab	34	9	9	0	18
Eldas	31	28	0	0	28
Eldoret	2	2	0	0	2
Elwak	0	0	0	0	0
Faza Island	0	2	0	0	2
Garbatulla	8	13	0	0	13
Garissa	81	81	1	0	82
Garsen	67	67	0	0	67
Habaswein	21	19	0	0	19
Hamisi	44	44	0	0	44
Hola	1	3	0	0	3
Homabay	17	39	0	0	39
Ijara	1	3	2	0	5
Isiolo	10	2	0	0	2
Kajiado	5	5	0	0	5
Kakamega	73	72	0	0	72
Kakuma	7	7	0	0	7
Kericho	2	7	0	0	7

Court Name	Case backlog - June 30, 2018	1-3 years	3-5 years	Over 5 years	All backlog
Kibera	0	1	0	0	1
Kilifi	8	6	0	0	6
Kisumu	34	31	0	0	31
Kitale					
Kitui	1	5	0	0	5
Kwale	12	15	0	0	15
Lamu	1	4	0	0	4
Lodwar					
Machakos	4	14	0	0	14
Makindu					
Malindi	10	10	3	0	13
Mandera	104	79	0	0	79
Mariakani	2	2	0	0	2
Marsabit	20	19	0	0	19
Maua	1	1	0	0	1
Merti	2	4	0	0	4
Migori	6	9	0	0	9
Mombasa	386	232	14	0	246
Moyale	2	14	0	0	14
Mpeketoni	1	1	0	0	1
Msambweni	9	9	0	0	9
Muranga	6	22	0	0	22
Mwingi	3	3	0	0	3
Nairobi	53	40	5	0	45
Nakuru	3	5	1	0	6
Nyeri	8	5	0	0	5
Takaba	3	3	0	0	3
Thika	3	6	0	0	6
Vihiga		0	0	0	0
Voi	1	2	0	0	2
Wajir	55	41	0	0	41
All courts	1,151	1,004	35	0	1,039

SECTION 3: PROGRESS ON INSTITUTIONALIZING ALTERNATIVE DISPUTES RESOLUTION MECHANISMS

2.10 Background

During the FY 2018/19, the Judiciary enhanced access to justice by supporting the use of Court Annexed Mediation (CAM) process. Implementation of CAM was in line with Article 159 (2) of the Constitution. It is a form of alternative dispute resolution whose objective is to support expeditious delivery of justice through enhanced efficiency in case processing. CAM was extended from Milimani Law Court to other court stations around the country.

2.11 Caseload Statistics under Court Annexed Mediation

2.11.1 Matters Referred, Processed and Pending Under Mediation

During the FY under review, **2,905** matters were referred to mediation. Out of these matters, **1,879** matters were processed while **1,026** remained pending at the end of the period under review. The processed matters are matters that had outcomes of settlement, non-settlements, non-compliance or termination. The specific information on matters that were referred and processed through CAM is given in Table 2.34

Table 2.34: Matters referred, processed and pending under CAM

Court Station	Matters referred to mediation, FY 2018/19	Matters processed through mediation, FY 2018/19	Matters Pending before Mediation, June 30, 2019
	A	B	A - B
Milimani Civil division	81	37	44
Mil. Commercial & tax division	386	263	123
Eldoret	199	67	132
Embu	34	2	32
Milimani Family division	579	483	96
Garissa	53	38	15
Kakamega	88	52	36
Kisii	92	85	7
Kisumu	119	97	22
Machakos	48	12	36
Milimani Magistrate	140	67	73
Milimani Childrens	277	231	46
Mombasa	257	126	131
Nairobi ELC	26	9	17
Nairobi ELRC	190	152	38
Nakuru	122	54	68
Nyeri	214	104	110
Milimani Civil division	2,905	1,879	1,026

2.11.2 Matters Settled through Mediation

Out of the 1,879 matters that were processed through mediation, 946 had settlement agreements. The breakdown of cases with settlement agreements is given in Table 2.35.

Table 2.35: Matters settled through mediation by mode of settlement, FY2018/19

Court Station	Matters processed through mediation (A)	Matters with Settlement Agreements (B)				Matters without Settlement agreements (A- B)
		Matters with Full Settlements	Matters with partial Settlements	Matters with Consents	All Matters	
Mil. Civil division	37	2	-	2	4	33
Mil. Commercial & tax division	263	86	6	10	102	161
Eldoret	67	27	6	4	37	30
Embu	2	-	-	-	-	2
Mil. Family division	483	181	28	12	221	262
Garissa	38	20	5	-	25	13
Kakamega	52	39	-	-	39	13
Kisii	85	32	-	-	32	53
Kisumu	97	45	2	2	49	48
Machakos	12	6	-	3	9	3
Mil. Magistrate	67	21	1	8	30	37
Mil. Childrens	231	149	13	4	166	65
Mombasa	126	37	14	14	65	61
Nairobi ELC	9	1	2	-	3	6
Nairobi ELRC	152	64	6	2	72	80
Nakuru	54	15	2	1	18	36
Nyeri	104	57	17	-	74	30
ALL STATIONS	1,879	782	102	62	946	933

Figure 2.34 shows the percentage distribution of the various types of settlements under CAM during the FY 2018/19.

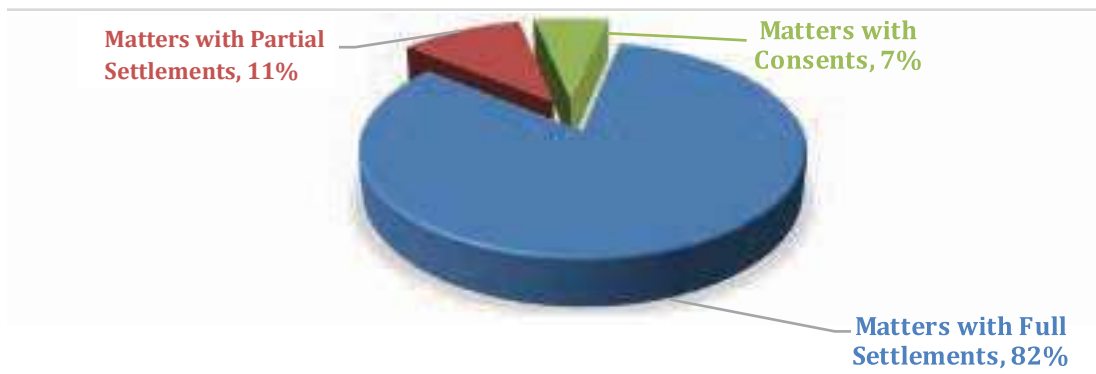


Figure 2.34: Percentage Distribution of Matters Settled through CAM, FY 2018/19

2.11.3 Matters Not-Settled through Mediation

The breakdown of matters referred to mediation but were not settled is presented in Table 2.36. Non-settling of matters were due to parties failing to reach an agreement, non-compliance of parties and termination of matters by parties.

Table 2.36: Non-Settled Matters, June 2019

Court Station	No - agreement matters	Non - compliance Matters	Terminated Matters	All Non -Settled matters
Milimani Civil division	26	4	3	33
Milimani Commercial & tax division	118	13	30	161
Eldoret	10	-	20	30
Embu	-	-	2	2
Mil. Family division	192	55	15	262
Garissa	13	-	-	13
Kakamega	9	4	-	13
Kisii	20	31	2	53
Kisumu	28	18	2	48
Machakos	3	-	-	3
Milimani Magistrate	17	12	8	37
Milimani Childrens	45	15	5	65
Mombasa	32	15	14	61
Nairobi ELC	3	2	1	6
Nairobi ELRC	55	10	15	80
Nakuru	26	10	-	36
Nyeri	11	5	14	30
ALL STATIONS	608	194	131	933

During the reporting period, parties had no agreements in 65 percent of the unsettled matters. Non-compliance of parties was 21 percent while 14 percent of the matters were terminated. Figure 2.35 shows the distribution of the reasons for the non-settlement of the matters in CAM during FY 2018/19.

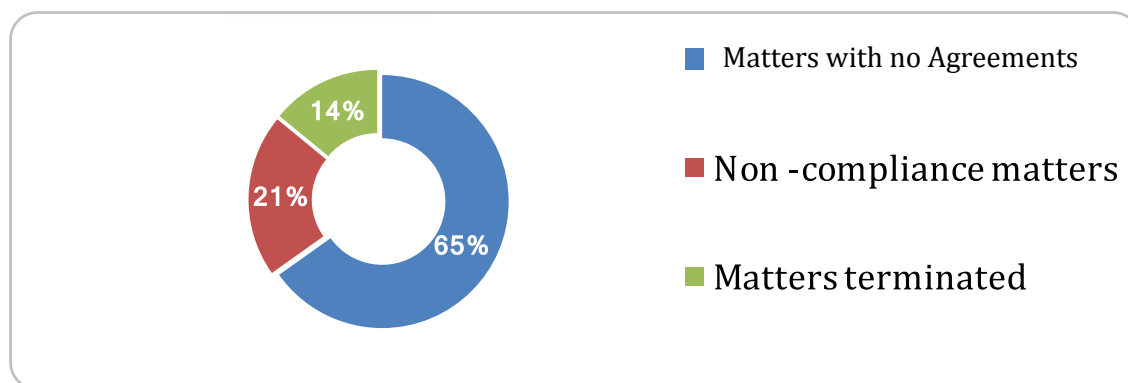


Figure 2.35: Reasons for Non-Settlement of Matters in CAM, FY 2018/19

2.12 Monetary Value of Cases Resolved through Mediation

During the financial year, 2,905 matters, with a monetary value of Sh33.9 billion were referred to mediation. Out of these matters, 946 were settled. The total value of the matters in mediation with settlement agreements stood at **Sh7 billion**. The breakdown for each court is given in Table 2.37.

Table 2.37: Monetary value of matters referred to mediation, FY 2018/19

Court station	Total value of matters referred mediation	Total value of matters in mediation with settlement agreements
Milimani Civil division	929,313,540	-
Milimani Commercial & tax division	21,127,619,667	3,073,779,568
Eldoret	1,348,317,299	483,748,118
Embu	-	-
Milimani Family division	8,297,964,336	2,584,015,465
Garissa	731,419	556,000
Kakamega	129,152,800	1,300,000
Kisii	1,800,000	
Kisumu	64,955,804	4,567,500
Machakos	95,258,778	4,570,114
Milimani Magistrate	12,410,422	-
Milimani Childrens	66,072,697	8,833,262
Mombasa	-	1,789,735
Nairobi ELC	-	-
Nairobi ELRC	781,152,289	108,579,792
Nakuru	235,132,729	5,620,452
Nyeri	874,946,454	702,007,815
ALL STATIONS	33,962,296,815	6,977,022,086

From Table 2.37, Commercial and Tax Division of the Milimani High Court had the highest value of matters referred to mediation at Sh21 billion followed by Family Division at Sh8 billion.

2.13 Efficacy of Court Annexed Mediation

During the period, 2,905 matters were referred to mediation where 1,879 of them were processed. This translated to a CAM processing rate of cases of **65 percent**, which is the percentage of processed matters against the matters that were referred to mediation. The CAM had a settlement rate of 50 percent which refers to the percentage of the matters where parties reached an agreement against the total processed matters. Further, CAM had a non-compliance rate of 21 percent which is the percentage of non-compliance certificates filed against the concluded matters. The non-compliance rate was attributed to parties failing to conform to the mediation directions/processes. Table 2.38 shows the efficacy of CAM per court station.

Table 2.38: Efficacy of CAM on Case Processing, Compliance and Settlement, FY 2018/19

Court station	Processing Rate	Non-compliance Rate	Settlement Rate	Non-Settlement Rate
Mil. Civil division	46%	100%	11%	89%
Mil. Commercial & tax division	68%	13%	39%	61%
Eldoret	34%	-	55%	45%
Embu	6%	-	0%	100%
Mil. Family division	83%	25%	46%	54%
Garissa	72%	-	66%	34%
Kakamega	59%	10%	75%	25%
Kisii	92%	97%	38%	62%
Kisumu	82%	37%	51%	49%
Machakos	25%	-	75%	25%
Mil. Magistrate	48%	40%	45%	55%
Mil. Childrens'	83%	9%	72%	28%
Mombasa	49%	23%	52%	48%
Nairobi ELC	35%	67%	33%	67%
Nairobi ELRC	80%	14%	47%	53%
Nakuru	44%	56%	33%	67%
Nyeri	49%	7%	71%	29%
All Stations	65%	21%	50%	50%

APPENDICES

Annex 2.1 Filed Civil Cases by Type and High Court Stations, FY 2018/19

Court	Adoption	Civil Appeal	Civil Misc	Civil Matter	Commercial Matters	Commercial Miscellaneous	Const Human & Rights	Divorce	Family Appeal	Family Misc	Income Tax Appeal	Judicial Misc	Judicial Review	Probate Admin	All civil cases
Bomet	4	15	44	6	0	0	1	0	0	3	0	0	1	51	125
Bungoma	0	69	75	24	4	0	25	1	0	0	0	4	6	13	221
Busia	0	35	258	9	0	0	2	0	0	17	0	3	6	30	360
Chuka	0	11	9	4	1	0	10	0	0	30	0	0	3	24	92
Eldoret	2	83	92	53	0	0	17	0	0	23	0	1	10	83	364
Embu	1	77	14	8	0	0	11	0	0	55	0	0	5	7	178
Garissa	0	18	9	7	0	0	11	0	0	0	0	0	3	32	80
Garsen	1	1	2	2	0	0	2	0	0	0	0	0	0	0	8
Homabay	3	10	11	4	0	0	2	0	0	3	0	1	4	9	47
Kabarnet	0	18	5	1	0	0	1	0	0	5	0	0	2	18	50
Kajiado	8	52	61	53	0	0	18	1	0	27	0	13	25	50	308
Kakamega	3	41	43	15	0	0	3	0	1	2	0	0	3	12	123
Kapenguria	0	2	4	0	0	0	0	0	0	0	0	2	7	4	19
Kericho	11	19	41	18	0	0	1	0	0	0	0	0	2	28	120
Kerugoya	0	30	24	5	0	0	6	0	0	3	0	0	1	12	81
Kiambu	23	188	431	47	16	3	47	0	0	0	0	0	12	111	878
Kisii	0	190	153	16	0	0	45	0	0	2	0	0	5	15	426
Kisumu	8	140	265	20	22	0	37	0	0	0	0	3	11	17	523
Kitale	1	96	83	34	0	0	17	0	2	12	0	0	13	45	303
Kitui	1	20	23	1	0	0	4	0	0	0	0	0	1	1	51
Lodwar	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Machakos	18	189	567	40	3	0	33	1	0	1	0	16	26	60	954
Makueni	1	105	76	16	0	0	2	0	0	2	0	0	0	13	215
Malindi	0	42	31	9	4	7	7	0	0	3	2	6	15	24	150
Marsabit	0	10	3	0	0	0	4	0	0	0	0	0	3	1	21
Meru	1	119	89	24	1	16	30	0	0	19	0	1	8	91	399
Migori	1	237	142	6	1	0	8	0	0	0	0	0	4	15	414
Milimani Anticorr. Div.	0	0	0	18	0	0	22	0	0	0	0	79	0	0	119
Milimani Civil Div.	0	668	860	306	0	0	0	0	0	0	0	0	0	0	1,834
Milimani C. & Tax Div.	0	64	0	0	1,507	1,049	0	0	0	0	3	0	0	0	2,623
Milimani Const. Div	0	2	0	0	0	0	331	0	0	0	0	19	54	0	406
Milimani Criminal Div.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Milimani Family Div.	193	0	0	84	0	0	0	9	173	258	0	2	0	1,733	2,452
Milimani Jud. Rev. Div.	0	0	0	0	0	0	60	0	0	0	0	19	300	0	379
Mombasa	9	301	455	172	8	0	172	1	25	33	0	3	98	74	1,351
Muranga	17	67	93	20	0	0	37	0	0	1	0	6	17	36	294
Naivasha	3	71	207	16	0	0	23	0	0	10	0	0	8	9	347
Nakuru	18	164	330	41	0	0	34	0	4	22	0	1	20	41	675
Nanyuki	1	18	17	1	0	2	8	1	0	0	0	1	2	3	54
Narok	0	26	68	10	0	0	6	0	0	1	0	1	2	27	141
Nyamira	0	43	38	2	0	0	4	0	0	0	0	0	0	0	87
Nyandarua	3	39	58	26	0	0	9	0	1	4	0	0	6	37	183
Nyeri	8	78	95	13	1	0	9	0	9	7	0	1	3	30	254
Siaya	2	45	26	3	0	0	46	0	0	2	0	0	1	4	129
Voi	0	16	17	4	0	0	8	0	0	0	0	0	1	2	48
All courts	341	3,419	4,819	1,138	1,568	1,077	1,113	14	215	545	5	182	688	2,762	17,886

Annex 2. 2 Resolved Civil Cases by Type and High Court Stations, FY 2018/19

Court Name	Adoption	Civil Appeal	Civil Misc	Civil Matter	Commercial Matters	Commercial Miscellaneous	Const. Human & Rights	Divorce	Family Appeal	Family Misc	Income Tax Appeal	Judicial Misc	Judicial Review	Probate Admin	All civil cases
Bomet	2	13	4	1	0	0	0	0	0	0	0	0	0	36	56
Bungoma	0	167	124	43	1	0	10	0	0	0	0	0	4	83	432
Busia	0	42	25	10	0	0	6	1	0	2	0	4	8	45	143
Chuka	0	24	6	3	1	0	4	0	0	31	0	1	2	127	199
Eldoret	3	377	147	81	2	0	32	0	0	4	0	3	27	783	1,459
Embu	5	166	32	43	0	0	4	0	0	9	0	0	4	79	342
Garissa	0	42	9	13	0	0	9	1	0	0	0	0	4	36	114
Garsen	0	19	0	0	0	0	0	0	0	0	0	0	0	4	23
Homabay	0	16	11	8	0	0	5	0	0	0	0	0	2	80	122
Kabarnet	0	11	1	1	0	0	6	0	0	0	0	0	5	2	26
Kajiado	6	30	58	17	0	0	10	0	0	6	0	6	13	48	194
Kakamega	0	84	21	35	0	0	2	1	0	0	0	0	3	88	234
Kapenguria	0	2	3	0	0	0	1	0	0	3	0	0	5	9	23
Kericho	7	70	22	14	0	0	3	0	0	0	0	0	1	708	825
Kerugoya	0	47	39	5	0	0	3	0	0	24	0	1	1	52	172
Kiambu	10	133	292	13	5	1	42	0	0	0	0	0	10	80	586
Kisii	3	461	173	89	2	0	46	2	0	1	0	1	11	182	971
Kisumu	6	88	350	46	174	0	22	0	0	0	0	0	6	181	873
Kitale	2	58	21	25	0	0	12	0	0	2	0	0	2	178	300
Kitui	7	89	117	8	0	0	8	0	0	0	0	0	3	17	249
Lodwar	0	2	0	2	0	0	5	2	1	0	0	1	2	14	29
Machakos	16	756	633	73	0	0	19	0	0	1	0	1	13	204	1,716
Makueni	0	143	16	1	0	0	2	0	0	0	0	0	0	141	303
Malindi	0	24	29	19	6	0	7	12	0	1	0	0	10	156	264
Marsabit	0	10	4	0	0	0	1	0	0	0	0	0	0	1	16
Meru	4	228	122	29	3	13	25	4	0	22	0	1	17	939	1,407
Migori	0	169	153	3	0	0	9	0	0	0	0	0	3	218	555
Milimani Antiocorr. Div.	0	1	14	21	0	0	3	0	0	0	0	8	0	0	47
Milimani Civil Div.	0	421	24	1,263	0	0	0	0	0	0	0	0	0	0	1,708
Milimani C. & Tax Div.	0	12	0	0	897	345	0	0	0	0	13	0	0	0	1,267
Milimani Const. Div.	0	4	0	1	3	1	309	0	0	0	0	30	27	0	375
Milimani Criminal Div.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Milimani Family Div.*	241	3	0	106	1	0	0	49	175	233	0	0	0	3,627	4,435
Milimani Jud. Rev. Div.	0	2	0	0	0	0	22	0	0	0	0	43	372	0	439
Mombasa	8	700	437	1,052	112	2	140	102	16	18	0	44	128	683	3,442
Muranga	1	59	22	7	0	0	12	0	1	0	0	2	6	75	185
Naivasha	4	36	63	1	0	0	7	0	0	2	0	0	4	22	139
Nakuru	24	137	562	94	6	0	39	3	5	37	0	3	21	914	1,845
Nanyuki	2	4	11	1	0	0	8	0	0	0	0	0	2	6	34
Narok	1	11	23	4	0	0	1	0	0	0	0	0	0	13	53
Nyamira	0	137	15	17	0	0	16	0	0	0	0	0	5	9	199
Nyandarua	1	28	2	4	0	0	0	0	1	1	0	1	3	45	86
Nyeri	8	61	106	48	0	0	19	1	0	14	0	9	29	289	584
Siaya	1	28	27	2	0	0	36	0	0	3	0	0	4	4	105
Voi	1	17	7	2	1	0	3	0	0	0	0	0	0	5	36
All courts	363	4,932	3,725	3,205	1,214	362	908	178	199	414	13	159	757	10,183	26,612

Annex 2.3 Filed and Resolved Criminal Cases by Type and High Court Station, FY 20018/19

Court Name	FILED CRIMINAL CASES					RESOLVED CRIMINAL CASES				
	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All CR cases	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All CR cases
Bomet	47	13	18	82	160	8	8	45	3	64
Bungoma	38	28	108	4	178	40	9	188	59	296
Busia	9	5	2	6	22	4	21	18	19	62
Chuka	26	16	13	9	64	11	13	19	31	74
Eldoret	96	101	95	219	511	106	125	572	224	1,027
Embu	30	34	17	30	111	22	6	49	90	167
Garissa	13	51	49	144	257	31	8	65	40	144
Garsen	18	12	8	1	39	6	39	44	6	95
Homabay	54	18	27	147	246	26	17	35	65	143
Kabarnet	42	45	77	143	307	4	19	73	81	177
Kajiado	30	53	29	112	224	31	26	24	115	196
Kakamega	82	90	69	4	245	21	45	72	6	144
Kapenguria	13	8	10	10	41	6	3	30	2	41
Kericho	58	60	35	71	224	23	14	24	56	117
Kerugoya	15	2	3	5	25	9	10	67	173	259
Kiambu	54	139	92	339	624	25	44	78	334	481
Kisii	64	242	149	493	948	112	190	337	353	992
Kisumu	44	80	80	132	336	38	95	48	52	233
Kitale	68	373	147	208	796	52	43	139	9	243
Kitui	26	32	22	117	197	15	52	76	109	252
Lodwar	12	3	20	0	35	2	13	53	2	70
Machakos	81	271	147	275	774	13	112	149	16	290
Makueni	18	52	49	149	268	5	31	26	2	64
Malindi	14	75	40	42	171	17	45	42	11	115
Marsabit	4	4	4	76	88	3	8	16	76	103
Meru	113	205	181	366	865	133	183	163	282	761
Migori	29	92	84	103	308	37	69	64	56	226
Milimani Anti-corr. Div.	2	34	2	60	98	1	4	7	37	49
Milimani Civil Div.	0	0	0	0	0	0	0	0	0	0
Milimani C. & Tax Div.	0	0	0	0	0	0	0	0	0	0
Milimani Const. Div.	0	0	0	0	0	0	0	0	0	0
Milimani Criminal Div.	157	762	241	581	1,741	119	297	232	249	897
Milimani Family Div.	0	0	0	0	0	0	0	0	0	0
Milimani Jud. Rev. Div.	0	0	0	0	0	0	0	0	0	0
Mombasa	42	233	149	267	691	21	62	233	27	343
Muranga	68	48	32	285	433	14	11	33	65	123
Naivasha	24	78	32	49	183	17	23	52	24	116
Nakuru	41	43	15	22	121	39	313	348	197	897
Nanyuki	17	65	71	91	244	11	29	31	85	156
Narok	24	38	28	6	96	21	8	24	1	54
Nyamira	32	39	23	14	108	59	85	114	17	275
Nyandarua	31	39	34	7	111	2	3	22	2	29
Nyeri	28	64	104	118	314	44	34	107	3	188
Siaya	48	81	108	201	438	32	37	113	133	315
Voi	21	112	7	27	167	10	27	39	32	108
All courts	1,633	3,740	2,421	5,015	12,809	1,190	2,181	3,871	3,144	10,386

Annex 2.4 Pending Civil Cases by Type and High Court Station, June 30, 2019

Court name	Adoption	Civil Appeal	Civil Application	Civil Matter	Commercial Matters	Commercial Misc.	Constitutional & Human right petition	Divorce	Family Appeal	Family Misc.	Income tax Appeal	Jr Miscellaneous	Judicial Review	Probate Admin	All civil cases
Bomet	2	23	87	16	-	-	7	-	-	6	-	-	1	212	354
Bungoma	5	484	473	177	7	-	42	1	1	2	-	8	8	1,104	2,312
Busia	-	45	631	61	1	-	6	2	5	17	-	1	46	1,204	2,019
Chuka	-	1	30	25	-	-	7	1	2	43	-	1	172	244	526
Eldoret	4	319	554	185	1	-	53	30	1	24	-	3	32	642	1,848
Embu	13	139	199	23	-	-	43	5	-	255	-	1	3	1,647	2,328
Garissa	-	20	38	100	-	-	25	1	-	-	-	-	1	72	257
Garsen	1	15	3	8	-	-	4	-	-	2	-	1	1	25	60
Homabay	4	-	14	1	1	-	3	-	1	3	-	3	20	589	639
Kabarnet	-	13	7	6	1	-	4	-	-	5	-	-	3	34	73
Kajiado	3	34	21	64	11	-	16	2	1	25	-	12	28	24	241
Kakamega	8	352	702	67	1	-	124	17	5	26	-	-	8	1,361	2,671
Kapenguria	-	2	2	2	-	-	-	-	-	2	-	3	3	3	17
Kericho	14	27	112	94	119	-	22	-	-	-	-	13	18	599	1,018
Kerugoya	3	88	85	103	-	-	8	2	2	13	-	1	11	1,861	2,177
Kiambu	36	134	365	69	13	4	71	-	-	7	1	-	17	97	814
Kisii	4	126	47	26	2	-	1	-	-	-	-	-	1	102	309
Kisumu	15	86	83	384	124	-	110	1	-	2	-	20	70	341	1,236
Kitale	9	279	219	35	-	-	32	2	2	13	-	-	35	371	997
Kitui	11	164	57	14	-	-	12	-	-	-	-	-	2	31	291
Lodwar	-	2	2	-	-	-	4	2	1	-	-	1	1	14	27
Machakos	64	505	612	153	5	2	65	4	-	-	-	21	122	811	2,364
Makueni	1	33	67	19	5	-	5	-	-	2	-	-	1	110	243
Malindi	2	101	168	100	-	18	46	14	-	9	3	7	19	156	643
Marsabit	-	10	-	-	-	-	2	-	-	-	-	-	1	3	16
Meru	6	325	355	1,283	2	3	17	13	1	53	-	17	512	668	3,255
Migori	2	158	55	12	1	31	-	-	-	2	-	1	51	199	512
Milimani Anti-corr. Div.	-	1	14	3	-	-	19	-	-	-	-	71	-	-	108
Milimani Civil Div.	-	2,237	2,507	1,846	-	-	-	-	-	-	-	-	-	-	6,590
Milimani C. & Tax Div.	-	50	30	3	4,263	2,555	7	-	-	-	18	-	-	-	6,926
Milimani Const. Div	-	2	-	9	3	1	849	-	-	-	-	4	137	-	1,005
Milimani Criminal Div.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Milimani Family Div.	305	3	-	433	1	-	-	9	114	296	-	2	-	3,974	5,137
Milimani Jud. Rev. Div.	-	2	-	91	59	-	55	-	-	-	-	8	860	-	1,075
Mombasa	27	2,064	2,575	47	32	10	542	114	100	140	16	728	165	888	7,448
Muranga	34	541	475	104	2	-	106	5	4	40	-	11	39	1,163	2,524
Naivasha	1	169	178	17	-	-	3	-	-	6	-	-	3	82	459
Nakuru	34	966	1,173	817	2	-	14	11	7	35	2	2	226	2,985	6,274
Nanyuki	1	23	17	9	-	2	8	2	3	2	1	2	4	39	113
Narok	1	27	64	20	5	-	8	-	-	2	-	1	4	30	162
Nyamira	-	63	4	5	11	-	22	-	-	-	-	-	-	10	115
Nyandarua	6	55	94	34	2	-	20	-	-	11	-	1	4	7	234
Nyeri	27	243	635	247	1	1	33	21	10	3	-	7	13	1,029	2,270
Siaya	2	44	11	14	1	-	19	1	-	1	1	-	-	141	235
Voi	1	36	14	12	56	1	16	-	-	-	-	1	5	55	197
All courts	646	10,011	12,779	6,738	4,732	2,628	2,450	260	260	1,047	42	952	2,647	22,927	68,119

Annex 2.5 Pending Criminal Cases by Type and High Court Station, June 30, 2019

High Court Name	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All CR cases
Bomet	70	35	40	79	224
Bungoma	124	85	152	27	388
Busia	89	1	37	13	140
Chuka	35	17	6	22	80
Eldoret	567	155	377	5	1,104
Embu	147	74	94	139	454
Garissa	42	152	100	151	445
Garsen	22	23	16	13	74
Homabay	126	1	8	124	259
Kabarnet	127	71	33	62	293
Kajiado	38	46	5	31	120
Kakamega	298	71	236	11	616
Kapenguria	28	13	20	8	69
Kericho	159	72	89	124	444
Kerugoya	36	8	36	61	141
Kiambu	128	234	97	64	523
Kisii	45	56	43	7	151
Kisumu	97	72	137	196	502
Kitale	140	381	252	916	1,689
Kitui	107	27	193	41	368
Lodwar	23	7	25	2	57
Machakos	190	251	253	328	1,022
Makueni	56	47	22	147	272
Malindi	34	34	2	100	170
Marsabit	18	0	2	0	20
Meru	425	310	344	276	1,355
Migori	34	93	30	81	238
Milimani Anticorr. Div.	1	44	25	23	93
Milimani Civil Div.	0	0	0	0	0
Milimani C. & Tax Di.	0	0	0	0	0
Milimani Const. Div.	0	0	0	0	0
Milimani Criminal Div.	204	236	294	131	865
Milimani Family Div.	0	0	0	0	0
Milimani Jud. Rev. Div.	0	0	0	0	0
Mombasa	331	446	922	610	2,309
Muranga	265	114	603	220	1,202
Naivasha	40	9	43	13	105
Nakuru	335	28	475	148	986
Nanyuki	58	146	179	230	613
Narok	20	77	4	5	106
Nyamira	37	7	26	13	83
Nyandarua	77	59	24	51	211
Nyeri	82	166	194	136	578
Siaya	147	90	146	309	692
Voi	25	151	3	101	280
All courts	4,827	3,909	5,587	5,018	19,341

Annex 2.6 Filed, Resolved and Pending Cases in Magistrates' Courts, FY 2018/19

Name Of Court	Pending Cases June 2018			Filed Cases			Resolved Cases			Pending Cases June 2019		
	Criminal	Civil	All	Criminal	Civil	All	Criminal	Civil	All	Criminal	Civil	All
Baricho	1,128	918	2,046	2,359	428	2,787	2,178	415	2,593	1,309	975	2,284
Bomet	512	545	1,057	4,608	317	4,925	4,228	347	4,575	896	527	1,423
Bondo	207	314	521	1,661	382	2,043	1,541	452	1,993	327	244	571
Bungoma	981	1,127	2,108	2,417	1,118	3,535	2,659	1,117	3,776	739	1,128	1,867
Busia	3,785	860	4,645	4,353	1,620	5,973	3,365	714	4,079	4,773	1,766	6,539
Butali	699	700	1,399	1,433	577	2,010	1,148	479	1,627	984	798	1,782
Butere	342	758	1,100	1,171	733	1,904	954	446	1,400	559	1,045	1,604
Chuka	1,133	1,107	2,240	2,330	244	2,574	2,114	472	2,586	1,349	889	2,238
Eldama Ravine	190	356	546	3,597	297	3,894	3,503	544	4,047	580	153	733
Eldoret	7,559	3,409	10,968	5,934	3,846	9,780	5,260	4,033	9,293	8,233	3,240	11,473
Embu	1,567	580	2,147	2,124	699	2,823	1,544	648	2,192	2,147	631	2,778
Engineer	623	311	934	1,470	99	1,569	1,595	303	1,898	498	179	677
Garissa	1,308	193	1,501	2,277	164	2,441	2,519	94	2,613	1,070	263	1,333
Garsen	401	19	420	223	26	249	231	90	321	395	55	450
Gatundu	849	1,003	1,852	1,339	787	2,126	1,334	711	2,045	854	1,085	1,939
Gichugu	337	474	811	2,080	242	2,322	1,976	296	2,272	441	426	867
Githongo	398	190	588	2,370	76	2,446	1,899	109	2,008	869	159	1,028
Githunguri	525	417	942	2,443	361	2,804	2,447	509	2,956	545	343	888
Hamisi	923	21	944	1,184	74	1,258	1,269	187	1,456	838	138	976
Hola	222	39	261	324	31	355	265	46	311	281	24	305
Homa bay	867	783	1,650	1,844	667	2,511	1,602	471	2,073	1,109	983	2,092
Isiolo	918	193	1,111	1,972	43	2,015	1,422	107	1,529	1,468	139	1,607
Iten	481	31	512	1,574	84	1,658	1,606	104	1,710	481	27	508
JKIA	106	0	106	359	0	359	295	0	295	170	0	170
Kabarnet	142	35	177	1,539	122	1,661	1,487	151	1,638	200	10	210
Kajiado	1,627	2,457	4,084	4,333	650	4,983	4,082	643	4,725	1,878	2,464	4,342
Kakamega	4,372	2,157	6,529	4,848	1,011	5,859	2,536	1,022	3,558	1,467	4,692	6,159
Kakuma	210	15	225	499	3	502	442	68	510	273	64	337
Kaloleni	197	428	625	432	249	681	378	313	691	251	364	615
Kandara	1,074	604	1,678	2,634	658	3,292	2,213	438	2,651	1,495	828	2,323
Kangema	345	264	609	1,676	278	1,954	1,556	236	1,792	465	306	771
Kangundo	905	252	1,157	2,310	581	2,891	2,033	751	2,784	1,182	82	1,264
Kapenguria	1,249	17	1,266	2,219	38	2,257	1,860	227	2,087	1,608	208	1,816
Kapsabet	1,928	1,643	3,571	5,748	593	6,341	4,506	711	5,217	3,170	1,525	4,695
Karatina	702	1,268	1,970	1,580	400	1,980	1,247	514	1,761	1,035	1,164	2,199
Kehancha	244	13	257	1,354	32	1,386	1,305	116	1,421	239	270	509
Kericho	2,041	1,850	3,891	9,166	923	10,089	8,559	1,617	10,176	2,648	1,156	3,804
Keroka	629	24	653	1,842	347	2,189	1,711	388	2,099	760	145	905
Kerugoya	526	1,175	1,701	1,064	706	1,770	906	556	1,462	684	1,351	2,035
Kiambu	1,105	1,169	2,274	3,662	2,363	6,025	3,776	2,583	6,359	991	1,163	2,154
Kibera	12,452	0	12,452	6,107	0	6,107	6,383	0	6,383	12,176	0	12,176
Kigumo	2,520	201	2,721	3,805	516	4,321	3,221	418	3,639	3,104	301	3,405
Kikuyu	1,756	1,706	3,462	2,083	1,112	3,195	1,549	568	2,117	2,290	2,250	4,540
Kilgoris	949	288	1,237	877	158	1,035	1,175	202	1,377	661	244	905
Kilifi	1,068	169	1,237	1,408	701	2,109	1,211	782	1,993	1,265	136	1,401
Kilungu	480	302	782	2,714	361	3,075	2,626	358	2,984	568	307	875
Kimilili	1,127	430	1,557	2,557	489	3,046	2,157	396	2,553	1,527	523	2,050
Kisii	1,893	3,407	5,300	6,007	1,924	7,931	5,309	2,520	7,829	2,591	2,969	5,560
Kisumu	5,023	4,132	9,155	3,938	2,471	6,409	2,642	1,698	4,340	6,319	4,905	11,224
Kitale	3,860	1,749	5,609	7,509	944	8,453	5,709	1,797	7,506	5,660	1,016	6,676
Kithimani	836	544	1,380	2,139	342	2,481	1,664	577	2,241	1,311	309	1,620
Kitui	2,583	4,543	7,126	705	400	1,105	811	230	1,041	1,266	2,365	3,631
Kwale	1,396	1,430	2,826	3,073	810	3,883	2,792	333	3,125	1,677	1,907	3,584
Kyuso	90	163	253	428	51	479	420	112	532	104	102	206
Lamu	403	0	403	503	26	529	486	36	522	420	14	434
Limuru	1,065	1,393	2,458	2,689	1,056	3,745	2,362	824	3,186	773	2,054	2,827
Lodwar	765	51	816	1,096	43	1,139	928	18	946	933	92	1,025
Loitoktok	149	54	203	842	113	955	804	64	868	187	107	294
Machakos	1,838	2,903	4,741	3,480	2,228	5,708	3,165	2,586	5,751	2,153	2,545	4,698
Makadara	8,828	0	8,828	22,649	0	22,649	21,665	0	21,665	9,812	0	9,812
Makindu	3,468	1,471	4,939	3,535	557	4,092	3,408	980	4,388	3,595	1,080	4,675
Makueni	495	424	919	972	264	1,236	972	411	1,383	495	297	792
Malindi	2,011	503	2,514	3,407	766	4,173	3,804	908	4,712	2,656	417	3,073
Mandera	89	10	99	1,105	24	1,129	1,066	11	1,077	128	25	153
Maralal	996	24	1,020	725	21	746	544	32	576	218	30	248
Mariakani	627	1,040	1,667	3,177	567	3,744	2,942	632	3,574	878	977	1,855
Marimanti	373	89	462	1,541	107	1,648	1,173	90	1,263	741	108	849
Marsabit	478	5	483	939	60	999	758	56	814	659	17	676
Maseno	964	752	1,716	1,426	233	1,659	1,320	506	1,826	1,070	541	1,611
Maua	2,962	693	3,655	4,385	159	4,544	3,766	744	4,510	3,581	324	3,905
Mavoko	1,251	3,262	4,513	2,886	1,480	4,366	2,699	1,461	4,160	1,438	3,283	4,721
Mbita	649	103	752	1,508	110	1,618	1,353	249	1,602	804	56	860
Meru	1,265	4,747	6,012	3,248	949	4,197	3,008	1,342	4,350	1,701	4,354	6,055
Migori	947	2,818	3,765	1,259	1,191	2,450	1,279	878	2,157	927	3,135	4,062

Name Of Court	Pending Cases June 2018			Filed Cases			Resolved Cases			Pending Cases June 2019		
	Criminal	Civil	All	Criminal	Civil	All	Criminal	Civil	All	Criminal	Civil	All
Milimani	19,141	0	19,141	16,670	0	16,670	10,284	0	10,284	24,766	0	24,766
Milimani Anticorruption Court	148	0	148	58	0	58	44	0	44	162	0	162
Milimani Childrens Court	2,283	6,841	9,124	608	1,954	2,562	1,728	3,025	4,753	1,163	5,852	7,015
Milimani Commercial	0	47,546	47,546	0	13,876	13,876	0	11,981	11,981	0	49,447	49,447
Molo	2,327	1,045	3,372	3,829	391	4,220	3,329	447	3,776	2,827	1,007	3,834
Mombasa	17,736	27,062	44,798	7,264	8,949	16,213	5,964	17,976	23,940	17,736	27,062	44,798
Moyale	248	51	299	924	24	948	715	95	810	93	43	136
Mpeketoni	244	3	247	345	6	351	285	22	307	304	13	317
Mukurwe-ini	68	323	391	972	449	1,421	931	248	1,179	109	524	633
Mumias	908	61	969	2,685	768	3,453	2,582	401	2,983	1,011	556	1,567
Murang'a	1,368	4,199	5,567	3,130	1,050	4,180	2,573	1,144	3,717	1,925	4,113	6,038
Mutomo	452	11	463	774	174	948	719	100	819	507	95	602
Mwingi	878	597	1,475	1,056	293	1,349	796	361	1,157	1,138	533	1,671
Nairobi City	705	130	835	209	14,003	14,212	613	14,081	14,694	301	52	353
Naivasha	4,006	3,586	7,592	5,930	1,427	7,357	6,201	1,816	8,017	3,735	3,197	6,932
Nakuru	8,287	19,658	27,945	9,751	3,991	13,742	6,158	4,703	10,861	11,880	18,946	30,826
Nanyuki	1,527	1,962	3,489	2,753	68	2,821	2,598	544	3,142	1,830	1,676	3,506
Narok	879	1,447	2,326	2,759	684	3,443	2,758	334	3,092	880	1,797	2,677
Ndhiwa	327	350	677	489	278	767	321	170	491	495	458	953
Ngong'	1,046	15	1,061	2,763	218	2,981	2,162	198	2,360	1,647	87	1,734
Nkubu	806	327	1,133	1,628	392	2,020	1,632	428	2,060	802	291	1,093
Nyahururu	2,225	2,251	4,476	3,025	1,140	4,165	2,945	800	3,745	2,305	2,591	4,896
Nyamira	1,001	788	1,789	3,097	486	3,583	2,765	333	3,098	1,333	963	2,296
Nyando	1,386	2,461	3,847	1,847	845	2,692	1,292	659	1,951	1,941	2,647	4,588
Nyeri	903	2,211	3,114	2,609	1,368	3,977	2,251	1,192	3,443	1,261	2,387	3,648
Ogembo	1,375	1,346	2,721	3,760	598	4,358	3,285	418	3,703	1,850	1,526	3,376
Othaya	393	19	412	1,321	285	1,606	1,221	331	1,552	493	149	642
Oyugis	677	103	780	2,312	711	3,023	1,792	787	2,579	1,197	39	1,236
Rongo	848	790	1,638	733	483	1,216	790	1,073	1,863	147	1,067	1,214
Ruiru	0	0	0	1,362	116	1,478	1,198	24	1,222	164	92	256
Runyenjes	419	37	456	1,568	16	1,584	1,254	416	1,670	733	383	1,116
Shanzu	2,793	0	2,793	5,743	0	5,743	5,022	0	5,022	3,514	0	3,514
Siakago	1,191	596	1,787	1,240	272	1,512	1,027	455	1,482	1,404	441	1,845
Siaya	638	655	1,293	1,970	665	2,635	1,688	489	2,177	920	833	1,753
Sirisia	474	50	524	1,638	231	1,869	1,335	165	1,500	777	116	893
Sotik	289	678	967	2,739	316	3,055	2,914	560	3,474	230	462	692
Tamu	229	87	316	673	110	783	596	117	713	306	80	386
Taveta	271	149	420	859	55	914	777	115	892	353	91	444
Tawa	311	75	386	609	33	642	489	177	666	431	73	504
Thika	2,251	9,315	11,566	10,330	1,897	12,227	9,426	6,016	15,442	3,155	7,132	10,287
Tigania	1,882	710	2,592	3,144	253	3,397	3,733	474	4,207	1,305	491	1,796
Tononoka	584	978	1,562	187	2,153	2,340	141	3,034	3,175	630	103	733
Ukwala	389	21	410	955	283	1,238	876	257	1,133	468	49	517
Vihiga	857	1,170	2,027	2,838	580	3,418	2,462	436	2,898	1,233	1,314	2,547
Voi	504	989	1,493	1,507	432	1,939	1,405	524	1,929	606	931	1,537
Wajir	453	30	483	978	18	996	750	79	829	681	45	726
Wang'uru	584	413	997	1,642	480	2,122	1,281	393	1,674	945	500	1,445
Webuye	994	612	1,606	1,870	165	2,035	1,408	232	1,640	1,456	545	2,001
Winam	1,408	690	2,098	1,950	500	2,450	1,576	674	2,250	1,782	632	2,414
Wundanyi	238	104	342	1,538	110	1,648	1,218	149	1,367	204	73	277
All Courts	197,964	209,667	407,631	329,715	105,698	435,413	290,032	123,300	413,332	228,084	209,303	437,387

Annex 2.7 Filed Criminal Cases by Type and Magistrates' Courts, FY 2018/19

Court Name	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases
Baricho	1,739	57	2	3	558	2,359
Bomet	3,135	97	2	6	1,368	4,608
Bondo	942	98	1	2	618	1,661
Bungoma	1,710	146	1	17	543	2,417
Busia	3,096	205	2	12	1,038	4,353
Butali	958	70	3	9	393	1,433
Butere	623	70	2	85	391	1,171
Chuka	1,587	60	1	13	669	2,330
Eldama Ravine	2,442	67	4	44	1,040	3,597
Eldoret	3,570	258	2	11	2,093	5,934
Embu	1,259	60	1	25	779	2,124
Engineer	1,091	82	0	51	246	1,470
Garissa	1,418	54	1	5	799	2,277
Garsen	140	22	1	5	55	223
Gatundu	1,010	33	1	2	293	1,339
Gichugu	1,241	33	0	9	797	2,080
Githongo	1,847	56	1	7	459	2,370
Githunguri	1,992	49	1	0	401	2,443
Hamisi	890	56	3	4	231	1,184
Hola	247	27	2	6	42	324
Homa bay	865	61	10	0	908	1,844
Isiolo	1,480	54	0	13	425	1,972
Iten	1,114	46	6	1	407	1,574
JKIA	249	0	0	0	110	359
Kabarnet	1,167	39	9	25	299	1,539
Kajiado	2,088	59	0	16	2,170	4,333
Kakamega	3,363	274	3	41	1,167	4,848
Kakuma	393	36	0	0	70	499
Kaloleni	278	42	0	12	100	432
Kandara	1,855	106	3	24	646	2,634
Kangema	965	47	2	3	659	1,676
Kangundo	1,544	88	4	18	656	2,310
Kapenguria	1,602	76	6	31	504	2,219
Kapsabet	4,689	263	3	32	761	5,748
Karatina	876	35	6	5	658	1,580
Kehancha	915	30	0	12	397	1,354
Kericho	6,916	179	1	20	2,050	9,166
Keroka	1,140	56	5	17	624	1,842
Kerugoya	726	14	8	1	315	1,064
Kiambu	2,125	86	3	19	1,429	3,662
Kibera	2,808	139	3	1	3,156	6,107
Kigumo	2,015	78	0	11	1,701	3,805
Kikuyu	1,406	43	1	19	614	2,083
Kilgoris	692	25	0	12	148	877
Kilifi	642	163	5	18	580	1,408
Kilungu	901	100	8	8	1,697	2,714
Kimilili	1,712	168	6	13	658	2,557
Kisii	4,091	220	6	7	1,683	6,007
Kisumu	2,039	64	6	23	1,806	3,938
Kitale	5,458	344	0	33	1,674	7,509
Kithimani	1,322	71	0	25	721	2,139
Kitui	492	53	0	1	159	705
Kwale	1,298	177	0	10	1,588	3,073
Kyuso	260	20	1	8	139	428
Lamu	352	23	0	14	114	503
Limuru	1,189	93	4	24	1,379	2,689
Lodwar	781	79	0	0	236	1,096
Loitoktok	523	30	0	2	287	842
Machakos	2,332	105	2	53	988	3,480
Makadara	10,644	363	6	16	11,620	22,649
Makindu	1,375	139	2	0	2,019	3,535
Makueni	555	72	0	11	334	972
Malindi	1,370	133	4	14	1,886	3,407
Mandera	627	40	1	0	437	1,105
Maralal	609	23	0	0	93	725
Mariakani	1,035	114	3	26	1,999	3,177
Marimanti	1,243	49	0	45	204	1,541
Marsabit	739	43	2	5	150	939
Maseno	749	110	9	12	546	1,426
Maua	3,442	88	0	11	844	4,385
Mavoko	706	28	7	8	2,137	2,886

Court Name	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases
Baricho	1,739	57	2	3	558	2,359
Mbita	924	62	1	0	521	1,508
Meru	2,044	64	2	66	1,072	3,248
Migori	779	70	3	3	404	1,259
Milimani CM	5,122	33	8	3	11,504	16,670
Milimani Anticorruption Court	58	0	0	0	0	58
Milimani Childrens Court	39	12	0	557	0	608
Milimani Commercial	0	0	0	0	0	0
Molo	2,270	160	4	13	1,382	3,829
Mombasa	2,691	155	7	0	4,411	7,264
Moyale	605	19	2	0	298	924
Mpeketoni	240	24	0	0	81	345
Mukurwe-ini	463	24	0	10	475	972
Mumias	1,576	58	2	0	1,049	2,685
Murang'a	2,251	41	8	23	807	3,130
Mutomo	555	30	1	6	182	774
Mwingi	721	73	2	1	259	1,056
Nairobi City	209	0	0	0	0	209
Naivasha	2,014	103	7	137	3,669	5,930
Nakuru	4,138	614	2	218	4,779	9,751
Nanyuki	1,715	137	4	60	837	2,753
Narok	1,276	129	2	4	1,348	2,759
Ndhiwa	304	58	1	1	125	489
Ngong'	1,114	104	1	10	1,534	2,763
Nkubu	1,252	64	4	0	308	1,628
Nyahururu	1,814	172	6	104	929	3,025
Nyamira	1,840	96	10	4	1,147	3,097
Nyando	1,021	104	1	15	706	1,847
Nyeri	1,688	71	4	173	673	2,609
Ogembo	3,069	191	3	5	492	3,760
Othaya	797	25	1	1	497	1,321
Oyugis	1,205	81	5	15	1,006	2,312
Rongo	484	52	1	7	189	733
Ruiru	535	2	0	0	825	1,362
Runyenjes	978	31	0	1	558	1,568
Shanzu	2,826	180	2	118	2,617	5,743
Siakago	936	81	8	6	209	1,240
Siaya	1,342	88	4	8	528	1,970
Sirisia	1,135	82	2	21	398	1,638
Sotik	1,989	50	1	0	699	2,739
Tamu	484	61	0	36	92	673
Taveta	766	27	2	6	58	859
Tawa	334	44	5	0	226	609
Thika	5,961	147	1	41	4,180	10,330
Tigania	2,274	44	1	17	808	3,144
Tononoka	79	16	0	92	0	187
Ukwala	607	45	2	6	295	955
Vihiga	2,116	98	1	7	616	2,838
Voi	962	29	9	23	484	1,507
Wajir	590	35	1	0	352	978
Wang'uru	960	41	2	37	602	1,642
Webuye	860	50	5	12	943	1,870
Winam	1,484	87	2	0	377	1,950
Wundanyi	1,056	58	3	47	374	1,538
All Courts	191,246	10,510	319	2,950	124,690	329,715

Annex 2.8 Resolved Criminal Cases by Type and Magistrates' Courts, FY 2018/19

Court Name	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases
Baricho	1,587	55	1	0	535	2,178
Bomet	2,819	33	5	6	1,365	4,228
Bondo	845	69	1	3	623	1,541
Bungoma	1,916	180	20	11	532	2,659
Busia	2,405	107	3	7	843	3,365
Butali	718	40	2	7	381	1,148
Butere	464	40	0	71	379	954
Chuka	1,410	39	4	10	651	2,114
Eldama Ravine	2,220	45	5	35	1,198	3,503
Eldoret	3,106	197	6	10	1,941	5,260
Embu	816	28	0	7	693	1,544
Engineer	1,181	77	2	53	282	1,595
Garissa	1,644	58	4	3	810	2,519
Garsen	151	26	3	1	50	231
Gatundu	1,031	46	1	3	253	1,334
Gichugu	1,194	33	2	4	743	1,976
Githongo	1,471	19	0	6	403	1,899
Githunguri	2,003	29	0	0	415	2,447
Hamisi	971	71	1	3	223	1,269
Hola	198	24	0	2	41	265
Homa bay	775	36	5	0	786	1,602
Isiolo	994	13	1	5	409	1,422
Iten	1,090	79	13	4	420	1,606
JKIA	183	0	0	0	112	295
Kabarnet	1,123	38	7	29	290	1,487
Kajiado	1,792	58	5	13	2,214	4,082
Kakamega	1,654	88	2	24	768	2,536
Kakuma	319	58	0	0	65	442
Kaloleni	237	26	1	13	101	378
Kandara	1,541	61	2	14	595	2,213
Kangema	880	21	0	2	653	1,556
Kangundo	1,321	52	1	11	648	2,033
Kapenguria	1,278	62	3	24	493	1,860
Kapsabet	3,648	87	6	23	742	4,506
Karatina	645	32	1	1	568	1,247
Kehancha	886	39	0	4	376	1,305
Kericho	6,413	138	5	15	1,988	8,559
Keroka	1,065	36	1	7	602	1,711
Kerugoya	598	14	6	4	284	906
Kiambu	2,282	38	6	7	1,443	3,776
Kibera	2,724	101	8	1	3,549	6,383
Kigumo	1,719	48	13	6	1,435	3,221
Kikuyu	975	27	3	17	527	1,549
Kilgoris	933	56	1	34	151	1,175
Kilifi	505	123	3	19	561	1,211
Kilungu	836	82	10	7	1,691	2,626
Kimilili	1,367	135	8	5	642	2,157
Kisii	3,445	148	11	8	1,697	5,309
Kisumu	1,044	29	5	6	1,558	2,642
Kitale	3,791	307	1	30	1,580	5,709
Kithimani	893	49	0	17	705	1,664
Kitui	579	43	1	0	188	811
Kwale	1,115	97	0	0	1,580	2,792
Kyuso	258	11	0	12	139	420
Lamu	349	23	1	2	111	486
Limuru	945	48	7	16	1,346	2,362
Lodwar	648	50	2	0	228	928
Loitoktok	501	19	2	0	282	804
Machakos	2,065	73	2	49	976	3,165
Makadara	9,509	350	14	7	11,785	21,665
Makindu	1,153	93	10	6	2,146	3,408
Makueni	559	76	7	11	319	972
Malindi	1,015	105	12	21	2,651	3,804
Mandera	601	32	1	0	432	1,066
Maralal	447	17	0	1	79	544
Mariakani	894	50	14	27	1,957	2,942
Marimanti	956	27	0	24	166	1,173
Marsabit	608	34	1	0	115	758
Maseno	734	71	2	6	507	1,320
Maua	2,889	87	7	4	779	3,766
Mavoko	561	26	4	3	2,105	2,699

Court Name	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases
Baricho	1,587	55	1	0	535	2,178
Mbita	830	57	0	0	466	1,353
Meru	1,702	74	8	179	1,045	3,008
Migori	793	58	0	3	425	1,279
Milimani	1,731	18	3	0	8,532	10,284
Milimani Anticorruption Court	44	0	0	0	0	44
Milimani Childrens Court	1,184	8	0	536	0	1,728
Milimani Commercial	0	0	0	0	0	0
Molo	1,926	125	5	11	1,262	3,329
Mombasa	1,511	100	14	0	4,339	5,964
Moyale	431	19	0	1	264	715
Mpeketoni	224	26	1	0	34	285
Mukurwe-ini	449	20	1	3	458	931
Mumias	1,515	35	3	0	1,029	2,582
Murang'a	1,792	40	3	47	691	2,573
Mutomo	506	29	0	4	180	719
Mwingi	512	32	0	2	250	796
Nairobi City	593	4	2	2	14	613
Naivasha	1,633	63	26	116	4,363	6,201
Nakuru	3,115	533	2	305	2,203	6,158
Nanyuki	1,562	85	4	138	809	2,598
Narok	1,125	75	3	4	1,551	2,758
Ndhiwa	185	15	1	2	118	321
Ngong'	623	42	0	2	1,495	2,162
Nkubu	1,254	67	4	0	307	1,632
Nyahururu	1,863	134	14	51	883	2,945
Nyamira	1,615	56	2	1	1,091	2,765
Nyando	675	41	3	20	553	1,292
Nyeri	1,477	57	10	141	566	2,251
Ogembo	2,705	105	7	4	464	3,285
Othaya	690	34	1	0	496	1,221
Oyugis	846	53	1	17	875	1,792
Rongo	515	54	1	22	198	790
Ruiru	407	0	0	0	791	1,198
Runyenjes	730	20	0	0	504	1,254
Shanzu	2,237	106	3	83	2,593	5,022
Siakago	763	43	10	4	207	1,027
Siaya	1,118	62	1	5	502	1,688
Sirisia	865	62	0	20	388	1,335
Sotik	2,085	35	8	1	785	2,914
Tamu	439	40	1	30	86	596
Taveta	695	18	1	5	58	777
Tawa	313	19	0	0	157	489
Thika	5,404	142	8	41	3,831	9,426
Tigania	2,838	70	12	5	808	3,733
Tononoka	34	8	0	99	0	141
Ukwala	535	45	0	1	295	876
Vihiga	1,828	57	0	4	573	2,462
Voi	906	15	3	16	465	1,405
Wajir	415	17	0	1	317	750
Wang'uru	689	20	1	3	568	1,281
Webuye	473	51	6	8	870	1,408
Winam	1,151	46	1	0	378	1,576
Wundanyi	808	27	0	27	356	1,218
All courts	161,851	7,591	449	2,743	117,398	290,032

Annex 2.9 Filed Civil Cases by Type and Magistrates' Courts, FY 2018/19

Court Name	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases
Baricho	231	171	2	0	24	428
Bomet	192	70	9	0	46	317
Bondo	138	243	0	0	1	382
Bungoma	564	482	5	38	29	1,118
Busia	581	1,027	7	1	4	1,620
Butali	155	355	4	42	21	577
Butere	144	494	4	0	91	733
Chuka	131	99	1	1	12	244
Eldama Ravine	190	86	2	0	19	297
Eldoret	3,437	245	6	2	156	3,846
Embu	348	268	17	1	65	699
Engineer	44	39	2	0	14	99
Garissa	69	0	0	0	95	164
Garsen	20	0	1	0	5	26
Gatundu	462	304	5	5	11	787
Gichugu	69	158	2	0	13	242
Githongo	45	21	2	1	7	76
Githunguri	186	167	8	0	0	361
Hamisi	26	15	0	1	32	74
Hola	26	2	0	0	3	31
Homa bay	209	282	7	0	169	667
Isiolo	28	6	1	0	8	43
Iten	43	33	1	0	7	84
JKIA	0	0	0	0	0	0
Kabarnet	67	33	3	0	19	122
Kajiado	435	138	9	40	28	650
Kakamega	298	670	11	0	32	1,011
Kakuma	2	1	0	0	0	3
Kaloleni	175	34	1	39	0	249
Kandara	320	312	0	8	18	658
Kangema	78	169	7	0	24	278
Kangundo	393	162	14	2	10	581
Kapenguria	10	3	1	0	24	38
Kapsabet	322	229	6	7	29	593
Karatina	125	240	11	0	24	400
Kehancha	15	8	0	0	9	32
Kericho	560	276	32	8	47	923
Keroka	239	60	10	11	27	347
Kerugoya	345	317	24	0	20	706
Kiambu	613	1,661	32	2	55	2,363
Kibera	0	0	0	0	0	0
Kigumo	331	168	2	5	10	516
Kikuyu	625	387	38	18	44	1,112
Kilgoris	20	3	0	0	135	158
Kilifi	510	133	8	0	50	701
Kilungu	278	59	1	1	22	361
Kimilili	182	263	4	1	39	489
Kisii	1,260	540	43	0	81	1,924
Kisumu	1,474	840	49	12	96	2,471
Kitale	356	134	11	18	425	944
Kithimani	259	75	2	0	6	342
Kitui	345	39	10	1	5	400
Kwale	716	66	8	0	20	810
Kyuso	34	6	4	0	7	51
Lamu	9	3	0	0	14	26
Limuru	527	394	16	9	110	1,056
Lodwar	6	3	0	0	34	43
Loitoktok	74	30	2	5	2	113
Machakos	1,599	391	36	0	202	2,228
Makadara	0	0	0	0	0	0
Makindu	441	96	4	0	16	557
Makueni	126	108	4	16	10	264
Malindi	543	151	20	1	51	766
Mandera	21	0	0	0	3	24
Maralal	10	0	1	0	10	21
Mariakani	379	27	0	55	106	567
Marimanti	24	25	2	0	56	107
Marsabit	33	8	0	0	19	60
Maseno	99	115	1	0	18	233

Court Name	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases
Baricho	231	171	2	0	24	428
Maua	104	14	6	0	35	159
Mavoko	1,199	59	14	202	6	1,480
Mbita	46	56	0	0	8	110
Meru	447	346	24	0	132	949
Migori	827	286	50	0	28	1,191
Milimani CM	0	0	0	0	0	0
Milimani Anticorruption Court	0	0	0	0	0	0
Milimani Childrens Court	0	0	0	0	1,954	1,954
Milimani Commercial	12,201	0	1,125	550	0	13,876
Molo	277	87	2	0	25	391
Mombasa	8,384	413	140	12	0	8,949
Moyale	11	0	0	0	13	24
Mpeketoni	2	0	2	0	2	6
Mukurwe-ini	98	342	2	0	7	449
Mumias	225	527	2	1	13	768
Murang'a	433	568	11	1	37	1,050
Mutomo	106	50	14	1	3	174
Mwingi	211	59	11	0	12	293
Nairobi City	14,003	0	0	0	0	14,003
Naivasha	1,038	269	13	102	5	1,427
Nakuru	3,025	728	100	24	114	3,991
Nanyuki	46	13	3	1	5	68
Narok	554	96	9	0	25	684
Ndhiwa	141	123	7	6	1	278
Ngong'	130	43	11	6	28	218
Nkubu	181	180	8	0	23	392
Nyahururu	524	350	13	3	250	1,140
Nyamira	377	51	12	1	45	486
Nyando	659	157	11	0	18	845
Nyeri	676	482	42	0	168	1,368
Ogembo	455	91	13	8	31	598
Othaya	66	190	3	1	25	285
Oyugis	332	373	3	0	3	711
Rongo	366	86	15	2	14	483
Ruiru	103	11	0	0	2	116
Runyenjes	14	1	0	0	1	16
Shanzu	0	0	0	0	0	0
Siakago	137	123	3	0	9	272
Siaya	357	263	2	25	18	665
Sirisia	147	62	3	2	17	231
Sotik	214	55	6	1	40	316
Tamu	80	24	4	0	2	110
Taveta	41	0	2	0	12	55
Tawa	28	3	1	0	1	33
Thika	1,284	357	70	82	104	1,897
Tigania	164	78	4	0	7	253
Tononoka	13	0	0	0	2,140	2,153
Ukwala	146	99	1	0	37	283
Vihiga	244	316	9	0	11	580
Voi	356	40	7	5	24	432
Wajir	11	2	0	0	5	18
Wang'uru	227	132	13	2	106	480
Webuye	124	24	6	3	8	165
Winam	380	102	4	4	10	500
Wundanyi	41	37	11	0	21	110
All Courts	72,871	20,712	2,325	1,396	8,394	105,698

Annex 2.10 Resolved Civil Cases by Type and Magistrates' Courts, FY2018/19

Court Name	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases
Baricho	148	252	2	5	8	415
Bomet	207	0	28	0	112	347
Bondo	140	306	3	0	3	452
Bungoma	870	98	33	47	69	1,117
Busia	599	95	3	12	5	714
Butali	217	165	0	70	27	479
Butere	185	164	5	19	73	446
Chuka	300	149	8	6	9	472
Eldama Ravine	394	129	4	2	15	544
Eldoret	3,636	144	60	36	157	4,033
Embu	409	193	14	4	28	648
Engineer	152	99	15	0	37	303
Garissa	58	0	0	0	36	94
Garsen	86	0	0	1	3	90
Gatundu	349	321	5	21	15	711
Gichugu	115	149	9	0	23	296
Githongo	60	32	9	1	7	109
Githunguri	159	295	17	2	36	509
Hamisi	60	100	1	6	20	187
Hola	42	1	0	0	3	46
Homa bay	186	240	11	4	30	471
Isiolo	84	9	1	5	8	107
Iten	65	19	2	0	18	104
JKIA	0	0	0	0	0	0
Kabarnet	78	35	3	1	34	151
Kajiado	375	99	13	148	8	643
Kakamega	513	437	20	18	34	1,022
Kakuma	51	16	0	0	1	68
Kaloleni	168	18	0	127	0	313
Kandara	316	90	2	24	6	438
Kangema	134	88	3	0	11	236
Kangundo	559	180	7	1	4	751
Kapenguria	197	11	0	4	15	227
Kapsabet	576	108	4	6	17	711
Karatina	220	234	30	0	30	514
Kehancha	59	42	8	0	7	116
Kericho	1,241	160	37	92	87	1,617
Keroka	335	5	16	6	26	388
Kerugoya	298	197	27	0	34	556
Kiambu	666	1,770	53	57	37	2,583
Kibera	0	0	0	0	0	0
Kigumo	306	98	5	4	5	418
Kikuyu	247	267	16	20	18	568
Kilgoris	171	3	3	0	25	202
Kilifi	531	137	11	22	81	782
Kilungu	312	31	3	2	10	358
Kimilili	307	28	7	0	54	396
Kisii	1,759	502	93	0	166	2,520
Kisumu	1,003	583	48	8	56	1,698
Kitale	1,252	136	16	147	246	1,797
Kithimani	518	48	1	8	2	577
Kitui	180	44	4	0	2	230
Kwale	286	24	4	10	9	333
Kyuso	93	3	7	0	9	112
Lamu	19	1	0	0	16	36
Limuru	394	295	18	43	74	824
Lodwar	6	12	0	0	0	18
Loitoktok	44	9	2	8	1	64
Machakos	1,943	278	36	125	204	2,586
Makadara	0	0	0	0	0	0
Makindu	879	53	10	23	15	980
Makueni	324	43	15	22	7	411
Malindi	688	68	19	43	90	908
Mandera	8	2	0	0	1	11
Maralal	11	8	1	0	12	32
Mariakani	355	0	2	177	98	632
Marimanti	54	14	0	1	21	90
Marsabit	30	3	1	0	22	56
Maseno	404	52	5	35	10	506

Court Name	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases
Baricho	148	252	2	5	8	415
Maua	486	65	12	6	175	744
Mavoko	1,210	13	22	210	6	1,461
Mbita	174	56	13	0	6	249
Meru	956	156	24	11	195	1,342
Migori	799	50	21	2	6	878
Milimani	0	0	0	0	0	0
Milimani Anticorruption Court	0	0	0	0	0	0
Milimani Childrens Court	3	0	0	43	2,979	3,025
Milimani Commercial	9,725	0	933	1,320	3	11,981
Molo	391	15	1	8	32	447
Mombasa	15,313	124	92	2,446	1	17,976
Moyale	55	3	0	0	37	95
Mpeketoni	8	4	2	0	8	22
Mukurwe-ini	102	131	6	0	9	248
Mumias	290	88	6	10	7	401
Murang'a	715	382	20	6	21	1,144
Mutomo	77	7	7	6	3	100
Mwingi	259	50	12	2	38	361
Nairobi City	14,081	0	0	0	0	14,081
Naivasha	1,467	156	12	169	12	1,816
Nakuru	3,701	510	130	184	178	4,703
Nanyuki	372	114	21	4	33	544
Narok	302	19	6	0	7	334
Ndhiwa	85	80	3	2	0	170
Ngong'	104	66	12	9	7	198
Nkubu	239	171	5	1	12	428
Nyahururu	280	400	9	2	109	800
Nyamira	248	27	8	16	34	333
Nyando	532	77	25	19	6	659
Nyeri	759	290	20	8	115	1,192
Ogembo	355	5	11	31	16	418
Othaya	164	149	3	1	14	331
Oyugis	397	378	5	4	3	787
Rongo	947	71	27	5	23	1,073
Ruiru	24	0	0	0	0	24
Runyenjes	191	210	10	1	4	416
Shanzu	0	0	0	0	0	0
Siakago	173	237	8	1	36	455
Siaya	218	249	3	4	15	489
Sirisia	130	10	0	2	23	165
Sotik	367	104	23	2	64	560
Tamu	88	14	5	10	0	117
Taveta	64	7	3	0	41	115
Tawa	166	4	6	1	0	177
Thika	4,008	1,414	184	376	34	6,016
Tigania	402	47	8	2	15	474
Tononoka	32	0	0	0	3,002	3,034
Ukwala	139	92	5	0	21	257
Vihiga	239	183	7	0	7	436
Voi	384	58	12	51	19	524
Wajir	69	1	0	1	8	79
Wang'uru	284	79	7	0	23	393
Webuye	203	15	3	4	7	232
Winam	522	41	9	43	59	674
Wundanyi	119	20	3	0	7	149
All courts	88,849	15,634	2,544	6,446	9,827	123,300

Annex 2.11 Pending Criminal and Civil Cases by Type and Magistrates' Courts FY 2018/19

Court Name	Pending Criminal	Pending Civil Cases	Inquest	Children Criminal	Traffic	All Criminal Cases	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases	All pending cases
	Criminal Cases	Sexual Offences											
Baricho	731	113	2	37	426	1,309	905	22	4	1	43	975	731
Bomet	730	100	2	3	61	896	336	71	6	4	110	527	730
Bondo	277	32	1	0	17	327	144	88	0	11	1	244	277
Bungoma	527	152	33	16	11	739	661	404	17	34	12	1,128	527
Busia	3,620	560	82	103	408	4,773	417	1,316	7	21	5	1,766	3,620
Butali	867	75	6	3	33	984	178	237	4	316	63	798	867
Butere	416	71	3	50	19	559	617	376	4	8	40	1,045	416
Chuka	857	87	1	26	378	1,349	774	27	33	5	50	889	857
Eldama Ravine	358	63	2	9	148	580	20	106	2	16	9	153	358
Eldoret	5,590	1,011	47	64	1,521	8,233	2,724	387	9	61	59	3,240	5,590
Embu	1,618	126	1	58	344	2,147	320	134	24	5	148	631	1,618
Engineer	336	78	5	4	75	498	137	4	12	6	20	179	336
Garissa	760	93	2	12	203	1,070	160	0	1	1	101	263	760
Garsen	303	52	1	10	29	395	50	0	1	0	4	55	303
Gatundu	701	72	0	18	63	854	923	66	13	80	3	1,085	701
Gichugu	344	27	0	15	55	441	327	89	3	1	6	426	344
Githongo	681	104	2	15	67	869	141	5	1	2	10	159	681
Githunguri	450	72	9	2	12	545	286	3	0	20	34	343	450
Hamisi	737	49	4	12	36	838	24	85	1	5	23	138	737
Hola	216	37	4	17	7	281	6	1	5	0	12	24	216
Homa bay	777	79	19	15	219	1,109	418	398	9	2	156	983	777
Isiolo	1,255	106	7	9	91	1,468	116	1	4	4	14	139	1,255
Iten	435	25	5	3	13	481	5	14	1	0	7	27	435
JKIA	157	1	1	0	11	170	0	0	0	0	0	0	157
Kabarnet	162	19	2	3	14	200	7	2	0	1	0	10	162
Kajiado	1,508	88	17	82	183	1,878	1,737	66	0	629	32	2,464	1,508
Kakamega	1,107	156	9	106	89	1,467	1,907	2,664	38	1	82	4,692	1,107
Kakuma	257	3	0	2	11	273	42	15	0	0	7	64	257
Kaloleni	126	81	1	0	43	251	310	38	1	14	1	364	126
Kandara	1,184	157	1	41	112	1,495	342	288	2	184	12	828	1,184
Kangema	341	71	3	2	48	465	58	217	4	1	26	306	341
Kangundo	1,002	125	6	23	26	1,182	52	8	10	5	7	82	1,002
Kapenguria	1,358	117	6	77	50	1,608	178	8	1	4	17	208	1,358
Kapsabet	2,475	583	27	58	27	3,170	1,100	222	17	161	25	1,525	2,475
Karatina	793	75	11	12	144	1,035	834	196	5	121	8	1,164	793
Kehancha	208	19	1	1	10	239	144	113	8	0	5	270	208
Kericho	2,023	222	20	74	309	2,648	904	174	50	24	4	1,156	2,023
Keroka	530	108	14	15	93	760	81	55	2	5	2	145	530
Kerugoya	544	11	16	4	109	684	1,103	226	7	2	13	1,351	544
Kiambu	803	135	3	17	33	991	1,033	75	12	20	23	1,163	803
Kibera	6,090	398	31	28	5,629	12,176	0	0	0	0	0	0	6,090
Kigumo	2,149	184	71	10	690	3,104	215	74	1	5	6	301	2,149
Kikuyu	1,796	155	6	91	242	2,290	1,670	343	64	134	39	2,250	1,796
Kilgoris	541	108	4	5	3	661	119	1	6	6	112	244	541
Kilifi	872	278	9	27	79	1,265	84	1	13	15	23	136	872
Kilungu	383	72	1	21	91	568	195	84	1	12	15	307	383
Kimilili	1,255	180	17	30	45	1,527	164	285	20	1	53	523	1,255
Kisii	2,033	224	22	296	16	2,591	2,368	443	58	21	79	2,969	2,033
Kisumu	3,312	112	15	98	2,782	6,319	3,360	930	30	139	446	4,905	3,312
Kitale	4,688	529	14	70	359	5,660	506	82	97	60	271	1,016	4,688
Kithimani	1,061	152	12	24	62	1,311	223	73	3	2	8	309	1,061
Kitui	990	228	14	1	33	1,266	1,389	874	49	1	52	2,365	990
Kwale	1,114	328	1	49	185	1,677	1,741	94	14	22	36	1,907	1,114
Kyuso	77	15	4	3	5	104	89	8	0	0	5	102	77
Lamu	328	71	5	13	3	420	10	2	0	0	2	14	328
Limuru	549	92	10	2	120	773	1,196	555	26	157	120	2,054	549
Lodwar	679	197	4	9	44	933	1	8	0	1	82	92	679
Loitoktok	120	12	0	49	6	187	63	36	2	2	4	107	120
Machakos	1,452	139	7	108	447	2,153	1,995	347	70	131	2	2,545	1,452
Makadara	7,873	743	24	108	1,064	9,812	0	0	0	0	0	0	7,873
Makindu	2,529	412	50	39	565	3,595	947	86	14	16	17	1,080	2,529
Makueni	361	70	16	10	38	495	187	81	10	5	14	297	361
Malindi	1,772	291	62	10	521	2,656	161	97	2	28	129	417	1,772
Mandera	77	41	0	2	8	128	20	1	1	0	3	25	77
Maralal	165	11	1	18	23	218	27	2	1	0	0	30	165
Mariakani	558	137	8	9	166	878	880	42	1	32	22	977	558

	Pending Criminal	Pending Civil Cases											
Court Name	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases	All pending cases
Marimanti	610	68	0	25	38	741	21	17	7	1	62	108	610
Marsabit	546	48	1	5	59	659	3	10	1	0	3	17	546
Maseno	743	178	14	20	115	1,070	418	84	1	30	8	541	743
Maua	3,027	117	4	89	344	3,581	59	124	23	10	108	324	3,027
Mavoko	951	71	43	28	345	1,438	1,138	83	1	2,054	7	3,283	951
Mbita	583	80	8	4	129	804	44	6	2	1	3	56	583
Meru	1,412	48	8	98	135	1,701	2,538	372	80	578	786	4,354	1,412
Migori	704	126	4	21	72	927	2,716	330	55	2	32	3,135	704
Milimani	8,200	78	53	58	16,377	24,766	0	0	0	0	0	0	8,200
Milimani Anticorruption Court	128	0	0	34	0	162	0	0	0	0	0	0	128
Milimani Childrens Court	535	14	0	614	0	1,163	156	0	2	41	5,653	5,852	535
Milimani Commercial	0	0	0	0	0	0	38,627	0	5,910	4,907	3	49,447	0
Molo	1,840	345	58	41	543	2,827	878	115	5	7	2	1,007	1,840
Mombasa	8,918	350	92	32	8,344	17,736	21,101	325	256	5,377	3	27,062	8,918
Moyale	81	7	2	1	2	93	24	5	0	0	14	43	81
Mpeketoni	231	20	0	0	53	304	6	3	0	0	4	13	231
Mukurwe-ini	66	16	1	7	19	109	102	419	1	0	2	524	66
Mumias	779	75	2	75	80	1,011	64	455	1	15	21	556	779
Murang'a	1,476	52	30	46	321	1,925	2,942	1,048	18	4	101	4,113	1,476
Mutomo	418	59	1	5	24	507	40	43	7	5	0	95	418
Mwingi	855	114	5	5	159	1,138	369	150	11	2	1	533	855
Nairobi City	228	10	6	23	34	301	52	0	0	0	0	52	228
Naivasha	1,828	251	36	268	1,352	3,735	1,646	134	47	1,364	6	3,197	1,828
Nakuru	7,562	679	86	233	3,320	11,880	15,105	620	273	1,515	1,433	18,946	7,562
Nanyuki	1,459	213	10	74	74	1,830	1,495	95	55	17	14	1,676	1,459
Narok	522	222	34	42	60	880	1,493	157	22	90	35	1,797	522
Ndhiwa	362	103	6	1	23	495	338	94	12	12	2	458	362
Ngong	1,338	164	2	84	59	1,647	37	23	1	3	23	87	1,338
Nkubu	687	33	6	32	44	802	206	17	16	10	42	291	687
Nyahururu	1,322	238	63	484	198	2,305	2,148	110	45	48	240	2,591	1,322
Nyamira	993	213	22	5	100	1,333	856	57	4	11	35	963	993
Nyando	1,163	208	3	78	489	1,941	2,107	175	13	326	26	2,647	1,163
Nyeri	962	94	20	75	110	1,261	1,367	732	81	13	194	2,387	962
Ogembo	1,578	203	7	4	58	1,850	1,270	133	30	7	86	1,526	1,578
Othaya	428	9	2	34	20	493	88	49	1	0	11	149	428
Oyugis	935	56	10	15	181	1,197	29	3	2	4	1	39	935
Rongo	125	15	2	0	5	147	1,040	11	16	0	0	1,067	125
Ruiru	128	2	0	0	34	164	79	11	0	0	2	92	128
Runyenjes	592	53	0	5	83	733	156	208	8	1	10	383	592
Shanzu	2,499	409	14	59	533	3,514	0	0	0	0	0	0	2,499
Siakago	1,145	140	23	48	48	1,404	393	14	20	1	13	441	1,145
Siaya	789	87	7	4	33	920	671	132	1	25	4	833	789
Sirisia	637	87	7	17	29	777	49	59	4	0	4	116	637
Sotik	138	34	0	1	57	230	282	14	0	7	159	462	138
Tamu	214	61	2	22	7	306	50	19	0	9	2	80	214
Taveta	279	41	11	8	14	353	82	1	6	0	2	91	279
Tawa	264	78	5	3	81	431	67	0	4	0	2	73	264
Thika	2,220	97	5	1	832	3,155	5,892	968	41	124	107	7,132	2,220
Tigania	1,185	31	6	33	50	1,305	432	35	4	1	19	491	1,185
Tononoka	263	22	0	345	0	630	3	0	0	0	100	103	263
Ukwala	392	58	2	13	3	468	10	7	1	0	31	49	392
Vihiga	816	113	6	28	270	1,233	972	207	18	15	102	1,314	816
Voi	501	55	18	13	19	606	856	9	11	8	47	931	501
Wajir	541	73	2	12	53	681	37	1	0	1	6	45	541
Wang'uru	656	89	6	107	87	945	253	115	15	6	111	500	656
Webuye	1,110	116	48	28	154	1,456	451	35	5	29	25	545	1,110
Winam	1,344	170	10	207	51	1,782	435	136	3	24	34	632	1,344
Wundanyi	100	60	4	21	19	204	4	17	8	1	43	73	100
All Courts	149,396	16,787	1,601	5,783	54,517	228,084	148,828	20,737	7,949	19,271	12,518	209,303	149,396

Annex 2.12 Case Backlog by Age in Magistrates' Courts, FY 2018/19

Court Name	1-3 years	3-5 years	Over 5 years	All backlog
Baricho	1,331	43	6	1,380
Bomet	472	20	4	496
Bondo	361	19	14	394
Bungoma	1,181	218	369	1,768
Busia	1,999	717	22	2,738
Butali	980	68	1	1,049
Butere	243	112	5	360
Chuka	1,271	16	14	1,301
Eldama Ravine	431	43	7	481
Eldoret	5,743	519	1,623	7,885
Embu	963	114	380	1,457
Engineer	335	188	25	548
Garissa	854	8	3	865
Garsen	312	23	0	335
Gatundu	565	193	15	773
Gichugu	467	5	7	479
Githongo	239	2	27	268
Githunguri	470	69	28	567
Hamisi	501	90	11	602
Hola	163	5	3	171
Homa bay	439	119	9	567
Isiolo	764	91	3	858
Iten	222	133	2	357
JKIA	62	3	2	67
Kabarnet	90	24	1	115
Kajiado	1,314	578	407	2,299
Kakamega	2,434	1,064	862	4,360
Kakuma	193	11	1	205
Kaloleni	290	6	24	320
Kandara	800	121	10	931
Kangema	140	20	0	160
Kangundo	484	43	5	532
Kapenguria	1,153	41	4	1,198
Kapsabet	1,755	438	288	2,481
Karatina	783	130	235	1,148
Kehancha	147	11	2	160
Kericho	2,608	277	7	2,892
Keroka	180	18	16	214
Kerugoya	986	11	47	1,044
Kiambu	900	179	25	1,104
Kibera	8,645	382	38	9,065
Kigumo	857	1,110	26	1,993
Kikuyu	1,376	339	86	1,801
Kilgoris	172	194	29	395
Kilifi	809	171	89	1,069
Kilungu	409	59	5	473
Kimilili	780	53	59	892
Kisii	2,133	43	9	2,185
Kisumu	5,606	334	115	6,055
Kitale	2,346	515	63	2,924
Kithimani	888	18	157	1,063
Kitui	1,736	702	656	3,094
Kwale	1,115	295	190	1,600
Kyuso	77	1	2	80
Lamu	305	15	19	339
Limuru	1,205	413	8	1,626
Lodwar	410	17	10	437
Loitoktok	52	50	0	102
Machakos	1,451	74	100	1,625
Makadara	4,010	327	88	4,425
Makindu	2,709	356	53	3,118
Makueni	294	160	11	465
Malindi	757	255	67	1,079
Mandera	19	2	0	21
Maralal	89	1	3	93
Mariakani	780	1	9	790
Marimanti	297	12	8	317
Marsabit	256	4	0	260
Maseno	761	223	21	1,005
Maua	2,228	22	133	2,383
Mavoko	2,684	111	183	2,978
Mbita	433	79	1	513
Meru	1,525	658	31	2,214
Migori	1,947	421	21	2,389
Milimani	16,810	657	193	17,660

Court Name	1-3 years	3-5 years	Over 5 years	All backlog
Baricho	1,331	43	6	1,380
Milimani Anticorruption Court	71	28	6	105
Milimani Childrens Court	2,852	1,452	154	4,458
Milimani Commercial	16,346	12,403	6,836	35,585
Molo	1,470	643	521	2,634
Mombasa	15,532	6,848	6,292	28,672
Moyale	124	4	8	136
Mpeketoni	26	18	2	46
Mukurwe-ini	112	12	0	124
Mumias	599	178	35	812
Murang'a	2,137	376	229	2,742
Mutomo	219	40	38	297
Mwingi	502	134	139	775
Nairobi City	208	19	20	247
Naivasha	2,992	268	134	3,394
Nakuru	8,228	6,900	1,958	17,086
Nanyuki	2,503	132	26	2,661
Narok	945	222	229	1,396
Ndhiwa	228	39	7	274
Ngong'	227	37	8	272
Nkubu	363	16	9	388
Nyahururu	573	788	187	1,548
Nyamira	735	146	2	883
Nyando	1,193	641	65	1,899
Nyeri	1,216	318	92	1,626
Ogembo	1,195	498	158	1,851
Othaya	242	1	8	251
Oyugis	78	10	8	96
Rongo	633	143	2	778
Ruiru	0	0	0	0
Runyenjes	181	8	1	190
Shanzu	1,056	416	22	1,494
Siakago	789	82	275	1,146
Siaya	279	27	289	595
Sirisia	85	7	1	93
Sotik	257	83	2	342
Tamu	159	7	2	168
Taveta	166	23	5	194
Tawa	201	36	7	244
Thika	1,290	370	137	1,797
Tigania	720	374	139	1,233
Tononoka	340	125	12	477
Ukwala	73	4	8	85
Vihiga	490	74	117	681
Voi	878	21	25	924
Wajir	281	1	1	283
Wang'uru	316	54	63	433
Webuye	536	96	68	700
Winam	1,150	261	11	1,422
Wundanyi	226	36	11	273
All Courts	171,618	48,283	25,367	245,268

Annex 2.13 SJT Implementation Status on Reduction of Case Backlog in Magistrates' Courts

Name of Court	SJT target as December, 2016 on reduction of Cases > 5years	Backlog Over 5 Years	Resolved cases of over 5 years and above by June 30, 2019	% Change
Baricho	24	6	75	-75%
Bomet	52	4	120	-92%
Bondo	10	14	45	40%
Bungoma	709	369	3,787	-48%
Busia	152	22	625	-86%
Butali	83	1	108	-99%
Butere	17	5	151	-71%
Chuka	499	14	279	-97%
Eldama Ravine	101	7	142	-93%
Eldoret	848	1623	1218	91%
Embu	776	380	1,734	-51%
Engineer	6	25	69	317%
Garissa	34	3	467	-91%
Garsen	1	0	4	-100%
Gatundu	174	15	621	-91%
Gichugu	16	7	128	-56%
Githongo	4	27	45	575%
Githunguri	215	28	288	-87%
Hamisi	21	11	45	-48%
Hola	12	3	43	-75%
Homa bay	27	9	53	-67%
Isiolo	41	3	67	-93%
Iten	903	2	3,033	-100%
JKIA	0	2	8	-
Kabarnet	37	1	79	-97%
Kajiado	1,007	407	788	-60%
Kakamega	351	862	466	146%
Kakuma	0	1	3	-
Kaloleni	57	24	284	-58%
Kandara	153	10	47	-93%
Kangema	48	0	106	-100%
Kangundo	40	5	119	-88%
Kapenguria	20	4	126	-80%
Kapsabet	442	288	225	-35%
Karatina	323	235	120	-27%
Kehancha	52	2	112	-96%
Kericho	745	7	1153	-99%
Keroka	114	16	345	-86%
Kerugoya	67	47	410	-30%
Kiambu	1,074	25	1748	-98%
Kibera	320	38	527	-88%
Kigumo	205	26	620	-87%
Kikuyu	315	86	384	-73%
Kilgoris	36	29	174	-19%
Kilifi	729	89	1,801	-88%
Kilungu	2	5	31	150%
Kimilili	169	59	207	-65%
Kisii	351	9	1,770	-97%
Kisumu	347	115	657	-67%
Kitale	664	63	1389	-90%
Kithimani	33	157	244	376%
Kitui	2,360	656	540	-72%
Kwale	345	190	315	-45%
Kyuso	33	2	27	-94%
Lamu	9	19	37	111%
Limuru	61	8	758	-87%
Lodwar	17	10	11	-41%
Loitoktok	0	0	6	-
Machakos	2,659	100	3,331	-96%
Makadara	1,061	88	1390	-92%
Makindu	637	53	855	-92%
Makueni	157	11	234	-93%
Malindi	418	67	3158	-84%
Mandera	5	0	0	-100%
Maralal	6	3	7	-50%
Mariakani	34	9	109	-74%
Marimanti	7	8	28	14%
Marsabit	2	0	4	-100%
Maseno	322	21	829	-93%
Maua	871	133	1,315	-85%
Mavoko	22	183	134	732%

Name of Court	SJT target as December, 2016 on reduction of Cases > 5years	Backlog Over 5 Years	Resolved cases of over 5 years and above by June 30, 2019	% Change
Baricho	24	6	75	-75%
Mbita	7	1	195	-86%
Meru	4,023	31	4,448	-99%
Migori	39	21	255	-46%
Milimani	389	193	352	-50%
Milimani Anticorruption	34	6	110	-82%
Milimani Childrens	5,702	154	3,672	-97%
Milimani Commercial	19,836	6836	15,929	-66%
Molo	738	521	804	-29%
Mombasa	21,855	6292	17,029	-71%
Moyale	9	8	30	-11%
Mpeketoni	1	2	1	100%
Mukurwe-ini	8	0	26	-100%
Mumias	261	35	768	-87%
Murang'a	849	229	1,603	-73%
Mutomo	41	38	17	-7%
Mwingi	434	139	527	-68%
Nairobi City	314	20	384	-94%
Naivasha	1,638	134	1297	-92%
Nakuru	17,950	1958	5,608	-89%
Nanyuki	311	26	515	-92%
Narok	473	229	312	-52%
Ndhiwa	10	7	6	-30%
Ngong'	74	8	7	-89%
Nkubu	244	9	216	-96%
Nyahururu	1,400	187	551	-87%
Nyamira	145	2	664	-99%
Nyando	1,187	65	321	-95%
Nyeri	452	92	2,033	-80%
Ogembo	501	158	588	-68%
Othaya	4	8	53	100%
Oyugis	60	8	200	-87%
Rongo	41	2	93	-95%
Ruiru		0	0	-
Runyenjes	9	1	106	-89%
Shanzu	20	22	723	10%
Siakago	491	275	932	-44%
Siaya	116	289	1208	149%
Sirisia	7	1	1067	-86%
Sotik	192	2	598	-99%
Tamu	12	2	19	-83%
Taveta	17	5	64	-71%
Tawa	10	7	27	-30%
Thika	3,022	137	2326	-95%
Tigania	484	139	415	-71%
Tononoka	89	12	2637	-87%
Ukwala	10	8	77	-20%
Vihiga	369	117	860	-68%
Voi	177	25	181	-86%
Wajir	2	1	93	-50%
Wang'uru	53	63	169	19%
Webuye	237	68	209	-71%
Winam	326	11	904	-97%
Wundanyi	9	11	25	22%
All courts	106,134	25,367	111,432	-76%

Annex 2.14: Filed Cases by Type and Kadhis' Courts, FY 2018/19

Court Name	Divorce	Registration of Marriage	Matrimonial Cause	Misc Application	Registration of Divorce	Marriages	Succession	Other Matters	All Cases
Balambala	9	2	3	0	1	19	1	0	35
Bungoma	5	3	1	2	1	24	2	0	38
Busia	0	3	0	0	1	32	0	1	37
Bute	18	6	19	0	0	15	1	0	59
Daadab	74	2	1	8	2	16	1	0	104
Eldas	5	6	4	5	1	5	2	0	28
Eldoret	11	21	7	25	5	28	2	0	99
Elwak	71	2	36	6	20	56	8	0	199
Faza Island	17	0	0	2	0	2	7	0	28
Garbatulla	12	17	12	9	1	42	6	0	99
Garissa	228	18	29	10	29	120	70	0	504
Garsen	23	6	26	0	3	16	5	0	79
Habaswein	21	3	0	3	2	35	2	18	84
Hamisi	4	0	0	0	0	15	0	0	19
Hola	11	1	9	4	2	5	3	0	35
Homabay	1	1	6	7	1	15	2	0	33
Ijara	32	6	0	1	143	45	2	0	229
Isiolo	78	21	5	32	22	103	62	0	323
Kajiado	3	29	0	0	3	59	3	0	97
Kakamega	4	11	1	5	2	73	2	0	98
Kakuma	9	0	9	2	2	0	0	0	22
Kericho	3	51	0	2	3	7	0	1	67
Kibera	18	4	6	11	14	15	7	2	77
Kilifi	11	0	5	2	8	98	29	0	153
Kisumu	18	13	4	76	9	42	21	3	186
Kitale									
Kitui	5	2	0	1	1	10	16	1	36
Kwale	4	1	0	5	0	6	183	0	199
Lamu	17	1	2	24	10	23	13	0	90
Lodwar									
Machakos	3	0	15	2	1	16	1	0	38
Makindu									
Malindi	46	1	0	5	12	15	36	0	115
Mandera	82	4	3	38	2	11	26	0	166
Mariakani	7	5	0	3	17	251	11	0	294
Marsabit	9	2	4	1	4	9	7	0	36
Maua	5	0	1	2	1	5	2	0	16
Merti	14	6	54	2	7	42	7	0	132
Migori	6	0	0	0	0	10	1	0	17
Mombasa	205	37	6	218	174	576	292	0	1,508
Moyale	29	21	14	5	9	17	53	8	156
Mpeketoni	19	1	1	15	0	4	1	4	45
Msambweni	21	3	0	0	0	22	52	0	98
Muranga	5	0	0	1	1	4	4	0	15
Mwingi	0	6	2	5	0	16	0	1	30
Nairobi	142	374	131	505	260	310	93	3	1,818
Nakuru	9	35	0	2	11	49	4	0	110
Nyeri	12	10	0	0	2	18	17	0	59
Takaba	53	59	0	5	26	20	6	0	169
Thika	2	0	0	0	0	4	1	0	7
Vihiga	6	2	0	1	0	37	1	3	50
Voi	1	1	1	0	2	22	1	0	28
Wajir	56	6	120	170	54	66	3	0	475
All courts	1,444	803	537	1,222	869	2,450	1,069	45	8,439

Annex 2.15: Resolved Cases by Type and Kadhis' Courts, FY 2017-18

Court Name	Divorce	Registration of Marriage	Matrimonial Cause	Misc. Application	Registration of Divorce	Marriages	Succession	Other Matters	All resolved Cases
Balambala	6	4	1	0	0	5	0	0	16
Bungoma	6	3	0	4	0	5	1	0	19
Busia	0	0	0	0	0	2	0	0	2
Bute	5	4	15	0	0	13	1	0	38
Daadab	214	0	11	14	2	10	1	0	252
Eldas	17	3	6	2	0	6	1	0	35
Eldoret	5	20	4	25	4	25	7	0	90
Elwak	63	1	29	3	20	55	8	0	179
Faza Island	15	1	0	0	1	2	9	0	28
Garbatulla	4	0	6	2	0	8	1	0	21
Garissa	141	16	11	8	21	78	49	1	325
Garsen	17	3	16	0	2	15	2	0	55
Habaswein	11	3	1	1	1	32	2	14	65
Hamisi	4	0	0	0	0	15	0	0	19
Hola	11	1	9	4	2	5	3	0	35
Homabay	2	0	0	4	1	6	0	0	13
Ijara	26	6	0	1	142	45	2	0	222
Isiolo	60	21	2	32	22	102	53	0	292
Kajiado	9	23	0	1	11	25	6	0	75
Kakamega	2	11	0	4	1	38	0	0	56
Kakuma	7	0	7	1	2	0	1	0	18
Kericho	0	0	0	2	0	0	1	0	3
Kibera	18	2	2	7	12	14	9	0	64
Kilifi	8	0	0	1	7	67	24	0	107
Kisumu	16	0	3	38	1	8	10	1	77
Kitale									
Kitui	6	1	0	1	1	8	16	1	34
Kwale	7	0	1	3	0	0	85	0	96
Lamu	10	0	0	14	4	16	8	0	52
Lodwar									
Machakos	3	0	15	2	0	0	0	0	20
Makindu									
Malindi	13	0	0	0	0	0	13	0	26
Mandera	55	3	0	53	2	6	22	0	141
Mariakani	3	0	0	1	2	167	7	0	180
Marsabit	5	0	4	1	0	6	5	0	21
Maua	7	0	0	2	1	4	5	1	20
Merti	7	2	42	1	1	28	3	0	84
Migori	2	1	0	0	0	4	1	0	8
Mombasa	315	1	6	199	116	455	330	0	1,422
Moyale	32	21	10	4	7	20	58	8	160
Mpeketoni	26	0	1	5	0	1	2	2	37
Msambweni	7	3	0	0	0	11	38	0	59
Muranga	0	0	0	0	0	2	0	0	2
Mwingi	0	6	0	4	0	15	1	1	27
Nairobi	137	311	47	297	160	19	69	0	1,040
Nakuru	12	36	0	2	11	42	6	0	109
Nyeri	12	3	0	0	1	11	23	0	50
Takaba	37	19	0	5	18	7	2	0	88
Thika	0	0	0	0	0	1	2	0	3
Vihiga	2	0	0	2	0	3	0	0	7
Voi	3	3	0	1	2	22	5	0	36
Wajir	27	5	176	147	28	37	2	0	422
All Kadhis	1,395	537	425	898	606	1,466	894	29	6,250

Annex 2.16 Filed and Resolved Cases in Kadhis' Courts, 2013/14 -2018/19

Court Name	Pending cases 2013/14	Pending cases 2014/15	Pending cases 2015/16	Pending cases 2016/17	Pending cases 2017/18	Pending cases 2018/19
Balambala	-	-	-	4	5	24
Bungoma	28	25	38	3	14	33
Busia	-	-	-	13	16	51
Bute	-	-	32	1	9	30
Daadab	-	-	102	157	118	30
Eldas	-	-	-	32	50	43
Eldoret	-	-	55	5	6	15
Elwak	-	-	-	15	1	21
Faza Island	-	-	-	8	17	17
Garbatulla	-	-	-	14	31	109
Garissa	-	-	252	206	280	459
Garsen	31	40	67	73	111	135
Habaswein	-	-	23	57	33	52
Hamisi	-	-	-	45	49	49
Hola	28	50	54	33	7	7
Homabay	-	-	28	43	50	70
Ijara	-	-	20	28	26	33
Isiolo	29	29	138	54	33	64
Kajiado	8	8	5	15	16	38
Kakamega	-	0	32	127	98	140
Kakuma	-	-	26	11	25	29
Kericho	-	0	39	27	8	72
Kibera	22	26	23	10	18	31
Kilifi	-	-	55	102	28	74
Kisumu	-	7	5	9	34	143
Kitale	-	-	-	-	-	-
Kitui	312	434	154	52	4	6
Kwale	79	90	120	34	40	143
Lamu	-	0	140	10	8	46
Lodwar	-	-	-	-	-	-
Machakos	3	10	14	7	33	51
Makindu	-	-	-	-	-	-
Malindi	107	104	126	80	36	125
Mandera	68	73	117	110	122	147
Mariakani	-	-	15	3	37	151
Marsabit	121	121	96	21	78	93
Maua	-	-	-	2	7	3
Merti	-	-	-	3	37	85
Migori	-	12	6	7	15	24
Mombasa	1,246	1,106	894	1,081	1,271	1357
Moyale	61	61	48	86	67	63
Mpeketoni	-	-	-	4	12	20
Msambweni	-	-	-	30	40	79
Muranga	1	1	6	15	22	35
Mwingi	-	-	-	8	8	11
Nairobi	185	219	192	57	663	1441
Nakuru	-	-	41	152	12	13
Nyeri	20	20	25	9	35	44
Takaba	-	-	-	13	9	90
Thika	5	6	2	3	7	11
Vihiga	-	-	-	-	-	43
Voi	6	12	51	5	5	3
Wajir	4	4	213	131	165	218
All Courts	2,364	2,458	3,254	3,011	3,811	6,071

Chapter 3

ACCESS TO JUSTICE - TRIBUNALS

ACCESS TO JUSTICE - TRIBUNALS

3.1 Introduction

The Constitution of Kenya 2010 recognizes Tribunals as part of the Judiciary. Article 1(3) (c) of the Constitution recognizes the Judiciary and independent Tribunals as State organs to which sovereign power is delegated by the people of Kenya. Article 159 (1) of the Constitution provides that judicial authority vests in, and is to be exercised by, courts and Tribunals established by, or under, the Constitution. Article 169 (1) of the Constitution further defines subordinate courts under the Judiciary to include local Tribunals as may be established by an Act of Parliament.

The Constitution requires the Judiciary to undertake effective measures that enhance access to justice for the people of Kenya. To give effect to this constitutional requirement, the Judiciary has been implementing major transformation initiatives geared towards the delivery of justice among them transitioning of tribunals. Tribunals are established by various Acts of Parliament and are mandated to resolve disputes in specific sectors in a fast, simple and speedy manner.

Under the current constitutional dispensation, Tribunals are part of the Judiciary and therefore critical players in the justice system. The Judiciary, therefore, has an obligation to manage Tribunals in an effective and efficient manner in order to render quality services to the public.

Twenty out of over 60 tribunals have transited to the Judiciary in a process triggered by the National Treasury since the financial year (FY) 2015/2016 as shown in the table below.

Table 3.1: Trend on the transition of Tribunals to the Judiciary

FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
<ol style="list-style-type: none"> 1. Political Parties Disputes Tribunal 2. Sports Disputes Tribunal 3. National Environment Tribunal 4. HIV and AIDS Tribunal 5. Education Appeals Tribunal 6. Business Premises Rent Tribunal 7. The Standards Tribunal 8. Industrial Property Tribunal 9. Cooperative Tribunal 10. Energy & Petroleum Tribunal 11. Rent Restriction Tribunal 	<ol style="list-style-type: none"> 1. Competition Tribunal. 2. Public-Private Partnership Petition. Committee (PPPPC) 3. Transport Appeals Licensing Board (TLAB). 4. State Corporations Appeals Tribunal 	<ol style="list-style-type: none"> 1. Competent Authority 2. Legal Education Appeals Tribunal 	<ol style="list-style-type: none"> 1. Communication and Multi Media Appeals Tribunal 2. Micro & Small Enterprises Tribunal 3. National Civil Aviation Appeals Tribunal

During the year under review, three Tribunals namely: Communications and Multi Media Tribunal, Micro and Small Enterprises Tribunal, and National Civil Aviation Appeals Tribunal were transitioned to the Judiciary.

3.2 Tribunals under the Judiciary

3.2.1 Industrial Property Tribunal

The Tribunal is established under the Industrial Property Act, 2001 and comprises of a Chairman and four members. The Industrial Property Tribunal (IPT) is a specialized court for resolution of disputes in different areas of intellectual property, which include patents, industrial designs, utility models, technovations and semi-conductor technologies.

The Tribunal has both original and appellate jurisdiction and thus receives applications on infringement of industrial property rights, applications on the validity of such rights as well as applications for the determination of rights transferred or to be transferred through licensing or other similar agreements or through government intervention.

The Tribunal's appellate jurisdiction involves hearing appeals from the decisions taken by different agencies responsible for the administration of industrial property rights such as Kenya Industrial Property Institute (KIPI), the Minister responsible for matters relating to industry as well as the relevant Arbitration Board under the Act. The Tribunal's mandate also involves advising government ministries and departments on the exploitation of intellectual property in specified circumstances under the Act.

3.2.2 Political Parties Disputes Tribunal

Political Parties Disputes Tribunal (PPDT) is established under Section 39(1) of the Political Parties Act 2011 of the Laws of Kenya. The Tribunal resolves disputes between members of a political party, member of a political party and a political party, among political parties, an independent candidate and a political party and among coalition parties. It also hears appeals from decisions of the Registrar of Political Parties under the Act. The Tribunal members are appointed by the Judicial Service Commission (JSC) and include a Chair, who should be a person qualified to be appointed as a judge of the High Court, and four other members.

3.2.3 Energy and Petroleum Tribunal

The Tribunal is established under Section 25 of the Energy Act, 2019. The Tribunal has the jurisdiction to hear and determine all matters referred to it relating to the energy and petroleum sector excluding criminal offences. It has original civil jurisdiction on any dispute between a licensee and a third party or between licensees. It also has

appellate jurisdiction over the decisions of the Energy Regulatory Authority and any licensing authority and in the exercise of its functions may refer any matter back to the Authority for reconsideration. It has the power to grant equitable reliefs including, but not limited to, injunctions, penalties, damages, and specific performance. The Tribunal has seven members and the Chairperson is to be appointed by the President.

3.2.4 State Corporations Appeals Tribunal

The State Corporations Appeals Tribunal (SCAT) is established under Section 22 of the State Corporation Act Chapter 446, Laws of Kenya. It hears appeals from persons aggrieved by a disallowance or surcharge by the Inspector-General, Corporations, and to remit, the case to the Inspector-General with such directions as the Tribunal thinks fit for giving effect to the decision on appeal. The Tribunal consists of a Chair appointed by the President, two members appointed by the Cabinet Secretary, and the secretary appointed by the Attorney General.

3.2.5 Legal Education Appeals Tribunal

The Legal Education Appeals Tribunal (LEAT) is established under Section 29(1) of the Legal Education Act No.27 of 2012 to determine appeals made in writing by any party or a reference made to it by the Council of Legal Education or by any committee or officer of the Council, on any matter relating to the Act. For the purpose of hearing appeals, the Tribunal has powers equivalent to those of the High Court to summon witnesses, take evidence on oath or affirmation and to call for the production of documents. The Tribunal consists of a Chair, one advocate, three persons who have demonstrated competence in the field of legal education, and a Registrar.

3.2.6 Standards Tribunal

The Standards Tribunal is established under Section 16A of the Standards Act Cap 496 Laws of Kenya to hear appeals from a decision of the Bureau or the Council. The Tribunal has powers to confirm, set aside or vary the decision or act in question and may make such other orders as the Tribunal considers appropriate, including orders with respect to the payment of costs. The Tribunal consists of a Chair, four members, and a secretary.

3.2.7 Competition Tribunal

The Competition Tribunal is established under Section 71 of the Competition Act No. 12 of 2010 Laws of Kenya to hear appeals against decisions made by the Authority (The Competition Authority). Further, the Tribunal has jurisdiction to review the Authority's decision and determination about a proposed merger. The Tribunal consists of the Chair and, not less than, two, and not more than, four other members.

3.2.8 Competent Authority

Competent Authority is established under the Copyright Act Cap 130 revised 2009. According to the Act, the “Competent Authority” should have, not more than, three persons appointed by the Attorney-General for the purpose of exercising jurisdiction under the Copyright Act Cap 130, whenever any matter requires to be determined by it. The Tribunal has four members appointed in February 2018.

3.2.9 HIV and AIDS Tribunal

HIV and AIDS Tribunal is established under Section 25 the HIV Prevention and Control Act No 14 of 2006 [Rev. 2012] The Tribunal has jurisdiction under Section 26 to hear and determine complaints arising out of any breach of the provisions of this Act; to hear and determine any matter or appeal as may be made to it pursuant to the provisions of this Act; and to perform such other functions as may be conferred upon it by this Act or by any other written law being in force. The jurisdiction conferred upon the Tribunal excludes criminal jurisdiction. The Tribunal can award costs as per Section 27 (which are enforced by the High Court. Members consist of seven members appointed by the Attorney-General under Section 25(1) and serve for a term of three years.

3.2.10 Rent Restriction Tribunal

The Rent Restriction Tribunal (RRT) is established under Section 4 of the Rent Restriction Act Cap 296 of the Laws of Kenya. It is the oldest Tribunal dating back to pre-colonial time. The mandate of the Tribunal includes making provisions for regulating the increase of rent, the right to possession, the exaction of premiums and fixing standard rent regarding controlled premises and for other purposes incidental thereto or connected, with the relationship of a landlord and tenant of a dwelling house. Its headquarters is in Nairobi with nine regional offices based in Mombasa, Kisumu, Nakuru, Nyeri, Kakamega, Eldoret, Embu, Lamu, and Garissa. The Tribunal consists of the Chair, Vice-Chair and a panel of members who are appointed by the Cabinet Secretary Ministry of Land, Housing and Urban Development.

3.2.11 Co-operative Tribunal

The Cooperative Tribunal (COOP) is established under Section 77 of the Cooperative Societies Act No.490 Revised in 2012, Laws of Kenya. The mandate of the Tribunal is to resolve disputes among members of cooperative societies, past members and persons claiming through members, past members, and deceased members; or between members, past members or deceased members and the society, its committee or any officer of the society; or between the society and any other co-operative society. The Tribunal consists of the Chair, Vice-Chair, and four members who are appointed by the Cabinet Secretary, Ministry of Industrialization and Enterprise Development.

3.2.12 Business Premises Rent Tribunal

Business Premises Rent Tribunal (BPRT) is established under Section 11 of the Landlord and Tenant (Shops, Hotels, and Catering Establishments) Act Chapter 301, Laws of Kenya, to determine disputes between landlords and tenants in business premises. The Tribunal has powers to determine a range of issues such as whether or not any tenancy is a controlled tenancy; determine or vary the rent to be payable in respect of any controlled tenancy. Under Section 11 of the Act, The Tribunal consists of a person or persons (number not specified) appointed by the Cabinet Secretary. Currently, the Tribunal has only one member.

3.2.13 National Environment Tribunal

The National Environment Tribunal (NET) is established under Section 125 of the Environmental Management and Coordination Act (EMCA) of 1999 and comprises a Chair nominated by JSC, and four members appointed by the Cabinet Secretary. Appeals to the Tribunal regards any person who is aggrieved by a refusal to grant a license or to the transfer of his license under the Act or regulations, the imposition of any condition, limitation or restriction on his license under the Act or regulations, the revocation, suspension or variation of his license under the Act or regulations, the amount of money which he is required to pay as a fee under the Act or regulations made thereunder, the imposition against him of an environmental restoration order or environmental improvement order by the NEMA under the Act or regulations. The Tribunal has four board members.

3.2.14 Micro and Small Enterprises Tribunal

The Tribunal is established under Section 54 of the Micro and Small Enterprises Act, 2012 Laws of Kenya. The Chair and the Vice-Chair are nominated by JSC but appointed by the Cabinet Secretary and five members also appointed by the Cabinet Secretary. The Tribunal has jurisdiction to determine any dispute concerning the micro and small enterprise arising from (a) among members, past members and persons claiming through members, past members of associations and or administrators of estate of deceased members of the associations; (b) between members, past members or administrators of estate of deceased members of the association, and the Micro and Small Enterprises Authority, or any of their officers or members, and (c) between the Authority and an association.

3.2.15 Communications and Multi Media Appeals Tribunal

The Communication and Multi Media Tribunal (CAMAT) is established under Section 102(1) of the Kenya Information and Communication (Amendment) Act 2013 to arbitrate in cases where disputes arise between the parties under the Act and such matters as may be referred to it by the Minister. The Tribunal consists of a Chair, who should be a person who holds or has held a judicial office in Kenya or who is

an advocate of not less than seven years standing and entitled to practice before any of the courts of Kenya, and two other members, who should possess expert knowledge of the matters likely to come before the Tribunal and who are not in the employment of the Government or the Corporation, and two other members, who shall be nominated by the Media Council of Kenya established under the Media Act, 2007 (No. 3 of 2007), and appointed by the Minister. The Minister in consultation with the Attorney General appoints the Chair and other members of the Tribunal.

3.2.16 National Civil Aviation Administrative Review Tribunal

The Tribunal is established under Section 66 of the Civil Aviation Act No.21 of 2013 Revised in 2014. The Tribunal consists of the Chair, a Deputy Registrar and four other persons with management and technical experience of not less than ten years in the field of civil aviation. The Cabinet Secretary through a competitive process selects three and eight suitable nominees for the positions of a chairperson and members respectively and forwards their names to JSC for the appointment.

The jurisdiction of the Tribunal is to hear and determine complaints or appeals arising from: any refusal to grant a license, a certificate or any other authorization by the Kenya Civil Aviation Authority or transfer of a license under the Act or regulations No. 21 of 2013 Civil Aviation [Rev. 2014] [Issue 3] C16A – 40, the imposition of any condition, limitation or restriction on a license under the Act or regulations, any revocation, suspension or variation of a license, any amount of money which is required to be paid as a fee, the imposition of any order or direction by the Authority, consumer protection compliance and enforcement of activities related to areas such as violation of rights, unfair and deceptive practices and unfair competition by air carriers and travel agents, deceptive airline advertising including fare, on-time performance, schedule, code sharing, and violations of rules concerning denied boarding compensation, ticket refunds, baggage liability requirements, flight delays and charter flights or any exercise of powers to make decisions, but not powers in respect of staff employment, granted to the Director-General or the Authority under this Act or regulations.

3.2.17 Education Appeals Tribunal

The Education Appeals Tribunal (EAT) is established under Section 93 of Basic Education Act No. 14 of 2013, revised in 2017. The Tribunal handles complaints from those dissatisfied with decisions made by educational institutions. It listens to petitions from teachers, students, parents, ministry staff, proprietors, sponsors, and boards of management and school management committees. The Tribunal consists of the Chair and four members who are responsible for hearing and resolving disputes brought before it. The Chair is appointed by the Cabinet Secretary and has all the powers of the High court to summon witnesses, to take evidence on oath or affirmation and to call for the production of books and other documents.

3.2.18 Sports Disputes Tribunal

The Sports Disputes Tribunal (SDT) is established under Section 55 of Sports Act No.15 of 2013 Laws of Kenya. It is under the Ministry of Sports, Arts, and Culture and draws its mandate from the Sports Act 2013 and Anti-Doping Act no 5 of 2016.

The Tribunal determines:

- a) Appeals against decisions made by national sports organizations or umbrella national sports organizations, whose rules specifically allow for appeals to be made to the Tribunal concerning that issue including appeals against disciplinary decisions and appeals against not being selected for a Kenyan team or squad;
- b) Other sports-related disputes that all parties to the dispute agree to refer to the Tribunal and that the Tribunal agrees to hear; and
- c) Appeals from decisions of the Registrar under the Act.

In doping cases, the Tribunal hears and determines all cases on anti-doping rule violations on the part of athletes and athlete support personnel and matters of compliance of sports organizations as per the Anti-doping Act. The Tribunal does not have jurisdiction over national crimes related to doping as they relate to recreational athletes and other persons, entities or organizations. The Tribunal consists of the Chair and eight other members. The Tribunal may, in determining disputes apply Alternative Dispute Resolution (ADR) mechanisms in resolving the disputes.

3.2.19 Public Private Partnership Petitions Committee

The Public Private Partnership Petition Committee (PPPPC) is established under Section 4 of the PPPPC Act No. 15 of 2013, revised in 2015. It is comprised of a Chair and 12 members. Its functions involve overseeing the implementation of policies formulated, requisition of any information from any party to a project on any matter relating to a public-private partnership and taking custody of project agreements made under the Act, and monitoring compliance with the terms and conditions of the agreement. The Tribunal had six members and did not register cases during the reporting period.

3.2.20 Transport Licensing Appeals Tribunal

The Transport Licensing Appeals Tribunal (TLAB) is established under Section 38 and 39 of the National Transport and Safety Authority (NTSA) Act No.33 of 2012 revised in 2014 under the Ministry of Transport, Infrastructure, and Housing and Urban Development. The Tribunal hears appeals against decisions of the NTSA. The appeals board may, on any appeal affirm or reverse the decision of the Authority, or make such other order as the Board considers necessary and fit. It also hears appeals filed against any tax decision made by the Commissioner. The Tribunal consists of five members including the Chair.

3.3 Caseload Statistics

3.3.1 Filed and resolved cases in Tribunals

During the period under review, 6,627 cases were filed while 2,521 cases were resolved. Details on filed and resolved cases are shown in Table 3.2

Table 3.2: Cases filed and resolved during the FY 2018/2019

Name of Tribunal	Cases filed between 1 st July 2018 and 30 th June 2019.	Cases resolved between 1 st July 2018 and 30 th June 2019.
Business Premises Rent Tribunal	2,246	1,065
Standards Tribunal	10	4
Cooperative Tribunal	1,112	570
State Corporations Appeal Tribunal	0	0
Education Appeals Tribunal	4	0
Transport Licensing Appeals Board	39	0
Rent Restriction Tribunals	3,052	810
Energy & Petroleum Tribunal	0	0
National Environment Tribunal	30	25
Competition Tribunal	0	0
Public Private Partnership Petition Committee	2	2
Micro & Small Enterprises Tribunal	0	0
Competent Authority	1	0
Sports Disputes Tribunal	66	22
HIV & Aids Tribunal	28	0
Industrial Properties Tribunal	5	0
Communications & Multi-Media Appeals Tribunal	6	2
National Civil Aviation Tribunal	3	1
Legal Education Tribunal	3	2
Political Parties Disputes Tribunal	20	18
All Tribunals	6,627	2,521

Five Tribunals were newly transited hence there were no matters filed in the year under review. The case clearance rate for the period under review was 45 per cent.

3.3.2 Pending cases in Tribunals

During the period under review, 26,439 cases were pending in all Tribunals. Details on pending cases are shown in Table 3.3

Table 3.3: Pending cases in Tribunals during the FY 2018/2019

Name of Tribunal	Pending Cases as at June 30, 2018	Pending Cases as at June 30, 2019
Business Premises Rent Tribunal	3,328	10,342
Standards Tribunal	1	4
Cooperative Tribunal	3,971	4,109

Name of Tribunal	Pending Cases as at June 30, 2018	Pending Cases as at June 30, 2019
State Corporations Appeal Tribunal	0	0
Education Appeals Tribunal	49	13
Transport Licensing Appeals Board	8	26
Rent Restriction Tribunal	3,	11,765
Energy & Petroleum Tribunal	1	0
National Environment Tribunal	15	35
Competition Tribunal	2	0
Public Private Partnership Petition Committee	0	1
Micro & Small Enterprises Tribunal	0	0
Competent Authority	0	0
Sports Dispute Tribunal	90	70
HIV & Aids Tribunal	92	48
Industrial Properties Tribunal	10	13
Communication & Multi-Media Appeals Tribunal	0	5
National Civil Aviation Administrative Review Tribunal	1	2
Legal Education Tribunal	0	2
Political Parties Disputes Tribunal	1	4
All Tribunals	11,100	26,439*

During the period under review, records appraisal and case census was undertaken therefore revealing the actual number of cases pending. This is due to the historical case backlog. The percentage of pending cases is illustrated in Figure 3.1

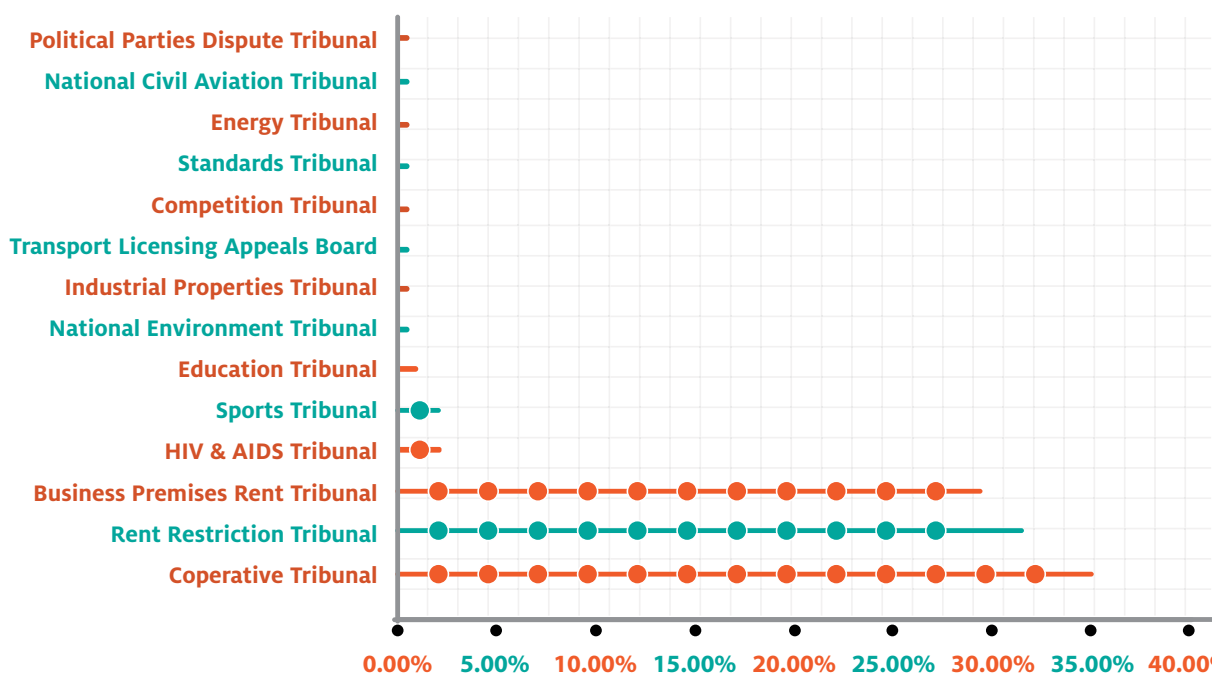


Figure 3.1: Percentage pending cases by Tribunal, F/Y 2018/2019

From Figure 3.1, 99 percent of pending cases were in three Tribunals namely Co-operative Tribunal, Rent Restriction Tribunal, and Business Premises Tribunal. Another 11 Tribunals shared the remaining 1percent of the pending cases while four Tribunals did not have a pending case.

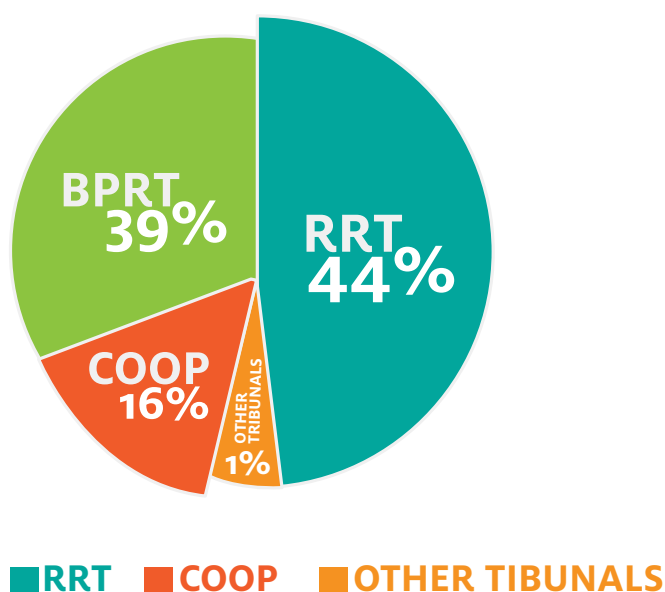


Fig 3.2: Percentage of Pending Cases

3.4 Staff distribution in Tribunals

During the period under review, a total of 192 staff comprising both Ministry and Judicial staff were working in Tribunals. Similarly, there were 100 board members across all Tribunals. The distribution of staff per Tribunal is indicated in Table 3.4 below.

Table 3.4: Staff distribution in Tribunals in the FY 2018/19

Name of Tribunal	Board Members	Judicial Staff	Ministry Staff	Total
Business Premises Rent Tribunal	1	4	22	27
Standards Tribunal	5	0	5	10
Cooperative Tribunal	4	14	8	26
State Corporations Appeal Tribunal	0	1	6	7
Education Appeals Tribunal	6	1	4	11
Transport Licensing Appeals Board	5	2	4	11
Rent Restriction Tribunal	10	5	58	73
Energy Tribunal	1	0	2	3
National Environment Tribunal	5	5	2	12
Competition Tribunal	5	1	1	7
Public Private Partnership Petition Committee	6	4	1	11
Micro & Small Enterprises Tribunal	6	0	0	6

Name of Tribunal	Board Members	Judicial Staff	Ministry Staff	Total
Competent Authority	5	0	0	5
Sports Disputes Tribunal	9	2	7	18
HIV & Aids Tribunal	7	3	19	29
Industrial Properties Tribunal	4	1	4	9
Communication & Multi-Media Appeals Tribunal	7	0	1	8
National Civil Aviation Administrative Review Tribunal	5	1	1	7
Legal Education Tribunal	4	0	0	4
Political Parties Disputes Tribunal	5	8	0	13
All Tribunals	100	52	145	297

During the period under review, the majority of staff working in Tribunals were employees seconded from various ministries. The newly transited Tribunals are being managed from the Tribunals Secretariat by two clerical officers as a shared service.

3.5 Tribunal Chairpersons and Locations

Physical access to Tribunals is a key component of access to justice. During the period under review, Tribunals were operating from various offices with the majority being housed in premises within their parent ministries. In the course of the year, 19 Tribunals had chairpersons while State Corporations Appeals Tribunal did not have a chairperson. The Tribunals' locations and names of the chairpersons are shown in Table 3.5 below.

Table 3.5 Tribunals' location and the Chairpersons under the period under review.

Name of Tribunal	Location	Name of the Chair person
Business Premises Rent Tribunal	View Park Towers, 7 and 8 floor	Denis Silas Mbichi Mboroki
Standards Tribunal	KIRDI Block 'D', door '10' along Popo road, South 'C'	Gladys Muthoni Mburu
Cooperative Tribunal	Reinsurance Plaza, 12th floor room 1208, Taifa Road, Nairobi	Hon Alex Ithuku/Hon. Beatrice Kimemia
State Corporations Appeal Tribunal	Reinsurance Plaza 7th floor Aga Khan Walk/Taifa road	N/A
Education Tribunal	Crescent People, 3 rd Floor	Waigi Kamau
Transport Licensing Appeals Board	Transcom House, 2nd Floor, Community, Ngong Road.	Dick Waweru Mbugua
Rent Restriction Tribunal	Crescent House, 1st, 2nd and 3rd Floor, Muindi Mbingu/Moktar Daddah Street.	Hillary K. Korir

Name of Tribunal	Location	Name of the Chair person
Energy Tribunal	Nyayo House, 24th floor Kenyatta Avenue	Kioko Kilukumi
National Environment Tribunal	Department of Resource Surveys and Remote Sensing (DRSRS), Popo Road, South C (Belle Vue)	Mohamed Balala
Competition Tribunal	Kenya Re Towers, 10 th Floor, Off Ragati Rd, Upper Hill	Stephen Kipkenda
Public Private Partnership Petition Committee	Crescent House, 3rd & 4th Floor, Muindi Mbingu/Moktar Daddah Street.	James Muruthi Kihara
Micro & Small Enterprises Tribunal	12th Floor, Re-insurance Plaza, Taifa Road	Hon. Joseph M. Were
Competent Tribunal	Sheria House, State Law Office, Harambee Avenue	Dr. Henry Kibet Mutai
Sports Tribunal	NSSF Building BLOCK A 24Floor Western Wing	John Morris Ohaga
HIV & Aids Tribunal	NHIF Building, 15th floor, Ragati road	Jotham Arwa/ Helen Namisi
Industrial Properties Tribunal	Weights & Measures Complex, Block A , Popo Road South C	Brown M. Kairaria
Communication & Multi-Media Appeals Tribunal	Transcom House, 9th Floor, Ngong Road	Hon. William Oketch
National Civil Aviation Tribunal	Transcom House,3rd floor, Ngong Rd	Hon. Peter O. Muholi
Legal Education Tribunal	Jogoo House A, 5th Floor, Harambee Avenue.	Rose Waithera Njoroge
Political Parties Disputes Tribunal	Milimani Law Courts, Court Room 3, Nairobi	Kyalo Mbobu

Key Achievements and Developments in Tribunals Administration in the Financial Year 2018/2019.

3.5.1 First Tribunals Symposium

The Secretariat in conjunction with the Judicial Training Institute (JTI) organized the Inaugural Tribunals' Symposium, which was held in Mombasa. All Tribunal Chairs, Members and Secretaries/CEOs attended the Symposium. The main objective was to network, share experiences and strengthen partnerships with other departments in the Judiciary. The tribunal members were taken through thematic areas meant to improve the manner in which they run tribunal sessions and therefore enhancing access to justice.

3.5.2 Induction Training for Tribunals Secretariat Staff

The Judiciary Human Resource Policies and Procedures Manual provides that induction and orientation of newly appointed staff should be conducted within the first three months of employment. The overall objective of induction is to familiarize the employees with the mandate, vision, mission, and operations of the Judiciary and how their roles align with the respective offices. In this regard, the secretariat staff was taken through an induction programme whose aim was to enable the participants to develop realistic expectations, reduce uncertainty and equip them with requisite knowledge, skills, and attitude to enable them to settle down and deliver on their duties and responsibilities. The program was conducted by facilitators drawn from various directorates in the Judiciary and covered to a large extent the structure of the Judiciary, roles, and functions of various directorates and the functions of the Tribunals Secretariat.

3.5.3 Induction Training for New Tribunal Members

During the reporting period, three Tribunals were transited to the Judiciary. In order to comply with the Human Resource policies, an induction training was conducted targeting 36 participants comprising the Chairs, Members, and Secretaries/CEOs of the following Tribunals: Communications and Multimedia Appeals Tribunal, Legal Education Appeals Tribunal, Competent Authority, National Civil Aviation Administrative Review Tribunal, Micro and Small Enterprises Tribunal, and Public Private Partnerships Petition Committee. The trainers comprised of internal and external facilitators as well as Judicial Officers who were carefully selected to share their experiences. The training programme was tailor-made to cover important aspects of Judiciary policies, functions of various directorates, active case management and role and conduct of Tribunal Board Members.

3.5.4 Institutionalizing performance management

Performance management and measurement are an integral part of the judicial systems that are aimed at ensuring that both individual and team objectives are drawn and aligned to those of the organization. Despite the Office of the Registrar being operationalized in the third quarter of the financial year 2017/2018, the Ag. Registrar signed a Performance Management and Measurement Understanding (PMMU) to guide the secretariat in its programs and activities for the later quarters of the financial year. The PMMU targets were drawn from the SJT and the Judiciary's strategic plan. Four Tribunals signed PMMUs in the FY 2018/2019. This was meant to enhance service delivery to the public with a major emphasis on access to justice.

3.5.5 Staff Performance Appraisal

Performance Appraisal (PA) is a formal, structured system of measuring and evaluating an employees' job, related behavior and outcomes to discover how the

employees are presently performing on the job and how the employee can perform more effectively in the future so that both the employee and the employer reap the desired benefits. Following the signing of the PMMU for the Registrar Tribunals, a training workshop was organized for the secretariat staff with the main objective of cascading the PMMU targets through PAS. A total of 13 members of staff negotiated targets and signed their performance appraisal documents.

3.5.6 Assessment of Tribunal Registries and Records Appraisal

The Tribunals secretariat is committed to enhancing efficiency in service delivery in all Tribunal registries. During the reporting period, a comprehensive analysis of registries and records in the Cooperative Tribunal and Rent Restriction Tribunal was conducted. The activity involved going through all records in the archives and the registries to weed out expired records, organize and arrange files in the registries, reconstruct case registers and movement registers, records survey, and appraisal to establish pending cases for disposal and those for retention.

It will be very critical to continuously train registry staff on Record and Registry practices to maintain the desired standards that have been put in place. A phased approach has been adopted to appraise other Tribunal registries and assist them to align their operations to the Judiciary Registry manuals and eventually adopt Information Technologies in Record Management.

3.5.7 Case Backlog Clearance in Tribunals.

The SJT places emphasis on clearance of backlog and in adherence to this policy direction launched the first service week for Tribunals for the Cooperative Tribunal. The launch of the Cooperative Service week provided an avenue for the creation of public awareness about the existence of Tribunals and their commitment to not only resolve disputes quickly but to also clear backlog in line with the SJT. The event brought together internal and external stakeholders and ushered in the disposal of 1,497 cases classified as backlog. Records appraisal has also been conducted in Rent Restriction Tribunal and Business Premises Rent Tribunal where about 500 matters were dismissed but the exercise stalled due to budgetary constraints.

3.5.8 Disposal of Obsolete Records at the Cooperative Tribunal and Rent Restriction Tribunals

The disposal of records at the Judiciary is guided by the Public Archives and Documentation Service Act (CAP 19), The Records Disposal Act (CAP 14) and the Judiciary Records Retention Disposal Schedules. During the reporting period, the Cooperative Tribunal obtained authority and disposed of obsolete records. This created much-needed space in the Tribunal archives and registries. The process has also been initiated in Rent Restriction Tribunal (RRT) where the intention to dispose of obsolete records has already been gazetted.

3.5.9 Assessment of Staff Working in Tribunals (Staff Mapping)

Broadly, Tribunals' staff are seconded from parent ministries while a few clerical officers are from the Judiciary. In order to establish the actual number of staff deployed in Tribunals, a staff mapping exercise was conducted to establish the number of staff in the 20 Tribunals that have transited to the Judiciary, their designations/cadres, terms, and length of service, identify staffing gaps in Tribunals, and provide recommendations on the staffing needs of the Tribunals

3.5.10 Operationalization of New Tribunals

The Tribunals' Secretariat played a major role in operationalizing new Tribunals through ensuring that members were gazetted as stipulated in establishing statutes. During the reporting period, the secretariat facilitated the swearing-in of members of HIV and AIDS Tribunal, Competent Authority, Competition Tribunal, Communications and Multi Media Appeals Tribunal, Education Appeals Tribunal, Transport Licensing Appeals Tribunal, Insurance Appeals and Tax Appeals Tribunal. The secretariat also facilitated their meetings, sittings and supported them with secretariat services. Their draft practice and procedure guidelines were also developed.

3.5.11 Development of Service Delivery Charters

SJT emphasizes efficiency in service delivery. In this regard, nine Tribunals developed service delivery charters through a consultative process. The secretariat similarly developed its service delivery charter and defined its functions to be; overseeing transition of Tribunals that exercise quasi-judicial functions to the Judiciary; facilitating Tribunals to implement the SJT Blue Print; cascading and monitoring implementation of Judiciary policies and strategies to the Tribunals; providing technical assistance and advising on the transition of human resource in the Tribunals; coordinating capacity building training and development of Tribunals' staff; providing linkage between Tribunals and the Judiciary; providing technical support on the development of Draft Tribunals Bill; approval and facilitation of Tribunals programs; coordination of monitoring of Tribunals programs; facilitating of swearing-in of Tribunal members; streamlining and standardizing of Tribunals registries.

3.6.12 Development of Strategic Plans

In order to cascade Judiciary's strategic goals, Strategic Plans for four Tribunals were developed and were at different stages of completion. By the close of the reporting period, the Strategic Plans for Industrial Property Tribunal and Standards Tribunal were in the final stages while for Cooperative and Sports Disputes Tribunals were in draft form.

3.5.13 Capacity building

Capacity building activities were undertaken with the aim of developing skills and competency of Tribunal members and staff, knowledge and experience sharing and establishing linkages and partnerships. During the reporting period, the under listed activities were undertaken: Capacity building training for RRT and Cooperative Tribunals on: the organization of the Judiciary, Judiciary policies and procedures, customer care and the role of Tribunals in delivery of justice; study tour by TLAB in Canada on Tribunal Administration, induction of newly transited Tribunals' Chairpersons and Secretaries/CEOs, training of all Tribunals on Performance Management and Data collection, management and reporting; study tour by JSC to Canada to benchmark and share experiences on running of Tribunals and a joint working retreat for Tribunals' secretariat, JSC secretariat for peer review and establishing areas of collaboration and mutual interest and records management training for staff in Tribunals.

3.5.14 Public Awareness Initiatives

The Tribunals Secretariat coordinated the collection of information and development of Media content for the 20 Tribunals under the Judiciary in a bid to enhance public awareness of Tribunals. The content was published in a Newspaper pull out about all Tribunals in the Daily Nation. The Secretariat also coordinated various stakeholder engagement activities and Agricultural Shows in Nairobi, Mombasa, Nakuru and Nyeri to disseminate information about Tribunals. 3000 copies of IEC materials for various Tribunals, designed in liaison with DPAC, were procured and distributed.

3.5.15 Automation of Tribunals Registries

The Tribunals Secretariat in collaboration with Directorate of ICT installed Case Tracking System (CTS) in five Tribunals namely Co-operative, Rent Restriction, Business Premises Rent, National Civil Aviation Appeals, and Sports Dispute Tribunal. The staff in the said Tribunals were trained and the data feeding started where more than 7000 matters were fed into the system within the reporting period. This shall enhance efficiency in reporting as well as ensure tribunals comply with the SJT.

3.6 Challenges

3.6.1 Delay in Appointment of Tribunal members

The Office of the Registrar Tribunals and the tribunals were faced with the challenge of delay in appointment of tribunal members. This affected tribunal operations and sittings. The various statutes establishing Tribunals vests powers to appoint members of tribunals on the President, Cabinet Secretaries, Principal Secretaries, The Attorney General, JSC, and other professional bodies, for instance, the Law Society of Kenya (LSK). This poses a challenge and causes a delay in the appointment and replacement of members to various Tribunals.

3.6.2 Legislative Challenges of Tribunals

Each Tribunal is established by a separate Act of Parliament. The lack of uniform legislation brings about the disparity in the manner of appointments, the difference in tenure and terms of service. The Tribunals, therefore, have different regulations as well as practice and procedure rules due to different provisions in the numerous statutes establishing them. In a bid to harmonise, standardise and rationalise the operations of Tribunals, a draft Tribunal bill was developed in 2015 and is currently with the State Law Office awaiting further action.

3.6.3 Lack of adequate space

Most Tribunals lack adequate office space while some have no offices at all nor courtrooms. This hampers their operation of the respective Tribunals as well as service delivery to the public. The Tribunals Secretariat introduced shared services where Tribunals with no offices are offered registry services centrally. The Tribunals have resulted to sharing courts and their sittings are being scheduled through the Tribunals Secretariat. With the ongoing public awareness initiatives, these Tribunals will get busy and therefore require their own office space with registries and courtrooms.

3.6.4 Staffing

Tribunals staff are either from the Judiciary or the relevant Ministries. This poses a challenge when it comes to supervision as well as the appraisal of staff. There are Tribunals with no staff and rely on the shared services model initiated by the Tribunals Secretariat to organise their sittings and maintain their records.

3.7 Jurisprudence from Tribunals

NATIONAL ENVIRONMENT TRIBUNAL

Save Lamu & 5 Others -vs- National Environment Management Authority (NEMA) & Another (NET Appeal No. 196 of 2016.)

Cancelation of an Environmental Impact Assessment Licence.

Brief facts

The second Respondent won a tender to construct a coal power plant in Lamu port which is one of the Vision 2030 flagship projects and thereafter engaged a consultant to do Environmental and social impact assessment report for purpose of obtaining Environment Impact Assessment (EIA) Licence from NEMA. The first Respondent issued an Environmental Impact Assessment Licence No. NEMA/ESIA/PSL/3798 to the second Respondent on September 7, 2016.

The 1st Appellant, a community based organization representing the interests and welfare of Lamu and whose membership comprised of individuals and several community groups within Lamu together with the second to sixth Appellants were aggrieved by the issuance of the said EIA License dated September 7, 2016. They filed the present appeal on November 7, 2016, challenging the issuance of the EIA Licence as well as the process of obtaining the same.

Issues for determination

The following six agreed issues were presented to the Tribunal for determination:

- a. Whether the grant of the ESIA Licence by the first Respondent is in violation of the Environmental (Impact Assessment and Audit) Regulations and the Constitution of Kenya;
- b. Whether the process leading to the preparation of the ESIA Study Report by the second Respondent involved proper and effective public participation;
- c. Whether the Respondents conducted a proper analysis of alternatives of the project;
- d. Whether the Respondents conducted a proper analysis of the economic viability of the project;
- e. Whether the ESIA Study Report prepared by the second Respondent contains adequate mitigation measures; and
- f. Whether the 1st Respondent in evaluating the mitigation measures and issuing the ESIA licence discharged its mandate in accordance with the law.

Holding/Decision of the Tribunal

The Tribunal visited the proposed project site, heard the appellants and a total of 12 witnesses for the Appellants as well as the Respondents and 3 witnesses for the Respondents. The Tribunal in deciding the matter ordered as follows:

1. The second Respondent, to undertake a fresh EIA study following the terms of reference already formulated in January 2016, and in compliance with the Director – general’s directive of October 26, 2015, as well as adhere to each step of the requirements of the EIA Regulations on EIA Studies. The fresh EIA study, if undertaken, is to, inter alia, include all approved and legible detailed architectural and engineering plans for the plant and its ancillary facilities (such as the coal storage and handling facility and the ash pit with its location in relation to the seashore), consideration of the Climate Change Act 2016, the Energy Act 2019 and the Natural Resources (Classes of Transactions subject to Ratification) Act 2016 in so far as the project will utilise seawater for the plant and/ or if applicable.
 2. Subject to these steps being undertaken, a fresh EIA study report is to be prepared and presented to the First Respondent. The first Respondent is directed to comply with the provisions of regulations 17 and 21, engage with the lead agencies and the public, in the manner and strict timelines provided for under the said law. The first Respondent is to share its memorandum of reasons for reaching its decision whether for or against the project with the relevant parties and publish its decision on the grant or refusal to issue an EIA Licence accompanied with a summary of its reasons within 7 days of its decision. Such publication should be in a newspaper with nationwide circulation.
 3. These extraordinary measures are necessary to ensure sufficient access to information by the public on a project that will be the first of its kind in Kenya and the East African region.
1. As the Appellant had prayed for each party to bear its own costs, we so order.
 2. The parties attention is also drawn to the provisions of section 130 of the EMCA on the right of appeal within 30 days of this decision.

Delivered on June 26, 2019.

SPORTS DISPUTES TRIBUNAL

Ferdinand Omanyala -Vs- Athletics Kenya (SDT Appeal No. 9 of 2019.)

Invalidation of elections of a sports organization due to contravention of procedural rules.

Brief facts

The Applicant is a male professional international athlete and a student at the University of Nairobi who claims that his rights have been unfairly infringed by the Respondent by its decision not to allow him to participate in athletic events in the country and out of the country as a representative of Kenya.

The Applicant wanted the respondent compelled to suspend any resolutions, rules or regulations preventing the Applicant or any other athlete with a past anti-doping rule violation from participating in athletics, from being selected for the Kenyan National Team, and from representing Kenya in international events.

Issues for determination.

- i. Whether the resolution as passed was regular and valid
- ii. Whether the rule banning anti-doping rules violators is fair and just
- iii. Whether the Applicant in fact qualified for the various upcoming events.

Holding/Decision of the Tribunal.

After considering the evidence brought before it and the law, the Tribunal resolved the Appeal by making the following orders:

- a. That the resolution passed by the Respondent's AGM on April 25, 2019, banning all the athletes found to be/to have been in violation of anti-doping rules from representing the country in global athletic events is declared invalid due to contravention of the procedural rules for convening an AGM of the Respondent;
- b. That as far as the resolution passed by the Respondent on the April 25, 2019, banning all the athletes found to be/to have been in violation of anti-doping rules from representing the country in global athletic events does not distinguish between intentional and unintentional doping violations, it is invalid;
- c. That the Respondent takes measures to ensure any future resolutions, policies or rules and regulations passed to conform to the principles enunciated hereon.
- d. Each party to bear its own costs.

PUBLIC PRIVATE PARTNERSHIPS PETITIONS COMMITTEE

Mota-engil Engenharia E Construcao Africa S.A & 3 Others - VS – Kenya National Highways Authority (PPPPC PET No. 1 of 2019).

Jurisdiction of the Tribunal, access to information and freedom of a procuring entity.

Brief facts

The Petitioners are a consortium made up of African Infrastructure Investment Fund 3 Partnership, Egis Projects S.A, Mota-Engil Engenharia E Construcao Africa, S.A and Orascom Construction (“the Consortium of AllM, Egis, Mota-Engil and Orascom”). The Petition is broadly based on the grounds of alleged non-compliance and material non-disclosure.

The Respondent is a body established under Section 3 of the Kenya Roads Act No. 2 of 2007 with the mandate of management, development, rehabilitation, and maintenance of national roads. In exercise of its statutory mandate the Respondent commenced the tender process to undertake widening, improvement, and operation and maintenance of various sections of the highway between Nairobi and Mau Summit through a Public Private Partnership arrangement on a Design, Build, Finance, Operate, Maintain and Transfer basis (hereinafter “Tender or Bid”).

The Petitioners sought Orders from the Committee, that:

- a. the decision of the Respondent dated February 27, 2019, be declared irregular, unfair, procedural and unlawful;
- b. the decision of the Respondent dated February 27, 2019, be annulled in its entirety;
- c. the Evaluation Report that informed the decision of the Respondent dated February 27, 2019, be reviewed in its entirety and the Respondent be directed to conduct the evaluation in strict accordance with the law;
- d. in the alternative, the Respondent be directed to declare the Petitioning Consortium as the preferred bidder; and
- e. the Petition Committee to make any further orders that it deems just and expedient to achieve the ends of justice as mandated by law.

Issues for determination

Whether the Committee has jurisdiction to entertain the Petition in light of the Access to Information Act and Article 35 of the Constitution.

1. Whether John Kaigua Kimotho has locus standi to institute this Petition on behalf of the Petitioners.
2. Whether the Petitioners are entitled to disclosure of the information sought.
3. Whether the Petitioners are entitled to the prayers in their Petition.
4. Who should bear the costs of the Petition?

Holding/Decision of the Tribunal

In consideration of the issues determined above, the Committee made the following Final Orders:

- a. That it had jurisdiction to entertain this Petition;
 - b. The Petitioners are not entitled to the benefit of Article 35 of the Constitution and Section 4 of the Access to Information Act;
 - c. The Power of Attorney annexed to the Petition is fatally defective and the Petition was struck off;
 - d. The prayer that the decision of the Contracting Authority dated February 27, 2019, be declared irregular, unfair, unprocedural and unlawful was denied;
 - e. The prayer that the decision of the Respondent dated February 27, 2019, be annulled in its entirety was denied;
 - f. The prayer that the Evaluation Report that informed the decision of the Respondent dated February 27, 2019, be reviewed in its entirety and the Respondent be directed to conduct the evaluation in strict accordance with the law was denied;
 - g. The prayer that the Respondent be directed to declare the Petitioning Consortium as the Preferred Bidder was denied; and
 - h. Each party would bear its own costs.
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BUSINESS PREMISES RENT TRIBUNAL (BPRT).

Dove Cage Hotel Ltd – VS – Nellea Limited (BPRT No. 136 of 2018).

Increase of rent for a tenant in occupation.

Brief facts

The Respondent/Landlord issued a notice on February 11, 2014, to increase the rent from Sh121,280 to Sh290,000. The Tenant objected to the increase and filed a reference in the Tribunal on February 28, 2014. The Property is located at Mokhtar Dadar street.

Issues for determination

- i. Whether the notice was effective?
- ii. Whether the increase is justified?
- iii. How much rent is payable compared with the market?

Holding/Decision of the Tribunal

The Tribunal heard the parties and scrutinized the valuation reports and made the following orders:

1. The rent payable by the Tenant is assessed at Sh210,652 exclusive of VAT with effect from March 1, 2017;
2. The Tenant shall pay the Landlord costs of the reference;
3. Costs shall be agreed or assessed by the Tribunal;
4. The Tenant shall pay the arrears of rent arising out of the judgment within 6 months from the date hereof in default the Landlord shall levy distress; and
5. The Landlord is at liberty to serve the Tenant with a fresh notice to increase the rent after the expiry of one year from the date of this judgment in the circumstances of this case.

COOPERATIVE TRIBUNAL

Patrick Mutuku Kimiti – VS – Masaku Teachers SACCO (CTC No. 438 of 2012).

Refund of deposits to a retiring member.

Brief facts.

The claimant was a member of the Respondent and was a teacher by profession. The Claimant stated he was a retired teacher under member No.18421 and TSC No.178076. He was seeking for shares amounting to Sh 149,020 as at May 2011 plus costs and interest in the suit. He produced a pay-slip for the month of May 2011, demand letter dated April 29, 2008, as per his list of documents filed on September 24, 2012.

Issues for determination

The issues that present themselves for resolution were;

- i. Whether the claimant was a member of the respondent?
- ii. Whether there is a refund due to the claimant totaling to Sh149,020?

Holding/Decision of the Tribunal

The Tribunal entered judgment in favor of the Claimant against the Respondent for Sh. 149,020 plus costs and interest in the suit.

Julius Njoroge Kimani – VS – Chamber Unity SACCO Society Ltd (CTC 394 of 2018).

Issuance of permanent injunction against a cooperative society.

Brief facts

The Claimant was a member of the Respondent since November 11, 2014. In March 2018 he borrowed a loan of Ksh.60,000 payable at an interest rate of 8% with effect from April 2015 until February 2016 at the rate of Sh5,700 per month up to the final settlement of the loan.

That he had been timely repaying Sh1,000 per month and by the time of filing of the Claim had Sh31,996 which he claims a refund. The Respondent did not enter appearance hence interlocutory judgment was entered on April 11, 2019. The Claimant Julius Njoroge Kimani testified that he had completed paying the loan and he started receiving threatening messages from the Sacco Chairman that they would proclaim and attach his property used as security i.e. dairy cows on allegation of default in repaying the loan. He also stated that he visited the Sacco offices at Kiambu town and they were closed most of the time. On October 27, 2017, he issued a demand letter and a reminder on November 23, 2017. He produced the documents as per his List of Documents filed on June 10, 2018.

Holding/Decision of the Tribunal

The Tribunal analyzed the evidence brought before it and entered judgment in favor of the claimant in the following terms: A permanent injunction to be issued restraining the Respondent, its agents, servants and or any other person acting under its authority from accessing the Claimant's farm, proclaiming, alienating, selling or sending any threatening text message to the Claimant;

- (a) A declaration to be issued that the Claimant has settled the entire loan taken from the Respondent; and
- (b) Refund of the Claimant's shares of Sh 31,996/- being shares contributions plus dividend plus costs and interest.

EDUCATION APPEALS TRIBUNAL

Tonny Kipkemei Chirchir-Vs- The Public Service Commission (EAT Appeal 003/018)

Jurisdiction of the Tribunal.

Brief Facts

The Ministry of Education advertised various vacancies and invited applications for various jobs. The appellant was short-listed for an interview vide the daily nation newspaper dated March 1, 2010, and bore serial No 2183. The appellant attended an interview by The Ministry of education on April 13, 2010, at 11;30 a.m. as per the invitation schedule.

The appellant was successful at the interview and subsequently received a letter of appointment from the Ministry of Education dated July 1, 2010, and accepted the appointment vide a letter dated July 1, 2010. Vide a letter dated July 29, 2010, he was posted to The District Adult Education office in Koibatek District. He reported for duty at the office on August 10, 2010, and was posted to open a new center at Kimamoi Primary School in Esageri Division.

However, vide a letter dated September 27, 2011, the Ministry of Education conveyed to the appellant the decision of the respondent that his employment had been terminated with effect from 30th April 2011. In a letter dated June 6, 2013, addressed to the appellant, the ministry of education informed him that on December 14, 2010, the respondent had nullified the recruitment exercise following complaints from members of the public.

The respondent further informed the appellant that following these complaints, an audit exercise was carried out which revealed certain irregularities in the recruitment exercise which did not conform to the guidelines by The respondent. The Ministry of education also informed the appellant that it was only acting as an agent of the respondent exercising delegated authority under Part II of section 9 of The Public service Commission Act No 13 of 2012 (Now repealed)

The issues for determination.

The main issue was whether the Tribunal had jurisdiction to entertain the Appeal.

In there determination the Tribunal noted that it emerged that the respondent delegated its authority to The Ministry of Education pursuant to the provisions of section 9 of The Public service Commission Act No 13 of 2012. (Now repealed) to conduct a recruitment exercise on its behalf. The Ministry of Education conducted

the exercise and the appellant was then recruited and employed as captured in his appeal. Subsequently, following a public outcry, the public service commission terminated the recruitment exercise after conducting an audit. The appellant's employment was then terminated. In his appeal, he asks this Tribunal to facilitate his reinstatement to his job. The appellant appeared before the Tribunal on July 30, 2019, and reiterated his position as captured in his letter of appeal and requested to be reinstated to his appointed position.

The Tribunal took into account the decisions in *Owners of Motor Vessel 'Lillian S' v Caltex Oil (Kenya) Limited [1989] & Samuel Kamau Macharia & Another v. Kenya Commercial Bank & 2 Others, Application No. 2 of 2011 [2012] eKLR*, and which was binding on it. The Tribunal cautioned itself that it must only exercise jurisdiction as conferred by statute, which is the Basic Education Act. It cannot arrogate to itself jurisdiction exceeding that, which is conferred upon it by law. Therefore, it cannot usurp the jurisdiction conferred by the Constitution at Article 162(2) (a) and The Employment & Labour Relations Act to The Employment and Labour Relations Court.

Holding/Decision of the Tribunal

The Tribunal made a finding that it does not have jurisdiction to entertain the appeal and cannot, therefore, grant the appellant's prayer seeking reinstatement to his job as an adult education teacher. The Tribunal did not grant the appellant the relief sought and the appeal is dismissed with no orders as to costs.

DUNCAN NJAGI KIBARA VS THE TEACHERS SERVICE COMMISSION (EAT Appeal 005/018).

The authority of an employer to dismiss an employee & jurisdiction of the Tribunal.

Brief facts

The brief facts upon which the appellant hinged his appeal are that:

He had been employed by The Teacher's Service Commission. He worked at Oloosinon Primary school in Lolgorian-Transmara until when through a letter dated November 12, 2009, he was interdicted by the District Education Officer. Vide that letter, it was recommended that his name should be removed from the register of teachers based on allegations made against him that;

1. He breached Section 7(3) (b) of the Teachers Service Commission Act and regulation 66(2) of the Code of Regulations for teachers as it was alleged that

he had carnal knowledge of a standard seven school girl named SSL which resulted in her pregnancy.

2. The appellant was then requested to make a statement in writing within 21 days in response to the allegation before the commission investigates, considers and determines the case. He was also informed that he will be given an opportunity to be heard by the commission in person.
3. The appellant was also informed of his right to appeal against the decision within 28 days to the Teachers service Appeal Tribunal.
4. On appeal, the respondent herein upheld its decision to dismiss the appellant from the teaching service.
5. Aggrieved by the decision of the respondent, the appellant sought redress from this Tribunal over the decision to dismiss him on the grounds that; He appealed against the decision and subsequently tried to defend himself before the Teachers Service Appeals Tribunal which did not hear him as he did not have DNA test results despite having requested for a DNA test from the baby born by SSL in order to have a fair hearing.

1. On appeal, the appellant asserted that:

- (a) He has tried on several occasions to have DNA samples extracted from SSL's baby and have them matched with his to confirm that he is not the father of the child; The allegations levelled against him were not properly investigated; and He was not subjected to fair administrative action as per the constitution and wants the matter to be investigated well as he feels he was not accorded a fair hearing.

Determination

The Tribunal was of the view that the respondent was the employer of the appellant and it has the mandate to conduct all affairs pertaining to employment and discipline of teachers. The respondent made a decision to dismiss the appellant from the teaching service. It appears that the allegations against the appellant were conducted within the confines of section 144 and rested with appellate mechanism provided for by The Teacher's Service Review Committee established in section 156 of The Teachers Service Commission Code of Regulations for Teachers, 2015. The Tribunal noted that the appeal mechanism provided for under the Teachers Service Commission Act was exhausted by the appellant.

The Tribunal is established under the provisions of section 93 of the Basic Education Act No.14 of 2013.

As regards jurisdiction the Tribunal relied on the case in Samuel Kamau Macharia & Another v. Kenya Commercial Bank & 2 Others, Application No. 2 of 2011 [2012] eKLR, the Supreme Court pronounced itself on jurisdiction thus [paragraph 68]:

“(68) A Court’s jurisdiction flows from either the Constitution or legislation

or both. Thus, a Court of law can only exercise jurisdiction as conferred by the constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. We agree with counsel for the first and second respondents in his submission that the issue as to whether a Court of law has jurisdiction to entertain a matter before it, is not one of mere procedural technicality; it goes to the very heart of the matter, for without jurisdiction, the Court cannot entertain any proceedings. This Court dealt with the question of jurisdiction extensively. In the Matter of the Interim Independent Electoral Commission (Applicant), Constitutional Application Number 2 of 2011. Where the Constitution exhaustively provides for the jurisdiction of a Court of law, the Court must operate within the constitutional limits. It cannot expand its jurisdiction through judicial craft or innovation. Nor can Parliament confer jurisdiction upon a Court of law beyond the scope defined by the Constitution. Where the Constitution confers power upon Parliament to set the jurisdiction of a Court of law or Tribunal, the legislature would be within its authority to prescribe the jurisdiction of such a court or Tribunal by statute law.” (Emphasis provided).

The jurisdiction conferred on the Tribunal was an appellate jurisdiction. That jurisdiction is strictly limited by section 93(2) of the Basic Education Act to matters arising from the decisions of The County Education boards. The appellant’s case did not arise from the decision of a County Education Board but from The Teachers Service Commission which is an independent Commission established under Chapter 15 of The Constitution of Kenya. On that account alone the Tribunal held that it does not have jurisdiction to preside over the appeal in nature presented.

The appellant had exhausted the appellate mechanism provided for under The Teachers service Commission Act.

Most importantly Section 156 of the Teachers Service Commission Code of Regulations for Teachers, 2015 provides as follows;

Teachers Service Review Committee

- i. There is established an adhoc Committee of the Commission known as the Teachers Service Review Committee which shall consider and determine reviews arising from the discipline process under these Regulations.
- ii. The Review Committee shall consist of—
 - (a) the Chairperson of the Commission or a representative;
 - (b) two other members of the Commission;
 - (c) the Secretary or his representative; and
 - (d) officer for the time being in charge of teacher discipline or a representative.
- iii. The Review Committee shall regulate its own practice and procedure.
- iv. Where a teacher is aggrieved by the decision of the Commission in a disciplinary

process, the teacher may apply for review to the Teachers Service Review Committee within ninety days from the date of the letter communicating the decision.

- v. An application by a teacher for review under these Regulations shall be accompanied by the prescribed fee set out in the Fifth Schedule.
- vi. An officer or member of the Commission who has participated in the hearing of the discipline case, shall not sit in the Review Committee over the same case.
- vii. A teacher who applies to the Commission for the review of the decision of the Commission shall demonstrate that—
 - (a) there is discovery of new evidence or fact which at the time of the hearing was not within the knowledge of the teacher;
 - (b) there was an error or mistake apparent on the face of the record or on the part of the Commission in arriving at the decision;
 - (c) there was fundamental flaw in the procedure by the Commission: or
 - (d) the decision was made in breach of any written law.

The Review Committee shall upon receiving an application for review, consider the application and may—

- a) uphold the decision and subsequently dismiss the application for review;
- b) allow the review and set aside the decision, or
- c) vary the decision on such terms as it may deem fit.

The decision of the review committee shall be final

By dint of the provisions of section 12 above, the decision of the review committee is final and that effectively limits the jurisdiction of this Tribunal.

Holding/Decision of the Tribunal

In dismissing the matter the Tribunal took into account the decisions in *Owners of Motor Vessel 'Lillian S' v Caltex Oil (Kenya) Limited* [1989] & *Samuel Kamau Macharia & Another v. Kenya Commercial Bank & 2 Others*, Application No. 2 of 2011 [2012] eKLR, and which are binding on this Tribunal, this Tribunal must only exercise jurisdiction as conferred by statute which is the Basic Education Act. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. Put differently, it cannot usurp the jurisdiction conferred by the Law as captured above at section 9 of The Teachers Service Commission Code of Regulations for Teachers, 2015.

The upshot of the foregoing was that the Tribunal made a finding that it does not have jurisdiction to entertain this appeal and cannot, therefore, grant the appellant's prayer seeking to challenge the dismissal from service.

TRANSPORT LICENSING APPEALS BOARD AT NAIROBI APPEAL (TLAB).

Chelsea Transporters Sacco Ltd v National Transport and Safety Authority [2019] eKLR

Refusal to licence a public transport SACCO by NTSA.

Brief facts.

The Appellant filed an application at the Transport Licensing Appeals Board (TLAB) on December 7, 2018 with the complaint that the Respondent had failed to register their society due to the change in government policy even after the Appellant had complied with all the requirements that were prescribed to them by the Respondent. The Appellant was seeking to be licensed as a public service transport operator plying Ngara (Fig Tree) on Thika Road, Githurai 44, Kahawa West route and back as per the National Transport and Safety Authority Act Number 33 of 2012.

According to the Appellant, they had complied with all the instructions from the Respondent, including obtaining clearance from the Nairobi City Council to operate on the requested route and they had also presented to the Respondent, letters of no objection from various transport operators who ply the same route and some of the letters were presented to the Tribunal.

The Respondent, after receiving the requested documents, wrote back and cleared the Appellant for pre-registration inspection at the Vehicle Inspection Centre on Likoni Road, Nairobi. The Appellant complied with this condition and presented their 31 vehicles for inspection on August 8, 2018.

It was the Appellant's case that they had complied with all the requirements that were prescribed to them by the Respondent. They were therefore surprised to receive a letter from the Respondent dated December 7, 2018, declining their application due to a shift in government policy for the reason that they had public service vehicles whose capacity was less than 25 passengers. The Respondent relied on section 4 (3) of the Legal Notice Number 179 of December 31, 2014, as a ground for rejecting the Appellant's application.

The appellant contended that that section did not apply to them, as they were not

seeking to renew their license, but they were applying for a new license.

The Appellant asserted that there existed a legitimate expectation that they will be licensed as they had implicitly been given a clean bill of health by the Respondent when they requested that the Appellant proceed to the inspection stage with the Respondent knowing very well that they will not license vehicles with a seating capacity of fourteen (14) passengers.

According to the Respondent that the Appellant had complied with all the requirements save for the shift in government policy on the law governing the transport sector. The Respondent averred that it is mandated to rely on NTSA regulations, specifically Legal Notice Number 179 of December 31, 2014, whose section 4(3) restrains the Authority from licensing any Public Service Vehicle whose seating capacity is less than 25 passengers. The Respondent averred that Legal Notice Number 179 of 2014 implements the directive as a manner of decongesting the Central Business District (CBD) in Nairobi.

The Respondent further submitted that in the particular issue, the Tribunal had no jurisdiction to decide the matter. This is as the issue required a determination on the contested 'legality' of the contentious provisions (Sections 4 (2) and 4 (3)) of the Legal Notice Number 179 of 2014.

Issues for determination.

Following the arguments adduced in the trial, the Transport Licensing Appeals Board has isolated the following issues to be the ones requiring determination. Whether the Tribunal has jurisdiction to determine the matter?

- (a) Whether the Appellant had complied with the PSV Regulations for the purpose of registration and licensing as a Public Service Operator; and
- (b) Whether the Respondent had erred by failing to register the Appellant?

In considering whether the Tribunal has jurisdiction to determine the matter, the court relied on Owners of the Motor Vessel "Lilian S" -vs- Caltex Oil(Kenya) Ltd (1989) KLR 1 which espoused on the issue of jurisdiction by stating that:

Jurisdiction was termed as a creature of legal and constitutional instruments. The Transport Licensing Appeals Board was, therefore, a creature of statute namely, the National Transport and Safety Authority Act, 2012. Under Section 39(5) of the Act, the Board is vested with the jurisdiction to, on appeal, to affirm or reverse the decision of the National Transport and Safety Authority, or make such other order as the Board considers necessary and fit.

In this matter, the tribunal determined whether the Respondent failed to lawfully register the Appellant and this then becomes an appeal issue that is under the purview of the Board.

The Tribunal therefore found that the Board has jurisdiction to determine the matter. The law in Section 5 of the PSV Regulations gives the conditions that one must need to comply with in order for the Authority to license them that is:

“(1) A person desirous of operating public service vehicles shall be a member of a body corporate which shall—

- a) be licensed to operate if the body corporate owns a minimum of thirty serviceable vehicles registered as public service vehicles or in respect to which an application for a license has been or is to be lodged with the Authority;*
- b) have in its employment a staff complement which must include at a minimum —*
 - i. a driver in respect to each public service vehicle;*
 - ii. an inspector for each route on which the public service vehicle is intended to operate;*
 - iii. an office manager;*
 - iv. an accounts clerk; and*
 - v. a qualified mechanic or a contract under which the services of a mechanic are outsourced;*
- c) have in place a code of conduct approved by the Authority governing its employees, agents and sub-contractors;*
- d) have in place a documented management system, safety management system based on ISO 39001:2012 “Road Traffic Safety Management Systems” or equivalent and customer complaints handling system;*
- e) comply with labour laws and regulations including in respect to statutory deductions, health and safety of the workplace, Work Injuries Benefits Act (Cap. 236) insurance, statutory leave days and written contracts of employment for staff; and*
- f) where it operated public service vehicles licensed under these Regulations in the immediately preceding calendar year fully complied with the requirements of these regulations in the immediately preceding year.”*

Following the evidence adduced in the trial and the foregoing provision, the Tribunal determined that the Appellant was able to prove that they had complied with conditions under section 5 of the PSV regulations, as they had a threshold of 30 vehicles. They produced details of the required 30 vehicles which underwent inspection at the Vehicle Inspection Centre and the various letters of no objections from transport operators who ply the same route as was to be used by the Appellant. As a result, the Appellant had successfully complied with the requisite PSV Regulations and the various conditions that had been placed by the Respondent upon them for the purpose of registration and licensing as a Public Service Operator

with the exception of the Legal Notice Number 179 of 2014.

The Tribunal had previously adopted a purposive approach to the interpretation of Section 4(2) and 4(3) of the Legal Notice Number 179 of 2014 in its previous case of Salty Supporters Investment Limited v The National Transport and Safety Authority where it espoused that the Legal Notice through its section 4 (2) stated that no new PSV vehicles would be registered as Commuter Service Vehicle whose capacity is less than 25 passengers. This meant that the existing 14 seaters would continue operating until January 1, 2016, when all the fourteen seaters would cease to be licensed by virtue of section 4 (3). As such, there exists no conflict on the intended purpose of the two sections.

In the matter, the Appellant was seeking to be licensed as a new operator and therefore Section 4(3) would not be applicable to their situation as Section 4(3) of the Regulation seeks to decline the renewal of the licenses of existing operators who have vehicles with fourteen seaters. The Respondent cannot purport to interpret the law in a manner that oppresses the public.

The Tribunal noted that the Authority gave the Appellant the legitimate expectation that they would be licensed despite having 14 seaters. This was because they were taken through all the approval processes and also spent money to have their vehicles inspected and issued with inspection certificates. It was not until the last stage when they were required to comply with section 4 (3) of the 2014 Regulations. Besides, the Appellant was able to prove that the other fourteen seaters had been licensed after January 1, 2016. This, therefore, amounted to a discriminatory administrative action that is also contrary to section 7 (m) of the Fair Administrative Action Act 2015 for breaching the legitimate expectations of the Appellant.

The Tribunal was of the considered opinion that the enforcement of the regulations can only meet the standards set under the Fair Administrative Action Act 2015 if they are applied uniformly and without any bias.

Holding/Decision of the Tribunal.

Having considered the facts and the law applicable to the matter, the Transport Licensing Appeals Board found:

1. That the Respondent, NTSA, erred in failing to register the Appellant, Chelsea Transporters SACCO Limited, after they had complied with all the prescribed requirements; and 2. That the Respondent, NTSA, completes, within 14 days the registration of the Appellant as a licensed transport operator.

HIV AND AIDS TRIBUNAL (HAT).

J.K.O – VS – Nairobi West Hospital Limited (HAT No. 6 of 2016).

Conducting HIV tests without the consent of the patient and without prior counseling.

Brief facts

The Claimant avers that on January 9, 2016, he visited the Respondent hospital seeking treatment, where he underwent various tests. The Respondent's doctor then advised the Claimant that he had malaria and blood infection, although the doctor did not specify the type of blood infection. Following this diagnosis, the Claimant was admitted to the Respondent hospital.

Due to the escalating medical bills, the Claimant and his family were apprehensive that they would be unable to settle them, thus causing the Claimant to request to be discharged from the Respondent hospital. The Claimant was duly discharged on January 13, 2016, but on condition that the Claimant should get follow-up treatment at Kenyatta National Hospital so as to avoid future complications.

The Claimant alleges that just before his discharge on January 13, 2016, some two individuals dressed in white lab coats came to his bedside and informed him that they were counselors at the Respondent hospital and needed to brief him on the test results. It was at this juncture that the two counselors informed the Claimant that the blood test conducted on him revealed that he was HIV positive. The Claimant avers that the news took him by surprise since neither the Respondent hospital nor its doctors had sought the Claimant's consent before conducting the test, nor had they guided or counseled the Claimant on the possible outcome of the HIV test as is expected of medical practitioners.

The Claimant further avers that upon discharge, he was issued with a referral letter dated January 13, 2016, particularizing the provisional diagnosis and treatment administered to him while admitted at the Respondent hospital. The Claimant returned home, but the news of his status proved to be too daunting and took a heavy toll on his health. The Claimant alleges that upon seeing how his condition was deteriorating, his wife, armed with the Discharge Summary, sought help from the Kaloleni Health Care Clinic. At the clinic, Samuel Onyango, a Medical Officer informed the Claimant's wife that the Discharge Summary indicated that the Claimant had been tested and found to be HIV positive. The Medical Officer explained to the Claimant's wife that the drugs prescribed in the Discharge Summary are meant for persons with HIV.

Following this revelation, the Claimant's wife went back home, accompanied by the Medical Officer. Back at home, the Claimant states that he had been informed of his HIV status by the Respondent's doctors. He believed that his condition had worsened as a result of the shocking news and agreed to allow the Medical Officer, Samuel Onyango, to conduct an HIV test on him. The Medical Officer then proceeded

to conduct the test which revealed that the Claimant was HIV negative. This news restored hope in the Claimant, but just to confirm the results, the Medical Officer conducted a second test. The HIV negative result was confirmed.

The Claimant alleges that as a consequence of the Respondent's negligence and breach of statutory obligations, the Claimant has suffered and continues to suffer extreme mental and psychological torture, his marriage was on brink of ending suddenly, loss of confidence and trust by his wife and children and that he has been rendered a social misfit.

The Respondent admits that the Claimant did visit its facility on January 9, 2016, but denies issuing a referral letter to the Claimant. The Respondent further denies all allegations made in paragraphs 3 to 19 of the Statement of Claim. In the alternative, the Respondent avers that it treated the Claimant with the professionalism required of it while discharging its duty to patients and that its services were in accordance with the HIV Testing by a Medical Professional (PTIC) Guidelines.

Issues for determination.

- i. Whether the claimant was compelled to under an HIV test without his informed consent?
- ii. Whether the tests were preceded by pre-test and post-test counselling as required by the law?

Holding/Decision of the Tribunal.

The Tribunal after hearing the parties and analyzing the relevant law and authorities made the following orders: On the issue of the pre and post-testing counseling, it was found that the Claimant has failed to strictly prove that he was not given pre-test and post-test counseling. The Claimant's allegations to the effect that he was not given pre-test counseling or post-test counseling were, therefore, dismissed;

- i. On the issue of consent, they found that the Claimant was compelled to undergo HIV testing without his informed consent, contrary to sections 13 and 14 of HAPCA. Accordingly, the Claimant is awarded the sum of Sh 1,000,000 in damages;
 - ii. On the issue of negligence on the part of the Respondent in the manner in which they conducted the HIV test and in informing the Claimant that he was HIV positive when it later turned out that the Claimant was negative, it was found that no liability lies on the part of the Respondent and, therefore the claim was dismissed. Further, they dismissed the claim that the Respondent was negligent in prescribing drugs to the Claimant, with full knowledge that the Claimant was not HIV positive.
 - iii. The Claimant was awarded costs.
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RENT RESTRICTION TRIBUNAL (RRT).

Samuel Munene Maina & Another -VS- Lucy Muthoni Karobia (RRC No. 75 of 2015).

Peaceful enjoyment, vacant possession, and grounds for issuance of an injunction restraining Landlord from interference with quiet possession.

Brief facts

The Plaintiffs contend that they have been the Defendant's Tenants for a period of 14 years and had never had any problem in payment of rent. The second Plaintiff stated that they had been paying rent sometimes in cash, Mpesa, Bank to the Defendant personally and other times through her caretaker. It's their argument that the defendant was inconsistent in the issuance of receipts.

She further stated that rent had increased from Sh 12,000 to Sh26,000 over the 14 years that they had been tenants in the suit premises and that there were no timelines for payment of rent. She also stated that there was an excess payment of Sh103,000 in 2017. She denied being in rent arrears of Sh129,000 as per the defendant's notice dated January 1, 2018, and blamed the defendant for poor record keeping stating that rent is fully paid up to date.

The defendant stated that the Plaintiffs have been her tenants at Utugi Plaza since 2004 at a monthly rent of Sh26,000. That they faced financial challenges and became irregular in payment of rent from 2015. She stated that she always issued receipts for payments made.

She sought to place reliance on a Statement of Accounts produced, Mpesa statements marked and SMS Messages exchanged with the Plaintiff's husband. She stated that the tenants had paid a total of Sh 209,000 as of January 2018 against the total expected of Sh 338,000 thus leaving a balance of Sh 129,000.

She prayed for payment of Sh 129,000 - and vacant possession.

Holding/Decision of the Tribunal.

The Tribunal carefully considered both parties' evidence and written submissions and found that the Plaintiffs have failed to prove their case to the standards required in law.

- i. In view of the Defendant's offer to forfeit the arrears subject to delivery of vacant possession, the Plaintiffs were ordered to make arrangements for alternative accommodation so as to deliver vacant possession by February 28, 2019 subject to payment of the accrued monthly rent up to then.
- ii. In default, eviction would be enforced by an authorized court bailiff with the assistance of O.C.S [if need be].
- iii. Each party would bear their own cost of the suit.

Chapter 4

JURISPRUDENCE

JURISPRUDENCE

4.1 Introduction

The Judiciary as an institution and its court system acts as the guardian of the Constitution. The Constitution is the supreme law of the land and it is the responsibility of the Judiciary through the courts and tribunals to interpret and apply the Constitution and the laws of the land in a manner that promotes economic development and maintains good governance, the rule of law, social and economic rights and peaceful co-existence in the Society.

During the period under review, in the Financial Year 2018-2019, the courts made a significant development of a robust, indigenous and homogenous jurisprudence touching on various areas of law. The summaries below provide an overview of the development of law in the various courts during the period under review.

4.2 Jurisprudence from the Supreme Court

4.2.1 Removal of a Judge from Office

1. **A complaint under Article 168 of the Constitution for removal of a Judge cannot be withdrawn once a tribunal has been appointed by the president and is ceased of the matter.**
2. **The applicable standard of proof in proceedings for the removal of a judge before a court or a tribunal is one that is between “beyond reasonable doubt” and a “balance of probabilities”**

Hon. Mr. Justice Joseph Mbalu Mutava –vs– The Tribunal Appointed to investigate the conduct of Justice Joseph Mbalu Mutava, Judge of the High Court of Kenya, (Supreme Court Petition No. 15 ‘B’ of 2016.)

Brief facts:

The Petitioner was appointed a Judge of the High Court of Kenya on 23rd August 2011. Between March 2012 and March 2013, several complaints were lodged with the Judicial Service Commission (JSC) against the petitioner. Among the complaints were that the Petitioner irregularly, inappropriately and knowingly in collusion with other parties caused a case, to wit *Republic –vs– The Attorney General and 3 others, Exparte Kamlesh Mansukhal Damji Pattni*, Nairobi High Court Misc. (JR) Application No. 305 of 2012 to be allocated to himself and without the knowledge and consent of the duty Judge and the Presiding Judge of the Judicial Review Division. He was also accused of proceeding to write a Judgement in respect of the said case at a time when the JSC was inquiring into allegations of misconduct against him with regard to the same.

The Petitioner was further accused of seeking to influence the Ruling in the case of *Sehit Investments Ltd –vs– Josephine Akoth Onyango and 3 others*, Nairobi High Court Civil Case No. 705 of 2009 in favour of the plaintiff therein through verbal and text messages from his cell phone to Hon. Mr. Justice Leonard Njagi (Rtd) who was presiding over the hearing of the matter.

On 1st December 2012, the JSC constituted a committee to investigate those allegations. After the inquiry, the JSC found that *prima facie*, three out of the 13 complaints disclosed sufficient grounds for removal of the petitioner from office under Article 168 of the Constitution.

The JSC subsequently sent a petition to the President recommending the suspension of the petitioner and the appointment of a Tribunal to investigate the allegations of gross misconduct and misbehavior levelled against him. The President consequently suspended the Judge and appointed the members of the Tribunal who took the Oath of office on 21st June 2013.

Aggrieved by the decision of JSC to petition the President to constitute the Tribunal, the Petitioner moved to the High Court on 28th June 2013 and filed High Court Petition No. 337 of 2013 challenging the competence of the Tribunal arguing that the JSC had not accorded him a fair hearing. The High Court found in favour of the petitioner and declared the Tribunal proceedings void *ab initio* for reasons that two of the members were appointed outside the prescribed fourteen days period. That decision of the High Court was overturned by the Court of Appeal holding that the appointment of the members of the Tribunal was in line with the Constitution and that, the Tribunal ought to carry out its mandate as it was properly constituted.

At the commencement of the Tribunal proceedings, the petitioner filed a preliminary objection contesting its jurisdiction to inquire into complaints that had been allegedly withdrawn through letters to the Tribunal and the JSC. The Tribunal dismissed the preliminary objection and held that, once JSC has presented a petition to the president the individual complaints that were being investigated by the JSC ceased to exist independently as complaints capable of being withdrawn. Therefore, their purported withdrawal could not affect the jurisdiction of the Tribunal to proceed with its mandate.

In a detailed report dated September 20, 2016 which was presented to the President, the Tribunal was of a unanimous view that allegations number 1, 3 and 5 against the petitioner had been proved to the required standard and that the petitioner's conduct amounted to gross misconduct contrary to Article 168(1) (e) of the constitution; consequently, the Tribunal recommended to the President that the petitioner ought to be removed from office.

The petitioner was dissatisfied by the Tribunal's findings and filed a final appeal before the Supreme Court raising among other issues the arguments that he was not accorded a fair hearing by both the JSC and the Tribunal. He also argued that the Tribunal lacked jurisdiction to determine his fate as it was not properly constituted and further that the standard and burden of proof required in proceedings of a Tribunal established under Article 168 (5) of the Constitution was not met.

Issues for Determination:

- a) Whether and at what stage can a complaint about removal of a Judge brought under Article 168 be withdrawn?
- b) What is the burden of proof in a proceeding for the removal of a Judge under Article 168 before a court or a tribunal?

Held:

In dismissing the petition, the Supreme Court held that:

- a) An improperly constituted Tribunal would have no competence to determine a question of jurisdiction or any other issue, and its proceedings are void *ab initio*;

- b) Under Article 168 (8) of the Constitution the Supreme Court has concurrent jurisdiction with the High Court with regard to determining the constitutionality of the body created under Article 168(5) but where a party first approaches the High Court under Article 165 (3) (d) (ii) of the Constitution, that dispute must be determined through the contemplated appeal mechanism in the constitutionally provided hierarchy of courts;
- c) As in any other disciplinary and quasi-Judicial proceedings a complainant can lawfully withdraw a complaint before a determination on it is made by the JSC but once the President receives a petition from the JSC he is constitutionally bound to appoint a tribunal and any withdrawal of a complaint upon setting up of a tribunal would not have the effect of stripping the tribunal of its powers, If there is tangible evidence to sustain the allegations made, the tribunal must make the consequent determination and present its recommendations to the President;
- d) By the time a petition is presented to the President for appointment of a Tribunal, the individual complaints would have changed in form and substance such that it would no longer be a combination of individual complaints but rather a totality of the allegations raised which in the opinion of the JSC disclose grounds for removal of a judge subject to investigation by a tribunal;
- e) Tribunal proceeding being *quasi - Judicial* in nature are not exempt from the constitutional safeguards of a fair hearing;
- f) The applicable standard of proof in proceedings for the removal of a judge is one that is between “*beyond reasonable doubt*” and a “*balance of probabilities*” and when relying on circumstantial evidence a court or Tribunal must test that evidence against that standard.

4.2.2. Electoral Laws- Pre-Election Disputes

1. **A party who has prior knowledge of the facts giving rise to the pre-election disputes whose resolutions are vested in IEBC under Article 88(4)(e), such as one’s qualification or eligibility to vie in an election, is estopped from bringing such disputes for determination before an election court.**
2. **In the absence of a determination by the Court of Appeal on an issue, no appeal can properly fall before the Supreme Court in the exercise of its appellate jurisdiction. Issues of contestation before the Supreme Court must only involve questions that were the subject of determination by the court whose decision is being impugned.**

Hon. Mohamed Abdi Mahamud -vs- Ahmed Abdullahi Mohamed & others (Supreme Court Petition No. 7 of 2018)

Brief Facts:

In the general election held on August 8, 2017, The petitioner, Hon. Mohamed Abdi Mahamud was declared the Governor of Wajir County after garnering a total of 49,079 votes beating six other contestants with his closest contestant Mr. Ahmed Abdullahi Mohamed, the first respondent garnering a total of 35372 votes.

The first and second respondents were aggrieved by the declaration by the returning officer and filed an Election Petition No. 14 of 2017 at the High Court Nairobi challenging the results on the grounds, inter alia: that contrary to section 22 (2) of the Elections Act, the petitioner

was not Constitutionally and Statutorily qualified to contest the seat of the Governor; that the degree certificate he had submitted to the Independent Electoral and Boundaries Commission (IEBC) for nomination to vie was not genuine ; and that, the conduct of the election was fraught with violence intimidation, numerous illegalities and irregularities which affected both the credibility and results of the election.

After hearing of the petition in the High Court, the court found that contrary to section 22 (2) of the Elections Act, the petitioner did not have the requisite academic qualification to vie for election and that in the conduct of the elections the Returning Officer and the IEBC (third & fourth Respondents) committed several irregularities and illegalities the totality of which affected both the credibility and the result of the election. The High Court, therefore, nullified the petitioner's election as Governor of Wajir County and directed IEBC to conduct a fresh election in accordance with the Constitution and the Elections Act.

Being dissatisfied with that decision, the petitioner appealed to the Court of Appeal mainly faulting the High Court for assuming Jurisdiction in the pre-election nomination dispute, which Article 88 (4)(e) of the Constitution reserves for IEBC, and for determining that the petitioner was not academically qualified to contest in the election. The petitioner further faulted the High Court for finding that the irregularities committed impugned the credibility and affected the result of the election.

The third and fourth respondents also cross-appealed on more or less same grounds but mainly disputed the finding that the conduct of Election was fraught with illegalities and irregularities which undermined its integrity and affected the results.

After hearing the appeal, the Court of Appeal concurred with the High Court that the appellant did not possess the requisite academic qualifications to contest in the Election and considered the other grounds in the cross-appeal to be moot. The Court of Appeal, therefore, dismissed the appeal with costs and the cross-appeal with no orders as to costs.

The Court of Appeal decision provoked two appeals before the Supreme Court; Petition No. 2 of 2018 by Mohamed Abdi (the appellant) and Petition No. 9 of 2018 by Gichohi Gatuma Patrick -vs- IEBC. The two Petitions of Appeal were on June 11, 2018, by consent of the parties consolidated but on November 21, 2018, the third and fourth respondent's application to withdraw petition No. 9 of 2018 in accordance with Rule 19 of the Supreme Court Rules was allowed by the court.

The Supreme Court observed that there were conflicting decisions by Election Courts and the Court of Appeal on the question as to whether an Election Court has jurisdiction to determine pre-election disputes with some courts holding that pre-election disputes including those relating to or arising from nominations being a preserve of the IEBC under Article 88 (4) (e) of the Constitution, while other courts holding that notwithstanding the provisions of Article 88 (4) (e) of the Constitution, Election Courts retain the jurisdiction to determine pre-election disputes.

Issues for Determination:

- a) Whether the High Court sitting as an Election Court has jurisdiction to entertain a pre-election dispute arising from pre-election nominations notwithstanding the provisions of Article 88 (4) (e) of the Constitution and Section 74 (1) of the Elections Act?
- b) Whether the Supreme Court has jurisdiction to determine issues that were never addressed by the Court of Appeal?

Held:

The Court in a majority judgement (*Maraga, CJ & P and Lenaola SCJ* dissenting) allowed the appeal set aside the judgement of the Court of Appeal and upheld the results of the Elections by the IEBC in respect of Governor for Wajir county.

Per, Ibrahim, Ojwang, Wanjala, Njoki SCJJ (Majority): -

- a) The Court places a premium on whether a Petitioner had prior knowledge of the facts giving rise to the pre-election dispute and therefore both the Election Court and the Court of Appeal wrongly assumed jurisdiction in determining what was clearly a pre-election dispute regarding the academic qualifications of the petitioner;
- b) In the absence of a determination by the Court of Appeal on an issue, no appeal can properly fall before the Supreme Court in the exercise of its appellate jurisdiction.

Per, Maraga, CJ & P (Dissenting): -

- a) Any dispute that questions one's qualification or eligibility to vie in an election is a challenge of the integrity or validity of the election, and such dispute goes to the root of an election. Even though Article 88 (4) (e) of the Constitution vests IEBC with jurisdiction to handle this category of dispute, a purposive reading of other provisions of the Constitution would show that the Election Courts are also vested with Jurisdiction to entertain them; and
- b) When a matter is moot the Court handling it should nonetheless determine it for ease and expeditious disposal of the matter in the event of an appeal, especially if it is of jurisprudential value and national importance.

Per: Lenaola, SCJ (Dissenting): -

- a) Where an election-related dispute is not prosecuted or heard on its merits the same cannot be said to have been settled within the meaning of Article 88 (4) (e) of the Constitution and is therefore not barred by the doctrine of *res judicata*; and
- b) Issues of contestation before the Supreme Court must only involve questions that were the subject of determination by the court whose decision is being impugned.

Appeal Allowed by Majority Decision

4.3. Decisions of the Court of Appeal

4.3.1. Criminal Law - Rights of Victims and Family of Victims of a Crime

Victims or family of victims of a crime have a right to actively participate in person or through legal representation in a criminal trial.

Joseph Lendrix Waswa –vs– Republic (In the Court of Appeal at Kisumu. Criminal Appeal No. 132 of 2016)

Brief Facts:

The Appellant had been charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The Appellant pleaded not guilty to the charge and was released on bail pending the hearing and determination of the case.

The Appellant was represented at the trial by three legal counsels while the father of the deceased was represented by two legal counsels. After nine witnesses had adduced evidence, counsel for the family of the deceased, Mr. George Murunga while relying on Articles 2(5), 25(c) 50(1) 50(7) and 58(9) of the Constitution as well as the provisions of the Victims Protection Act 2014, made an oral application for leave to actively participate in the proceedings.

He submitted that the Constitution of Kenya 2010 recognizes the rights of victims of offences and that Parliament enacted the Victim Protection Act to give effect to Article 50(a) of the Constitution. That the Victim Protection Act provides a guide on how a victim or complainant can participate in criminal proceedings and ensures that parties are accorded a fair hearing and that all the views of the affected parties to a trial are taken into account before a decision is made by a court of law.

The Appellants' Counsel opposed the application and submitted that the role of a Counsel *watching brief* in a criminal trial is limited to just observing the proceedings or addressing the court through the prosecution except in exceptional circumstances. He argued that sections 213, 206, and 311 of the Criminal Procedure Code bars a counsel watching brief from actively participating in the trial process and that the criminal justice system is focused upon the rights of an accused person and that the victim's rights are not the primary focus.

On his part and while in support of the Appellant's argument, the Prosecutor submitted that under Article 157 of the Constitution, the DPP is not under the direction and control of any person, a counsel watching brief has no right of audience and can only actively participate in public with the permission of DPP or the Court; that under Section 12(2) of the Victim Protection Act, the views and concerns of the victim can be presented at the victim's impact assessment stage and that a watching brief Counsel can only be an assistant to the prosecutor to liaise with him in a gentleman's agreement on how best to bring out the truth.

The learned trial Judge considered the submissions; the Constitution, the Victim Protection Act as well as the authorities relied on and ruled that the law had shifted and that the arguments advanced by the defence if adopted by the court would be contrary to the provisions of the Constitution, the Victim Protection Act and against Kenyan's progressive jurisprudence.

The learned Judge ruled that the victim's counsel can no longer be considered a passive observer but noted that the Victim Protection Act gives the parameters of involvement during trial to include; the victim views and concerns at various stages as the court may determine either directly by the victim or his/her representative; at plea bargaining; at

the level of sentencing where a decision is likely to affect the right of the victim and not throughout the trial or parallel to the prosecution.

The learned Judge, therefore, directed that Counsel watching brief would only participate in the proceedings on submission at the close of the prosecution case whether there is a case to answer; final submission of the accused should he be put on his defence; on points of law should such arise in the cause of trial, and upon application at any stage of the trial for consideration by the court.

Aggrieved by the decision of the High Court, the Appellant moved to the Court of Appeal faulting the learned trial Judge for inter alia failing to apply the words “*protection*”, “*rights*”, “*welfare*” in Article 50(a) in their proper perspectives; introducing a non-existent right and unrecognized fundamental right and freedom; elevating position of a counsel watching brief to a status equal to the constitutional office of DPP; acting in ignorance or in subversion of Article 157 and thereby amending Article 157(6) by concluding that powers of DPP are to be exercised collegially with Counsel watching brief; and in failing to acknowledge that Section 329A – 329E of the Criminal Procedure Code wholly and completely address the rights of a victim in the context of a criminal trial.

Counsel for the Appellant further argued that the learned trial Judge opened the door for the victim to take over the trial; that the terms of the order made by the learned Judge are not provided for in the law; that order No. (iv) opened a Pandora’s box; that the Constitution does not donate any right to a victim and that the victim is only given a right at the stage of plea bargaining and to make a victim assessment statement. Counsel added that orders of the learned Judge were open-ended; that the orders were prejudicial to the appellant as he would face two prosecutors which affect the right to speedy trial; that there is a disconnect between findings of the learned Judge at paragraph 30 and orders made at paragraph 31 and that the views and concerns of a victim do not include the right of victim’s counsel to cross-examine witnesses.

Prosecution Counsel supported the Appellants’ Counsel Submissions and stated that the law does not say at what stage, the personal interest of the victim should be addressed and that a victim can only address the Court at the stage of plea bargaining, bail hearing, and sentencing.

Mr. Murunga for the family submitted that the concerns of the victims of offences have to be addressed at any stage of the trial; that the rights are determined on case to case basis; that Counsel for a victim has even right to cross-examine witnesses; that Victim Protection Act does not usurp the powers of the DPP under Article 157(6) but instead complements those powers; that according to *Sathyavani’s case*, a court should be careful and ensure that, an innocent person is not convicted neither should a guilty person be allowed to escape and that the purpose of the victim’s application before the High Court was to ensure that in the event that any issue either of law or fact which affects the victim arises, the victim would be allowed to participate.

Issues for Determination:

- a) Whether victims or family of victims of a crime have a right to actively participate, either directly or through legal representation in a criminal trial?

Held:

In dismissing the Appeal, the Court of Appeal held inter alia: -

- a) Under Article 20 of the Constitution of Kenya 2010, every person is entitled to enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent con-

sistent with the nature of the right or fundamental freedom and that the state was enjoined under Article 21(4) to enact and implement legislation to fulfill its international obligations in respect of human rights and fundamental freedoms;

- b) The origin of the recognition of rights of victims of crime by the domestic laws is the United Nations General Assembly Resolution No. A/RES/40/34 of 29th November 1985 at its 96th plenary meetings which adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of power, which is designed to assist Governments and the international community in their efforts to secure justice and assistance for victims of crime and victims of abuse of power;
- c) Under Section 13 of the Victim Protection Act, a victim who is a complainant in a criminal case has a right either in person or through an advocate and subject to the provisions of the Act to adduce evidence which has been left out and give oral evidence or written submissions;
- d) Under Section 12 of the Victim Protection Act, a victim of a criminal offence may make a victim statement in accordance with Section 329c of the code and that in accordance with section 329c of the Code if the primary victim (that is a person against whom the offence was committed) has died as a direct result of the offence, a victim impact statement can be made by a family victim i.e. a member of the primary victim's immediate family, including the victims spouse, parent, guardian step-parents, child, step-child, brother, sister, step-sister or step-brother of the victim;
- e) The concept of "watching brief" in a criminal trial where an advocate for the victim does not play an active role in the process is now outdated as the Constitution as well as the Victim Protection Act give a victim of an offence a right to a fair trial and right to be heard in the trial process to assist the court, and not the prosecutor, in the administration of justice so as to reach a just decision in the case and that the right of the victim to be heard persists throughout the trial process and continues to the appellant process;
- f) The constitutional and statutory role of the DPP to conduct the prosecution is not affected by the intervention of the victim in the process and it is the duty of the trial court to conduct a fair trial and to protect and promote the principles of the Constitution (Article 159(2) (e));
- g) The rights granted to the victims of offences, just like the fundamental rights conferred by the Bill of Rights are to be liberally construed;
- h) It is not incompatible with the right of a fair hearing if an accused person or with the exercise of the prosecutorial powers of the DPP if, a victim of an offence either in person or through his advocate is allowed to exercise the full power of the court in the manner provided by Section 15 of the Code, as long as the safeguards in the proviso thereto are observed; and
- i) The issue of victim's participation would arise in infinite variety of factual situations where the trial court would be required to offer guidance to ensure a fair trial to an accused person and rigid prescription would limit the exercise of rights and the Judicial discretion of the trial court but also impede the administration of justice and the development of law.

4.3.2 Evidence - Issuance of Due Notices before Warrants are Issued-Advocate Client Privilege

1. **The prohibition of advocate from disclosing communication made by his client or divulging information regarding documents that come to his attention in the course of his employment as the clients' advocate as provided under Section 134 of the Evidence Act is for the protection of the client and not the advocate.**
2. **EACC must issue a Notice to a person of interest or a suspect subject of investigations so that the person is made aware of the intended action of EACC against him and that such person should be given a chance to voluntarily comply with the notice before any action is taken against him.**

Director of Prosecutions -vs- Tom Ojienda t/a Prof. Tom Ojienda and Associates and 3 others(in the Court of Appeal at Nairobi Civil Appeal No. 109 of 2016)

Brief facts:

The respondent filed a petition before the High Court complaining that the Ethics and Anti-Corruption Commission (EACC) had surreptitiously and without notice to him obtained warrants to investigate his accounts arising out legal works he undertook since the year 2011 as an advocate of Mumias Sugar Company Limited. He argued that the EACC had abused the power entrusted to it and that it had violated his rights to privacy, property, fair administrative action and fair hearing as provided under Articles 31,40, 47 and 50 of the Constitution, this notwithstanding the fact that he had always executed instructions received from the company meticulously, diligently and with distinction; and that he was therefore entitled to all the legal fees charged.

The respondent had argued that the payment of his legal fees by the Company was protected by the privilege of advocates as provided under Section 134 and 137 as buttressed by Section 13(1) of the Evidence Act. He contended that Section 134(1) states that the privilege can only be waived upon express instructions from a client. It was his contention that EACC, therefore, had no basis of seeking the warrants issued under *Kibera CMC. Misc. Application No. 168 of 2015*. He asserted that the court had no legal basis either in granting such warrants and that EACC had not demonstrated that the client had waived the privilege to warrant the breach of the privilege.

The respondent submitted that the issuance of the warrants violated Section 28(1), 28(2), 28(3) and 28(7) of the Anti-Corruption and Economic Crimes Act (ACECA) which placed an obligation on EACC to first issue a written notice to him of their intended application to the court for an order to access and investigate his bank records which could have afforded him a fair chance to be heard by the Court before the warrants were issued.

He contended that the omission by EACC was *ultra vires* and in violation of his rights under Article 47(1) and (2) and that since payments were covered by privilege, Section 28(10) and 27(5) of ACECA divests EACC of any locus to demand that he or the Company disclose to them any information concerning the payment of the legal fees.

The respondent argued that the investigation of his advocate - client bank account by EACC without his consent or any legal basis violated his right to privacy (Article 31); that the Court by issuing the impugned warrants violated its mandate as provided under Article 159(2) of the Constitution; that the warrants were issued without according him a right to be heard thereby violating his right under Article 50(1) of the Constitution and therefore violated his right to enjoy the use of his bank account and the right to property under Article 40(1) of the Constitution. He further submitted that the EACC lacked any locus to investigate

the alleged irregular payment of legal fees since being civil in nature, the same could only be determined by the Advocates Disciplinary Tribunal or the Advocates Complaints Commission as provided under Section 60 A of the Advocates Act.

The EACC strenuously opposed the petition stating that they had received an intelligence report on February 16, 2015, concerning fictitious payments made by Mumias Sugar Company Limited to various advocates including the respondent as alleged legal fees. EACC contended that further investigations revealed that the company had made several suspicious payments amounting to Sh 280 million to the respondent's account held at the Standard Chartered Bank, and that Dr. Evans Kidero the then Managing Director of the Company had allegedly caused the irregular payments to be made prior to his exit from the company.

In their view and in the circumstances, the application for issuance of warrants was necessary for the investigations into the fictitious payments which were at the time considered criminal in nature. The EACC contended that it was acting in tandem with its statutory mandate, which is to investigate all allegations that raise suspicion of corrupt conduct or economic crimes against any individual or Institution.

The EACC averred that it moved the Magistrate's court under Section 180 (1) of the Evidence Act and Section 23 of ACECA and that the court was satisfied that such orders were necessary and issued them under Section 118 of the Evidence Act. The EACC contended that it was not obligated to give notice to the respondent of its intention since Section 27 of ACECA are not couched in mandatory terms. They further countered that the respondent was not a victim of discrimination as intelligence received had no allegation against any other law firm; that the law envisages instances where the right to privacy may be abridged in matters involving embezzlement of public funds; that the respondent's right to property was not violated as at no time was he deprived of any property; that Article 40 of the Constitution does not extend to property unlawfully acquired; and that Article 50(1) of the Constitution cannot be involved where no trial had taken place, and that advocate-client privilege is not protected by illegality fraud or where crime or fraud has been committed or suspected to have been committed.

The High Court in its considered judgment on March 19, 2013 allowed the petition partially issuing a declaration that the warrants to investigate respondent's bank account at Standard Chartered Bank breached the respondent's rights and fundamental freedoms under Articles 47(1), 47(2) and 50(1) of the Constitution hence void for all intents and purposes.

Dissatisfied by the decision of the High Court, both the DPP and EACC filed two appeals which were consolidated. The respondent also aggrieved by the partial success of his petition filed a cross-appeal. The Appeal by the DPP was on the grounds that the learned Judge erred in law and fact by: -

- a) Failing to uphold that the warrants to investigate Prof. Ojienda were lawfully obtained under the provisions of Section 180 of the Evidence Act;
- b) Failing to appreciate that Section 23 of ACECA, Section 180(1) of the Evidence Act and Section 118 of the Criminal procedure code were available to EACC in discharging its mandate;
- c) Holding that Prof. Ojiendas' right to be given due notice prior to the application of the warrants violated Section 28 of ACECA and Article 47 of the Constitution; and
- d) Failing to uphold that Prof. Ojienda's rights were limited by Article 24 of the Constitution in favour of the protection of public interest.

The EACC's memorandum of appeal contained grounds that the learned Judge erred both in law and in fact by: -

- (a) Failing to appreciate that the investigative process by EACC was not administrative but both constitutional and statutory; and
- (b) Failing to appreciate EACC's assertion on the threat of the issuance of notice to a suspect gives him an opportunity to conceal evidence that would have been otherwise necessary to create a case against him.

Prof. Ojienda's cross-appeal was based on the grounds that the learned Judge erred both in law and in fact by: -

- (a) Failing to hold that his fundamental right to privacy to property and not to be discriminated against were violated;
- (b) Holding that EACC had a factual basis which warranted the issuance of the impugned search warrants;
- (c) Failing to hold that the bank account was not confidential communication and therefore not covered by privilege; and

Held:

In dismissing both the appeals as well as the cross-appeal, the Court of Appeal held that: -

- a) The prohibition of advocate from disclosing communication made by his client or divulging information regarding documents that come to his attention in the course of his employment as the clients' advocate as provided under Section 134 of the Evidence Act is for the protection of the client and not the advocate;
- b) The Clients' Protection is however not absolute as there are instances where the advocate may be required, for compelling reasons to disclose such communication or content and condition of documents;
- c) Prof. Ojienda had not demonstrated how he was deprived of his right under Article 40 of the Constitution since he still had control and ownership of the bank account during the investigation;
- d) The issuance of notice in writing to a person in Ojienda's position is a duty imposed by Section 27(3) of ACECA and therefore, EACC's action was improper;
- e) EACC as a creation of Article 79 of the Constitution is governed by the dictates of Article 47 in executing its mandate and is therefore bound by the dictates of the Constitution;
- f) All powers and functions given to EACC by the Constitution and ACECA are subject to be administered lawfully, reasonably and in a manner that is procedurally fair; and
- g) By enacting Sections 26, 27 and 28 of ACECA, the legislature's intention was for a person of interest or suspect to be aware of the intended action of EACC against him and that such person should be given a chance to voluntarily comply with the notice before any action is taken against him.

4.3.3 Electoral Law-Jurisdiction

1. **There is no second appeal from the High Court to the Court of Appeal with respect to a decision from the High Court reached in exercise of its appellate jurisdiction in a dispute for the position of a Member of a County Assembly.**
2. **Where there is a clear provision on the jurisdiction of the court as in Section 75(4) and 85(A) of the Elections Act, then it is not permissible to resort to the general provisions in the Constitution such as Article 164(3) on the Jurisdiction of the Court of Appeal.**

Hassan Jimal Abdi v. Ibrahim Noor Hussein, IEBC & 2 Others (Election Petition Appeal no. 30 of 2018)

Brief Facts:

The Applicant was one of the contestants in the race for the County Assembly seat for Batalu Ward in Wajir North Constituency. He lost that election by the results announced by the Returning Officer Wajir North Constituency and successfully petitioned the magistrate's court for an order nullifying the election. The first respondent, Ibrahim Noor Hussein, was aggrieved with this order and filed a first appeal to the High Court challenging that order, but that appeal was dismissed.

Aggrieved by the decision of the High Court, the first respondent preferred an appeal to the Court of Appeal seeking to reverse the decision of the High Court. Subsequently and pending the hearing of the appeal on merit, the applicant filed an application dated August 23, 2018 seeking an order to strike out the notice of appeal and memorandum of appeal filed by the respondent on the ground that the Court of Appeal does not have jurisdiction to hear and determine a second appeal with respect to an election of a member of county assembly.

The Applicant's main argument was that Section 85A of the Elections Act and Rule 35 and 36 of the Elections (Parliamentary and County) Petition Rules, 2017 as read together with Article 87 of the Constitution gave the Court of Appeal limited jurisdiction to entertain an appeal from the judgment and decree of the High Court in an election petition concerning membership of the National Assembly, Senate or office of the County Governor only, and excludes any second appeal arising from election to the office of member of county assembly. As such, the applicant prayed for the court to find that as jurisdiction flows from the Constitution or the law or both, and since the court can only exercise it within the limits set out in the law, then the court ought to strike out the appeal.

On his part, the first respondent contended that the dispute in the subject appeal regards the interpretation of the application of the principles of the Constitution, the Elections Act and the Rules made thereunder and that it raises substantive issues of law. He further stated that election appeals filed in court are governed by the Constitution of Kenya, 2010, the Elections Act, the Appellate Jurisdiction Act, and the Rules made thereunder. In his view, Article 164 (3) of the Constitution of Kenya gave the Court of Appeal jurisdiction to hear appeals emanating from the High Court, as well as any other court or tribunal that may be prescribed by Parliament.

He further submitted that Articles 48 and 50 (1) as read with Articles 24 and 25 of the Constitution provide for a right of appeal which can only be ousted by an express provision in law, and in the absence of such a provision, the Court of Appeal is clothed with jurisdiction to hear and determine the present appeal. In the premises, he canvassed that neither section 85A of the Elections Act, nor any other piece of legislation can bar an appellant from lodging an appeal before the Court of Appeal if the subject matter of the appeal is the validity of the election of a member of Country Assembly.

While the first respondent agreed that Article 87 (1) of the Constitution gives Parliament the power to enact legislation to establish mechanisms for the timely settling of electoral disputes, He however argued that the said mechanisms include the Court of Appeal (Election Petition) Rules, 2017 under the appellate Jurisdiction Act which governs this Court's jurisdiction. In his view, the object of the rules, as outlined in rule 3 is to *“facilitate the just, expeditious and impartial determination of election petition appeals in exercise of the Court's appellate jurisdiction under Article 164 (3) of the Constitution, while rule 4 states that they apply “to the conduct of the appeals from decisions of the High Court in election petitions and matters relating thereto.”*

He further countered that in this context, the word 'appeal', should take the meaning ascribed to it in rule 2 where it is provided that an appeal refers to an appeal from the decision of the High Court. It was his submission that any party aggrieved by the decision of the High Court in election disputes, whether in its original jurisdiction or appellate jurisdiction, has an unlimited right to lodge an appeal to the Court of Appeal. He urged the Court to interpret this provision of the Constitution in line with Article 259 of the Constitution and do so in a manner that promotes its purposes, values, and principles and to advance the rule of law and human rights and fundamental freedoms in the Bill of Rights.

Issues for Determination:

- a) Whether a party can resort to the application of general provisions where there are clear provisions on Jurisdiction in the Election Act?
- b) Whether there can be a second appeal from the High Court to the Court of Appeal with respect to an election petition for the position of a Member of a County Assembly.

The Court of Appeal in its analysis of the applicable laws observed from the outset that the application raised the single pertinent issue of Jurisdiction of the Court of Appeal in election petitions. The court stated that with respect to disputes related to election petitions, the Constitution of Kenya at Article 87 (1) requires Parliament to enact legislation to establish mechanisms for the timely settling of election disputes. In fulfilment of this directive, Parliament enacted the Elections Act, No. 24 of 2011 which contains various elaborate provisions on the manner in which disputes arising from election petitions ought to be settled. In particular, section 75 of the Elections Act provides for county election petitions, and specifies that where there is a question *“as to the validity of the election of a member of county assembly such a dispute shall be heard and determined by the Resident Magistrate's court designated by the Chief Justice.”*

Appeals from these petitions are provided for under section 75 (4) of the Act as follows:

- “(4) An appeal under subsection (1A) shall lie to the High Court on matters of law only and shall be -*
- (a) filed within thirty days of the decision of the Magistrate's Court; and*
 - (b) heard and determined within six months from the date of filing of the appeal.”*

The other instance in the Elections Act the court noted where appeals are mentioned is in section 85A which provides that:

- “85A. An appeal from the High Court in an election petition concerning membership of the National Assembly, Senate or the office of the County Governor shall lie to the Court of Appeal on matters of law only and shall be -*
- (a) Filed within thirty days of the decisions of the High Court, and*

(b) Heard and determined within six months of the filing of the appeal.”

The Court stated that The Elections (Parliamentary and County Elections) Petition Rules, 2017 are similarly worded, with rule 34 providing for “an appeal from the Magistrate’s Court under section 75 of the Act”, while rule 35 makes provision for “*an appeal from the judgment and decree of the High Court in a petition concerning the membership of the National Assembly, Senate or office of the County Governor.*”

The Court noted that the availability of the right to a second appeal hearing has come to be expected by litigants in both civil and criminal matters. However, with regard to a second appeal for County Assembly, there is a glaring silence as to whether this right is available. Section 85A does not list disputes by petitioner in a County Assembly election as part of the election petition that can lie in the Court of Appeal.

The Court then posed the question as to whether in the absence of specific provisions to provide for second-tier appeals on election petitions to the Court, can recourse be had to Article 164 (3) of the Constitution? It noted that this Article is a general provision that provides for jurisdiction to hear appeals from “*any other court or tribunal as prescribed by an Act of Parliament.*” Again section 3 of the Judicature Act further enforces the court’s jurisdiction and states:

“Section 3. Jurisdiction of Court of Appeal

(1) The court of appeal shall have jurisdiction to hear and determine appeals from the High Court and any other court or Tribunal prescribed by an Act of Parliament in cases in which an appeal lies to the Court of Appeal under law.”

In light of the argument by the parties, the question that therefore arose is one, whether the appellate jurisdiction of the court of appeal in the Constitution enabling a right of the second appeal can be inferred in the Elections Act and secondly whether a party can find refuge in the general provisions of the Constitution in light of the clear provisions of the statute.

The learned Judges of appeal opined that where there is a clear provision on the jurisdiction of the court, then it was not possible to resort to the general provisions. The Elections Act sets the entry point for the jurisdiction of the courts to hear and determine appeals in section 75 (1A), with respect to disputes on the validity of the election of a member of the county assembly. With regard to disputes arising out of elections for the other elective positions, the entry point for jurisdiction is found under section 75 (1) for an election petition with respect to the office of county governor and Article 105 with respect to a question of whether a person has been validly elected as a member of Parliament. Similarly, section 75 (4) provided for a ceiling with respect to appeals from the magistrate’s courts to the High Court; these appeals which must be filed within thirty days may only raise issues of law and must be determined within six months. In similar terms, section 85A provides for a ceiling for appeals from election petitions heard by the High Court to the Court.

Held:

- a) That the appeal envisaged in Section 85A of the Elections Act can only be for the membership of the three (3) offices specifically mentioned in that section, that is, *National Assembly, Senate or the office of the County Governor* and no other.
- b) There exists no provision therefore for a second appeal with respect to a decision from the High Court reached in the exercise of its appellate jurisdiction in a dispute on an election of a member of the county assembly.
- c) Where there is a clear provision on the jurisdiction of the court as in Sections 75(4) and 85A, then it is not possible to resort to the general provisions in the Constitution such as Article 164(3) on the Jurisdiction of the Court of Appeal.

4.3.4. Criminal Law - Defilement-Defence of Belief or Deception

1. **For a charge of defilement, contrary to section 8(1)(4) of the Act and the defence in section 8(5) and (6), A person is more likely to be deceived into believing that a child is over the age of 18 years if the said child is in the age bracket of 16 to 18 years old, and that the closer to 18 years the child is, the more likely the deception, and the more likely the belief that he or she is over the age of 18 years.**
2. **The burden of proving that deception or belief fell upon the appellant, but the burden is on a balance of probabilities and is to be assessed on the basis of the appellant's subjective view of the facts.**

Eliud Waweru Wambui vs Republic (Criminal Appeal No. 102 of 2016)

Brief facts:

The appellant was arrested and arraigned before the Chief Magistrate's Court at Thika on December 1, 2010 on a charge of defilement, contrary to section 8(1)(4) of the Act. The particulars of the charge were that;

"On the month of May 2009 at Makuyu Township in Muranga county within the Republic of Kenya [he] committed an act that caused penetration to a child namely ANK a child aged 17 years and 5 months."

He faced an alternative charge of an indecent act contrary to section 11(1) of the Act particularized that;

"On the diverse dates from January 2009 and 16th November 2009 at Makuyu township in Murang'a county within Republic of Kenya [he] committed an indecent act with a child namely ANK a child aged 17 years by touching her genital organs."

The appellant denied the charges leading to a trial in which the prosecution called some five witnesses, at the end of whose testimony the trial magistrate found the appellant had a case to answer and placed him on his defence. He made an unsworn statement and called three brief witnesses.

In the ensuing judgment, the magistrate found the main charge proved against the appellant and convicted him. He was then sentenced to 15 years' imprisonment.

Aggrieved by the conviction and sentence, the appellant preferred the first appeal against both conviction and sentence to the High Court. By a judgment delivered on June 25, 2014, the appeal was found to be devoid of merit and dismissed. He preferred a second appeal raising the following grounds of appeal on the basis of which he asked the Court to quash the conviction and set aside the sentence;

- a) That the first appellate court erred in law and fact by failing to notice that essential ingredients/elements of the offence as charged were not proved.
- b) That the first appellate court erred in law by failing to consider/subject evidence to fresh scrutiny, re-evaluate the same and analyze as required of it. If it did, the first appellate court would have discovered that:
 - i. There were material errors in the prosecution evidence contained in exhibit 1 in that the date of issue of the birth certificate took place before the complainant was born.
 - ii. There was a likelihood that the charges against the appellant were borne out of

malice and ill-will due to the fact that the appellant failed to pay the compensation required by PW2 (complainant's father).

- c) That the first appellate court erred in law by failing to notice that the appellant reasonably believed that the complainant had granted her consent and that she had the capacity to grant the said consent and he believed she was full of age (sic) and capacity to contract a marriage.”

In written his written submissions, the appellant combined the first two grounds of appeal. He first argued that the fact that the complainant was school-going did not of itself mean, much less prove, that she was under the age of 18 years. It was upon the prosecution to conclusively prove her age; and whereas she stated that she was born on October 3, 1991, and a birth certificate was produced, the same was a copy and not the original.

Moreover, the said document was false as it purported to have been issued on October 1, 1991, which was two days before the date the complainant was allegedly born. He also asserted that as the local chief is said to have led some negotiations between the appellant and the complainant's father which did not bear fruit since the appellant did not have the money demanded, it is not possible that the complainant was underage and the chief could not possibly have actively condoned an illegality. He thus submitted that PW2 must have decided “to fix” the appellant for failing to part with the sum of money requested.

On ground 3, the appellant contended that the complainant presented herself to him as a mature girl who was ripe for marriage and that she indeed testified that she and he were married. He went on to submit that;

“The mere fact that the complainant made the appellant her boyfriend had sex by consent several times and was willing to get married to the appellant shows that the complainant presented herself before the appellant as a mature girl ready to get married. After the parents of the complainant were made aware of the same, they approached the appellant for discussions of the way forward and if the appellant had agreed to pay the sum requested they would not have reported. It is clear therefore that the charges facing the appellant were driven by ill will and vendetta for non-payment of Kshs. 80,000.00.”

Basing his submissions on section 8(5) and (6) of the Act, the appellant posited that he had a reasonable basis for believing the complainant was over the age of 18 years at the time of the alleged offence, which was “a subjective test with an objective element” which related to his capacity to evaluate the consent and if so, reasonably believe it, which he did. He thus made the case that the evidence did create a reasonable doubt as to his guilt and was thus entitled to an acquittal in light of section 111 of the Evidence Act.

In opposition to the appeal, the Principal Prosecution Counsel opened her brief objection to the appeal by submission that “the offence was proved because the appellant impregnated the complainant and so it is obvious defilement occurred. The complainant was still school going and so incapable of giving consent.” She referred to section 43(4)(7) of the Act for that proposition.

When the Court asked her the exact date when the offence is supposed to have been committed, she was unable to pinpoint any but referred to the complainant's pregnancy whereupon the court asked why it took so long for the appellant to be charged, in fact long after the child had been born, but she was unable to offer any explanation and there was none on record. She conceded that indeed there had been negotiations in which the complainant's father had sought some Sh 80,000 from the appellant, which he was unable to pay before the charges against him were laid.

The learned Senior Principal Prosecuting Counsel concluded her submissions with the

statement which captures the dilemma presented by cases such as the one before the court by stating that: *“It is unfair for the appellant to be sentenced to 15 years imprisonment but that is the law and there is nothing we can do about it.”*

The Court then countered the prosecution’s observation and questioned whether a court of law can declare itself powerless in the face of obvious injustice as conceded by the State.

The appellant in his response reiterated that the birth certificate produced misled the trial court, and the first appellate court failed to properly re-evaluate the evidence and; find that he did reasonably believe the complainant to have been over 18 years old; take issue with the non-production of the original birth certificate, and find that the complainant’s father would not have entered into negotiations and asked for Shs. 80,000 before the local chief had the complaint been under age; find that had he paid the money the charges against him would not have been laid; and that it would not have been necessary for the complainant to be threatened and detained in custody by the police for 3 days to force her to record a statement and testify against him.

The appellant concluded by complaining that it was harsh and unfair for him to be jailed for 15 years, yet the complainant is his wife and he has responsibilities to take care of her and their child.

In its analysis of the law pertaining thereto *vis a vis* the evidence presented, the Court of Appeal noted that one of the appellant’s major complaints was that the age of the complainant was not proved to the required standard and that the document produced as her birth certificate could not be relied on to prove her age. There was no doubt that in an offence such as faced the appellant, indeed in most of the offences under the Act where the age of the victim determines the nature of the offence and the consequences that flow from it, it is a matter of the greatest importance that such age be proved to the required standard, which is beyond reasonable doubt. That has been the consistent holding of this Court as was in the case of *Hadson Ali Mwachongo vs. Republic* [2016] eKLR, where the Court held that:

“The importance of proving the age of a victim of defilement under the Sexual Offences Act by cogent evidence cannot be gainsaid. It is not in doubt that the age of the victim is an essential ingredient of the offence of defilement and forms an important part of the charge because the prescribed sentence is dependent on the age of victim. In Alfayo Gombe Okello vs. Republic Cr. App. No. 203 of 2009 (Kisumu). This Court stated as follows;

“In its, wisdom Parliament chose to categorize the gravity of that offence on the basis of the age of the victim, and consequently the age of the victim is a necessary ingredient of the offence which ought to be proved beyond reasonable doubt. That must be so because dire consequences flow from proof of the offence under section 8(1).?”

In the present case, the appellant complained that the prosecution did not produce the original birth certificate. Rather, what was produced was a photocopy of the alleged birth certificate, which copy was not certified as required by section 66 of the Evidence Act when permitting the production of secondary evidence if primary evidence, which is the document itself, is not produced for the inspection of the court and the contents of the document are sought to be proved by secondary evidence under section 64 of the Evidence Act. The appellant contended that the original document would have been the best evidence failing which a certified copy should have been produced.

In the submissions opposing the appeal, the respondent’s counsel did not address that aspect of the appellant’s case at all, and the court felt it was plainly right in arguing that what was produced was not a document that could be relied on in proof of the complainant’s age. Things were only made worse by the fact that the document itself purported to have been

issued before the birth of the complainant, evidence of which was purported to be, which was a logical impossibility. The document, as is, was therefore of clearly no probative value.

There was no age assessment as such that was done on the complainant, while the P3 Form that was produced indicated 17 years as the *approximate age of the person examined*, namely the complainant. The other evidence of age was that of the complainant herself which, other than being hearsay in character, was no more illuminating. She stated that on November 14, 2009, she got married to the appellant and she was about 17 years having been born on October 3, 1991. Simple arithmetic showed that as of that date she would have been 18 years and one month old. She stated that she conceived in May 2009 which would place her age at 17 years and 6 months at the time but, one cannot speak competently on her date of birth as she cannot have witnessed it and the only document that was produced of the same was of no probative value, as earlier stated.

Her father's testimony regarding her age was simply that she was born in 1991. He did not give an exact date. Neither did her mother who was content to merely say that the complainant was 17 years and 5 months when she exhibited signs of pregnancy. The totality of the evidence on age was that it did not possess the consistency and certainty that would have proved the exact date of the complainant's birth beyond reasonable doubt. The court therefore, agreed with the appellant's complaint that had the learned Judge gone into an analysis of the evidence with the thoroughness that was required of her, she would probably have arrived at a different conclusion. In failing to engage in that exhaustive re-evaluation, she fell into error and the lingering doubts must be resolved in favour of the complainant.

The next troubling issue was that the complainant's evidence appeared to have been procured by duress from the police. She stated as follows;

“My parents chased me away when they realized that I was pregnant. I was then 6 months pregnant. I went and lived with the accused and when I was arrested. I refused to tell the police anything. I was locked in for 3 days. I now did my statement and was released, I went home. The accused person was arrested. The accused had another wife but he rented for me a house in Makuyu. I was a second wife. I now have his child.”

The pressure also seems to have come from her parents to whom she wrote some two letters threatening to kill herself. The Court wondered and questioned whether it is lawful for a girl who is already over 18 years of age and is a mother, and who has chosen not to testify against the father of her child, whom she considered to be her husband, to be locked up in police cells to force her to testify against the man. The Court stated that such kind of conduct on the part of the police raised serious doubts as to the *bona fides* of the prosecution. In this case, it was made worse by the admitted demand by the complainant's father, in a meeting at the Chief's office, attended by two elders no less, for the sum of Shs. 80,000 from the appellant who, incidentally, had been his tenant. His testimony was that;

“After the girl cleared her exams she went missing. After I had been told, I had the chief summons the accused and was told to move out of my houses. When she went missing, my wife saw her in the house of the accused. I went and informed the police and they went for her. This girl had written some letters while were together but left after putting the letter on the door pigeon. The girl was born in 1991. She was not 18 years at the time she became pregnant. She became 18 years after the birthday. Later accused was arrested and charged. The chief had said we agree and I asked for Shs. 80,000/= he said that he cannot agree. If he paid, we could have sat and sorted out. The chief and the two elders were present. The child is now with me. She now gave birth. Even when she was in the maternity the accused came to see her. He was arrogant and was stating that this is his child.”

During cross-examination the father stated that the Shs. 80,000 “was to take care of the

education expenses” he had used on the complainant and not dowry, but the critical point was the admission that had it been paid the matter would have rested.

The court after careful consideration observed that the picture that emerges is of a father righteously indignant that his daughter has been seduced and put in the family way, and who would have the culprit prosecuted unless he would pay some kind of compensation. This, too, raised questions as to whether the prosecution was for the proper purpose of enforcing the law or settling a score. The effect was to whittle the reprobate value of the father’s evidence and to lend credence to the appellants’ contention that both the father and chief did know that the girl was of age.

The last issue for determination was the appellant’s defence that he believed that the complainant was over 18 years old. He maintained that he had a relationship with her and that she was of a marriageable disposition. When she got pregnant she came to his house and in fact the investigating officer found her with the appellant’s wife. The complainant knew that he was married and she was prepared to be his second wife.

The Act provides as follows in section 8(5) and (6):

- “(5) It is a defence to a charge under this section if-
- (a) it is proved that such child, deceived the accused person into believing that he or she was over the age of eighteen years at the time of the alleged commission of the offence; and
 - (b) the accused reasonably believed that the child was over the age of eighteen years.
- (6) The belief referred to in subsection (5)(b) is to be determined having regard to all the circumstances, including any steps the accused person took to ascertain the age of the complainant.”

Subsection (5) states that it is a defence to a charge of defilement if the child *deceived* the accused person into believing that she was over the age of 18 years *and* the *accused reasonably believed* that she was over 18 years. We think it a rather curious provision in so far as it is set in *conjunctive* as opposed to *disjunctive* terms which would seem to be more logical as opposed to the current rendition.

The learned Judges of appeal stated that they would think that once a person has actually been deceived into believing a certain state of things, it adds little to require that his such belief be reasonably held. Indeed, a reading of subsection (6) seems to add a qualification to subsection (5)(b) that separates it from the belief proceeding from deception in subsection (5)(a). We would therefore opine that the elements constituting the defence should be read disjunctively if the two sub-sections are to make sense.

Whereas indeed the complainant was still in school in Form 4, that alone would not rule out a reasonable belief that she would be over 18 years old. It was also germane to point out that a child need not deceive by way of actively telling a lie that she is over the age of 18 years.

In a picturesque exposition of the need for law reform in this area of sexual offences, the Court albeit in *Orbiter* rendered itself thus; We need to add as we dispose of this appeal that the Act does cry out for a serious re-examination in a sober, pragmatic manner. Many other jurisdictions criminalize only sexual conduct with children of a younger age than 16 years. We think it is rather unrealistic to assume that teenagers and *mature adults* in the sense employed by the English House of Lords in *Gillick vs. West Norfolk and Wisbech Area Health Authority* [1985] 3 All ER 402, do not engage in, and often seek sexual activity with their eyes fully open. They may not have attained the *age of maturity* but they may well have reached the *age of discretion* and are able to make intelligent and informed decisions about their lives

and their bodies.

The Court of Appeal noted that where to draw the line for what is elsewhere referred to as *statutory rape* is a matter that calls for serious and open discussion. In England, for instance, only sex with persons less than the age of 16, which is the age of consent, is criminalized and even then the sentences are much less stiff at a maximum of 2 years for children between 14 to 16 years of age. See Archbold Criminal Pleading, Evidence and Practice, [2002] p1720. The same goes for a great many other jurisdictions. A candid national conversation on this sensitive yet important issue implicating the challenges of maturing, morality, autonomy, protection of children and the need for proportionality is long overdue. Our prisons are teeming with young men serving lengthy sentences for having had sexual intercourse with adolescent girls whose consent has been held to be immaterial because they were under 18 years. The wisdom and justice of this unfolding tragedy calls for serious interrogation.

Held:

1. Taking totality of the evidence and in all the circumstances of the case, the appellant reasonably believed that the complainant was over the age of 18 years.
2. The burden of proving that deception or belief fell upon the appellant, but the burden is on a balance of probabilities and is to be assessed on the basis of the appellant's subjective view of the facts.

The appeal was allowed, the conviction quashed and sentence set aside. The appellant was set free unless lawfully held.

4.4. Decisions of the High Court

4.4.1. Criminal Law- Arrest and Investigation by Police Officers

- 1. An arrest of a suspect by the police should only be made after the case has been investigated with sufficient evidence requiring an answer from the suspect and the starting point for the investigating officer is not to depart from the enforcement of a right to a fair hearing;**

Mohamed Feisal & 19 others –vs- Henry Kandie & 7 others (Kajiado High Court Petition No. 14 of 2017)

Brief facts:

In this case, the Petitioners were arrested by Police officers around Tumaini Supermarket area of Ongata Rongai town Kajiado County on the evening of June 4 ,2016 at around 9.00 pm while engaging in normal business. They were then bundled into a Police vehicle and threatened by the Police officers against making any calls. Two of the arrested persons defied this order and called the twentieth petitioner who is an Advocate of the High Court of Kenya to come to their aid and upon the advocate's arrival, he explained the police officers the reasons and circumstances for being at the scene but was instead threatened with arrest and chased away by the police officers.

The petitioners were held in the Police vehicle from the time of their arrest until 12.20 am on June 5, 2016, when they were taken to Ongata Rongai Police Station, booked in and placed in custody without being informed of the reasons for their arrest. The Advocate pursued the Police motor vehicle to Ongata Rongai Police station where he pressed the Officers for the reasons for the arrest of the other petitioners while at the same time trying to explain to the officers the rights of arrested persons. That instead, the Advocate was met with hostility and in the end was arrested on the charge of creating a disturbance in a Police Station vide OB 02/5/2016, while the other petitioners were booked for the offence of being idle and disorderly.

The 19 arrested persons were released unconditionally on June 2016 at about 10.35 a.m. after spending a total of 15 hours in custody with no charge being preferred against them while the Advocate was released on a cash bail of Sh 5,000/= after spending 12 hours in police custody.

Aggrieved by the conduct of the police officers, the petitioners moved to the High Court on the grounds that the Respondents had breached their fundamental rights as guaranteed by the Constitution by unlawfully arresting and detaining them. The Petitioners argued that the offences for which they were arrested and detained are minor offences that ought not to have warranted their right of liberty and freedom of movement being violated through incarceration for up to 15 hours and thereafter being released without any charges being preferred against them.

They also argued that their constitutional right to representation by a person of their choice was infringed upon by the arrest and detention of their advocate, even after the advocate had intimated to the police officers that he would pay cash bail for all the petitioners as well as represent them in court. For the above reasons, the petitioners and sought the following remedies from the court:

- (a) A declaration that the conduct of the Respondents is contrary to and inconsistent with the provisions of Article 10 of the Constitution of Kenya 2010;
- (b) A declaration that the Respondents violated their constitutional rights and in par-

ticular Articles 20(1) and (2), 24(1), 25(c), 27(4), 29, 31, 39, 47, 50(i) and 51 of the Constitution;

- (c) A declaration that no person should be held in remand or custody for an offence punishable by fine only or by imprisonment for not more than six months, and that no cash bail shall be imposed on such offender either by a police officer or any court of law;
- (d) An order that the arrests and incarceration of the first to nineteenth Petitioners each for a period of 15 Hours by the Respondent for alleged offences of being idle and disorderly and failure to produce them in Court was unconstitutional;
- (e) An order that the arrest and incarceration of the twentieth Petitioner for a period of 12 hours by the Respondents for an alleged offence of creating disturbance was unconstitutional;
- (f) An order for adequate compensation damage for unlawful arrest and incarceration for deprivation of the Constitutional Right to Freedom of movement and their liberty by Respondents.

The Respondents on their part defended their action by stating that Police Officers could arrest any person upon reasonable grounds that any person either have committed or are about to commit a cognizable offence and that the Petitioners had failed to demonstrate that the Respondent acted maliciously or outside their powers or that the arrests were commenced without proper or reasonable foundation. They also contended that the Petitioners had failed to specify the manner in which the Respondents had violated or infringed on their fundamental rights and freedoms.

Issues for Determination:

- a) Whether the arrest and detention of the Petitioners was a violation of their fundamental rights and freedoms; and

Held:

In allowing the petition, the Court held, among others, that: -

- 2. As a general rule, an arrest of a suspect should not be made unless and until the case has been investigated with sufficient evidence requiring an answer from the suspect and the starting point for the investigating officer is not to depart from the enforcement of a right to a fair hearing;
- 3. The arrest or detention of a lawyer at a Police Station for the sole purpose of representing his or her client is a violation of the client's right to a fair trial and to be represented by a person of his or her own choice.

4.4.2 Gender Equality-Sexual Orientation

- 1. **Lack of definitions in the statute *per se*** does not render the impugned provisions of a statute vague, ambiguous or uncertain where such phrases or words have been clearly defined in law dictionaries, judicial pronouncements and other legal reference sources.
- 2. **Sections 162(a) (c) and 165 of the Penal Code (Cap 63) which criminalizes Unnatural offenses and Indecent Practices between Male are Constitutional.**

EG & 7 others v Attorney General; DKM & 9 others (Interested Parties); Katiba Institute & another (Amicus Curiae) Petition No. 150 & 234 of 2016 (Consolidated)

Introduction:

This two consolidated cases emanated from the ongoing debate in the public domain with civil society and others arguing that Kenya's laws that discriminate against homosexuals (or more precisely Lesbians, Gay, Bisexuals, Transgender, Intersex and Queer (LGBTIQ) persons and their intimate activities based on the grounds of their sexual orientation are unconstitutional are therefore void. The basis of this has been the evolution of thinking around human rights, so that human rights are now considered to include LGBTIQ rights and that human rights cannot be implemented selectively. But others seem to reason that this kind of thinking is based on opportunism by the proponents of human rights for the LGBTIQ community and therefore has no place in law.

These views, behind which strong convictions indubitably lie, are varied. A lot of them are informed by the reality that the LGBTIQ community is hardly a popular or accepted group in the Kenyan society. This in turn makes the LGBTIQ community subject to physical and sexual harassment by the police and members of the public, extortion, blackmail and exposure to the risk of criminal prosecution and imprisonment because of the climate of social opprobrium towards them perpetuated by the criminalization of their sexual orientation and identity.

The common thread in the two Petitions is that they both challenged the constitutionality of sections 162(a) (c) and 165 of the Penal Code (Cap 63) on grounds that the provisions have in effect, or are in practice applied to criminalize private consensual sexual conduct between adult persons of the same sex. The Petitioners contends that the provisions are vague and uncertain, because they breach the principles of legality and rule of law and infringe the rights of Kenyan citizens.

The Petitions questions the constitutional legitimacy of the State in seeking to regulate the most intimate and private sphere of conduct of Kenyans, regardless of their sexual orientation. They argue that to the extent that the impugned provisions purport to criminalize the relevant conduct, they are unconstitutional, and by dint of Article 2 of the Constitution are null and void to the extent of the inconsistency because they: -

- a) *Violate Articles 27 (Equality and freedom from discrimination), Article 28 (Human dignity), Article 29 (Freedom and security of the person), Article 31 (Privacy) and Article 43 (Economic and social rights – specifically health);*
- b) *contravene common law and constitutional principles (including Articles 10 and 50 of the Constitution) relating to legal certainty on account of their vagueness and uncertainty and consequently, cannot operate to create criminal penalties;*
- c) *violate International law which has been incorporated as part of domestic law by virtue of Article 2 of the Constitution;*
- d) *that the principle of legality requires that criminal offences be clearly, precisely and comprehensively drafted so as to be understood by ordinary Kenyan citizens.*
- e) *That the impugned provisions fail intelligibly to define the conduct to which they relate, hence, they violate the constitutional principle of the rule of law in Article 10(2)(a) of the Constitution, the common law principle of legal certainty and the right to a fair hearing provided under Article 50(2)(n)(i) of the Constitution.*

On their part and in support of the first petition, the eight Petitioners in Petition No. 234 of

2016 challenge the constitutionality of sections 162(a) (c) and 165 of the Penal Code. They argued that the two provisions violate Articles 27(4), 28, 29, 31, 32, 43, 50 of the Constitution. They also contended that the impugned provisions undermine fundamental human rights guaranteed by Articles 1,2,3,7,9,12 and 28 of the Universal Declaration of Human Rights (UDHR); Articles 2.1,17.1, 6.1, 7,9.1, 17, 17.1, 26 and 26 of the International Covenant on Civil and Political Rights (ICCPR); Articles 2.2, and 12.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR); Articles 2,3,4,6,10,19 and 28 of the African Charter on Human and Peoples Rights (ACHPR) and Resolution 275 of the ACHPR.

They also sought a declaration that *sexual* and *gender* minorities are entitled to the right to the highest attainable standards including the right to health care services as guaranteed in Article 43 of the Constitution.

On the basis of the foregoing, they ask the court to give meaning to the provisions of the Constitution that they claim are offended by section 162(a)(c) and 165 of the Penal Code by declaring them null and void. The Petitioners also sought an order directing the State to develop policies and adopt practices prohibiting discrimination on grounds of sexual orientation and gender identity or expression in the health sector.

Brief Facts:

In the first petition, the petitioner EG deposed that he was emotionally, affectionately, sexually and spiritually attracted to persons of his own sex, that is, to male persons, and, as an openly gay person living in Kenya, he has experienced discrimination and hostility on several occasions and more specifically that that in 2011, he was denied service at a barbershop at 20th Century Plaza along Mama Ngina Street, Nairobi despite having patronized the shop for over one year. The reason given was that other patrons had complained about the barbershop providing services to him and that the clients did not want to be associated with Lesbians, Gay, Bisexuals, Transgender, Intersex, and Queer LGBTIQ persons; that he has been a target of numerous threatening, insulting and death messages on Facebook and other social media, and, that, on May 10, 2015, the Weekly Citizen posted an article claiming to unveil Kenya's top Gays including him and other individuals thus violating their right to privacy; that a client of the National Gay and Lesbian Human Rights Commission (NGLHRC) was on December 18, 2015 fired from his job by a flower handling company, and, his employer told him "*people like you are not allowed in the office.*"

On another occasion, one of his friends had the word "*shoga*" (homosexual) written on his car and on the door to his house in Nairobi, and, feeling intimidated and threatened, he moved out of his home to avoid the stigma; that he has been forced to limit the stigma by keeping a low profile by limiting his social life and has lived in constant apprehension of the risk of arrest, prosecution and conviction for being a gay person; that between November and December 2015, one of their clients and a founder of a lesbian and bisexual women's group in Mombasa was targeted by a group of vigilantes in Shimo La Tewa area who assaulted her and threatened to kill her forcing her to flee from her home; that on May 24, 2015, one of their clients was assaulted by police officers at Parklands Police Station where he had gone to report loss of his property for 'dressing very gay' while another person was assaulted on February 28, 2016, for working with LGBTIQ; that on December 27, 2015, yet another client was assaulted and evicted by her landlord for watching sex movie with her girlfriend while naked and, lastly; that on February 18, 2014, some parliamentarians issued a statement calling for the arrest of all homosexual persons and incited the public to arrest them where the police failed to do so

The petition was supported by Expert witness testimonies from Prof. Dinesh Bhugra and Prof. Chris Beyrer and Prof. Lukoye Atwoli.

Prof. Bhugra deposed that he was the President of the World Psychiatric Association (WPA) from 2014–2017 and that WPA, considers same-sex attraction, orientation and behaviors as a normal variance for human sexuality; and recognizes the universality of same-sex expression across cultures and that same sexual orientation arises in all cultures worldwide. Further, that WPA considers sexual orientation innate, and determined by biological, psychological development and social factors and recognizes the multifactorial causation of human sexuality, orientation, behavior, and lifestyle.

According to Prof Bhugra, considerable scientific research has been undertaken on the subject but that the exact mixture of factors giving rise to sexual orientation has not been conclusively established, and the same position statement states that approximately 4% of the world population identify with the same-sex orientation.

With literature support, He went on to quote the Position Statement which states, *inter alia*, that WHO accepts same-sex orientation as a normal variant of human sexuality, and that the United Nations Human Rights Council, 2012 values LGBT rights. In his opinion, modern scientific and medical standards recognized that there was nothing disordered about same-sex sexual orientation or behavior, which was not any kind of illness or disorder but part of the variation of human beings, which occurs naturally by reference to multiple variations in fundamental characteristics and attributes. He also cited the Psychological Society of South Africa and Psychological Association of the Philippines both of which upheld the same view.

Prof Bhugra argued that same sexual orientation is a natural variation within human sexuality and not any kind of illness or disorder is not a suitable subject matter susceptible to treatment, and that attempts to treat and change sexual orientation are harmful to the mental health of persons subjected to such attempts and therefore unethical. Prof. Bhugra, quoted the Position Statement to the effect that discrimination and stigmatization have negative health consequences of LGBT people and that LGBT individuals show higher unexpected rates of psychiatric disorders and once their rights and equality are recognized, this rate starts to drop.

Citing his own research and others, Prof. Beyrer deposed that MSM has been a vulnerable group throughout the global HIV epidemic and that Laws criminalizing consensual adult same-sex sex, social stigmatization, and discrimination have exacerbated health risks facing MSM; promoted violence against them and restricted their access to adequate prevention and medical treatment. According to research, data on this burden is incomplete; that individual country reports vary widely on HIV prevalence, incorporate exceedingly small samples of MSM for studies, and oftentimes provide very limited surveillance of how HIV impacts MSM.

Prof Beyrer deposed that HIV infection among MSM tends to be higher in countries criminalizing same-sex, as compared with countries, which do not criminalize. Further, he deposed that Healthcare providers often carry their own biases against MSM, which can minimize or prevent access to appropriate healthcare for MSM. He also deposed that many MSM fears testing, counseling and treatment services due to social stigmatization, potential conflict, violence, arrest, extortion, blackmail by the police and other public authorities and tension within their households, families, and communities. He however also admitted that elimination of criminalization laws was not sufficient to address all the health needs of MSM. Prof Beyrer concluded that decriminalization of same-sex practices is not just a battle over legal doctrine or religious principle; but it is a fight for better health for all.

Prof. Lukoye Atwoli testified that from his experience as a psychiatrist and as an academic researcher, the scientific consensus in the fields of psychiatry and psychology and related social and medical sciences, on the nature of sexual orientation is that human sexuality is

considered on the basis of three related matters – sexual orientation, sexual identity, and sexual behavior. Further, that all human beings can be placed somewhere on a spectrum encompassing heterosexual, bisexual, homosexual and asexual. In addition, he stated that sexual orientation cannot be predicted at birth, but an individual’s sexual orientation is largely fixed and immutable.

Further, he testified that the determinants of sexual orientation are complex and have not been conclusively scientifically established. However, he stated that the established scientific consensus is that as with most matters relating to humans, the causation reflects a complex mix of biological, psychological and social or environmental factors.

He referred to the working definition of sexuality as given by WHO thus:

“...a central aspect of being human throughout life; it encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviors, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, legal, historical, religious and spiritual factors.”^[9]

Responding to affidavit evidence tendered by the Kenya Christian Professionals Forum (seventh interested party), in respect of sexual orientation of identical twins suggesting that sexual orientation may result from genetic or biological factors, Prof. Lukoye contended that such conclusion is not supported by science. In his view, no two human beings even where sharing the same womb, experience life in an identical manner. In support of his proposition, he cited the study by K. Richardson and S. Norgate where it was noted that “equal environment assumption” (EEA) in Twin Studies may not *hold even in identical twins*.

In his view, it is possible that the intra-uterine hormonal exposure of one twin may differ significantly from another, resulting in identical twins being exposed to different biological factors. He further stated that genetics may be one aspect of the overall picture, but even in respect of genetics, the question as to which parts of a person’s DNA are activated and which are not is a product of complex environmental factors, including intra-uterine hormonal factors; and that the expression of the genetic code in any one individual depends on many different factors.

Prof. Lukoye acknowledges, however, that other studies on twins have established that identical twins do have a higher chance of both being homosexual than non-identical twins or other siblings. He cited the study carried out by K. S. Kendler, L. M. Thornton, S. E. Gilman, R. C. Kessler which found that biometrical twin modelling suggested that sexual orientation was substantially influenced by genetic factors, but the family environment may also play a role.

Prof Lukoye further cited other studies that support a familial link, and do not support the idea that siblings of homosexuals may behaviorally ‘*acquire*’ homosexuality. He also stated that contrary to the suggestion in the affidavit by Dr Wahome Ngare, identifying identical twins where one identifies as having a homosexual sexual orientation and one as having a heterosexual sexual orientation does not prove any proposition with respect to the existence of genetic or biological factors among the determinants of same-sex sexual orientation.

In his view, criminalization of same-sex sexual acts leads to a wide range of mental health issues and relationship dysfunction. He stated that attacks, stigmatization or violence on LGBT people might cause trauma to the individual, leading to posttraumatic stress disorder

(PTSD), depression, anxiety disorders, and substance use disorders.

Prof. Lukoye Atwoli concluded that, in respect of an individual who has suffered sexual abuse as a child, it is established that one of the consequences of the abuse is that the person may act in a less sexually inhibited way in the future, regardless of whether the abuse was caused by a heterosexual or homosexual.

The Petitioner supported by the first to sixth Interested parties concluded by submitting that to the extent that the impugned provisions declare the conduct as unnatural or grossly indecent and criminalize it, the provisions degrade the inherent dignity of the affected individuals by outlawing their most private and intimate means of self-expression. He claimed that sexual intimacy between consenting adults is a fundamental part of the experience of humanity and an essential element of how individuals express love and closeness to one another; and, establish and nurture relationships.

He further argued that to criminalize one's conduct of engaging in sexual intimacy in private with another consenting adult, and in a manner which causes no harm to any third party or to the parties so engaging, amounted to a fundamental interference in the person's experience of being human and their personal dignity and privacy and amounted to degrading treatment.

He was of the view that where the law criminalizes consenting adult sexual intimacy only to persons of a certain sexual orientation, such a law was plainly discriminatory and fundamentally impaired access to adequate health care services and jeopardized public health generally. He stated that sexual orientation which involved the expression of love and sexual intimacy between persons of the same sex (whether male or female), was an intimate and fundamental part of the human personality of a minority of persons across all places and times worldwide. He further contended that sexual orientation was intimate and was determined by biological, psychological development and that same-sex attraction, orientation, and behavior was considered a normal variant of human sexuality.

Lastly, the Petitioner made a caveat to the extent that his Petition neither concerned same-sex marriage, nor sought to legalize same-sex marriage; and, if successful, it would not have the effect of mandating or requiring Kenya to recognize same-sex marriage. He maintained that the Petition only challenged the criminalization and severe punishment under the criminal law of a section of Kenyan society because of the fundamental and innate characterization of their sexual orientation.

The Attorney General in his response maintained that the Constitution recognizes marriage as a union of two consenting adults, that is, male and female, and, that the legislative function of the State is exercised by Parliament, hence, the court cannot compel the government to legalize homosexuality by amending the impugned provisions. He also stated that the sexual orientation of an individual is fixed at birth latest and cannot be changed by any means.

The respondent further stated that the court would be overstretching its mandate if it grants the orders sought, and, if granted, the orders would have a drastic impact on the cultural, religious, social policy and legislative functions in Kenya as it would amount to legalizing homosexuality through the back door.

The Kenya Christians Professionals Forum (seventh Interest party) objected to the petition contended *inter alia* that the Constitution confers the legislative mandate upon Parliament, hence, the Petition aims to use judicial craft to legitimize gay liaisons and such other indecent offences and create a new breed of rights which do not exist in the Constitution. In addition, it argued that no right confers a cover to an individual to engage in illegal criminal conduct. It further stated that the very nature of criminal law is to circumscribe conduct that is

considered wrong the content often being moral, hence, the argument that morality cannot be used must fail. On the alleged vagueness of the impugned provisions, it submitted that the Petitioners contention that the provisions offend the right to equal treatment for persons of homosexual orientation, is by itself an admission of the certainty of the provisions. It also states that the provisions clearly criminalize homosexual carnal knowledge.

It further contended that it is unsustainable to allege unfairness when society frowns upon persons who are deemed to engage in criminal conduct. In addition, it argued that the law is an expression of moral inclinations in the society; that in the realm of criminal law, there is no requirement that there has to be an individual victim for a crime to be complete; and, that the alleged violation of constitutional rights cannot arise since the conduct in question is illegal. Lastly, it submitted that no evidence has been adduced to show that persons engaged in homosexuality are denied medical care.

Its Chairperson Anne Mbugua further deponed that criminalization of homosexuality is within the confines of the law and that individual liberty is circumscribed where it offends common good and public policy and that the state has a duty to protect the morals and traditional values recognized by the community. Further, the quest to validate homosexual law is an assault on Article 45 of the Constitution. Moreover, that Article 24 provides for a limitation of rights which limitation is justifiable on the basis of public interest and public policy and that the Constitution does not legalize homosexual conduct nor does it envisage the use of an interpretation intended to circumvent the will of the people of Kenya.

The seventh Interested Party also filed a witness affidavit sworn by Dr. Johnson Kilonzo Mutiso on February 22, 2018, in response to the Affidavits sworn by Professor Dinesh Bhugra and Mr. Annand Grover as well as that of Professor Lukoye Atwoli. In his view, matters relating to same-sex attraction should not be given a narrow reading or interpretation of medical or scientific literature without linking them to a wider knowledge and experience in the relevant fields such as psychiatry and psychopathology.

According to Dr. Kilonzo, there was no scientific and medical research that supports the claim that people are “born gay” or that same-sex attraction is innate. He contended that the popular literature from western countries that have decriminalized homosexual behavior tended to be slanted or consistently interpreted to favour the social, legal or political situation preferred by the pro-homosexual groups (the gay lobby).

He highlighted some literature with a multi-textured view of the matter and contended that the phrase *sexual orientation* has never been accepted in any binding UN documents and is highly controversial with nations deeply divided over the same. Based on his knowledge, professional experience and comparative review on the topic, Dr. Kilonzo deposed that research is accumulating that stipulates that “*people are not born gay*”; and that no research has proven that same-sex attraction is an immutable condition like race or sex. To debunk this fallacy, he cited the American Psychological Association, 2008 on the subject to contend that there is no consensus among scientists on the exact reasons why an individual develops a heterosexual, bisexual, gay or lesbian orientation.

According to Dr. Kilonzo, reputable scientific research shows that same sex attraction develops because of a complex interaction factors including experience during childhood and adolescence. This “nurture” factors, in his opinion, were the environmental factors that were largely of influence as opposed to “nature” or genetic factors. Nurture factors are said to include the relationship with parents and peers during early childhood, sexual abuse and gender non-conformity.

Dr. Kilonzo also referred to Floyd Godfrey’s Book titled ‘*A young Man’s Journey; healing for young men with unwanted sexual feelings*’ where it is argued that there are a variety of

different contributing factors toward the development of a sexual orientation and that not everyone may have every single one of those contributing factors and that one can unlearn homosexuality through gender reparative therapy.

He argued that Prof. Lukoye Atwoli's views present a theory of criminology and deviance, which is unique to pro-gay literature and not supported by general theories of crime. He also stated that contrary to Prof. Lukoye Atwoli's statement, there was no basis for the link between gay behaviour and sexual abuse of minors and that studies have shown that gay lifestyle can promote same-sex pedophilia. He contended that the justification for decriminalization of homosexuality and the argument that sexual conduct between consenting adults ought not to be regulated by the State was merely a regurgitation of the liberal philosophy of John Stuart Mill. Lastly, Dr. Kilonzo argued that Sexual behaviour is essentially social with consequences on society; hence, considerations relating to legalization or criminalization of such sexual behaviour should be left to Parliament.

Issues for Determination:

- a) Whether sections 162 (a) (c) and 165 of the Penal Code are unconstitutional on grounds of vagueness and uncertainty
- b) Whether the impugned provisions are unconstitutional for violating Articles 27, 28, 29, 31, 32, 43 and 50 of the Constitution

In an effort to answer the above questions, the Court first observed that certainty is generally considered to be a virtue in a legal system while legal uncertainty is regarded as a vice. Uncertainty undermines both the rule of law in general and the law's ability to achieve objective such as determining anti-social conduct.

Counsel for the Petitioners, supported by the first to sixth and eighth Interested Parties attacked the impugned provisions on grounds of vagueness, ambiguity, and uncertainty and submitted that the provisions failed the constitutional and common law muster. They cited Article 10(2) (a) and the preamble to the Constitution on the requirement of legal certainty. They also argued that the provisions are so vague that they violate the right to a fair hearing under Article 50. Further, they argued that section 162 does not define the phrases, "*Unnatural offences,*" "*against the order of nature.*" They submitted that it is unclear whether the phrases mean sexual intercourse or include oral, anal, vaginal sex, or whether they include any other contact with the genital organ of another person.

Regarding section 165, they submitted that the phrases "*indecent with another male person*" and "*any act of gross indecency with another male person*" are unclear.

On the other hand, the Respondents counsel supported by the seventh, ninth, and tenth Interested Parties contended that the provisions were clear. On her part, the Respondent's counsel cited the definition in the Black's Law Dictionary and contended that any other form of sexual act other than what is in the order of nature, capable of producing off springs is unnatural and therefore punishable under the impugned provisions. On what indecent practices are, counsel argued that section 2 of the Sexual Offences Act defines an indecent act and penetration and contended that the *anus* is a *genital organ*.

Section 162 of the Penal Code provides as follows: -

Unnatural offences

Any person who-

- a) Has carnal knowledge of any person against the **order of nature**; or
- b) Has carnal knowledge of an animal; or
- c) Permits a male person to have carnal knowledge of him or her **against the order of nature**,

is guilty of a felony and is liable to imprisonment for fourteen years.

Provided that, in the case of an offence under paragraph (a), the offender shall be liable to imprisonment for twenty-one years if—

- i. the offence was committed without the consent of the person who was carnally known; or
- ii. the offence was committed with that person's consent but the consent was obtained by force or by means of threats or intimidation of some kind, or by fear of bodily harm, or by means of false representations as to the nature of the act.

On the other hand, section 165 of the Penal Code provides that: -

Indecent practices between males

Any male person who, whether in public or private, commits any act of **gross indecency** with another male person, or procures another male person to commit any act of **gross indecency** with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in **public or private**, is guilty of a felony and is liable to imprisonment for five years.

The Court observed that from the above provisions it is true that the Penal Code does not define the phrases “Unnatural offences,” and “against the order of nature” and proceeded to ask itself whether lack of definition renders the provisions uncertain, vague and unambiguous.

Placing reliance on the various treatise, texts, journals, and comparative judicial experiences, the court stated that Judicial pronouncements have construed the term ambiguity as having more than one interpretation: a highly general sense that pertains to language use, and a more restricted meaning that deals with some fundamental properties about language itself. The words “ambiguous” and “ambiguity” are often used to denote simple lack of clarity in language. The word “Ambiguous” means doubtful and uncertain.

The word “ambiguous” means capable of being understood in more senses than one; obscure in meaning through indefiniteness of expression; having a double meaning; doubtful and uncertain; meaning unascertainable within the four corners of the instrument; open to construction; reasonably susceptible to different constructions; uncertain because of susceptible of more than one meaning; and synonyms are “doubtful”, “equivocal”, “indefinite”, “indeterminate”, “indistinct”, “uncertain”, and “unsettled.”

According to the Black's Law Dictionary, ‘carnal’ means of the body; relating to the body; fleshly; sexual. ‘Carnal knowledge’ is defined as the act of a man in having a sexual bodily connection with a woman. Carnal knowledge and sexual intercourse hold equivalent expressions.

The Court cited with approval the **Noble v State** 22 Ohio St. 541 where it was held that from very early times, in the law, as in common speech, the meaning of the words ‘carnal knowledge’ of a woman by a man has been sexual bodily connections; and these words, without more, have been used in that sense by writer of the highest authority in criminal law, when undertaking to give a full and precise definition of the crime of rape, the highest crime of this character.

The phrase *against the order of nature* has been judicially defined. In **Gaolete v. State** [1991] B.L.R. 325 the court had this to say on ‘carnal knowledge’: -

“Carnal knowledge” is not defined in the Penal Code, but its accepted meaning is “sexual intercourse”. There must be penetration, however slight and emission of semen is not necessary. With particular reference to the offence with which the appellant was charged

(otherwise known as sodomy), penetration per anum must be proved. The other party involved in the intercourse may be a man or a woman. It is the penetration through the anus that makes the intercourse “against the order of nature” and therefore provides the other element of the offence.’ (Emphasis added).

The Law Dictionary defines the term ‘unnatural offence’ as “the infamous crime against nature; for example, sodomy or buggery. The term *buggery* has been defined elsewhere to include both sodomy and bestiality. *Sodomy*, in its broadest sense, has been defined to include carnal copulation by human beings with each other or with a beast. Whereas the term bestiality is generally understood to mean an act between mankind and beast, some authorities refer to the act with an animal as buggery, and also define bestiality as including sodomy and buggery.

The phrase “indecent act” is defined in section 2 of the Sexual Offences Act [172] to mean any unlawful intentional act which causes:-

- (a) any contact between the genital organs of a person, his or her breasts and buttocks with that of another person;
- (b) exposure or display of any pornographic material to any person against his or her will, but does not include an act which causes penetration;

The Constitution requires that judicial officers read the legislation, where possible, to give effect to its fundamental values. Consistent with this, when the constitutionality of legislation is in issue, courts are under a duty to examine the purpose of an Act and to read the provisions of the legislation so far as it is possible to conform with the Constitution. After the above analysis, the court concluded that the phrases used in the sections under challenge are clear as defined above. *Second*, the provisions disclose offences known in law. *Third*, a person accused under the said provisions would be informed of the nature, particulars, and facts of the offence.

Article 27 prohibits all forms of discrimination in absolute terms. It stipulates:

Equality and freedom from discrimination

- (1) Every person is equal before the law and has the right to equal protection and equal benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and fundamental freedoms.
- (3) Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.
- (4) The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.
- (5) A person shall not discriminate directly or indirectly against another person on any of the grounds specified or contemplated in clause (4).
- (6) To give full effect to the realization of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programs and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.
- (7) Any measure taken under clause (6) shall adequately provide for any benefits to be on the basis of genuine need.
- (8) In addition to the measures contemplated in clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

The substance of the Petitioners’ case was that the impugned provisions target the LGBTIQ

community only. If understood correctly, their contestation is that the impugned provisions only apply to homosexuals and do not apply against heterosexuals.

Indisputably, there exists a presumption as regards the constitutionality of a statute. The rule of presumption in favour of constitutionality, however, only shifts the burden of proof and rests it on the shoulders of the person who attacks it. In this case, it is for the petitioners to demonstrate that there has been a clear transgression of their constitutional rights. However, this rule is subject to the limitation that it is operative only until the time it becomes clear and beyond reasonable doubt that the legislature has crossed its bounds.

The guiding principles in a case of this nature are clear. *First*, the court has to establish whether the law differentiates between different persons. *Second*, whether the differentiation amounts to discrimination, and, *third*, whether the discrimination is unfair. In **Willis v The United Kingdom** no 36042/97, ECHR 2002-IV The European Court of Human Rights observed that discrimination means treating differently, without any objective and reasonable justification, persons in similar situations. The court stated that discrimination is: -

“...a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations or disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits and advantages available members of society.” (See *Andrews v Law Society of British Columbia* [1989] 1 SCR 143, as per McIntyre J.)

From the above definition, it was safe to state that the Constitution only prohibits unfair discrimination. In our view, unfair discrimination is a differential treatment that is demeaning. This happens when a law or conduct, for no good reason, treats some people as inferior or less deserving of respect than others. It also occurs when a law or conduct perpetuates or does nothing to remedy existing disadvantages and marginalization.

The principle of equality attempts to make sure that no member of society is made to feel that they are not deserving of equal concern, respect and consideration, and that the law or conduct complained of is likely to be used against them more harshly than others who belong to other groups.

The test for determining whether a claim based on unfair discrimination should succeed was laid down by the South Africa Constitutional Court in *Harksen v Lane NO and Others*¹ in which the Court stated:

“At the cost of repetition, it may be as well to tabulate the stages of enquiry which become necessary where an attack is made on a provision in reliance on article 9 (3), (equivalent to our Article 27). They are:

- (a) *Does the provision differentiate between people or categories of people? If so, does the differentiation bear a rational connection to a legitimate purpose? If it does not, then there is a violation of the constitution. Even if it does bear a rational connection, it might nevertheless amount to discrimination.*
- (b) *Does the differentiation amount to unfair discrimination? This requires a two-stage analysis: -*
 - (i) *Firstly, does the differentiation amount to ‘discrimination’? If it is on a specified ground, then discrimination will have been established. If it is not on a specified ground, then whether or not there is discrimination will depend upon whether, objectively, the ground is based on attributes and characteristics which have the potential to impair the fundamental human dignity of persons as human beings*

- or to affect them adversely in a comparably serious manner.
- (ii) *If the differentiation amounts to ‘discrimination,’ does it amount to ‘unfair discrimination’? If it has been found to have been on a specified ground, then the unfairness will be presumed. If on an unspecified ground, unfairness will have to be established by the complainant. The test of unfairness focuses primarily on the impact of the discrimination on the complainant and others in his or her situation. If, at the end of this stage of the enquiry, the differentiation is found not to be unfair, then there will be no violation...*

- (c) *If the discrimination is found to be unfair then a determination will have to be made as to whether the provision can be justified under the limitations clause.*

The clear message emerging from these persuasive authorities, was that mere discrimination, in the sense of unequal treatment or protection by the law in the absence of a legitimate reason was a reprehensible phenomenon. But where there is a legitimate reason, then, the conduct or the law complained of cannot amount to discrimination.

In that regard, therefore, it is not every differentiation that amounts to discrimination. It is always necessary to identify the criteria that separate legitimate differentiation from constitutionally impermissible differentiation. Put differently, differentiation is permissible if it does not constitute unfair discrimination. The jurisprudence on discrimination suggests that law or conduct which promotes differentiation must have a legitimate purpose and should bear a rational connection between the differentiation and the purpose.

From the above legal analysis, the learned Judges observed that their reading of the challenged provisions suggested otherwise. The language of section 162 is clear. It uses the words “*Any person.*” A natural and literal construction of these words leaves us with no doubt that the section does not target any particular group of persons.

Similarly, section 165 uses the words “*Any male person.*” A plain reading of the section reveals that it targets male persons and not a particular group with a particular sexual orientation. The wording of the section left no doubt that in enacting the provision, Parliament appreciated that the offence under this section can only be committed by a male person. In fact, the short title to the section reads “*indecent practices between males.*” The operative words here are “*Any male person*” which clearly does not target male persons of a particular sexual orientation.

Held:

1. Lack of definitions in Sections 162(a)(c) and 165 of the Penal Code does not render the impugned provisions vague, ambiguous or uncertain. The impugned phrases have been clearly defined in law dictionaries and in a catena of judicial pronouncements.
2. Sections 162(a) (c) and 165 of the Penal Code (Cap 63) which criminalizes Unnatural offenses and Indecent Practices between Male are neither unconstitutional nor discriminatory by targeting a particular group.

Consolidated Petitions were dismissed.

4.5. DECISIONS OF THE ENVIRONMENT AND LAND COURT

4.5.1. Compulsory Acquisition of Land for Public Use.

DUE DILIGENCE SEARCHES

- 1. Public land cannot be subject to compulsory acquisition under Part VIII of the Land Act 2012.**
- 2. Based on the inherent danger of the search system which is based on the Torrens System of registration, a clear reading of Section 119 of the Land Act makes it clear that apart from a search, it is necessary for one to take further steps to ascertain the authenticity of the search and ownership of the land.**

The National Land Commission -vs- Afrison Export Limited & 10 others (2019) eKLR

Brief facts

On June 30, 2017, the National Land Commission (NLC) (*the applicant in this case*) caused to be published Gazette Notice Number 6322 announcing its intention to acquire 2.8255 ha and 2.7472 ha out of L.R. No. 7879/4 for the benefit of Drive-in Primary School and Ruaraka High School. The Commission carried out a search at the Lands Office and established that the Title Deed over L.R. No. 7879/4 was registered in the names of the Afrison Export Import Limited (*first Interested Party*) and Huelands Limited (*second Interested Party*) and that the same was held on freehold tenure.

The Applicant claimed that it received letters dated July 30, 2015, 27/10/2015 and August 16, 2016, from Mr. Francis Mburu, a director of the first and second Interested Parties, seeking compensation for their land which was compulsorily acquired by the government way back in 1984. The land for which he sought compensation included the portion of L.R. No. 7879/4 on which Ruaraka Secondary and Drive-in Primary School are currently situated. The letters complained of historical injustices with the first and second interested parties contending that the government invaded their property and proceeded to construct schools, government administrative offices, roads, and other support services without affording the first and second Interested Parties any compensation.

The Applicant indicated that it conducted a search and also did a site visit to confirm the veracity of the first and second Interested Parties' claims. It confirmed that indeed Drive-in Primary School and Ruaraka High School occupied 13.77 acres of L.R. No. 7879/4. The Applicant stated that it reviewed the history of the land and established that the first and second Interested Parties were registered as owners of L.R. No. 7879/4 in 1981 through an indenture between Joreth Limited and themselves. It also established that Drive-in Estate Developers Limited made an application for the subdivision of L.R. No. 7879/4 and was granted conditional approval on 28/3/1984 by the Director of Planning, Nairobi City Council. The first and second Interested Parties wrote to the Director of City Planning on February 7, 2017, following up on Drive-in Estate Developers Limited's letter dated 5/4/1984 through which it cancelled the subdivision scheme.

The Applicant also stated that the Director of Development Management and Regularization responded stating that the application for subdivision of L.R. No. 7879/4 was halted and no further processing took place following the letter dated April 5, 1984. It further averred that the Commissioner of Lands wrote to Drive in Estate Developers Limited on December 18, 1984, expressing the government's intention to acquire L.R. No. 7879/4. The government then went ahead to construct Ruaraka High School on the land in 1984 and Drive-in Primary School in 1987.

The Applicant claimed that after confirming that the land on which the two schools stood was private land, it wrote to the Ministry of Education on August 29, 2016, and September 13, 2016 seeking confirmation on the status of the schools. Through the letters, the Applicant also sought compensation for the owners of the land if the schools were found to be public schools.

On February 7, 2017, The Principal Secretary, Ministry of Education, wrote to the Applicant requesting that the land on which Ruaraka High School and Drive-in Primary Schools were situated be compulsorily acquired on the Ministry's behalf. The Applicant requested the Ministry of Education to have the request for compulsory acquisition made by the Cabinet Secretary instead of the Principal Secretary. This was done vide the letter of March 17, 2017.

The Applicant claims that it conducted due diligence as required by Sections 107 and 108 of the Land Act and established that the land sought to be acquired was registered in the names of the 1st and 2nd Interested Parties. The Applicant also relied upon a judgment delivered by Mabaya J. In *Nairobi High Court Civil Case No. 617 of 2012 – Afrison Export Limited and Huelands Limited -vs- Continental Credit Finance Limited* asserting that the first and second Interested Parties were the owners of L.R. No. 7879/4. The Applicant further clarified that it also put up several gazette notices expressing its intention to acquire the land for various uses including the Outer Ring Road Improvement Project.

Further, the Applicant contended that the Ministry of Education vide Gazette Notice no. 6322 dated June 30, 2017, expressed its intention to acquire parts of L.R. No. 7879/4 measuring 2.8255 ha for Drive-in Primary School, 2.7472 ha for Ruaraka High School and 1.198 ha for the access to the upgraded Outer Ring Road. The Applicant stated that it conducted an inquiry over the land occupied by the two schools and that the first and second Interested Parties submitted a valuation report together with a claim for payment of Sh 5,600,000,000 in Compensation.

The Applicant stated that it did its own valuation and impressed upon the first and second Interested Parties that its valuation was what would be used to determine the amount of compensation payable. The Applicant's valuation valued the land at Sh 3,269,040,600/= and the first and second Interested Parties had no objection to the amount. Subsequently, on July 18, 2017, The Ministry of Education wrote to the National Treasury requesting it to process the compensation in respect of the land. The sum of Sh 1,500,000,000/= was paid to the first and second Interested Parties leaving a balance of Sh 1,769,040,600/= outstanding.

The acquisition drew a great deal of public controversy which resulted in various entities inquiring into the matter including the National Assembly's Departmental Committee on Lands and Senate's Committee on County Public Accounts. The Ethics and Anti-Corruption Commission (EACC) also launched investigations into the compulsory acquisition of the land on the basis that the compulsory acquisition undertaken by the Applicant was unnecessary and not in the public interest because the land acquired was public land from the onset.

The National Assembly's Departmental Committee on Land conducted investigations into the acquisition of the land and prepared a report dated June 5, 2018. The Committee concluded that the acquisition of the land was illegal and contrary to the Land Act; that it failed to secure the public interest by ensuring that the title to the land acquired was registered in the two schools' names; and that it was contrary to Article 201 of the Constitution on responsible financial management. The Committee made various recommendations including who should take responsibility for the loss of public funds.

Following these developments, the Applicant brought a reference to the Court seeking a determination of among other issues whether the two schools sit on public land or private land; Whether a search of a title at the lands registry is conclusive evidence of proprietorship

and; what other steps, if any, the Applicant and any other person should undertake to confirm the authenticity of a title before transacting on it.

The Applicant sought a determination of these issues so as to enable it to complete the acquisition of the land occupied by the two schools, and to enable it resolve all issues pertaining to the acquisition of the land. It further urged that the determination of this Reference will facilitate the preparation of the title documents in favour of Drive-in Primary School and Ruaraka High School.

Leading the other interested parties against the said acquisition, the Ethics and Anti-Corruption Commission challenged the process through which the compensation award was paid. It relied on the Recurrent Exchequer Issue Notification by the National Treasury dated January 11, 2018 which showed that a sum of Sh 5,350,400,000/= had been placed in the account for the State Department for Basic Education held in the Central Bank of Kenya. Out of this amount, Sh 1,500,000,000 was for compensation for the school land carved out of 7879/4. The EACC contended that the Ministry of Education had not budgeted for this and that Parliament did not approve the supplementary II estimates for the balance of the compensation.

Further, the EACC contended that the instructions given by the first and second Interested Parties to the Applicant to pay the compensation award to Whispering Palms Limited was intended to circumvent a court order issued on December 13, 2016 in *Nairobi ELC Petition Number 1488 of 2016; Okiya Omtatah Okoiti and another -vs- Afrison Export Import Limited and others* which prohibited the Applicant and other government bodies from making further payments to the first and second Interested Parties in respect of L.R. No. 7879/4.

EACC argued that the surrender of a portion of L.R. No. 7879/4 by the first and second Interested Parties free of cost was not a sign of goodwill and corporate responsibility but a requirement under Regulation 11 (2) of the Development and Use of Land (Planning) Regulations of 1961 promulgated under the Land Planning Act (now repealed) for approval of the subdivision scheme.

Based on the history of the land, the EACC surmised that there was no urgency necessitating the haste with which the transaction was undertaken leading to a partial payment of compensation for the compulsory acquisition of the land on which the schools sit. The EACC believed that there was a conspiracy between the first and second interested parties on the one hand; and officers from the Nairobi City County, the Survey of Kenya, the Ministry of Education and the Applicant to conceal the fact that the first and second Interested Parties had surrendered a portion of L.R. No. 7879/4 to the Government of Kenya as a condition for the approval of their subdivision plan in 1983.

It further faulted the Applicant for failing to conduct due diligence to satisfy itself that the request for compulsory acquisition of the land occupied by the two schools met the constitutional threshold prescribed by Article 40 (3) of the Constitution and failing to establish that the process leading to the acquisition was proper. The EACC also faulted the Applicant for making the award without the surrender of the title to the Applicant and the discharge of the charge registered against the title. It further contended that the Applicant failed to conduct a public inquiry of persons interested in the acquisition of the land contrary to Section 112 of the Land Act.

It urged the court to order the restitution of Sh 1,500,000,000/= and interest at commercial rates from the date of payment by the Applicant to Whispering Palms Limited if the court found that the two schools sit on public land and that there was loss of public funds as a result of the part payment of the compensation award.

EACC's further affidavit sworn on January 22, 2019 by Mr. Mwendwa gave further details on the survey of L.R. No. 7879/4 undertaken by M/s Kamwere & Associates. He stated that M/s Kamwere & Associates, who had been instructed by the first and second Interested Parties prepared deed plans based on the survey of L.R. No. 7879/4. EACC averred that the preparation of the 506 deed plans, out of which 323 deed plans were submitted to Continental Credit Finance Limited, confirmed that a survey was carried out in 1985 which was based on the subdivision scheme approved in 1983. It maintained that it was entirely upon the first and second Interested Parties as the registered owners of the land to complete the process of subdivision by preparing the deed of surrender and lodging it together with the mother title at the lands registry for registration and processing of the resultant titles. It further argued that the first and second Interested Parties have not lodged the mother title in respect of L.R. No. 7879/4 for subdivision and creation of the titles in respect of the 196 maisonettes.

Mr. Mwendwa deponed that the subdivision plan of 1983 was actualized and implemented as can be discerned from the developments on the land including the 196 maisonettes, the schools, the community center, sewer lines and access roads which were included in that Plan. The EACC also contended that the first and second Interested Parties have received colossal amounts of money in compensation from the Office of the President for the 196 maisonettes.

In addition, the EACC argued that the first and second Interested Parties could have challenged the conditions set out in the approval by way of an appeal to the Minister pursuant to Section 21 of the Land Planning Act. If dissatisfied with the Minister's decision, an applicant had the right of a second appeal to the High Court in instances where the Applicant was aggrieved by the size of the land required to be surrendered for public purposes under Regulation 11(2) of the Development and Use of Land (Planning) Regulations of 1961.

Issues for Determination:

The Applicant set out six questions for determination in this Reference. Arising from those questions together with the Interested Parties' responses, the following were the key issues for determination in this Reference:

- a) What is the construction, validity, or effect of the Title over L.R. No. 7879/4 and do Drive in Primary School and Ruaraka Secondary School sit on public or private land?
- b) Did the acquisition of the land occupied by Ruaraka Secondary School and Drive-in Primary School as undertaken by the Applicant meet the threshold of public purpose? Was there loss of public funds as a result of the payment of the compensation?
- c) At what stage should the Applicant take possession of land that has been compulsorily acquired?
- d) Is a search of a Title at the Lands Registry conclusive evidence of proprietorship, or should one undertake other steps to confirm the authenticity of a Title before transacting on it?

In an effort to answer the above questions, the court noted that contrary to the assertions by the first and second Interested parties, there was evidence that the first and second Interested Parties implemented the subdivision scheme on the ground and there were physical developments on the ground. Therefore, the planning purposes for which the public amenity plots were set aside and surrendered exist on the ground and the schools which were contemplated were duly developed and are serving that purpose.

The court observed that its view on the purported cancellation of the subdivision plan would have been different had the first and second Interested Parties demonstrated that the approved subdivision scheme was never implemented on the ground and that the intended

developments were not carried out on the ground.

From the evidence tendered, the court noted that the subdivision scheme giving rise to the establishment of the two schools was processed under Section 24 of the repealed Town Planning Act and Regulation 16 of the Development and Use of Land (Planning) Regulations of 1961 which enjoined the regulatory authorities to seek the surrender of land for public utilities before approving a subdivision scheme.

The totality of the foregoing is that a registered proprietor of land under the various land regimes which existed in Kenya prior to 2012 held land subject to the written regulatory legal framework governing physical planning in the country at the time. This legal scenario obtains to date. The net legal effect is that every registered title to land is held subject to the provisions of the prevailing physical planning laws

The Court did not agree with arguments that there was no surrender because no instrument of surrender was executed and registered in respect of the public utility plots. To that extent the said opined that:

“Our understanding of the physical planning laws at that time is that once the subdivision scheme was approved and implemented on the ground, then the public utility plots were deemed to have been surrendered for the designated public amenities. The proponent of the subdivision scheme cannot rely on his failure to execute the surrender instrument to defeat the public purpose for which the plots were planned.”

“Our determination on the question of the construction, effect and validity of the title over L.R. No. 7879/4 therefore is that, although L.R. No. 7879/4 is still registered in the names of the 1st and 2nd Interested Parties, the title is held subject to the interest of the Government in the public amenity plots, which interest crystallised upon the Government’s approval of the 1st and 2nd Interested Parties’ subdivision scheme and subsequent implementation of the scheme on the ground. The public amenity plots include the land on which Drive in Primary School and Ruaraka High School sit. Similarly, the title is held subject to the interest of the State in the land occupied by the GSU. It is therefore our finding that the two schools sit on public land. Further, it is our finding that being public land, the land on which the two schools sit could not be the subject of compulsory acquisition under Part VIII of the Land Act”.

On the issue as to whether a search of a title at the lands registry is conclusive evidence of proprietorship, or should one undertake other steps to confirm the authenticity of a title before transacting on it? The court noted that once a search is issued by the Lands Office it should be conclusive evidence of proprietorship in light of the fact that our title registration system is based on the Torrens System of registration. However, a search may not always be a true reflection of the position as in this case where two searches carried out in the same year showed different results.

In this case, the two searches were done in the same year, emanated from the same registry and are in respect of the same piece of land. It is inconceivable that one search that was done in January 2018 would show that there were no encumbrances and yet another one done in August 2018 showed that there were two mortgages dated December 29, 1981, and July 7, 1986, respectively. The two contradictory searches showed that a search and the records held at the lands registry can be manipulated to achieve certain objectives which in most cases are intended to deceive those relying on the search to transact on the land in question.

The Court then held that:

“Based on the inherent danger of the search system which is based on the Torrens System of registration, it is necessary for one to take further steps to ascertain the authenticity of

the search and ownership of the land. If the Applicant had bothered to delve into the history of the title, it would have discovered that the title had two mortgages besides other entries in the register and the other transactions in respect of L.R. No. 7879/4 which were not noted on the register. We appreciate the fact that searches are generated by the Registrar of Titles but the Applicant being the National Land Commission which works closely with the Ministry of Lands under which the Registrar falls, the Applicant should have, in the spirit of the Advisory Opinion of the Supreme Court in the matter of National Land Commission [2015] eKLR gone a step further to ascertain the true status of the title to the land in question.”

The Court declined to entertain the applicant’s contention that it solely relied on the search when undertaking the compulsory acquisition of the land on which the two schools sit was diligent and pragmatic. This is because the theme of due diligence runs throughout Part VIII of the Land Act. Section 119 of the Land Act underscores the need to undertake due diligence before payment is made. Before compensation is paid, the Applicant is expected to ensure that a final survey is carried out and the acreage, boundaries, ownership, and value of the land determined. A reading of this section makes it clear that apart from a search, there were other steps that the Applicant was expected to undertake.

Section 8 (2) of the Land Act obligates the Applicant to establish and maintain a register containing various particulars including the names and addresses of all persons whose land has been converted to public land through compulsory acquisition or reversion of leasehold. It will be necessary for someone wishing to transact on land to also extend the due diligence to the register of public land maintained by the Applicant. We note that the Applicant did not mention the register of public land in this Reference.

Section 28 of the Land Registration Act lists overriding interests that subsist and affect land but which need not be noted on the register. One of these interests is rights acquired or in the process of being acquired by virtue of any written law relating to the limitation of actions or by prescription. In undertaking due diligence, one must go further and ascertain if there are any overriding interests affecting the land they wish to transact on. In light of the foregoing, our finding is that a search is not conclusive evidence of ownership. One needs to go further than a mere search.

Held:

1. Drive-in Primary School and Ruaraka High School sits on Public Land.
2. Public land cannot be subject of compulsory acquisition under Part VIII of the Land Act 2012.
3. Based on the inherent danger of the search system which is based on the Torrens System of registration, a clear reading of Section 119 of the Land Act makes it clear that apart from a search, it is necessary for one to take further steps to ascertain the authenticity of the search and ownership of the land.

4.6. DECISIONS OF THE EMPLOYMENT AND LABOUR RELATIONS COURT

4.6.1. Unfair Dismissal-Remedy after three years out of work

- 1. On a successful claim of unfair dismissal by an employee who has been out of work for over three years, the remedy for reinstatement will be commuted to a normal retirement with full pension benefits under the Pensions Act and Regulations with effect from the date of the unfair dismissal.**

Joyce Gesare Mainye -vs- Public Service Commission & AG, ELRC Cause No,1501 of 2015

The Claimant had joined the civil service as a copy typist in 1984 and rose through the ranks to the position of personal secretary I Job Group L, it is her case. She served diligently with a clean record and never received any reprimand in her long service. On August 6, 2014, the claimant was dismissed from civil service on account of gross misconduct.

The case against her was that an undercover officer from Ethics and Anti-Corruption Commission posing as a person in need of a Kenyan passport visited her office and made enquiries on how to acquire a passport. She then requested him to present application forms and supporting documents and Sh 4, 000.00 for facilitation fee – further the undercover officer bargained and they settled for Sh 3, 000.00 which was paid and the passport was processed within three days. The undercover report was communicated to the respondent by the Ethics and Anti-Corruption Commission on November 21, 2013, addressed to the Principal Secretary, Ministry of Energy & Petroleum. The show-cause notice and interdiction letter was dated 23.10.2014 and issued by the Ministry of Interior and Co-ordination of National Government (Immigration and Registration of Persons).

The claimant response was that She took the opportunity to absolve herself from the accusations which were defamation as she was a law abiding citizen full of integrity. As of November 13 to 14, 2013 she worked at the Ministry of Energy until November 22, 2013, when she was deployed to the Immigration Department and reported on November 29, 2013. She stated that at the time of the accusations she was a stranger at the Immigration Department and that it was unreasonable and not conceivable that someone needing a passport would have gone to the Ministry of Energy. In her defence, she stated that It was astonishing that the undercover failed to take action against her at the time of the alleged accusations and instead lodge a complaint two months later. In her view, If the investigation was carried out in good faith to unearth corruption and unethical behaviour on the claimant's and other civil servants' part, the undercover should have apprehended the claimant immediately it is alleged she demanded a bribe and allegedly received the bribe. The claimant concluded that the accusations were baseless, false and malicious as they were being brought at the time she had been deployed to the Immigration Department. She urged that the complaint be dismissed and she is allowed to continue in civil service.

The Ministerial Human Resource Management and Advisory Committee at the Ministry of Interior and Co-ordination of National Government considered the claimant's case on March 12, 2014. The record of the meeting's proceedings reproduced the history of the case and that the Director of Immigration had reviewed the case and found the claimant had merely denied her complicity in the illegal activities which are criminal in nature and actionable in a Court of Law. Further that the claimant had provided no evidence to support her denial of accusations in a bid to exonerate herself from the charges. The Director for Immigration further noted that the Ethics and Anti-Corruption Commission forwarded to the Ministry audio/video recordings of the incident which doubtless confirmed the charges. The Committee concluded that the claimant's integrity could not be trusted to perform a public duty, especially in the security department. The Committee recommended that the claimant be dismissed from the service on account of gross misconduct. The claimant

was not invited at the Committee hearing and she was subsequently dismissed from civil service by the first respondent vide a letter dated August 19, 2014, signed for the secretary, Ministry of Interior and Coordination of National Government (Directorate of Immigration and Registration of Persons). The claimant applied for a review of the dismissal decision but the first respondent disallowed the application as vide a letter dated March 25, 2015.

In her evidence before the Court the claimant stated that she was employed in civil service on June 20, 1984 and worked until her dismissal on January 14, 2014. She had served for about 30 years. Her case was that after replying to the show-cause letter she was never given a hearing and she was not given the audio/video evidence or other evidence relied upon to make the dismissal decision. She was also not supplied with reports about the allegations. Thus, it was her case that she was dismissed without due process, the allegations being established and, in circumstances whereby she denied the accusations. She lamented that she was not given an opportunity to cross-examine her accusers or to view and listen to the audio/video that was alleged to form the basis for her dismissal.

The respondent's witness (RW) Avisu Kiguhi Harold evidence was that in civil service, if misconduct involves alleged crime, the criminal matter is investigated separately and the first respondent as the employer takes administrative action separately. In cross-examination he stated that the claimant was dismissed on the basis of the report by the Ethics and Anti-Corruption Commission and not any other evidence – that the audio/video or other evidence implicating the claimant was not availed to the first respondent. Further, the claimant never attended the disciplinary hearing. He confirmed that he had never seen the audio/video in issue and it had not been filed in Court. He testified that the main reason for dismissal was assisting the undercover to get a passport and that undercover was never interrogated by the Ministry or the first respondent or the claimant. RW confirmed that the claimant was dismissed without her being given the record of evidence leading to her termination. RW confirmed that he had never seen the statement by the undercover and such a statement had never been filed in court. RW confirmed that the claimant's dismissal was effective January 4, 2014, whereas she was interdicted on January 23, 2014.

Held

The Court considered the evidence and the submissions and made a finding that the termination was unfair for want of due process and a genuine reason for the dismissal. Article 236 of the Constitution of Kenya required that the claimant is accorded due process prior to the dismissal. Section 41 of the Employment Act, 2007 provided that the claimant be accorded notice and a hearing. In the present case it was clear that the allegations against the claimant were serious and criminal in nature as was reckoned by the Director of Immigration. Nevertheless, the matter was treated casually and no criminal investigations and proceedings were undertaken in that regard. The claimant denied the allegations and the Court finds the denial to have been her complete defence so that it was not her burden to provide evidence to establish her denial as the Ministerial Committee misdirected itself in the matter

The Court considered the claimant's age and the more than 3 years which had lapsed since her dismissal and held that reinstatement would not be a practical and convenient remedy in the circumstances of the case.

The dismissal was termed unfair and unlawful. The claimant was deemed to have retired normally (having attained the age of over 50 years) and with effect from the date when the first respondent made the unfair dismissal decision and the retirement is with full pension benefits under the Pensions Act and Regulations accordingly

Claim Allowed

4.7 Statutes and Sections of the law that were declared unconstitutional by the Courts during the reporting period of 2018-2019.

1) Contempt of Court Act

Kenya Human Rights Commission v Attorney General @ another, High Court at Nairobi, Constitutional Petition No 87 of 2017

Brief facts

The petitioner challenged the constitutionality of the Contempt of Court Act. It said that in purporting to limit the powers of the Court to punish for contempt, it took away power from the courts and eroded their independence. The petitioner added that the Act violated the constitutional principle wherein judicial power was vested in the judiciary and that the Act was enacted without public participation.

Specifically, the petitioner said that section 10 of the impugned Act was vague and it denied a contemnor defences available under the Act and it was therefore a violation of the right to a fair hearing. Section 30 of the Act, according to the petitioner, in shielding accounting officers of state organs and government departments, ministries or corporations by requiring courts to issue a show cause notice of not less than 30 days before contempt proceedings were commenced against them, violated the right of access to justice. Further, the petitioner faulted section 10 of the Act for creating inequality by providing that no state officer should be convicted for contempt for execution of his duties in good faith.

The petitioner said that section 34 of the Act limited the right to a fair hearing by stating that the limitation period for contempt proceedings was 6 months. Also, the petitioner contended that in disallowing proceedings for contempt in relation to decisions made by speakers in the performance of their official responsibilities, the Act elevated speakers above the law.

Held

1. The limitation of the right to a fair hearing that section 10 of the impugned Act entailed was justifiable. Judicial officers would not be swayed by what they heard about a given party but the general public would be and that could prejudice the right to a fair trial. Restricting such publications as was done in section 10 of the Act ensured the right to an unbiased and fair public hearing. The limitation was justifiable in an open and democratic society.
2. Section 19 of the impugned Act prohibited electronic recording of court proceedings by parties to the suit or case and made that recording a form of contempt of court. If one sought to record proceedings, provision was made for the court to exercise discretion whether to grant that leave. Recording court proceedings would not advance the right to a fair trial. It was not necessary to record proceedings and failure to record proceedings would not infringe on the parties' rights.
3. Section 30(1) of the Act provided that if a state organ, government, department, ministry or corporation was guilty of contempt, the Court should serve a 30 days' notice on the accounting officer requiring the accounting officer to show cause why contempt proceedings should not be commenced against him/her. The maximum fine for such officers for contempt of court was set at two hundred thousand Kenya shillings. Further the Act provided under section 30(6) that no state office would be convicted for contempt of court for execution of his duties in good faith. The provisions of section 30 were discriminatory and aimed at hampering the Court's ability to enforce its processes for the benefit of those it had awarded. There was no legitimate, reasonable or justifiable

- government purpose to be served by that differential treatment accorded to public officers as opposed to private citizens under the impugned provision.
4. The fine imposed in section 30 of the Act was clearly protectionist in favour of government officials yet they could commit similar offences as other citizens. That was a form of unjustifiable discrimination that was outlawed by the Constitution.
 5. One could not act in good faith in wilfully disobeying or disrespecting court orders. Good faith could not be a defence for contempt of court. Section 30 of the impugned Act was therefore unconstitutional.
 6. Section 34 of the Act provided for 6 months as the limitation period for instituting contempt proceedings. Limitation periods served public interest. People were expected to pursue their claims with reasonable diligence and the lapse of time could mean that crucial evidence could be lost. The 6 months limitation period would not hinder the course of justice.
 7. Limitation periods had the purpose of ensuring that litigation was brought to a quick conclusion. Where a court order was violated, an aggrieved party could not wait for six months to commence contempt proceedings as in waiting for that long the aggrieved party would be deemed to have condoned the contemptuous act. There was no unconstitutional purpose or effect in the limitation period provided for in section 34 of the Act.
 8. Section 35 of the impugned Act disallowed the initiation of contempt proceedings in relation to a decision made or directions given by a speaker of a house of parliament in the performance of his or her official responsibilities. Courts punish for deliberate and wilful disobedience of their orders or processes and not for the mere discharge of duties or functions. The power to punish for contempt of court was a constitutional power and section 35 in so far as it attempted to limit that power was inconsistent with the Constitution and invalid.

2) Section 14 (4) of the National Land Commission Act

Mwangi Stephen Muriithi v National Land Commission & 3 others, High Court at Nairobi, Petition No. 100 of 2017

Brief facts

The National Land Commission (NLC), after reviewing the legality of the petitioner's title, revoked and replaced the petitioner as the proprietor of the suit land. Aggrieved by that decision, the petitioner petitioned the Court arguing, among others, that the entire process carried out by NLC including the purported exercise of power to review grants and dispositions of public land, the publication of the notice calling for hearing, the conduct of the hearing and the purported revocation was conducted in an unconstitutional manner that offends the principles of natural justice, that the Constitution did not vest NLC with power to revoke titles, that the NLC was not the body contemplated under article 68 (c) (v) of the Constitution and that section 14 of the National Land Commission Act was unconstitutional to the extent that it purported to grant powers to the NLC that it could not constitutionally perform.

Held

1. Article 67(2)(e) of the Constitution empowered the NLC to initiate investigations into present or historical land injustices and recommend appropriate redress. Article 68(c)(v) of the Constitution empowered Parliament to enact legislation to enable the review of all grants or dispositions of public land to establish their propriety. The legislation anticipated was the National Land Commission Act (the Act). The Act provided at section 14 for the review of grants and dispositions, pursuant to article 68(c)(v) of the Constitution. The said section outlined the procedure for the review of grants and disposition of public land to establish their propriety and legality. Where the NLC under section 15 of the Act found that the title was acquired in an unlawful manner, it should direct the Registrar to revoke the title.
2. There was no provision empowering the NLC to revoke titles even where it was established that the same were unlawfully or irregularly acquired. The power to revoke title was vested in the Registrar and not the NLC which could only recommend.
3. The provisions of article 67 (2) of the Constitution were clear and overrode the provisions of section 14 (4) of the Act which empowered the NLC to make a determination after hearing the parties. The Constitution was the supreme law as espoused under article 2 (4) of the Constitution. To the extent that the NLC rendered a determination as opposed to a recommendation, the decision was tainted with illegality.

3) Section 17(1) (a) and (b) of the National Cohesion and Integrations Act

Okiya Omtatah Okioti v Attorney General & another [2018] eKLR, High Court at Nairobi, Petition No. 385 of 2018

Brief Facts

In November 2018 the 2nd Respondent embarked on the process of recruiting persons for appointment as commissioners of the National Cohesion and Integration Commission (NCIC). Aggrieved by the 2nd respondent's actions, the petitioner filed the instant petition. The petitioner contended that the said recruitment by the 2nd Respondent contravened the constitutional principle of separation of powers and that section 17(1)(a) and (b) of the National Cohesion and Integration Commission (the Act) and the procedure for nominating commissioners by the National assembly under the first schedule of the Act were unconstitutional. The petitioner also contended that recruitment of persons to be appointed to public office was the preserve of the Public Service Commission (PSC) and the executive, and not Parliament

Held

1. The Constitution did not set out the timelines within which any law could be challenged or declared unconstitutional. Section 7(1) of the sixth schedule of the Constitution was categorical that all law in force before the effective date continued to be in force and had to be construed with alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with the Constitution.
2. The impugned Act having been enacted in 2008 prior to the promulgation of the Constitution ought to be construed in conformity with the Constitution and the mere fact that the law had been in operation for a long period of time did not preclude the Court from declaring the said law unconstitutional if it was found to be inconsistent with the Constitution. The petition should serve as a wake-up call to the Legislature to

take urgent measures to amend the impugned sections of the Act so as to make them compliant with the Constitution bearing in mind the critical role that the NCIC was supposed to play in Kenya's young and fragile democracy.

3. When any of the state organs stepped outside its mandate, the Court would not hesitate to intervene when called upon to do so. The Court was vested with the power to interpret the Constitution and to safeguard, protect and promote its provisions as provided for under article 165(3) of the Constitution. The Court had an obligation to intervene in actions of other arms of Government and State organs where it was alleged or demonstrated that the Constitution had either been violated or threatened with violation. The doctrine of separation of powers did not preclude the Court from intervening and arresting a violation of the Constitution by any arm of the Government.
4. The Court had the power to enquire into the constitutionality of the actions of the National Assembly notwithstanding the privilege of debate accorded to its members and its proceedings. The Constitution was the supreme law of Kenya and Parliament had to function within the limits prescribed by the Constitution. In cases where it had stepped beyond what the law permitted it to do, it could not seek refuge in or hide behind the twin doctrines of parliamentary privilege and separation of powers to escape judicial scrutiny.
5. The doctrine of separation of powers had to be read in the context of the constitutional framework and where the adoption of the doctrine would militate against the constitutional principles the doctrine had to bow to the dictates of the spirit and the letter of the Constitution.

4) Section 9(1) (e) of the Victim Protection Act

Joseph Nduvi Mbuvi v Republic , High Court at Machakos, Criminal Revision No.4 of 2019

Brief Facts:

The application for revision arose from the Senior Resident Magistrate Court ruling, in which the Court placed the applicant on his defence and directed the applicant to supply the prosecution with the witness statements and any other evidence the defence intended to rely on at the defence hearing. The Court went further and made orders geared towards compelling the defence witnesses to record their statements and furnish the prosecution therewith within 14 days.

1. Whereas article 50(1) of the Constitution provided for fair hearing generally, that right could not be stretched to confer upon the prosecution the right to be informed in advance of the evidence the accused intended to rely on, and to have reasonable access to that evidence or reciprocity of statements.
2. Article 50(9) of the Constitution empowered the Parliament to enact legislation providing for the protection, rights and welfare of the victims of offences. On the other hand, section 9(1)(e) of the Victim Protection Act provided that a victim had a right to be informed in advance of the evidence the prosecution and defence intended to rely on, and to have reasonable access to that evidence. The rights of victims should not be extended to encompass the right to be informed in advance of the evidence that the accused intended to rely on and to access it.
3. There was a presumption of innocence that the Constitution bestowed upon an accused person, there could be no case that an accused person would be expected to disclose in

advance. To the extent therefore that section 9(1)(e) of the Victim Protection Act expected that an accused would in advance inform the victim of the evidence he intended to rely on, and to give reasonable access to that evidence, the provision clearly contravened both the spirit and the letter of the Constitution and to that extent it was null and void.

5) Section 33B (1) and (2) of the Banking Act

***Boniface Oduor v Attorney General and 4 others*, Petition no 413 of 2016, High Court at Nairobi; Commercial and Admiralty Division**

Brief Facts

The petition related to the constitutionality of the interest rate capping and auxiliary provisions of section 33B of the Banking Act which were enacted through the Banking (Amendment) Act no 25 of 2016. A month prior to the hearing of the petition, there was an amendment to sections 31A and 33B of the Act. Those changes were through section 64 of the Finance Act No 10 of 2018 which commenced on 1st October 2018.

The petitioner's case was that, in so far as the object and effect of the impugned provisions was to cap the interest rate charged by banks and financial institutions for loans, they deprived Central Bank of Kenya (CBK) of its exclusive constitutional mandate to solely formulate and implement monetary policy. The petitioner contended that the impugned provisions discriminated against banks and financial institutions as no similar restriction on interest rates was placed on mortgage finance institutions, micro finance banks, insurance companies and those dealing with Islamic banking.

Held

1. One spill-over effect of the ambiguity in the meaning of "credit facility" could be seen on the reading of section 33B (2). What was to be borrowed or lent was not clear in so far as the words "credit facility" used in section 33(B) (1) were not defined.
2. The 2018 Amendment had provided some clarity on the base rate referred to in section 33B (1)(a) of the Banking (Amendment) Act, 2016. The amendment clarified that the base rate was the CBR that was set and published by CBK. But that clarification could not be sufficient. The reference of the role by CBK to set and publish CBR appeared only in section 33B in the entire Banking Act. So as to establish the CBR referred to in section 33 B (1), it was necessary to read that section with section 36(4) of the Central Bank Act.
3. Failure by section 33B (1) of the Banking Act to make specific reference to the provisions of the CBK Act in respect to the setting and publication of the CBR could open the provisions of section 33B (1) to various interpretations. If left as worded, one could argue that the CBR referred to in section 33B need not necessarily be that contemplated under the CBK Act. Clarity could be given to those provisions if they specified that the CBR in section 33B was the CBR contemplated under section 36(4) of the Central Bank Act.
4. Given that the contravention of section 33B of the Act attracted penal consequences, the Statute should be unequivocal that the CBR referred to was that contemplated in the CBK Act. That would be in consonance with good legislative practice that definitions appearing in one statute ought to appear in related statutes for clarity and to avoid inconsistencies and ambiguity when dealing with a related issue. All laws relating to the same issue had to bear the same meaning as they would have the potential of the same words being assigned different meanings and interpreted differently depending on

the statute under consideration. Each statute had to be interpreted in line with all the provisions contained.

5. The use of the words “four percent, the CBR set and published” in section 33(B)(1)(a) of the Act were imprecise, uncertain and fell short of what would be termed a good piece of legislation that was easily understood by “Wanjiku.” In an attempt to clarify that ambiguity, CBK in its Banking Circular No 4 of 2016 gave the following guideline, “For purposes of section 33B (1) (a) which set the maximum interest rate chargeable for a credit facility “at no more than four percent, the base rate set and published by the CBK”, the cap would be set at four percentage points above the CBR.”
6. Section 33(B) (1) (a) of the Act was not clear whether the word “of” was intentionally left out by the drafters of the legislation. The words “at no more than four percent, the base rate” could mean four percent above the CBR set and published by CBK. There could also be a mischievous interpretation of the words “at no more than four percent, the base rate” to mean below the CBR. Unfortunately, the ambiguity persisted even after the 2018 Amendment. There was need for clarity on the issue because left as it was; it was open to different interpretations.
7. Section 33(B) (1) (a) of the Act was also vague as to the period the four (4%) per cent interest was applicable. It did not specify whether it was to be charged per day, per month or per annum. That ambiguity was apparent as CBK felt it necessary to provide a guideline in Banking Circular No. 4 of 2016, that “the interest rates indicated in the Banking (Amendment) Act 2016, would apply on an annual basis.” The attempt to clarify the meaning through circulars/guidelines was not sufficient because it had to be remembered that non-compliance with the section 33B came with penalties and criminal proceedings. In any event, any valid law had to be self-explanatory. It had to and should not be qualified by explanations to be found outside of the statute.

6) Sections 2 (b), 27 (2), 94 (1), 102 (1), 158 (4) (b) & (c) of the Children Act, section 3 (2) & (3) of the Law of Succession Act and section 12 of the Births & Deaths Registration Act

NSA & another v Cabinet Secretary for, Ministry of Interior and Coordination of National Government & another [2019] eKLR, High Court at Kakamega, Petition 17 of 2014

Brief Facts

The petitioners challenged discrimination by the law on children born out of wedlock and unmarried women on the basis of birth, sex and marital status.

The 1st petitioner averred that she was cohabiting with one PM as a result of which they were blessed with two issues, EA and NF, out of wedlock. She averred that she had serious challenges getting the name of the father of the children inserted in the children’s birth certificates as he had declined to have his name inserted therein and thus denied the minors identity; that EA was issued with a birth certificate which had markings xxx on the place meant for the father’s name and that NT was yet to be issued with one. The 1st petitioner contended that the law required consent of the father before his name was inserted in the children’s birth certificates which according to her was discriminatory and violated her constitutional rights and that of the children to equal protection before the law, equality, dignity, a name, parental care and protection and equal responsibility of father and mother to provide for them.

The petitioners contended that the language in some sections of the Children Act were discriminatory to children born out of wedlock and to unmarried mothers. They also contended that section 12 of the Birth and Deaths Registration Act and sections 3(2) and 3(3)

of law of Succession Act were discriminatory to children born out of wedlock.

1. Section 2(b) of the Children Act gave a father the discretion of choosing whether a child was to be his relative or not. A reading of the section had the meaning that if a father did not acknowledge paternity of a child or had not been contributing to the maintenance of the child, that child could not be considered to be a relative of the father. It also meant that children born inside wedlock had an automatic right to be the relatives of their fathers while those born outside wedlock had no such right. That was discriminatory on the children born outside wedlock on the ground of birth. That violated the right of equal treatment before the law to children born outside wedlock. The definition was against the spirit of article 53 of the Constitution and offended the principle of the best interests of the child, which the constitution placed at a higher pedestal than that of the father or mother.
2. It was in the best interest of a child for the child to be recognized as a relative of his father's relatives whether the child's parents were married to each other or not. The definition of 'relative' in section 2(b) of the Children Act was in contravention of articles 27(1) of the Constitution which provided for equal treatment before the law and article 27(4) that barred discrimination on the ground of birth.
3. Section 24(1) and (2) of the Children Act placed equal responsibility for a father and mother who were married either before or after a child's birth. That section was in line with article 53(1) of the Constitution on equal responsibility of the father and mother whether they were married to each other or not. It had not been shown that the section was in contravention of the Constitution.
4. Section 26 of the Children Act provided for parental responsibility agreements which agreements could only be vitiated like any other contract. There was nothing wrong in having parental responsibility agreements in so far as they were not in conflict with the Constitution and relevant statutes.
5. Section 27(1) of the Children Act provided for transmission of parental responsibility to a father and mother who were married or had subsequently married after the birth of the child. The section provided for the doctrine of survivorship in case of death of either parent where responsibility of the child was transferred to the surviving parent. There was nothing wrong with that provision as a surviving parent continued to have responsibility towards their child.
6. Section 27(2) of the Children Act provided for transmission of parental responsibility of unmarried parents when either parent died. It provided that the father could only take up responsibility after the death of the mother if he had acquired parental responsibility. That was against the principle of equal responsibility of parents under article 53(1) (e) of the Constitution which right could not be qualified for reason that the father had or had not acquired parental responsibility. Parental responsibility was automatic and self-activating on parents upon the birth of a child and fathers could not have the discretion of either accepting or rejecting that responsibility. It also meant that a parent who had not acquired parental responsibility could not do so after the death of the other parent. The section was therefore discriminatory to unmarried fathers on ground of marital status contrary to the provisions of article 27(4) of the Constitution.
7. Section 94 (1) of the Children Act implied that parents of children born out of wedlock had to assume parental responsibility before they could be ordered to pay maintenance towards their children. A parent could not opt out of parental responsibility. The section was in contravention of article 53 (1)(e) of the Constitution which commanded equal responsibility of the mother and father to provide for the child whether they were married to each other or not.

8. Section 102(1) of the Children Act was inconsistent with the Constitution in so far as the father of a child born out of wedlock needed to ‘acquire parental responsibility’ for them to take up parental responsibility of the child upon the death of a mother. The Court reiterated the automation of parental responsibility upon birth of a child, and the said responsibility was not left to the discretion of either the father or mother. The section was in contravention of article 53 (1) (e) of the Constitution.
9. Section 158 4(b) of the Children Act was inconsistent with the Constitution in that in adoption proceedings it only provided for the consent of the parent or guardian of the mother of the child where the mother of a child born out of wedlock was a child but did not provide for the consent of the parents or guardian of the father where the father was a child. That was discriminatory on such fathers in that their parents or guardian were not required to give consent in adoption proceedings. The section was in contravention of articles 27(1) and 27 (4) of the Constitution on equality before the law.
10. Section 158 4(c) of the Children Act was inconsistent with the Constitution in so far as the father of a child born out of wedlock needed to ‘acquire parental responsibility’ for them to take up parental responsibility and be regarded as a father for purposes of consenting to the adoption of the child. The section was discriminatory on fathers who had not acquired parental responsibility. The section had the implication of treating fathers differently based on whether one had acquired parental responsibility which was against the spirit of article 27(1) on equal treatment before the law.
11. Sections 3(2) and 3(3) of the Law of Succession Act were inconsistent with the Constitution in so far as a child born out of wedlock was regarded as such if the father had expressly recognized or in fact accepted as a child of his own or for whom he had voluntarily assumed permanent responsibility. A parent’s responsibility to their child was mandatory and not discretionary. The section was in contravention of article 53 (1) (e) of the Constitution which required parents to provide for their children whether they were married or not.
12. Section 12 of the Births and Deaths Registration Act was invalidated in *L.N.W v Attorney General & 3 others* [2016] eKLR. The instant Court was agreeable to the reasoning of the Court in that matter. Section 12 was inconsistent with article 27 and 53 of the Constitution.
13. When the High Court in *L.N.W v Attorney General @ 3 others* [2016] eKLR invalidated the provisions of section 12 of the Births and Deaths Registration Act, it directed the Registrar of Deaths and Births to within 14 days put into place mechanisms to facilitate the entry into the birth register of names of the father of children born outside wedlock. That was the proper way to go. Before such names were entered into the register there had to be some regulations in place. The petitioner did not inform the court whether such regulations had been put into place. An order for birth certificate to be issued to the children of the 1st respondent indicating the name of their father could not issue before the law was amended to cater for that.
14. The mandate of the Court was to ascertain whether a law was inconsistent with the constitution or not. The court did not supervise other courts of equal jurisdiction. The instant Court could not issue prohibitory orders on other judges of the High Court. Even though the Court had powers to supervise the Magistrates’ Courts, it could not issue orders that would be difficult to supervise or implement.
15. The impugned sections of the Births and Deaths Registration Act, the Children Act and the Law of Succession Act should be amended to align them with the Constitution of Kenya 2010.

7) Section 46(1)(ii) of the Prisons Act

Kenneth Otieno Odhiambo & 4 others v Republic, High Court at Kisumu, Petition No 68 of 2018

Brief facts

The petitioners challenged section 46 of the Prisons Act on grounds that it discriminated against offenders in the enjoyment of the remission of a third of the sentence imposed. Under the said section 46 certain prisoners including those sentenced to life imprisonment or detention at the President's pleasure were not entitled to remission.

Held

1. Under article 50(2)(p) of the Constitution, every accused person had the right to a fair trial including the right to the benefit of the least severe of the prescribed punishments, if the prescribed punishment for the offence changed between the time of the commission of the offence and the time of sentencing.
2. Section 46(1)(ii) of the Prisons Act, which excluded prisoners sentenced to imprisonment for life or for an offence under section 296(1) of the Penal code or to be detained at the President's pleasure from remission was inconsistent with article 50(2)(p) of the Constitution on account of being discriminatory. Consequently, the petitioners were entitled to benefit from remission unless they were lawfully excluded under sections 46(3) and 46(4) of the Prisons Act.

8) County Government (Amendment) Act

Senate & 48 others v Council of County Governors & 54 others [2019] eKLR, Court of Appeal at Nairobi, Civil Appeal No. 200 of 2015

Brief facts:

Parliament enacted the County Government (Amendment) Act, 2014 (the Act) and established County Development Boards (CDB) in each of the 47 counties in Kenya. The Act was assented to by the President July 30, 2014 and came into effect on August 18, 2014. The Act amended the County Government Act, 2012. Through the Act, section 91A was introduced into the County Government Act, 2012 establishing for each county a CDB. The CDB were to comprise, *inter alia*, members of the national assembly representing constituencies within respective counties, members of county assemblies, as well as members of the executive operating within respective counties, and were to be chaired by the senator from the county.

Aggrieved by the enactment of the Act, more specifically the establishment of the CDB, its composition and functions, the respondents filed a constitutional petition against the appellants at the trial court. In the petition, it was contended, among others, that the Act was unconstitutional, null and void as it was enacted in violation of various provisions of the 2010 Constitution and that the Act violated the functional distinctness of national and county governments.

The appellants opposed the petition, reiterating among others, that section 91A of the Act did not violate any constitutional article as alleged and that the senate had the mandate to represent and protect the interests of the counties and their governments. After hearing

the petition, the trial court declared the Act unconstitutional, null and void. Aggrieved by the declaration of unconstitutionality of the Act, the appellants lodged the instant appeal, arguing among others, that the trial court erred in declaring the Act unconstitutional, null and void without specifying the particular articles of the Constitution which were inconsistent with the Act.

Held

1. The coercive nature of the CDB's functions guaranteed by section 91C of the Act transformed the CDB into a decision making organ and that violated the administrative, legislative and decision making power and authority of the county executive committee, the county assembly and the position of county governor as the chief executive officer of the county.
2. By involving the senator, members of the national assembly and the woman representative of the county in CDB, a conflict of interest arose between the oversight role of the senate, the functions of the CDB and the mandates of the county assembly and the county executive committee.
3. The trial court did not err in finding that sections 91A and 91B of the Act contravened the Constitution and were antithetical to the oversight role of the senate as provided in article 96 (2) and (3) of the Constitution as read with the legislative power of the county assembly in article 185 (1) of the Constitution.
4. The authority of the judiciary to determine the constitutionality of the conduct of other branches of government was a constitutional command. Courts could not delegate that sacrosanct constitutional mandate to another person or body. Under article 165(3) of the Constitution, the High Court had the duty and obligation to intervene in actions of other arms of government and state organs where it was alleged or demonstrated that the Constitution had either been violated or threatened with violation.
5. Section 13A of the Government Proceedings Act (GPA) required a 30-day notice to be given before any suit could be instituted against the government. On the other hand, section 12(1) of the GPA provided that civil proceedings by or against the government ought to be instituted by or against the Attorney-General, as the case may be. On constitutionality of section 13A of the GPA, the trial court relied on the article 48 of the Constitution on access to justice in finding that the requirement of notice was an impediment to access to justice.
6. In principle, civil proceedings were distinguished from criminal proceedings. In the broad categorization of civil proceedings were various modes of instituting civil claims by way of plaint or originating summons or a constitutional petition. Under the 2010 constitutional framework, constitutional petitions on enforcement of fundamental rights or freedoms or petitions alleging violation of the Constitution had different procedures and framework as envisioned by article 22 (3) and (4) of the Constitution. To that extent, a constitutional petition was not civil proceedings mandatorily subject to the ordinary rules of Civil Procedure and the Government Proceedings Act. It was a procedure sui generis and the court was slow to admit to any procedural fetters and hurdles to access to justice in matters constitutional.

9) Sections 10, 16, 23, 26 and 53 (2) (d), 2 (e), 58 and the entire part IV and V of the Work Injury Benefits Act

Juma Nyamawi Ndungo & 4 others v Attorney General; Mombasa Law Society (Interested Party), High Court at Mombasa, Constitutional Petition No 196 of 2018

Brief facts

The petitioners sought a determination relating to various constitutional issues. The first was on whether Magistrates Courts had jurisdiction to entertain claims for compensation for bodily harm arising from negligence and breach of duty at the workplace. The second was on whether the Director appointed under the Work Injury Benefits Act or any other officer appointed under the Employment Act could exercise judicial authority relating to injuries suffered at work due to negligence. Lastly, the petitioner challenged the constitutionality of various sections of the Work Injury Benefits Act including sections 10, 16, 23, 26, 28, 30, 33, 37, 51, 53(2) (d), 58(2) and the first schedule of the Act.

In the case of *Attorney General v Law Society of Kenya & another* [2017] eKLR, *inter alia*, the Court of Appeal set aside the High Court's finding that sections 4, 16, 21(1), 23(1), 25(1) (3), 52(1) (2) and 58 (2) of the Work Injury Benefits Act were unconstitutional. The Court of Appeal, however declared that sections 7 (in so far as it provided for the Minister's approval or exemption) and 10(4) of the Work Injury Benefits Act were unconstitutional. When the High Court made its decision on constitutionality, the repealed Constitution was in effect and the decision meant that Magistrates' Courts could handle claims of workplace injury. In the aftermath of the Court of Appeal decision, issued after the promulgation of the Constitution of Kenya 2010, most Magistrates' Courts declined to deal with workplace injury claims, on grounds that they did not have the requisite jurisdiction to handle them.

The petitioners were aggrieved that their cases on workplace injury which were pending before Magistrates Courts were stopped arbitrarily. Under section 58 of the Work Injury Benefits Act, the Work Injury Benefits Act had retrospective effect and section 53 of the Act established the Director who had a dispute resolution role. The net effect was that claims that were already pending before court would have to be filed afresh before the Director. Majority of the claims affected by those provisions dated back to a period in excess of 11 years meaning that they failed to meet the one year limitation period provided under section 26 of the Work Injury Benefits Act.

The petitioners argued that the retrospective application of the Work Injury Benefits Act undermined article 159 of the Constitution which provided for substantive justice and property rights recognized under article 40 of the Constitution. They said that the test of reasonability and substantive justice demanded that what was done pursuant to the legal regime that subsisted at the time the claims were lodged in court be deemed as legal.

The petitioner said that the office of the Director was yet to be operationalized and aside from the Director and his assistants being appointees of the Executive, the relevant statute did not provide for their qualifications or mode of appointment. Further the petitioner stated that the Director and his assistants, as appointees of the Executive, had the authority to receive complaints, investigate them and ultimately adjudicate over them in breach of the doctrine of separation of powers. A further allegation was that it was discriminatory for part V of the Work Injury Benefits Act to have compensation for pain and suffering as compensation that would be based on one's income.

In general, the petitioners alleged that under the circumstances, their rights to access to justice, property, a fair trial, non-discrimination and equality and human dignity were violated.

Held

1. Under section 53(2) (e) of the Work Injury Benefits Act, the Director's functions included adjudicating over injury cases and assessing damages. Those functions were purely judicial functions.
2. Section 16 and 53 (2) (d) and 53 (2) (e) of the Work Injury Benefits Act entailed a usurpation of judicial power by the executive and were therefore unconstitutional. Additionally, sections 10, 23, 26, 28, 30, 33, 37, 51, 53 (2) (d), 53 (2) (e), 58 (2) and the first schedule to the Work Injury Benefits Act were unconstitutional as they promoted the exercise of judicial powers by the Director who was neither an independent tribunal nor a court.
3. To the extent that the provisions of the Work Injury Benefits Act, in particular sections 16 and 53(2)(d) , sought to transfer judicial power to the Executive, or an entity that was neither a tribunal nor a court, they violated the constitutional doctrine of separation of powers and were therefore unconstitutional.

10) Section 4 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015

Coalition for Reforms and Democracy (CORD) v Attorney General; International Institute for Legislative Affairs & another (Interested Parties) [2019]eKLR, High Court at Nairobi, Petition 476 of 2015

Brief facts

The petition challenged the exercise of presidential powers of referral of Bills back to Parliament. The petitioner averred that the President exceeded the powers conferred and contemplated under article 115(1)(b) of the Constitution by his proposals to delete, insert, and amend clauses on various Bills referred back to Parliament.

Specifically, the petitioners challenged the presidential reservations made in; the Public Audit Bill, 2014; Retirement Benefits (Deputy President and Designated State Officers) Bill, 2013; Ethics and Anti-Corruption Commission (Amendment) Bill, 2015; Central Bank of Kenya (Amendment) Bill, 2014; Kenya Information and Communication (Amendment) Bill, 2013; The Public Procurement and Disposal (Amendment) Bill, 2013; Statute Law Miscellaneous (Amendment) Bill, 2014; National Flag, Emblems and Names (Amendment) Bill, 2013; and, the Police Service Commission (Amendment) Bill, 2013. They sought a declaration that the President's unilateral proposals to strike out, insert, amend or delete provisions of the impugned Bills was unconstitutional for being *ultra vires*, an invasion of the powers of the National Assembly and a breach of the doctrine of separation of powers.

The petitioners also challenged the constitutional validity of section 4 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 on grounds that the section limited political rights under article 38 of the Constitution and violated the right to equality and freedom from discrimination protected under article 27 of the Constitution. The petitioner sought an order of *mandamus* to compel the respondent to pay the terminal retirement benefits of the former Prime Minister and former Vice President in accordance with the said Act.

Held

1. The impugned section purported to interfere with the retirement benefit entitlements, which were expressly protected by article 151(3) and 160(4) of the Constitution with respect to a Deputy President, the Chief Justice and Deputy Chief Justice, which could not be varied to their disadvantage during their lifetime. To that extent, the impugned provision, therefore, failed the constitutionality test.
2. Gratuity, pension and retirement benefits were hard-earned benefits of an employee and the right to receive pension or a retirement benefit was in the nature of property. That right to property could not be taken away without the due process of law. Article 40(1) of the Constitution protected the right to private property. It guaranteed the right of every person individually or in association with others to acquire and own property subject to article 65 of the Constitution.
3. To the extent that the impugned provision gave the National Assembly power to deprive an entitled person the right to property without due process, the same was arbitrary and therefore unconstitutional. It violated the right to a fair administrative action guaranteed under article 47 of the Constitution and the Fair Administrative Action Act, the right to a fair hearing under article 50, and the principles of natural justice. The impugned section simply provided for the National Assembly to pass a motion supported by not less than a half of the members thereof. It did not provide for the affected person to be afforded an opportunity to be heard.
4. Rights or retirement benefits accrued to any person under the law could not therefore be diminished or eliminated because once an individual had attained eligibility for a retirement benefit; the benefit was afforded constitutional protection. Even in jurisdictions where there was no explicit constitutional protection for public pension benefits, promissory estoppel and principles of contract law would be applied to protect reasonable pension expectations.
5. A reading of section 4 of the Act left no doubt that it was not only vague and ambiguous for want of certainty, but it was also retrospective in its application;
 - a. section 4(1)(b) of the Act simply provided that an employee should not be entitled to a benefit if he was guilty of gross misconduct. The provision did not specify what constituted gross misconduct, nor did it specify whether the alleged gross misconduct was relevant if it occurred before, during or after retirement.
 - b. section 4(1)(a) of the Act did not specify whether the alleged violation of the Constitution occurred before, during or after the retirement.
 - c. section 4(1)(c) disentitled retirement benefits of an employee who after leaving office was convicted of an offence and sentence to three or more years. The section was retrospective in application by seeking to take away a lawful entitlement, which would have accrued long before the alleged conviction and had no connection with the alleged offence or misconduct. It also offended the rule against double jeopardy by denying an entitled person his or her lawful benefits in addition to the punishment that would be imposed.
6. Certainty was generally considered to be a virtue in a legal system while legal uncertainty was regarded as a vice. Uncertainty undermined both the rule of law in general and the law's ability to achieve its objective. Accordingly, sections 4(1)(a), (b) and (c) of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 was also void for ambiguity and uncertainty.

11) Section 63 of the Finance Act, 2018 and section 31A of the Banking Act

Kenya Bankers Association v Attorney General & another; Central Bank Of Kenya(Interested Party) [2019] eKLR, High Court at Nairobi, Petition No.427 of 2018

Brief Facts

The memorandum of objects and reasons of the Finance Bill, 2018(the Bill) was to formulate the proposals announced in the budget for 2018/2019 relating to liability, and collection of taxes and matters incidental thereto and sought to amend various laws including the Banking Act. The Bill was first read in the 2nd respondent's House and committed to the Departmental Committee on Finance and National Planning (the Committee) which carried out public participation on the Bill. However, section 63 of the Finance Act was not included in the Bill at the time of gazettelement and first reading of the Finance Bill, 2018. Thereafter, the Bill underwent debate during the second reading and new clauses introduced to the Bill at that stage.

One of the proposed amendments was to require the banks, whenever a customer was opening an account, should be compelled to indicate who their next of kin was. The Bill was passed to become the Finance Act, 2018. Aggrieved by the 2nd respondent's actions, the petitioner filed the instant petition. The petitioner averred that the amendments violated the right to privacy and were therefore unconstitutional. The petitioner contended that the 2nd respondent acted *ultra vires* to its constitutional mandate by introducing substantive amendments to the Banking Act during the 3rd reading and enacting legislation without public participation.

Held

1. Section 31A of the Banking Act imposed upon banks or financial institutions to maintain a register containing particulars of the next of kin of all customers and any bank that contravened the said section was liable upon conviction for each count in default to a fine not exceeding one million shillings. The purpose or the effect of section 63 of Finance Act implementation infringed a right guaranteed by the Constitution. The requirement under section 63 of the Finance Act for banks and financial institutions to maintain a register of next of kin was not justifiable nor did it have a rational connection with the intended purpose of the Finance Act whose purpose was to amend the law relating to various taxes and duties and for matters incidental thereto but not to ensure that the abandoned property was returned to its true owner and within a reasonable period.
2. Section 63 of Finance Act, 2018 was derogation from the core normative content of the right to privacy. The implementation of section 63 of the Finance Act infringed on a right guaranteed by the Constitution. The section in question was therefore unconstitutional and contradicted article 31(c) of the Constitution and section 31(2) of the Banking Act to the extent that it breached the right of privacy as provided in article 31(c) of the Constitution and section 31(2) of the Banking Act.
3. Section 63 of the Finance Act had not attempted to define who the next of kin was or the particulars of the next of kin that should be obtained and what was to be done in relation to keeping such records or data. The section was mute and did not provide clarity on how the corporate clients were to be handled. It also did not give distinction between individual persons and legal persons. The section was equally silent on how minors could be treated and did not indicate as to whether minors could be listed as next of kin. Section

63 of the Finance Act and consequently section 31A of the Banking Act was not only ambiguous but vague.

4. Vagueness of a statute amounted to invalidity of a statute. The enactment of section 63 of the Finance Act was void for vagueness as a citizen would not be able to know in advance what the legal consequences that flew from the impugned section of the Finance Act were. The members of the petitioner were unable to know what was regulated and the manner of that regulation. Section 63 of Finance Act and consequently section 31A of the Banking Act lacked certainty; it was confusing due to being imprecise and vague.

12) Section 7 (2) & 7 (10-15) of the Salaries and Remuneration Commission Act

Judicial Service Commission v Attorney General & Another Interested Party; Jacqueline Akinyi Okeyo Manani [2019] eKLR, High Court at Nairobi, Petition 349 of 2018

Brief Facts

A vacancy occurred in the Salaries and Remuneration Commission (SRC) relating to a member representing the Judicial Service Commission (JSC). The petitioner, on January 15, 2018, advertised in the local media inviting applications from persons qualified to be nominated for the position. The JSC upon receipt of the applications, considered all the applications, with a view to determine compliance with the constitutional provisions and the Salaries and Remuneration Commission Act. The petitioner voted the interested party as its nominee to the 2nd respondent.

Meanwhile on April 4, 2018 the President assented to the Statute Law (Miscellaneous Amendments) Act, 2018 which had a commencement date of May 21, 2018. The Act amended some of the provisions of the Salaries and Remuneration Commission Act, 2011 amongst other statutes. It was out of such an amendment that the petitioner contended, that the amendments to the Salaries and Remuneration Commission Act, introduced through the Statute Law (Miscellaneous Amendment) Act were unconstitutional as they were not subjected to public participation.

It was 1st respondent's contention, that the petition did not disclose any violation of the Constitution or any written law. He said that the petitioner read article 230 in isolation to article 250(4) and 250(11) of the Constitution. The 1st respondent added that the constitutional petition was grossly misconceived, a non-starter and the orders prayed for were outrightly misplaced. That the jurisdiction of the High Court had not been invoked properly and the matter was not justifiable to the extent that there was no real or substantial controversy.

Held

1. Whether or not legislation operated retrospectively depended on the intention of the enacting body as manifested by the legislation. In seeking to ascertain the intention behind the legislation, the courts were guided by certain rules of construction and one of these rules was, that if the legislation affected substantive rights, it would not be construed to have retrospective effect unless a clear intention to that effect was manifested. Whereas, if it affected procedure only, *prima facie*, it operated retrospectively unless there was a good reason to the contrary. The rule of construction was one of the factors to which regard had to be given in order to ascertain that intention.
2. From the construction of the impugned sections, the provisions of the legislation could not *per se* be said to affect procedure only nor could it be said that the intention of the

enacting body was to have it operate retrospectively. The legislation, as it was, affected substantive rights, and as such it could not be construed in to have retrospective effect unless a clear intention to that effect was manifested. The general rule for non-criminal legislation was that all statutes other than those which were declaratory or which related only to matters of procedure or evidence were *prima facie* prospective and retrospective was not to be given to them, unless it was expressly stated so in clear words or by virtue of necessary implication. Where legislation was contrary to the Constitution it could not have any retrospective effect. Therefore, the amendments to the Salaries and Remuneration Commission Act could not apply retrospectively.

3. Public participation was one of the national values and principles of governance that bound all state organs, state officers, public officers, and all persons. It was applicable whenever any of them applied or interpreted the Constitution, enacted or interpreted any law, or made or implemented public policy decisions. The amendments introduced to the Salaries and Remuneration Commission Act were not minor amendments as suggested by the respondent as they substantially altered the core substance of the legislation and as such re-enactment, the principle of public participation had to apply.
4. The burden of proof that there was public participation lay with the respondents to demonstrate that there was public participation. No evidence was adduced to demonstrate that there was public participation in relation to the substantive amendments and that was contrary to article 10 of the Constitution.

13) Section 8(3) (c) and section 5(5) (a) of the National Land Commission Act and National Police Service Commission Act

Fopa Association Kenya Suing through its Officials Humphrey Kimani Njuguna – Chairman & Kinoti Gatobu – Secretary v Attorney General & 3 others; County Assemblies Forum & another (Interested Parties) [2019] eKLR, High Court at Nairobi, Petition 116 of 2019

Brief Facts

The petitioner was an association whose membership comprised former members of parliament, both Senate and National Assembly, former Governors, Speaker and members of County Assembly. The respondents were the stakeholders, who were directly affected by the orders sought or had mandate over the issue the subject matter of the petition.

The petitioner's complaint was against the laws that barred former members of parliament, Governors and County Assemblies from recruitment as commissioners of the National Land Commission, National Police Service Commission or any other government agency solely on the basis of them having been elected or having stood for election in the preceding five (5) years. The petitioner contended the provision of section 8(3) (c) of the National Land Commission Act and National Police Service Commission Act section 5(5) (a) that barred its members from being recruited in the commissions violated the Constitution and were therefore null and void.

It was the contention of the respondents that the impugned section of the National Land Commission Act and the National Police Service Commission Act were necessary to maintain independence and impartiality of the commission. They added that the impugned sections advanced a compelling public interest to manage independence of the commissions free from political persuasions effectively as opposed to individual interest of persons who would be looking for an opportunity to maintain their political party allegiance and continue to

serve in independent commissions. It was thus submitted by the respondents that such scenario went against the spirit, purpose and intention of the legislation to establish fiercely independent institutions. It was further urged that the provision satisfied the ethos set out under article 24 of the Constitution in that the limitation was provided under the law and that the same was reasonably justifiable in modern democratic society.

Held

1. The impugned sections of the National Land Commission Act and National Police Service Commission Act, indirectly deprived the citizens of their constitutional rights to vie for election. It was a threat to the expansion of democracy as it would mean that an electoral contestant or winner would subsequently for a period of 5 years become unfit to hold public office simply due to the fact of having contested in that election. The limitation was unreasonable and unjustifiable. It was unjustified to lump together electoral contestants with felons, bankrupts and constitutional violators.
2. The import of section 8(3) (c) of the National Land Commission Act and section 5(5) (a) of the National Police Service Commission Act was that those who had exercised their constitutional and democratic rights to vie for constitutional elections were now demonized for subsequent 5 years for no offence but for exercising their constitutional and democratic right to take part in contesting for an elective post.
3. The impugned provisions of the two statutes violated the petitioner's rights to property, rights to equality, dignity, social-economic rights, non-discrimination or any other right for that matter. The petitioner's members could apply for other public offices that did not have restrictions but the restrictions relating to membership in those two commissions were unreasonable and unjustified. Allowing the petitioner's members to vie for the recruitment in the two commissions was not a right to occupy and hold the office but to exercise their constitutional rights to vie for recruitment. Whether they would succeed or not was another issue as they would have exercised their constitutional rights.
4. The offending provisions of the two statutes complained of were discriminative to the petitioner's members; they degraded their dignity and deprived them their social and economic rights and freedoms. The impugned provisions would curtail the number of those seeking electoral political positions and deal a major blow to democracy and constitutional space which was still in its emerging stage in Kenya. There was no logical explanation as to why some of the petitioner's members had successfully joined the independent policy oversight authority and not the other two.
5. The impugned provisions were a grave violation to the fundamental rights of the petitioner's members as well as all other contestants of public elections. The impugned provision if let to stand would be a serious threat to democratic space in the country.

14) Section 2 of the Community Land Act

Kelly Malenya v Attorney General and another Interested Party: Council of Governors [2019] eKLR, High Court at Nairobi, Petition No 32 of 2017

Brief Facts

The petitioner challenged the constitutionality of certain provisions of the Community Land Act (Act) stating that: section 2 of the Community Land Act defining community land

extended beyond that given by the Constitution; that section 8(4) of the Act which provided that the Cabinet Secretary would issue a public notice of intention to survey, demarcate and register community land left out the county governments; that section 9 placed a function that fell under the county governments under the control of the central government through the Chief Land Registrar who appointed a registrar for community land without involving the county government.

The petitioner further stated that section 15 of the Act failed the constitutional muster of validity as it created an amorphous body known as the community assembly without providing how the assembly would be identified; that under section 21 of the Act, community land could be converted into some other forms of land, a role exercised by the assembly; that sections 38 failed constitutionally for introducing other criteria for qualifying and limiting the right to property for communities other than as contemplated by articles 24 and 40 of the Constitution of Kenya, 2010 (Constitution). Finally, there was a challenge to the constitutionality of section 48 of the Act as it gave the Cabinet Secretary mandate to formulate regulations which was a role of the county governments.

The petitioner sought reliefs that: a declaration or order that sections 2 and/or 6 and 8(4) (6) and/or 9 and/or 11 and/or 15 and/or 21 and/or 38 and/or 48 of the Community Land Act were unconstitutional; and an order of suspension of sections 2 and or 6 and or 8(4) (6) and/or 9 and /or 15 and/or 38 and/or 48 of the Community Land Act.

The respondents on the other hand contended that the provisions of the Act were constitutional; that the petition had not met the threshold of constitutional petitions for failing to set out with reasonable degree of precision the provisions infringed and the manner of infringement.

Held

1. Section 2 of the Act in so far as was relevant to the petition, provided that Community land included:
 - a. land declared as such under article 63(2) of the Constitution of Kenya, 2010 (Constitution); and
 - b. land converted into community land under any law.Section 2 had two ways of defining community land, namely; land as defined in article 63(2) of the Constitution or land converted into community land under any law. From the definition, community land was land that fell within the categories mentioned in article 63(2), was held and used by communities, and or trust land held by the county governments.
2. From the definition in section 2 of the Community Land Act, it could not be said that the definition in section 2 was inconsistent with the one in article 63 (2) of the Constitution. The Constitution defined community land broadly and section 2 merely stated that community land was that land declared as under article 63(2) and land converted into community land under any law. A proper reading of section 2 showed that the definition repeated the words in the Constitution. The addition of (b), land converted into community land under any law, did not add or change anything. It was at best superfluous since it fell under any other land declared to be community land by an Act of Parliament.
3. Section 2 of the Act used the words means and includes in defining community land. The Constitution used the word consists which was close to means. The Constitution did not use the words includes which was infinitive. Article 259(4) (b) was clear that when the word includes was used in the Constitution, it meant; includes but not limited to. By

using two words means and includes, section 2 rendered the definition of community land vague. It was not clear whether community land meant the land as defined in the Constitution or it included some other land apart from that defined in the Constitution. The Act could not use both words in the definition section as doing so created confusion.

4. A provision was vague if it was capable of two interpretations. In the context of section 2 of the Act, it was not clear whether the definition of community land meant land declared as such under article 63(2) of the constitution; or included land declared as such under article 63(2) of the constitution. The two words could not be used at the same time or interchangeably. That made the provision vague and therefore unconstitutional to that extent.

15) Section 62(6) of ACECA

Moses Kasaine Lenolkul v Director of Public Prosecutions, Criminal Revision 25 of 2019, High Court at Nairobi

Brief Facts

The applicant was the Governor of Samburu County. He had been charged with various offences under the Anti-Corruption and Economic Crimes Act. The Trial Court granted the applicant bail and also issued interim orders that prohibited the applicant from accessing Samburu County offices pending filing, hearing and determination of an application to be made by the prosecution.

Aggrieved by the interim orders the applicant filed the instant revision, in which he sought for the interim orders to be vacated on grounds that they violated section 62(6) of the Anti-Corruption and Economic Crimes Act and that the orders went against the procedures of removing a County Governor as prescribed in the Constitution.

Held

1. The provisions of section 62(6) of ACECA, apart from obfuscating, indeed helping to obliterate the political hygiene, were contrary to the constitutional requirements of integrity in governance, were against the national values and principles of governance and the principles of leadership and integrity in Chapter Six of the Constitution, and undermined the prosecution of officers in the position of the applicant in the instant case. In so doing, they entrenched corruption and impunity in the land.
2. Under the provisions of the County Government Act, where the Governor was unable to act, his functions were performed by the Deputy Governor. That was provided for in section 32(2) of the County Governments Act. The Governor in the instant case was not being removed from office. He had been charged with an offence under ACECA, and a proper reading of section 62 of ACECA required that he did not continue to perform the functions of the Office of Governor while the criminal charges against him were pending. However, if section 62(6), which violated the letter and spirit of the Constitution, particularly Chapter Six on leadership and integrity, was to be given an interpretation that protected the applicant's access to his office, then conditions had to be imposed that protected the public interest. That was what the Trial Court did in making the order requiring that the applicant obtained the authorisation of the CEO of EACC before accessing his office. In the circumstances, there hadn't been an error of law that required that the instant Court revises the said order.

3. Should there be difficulty in obtaining the authorisation from the EACC, there would be no vacuum in the County. The instant Court took judicial notice of the fact that there had been circumstances in the past in which County Governors had, for reasons of ill health, been out of office, and given the fact that the Constitution provided for the seat of a Deputy Governor, the Counties had continued to function. In the instant case, the applicant was charged with a criminal offence; he had been accused of being in moral ill-health. He was alleged to have exhibited moral turpitude that required that, until his prosecution was complete, his access to the County government offices were to be limited as directed by the Trial Court.
4. [Obiter] Would it serve the public interest for him to go back to office and preside over the finances of the County that he has been charged with embezzling from? What message does it send to the citizen if their leaders are charged with serious corruption offences, and are in office the following day, overseeing the affairs of the institution? How effective will prosecution of such state officers be, when their subordinates, who are likely to be witnesses, are under the direct control of the indicted officer?

16) Section 84D of the Kenya Information and Communication Act

Cyprian Andama v Director of Public Prosecution & another; Article 19 East Africa (Interested Party) [2019] eKLR, High Court at Nairobi, Petition No. 214 of 2018

Brief facts

The petition challenged the constitutionality of section 84D of the Kenya Information and Communication Act, 2009, (KICA) for unjustifiably violating article 33 and 50(2)(n) of the Constitution. The petitioner contended that impugned section created an offence criminalizing the publishing of obscene information in electronic form in vague and overbroad terms with regard to the meaning of “lascivious”, “appeals to the prurient interest” and “tends to deprave and corrupt persons”. He stated that section 84D of KICA offended the principle of legality in article 50(2)(b) of the Constitution which required that criminal law, especially one that limited a fundamental right should be clear enough to be understood and be precise enough to cover only the activities connected to the law’s purpose.

The petitioner urged the Court to declare section 84D of KICA unconstitutional and to issue an injunction barring the 1st respondent from carrying on with the prosecution of the petitioner in the proceedings in Milimani Criminal Case Number 166 of 2018, Kiambu Criminal Case Number 686 of 2018, and Kiambu Criminal Case Number 687 of 2018. The petitioner was charged with the offences of publishing of obscene information in electronic form contrary to section 84D of the Kenya Information and Communication Act, 2009.

Held

1. To the extent that section 84D of KICA purported to suppress dissent, it was a derogation of article 33 of the Constitution. The impugned provision also contravened article 25(c) to the extent that it limited the right to a fair trial as enshrined in article 50(2)(b) of the Constitution. Any alleged discomfort or displeasure with the petitioner’s publication could have been addressed by less restrictive means, such as a civil suit for defamation, other than blanket curtailment of a fundamental right. Section 84D of KICA was unconstitutional considering that even though its purpose was to control/limit use of obscenities in communication, its effect had been to infringe on the freedom of

expression guaranteed by the Constitution by creating the fear of the consequences of a charge under the said section.

2. It was a fundamental tenet of natural justice that an accused person ought to be informed, in very clear terms, of the charges that he faced to enable him to prepare his defence adequately. That principle was aptly captured under article 50 of the Constitution which provided for the rights of every accused person and at article 50(2)(b) which expounded the non-derogable right to fair trial to include the right of the accused person to be informed of the charge, with sufficient detail to answer it.
3. Section 84D of KICA provided for an offence in such broad and unspecific terms such that the person charged under it might not know how to answer to it. The section;
 - a. did not define the meaning of the words; “obscene” or the phrase “any material which is lascivious or appeals to the prurient interest”;
 - b. did not explain how or who should determine if the publication’s “effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied therein.”The section left the words to the subjective interpretation by the investigative agencies, the prosecution or the court that would ultimately try the case.
4. Section 84D of KICA was unconstitutional to the extent that it infringed on the citizens’ right to freedom of expression guaranteed under article 33 of the Constitution and derogated the right to fair hearing by providing for an offence in broad and unclear terms; making it subject to the arbitrary and subjective interpretation by the Director of Public Prosecution or the courts, contrary to article 50(2)(b) of the Constitution. Under article 25(c) of the Constitution, the right to a fair trial could not be limited.

Chapter 5

HUMAN RESOURCE
MANAGEMENT & DEVELOPMENT

HUMAN RESOURCE MANAGEMENT & DEVELOPMENT

5.1 Introduction

In the Financial Year (FY) 2018/19 the Judiciary continued to implement its human capital programmes of attracting, selecting, developing, building capacity and retaining suitably qualified and motivated judges, judicial officers and staff. The initiatives were geared towards enhancing efficiency and effectiveness in the delivery of Justice.

During the year under review significant achievements were recorded, namely:

- i) Appointment of the Judiciary Organizational Review (OR) Structure Implementation Team and the roll-out of OR implementation activities;
- ii) Conclusion of the Review of the Terms and Conditions of Registrars; and,
- iii) Streamlining of the training and capacity building programmes in the Judiciary among others.

The OR team provided a comprehensive implementation matrix with detailed activities, specific outputs, and outcomes. Key outputs included a comprehensive establishment for all courts, and other Judiciary administrative organs, a revised grading structure, career guidelines that replaced the Scheme of Service and a harmonized salary structure. The OR is expected to be completed within three years at a projected cost of Sh1.2 billion.

To ensure institutional and individual accountability, the Judiciary continued to review and implement its employees' Performance Management and Assessment annual programmes. Compliance was observed in internal processes by enforcing the Public Finance Management Act (2012), Public Officer Ethics Act (2003), the Employment Act, (2007), the Occupational Safety and Health Act, (2007) the NHIF Act (2012), NSSF Act (2013), and Pensions Act (2012) among others. To improve on the management of Human Resources and ensure harmony in the administration of Human Resource policies, the Taskforce appointed to review the Human Resource (HR) Manual continued with its mandate.

All these activities were achieved despite challenges in financial constraints and human capital resource deficits.

5.2 Key Milestones

The highlights of the Judiciary's human resource management achievements during the year under review included the following:

5.2.1 Organisation Review

5.2.1.1 Background

The consultant completed the task and submitted the Judiciary Organizational Review Report (2018) to the Judicial Service Commission (JSC), which was adopted and launched on November 15, 2018. In March 2019 the JSC Human Resource Committee considered and approved the management proposal to internally implement the report with effect from April 1, 2019. The Chief Registrar of the Judiciary (CRJ) chaired the Committee with technical guidance provided by the Directorate of Human Resource Management and Administration.

5.2.1.2 Terms of Reference

The team's Terms of Reference (TOR) were:

- i. Interrogation of the Organization Review Report (2018) and address any shortcomings/gaps/omissions and any other noted oversights;
- ii. Development of implementation activities and schedules, roll-out and facilitate the implementation of the proposed Organization structure;
- iii. Development of Grade titles for the proposed Grading structure;
- iv. Development of the optimum staff establishment;
- v. Development of career guidelines for all job cadres;
- vi. Development of new organization salary structure based on the grading structure; and,
- vii. Review the Human Resource Policy Manual and align it with the Organization Review.

5.2.1.3 Organizational Review Report (2018) Activities

The team conducted the following activities:

- i. Developed a comprehensive implementation matrix, with clear timelines and activities;
- ii. Developed the Judiciary Organogram and Administrative Structure ;
- iii. Developed Judiciary Staff Grading Structure. The structure inverted the PLS 17 Grades to JSG 11 grades, with clear nomenclatures and designations;

- iv. Developed a comprehensive Judiciary Establishment. The total establishment is 10,243 comprising of staff for Courts, Executive Offices, Registrars, Directorates, and Tribunals. Against an existing in the post of 5,584. The variance will be filled in the next five years, with 300 earmarked in the FY 2019/20;
- v. Developed Career Guidelines for judicial staff for 21 cadres;
- vi. Developed the Judiciary Salary Structure; and
- vii. Aligned and harmonized the draft Judiciary Human Resource Manual with recommendations of the Organization Review Structure report.

5.2.2 Human Resource Manual Review Taskforce

The Chief Justice in FY 2018/19 appointed the Human Resource Policies and Procedures Manual Taskforce. The objective was to carry out a review of existing Human Resource Policies and Procedures Manual, identify gaps, capacity weakness in relation to best practices and the public service management standards. The Taskforce conducted various activities and produced a draft report aligned with the recommendations of the Judiciary Organizational Review Report (2018). The Report is awaiting validation by stakeholders and approval by the JSC.

5.2.3. Performance Appraisal System

To enhance individual and institutional accountability and entrench performance measurement, the Judiciary continued to review and implement its employees' performance management and assessment of annual programmes. The primary objective of the Performance Appraisal System (PAS) is to ensure quality service delivery as anchored in the Judiciary Blue Print, Sustaining Judiciary Transformation (SJT): A Service Delivery Agenda (2017 - 2022).

In FY 2018/19 significant milestones were realised. Judicial Officers had their Daily Court Returns Templates (DCRT) submitted on monthly basis, while Judicial Staff had their PAS forms filled and evaluated with an average score of 88 percent as indicated in Table 5.1. The continuous roll out, sustainable monitoring by various stakeholders and demand for individual and institutional accountability have made PAS a living reality. A framework for implementing rewards and sanctions was also developed.

Table 5.1: PAS Rating for Judicial Staff in FY 2018/19

No	Region	Average Score (%)	Grade
1.	Central & South Rift	97	Good
2.	Central	94.1	Good
3.	Coast	91.5	Good
4.	Central & South Nyanza	91.3	Good
5.	Lower and North Eastern	89.5	Good
6.	Central and Upper Eastern	89.2	Good
7.	Western	87.2	Good
8.	North Rift	61.6	Average
9.	Nairobi	91.5	Good
	National Average	88	Good

5.2.4 Recruitment

The Judiciary is committed to attract, develop and retain highly-skilled, motivated professionals and persons with integrity to implement its mandate. Recruitment is conducted by the JSC.

In order to achieve its mandate as per the provisions of the Constitution, the JSC has continuously ensured that the recruitment, training, and development of judges, judicial officers and staff are done in a transparent manner. During the year, judiciary conducted recruitment to fill vacancies in critical areas in its establishment as follows;-

a) The nomination of Judges for Appointment

During the FY 2018/19 various vacancies for Judges had been declared vacant among them being 11 in the Court of Appeal, 20 in Environment and Land Court (ELC) and 10 in Employment and Labor Relations Court (ELRC). JSC received and considered 101 applications for judge, Court of Appeal. The Commission shortlisted 35 applicants and conducted the interviews in June which recommended 11 applicants for appointment as Judges.



The Judicial Service Commission conducting interviews for judges.

b) Recruitment of Judicial Officers

The JSC concluded the recruitment process and appointed a Deputy Chief Registrar of the Judiciary, and 49 Resident Magistrates, of whom 33 (67%) were female and 16 (33%) were male as indicated in table 5.2 below.

Table 5.2: Recruitment of Judicial Officers

NO.	POSITION	APPLICANTS	SHORTLISTED	DATE OF INTERVIEW	NUMBER APPOINTED
1	Deputy Chief Registrar	16	12	July 16 to 18, 2018	1
2	Resident Magistrate	303	102	October 22 to November 6, 2018	49
TOTAL					50

b) Recruitment of Judicial Staff/ Tribunal Officers

During the year under review, vacancies for legal researchers, senior staff for Human Resource Directorate, Chairpersons for Co-operative Tribunal, Tourism Tribunal, and nominee of JSC to Salaries and Remuneration Commission (SRC) were advertised. The JSC conducted interviews and appointed 70 legal researchers; Director Human Resource and Administration; two Deputy Directors for Human Resource Management and for Talent Management respectively; two chairpersons for Co-operative Tribunal and Tourism Tribunal respectively. The JSC also appointed legal counsel for Office of the Hon. Chief Justice and nominated one person to represent JSC to SRC. The analysis is as shown in Table 5.3.

Table 5.3: Recruitment of Judicial Staff/ Tribunal Officers

NO.	POSITION	APPLICANTS	SHORTLISTED	DATE OF INTERVIEW	NUMBER APPOINTED
1	Legal Researchers	355	141	August 6 to 14, 2018	70
2	Nominee of JSC to SRC	11	6	July 19, 2018	1
3	Chairperson Co-operative Tribunal	10	6	July 11, 2018	1
4	Chairperson, Tourism Tribunal	8	5	July 10, 2018	1
5	Director, Human Resource and Administration	38	7	October 15 and 16, 2018	1
6	Deputy Director, HRM	51	6	October 17, 2018	1

NO.	POSITION	APPLICANTS	SHORTLISTED	DATE OF INTERVIEW	NUMBER APPOINTED
7	Deputy Director, Talent Management	27	4	October 18, 2018	1
8	Legal Counsel Office of the Hon. Chief Justice	N/A	N/A	November 20, 2018	1
Total					77

c) Contractual Appointment

The JSC further considered and extended contracts for 41 judicial staff whose contracts were due as indicated in Table 5.4 below.

Table 5.4: Extension of Contractual Appointment

NO	POSITION	NUMBER
1	Law Clerks and Legal Researchers	32
2	Chief Architect	1
3	Architect	1
4	Inspectors	2
5	Superintendent of Work	2
6	Internal Auditor	1
7	Driver	1
8	ICT Officer	1
Total		41

5.2.5 Career Progression and Promotions

In FY 2018/19 the JSC conducted suitability interviews for the promotion of 178 magistrates and kadhis in two phases. Promotions of the judicial staff were postponed to await implementation of the Organizational Review Report.

d) Promotions of Judicial Officers

During the reporting period, the Commission conducted suitability interviews for the promotion of magistrates and kadhis. 104 magistrates were promoted by November 12, 2018. 74 magistrates and kadhis were promoted after the Commission concluded the second Phase of the judicial officer's interviews on February 28, 2019 as indicated in Table 5.5.

Table 5.5: Promotion of Judicial Officers

NO.	POSITIONS	NUMBER ELIGIBLE	DATE OF INTERVIEW	NUMBER PROMOTED
1	Senior Principal Magistrate (SPM) to Chief Magistrate (CM)	19	March 21, 2018. February 19 and 21 2019	1
2	Principal Magistrate (PM) to Senior Principal Magistrate SPM	15	March 26 to 28 2018	10
3	Senior Resident Magistrate (SRM) to Principal Magistrate (PM)	11	April 3 to 4 2018	9
4	Resident Magistrate (RM) to Senior Resident Magistrate (SRM)	99	June 18 to July 5, 2019	96
5	Senior Resident Kadhi to Principal Kadhi	1	April 4,2018	1
6	Resident Kadhi to Senior Resident Kadhi	2	April 4, 2018	2
7	Senior Principal Magistrate (SPM) to Chief Magistrate (CM)	15	February 19 and 21 2019	11
8	Principal Magistrate (PM) to Senior Principal Magistrate SPM	19	February 20, 2019	17
9	Senior Resident Magistrate (SRM) to Principal Magistrate (PM)	55	February 25 to 28, 2019	46
10	Resident Magistrate (RM) to Senior Resident Magistrate (SRM)	2	February 28, 2019	0
TOTAL				178

5.3 Promotions of Judicial Staff

During the FY promotions of the judicial staff were put on hold awaiting completion and recommendation of the Organizational Review Report (2018). The Commission appointed a team to oversee the smooth implementation of the report which is on-going.

5.3.1 Confirmation in Appointment

In compliance with the Human Resource Policies and Procedures Manual (2014) and Employment Act Cap 226 No. 11 of 2007, Section 42(2) which requires that an employee be confirmed in appointment after six months from the date of appointment, the 43 judicial staff were confirmed in appointment during the reporting period as indicated in table 5.6.

Table 5.6: Confirmation of appointment

No.	Designation	Number Confirmed
1.	Clerical Officers	20
2.	Cleaning Supervisor	1
3.	Senior Clerical Officer	2
4.	Archivist III	2
5.	Archives Assistant II	7
6.	Secretarial Assistant II	3
7.	Executive Assistant	1
8.	Process Server II	1
9.	Court Bailiff	1
10.	Personal Secretary III	4
11.	Senior Kadhi	1
TOTAL		43

5.4 Authentication of Certificates

To ensure that all staff held authentic certificates, the Judiciary continued to undertake the exercise of verifying and authenticating professional and academic certificates presented by newly appointed staff and those seeking career advancement through promotions/re-designations. A total of 441 certificates were presented to the various examining bodies for authentication and the outcome is as indicated in Table 5.7.

Table 5.7: Authentication of Certificates

No.	Certificates	Number Of Certificates Submitted for Verification	Comment/ Action
1.	K.C.S.E	106	99 were genuine, 7 are awaiting verification
2.	Degree Certificates	335	253 were verified as genuine, 82 still awaiting verification
TOTAL		441	

5.5 Separation of Employees

During the year under review, 188 employees exited from the Judiciary due to retirement, resignations, and death. Other exits were due to dismissals, expiry of contracts, and lapsing of leave of absence. Table 5.8 outlines the breakdown of the employee's separation during the period.

Table 5.8: Separation of Employees

No.	Nature of Cases	Number
	Dismissals	22
	Contract Expiry	40
	Retirement	81
	Resignations	29
	Deaths	16
	TOTAL	188

5.6 Transfers

The Judiciary considered and approved 450 staff transfers during the period. There was a marginal decline of 1.96 per cent compared to similar approvals in FY 2017/18 as indicated in Table 5.9 below.

Table 5.9: Management Initiated Transfers

NO.	MONTH	FY 2017/18	FY 2018/19
1	July 2018	41	22
2	August 2018	52	46
3	September 2018	38	38
4	October 2018	62	38
5	November 2018	25	52
6	December 2018	28	62
7	January 2019	54	76
8	February 2019	32	44
9	March 2019	43	10
10	April 2019	41	12
11	May 2019	17	17
12	June 2019	26	33
	TOTAL	459	450

5.6.1 Employee Initiated Transfers

The Judiciary considered and approved 143 employee requests for transfers compared to 123 approvals in the same period last FY as indicated in table 5.10.

Table 5.10: Approved Employee Initiated Transfers

S/NO.	MONTH	FY 2017/18	FY 2018/19
1	July 2018	5	23
2	August 2018	9	14
3	September 2018	2	16
4	October 2018	12	22
5	November 2018	13	11
6	December 2018	19	19
7	January 2019	14	19

S/NO.	MONTH	FY 2017/18	FY 2018/19
8	February 2019	15	11
9	March 2019	5	2
10	April 2019	7	2
11	May 2019	10	2
12	June 2019	9	2
TOTAL		120	143

5.7 Removal from Office & Disciplinary Control

The Judicial Service Commission (JSC) is established under Article 171 of the Constitution. Its mandate as set out under Article 172 is to promote and facilitate the independence and accountability of the Judiciary and the efficient, effective and transparent administration of Justice. The two principles of accountability and independence complement each other. It is on this basis that the JSC under Article 168 exercises power to receive and consider complaints and Petitions against Judges. Under Article 168 (2) the removal of a Judge may be initiated by the JSC acting on its own motion or on a petition by any person.

The Commission in exercising its mandate under Articles 168 is also guided by Articles 252 and 47 of the Constitution, the Fair Administrative Actions Act No 4 of 2015 and the Judicial Service Code of Conduct and Ethics. In considering Petitions, the Commission is minded of the fact that it does not sit on appeal or review over any Judgment or Ruling of a Judge. Such mandate as provided for by the Constitution and other relevant laws squarely lies respectively with the appellate Court and the Court issuing the Judgment/Ruling. If it were to sit on appeal or review of any Judgment or Ruling of a Judge, it would seriously undermine the independence of the Judiciary which the Commission is by law mandated to protect.

5.7.1 Complaints/Petitions against Judges

In the year under review, the JSC received 162 complaints and petitions against honourable judges. 124 complaints were concluded, while 38 were pending as at the end of the reporting period as indicated in Table 5.11, 5.12, and 5.13.

Table 5.11: Summary of Complaints Examined by JSC FY 2018/19

NO.	DETAILS	NUMBER
1.	Complaints pending as at June 30, 2018	25
2.	Complaints received during the year	137
3.	Total Complaints	162
4.	Complaints concluded	124
5.	Complaints pending as at June 30, 2019	38

Table 5.12: Petitions/Complaints Received in FY2018/2019

NO.	CATEGORY	NO. COMPLAINTS
1.	Complaints dismissed by the Commission at the Preliminary Evaluation stage for touching on the merit of the case and decision independence of a judge and some complainants advised to pursue appeal or review.	111
2.	Petitions/Complaints admitted for hearing and actions undertaken by the Commission after hearing	25
3.	Petition forwarded to the President to appoint a tribunal	4 out of the 25 admitted for hearing
4.	Petitions dismissed after hearing	5 out of the 25 admitted for hearing
5.	Petitions withdrawn by the respective petitioners/complainants	4 out of the 25 admitted for hearing
6.	Completed hearings awaiting the Commission's decision	5 out of the 25 admitted for hearing
7.	Hearings that are ongoing	7 out of the 25 admitted for hearing
8.	Complaints awaiting preliminary evaluation by the Commission	7
9.	Petitions admitted for hearing but awaiting further directions by the Commission	3
10.	Complaints where the Hon Judges have responded, and the complaints and responses awaiting further directions by the Commission	10
11.	Complaints upon which complainants have been asked to furnish further information	5

The disciplinary matters facing judicial officers included; incompetence, illegalities, gross misconduct, gross misbehaviour, fraud and violation of the Constitution. Others faced corruption/bribery/professional misconduct, undue influence/compromise/abuse of office, bias/dishonest/partiality/oppression and issuing final orders at ex-parte stage among others.

Table 5.13: Summary of disciplinary matters handled by JSC in FY 2018/19

PARTICULARS	FY2015/16	FY2016/17	FY 2017/18	FY2018/19
Matters brought from previous year	18	18	25	21
New matters received	4	21	12	3
Appeals/Reviews received	16	20	21	22
Total no. of matters available to handle	38	59	58	46
Cases referred to Hon. Chief Justice for administrative action	0	0	0	3
Total number concluded	20	31	24	32
The number of matters pending at the end of the year	18	28	34	11

5.7.2 Disciplinary Matters against Judicial Officers

In the FY 2018/19, the JSC received 11 cases against judicial officers. Out of these, nine were pending cases from the previous year including two appeals/reviews. A total of ten cases were heard and concluded. Five officers were dismissed, while three officers were reinstated. One appeal was allowed and another one disallowed. One disciplinary case was pending at the end of the reporting period.

5.7.3 Disciplinary Matters for Judicial Staff

The JSC receives and considers disciplinary matters for judicial staff. It has, however, delegated disciplinary matters for staff in PLS 8 and below to the Human Resource Management Advisory Committee (HRMAC). During the year, the Commission received a total of 46 disciplinary matters against judicial staff in PLS 9 and above. Out of these, three were fresh disciplinary cases while 21 pending cases from the previous year and 22 were appeals/review. A total of 32 cases were heard and concluded. This represents 69.6% of the total cases. 11 disciplinary cases were pending at the end of the reporting period as shown in Table 5.14.

Table 5.14: JSC Disciplinary Matters for Judicial Staff Handled in FY2018/19

PARTICULARS	NO. OF COMPLAINTS
Discipline cases pending as of June 30, 2018	21 cases
New discipline cases received	3 cases
Appeals/Reviews received	22 cases
Total complaints	46 cases
Cases pending as of July 30, 2018 referred to the Hon. Chief Justice for Administrative action	3 cases
Total discipline concluded in FY2018/19	32 cases
Discipline cases pending as of June 30, 2019	11 cases

5.7.4 Outcome of Disciplinary Matters PLS 9 and above

In the year under review 19 appeals were disallowed, while two reviews were allowed. The commission also dismissed four members of staff upon hearing and determining their disciplinary cases as indicated in table 5.15.

Table 5.15: Classification of cases for Judicial Staff concluded by Outcome FY 2018/19

OUTCOME	NUMBER
Discipline cases dismissed	4 cases
Appeal disallowed	19 cases
Reviews disallowed	7 cases
Discipline/Appeals /Reviews allowed	2 cases
Total complaints concluded	32 cases

5.7.5 Disciplinary Matters for Judicial Staff, PLS 8 and Below

Discipline matters in PLS 8 and below are processed and presented before the HRMAC. In the appraisal year, the Judiciary received and registered a total of 130 cases, whereby 53 cases were finalized within six months. A total of 103 cases both normal and court cases were carried over as indicated in table 5.16.

Table 5.16: Summary of Disciplinary Matters Financial Year 2018/19

DESCRIPTION OF MATTERS	NUMBER OF CASES
No. of cases brought forward from F/Y 2017/2018	103
No. of Cases registered during F/Y 2018/2019	130
Disciplinary matters for consideration (F/Y)(Total)	233
No. of cases finalized during F/Y 2018/2019	111
No. of Cases pending as at June 30, 2019	122

a) Disciplinary Matters Registered during FY 2018/2019

A total of 130 cases were registered during the year, out of these 53 cases were resolved and 77 cases are pending disciplinary matters.

i) Disciplinary matters registered per cadre

Table 5.17 shows the matters registered in FY 2018/19 per cadre.

Table 5.17: Registered Disciplinary matters by cadre in FY 2018/19

NO.	CADRE	NUMBER
1.	Support Staff	13
2.	Accountants	8
3.	Clerical Officers	72
4.	Archivist	2
5.	Drivers	3
6.	Secretaries	3
7.	HR	3
8.	ICT	2
9.	Security Guard	7
10.	Procurement/storekeeper	4
11.	Legal Researcher	1
12.	Executive Officers/Assistants	7
13.	Process Servers	4
14.	Telephone Operators	1
TOTAL		130

ii) Actions on Disciplinary Matters Received in FY 2018/19

Out of the 130 registered disciplinary matters, 11 members of staff were interdicted, 94 were suspended and 25 issued with show-cause letters as indicated in Table 5.18.

Table 5.18: Registered Disciplinary Matters in F/Y 2018/19 as per action taken

S/NO.	NATURE OF CHARGES	NO. OF CHARGES	INTERDICTION	SUSPENSION	SHOW CAUSE
1.	Absenteeism	34	-	25	9
2.	Abuse of office	5	-	2	3
3.	Fraud	6	1	5	-

S/NO.	NATURE OF CHARGES	NO. OF CHARGES	INTERDICTION	SUSPENSION	SHOW CAUSE
4.	Corrupt practices	14	5	6	3
5.	Misappropriation/ loss of funds	3	2	1	-
6.	Stealing Judiciary property	5	3	1	1
7.	Work negligence	6	-	-	6
8.	Forgery	49	-	49	-
9.	Giving false information	1	-	1	-
10.	Insubordination	6	-	4	2
11.	Intoxication during working hours	1	-	-	1
TOTAL		130	11	94	25

a) Analysis of matters carried over and finalized in FY 2018/2019

i) Disciplinary matters carried over from FY 2017/18 per action

A total of 103 cases were carried over from the appraisal year 2017/2018 to the appraisal period 2018/19. 49 members of staff were interdicted, 38 placed on suspension, 8 issued with show-cause letters and salary stopped for 8 staff as indicated in table 5.19.

Table 5.19: Disciplinary matters carried over from FY 2017/18 and action taken

S/NO.	NATURE OF CHARGE	NO. CHARGED	INTERDICTION	SALARY STOPPAGE	SHOW CAUSE	SUSPENSION
1.	Absenteeism	32	1	8	1	22
2.	Careless driving	3	3	-	-	-
3.	Corrupt practices	24	19	-	3	2
4.	Defilement	1	1	-	-	-
5.	Misappropriation of funds	6	4	-	1	1
6.	Forgery	17	7	-	-	10
7.	Fraud	5	4	-	-	1
8.	Giving false information	1	-	-	1	-
9.	Insubordination	3	1	-	2	-
10.	Stealing by servant	11	9	-	-	2
TOTAL		103	49	8	8	38

a) Disciplinary Matters Finalized In FY 2018/2019

i) Total Disciplinary matters finalized in F/Y 2018/19

One hundred and eleven disciplinary matters were deliberated upon and finalised by the HRMAC 58 from backlog and 53 from matters registered during the reporting period as indicated in table 5.20.

Table 5.20: Disciplinary Matters Finalized in FY 2018/2019 per cadre

S/NO.	CADRE	NUMBERS
1	Support Staff	17
2	Accountants	5
3	Clerical Officers	59
4	Archivist	2
5	Drivers	4
6	Secretaries	6
7	ICT	1
8	Security Guard	7
9	Procurement/storekeeper	2
10	Legal Researcher	-
11	Executive Officers/Assistants	5
13	Process Servers	3
TOTAL		111

II) Disciplinary matters finalized within six (6) months

53 matters out of the 130 registered matters were finalized within six months as indicated below: -

Table 5.21: Disciplinary Matters Finalized in FY 2018/2019 within six months of commencement per cadre

S/NO.	CADRE	NUMBERS
1	Support Staff	8
2	Clerical Officers	31
3	Archivist	1
4	Drivers	3
5	Secretaries	1
6	ICT	1
7	Security Guard	4
8	Executive Officers/Assistants	1
9	Process Servers	3
TOTAL		53

III) Case type and action of matters finalised during Financial Year 2018/19

Out of the 111 finalized matters in FY 2018/19, 42 were charged with forgery being the highest number, followed by 37 absenteeism. The other case types were as indicated in Table 5.22.

Table 5.22: Case Type and Action of Matters Finalised During FY 2018/19

S/ No.	Nature of Charge	No. of Charges	Show Cause	Suspension	Interdiction
1.	Absenteeism	37	9	27	1
2.	Fraud	8	-	1	7
3.	Corrupt Practices	6	-	2	4
4.	Misappropriation/ loss of funds	1	-	1	-
5.	Stealing Judiciary Property	2	-	-	2
6.	Forgery	42	-	42	-
7.	Poor work attitude	1	1	-	-
8.	Insubordination	9	5	2	2
9.	Interfering with official documents	4	-	3	1
10.	Careless driving	1	-	1	-
TOTAL		111	15	79	17

a) Pending Disciplinary matters

As of June 30, 2019, matters pending were 122 where most of them were cases pending in Court.

Table 5.23: Disciplinary matters carried over to FY 2019/20 and their nature

S/NO.	NATURE OF CHARGE	NUMBER CHARGED
1.	Absenteeism	38
2.	Careless driving	1
3.	Corrupt practices	23
4.	Defilement	1
5.	Misappropriation of funds	6
6.	Forgery	19
7.	Fraud	14
8.	Giving false information	1
9.	Negligence	5
10.	Stealing by servant	7
11.	Intoxication during working hours	2
12.	Abuse of Office	5
TOTAL		122

From Table 5.23, the three most prevalent charges are absenteeism, corruption

practices, and forgery. Out of the 38 charged with absenteeism, 23 were Clerical Officers. Forgery matters were distributed among cadres with Clerical officers being the highest at seven. Matters of fraud had nine Clerical Officers, four Accountants, and one Support staff.

5.8 Training and Development

The Judiciary conducted staff training and capacity building programmes to improve efficiency and effectiveness in job performance. It also offered attachments, pupilages and law clinics to students.

5.8.1 Training of Judicial Staff

The Judiciary offered various training opportunities to over 277 officers compared to 725 trained in the FY 2017/18 as indicated in Table 5.24. The training offered included career progression courses and continuous development programs to equip officers with the requisite skills and competencies. 289 students were offered pupillage and attachment opportunities compared to 542 students in the previous year, while 2,290 law students were offered judicial attachments in various courts. Overall, the judiciary budget cuts affected roll out and implementation of some of the planned activities.

Table 5.24: Summary of Training for the Past Three Financial Years

S. NO.	TRAINING AREA	TARGET GROUP	FY 2016/17	FY 2017/18	FY 2018/19
1.	Pre- retirement training	Judicial Officers and Judicial Staff	45	0	78
2.	Strategic Leadership Development Programme (SLDP)	Judicial officers, Deputy Registrars, Directors and those in top leadership positions	6	15	6
3.	Senior Management Course (SMC)	Executive Officers, Executive Assistants, Accountants, Finance Officers, Economists	38	52	57
4.	Supervisory Skills Development Course (SSDS)	Executive Assistants, head of section, clerical officers	36	104	24
5.	Induction of newly recruited Staff	Newly recruited clerical officers, ICT officers, Archivists and secretaries	1,137	409	0
6.	Defensive driving course for drivers	Drivers	30	0	0
7.	Facilitation of members to attend professional workshops	IHRM Annual conference for registered members	30	20	8
8.	Membership renewal and upgrading to practicing certificates	IHRM Annual Subscription			25

S. NO.	TRAINING AREA	TARGET GROUP	FY 2016/17	FY 2017/18	FY 2018/19
9.	Team building activities	Team building activity for the HR department members	53	75	78
10.	Capacity building for HR staff	All HR staff	55	50	
11.	Management Development Course at Esami – Arusha	Supervisors and Mid – Level Management	0	0	1
TOTAL			1,430	725	277

5.8.2 Training of Judicial Staff by Gender

In terms of selecting participants for training in Kenya of School of Government (KSG) programmes there was gender parity, as 46 male (51.6%) and 43 (48.4%) female participated in the various programmes offered as indicated in table 5.25.

Table 5.25: Summary of KSG courses for FY 2018/19 by Gender

S/NO.	COURSE	MALE	FEMALE	TOTAL
1.	SLDP	2	4	6
2.	SMC	24	31	55
3.	SSDC	18	6	24
4.	Supervisory Management Course	1	0	1
5.	Records Management	1	2	3
TOTAL		46	43	89

5.8.3 KSG Courses Conducted in FY 2018/19 per School

Table 5.26 presents the courses that were conducted and the school in which they were conducted.

Table 5.26: Courses completed

S/ NO.	SCHOOL	COURSE	NUMBER
1.	Nairobi – Lower Kabete	SLDP	4
		SMC	4
		SSDC	6
		Records Management	3
2.	Mombasa	SMC	14
		SSDC	2
		Supervisory Management	1
3.	Matuga	SLDP	0
		SSDC	0
4.	Baringo	SMC	22
		SSDC	15
5.	Embu	SLDP	2
		SMC	16
TOTAL			89

Table 5.27: Strategic Leadership Development Programme Courses

S/ No.	Designation	Number Trained By Gender		
		Male	Female	Total
1.	Senior Resident Magistrate	0	1	1
2.	Assistant Director	1	1	2
3.	Principal HRO	1	1	2
4.	Chief HRO	0	1	1
TOTAL		2	4	6

Table 5.28: Senior Management Courses

S/ No.	Designation	Number Trained By Gender		
		Male	Female	TOTAL
1	Librarian	1	5	6
2	Secretary	0	7	7
3	Accountant	6	5	11
4	Executive Officer	3	0	3
5	Executive Assistant	9	3	12
6	Procurement Officer	0	3	3
7	Clerical Officer	4	3	7
8	HRM Officer	1	5	6
9	ICTO	0	1	1
10	Building Technician	1	0	1
Total		25	32	57

Table 5.29: SSDC Courses FY 2018/19 per cadre

S/NO.	DESIGNATION	Number Trained By Gender		
		Male	Female	Total
1	Executive Assistant	3	0	3
2	Clerical Officer	8	5	13
3	Support Staff	2	0	2
4	Accountant	3	0	3
5	ICT Officer	1	0	1
6	Programme Officer	0	1	1
7	Artisan	1	0	1
TOTAL		18	6	24

Table 5.30: Records Management

S.No	Designation	Number Trained By Gender		
		Male	Female	Total
1.	Clerical Officer	1	2	3

5.8.4 General Attachment and Pupilage

In FY 2018/19, the Judiciary offered 360 opportunities for Pupilage and general attachment as indicated in Table 5.31.

Table 5.31: Pupillage and Attachment

S/NO.	DESCRIPTION	INSTITUTION	OFFICE/ COURT ATTACHED	FY 2017/18	FY 2018/19
1	Pupilage	Kenya School of Law	Supreme Court, Court of Appeal, High Courts and Magistrates courts.	152	71
2	Industrial Attachment	Various Learning Institutions	1. HR & Admin	72	30
			2. Accounts	73	40
			3. DBS	4	5
			4. DPAC	6	5
			5. PMD	18	15
			6. Finance	4	15
			7. Library	12	5
			8. ICT	71	95
			9. DSCM	71	30
			10. Various Courts	58	30
			11. JTI	1	0
			12. C.O.A	0	19
GRAND TOTAL				542	360

5.8.5 Judicial Attachment

In FY 2018/19, the Judiciary was able to place 2,290 students on judicial attachment. The universities and the number of students attached to each university are as shown in table 5.32 below:

Table 5.32: Judicial Attachment

S/ NO.	UNIVERSITY	JULY TO DEC 2018	JAN TO APRIL 19	MAY TO JUNE 19	TOTAL
1.	Africa Nazarene	0	54	0	54
2.	Riara	0	0	0	0
3.	Kabarak	0	118	0	118
4.	JKUAT	0	33	97	130
5.	Mount Kenya	0	99	213	312
6.	Catholic University	0	53	174	227
7.	Strathmore University	0	143	0	143
8.	University of Nairobi	505	186	282	973

9.	Kenyatta University	0	0	152	152
10.	Kisii University	0	0	28	28
11.	Moi University	0	69	0	69
12.	Egerton University	0	84	0	84
TOTAL		505	839	946	2,290

5.8.6 Attachment and Pupilage

In cognizance of the role of attachment and pupilage in the development of young professionals, the Judiciary provided attachment and pupilage opportunities to students. Table 5.33 analysis the trend of these placements in the Judiciary for the past three years.

Table.5.33. Attachments and Pupilage

S/ No.	Category	2015/16	2015/17	2017/18	2018/19
1.	Clinical attachments	841	2,306	3,089	2290
2.	Pupilage	48	87	152	71
3.	Other areas of specialization	113	493	390	289
TOTAL		1,002	2,886	3,631	2,650

5.9 Employee Wellness

During the year under review, the Judiciary implemented various employee welfare programmes: The medical scheme for judges, judicial officers, and the staff was renewed with effect from January 18, 2019 to January 18, 2020. A Group Life Insurance for all judges and Group Personal Accident Insurance for all employees is also in place. Other benefits that have enhanced staff welfare include the staff car loan and mortgage scheme. A total amount of Sh23,267,293 was incurred by the judiciary to settle 11 personal accident injury claims out of table 27 reported. Over one billion was spent to settle medical claims as indicated in table 5.39. The Judiciary also offered various programmes towards enhancing the welfare of employees with disability as indicated in table 5.34.

Table.5.34: Interventions by the Judiciary towards Employees with Disability

S/ NO.	INTERVENTIONS	CADRE	NUMBER
1.	Assistive Allowance Sh. 15,000 per month)	Judges	1
		Staff	11
2.	Wheel Chair	Staff	3

3.	White Cane	Magistrate	1
		Staff	3
4.	Hearing Aid	Judge	1
		Staff	1
5.	Laptop with JAWS	Staff	1
6.	Tax Exemption	Judges	5
		Magistrates	7
		Staff	75

Judiciary medical cover

The Judiciary takes the health of Judiciary staff with paramount importance. To ensure access to health services for Judiciary staff, Sh1,010,644,649 was utilized to fund inpatient and outpatient expenses for its staff as shown in Table 5.35.

Table.5.35 Medical Overall Utilization

ITEM	PROJECTED (SH)	ACTUAL UTILIZATION (SH)
Insured Inpatient	485,000,000	438,232,931.00
Funded Outpatient	650,000,000	572,411,718.91
TOTALS	1,135,000,000	1,010,644,649.91



Mr. Hussein Tuka a Person with Disability, Executive Assistant of Moyale Law Courts receiving a Motorized Wheelchair on February 18, 2019.



The Director HR&A, CHRP (DR.) Elizabeth Kalei presenting a Laptop with JAWS to Francisca Bett on July 22, 2019, a blind Clerical Officer at Kericho Law Courts



Ruth Kyengo, Deputy Director (second right) (Talent Management) presenting a White Cane to Mrs. Jane Ocharo, Deputy Registrar, High Court.

5.10 Transport

During the period under review, the Judiciary had 405 serviceable vehicles assigned to courts stations, judges and other units and offices. Seven vehicles were procured while 57 were grounded as at the reporting period.

5.11 Work Environment

During the FY 2018/19 the Judiciary undertook various projects focusing on improvement of the work environment, security and office accommodation. The Judiciary carried out rehabilitation/refurbishment that included shelving of registries, installation of water tanks, construction of ablution blocks, customer care, waiting bays and solar system. This was done in 15 High Court buildings at Milimani, Kisumu, Makueni, Bomet, Kisii, Voi, Vihiga, Thika, Nyeri, Meru, Marsabit, Naivasha, Narok, Lodwar, and Kitui and 42 Magistrate court buildings at Kaloleni, Sirisia, Winam, Mavoko, Baricho, Bondo, Bungoma, Butali, Eldama Ravine, Githunguri, Hamisi, Homabay, Kabarnet, Nairobi Kadhis' Court, Kajiado, Kandara, Kangu'ndo, Kapsabet, Kehancha, Kisumu (Old building), Keroka, Kerugoya, Kikuyu, Kilifi, Kitale, Kyuso, Lamu, Mariakani, Marimanti, Maua, Mbita, Migori, Moyale, Mumias, Mutomo, Ndhiwa, Ngong, Siakago, Ukwala, Mombasa, Kaloleni, and Ogembo; and at the National Civil Aviation Appeals and Administrative Review Tribunals' premises. The Magistrate Court buildings at Hamisi and Vihiga were also completed. One court room for the Supreme Court and Court of Appeal chambers were also refurbished.

5.12 Judiciary Establishment and Employee Composition

As at June 30, 2019, the Judiciary had 5,584 employees, against an approved establishment of 10,243 with a variance of 4,659 representing 45 per cent shortfall. Among them 91 were employees with disability, five being judges, Seven judicial officers and 79 judicial staff. Consequently, judiciary is operating at 55 per cent of its optimum staffing levels as indicated in table 5.35 below.

Table.5.36 Judiciary Establishment as at June 30, 2019

S/ NO.	DESIGNATION	APPROVED POSTS (A)	IN POST (B)	VARIANCE (A-B) ADDITIONAL NUMBERS NEEDED
1	Chief Justice	1	1	0
2	Deputy Chief Justice	1	1	0
3	Judge of Supreme Court	5	5	0
4	Judge of Appeal Court	30	19	11
5	High Court Judge	200	82	118
6	Environment and Land Court	53	33	20
7	Environment & Labour Relations Court	22	12	10
8	Chief Registrar	1	1	0
9	Deputy Chief Registrar	1	1	0
10	Chief of Staff to rtd CJ	1	1	0
11	Chief of Staff to CJ	1	1	0
12	Legal Advisors (OCJ)	3	3	0
13	Chief Magistrate	80	58	22
14	Senior Principal Magistrate	160	69	91
15	Principal Magistrate	240	98	142
16	Senior Resident Magistrate	400	208	192
17	Law Clerks	15	15	0
18	Resident Magistrate	320	113	207
19	Legal Researchers	88	81	7
20	Legal Officers	3	3	0
21	Registrars	6	6	0
22	Deputy Registrar	61	2	59
23	Assistant Registrar	2	2	0
24	Directors	15	4	11
25	Deputy Directors	32	12	20
26	Assistant Directors	129	80	49
27	Senior Officers	324	183	141
28	Officers I	616	278	338
29	Officers II	934	577	357
30	Officers III	1,250	664	586
31	Senior Assistant Officer	1,139	522	617
32	Court Assistants	1,889	1,694	195
33	Office Assistant	1,355	652	703
34	Support staff	866	103	763
	TOTALS	10,243	5,584	4,659

5.13 Conclusion

The Judiciary will continue to implement various transformative human resource initiatives in an effort to meet the expectations of Kenyans. In order to improve on the discharge of its mandate and enhance productivity, the Judiciary will focus on the following key interventions among others:

1. Implement the recommendations of the Judiciary Organizational Report (2018) especially in optimally staffing courts, and administrative units, reviewing the staff salaries, and developing career guidelines for effective service delivery;
2. Conclude the review of the various Judiciary Human Resource policies, procedures and guidelines;
3. Institutionalize Performance Appraisal System tools and strengthen a rewards and sanctions framework; and
4. Engage Parliament, The National Treasury and Salaries and Remuneration Commission to address the human resource challenges facing the Judiciary.

Chapter 6

TRAINING AND CAPACITY
DEVELOPMENT WITHIN
THE JUDICIARY

THE JUDICIARY TRAINING INSTITUTE

TRAINING AND CAPACITY DEVELOPMENT WITHIN THE JUDICIARY

6.1 Introduction

6.1.1 Establishment and Mandate of JTI

The Judiciary Training Institute (JTI) was established in 2008 to provide training for judges and magistrates. Since then, it has grown into a formidable institution in the Judiciary, particularly following the promulgation of the 2010 Constitution. JTI exercises its mandate for and on behalf of the Judicial Service Commission (JSC). Article 172(1) (d) of the Constitution provides that one of the functions of the JSC is to prepare and implement programs for the continuing judicial education and training of judges and judicial officers. Section 47 (2) (e) of the Judicial Service Act vests power upon the Commission to make regulations for orientation and training for judicial officers and staff. In accord with the JSC constitutional obligation, JTI exercises its mandate as advised and directed by the Commission. For practical purposes, JTI's mandate includes the following:

- a) Providing and coordinating the provision of continuous judicial education to judges and judicial officers.
- b) Coordinating and preparing the Judiciary Training Master Calendar in consultation with internal and external stakeholders.
- c) Coordinating induction and training of judiciary staff in consultation with the Directorate of Human Resource and Administration.
- d) Conducting regional training programs.
- e) Conducting Monitoring and Evaluation (M&E) to determine the impact of Judiciary's training programs.
- f) Conducting research and developing draft policy on various aspects of administration of justice as advised and requested by JSC and or the Chief Justice.
- g) Sensitizing judges, judicial officers and judiciary staff on judiciary policies and circulars.
- h) Coordinating the development and publication of bench books and other publications relevant to enhancing skills and competence of judges and judicial officers.
- i) Spearheading on behalf of the judiciary, constructive engagement and feedback with stakeholders and other arms of government.
- j) Establishing partnerships and linkages.
- k) Providing advisory services to JSC.

The Institute is structured into three Directorates namely; Training and Curriculum Development, Policy and Research, and Finance, Planning and Administration. The Training Directorate is charged with the development of training curriculums, implementation of curriculums and programs through training and monitoring and evaluation of the impact of training programs. The Policy and Research Directorate has the mandate alone or in collaboration with the Training Directorate to undertake applied research, training and capacity building, facilitate and support policy formulation, monitor trends and disseminate information and network on national, regional and international levels. The Finance, Planning and Administration Directorate provides administrative and financial support to the two core Directorates.



6.2 Key Activities, Developments and Achievements during the Year under Review

6.2.1 Appointment of a New Director

The Chief Justice appointed Hon. Mr. Justice Kathurima M’Inoti as the Director JTI, with effect from October 1, 2018. Justice Kathurima took over from Justice (Prof) Otieno-Odek, Judge of the Court of Appeal who had been at the helm of the Institute since June 2, 2016.

Justice Kathurima M'noti, joined the Bench in 2012 as a Judge of the Court of Appeal. Prior to joining the Bench he was a practicing Advocate and a former lecturer in the Department of Public Law at the University of Nairobi. He has also served as Chair of the Kenya Law Reform Commission (KLRC), as a Commissioner of the International Commission of Jurists, a member of the Executive Committee of the Commonwealth Association of Law Reform Agencies as well as President of the Association of Law Reform Agencies of Eastern and Southern Africa. The Judge has received Presidential commendations of the Order of the Burning Spear (EBS) and the Order of the Grand Warrior (OGW) for his contribution to law reform in Kenya. He was the recipient of the Law Society of Kenya Distinguished Service Award for the Administration of Justice in 2016.



The new Director of JTI Hon. Mr. Justice Kathurima M'noti, (4th left seated) and former Director Justice (Prof) Otieno-Odek, JA, (5th left seated) pose for a photo with JTI staff members on 27th September 2018



Justice (Prof) Otieno-Odek, JA (L) handing over instruments of power to the new JTI Director Hon. Mr. Justice Kathurima M'noti.

6.2.2 The Judiciary Training Master Calendar 2018/2019

JTI has the administrative mandate of preparing an annual Judiciary Training Master Calendar as emphasized in the SJT blueprint. The calendar ensures that there is a fair distribution of training sessions and that the trainings are coordinated so that as far as possible, training programs do not interfere with the core mandate of the judiciary which is adjudication of disputes.

The process of developing the Master Calendar is required to be consultative. It begins with putting together priority areas of training for the financial year. The identification of training needs is an ongoing process each financial year and is based on the feedback and evaluation received from judges and magistrates in the trainings, consultations with Principal Judges, Presiding Judges, Registrars of courts as well as other internal and external stakeholders. The Institute also hosts a forum for development partners in the process of preparing the calendar.

During the year under review, the focus was on holding debrief sessions for judges and magistrates who had been involved in the adjudication of election disputes, following the August 2017 elections. A summary of the activities held during the reporting period is presented as an annexure to this chapter.

6.3 Implementation of the 2018/2019 Judiciary Training Master Calendar

6.3.1 Colloquiums

6.3.1.1 The Annual Judges Colloquium 2018

The theme of the August 2018 Annual Judges Colloquium was ‘Increasing the Speed and Quality of Justice; A Judiciary Service Delivery Agenda’. The theme, which was taken from the SJT Blueprint, was meant to serve as a reminder to all the Judges about their calling and commitment in the delivery of expeditious and quality justice to Kenyans. The Hon Chief Justice David Maraga opened the colloquium. Also gracing the occasion was the Chief Justice of the Republic of South Africa, Hon. Chief Justice Mogoeng Thomas Reetsang Mogoeng who gave the keynote speech on ‘Reflections on South Africa’s Experience in Enhancing Quality of Justice’. In keeping with the theme of the colloquium the guest speaker shared the experience of South Africa on the subject highlighting the successes, challenges and aspirations of the Judiciary of South Africa. The incoming Attorney General (Rtd) Justice Paul Kihara also attended the colloquium and shared his vision for the justice sector with the Judges.

A discussion on the implementation of the SJT blueprint also took center stage with the IMC pointing out the successes, milestones and challenges that had been faced during the year under focus. The Judges also had an opportunity to interrogate their performance as various courts shared their status reports for the year as well as strategies and innovations as key drivers of performance management.

The colloquium also presented an opportunity for feedback from stakeholders, discussions around emerging issues in the administration of justice, judge craft and welfare issues.

6.3.1.2 Annual Magistrates and Kadhis Colloquium 2019

The fourth annual Magistrates and Kadhis Colloquium was held in two phases to ensure the attendance of all the magistrates and kadhis. Phase one took place between April, 8 to 11, 2019 and phase two between April 15 to 18, 2019. The two colloquium sessions were graced by the Hon Chief Justice and the Hon Deputy Chief Justice respectively.

The theme of the colloquium was ‘Reflections and Introspection: Revisiting our Oath of Office’. It was a reminder to the judicial officers that theirs were not offices of power, status and prestige but were first and foremost a calling to offices of selfless and mostly thankless service to the public. The President of the Court of Appeal, Hon. Mr. Justice William Ouko, provided mentorship to the Magistrates and Kadhis when he spoke to them about the need to uphold integrity in their work, in a presentation titled Public Perception and Expectations on Corruption in the Judiciary: The Enemy Within.

There were interactive sessions and plenary discussions on arrests, pre plea detention and plea-bargaining and the role of the magistrate’s courts in light of the decision by the Supreme Court on mandatory death sentences. Following their elevated jurisdiction to hear land and employment matters, practical tips for magistrates in environment and land matters, labour matters and family law cases were offered. The sessions, which were led by experienced Judges and other experts and stakeholders, provided an opportunity for interaction and exchange of practical tips on the areas under discussion. The sessions on soft skills and judge craft were also useful to the Magistrates and included sessions on their performance evaluation, mediation, case management and practical tips in dealing with the challenges that they face. Magistrates and Kadhis welfare issues were also addressed.



Kadhis participate in the annual Magistrates and Kadhis conference.

6.3.1.3 First Tribunals Annual Symposium

The first annual Tribunals symposium was held between May 21 to 25, 2019 under the theme Building on Experience: Practical Skills for Tribunals in the Judiciary. The symposium was attended by members from various Tribunals and facilitated by experts and sitting Judges from various courts.

The program included sessions on Managing Change; the History, Establishment, Rationale and Future of Tribunals in Kenya, Administration of Tribunals: Lessons from Other Jurisdictions, Highlights on the 2018 Tribunals Bill, The Role of Tribunals in Administrative Law and Emerging Jurisprudence: Review of Administrative Decisions, Concurrent Jurisdiction of Tribunals with Courts and The Role of Tribunals and Enforcement of Tribunals Orders. There were also sessions on Judicial craft, case management and welfare issues.



Ag. Registrar Tribunals Ann Asugah makes her presentation during the first tribunals annual symposium.

6.3.2 Election Dispute Resolution Debriefs for Judges

The 2017 general elections were held on August 8, 2017. After the elections a record of 391 petitions were filed in various courts in the country and determined. (A detailed analysis of petitions heard can be accessed through the Judiciary Committee on Elections – JCE).

Following the hearing and determination of these petitions, debrief sessions were held to allow an opportunity for the judges and magistrates (including Deputy Registrars) who were involved in the process to share their experiences.

The debrief session for the Court of Appeal took place between May 29 and June 1 2019 and was attended by the Judges of the Court as well as the Deputy Registrars.

Amongst the key issues discussed was the electoral jurisprudence emerging from the 2017 Election Dispute Resolution (EDR) cycle, electoral technology law, issues of costs, interlocutory applications and case management. There were interventions also on common grounds of appeal to the Supreme Court as well as proposals for legislative reform.

The High Court held its debrief session from March 18 to 20, 2018. The debrief was a purely interactive session where judges shared their experiences on application of electoral technology law and preservation of election materials, emerging jurisprudence including conflicting decisions from the High Court, interlocutory applications and case management in the EDR process, issues of costs and finally proposals for legislative reform.

6.3.3 Training on the Extractives Industry for Judges

Extractives (oil, gas and mining) are going to be highly important in Kenya's future. In anticipation of the newly burgeoning extractives sector, JTI in partnership with Strathmore University's Extractives Baraza held a training session to enlighten Judges about the sector. In attendance were Judges from the Environment and Land Court (ELC), the Commercial Division and the Constitutional and Human Rights Division. A separate session was also held for legal researchers.

The judges and legal researchers were taken through a basic understanding of the general background of the extractives industry, the actors involved, the political economy, commercial considerations, and terminologies used within the industry, the role of the Judiciary in the extractives arena, land dynamics, environmental, health and safety issues as regards extractives and the relevant regulatory framework deployed by state actors in response to these issues within the Kenyan context. There were also discussions on the local and international legal and institutional frameworks relevant to the extractives industry, competing interests within the extractives industry, Production Sharing Agreements, Joint Operating Agreements/ Contracts and other Joint Ventures, other commercial and human rights issues stemming from extractives operations and the international and national frameworks on business and human rights, conflict management and dispute settlement within the extractive industry.

6.3.4 Annual Conferences

During the period under review, each of the courts held an annual conference to discuss issues specific to the courts.

The Employment Labour Relations Court (ELRC) held its annual conference on May 7 to 11, 2019. The Hon Chief Justice attended and closed the conference, which was also attended by the Registrar and Deputy Registrars of the court. Topics discussed included Conflicting Decisions and Interpretation on Continuing Wrongs, Leave,

Calculation of Daily Rates of pay and Remedies where Cases are Dismissed, ADR and the place of conciliation in averting strikes, Common appeal grounds and emerging jurisprudence from the Court of Appeal on compensation, reinstatement and other employment and labour issues, Constitutional petitions and employment matters as well as gender discussions within the realm of employment law. There was an interactive session with stakeholders and other interventions on judge craft, administrative issues and performance of the court.

The ELC conference theme was An Appraisal of the Environment and Land Court: Balancing Accountability, Professional Calling and the Oath of Office. It was held on June 4 to 8, 2019 and was graced by the Hon. Deputy Chief Justice, who gave the keynote speech and opened the conference. In attendance were the judges of the court as well as the Registrar and Deputy Registrars.

Some of the topics for discussion included Adjudicating Environment and Land Disputes in a Rapidly Changing Social, Economic and Political Environment, The Place and Role of Scientific Evidence in Environmental Disputes, The Gender Question in Adjudicating Environment and Land Matters and Judicial Review in Environment and Land Matters. The President of the Court of Appeal, Hon Mr. Justice William Ouko engaged the court on lessons to be learnt from the Court of Appeal decisions on environment matters. There was an opportunity for introspections and sharing with key stakeholders as well as discussions on judge craft and performance of the court. The session on problematic areas was a useful feedback session for the Deputy Registrars.

For the Court of Appeal and the High Court, the debrief sessions doubled up as the annual conference. The judges set aside time within the debrief sessions to dialogue on various administrative and jurisprudential issues relevant to the two courts.

6.3.5 Trainings for Magistrates

6.3.5.1 EDR Debrief for Magistrates

Just like the judges, more than 180 magistrates and deputy registrars involved in hearing and administration of EDR attended a debrief session on the process.

The EDR debrief was held on October 1 and 2, 2018 where during the debrief the magistrates discussed various issues including key decisions of the electioneering period, common grounds of appeal from the magistracy to the high court, emerging jurisprudence and experiences in electoral technology law and storage of election materials, emerging jurisprudence in election offences and areas for legislative reform.

All the debrief sessions were organized by the Institute in collaboration with the JCE.

6.3.5.2 Sensitization of Magistrates on Environment, Land and Employment Disputes

Following the conferment of jurisdiction to over 300 Magistrates in the rank of Senior Resident Magistrates (SRM) and above to hear and determine environment, land and employment matters, sensitization sessions were held for them in both areas.

During the sensitization, magistrates were taken through critical areas of environment and land law including the legal framework, interlocutory orders, evictions and emerging jurisprudence from the ELC. They also had an opportunity to learn about the legal framework relating to the employment and labour court and matters, emerging jurisprudence, relevant rules and practice directions and the prudent use of interlocutory orders in employment and labour matters. The sensitization sessions were led by the Principle Judge ELRC, Presiding Judge ELC and Judges from the two courts.

6.3.5.3 Annual Judicial Dialogue on Environment and Wildlife Crime

The Annual Judicial Dialogue on Environment and Wildlife Crimes has been held each year since 2000. The dialogues bring together multiple agencies and stakeholders in the wildlife and environment field, with a view to sharing emerging issues, successes, challenges and best practices in their areas. The annual dialogue was held between December 5 to 7, 2018 and attended by 30 magistrates amongst other stakeholders.

The focus for the dialogue was on ‘Leveraging Positive and Successful Inter Agency Collaboration to Fighting Environmental and Wildlife Crime’. In line with the theme, the represented agencies had an opportunity to update participants on their key developments, achievements and challenges in the year. Other discussions were held on evidence and crime scene management, conversion of intelligence into evidence and dealing with DNA evidence all in light of fighting wildlife crime. In each of these issues, a multi-agency approach was taken in the interactions. Other emerging issues including plea-bargaining in wildlife cases and the question of consumptive utilization were canvassed.

6.3.6 Induction Sessions

6.3.6.1 Induction of Magistrates

Following their recruitment in December 2018, an induction for 40 newly admitted Magistrates was held between January 27 and February 1, 2019. The induction was an inaugural training intended to prepare the new magistrates for their new roles as Resident Magistrates. The induction covered a whole range of topics on general substantive knowledge, civil, criminal, family, judicial craft and performance management as well as policies applicable to employees in the judiciary. The sessions were practical having been facilitated by sitting Magistrates and Judges and

allowed room for interactive discussions and clarifications from the new and eager Magistrates.

6.3.6.2 Induction of Legal Researchers and Law Clerks

Induction for 14 law clerks of the Supreme Court was held between November 28 and December 2, 2018. Thereafter the induction training for 70 newly employed legal researchers was held between January 28 to 31, 2019.

The induction trainings covered areas of concern to them including the principles, processes and forms of legal research, deductive reasoning and how to extract the ratio decidendi from decisions, drafting bench memos and opinions, the rules and jurisdiction of the Supreme Court, conduct, ethics and integrity for law clerks and legal researchers, Judges expectations, the library as a resource center as well as other critical areas of their work.

The induction program was an opportunity for the newly recruited law clerks to interact with the judges of the Supreme Court. There were experience-sharing sessions in both trainings where a former legal researcher and law clerk were invited to share past experiences about their challenges, milestones and tips on how best the newly recruited would settle in and enjoy their experience.

6.3.7 Regional and International Activities

Kenya has maintained a comparative advantage in continuous judicial education training and a strong regional tradition in adjudication of disputes. JTI has taken deliberate steps to leverage Kenya's comparative advantage to promote regional cooperation, networking and collaboration in judicial education and training. Through regional collaborative efforts, JTI has created opportunities for conceptual and methodological competency, jurisprudential knowledge synthesis and exchange of judicial personnel as participants in regional training programs. The ensuing benefits will promote networking and enrich comparative aspects of jurisprudential development in the region. Some of the regional initiatives undertaken by JTI in 2018/2019 include:

6.3.7.1 East African Judicial Education Committee

JTI is a member of East African Judicial Education Committee (EAJEC). The Secretariat of EAJEC is the Office of Counsel to the East African Community. EAJEC is a forum that brings together the Directors of judicial training institutes of the East African Community Partner States. The position of Chair of EAJEC is rotational and is in tandem with the country that is Chair of the EAC Summit.

Kenya was represented at the EAJEC meeting that was held in Kampala, Uganda on June 18 and 19, 2019. The purpose of the meeting was to amongst other things report on progress of fundraising for regional trainings, to identify thematic areas for the

regional training of judges and judicial officers from the East African partner states and the engagement of trainers for the 2019/2020 financial year and to consider the work plan for the period.

Some of the areas identified for training included:

- (a) Dispute Resolution Mechanism in relation to the AfCFTA and the EAC Trade Remedies Committee;
- (b) Gender and Children's Rights;
- (c) International and Cross-border Crime;
- (d) Financial and Economic Crime/ Illicit Financial Flows in the EAC;
- (e) Case Management and ICT in the Administration of Justice;
- (f) Regional Integration, Business law, Trade and Investment;
- (g) Judge Craft, including Judgment Writing;
- (h) Wildlife Crime in the East African Community;
- (i) Emerging Jurisprudence in the East African Community (EACJ);
- (j) Counter-terrorism;
- (k) Alternative Dispute Resolution;
- (l) Election Preparedness and Conduct;

6.3.7.2 HIV/TB Sub Committee on Judicial Education

This is an initiative of the Africa Regional Judges Forum (ARJF), on HIV/TB and Human Rights issues with the support of UNDP. The Forum began as an implementation response to the findings and recommendations of the 2012 report of the Global Commission on HIV and the Law and has been held since 2014. The Steering Committee oversees the activities of the Forum.

The fifth annual judicial forum on HIV/TB was held in June 2018 in Johannesburg South Africa. It was attended by Judges from various African countries who met to discuss emerging legal and scientific issues around the subject. Amongst the topics discussed were emerging progressive jurisprudence on HIV/TB, a human rights approach in the adjudication of HIV/TB, vulnerable population with relation to HIV/TB and updates on scientific breakthrough in the subject.

In addition to the forum, another major activity that had been scheduled for the year under review was the development of a regional training manual on HIV/TB and Human Rights. The manual would be used as a prototype for Judiciary Training Institutions to integrate the training of HIV and the law in judicial training. Kenya was requested to take the lead in this process. The process began with a Needs Assessment being carried out within the region which would then inform the content and style of the manual.

6.3.7.3 Training for judges of South Sudan on EAC Law

This training was part of the implementation of an MOU signed between the Government of Kenya (through the Kenya South Sudan Liason Office; KESSULO) and the then Southern Sudan (GoSS), (now South Sudan).

KESSULO was established as a department in the Presidency and Cabinet Affairs Office, in the year 2006, after the independence of South Sudan. Following the signing of the MOU Kenya committed to train and build capacity of civil servants of the GoSS. It is against this background that the partnership between KESSULO and the Judiciary to provide various trainings aimed at building capacity for Judges in South Sudan began.

During the year under review, a training session for Judges of South Sudan on ‘The East African Community Law and its Relationship with Domestic Law’ was held. The training ran from May 13 to 18, 2019, in Nairobi, and was attended by Judges drawn from the Supreme Court, Court of Appeal and High Court in South Sudan, the delegation being led by the Deputy Chief Justice of the Republic of South Sudan. The training was graced by the Hon Chief Justice, David Maraga, the Principal Secretary, Ministry of East African Community and Regional Development, His Excellency the Ambassador of South Sudan and the Registrar of the East African Court of Justice.

The facilitators were drawn from the Kenyan Bench, the Ministry of East African Community and Regional Development as well as EACJ. There were discussions around the roadmap to the formation of the EAC, the legislative framework of the EAC including the EAC Treaty, the Institutional framework of the EAC, the role of the EACJ and EALA in regional integration, the EAC and International relations and the relationship between regional and domestic law amongst others.



Chief Justice David Maraga with Judges from South Sudan during a seminar on East African law organized by the Judiciary Training Institute.

6.3.7.4 The Africa Judicial Education Network on Environmental Law: AJENEL

The Network, whose focus is continuing training in environmental law for judges and magistrates, brings together over 45 African countries. The idea of a network was conceptualized through a regional symposium held in Johannesburg South Africa in January 2017 where Kenya was proposed as the seat of the Network.

During the year under review, Kenya was involved in the preparation of a regional training manual on environmental law. The manuals, written in English and translated to French and Portuguese, were adopted by the Assembly during the 2nd regional symposium themed Greening the Judiciaries in Africa which was held in Maputo, Mozambique between August 1 and 3, 2018. The Maputo symposium was attended by over 20 Chief Justices from various African countries, including the Hon Chief Justice David Maraga, as well as judges and representatives of judiciary training institutions.

During the symposium Kenya was voted as the next host of the symposium in 2020. The Chief Justice was present to accept the nomination and welcome the conference to Kenya in 2020.

6.4 Research and Policy Activities

During the period under review the following policy and research programs were undertaken:

6.4.1 Training Needs Assessment

The need for a Training Needs Assessment (TNA) arose out of the realization that training within the judiciary should be demand driven. The objective of this exercise was to identify skills and competence gaps and training needs within the judiciary by conducting a TNA.. The TNA would cover all cadres within the judiciary and as such would be done in consultation with the Directorate of Human Resources and Administration.

During the year under review, a tool for data collection was developed and approved by stakeholders in readiness for data collection.

6.4.2 Alternative Justice Reforms

Alternative justice reforms are a constitutional imperative. The 2010 Constitution provides under article 159(2)(c) that;

...alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted subject to clause (3).

The Constitution therefore requires the promotion of Alternative Justice System (AJS) in so far as they are not repugnant to justice and morality, not unconstitutional and do not contravene the Bill of Rights.

It is against this constitutional imperative that the taskforce on AJS was constituted with a mandate to develop a framework for mainstreaming AJS into the Justice System. The purpose of the policy is to strengthen, guide and support the use of AJS in Kenya. During the year under review, with the support of JTI as secretariat, the taskforce held stakeholder forums in all regions of the Republic with a view of collecting data and information on alternative justice systems in the country. This would be used to generate a draft policy framework on AJS.

6.4.3 Development of a Handbook for Kadhis' Courts

The handbook for Kadhis' Courts is meant to be a quick reference for Kadhis' Courts on areas of Islamic jurisprudence that fall within their jurisdiction and competence. A draft handbook was prepared during the year under review with the assistance of an expert consultant and presented to stakeholders to capture their input.

6.4.4 Rules of Practice for Kadhis Courts

The draft Rules of Practice and Procedure for Kadhis Courts were developed and were subjected to stakeholder input and eventually validated.

6.4.5 Court Administrators Handbook

The purpose of the Court Administrators Handbook is to provide information and training content required by cadres of court administrators in the execution of their mandates in a consistent manner. During the period under review the draft handbook was subjected to stakeholder validation in preparation for publication, launch and eventually dissemination.

6.4.6 Development of curriculum for court process servers

The curriculum for court process servers was envisaged to provide a clear guideline on how this vital process of delivering justice is carried out, by developing a code of conduct and regulations for process servers, to govern and improve performance and to generally help streamline the process of service in Kenya.

A draft court process servers curriculum was developed during the period under review. It was subjected to stakeholder input and validated by the respective stakeholders in readiness for publishing and printing.

6.5 Funding and Resources for the Institute During the Period Under Review

Judiciary Training Institute operations and activities during the year under review were funded from three major sources:

- a) Government of Kenya (GOK) Funds;
- b) World Bank through the Judiciary Performance Improvement (JPIP) Program; and
- c) FORD Foundation under the “Capacity Building for the Supreme Court Project”

The Judiciary Training Institute budget allocations in the financial year (FY) 2018/19 from the Government of Kenya was Sh165,341,765. The actual expenditure attained totalled to Sh145,044,620, which is 88% of the year’s allocation. The Institute closed the year with pending bills amounting to Sh400,991.

JPIP funding during the period totalled to Sh84 million for the period between July to December, 2018. This catered mainly for the Annual Judges colloquium, Kenya School of Government Training for judiciary staff and rent for the institute.

The FORD Foundation funds supported programs for the Supreme Court of Kenya under the “Capacity Building for Supreme Court of Kenya” program. The support was for a total of Sh58 million.

Annual audits on the books of accounts FY 2017/18 was successfully conducted and a clean audit given.

6.6 Achievements and Challenges Faced

Key achievements of the Institute during the financial year under review include:

- a) Successful implementation of the training calendar for 2018/2019
- b) Additional partnerships and linkages were established
- c) Pre-qualification of service providers to enhance efficiency of the Institute

Major challenges faced included:

- a) Lack of funds and sudden austerity measures making the training programs uncertain and unsustainable.
- b) Delays in quarterly release of the allocated budget which hampered implementation of some activities since the value exceeded the quarter release.
- c) Thin staff establishment at the Institute, making it difficult for the Institute to perform optimally.

Chapter 7

INFRASTRUCTURE

INFRASTRUCTURE

7.1 Introduction

The improvement of physical access to courts remains a key priority for the Judiciary as outlined in the Sustaining Judiciary Transformation (SJT): A Service Delivery Agenda (2017-2021) blueprint and the draft Judiciary Infrastructure Master Plan. The main objective is to enhance the dispensation of justice by bringing judicial services closer to the people. As such, refurbishment, rehabilitation and construction of court buildings were undertaken in the period under review, including shelving of registries, installation of water tanks, construction of ablution blocks, customer care, waiting bays, and installation of solar systems. These projects were supervised by the Directorate of Building Services (DBS).

7.2 Activities undertaken

The following activities were undertaken during the year:

- i) **Completion of Magistrates' Court buildings** at Nyando, Vihiga and Hamisi.
- ii) Design of the Court of Appeal Complex and presentation of the designs to the President and Judges of the Court of Appeal on August 14, 2018. The project details were subsequently submitted to the Judiciary Projects Committee to be considered for funding. In preparation for new projects, DBS also prepared new designs for High Courts in Kisii, Meru and Eldoret. The designs were presented to the users and their views incorporated. The new projects will be subjected to the tendering process once the budgetary allocation is confirmed.
- iii) **Refurbishment:** One courtroom at the Supreme Court and offices for Court of Appeal judges were also refurbished.
- iv) **Forodha House renovations:** The contract was awarded on April 25, 2019 and the works were ongoing by the close of the financial year. The building is being renovated to create 11 court rooms, 18 chambers, segregated cells, three registries and 71 offices for the Anti-corruption and Economic Crimes Court, Environment and Land Court, and Employment and Labour Relations Court.
- v) **Renovation of existing court buildings;**
These activities were funded by the World Bank, through the Judicial Performance Improvement Project (JPIP) and the Government of Kenya. They were done in 15 High Court buildings at Milimani, Kisumu, Makueni, Bomet, Kisii, Voi, Vihiga Thika, Nyeri, Meru, Marsabit, Naivasha, Narok, Lodwar, and Kitui and 42 Magistrate Court buildings at Kaloleni, Sirisia, Winam, Mavoko, Baricho, Bondo,

Bungoma, Butali, Eldama Ravine, Githunguri, Hamisi, Homa Bay, Kabarnet, Nairobi Kadhis' Court, Kajiado, Kandara, Kang'undo, Kapsabet, Kehancha, Kisumu (Old building), Keroka, Kerugoya, Kikuyu, Kilifi, Kitale, Kyuso, Lamu, Mariakani, Marimanti, Maua, Mbita, Migori, Moyale, Mumias, Mutomo, Ndhiwa, Ngong, Siakago, Ukwala, Mombasa, Kaloleni, Ogembo; and at the National Civil Aviation and Administrative Review Tribunal's premises.

vi) **Ongoing courts construction** Construction was ongoing for 38 court buildings which were at various stages of completion. These were:

- a) JPIP-funded: Chuka, Nyamira, Garissa, Nanyuki, Siaya, Voi, Kapenguria, Isiolo, Nakuru, Maralal, Kwale, Wajir, Ol-Kalou, Kakamega, Mombasa, Makueni, Kajiado, Tamu (Muhoroni), Kibera, Mukurweini and Kangema.
- b) Government of Kenya-funded; Homa Bay, Kabarnet, Marsabit, Narok, zMandera, Embu, Bomet, Othaya, Amagoro, Githongo, Kandara, Mbita, Habasweini, Butali, Port Victoria, Iten and Eldama Ravine.

Projects funded by GOK experienced poor performance due to lack of budget allocation in the period under review. The tender for the Kapsabet court construction was not awarded due to insufficient funds. Strategies were put in place to ensure that the ongoing projects were completed without undue delay. For example, the Project Manager from DBS carried out monthly site inspections, prepared quarterly financial appraisals of the projects and promptly approved revised works programmes.

vii) **Establishment of a monitoring mechanism for infrastructure projects:** Some 252 visits to project sites were undertaken during the financial year.

viii) **Site analysis** Site evaluation and measurements were carried out in Lamu County on three parcels of land owned by Judiciary. The report will be a guide for the Judiciary Project Committee on the location of the forthcoming court buildings.

Achievements

- a. Completion of Magistrates Court buildings at Nyando, Vihiga and Hamisi.
- b. Other ongoing infrastructural projects undertaken in the FY 2018/2019 are:
 - i) Construction and major rehabilitation of 57 court stations (see tables 7.1 and 7.2).
 - ii) Borehole drilling and equipping works at 12 courts (see table 7.3)
 - iii) Shelving works at 8 courts (see table 7.4)
 - iv) Provision of furniture to 11 courts (see table 7.5)

These activities were funded by JPIP and the GOK over a five-year period as indicated in tables 7.1, 7.2, 7.3, and 7.4 at a cost of approximately Sh10.31 billion (JPIP - Sh7.18 billion, and GOK - Sh3.13 billion). The projects are at various stages of construction,

while some have been completed and handed over to the Judiciary.

7.3 Challenges

Various challenges slowed the progress of the planned activities. They include:

- i) **Inadequate funding:** The Judiciary development budget was allocated only Sh50 million and an additional Sh97 million through the supplementary budget.
- ii) The delayed release of Exchequer hampered payment of Interim Payment Certificates which adversely affected progress.
- iii) Shortage of building materials e.g. timber and sand due to the ban on logging and sand harvesting in several counties.
- iv) Difficulties encountered in the registration of projects with the National Construction Authority due to lack of title deeds.

The status of the projects is listed in the tables below.

TABLE 7.1 STATUS REPORT OF CONSTRUCTION PROJECTS FUNDED BY GOK AS AT 30TH JUNE 2019

NO.	PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT SUM (SH.)	START DATE	ORIGINAL COMPLETION DATE	REVISED COMPLETION DATE	CONTRACT PERIOD (WKS)	% COMPLETENESS		STATUS REPORTS	
									FY 2017/2018	FY 2018/2019		
ON-GOING												
1	Homabay Law Courts	Homabay	Pepeta Holdings Ltd	367,308,473.46	13-03-17	30-07-18	30-07-19	72	26%	28%	Minimal progress	
2	Kabarnet Law Courts	Kabarnet	Badole Construction Ltd	366,798,387.6	17-03-17	17-09-18	15-09-19	72	15%	17%	Minimal progress	
3	Marsabit Law Courts	Marsabit	Dido and Sons Ltd	370,222,599.79	17-03-17	17-09-18	17-09-19	72	18%	32%	Minimal progress	
4	Amagoro Law Courts	Amagoro	Sow Contractors Ltd	137,988,040	13-03-17	13-03-18	28-02-20	54	15%	16%	Minimal progress	
5	Githongo Law Courts	Githongo	Nash Investments Ltd	130,895,657	04-05-17	04-04-18	28-02-20	54	26%	42%	Minimal progress	
6	Kandara Law Courts	Kandara	Microsoft Construction Ltd	137,817,417	04-03-17	04-04-18	28-02-20	54	22%	36%	Minimal progress	
7	Machakos Law Courts	Machakos	Manyota Ltd	34,084,690	18-05-17	18-11-17	28-02-20	24	65%	67%	Minimal progress	
8	Marsabit Law Courts	Marsabit	Precision Civil Eng. Ltd	10,888,254.42	02-05-17	17-10-17	28-02-20	72	75%	76%	Minimal progress	
9	Mbita Law Courts	Mbita	Derow Construction Ltd	148,325,073	15-03-17	14-03-18	28-02-20	52	29%	52%	Minimal progress	
10	Habasweini Law Courts	Habasweini	E-world International Ltd	143,192,128	28-09-17	27-09-18	27-09-19	52	7%	9%	Minimal progress	
11	Hamisi Law Courts	Hamisi	Pendeza Contractors	55,199,905	04-12-15	03-11-15	11-04-18	120	95%	100%	Completed	
12	Muranga Law Courts	Muranga	Volcanic General SC Ltd	62,086,413	19-05-15	20-02-16	17-08-18	36	75%	77%	Minimal progress	
13	Mandera Law Courts	Mandera	El-Yumo Contractors	105,646,682	19-05-15	20-02-16	28-02-20	52	75%	94%	Minimal progress	
14	Narok Law Courts-Phase II	Narok	Resjos Contractors Ltd	65,194,539	26-10-15	04-07-16	28-02-20	36	80%	81%	Minimal progress	

NO.	PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT SUM (SH.)	START DATE	ORIGINAL COMPLETION DATE	REVISED COMPLETION DATE	CONTRACT PERIOD (WKS)	% COMPLETENESS		STATUS REPORTS	
									FY 2017/2018	FY 2018/2019		
ON-GOING												
15	Homabay Law Courts	Homabay	Pepeta Holdings Ltd	367,308,473.46	13-03-17	30-07-18	30-07-19	72	26%	28%	Minimal progress	
16			PowerPoint Systems Ltd	2,330,270	26-10-15	04-07-16	28-02-20	36	0%	50%	Minimal progress	
17	Butali Law Courts	Butali	Dynamic Green Technologies	32,690,725.6	09-03-15	04-03-16	18-10-18	52	89%	93%	Minimal progress	
18	Eldama Ravine Law Courts	Eldama Ravine	Green Heights Ventures	81,882,269.7	04-02-15	03-03-16		52	95%	96%	Minimal progress	
19	Port Victoria Law Courts	Port Victoria	Nolads Engineering Ltd.	46,529,557	12-02-15	12-02-16	28-02-20	52	93%	94%	Minimal progress	
20	Eldoret Law Courts	Eldoret	Sudafric Group Ltd	38,095,640	23-02-15	27-06-16		18	85%	86%	Minimal progress	
21	Othaya Law Courts	Othaya		81,664,580	15-01-13	31-05-16	28-02-20	20	95%	96%	Minimal progress	
22	Wanguru Law Courts	Wanguru	Economic Housing Group	81,664,580	15-01-13	31-05-16	28-02-20	20	70%	70%	No progress	
23	Marimanti Law Courts	Marimanti		81,664,580	15-01-13	31-05-16	28-02-20	20	80%	80%	No progress	
24	Bomet Law Courts	Bomet		81,664,580	15-01-13	31-05-16	28-02-20	20	90%	98%	Minimal progress	
25	Runyenjes Law Courts	Runyenjes		99,959,218	23-01-13	31-05-16	30-12-19	20	90%	93%	Minimal progress	
26	Tawa Law Courts	Tawa	Timsales Ltd	99,959,218	23-01-13	31-05-16	30-12-19	20	90%	92%	Minimal progress	
27	Mombasa Court of Appeal	Mombasa	Dantax Enterprises	33,940,580	19-11-14	19-03-15	30-12-19	16	85%	100%	Completed	

No.	PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT SUM (SH.)	START DATE	ORIGINAL COMPLETION DATE	REVISED COMPLETION DATE	CONTRACT PERIOD (WKS)	% COMPLETENESS		STATUS REPORTS	
									FY 2017/2018	FY 2018/2019		
ON-GOING												
28	Mombasa Court of Appeal	Mombasa	HotPoint Appliances Ltd	6,385,539	19-11-14	19-03-15	30-12-19	16	85%	95%	Minimal progress	
29	Nyeri Court Of Appeal	Nyeri	Thwama Building Services Ltd	18,482,123	17-04-14	02-10-15	31-12-19	24	95%	96%	Minimal progress	
30	Iten Law Courts	Iten	Macdan Ltd	10,663,840	19-05-15	30-06-16	11-03-17	56	70%	100%	Completed.	
31	Karatina Law Courts	Karatina	Web Commercial Systems Ltd	6,911,255	04-05-17	15-09-18	15-09-19	54	65%	66%	Minimal progress	
32	Makadara Law Courts	Makadara	Automark Engineering Ltd	9,895,300	23-07-17	13-10-17	23-06-20	16	61%	60%	Minimal progress	
33	Forodha house	Nairobi	Amber Construction Ltd	157,200,000	25-04-19	25-04-20		52	0%	30%	Slow progress	

Table 7.2 STATUS REPORT OF CONSTRUCTION PROJECTS FUNDED BY WORLD BANK (JPIP) AS AT 30TH JUNE 2019

NO.	PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT SUM (SH)	START DATE	ORIGINAL COMPLETION DATE	REVISED COMPLETION DATE	CONTRACT PERIOD (WKS)	% COMPLETENESS		STATUS REPORT	
									FY 2017/2018	FY 2018/2019		
Ongoing projects												
1	Chuka Law Courts	Chuka	Philmark System Services Ltd	98,106,542.96	05-06-15	13-06-16	30-12-19	52	87%	90%	On-Going	
2	Engineer Law Courts	Engineer	Yomason Contractors Limited	78,615,979	08-06-15	08-08-16	13-3-19	52	98%	99%	On-Going	
3	Vihiga Law Courts	Vihiga	Lunao Enterprises Limited	78,476,529	16-09-15	14-09-16	30-12-19	52	96%	100%	Complete	
4	Nyando Law Courts	Nyando	Philmark System Services Ltd	74,827,121	04-09-15	02-09-16	30-12-19	52	99%	100%	Complete	
5	Molo Law Courts	Molo	Atlas Plumbers Limited	99,910,995	19-06-15	17-06-16	30-12-19	52		99%	On-Going	
6	Oyugis Law Courts	Oyugis	Sasah Contractors Limited	109,731,080	29-06-15	28-06-16	30-12-19	52		97%	On-Going	
7	Nyamira Law Courts	Nyamira	JN Investments Ltd	118,305,748	18-06-15	17-06-16	30-12-19	52		90%	On-Going	
8	Muhoroni Law Courts (Tamu)	Muhoroni	Philmark System Services Ltd	74,879,919	06-09-15	08-06-16	30-12-19	52		97%	On-Going	
9	Nakuru Law Courts	Nakuru	Diwafa Investments Ltd	347,765,950	18-02-16	18-08-17	30-12-19	110		92%	On-Going	
10	Siaya Law Courts	Siaya	Nanchang/GL Williams JV	342,751,951	21-03-16	21-09-17	30-12-19	110		75%	On-Going	
11	Garissa Law Courts	Garissa	Inshallah Limited	351,323,457	22-01-16	22-07-17	30-12-19	110		80%	On-Going	
12	Makindu Law Courts	Makindu	Gracan Construction Ltd	96,855,446	08-03-16	07-03-17	30-12-2019	52		100%	Complete	
13	Nanyuki Law Courts	Nanyuki	Pinnie Agency Ltd	318,559,759	10-03-16	10-09-17	30-12-19	110		76%	On-Going	
14	Kibera Law Courts	Kibera	Havi Construction	137,649,133	13-04-16	13-04-17	30/-12-19	52		75%	On-Going	

NO.	PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT SUM (SH)	START DATE	ORIGINAL COMPLETION DATE	REVISED COMPLETION DATE	CONTRACT PERIOD (WKS)	% COMPLETENESS		STATUS REPORT
									FY 2017/2018	FY 2018/2019	
16	Kapenguria Law Courts	Kapenguria	County Builders Ltd	400,880,621	21-03-17	22-09-18	21-02-20	78		35%	On-Going
17	Maralal Law Courts	Maralal	Debroso Construction Ltd	378,745,872	23-03-17	23-09-18	21-02-20	78		31%	On-Going
18	Isiolo Law Court	Isiolo	Dallo Holdings Ltd	379,082,160.9	04-10-17	10-10-18	07-08-19	78		64%	On-Going
19	Kwale Law Courts	Kwale	Inforserve Networks Ltd	389,998,592	19-5-17	19-09-18	19-04-20	78		42%	On-Going
20	Wajir Law Courts	Wajir	Anole Construction Co. Ltd	369,567,057	27-9-17	27-3-19		78		20%	On-Going
21	Ol-Kalou Law Courts	Ol – kalou	Nelliwa Builders	399,323,129	18-9-17	17-3-19	18-08-2019	78		18%	On-Going
22	Kakamega Law Courts	Kakamega	Hashit Construction & Gen. Sup.Ltd	387,664,343.33	21-9-17	21-3-19		78		60%	On-Going
23	Mukurweini Law Courts	Mukurweini	One Source Company Ltd	158,978,307	19-9-17	18-9-18	19-9-2019	52		32%	On-Going
24	Mombasa Law Courts	Mombasa	Bashash Ltd	445,173,322.65	28-9-17	28-3-19		78		42%	On-Going
25	Makueni Law Courts	Makueni	Admo Ltd	410,099,717.10	25-9-17	25-3-19		78		41%	On-Going
26	Kangema Law Courts (Phase II)	Kangema	High Octane Engineering Ltd	42,992,271.57	20-9-17	18-3-19	20-9-19	52		68%	On-Going
27	Kajiado Law Courts	Kajiado	Misbah Networks Ltd.	398,407,995	15-3-18	15-9-19		78		40%	On-Going

Table 7-3 STATUS REPORT OF BOREHOLE DRILLING AND EQUIPPING PROJECTS FUNDED BY WORLD BANK (JPIP) AS AT 30TH JUNE 2019

PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT AMOUNT (SH.)	START DATE	INITIAL COMPLETION DATE	INITIAL CONTRACT PERIOD (WKS)	% COMPLETENESS			STATUS REPORT
							FY 2017/2018	FY 2018/2019	FY	
1 CLUSTER-D CONTRACTS										
a)	Muhoroni Law Courts (Tamu)		4,610,866	12-03-18	12-08-18	26	80%		99%	Complete
b)	Oyugis Law Courts	Ziyale Investments Ltd	4,610,866	13-03-18	13-08-18	26	0%		80%	On-Going
c)	Nyamira Law Courts		4,610,866	14-03-18	14-08-18	26	0%		99%	Complete
2 CLUSTER-C CONTRACTS										
a)	Vihiga Law Courts		3,921,700	14-03-08	14-08-18	26	90%		95%	Almost Complete
c)	Siaya Law Courts	Taxan Investment Ltd	3,921,700	14-03-08	14-08-18	26	90%		95%	Almost Complete
3 CLUSTER-B CONTRACTS										
a)	Molo Law Courts		4,825,660	14-03-08	14-08-18	26	70%		90%	On-Going
b)	Nakuru Law Courts	Wotech Ltd	4,825,660	14-03-08	14-08-18	26	20%		90%	On-Going
c)	Engineer Law Courts		4,825,660	14-03-08	14-08-18	26	20%		90%	On-Going
4 CLUSTER-A CONTRACTS										
a)	Makindu Law Courts		4,178,730	22-05-18	22-01-19	32	20%		50%	On-Going
b)	Garissa Law Courts	Iconic Drillers & Construction Co. Ltd	4,178,730	22-05-18	22-01-19	32	0%		0%	Not commenced
c)	Kigumo Law Courts		4,178,730	22-05-18	22-01-19	32	0%		0%	Not commenced
e)	Chuka Law Courts		4,178,730	22-05-18	22-01-19	32	40%		50%	On-Going

Table 7.4 STATUS REPORT OF SHELVING PROJECTS FUNDED BY WORLD BANK (JPIP) AS AT JUNE 30 2019

No.	PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT SUM (SH.)	START DATE	COMPLETION DATE	CONTRACT PERIOD (WKS)	% COMPLETENESS		STATUS REPORT
								FY 2017/2018	FY 2018/2019	
SHELVING FABRICATED CONTAINER REGISTRIES										
1	Kitale Law Courts	Kitale		1,224,962	04-11-17	04-05-17	26	0%	0%	Ongoing
2	Meru Law Courts	Meru	Stocksmart Kenya Supplies Ltd	1,224,962	04-11-17	04-05-17	26	0%	0%	Ongoing
3	Kabarnet Law Courts	Kabarnet		1,224,962	04-11-17	04-05-17	26	0%	0%	Ongoing
4	Marsabit Law Courts	Marsabit		1,224,962	04-11-17	04-05-17	26	0%	0%	Ongoing
TIMBER SHELVING REGISTRIES (KISUMU, BOMET, BUSIA)										
1	Bomet Law Courts	Bomet	Tawash Construction Company Ltd.	29,825,478	24-10-17	24-04-18	26	20%	50%	Ongoing
2	Kisumu Law Courts	Kisumu			24-10-17	24-04-18	26	20%	50%	Ongoing
3	Busia Law Courts	Busia			24-10-17	24-04-18	26	20%	50%	Ongoing
TIMBER SHELVING REGISTRIES - MILIMANI										
1	Milimani Law Courts	Milimani	Glennsteam Engineering Works Ltd	50,348,410	18-10-17	18-06-18	26	0	50%	Ongoing

Table 7.5 STATUS REPORT OF FURNITURE PROJECTS FUNDED BY WORLD BANK (JPIP) AS AT 30TH JUNE 2019

No.	PROJECT	COURT STATION	CONTRACTOR'S NAME	CONTRACT SUM (SH.)	START DATE	COMPLETION DATE	CONTRACT PERIOD (WKS)	% COMPLETENESS		STATUS REPORT
								FY 2017/2018	FY 2018/2019	
FURNITURE CONTRACTS										
1	Muhoroni Law Courts (Tamu)	Tamu	Timsales Ltd	6,912,678	08-01-18	08-04-18	13	2%	90%	Supplied
2	Oyugis Law Courts	Oyugis		10,032,713	08-01-18	08-04-18	13	2%	90%	Supplied
3	Nyamira Law Courts	Nyamira		10,041,068	08-01-18	08-04-18	13	2%	90%	Supplied
4	Vihiga Law Courts	Vihiga		10,096,853	08-01-18	08-04-18	13	2%	90%	Supplied
5	Nyando Law Courts	Nyando		10,020,678	08-01-18	08-04-18	13	2%	90%	Supplied
6	Kigumo Law Courts	Kigumo		7,962,567	08-01-18	08-04-18	13	2%	90%	Supplied
7	Molo Law Courts	Molo		9,514,658	08-01-18	08-04-18	13	2%	90%	Supplied
8	Chuka Law Courts	Chuka		9,713,206	08-01-18	08-04-18	13	2%	90%	Supplied
9	Engineer Law Courts	Engineer		6,907,822	08-01-18	08-04-18	13	2%	90%	Supplied
10	Makindu Law Courts	Makindu		9,766,190	08-01-18	08-04-18	13	2%	90%	Supplied
11	Kibera Law Courts	Kibera		14,404,530	08-01-18	08-04-18	13	2%	90%	Supplied

Chapter 8

ENHANCING ACCESS TO JUSTICE
THROUGH USE OF INFORMATION
AND COMMUNICATION
TECHNOLOGY

ENHANCING ACCESS TO JUSTICE THROUGH USE OF INFORMATION AND COMMUNICATION TECHNOLOGY

8.1 Introduction

The use of Information and Communication Technology (ICT) is considered critical to the enhancement of the administration of justice. The automation of Judiciary processes aims at reducing delays, improving efficiency and effectiveness and generally promoting confidence in the entire justice system. The rapid development of technology has opened up new opportunities that were unthinkable only a few years ago. The availability of stable and fast internet connectivity, the possibility of accessing on-line legislation and case law, the use of electronic filing, the electronic exchange of legal documents, and recording court proceedings are some of the developments that are forcing Judicial administrations the world over to rethink their current functions and activities.

ICT has been used to enhance efficiency, access, timeliness, transparency, and accountability, helping the justice sector provide exemplary services. New possibilities are emerging for the integration and automation of court procedures and practices with the use of the Internet, offering the chance to open the Judiciary to the public more, providing both general and specific information on its activities thereby also boosting legitimacy.

The Sustaining Judiciary Transformation blueprint outlines the roadmap for the adoption of new technologies in order to deliver Justice efficiently and effectively. The SJT Digital Strategy proposes ICT solutions that are citizen-focused, mobile-friendly and infinitely convenient and accessible.

The Integrated Court Management System (ICMS) Committee was mandated by the Chief Justice to coordinate the implementation of the SJT Digital Strategy. Hon. Mr Justice Gatembu Kairu, Judge of the Court of Appeal, chairs the Committee and has membership drawn from the various stakeholders within the Judiciary and representation from the ICT Authority.

8.2 Funding for the projects under the Digital Strategy

The Judiciary has continued to experience limited and inconsistent funding for the automation programme over the last five financial years (2014 – 2019). This has greatly affected the rollout of projects as many of them are not able to scale beyond the pilot phase.

Table 8.1: Budget allocation for automation

SN	FY	Budget Requested by ICT (Sh)	Printed Estimates (Sh)	Supplementary (Sh)	Net Approved (Sh)	Budget Cuts
1	2018/19		100,000,000	0	0	100%
2	2017/18		132,000,000	(104,000,000)	28,000,000	75%
3	2016/17	883,161,118	142,000,000	-	142,000,000	0%
4	2015/16		100,000,000	(75,662,083)	24,337,917	75%
5	2014/15	598,933,976	480,000,000	(200,000,000)	280,000,000	60%

Source: Judiciary

The printed estimates of Sh100 million for the financial year (FY) 2018-19 were reduced to zero and therefore no projects were implemented. The continued budget cuts mean that no meaningful ICT programmes can be implemented to completion.

8.3 Projects Completed during the reporting period.

The following projects which were initiated during the FYs 2017-2018 and 2018-2019 were completed:

a. Court Recording

The implementation of the court recording project started with the installation of recording equipment in six courtrooms in the Commercial and Tax Division at the Milimani Law Courts in July 2019 which was supported by six transcribers. The court proceedings in these courts are now recorded and judges no longer have to take handwritten notes. The advantage of transcription is that the judges will now be able to focus on the demeanour of the witnesses and only take a few guiding notes. Over this period, the Commercial and Tax Division has recorded 2,500 case sessions in the six courts.

b. Transcription Services

A transcription room with six work stations was set up to provide transcription services at the Milimani Law Courts. The transcripts are prepared on-demand upon requests made at the registry and the payment of the requisite fees. During the reporting period, a total of 72 requests for transcripts were made.

c. Case Tracking System

The development of the Case Tracking System (CTS) started in September 2017 with a lot of progress being made in the last Financial Year. The CTS automates crucial registry functions such as case registration, file movement tracking, electronic diary, management of case activities and outcomes, generation of cause list and the Daily

Court Reporting Template (DCRT). It also provides other detailed reports including work load, case clearance rate and age of cases since registration.

CTS tracks the life cycle of a case, from registration to disposition. So far, the solution has been rolled out in nine courts (including the Supreme Court Building), three tribunals and one registry for the court-annexed mediation. A total of 256,041 cases have been captured on the system.

Table 8.2: List of Courts with Case Tracking System

S/N	Court Station	Court/ Division	Cases Registered
1	Supreme Court Building	Supreme Court	237
		Nairobi Court of Appeal	2,430
2	Milimani Law Courts	Milimani Environment and Land Court	11,663
		High Court Anti-Corruption and Economic Crimes Division	441
		High Court Civil Division	17,795
		High Court Commercial and Tax Division	23,283
		High Court Constitution and Human Rights Division	2,474
		High Court Criminal Division	5,595
		High Court Family Division	33,100
		High Court Judicial Review Division	2,653
		Milimani Chief Magistrate Children's Court	14,264
		Milimani Chief Magistrate Anti-Corruption Court	301
		Milimani Chief Magistrate Criminal Court	9,501
3	Naivasha Law Courts	Naivasha High Court	1,171
		Naivasha Magistrate Court	7,687
4	Milimani Commercial Court	Nairobi ELRC	10,464
		Chief Magistrate Commercial Court	23,855
5	Mombasa Law Courts	Mombasa High Court	10,645
		Mombasa ELC	4,496
		Mombasa ELRC	2,541
		Mombasa Magistrate Court	33,646
		Mombasa Kadhi's Court	450
6	Meru Law Courts	Meru High Court	2,055
		Meru Environment & Land Court	717
		Meru ELRC	142
		Meru Magistrate Court	3,729
7	Tononoka Law Courts	Tononoka Children's Magistrate Court	4,946
8	Shanzu Law Courts	Shanzu Magistrates' Court	4,614
9	Kiambu Law Courts	Kiambu High Court	834
		Kiambu Magistrates' Court	5,630

S/N	Court Station	Court/ Division	Cases Registered
10	Tribunals	The National Environment Tribunal	196
		Business Premises Rent Tribunal (BPRT)	1,193
		Co-operative Tribunal	632
11	Court Annex Mediation	Milimani Court Annex Mediation	465
TOTAL			256,041

d. E-filing System

The electronic filing (E-filing) system was developed to support the submission of electronic documents through an internet portal. It provides a platform for law firms, lawyers and non-lawyers to initiate and complete the process of filing cases online from their offices. Thus, they do not need to visit the court premises to file cases or banking halls to pay court fees. The E-filing portal was internally developed at the Judiciary and has been in use at the Commercial and Tax Division from May 2018. During the reporting period, the Division implemented a directive for all matters being filed to be done through E-filing.

The key advantages of the system are that time taken to file cases has been reduced from an average five hours to about 30 minutes, besides eliminating the cost of transport to and from the court registries. The system automatically performs fee assessment and produces the fee invoice to be paid. This has eliminated problems of over-assessment, under-assessment and corruption. A total of 392 matters were filed through the portal and Sh16,747,768 collected through the E-payment portal.

Table 8.3: Status of the E-filing at the Commercial and Tax Division

SN	Item	As of June 30, 2017	As at June 30, 2018	As at June 30, 2019
1	No. of cases registered electronically	2	53	445
2	No. of participant law firms	1	35	127
3	Amount of court fees collected (Sh)	6,500	5,267,967	22,015,735

e. The Information Kiosk

The Information Kiosk is an interactive computer terminal with specialized hardware and software that provides access to information about cases as captured on the CTS. A number of kiosks were procured and installed at Milimani Law Courts, Mombasa Law Courts, Kisumu Law Courts, Nakuru Law Courts, and Meru Law Courts. Visitors to the court are able to get updates on their cases including the date for the next activity, name of the Judicial Officer who will be presiding over their case, the courtroom location, and time of the case.



THE JUDICIARY OF KENYA: PUBLIC INFORMATION ON CASES
WELCOME TO MILIMANI LAW COURTS

Choose the court in which your case is filed

Milimani Environment and Land Court	Milimani High Court	Milimani Magistrate Court
Nairobi City Court	Nairobi Kadhi Court	

THE JUDICIARY OF KENYA: PUBLIC INFORMATION ON CASES
WELCOME TO MILIMANI LAW COURTS

Welcome to High Court Family Division: Enter your case details as per the fields below

CASE CODE	CASE NUMBER	YEAR
<input type="text" value="HCFD - High Court Family Appeal"/>	<input type="text" value="Number"/>	<input type="text" value="2018"/>

[Tap here to see case details](#)

Screen shot of kiosk interface

f. The Judiciary Asset Management System

The Judiciary Asset Management System has allowed the Judiciary to generate an Asset Register and keep track of the equipment and inventory vital for day-to-day operations. The asset register has helped the Judiciary report on all the assets it owns across the Country.

Screenshot of the JIAMS



g. ICT Equipment

A total of 1166 ICT equipment (including desktops, laptops, printers and tablets) were procured and distributed to judiciary staff during the reporting period. The equipment was set up in the registries and courtrooms to support the CTS, Judiciary Financial Management System, and the court recording at the Commercial and Tax Division.

h. Cloud Services

The Judiciary also acquired a private cloud solution to house all the systems including the email, CTS and others systems under development. The cloud provides backup to the main Judiciary data centre.

i. VPN Services

VPN services were setup in 34 stations to support voice (telephone) services and as a secure access channel to the online systems.

j. Legal Reforms to Support Automation

The legal framework to support automation is very critical. This will require the adoption of certain practice directions, policies and legislation in order to anchor the application of technology in judicial processes.

The Judiciary has engaged a legal consultant to review and advise the requisite legal documents and prepare the same for approval and adoption.

2. Projects initiated and on-going during the reporting period

A number of projects were initiated but were not completed during the reporting period due to the severe budget cuts. These are listed below;

a. Court Recording System

The Judiciary initiated the procurement of court recording equipment to be installed in 26 courtrooms especially the anti-corruption courts. The project will be completed in next reporting period.

b. Transcription Services through AJIRA Programme

The Judiciary also entered into an agreement with the Ministry of Information, Communications and Technology (ICT) for the use of the AJIRA programme to provide transcription services. The Ajira Digital Programme is a Government initiative driven by the Ministry to empower over 1 million young people to access digital jobs. The programme aims at introducing young people to digital work under the business process outsourcing model. Starting January 2020, the Judiciary will provide audio recording for transcription through the AJIRA programme. The Judiciary will benefit in a number of ways including faster turnaround time for conversion of speech/audio into text by use of readily available online transcribers hence reducing backlog in cases that need to be transcribed, and establishment of a sustainable ecosystem that can be rolled out in all courts.

c. Enterprise Resource Planning System

The acquisition of a commercial Enterprise Resource Planning (ERP) System for the Judiciary commenced with the appointment of an ERP Project Implementation Team, the ERP office and the call for the Expression of Interest (EOI). The actual procurement and implementation of the system is planned for the next reporting period.

d. SMS-based communication platform

The Judiciary has procured an SMS solution that will allow stakeholders to know the status of their cases through their mobile phones. The unveiling to the public was delayed as more case data was being captured in the CTS.

e. Data entry for Case Tracking System

The data entry into the CTS is currently on-going. Only 40 per cent of the stations have captured data on all pending cases to the Case Tracking System.

f. New Payroll System

The Judiciary payroll system required upgrades to match developments in technology and also incorporate new requests from users. The new system would also provide a self-service portal for staff. The procurement of the system was done in the current financial year and configuration and data migration will be completed in the FY 2019-2020 before the system is put in use.

g. The Judiciary Financial Management Information System

The Judiciary Financial Management Information System (JFMIS) has been supporting the court stations, which have been delinked from the District Treasury. The system is used for management of the payment of court fees and fines, and management of court deposits and expenditure (AIE). During the reporting period, the system was given a major upgrade with new features including centralized database, fully web-based and support for e-receipts. A total of 46 out of 139 court stations are using the system and migration of data from the old system to the new system is currently ongoing.

h. Internet Connectivity

By the end of the reporting period, 127 stations out of 139 had been connected to the internet. The remaining 12 stations were not connected due to lack of funds. Four new stations were opened during the period to make a total of 16 stations - Balambala Kadhis Court, Dadaab Kadhis Court, Modogashe Kadhis Court, Bura Kadhis Court, Ijara Kadhis Court, Bute Kadhis Court, Eldas Kadhis Court, Merti Kadhis Court, Kyuso Law Courts, Mutomo Law Courts, Kakuma Law Courts, Sirisia Law Courts, Tamu Law Courts, Ruiru Law Courts, Kahawa Law Courts and Bomet Law Courts). The Judiciary reached out to the Ministry of ICT for support and the connectivity will be carried out in the next financial year.

i. Wi-Fi Set-up

A total of 133 stations out of 139 had Wi-Fi equipment installed and operationalized. This means that court users, including visitors to the courts, have widespread access to Wi-Fi. The stations that are yet to get Wi-Fi installation include the Bomet Law Courts, Balambala Kadhis Court, Dadaab Kadhis Court, Ijara Kadhis Court, Merti Kadhis Court, Modogashe Kadhis Court, Bura Kadhis Court, Kyuso Law Courts, Kakuma Law Courts, Ruiru Law Courts and Kahawa Law Courts.

j. Document and Archive Management System

The Judiciary rolled out a document management system to manage all the e-records being generated as part of CTS, E-filing and JFMIS. The system allows judges and judicial officers to access an electronic copy of the file. It has been rolled out at the Commercial Division and will be scaled to support other courts in the next financial year.

3. Projects initiated but suspended during the reporting period

A number of projects which were planned for the reporting period were suspended due to the budget cuts. They have been planned for implementation in the FY 2019–2020.

a. Court Recording System

The implementation of court recording was to be expanded to 80 courtrooms after the success in the Commercial Division. However, the procurement process was suspended due to budget cuts. The procurement will be initiated in the next reporting period.

b. Case Tracking System

The rollout of the CTS to all the remaining 77 Law Courts was suspended due to lack of funds. The key activities that require funding include the training of court users and support for the data entry exercise. The activity will now be carried out during the next reporting period.

8.4 Key challenges during the year under review.

1. Limited funding: The ICT budget was reduced during the new financial year, which affected the implementation of most of the projects.
2. Limited provision of legal and policy guidelines to enhance use of ICT Projects. This is especially necessary for the E-filing programme which requires the review of some of the laws on E-summons, E-payments and E-receipting.
3. The Directorate has limited technical resources especially programmers, database experts to handle all the systems being developed.

Chapter 9

FINANCE AND ACCOUNTS

FINANCE AND ACCOUNTS

9.0. Introduction

This chapter reports on the use and management of finances that were allocated to the Judiciary during the period under review. This entails information on revenue and deposits from courts; automation of revenue collections, expenditure and deposits. There is an on-going process of delinking court stations' accounts from the sub-county treasuries of the national government and the report highlights the progress. The Constitution provides for the establishment of a Judiciary Fund to aid in the management of funds allocated to the Judiciary and the chapter highlights the progress on the operationalization of the Judiciary Fund. The challenges the Judiciary faces in the administration of financial resources are also highlighted.

The Judiciary continues to face significant funding challenges amidst the growing need for resources to enable and facilitate the delivery of services. In the previous two years, the Judiciary has only received an average of half of the resources required to enable the institution operate at the optimum level. The Chapter contains an analysis of the trends in the funding of the Judiciary and a comparative analysis of judiciary funding and other arms and agencies of government for a full picture of the funding landscape. The chapter also provides an analysis of the Judiciary's resource requirements versus its allocation; approved budget estimates, and expenditure analysis.

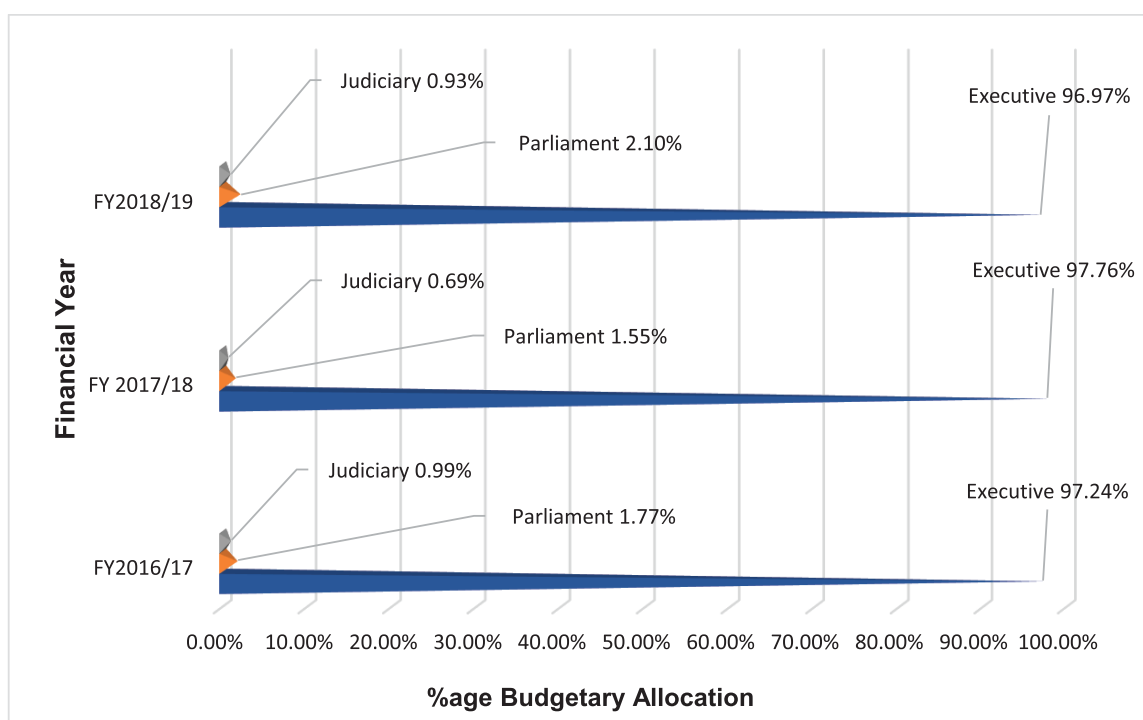
9.1 Funding of the Judiciary within the National Context

Budget estimates of the Judiciary are prepared in accordance with the Constitution and the Public Finance Management Act (PFMA) 2012. The PFMA requires all Government entities to prepare their budget estimates through the Medium Term Expenditure Framework (MTEF) process. This is a three-year programme-based budgeting process that requires an entity to set its key strategic objectives and expected outputs in the MTEF period, and also identify the Performance Indicators that will measure the achievement of those outputs. The strategic objectives of the review period were drawn from the Strategic Plan (2014-2018) and the Strategic Blueprint, Sustaining Judiciary Transformation (SJT): A Service Delivery Agenda (2017-2021). The SJT shifts focus from institutional building and capacity enhancement to enhancing service delivery. The outputs identified were implemented through the "Dispensation of Justice" pillar which comprises two sub-programmes: Access

to Justice, and General Administration Planning and Support Services. The Access to Justice sub-programme took the larger share of resources at 76 per cent as it focuses on the core mandate of the Judiciary. In the national budgetary process, the Judiciary is classified under the GJLO Sector working group under the MTEF together with other agencies.

9.2 Overall Budgetary Allocation within the National Government

An analysis of the budget for the three Arms of Government, namely the Judiciary, the Executive, and the Legislature, over the past three financial years, is presented in figure 9.1.



(Source: Government of Kenya Printed Estimates; FY2016/17, 2017/18, 2018/19)

Figure 9.1: Budget Allocation Trend within the Three Arms of Government

The Judiciary receives less than one per cent of the total budget that is allocated to the three arms of government, which has resulted in resource constraints in the Judiciary operations. In the past, the Judiciary has recommended a minimum funding of 2.5 per cent of the national budget to enable it to carry out its core functions effectively. This is in line with the recommendation by the report of the task force on Judicial reforms of July 2010 popularly known as the Ouko Report tabled at the floor of the house on **8th February 2011**, by then the Minister of Justice, National Cohesion and Constitutional Affairs, the **Late Hon. Mutula Kilonzo**.

9.3 Recurrent Versus Development Budget Allocation within the Three Arms

Recurrent expenditure covers the running and operational costs of the Judiciary which consists mainly of payment of salaries, purchase of goods and services and other operations and maintenance. Development expenditure, is an expenditure which results in the creation or acquisition of fixed assets such as construction and refurbishment of court buildings.

Budget allocation for the three Arms of Government for the recurrent budget is presented in 9.2.

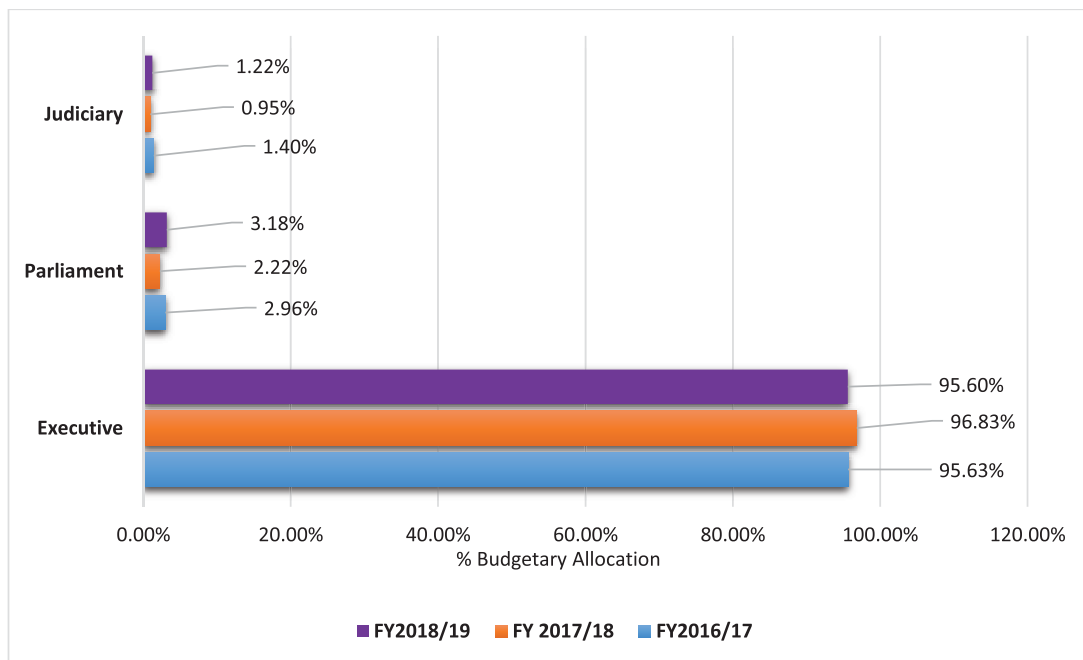


Figure 9.2: Recurrent Budget Allocation within the Three Arms of Government

The Recurrent budget for Executive has been more than 95% for the past three financial years whereas the allocation for the Judiciary has been below 1.5% for the period under review as shown in figure 9.2.

Figure 9.3 presents budgetary allocation for the three Arms of Government for the development budget.

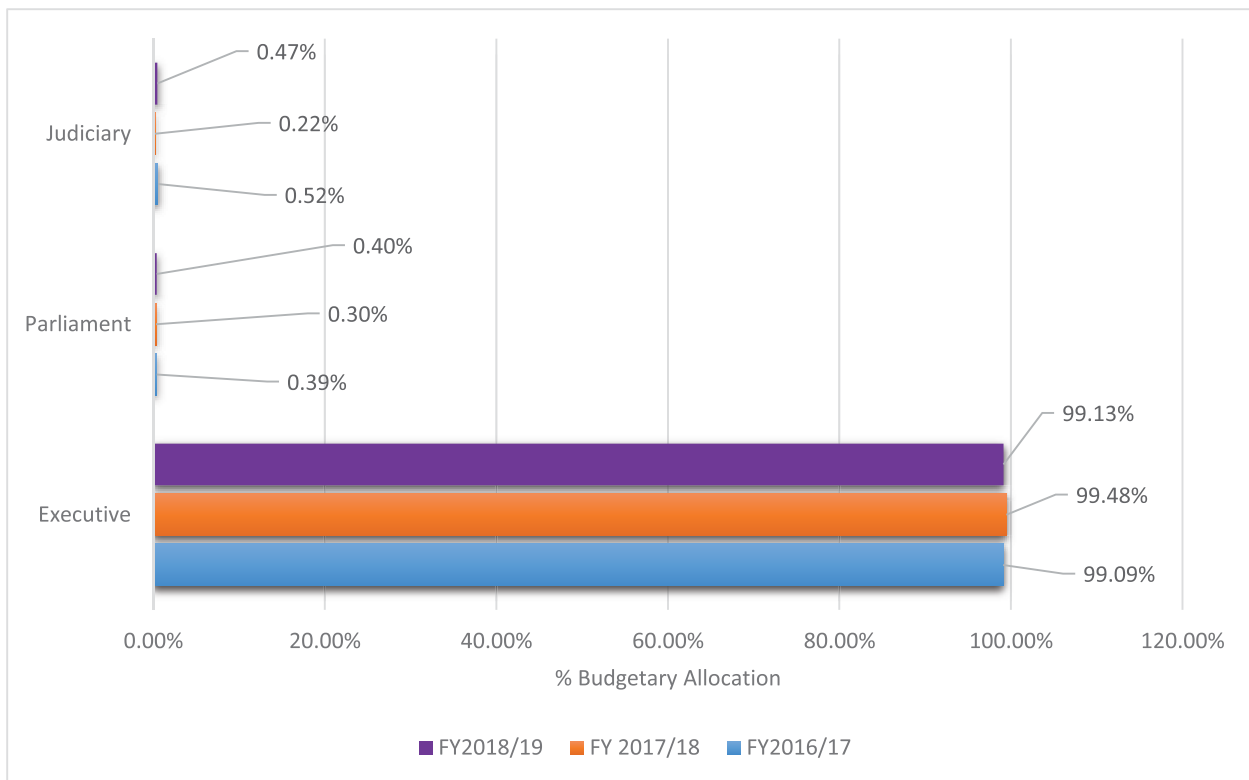


Figure 9.3: Development Budget Allocation within the Three Arms of Government

The need to expand and enhance access to justice has created the need for the construction of more court buildings and other court infrastructure (see Chapter Seven). However, the development expenditure needs have not been commensurate with the current needs. The Judiciary receives an average of less than 1 percent of the development budget over the past three years as shown in figure 9.3. As a result, most of the GOK-funded courts and other projects have stalled as a result of the reduced funding of the Judiciary’s development budget.

Table 9.1 provides a breakdown of budget allocation for both recurrent and development vote for the Executive, Parliament and the Judiciary for the MTEF period 2016/17 – 2018/19.

Table 9.1: Recurrent and Development Allocation for FY 2015/16 – 2017/18 in Sh Million

		Executive	Parliament	Judiciary	Total
FY2016/17	Recurrent	884,914	27,434	12,956	925,304
	Development	794,228	3,150	4,153	801,531
FY 2017/18	Recurrent	1,301,256	29,878	12,706	1,343,840
	Development	724,362	2,188	1,568	728,118
FY2018/19	Recurrent	1,025,768	34,129	13,086	1,072,983
	Development	671,324	2,700	3,203	677,227

9.4 Comparison of Judiciary Budget Allocation within the Governance Justice Law and Order Sector (GJLOS)

Governance Justice Law and Order Sector (GJLOS) comprises of 14 Government Ministries, Department and Agencies (MDAs). Table 9.2 present a comparative analysis of the budgetary allocation within the GJLOS for the Medium Term Expenditure Framework (MTEF) period FY 2016/17 – FY 2018/19.

Table 9.2: Governance Justice Law and Order Sector (GJLOS)

Vote & Vote Details	Recurrent Approved Allocation (Sh Million)			Development Approved Allocation (Sh Million)			Overall Budget (Sh Million)			%age Allocation		
	2016/ 17	2017/ 18	2018/ 19	2016/ 17	2017/ 18	2018/ 19	2016/ 17	2017/ 18	2018/ 19	2016/ 17	2017/ 18	2018/ 19
State Department for Interior	107,934.9	116,258.0	109,039.3	27,945.7	15,331.0	17,308.7	135,880.6	131,589.0	126,348.0	64.2%	60.6%	66.7%
State Department for Correctional services	20,226.9	22,798.0	26,049.1	525.0	553.0	1,812.6	20,751.9	23,351.0	27,861.7	9.8%	10.8%	14.7%
State Law Office Department of Justice	5,039.7	4,536.0	4,238.0	239.0	132.0	714.0	5,278.7	4,668.0	4,952.0	2.5%	2.2%	2.6%
The Judiciary	12,956.0	12,706.0	13,086.0	4,153.0	1,568.0	3,203.0	17,109.0	14,274.0	16,289.0	8.1%	6.6%	8.6%
Ethics and Anti-Corruption Commission	3,230.1	3,069.0	2,801.5	250.0	1,268.0	125.0	3,480.1	4,337.0	2,926.5	1.6%	2.0%	1.5%
Office of the Director of Public Prosecutions	2,115.0	1,994.0	2,812.3	98.0	5.0	100.0	2,213.0	1,999.0	2,912.3	1.0%	0.9%	1.5%
Office of the Registrar Political Parties	826.9	809.0	822.2	0.0	0.0	0.0	826.9	809.0	822.2	0.4%	0.4%	0.4%
Witness protection Agency	388.4	442.0	483.1	0.0	0.0	0.0	388.4	442.0	483.1	0.2%	0.2%	0.3%
Kenya National Commission on Human Rights	420.8	399.0	395.4	0.0	0.0	0.0	420.8	399.0	395.4	0.2%	0.2%	0.2%
Independent Electoral and Boundaries Commission	23,065.0	32,660.0	4,190.6	552.0	712.0	43.0	23,617.0	33,372.0	4,233.6	11.2%	15.4%	2.2%
Judicial Service Commission	450.0	284.0	364.0	0.0	0.0	0.0	450.0	284.0	364.0	0.2%	0.1%	0.2%

Vote & Vote Details	Recurrent Approved Allocation (Sh Million)			Development Approved Allocation (Sh Million)			Overall Budget (Sh Million)			%age Allocation		
	2016/ 17	2017/ 18	2018/ 19	2016/ 17	2017/ 18	2018/ 19	2016/ 17	2017/ 18	2018/ 19	2016/ 17	2017/ 18	2018/ 19
National Police Service Commission	435.3	548.0	630.6	0.0	0.0	0.0	435.3	548.0	630.6	0.2%	0.3%	0.3%
National Gender and Equality Commission	387.0	346.0	375.0	18.1	0.0	0.0	405.0	346.0	375.0	0.2%	0.2%	0.2%
Independent Policing and Oversight Authority	485.0	696.0	817.0	0.0	0.0	0.0	485.0	696.0	817.0	0.2%	0.3%	0.4%
SUM TOTAL	177,961.1	197,545.0	166,104.1	33,780.7	19,569.0	23,306.3	211,741.8	217,114.0	189,410.4	100.0%	100.0%	100.0%

Table 9.2 shows that the State Department for Interior was allocated over 60 per cent of the GJLOS budget. The allocation to the Judiciary was 8.1 per cent in FY 2016/17, 6.6 per cent in FY 2017/18 and 8.6 per cent in FY 2018/19.

The share of resource envelop in the GJLOS for the FY 2018/19 is shown in Figure 9.4.

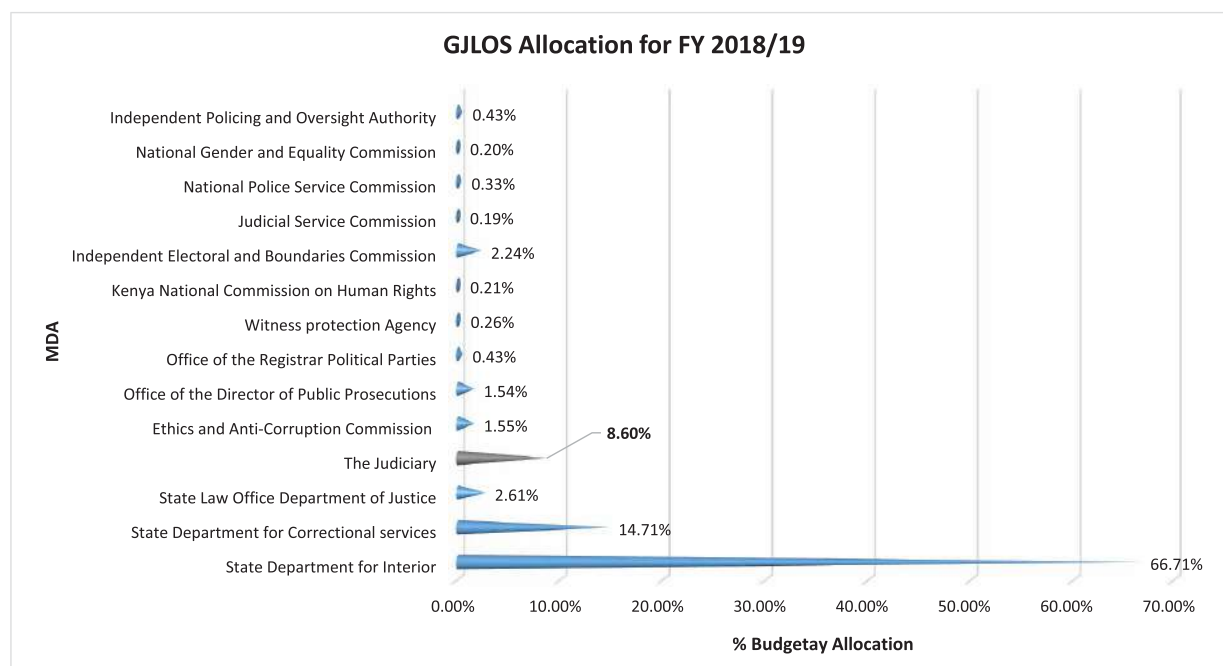


Figure 9.4: Percentage Budgetary Allocation within the GJLOS for FY 2017/18

The figure shows that the State Department for Interior, which falls under the Executive Arm of Government, received 66.7 per cent of the budget allocated to the GJLOS. State Department for Correctional Services came second with 14.7 per cent and the Judiciary third at 8.6 per cent.

9.5 Judiciary Budget Requirements versus Allocation

Table 9.3 presents a comparison of the resource requirements and resource allocation for the judiciary over the past three financial years.

Table 9.3: Resource Requirements versus Allocation

Financial Year	Requirement (Billion Sh)	Allocation (Billion Sh)	Percentage Allocation	Percentage shortfall
2016/17	23.366	17.109	73%	27%
2017/18	35.951	14.652	41%	59%
2018/19	31.165	16.289	52%	48%

The table shows that there was a deficit of 59 per cent in the FY 2017/18 Budget. Total allocation declined from Sh17.1 billion in FY 2016/17 to Sh14.6 billion in FY 2017/18 (a decline of 14 per cent) which was attributed to austerity measures. The budget allocation improved by 11 per cent in FY 2018/19. A budget shortfall of 48 per cent led to an accumulation of pending bills amounting to Sh856 million in FY 2018/19 compared to the previous FY 2017/18 which amounted to Sh528 million representing a 62 per cent increase. These bills comprised Sh427 million under recurrent vote and Sh429 million under development vote. The increase in pending bills can also be attributed to lack of Exchequer to pay for commitments amounting to Sh458 million while bills of Sh398 million were not paid due to lack of provision. This was compounded by frequent down time of IFMIS and delays in presentation of invoices and certificates by suppliers. Some of the pending bills for recurrent vote were payment were for provision of internet WIFI for court stations, purchase of motor vehicles, repair and maintenance of motor vehicles, fuel, training, conference facilities, rent for tribunals, electricity bill, and payment of merchants. Some of the pending payments for development vote were certificates presented for construction of Mandera, Embu, Githongo, Marsabit, Kandara, Amagoro, Mbita, Mombasa, Narok, Vihiga and Kabarnet law courts; refurbishment of Forodha House and Machakos Law Courts and; Prefabrication of court buildings at Tawa, Runyenjes and Garsen.

9.6 Approved Budget Estimates

The Judiciary was allocated Sh16.28 billion in the FY 2018/19 comprising Sh13.08 billion recurrent and Sh3.2 billion development allocation. During the financial year under review, a large proportion of the development allocation was from the World Bank under the Judicial Performance Improvement Project (JPIP) amounting to Sh2.99 billion. This means that funding from the Government was minimal at 4.6 per cent (Sh147 million) since Sh58 million was a grant from Ford Foundation for capacity building for the Supreme Court judges.

9.7 Expenditure Analysis and Absorption Levels (2016/17 – 2018/19)

The Judiciary utilized the allocated funds at the rate of 94 per cent in the FY 2018/19 which was an improvement from the 89 per cent in FY 2017/18. The average absorption rate in the MTEF review period FY 2016/17 – FY 2018/19 was 93 per cent.

9.7.1 Analysis of Recurrent Expenditure

Breakdown of the recurrent expenditure by economic classification is shown in Table 9.4. Analysis shows that the recurrent budget allocation decreased by 14 per cent in FY 2017/18 and then rose by 11 per cent in FY 2018/19. The share of compensation to employees over the total recurrent budget increased from 57 per cent in FY 2016/17 to 59 per cent in FY 2018/19 which may be attributed to the recruitment of judicial officers and judicial staff during that period. The share of other recurrent costs rose from 37 per cent to 38 per cent.

The expenditure attained under the recurrent vote averaged at 97 per cent in the MTEF period under review. Absorption under compensation to employees was at 98 per cent in FY 2016/17 but dropped to 96 per cent in FY 2017/18 then rose to 100 per cent in FY 2018/19. On the transfers, absorption declined from 100 per cent in FY 2016/17 to 95 per cent in FY 2017/18 then increased to 98 per cent in FY 2018/19. Other recurrent absorption was 94 per cent in both FY 2016/17 and FY 2017/18 then rose slightly to 95 per cent in FY 2018/19.

Table 9.4: Approved versus Recurrent Expenditure

Vote & Vote Details	Economic Classification	Approved Allocation			Actual Expenditure		
		2016/17	2017/18	2018/19	2016/17	2017/18	2018/19
1261	Gross	12,956	12,712	13,086	12,506	12,131	12,843
	AIA	-	-	-	-	-	-
	NET	12,956	12,712	13,086	12,506	12,131	12,843
	Compensation to Employees	7,409	7,683	7,600	7,266	7,397	7,600
	Transfers	772	934	593	771	887	580
	Other Recurrent	4,775	4,095	4,893	4,470	3,847	4,663
Totals		12,956	12,712	13,086	12,507	12,131	12,843

9.7.2 Analysis of Development Expenditure

The source of funds for the Judiciary's development vote was from the Government of Kenya (GOK), Ford Foundation and the World Bank funding. Table 9.5 shows that development budget reduced by 53 per cent from Sh4.153 billion in FY 2016/17 to Sh1.94 billion in FY 2017/18. The share of GOK funding fell from 35 per cent of the total development budget in FY 2016/17 to 5 per cent in 2018/19 due to severe budget cuts. The table further indicates that GOK funding drastically reduced by 90 per cent from Sh1.45 billion in FY 2016/17 to Sh147 million in FY 2018/19. The absorption rate attained under the development vote was 67 per cent, 85 per cent and 78 per cent in the three financial years respectively, and averaged 77 per cent in the period. Absorption under GOK funds was 37 per cent in FY 2016/17 and rose to 85 per cent in FY 2017/18 and again to 88 per cent in FY 2018/19. Absorption of loans from the World Bank was 87 per cent in FY 2016/17, 86 per cent in FY 2017/18 and fell to 78 per cent in 2018/19. The grants were utilized at 90 per cent in FY 2018/19.

Table 9.5: Analysis of Development Approved Budget VS Actual Expenditure

Vote & Vote Details	Economic Classification	Approved Allocation (Sh M)			Actual Expenditure (Sh M)		
		2016/17	2017/18	2018/19	2016/17	2017/18	2018/19
1261	Gross	4,153	1,940	3,203	2,795	1,657	2,513
	GOK	1,450	340	147	536	289	130
	Loans	2,600	1,600	2,998	2,251	1,368	2,331
	Grants	103	-	58	8	-	52
	Local AIA	-	-	-	-	-	-
	Net	4,153	1,940	3,203	2,795	1,657	2,513
Totals		4,153	1,940	3,203	2,795	1,657	2,513

The expenditure analysis explained in the above section is depicted in Figure 9.5. The analysis is presented for the past three financial years with a breakdown of the recurrent, development and overall budget.

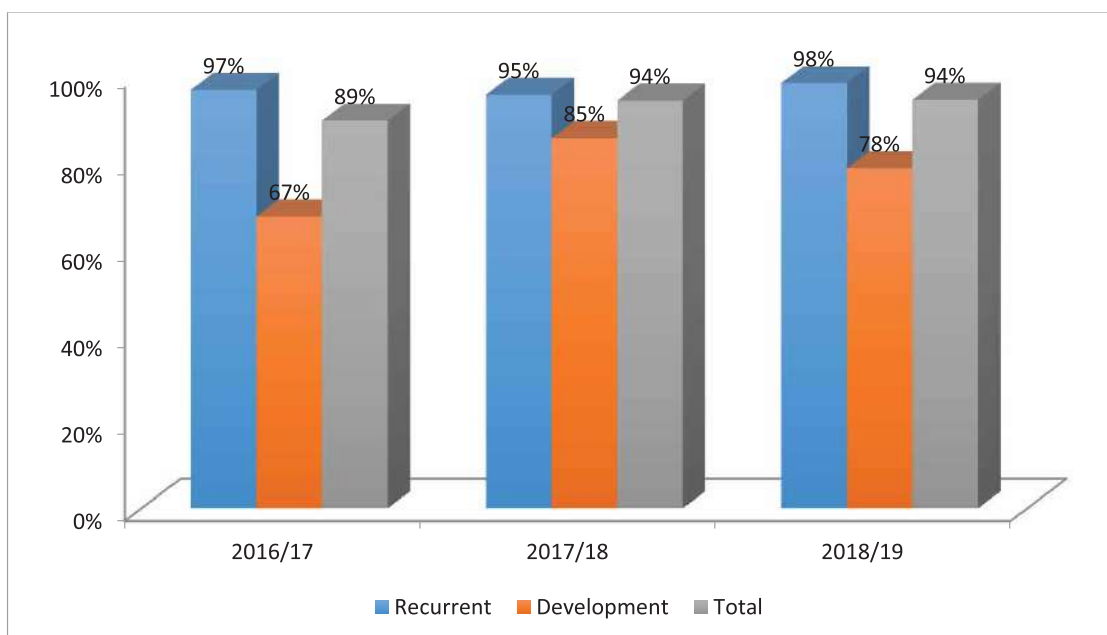


Figure 9.5: Trends in Budget Absorption

9.7.3 Analysis of Programme Expenditure

The Sub-programme on Access to Justice, which carries the core mandate of the Judiciary, received a larger share of budget and increased from 66 per cent in FY 2016/17 to 76 per cent in FY 2018/19. This is shown in Table 9.6.

Table 9.6: Analysis of Programme Expenditure (Amount in Sh Million)

	Approved Budget			Actual Expenditure		
	2016/17	2017/18	2018/19	2016/17	2017/18	2018/19
Programme 1: Dispensation of Justice						
Sub-Prog. 1: Access to Justice	11,309	10,256	12,363	10,094	9,652	11,503
Sub-Prog. 2: Administration and Support Services	5,800	4,396	3,926	5,207	4,136	3,853
Total Programme	17,109	14,652	16,289	15,301	13,788	15,356

9.7.4 Analysis of Programme Expenditure by Economic Classification

Table 9.7 shows that allocation for Compensation to Employees increased from Sh7.4 billion in FY 2016/17 to Sh7.6 billion in FY 2018/19 being 43 percent and 47 percent of the total allocation.

Table 9.7: Analysis of Programme Expenditure by Economic Classification (Sh. Millions)

Economic Classification	Approved Budget			Actual Expenditure		
	2016/17	2017/18	2018/19	2016/17	2017/18	2018/19
Programme 1: Dispensation of Justice						
Current Expenditure	12,956	12,712	13,086	12,506	12,131	12,843
Compensation to Employees	7,409	7,683	7,600	7,266	7,397	7,600
Use of goods & Services	2,529	2,919	3,434	2,301	2,681	3,275
Grants and Other Transfers	772	934	593	771	887	580
Other Recurrent	2,246	1,175	1,459	2,168	1,166	1,388
Capital Expenditure						
Acquisition of Non-Financial Assets	4,153	1,940	3,203	2,795	1,657	2,513
Capital Grants to Govt. Agencies	-	-	-	-	-	-
Other Development	-	-	-	-	-	-
Total Program	17,109	14,652	16,289	15,301	13,788	15,356
Total Vote 1261	17,109	14,652	16,289	15,301	13,788	15,356

The approved budget on use of goods and services increased from 15 percent to 21 percent in FY 2016/17 and 2018/19 respectively. The share of Grants and Other Transfers decreased from 5 percent in FY 2016/17 to 4 percent in FY 2018/19 when two SAGAs (NCLR and ALB) were transferred to the State Law Office and moved with their share of the budget. The proportion of Other Recurrent decreased from 13 percent to 9 percent during the same period. Acquisition of non-financial assets decreased from 24 percent to 20 per cent in FY 2016/17 and 2018/19 respectively.

The absorption on use of goods and services increased from 91 percent in FY 2016/17 to 95 percent in FY 2018/19. Other recurrent expenditure decreased from 97 percent to 95 percent during the same review period. Acquisition of non-financial assets increased from 67 percent in FY 2016/17 to 85 percent in FY 2017/18 and decreased to 78 percent in FY 2018/19.

9.8 Court Revenue

The Judiciary receives revenue on behalf of the Government comprising court fines, fees, forfeitures and other charges. Fines refer to the money ordered by the court for an offender to pay as a condition for his or her release. Forfeitures are the cash bails cancelled and in their place a receipt issued for a fine when an accused person fails to observe court appointments. The cash bail money is then transferred from the deposits account to the revenue account. This is followed by a warrant of arrest of the accused person. Fees refers to money paid for court services mainly for Civil matters. Other charges include commissioning fees, revenue from sale of exhibits and other miscellaneous fees.

The Judiciary has a no-cash collection policy in all the court stations. Revenue is collected in all court stations through cashless systems, mainly direct banking, use of M-Pesa Paybill, and through agency banking. These avenues have minimized the risks associated with handling of cash and boosted accountability. All the revenue collected by the stations is auto-transferred to the Judiciary's main revenue collection account on the last day of the month. This limits the amount of money held by court stations and enhances accountability. The measures also ensure that revenue is not spent at source.

9.8.1 Realized Revenue

Revenue control measures have been tightened and enhanced to seal revenue leakages within the Judiciary. These measures include improved cash collection methods as well as complete and timely reporting. Total revenue increased from Sh1.97 billion in FY 2016/2017 to Sh2.075 billion in FY 2017/2018 and further to Sh2.69 billion in FY 2018/2019, a 30 percent increase.

Table 9.8 below shows the comparative figures for revenue collection for the three financial years.

Table 9.8: Revenue collections over the last three financial years

	FY 2016/17	FY 2017/18	FY 2018/19	% Change
	Sh'ooo'	Sh'ooo'	Sh'ooo'	
Fines	1,125,429	1,122,481	1,638,577	46%
Fees	847,029	952,527	1,055,227	11%
Total	1,972,458	2,075,008	2,693,804	30%

There was an increase in fines collections from Sh1.122 billion in FY 2017-18, to Sh1.638 billion in FY 2018-19 representing an increase of 46 per cent. The increase is attributed to various factors including faster conclusion of cases.

Fees grew by 11 percent from Sh952 million in FY 2017-18 to Sh1.055 billion in FY 2018-19. The comparative growth in fees could be attributed to the increase in the number of cases filed from 402,243 cases in FY 2017/2018 to 484,349 cases in FY 2018/2019.

The growth in revenue could also be attributed to non-handling of hard cash and adherence to the set reporting time frames, to ensure that revenue is surrendered and reported in the period in which it is earned.

Figure 9.6 shows graphical presentation of the comparison of the fine and fees collected in the past three financial years.

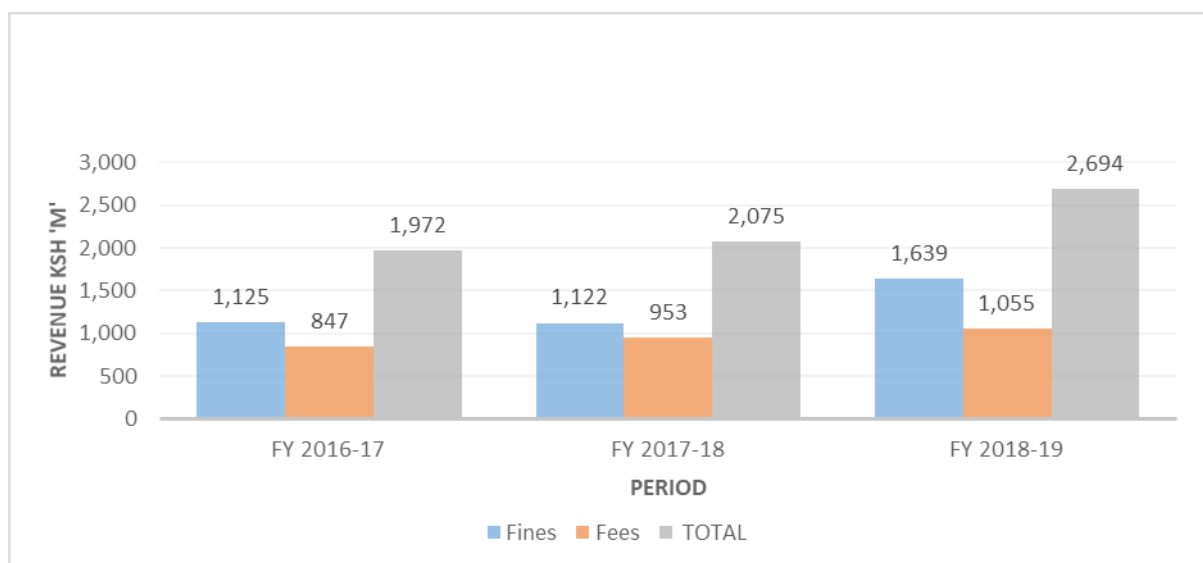


Figure 9.6: Revenue Analysis for FY 2016/17 – FY 2018/19

Table 9.10 shows the breakdown of the court fines and fees for the previous three financial years.

Table 9.10: Court Fines and Fees for FY 2016/17 – FY 2018/19

No	Court Station	Court Fines (Sh'ooo')			Court Fees (Sh'ooo')			Growth in Total Revenue FY 2018/19 %
		FY 2016/17	FY 2017/18	FY 2018/19	FY 2016/17	FY 2017/18	FY 2018/19	
1	Balambala (Mobile)	-	-	-	20	54,850	40,325	0%
2	Baricho	8,300,049	11,559,742	9,712,679	3,158,946	3,061,877	3,487,397	-10%
3	Bomet	7,728,306	7,777,852	17,753,467	2,092,675	2,453,942	2,714,610	100%
4	Bondo	2,000,748	4,399,572	6,515,645	1,911,635	2,138,464	3,091,406	47%
5	Bungoma	13,441,274	8,716,812	11,327,833	9,770,887	10,336,655	12,521,287	25%
6	Busia	4,787,009	3,449,592	9,595,756	4,783,841	3,667,616	7,509,176	140%
7	Butali	4,491,097	3,055,135	2,807,984	1,746,631	2,562,323	2,014,970	-14%
8	Butere	3,478,221	2,846,854	4,626,032	1,787,957	1,899,467	1,970,580	39%
9	C.O.A (Nairobi)	-	-	2,400,000	11,022,192	18,394,999	19,294,496	0%
10	Chuka	6,581,054	7,385,783	16,734,366	4,188,572	4,290,571	5,694,437	92%
11	Dadaab	-	-	-	126,750	165,325	161,150	0%
12	Eldama Ravine	6,963,645	300,000	-	1,333,537	9,677,311	9,750,153	-2%
13	Eldoret	36,175,725	8,553,066	12,750,512	16,445,320	1,941,507	2,579,874	46%
14	Embu	8,115,457	30,540,115	29,376,223	6,942,084	27,280,162	26,936,759	-3%
15	Engineer	1,678,535	8,964,220	10,860,419	2,378,234	7,868,042	9,604,948	22%
16	ERLC (Industrial)	30,000	-	6,695,920	10,664,951	138,675	2,405,542	0%
17	Garissa	24,131,572	4,580,295	16,054,115	1,947,938	2,477,438	2,591,501	164%
18	Garsen	761,979	10,917,894	746,670	1,202,365	2,091,871	1,201,220	-85%
19	Gatundu	5,302,404	295,225	11,175,329	3,034,557	687,655	5,660,407	1613%
20	Gichugu	2,370,283	6,165,286	6,159,473	1,859,756	4,812,082	1,479,739	-30%

No	Court Station	Court Fines (Sh'ooo')			Court Fees (Sh'ooo')			Growth in Total Revenue FY 2018/19
21	Githongo	3,247,416	3,234,902	6,392,297	1,558,523	1,305,169	1,603,181	76%
22	Githunguri	4,307,749	3,574,648	6,822,731	1,663,758	1,819,220	3,443,186	90%
23	Hamisi	697,846	4,410,978	2,094,087	279,405	2,536,948	907,872	-57%
24	Hola	516,653	1,874,635	982,619	544,164	397,377	420,437	-38%
25	HomaBay	3,200,600	340,348	6,784,463	2,376,125	460,487	3,624,936	1200%
26	Ijara (Mobile)	-	3,524,085	-	107,650	3,834,461	302,015	-96%
27	Isiolo	3,075,400	3,387,534	11,284,272	1,919,772	2,309,156	1,796,590	130%
28	Iten	3,816,259	5,251,808	9,455,602	346,653	771,755	1,196,056	77%
29	KIA	19,630,996	18,173,330	8,280,102	63,305	94,715	135,635	-54%
30	Kabarnet	1,881,717	3,337,460	3,982,112	568,791	1,402,157	1,325,253	12%
31	Kajiado	18,848,727	14,149,349	22,064,179	8,655,831	11,767,257	11,343,121	29%
32	Kakamega	6,509,159	10,620,776	9,784,537	8,024,388	10,533,879	11,777,871	2%
33	Kakuma	820,120	2,008,560	1,218,481	47,030	53,785	49,306	-39%
34	Kaloleni	1,030,738	1,171,768	1,591,428	1,508,485	1,938,073	1,146,640	-12%
35	Kandara	2,805,272	3,666,927	7,463,815	1,857,761	3,017,744	3,542,882	65%
36	Kangema	3,376,720	3,854,660	6,764,880	813,373	1,376,360	1,576,288	59%
37	Kangundo	8,185,520	9,400,182	10,905,244	1,993,824	4,250,657	4,643,821	14%
38	Kapenguria	5,943,402	4,835,038	6,906,382	927,958	965,340	1,088,919	38%
39	Kapsabet	10,429,779	17,379,383	29,069,936	2,575,845	3,676,905	3,363,341	54%
40	Karatina	2,485,539	2,965,059	6,374,549	3,038,439	2,935,850	3,047,853	60%
41	Kehancha	1,965,304	2,071,086	5,335,801	535,745	446,506	581,560	135%
42	Kericho	17,837,094	14,151,421	26,384,455	6,823,520	7,625,100	9,435,023	64%
43	Keroka	6,724,573	3,348,445	3,457,400	2,384,099	2,082,304	1,353,969	-11%
44	Kerugoya	4,826,834	3,509,875	5,778,846	7,078,643	7,013,484	7,609,913	27%
45	Kiambu	11,734,990	11,497,219	22,598,134	11,383,702	13,160,388	13,686,578	47%
46	Kibera	63,815,620	68,311,583	58,192,779	425,465	688,533	770,393	-15%
47	Kigumo	5,722,516	7,197,597	12,395,997	2,079,607	4,036,603	4,164,010	47%
48	Kikuyu	12,729,379	7,438,864	8,121,538	6,490,985	6,561,873	8,220,926	17%
49	Kilgoris	5,492,755	7,644,045	7,058,463	527,779	732,002	1,814,842	6%
50	Kilifi	1,485,726	2,073,800	4,534,892	2,833,588	5,307,749	5,505,769	36%
51	Kilungu	10,933,971	17,186,908	25,075,174	2,281,250	4,719,496	4,659,906	36%
52	Kimilili	4,303,376	3,097,432	6,440,780	1,113,880	1,422,050	1,975,375	86%
53	Kisii	16,899,275	14,117,704	22,517,686	11,757,356	13,469,506	18,077,507	47%
54	Kisumu	14,752,603	10,449,127	13,378,392	22,018,392	23,509,222	25,157,161	13%
55	Kitale	22,601,835	18,708,634	31,840,157	10,700,507	10,089,226	11,719,850	51%
56	Kithimani	8,577,669	5,660,490	9,813,662	3,998,264	3,827,285	4,054,954	46%
57	Kitui	4,868,443	6,262,481	11,253,417	4,589,133	6,073,352	6,780,262	46%
58	Kwale	4,689,376	7,267,107	18,927,057	4,012,300	6,066,911	6,775,298	93%
59	Kyuso	1,766,278	3,849,190	3,546,794	308,108	258,349	541,950	0%
60	Lamu	758,758	504,499	2,804,962	477,695	542,420	531,469	219%
61	Limuru	7,412,844	7,374,405	11,965,206	5,618,380	5,939,998	7,759,018	48%
62	Lodwar	3,134,317	2,820,422	2,538,517	448,067	846,664	355,880	-21%
63	Loitokitok	636,380	3,169,394	5,813,828	25,110	410,878	1,302,367	99%
64	Machakos	13,909,827	20,163,695	20,190,595	15,513,858	30,231,812	24,312,704	-12%
65	Makadara	31,999,783	43,449,124	98,743,809	265,160	562,730	719,355	126%
66	Makindu	12,037,156	11,327,357	25,193,119	4,053,518	5,655,808	7,184,257	91%
67	Makueni	1,033,478	2,978,379	7,747,842	1,099,840	4,761,288	5,886,405	76%
68	Malindi	5,994,854	6,037,675	6,690,523	12,039,754	14,651,034	14,928,864	4%
69	Mandera	2,901,130	7,599,807	4,745,041	428,565	1,189,813	1,840,295	-25%
70	Maralal	2,264,344	2,437,096	1,859,761	376,870	331,430	560,691	-13%
71	Mariakani	10,621,644	12,929,019	19,002,488	4,256,690	5,113,389	4,614,694	31%
72	Marimanti	1,422,168	876,135	1,795,720	304,977	441,125	714,076	91%
73	Marsabit	1,311,496	3,054,035	1,698,048	472,480	1,409,761	1,385,191	-31%
74	Maseno	4,974,238	2,362,302	5,397,390	1,130,823	1,168,992	1,877,100	106%
75	Maua	5,844,829	2,949,447	11,122,768	2,713,461	3,464,190	5,245,683	155%
76	Mavoko	12,854,392	42,192,369	45,877,569	7,519,059	18,134,536	14,231,473	0%
77	Mbita	1,316,897	1,893,458	4,878,645	581,138	468,899	973,044	148%
78	Meru	3,661,290	9,809,235	18,474,682	7,797,395	17,028,045	15,326,689	26%
79	Migori	3,247,434	2,366,291	5,120,340	5,023,911	6,243,179	7,330,828	45%
80	Milimani L.C.	129,899,260	80,000	40,000	156,410,790	204,148,308	229,491,369	12%
81	Milimani Commercial	520,000	127,207,284	222,492,337	199,093,665	115,715,525	125,446,918	43%
82	Molo	21,536,895	9,389,786	10,316,620	4,367,220	4,198,040	4,669,381	10%

No	Court Station	Court Fines (Sh'ooo')			Court Fees (Sh'ooo')			Growth in Total Revenue FY 2018/19
83	Mombasa	66,205,557	33,913,326	48,857,932	59,772,375	61,749,362	73,701,060	28%
84	Moyale	1,816,435	1,274,586	7,476,817	304,556	369,354	482,255	384%
85	Mpeketoni	1,061,342	743,856	616,489	158,925	431,307	381,055	-15%
86	Mukurweini	2,218,513	1,564,323	2,965,844	676,581	883,154	1,073,150	65%
87	Mumias	5,327,858	4,040,482	5,790,251	2,869,105	2,895,115	3,106,680	28%
88	Muranga	4,832,802	6,340,812	8,319,035	8,602,905	9,186,998	9,220,921	13%
89	Mutomo	3,352,217	3,095,079	2,095,873	500,997	650,574	914,562	-20%
90	Mwingi	6,566,737	4,877,336	4,237,660	1,710,236	2,207,167	3,667,575	12%
91	Naivasha	41,805,104	33,966,687	37,676,681	9,605,610	14,591,885	16,449,620	11%
92	Nakuru	16,369,036	22,084,261	31,962,271	22,355,826	22,726,943	29,538,342	37%
93	Nanyuki	14,788,321	14,777,084	18,026,635	2,898,544	4,612,873	5,699,849	22%
94	Narok	5,329,881	5,286,075	12,603,914	3,170,340	6,193,519	8,390,815	83%
95	Ndhiwa	694,336	829,761	1,059,270	1,730,485	1,328,755	1,408,504	14%
96	Ngong	8,569,020	15,756,768	20,421,361	1,036,553	5,101,350	6,512,253	29%
97	Nkubu	971,816	7,294,839	9,616,765	870,204	2,449,356	3,071,507	30%
98	Nyahururu	10,677,387	7,553,421	12,122,751	5,101,200	8,389,036	8,904,550	32%
99	Nyamira	5,299,731	5,062,021	9,594,104	2,629,904	2,714,409	3,253,048	65%
100	Nyando	3,126,120	2,485,839	3,008,021	1,615,170	1,796,635	1,925,987	15%
101	Nyeri	35,073,522	10,562,674	15,125,872	16,844,675	17,115,040	16,929,210	16%
102	Ogembo	1,532,880	12,580,851	13,208,956	1,126,831	2,703,544	4,306,861	15%
103	Othaya	1,737,763	2,339,322	1,930,943	1,005,648	1,387,576	1,461,458	-9%
104	Oyugis	4,426,304	4,082,668	6,643,043	2,396,587	2,838,215	3,662,242	49%
105	Rongo	4,077,292	2,490,129	3,533,889	1,505,158	4,203,708	2,793,610	-5%
106	Ruiru	0	0	2,459,759	0	0	1,485,483	0%
107	Runyenjes	1,794,596	3,761,788	7,078,776	1,336,817	1,453,694	1,783,185	70%
108	Shanzu	24,412,879	29,875,351	23,760,774	-	-	86,585	0%
109	Siakago	3,040,412	3,058,522	2,926,018	1,239,950	2,002,942	2,564,637	8%
110	Siaya	3,389,389	2,489,969	5,343,010	2,277,442	3,039,357	3,841,016	66%
111	Sirisia	3,730,557	4,173,784	4,893,854	274,654	427,305	1,083,413	30%
112	Sotik	2,885,104	3,977,554	6,201,140	1,372,616	2,322,973	2,296,548	35%
113	Tamu	769,573	1,676,407	1,513,239	260,953	892,998	821,479	-9%
114	Taveta	4,600,148	4,754,867	9,777,249	168,919	472,942	358,827	94%
115	Tawa	1,604,654	1,351,754	2,047,296	2,409,338	1,944,370	2,001,471	23%
116	Thika	33,143,576	31,425,353	55,567,925	17,900,708	23,436,534	24,009,108	45%
117	Tigania	9,919,587	7,981,440	14,609,458	931,181	1,616,252	2,166,228	75%
118	Ukwala	2,461,060	3,787,641	4,099,274	784,862	1,216,950	1,607,349	14%
119	Vihiga	10,344,780	5,731,901	5,793,465	1,923,706	2,148,587	2,850,754	10%
120	Voi	12,444,948	11,830,405	10,372,870	4,366,409	4,938,696	5,534,252	-5%
121	Wajir	2,972,097	5,227,610	10,108,316	494,492	1,444,239	1,303,038	71%
122	Wanguru	6,288,875	8,211,985	10,306,817	1,857,618	2,688,943	2,918,828	21%
123	Webuye	9,706,710	6,394,519	8,362,815	2,095,378	2,263,641	2,339,947	24%
124	Winam	4,712,062	5,018,975	6,438,412	1,919,529	1,995,393	2,176,355	23%
125	Wundanyi	3,180,156	5,265,966	5,346,970	275,745	499,629	524,823	2%
Total		1,125,429,138	1,122,481,086	1,638,577,188	847,029,439	952,527,250	1,055,226,616	30%

9.8.2 Comparison between Targeted and Realized Revenue

The Cabinet Secretary for Finance sets revenue targets at the beginning of the financial year for all designated collectors of national Government revenue. Over the years, the targeted revenue has been growing at a higher rate than the actual collections. This has resulted in a decreasing rate of attainment of revenue targets despite the growth in actual revenue collected.

Table 9.9 gives comparative figures of revenue collections and estimates for the last three financial years from 2016/17 to 2018/19.

	Revenue Estimate	Increase in Revenue Targets	Actual Revenue Collected	Growth in Revenue Collected	Shortfall to targeted revenue	Realization
FY	Sh. 'ooo'	%	Sh. 'ooo'	%	Sh. 'ooo'	%
2018/2019	4,548,208	56%	2,693,804	30%	-1,854,404	59%
2017/2018	2,907,508	81%	2,075,008	5%	-832,499	71%
2016/2017	1,610,597		1,972,458		361,861	122%

9.9 Court Deposits

Court deposits include the cash bails paid to secure the release of accused persons as the case progresses, monies deposited in court as security especially in civil matters and retention monies for recently completed projects. Deposits management structures have been very weak in the past, with the funds being managed by both the court stations and the Sub-County treasuries. Streamlining the deposits management system is core to the Judiciary's transparency and accountability agenda. Measures have been taken to ensure that a robust, efficient and effective deposit management system is in place across the country.

Efficiency has been realised in the deposits refund process with the introduction of the electronic payment system (Q-pay) and continuous training in the use of the Judiciary Financial Management Information System (JFMIS) across the country. Deposits reconciliation exercise is ongoing to ensure that the correct deposits liability is established and the funds held in the bank accounts are sufficient to pay out when ordered by the court or when retentions fall due.

As at 30th June 2019, the outstanding deposits had increased by **Sh. 2,283,242,005** which reflects a **45%** growth, from **Sh 5,126,896,135** in year 2017/2018, to **Sh. 7,410,138,140** in the year under review.

Table 9.11 details the amount of court deposits held as cash bails in each court station as at the end of FY 2018-19.

Table 9.11: Court deposits held by court stations and end of FY 2018-19

	Station Name	Balance B/F (Sh.)	Receipts (Sh.)	Payment (Sh.)	Closing Balance 30th June 2019 (Sh.)	Growth (%)
1	Baricho	5,424,220	7,658,500	5,323,500	7,759,220	43%
2	Bomet	10,314,457	8,508,825	4,933,280	13,890,002	35%
3	Bondo	2,150,550	3,728,500	3,136,000	2,743,050	28%
4	Bungoma	25,764,793	16,090,606	12,140,797	29,714,602	15%
5	Busia	18,982,342	12,244,668	6,870,949	24,356,061	28%
6	Butali	3,947,902	2,604,402	4,841,377	1,710,927	-57%
7	Butere	1,846,200	2,167,000	1,695,390	2,317,810	26%

	Station Name	Balance B/F (Sh.)	Receipts (Sh.)	Payment (Sh.)	Closing Balance 30th June 2019 (Sh.)	Growth (%)
8	Chuka	15,885,240	9,111,100	10,640,265	14,356,075	-10%
9	Eldama Ravine	11,295,105	13,262,000	4,976,500	19,580,605	73%
10	Eldoret	68,460,987	48,249,009	35,625,927	81,084,070	18%
11	Embu	27,056,398	55,911,519	12,049,143	70,918,774	162%
12	Engineer	13,246,995	9,056,412	7,398,820	14,904,587	13%
13	Garissa	19,046,987	18,701,264	20,560,417	17,187,834	-10%
14	Garsen	3,132,335	2,320,879	1,982,646	3,470,567	11%
15	Gatundu	13,256,137	9,218,500	9,735,000	12,739,637	-4%
16	Gichugu	3,611,889	6,759,100	5,667,639	4,703,350	30%
17	Githongo	1,157,475	4,967,355	2,685,530	3,439,300	197%
18	Githunguri	3,944,834	5,537,193	4,644,455	4,837,572	23%
19	Hamisi	2,226,930	2,415,500	2,441,930	2,200,500	-1%
20	Hola	759,220	258,519	398,739	619,000	-18%
21	Homa Bay	14,383,456	13,698,245	13,900,379	14,181,322	-1%
22	Isiolo	18,581,691	13,431,915	9,516,324	22,497,282	21%
23	Iten	5,560,491	3,931,477	4,140,500	5,351,468	-4%
24	JKIA	7,936,500	12,588,300	7,156,300	13,368,500	68%
25	Kabarnet	1,817,027	2,455,490	2,273,006	1,999,511	10%
26	Kajiado	11,975,206	944,919,904	16,603,892	940,291,218	7752%
27	Kakamega	28,164,899	16,155,453	11,551,758	32,768,594	16%
28	Kakuma	1,367,000	934,000	719,000	1,582,000	16%
29	Kaloleni	1,944,135	2,734,000	973,000	3,705,135	91%
30	Kandara	15,002,813	9,465,000	7,049,147	17,418,666	16%
31	Kangema	3,298,567	7,033,740	5,188,008	5,144,299	56%
32	Kangundo	8,634,482	8,728,076	7,441,385	9,921,173	15%
33	Kapenguria	4,020,085	3,466,817	4,537,101	2,949,800	-27%
34	Kapsabet	9,432,906	4,976,925	2,794,330	11,615,501	23%
35	Karatina	7,088,547	9,566,791	5,576,447	11,078,891	56%
36	Kehancha	3,886,483	4,385,140	4,698,483	3,573,140	-8%
37	Kericho	24,511,199	22,314,984	8,391,970	38,434,213	57%
38	Keroka	2,005,866	5,888,000	5,725,980	2,167,886	8%
39	Kerugoya	13,420,014	19,660,942	8,380,896	24,700,060	84%
40	Kiambu	77,127,468	82,800,601	44,280,490	115,647,579	50%
41	Kibera	231,137,983	78,364,535	56,519,619	252,982,899	9%
42	Kigumo	11,040,262	6,795,831	2,330,297	15,505,795	40%
43	Kikuyu	21,495,850	18,956,742	4,617,972	35,834,620	67%
44	Kilgoris	9,067,241	5,301,310	4,279,241	10,089,310	11%
45	Kilifi	16,960,253	9,457,642	6,447,810	19,970,085	18%
46	Kilungu	3,657,326	6,063,170	6,051,789	3,668,707	0%
47	Kimilili	5,485,961	3,298,214	3,625,475	5,158,700	-6%
48	Kisii	36,770,639	17,628,909	14,016,848	40,382,700	10%
49	Kisumu	40,542,266	15,612,345	12,498,813	43,655,798	8%
50	Kitale	22,652,690	17,822,802	17,559,076	22,916,416	1%
51	Kithimani	11,974,742	9,781,050	6,145,550	15,610,242	30%
52	Kitui	35,429,259	9,907,745	17,382,059	27,954,945	-21%
53	Kwale	26,278,696	12,824,563	5,166,987	33,936,272	29%
54	Kyuso	824,000	1,756,400	1,111,000	1,469,400	78%
55	Lamu	9,221,813	4,516,300	2,140,300	11,597,813	26%
56	Limuru	34,239,706	13,477,407	18,949,793	28,767,320	-16%
57	Lodwar	4,160,700	2,996,000	3,036,832	4,119,868	-1%
58	Loitokitok	1,030,000	1,368,500	1,543,500	855,000	-17%
59	Machakos	71,357,209	25,148,259	14,026,625	82,478,843	16%
60	Makadara	293,819,049	243,309,946	81,630,985	455,498,009	55%
61	Makindu	10,207,522	7,076,315	3,533,069	13,750,768	35%
62	Makueni	3,576,865	18,509,738	7,397,622	14,688,982	311%
63	Malindi	75,604,783	38,489,987	34,617,566	79,477,203	5%
64	Mandera	2,998,352	7,172,350	6,788,865	3,381,837	13%
65	Mararal	2,752,727	2,678,673	3,576,100	1,855,300	-33%
66	Mariakani	11,680,910	13,475,786	8,927,726	16,228,970	39%

	Station Name	Balance B/F (Sh.)	Receipts (Sh.)	Payment (Sh.)	Closing Balance 30th June 2019 (Sh.)	Growth (%)
67	Marimanti	2,565,500	1,189,753	1,028,753	2,726,500	6%
68	Marsabit	5,631,547	9,140,741	7,623,638	7,148,650	27%
69	Maseno	4,804,584	1,189,056	274,157	5,719,483	19%
70	Maua	1,454,797	30,866,366	6,242,265	26,078,898	1693%
71	Mavoko	55,937,779	42,334,329	31,556,773	66,715,335	19%
72	Mbita	3,116,000	3,816,000	3,304,000	3,628,000	16%
73	Meru	49,958,426	25,858,578	26,396,862	49,420,142	-1%
74	Migori	5,527,578	8,971,103	4,897,573	9,601,108	74%
75	Milimani L.C	1,609,192,194	954,304,119	231,154,625	2,332,341,688	45%
76	Milimani C.C	264,922,870	183,519,001	253,565,169	194,876,701	-26%
77	Molo	16,896,833	32,739,039	36,786,382	12,849,490	-24%
78	Mombasa	181,245,601	188,742,931	145,120,945	224,867,587	24%
79	Mutomo	1,740,698	5,311,472	1,766,500	5,285,670	204%
80	Moyale	- 53,775	3,919,000	1,919,335	1,945,890	-3719%
81	Mpeketoni	761,500	1,349,000	1,105,500	1,005,000	32%
82	Mukurweini	1,028,500	3,288,530	3,115,430	1,201,600	17%
83	Mumias	6,471,417	2,238,514	1,119,257	7,590,674	17%
84	Muranga	45,714,041	9,955,250	20,886,794	34,782,497	-24%
85	Mwingi	6,562,251	4,880,690	2,640,810	8,802,131	34%
86	Naivasha	90,536,508	74,101,854	27,735,840	136,902,522	51%
87	Nakuru	237,796,678	90,270,407	65,528,823	262,538,262	10%
88	Nanyuki	24,379,700	19,938,404	17,734,449	26,583,655	9%
89	Narok	20,854,876	16,625,310	15,006,290	22,473,896	8%
90	Ndhiwa	3,049,221	1,538,340	3,056,937	1,530,624	-50%
91	Ngong	22,216,700	19,020,500	11,071,000	30,166,200	36%
92	Nkubu	10,224,324	3,067,700	6,049,473	7,242,551	-29%
93	Nyahururu	24,952,754	19,562,043	8,478,686	36,036,111	44%
94	Nyamira	16,954,284	5,314,745	6,527,980	15,741,049	-7%
95	Nyando	2,571,716	1,672,000	1,310,216	2,933,500	14%
96	Nyeri	43,080,827	64,620,652	36,411,150	71,290,330	65%
97	Ogembo	9,120,343	11,059,000	7,416,673	12,762,670	40%
98	Othaya	1,648,312	1,953,800	2,019,300	1,582,812	-4%
99	Oyugis	2,985,200	4,318,000	3,318,000	3,985,200	33%
100	Rongo	1,301,275	4,760,836	2,273,500	3,788,611	191%
101	Runyenjes	2,661,500	5,296,500	2,663,000	5,295,000	99%
102	Shanzu	55,975,115	39,815,550	29,287,085	66,503,580	19%
103	Siakago	8,909,384	8,294,965	11,145,279	6,059,070	-32%
104	Siaya	6,671,961	9,526,705	6,474,103	9,724,563	46%
105	Sirisia	2,936,689	2,234,062	3,184,555	1,986,196	-32%
106	Sotik	3,118,545	1,582,500	1,283,000	3,418,045	10%
107	Tamu	628,000	1,863,000	1,367,000	1,124,000	79%
108	Taveta	1,816,125	1,466,500	1,032,500	2,250,125	24%
109	Tawa	4,058,825	4,719,258	1,813,058	6,965,025	72%
110	Thika	121,190,969	71,622,274	67,750,277	125,062,966	3%
111	Tigania	14,478,003	6,337,200	8,864,500	11,950,703	-17%
112	Ukwala	886,762	2,093,886	1,684,358	1,296,290	46%
113	Vihiga	4,793,391	4,252,500	3,149,000	5,896,891	23%
114	Voi	13,993,054	12,958,331	12,690,397	14,260,988	2%
115	Wajir	2,328,672	4,984,601	4,272,773	3,040,500	31%
116	Wanguru	7,969,834	8,496,112	6,331,500	10,134,446	27%
117	Webuye	9,938,934	6,163,260	5,180,667	10,921,527	10%
118	Winam	14,780,859	8,426,763	11,303,678	11,903,944	-19%
119	Wundanyi	1,351,700	3,590,800	1,870,400	3,072,100	127%
120	Supreme/COA	567,620,122	112,793,278	56,051,835	624,361,565	10%
Total Outstanding Deposits		5,126,896,135	4,187,652,275	1,904,410,270	7,410,138,140	45%

9.10 Automation of Revenue, Expenditure and Deposits management

The Judiciary has continued the use of JFMIS in its Financial Management processes. The system helps in revenue, deposits and expenditure management and curbs process losses that may arise from weak systems and understaffing in most of the courts. As stipulated in the Sustaining Judiciary Transformation (SJT) blueprint, the Judiciary's emphasis is on improvement in the speed and quality of service by increasing efficiency and effectiveness at individual and system level. Value for money will be achieved by entrenching best practices, and by eliminating bottlenecks and red-tape in all systems and processes.

One of the key objectives is to enhance service delivery to the clients (internal and external) and stakeholders by making the processes transparent and user-friendly. A key element of this is to improve the financial management system by embracing technology. This has also been affirmed in Chapter 5 of the SJT blueprint.

In addition, the Judiciary has implemented Q-pay services which is an online payment platform (Electronic Funds Transfer) provided by Kenya Commercial Bank (KCB). Q-pay services have been implemented in 59 court stations. The platform allows users to make secure online payments.

9.11 De-linking of court stations from National Sub-County Treasuries

The Public Finance Management (PFM) Act 2012 Section 68 requires the Judiciary to maintain its distinct financial records and transactions. To achieve this, the Judiciary has embarked on the de-linking of its financial processes from the National Sub-county Treasuries. Before de-linking was effected, authority was sought from the National Treasury by the Chief Registrar of the Judiciary who is the Accounting Officer. In the first phase (FY 2015-16), 13 stations were de-linked while 37 were de-linked in FY 2016-17. The remaining stations are readying themselves for the next phase of de-linking in FY 2019-20. The de-linking has improved on the speed, accuracy, accountability and transparency of the financial and reporting processes. These performance measures can also be assessed at court station level.

9.12 The Judiciary Fund

Article 173 of the Constitution establishes the Judiciary Fund and requires funds to be set aside and deposited in the fund to support the functions of the Judiciary. In order to give effect to this provision, the Judiciary Fund Act 2016 was assented to in May 2016 with a commencement date of June 12, 2016. Section 14 of the Act requires

the Chief Justice, in consultation with the Chief Registrar, to make regulations for the proper management of the fund. The regulations were developed through a comprehensive consultative process and were approved and gazetted on May 3, 2019. With the adoption of the regulations, the Judiciary is making steps to operationalize the fund.

9.13 Challenges

During the period under review, the Judiciary experienced various challenges which have continued to adversely affect the delivery of service to its customers. The challenges include: -

a) Insufficient financial resources

The Judiciary continued to receive low funding across the years. This has led to;

- i.** Stalled construction of court buildings in the sub-counties and counties and deployment of facilities;
- ii.** Curtailed enhancement of administration of justice through mobile courts, movement of Judges and Judicial Officers to hear matters, due to lack of serviceable motor vehicles.
- iii.** The recruitment of more judges, judicial officers and staff in courts to address case back log, increasing demand for justice and improve service delivery.
- iv.** Insufficient allocation for Pro-Bono and mediators' payments which occasions accumulation of pending bills and complaints from pro-bono advocates and mediators; who in turn decline to take up matters in court.

b) Delays in release of exchequer

Delays in release of exchequer to the Judiciary delays the implementation of planned programmes.

c) Shortage of receipt books

Receipt books are obtained from the Government Printer. In the period under review court stations ran out of deposits, fees and fines receipt books. This delayed service delivery to the litigants.

9.14 Recommendations

In order to sustain and build on the successes that have already been attained, the Judiciary recommends the following measures be undertaken during the coming MTEF period: –

- i. The operationalisation of the Judiciary Fund to address many of the challenges mentioned above. The establishment of the Judiciary Fund will facilitate overall efficiency and effectiveness in the management of resources allocated to the Judiciary.
- ii. Increase allocations to the Judiciary to facilitate, recruitment, expansion of court infrastructure and to support operations of the court programmes such as mobile courts, ADR, AJS and Digitization.
- iii. Requests for Exchequer releases should be responded to promptly and predictably to enable the Judiciary to implement the approved cash flow plan as provided for in the PFM Regulations, 2015 44(2).
- iv. Operationalize the Judiciary Fund to improve on financial autonomy as envisaged in the Constitution.
- v. Introduce e-receipting to eliminate all risks associated with manual receipting and cure the constant shortage of receipt books.

Chapter 10

THE STATE OF THE AGENCIES
AND COOPERATION IN THE
JUSTICE SECTOR

THE STATE OF THE AGENCIES AND COOPERATION IN THE JUSTICE SECTOR

10.1 Introduction

This chapter covers the key activities and challenges of the institutions in the justice sector. The Constitution requires institutions of governance to embrace consultation and coordination in the performance of functions, especially where overall effectiveness calls for such cooperation. The Constitution and enabling laws require institutions in the justice sector to coordinate their activities and ensure a coherent process of administration of justice. Specifically, section 35 of the Judicial Service Act, which establishes the National Council on the Administration of Justice (NCAJ), requires justice sector institutions to ensure the effective administration of justice.

The activities of the NCAJ are covered in this chapter, as well as the key activities of the members of the NCAJ. The membership of the NCAJ is drawn from both state and non-state actors and this has ensured the full representation of institutions that are involved in the justice sector.



NCAJ Council Meeting

10.2 The National Council on the Administration of Justice

The NCAJ, which is headed by the Chief Justice, brings together agencies (state and non-state) from across the justice sector. The NCAJ is vested with policy-making, implementation and oversight powers to supervise and oversee the general administration of justice. Specific roles include overseeing justice sector reforms, peer-to-peer learning and lesson sharing among the agencies, and ensuring public participation in the administration of justice. The Council is required to meet after every three months and to submit an annual report of the activities of the Council.

The Council is supported in its work by the Technical Committee, which is headed by the Chief Registrar of the Judiciary who is also the Secretary to the Council. The responsibilities of the Technical Committee include developing the Council's programme of work, drafting its Rules of Procedures, proposing amendments to the constitutive statutes, researching on policy reforms and overseeing the work of the Court User Committees.

10.3 Special Committees of the NCAJ

Due to the collaborative nature of the approach that is taken in addressing justice sector-wide issues, the NCAJ works through specialised committees composed of representatives from the relevant State and non-state agencies. This section covers the activities of specialised committees during the year under review.

10.3.1 Special Taskforce on Children Matters

The NCAJ Special Taskforce on Children Matters was appointed by the Hon. Chief Justice vide Gazette Notice No. 369 of January 29, 2016 with the mandate to address gaps regarding the administration of justice with regard to children, and is under the leadership of Hon. Lady Justice Martha Koome. The main mandate of the committee is captured in three themes, namely legislative, policy, procedural and practice directions reforms; Survey and data compilation on all matters of children and training, and infrastructure and co-ordination of all the actors.

The activities that were undertaken by the taskforce during the period of review are captured below.

Activities of the NCAJ Special Taskforce on Children Matters

No.	Activity	Details
1.	Coordination and Sensitization	<ul style="list-style-type: none"> Pre-visits; these entailed training of the Court User Committees (CUCs) on how to handle children matters through legal aid by establishing a panel of pro bono advocates to handle children matters. The identification of matters of children in need of care and protection by using Section 119 of the Children Act. The Taskforce developed Protection and Care (P&C) form that are now commonly used in most Courts. With the partnership of the US Department of Justice, the Taskforce was able to organize and execute service weeks in various Courts in the country in line with the Chief Justice's Blue print, to clear backlog of children cases in the country. The service weeks targeted Ngong, Kilifi, Malindi, Nakuru, Lamu and Meru Law Courts. The process entailed screening of child related matters for mediation, plea-bargaining in suitable matters, and the hearing of sexual offences. The service weeks resulted in the screening of 713 files. 30 matters were settled while 192 are pending settlement. 13 attempted mediations were not successful. Of the 191 matters that were listed for hearing, 168 were identified for plea-bargaining and 65 of these had plea-bargaining entered while 22 were left pending. 64 sexual offences were heard during the service weeks and judgments are pending from the courts.
2.	Participation in the Magistrates Colloquium	<ul style="list-style-type: none"> The Taskforce participated in the 2018 Magistrates colloquium where Hon. Lady Justice Martha Koome, JA and Hon. Lady Justice Teresa Matheka trained judicial officers on how to handle children matters and the alternative dispute resolution (ADR) mechanisms
3.	Meeting with the Council of Governors	<ul style="list-style-type: none"> Members of the Taskforce paid a courtesy call to Governor Prof Chepkwony of the Council of Governors (CoG) and discussed the various efforts that counties are making to put in place policies and measures for child protection.

4.	Meeting with the Cabinet Secretary for Interior and Coordination of National Government, Hon. Dr. Fred Matiang'i	<ul style="list-style-type: none"> The Taskforce members paid a courtesy call to the Cabinet Secretary for Interior and Coordination. The meeting focused on the rising cases of defilement and legislative reforms to assist curb the trend. Commitments were made to increase the financial and human resources needed by the police and other agencies and special measures (such as establishing a child protection unit in every police station).
5.	Participation in the Second Children Devolution Conference	<ul style="list-style-type: none"> The Chair and members of the Taskforce participated to discuss issues affecting children. The children developed a communiqué that was presented to the President of the Republic of Kenya.
6.	Circuit Visits	<ul style="list-style-type: none"> The Taskforce carried out circuit visits to various child-holding institutions in Garissa, Kiambu, Meru, Murang'a, Nairobi, Naivasha and Thika and identified challenges facing children in conflict with the law.

The Committee works closely with the Department of Children Services whose activities for the period under review are covered in this report. While the main challenges regarding realisation of child rights are covered under the section on Department of Children Services, additional challenges experienced by the committee include:

- Limited child placement centres, especially in remote areas and poor facilities in the existing ones
- Lack of proper arrangements for children in conflict with the law (transport, holding facilities, human resources, financial resources, etc)
- Inadequate capacity development for institutions and persons who handle children matters
- Inadequate legal services for children matters

10.3.2 Bail and Bond Implementation Committee

The NCAJ chair established the Bail and Bond Implementation Committee (BBIC) through Gazette Notice No 7480 of October 9, 2015. It is chaired by Hon Lady Justice Jessie Lesiit with membership drawn from the justice sector agencies..

The core mandate of the Committee is ensuring compliance with the Bail and Bond Policy Guidelines (BBPG) and most importantly Article 49(1) (h) and 49(2) of the Constitution of Kenya on the rights of the arrested person to be released on reasonable conditions of bond or bail pending charge or trial, unless there are compelling reasons and not to be remanded in custody for an offence which is punishable by a fine only or by imprisonment for not more than six months.

Key Achievements of the BBIC

No.	Activity	Details
1.	Training of agencies in the criminal justice system	<ul style="list-style-type: none"> Training of trainers targeting a total of 100 representatives from the criminal justice sector drawn from the Judiciary, ODPP, police, prisons, Department of children's services, Probation, IPOA, LSK and NTSA. The purpose of the training was to build a pool of trainers who would be engaged as resource persons to cascade capacity building initiatives on bail and bond.
2.	Development of a draft Training Manual on Bail and Bond	<ul style="list-style-type: none"> The Committee developed a draft-training manual on bail and bond, which was piloted during the training of trainers.

3.	Development of Bail and Bond Digest:	<ul style="list-style-type: none"> The Committee documented key court decisions on bail and bond for ease of reference in bail and bond decision-making. Two volumes of Digest of Decisions on Bail and Bond were developed in collaboration with the National Council for Law Reporting (NCLR).
4.	Sensitizations of CUCs and the public	<ul style="list-style-type: none"> BBIC participated in television shows and radio programs to sensitize the public on BBPG and address concerns about bail and bond. Sensitization of Police Commanders Conference on the Role of the Police in Implementation of Bail and Bond Policy Guidelines: Sensitization of Court Users Committee in Kisumu on Bail and Bond Implementation in the Criminal Justice Sector; Nairobi County CUCs discussions on Bail and Bond Administration; and induction for Magistrates on A Primer on Bail and Bond Policy Guidelines and its Application.
5.	Information Education Communication (IEC) materials	<ul style="list-style-type: none"> Developed and distributed of 3,000 copies of the Bail and Bond Policy Guidelines. The copies were distributed to judges, judicial officers, all heads of police stations and CUC members. The Committee also developed specific Bail and Bond Charters for the Judiciary, Police, Probation and Aftercare Services, Department of Children Services and Prisons Service. The Charters provided institutional commitments on the administration of bail and bond. The Charters were adopted by the respective institutions and publicised. The Committee also developed illustrative posters and FAQs brochures that were distributed to the public and posted in strategic locations in courts, police stations and prisons.
6.	Streamlining of Bail and Bond Processes across justice sector actors	<ul style="list-style-type: none"> Engagements were held with the Chief Justice of the Judiciary, Chief Registrar of the Judiciary, Cabinet Secretary for Interior and Coordination of National Government, the Chief Registrar of the Judiciary, National Transport and Safety Authority and Department of Children Services with a view of building synergies and instituting reforms for efficient administration of bail and bond. Engagements with the Cabinet Secretary and the National Police Service led to the development and launch of Police Charter on Bail and Bond.
7.	Policy and Legislative Interventions	<ul style="list-style-type: none"> A Draft Bail and Bond Bill was developed which seeks to give effect to Article 49(1) (h) and (2) of the Constitution and to make provision for the administration of bail and bond in criminal proceedings. A review of the Bail and Bond Policy Guidelines as well as the development of Kiswahili versions of the guidelines was also undertaken.
8.	Monitoring Implementation of the Bail and Bond Policy Guidelines	<ul style="list-style-type: none"> The Committee carried out a monitoring exercise in the form of field surveys and real-time court monitoring. A total of 12 High Court stations, 18 Magistrates' Courts, 16 correctional facilities, 10 police stations, and CUC were visited. The extent of implementation of BBPG was discussed and where the conditions of facilities and records were assessed in relation to the provisions of the BBPG.

Among the challenges in the administration of Bail and Bond Guidelines include:

- Lack of standard bail terms for offences such as grant of police bond.
- The 24 hour rule in some instances poses a challenge to investigatory agencies especially where evidence and information to charge takes longer
- Lack of clarification on the agency responsibility and standard procedures for verification of documents and custody of the verified documents.
- Despite the constitutional guarantees on bail and bond, there have been challenges in the realization of this right such as remanding of suspects and high bail terms set.
- Central to effective bail and bond administration is the safeguarding and balancing the rights of accused persons, victims of crimes and public interest.

10.3.3 Active Case Management Committee

The Active Case Management Steering Committee was established in January 2016 to steer the implementation of a pilot project on Active Case Management (ACM) in Criminal Justice. The objective was to ensure expeditious disposal of criminal cases, against a backdrop of growing concern of delays in determination of such cases. The project was piloted in Mombasa (including Tononoka and Shanzu), Naivasha and Machakos. Judges, judicial officers, and other stakeholders in the criminal justice system in the pilot stations were trained on ACM, and ACM Guidelines in Criminal Cases which were to be used in the pilot stations were also developed through a consultative process and published vide Gazette Notice Number 1340/2016. The British High Commission and the United Nations Office on Drugs and Crime (UNODC) supported the pilot phase of the project; while the Judiciary Training Institute (JTI) offered secretariat and related support to the Committee.

Activities of the Active Case Management Committee

No.	Activity	Details
1.	National Roll-out of ACM in Criminal Cases	<ul style="list-style-type: none">• In November 2018, engagements between the ACM Committee, development partners and the JTI led to an expanded team (incorporating members from the NCCJR) and more resources to support the activities of the Committee.• A capacity building retreat for the expanded committee was held in Naivasha in April 2019.
2.	The ACM Manual	<ul style="list-style-type: none">• Development of the Manual whose scope includes Report, Arrest and Charge, Role of Actors, Diversion, Plea Bargain, The Pre-Trial Process, Bail and Bond, Expeditious disposal of cases, and Sentencing and Post-Sentence processes.
3.	Multi-Agency Training of Trainers	<ul style="list-style-type: none">• A multi-agency Training of Trainers Retreat was held in June 2019, where the expanded ACM Steering Committee, now renamed the ACM Steering and Drafting Committee, validated the ACM Manual and were sensitized on the training techniques.

10.3.4 National Committee on Criminal Justice Reforms

The National Committee on Criminal Justice Reforms (NCCJR) was established in June 2017 under Gazette Notice No. 5857 as a multi-agency implementation framework under NCAJ to spearhead the implementation of the audit recommendations and reforms in the Kenyan Criminal Justice Sector. The Hon. Chief Justice appointed a 35-member Committee under the leadership of Hon. Lady Justice Grace Ngonye. In addition to overseeing the full implementation of the findings and recommendations of the CJS Audit report, the Committee was tasked with spearheading a comprehensive review of the entire Criminal Justice System.

Activities of the National Committee on Criminal Justice Reforms

No.	Activity	Details
1.	Development of a tool to assess compliance with minimum standards for detention facilities	<ul style="list-style-type: none"> The Committee through its legal research section has created and used a tool that enables the Committee to assess the justice sector agencies level of compliance with United Nations Standard Minimum Rules for Treatment of Prisoners (UNSMR) commonly known as the Mandela Rules in the detention facilities. The Committee used the tool to assess institutions such as Prisons, probation hostels, child holding facilities, rehabilitation centres, Mathari Teaching and Referral Hospital, Forensic Unit
2.	Review of laws and policies to streamline the criminal justice system	<ul style="list-style-type: none"> The preparation of policy briefs recommending review, amendment or repeal of laws and policies e.g. declassification and reclassification of petty offences. The Committee identified legislation that requires various amendments and these include: the Penal Code, The Narcotics and Psychotropic Substances (Control) Act, offences under the legislation in Kisumu, Mombasa and Nairobi Counties' By-Laws, among others. The Committee identified and recommended several measures to be taken across criminal justice sector institutions (<i>refer to committee reports</i>).
3.	Other key activities	<ul style="list-style-type: none"> The Committee also participated in the validation of the ICJ Kenya's research on the law and policy on petty offences and practices affecting populations at the national level as well as those in Kisumu, Mombasa and Nairobi Counties. This research by ICJ Kenya identified (i) the gaps in legislative and policy frameworks on petty offences and practices that result in human rights abuses and (ii) the offences that the Committee should consider for reclassification and decriminalization – a vital aspect to the Committee's objective with regard to decriminalization and reclassification of petty offences. The Committee also participated in '<i>The National Conference on Decriminalizing and Reclassifying Petty Offences</i>'. This conference was aimed at sensitizing members on the African Commission on Human and People's Rights (ACHPR) Principles on the Decriminalization of Petty Offences in Africa.

Some of the issues the Committee has been able to identify for criminal justice reform include:

- A review and examination of the exemptions from employment and labour laws that apply to the Disciplined Forces with a view of ensuring justifiable limitations (in terms of the law) only.
- There is need to review the policy that governs joint operations in the country between the various policing agencies in order to ensure effective coordination in the provision of security services.
- There is a need to probe the interface between the County and National Policing agencies and establish coherence.
- A comprehensive institutional restructuring of the NPS including: career progression, discipline, transfers and redeployment, training curriculum, funding, among other changes.

10.3.5 Court Users Committee

The Court User Committees (CUCs) play a significant role in supporting leadership and governance within the court system. The CUCs are, in essence, the primary coordination mechanism of justice agencies at the decentralised levels of operation. The CUCs are coordinated by NCAJ and their activities supported through an allocation to court stations. The activities are supported on a need basis subject to budgetary allocations. This means

there is usually a gap in funding for other activities. The JPIP and PLEAD programmes supplemented some of the activities in the year under review. The CUCs began their engagements through quarterly meetings as guided by the CUC guidelines. The meetings discussed issues affecting access to justice.

Summary of activities of the Court Users Committees

No.	Activity	Details
1.	CUC Meetings	<ul style="list-style-type: none"> CUC meetings have been undertaken by all CUCs during the year under review. During these meetings CUCs have had discussions that have been focused on issues that stakeholders face in their daily interactions in the justice system. (Check the annex for a summary of activities and challenges experienced by CUCs)
2.	Capacity building training of chiefs, CUC members, Investigation Officers	<ul style="list-style-type: none"> Phase III of JPIP funding facilitated trainings for 40 CUCs which complemented more trainings that have been facilitated through other development partners and CUC leadership. The trainings targeted Chiefs, Assistant Chiefs, other local administrators, CUC members and Investigation Officers. The topics of training were on ADR and AJS procedures on various legislations such as Sexual Offences Act, Children Act, Wildlife Act, Traffic Act, Bail and Bond Policy, Alcoholic Drinks Act, Land Act, Laws of Succession and other general procedures and policies.
3.	Improvement of structures through partitioning, rehabilitations and minor construction	<ul style="list-style-type: none"> This activity was geared towards improving court infrastructure and included the construction of child-friendly witness boxes, cells (female and juvenile holding cells), waiting bays, structures upgrade, and courtrooms. 16 CUCs were directly funded for the installation of witness boxes, which has encouraged witnesses to attend court and comfortably testify in their cases.
4.	Registry and Courtroom Improvements	<ul style="list-style-type: none"> JPIP funded 17 courts to rehabilitate their registries and improve on their filing infrastructure and systems. These have enhanced efficiency in registry operations. File integrity has been upheld and cases of missing files have reduced. Additionally, there was funding for furniture for 35 CUCs. This was improvement from previous years.
5.	Purchase and installation of water tanks	<ul style="list-style-type: none"> Occasioned by the rampant water shortage in the court stations, 26 CUCs were supported in the purchase and installation of water tanks. The tanks are used to store harvested water that is used by the court and its users for drinking, cleaning, and also in the washrooms. The tanks' capacity ranged from 5,000 litres to 20,000 litres.
6.	Witness expenses	<ul style="list-style-type: none"> 29 CUCs were funded to provide stationery for photocopying witness statements. In addition, 22 of them were provided with cash for witness expenses (in the range of Sh10,000 to Sh50,000). Cash for witness expenses facilitated transport reimbursement for medical personnel, transferred police and other witnesses. These ensured court procedures are adhered to, and reduced adjournments occasioned from lack of witnesses.
7.	Visits to prisons, remand and children homes and schools	<ul style="list-style-type: none"> CUCs routinely undertake visits to the institutions in their jurisdictions. The visits have the objective of interacting with their clients as well as evaluating the conditions of such facilities. In the year under review a number of CUCs conducted such visits, which resulted in better understanding of the challenges various institutions in the sector faced.
8.	Purchase and installation of solar panels	<ul style="list-style-type: none"> CUCs had funding from the World Bank JPIP Project that were used for the purchase and installation of solar panels for 24 CUCs was done. The solar panels provide sustainable energy and provided the necessary backup to the frequent power outages experienced in those court stations. This ensures minimal interruption of crucial court processes, including lighting of courtrooms to enable matters to proceed.

9.	Legal aid clinics, service week and Rapid Results Initiative (RRI)	<ul style="list-style-type: none"> • Legal aid clinic, service weeks and other initiatives that are conducted periodically through the CUCs, targeting case backlogs have been seen as the best way for stakeholders to be directly involved in the speedy administration of justice in courts.
10.	Other key activities	<ul style="list-style-type: none"> • Installation of signage and PA systems, training of CSO, Development of Service Charters and purchase of Grey Books, Interpreter expenses, purchase of metal detectors and participation in radio talk shows to demystify the court process.



Othaya CUC Visit to the Nyeri Remand Home

10.3.6 NCAJ Special Working Group on Traffic

The NCAJ Special Working Group on Traffic was established to streamline the handling of traffic matters with the aim of enhancing road safety, eradicating corruption and ensuring expediency, certainty and convenience for road traffic offenders and other road users. The revised terms of reference for the committee include: the development of new traffic guidelines, review the Traffic Act, development of a public engagement media strategy, identification of traffic hotspots, and the development and roll out an anti-corruption strategy for handling traffic matters.

Activities undertaken include a review of the ODPP's Report on Traffic. A concept note on policy areas will be forwarded to the Chief Justice with a view to reviewing the Traffic Act.

10.4 Reports of the Justice Sector Agencies

The reports from the justice sector agencies are covered in two parts, the first covers the state agencies and the second part covers reports of the non-state actors.

A. State actors

10.4.1 Office of the Attorney General

The Office of the Attorney-General (OAG) is established under Article 156 of the Constitution of Kenya. The Office of the Attorney General Act (No. 49 of 2012) and Executive Orders No. 1 of 2018 and No. 2 of 2013 vest the OAG with responsibilities that were carried out by the former Ministry of Justice, National Cohesion and Constitutional Affairs. The OAG and Department of Justice (DOJ) are tasked with promoting, protecting and upholding the rule of law and defending public interest. Section 5 of the Office of the Attorney General Act, 2012 provides for the functions of the Attorney General among them advising the Government on all matters relating to the Constitution, international law, human rights, consumer protection, and legal aid.

During the period under review, the OAG/ DOJ established the Taskforce on Review of the Mandatory Death Sentence under Section 204 of the Penal Code. This was necessitated by the landmark ruling by the Supreme Court in Petition No. 15 of 2015 as consolidated with Petition No. 16 of 2015, *Francis Kariuki Muruatetu and Others vs Republic of Kenya* and five Others. In the judgement that was delivered on December 14, 2017, the Supreme Court declared unconstitutional the mandatory nature of Section 204 of the Penal Code, which provided that any person convicted of murder shall be sentenced to death. However, the Court clarified that death penalty is not outlawed as yet. Consequently, all the cases of murder for those in death row now have an opportunity to freshly seek redress in the High Court as directed by the Supreme Court.

In order to implement the judgment, the Supreme Court directed that the OAG, the Office of the Director of Public Prosecution (ODPP), and the Kenya Law Reform Commission (KLRC), among other stakeholders, shall establish a Task Force with a view to setting up fresh hearing on sentencing of all prisoners who had been sentenced to death. The Supreme Court further directed the National Assembly and Senate Speakers, with the help of the OAG, to commence the process of amending/changing the Penal Code based on the said developments. The OAG was given 12 months to prepare a progress report on hearing afresh the sentencing of death row inmates and hand it to the Supreme Court.

The Task Force on the Review of the Mandatory Death Sentence under Section 204 of the Penal Code was established via Gazette Notice No. 2610 published in March 2018. The terms of reference for the Taskforce include a directive to prepare a detailed professional review with regard to the death penalty in the context of the judgment and orders made in the Petition. This entails:

- Set up a legal framework to deal with sentence re-hearing for cases similar to that of the Petitioners;
- Review the legislative framework on death penalty in Kenya;
- Recommend a guide to death sentencing;
- Formulate parameters of what ought to constitute life imprisonment;
- Formulate amendments and enact a law to give effect to the judgment;
- Prepare and forward a progress report to the Supreme Court within 12 months from the date of the judgment; and
- Create awareness and sensitize stakeholders and the public on the judgment and its implications and take into account their views.

The Task Force completed its work and developed recommendations that need to be implemented in order to streamline all the issues raised. The implementation of the court judgment, especially with regard to prisoners serving death and life sentences has brought a number of complications. The decision opened a floodgate of applications from prisoners for a re-hearing and re-sentencing of their matters. The Kenya Prisons Service (KPS) sought

legal advice from the OAG on this issue and was advised to comply with the orders of the Supreme Court.

On a related issue, Section 46 of the Prisons Act excludes certain categories of persons serving life and death sentences from remission of their sentences. The High Court, in Constitutional Petition No. 28 of 2018 *Brown Tunje Ndagu Vs Commissioner General of Prison*, ruled that this is discriminatory and held that all categories of offences are eligible for remission. This decision has not been appealed and the Prisons Service is in the process of implementing it. The OAG has the task of proposing amendments that will align the laws to the holding of the Court. Implementation of the recommendations of the taskforce will assist in better compliance with the decision of the Supreme Court.

10.4.2 Office of the Director of Public Prosecutions

The Office of the Director of Public Prosecutions (ODPP) is Kenya’s national prosecuting authority. The Office is established under Article 157 of the Constitution as an independent office. Before the 2010 Constitution, the Department of Public Prosecutions in the State Law Office discharged the prosecution function. The ODPP officially delinked from the State Law Office on July 1, 2011. In 2015 the Office took over all prosecution functions from the National Police Service (NPS) and recruited professional prosecutors to replace police prosecutors who had been seconded to the prosecution’s office.

The Office has adopted three thematic approaches in implementing its strategic objectives. These are: **Re-casting**, **Re-tooling** and **Re-Learning**. Recasting envisages an integrated approach that includes collaboration, cooperation, and coordination in the Office as an entity as well as in association with stakeholders.

The ODPP has consistently promoted and advocated for collaboration with agencies in the criminal justice system, and this has laid the basis for the exchange of ideas, information sharing, and collaboration.

Re-casting

Collaboration is particularly needed in investigations with the aim of institutionalising prosecution-guided investigations in order to ensure that investigations are carried out efficiently. This involves collaboration between ODPP prosecutors and the investigative bodies during investigations. In this vein, prosecutors are tasked with giving technical guidance during investigations.

Activities undertaken by the Office of the Director of Public Prosecutions under the theme of re-casting

No.	Activity	Details
1.	Establishment of Multi-Agency Teams	<ul style="list-style-type: none"> The Office spearheaded the establishment of multi-agency teams to enhance effective investigations and prosecutions. These multi-agency teams consist of officers from various departments within the criminal justice system who are mandated to work in synergy during investigations and prosecutions of high-profile organized crimes like anti-corruption, terrorism and drug trafficking.

2.	Prison Decongestion initiatives	<ul style="list-style-type: none"> The project dubbed, 'All for Justice' was undertaken with the ultimate goal of decongesting the prisons through expeditious disposal of cases as well as informing policy and legal reforms within the criminal justice system. Subsequently, the ODPP in collaboration with the Judiciary drastically reduced the number of petty offenders in remand. The remand review team interviewed 10,140 remandees within six months (January-June 2018). The target population was all persons held in remand custody in the 65 prisons visited.
3	Lamu Service week	<ul style="list-style-type: none"> The service week was Phase 2 of the "All for Justice" initiative and was dubbed 'All for Justice, Closing the Justice Gap'. During the programme, the office implemented the plea bargaining rules and diversion policy as alternatives to the trial process. This saw significant decongestion of Hindi Prison and clearance of backlog of cases in the courts. A total of 135 files pending files were handled with 32 of them concluded. Of these, 21 were withdrawn, five were concluded through plea bargaining and six high court matters finalized. 103 cases were handled at the ODPP service desk and dates set for further directions.
4	Consultative forums and meetings	<ul style="list-style-type: none"> The Office held various meetings with religious leaders and development partners in addition to participating in public forums organized by other stakeholders, in a bid to enhance its accessibility to the public. The engagements informed policy development and formation of committees to spearhead future consultative meetings.
5	Community outreach: Kayole Dialogue Forum Lamu Dialogue Forum	<ul style="list-style-type: none"> The objective of this programme was to take the ODPP services closer to the citizens and to engage in dialogue with them. This is in accordance with Article 10 of the Constitution that requires public participation. In this regard, the Office partnered with the Directorate of Criminal Investigations (DCI), Independent Policing Oversight Authority (IPOA), International Justice Mission (IJM), Haki Africa, the civil society organisations such as Kenya National Commission on Human Rights (KNHCR), and other government and non-governmental organizations to hold dialogue forums in Kayole Estate within Nairobi County and Lamu County. These forums are intended to build public confidence in access to justice, inform policy development and promote awareness of the ODPP mandate. During the engagement, the office had the opportunity to document challenges faced by victims of crime in their efforts to access Justice. A total of 36 complaints that included police brutality, land grabbing, character assassination, drug trafficking, and smuggling of weapons were documented. The office engaged with citizens in Faza, Pate, Ndau, Kiwayu, Kizingitini, Hindi, Mpeketoni and Lamu Island. The residents were able to air challenges that are prevalent in their respective areas. The challenges included drug abuse, radicalisation, land matters, and the mangroves harvesting ban. A total of 88 complaints were recorded.

Re-Tooling

Re-tooling focuses on strengthening, enhancing and growing the existing infrastructure of the Office to achieve best practices in prosecution service delivery. It focuses on strategic objectives to deliver quality prosecution services, review policies and legal framework for public prosecutions and to modernize ODPP processes and procedures. The re-tooling strategy entails two main strategies: Delivery of quality prosecution services and revision of legal and policy frameworks to support prosecution.

The delivery of quality prosecutions entails the making of the decision to prosecute and implementation of alternatives to the trial process. It also involves quality assurance and integrity as well as accountability throughout the trial process. The decision to charge/prosecute is the most important step in the prosecution process. It entails a two-stage test; Evidential Test and Public Interest Test; a prosecutor must objectively assess the totality of

the evidence and be satisfied that there is a realistic prospect for conviction. The prosecutor must also be satisfied that the prosecution of the case will serve the public interest. There is also a continuing obligation on the prosecutor to assess the evidence during the trial.

To enhance quality prosecutions, the Office revised its policy on the decision to prosecute and established standard procedures on the application of the Evidential and Public Interest test. These standard procedures are aimed at ensuring uniformity of charges brought before courts across the country.

During the year under review, the ODPP made several strides, in conjunction with its stakeholders in the criminal justice sector to promote alternatives to prosecution. Alternatives that were implemented include plea-bargaining, diversion, and alternative dispute resolution.

The ODPP also instituted internal and external measures to enhance monitoring and compliance with the highest standards of professionalism, integrity and ethical conduct. The measures include the establishment of an Inspectorate Unit, Prosecution Inspection Team, and an Internal Compliance Unit to handle complaints against prosecutors. The ODPP also has established a victims and witnesses support unit and a feedback channel from the public on all its services.

Below is a summary of the activities of the ODPP under the Re-tooling theme.

Re-tooling

No.	Activity	Details
1	Compliance with the ODPP operating procedures and standards	<ul style="list-style-type: none"> The Office established an Inspectorate Unit mandated to inspect and oversee ODPP operations in service delivery. A Prosecution Inspection Team (PIT) has been set up to ensure quality assurance, best practices and monitoring prosecution services across all the offices in the country.
2	Monitoring ODPP Staff	<ul style="list-style-type: none"> The Office established an Internal Compliance Unit to handle complaints lodged by members of the public on the conduct of prosecutors and ODPP staff. The unit is tasked with ensuring that the code of conduct for prosecutors is observed and integrity maintained at all times by all ODPP staff.
3	Recovery of proceeds of crime	<ul style="list-style-type: none"> The ODPP set up a Proceeds of Crime Recovery Unit to exercise prosecutorial powers in regards to recovery of proceeds of crime and public funds. The unit is mandated to make applications for orders for preservation and confiscation of assets recovered from crime.
4	Support to victims of crime and witnesses	<ul style="list-style-type: none"> The ODPP established a unit to ensure that witnesses and victims are facilitated during criminal trials. The unit has modalities for the support and facilitation of witnesses and victims and has an MoU with the Witness Protection Agency in this regard. The Office through the NCAJ also adopted a Children’s Special Working Group which seeks to implement the Victims’ Protection Act, 2014 in relation to children’s matters.
5	Public feedback	<ul style="list-style-type: none"> The complaints and compliments division continues to receive feedback on ODPP services through various channels such as letters, telephone hotlines, SMS services, social media, and email services.

6	Review of internal policies and structures of the ODPP	<ul style="list-style-type: none"> • The Office reviewed its Organization Structure to include nine Regional Offices to enhance the accessibility of its services and coordination within the regions and counties. The new structure introduced new staff cadres, units and re-organised the ODPP organogram and departmental functions. • The performance management structure was reviewed to enhance the monitoring and evaluation of services offered and to ensure quality and best practices. The Performance Management evaluation measures were revamped to conform to ODPP service delivery standards. In addition, evaluation measures on the performance of ODPP staff in ensuring access to justice, complaints handling, adherence to policy and guidelines, quality prosecutions, interagency collaborations, administration, management and leadership, file clearance rate, customer satisfaction, and work environment standards were developed. • The Internal Compliance rules and guidelines were formulated to ensure the highest integrity standards and dignity of ODPP officers in addition to ensuring compliance with the Code of Conduct of staff in line with Article Six of the constitution.
7	Review of policies and frameworks for prosecution	<ul style="list-style-type: none"> • The diversion policy was formulated to enable prosecutors to divert cases from the court process and allow matters to be settled out of court. The cases are determined on merit and through agreed structures. The policy provides for various diversion options that include reconciliation, rehabilitation, and counseling for offenders. • The Traffic Offences checklist was developed to provide directions to investigators and prosecutors on the evidential elements for traffic offences and mechanisms for enforcing traffic laws. • The Decision to cCharge Policy introduced a standard procedure. It further aims at providing clarity on the National Prosecution Policy and compliments the same by providing prosecutors with guidelines in making decisions to prosecute. • The Office drafted the Victim Protection (General) Regulations, 2018 and the Victim Protection (Amendment) Bill 2018 which were submitted to stakeholders for their comments as well as to the Legislative Drafting Department of the OAG & DoJ.

Re-Learning

Re-learning involves equipping prosecutors with the requisite skills and capabilities necessary to deliver their mandate within a global context. The Office is committed to improving professional skills, communication skills, analytical skills, negotiation skills and the teamwork of its officers. Towards this, the Office carried out the following activities under the theme of relearning:

No.	Activity	Details
1	Establishment of the Prosecutors Training Institute	<ul style="list-style-type: none"> • The Office established an Inspectorate Unit mandated with overseeing ODPP operations in service delivery. A Prosecution Inspection Team (PIT) has been set up to ensure quality assurance, best practices and monitor prosecution services across all ODPP offices. The Prosecutors Training Institute (PTI) presents Kenya and the East African Region with a unique opportunity to improve the quality of Prosecutions and service delivery through world-class continuous training to prosecutors and related officers within the criminal justice system. • A training curriculum for the institute has been developed. So far the Institute has conducted induction programmes for 104 officers.

2	Training	<ul style="list-style-type: none"> • Training and professional development opportunities were offered on a wide range of topics using internal and external facilitators. Beneficiaries included officers from various partner agencies such as the NPS, Kenya Wildlife Service (KWS), Kenya Revenue Authority (KRA), Kenya Airports Authority (KAA), National Environment Management Authority (NEMA) and the Judiciary. • The Office undertook measures to equip prosecutors with the requisite skills to handle prosecutions especially in emerging trends and crime areas. Thematic training in areas included wildlife crimes, economic crimes, organised crimes, international crimes, counter-terrorism, cross-border crimes, and serious crimes.
3	Mentorship	<ul style="list-style-type: none"> • The Office undertook the placement of pupils and interns where 43 pupils were placed on attachment for six months and 22 interns were placed on an internship for three months. The programme provides unemployed graduates with the opportunity for hands-on training to enhance employability and fulfill the legal requirement for professional registration
4	Research	<p>The Office embarked on:</p> <ul style="list-style-type: none"> • Research on crime prevalence and emerging crime trends. • Monitoring and reporting of new and emerging crimes and trends.



Case review at Shimo La Tewa prison



Participants during the Kayole Dialogue Forum



Participants during the Lamu Dialogue Forum

10.4.3 The National Police Service

The National Police Service (NPS) is established under Article 243 of the Constitution and further provided for in the National Police Service Act 2011 and the National Police Service Commission Act 2011. The National Police Service consists of The Kenya Police Service, the Administrative Police Service and the Directorate Criminal Investigation.

Article 244 of the Constitution requires the NPS to strive for the highest standards of professionalism and discipline among its members and prevent corruption and promote and practice transparency and accountability. The NPS is also required to comply with constitution standards of human rights and fundamental freedoms, and train staff to the highest possible standards of competence, integrity, respect for human rights, fundamental freedoms and dignity, and foster and promote relationships with the broader society. The key activities undertaken by the Service during the period under review are:

- The maintenance and enforcement of law and order, prevention of crime, detection and investigation of crimes, apprehension of offenders and assistance in prosecution process
- Participation in various collaboration initiatives with stakeholders with a view of delivering an effective and efficient criminal justice system
- Sensitization of the public through community policing forums on police duties and the need of collaboration to deliver a safe environment.
- The Service has continued to professionalize the Police Service through capacity building programs, trainings and seminars with a specific emphasis on human rights enforcement
- The Service has actively participated in Court Users Committees with aim of pursuing a coordinated, efficient, effective and consultative approach in the delivery of justice.
- The Service has continually embraced reforms through ongoing reorganization and restructuring with a view of making it more efficient, effective and responsive to the members of the public.
- The Service has improved its complaints handling mechanisms and promoted accountability, transparency and ultimately access to justice.

Achievements made in the review period

- Enhanced cooperation with the public through information sharing and synergy.
- Improved working relations amongst the police, other law enforcement agencies, the Judiciary and correctional agencies in pursuit of efficiency of the criminal justice sys-

- tem.
- Improved handling and management of cases by police officers and the courts is reported, which has resulted into prompt dispensation of justice and reduction of case backlogs.
- Improved public trust in police services that has resulted from a people centred policing approach and sharing of information.
- Development of joint problem identification and solving mechanisms through inter-agency cooperation.
- Improving support by the members of the public in in the maintenance of law and order through sharing of information.

Crime Analysis

The National Police Service monitors trends in crime in the country, which enables the Service to prepare and plan for the performance of its core mandate. The crime statistics cover the period from 1 January 2018 to 31 December 2018. The report covers all categories of crime including: - corruption cases, cases of school arson/unrest and dangerous drugs reported to police within the Country.

In the year 2018 there were 88,268 reported cases as compared to 77,992 in 2017, which was an increase of 10,276 cases or 13 per cent. In 2016 there were 76,986 cases reported to police, which increased to 77,992 in 2017 translating to an increase 1,006 or one per cent. Incidences that have been on an upward trend include defilement, assault, general stealing, creating disturbance, possession of drugs for personal use (Cannabis Sativa) and malicious damage. These crimes are mostly associated with alcohol, drug and substance abuse.

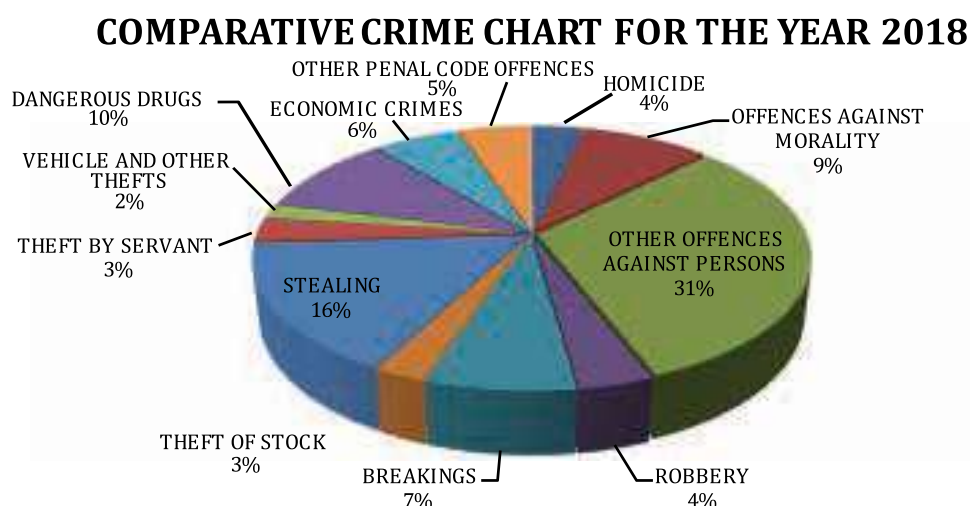
In the period under review there were increase in cases under the categories of Offences against morality **1,741 cases or 31.7 per cent**, Other Penal Code Offences **1,181 cases or 17.4 per cent**, Criminal Damage by **521 Cases or 12.2 per cent**, Other Offences against Persons by **2,534 cases or 11.3 per cent**, Economic crimes by **405 cases or 11 per cent**, Stealing by **1,189 cases or 10.2 per cent and** Robbery **222 cases or 8.2 per cent**.

The major increases were recorded in the individual crimes of Possession of Dangerous Drugs (Cannabis Sativa) by 2,268 cases, followed by Assault 1,544, Defilement 1,450 and General Stealing 1,258. The other 48 increases recorded less than 1000 each. Decreases were recorded in Stealing by Servant 249, Theft of Stock 59, Usage of Drugs 40, Stealing from Person and Theft of Motor cycle by 36 cases. The other 11 decreases were less than 30 each.

Decreases were however noted in the following categories; Theft by Servant by **155 cases or 5.9 per cent**, Theft of Stock by **59 cases or 2.8 per cent**, Breakings **161 cases or 2.6 per cent**, and Vehicle and Other thefts by **34 cases or 2.4 per cent**.

CATEGORY OFFENCES	OF	2016	2017	DIF.	% DIFF	2017	2018	DIF.	% DIFF
Homicide		2751	2774	103	4	2774	2856	82	3.0
Offences against morality		6228	5492	64	1	5492	7233	1741	31.7
Other offences against persons		22295	22515	1121	5	22515	25049	2534	11.3
Robbery		2697	2713	-168	-6	2713	2935	222	8.2
Breakings		5621	6131	30	1	6131	5970	-161	-2.6
Theft of stock		1918	2136	-43	-2	2136	2077	-59	-2.8
Stealing		10361	11656	833	9	11656	12845	1189	10.2
Theft by servant		2440	2632	256	12	2632	2477	-155	-5.9
Vehicle and other thefts		1355	1404	244	22	1404	1370	-34	-2.4
Dangerous drugs		6160	5565	635	11	5565	8021	2456	44.1
Serious Traffic offences		139	69	19	16	69	213	144	208.7
Criminal damage		4307	4262	324	8	4262	4783	521	12.2
Economic crimes		3503	3695	259	8	3695	4100	405	11.0
Corruption		92	75	13	16	75	119	44	58.7
Offences involving police officers		57	86	-14	-20	86	174	88	102.3
Offences involving tourist		15	15	-4	-21	15	93	78	520.0
Other penal code offences		7047	6772	824	13	6772	7953	1181	17.4
TOTAL		76986	77992	4496	77	77992	88268	10276	13.2

Fig 1: Comparative Crime figures for the Period 2016/2017/2018



Challenges experienced in the period under review

Aside from the achievements accomplished over the years, the Service has also encountered various constraints and challenges which have and continue to hamper effective and efficient service delivery.

- Inadequate/lack of funds for training of police officers on emerging specialized areas of law, equipping of police stations and facilities and facilitation of investigations and

witnesses.

- High turnover and poor retention of professional/experienced staff due to uncompetitive remuneration.
- Lack of a modern National Forensic Crime Laboratory and inadequate forensic investigation skills have greatly hampered the ability of the police to investigate complex and emerging crimes and has also caused delays in acquisition of expert reports.
- Inadequate and or far-placed prison and juvenile facilities which have escalated witness attendance costs that in some cases are borne by officers.
- Loss of court files and exhibits at the various courts registries that has adversely affected the conduct of cases, especially in the event of re-trials.
- Failure to involve investigation officers in determination of bond terms has encouraged suspect truancy and or witness intimidation. In some cases, disproportionate bond terms to accused persons have encouraged suspect flight.
- Lack of adequate courts and or court space and facilities has occasioned inefficiency and ineffectiveness in the affected courts.
- Shortages of and overload of prosecution counsels in some court

10.4.4 Kenya Prisons Service

The Kenya Prisons Service (KPS) is a department in the Ministry of Interior and Coordination of National Government, State Department for Correctional Services. It is established and governed by the Prisons Act (Cap 90) and Borstal Institutions Act (Cap 92) of the Laws of Kenya. KPS ensures safe containment of all persons lawfully committed to prison, placement on various rehabilitation programmes and facilitation of administration of justice through timely court productions.

The Service has 129 penal institutions. nine of them are categorised as maximum security prisons holding prisoners sentenced to 10 years and above, death row inmates, capital remands, terror and other high risk offenders. Out of these 46 of the facilities are classified as medium-security prisons holding inmates sentenced to 5-10 years and ordinary remands. The remaining 70 are classified as semi-closed Prisons with prisoners of minimum security risk serving a maximum of five years. It also has facilities for youthful offenders namely Shikusa, Shimo and Kamae Girls Borstal Institutions and one Youth Corrective Centre at Kamiti.

The daily average prisoners' population is 55,000 comprising 30,000 convicted and 25,000 un-convicted prisoners plus 300 children aged below four years accompanying their mothers in prison. The official holding capacity is 30,000 prisoners, meaning that This the prison facilities are overcrowded by about 83 per cent.

Table 10.2: Categories of Inmates

CATEGORY	FY 2018/2019		
	MALE	FEMALE	TOTAL
Convicted	30,246	1,525	31,771
Un convicted	20,141	1,853	21,994
Borstal Institution	580	48	628
Youth Corrective Training Centre	67		67
Juvenile	58		
Children			256
TOTAL POPULATION	51,092	3,426	54,518

Key activities of the Kenya Prisons Service

The KPS remained steadfast in performing its duty of safe containment, rehabilitation, and facilitation of the administration of justice. Many of the activities were undertaken within an overall context of limited resources. The main achievements and activities for the period under review are detailed below.

No.	Activity	Details
1	Implementation of the presidential directive on house allowance	<ul style="list-style-type: none"> Implementation of the Presidential directive that all prison officers should be provided with house allowance. Staff welfare is key and this arrangement has enabled uniformed officers to seek better accommodation outside our institutions thus alleviating the housing challenge considerably.
2	Prison decongestion	<ul style="list-style-type: none"> 11,000 inmates had their sentences revised to serve non-custodial sentences through collaboration with the Community Service Orders Coordination Board. Six new women prisons namely Lodwar, Garrisa, Bungoma, Kajiado, Wundanyi, and Mwingi were gazetted to decongest the existing facilities and address unique gender concerns.
3	Training	<ul style="list-style-type: none"> KPS in liaison with various stakeholders (Africa Prisons Project (APP), Legal Resources Foundation (LRF), Kituo Cha Sheria, United States Department of Justice (US DOJ) and Faraja Foundation trained 105 prison officers and 250 inmates as paralegals in various institutions across the country. KPS in partnership with the BBIC sensitized inmates on the bail/bond terms and their applications. KPS offered legal aid awareness services in Shimo La Tewa, Kisumu Main, Langata women, Malindi, Machakos, Thika, and Hindi prisons, among others More than 12,600 inmates underwent vocational training programmes during the period under review where 5,000 of them completed their trade tests successfully. The majority of these prisoners have since been released and reintegrated back to society. In a bid to promote professionalism, a number of prison staff have undergone capacity building programmes both locally and internationally in collaboration with various international and local Non-State Actors such as Raul Wallenberg Institute (RWI), APP, LRF, Swedish Prisons and Probation Services (SPPS) United Nations Office on Drug and Crime (UNODC), Rodi Kenya and Faraja Foundation. This has enabled KPS to benchmark with other jurisdictions and has adopted internationally accepted best practices as stipulated within the United Nations Charter. KPS has an ongoing human rights training programmes for both staff and inmates with the objective of increasing compliance with the Constitution of Kenya 2010 and other international instruments.

10.4.5 The Ethics and Anti-Corruption Commission

The Ethics and Anti-Corruption Commission (EACC) is established under the Ethics and Anti-Corruption Act, 2011 pursuant to Article 79 of the Constitution. Its mandate is to combat and prevent corruption and economic crime in Kenya through law enforcement, preventive measures, public education and promotion of standards and practices of integrity, ethics and anti-corruption. The EACC derives its further mandate as the Commission on Ethics and Leadership from Chapter Six of the Constitution; the Leadership and Integrity Act No. 19 of 2012; the Anti-Corruption and Economic Crimes Act, 2003; and Section 11 of the Ethics and Anti-Corruption Commission Act No. 22 of 2011.

In the pursuit of its general mandate, the Commission has initiated a number of programmes meant to enhance the realisation of its objectives, which include: Law enforcement,

corruption prevention, public education and awareness, partnerships, networks, and coalitions against corruption. During the period under review, the EACC carried out a number of activities in pursuit of its core mandate as explained above.

The EACC received and processed a total of 9,303 complaints and 571 reports on ethical breaches. Of these, the Commission took up 3,482 complaints and completed 248 files. The Commission's work resulted in the tracing of illegally acquired and unexplained assets worth Sh2.755 billion while proactive investigations by the Commission averted a loss of approximately Sh5.756 billion. The EACC recovered approximately Sh4.5 billion through civil proceedings in court and made 18 applications for the preservation of property suspected to be associated with corrupt practices. There were 105 cases filed against the Commission during the year under review. Other activities undertaken include finalisation of pending cases, supporting institutions to develop codes of conduct and ethics and advisories to various agencies on compliance with leadership and integrity provisions. The table below provides details of the activities undertaken during the year in review.

	PARTICULARS	ACHIEVEMENTS
1.	Ethics cases finalised in court	7
2.	Ethics cases pending in court	15
3.	Number of State officers who signed to commit to Leadership and Integrity Codes	27
4.	Entities supported to develop Codes of conduct and ethics for public officers	9
5.	Technical support to public entities on the implementation of Leadership and Integrity laws	16
6.	Cautions issued to public officers on violation of Leadership and Integrity laws	2
7.	Notices issued to public officers on violation of Leadership and Integrity laws	49
8.	Advisories issued pursuant to Chapter Six of the Constitution	739
9.	Generic administrative procedures developed for Responsible Commissions in the National Government to enhance compliance with submission of Declaration of income, assets and liabilities	1
10.	Status report on compliance with the provisions of part IV of the Public Officers Ethics Act, 2003 on Declaration of Income, Assets and Liabilities for the year 2017	1
11.	Integrity verification requests processed for persons seeking appointment and election to Public Office	5,998
12.	Applications processed to open bank accounts outside the country by State and Public Officers	26

Legislative and policy reforms to strengthen the anti-corruption measures

The fight against corruption requires laws and policies that can effectively assist in curbing corruption. The EACC has initiated and participated in various measures to achieve a supportive legal and policy environment. The activities undertaken during the year under review are captured in the table below.

No.	Activity	Details
1	Finalization of the National Ethics and Anti-Corruption Policy	<ul style="list-style-type: none"> The Commission and the Office of the Attorney General and Department of Justice jointly led the formulation of the National Ethics and Anti-Corruption Policy (NEAP), among other stakeholders in the anti-corruption sector. The policy was finalized and approved by the Cabinet on October 14, 2018. This clears the way for adoption and implementation by the relevant stakeholders. Review of the legal, policy and institutional framework for combating corruption in Kenya.

2	Development of the Regulatory Framework under the Bribery Act	<ul style="list-style-type: none"> Section 3 of The Bribery Act, No. 47 of 2016, Act requires the Commission, in consultation with the Cabinet Secretary, to develop and publish guidelines to assist public and private entities to formulate procedures for the prevention of bribery and corruption. It also requires the Commission to propose Regulations for the better implementation of the Act. The Commission actively engaged other stakeholders in the development of the guidelines and regulations, and the drafts are undergoing stakeholder validation as required under the law. A comprehensive Bill to amend the Bribery Act has also been developed.
3	Review of Implementation by Kenya of the United Nations Convention against Corruption (UNCAC)	<ul style="list-style-type: none"> EACC spearheaded the review of implementation by Kenya of Chapters II and V of the United Nations Convention against Corruption (UNCAC). The review was completed in June 2019 and a final Country Report has been issued by the Reviewing Countries namely the Democratic Republic of the Congo and New Zealand. The Country Report is now open for adoption during the upcoming Conference of State Parties.
4	Recommendations for Amendment of Various Anti-Corruption Laws	<ul style="list-style-type: none"> The Commission, alongside other stakeholders under the Multi-Agency Team (MAT) engaged the relevant Committees of Parliament with proposals for amendment of various laws in order to strengthen the war on corruption. The recommendations sought to address, and propose strategies for legal gaps that weaken the war on corruption including: <ul style="list-style-type: none"> Expediting the hearing and disposal of corruption cases by setting timelines, Providing for “stepping aside” by state officers when under investigation for, or charged for corruption; Measures for the management of seized, forfeited or confiscated assets; providing for unrestricted access to financial declarations by law enforcement agencies for purposes of investigations such as lifestyle audits; strengthening of the public audit system and regulation of virtual currencies, among others. In addition, the proposals also sought amendments geared towards harmonization of existing laws with the Constitution, 2010.
5	Recommendations for Amendment of Public Officer Ethics Regulations, 2011	<ul style="list-style-type: none"> EACC made proposals for amendment of the Public Officer Ethics (Management, Verification, and Access to Financial Declarations) Regulations, 2011 following an Executive Directive to review regulations and guidelines to enable all investigative agencies access wealth declarations of all State and public officers as a means of consolidating the gains achieved in the newly reinvigorated fight against corruption The Commission examined the legal and administrative framework governing Declaration of Income Assets and Liabilities (DIALS) and proposed amendments to address the key challenges identified as follows: <ul style="list-style-type: none"> Amendment to Section 3 of POEA to streamline Responsible Commissions to the prevailing governance structures to make clear mechanisms for filing of declarations by State and public officers; Amendment of Part IV of POEA by inserting a new Section 31A to allow for the submission of declarations electronically as a panacea to challenges faced by Responsible Commissions in storage, retrieval, and verification of declaration information; Amendment to Section 33 (4) of POEA to vest the mandate of developing administrative procedures in the Ethics and Anti-Corruption Commission.

6	Corruption Prevention	<ul style="list-style-type: none"> • EACC released a report on the examination of the systems, policies, procedures and practices adopted in the pricing of Pharmaceutical and Non-Pharmaceutical supplies in the Kenya Public Health Sector. • The examination reviewed the procedures and processes applied in the planning, acquisition and dispensing of medicine and medical supplies at both the National Referral hospitals and selected County health facilities. • EACC carried out Corruption Risk Assessment (CRAs) into the systems, policies, procedures and practices of Nyandarua, Kitui, Narok and Vihiga County Executives and Assemblies; and finalized and presented CRA reports for Taita-Taveta, Homa Bay, Kisumu, Kiambu, and Embu County Executives and Assemblies. • EACC developed guidelines for prevention of corruption in the Information and Communication Technology (ICT) environment in the Public Sector. The Guidelines provide measures that should be put in place to mitigate the risk of corruption during the planning, acquisition and use of ICT resources in an organization
7	Development and Implementation of Codes of Conduct and Ethics	<ul style="list-style-type: none"> • EACC provided technical support to nine public entities in developing and implementing Codes of Conduct and Ethics for their Public Officers. This was aimed at aligning Codes to Part II of LIA, 2012 in compliance with Section 52 of the Act. The entities are: • Bushiangala Technical Training Institute, Narok County Public Service Board, • Teachers Service Commission, • Youth Enterprise Fund, • Kenya Roads Board, • Technical and Vocational Education and Training Curriculum Development Assessment and Certification Council, • Eldoret Water and Sanitation Company, • Ethics Commission for Cooperative Societies; and • Unclaimed Financial Assets Authority. • During the reporting period, the Commission also presided over the signing and commitment to Specific Leadership and Integrity Codes by 27 State Officers from the following institutions: • The County Assembly of Kisii, • County Executive Committee of Mandera, • County Executive Committee of Nyeri, and • Commission on Administrative Justice, • Public Service Commission, • National Police Service Commission, • National Police Service and • Ministry of Education. • The Commission processed 26 applications by State and Public Officers to open or continue operating bank accounts outside Kenya and received four notifications for closure of bank accounts outside Kenya as well as 41 bank statements for analysis.
8	Management of Declaration of Income, Assets and Liabilities (DI-ALs)	<ul style="list-style-type: none"> • During the reporting period, the Commission developed three generic administrative procedures for Responsible Commissions namely: • County Public Service Boards (CPSB), • County Assembly Service Boards (CASB) and the County Powers and Privileges Committee for management of Declaration of Income, Assets and Liabilities for State and Public Officers. • The Commission also developed standardized administrative procedures for Responsible Commissions in the National Government for the management of the Declaration of Income, Assets and Liabilities. • The Commission provided technical support to the County Assembly Service Boards of Turkana and Isiolo and the County Public Service Boards of Murang'a, Nakuru and Tana River Counties to develop and implement administrative procedures on Declaration of Income, Assets and Liabilities • The Commission also received and compiled the returns made by Responsible Commissions on Declaration of Income, Assets and Liabilities and prepared a report on the status of compliance with the provisions of Part IV of the Public Officers Ethics Act, 2003.

9	Public Education and Awareness Creation	<ul style="list-style-type: none"> EACC reached out to an estimated 6,000 members of the public in 26 hotspots across the country. The hotspots targeted include: National Registration Bureau Offices, Huduma Centers, Police Stations, Immigration Offices, Public health facilities, Markets, and County Revenue Offices. EACC reached 47 professional networks and approximately 800,000 members of the public through various activities such as public outreach clinics, media education, training of County officials and <i>Boda-Boda</i> extravaganza among others. EACC participated in Agricultural Society of Kenya (ASK) shows in Mombasa, Nairobi and Uasin Gishu Counties.
10	Partnerships and Networks against Corruption	<ul style="list-style-type: none"> EACC engaged with national stakeholders through the Kenya Leadership and Integrity Forum (KLIF). KLIF is a stakeholder's forum consisting of 15 sectors (among them the Judiciary) which are partnering in the fight against corruption and unethical practices in Kenya. KLIF brings together stakeholders from the public and private sectors, civil society and religious organizations to map out an integrated approach to preventing and combating corruption. The Commission supported KLIF activities which included: Implementation of the Kenya Integrity Plan (KIP) 2015-2019 by the 15 sectors. The Kenya Integrity Plan provides a strategy for promoting integrity and ethical conduct through partnerships and collaborative networks. Sponsoring a National Convention by the Association of Professional Societies of East Africa (APSEA) whose theme was "The Role of the Professionals in Leadership and Integrity". Commemoration of the African Anti-Corruption Day (AACD) on 11th July, 2018 and the International Anti-Corruption Day (IACD) on 9th December, 2018 whose theme was: "Winning the Fight against Corruption: A Sustainable Path to Africa's Transformation".

Research Programmes

EACC undertakes both diagnostic and thematic studies on an annual basis to establish the nature, magnitude, loopholes and processes prone to corruption and unethical conduct. This guides policy and anti-corruption programme development. Studies that were undertaken during the period under review include the National Survey on Ethics and Corruption 2018 (NECS). The annual survey provides data that informs the anti-corruption strategy in the Country. The NECS 2018 was conducted between November 16, and December 19, 2018. The Survey adopted a mixed methodology involving face-to-face interviews, key informant discussions and a systematic review of literature and covered all the 47 Counties with a sample of 5,942 household respondents and 10 key informants.

Key findings from the 2018 NECS Survey were:

- 65.3 percent of the respondents indicated that the level of corruption was high, 23.1 per cent moderate and 5.6 percent low.
- Those who paid bribes to obtain government services increased by 11.9 per cent to stand at 73.1 percent in 2018 as compared to 2017. The findings indicate a steady increase in those who comply in paying bribes whenever demanded or expected. Only 26.9 percent of the respondents did not pay bribes even when demanded or expected.
- The average bribe paid dropped from Sh5,059 in 2017 to stand at Sh3,833 in 2018. On average, government services attracting the highest bribes were: tendering (Sh88,294); recruitment (Sh23,344); seeking government funds (Sh22,283); resolution of land conflicts (Sh6,645); registration and collection of land title deed (Sh6,545) and release of impounded goods (Sh6,000).
- Of the respondents who experienced corruption as they sought government services, only 5.8 per cent reported to authorities while 94.2 per cent opted not to report. Of those who reported, 48.2 per cent reported to management of the institutions where the corrupt act occurred, 14.6 per cent to the police, 13 per cent to the EACC and 2.5 per cent to the area Member of Parliament or Member of County Assembly. When those who reported corruption were asked to state what action was taken on the reports, 59.5 per

cent indicated no action was taken, 12.8 per cent indicated that the officers were transferred, 11.6 per cent said the officers were warned while 5.9 per cent said the officers were investigated.

- Over 76 per cent of the respondents were aware of what constituted unethical practices in the Public Service compared to 23 per cent who were not aware. The type of unethical practices observed by respondents as they interacted with public officials include bribery, delays in service delivery, abusive or intimidating behaviour, abuse of office, favouritism on the basis of ethnicity, lateness and discrimination. This is highlighted in the table below;

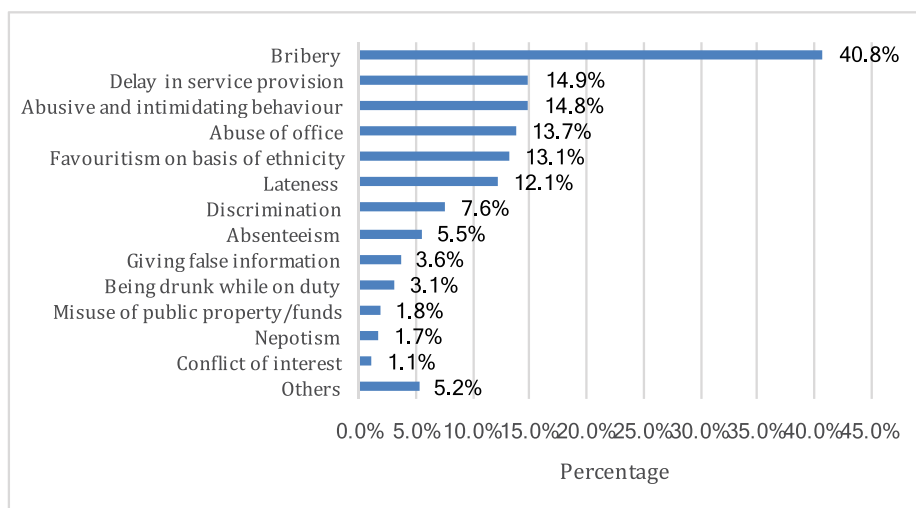


Fig. 1: Prevalent Forms of Unethical Conduct Witnessed

10.4.6 The National Crime Research Centre

The National Crime Research Centre (NCRC) is mandated to carry out research into the causes of crime, its prevention and to disseminate the findings and recommendations to Government agencies involved in the administration of criminal justice, NCRC’s stakeholders and the public. The establishment of NCRC is in line with the international best practice where research has provided critical information on what works to impact on crime and disorder and has helped to generate programmes that can assist criminal justice agencies.

The activities of the NCRC are as follows:

	Activity	Details
1	A Study on “Perceptions and Experiences of Corruption in the Public Service in Kenya, 2018”	<ul style="list-style-type: none"> • The study focused on perceptions and experiences of corruption covered 8,627 members of the public in households and 1,795 public officials in the three arms of Government in all the 47 Counties, and 120 job families especially in the cadre of Procurement, Accountants, Auditors, and Human Resource. The study established a relationship between disguised perpetrators of corruption and the problem of unexplained wealth accumulation in Kenya’s Public Sector. •

2	<p>A study on “Boda boda Motorcycle Transport and Security Challenges in Kenya, 2018”</p>	<ul style="list-style-type: none"> • The main objective of the study was to find out the experiences of users and the relationship between <i>boda boda</i> transport and crime in selected 24 counties and covered 5,515 sample respondents. The research found a strong connection between <i>boda boda</i> operators, weak regulation and the siege mentality to increased cases of causing death by dangerous riding (79.5 per cent); breach of public order (66.2 per cent); robberies (52.9 per cent); possession and usage of dangerous drugs (49.5 per cent); committing murder (38.7 per cent); kidnapping and abduction (26.2 per cent); defilement (17.8 per cent) and rape (17.2 per cent); smuggling of contrabands and other goods across borders (15.9 per cent) and illegal possession and smuggling of firearms and weapons (9.9 Per cent). • Recommendations from the study included: • The government initiates the development of a Data Hub of motorcycles used as <i>boda bodas</i>. • The Traffic Department to operationalize the National Transport and Safety Authority (NTSA) Regulations (Operation of Motorcycles) 2014 and conduct regular crime and road safety campaigns among users, owners and operators. • Initiation of an Executive Order on <i>boda boda</i> transport to curb the rising impunity in this Sector.
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3	<p>Study Report on “Borderland-related Crimes and Security Threats in Kenya, 2018”</p>	<ul style="list-style-type: none"> • This study was carried out in randomly selected sites in all the 21 border counties in Kenya and covered 2,884 sample respondents. This aimed at describing the dynamics of borderland-related crimes and security threats and to suggest ways of addressing the challenge. The main findings included: • Kenya’s 21 borderland counties are inhabited by 14,587,947 people some of whom have inadequate means of livelihoods and commit borderland-related crimes for survival. The most prevalent borderland-related crime is the smuggling of illicit goods and other crimes. • The most smuggled goods reported by at least one out of 10 respondents are sugar, alcohol and/or illicit brews, illegal drugs (including cocaine and heroin), cereals, clothes, shoes and handbags, charcoal/coal, wheat and maize flour, body jelly oil, cigarettes, firearms (e.g guns), cooking oil, timber and fish. The goods are smuggled using <i>boda boda</i> motorcycles, vehicles, water vessels, bicycles, donkey carts and persons crossing borders on foot. • The major potential borderland security threats include terror attacks and terrorism; bandits/cattle rustling/raiders; attacks and theft of properties; drug smuggling, peddling and usage; and smuggling of goods. • The perimeter of Kenya’s international land borders is 3,446 Kilometers. This stretch is expansive and in some instances porous and sparsely populated thus inviting the challenge of policing the periphery. The most prevalent borderland-related crime in each of the border regions of this perimeter is as follows: Kenya-Uganda (933Kms) - use of unauthorized fishing techniques and/or equipment in Lake Victoria; Kenya-Somalia (682Kms) - cross-border terrorism; Kenya-Tanzania (769Kms) - cross-border robbery of motor vehicle/cycle and/or parts; Kenya-Ethiopia (830Kms) - cross-border terrorism; and Kenya-South Sudan (232Kms) - cattle rustling. • Kenya’s coastline has a total length of 1,420 Kilometers with the Kenya-Indian Ocean border region and especially Mombasa coastline being notorious for drug trafficking. Policing of the Indian Ocean waters faces the challenge of inadequacy in the required equipment to keep surveillance, a challenge that is compounded by private beaches and villas (whose activities are hard to monitor) and the use of the waters by other countries as transit routes. • Key recommendations from the study are: <ul style="list-style-type: none"> • Enhancement of human capital through recruitment and deployment of additional personnel • Expanding specialized teams and rapid response capabilities by way of specialized skills development training on counter-terrorism, anti-counterfeiting, and smuggling for border control officers • Maximizing security through an appropriate balance of personnel equipment, technology, communication capabilities • Adoption and implementation of the concept of ‘Community Asset Management in Security, Crime and Violence Prevention’ • Border control and security management institutions of bordering countries create a shared law enforcement culture amongst themselves
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4	National Crime Mapping Survey, 2018	<ul style="list-style-type: none"> • The survey covered 47 counties. The general objective was to study spatial analysis of crime problems and other policing-related issues trending in the country. The research also covered the presidential directive that the police should be housed within communities as opposed to separate housing. • The main findings from the report were that: • Kenya still relies on the conceptual framework that police live in government-supplied housing quarters which are however far less than adequate to meet police and police family needs. • In terms of public perceptions of living with police as a next-door neighbour, the survey found out that 65.7 percent of the respondents were in favor, while 34.3 percent were not in favor. • Although officers living in the midst of communities will pay market rate in terms of house rent and house-to-office transport fares, the Salaries and Remuneration Commission (SRC) approved a harmonized House and Commuter Allowances, thereby presenting a challenge to the Police Service. • Challenges identified from the study include: • Understaffing currently standing at 77.3 per cent of the approved establishment contributes to the slow implementation of activities. • Insufficient funding especially of the core mandate area resulting, in among others, reduced programmes, shortage of necessary equipment, inability to train members of staff and delay in establishing a National Crime Register and Crime Data Repository.
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10.4.7 Witness Protection Agency

The Witness Protection Agency (WPA) is established to provide special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with the prosecution and other law enforcement agencies. Article 50 of the Constitution of Kenya, provides for the protection of witnesses and vulnerable persons in the interests of fair hearing before courts and tribunals and this forms the basis and mandate of WPA. WPA provides the framework and procedures for giving special protection to such persons to ensure an effective and efficient administration of justice in the country.

Witness protection remains one of the core responsibilities of the agency. The WPA maintains a comprehensive Witness Protection Programme (WPP) as required under section 4(a) of the Witness Protection Act. Specific measures as mandated by law are employed depending on the circumstances of each case, the danger and threat involved among other considerations. During the period under review, the Agency received a total of 271 new applications into the WPP compared to 227 during the 2017 – 2018 period. There was an increase in the applications closed at 165 applications compared to 127 applications closed during the previous year. In total, the Agency handled 224 witnesses under the WPP and 187 related persons.

During the year under review the Agency successfully protected 224 witnesses. Out of the 224,124 witnesses successfully testified. They were assisted in safely navigate the justice system hence enabling them to access justice. The witnesses were later discharged and successfully resettled in places of safety.

As a result of increased sensitization, there has been an increase in cases of courts, on their own motion, taking appropriate measures to protect witnesses. There have also been cases where courts have appointed competent persons as intermediaries to enable witnesses to give evidence.

The Programme continued to provide protection to threatened, vulnerable and intimidated witnesses and their family members from harm because of co-operating with the law enforcement agencies. The successful operation of this Programme is widely recognized as providing a unique and valuable tool in the government's fight against major criminal

conspirators and organized crime, violation of the bill of rights and non-accountability which if unchecked may lead to a breakdown in the Rule of Law. A summary of the comparative growth of the Witness protection programme since inception is outlined below:

Table 10.3: Comparative growth summary of Witness Protection Programme

	2009 - 2012	2012 -2013	2013 -2014	2014 -2015	2015 -2016	2016 - 2017	2017 -2018	2018 - 2019	TOTAL
Applications received for witness protection	60	72	130	207	217	210	227	271	1394
Applicants admitted into the WPP	10	18	55	97	105	102	100	106	593
Total number of dependants	44	76	242	198	266	360	187	325	1698
Applications closed - interventions made and advice given to the right authority to report the matter	50	54	75	110	112	108	127	165	801
Discharged witnesses	5	8	34	39	72	104	102	127	496
Witnesses harmed in the programme	0	0	0	0	0	0	0	0	0
Witnesses who have fallen out of the programme	0	2	1	6	0	0	0	0	9
Witnesses who have successfully testified	9	11	29	14	82	110	54	124	433
Witnesses who have died due to natural causes	0	0	1	1	1	0	0	1	4

Other key activities of the WPA during the year under review are highlighted below.

Activities

No.	Activity	Details
1	Referral activities	<ul style="list-style-type: none"> The Agency continued to receive referrals for witness protection from various stakeholders in the administration of justice including: NPS; ODPP; KNCHR; KPS; Women Rights Awareness Programme; Federation of Women Lawyers; Coalition on Violence Against Women; Commission on Administrative Justice; EACC; IPOA; IJM; ICJ; Equality Now, among others.
2	Stakeholder Partnership forums	<ul style="list-style-type: none"> Networking with other stakeholders and partners in the justice sector including participation in various CUC forums. The Agency also participated in the LSK Awareness Week and the KNCHR Referral Partners network activities. As a member of the NCAJ Committee on Corruption and the NCAJ CUC, the Agency participated in various activities of these teams.
3	Creating Awareness on WPA and WPP	<ul style="list-style-type: none"> Participation and awareness creation in CUC Forums and activities Training of senior police officers was carried out as follows: (confirm from WPA, section a bit vague) Lecture on witness protection during induction course for newly-posted police constables at Western Regional Training Centre at Kimilili, Bungoma on July 11, 2018. Training services on witness protection at the Regional Training Centre, Kisumu - July 30, 2018. Training on witness protection to Station Commanders and Special Station Commanders at National Police College, Kiganjo on February 15, 2019. Sensitization of NCOs at a Leadership Course at the Regional Police Training Centre, Kimilili on May 7, 2019.

4	Stakeholder engagements	<ul style="list-style-type: none"> • Stakeholder validation workshop for the Internal Affairs Unit Operations Manual and the Anonymous Reporting Information System (ARIS) on July 26, 2018 at Norfolk Hotel. • National Plan of Action for Combatting Human Trafficking for 2018-2022 held at Enashipai Lodge, Naivasha in August 2018. • Building Trust and Legitimacy in the National Police Service held from September 10 to 11, 2018 at the Kenya School of Government • Law Enforcement Training on Extra-Judicial killings and enforced disappearances for stakeholders held on June 14, 2019 at Southern Sun Mayfair, Nairobi.
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Challenges encountered by the agency in the course of its work include:

- Lack of appropriate infrastructure in the court rooms to ensure adequate witness protection
- Lengthy trials that exert on the cost of witness protection in sensitive cases
- The requirement that parties disclose their evidence in criminal cases may, in some cases, endanger protected witnesses
- The release of accused on bail, in some cases, endangers the safety of potential witnesses

10.4.8 Probation and Aftercare Services

Probation and Aftercare Service (PACS) is mandated to support the administration of justice and supervision of offenders on supervised non-custodial sentences. These mandates facilitate both judicial as well as correctional services and are primarily undertaken pursuant to the Probation of Offenders Act Cap 64 and the Community Service Orders Act Cap 93 Laws of Kenya and other enabling statutes and criminal justice policies. The Department contributes to the overall administration of justice, public protection and community safety through, provision of various advisory social inquiry reports, supervision and reintegration of offenders in the community, victim support and promotion of crime prevention.

Increasingly, the mandate of the department is expanding owing to the important functions it plays in criminal justice delivery. Most of these functions relate to issues of bail administration, sentencing depositions, victim services, and pre-release decision-making. The core functions of the department include: assisting courts and penal authorities make more informed decisions on sentencing, bail administration and penal release assessments, enforcement of various non-custodial Court orders particular to each individual, offence and sentence, interventions in the lives of offenders placed on various statutory supervision orders with the aim of reducing re-offending and effecting behaviour change. PACS also assists in promoting harmony and peaceful co-existence between the offender and the victim/community through reconciliation, victim protection and participation in crime prevention initiatives. Other core duties of PACS include reduction of prison overcrowding through different programmes and supporting the integration of ex-offenders to the community.

The PACS carried out a number of key activities during the 2018/19 period. Probation functions in court remain core to the PACS. PACS continued supporting courts by preparing reports related to the sentencing of offenders, granting of bail, victim services, and reports on alternative dispute resolution.

Plea bargaining agreements spearheaded by the ODPP has become one of the areas of engagement for probation officers working in court. Plea Bargain reports since becoming a feature of Probation court work in some court stations. Probation officers also provided reports on select criminal matters requiring alternative dispute resolutions besides holding consultations and case conferences with magistrates especially on matters involving child offenders.

The department supervises ex-offenders from Borstal Institutions on Aftercare for purposes of reintegration. Cases involving clients in need of assistance were discussed and approved for education support and empowerment and, provision of technical tools/implements with a total of Sh5 million being disbursed to empower needy offenders throughout the country. A majority of offenders commit crimes for reasons of want. In order to empower the offenders under aftercare to be self-reliant, the department was able to purchase salon and barber kits, carpentry tools, welding and electrical kits, sewing machines among others. Very needy offenders who lack school fees were also supported.

PACS makes probation orders pursuant to the Probation of Offenders Act. During the reporting period, a total of **16,629 probation order** inquiries were made by officers and pre-sentence reports prepared out of which **9,706 offenders** were placed on probation orders. The department supervises a monthly average of about 6,544 offenders on probation orders; the details are captured below.

Table 10.4: Monthly Caseload for offenders on Probation Order Supervision

MONTH	CASELOAD BY GENDER				AFTERCARE FOR EX-OFFENDERS	TOTAL
	MALES		FEMALES			
	AD	JUV.	Ad	JUV		
Jul-18	8164	1600	2562	225	763	13,314
Aug-18	8589	1661	2635	211	799	13,895
Sep-18	7098	1423	2276	188	661	11,756
Oct-18	8885	1732	2830	271	748	14,466
Nov-18	8368	1666	2695	245	659	13,633
Dec-18	7379	1378	2223	215	543	11,738
Jan-19	6914	1416	2056	203	698	11,287
Feb-19	6864	1462	2061	209	674	11,270
Mar-19	6503	1378	2105	197	642	10,825
Apr-19	7291	1450	2412	224	666	12,043
May-19	6487	1338	1974	198	570	10,567
Jun-19	5693	1179	1668	161	494	9,195

Other key activities and developments in the PACS for 2018/19

No.	Activity	Details
1	Policy and legislative developments	<ul style="list-style-type: none"> Two of the main legislation implemented by the department (Probation of Offenders Act Cap 64 and the Community Service Orders Act Cap 93 Laws of Kenya) were amended by Parliament through the Miscellaneous Amendment Bill 2018. Amendments to the Probation of Offenders Act, among others, now require courts to ask for pre-sentence reports for probation officers before making a probation order. Similarly, it requires that the said reports should capture victim concerns and should suggest a possible period of sentence and the programmes required of them to undertake in the process of rehabilitation The Community Service Orders Act also had amendments prescribing offences for which one cannot be placed on Community service and, that courts cannot make the orders without first considering a presentence report. This will see more non-serious offenders serve alternative sentences and thus ease overcrowding of the penal institutions. A Bail Supervision Policy Framework and Supervision was developed and if approved by the government, the policy direction for bail supervision provided for in the Bail and Bond Policy Guidelines (2015) developed by NCAJ will be operationalized.

2	Establishment of new PACS Offices	To bring services closer to the people and increase access to justice, the department opened up new officers in Ruiru, (Kiambu County), Wamunyu (Machakos County), Gilgil (Nakuru County) and Itago (Kisii County). This will ease offender supervision as well as the provision of court services.
3	Information Community and Technology	<ul style="list-style-type: none"> The department acquired an additional 76 computers purchased by the government and another 71 desktop and laptop computers from UNODC. There is a need for more computers to ease court work and generally improve on case management practices

Resources allocated to PACS play an important role in facilitating the performance of the core mandate and responsibilities described above. The table below shows resource allocation under operation and maintenance but excluding the personnel emolument. These funds were allocated to support court work, offender supervision, office supplies, and running of Probation Institutions. The allocations below exclude the amount allocated to the probation headquarters as it is dispensed from the office of the Principal Secretaries.

Table 10.5: Resource Allocation

Item	2018/2019 Estimates*	2019/2020 Estimates	Variance	% variance
Regional Coordinators	12,153,200.00	11,545,828.00	(698,372.00)	(6.10)
Probation Correctional Institutions	45,760,275.00	48,241,335.00	2,481,060.00	(5.42)
County Probation Services	26,801,059.00	25,133,215.00	(,1667,844.00)	(6.22)
Sub-county Probation Services	64,204,266.00	59,957,882.00	(4,246,384.00)	(6.61)
Community Service Orders	73,163,748.00	66,955,791.00	(6,207,957.00)	(8.49)
	222,082,548.00	211,834,051.00	(8,671,653.00)	(4.61)

*Approved estimates after the supplementary budget. Overall, there was a budget decrease of 4.61 per cent amounting to Sh8, 671,653.00

Apart from financial resources, PACS requires an optimal number of human resources to assist in the performance of the various functions of the agency. Although 300 new officers were recruited in 2017, there has been a further reduction in the number of officers owing to retirement, change of service to other state departments and natural attrition. There were only 804 probation officers in service against the authorized establishment of 1931. This is a huge variance affecting work output. Due to the increased demand, the department is expected to recruit an additional 1000 officers. If this materializes, the capacity to deliver on court work and offenders supervision will have considerably been increased. To this end, the posts for the additional staff have been advertised awaiting recruitment in the next reporting period. Probation officers reduced from 837 in the previous reporting period to 804 in the period under review while other PACS Staff reduced from 350 to 319 during the same period.

10.4.9 Community Service Orders

Community Service Orders (CSO) Programme is implemented vide the Community Service Order Act Cap 93 and other enabling criminal justice statutes including the Penal Code and the Criminal Procedure Code. The functions of the programme are vested with the Department of Probation and Aftercare Service and the National Community Service Order Committee under the leadership of a judge of the High Court. Community Service accords the offenders an opportunity to pay back and make amends with the community for the crime committed. The CSOs programme has the most direct effect on Prison population and may drastically reduce where the majority of offenders are given community service orders as opposed to custodial sentences.

CSO provide the opportunity for non-serious offenders to pay back to the community for the offences committed. In the period under review a total of **29,542** cases were referred for CSO out of which **24,002** offenders were found suitable to serve their sentences under community service orders. The offenders worked in various settings including schools, health facilities, forest conservancies, and other public works. On average, the CSO programme supervised 4,605 offenders daily (see table below). Arresting those who do not comply with community service work especially in urban slums still poses a big challenge.

Table 10.6: Monthly Caseload on CSO Supervision

MONTH	CASELOAD BY GENDER				TOTAL
	MALES		FEMALES		
	AD	JUV.	Ad	JUV	
Jul-18	4679	13	1046	265	6003
Aug-18	4120	43	780	5	4948
Sep-18	4434	52	1011	4	5501
Oct-18	2776	47	906	3	3732
Nov-18	2995	56	815	5	3871
Dec-18	2632	46	552	5	3235
Jan-19	4707	54	941	7	5590
Feb-19	3534	14	693	2	4395
Mar-19	3788	10	1024	1	4925
Apr-19	4220	12	945	1	5377
May-19	3456	24	701	1	4469
Jun-19	2301	12	317	219	3216

Other activities carried out during the year under review are detailed below

No.	Activity	Details
1	Prison De-congestion through High Court Sentence Review	<ul style="list-style-type: none"> Community Service Officers provided sentence review reports on 9,152 cases of convicted prisoners as directed by the various High Courts across the country and whose remainder of prison sentences fell within the CSO Act threshold. The exercise was undertaken with a view to decongesting prisons. 5,967 cases had their prison terms varied by placing them on CSO or Probation orders or ordered to be released immediately as per the sentence already served. Further, 624 prisoners' cases were not varied hence continued with the sentences. For various reasons including cases pending appeal and declining to be interviewed by Community service officers, 2,561 were not dealt with hence continuation with the sentences.

2	Training	<ul style="list-style-type: none"> • The CSO secretariat had targeted to train 132 magistrates (mostly newly recruited) from 6 Counties of Kisumu, Nakuru, Meru, Embu, Mombasa, and Machakos. In this exercise, 82 magistrates were trained save for those from Machakos and Mombasa. • Section 24 (b) of the Penal Code Cap 63 provides for community service orders as a punishment in lieu of imprisonment. CSO was thus designed to target those who otherwise would be destined for custodial punishment. During the period in review, 25 prosecutors from Nairobi and Nyeri Counties were trained on the tenets and application of CSO. • 30 chiefs were trained in Maralal, Samburu County on the identification of local projects where offenders can work under the supervision of the chiefs. • During the period in review, 16,100 tree seedlings were raised for planting in various works sites across the country as part of community service
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The Community Service Orders Committee has faces varied challenges in its work and these include a lack of resources (human and financial) and a lack of public awareness on the role of probation officers; irate members of the public attacked probation officers in Nyamira, Nkubu and Meru.

10.4.10 Department of Children Services

The Department draws its mandate from Section 38 of the Children Act 2001. It is mandated to safeguard the rights and welfare of Children, in particular, the establishment, promotion, co-ordination and supervision of services and facilities designed to advance the wellbeing of children and their families. It implements the provisions of Article 53 of the Constitution, the Children Act, the Sexual Offences Act, the Counter-Trafficking in Persons Act and other laws related to children. As part of its responsibilities, the Department continued to provide secretariat support to the NCAJ Special Taskforce on Children Matters whose activities were reported earlier.

As part of its duty of ensuring the safe custody, care, and rehabilitation of children in conflict with the law, the Department runs 14 Children Remand Homes that offer safe custody to children while their matters are ongoing in courts countrywide. These are; Nairobi, Kiambu, Muranga, Nyeri, Kericho, Eldoret, Machakos, Meru, Manga, Kisumu, Kakamega, Likoni, Malindi and Nakuru Children Remand Homes. During the year under review, the Children Remands provided safe custody and care to children in the 14 facilities as reported below.

Table 10.7: Children served by Remand Homes 2018/2019

Remand	Population as at 30th June 2018	Admission (Boys)	Admission (Girls)	Exit (Boys)	Exit (Girls)	Population as at 1st July 2019
Eldoret Remand	45	367	103	79	44	392
Kakamega Remand	71	360	187	115	74	429
Kericho Remand	24	192	89	165	87	53
Kiambu Remand	47	81	46	45	27	102
Kisumu Remand	191	434	179	261	116	427
Likoni Remand	111	188	64	226	72	65
Machakos Remand	25	168	80	159	96	18
Malindi Remand	33	160	58	149	47	55
Manga Remand	146	326	139	382	159	70
Meru Remand	25	273	154	70	46	796

Muranga Remand	54	294	88	0	0	436
Nairobi Remand	196	642	478	611	404	301
Nakuru Remand	21	271	93	253	84	48
Nyeri Remand	35	324	88	321	79	47
Grand Total	1484	4080	1846	2836	1335	3239

Where children are committed to rehabilitation, they are received in the two national Reception, Classification and Assessment Centres namely Getathuru (for boys) and Kirigiti (for girls). In these centres, the children are assessed and classified before they are sent to the appropriate Rehabilitation School depending on their needs and risks. The Centres served children during the 2018/2019 period as per the table below.

Table 10.8: Children who served Assessment and Placement Institutions

	Residual Population	Admission (Boys)	Admission (Girls)	Exits(Boys)	Exits(Girls)	Population as at 1st July 2019
Getathuru	169	194	0	206	0	157
Kirigiti	149	79	0	19	0	209
Grand Total	318	273	0	225	0	366

To rehabilitate children in conflict with the law committed to rehabilitation schools by the courts, the Department manages nine Rehabilitation Schools. These are Kabete, Wamumu, Othaya, Likoni, Kisumu, Kakamega, Kericho for boys; and Kirigiti and Dagoretti for girls. The children served during the period under review are as per the table below.

Table 10.9: Children served by Rehabilitation Schools

Rehabilitation School	Residual Population	Admission (Boys)	Admission (Girls)	Exit (Boys)	Exit (Girl)	Population as at 1st July 2019
Dagoretti Girls	94	0	26	0	53	67
Kabete Rehab	70	22	0	34	0	58
Kakamega Rehab	52	60	0	56	0	56
Kericho Rehab	50	27	0	15	0	62
Kisumu Rehab	59	29	0	28	0	60
Likoni Rehab	140	33	0	0	0	173
Othaya Rehab	63	29	0	21	0	71
Wamumu Boys	100	40	0	51	0	89
Grand Total	628	240	26	205	53	636

Rehabilitation programmes in the Rehabilitation Schools include behaviour modification, counselling, skills such as carpentry and joinery; tailoring and dressmaking; hairdressing and beauty (barber and salon); bead-making; tapestry; bakery; masonry; painting and signage; soap-making; technology-assisted sustainable agriculture; computer studies and formal education. The Department, in collaboration with PACS and KPS, has been disseminating the Through Care Guidelines in Statutory institutions run by the three Government agencies to improve coordination and quality of care and rehabilitation.

Due to a myriad of reasons including family breakdown, abuse, neglect and disintegration of community support systems, some children find themselves in need of care and protection. To take care of such children without proper parental care, the Department runs five rescue centres. These are Nairobi, Thika, Machakos, Kisumu, and Garissa. The children served by the Rescue centres in 2018/2019 are as per Table 4.

Table 10.10: Children served by Children Rescue Centres

	Residual Population	Admission (Boys)	Admission (Girls)	Exit (Boys)	Exit (Girls)	Population as at 1/7/2019
Kisumu Girls Rescue	59	29	0	28	0	60
Machakos Rescue	24	192	89	165	87	53
Nairobi Rescue	58	156	101	134	109	72
Thika Rescue	105	38	0	28	0	115
Grand Total	246	415	190	355	196	300

The Department is also mandated under Section 38(2)(m) to mediate in family disputes involving children, their parents, guardians or other persons who have parental responsibility for the children and promote family reconciliation. The Department also handles cases of children in need of care and protection. The Department has offices in the 47 Counties and 283 Sub-Counties. During the year, the number of cases handled by the Children's Offices was **159,910**, as per Table 10.11

Table 10.11: Monthly Caseload 2018/2019

Month	Female	Male	Total
January	9663	9769	19432
February	7101	7081	14182
March	7381	7164	14545
April	6677	6623	13300
May	7785	7982	15767
June	5889	6029	11918
July	6088	6257	12345
August	6156	6003	12159
September	6341	6370	12711
October	6530	6610	13140
November	6234	6082	12316
December	4060	4035	8095
Grand Total	79,905	80,005	159,910

Further, to standardize and harmonize handling of children cases across the country, the Department together with key stakeholders in the sector developed Guidelines for Child Protection Case Management and Referral in Kenya.

The Department provides secretariats to the Counter Trafficking in Persons Advisory Committee and the National Assistance Trust Fund for victims of trafficking. The Department continued to coordinate the implementation of the National Plan of Action (NPA) to combat Human Trafficking in Kenya, which came to an end during the review year. The next NPA has been drafted. During the year, 275 victims of trafficking were rescued by **Trans-National Organized Crime Unit (TOCU) and other** actors in counter trafficking sector and were assisted by the Secretariat. Table 7 details their nationalities.

Table 10.12: Victims of trafficking rescued by TOCU and other actors and assisted by the CTiP Secretariat

	NATIONALITY	NUMBER
1.	Ethiopian	336
2.	Kenyan	72
3.	Burundian	55
4.	Nepalese	33
5.	Ugandan	27
6.	Eritrean	22
7.	Indian	6
8.	Tanzanian	5
9.	Pakistan	1
10.	Sri Lankan	1
Total		558

Other activities of the Department of Children Services for the year under review are covered below.

No.	Activity	Details
1	Children Officer Reports to Courts	<ul style="list-style-type: none"> During the year under review, Children Officers continued to prepare and file Children Officer's reports in the various courts countrywide. Community Service Officers provided sentence review reports on 9,152 cases of convicted prisoners as directed by the various High Courts across the country and whose remainder of prison sentences fell within the CSO Act threshold. The exercise was undertaken with a view to decongesting prisons. 5,967 cases had their prison terms varied by placing them on CSO or Probation orders or ordered to be released immediately as per the sentence already served. Further, 624 prisoners' cases were not varied hence continued with the sentences. For various reasons including cases pending appeal and declining to be interviewed by Community service officers, 2,561 were not dealt with hence continuation with the sentences.
2	Adoption	<ul style="list-style-type: none"> The Department undertakes home visits and prepares reports to assist courts in child adoption process. During the year under review, the Department prepared and presented 355 adoption reports to High courts to Kilifi, Meru, Embu, Kitui, Machakos, Nyeri, Kirinyaga, Murang'a, Kiambu, Samburu, Baringo, Laikipia, Nakuru, Kajiado, Siaya, Kisumu, Homa Bay, Kisii, Nairobi and Uasin Gishu.
3	Reforms in child care and protection	<ul style="list-style-type: none"> The Department has therefore embarked on a programme to change the way children without parents/families are cared for in the country, without unnecessarily being committed to residential care. The programme has the following components: <ul style="list-style-type: none"> Deinstitutionalization Strengthening alternative family care services including kinship care, foster care, guardianship, and adoption. Community Gate-keeping to prevent children from ending up in institutional care. The programme is being piloted in Kisumu, Kiambu, Kilifi and Nyamira before nationwide rollout. So far, 2,000 children have been exited from institutions and placed with families.

4	Child Helpline 116	<ul style="list-style-type: none"> The Child Helpline 116 is a toll-free Government phone service that links children in need of care and protection to essential services and resources. Counselling is also provided on line at no cost. The call centre is situated within Kabete Rehabilitation School with another satellite office in Eldoret. The Helpline now has provision for chats and short message services (SMS). During the year under review, the system was upgraded from analogue to digital thus improving the phone network. This has facilitated the centre to receive more calls and therefore attend to more customers. 12 child counsellors and an ICT officer were recruited during the year under review. The centre has also embraced child online protection in collaboration with the Directorate of Criminal investigation child protection unit with the support of UNICEF. During the year under review, the Helpline received 81,421 calls.
5	Presidential Secondary School Bursary (PSSB) Scheme	<ul style="list-style-type: none"> The PSSB Scheme was started in the 2013/14 Financial Year as a complementary service to support orphans and vulnerable children (OVC) in Secondary Schools. The Presidential Bursary is a flagship project of Vision 2030 that seeks to reduce illiteracy by increasing access to education and improve transition rate from primary to secondary schools. During the year under review, the programme was allocated Sh400 million which supported the education of 22,200 students.
6	National Survey on Violence against Children 2018	<ul style="list-style-type: none"> A Survey on Violence Against Children (VAC) was carried out during the year under review. The data is at analysis stage. The study will provide information on the magnitude, epidemiological patterns, and factors associated with Violence against Children in Kenya.
7	Rapid Assessment /Survey on children of imprisoned mothers	<ul style="list-style-type: none"> A rapid assessment of children of imprisoned mothers was carried in 10 women's prisons in collaboration with Kenya Prisons Services. These were; Lang'ata, Naivasha, Garissa, Embu, Kisumu, Kakamega, Kitale, Meru, Shimo-La-Tewa and Tana River. The purpose of this assessment was to find out the current status of children of imprisoned mothers, especially those left behind when the mothers are incarcerated, with a view of coming up with protection mechanisms. The assessment identified a need for an elaborate study to guide policy and programming for the protection of the children.
8	Missing Children Programme	<ul style="list-style-type: none"> In order to have a standardized way of dealing with the increasing number of children who are reported missing through the print, electronic and social media platforms, the Department, working with stakeholders has drafted Guidelines on Missing Children which are at the validation stage.
9	Collaboration with other Child Justice Agencies	The Department continued to play a central role in the child justice sector. Children Officers participated in Children Service Weeks held by courts throughout the country. They also participated in Court Users Committee, probation of Offenders case Committee and Boards of Visitors for Borstal Institutions among other forums related to child justice.
10	Child Protection Information Management System (CPIMS)	<ul style="list-style-type: none"> To improve on child protection data for planning and programming, the Department has been rolling out an information management system known as the Child Protection Information Management System (CPIMS). This is a web-based system established in 2016 aimed at promoting a standardized approach to timely collection, analysis, and reporting of child protection data in Kenya. CPIMS was rolled out in 18 Counties from the previous nine counties in the year 2017/2018. These are; Mombasa, Lamu, Tana River, Kiambu, Meru, Embu, Kitui, Kirinyaga, Laikipia, Isiolo, Marsabit, Uasin Gishu, Trans Nzoia, Baringo, Narok, Wajir, Garissa, and Mandera.

Challenges faced by the department include old and inadequate infrastructure to cater for the rising needs (leading to a mix of adults and children), delay in hearing of cases (especially sexual offences), inadequate legal services, and low coordination among sector actors. Emerging threats such as radicalisation of youth and trans-boundary nature of online child-related crimes pose new challenges.

10.4.11 Kenya National Commission on Human Rights

The Kenya National Commission on Human Rights (KNCHR) is a Constitutional Commission established under Article 59 (1) and Chapter 15 of the Constitution of Kenya (CoK) and subsequently operationalized through an Act of Parliament, the Kenya National Commission on Human Rights Act No. 14 of 2011, (Revised 2012).

The National Commission is an Independent National Human Rights Institution (NHRI) guided by the 1993 United Nation's approved principles on establishment and functioning of independent Human Rights Institutions referred to as the *Paris Principles*. The National Commission is accredited by the Global Alliance of National Human Rights Institutions (GANHRI) as an "A" Status National Human Rights Institution and is fully compliant to the *Paris Principles* as adopted by the UN Human Rights Commission Resolution 1992/54 of 1992 and the UN General Assembly Resolution 48/134 of 1993. The National Commission enjoys an affiliate status with the African Commission on Human and Peoples' Rights (ACHPR) since 2004.

In fulfilling its mandate, the National Commission shall act in accordance with the values and principles set out in the Constitution and the laws of Kenya and shall observe and respect:

- the diversity of the people of Kenya;
- impartiality and gender equity;
- all treaties and conventions which have been ratified in Kenya and in particular the fact that human rights are indivisible, interdependent, interrelated and of equal importance for the dignity of all human beings; and,
- the rules of natural justice.

Implementation of the National Commission's mandate is pursued through various strategies including but not limited to: processing complaints, conducting investigations, securing redress, undertaking audit, research, advisories, lobbying and advocacy, conducting human rights education and training and monitoring and partnership building.

Key Highlights for the Year 2018/19

During the period under review, The KNCHR primarily focused on its core functions of processing human rights complaints and investigations. In this regard, THE KNCHR handled a total of **2,876** complaints out of which **971** were new complaints. The complaints were subjected to the existing KNCHR admissibility criteria and addressed through offering of legal advice, preliminary inquiries, referral of non-admissible cases to KNCHR referral partners for further interventions as well as conducting of investigations on admitted cases. Where violations were established, appropriate redress measures were taken including submitting completed investigations files for redress.

Table 10.13: Admission Status

Admission Status	Count	Percentage
Pending	21	0.73
Admitted	378	15.26
Legal Advice	2,477	86.13
Total	2,876	

During the period under review, 2,067 complaints were lodged physically by the complainants walking into the head office. 287 were lodged via telephone, 146 were lodged through public forums, 127 and 26 were lodged through the KNCHR's desk in Huduma Centre Kiambu and Makadara respectively. 71 complaints were lodged through SMS platform, 50 were lodged through mails, 42 through emails, 25 through social media while 11 were filed

through referrals and nine complaints were lodged through print and broadcast media. It emerged that the complainants did not largely use the SMS platform to lodge their complaints as had been witnessed in the previous year when 970 messages had been received. This can partly be attributed to the fact that the platform had gained high popularity during the 2017 General elections, which were concluded in the previous reporting period. The Commission will continue to create awareness of all its channels for receiving grievances and human rights violations.

Table 10.14: Lodging Mode Summary

Category	Count	Per centage
Broadcast media	3	0.10
Print media	6	0.21
Referral	11	0.38
Website	15	0.52
Social Media	25	0.87
Makadara Huduma Centre	26	0.90
Email	42	1.46
Mail	50	1.74
SMS	71	2.47
Huduma Centre Kiambu	127	4.42
Public Forums	146	5.08
Telephone	287	9.98
Physical	2,067	71.87
TOTAL	2,876	

Types of Complainants

94.05 per cent of the complaints received were made in person while representatives of complainants lodged 3.2 per cent of the complaints. 1.671 per cent of the complaints were lodged by joint complainants while 1.08% of the complaints were lodged by organizations including KNCHR referral partners.

Table 10.15: Category of Complaints Processed in Period July 2018 – June 2019

	Count	Percentage
Civil and Political		
Access to Justice	469	
Right to personal liberty/security	113	
Freedom from torture ad cruel treatment	96	
Right to Human Dignity	79	
Right to life	79	
Right to personal integrity and dignity	41	
Right to property	30	
Right to fair trial	28	
Right of arrested persons	23	
Freedom of movement	17	
Access to information	15	
Freedom from discrimination	9	
Freedom of Assembly and Association	5	
Right to participate in government	5	

	Count	Percentage
Freedom of conscience, religion, belief and opinion	2	
Freedom of opinion and expression	2	
Right to privacy	2	
Freedom from slavery/forced labour	1	
Political rights	1	
Rights to assemble, picket and petition	1	
SUB - TOTAL	1018	35.40
Ecosoc Rights		
Labor rights	525	
Land rights	366	
Child rights	271	
General complaints	168	
Family rights	155	
Right to fair administrative action	61	
Right to Health	35	
Right to education	33	
Rights to clean and healthy environment	23	
Rights to social security	22	
Consumer rights	19	
Corruption	19	
Rights to adequate standards of living	16	
Evictions	13	
Older persons rights	9	
Right to water	6	
Human wildlife conflict	3	
Intellectual property rights	2	
Right to participate in cultural life	2	
SUB - TOTAL	1748	60.78
Group Rights		
General complaints	53	
Migrant rights	19	
Rights of intersex persons	18	
Rights of PLWD	6	
Rights to development	4	
Rights to peace and security	4	
Rights of IDP	3	
Rights of indigenous people and minorities	2	
Right to healthy environment	1	
SUB - TOTAL	110	3.82
TOTAL	2876	

The KNCHR received complaints from Persons with disability. The following is a summary of the categories of Persons with Disabilities that approached the commission.

Table 10.16: Summary of Persons with Disability

Disability Category	Count	Per centage
Albinism	2	1.49
Autism	1	0.75
Down Syndrome	1	0.75
Hearing	9	6.72
Intellectual	1	0.75
Learning difficulties	1	0.75
Physical	94	70.15
Psychological	14	10.45
Visual	11	8.21
Total	134	

Other activities of the KNCHR during the year under review are covered below

No.	Activity	Details
	Collaboration with the Kenya National Bureau of Statistics	<ul style="list-style-type: none"> As a result of engagements with the KNBS through advisories and through the Taskforce on Inter-sex Persons in Kenya, third sex marker reading 'intersex' (besides the traditional 'male' and 'female' has been incorporated in the enumeration instruments of the 2019 Kenya Populations and Housing Census.
	Public Interest Litigation and Post Judgment Litigation by KNCHR	<ul style="list-style-type: none"> The KNCHR attended to 18 PIL cases. Four of the cases were completed within the 2018-19 financial year and 14 are ongoing at different stages.
	Protection of Human Rights Defenders (HRDs) and the Civic Space	<ul style="list-style-type: none"> During the reporting period. The KNCHR intervened and secured release of HRDs who had been arrested by police without following the due process. KNCHR continued supporting the grassroots justice centres in Nairobi area with the overall aim of building awareness and consensus on the need to engage the local community of how justice can be realized for all.
	Enhanced Awareness on Protection of Vulnerable/Minority Groups	<ul style="list-style-type: none"> The Intersex Taskforce which was appointed by the Attorney General in May, 2017, worked throughout the 2 years and in 2018 a nationwide survey was conducted which informed the findings of the intersex persons in Kenya in a report 'the Intersex Taskforce Report' which was launched in April, 2019. The launch of the report had the participation of the OAG, KNCHR, Judiciary and Parliament.
	Countering the trafficking of persons	<ul style="list-style-type: none"> The Commission has continued to coordinate and collaborate closely with the advisory committee on counter trafficking in persons as well as the national coordination mechanism on migration, to advocate for mainstreaming of human rights based approach in migration governance.
	Awareness creation on migration issues	<ul style="list-style-type: none"> The KNCHR migration and human rights project supported by the GIZ BMM programme has continued to support awareness creation of key court users committees, the human rights defenders, the paralegals and the community gatekeepers on the need to safeguard human rights of migrants and support government effort in combating human trafficking.
	Advocacy on the right to health	<ul style="list-style-type: none"> The Commission continued to advocate for the right to health by ensuring that proper mechanisms are put in place to address the need for the families who cannot afford medical services but instead end up detained in both public and private hospitals. Within the reporting period, the commission intervention saw the release of more than 40 patients who were detained in various medical facilities for failure and inability to pay for the services procured. The Commission continues to enhance this advocacy and collaboration with the ministry of health and the NHIF to address this system gap and secure the right to health for all.

Challenges include non-responsiveness by state actors to inquiries by the Commission, resource challenges (human and financial) political interference in the Commission's work, and repugnant cultural practices that violate human rights, among other challenges.

10.4.12 Commission on Administrative Justice

The Commission on Administrative Justice (CAJ) also known as the "Office of the Ombudsman" has a mandate, inter-alia, to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government and complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct.

The year under review saw a transition in the leadership of the Commission; new Commissioners were appointed on August 1 2018 and this enabled the Commission to function fully. The new leadership consists of Mrs. Florence Kajuju (chairperson), Mr. Washington Sati (Vice Chairperson) and Mrs. Lucy Ndung'u (member) who was appointed as the Access to Information Commissioner in line with the provisions of the Access to Information Act, 2016 (ATI Act).

In the period under review, the Commission handled approximately **55,000 complaints**. The complaints related to delay in service delivery, maladministration and unresponsive official conduct. The Commission continues to create a platform for complaints handling and resolution for grievances from members of the public.

The Commission established a Task Force in September 2018 to develop Subsidiary Legislation to the ATI Act 2016. The Task Force draws its membership from inter-alia CAJ, Kenya Law Reform Commission, and the National Communications Secretariat under the Ministry of ICT. The task force has developed draft Regulations that will be subjected to public consultation and participation. The Regulations will fully operationalise the statute and the right to access information granted by Article 35 of the constitution.

The Commission has noted a swift increase in the amount of appeals under the ATI Act 2016 with 55 appeals considered and determined. A total of **41 applications representing 74.55% were successfully resolved** whereof the concerned entities provided the requested information. The majority of the applications for reviews received by the Commission representing 85.46% were classified as a decisions refusing to grant access to information under section 14 (1)(a) of the Act.

The Commission sensitized select public officers from all the counties on access to information. Consequently, all counties have now appointed Access to Information officers in line with the requirements of the ATI Act 2016. This will enhance citizens' access to information at the county level.

The Commission also developed resource materials to simplify the law on access to information and to assist public institutions in its implementation. The resource materials are a Popular Version of the Access to Information Act, A Guide on Proactive Disclosure for Public Entities at National and County Government Level in Kenya and a Handbook on Best Practices on Implementation of Access to Information Act in Kenya.

The ATI Act requires proactive disclosure by public entities of certain categories of information. The Commission undertook a desktop survey to determine the level of compliance with the proactive disclosure obligations. Generally, the survey revealed low levels of compliance which with Proactive disclosure requirements. However, under the parameters for disclosure provided for in the law, it was revealed that the most disclosed

information was about the public entities and their respective mandates at 92% and the least disclosed was on how decisions are made by the public entities at 29%.

The Commission's Directorate of Research and Investigations undertook various investigations relating to abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct as highlighted in Section 8 of the CAJ Act, 2011. The investigations included:

- A Systemic investigation at the Ministry of Lands and Physical Planning;
- Investigation into alleged maladministration at the Nairobi Remand and Allocation Maximum Prison;
- An investigation on systemic issues affecting distribution of water by Nairobi City Water and Sewerage Company (NCWSC).

In the period under review, the Commission also continued to train officers from public institutions on complaints handling and principles of good public administration. These training are a proactive measure that the Commission utilizes to equip public offices to handle complaints and therefore forestall an avalanche of complaints that the Commission would otherwise have to handle. 4,480 public officers were trained at both national and county government levels. These were drawn from 241 MDA's of national government and 26 county governments.

Challenges faced by the CAJ include resource challenges, low public awareness on the role of the Commission and their right to access to information. Inadequate enforcement mechanisms of the Commission's decisions, and inadequate systems of information sharing with the other government agencies.

10.4.13 Council of Legal Education

The Council of Legal Education is established for purposes of: promoting legal education and training, through maintenance of the highest possible standards in legal education, Licensing legal Education Providers, administration of the Bar Examination, the recognition of Foreign Legal Qualification for purposes of Sec 8(1)(e) of the Act. The Bar examination is administered twice a year, the regular sitting in November and the re-sits in July.

Council has embarked on the development of Policy and Regulatory Framework in the following areas the Bar Examination, the ATP Curricula, Review of the Legal Education (Accreditation and Quality Assurance) Regulations, 2016; and Bar Examination Regulations. The Council has made progress in the fulfilment of its mandate under the Legal Education Act 2012 as amended by the Statute Law (Miscellaneous Amendments) Act, 2014. The CLE licenced seven (7) Institutions in FY: 2018/2019: i.e. Mount Kenya University (LL.B.& Diploma in Law), Daystar University (LL.B.), University of Nairobi - Kisumu Campus (LL.B.), Kisii University (LL.B.& Diploma in Law) and University of Embu (LL.B.). The Council also processed 175 applications for recognition and approval of Foreign Legal Qualifications for purposes of Section 8(1)(e) of the Legal Education Act. The Council has also improved in the release of examination results by releasing the results within two months of the examination. Details of activities undertaken during the year under review are covered below.

a) Administration of the Bar Examination

Table 10.17: Data on candidates who sat for resits in July 2018 series

	ATP 100	ATP 101	ATP 102	ATP 103	ATP 104	ATP 105	ATP 106	ATP 107	ATP 108
Candidates present	502	537	125	897	29	117	354	672	1131
Percentage pass	54	26	54.5	58.5	72.5	82	29	26	38
Percentage fail	46	74	45.5	41.5	27.5	18	71	74	62
Total Qualified	667								
Percentage qualified	32								

Table 10.18: Data on candidates who sat the Bar Examination in July 2018 series

	ATP 100	ATP 101	ATP 102	ATP 103	ATP 104	ATP 105	ATP 106	ATP 107	ATP 108
Candidates present	54	55	54	51	48	50	58	56	65
Percentage pass	65	49	81.5	66.5	89.5	86	62	35.5	54
Percentage fail	35	51	18.5	33.5	10.5	14	38	64.5	46
Total Qualified	20								
Percentage qualified	25								

Table 10.19: Data on candidates who sat the Bar Examination in November 2018 series

	ATP 100	ATP 101	ATP 102	ATP 103	ATP 104	ATP 105	ATP 106	ATP 107	ATP 108
Candidates present	1505	1509	1528	1499	1533	1523	1514	1497	1492
Percentage pass	73	82.5	87.5	51.5	94	87.5	51.5	39.5	45
Percentage fail	27	17.5	12.5	48.5	6	12.5	48.5	60.5	55
Total Qualified	290								
Percentage qualified	18								

Table 10.20: Data on candidates who sat for resist during the November 2018 series

	ATP 100	ATP 101	ATP 102	ATP 103	ATP 104	ATP 105	ATP 106	ATP 107	ATP 108
Candidates present	377	512	115	519	20	68	340	623	906
Percentage pass	38	59.5	42.5	6.5	40	26	4.5	10.5	7.5
Percentage fail	62	40.5	57.5	93.5	60	74	95.5	89.5	92.5
Total Qualified	186								
Percentage qualified	11								

Table 10.21: Data on candidates who sat for resits in July 2019 series

	ATP 100	ATP 101	ATP 102	ATP 103	ATP 104	ATP 105	ATP 106	ATP 107	ATP 108
Candidates present	434	304	140	783	37	121	646	981	1134
Percentage pass	45	25.5	70	43.5	94.5	76	55	47	53
Percentage fail	55	74.5	30	56.5	5.5	24	45	53	47
Total Qualified	846								
Percentage qualified	39								

Table 10.22: Data on candidates who sat for Bar Examination in July 2019 series

	ATP 100	ATP 101	ATP 102	ATP 103	ATP 104	ATP 105	ATP 106	ATP 107	ATP 108
Candidates present	47	45	40	48	39	46	46	48	53
Percentage pass	44.5	53.5	72.5	41.5	92.5	82.5	71.5	41.5	51
Percentage fail	55.5	46.5	27.5	58.5	7.5	17.5	28.5	58.5	49
Total Qualified	33								
Percentage qualified	33								

The Council gazetted **1,421** students between 1st July, 2018 and 30th June, 2019 to facilitate petitions for admission to the Bar as follows:

Table 10.23: Data on Candidates Gazetted

	Gazettment Date	Number of Candidates
1	6 th July, 2018	45
2	17 th August, 2018	24
3	12 th October, 2018	105
4	21 st December, 2018	902
5	22 nd March, 2019	54
6	14 th June, 2019	291
	TOTAL	1421

b) Licensing of the legal education

Table 10.24: Data on Licensed Institutions

LL.B. Programme

	NAME OF INSTITUTION	LICENSED PROGRAMME	STATUS
1	Kisii University School of Law	Bachelor of Laws LL.B.	Licence valid until 16 th April, 2024
2	University of Embu School of Law	Bachelor of Laws LL.B.	Licence valid until 16 th April, 2024
3	Daystar University School of Law – Valley Road campus	Bachelor of Laws LL.B.	Licence valid until 31 st July, 2023
4	Mt. Kenya University School of Law -Parklands Campus	Bachelor of Laws LL.B.	Licence valid until 31 st July, 2023
5	University of Nairobi School of Law Kisumu Campus	Bachelor of Laws LL.B.	Licence valid until 31 st July, 2023
6	Kenyatta University School of Law- Parklands Campus	Bachelor of Laws LL.B.	Licence valid until 14 th December, 2021

	NAME OF INSTITUTION	LICENSED PROGRAMME	STATUS
7	Riara University School of Law	Bachelor of Laws LL.B	Licence valid until 9 th November, 2021
8	Strathmore University School of Law	Bachelor of Laws LL.B	Licence valid until 9 th November, 2021
9	Catholic University of Eastern Africa School of Law	Bachelor of Laws LL.B	Licence valid until 16 th September, 2021
10	Jomo Kenyatta University School of Law - Karen Campus	Bachelor of Laws LL.B	Licence valid until 16 th September, 2021
11	Egerton University School of Law	Bachelor of Laws LL.B	Licence valid until 12 th February, 2021
12	University of Nairobi School of Law Mombasa Campus	Bachelor of Laws LL.B	Licence valid until 19 th January, 2021
13	Kabarak University School of Law	Bachelor of Laws LL.B	Licence valid until 8 th September, 2020
14	University of Nairobi School of Law Parklands Campus	Bachelor of Laws LL.B	Licence valid until 7 th August, 2019

Table 10.25: Diploma in Law Programme

	NAME OF INSTITUTION	LICENSED PROGRAMME	STATUS
1	Kisii University School of Law	Diploma in Law	Licence valid until 16 th April, 2024
2	Mount Kenya University School of Law – Parklands Campus	Diploma in Law	License valid until 6 th November, 2023

Table 10.26: Applications for renewal of licences

	NAME OF INSTITUTION	LICENSED PROGRAMME	STATUS
1	Africa Nazarene University School of Law	Bachelor of Laws LL.B	Application for renewal received on 14 th February, 2019.
2	University of Nairobi School of Law Parklands Campus	Bachelor of Laws LL.B	Application for renewal received on 8 th April, 2019.

Table 10.27: Schedule of fees

Service	Fee chargeable (Kshs)
Licensing process	
Certificate Programme/renewal	500,000.00
Diploma Programme/renewal	900,000.00
Undergraduate Programme/renewal	1,600,000.00
Master's Degree Programme/renewal	1,600,000.00
Doctor of Philosophy, Doctor of Laws Programme/renewal	800,000.00
Examination fees	
Examination fee per unit	5,000.00
Examination re-sit	10,000.00
Examination remark	15,000.00
Recognition of approval of foreign qualification in law	
Recognition of approval fees	10,000.00

The Council has not raised any fees/charges since the 2016/2017 fiscal year. Licensing fee is payable once every five (5) years which is the duration of the license. Relatedly, the Council of Legal Education (Kenya School of Law) Regulations, 2009, remains the operative framework for the Bar Examination. The Council of Legal Education is in the process of developing the

Legal Education (Bar Examinations) Regulations.

The Pre-bar examination, administration by the Kenya School of Law, was introduced by the Statute Law (Miscellaneous Amendments) Act, 2014.

Recognition and approval of foreign legal qualifications

Table 10.28: Data on Applications received for Recognition and Approval of Foreign Legal Qualifications

	Number of Applicants
Application for Recognition & Approval of Foreign Legal Qualifications	175
Reviews	112
High School Qualifications	49
Clearance after Remedial Programme	50
TOTAL	386

The exponential growth in the number of candidates taking the Bar Examination remains a major challenge. The number has strained resources at the Kenya School of Law. A case may be made to increase the number of Legal Education Providers offering the Advocates Training Programme; which is currently a preserve of the Kenya School of Law.

10.4.14 Independent Policing Oversight Authority

The Independent Policing Oversight Authority (IPOA) is established by the Independent Policing Oversight Authority Act, 35 of 2011 to hold the police accountable in the performance of their functions, to actualise Article 244 of the Constitution which requires the Police to strive for professionalism and discipline, and to promote transparency and accountability and to ensure independent oversight over the handling of complaints by the Service. The core mandate of IPOA entails investigations on matters that generally lie within the Authority's mandate and participation in litigation.

Activities of IPOA during 2018/19

Since inception, the Authority has carried out various activities to realise the functions that fall within its mandate as dictated in the Constitution and the IPOA Act. In the year 2018/2019, the Authority has pursued this legal requirement through; Complaints management, Investigations, Inspections and Monitoring.

The law requires the Authority to receive and process complaints against actions of police officers or the National Police Service as an entity. These complaints can be received from members of the public, police officers or institutions. The Authority further acts on own motion to generate and handle complaints. In the Year 2018/2019, **3,237** complaints were received, presenting the highest number received in a year since inception. To ensure there is justice for complainants and the victims affected, these complaints were disposed of through various legal means, but not limited to recommendations to the ODPP to prosecute and referral to the relevant agencies for action. IPOA therefore forwarded complaints as follows; Internal Affairs Unit (**57**), National Police Service (**415**), National Police Service Commission (**73**), Directorate of Criminal Investigations (**151**), while another **92** complaints to EACC, CAJ, National Land Commission, NTSA and Retirement Benefits Authority.

Internally, **489** complaints were taken up for investigations since they fall under the mandate of IPOA and another **289**, were allocated for Inspections and monitoring, another legal function of the Authority. The Authority further completed **728** investigations during

the reporting period, the highest number of probes done compared to the previous years.

As at June 30, 2019, there were **67** cases that have been investigated by IPOA and are before various courts of law cross the country. Other achievements of the authority during the year under review include:

- Completion of cases against six police officers who were found to have violated the law. All the implicated officers were found guilty of the offences and sentenced.
- The Authority has developed IPOA Regulations in pursuant of Section 39 of IPOA Act.
- IPOA has reviewed the inaugural Strategic Plan – 2014/2018 – and the lessons learnt will be applied to ensure the implementation of the next plan.
- IPOA Strategic Plan 2019 – 2024 was been drafted and presented to stakeholders for validation..
- IPOA has developed an effective and efficient framework that will ensure coordination and management of the eight regional offices. This will ensure that services deployed closer to the citizens across Kenya are better administered. The offices are in Mombasa, Kisumu, Kakamega, Garissa, Eldoret, Kisumu, Nyeri and Meru.

Challenges that IPOA has faced include low public awareness of the Authority’s mandate amidst high public expectations, non-cooperation and low collaboration by other agencies during investigations, and delayed matters in court.

10.4.15 The National Transport and Safety Authority

The National Transport and Safety Authority (NTSA) was established to harmonize the operations of the key road transport departments and to help in effectively managing the road transport sub-sector in order to minimize loss of lives through road crashes.

In FY 2018/19, the number of traffic victims stood at 2,957, marking an increase from 2834 in the FY 2017/18. In the period under review, NTSA has been engaging in a number of activities to streamline operations in the transport sector. This has entailed partnership with the Judiciary and the Police.

Table 10.29: Categories of fatal Victims FY2017/18 and FY2018/19

MONTHS	2017/2018	2018/2019	VAR	%VAR
July	214	248	-2	-0.9
August	228	278	-12	-5.0
September	211	266	-7	-3.2
October	219	284	-11	-4.8
November	240	246	50	26.3
December	356	342	67	23.2
January	235	235	-19	-7.5
February	257	269	30	13.2
March	240	306	-29	-10.8
April	269	314	4	1.5
May	247	255	-12	-4.6
June	242	294	64	36.0
TOTAL	2834	2957	123	4.3

Source: NTSA

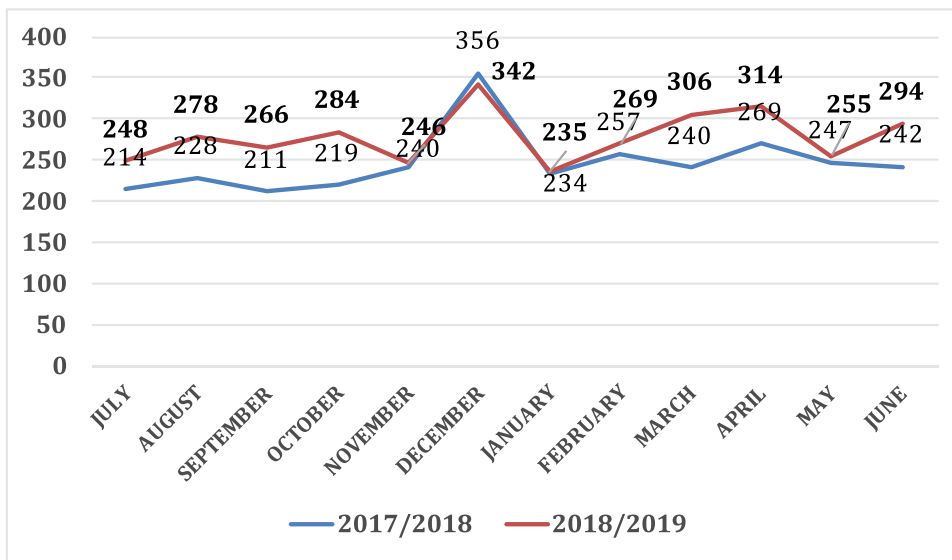


Figure 1: Categories of Fatal Victims

Table 10.30: Categories of Traffic Victims

CATERGORIES	F/Y 2017/2018	F/Y 2018/2019	VAR	%VAR
Pedestrians	1088	1250	162	14.9
Passengers	735	786	51	6.9
Motor Cyclist	532	633	101	19.0
Drivers	319	310	-9	-2.8
Pillion Passengers	221	280	59	26.7
Pedal Cyclist	62	78	16	25.8
TOTAL	2957	3337	380	12.9

Source NTSA

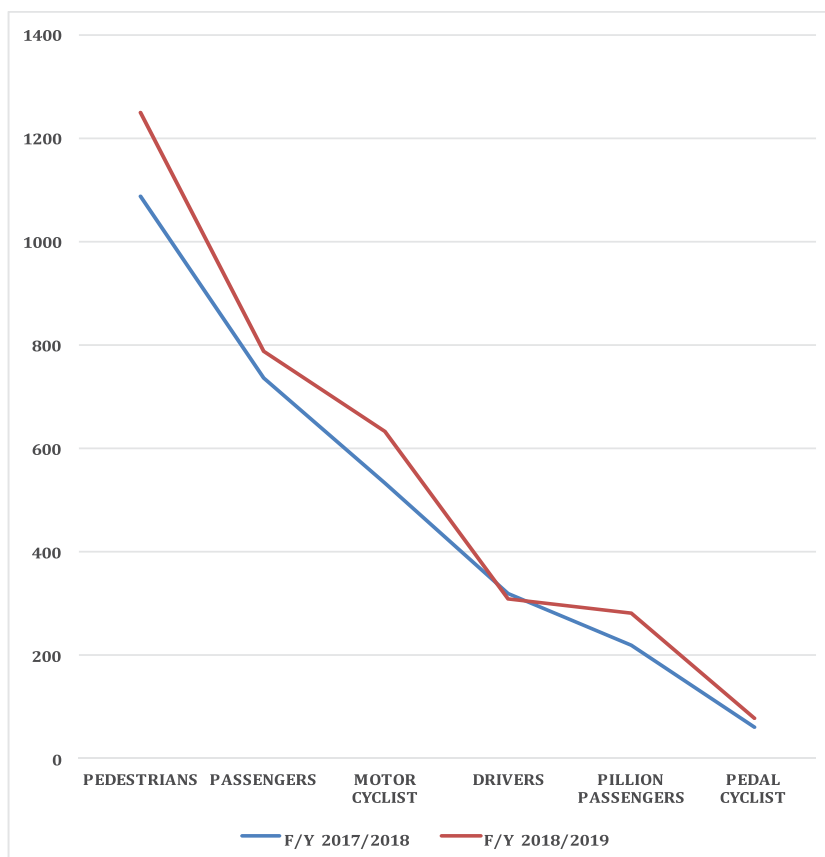


Figure 2: Categories of Traffic Victims

Challenges that the NTSA faces in its work include: corruption among traffic officers and court prosecutors, lack of a standard and coherent standards in the sentencing of traffic offences, and the disregarding of motor vehicle inspection reports by courts, among other challenges.

10.4.16 The National Council for Law Reporting

The National Council for Law Reporting (Kenya Law) is State Corporation established under the National Council for Law Reporting Act No. 11 of 1994. The mandate of the Kenya Law is outlined in the Act as the preparation and publication of the reports known as the Kenya Law Reports, which shall contain judgments, rulings and opinions of the superior courts of record; undertake such other publications as in the opinion of the Council are reasonably related to the preparation and publication of the Kenya Law Reports; and perform any other functions conferred on the Council by or under the provisions of any other written law.

The Attorney General's office delegated the powers of law revision conferred on it by the Revision of Laws Act (Cap. 1) to Kenya Law by virtue of Legal Notice No. 29 of 2009. The core functions of Kenya Law are to publish the Kenya Law Reports and related publications and to revise, update and publish the Laws of Kenya.

The key activities of the Kenya Law are highlighted below:

Publication of Kenya Law Reports

Kenya Law is charged with the task of tracking Kenya's jurisprudence by assembling the contents that constitute the Kenya Law Reports. This is done through two modes of publication, online publication through Kenya Law's website (www.kenyalaw.org) and hard copy publication in the form of actual printed books. The publication of the Kenya Law Reports has aided access to justice by ensuring that Kenya's indigenous jurisprudence is tracked and easily available for the benefit of judicial officers, legal practitioners and members of the public. In the period under review Kenya Law prepared the following publications:

- Kenya Law Reports: 2013 vol 1
- Kenya Law Reports: 2013 vol 2
- Kenya Law Reports: 2013 vol 3
- Kenya Law Reports: 2015 vol 1
- Kenya Law Reports Devolution vol. 1
- Kenya Law Reports: 1995
- Kenya Law Reports: 1996
- Kenya Law Reports: Election Petitions vol 6

KLR Manuscripts, which are at an advanced stage of preparation (four publications)

- Kenya Law Reports: Employment and Labour
- Kenya Law Reports: Environment and Land
- Kenya Law Reports: 2016 vol 1
- Kenya Law Reports: 1998

KLR Manuscripts that are various stages of preparation (four publications)

- Kenya Law Reports: 2016 vol 2
- Kenya Law Reports: 2015 vol 2
- Kenya Law Reports: Commercial
- Kenya Law Reports: Family

Publication of thematic digests

Kenya Law seeks to provide legal information that is relevant and convenient to legal professionals and as such prepares various digests to cater to niche legal practice areas. The following specialized publications were developed:

- Presidential Election Petition Booklet, Vol 2
- Compendium of Rulings on Bail and Bond, Vol 2
- Digest on Arbitration Law and Practice
- Kenya Law Review Journal
- Bench Bulletin Volumes 42, 43, 44 and 45

Online publication of Judicial Decisions

Kenya Law has ensured the collection, processing, and uploading of all judicial decisions issued by courts of record in the Republic. This has aided access to justice, facilitated judicial work and empowered the citizenry by making case law data easily accessible. Kenya Law summarizes select judicial decisions and case summaries, which are easier to read and understand which are all posted online for public consumption at no charge. Kenya Law collected **21,840** judicial decisions all of which were published online.

Online Publication of the Laws of Kenya

Kenya Law maintains a database of all the Laws of Kenya. Publication of laws of Kenya (online database) has ensured access to updated versions of all of Kenya's legislation (498 chapters and all regulations, all amounting to about 45,000 pages of text) thus ensuring that judicial officers, legal practitioners and members of the public have access to updated legislation. In addition to this Kenya Law collected and uploaded 100 per cent of the Kenya Gazette and Legislative Supplements within the period. These include Acts, Amendment Acts, and Legal Notices. The numbers of the legislation gazetted and uploaded are as follows; 22 Acts of Parliament, 6 Amendment Acts, 5 omitted Acts, and 2 repealed Acts. A total of 117 Legal Notices were also received and uploaded. The total number of Bills uploaded was 86; 53 belonging to the National Assembly while 33 were from the Senate.

County Legislation database

County Legislation is an integral part of the Laws of Kenya. Article 260 of the Constitution provides that the Laws of Kenya include legislation enacted by Parliament and an assembly of a county government. In furtherance of this, Kenya Law maintains a portal dedicated to the online publication of county legislation from all the 47 Counties of the Republic. This is segregated into the various Counties so as to ease access to this data. In the period under review, the total number of county legislation collected and uploaded onto the database was 1,481.

Laws of Kenya - Print Publications

Kenya Law provides access to the Laws of Kenya through various print publications. The following Laws of Kenya Volumes were successfully compiled for printing in the period under review:

1. Grey Book: This is a compilation of 15 procedural statutes commonly used by the courts in the administration of justice.
2. Commercial Laws
3. Land Laws
4. Public Finance Laws
5. Devolution Laws

Treaties Database

In compliance with Articles 2 (5), 2(6) and 35 of the Constitution of Kenya, 2010, Kenya Law maintains a database that is dedicated to all the treaties, agreements, conventions and other international instruments that Kenya has ratified, acceded to and declared. In addition, the database also contains 500 major multilateral instruments sourced from the United Nations Treaties Repository and African Union Treaties Database (including those that Kenya is not a signatory to). This database is routinely updated to incorporate new content as new treaties and agreements are continually deposited with the Secretary-General of the United Nations and other regional international organizations.

Online Publication of Tribunal Decisions

The Constitution provides that all tribunals exercise judicial authority on behalf of the people of Kenya. It is therefore important to give access to these decisions in light of the fact that they determine the rights of citizens. Kenya Law partnered with all the tribunals (through their association) so as to ensure the publication of their decisions on the Kenya Law website. A special database was created to host these decisions and 401 tribunal decisions were made available to the public through the Kenya Law website.

Monitoring Law Reform Issues from the Superior Courts of Record

Kenya Law has played a critical role in the law reform process by reviewing and analysing case law and tracking trends in the growth of jurisprudence. These trends are then shared with the judiciary for purposes of informing their future actions, including training of judicial officers. Kenya Law also analyses and tracks law reform issues that arise from judgments and provides this data to the OAG for purposes of information on the pieces of legislation that are in need of law reform i.e. those in conflict with other laws or those that have been declared unconstitutional. Kenya Law also reviews and reports on legislation that has been passed and which, on the face of the text, need further legislative intervention to ensure coherence and clarity of the law. These reports are sent to the OAG (Legislative Drafting Department) in order to facilitate their further action. All of these reports are prepared and sent out on a quarterly basis thus ensuring that the reform of the laws of Kenya is undertaken in a prompt manner thus ensuring that citizens are governed by laws that are current and which are in full compliance with the constitution.

In the period under review, Kenya Law identified and highlighted 13 Law Reform issues to the Attorney General and the KLRC.

Kenya Law further identified and highlighted to the Attorney General and the KLRC 16 sections of the law that were declared unconstitutional by various judicial decisions.

Monitoring International Jurisprudence

Kenya Law continues to monitor and report on jurisprudence from various international and regional courts for comparative analysis. Judicial decisions from regional and international adjudicating bodies form persuasive precedent, which while not binding on courts, may guide the judge in making decisions.

In the period under review, Kenya Law reported cases touching on decriminalization of homosexuality, decriminalization of marijuana, giving of unique social security numbers by government to citizens (similar to Kenya's Huduma Number) and copyright protection from other jurisdictions.

Access to public legal information

Kenya Law has ensured unrestricted access to Kenya's public legal information through digitization and making information freely available on www.kenyalaw.org. This public legal information may be downloaded and reused as required by the end user. Access to this information has ensured that citizens are empowered to be able to influence the governance structures of the Republic in a meaningful manner through informed submissions to state agencies e.g. during public participation sessions. The information hosted includes both national and county legislation and this has therefore enabled citizens across the breadth of the country and diaspora to understand the laws and policies that have been developed by their agents.

Access to the web pages of the organization has increased over the years as follows:

Google Analytics on Kenya Law's Website Page Views

	LAWS OF KENYA DATABASE	CASE LAW DATABASE
Financial Year 2015/16	1,032,528	3,641,778
Financial Year 2016/17	1,137,440	5,288,683
Financial Year 2017/18	1,616,564	6,264,476
Financial Year 2018/19	2,078,333	6,683,371

Knowledge Sharing and Exchange Programmes

Kenya Law has contributed to knowledge exchange and capacity building by organizing various fora where modalities of publication of law reports, revision of laws and dissemination of public legal information have been discussed. These fora have enabled partners (both local and international) in the dissemination of legal information to be able to support Kenya Law and the government to continue with initiatives to grant access to information that is held by the government and which ought to be made accessible. In the year under review, Kenya Law carried out the following knowledge exchange programs:

- Carried out training in conjunction with the African Legal Information Institute for the African Court on Human and People's Rights in Arusha, Tanzania on judgment reporting and media communication from October 18 - 19, 2018. The purpose of the training was to ensure that the Court was able to better prepare case summaries and communicate them to the general public.
- Carried out training on Case Law on Oil, Gas and Mining in Kenya for Judges and Legal Researchers at a training conducted by the Extractives Baraza in partnership with the Judiciary Training Institute and the International Development Law Organization to build capacity of judicial officers (judges and their research assistants) to enable them understand and resolve complex issues arising from extractive projects. The training was carried out from November 5 - 9, 2018.
- Facilitated the training of Uganda Legal Information Institute (ULII) on the processes and systems in place for law reporting and revision of legislation on February 21 - 23, 2019.
- Conducted training on online legal research using the Kenya Law website during the Annual Judiciary Librarians Conference organized by the Judiciary Training Institute at the Kyaka Hotel, Machakos on May 2, 2019.
- Carried out a high-level training with the Office of the Attorney General of Botswana on law revision, law reporting and the efforts that Kenya Law has made in ensuring free access to legal information from June 6 - 7, 2019.

Challenges experienced by the NCLR include: delays in sourcing and collection of county legislation, high cost of some processes such as translation of laws to Swahili, inadequate resources (human, financial, and technology-based resources).

10.4.17 Kenya Law Reform Commission

The Kenya Law Reform Commission (KLRC) has a statutory mandate to review all the law of Kenya to ensure that it is modernized, relevant and harmonized with the Constitution. Following the promulgation of the Constitution in 2010, KLRC has an additional mandate of preparing legislation required to give effect to the Constitution.

In addition, both the County Governments Act, No. 17 of 2012 and the Kenya Law Reform Commission Act, No. 19 of 2013 require the KLRC to assist county governments and ministries/departments/agencies (MDAs) in the preparation and reform of their legislation respectively. In satisfying this mandate, the KLRC recognises that the Constitution requires new laws to ensure that county governments have adequate support to enable them perform their functions and MDAs have the requisite legal frameworks under which they may effectively execute their mandate. The key achievements and activities of the KLRC during the year under review are as below:

- KLRC, pursuant to its mandate under Clause 5(6)(b) of the Sixth Schedule of the Constitution, continued to develop legislation required to implement the Constitution.
- KLRC assisted a number of MDAs with the review and harmonization of their respective legislative frameworks with the Constitution.
- KLRC provided technical assistance to a number of county governments with regard to the reform or amendment of their laws.
- KLRC continued to give advisory opinions to the Attorney-General, Parliament, MDAs and county governments.
- KLRC continued to propose amendments to various laws after receiving reports from the National Council of Law Reporting on court judgments touching on law reform.
- KLRC continued receiving status reports from various MDAs on the implementation of the Constitution.
- KLRC undertook research on various topics to facilitate informed law reform.

Challenges faced by the KLRC in its work include inadequate time and funding to facilitate effective public participation, late submission of drafting instructions from national and county government agencies, inadequate understanding of devolution at both levels of government, and resource challenges.

B. Non-State Actors

10.4.18 Federation of Women Lawyers (FIDA-Kenya)

FIDA-Kenya is a premier Women's rights organisation that has attained recognition as a critical partner for government inclusiveness with a view to embracing a culture that respects and promotes justice for women. FIDA Kenya's work was recognised through the Civil Society of the Year LSK Award for the year 2018-2019. FIDA-Kenya has been able to promote a culture of respect for women's rights particularly where courts affirm women's rightful claims in rulings and judgments.

FIDA engages with the courts (through the CUC) in selected regions to promote integrity and access to justice. FIDA also works with parliament to enhance gender responsive legislative and oversight functions. Through its work with Informal Justice Systems (IJS), FIDA-Kenya has been able to nurture respectful relationships at grass root level that have facilitated these mechanisms; and to question and reflect on how unequal power relations and stereotypes are drivers of injustices and rights violations.

FIDA-Kenya remains highly committed towards transforming and expanding the legal and

institutional spaces to respond to the ever-increasing demand for its services from women who are economically disadvantaged and other vulnerable groups such as the children. During the year under review, FIDA carried out the following key activities.

- **Legal Advice and Litigation:** The need for legal aid services in Kenya remains. During the reporting period, the organization attended to **10,986** women seeking legal assistance. Out of these **4,054** were new clients. **1,365** cases were taken and filed in court while others were handled through other interventions. **55** cases filed in court were concluded with a 90% success rate.
- **Strategic Impact Litigation (SIL):** FIDA - Kenya has been engaged in a number of public interest litigation cases in various courts across the country. Some of the SIL cases litigated on during this period are: PETITION NUMBER 266/2015: FIDA Kenya & 3 others -versus- The A.G, C.S, Ministry of Health, the Director of Medical Services, High Court Criminal Case No. 46 of 2018: Republic versus Gov. Okoth Obado & 2 others, Kakamega H.C C.P. No. 17 Of 2014: FIDA Kenya VS- AG & Another, and Petition 3 of 2019: FIDA Kenya & Anor vs The Inspector General of Police (Baby Pendo Case).
- **Pro bono Lawyers Scheme:** FIDA Kenya has been able to mobilize both male and female lawyers in private practice countrywide to take up cases on behalf of FIDA Kenya clients on a pro bono basis. FIDA Kenya's pro bono advocates continued to receive recognition for their exemplary work.
- **Self-Representation:** The organization provided training to **506** clients and filed **580** cases in court, some matters being for clients who were making a comeback to follow up on their cases during the reporting period. **420** clients completed their cases through self-representation.
- **Alternative Dispute Resolution:** **2,079** mediation invitations were sent out and **801** mediations conducted where **583** were successful making a **72%** success rate at mediations.
- **Engagement with Informal Justice Systems:** FIDA Kenya recognizes the role played by IJS in delivering justice to local communities and is keen to ensure that the systems uphold the principles of human rights in their adjudication and work under legal provisions in the Constitution. FIDA Kenya has developed an informal justice systems strategy manual and currently engages with over **20** IJS across Kenyan communities by enhancing their capacity to provide access to justice on issues within their mandate and to ensure referral of sexual and gender based violence cases to relevant authorities for litigation. FIDA-K held 2 trainings for Elders on the current provisions of the Constitution and women land and property rights. **84 cases** were referred to various council of elders during the reporting period. A total of 16 review meetings were held with TJS stakeholders.
- **Psychosocial Support:** FIDA Kenya realizes that for a woman to realize her rights she must have the mental wellbeing. Through this program the organization has assisted women who suffered mental and emotional trauma due to the infringement of their rights whether physically, economically or emotionally. **634 clients** were given counselling services of which **465** were new clients. A total of **86 couple therapy** session were held with **54** being successful.

Challenges faced by the Federation include late reporting of matters that require urgent collection of evidence (e.g. rape and defilement), low public awareness of court and legal processes, and inadequate safe houses and shelters of victims of gender-based violence.

10.4.19 Kenya Human Rights Commission

The Kenya Human Rights Commission (KHRC) was founded in 1992 and campaigns to create a culture in Kenya where human rights and democratic culture are the foundations of governance. KHRC works at community level with human rights networks (HURINETS) across Kenya and links community, national and international human rights concerns. The activities of the KHRC during the year under review are detailed below:

- **Enhanced Media Engagements and Visibility:** KHRC’s engagement with local and national radio stations has successfully established vast partnership with the media in advancing human rights issues at local and National level with very minimal resources. In mainstream television media engagement KHRC is recognised and continued to maintain visibility on its human rights leadership role on governance issues.
- **Legal Aid Support:** The legal aid clinic has remained the only pro-bono and comprehensive mechanism for providing support and remedies to victims of gross human rights violations. This has been realized through legal advice, sensitization, referrals, mediation and litigation. During the period under review, KHRC managed to assist **1,647** clients. Out of the clients, 454 were referred to like-minded partners; 84 clients were received and handled through the email platform at admin@khrc.or.ke; and 49 complaints were given comprehensive legal advice.
- **Legal Awareness:** KHRC conducted county legal aid clinics in Wajir, Kisumu and Kakamega counties on February 7, 2019, March 12, 2019 and March 14, 2019 respectively where 300 members of the public were sensitized on human rights, institutions’ mandates and complaints handling procedures.
- **Mediation:** For mediation, Article 159(2) (c) of the Constitution explicitly provides for the use of alternative dispute resolution as a means of delivering expeditious people-driven justice. In line with the promotion of ADR as a form of dispute resolution, KHRC is implementing a mediation programme to enable persons whose rights have been violated to access justice. Mediation has during this financial year proved to be economical, flexible and accessible to the people. Through mediation, KHRC was able to assist **47** clients access justice and get paid compensation for unlawful termination to the tune of **Kshs. 1,961,716**

Table 10.31: Nature of client and actions taken:

	April 2018	May 2018	June 2018	July 2018	Aug 2018	Sept 2018	Oct 2018	Nov 2018	Dec 2018	Male	Female	PWD	Total
New Client Intakes	43	60	54	49	34	53	43	70	6	298	102	12	412
Subsequent client (appointments)	45	56	34	56	41	34	71	23	48	258	144	6	408

Table 10.32:

	Jan 2019	Feb 2019	Mar 2019	April 2019	May 2019	June 2019	Male	Female	PWD	Total
New Client Intakes	12	71	67	30	120	58	75	40	12	358
Subsequent client (appointments)	31	63	48	26	122	46	78	45	6	336

- **Public Impact Litigation (PIL)** KHRC has remained at the forefront at instituting strategic impact litigation that have shaped public policy and jurisprudence and enhanced access to justice and public accountability on a broad range of public issues and processes. That has entailed instituting several ongoing PIL cases on behalf of clients and representing these clients as a petitioner, an interested party and/or a friend of Court (Amicus Curiae).

10.4.20 Kenya Magistrates and Judges Association

The Kenya Magistrates and Judges Association (KMJA) brings together judicial officers and is a forum through which issues that affect the bench fraternity are addressed. The KMJA holds meetings nationally on a quarterly basis for its national Council and on a need basis for the National Executive Council. In order to facilitate the performance of its core mandate, the KMJA has partnerships with organisations that work in the administration of justice, stakeholder engagements, training and sensitization activities on thematic legal and judicial issues and general welfare issues that affect Judges and Judicial officers. The KMJA carried out the following key activities during the year under review.

No.	Activity	Details
	Partnerships	<ul style="list-style-type: none"> The KMJA initiated a training partnership with Kenya National Highway Authority (KeNHA) to train Judicial officers and prosecutors on weigh bridge matters. Partnerships such as with CEFA, KHRC, FIDA Kenya, Sheria SACCO and the Judiciary, ICJ Kenya, Strathmore university and many others ensured that Kenya hosts a very successful East African magistrates and Judges Association (EAMJA) Annual Conference on October 21 – 27, 2018 in Mombasa as well as the KMJA Annual General Conference on December 8, 2018 in Nairobi.
	Capacity building workshops/ activities	<ul style="list-style-type: none"> KMJA members partnered in CUC meetings and trained members on a number of subjects in efforts to develop CUC capacities to deliver on their mandate. Sensitization workshops on Alternative Dispute Resolution Mechanisms, Diversion and the juvenile justice systems in partnership with FIDA Kenya, CEFA (European Committee for Training and Agriculture) and Legal Resources Foundation in Regions such as the Mt. Kenya (Nyeri) and the Lower Eastern (Machakos), Nairobi and Nyanza regions The KMJA Nyeri region partnered with FIDA Kenya and CEFA to rebrand and paint the children’s court.
	Bar-Bench Discussions	<ul style="list-style-type: none"> To resolve the many apparent misunderstandings between the bench and the advocates, regions such as the Kakamega/ Vihiga and the lower Eastern structured Bar-Bench meetings with seeming successful outcomes.

A number of challenges continue to face KMJA members persist and the KMJA is making effort to ensure that they are addressed through the leadership of the Judiciary and other agencies. The challenges include: security and safety of serving judicial officers (especially magistrates), streamlining of the disciplinary process for judicial officers, public attacks against the Judiciary, stalled court construction projects contributing to persistent shortage of space, inadequate number of prosecutors in courts. Other challenges include inadequate vehicles for judges, understaffing of support staff in courts, delays in expert evidence due to inadequate human resources at the government chemist and other agencies, and limited resources to support activities of the Court Users Committees (CUCs).

10.4.21 Kenya Private Sector Alliance

KEPSA is the private sector apex and umbrella body set up in 2003, to bring together business community in a single voice to engage and influence public policy for an enabling business environment. The Kenya Private Sector Alliance (KEPSA) is a limited liability membership organization. With current membership of over 500,000 direct and indirect members organised through Business Membership Organizations and Corporate members, KEPSA is a key player in championing the interests of the Kenyan business community in trade, investment and industrial relations.

KEPSA has played critical roles in business, economic, and political reforms. Some of the KEPSA’s role in business reforms i.e. Public-Private Dialogues for business reforms (policy,

legislative and institutional reforms) include: Presidential Round Tables (PRTs); Ministerial Stakeholder Forums (MSFs); Speaker’s Round Table: both Senate and National Assembly; Council of Governors Round Table; Chief Justice Forum; and, Attorney General’s forum.

Issue	Challenge	Proposed intervention
Typing of proceedings take inordinately long after delivery of judgment;	The delay exposes parties to execution and slows down the appeal process.	
Missing/misplaced court files.	No commitment from the deputy Registrar/Court officers on how long the searches should take and or construction of the files.	
Delay in hearing and conclusion of matters in Court.	Disputes take an average of four to five years to complete.	<ul style="list-style-type: none"> Urgent need for the Judiciary to look at the back log. Currently in place and put in mechanisms to reduce it.
Adjudicating Commercial Cases	<ul style="list-style-type: none"> A gap at the Commercial Division, slowing down a number of matters. Lack of effective management of court cases. Some delays are as a result of the involvement of Judges under the Commercial and Tax Di-vision of High Court in handling Election Petitions. 	<ul style="list-style-type: none"> Issue of delay can be mitigated by regular updates on statistics of adjudication of commercial cases in the Division, developing timelines for dealing with interim/injunctive applications in cases as well as the exclusion of Judges under the Commercial Division from handling. Operationalization of the Small Claims Court will help in the reduction of backlog cases as well as save on time for other matters. This will also encourage the Micro, Small and Medium Enterprises (MSMEs) to pursue their matters as the procedure set by the Small Claims Act is less technical than the procedure in the commercial courts.
Promotion of ADR pro-actively within all Courts handling commercial matters	Uptake of matters to ADR.	<ul style="list-style-type: none"> Expediting the roll-out of mediation to the courts countrywide. Sponsoring training, enrolling and enlisting more Mediators. Training Mediators across the various Counties. Review of the pilot rules to make provision for the voluntary character of mediation. Making reference to Court-annexed Mediation and not court-mandated mediation. Setting up mediation centers separately from the courtrooms. The current practice calls for the mediation sessions to be conducted in the court chambers which some-times causes space constraints.

Issue	Challenge	Proposed intervention
Issuing of Judgement	Where litigants exercise their right of appeal, typing of proceedings also takes long, and is sometimes inaccurate, bringing the time taken per case for an appeal process to commence to roughly 445 days.	<ul style="list-style-type: none"> Stakeholders in the judicial process can come together and develop a service charter outlining expected time lines for delivery of Judgments and Rulings as well as how long the appeal process should take. Automation and transcribing of proceedings in Commercial matters can also be considered.
Dedicated Commercial Courts	Matters being handled at the Commercial Court are broad in nature, and include general civil matters and commercial matters.	<ul style="list-style-type: none"> A clearer definition of which cases fall under Commercial matters will ensure the commercial division is not overwhelmed by the broad scope of cases currently before them.
Transfer of Judges	Transfer of judges from the commercial division to other divisions of the High Court disrupts knowledge management as the new ones have to be trained afresh on issues such as tax, intellectual property, financial technologies and other fast-growing and emerging fields	<ul style="list-style-type: none"> Having specialized Judges and judicial officers in the various divisions ensures that there is knowledge management and stability within the Court.
Capacity Building & Knowledge Management of Judges in Commercial Division	Continuous training and capacity building on certain commercial frameworks and practices will help keep up with the ever-changing commercial environment.	<ul style="list-style-type: none"> A team of trainees from the regulators and private sector can be seconded to the Judicial Training Institute (JTI) to support it in its trainings. This collaboration between the Court, regulators and private sector will ensure a consistent and structured support to the Judicial Training Institute. A Commercial Division curriculum developed through a consultative process with all stakeholders led by the JTI in key areas such as, Ease of Doing business awareness and capacity building, economic policy, digital economy, tax issues, cyber security, and other emerging global issues can be developed.
Costs	Court fees are high, thus discouraging business. In some instances, the costs exceed the subject matter in dispute imposed on Government regulators.	<ul style="list-style-type: none"> A forum between the leadership of the Courts, regulators, the Law Society of Kenya and private sector could review and discuss the issue of Costs in litigation matters.
Corruption and the Judiciary	Big cost of doing business due to corruption at the Judiciary.	<ul style="list-style-type: none"> Adjudicate and expedite conclusion of corruption cases through increase in specialized courts and longer seating sessions. Establish a framework of mandatory conclusion of any corruption cases within a period of 6 months from the date it is filed, consistent with the way election petitions are heard.

10.4.22 Kenya Association of Manufacturers

Established in 1959 as a private sector body, Kenya Association of Manufacturers (KAM) has evolved into a dynamic, vibrant, credible and respected business association that unites industrialists and offers a common voice for businesses. KAM is a representative organisation for manufacturing value-add industries in Kenya. KAM provides an essential link for co-operation, dialogue and understanding with the Government by representing the views and concerns of its members to the relevant authorities. KAM promotes trade and investment, upholds standards, encourages the formulation, enactment and administration of sound policies that facilitate a competitive business environment and reduce the cost of doing business.

The activities of the KAM for the year under review are detailed below:

- **NCAJ Commercial Justice Sector Committee:** KAM convened the Commercial Justice Sector Committee, which constituted of Kenya Revenue Authority, Central Bank of Kenya, Kenya Bankers Association, Insurance Regulatory Authority, Kenya Law Reform Commission, RETRAK and Law Society of Kenya. The Committee came up with judicial areas affecting the commercial/business sector and came up with recommendations, on how to quickly resolve issues and disputes in court to restore investor confidence in Kenya, which were shared during the NCAJ Council meeting.
- **Business Court Users Committee:** KAM as a key stakeholder participated in the BCUC meetings, which are aimed at discussing challenges and solutions to assist access to justice for the Private sector. One of the forums was themed “The Trends Trademark Law”, which is a key interest in the field of Commercial Justice in Kenya. The forum had participants from the private sector and stakeholders from the Commercial justice system. The discussion were around trademarks law and court adjudication of trademarks issues.
- **Development of the Company Law Guide Book:** In 2017, KAM in partnership with Kenya Magistrates and Judges Association developed and successfully launched the Commercial Law Guidebook through the support of Business Advocacy Fund (BAF).
- **Partnerships:** KAM has partnered with Kenya Magistrates’ and Judges Association, together with the Office of the Attorney General, Law Society of Kenya, Kenya Investment Authority to develop a simplified Judicial Guide book on the Companies Act, 2015, Insolvency Act, 2015 and their Regulations. This guidebook will support the judges and magistrates to expeditiously review the relevant provisions in the laws as they settle commercial cases. In addition, the guidebook aims to:
 - Reduce the time and burden of reading through the voluminous provisions of the Companies Act and the Insolvency Act in the country
 - To enhance awareness on the provisions of the laws.
 - To provide an easy to read document on the environment of company law in Kenya.
 - To support compliance in the private sector with company law requirements and support investor confidence.
 - To contribute to the Kenya’s ranking in World Bank’s Doing Business Report, specifically on resolving insolvency. Having an easy reference point for judges and magistrates is expected to improve the time required to determine these cases.

10.2.23 Law Society of Kenya

The Society is established by the Law Society of Kenya Act and was originally established in 1948 by section 3 of the Law Society of Kenya Ordinance, 1949. The Law Society of Kenya (LSK) draws its membership from all practicing advocates, currently numbering over 14,000 members. It has the mandate to advise and assist members of the legal profession, the government and the larger public in all matters relating to the administration of justice in Kenya. The following are the **key activities** that were undertaken during the reporting period:

- Regular Bar-Bench Committees and Court Users Committees at all court levels starting from Magistrate Courts to the Court of Appeal. Unfortunately, the Supreme Court has failed to set up a Bar-Bench Committee despite request being given.
- Occasional courtesy calls by Councils and Branches to various Courts in their geographical areas.
- Occasional Inns of Court sessions with branches involving Judges and Advocates to discuss issues affecting court practice.

Following the various activities listed above the LSK been able to see the fruits of their labour in the **achievements** below:

- Closer working relationship between LSK and the Judiciary;
- The LSK branches have successfully encouraged their members to embrace ADR including court-annexed mediation mechanisms and have conducted and continue to conduct various trainings with regard to the same which has seen an integration of ADR mechanisms is an attempt to deal with the issue of case backlogs experienced in the Courts; and
- Successfully dealt with various procedural bottlenecks in various Courts.

Challenges that the LSK faces include: pending/delayed rulings and judgments and delays in concluding cases in all Courts including the Court of Appeal and the Supreme Court, slow uptake of technology in courts leading to delayed services such as typing of proceedings, integrity issues in some courts and among some judicial staff, judicial officers, disruption of court matters due to transfers or unplanned absence from courts, and poor infrastructure and facilities in some courts.

10.4.24 Legal Resources Foundation

The Legal Resources Foundation (LRF) is an independent human rights organization that promotes access to justice through human rights education, research, and policy advocacy. LRF's mission is to be a resource for justice, equity and resilience in communities through holistic participatory interventions and strategic partnerships. LRF continues to work in partnership with the NCAJ, its constituent CUCs around the country, and the Kenya Prison Service, NPS, Probation and Aftercare Service, among other actors in the justice sector to enhance the space for access to justice and human rights in Kenya. Core areas of work for the LRF are practice advocacy and para-legalism.

The activities of the LRF during the year under review cover the areas of:

- Policy, Lawmaking processes and Public participation under the Constitution of Kenya 2010,
- Fair Administrative action
- Access to Justice.

a) Policy, Lawmaking processes & Public participation under the Constitution of Kenya 2010

The LRF has embarked onto the following initiatives under the Policy, Lawmaking processes and Public participation under the Constitution of Kenya 2010:

Strengthening Legal aid law in Kenya

The LRF has made a number of initiatives to facilitate the entrenchment of the Legal Aid Act in Kenya's justice system. On October 9, 2018, LRF together with other organisations under the Paralegal Support Network (PASUNE) submitted to the National Legal Aid Service (NLAS) a memorandum on Legal Aid Service Regulations and Code of Conduct for accredited legal aid providers.

Similarly, LRF has developed a simplified version of the Legal Aid Act, which has been shared with NLAS and is being used by various State and non-State actors including local communities to understand the continuum of legal aid in Kenya. The LRF has continued to deepen the understanding of state agencies in the justice system especially through the CUCs and NCAJ on the proper utilization of Legal Aid Act, as a strategy to reduce injustice but importantly to increase legal inclusivity of likely marginalized and vulnerable populations. Such trainings have also directly benefited officers from NPS, Kenya Prison officers, probation officers, children officers, and community-based organizations in various counties across Kenya. The NLAS has not finalized the development of the Legal Aid Regulations and rules to govern the place of paralegals and accreditation to serve, which has, in turn, slowed down the implementation of the Legal Aid Act.

A number of measures need to be taken by relevant justice agencies in order to ensure progress in legal aid:

- Rally together like-minded organizations and NLAS in the development of a practitioners guide for the legal aid act.
- Ringfence the already existing space to participate in the development of the legal aid accreditation criterion.
- Continue to lobby for the completion of the development of the legal aid regulations.
- Finalise the accreditation process for PASUNE Paralegal training curriculum as a certified curriculum for paralegal training in Kenya by tCLE..
- Conduct sensitization meeting on the Legal Aid Act in the most marginalised settlements in Kenya.

Implementation of Bail and Bond Policy Guidelines (BBPG) and balancing the rights of the accused and victims of crime

LRF continues to advocate for the total implementation of the BBPG by the courts and police while administering justice. In its implementation guide and oversight, LRF ensures that the BBPG are utilised as required and are reflective of the aspirations of pre-trial detainees and general litigants in Kenya. Such that :

- Bail and bond decision-making comply with the requirements of the Constitution.
- It Guides the police and judicial officers on bail and bond decision-making.
- It balances the rights of the suspects and accused persons with the public interest, including the rights of victims.
- It streamlines and addresses disparities in bail and bond decision-making, with a view to enabling fair administration of bail and bond measures.
- Facilitates effective inter-agency cooperation and coordination in bail and bond administration.
- Enhances conformity with the internationally agreed minimum standards for arrested persons and persons held in detention.
- Address the over-use of pre-trial detention.
- Safeguards the interests of victims of crimes in bail decision-making.
- Facilitates the supervision of accused persons granted bail.

LRF successfully conducted sensitization forums for CUC members in various courts on the provisions of the guidelines and responsibility upon them as duty bearers. Nakuru, Isiolo, Kibera, Makadara, Nakuru, Naivasha, Garissa, Lamu, Bungoma, Tamu, Nyando, Kericho, Molo, Kitale, Lodwar, and Kisumu CUCs have benefited from the sensitization forums during the reporting period.

LRF also conducted training forums with the various CUCs (Nakuru, Kisumu, and Milimani) and paralegal clinic at prison facilities with the support of FOSI and SIDA. The issue of defilement was raised and more so in Kericho, Molo, and Naivasha law courts and the

dilemma therein towards the provision of bail to the alleged child defilers. The community too was hesitant to receive accused persons released on bail as they thought they had been acquitted after paying a bribe. Therefore, there is a need to also reach out to the community through sensitization and also define more compelling reasons as to the denial of bail and bond.

Through the bail project, LRF developed a bail and bond poster for use by the court users who include the pre-trial detainees. LRF participation in the BBIC has contributed to the development of a Bail/bond training manual and curriculum. These two documents have been used to train two lots of ToTs who shall be used across the country to train CUC members on BBPG and sensitize members of the public and litigants into the right to bail and bond.

The committee and LRF has noted a number of challenges which include: non-adherence of some police and judicial officers to the provisions of the BBPG; the failure by judicial officers to use the bail information reports; the difficulties related to giving bail to suspects/accused persons of serious crimes such as terrorism and the challenge of inadequate support from the NPS. In order to ensure effective bail and bond regime in the country, the LRF recommends the following measures:

- Training of justice actors on the use of the bail/bond policy guidelines, the training manual and curriculum.
- Monitoring the application of BBPG by judicial and police officers through paralegals, DPOP- for judiciary and Internal Affairs Unit – for the police.
- Engagement in the development of bail/ bond bill 2019

Alternative Justice System (AJS) and Traditional Dispute Resolution Mechanisms (TDRM)

The LRF has been a member of the Alternative Justice System (AJS) Taskforce since 2016. The LRF was involved in traditional dispute resolution mechanisms between 2006 and 2009 with projects in Turkana and Kericho and this experience helped in the development of the AJS policy (now in draft form). For instance, the mediation concept and model that LRF established in Kericho has become the learning point for many actors.

The LRF has also campaigned for the uptake of the Court Annexed Mediation especially by the use of paralegals in various courts in Kenya. The Mediation Accreditation Committee (MAC) has been accrediting paralegals as mediators and this has enhanced the work of LRF. LRF runs another project, “Elders led, Court Annexed Dispute Resolution/mediation” – which is being piloted by JTI and LRF in Isiolo; Gichugu, and Lodwar; “Paralegal Led mediation” – this takes two fronts “Court Counsel/ paralegal mediation” and “Community paralegal led Mediation” – which takes place at the community level.



LRF paralegal facilitating public sensitizations on ADR through Chief Barazas



Working with Judges to promote ADR: Lady Justice Mumbi Ngugi speaks to elders about their role in realizing Art 159 2 (c) at a forum facilitated by LRF in Kericho.

Prisons Act Cap 90 and Borstal Act Cap 92

Major prison reforms commenced in 2003 with discussions focused on the review of the Prisons Act in order to pave the way for institutional reforms and effectiveness. The Act was to be reviewed to facilitate the implementation of modern correctional concepts and technology such as use of virtual courts within prison precincts and provide for a rehabilitative agenda for correctional services. Further changes within the Executive (via Executive Order No.1) that established the Kenya Correctional Services and there was then the need to consolidate the Prisons Act and the Borstal Act, and the Probation Act into one

law to form the Kenya Correctional Services.

However, only the Prisons Act and the Borstal Act have been reviewed, with support from the Prison Reform Working Group (PRWG) and other partners. The Bill was introduced in the Senate but returned to the Ministry for further revision. The LRF will continue to support the efforts to have envisaged Kenya Correctional Services and the relevant legislative and policy processes to see the envisaged reforms through.

Paralegals in court

The LRF introduced the concept of “court counsel,” basically paralegals stationed at court premises to offer free legal assistance to litigants. Court counsels also play an intermediary role between the accused and the court, reducing any real or perceived inequalities or injustice. LRF has an operational court counsel service in Makadara Law courts. The role of paralegals in litigation requires further policy clarification and response from relevant stakeholders such as the Judiciary, LSK and others. Further steps will include the development of court counsel guidelines and the expansion of the court counsel programme.

Plea Bargaining

LRF has been able to participate in outlining the space for paralegals in plea bargaining process. Most notable is the participation of Paralegals in the ‘All for Justice’ project in Lamu. Besides participating in the CUC trainings and Service week, LRF also participated in training prison officers as paralegals. LRF’s participation includes :

- Legal education on the criminal trial process;
- Legal aid in plea bargaining process;
- Assisting the unrepresented accused persons/ suspects fill and file the plea-bargaining offer form;
- Recording of the plea agreement ;
- Family unification for purposes of getting relatives of the remand prisoners to assist payment of restitution/ compensation;
- Organizing references and paperwork and passing relevant items to the prosecutor as they are needed;and
- Pre-trial preparation of minors entering into a plea bargain agreement



LRF working to decongest Isiolo prison through understanding and employment of Plea Agreements

b) Fair Administrative Action

Article 47 provides that every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action. LRF in its effort of ensuring fair administrative action in the implementation of the legislation has been working closely with the now-defunct “provincial administration” (now NGAO- National Government), Further LRF has been working closely with Judiciary by building their capacity to implement law and the police the decisions of the court. Partnership with oversight authorities like IPOA, IAU, KNCHR, etc. have been critical to ensuring that excesses in the implementation of administrative action have been acted upon.

LRF has had engagements with select counties and judiciary on the need to reform county courts that focuses on county by-laws and other statutory related matters to address allegations of human rights abuses directed at the indigent such as hawkers in the implementation and enforcement of county legislation. LRF has more than once called for the county government in developing county by-laws to ensure the lawfulness of the same.

c) Access to Justice

Towards enhancing access to justice, LRF has been able to pursue different advocacy strategies as elaborated below.

Public interest litigation

As such, LRF has sort this remedial strategy to deal with grey areas which if not well provided for or a direction sort would lead to substantive violation of rights of particular persons. Such cases have been PIL case on Mandatory Death Penalty (MDP); reintroduction of remission and harmonization of power of mercy provision; issuance of certificate of good conduct and a strategic case on defilement and deliberate infection of a minor with HIV, the ‘P3 Case’ High Court Petition No. 2B of 2017 at Embu and in the matter of the the acquisition of certificate of good conduct case challenging the fingerprint regime in Kenya.

Additionally, the LRF supported two-day stakeholders meeting on July 5 and 6, 2018. At the forum, various actors shared their memorandum and gave recommendations to the Taskforce on the Death Penalty.

National Framework on Human Rights (NFHR) for Penal Institutions EWS

A framework for protection of human rights has been proposed through our penal project. This has been through the good work LRF together with CEFA through the support of EC has been conducting in prison. This has been building the capacity of human rights officers and offices in prison to be able to implement the Mandela rules of SMR. In that engagement, Paralegals from LRF and human rights officers developed Early Warning Systems (EWS) tools that would be used in the isolation of possible threats of human rights – and be addressed.

LRF led efforts to have the NCAJ to adopt this idea and support the realization and ownership of the NFHR through the NCCJR. NFHR has now become instrumental in laying the foundation to the reform agenda envisioned in the mandate of the NCCJR.

Child Protection Units/ Desks (CPU)

The LRF led efforts to have paralegals in the CPUs. This is now in six counties, where paralegals are able to divert children from the criminal justice system by facilitating: mediation; resettlement and psycho-social support.

Through the NCAJ Special Taskforce on Children, LRF has contributed to the development of the Children Bill 2019 that seeks to repeal the Children's Act 2001. The Bill among others provides for the CPUs and the way they should be administered. The Task Force is also in the process of developing standard operating procedures for the CPUs in the police stations.

10.5 Conclusion

While there are unique challenges specific to the institutions whose activities are covered in this chapter, the reports also reveal many common challenges that run across the justice sector. These challenges can be addressed through a common and concerted effort of the institutions that make up the membership of the NCAJ.

Inadequate human and financial resources

Inadequacy of human and financial resources is one of the common challenges that have emerged from almost all institutions whose activities are covered in this chapter. Many of the institutions have cited the inadequate budgets vis-à-vis the expected mandates and responsibilities that they are expected to carry out. Invariably, this is a challenge that is linked to the inadequacy of the resources available from the public purse (especially for the case of public-funded agencies).

Delays in delivery of services

Many of the institutions have raised issues regarding the slow pace of services that are required to enhance efficiency in the sector. These include challenges such as court delays, delays in conclusion of investigations, readiness of the prosecution, production of expert evidence and witnesses, delays in probation reports, among other delayed services. Inevitably, most of these delays are linked to the above challenge of inadequacy of human and financial resources. However, many of these services may also be enhanced through a more efficient and effective coordination among the agencies whose activities go hand in hand can address part of the challenges related to slow service delay.

Weak coordination among justice actors

Many institutions raised concerns about weak coordination among agencies whose activities impact each other. These include agencies such as the Judiciary, police and prosecution. The NCAJ and other structures within the justice sector exist to ensure coherence and coordination in the sector. There is a need to identify ways and channels through which institutions performing related functions can work more cohesively for overall effectiveness.

Low uptake of technology to leverage service delivery

The institutions whose activities are reported here are at different levels of use of technology to improve service delivery. Technology has a great potential of enhancing service delivery in individual organisations and ensuring overall efficiency in the justice sector. However, this is only possible where there is a commitment to develop and use technological products that can enhance the integration and sharing of information among the different agencies. An example is the integration of information on bail and bond between the police and the Ministry of lands to ensure authenticity of security deposited (land titles for example). More of these initiatives should be explored through the NCAJ and other cross-sector structures. This will help to leverage on technology to enhance overall efficiency.

Low levels of public engagement and awareness

Many institutions raised concerns low levels of public awareness of their mandate and inadequate public engagement. This is also related to the low level of funding for crucial processes such as public participation. Again, this challenge can only be addressed through concerted efforts at institutional and sector levels to get the public engagement on issues of administration of justice. Technology too can facilitate public participation and engagement.

Politicisation of justice processes

Institutions have cited politicisation of their mandate and activities as a challenge, especially with regard to “high profile” cases. It is important that legal justice processes are left to run independently without any interference. Admittedly, this challenge can be avoided if institutions carry out their mandate with minimal interference. The NCAJ and other structures should collectively advocate for an environment where all justice sector agencies are able to perform their functions without undue interference.

Policy and legislative gaps

Almost every institution identified gaps in laws and policies as a challenge to the effectiveness of their work. There is a need for a collective process and channel of addressing the identified challenges, most of which are specific to the respective roles of the institutions covered in the report.

Corruption

Many institutions have cited the lack of integrity and corrupt practices among justice sector agencies as one of the challenges to effectiveness. While there are sector-wide and institution-specific efforts to address this challenge, there are many challenges that remain. Continuing dialogue, led by agencies such as the EACC will assist in putting in place measures that can minimise this vice.

ANNEXURES

LIST OF DRAFT LEGISLATION AND POLICIES THAT KLRC HAS WORKED ON IN THE FY 2018/19

	NAME OF LEGISLATION	STATUS
	A. BILLS DEVELOPED OR REVIEWED	
1.	Public Procurement and Asset Disposal (Amendment) Bill, 2019	Completed
2.	Data Protection Bill, 2019	Completed
3.	Land (Amendment) Bill, 2019	Completed
4.	Inclusive Growth Authority Bill, 2019	Completed
5.	Universities (Amendment) Bill, 2019	Completed
6.	Intergovernmental Relations (Amendment) Bill, 2019	Completed
7.	County Government's (Amendment) Bill, 2019	Completed
8.	National Employment Authority (Amendment) Bill, 2018	Completed
9.	National Disaster Management Authority Bill, 2018	Completed
10.	Reparations Bill, 2018	Completed
11.	Insolvency (Amendment) Bill, 2018	Completed
12.	Community Groups (Registration) Bill, 2018	Completed
13.	County Attorney Bill, 2018	Completed
14.	Statute Law (Miscellaneous Amendment) Bill, 2018	Completed
15.	Implementation of Government Assurance Bill, 2018	Completed
16.	Public Holidays (Amendment) Bill, 2018	Completed
17.	The Parliamentary Pension (Amendment) Bill, 2018	Completed
18.	National Youth Employment, Empowerment and Services Bill, 2018	Completed
19.	Population and Development Bill, 2018	Completed
20.	Public Order (Amendment) Bill, 2018	Completed
21.	Treaty Making and Ratification Bill, 2018	Completed
22.	Anti-corruption and Economic Crimes (Amendment) Bill, 2018	Completed
23.	Advocates (Amendment) Bill, 2018	Completed
24.	Constitution of Kenya (Amendment) Bill, 2019	Completed
25.	Disaster Risk Management Bill, 2018	Completed
26.	Public Audit (Amendment) Bill, 2018	Completed
27.	Public Benefit Organizations (Amendment) Bill, 2018	Completed
28.	Public Procurement and Asset Disposal (Amendment) Bill, 2018	Completed
29.	Public Service (Amendment) Bill, 2018	Completed
30.	Publishing Corporation Bill, 2018	Completed
31.	Employment (Amendment) Bill, 2018	Ongoing
32.	Bail and Bond Bill, 2019	Ongoing
33.	Regional Development Authorities (Amendment) Bill, 2019	Ongoing
34.	Huduma Bill, 2019	Ongoing
35.	Agricultural Finance Corporation (Amendment) Bill, 2019	Ongoing
36.	Social Assistance Bill, 2018	Ongoing
37.	Slum Upgrading and Prevention Bill, 2018	Ongoing
38.	Water Towers Bill, 2018	Ongoing
39.	National Government Constituencies Development Fund (Amendment) Bill, 2018	Ongoing
	B. SUBSIDIARY LEGISLATION DEVELOPED OR REVIEWED	STATUS
40.	Warehouse Receipts Regulations, 2019	Completed
41.	Capital Markets (Commodities Exchange) Regulations, 2019	Completed
42.	Access to Information Regulations, 2019	Completed
43.	Sentencing Regulations, 2019	Completed
44.	Resentencing Regulations, 2019	Completed
45.	Legal Education Appeals Tribunal Procedure Rules, 2019	Completed
46.	Strategic Food Reserves Trust Fund (Amendment) Regulations, 2019	Completed

	NAME OF LEGISLATION	STATUS
47.	National Police Service Ethics Code, 2018	Completed
48.	Insolvency (Amendment) Regulations, 2018	Completed
49.	Legal Educational Appeal Tribunal Rules, 2018	Completed
50.	Controller of Budget Regulations, 2018	Completed
51.	Law Society of Kenya (General Regulations), 2018	Completed
52.	National Gender and Equality Commission (Equality and Non-Discrimination) Regulations, 2018	Completed
53.	National Gender and Equality Commission (Complaints Handling Practice and Procedure) Rules, 2018	Completed
54.	Intergovernmental Relations (Sectoral Forum) Regulations, 2019	Ongoing
	C. COUNTY BILLS DEVELOPED OR REVIEWED	STATUS
55.	Busia County Public Participation Bill, 2019	Completed
56.	Kajiado County Public Participation Bill, 2019	Completed
57.	Mandera County Public Participation Bill, 2019	Completed
58.	Marsabit County Public Participation Bill, 2019	Completed
59.	Wajir County Public Participation Bill, 2019	Completed
60.	Taita Taveta County Social Assistance Bill, 2019	Completed
61.	Taita Taveta County Roads Bill, 2019	Completed
62.	Taita Taveta County Revenue Administration Bill, 2019	Completed
63.	Taita Taveta County Trade Bill, 2019	Completed
64.	Taita Taveta County Quarrying Bill, 2019	Completed
65.	Nairobi City County Betting Lotteries and Gaming Bill, 2019	Completed
66.	Turkana County Agriculture Development Bill, 2019	Completed
67.	Nairobi City County Revenue Administration Bill, 2019	Completed
68.	Nyandarua County Trade Development and Investment Bill, 2019	Completed
69.	Laikipia County Asset Leasing Bill, 2019	Completed
70.	Kajiado County Inspectorate Bill, 2018	Completed
71.	Nyamira County Water Services Bill, 2018	Completed
72.	Kwale County Rating Bill, 2018	Completed
73.	Kwale County Finance Bill, 2018	Completed
74.	Kwale County Revenue Authority Bill, 2018	Completed
75.	Kwale County Revenue Administration Bill, 2018	Completed
76.	Nairobi City County Trade Licensing Bill, 2018	Completed
77.	Nairobi City County Surface and Ground Water Rehabilitation, 2018	Completed
78.	Meru County Agriculture Bill, 2018	Completed
	D. COUNTY SUBSIDIARY LEGISLATION DEVELOPED OR REVIEWED	STATUS
79.	Machakos County PFM (Car Loan and Mortgage Scheme) Fund, 2018	Completed
80.	Nyamira County Co-operative Development Fund Regulations, 2018	Completed
81.	Kericho County Co-operatives Regulations, 2018	Completed
82.	Kericho County Trade Licenses Regulations, 2018	Completed
83.	Trans Nzoia County Mortgage Regulations, 2018	Completed
84.	Bomet Car Loan Regulations, 2018	Completed
85.	Trans Nzoia Car Loan Regulations, 2018	Completed
86.	Tharaka Nithi Public Finance Management (County Assembly Fund) Regulations, 2018	Completed
87.	Makueni County Cooperative Society Regulations, 2018	Completed
88.	Nyeri Enterprise Fund (General Regulations), 2018	Completed
89.	Tana River County (Car Loan and Mortgage) Regulations, 2018	Completed
	E. ADVISORY OPINIONS	STATUS

	NAME OF LEGISLATION	STATUS
90.	Advisory opinion to the Taskforce on Coffee Sector implementation on 'The Framework for Coffee Regulations and Setting Up a Commodities Exchange'	Completed
91.	Opinion to the Attorney-General on consequential amendments to penal provisions arising out of judicial decisions.	Completed
92.	Opinion to the Attorney-General on Registration of Father on Birth Certificates.	Completed
93.	Advisory opinion to County Public Service Boards, National Consultative Forum County on CPSB Secretaries	Completed
94.	Report on the Legal Framework for Surrogacy in Kenya	Completed
95.	Advisory opinion to the Taskforce on Artificial Intelligence (AI) and Distributed Ledger on the 'Impact of Emerging Technologies on the Current Legal Framework'	Completed
96.	A briefing note to the World Bank Mission on 'the Legal Framework and Prospects for Foundational Identity Systems in Kenya'	Completed
97.	Opinion to the National Assembly Legal and Justice Committee on 'Viability of Enacting Standalone Legislation for Corporate Crimes'	Completed
98.	Opinion to the Central Bank of Kenya on 'Viable Mechanisms for regulating the Microfinance Banks'	Completed
	F. LEGAL AUDITS	STATUS
99.	Audit on County and National Legislation	Completed
100.	Report of the Task Force on Review of the Mandatory Death Sentence – audit of capital offender population	Completed
101.	Assessment of the Levels of Consultation and Co-operation between National Government and County Governments in Kenya	Completed
	G. POLICIES REVIEWED (NATIONAL)	STATUS
102.	Policy on Conduct of Political Party Primaries, 2018	Completed
103.	National Police Service Housing Policy, 2018	Completed
104.	National Police Service Chaplaincy Policy, 2018	Completed
105.	National Police Service Welfare Policy,2018	Completed
106.	National Police Service Counselling Policy,2018	Completed
107.	National Police Service Policy on Conflict of Interest and Guidelines for Trade,2018	Completed
108.	National Action Plan on Business and Human Rights,2018	Completed
109.	Kenya Water Towers Coordination Policy, 2018	Ongoing
110.	Policy on Returned Foreign Terrorist Fighters and Disengaged Recruits into Violent Extremist Groups	Ongoing
111.	Ministry of Defence Corruption Prevention Policy	Ongoing
112.	National Prosecution Policy	Ongoing
	H. GUIDELINES DEVELOPED OR REVIEWED	STATUS
113.	Code of Conduct for Accredited Legal Aid Service Providers	Completed
114.	General Prosecution Guidelines, Kenya	Ongoing
115.	Guidelines for Establishment of Intergovernmental Relations Units in National Government Ministries and County Governments, 2019	Ongoing
	I. POLICIES REVIEWED (COUNTY)	STATUS
116.	County Solid Waste Management Model Policy	Ongoing
117.	Isiolo County Disaster Management Policy	Ongoing
118.	Samburu County anti-beading Policy	Ongoing
119.	Nairobi City County Trade Policy	Ongoing
	J. RESEARCH	STATUS
120.	Report of the Task Force on Review of the Mandatory Death Sentence – research on resentencing and parole	Completed

	NAME OF LEGISLATION	STATUS
121.	Research on Access to Justice in Magistrates' Courts	Ongoing
122.	Review of the Protocol on Publication of County Legislation	Ongoing
123.	Research Paper on the Necessary Policy, Institutional and Legal Framework Necessary for the Adoption of a Penalty and Fee Units System in Kenya	Ongoing
124.	Research Paper on Innovative Financing for Kenyan Cities	Ongoing

*

Completed' refers to draft legislation or policy finalized by KLRC and submitted either to the Attorney-General, an instructing MDA or a county government.

ANNEXURE

**LIST OF JUDGES,
REGISTRARS,
MAGISTRATES
AND KADHIS**

AS AT 30TH JUNE, 2019

ANNEXURE**LIST OF JUDGES, REGISTRARS, MAGISTRATES AND KADHIS AS AT 30TH JUNE, 2019**

	Name	Court Station/Title
SUPREME COURT JUDGES		
1.	Hon. Mr. Justice David K. Maraga	Chief Justice, President of the Supreme Court of Kenya
2.	Hon. Lady Justice Philomena M. Mwilu	Deputy Chief Justice
3.	Hon. Mr. Justice (Prof.) Jackton B. Ojwang	Supreme Court Judge
4.	Hon. Mr. Justice Mohammed K. Ibrahim	Supreme Court Judge
5.	Hon. Lady Justice Njoki Susanna Ndung'u	Supreme Court Judge
6.	Hon. Mr. Justice (Dr) Smokin Wanjala	Supreme Court Judge
7.	Hon. Mr. Justice Isaac Lenaola	Supreme Court Judge
COURT OF APPEAL JUDGES		
1.	Hon. Mr. Justice William Ouko	President, Court of Appeal – Nairobi
2.	Hon. Mr. Justice Erastus M. Githinji	Nairobi
3.	Hon. Mr. Justice Philip N. Waki	Nairobi
4.	Hon. Mr. Justice Alnashir Visram	Nairobi
5.	Hon. Lady Justice Rose Nambuye	Nairobi
6.	Hon. Lady Justice Wanjiru Karanja	Nairobi
7.	Hon. Lady Justice Marthe Koome	Nairobi
8.	Hon. Lady Justice Hannah Okwengu	Nairobi
9.	Hon. Mr. Justice Mohammed Warsame	Nairobi
10.	Hon. Mr. Justice Milton A.S. Makhandia	Nairobi
11.	Hon. Mr. Justice Daniel Musinga	Nairobi
12.	Hon. Mr. Justice Patrick Kiage	Nairobi
13.	Hon. Mr. Justice S. Gatembu Kairu	Nairobi
14.	Hon. Mr. Justice Kathurima M'Inoti	Nairobi-Director Judiciary Training Institute
15.	Hon. Lady Justice Agnes Murgor	Malindi
16.	Hon. Lady Justice Fatuma Sichale	Kisumu
17.	Hon. Mr. Justice (Prof) James Odek	Kisumu
18.	Hon. Lady Justice Jamila Mohamed	Malindi
19.	Hon. Mr. Justice Sankale Ole Kantai	Malindi
HIGH COURT JUDGES		
1.	Hon. Lady Justice Lydia Awino Achode	Principal Judge, Family Division

	Name	Court Station/Title
2.	Hon. Mr. Justice Aggrey Muchelule	Family Division
3.	Hon. Lady Justice Abida Ali-Aroni	Family Division
4.	Hon. Mr. Justice Asenath Onger	Family Division
5.	Hon. Mr. Justice Onyiego John Nyabuto	Milimani Family/Anti- Corruption Division
6.	Hon. Lady Justice Jessie Wanjiku Lesiit	Milimani Criminal Division
7.	Hon. Mr. Justice Luka Kiprotich Kimaru	Milimani Criminal Division
8.	Hon. Lady Justice Grace Wangui Ngenye	Milimani Criminal Division
9.	Hon. Lady Justice Stella Ngali Mutuku	Milimani Criminal Division
10.	Hon. Mr. Justice James Wakiaga	Milimani Criminal Division
11.	Hon. Mr. Justice Daniel Ogembo	Milimani Criminal Division/Lodwar
12.	Hon. Mr. Justice Mbogholi Msagha	Milimani Civil Division
13.	Hon. Mr. Justice Joseph Serгон	Milimani Civil Division
14.	Hon. Lady Justice Maureen Odero	Milimani Civil Division
15.	Hon. Lady Justice Beatrice Thurania	Milimani Civil Division
16.	Hon. Lady Justice Jackline Kamau	Milimani Civil Division
17.	Hon. Lady Justice Cecilia Githua	Milimani Civil Division
18.	Hon. Lady Justice Lucy Njuguna	Milimani Civil Division
19.	Hon. Lady Justice Mary Kasango	Milimani Commercial Division
20.	Hon. Mr. Justice Grace Nzioka	Milimani Commercial Division
21.	Hon. Mr. Justice Francis Tuiyot	Milimani Commercial Division
22.	Hon. Lady Justice Margaret Muigai	Milimani Commercial Division
23.	Hon. Lady Justice Wilfrida Okwany	Milimani Commercial Division
24.	Hon. Mr. Justice James Aaron Makau	Milimani Constitution & Human Rights Division
25.	Hon. Mr. Justice Weldon K. Korir	Milimani Constitution & Human Rights Division
26.	Hon. Lady Justice Pauline Nyamweya	Milimani Judicial Review
27.	Hon. Mr. Justice John Mativo	Milimani Judicial Review
28.	Hon. Lady Justice Grace Mumbi Ngugi	Milimani Anti-Corruption
29.	Hon. Mr. Justice Martin Muya Mati	Bomet
30.	Hon. Mr. Justice Stephen Riechi	Bungoma
31.	Hon. Mr. Justice Kiarie Waweru Kiarie	Busia
32.	Hon. Mr. Justice Robert Limo	Chuka
33.	Hon. Mr. Justice Olga Sewe	Eldoret

	Name	Court Station/Title
34.	Hon. Mr. Justice Stephen Githinji	Eldoret
35.	Hon. Lady Justice Hellen A. Omondi	Eldoret
36.	Hon. Lady Justice Florence N. Muchemi	Embu
37.	Hon. Mr. Justice Charles Kariuki	Garissa
38.	Hon. Lady Justice Roselyne C. Lagat Korir	Garsen
39.	Hon. Mr. Justice Joseph R. Karanja	Homabay
40.	Hon. Lady Justice Mary Muthoni Gitumbi	Judiciary Training Institute
41.	Hon. Mr. Justice Edward Muthoga Muriithi	Kabarnet
42.	Hon. Mr. Justice Enock Mwita	Kajiado
43.	Hon. Mr. Justice William Musya Musyoka	Kakamega
44.	Hon. Mr. Justice Nyaga Jesse Njagi	Kakamega
45.	Hon. Lady Justice Ruth Nekoye Sitati	Kapenguria
46.	Hon. Mr. Justice George Matatia Abaleka Dulu	Kericho
47.	Hon. Lady Justice Gitari Lucy Waruguru	Kerugoya
48.	Hon. Lady Justice Christine W. Meoli	Kiambu
49.	Hon. Mr. Justice David Amilcar S. Majanja	Kisii
50.	Hon. Lady Justice Rose Edwina Atieno Ougo	Kisii
51.	Hon. Mr. Justice Fredrick Andago Ochieng	Kisumu
52.	Hon. Lady Justice Cherere Thripsisa Wanjiku Wamae	Kisumu
53.	Hon. Mr. Justice Hilary Kiplagat Chemitei	Kitale
54.	Hon. Lady Justice Lilian Nambwire Mutende	Kitui
55.	Hon. Mr. Justice George Vincent Odunga	Machakos
56.	Hon. Mr. Justice Kemei David Kipyegomen	Machakos
57.	Hon. Lady Justice Hedwig Imbosa Ong'udi	Makueni
58.	Hon. Mr. Justice Reuben Nyakundi	Malindi
59.	Hon. Mr. Justice Said Juma Chitembwe	Marsabit
60.	Hon. Mr. Justice Alfred Mabeya	Meru
61.	Hon. Mr. Justice Francis Muthuku Gikonyo	Meru
62.	Hon. Lady Justice Anne Adwera Colleta Apondi	Meru
63.	Hon. Mr. Justice Antony Mrima	Migori
64.	Hon. Mr. Justice Eric Kennedy O. Ogola	Mombasa
65.	Hon. Mr. Justice Patrick Otieno	Mombasa

	Name	Court Station/Title
66.	Hon. Lady Justice Dorah O. Chepkwony	Mombasa
67.	Hon. Lady Justice Margaret Mwangi	Mombasa
68.	Hon. Lady Justice Mugure Thande	Mombasa
69.	Hon. Lady Justice Anne Omollo	Mombasa
70.	Hon. Mr. Justice Kanyi Kimondo	Murang'a
71.	Hon. Mr. Justice Richard Mururu Mwongo	Naivasha
72.	Hon. Mr. Justice Joel Mwaura Ngugi	Nakuru
73.	Hon. Mr. Justice Antony Ndungu	Nakuru
74.	Hon. Lady Justice Janet Mulwa	Nakuru
75.	Hon. Lady Justice Rachel C. B Ngetich	Nakuru
76.	Hon. Mr. Justice Hatari Peter George Waweru	Nanyuki
77.	Hon. Mr. Justice Justus Bwonwonga	Narok
78.	Hon. Lady Justice Esther Nyambura Maina	Nyamira
79.	Hon. Lady Justice Roseline P.V. Wendoh	Nyandarua
80.	Hon. Lady Justice Mary Oundo	Nyandarua
81.	Hon. Mr. Justice Ngaah Jairus	Nyeri
82.	Hon. Lady Justice Matheka Teresia Mumbua	Nyeri
83.	Hon. Lady Justice Abigail Mshila	Nyeri
84.	Hon. Lady Justice Roselyne Aburili	Siaya
85.	Hon. Lady Justice Farah Amin	Voi
EMPLOYMENT AND LABOUR RELATIONS COURTS JUDGES		
1.	Hon. Lady Justice Maureen Atieno Onyango	Milimani-Principal Judge
2.	Hon. Mr. Justice Marete Njagi	Eldoret
3.	Hon. Mr. Justice Mathews Nderi Nduma	Kisumu
4.	Hon. Mr. Justice Joram Nelson Abuodha	Milimani
5.	Hon. Mr. Justice Onesmus Makau	Milimani
6.	Hon. Mr. Justice Byram Ongaya	Milimani
7.	Hon. Mr. Justice Radido Stephen	Milimani
8.	Hon. Lady Justice Hellen Wasilwa	Milimani
9.	Hon. Lady Justice Linnet Ndolo	Mombasa
10.	Hon. Mr. Justice James Rika	Mombasa
11.	Hon. Lady Justice Monica Wanjiru Mbaru	Nakuru

	Name	Court Station/Title
12.	Hon. Mr. Justice Nzioki Makau	Nyeri
ENVIRONMENT AND LAND COURT		
1.	Hon. Mr. Justice Samson O. Okong'o	Milimani-Presiding Judge
2.	Hon. Mr. Justice Boaz Olao	Bungoma
3.	Hon. Mr. Justice Antony Kimani Kaniaru	Busia
4.	Hon. Mr. Justice Peter Muchoki Njoroge	Chuka
5.	Hon. Lady Justice Millicent Odeny	Eldoret
6.	Hon. Mr. Justice Antony Ombwayo	Eldoret
7.	Hon. Mr. Justice Angima Maronga	Embu
8.	Hon. Lady Justice Ochieng Christine	Kajiado
9.	Hon. Lady Justice Nelly Matheka Awori	Kakamega
10.	Hon. Lady Justice Jane Onyango	Kericho
11.	Hon. Mr. Justice Enock Chirchir	Kerugoya/Garissa
12.	Hon. Mr. Justice John Mutungi	Kisii
13.	Hon. Mr. Justice Stephen Murigi Kibunja	Kisumu
14.	Hon. Mr. Justice Njoroge Francis Mwangi	Kitale
15.	Hon. Mr. Justice Oscar Angote	Machakos
16.	Hon. Mr. Justice James Otieno Olola	Malindi
17.	Hon. Mr. Justice Charles Gitonga Mbogo	Makueni
18.	Hon. Lady Justice Lucy Mbugua	Meru
19.	Hon. Mr. Justice George Atunga Ongondo	Migori
20.	Hon. Mr. Justice Elijah Ogoti Obaga	Milimani
21.	Hon. Lady Justice Loice Chepkemai	Milimani
22.	Hon. Mr. Justice Benard Eboso Mweresa	Milimani
23.	Hon. Lady Justice Antonina Kossy Bor	Milimani
24.	Hon. Mr. Justice Charles Kimutai Yano	Mombasa
25.	Hon. Lady Justice Grace Kimutai	Murang'a
26.	Hon. Mr. Justice Sila Munyao	Nakuru
27.	Hon. Mr. Justice Dalmas Ohungo Omondi	Nakuru
28.	Hon. Mr. Justice Mohamed Noor Kullow	Narok
29.	Hon. Lady Justice Lucy Njoki Waithaka	Nyeri
30.	Hon. Lady Justice Lucy Nyambura Gacheru	Thika

REGISTRARS, MAGISTRATES AND KADHIS

OFFICE OF THE REGISTRAR SUPREME COURT		
1.	Hon. Esther Nyaiyaki	Registrar
2.	Hon. Daniel Ole Keiwua	Chief Magistrate (DR)
OFFICE OF THE REGISTRAR COURT OF APPEAL		
1.	Hon. Moses K. Serem	Registrar
2.	Hon. Paul K. Rotich	Deputy Registrar (DR-Malindi)
3.	Hon. Lorraine Dinna Ogombe	Senior Resident Magistrate (DR-Nairobi)
OFFICE OF THE REGISTRAR HIGH COURT		
1.	Hon. Judith Omange	Registrar
2.	Hon. Rosemary Kimingi	Chief Magistrate (DR)
3.	Hon. Jane Kemunto Ocharo	Senior Resident Magistrate (DR)
OFFICE OF THE PRINCIPAL JUDGE		
1.	Hon. Georgina Nasaak Opakasi	Senior Resident Magistrate
OFFICE OF THE REGISTRAR EMPLOYMENT & LABOUR RELATIONS COURT		
1.	Hon. Kennedy L. Kandet	Registrar
2.	Hon. Ngumi Wangeci	Principal Magistrate (DR)
3.	Hon. Daisy Chebet Mutai	Senior Resident Magistrate (DR)
OFFICE OF THE REGISTRAR ENVIRONMENT & LAND COURT		
1.	Hon. Rose Nyanunga Makungu	Ag. Registrar
OFFICE OF THE REGISTRAR MAGISTRATES COURTS		
1.	Hon. Peter Mutua Mulwa	Registrar
2.	Hon. Caroline Njeri Kabucho	Assistant Registrar
3.	Hon. Caroline Cheptoo Kemei	Senior Resident Magistrate
OFFICE OF THE REGISTRAR TRIBUNALS		
1.	Hon. Anne Asugah	Ag. Registrar
OFFICE OF THE REGISTRAR JUDICIAL SERVICE COMMISSION		
1.	Hon. Winfrida Mokaya	Registrar
2.	Hon. Bernard O. Ochieng	Senior Principal Magistrate (DR)
OFFICE OF THE CHIEF JUSTICE		
1.	Hon. Moses Wanyonyi Wanjala	Senior Resident Magistrate & DR Mediation (Judicial duties at Thika Law Courts)
OFFICE OF THE JUDICIARY OMBUDSMAN		
1.	Hon. Herbert Inonda Mwendwa	Senior Resident Magistrate

OFFICE OF THE CHIEF REGISTRAR JUDICIARY		
1.	Hon. Joseph Were	Senior Principal Magistrate
2.	Hon. Sharon Muteitsi Mwayuli	Senior Resident Magistrate
COMMUNITY SERVICE ORDERS COORDINATOR		
1.	Hon. Benjamin A. Mitullah	Senior Principal Magistrate
JUDICIARY TRAINING INSTITUTE		
1.	Hon. Abdulqadir R. Lorot	Senior Principal Magistrate
2.	Hon. Charles Nchore Ondieki	Senior Resident Magistrate
3.	Hon. Catherine Wanjugu Mburu	Senior Resident Magistrate
JUDICIARY COMMITTEE ON ELECTIONS		
1.	Hon. Lilian Arika	Senior Principal Magistrate – (judicial duties at Milimani Court)
2.	Hon. Paul Mutia Mayova	Senior Resident Magistrate – (judicial duties at Milimani Court)
MILIMANI LAW COURTS		
High Court Division Deputy Registrars		
1.	Hon. Jacob Ole Kipury	Chief Magistrate - DR HC CA
2.	Hon. Rose A.A. Otieno	Senior Principal Magistrate – DR Criminal
3.	Hon. Elizabeth Chepkoech Tanui	Senior Principal Magistrate – DR Commercial
4.	Hon. Martha Anyona Nanzushi	Principal Magistrate – DR Criminal
5.	Hon. Faith Kawira Muguongo	Senior Resident Magistrate – DR Criminal
6.	Hon. Isabela Nekesa Barasa	Senior Resident Magistrate– DR ELC
7.	Hon. Sammy Aswani Opande	Senior Resident Magistrate – DR Commercial
8.	Hon. Rosaline Adhiambo Aganyo	Senior Resident Magistrate– DR Criminal
9.	Hon. Cecilia Karimi Kithinji	Senior Resident Magistrate - DR Const. & JR
10.	Hon. Linda Akosa Mumassabba	Senior Resident Magistrate - DR Const. & JR
11.	Hon. Mukabi Kimani	Senior Resident Magistrate – DR Family
12.	Hon. Claire Nanjala Wanyama	Senior Resident Magistrate – DR Commercial
13.	Hon. Pauline Wangari Mbulika	Senior Resident Magistrate - DR Family
14.	Hon. Janette Wandia Nyamu	Resident Magistrate - DR Civil
15.	Hon. Lydia Wambui Mbacho	Resident Magistrate – DR Civil
16.	Hon. Stella Waigwe Kanyiri	Resident Magistrate – DR Criminal
17.	Hon. Diana Awino Orago	Resident Magistrate – DR ELC
18.	Hon. Alice Mukami Wachira	Resident Magistrate – DR Criminal
19.	Hon. Maureen Munyiri Munyolo	Resident Magistrate – DR Family

Deputy Registrar Mediation		
1.	Hon. Caroline J. Kendagor	Principal Magistrate
Chief Magistrate's Court		
1.	Hon. Francis Andayi	Chief Magistrate
2.	Hon. Martha W. Mutuku	Chief Magistrate
3.	Hon. Kenneth Kipkurui Cheruiyot	Senior Principal Magistrate
4.	Hon. Peter Oduor Ooko	Senior Principal Magistrate
5.	Hon. Bernard Ochoi	Senior Principal Magistrate
6.	Hon. Hellen Onkwani	Principal Magistrate
7.	Hon. Zainab Abdul Rahaman	Senior Resident Magistrate
8.	Hon. Caroline Muthoni Nzibe	Senior Resident Magistrate
9.	Hon. Sinkiyian Nkini Tobiko	Senior Resident Magistrate
Anti-Corruption Court		
1.	Hon. Douglas Nyambane Ogoti	Chief Magistrate
2.	Hon. Lawrence N. Mugambi	Chief Magistrate
3.	Hon. Theresa Murigi	Chief Magistrate
4.	Hon. Elizabeth Nyarangi Juma	Chief Magistrate
5.	Hon. Felix Kombo	Senior Principal Magistrate
6.	Hon. Victor Wakumile Ndururu	Senior Principal Magistrate
Traffic Court		
1.	Hon. Electer Akoth Riany	Senior Resident Magistrate
Children's Court		
1.	Hon. Mary Anne Murage	Chief Magistrate
2.	Hon. Mary Anjao Otindo	Senior Resident Magistrate
3.	Hon. Gerhard Gitonga Muchege	Senior Resident Magistrate
4.	Hon. Hellen Malikia Siika	Senior Resident Magistrate
5.	Hon. Robert Ondieki Mbogo	Resident Magistrate
6.	Hon. Maureen Wanjiru Kibe	Resident Magistrate
7.	Hon. Festus Terer	Resident Magistrate
CITY COUNTY COURT		
1.	Hon. Roselyne Oganyo	Chief Magistrate
2.	Hon. Mary Wanja Njagi	Principal Magistrate
3.	Hon. James Omburah	Principal Magistrate

4.	Hon. Selina Nelima Muchungi	Senior Resident Magistrate
COOPERATIVE TRIBUNAL		
1.	Hon. Beatrice Muthoni Kimemia	Senior Principal Magistrate
MILIMANI COMMERCIAL COURTS		
1.	Hon. Peter Gesora	Chief Magistrate
2.	Hon. Liz Lynne W. Gicheha	Chief Magistrate
3.	Hon. Elizabeth Katiwa Usui	Chief Magistrate
4.	Hon. Grace Mmasi	Senior Principal Magistrate
5.	Hon. Mildred Obura	Senior Principal Magistrate
6.	Hon. David Mburu Wanjohi	Senior Principal Magistrate
7.	Hon. Duke Atuti Ocharo	Principal Magistrate
8.	Hon. Agnes Ndunge Makau	Principal Magistrate
9.	Hon. Isaac Karasi Orenge	Senior Resident Magistrate
10.	Hon. Esther Nasimiyu Wanjala	Senior Resident Magistrate
11.	Hon. David Mbeja Obonyo	Senior Resident Magistrate
12.	Hon. Peter Omuyele Mukholi	Senior Resident Magistrate
13.	Hon. Dennis Mungai Kivuti	Senior Resident Magistrate
14.	Hon. Margaret Wanjeri Murage	Senior Resident Magistrate
15.	Hon. Brenda Jaluha Ofisi	Resident Magistrate
16.	Hon. Susan Gakii Gitonga	Resident Magistrate
KADHIS' COURT - UPPERHILL		
1.	Hon. Sukyan Omar Hassan	Senior Principal Kadhi
2.	Hon. Ishaq Abduljabar Hussein	Kadhi I (SRK)
MAKADARA LAW COURTS		
1.	Hon. Emily Ominde	Chief Magistrate (<i>JSC Rep</i>)
2.	Hon. Heston N. Nyaga	Chief Magistrate
3.	Hon. Angelo Kithinji Rwito	Senior Principal Magistrate
4.	Hon. Ase Meresia Opondo	Principal Magistrate
5.	Hon. Stephen Samuel Wadida Jalang'o	Principal Magistrate
6.	Hon. Eva Kanyiri Kaimenyi	Senior Resident Magistrate
7.	Hon. Jacqueline Chepkoech Kibosia	Senior Resident Magistrate
8.	Hon. Alice Wambui Macharia	Senior Resident Magistrate
9.	Hon. Eunice Cherotich Kimaiyo	Senior Resident Magistrate

10.	Hon. Lewis Kamanga Gatheru	Senior Resident Magistrate
11.	Hon. Mercy Achieng Ombima	Resident Magistrate
KIBERA LAW COURTS		
1.	Hon. Joyce Mkambe Gandani	Chief Magistrate
2.	Hon. Esther Boke	Senior Principal Magistrate
3.	Hon. Barbara Ojoo	Senior Principal Magistrate
4.	Hon. Boaz Maura Ombewa	Principal Magistrate
5.	Hon. Derrick Khaemba Kuto	Principal Magistrate
6.	Hon. Faith Mueni Mutuku	Senior Resident Magistrate
7.	Hon. Jane Wambui Kamau	Senior Resident Magistrate
8.	Hon. Renee Musimbi Kitagwa	Senior Resident Magistrate
9.	Hon. Dogo Sheikh Dabasoo	Kadhi II (RK)
JKIA LAW COURTS		
1.	Hon. Lucas O. Onyina	Chief Magistrate
2.	Hon. Christine Mukami Njagi	Senior Resident Magistrate
KISUMU LAW COURTS		
1.	Hon. Julius K. Ng'arng'ar	Chief Magistrate
2.	Hon. Robinson Ondieki	Senior Principal Magistrate
3.	Hon. Joane N. Wambilyanga	Principal Magistrate– DR CoA
4.	Hon. Kemunto Winfrida Onkunya	Senior Resident Magistrate
5.	Hon. Stella Nekesa Telewa	Senior Resident Magistrate
6.	Hon. Angeline Achieng A. Odawo	Senior Resident Magistrate
7.	Hon. Rose Mugeni Ndombi	Senior Resident Magistrate
8.	Hon. Martha Awidhi Agutu	Senior Resident Magistrate
9.	Hon. Beryl Anyango Omollo	Resident Magistrate
10.	Hon. Lina Akoth	Resident Magistrate
11.	Hon. Rashid Kokonya Otundo	Kadhi I (SRK)
WINAM LAW COURTS		
1.	Hon. Bernard Kasavuli	Principal Magistrate
2.	Hon. Fatuma Mwanza Rashid	Senior Resident Magistrate
3.	Hon. Jocelyne Rino Kimetto	Senior Resident Magistrate
MASENO LAW COURTS		
1.	Hon. Christopher Yalwala	Principal Magistrate

2.	Hon. Chrispine Noel Choka Oruo	Senior Resident Magistrate
3.	Hon. Mary Makena Gituma	Resident Magistrate
SIAYA LAW COURTS		
1.	Hon. James Ongondo	Principal Magistrate
2.	Hon. Tom Mark Olando	Senior Resident Magistrate
3.	Hon. Margaret Muthoni Mwangi	Resident Magistrate
BONDO LAW COURTS		
1.	Hon. Edwin Wasike Nyongesa	Senior Resident Magistrate
2.	Hon. Stella Wanjiru Mathenge	Resident Magistrate
UKWALA LAW COURTS		
1.	Hon. Gladys Adhiambo	Principal Magistrate
2.	Hon. Calestous Sindani Nambafu	Senior Resident Magistrate
3.	Hon. Christabel Irene Agutu	Senior Resident Magistrate
NYANDO LAW COURTS		
1.	Hon. Patrick Olengo	Senior Principal Magistrate
2.	Hon. Kipngeno Reuben S.	Senior Resident Magistrate
3.	Hon. Millicent Chepkurui Nyigei	Senior Resident Magistrate
TAMU LAW COURTS		
1.	Hon. Purity Chepkorir Koskey	Principal Magistrate
2.	Hon. Everlyne Makungu Onzere	Senior Resident Magistrate
HOMA-BAY LAW COURTS		
1.	Hon. Thomas Obutu Atanga	Senior Principal Magistrate
2.	Hon. Ruth B. Nabwire Maloba	Principal Magistrate
3.	Hon. Lester Simiyu	Principal Magistrate
4.	Hon. Nyaboga Idris Nyamagosa	Kadhi II (RK)
MBITA LAW COURTS		
1.	Hon. Jacinta Atieno Orwa	Senior Principal Magistrate
2.	Hon. Japheth Cheruiyot Bii	Senior Resident Magistrate
NDHIWA LAW COURTS		
1.	Hon. Mary Ashisero Akala	Principal Magistrate
2.	Hon. Vincent Kipkoech Kiplagat	Resident Magistrate
MIGORI LAW COURTS		
1.	Hon. Richard O. Odenyo	Senior Principal Magistrate

2.	Hon. Moses Oyoko Obiero	Principal Magistrate
3.	Hon. Martin Maina Wachira	Senior Resident Magistrate
4.	Hon. Sharon Phoebe Ouko	Resident Magistrate
5.	Hon. Hellen Chepwogen Maritim	Resident Magistrate
6.	Hon. Adan Ibrahim Tullu	Kadhi I (SRK)
RONGO LAW COURTS		
1.	Hon. Raymond Kibet Langat	Senior Resident Magistrate
2.	Hon. Charles Mwaniki Kamau	Senior Resident Magistrate
OYUGIS LAW COURTS		
1.	Hon. John Paul Nandi	Principal Magistrate
2.	Hon. Celesa Asis Okore	Senior Resident Magistrate
3.	Hon. Joy Shiundu Wesonga	Senior Resident Magistrate
KISII LAW COURTS		
1.	Hon. Nathan Shiundu Lutta	Chief Magistrate
2.	Hon. Ezekiel Angaga Obina	Principal Magistrate
3.	Hon. William Otieno Oketch	Senior Resident Magistrate
4.	Hon. Stephen Onjoro Khachuenu	Senior Resident Magistrate
5.	Hon. Symphie Nekesa Makila	Senior Resident Magistrate
6.	Hon. Priscah Wamucii Nyotah	Resident Magistrate
7.	Hon. Dorcas Onam Mac'andere	Resident Magistrate
NYAMIRA LAW COURTS		
1.	Hon. Margaret Wambani Onditi	Chief Magistrate
2.	Hon. Alice Chemosop Towett	Senior Resident Magistrate
3.	Hon. Cyprian Waswa Wafula	Resident Magistrate
OGEMBO LAW COURTS		
1.	Hon. Dennis Mikoyan	Senior Principal Magistrate
2.	Hon. Margaret Nafula Makokha	Senior Resident Magistrate
3.	Hon. Gloriam Nasimiyu Barasah	Resident Magistrate
KEROKA LAW COURTS		
1.	Hon. Bethwel Kimutai Matata	Principal Magistrate
2.	Hon. Simon Kaigongi Arome	Senior Resident Magistrate
KEHANCHA LAW COURTS		
1.	Hon. Linus Nyakundi Mesa	Principal Magistrate

2.	Hon. Judith Patience A. Omollo	Resident Magistrate
KAKAMEGA LAW COURTS		
1.	Hon. Bildad Ochieng	Chief Magistrate
2.	Hon. Dolphina Atieno Alego	Senior Principal Magistrate
3.	Hon. Hazel Wandere Musisi	Senior Principal Magistrate
4.	Hon. Malesi Eric Kidali	Senior Resident Magistrate
5.	Hon. Josephine Nyatuga Maragia	Senior Resident Magistrate
6.	Hon. William Tulel Lopokoityit	Resident Magistrate
7.	Hon. Noelyne Akee Reuben	Resident Magistrate
8.	Hon. Sheikh Shaban Issa Muhammed	Kadhi I (SRK)
MUMIAS LAW COURTS		
1.	Hon. Teresia A. Odera	Senior Principal Magistrate
2.	Hon. Charity Cheruto Kipkorir	Senior Resident Magistrate
3.	Hon. Fredrick Mayaka Nyakundi	Senior Resident Magistrate
BUTERE LAW COURTS		
1.	Hon. Felix Makoyo Omweri	Senior Resident Magistrate
2.	Hon. Maureen Iberia Shimenga	Resident Magistrate
BUTALI LAW COURTS		
1.	Hon. Evans W. Muleka	Principal Magistrate
2.	Hon. Carolyne Naliaka Njalale	Senior Resident Magistrate
VIHIGA LAW COURTS		
1.	Hon. Samson Ongeru Omwenga	Principal Magistrate
2.	Hon. Willy Kipkoech Cheruiyot	Senior Resident Magistrate
3.	Hon. Lilian Tsuma Lewa	Senior Resident Magistrate
4.	Hon. Ally Wayu Bakari	Kadhi II (RK)
HAMISI LAW COURTS		
1.	Hon. Maureen Lambisia Nabibya	Principal Magistrate
2.	Hon. Dennis Onyango Ogal	Senior Resident Magistrate
BUNGOMA LAW COURTS		
1.	Hon. John G. King'ori	Chief Magistrate
2.	Hon. Charles Soi Mutai	Senior Principal Magistrate
3.	Hon. Stephen O. Mogute	Principal Magistrate
4.	Hon. Elias Ngugi Mwenda	Senior Resident Magistrate

5.	Hon. Gabriel Peter Omondi	Senior Resident Magistrate
6.	Hon. Louser Adisa Chembeni	Resident Magistrate
7.	Hon. Stephany Wambui Githogori	Resident Magistrate
8.	Hon. Sebastian G.O. Ratori	Principal Kadhi
WEBUYE LAW COURTS		
1.	Hon. Mildred Munyekenye	Principal Magistrate
2.	Hon. Nancy Nang'uni Barasa	Senior Resident Magistrate
3.	Hon. Byson Benjamin Limo	Senior Resident Magistrate
KIMILILI LAW COURTS		
1.	Hon. Dickson Odhiambo Onyango	Chief Magistrate
2.	Hon. Gladys Achieng Ollimo	Resident Magistrate
3.	Hon. Israel Gwiyo Ruhu	Resident Magistrate
SIRISIA LAW COURTS		
1.	Hon. Lilian Nafula Kiniale	Principal Magistrate
2.	Hon. Caroline Mutenyo Watimmah	Senior Resident Magistrate
BUSIA LAW COURTS		
1.	Hon. William Chepseba	Chief Magistrate
2.	Hon. Samson O. Temu	Principal Magistrate
3.	Hon. Phoebe Yiswa Kulecho	Senior Resident Magistrate
4.	Hon. Tina Awino Madowo	Resident Magistrate
5.	Hon. Rachel Njoki Ng'ang'a	Resident Magistrate
6.	Hon. Opacha Jamal Omodoi	Kadhi II (RK)
NAKURU LAW COURTS		
1.	Hon. Josephat Burudi Kalo	Chief Magistrate
2.	Hon. Godfrey Oduor	Chief Magistrate
3.	Hon. Ben Mararo	Principal Magistrate
4.	Hon. Joe Mkutu Omido	Principal Magistrate
5.	Hon. Faith Karimi Munyi	Principal Magistrate
6.	Hon. Yvonne Khatambi Inyama	Senior Resident Magistrate
7.	Hon. Kelly Eunice Aoma	Senior Resident Magistrate
8.	Hon. Daisy J. Mosse	Senior Resident Magistrate
9.	Hon. Nancy Mwendu Nzau Makau	Senior Resident Magistrate
10.	Hon. Wilson Kipchumba Kitur	Resident Magistrate

11.	Hon. Margaret Kathina Kyalo	Resident Magistrate
12.	Hon. Juma Khamisi Tsanuo	Principal Kadhi
NAIVASHA LAW COURTS		
1.	Hon. Kennedy Bidali	Chief Magistrate
2.	Hon. Joseph Musembi Karanja	Senior Principal Magistrate
3.	Hon. Esther Kimilu	Principal Magistrate
4.	Hon. Lyna Sarapai	Senior Resident Magistrate
5.	Hon. Victor Otieno Chianda	Senior Resident Magistrate
6.	Hon. Esther Wangare Mburu	Senior Resident Magistrate
7.	Hon. Martin Njeru Mutua	Resident Magistrate
MOLO LAW COURTS		
1.	Hon. Samuel Wahome	Chief Magistrate
2.	Hon. Rhoda Yator	Principal Magistrate
3.	Hon. Alice Wairimu Mukenga	Senior Resident Magistrate
4.	Hon. Emmanuel Soita Siundu	Resident Magistrate
ELDORET LAW COURTS		
1.	Hon. Charles Obulutsa	Chief Magistrate
2.	Hon. Harrison Barasa Omwima	Senior Principal Magistrate
3.	Hon. Naomi Wairimu	Principal Magistrate
4.	Hon. Nicodemus Nyamwega Moseti	Senior Resident Magistrate
5.	Hon. Grace Nasike Sitati	Senior Resident Magistrate – DR HC
6.	Hon. Christine Achieng Menya	Senior Resident Magistrate
7.	Hon. Emily Chemeli Kigen	Senior Resident Magistrate
8.	Hon. Diana Wikunza Milimu	Resident Magistrate
9.	Hon. Rosemary Kemunto Onkoba	Resident Magistrate
10.	Hon. Isaack Hassan Mohamed Noor	Kadhi I (SRK)
KAPSABET LAW COURTS		
1.	Hon. Peter Wabomba Wasike	Senior Resident Magistrate
2.	Hon. Bonface Wangai Wachira	Resident Magistrate
KITALE LAW COURTS		
1.	Hon. Patrick Wandera	Chief Magistrate
2.	Hon. Mary Immaculate Gwaro	Senior Principal Magistrate

3.	Hon. Dorcas Wangeci Maiteri	Principal Magistrate – DR HC
4.	Hon. Cheronoh M. Kesse	Senior Resident Magistrate
5.	Hon. Virginia Wambui Karanja	Senior Resident Magistrate
6.	Hon. Paul Kipkemoi Mutai	Senior Resident Magistrate
7.	Hon. Mary Nyang'ara Osoro	Resident Magistrate
8.	Hon. Mercyline Nafula Lubia	Resident Magistrate
KERICHO LAW COURTS		
1.	Hon. Samuel Mokuia	Chief Magistrate
2.	Hon. Solomon Kipkirui Ngetich	Principal Magistrate
3.	Hon. Bernard Kipyegon Rugut	Senior Resident Magistrate
4.	Hon. Geoffrey Ontita Kimang'a	Senior Resident Magistrate
5.	Hon. Elizabeth Wairimu Karani	Resident Magistrate
6.	Hon. Aziza Ajwang	Resident Magistrate
7.	Hon. Sambul M. Muhiyidin	Kadhi II (RK)
SOTIK LAW COURTS		
1.	Hon. Bernard Obae Omwansa	Principal Magistrate
2.	Hon. Barnabas Kibet Kiptoo	Senior Resident Magistrate
BOMET LAW COURTS		
1.	Hon. Pamela Achieng	Senior Principal Magistrate
2.	Hon. Maureen Cherono Nyigei	Senior Resident Magistrate
3.	Hon. Kibelion Kipkurui	Senior Resident Magistrate
4.	Hon. Jeal Praxades Atieno Aduke	Resident Magistrate
ITEN LAW COURTS		
1.	Hon. Hezron Moibi Nyaberi	Senior Principal Magistrate
2.	Hon. Caroline R.Tabuche Ateya	Senior Resident Magistrate
KABARNET LAW COURTS		
1.	Hon. Paul Biwott	Senior Principal Magistrate
2.	Hon. Nerolyne Miraho Idagwa	Senior Resident Magistrate
3.	Hon. Viannah Ong'oli Amboko	Resident Magistrate
ELDAMA-RAVINE LAW COURTS		
1.	Hon. John Lolwatan Tamar	Principal Magistrate
2.	Hon. Judicaster Nthambi Nthuku	Senior Resident Magistrate

NAROK LAW COURTS		
1.	Hon. Wilbroda Juma	Chief Magistrate
2.	Hon. Tito Maoga Gesora	Senior Principal Magistrate
3.	Hon. Emily Nyongesa Nafula	Senior Resident Magistrate
4.	Hon. Adelaide Namabihi Sisenda	Resident Magistrate
KILGORIS LAW COURTS		
1.	Hon. Robert M. Oanda	Principal Magistrate
2.	Hon. Dennis Kiprono Matutu	Principal Magistrate
KAJIADO LAW COURTS		
1.	Hon. Susan M. Shitubi	Chief Magistrate
2.	Hon. Margaret A. Kasera	Senior Principal Magistrate
3.	Hon. Becky Mulemia Cheloti	Senior Resident Magistrate
4.	Hon. Edwin Mulochi	Resident Magistrate
5.	Hon. Abdiaziz Maalim Mohamed	Kadhi I (SRK)
LOITOKTOK LAW COURTS		
1.	Hon. Mathias Okuche	Principal Magistrate
2.	Hon. Caroline Wambui Ndumia	Resident Magistrate
NGONG LAW COURTS		
1.	Hon. Alex Ithuku	Chief Magistrate
2.	Hon. Irene Ruguru Ngotho	Principal Magistrate
KAPENGURIA LAW COURTS		
1.	Hon. Samuel Kiprotich Mutai	Principal Magistrate
2.	Hon. Vincent Okello Adet	Senior Resident Magistrate
3.	Hon. Godfrey Geno Okwengu Lui	Resident Magistrate
MARALAL LAW COURTS		
1.	Hon. Richard Kipkemoi Koech	Principal Magistrate
2.	Hon. Abraham Karugia Gachie	Senior Resident Magistrate
LODWAR LAW COURTS		
1.	Hon. Mwangi Karimi Mwangi	Senior Principal Magistrate
2.	Hon. Christine Wekesa Mulongo	Principal Magistrate DR HC
3.	Hon. Ken Muraguri Muchiri	Resident Magistrate
KAKUMA LAW COURTS		
1.	Hon. Jackline Wekesa Mukhwana	Principal Magistrate

2.	Hon. Kunyuk John Tito	Kadhi I (SRK)
NANYUKI LAW COURTS		
1.	Hon. Lucy Mutai	Chief Magistrate
2.	Hon. Angela Njeri Thuku	Principal Magistrate
3.	Hon. Vincent Masivo Mechumo	Resident Magistrate
NYAHURURU LAW COURTS		
1.	Hon. Judith Wanjala	Chief Magistrate
2.	Hon. Linus Pogh'on Kassan	Chief Magistrate
3.	Hon. Ocharo Momanyi	Senior Resident Magistrate
4.	Hon. Susan Njeri Mwangi	Senior Resident Magistrate
5.	Hon. James Helekia Sijenji Wanyanga	Senior Resident Magistrate
6.	Hon. Cynthia Mercy Muhoro	Resident Magistrate
NYERI LAW COURTS		
1.	Hon. Wendy K. Micheni	Chief Magistrate
2.	Hon. Philip Mutua	Senior Principal Magistrate
3.	Hon. Harrison Adika Musa Sajide	Principal Magistrate – DR CoA
4.	Hon. Ruth Kefa Chebesio	Senior Resident Magistrate
5.	Hon. Nelly Wangechi Kariuki	Senior Resident Magistrate – DR HC
6.	Hon. Maisy Pauline Chesang	Resident Magistrate
7.	Hon. Damacline Bosibori Nyakundi	Resident Magistrate
8.	Hon. Kutwaa Mohammed Abdalla	Principal Kadhi
OTHAYA LAW COURTS		
1.	Hon. Monica Nasiche Munyendo	Senior Resident Magistrate
2.	Hon. David Muchangi Ileri	Senior Resident Magistrate
KARATINA LAW COURTS		
1.	Hon. Njalale Karen Mukhaye	Senior Resident Magistrate
2.	Hon. Viola Sandrah Kosgei	Resident Magistrate
MUKURWEINI LAW COURTS		
1.	Hon. Edina Nyaboke Angima	Resident Magistrate
MURANG'A LAW COURTS		
1.	Hon. Margaret Wachira	Chief Magistrate
2.	Hon. Edwin Nyaga Muriuki	Principal Magistrate
3.	Hon. Victoria Achieng Ochanda	Resident Magistrate

4.	Hon. Sheila Karimi Nyaga	Resident Magistrate
5.	Hon. Zaharani Omar	Kadhi I (SRK)
KANGEMA LAW COURTS		
1.	Hon. Peter N. Kiama	Senior Principal Magistrate
2.	Hon. Irene Wangui Gichobi	Senior Resident Magistrate
KIGUMO LAW COURTS		
1.	Hon. Agnes Mwangi Wahito	Principal Magistrate
2.	Hon. Agneta Atieno Ndege Ogonda	Senior Resident Magistrate
THIKA LAW COURTS		
1.	Hon. Julius Mukut Nangea	Chief Magistrate
2.	Hon. Anne Mwangi	Senior Principal Magistrate
3.	Hon. Ben Mark Ekhubi	Principal Magistrate
4.	Hon. Benson Ileri	Principal Magistrate
5.	Hon. Grace A. Omodho	Senior Resident Magistrate
6.	Hon. Vicky Adhiambo Kachuodho	Senior Resident Magistrate
7.	Hon. Noelle Mutheu Kyany'a	Resident Magistrate
8.	Hon. Valarie Emelda Adhiambo	Resident Magistrate
9.	Hon. Muktar Billow Salat	Kadhi I (SRK)
RUIRU LAW COURTS		
1.	Hon. Clarence Otieno Awuor	Senior Principal Magistrate
2.	Hon. Catherine Khakasa Kisiangani	Senior Resident Magistrate
GATUNDU LAW COURTS		
1.	Hon. Letizia M. Wachira	Chief Magistrate
2.	Hon. Hosea Mwangi Ng'ang'a	Senior Resident Magistrate
3.	Hon. Carolyne Nyaguthii Mugo-Makari	Senior Resident Magistrate
KANDARA LAW COURTS		
1.	Hon. Manuela Wanjiru Kinyanjui	Principal Magistrate
2.	Hon. Margaret Wangare Kurumbu	Senior Resident Magistrate
3.	Hon. Erick Musyoka Mutunga	Senior Resident Magistrate
KIAMBU LAW COURTS		
1.	Hon. Patricia Gichohi	Chief Magistrate
2.	Hon. Stella Atambo	Senior Principal Magistrate
3.	Hon. Theresa B. Nyangena	Senior Principal Magistrate

4.	Hon. Bryan Khaemba Mandila	Principal Magistrate
5.	Hon. Wilson Rading Outa	Senior Resident Magistrate DR HC
6.	Hon. Rita Kerubo Orora	Resident Magistrate
GITHUNGURI LAW COURTS		
1.	Hon. Charles Ariba Kutwa	Senior Principal Magistrate
2.	Hon. Diana Rachel Kavedza-Mochache	Senior Principal Magistrate
3.	Hon. Melanie Celestine A. Awino	Principal Magistrate
KIKUYU LAW COURTS		
1.	Hon. Daniel Musyoka Ngalu	Senior Principal Magistrate
2.	Hon. Zipporah Wawira Gichana	Senior Resident Magistrate
3.	Hon. Geoffrey Onsarigo Osoro	Senior Resident Magistrate
LIMURU LAW COURTS		
1.	Hon. Everlyne S.A. Olwande	Senior Principal Magistrate
2.	Hon. Sandra Achieng Ogot	Senior Resident Magistrate
3.	Hon. Fredrick Koome Imaana	Resident Magistrate
ENGINEER LAW COURTS		
1.	Hon. Eunice Kagure Nyutu	Senior Principal Magistrate
2.	Hon. Daffline Nyaboke Sure	Senior Resident Magistrate
3.	Hon. Rawlings Liluma Musiega	Resident Magistrate
KERUGOYA LAW COURTS		
1.	Hon. Eric Otieno Wambo	Senior Resident Magistrate
2.	Hon. Yusuf Barasa Mukhula Barasa	Senior Resident Magistrate
BARICHO LAW COURTS		
1.	Hon. Antony Kinuthia Mwicigi	Senior Principal Magistrate
2.	Hon. Monicah Njoki Kivuti	Senior Resident Magistrate
GICHUGU LAW COURTS		
1.	Hon. Leah Wandia Kabaria	Senior Resident Magistrate
2.	Hon. Keyne Odhiambo Gweno	Resident Magistrate
WANG'URU LAW COURTS		
1.	Hon. Gerald Muuo Mutiso	Principal Magistrate
2.	Hon. Miriam Mugure Peter	Senior Resident Magistrate
EMBU LAW COURTS		
1.	Hon. Maxwell Gicheru	Chief Magistrate

2.	Hon. Henry Nyabuto Nyakweba	Principal Magistrate
3.	Hon. Julian Kabugo Ndeng'eri	Senior Resident Magistrate
4.	Hon. Tony Kipkorir	Senior Resident Magistrate
RUNYENJES LAW COURTS		
1.	Hon. Josephat Waititu Gichimu	Senior Principal Magistrate
2.	Hon. Lawrence Kyasya Mwendwa	Senior Resident Magistrate
SIAKAGO LAW COURTS		
1.	Hon. Thomas Nzyoki Thyaka	Senior Principal Magistrate
2.	Hon. Jackson Obuya Omwange	Senior Resident Magistrate
MERU LAW COURTS		
1.	Hon. Hannah Njeri Ndung'u	Chief Magistrate
2.	Hon. Lucy Ambasi	Chief Magistrate
3.	Hon. Thomas Mwangi Muraguri	Senior Principal Magistrate
4.	Hon. Stella Nabwire Abuya	Senior Principal Magistrate
5.	Hon. Monica Nyarango Nyakundi	Principal Magistrate
6.	Hon. Carolyne Kenda Obara	Principal Magistrate DR HC
7.	Hon. Evans Ayiema Mbicha	Senior Resident Magistrate
8.	Hon. Maureen Atieno Odhiambo	Resident Magistrate
9.	Hon. Edward Tsimonjero	Resident Magistrate
CHUKA LAW COURTS		
1.	Hon. John N. Muniu	Chief Magistrate
2.	Hon. Mwakwambirwa M. Sudi	Senior Resident Magistrate
3.	Hon. Racheal Njoki Kahara	Senior Resident Magistrate
MARIMANTI LAW COURTS		
1.	Hon. Peter Ndwiga	Senior Principal Magistrate
2.	Hon. Stephen Munene Nyaga	Senior Resident Magistrate
NKUBU LAW COURTS		
1.	Hon. Joan Irura Muringi	Principal Magistrate
2.	Hon. Ezra Masira Ayuka	Senior Resident Magistrate
GITHONGO LAW COURTS		
1.	Hon. Susan Ndegwa	Principal Magistrate
2.	Hon. Evalyne Wachera Ndegwa	Resident Magistrate

MAUA LAW COURTS		
1.	Hon. George Njenga Wakahiu	Chief Magistrate
2.	Hon. Andrew Githinji Munene	Senior Resident Magistrate
3.	Hon. Oscar Muigai Ruguru Wanyaga	Senior Resident Magistrate
4.	Hon. Marcella Amondi Onyango	Resident Magistrate
5.	Hon. Muriuki Nicholas Murithi	Kadhi II (RK)
TIGANIA LAW COURTS		
1.	Hon. Sogomo Gathogo	Principal Magistrate
2.	Hon. Paul Matanda Wechuli	Senior Resident Magistrate
3.	Hon. Rose Akoth Ongira	Resident Magistrate
MACHAKOS LAW COURTS		
1.	Hon. Alfred Gethi Kibiru	Chief Magistrate
2.	Hon. Evans Hezekiah Keago	Senior Principal Magistrate
3.	Hon. Carolyne Ocharo	Senior Principal Magistrate
4.	Hon. Irene Marcia Kahuya	Principal Magistrate
5.	Hon. Anne Wanjiku Nyoike	Principal Magistrate
6.	Hon. Jerop Brenda Bartoo	Senior Resident Magistrate
7.	Hon. Nelly Chelagat Kipchumba Kenei	Resident Magistrate
8.	Hon. Eric Analo Musambai	Resident Magistrate
9.	Hon. Khamis Ramadhani	Kadhi I (SRK)
MAVOKO LAW COURTS		
1.	Hon. Charity Chebii Oluoch	Chief Magistrate
2.	Hon. Elvis Michieka	Principal Magistrate
3.	Hon. Jacqueline Adhiambo Agonda	Senior Resident Magistrate
4.	Hon. Rose Wahu Gitau	Resident Magistrate
KITHIMANI LAW COURTS		
1.	Hon. Gilbert Omuyaku Shikwe	Senior Resident Magistrate
2.	Hon. Eva Wanjiku Wambugu	Senior Resident Magistrate
KANGUNDO LAW COURTS		
1.	Hon. Desderias Orimba	Senior Principal Magistrate
2.	Hon. Martha Akoth Opanga	Senior Resident Magistrate
3.	Hon. Eddah Savai Agade	Senior Resident Magistrate

TAWA LAW COURTS		
1.	Hon. Martin Kinyua Mutegi	Senior Resident Magistrate
2.	Hon. Christine Asuna Okello	Senior Resident Magistrate
MAKUENI LAW COURTS		
1.	Hon. James N. Mwaniki	Senior Principal Magistrate
2.	Hon. George Racheми Sagero	Senior Resident Magistrate
3.	Hon. Joan Atieno Otieno	Resident Magistrate
KILUNGU LAW COURTS		
1.	Hon. Charles Alberto Obonyo Mayamba	Principal Magistrate
2.	Hon. Elizabeth Murugi Muiru	Senior Resident Magistrate
MAKINDU LAW COURTS		
1.	Hon. Jared O. Magori	Senior Principal Magistrate
2.	Hon. Anastasia Gathoni Ndung'u	Senior Resident Magistrate
3.	Hon. Jacqueline Dama Karani	Resident Magistrate
KITUI LAW COURTS		
1.	Hon. Stephen Mbungi	Chief Magistrate
2.	Hon. Johnstone Munguti	Principal Magistrate
3.	Hon. Rose Ombata	Senior Resident Magistrate DR HC
4.	Hon. Felistus Nekesa Okola	Resident Magistrate
5.	Hon. Maureen Mumbi Kimani	Resident Magistrate
6.	Hon. Mvudi Masoud Makange	Kadhi I (SRK)
MUTOMO LAW COURTS		
1.	Hon. Joseph N. Nyakundi	Senior Principal Magistrate
2.	Hon. John Waweru Wang'ang'a	Senior Resident Magistrate
MWINGI LAW COURTS		
1.	Hon. Kibet Sambu	Senior Principal Magistrate
2.	Hon. Grace Wangui Kirugumi	Senior Resident Magistrate
3.	Hon. Karanja Thulkif Waweru	Kadhi II (RK)
KYUSO LAW COURTS		
1.	Hon. Mercy Nasimiyu Wanyama	Senior Resident Magistrate
2.	Hon. John Ochoe Aringo	Senior Resident Magistrate
MARSABIT LAW COURTS		
1.	Hon. Tom Mbayaki Wafula	Senior Resident Magistrate

2.	Hon. Collins Ombija Apiyo	Resident Magistrate
3.	Hon. Abdullahi Mohammed	Principal Kadhi
ISIOLO LAW COURTS		
1.	Hon. Samuel M. Mungai	Chief Magistrate
2.	Hon. Evanson Ngigi	Principal Magistrate
3.	Hon. Athman Abduhalim Hussein	Principal Kadhi
4.	Hon. Galgalo Adan	Kadhi I (SRK) – Garbatulla
5.	Hon. Mustafa Guyo Shunu	Kadhi II (RK) – Merti
MOYALE LAW COURTS		
1.	Hon. Edward Kiprono Too	Principal Magistrate
2.	Hon. Simon Kimani Mburu	Senior Resident Magistrate
3.	Hon. Ali Dida Wako	Kadhi I (SRK)
MOMBASA LAW COURTS		
1.	Hon. Evans K. Makori	Chief Magistrate
2.	Hon. Ameyo Edna Asachi Nyaloti	Chief Magistrate
3.	Hon. Francis N. Kyambia	Senior Principal Magistrate
4.	Hon. Charles Ngure Ndegwa	Senior Principal Magistrate
5.	Hon. Alberty Saitabau Lesootia	Principal Magistrate DR – ELRC
6.	Hon. Edgar Matsigulu Kangoni	Principal Magistrate
7.	Hon. Martin Osano Achoka Rabera	Senior Resident Magistrate
8.	Hon. Ritah Mukungu Amwayi	Senior Resident Magistrate
9.	Hon. Juliet Atema Kasam	Senior Resident Magistrate
10.	Hon. Gideon Kiage Oenga	Senior Resident Magistrate
11.	Hon. Christine Atieno Ogweno	Resident Magistrate
12.	Hon. Erastus Maina Muchoki	Resident Magistrate
13.	Hon. Joshua Muchera Nyakiri	Resident Magistrate
KADHIS' COURT MOMBASA		
1.	Hon. Al Muhdhar A. Hussein	Chief Kadhi
2.	Hon. Juma A. Abdalla	Principal Kadhi
3.	Hon. Salim Mwidadi Abdullah	Kadhi I (SRK)
4.	Hon. Mwambele M. Suleiman	Kadhi II (RK)
TONONOKA CHILDREN'S COURT		
1.	Hon. Viola Jepkorir Yator	Senior Resident Magistrate

2.	Hon. Lucy Khahendi Sindani	Senior Resident Magistrate
SHANZU LAW COURTS		
1.	Hon. Florence Wangari Macharia	Senior Principal Magistrate
2.	Hon. Yusuf Abdalla Shikanda	Principal Magistrate
3.	Hon. David Ochieng Odhiambo	Resident Magistrate
MALINDI LAW COURTS		
1.	Hon. Julie Oseko	Chief Magistrate
2.	Hon. Sylvia Rajula Wewa	Senior Principal Magistrate
3.	Hon. Dorothy Ivy N.N. Wasike	Senior Resident Magistrate
4.	Hon. Corilus Osero Nyawiri	Senior Resident Magistrate
5.	Hon. Olga Juma Kanaiza Onalo	Resident Magistrate
6.	Hon. Salim S. Mohammed	Principal Kadhi
GARSEN LAW COURTS		
1.	Hon. James Macharia Muriuki	Principal Magistrate
2.	Hon. Eugene Melville Kadima	Senior Resident Magistrate
3.	Hon. Mursal Mohamed Sizi	Kadhi I (SRK)
KALOLENI LAW COURTS		
1.	Hon. Leah Njambi Waigera	Principal Magistrate
2.	Hon. Mary Wanjiru Njuguna	Resident Magistrate
KILIFI LAW COURTS		
1.	Hon. Justus Mulei Kituku	Senior Principal Magistrate
2.	Hon. Leah Nekesa Kisabuli	Senior Resident Magistrate
3.	Hon. Daniel Sitati Sifuma	Resident Magistrate
4.	Hon. Talib B. Mohammed	Principal Kadhi
VOI LAW COURTS		
1.	Hon. Elena Gathoni Nderitu	Chief Magistrate
2.	Hon. Mogire Onkoba	Principal Magistrate
3.	Hon. Anne Karimi Njeru	Resident Magistrate
MARIAKANI LAW COURTS		
1.	Hon. Stephen Kalai Ngii	Senior Resident Magistrate
2.	Hon. Nelly Chepchirchir	Senior Resident Magistrate
3.	Hon. Omar Khamis Swaleh	Kadhi II (RK)

WUNDANYI LAW COURTS		
1.	Hon. David Munyao Ndungi	Senior Resident Magistrate
2.	Hon. Emily Moraa Nyakundi	Resident Magistrate
TAVETA LAW COURTS		
1.	Hon. Benson Sikuku Khapoya	Principal Magistrate
KWALE LAW COURTS		
1.	Hon. Dominica Nyambu	Chief Magistrate
2.	Hon. Patrick Wambugu Mwangi	Principal Magistrate
3.	Hon. Betty Chepkemei Koech	Principal Magistrate
4.	Hon. Christine Kemuma Auka	Resident Magistrate
5.	Hon. Mwaito Salim Juma	Kadhi I (SRK)
6.	Hon. Wendo Shaban Wendo	Kadhi II (RK)
7.	Hon. Mohamed Garama Randu	Kadhi II (RK) - <i>Msambweni</i>
LAMU LAW COURTS		
1.	Hon. Allan Temba Sitati	Principal Magistrate
2.	Hon. Victor Karago Asiyo	Senior Resident Magistrate
3.	Hon. Bedzenga Said Khamis	Principal Kadhi
4.	Hon. Swaleh Mohamed Ali	Kadhi I (SRK) - <i>Faza Island</i>
MPEKETONI LAW COURTS		
1.	Hon. Robert G. Mundia	Senior Resident Magistrate
2.	Hon. Eugene Pascal Nabwana	Resident Magistrate
3.	Hon. Gavava Awadh Mohamed	Kadhi II (RK)
HOLA LAW COURTS		
1.	Hon. Peter Aloyce Ndege	Principal Magistrate
2.	Hon. Benson Ngigi Kabanga	Resident Magistrate
GARISSA LAW COURTS		
1.	Hon. Cosmas M. Maundu	Chief Magistrate
2.	Hon. Timothy Ole Tanchu	Senior Resident Magistrate
3.	Hon. James Jesse Masiga	Senior Resident Magistrate
4.	Hon. Dennis Waweru Mbuteti	Resident Magistrate
5.	Hon. Sheikh M.Hassan	Principal Kadhi
6.	Hon. Daffa Hassan Omar	Kadhi II (RK)
7.	Hon. Mohamud I. Mohamed	Kadhi II (RK) - <i>Ijara</i>

8.	Hon. Mohamed Kule Muhumed	Kadhi II (RK) - Balambala
DAADAB KADHIS COURT		
1.	Hon. Fahad Ismael Mohamed	Kadhi II (RK)
WAJIR LAW COURTS		
1.	Hon. Amos Kiprof Makoross	Principal Magistrate
2.	Hon. Vincent Mugendi Nyaga	Senior Resident Magistrate
3.	Hon. Abdi Osman Sheikh	Kadhi I (SRK)
4.	Hon. Dadacha Ali Ibrahim	Kadhi II (RK) - Bute
5.	Hon. Wehliye Mohamed Sheikh	Kadhi II (RK) - Eldas
HABASWEIN KADHIS COURT		
1.	Hon. Malampu Abdilatif Silau	Kadhi I (SRK)
MANDERA LAW COURTS		
1.	Hon. Peter Nyagaka Areri	Principal Magistrate
2.	Hon. Duncan Kiptoo Mtai	Senior Resident Magistrate
3.	Hon. Habib Salim Vumbi	Kadhi I (SRK)
4.	Hon. Hussein Mohamed Hassan	Kadhi II (RK) - Elwak
5.	Hon. Ahmed Issack Maalim	Kadhi II (RK) - Taqaba

S/NO.	PJ NO.	DECEASED STAFF FY 2018/2019	NAME	GENDER	COURT/STATION	DATE OF DEATH
1	41438	Leonard Kimtai	Male	Law Courts - Milimani Law Court(Income)	22-Jul-2018	
2	29397	Benard Otieno Aduma	Male	Law Courts - Narok SRM	25-Jul-2018	
3	59627	Hon Justice Samuel Ndungu Mukunya	Male	High Courts - Kerugoya	14-Sep-2018	
4	30259	Timothy Lyani Onamu	Male	Law Courts - Kitale CM	17-Dec-18	
5	76043	Wario Tuche Wayu	Male	Law Courts - Mwingi SRM	27-Jan-2019	
6	78502	Phenney Achieng Rowa	Female	Law Courts - Eldoret CM	30-Jan-2019	
7	25505	Shadrack Kipkiyeng Bett	Female	Law Courts - Eldoret CM	22-Feb-2019	
8	23927	Judy Munyiva Muthiani	Female	Law Courts - Naivasha PM	2-Mar-2019	
9	30738	Boniface Kinyua Riungu	Male	Law Courts - Nakuru CM	23-Mar-2019	
10	30681	Duncan Basweti Mauti	Male	Law Courts - Kericho PM	13-Apr-2019	
11	48147	Florence Mogoi Abisi	Female	Law Courts - Migori SPM	15-Apr-2019	
12	31718	Stanley Muriithi Kanyoro	Male	Law Courts - Muranga SPM	19-Apr-2019	
13	14342	Duncan Francis Kathurima	Male	Law Courts - Wanguru RM	4-May-2019	
14	74499	Ouma David Nyabongo	Male	Law Courts - Eldoret CM	4-May-2019	
15	44258	Elisha Ondijo Ochieng	Male	Law Courts - Nakuru CM	26-May-2019	
16	38003	Joan Namwenya Wekesa	Female	Law Courts - Eldoret CM	4-Jun-2019	
17	60416	Joseph Kamau Karenju	Male	Nairobi Transport/Protocol	24-Jun-2019	
18	19669	James Obai Obare	Male	Law Courts - Oyugis PM	27-Jun-2019	
		Summary				
		Judges	1			
		Magistrate/legal Researchers	0			
		Judicial Staff	18			
		TOTAL	19			
	*	There were 19 officers who passed away in the FY 2018/2019. One (1) was a judge of the High Court while the rest were Judiciary staff.				

ANNEXURE 1: JUDICIARY TRAINING MASTER CALENDAR 2017/2018

JUDICIARY TRAINING MASTER CALENDAR JULY 2018 – JUNE 2019

Calendar indicates training dates only

SN	DATES	TRAINING	PARTICIPANTS
JULY 2018			
AUGUST 2018			
1.	August 20-23	Annual Judges Colloquium	All Judges
2.	August 30 – September 2	Kenya Women Judges Association (KWJA) AGM	KWJA Members
SEPTEMBER 2018			
3.	September 26-28	Pre-Retirement training for judiciary staff	90 Staff
OCTOBER 2018			
4.	October 1 - 4	Continuous Judicial Education (CJE) Session 1: ·EDR debrief for Magistrates gazetted to hear election of- fences and election petitions in 2017 and ·Sensitization on ELC/ELRC Matters	185 Magistrates and Deputy Registrars
5.	October 17-19	Registry staff training session 1	90 Staff
6.	October 17-19	Continuous Judicial Education (CJE) Session 2: Sensitization of Magistrates gazetted to hear ELC, ELRC matters	75 Magistrates
7.	October 22-27	East African Magistrates' and Judges' Association (EAM-JA) Conference	KMJA Members
November 2018			
8.	October 31–November 2	Continuous Judicial Education Session 3: Sensitization of Magistrates gazetted to hear ELC, ELRC matters	75 Magistrates
9.	November 5 - 9	Training for High Court Judges and Legal Researchers – <i>The Extractives Industry</i>	25 High Court Judges 30 Legal Researchers
10.	November 14-16	EDR debrief for High Court Judges gazetted to hear election petitions in 2017 and High Court Judges Conference	83 Judges
11.	November 29-December 1	Induction for Supreme Court Law Clerks	14 Law Clerks
December 2018			
12.	December 5-7	Continuous Judicial Education (CJE) Session 4: ANAW Intra Agency Forum and Continuous Judicial Education (CJE): <i>Wildlife and Environmental Law</i>	30 Magistrates
13.	December 9-10	Kenya Judges and Magistrates Association (KJMA) AGM	KMJA Members
14.	TB	Kenya Judiciary Staff Association (KJSA) AGM	KJSA Members
January 2019			
15.	January 28-31	Induction for Magistrates	50 newly recruited Magistrates
16.	January 29-31	Induction for Legal Researchers	70 newly recruited researchers

February 2019			
17.	February 28 - March 1	Capacity building and meeting of Active Case Management Committee and National Committee on Criminal Justice Reforms (NCCJR)	10 ACM members
18.	TBA	EDR debrief for Court of Appeal Judges	25 COA Judges
March 2019			
19.	March 19 - 22	EDR debrief for High Court Judges	83 Judges
April 2019			
20.	April 8 -11	Magistrates Colloquium Session 1	250 Magistrates
21.	April 15-18	Magistrates Colloquium Session 2	250 Magistrates
22.	April 26	Training Coordination Meeting	Internal stakeholders
23.	TBA	International Association of Women Judges (IAWJ) Regional Conference	KWJA Members
May 2019			
24.	May 8 -10	Annual Conference for ELRC Judges	12 ELRC Judges and DRs
25.	May 16	Training Coordination Meeting	Partners forum
June 2019			
26.	June 5-7	Annual Conference for ELC Judges	36 ELC Judges and DRs

Status Report of Of Courts

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
BARICHO COURTS	<p>LAW</p> <ul style="list-style-type: none"> • There has been a good working relationship between the court, stakeholders and the community • The CUC has demystified court processes and continuous improvement in service delivery • There has been a reduction in the supply and sale of illicit brew • Improved quick disposal of cases as a result of reduced adjournment occasioned by lack of witnesses • Reduction in the number of traffic cases due to a good working relationship with the traffic police • Purchase of a multi-functional photocopier/printer to facilitate issuing of witness statements • Procurement and installation of one water tank of 10,000 liters capacity • Procurement of a children protection witness box • Furnishing of the registry with wooden shelves • Trained stakeholders (Provincial Administrators) on ADR/AJS and succession matters 	<ul style="list-style-type: none"> • Challenge in securing a convenient venue for CUC meetings as the court does not have sufficient space for holding such meetings • Inconsistent CUC membership occasioned by transfer and leave of absence • The challenge in implementing the resolutions passed at CUC meetings due to lack of funds e.g construction of women prison and Juvenile Remand Home in Kirinyaga County • Lack of attendance by some stakeholders due to non-payment of allowances • Insufficient funding 	
BOMET COURTS	<p>LAW</p> <ul style="list-style-type: none"> • Reduction of case backlog at the Magistrates Court • Witness statements are now supplied on time to the accused persons to avoid adjournments • Improvement in attendance of witnesses in court which has reduced adjournments • Installation of a solar panel at the Courthouse • Rainwater harvesting 	<ul style="list-style-type: none"> • No Presiding Judge at the station hence backlog build up in the High Court • Reinforcement of the fence at Bomet G.K. Prison is required in order to accommodate capital offenders who are held currently at Kericho G.K. Prison about 70kms away • No women prison in Bomet and the female offenders are held in Kericho Women Prison about 70kms away • No holding area for children at the Bomet police station • No Juvenile remand home in Bomet 	
BONDO COURTS	<p>LAW</p> <ul style="list-style-type: none"> • CUC has improved delivery of service to wananchi. • It has strengthened inter-agency and/or department cooperation. • It has helped in identifying issues of concern and offer solutions. • It has created a better understanding of the roles of each department which in turn created a harmonious working relationship. 	<ul style="list-style-type: none"> • Insufficient funding • Lack of transportation or refund of fare for members who come from far. • Shortage of adequate facilities within which to convene the meetings 	
BUNGOMA COURTS	<p>LAW</p> <ul style="list-style-type: none"> • Selected venue conducive for meetings • There has been a new Magistrate posted at the station • Consistent prison mentions • LSK to close all satellite offices to minimize people who masquerade as advocates and con innocent members of public • Registrar of births attended and clarified that their office does not issue fake documents • Prisons to liaise with Muslim association so that they can pay fines for some prisoners • ADR training for chiefs from 3 sub-counties where chiefs were sensitized on various issues 	<ul style="list-style-type: none"> • LSK, Land Registrar does not attend meetings despite being key stakeholders • Police from Chwele and Bumula find it difficult to register cases after 8.00 am • Street children on the increase and pose a major security risk • Defilement cases on the increase and in cases where both are within the same age bracket, only the boy is victimized • Probation department not funded for decongestion exercise • Courts are not consistent with mentions in prison • Lack of enough clerks in the criminal registry • Lawful orders disobeyed by prisons • Presentation of fake documents in defilement cases • Insufficient funding 	<p>There is a need to treat any accused person and avail his medical records before the person can be admitted in prison custody</p>

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
BUSIA COURT LAW	<ul style="list-style-type: none"> •An enhanced partnership among stakeholders for the Mobile court at Malaba •Improved working relationship among key stakeholders(police, prosecution, LSK, and Judiciary) •Improved case backlog clearance rates •Opening of pigeon holes at the criminal registry for cases referred to probation for special inquiry report. •Networking with partners – APNCAN organizations that funded a one-day training on Human Child Trafficking at Breeze Hotel – Busia •Introduction of another CUC in the Magistrate Court 	<ul style="list-style-type: none"> •Inadequate resources on the part of stakeholders hindering efficient service Delivery •Delayed and inadequate funds to ensure implementation of the CUC activities as contained in the Work plan •Frequent transfers of Judicial Officers and State Counsels and delayed replacements of Justice. 	
BUTALI COURTS LAW	None Reported	None Reported	
BUTERE COURTS LAW	<ul style="list-style-type: none"> •Successfully held CUC meetings for the Financial Year •There was a prison visit to Shikusa where CUC interacted with the inmates •Conducted a CUC outreach at Kwisero where over 500 people attended and were sensitized on various issues by the CUC members •Promotion of Alternative Dispute resolution has reflected on the number of cases registered in court 	<ul style="list-style-type: none"> •Some members cover a long distance to attend the CUC meetings •Insufficient time to conduct activities •Insufficient funds •Lack of enough vehicles to ferry members to activities •Challenge in getting donors to fund some of the CUC activities 	
CHUKA COURTS LAW	<ul style="list-style-type: none"> •Improved services delivery of justice to the public. •Better understanding of the courts and major stakeholders. •Decision making is done as a team •Improved infrastructure •Displaying of customer service clearer to litigants and public. •Increased confidence in court decision •Team work is enhanced. •Members of the public are being sensitized on matter of the court process through in judicial open and legal aid day. •Prison visits have improved. •Remandees and convictee are supplied with copies of their statement, charges and proceeding free of charges upon request. •Unnecessary adjournments have been minimized. 	<ul style="list-style-type: none"> •Lack of financial resources •Untrained members of CUC •Ignorance of litigants. •Lack of policy amongst stakeholders. •Failure to avail witness •Unplanned programs and meetings •Inadequate judicial officers 	
ELDAMA VINE COURTS RA – LAW	<ul style="list-style-type: none"> •Knowledge of investigations has since been enhanced •Enhanced stakeholder engagement •Sharing of information and challenges in the Administration of Justice •Creation of Children Court Users Committee whose membership is composed of all the Juvenile Justice Sector Actors 	<ul style="list-style-type: none"> •Delay in the disbursement of funds •Did not reach out to all the Police Officers especially from Administration Police because of inadequate funding •Lack of cooperation from other departments •Inadequate funding 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
ELDORET COURTS	<p>LAW</p> <ul style="list-style-type: none"> • Launch of children service week in conjunction with the NCAJ Special Taskforce on Children Matters aimed at reducing matters pertaining to children • Working together with the county government, we have identified land for putting up additional courts at Moiben, Turbo, Burnt forest, and Ziwa. • Have launched "Githinji's' wardrobe in which members of staff and the CUC donate clothes and shoes which are thereafter given to remandees who are unable to access decent clothes when they attend court. • Rolled out a children's feeding programme at the court to enable children in conflict with the law and those in custody with a parent(s) access meals when they attend court. 	<ul style="list-style-type: none"> • Lack of adequate funds to hold activities like training for members. • Repair of cells at the main court. • Deplorable conditions at the juvenile remand home. • Lack of consistency in department members in attending CUC meetings. 	
EMBU COURTS	<p>LAW</p> <ul style="list-style-type: none"> • Participation from all stakeholders • Supply of statements before plea taking • Posting of cause lists in CUC WhatsApp group effected • Reduced escapees from lawful custody • Land availed for this project by County government 	<ul style="list-style-type: none"> • Missing of police files • Lack of execution of a warrant of arrest • New building with improved facilities yet to be completed • Delay in giving out reports on children matters • Insufficient funding • Shortage of crime scene personnel • Shortage of judicial officers at the court station 	
ENGINEER COURTS	<p>LAW</p> <ul style="list-style-type: none"> • The improved working relationship amongst stake-holders. • Reduced backlog. • Court now more user- friendly. • The enhanced synergy between key stakeholders. • Held a tour of Naivasha Medium prison during which visit members of the CUC interacted with remandees and enlightened them on issues procedure and their right to a fair trial. This led to a reduction in the number of cases adjourned on flimsy grounds. • Enhanced transparency in the manner we conduct court business. • There is now a more consultative approach when it comes to facing and addressing challenges in the justice sector. 	<ul style="list-style-type: none"> • Inadequate funding. This has resulted in a number of planned activities being shelved. • Late disbursement of funds. This has resulted in key activities being overtaken by events. • Lack of consistency and commitment by some members. • Failure to perform tasks as assigned by some members. • Inability to pass and see through some key resolutions since at times members have no final say on matters relating to the same. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
GARISSA LAW COURTS	<ul style="list-style-type: none"> •Availing of photocopier/printer and printing paper which has enabled timely generation and provision of witness statements to accused persons for a speedy trial. •Sensitization of CUC members on Prevention and Response to Violence against Women and Girls •Sensitization of CUC members on the handling of children matters in preparation for the Children Service Week. •Training of CUC members on Strengthening Alternative Dispute Resolution Mechanisms within Garissa •In-depth assessment of the shortcomings of the Garissa Child Protection Unit and recommendation of solutions for its full and proper operationalization; the report was presented to the Honourable Member of Parliament for Garissa Township, •Focus Group Discussion with the National Legal Aid Service and European Union 	<ul style="list-style-type: none"> •Printer breakdown and lack of printing paper and toner •Members are not aware of the core mandate of CUCs •Low member attendance and participation in meetings 	<ul style="list-style-type: none"> •More funds are required to cater for the repair and maintenance of the photocopier/printer and for the purchase of toner ink and printing paper. •More training is required for CUC members on enabling access to justice •More funding required to facilitate quarterly CUC meetings
GARSEN COURTS	<ul style="list-style-type: none"> •Improved, working relationships among all stakeholders. •Reduce of case backlog due to the cooperation of stakeholders •Improved court awareness procedures and relationship with Public •Increased number of cases resolved through ADR. •Improved confidence in matters before the court. •Reduced number of complainants •Improved communication between the court and the public. 	<ul style="list-style-type: none"> •Long-distance traveled by court users •Infrastructural challenges due to the vast area and impossible roads. •Inadequate funding. •Low morale due to the hardship nature of the area and lack of social amenities 	
GATUNDU LAW COURTS	<ul style="list-style-type: none"> •Destruction of bhang, illicit brew and counterfeit exhibits at Gatundu Law Courts •Organizing a successful open day Visit by members to Thika prison for legal aid on February 15, 2019. •Training on Alternative Justice System (AJS) •Installation of battery power back-up at Gatundu Law Courts. •Training of boda boda Motorcycle riders on traffic rules and road safety. Also assisting them to get a driving license and insurance covers. •Offered Training on Trainers on how to assist in the management of survivors of sexual gender-based violence (S.G.B.V). at Igeania level 4 Hospital on ensuring that evidence is collected and stored properly. •Initiating the process of constructing a Children protection unit at Gatundu south police station which is being funded by Gatundu South CDF. •Reduction of the number of remandees from Gatundu in Thika main and Women prison due to issuance of reasonably reduced bond terms and encouragement of AJS. •Reduction of backlogs due to the cooperation of all stakeholders e.g. ensuring police files, reports, and exhibits are brought to court on time. 	<ul style="list-style-type: none"> •Insufficient funding •Vandalized CCTV cameras at the weighbridge not being repaired on time due to delays in the tendering process. •Lack of funds for establishing a customer waiting bay /customer care desk at Gatundu Law Courts. •Unavailability of land to establish a Court at Gatundu North. •Lack of trained police officers in handling children and gender-based matters. •An inadequate number of children officers. •Lack of transport for probation and children officers. 	
GICHUGU LAW COURTS	<ul style="list-style-type: none"> •Training on ADR •Visits to children homes 	<ul style="list-style-type: none"> •Insufficient funding 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
GITHONGO LAW COURTS	<ul style="list-style-type: none"> •Funding to repair the ceilings of the courtroom and offices. •Visited Children's remand home. •Constructed ramps for the disabled. •ADR enhanced through stakeholder engagement. •Supply of statements to accused in remand custody 	<ul style="list-style-type: none"> •The building is old and the repairs also pose a challenge. •CUC members transferred to other areas hence affecting continuity. •Insufficient funding •Lack of holding room for remandees. •Sensitization of members on ADR which needs funding. •Failure of members to attend meetings •Insufficient funding 	
GITHUNGURI LAW COURTS	<ul style="list-style-type: none"> •Reports from chiefs, Assistant Chief and nyumba Kumi Elders which enables the court to approve bonds faster •Training of Chiefs, Assistant Chiefs. •Construction of customer care 		
HABASWEIN LAW COURTS	<ul style="list-style-type: none"> •The reduction rate of divorce as a result of public engagement through stakeholders. •Enhanced good relationships with relevant stakeholders. •Enhanced ADR as a suitable mode of solving disputes in the community. •Feedback from the public and stakeholders on the performance of the court and areas to put efforts in order to improve service delivery. 	<ul style="list-style-type: none"> •Underfunding due to the vastness of this area. The funds are little and cannot cater to the necessary expenses encountered throughout the process of engaging the public in sensitization, education, and eradication of the rate of divorce in society. •Lack of training to CUC members especially on methods of solving disputes amicably without the involvement of the court. •Insufficient funding 	
HAMISI LAW COURTS	<ul style="list-style-type: none"> • Deliberate involvement and engagement with the community through dialogue which has reduced escalation of violent religious conflicts • Several schools, local Administrators, NPS, prisons and medical practitioners have been sensitized on dialogue, negotiation and witness protection. •A grant was obtained for the purchase of furniture, solar installation, power backups, and computer maintenance. •Through the CUC the long-standing serious misunderstanding between the NPS and the Kenya Forest Services had on the drafting of the charge sheets has been resolved. •There has been co-operation among the court and all stakeholders leading to the effective disposition of cases and efficient dispensation of justice to all parties involved in the conflicts. •The court users Committee has been able to bring to the fore the major leading causes of adjournments. •Through the CUC a WhatsApp group of all the stakeholders has been created to disseminate the cause list to communicate in reasonable time which has minimized adjournment of cases creating convenience to all parties 	<ul style="list-style-type: none"> •Inadequate financial support from the G.O.K. •Still grappling with the aspect of the P.3 forms especially for victims of sexual violence who are not able to raise the relevant levies. •The new court premises require a borehole for a reliable supply of water. •Automation of proceedings in court. •Need for CUC members/stakeholders to be trained to appreciate the structure and scope of CUC 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
HOLA LAW COURTS	<ul style="list-style-type: none"> •Conducted a successful service week in December where backlog in children cases reduced •Increased cases being filed in our court as a result of reduced kangaroo court activities at the police stations •As a result of the above, more offenders being put on probation/ CSO and/or imprisonment and increased revenue collection/ fines •More child protection and care matters filed and or opened at the stations •A tremendous rise in land matters in the court with more advocates appearing •All children in conflict with the law are legally represented by advocates •Bura open day organized and held successfully •Most Heads of Departments now attend and participate, notable members include the County Police Commandant, all OCPDs and the DC •Additional magistrate and a Kadhi posted at the station •The problem of Prosecution Counsels at Mbita and Ndihiwa was adequately addressed •There were additional magistrates posted to Homabay and Ndihiwa law courts •There was a successful prison visit done by the CCUC •All CUC meetings were conducted successfully 	<ul style="list-style-type: none"> •No vehicle to transport the court officers and staff, most often leading to delay in finalization of cases since officers need transport to facilitate their movements. •Inadequate resources and funding to implement most of the resolutions an activities •Ignorance leading to an increased number of children in need of care and protection •No court building at Hola •No child protection unit at Hola. Children often sent to Guantanamo Bay (Garissa, who have since declined to receive them, and Malindi) over 200km of the rough road away from where they cannot be accessed by their relatives. 	
HOMA – BAY HIGH COURT	<ul style="list-style-type: none"> •There has been a significant reduction in case backlog achieved through better time management by stakeholders in the hearing of cases. •Access to information has been improved for litigants and the general public through the customer care desk •Regular CUC meetings have ensured better coordination and communication in the justice sector •Zero tolerance of corruption has seen staff being charged with the offense. •Increase in the number of persons released on bail and bond •Visits to the Homabay GK prison •Through stakeholders support, there has been a reduction in the number of court brokers and comen from the court precincts •Improvement of services through peer review •enhanced capacities of members through training 	<ul style="list-style-type: none"> •Lack of children Remand Home within the County •Lack of Child-Friendly desk at the police stations •Lack of child-friendly cells at the police station •Insufficient funds to facilitate all County CUC activities •Poor attendance by the substantive county court users representatives •Stalling of the construction of the new Homabay High Court Building •Lack of a juvenile holding facility in Homabay County •Inadequate funding for stationery to the National Police Service makes it difficult for the police to issue copies of witness statements to the accused •The shoddy investigation that sometimes leads to acquittals and consequent miscarriage of justice •Regular transfers of officers affect the smooth continuation of cases •Lack of separate holding facilities for women and children in the police station •Lack of timely execution of a warrant of arrests by the relevant authority •Occasional unavailability of medical officers in court and other expert witnesses contributes to delays •Inadequate witness protection facilities in the region 	<ul style="list-style-type: none"> •There is a need to construct a remand home in the County.
ISILO LAW COURTS	<ul style="list-style-type: none"> •Reduction of case backlog due to ADR. •Accountability by all stakeholders. •Enhanced corporation among stakeholders which has helped in understanding the involvement of each and every person. •Improvement of staff working conditions due to the purchase of office chairs 	<ul style="list-style-type: none"> •Mobility •Inability to hold CUC meetings in remote areas. •Facilitation of the elders. •Insufficient funds to hold public sensitization programs. •Lack of children remands home. 	
ITEN LAW COURTS	<ul style="list-style-type: none"> •Fostering strong inter-agency working relationships. •There has been an improved relationship between the court and the public. •Through the CUC meetings, the public has been sensitized on the court procedure. •Good working relationship between the court and other stakeholders. •There has been remandee sensitization. •Reduction of Backlog. 	<ul style="list-style-type: none"> •Inadequate training of members who do not understand the process and the organization of the court users committee. •Inadequate funding of CUC activities. •Stipend allowance to members of CUC. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
JKIA LAW COURTS	<ul style="list-style-type: none"> On May 17, 2019, based on performance evaluation for the 2017/2018 financial year, JKIA Law Courts was recognised as the best performing court in the category of courts handling criminal cases only. This was a culmination of commitment on the part of our stakeholders in playing their roles, regardless of challenges existing individually and collectively as players in the criminal justice system. Expeditious disposal of cases. Good relations amongst court users and continuous engagement. Maintenance of a minimal number of remandees awaiting trial. 	<ul style="list-style-type: none"> There is a need to address health and occupational safety issues associated with exposure to narcotic drugs and psychotropic substances. There is a need for those handling narcotics to undergo periodic voluntary drug tests, and other related medical checks (like brain check) in order to nip any hidden drug-related health issue in the bud There is a need for training of court users on issues relating to transnational organized crimes, drug trafficking, human trafficking & smuggling, and terrorism. Owing to the fact that JKIA Law Courts Court Users' Committee deals with these cases regularly, they ought to be given priority when training opportunities relating to these areas arise. Court officials and prosecutors also need to be trained on: <ul style="list-style-type: none"> Handling of chemical exhibits like poisons, drugs; Health effects of exposure to narcotics and how to ameliorate negative effects Personal security issues. The court has no motor vehicle, and therefore even making prison visits is a challenge. The prisons department may need a vehicle specifically assigned for ferrying remandees from remands to JKIA Law Courts and back. Because of security issues associated with cases relating to narcotic drugs, the security needs of judicial officers need to be taken care of; including the provision of armed security guards 	<ul style="list-style-type: none"> Put up airtight glass cubicles within courtroom/chamber (2) where the same can be placed during the hearing of cases Provide the police with airtight storage facilities for drugs and chemical exhibits.
KABARNET LAW COURTS	<ul style="list-style-type: none"> Trained elders and Chiefs on alternative dispute resolutions and alternative justice systems in Tanguilbei, East Pokot Problems between stakeholders were solved instantly since stakeholders met one on one i.e. late registration of plea due to lateness of charge sheet from the police station. Installation of a solar system in the court Surveyed the Judiciary plot and put beacons in Chemolingot - East Pokot through the assistance of C.U.C. Issuing of witnesses' statements and exhibits to the witnesses and lawyers in good time due to the availability of printers. 	<ul style="list-style-type: none"> Lack of funds to train members on emerging legal issues. Lack of funds to reimburse participants' transport to the venue. Some heads of departments were too busy to attend CUC meetings. 	
KAJIADO LAW COURTS	<ul style="list-style-type: none"> Offences of sexual nature are minimized due to the cooperation of members. Frequent visits to the upcoming high court complex thus progress is impressive. 	<ul style="list-style-type: none"> The amount allocated is not adequate. Some of our members come from far, thus without transport allowance, they are demoralized 	
KAKAMEGA LAW COURTS	<ul style="list-style-type: none"> Case management strategy prepared Purchase of one tent for Court Annex Mediation use 	<ul style="list-style-type: none"> Non-availability of funds: courtroom used as a venue Non-availability of children court holding bay. Children matters delay due to inadequate children officer Inadequate prosecutors Non-consistent CUC calendar dates hinder meetings 	
KAKUMA LAW COURTS	None Reported	None Reported	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KALOLENI LAW COURTS	<ul style="list-style-type: none"> The painting was done at the magistrates' chambers. The program has a highly motivated staff to perform better. The chair managed to visit Mikiriani primary school and the pupils and their teachers greatly benefited from the sensitization programme. The chair and her staff members designed court cards for the accused persons who were out on bond to help them track and remember the hearing/men-tion/ruling/judgment dates given in court. Sensitization to the litigants on the importance of opening bank accounts for the processing of bail hence an improvement in cash bail refunds. A customer care tent was purchased and pitched. Training of chiefs, assistant chiefs and village elders. 	<ul style="list-style-type: none"> Insufficient fuel funds to ferry the chair and her team to more schools within the region for sensitization. Some of the litigants are illiterate Sometimes they abscond from coming to court whenever they forget their case dates. Some of the litigants are still having a phobia of operating bank accounts due to illiteracy and negative myths of being perceived as rich in society. Due to the funds provided, the tent is small in size and cannot accommodate a big number of customers who come to the station. The solar panel does not support the printing machine during electricity black-outs since it is a big one. More funds are needed to purchase a small Epson printer. Participants requested the Chair to organize more training at least once every quarter but funds were insufficient. 	
KANDARA LAW COURTS	<ul style="list-style-type: none"> Awarding certificates of merit to the most cooperative police station, most improved police station, most proactive children's officer, and the most outstanding C.U.C member. Well trained number of health officers on how to handle medical evidence Creating awareness on children matters especially defilement Improvement by the police in availing files to court and timely production of remandees Scheduled successful training to medical professionals and police handling sexual victims and sexual assault evidence Encouraging stakeholders on the importance of ADR to settle small disputes Initiation of more productive CSO projects i.e. cleaning of Kandara town 	<ul style="list-style-type: none"> The high number of narcotic case Increased sexual offences Escape of remandees from court cells Lack of adequate knowledge on filling of p3 forms by medics Station motor vehicle not available due to service thus transport challenges Inadequate funding Challenges in the logistical planning of training due to court work 	
KANGEMA LAW COURTS	<ul style="list-style-type: none"> Purchase of multipurpose printer used for photocopying statements for re-mandees Purchase of Kenya Law Reports for reference and providing the same to the Police department, children department and the State Counsel Promotion of ADR Improved outreach activities such as prison visits 	<ul style="list-style-type: none"> Delay in the disbursement of funds hampered project implementation Lack of monetary facilitation for CUC members has led to low attendance Lack of funding for some activities Strict timelines in carrying out some activities have led to the return of funding to the Treasury once at the close of the Financial Year 	
KANGUNDO LAW COURTS	None Reported	None Reported	
KAPENGUIA LAW COURTS	None Reported	None Reported	
KAPSABET LAW COURTS	<ul style="list-style-type: none"> ADR training for Chiefs and Elders was conducted Renovation of Criminal and Civil Registry Sensitization of CUC members on illicit liquor and defilement cases Control of Gaming and Gambling machines in the county 	<ul style="list-style-type: none"> Insufficient and delayed funding Inadequate training for stakeholders Poor/inadequate mode of transport Inadequate human resource/personnel e.g. Judicial Officers Lack of enough infrastructure e.g. abatement block and office space for CUC Insufficient resources e.g. stationary materials, computers and laptops Lack of secretariat for coordination of CUC activities in the county Lack of goodwill from the community and some stakeholders 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KARATINA LAW COURTS	None Reported	None Reported	
KEHANCHHA LAW COURTS	<ul style="list-style-type: none"> • There has been an improvement in the relationship between the court and the public • The public has been sensitized on the court processes and procedures. • There has been a good working relationship between the court and other stakeholders. • Several visits to Migori and Kehancha prison have been done • Public have been educated on how the court works, this has led to the reduction in the number of pending cases in court. • The court has been given land at Kegonga for construction of another court to reduce the distance 	<ul style="list-style-type: none"> • There is inadequate funding from the treasury • Inconsistent members who do not attend the meetings frequently thereby hindering the subsequent deliberations • Timely organization of the meetings due to delayed funding from the treasury that makes it impossible for the meeting to be planned on time • Inadequate training for Members who do not understand the process and the organization of the court users committee 	
KERICHO LAW COURTS	<ul style="list-style-type: none"> • A coordinated approach to the administration of justice. • Successful engagement with the county government concerning the allocation of land to the judiciary in Kipkelion, Sisiot, Sondu, and Litein. • Tree planting. • Visits to prison. • Visits to children remand home. • We've reached an advanced stage in sourcing for donors to construct/refurbish a child protection unit (CPU) at the Kericho Police Station. 	<ul style="list-style-type: none"> • Lack of traveling allowance to members, some of who travel far to attend the meetings. • Inadequate funds to finance CUC activities. 	
KEROKA LAW COURTS	None Reported	None Reported	
KERUGOYA LAW COURTS	<ul style="list-style-type: none"> • Creation of a mediation room • Rebranding of the customer care center • A modern and presentable notice board was installed 	<ul style="list-style-type: none"> • Lack of training for CUC members in ADR to enable reduction of case backlog especially petty offences • Insufficient funding 	
KIAMBU LAW COURTS	<ul style="list-style-type: none"> • Infrastructure funds given bought two tanks, two computers dedicated for DCRT • Training of chiefs and administration officers on the law of succession 	<ul style="list-style-type: none"> • Insufficient funding • Non-attendance of some members • Frequent transfers of members 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KIBERA COURTS LAW	<ul style="list-style-type: none"> •Constitution of a subcommittee to address the issue of police files. •Establishment of Pro-bono subcommittee •Sensitization of police officers and stakeholders. •Unity of purpose when handling both police and court files to avoid unnecessary adjournments. •Training of court users on child therapy. •Establishment of care and protection files running parallel with the criminal file for children in conflict with the law. •Creation of public awareness of other available options of settling disputes other than litigation in court. •Actual court sessions to sensitize inmates on plea agreement/bargaining. •Distribution of goodies such as stationery and toiletries, to inmates •Sensitization on Refugee law •Sensitization of the sexual offence Act, victim protection, legal frameworks, strategy intentions, practice interventions; training pro-bonos, justice actors – magistrates, prosecution and police special school educators, registration of intellectually challenged groups of people and baseline survey. •Sensitization on data collection and reporting on children matters within various departments 	<ul style="list-style-type: none"> •Case backlog due to the transfer of officers. •Absence of close to 50% police files in court. •Accountability of victim •Overstretching of inmates •Dilapidated structures •A lot of sensitization required since very few people understand the rights of refugees. •Mental health – Many refugees have suffered trauma. •Hostility from victims of SGBV. •Files not being brought to court. •Internet connections •Following up after a case is registered in the system. 	
KIGUMO COURTS LAW	<ul style="list-style-type: none"> •Timely reporting of convicted sexual offenders by having the police stations file the charge sheets together with the descriptive form and fingerprint form on the day of the plea taking •Fast-tracking hearing of cases by providing copies of witness statements on the date of plea through the use of CUC copier •Availability of police files on the date of hearing through good corroboration between the court and the investigating agencies hence improving on the expeditious dispensation of justice. •Prison visits- the court has been able to do 2 prison visits a month despite the highlighted challenges due to the good rapport between the players in the CUC 	<ul style="list-style-type: none"> •Lack of transportation of remandees from Murang'a remand prison to the court for hearings and mentions due to breakdown of the only available police truck •Lack of transport for the court when visiting the prison after the station land rover was grounded after an RTA •Underfunding of CUC activities which are affecting attendance to meetings and other necessary activities for a vibrant CUC •Low internet bandwidth which affects communication between the court and external actors •Limitation on the number of available judicial officers and staff which is negatively affecting the clearance of case backlog. •Delay in the availability of government analyst reports which hinders expeditious disposal of drug-related matters. 	None Reported
KIKUYU COURTS LAW	None Reported		None Reported

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KILGORIS COURTS LAW	<ul style="list-style-type: none"> • There was public participation with stakeholders and community representatives • Warrants of arrests have been effectively issued leading to clearance of case backlog • Grievances from stakeholders and community representatives were handled in time • Good working rapport with stakeholders which has enhanced confidence with the court • New CUC stakeholders were brought on board • Received prompt feedback from the members thus improving service delivery to the public 	<ul style="list-style-type: none"> • Lack of sufficient funds to facilitated transportation for especially community representatives from fa • Poor road network especially during the rainy season • Lack of prequalified hotels to host CUC meetings • Lack of power backup delays documentation thus causing inconveniences • Lack of projectors, cameras, and laptops causing challenges in the court operations • Challenge of how to deal with members who become litigants and they do not step aside from meetings 	
KILIFI COURTS LAW	<ul style="list-style-type: none"> • Best performing Magistrate's Court (Category of 1001-2000 cases). • Held two Children Service Weeks • Community sensitization on access to justice at Matsangani Chief's camp. • Training of chiefs on ADR 	<ul style="list-style-type: none"> • No Children's Court – and there are many cares and protection issues. • CUC Secretariat not fully functional. • Witnesses coming from far ends of the County e.g. in Ganze have problems reaching Court. 	
KILUNGU COURTS LAW	<ul style="list-style-type: none"> • Increased public confidence in the judicial system • Trained CSO Supervisors • Sensitization of the public on sexual offences • Public sensitization and encouragement to use ADR • Reduction of sexually related offences • Quick dispensation of justice 	<ul style="list-style-type: none"> • Insufficient resources • The court covers a wide geographical area resulting in high costs of attending sessions by the stakeholders. • The poor road network from police stations resulting in delays. 	
KIMILILI COURTS LAW	<ul style="list-style-type: none"> • Reduction of cases. • Complaints have reduced in our dialog box. • Managed to train the chiefs on ADR. • Due to ADR training, many cases have been settled out of court. • Managed to receive feedback from stakeholders through their representatives. • Helped the court to know its mistakes and weakness 	<ul style="list-style-type: none"> • Financial resources are limited • Court users are experiencing difficulties because of the long distances. • Inability by CUC members to appreciate their roles. 	
KISII LAW COURTS	<ul style="list-style-type: none"> • Held a joint CUC with Eldoret CUC with the objective to share and exchange ideas for the interest of the administration of justice • Trained Mediators and accredited to matters in the High Court, Environment and Land Court, and Magistrates Court • Successful - Kisii open day where all stakeholders and members participated. • Established an Official working area procured by CUC; tents, tables, and sits 	<ul style="list-style-type: none"> • Lack of Funds for activities • Participation of Key stakeholders like the Prisons, Children's Department, Police, county 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KISUMU COURT HIGH	<ul style="list-style-type: none"> •Held its first meeting after its successful launch in 2018 •Transfer of Luanda Cases from Vihiga Law Courts to Maseno Law Courts will reduce the distance covered to access the courts since Maseno Law Courts are closer to Luanda town. 	<ul style="list-style-type: none"> •Trafficking of illicit brew: Members were concerned that the punishment for the offence was not punitive enough to match the negative effects caused which include the death of some of the consumers. A discussion on how to scale up the penalty was proposed. •Office of the Attorney General to address state counsels' shortage: The number has now drastically reduced to 5 counsels serving 18 courts. The State Counsel is forced to focus only on matters before the High Courts in the region. More state counsels need to be employed to solve the case backlog crisis, especially before magistrates' courts as many cases have not progressed as needed particularly in land-related cases. •Prosecution Counsel: An additional prosecution counsel is needed in Maseno Law Courts since the appointment of one to be a prosecution counsel leaving the number at (two) •Additional Judges: There is a need for an additional judge for the ELC and ELRC in order to adequately serve the region. This will reduce the case backlog and increase access to justice for other counties in the region. 	
KISUMU COURTS LAW	<ul style="list-style-type: none"> •Participation in Judiciary Open Day •Process of drafting a chief's letter template kickstarted •Managed to lobby for liaison officers for the ODPP thus reducing cases of missing police files 	<ul style="list-style-type: none"> •The CUC activities to be supported by JPIP funds do not cater for public engagement activities such as chief's barazas and training that are very key in educating the public on their rights and the services they could access in court. •Missing police files: This was considered a major hindrance to the progress of cases in courts as it frustrated the ODPP in proceeding with the cases. •Shortage of state counsel: The situation was reported to be dire as 5(five) state counsel are stationed in the region to serve 18 courts. •Comprehensive chief's letters: Chief's letters were noted not to include key information hence leading to delays in succession cases and/ or disinheritance of some beneficiaries. A proposal to come up with a template for chiefs' letters is to be discussed. •Poorly resourced institutions: The resource shortage in police stations in terms of stationery leads to laxity in investigating cases where police have to dig into their pockets to buy stationery such as files, envelopes and use their own money to travel to conduct their duties. •Capacity building for actors: Awareness creation sessions backed by the practical application will enhance the application of the knowledge shared in the still unfamiliar territory of plea bargaining, diversion and case management among stakeholders to improve the overall objective of improving access to justice. •The negative attitude of the public towards courts role in enhancing justice: The public perception of courts as being slow in justice delivery to make them hesitant to embrace other effective mechanisms such as court-annexed mediation for their disputes •Complaints against chiefs: Several cases against chiefs were reported in which included cases of extortion in succession letters and sexual violence. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KISUMU ELC	<ul style="list-style-type: none"> •Training for stakeholders •Participation in a tree planting exercise 	<ul style="list-style-type: none"> •National Land Commission is yet to start entering an appearance in cases where it has been named as a party. This will greatly reduce the delaying of cases in the ELC •Members noted that many cases are lagging behind as there is a very serious shortage of state counsels who are supposed to represent state agencies in all law court stations within the County. •Stalled digitization of the land records in the Ministry of Lands is affecting efforts to secure documents and encourages fraud •Training: More training on land issues needed for stakeholders to build the capacity of CUC members as the day's training held in June was not enough •Community Sensitization on Court-annexed mediation to encourage uptake of cases is needed. Meetings with stakeholders only are not enough as disputes emanate from the public. •Service Weeks: Judicial Service weeks are no longer funded by JPIP and hence a concern arose as to whether the government could step in and fund the same. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KISUMU ELRC	<ul style="list-style-type: none"> Expanded the scope of engagement with stakeholders 	<ul style="list-style-type: none"> Case backlog in the ELRC: The need for a service week was highlighted to clear the load of cases for employment and labour. Labour Unions: There was noted to be a poor representation of union members in court within the region. Despite their existence, 60% of complaints at the KNCHR related to employment-related disputes and workers' violations. Poor understanding of ELRC rules: This was pointed out by Justice Nderi during the ELRC CUC meeting whereby even advocates were noted to be filing poorly drafted pleadings. Few numbers of judges: The case backlog in the ELRC is partly because of the few numbers of judges in the region. ELRC CUC members urged the NCAJ to push for the appointment of new judges. Training on Labour Laws: The allocation of the JPIP funding for CUC activities failed to cater for the training proposals made for the Employment and Labour CUC. NCAJ's efforts should be geared into attracting resources for the same. Decentralization of Labour Union Leadership: Most labour unions within the region were ineffective in serving their members due to lack of autonomy to make decisions relevant to them hence members and leaders are not trained on the sectoral legal issues relevant to their industries. Through the auspices of the NCAJ, bodies such as COTU should spearhead the decentralization of leadership. Training for CUC members: The members noted that there was a serious need for training on Memoranda of Claim and other court documents, how to prepare for proceedings and generally the rules of practice in the ELRC. Abuse of contracted employees- Most casual workers were on short term contracts hence their eligibility for labour union membership was affected resulting in a poor work environment whereby arbitrary terminations were experienced. This especially affected sugar plantation workers in the region. Audibility during court proceedings: Members expressed concerns about poor audibility during court proceedings and asked the Judiciary to push for necessary interventions to fix the problems even if that meant infrastructural upgrades or the installation of necessary equipment. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KITALE COURTS LAW	<ul style="list-style-type: none"> •Construction of two waiting bays at the Kitale Law Courts through the contribution and support from the Kitale CUC •Training of select chiefs from Trans Nzoia County on sexual offences and Court Annexed Mediation •Construction of the base for two water storage tanks at the court •Installation of a witness box in court 5 •there was a children service week where CUC members contributed and participated in •Waiver of p3 form charges for sexual offences victims •Improved service delivery within the justice system agencies due to the networking of various departments •Visit of the G.K prison by the members of the CUC where they made donations to the inmates, listened to their memorandum where the various issue was addressed •CUC members participated in a Radio show about their services •There was a tree planting activity at the G.K prison. 	<ul style="list-style-type: none"> •There were no transport reimbursements for the CUC members which posed a challenge •The plumbing work and costs were omitted in the Bills of Quantities. The court was therefore not able to do plumbing on the two storage tanks installed. •Lack of standard specifications for witness boxes •There is a need for increased funding for CUC so that more activities can be included for instances corporate social responsibility and sensitisation of members of the public 	
KITHIMANI COURTS LAW	<ul style="list-style-type: none"> •Completion of the women and children cell save for the toilet •There was an agreement for the prison department to liaise with the police for the transportation of prisoners •Sanitation and the customer service bay are under improvement •Pro bono services have been initiated with the LSK appointing three advocates for that purpose •Minors' statement to be recorded during plea time •The CUC got KENHA as a possible sponsor for its future activities 	<ul style="list-style-type: none"> •Funds to complete the toilet •Lack of funding to establish a mobile court •Lack of transport and fuel in the prison department •Lack of funds for better sanitation infrastructure •General funding challenges •Many cases of minors being compromised have been reported •The need to have donors fund CUC activities 	
KITUI COURTS LAW	None Reported	None Reported	
KWALE COURTS LAW	<ul style="list-style-type: none"> • Acquisition of land for the construction courts in Lunga Lunga [title deed acquired] • Resource mobilization toward the capacity building of members on SGBV by UNWOMEN, training of members on violent extremism by Search for Common ground Organization. •Mobilization of resources towards CUC meetings and activities – community outreach. •Overseeing the construction of high court which due for completion. •Acquired the 32” television set used for the display of evidence in courts – Sauti ya wanawake. •Acquired one witness protection box from our partner (HAKI YETU) •Construction Child protection unit funded by Plan International through CUC. •The building of rapport amongst members, bringing in synergy, collective responsibility, and teamwork • Initiated the process of the new court in Kinondo that saw the commissioning of the court on July 1, 2019 •Development of work plan 2018/2019 that was successfully implemented 	<ul style="list-style-type: none"> •High mobility of Magistrates(transfers) •Inconsistency of members due to mobility (high turnover due to transfers) •The vast area of coverage •Meager resource allocation from the judiciary 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
KYUSO LAW COURTS	<ul style="list-style-type: none"> •The Court installed and commissioned a solar-powered system •Conducted ADR/AJS training for Chiefs, Ward Administrators and the councils of elders. The output from the training has been the establishment of Peace Committees in various Wards and Villages •The CUC held a planning meeting with the presiding Judge-Kitui High Court and was enlisted to the County CUC and the County Children CUC •The Court resolved all cases aged over 5 years. This reduced case backlog •Conducted a decongestion exercise at Garissa G.K prison •The Children Department held the day of the African Child event which sensitized the community on the rights of children •The Prison service held the International Day of Justice under the theme 'Access to justice through Rehabilitation' at G.K Prison Mwingi •The Kenya Police Service is undertaking the construction of a modern Police Station at Tseikuru with funding from the National Government CDF-Mwingi North Constituency 	<ul style="list-style-type: none"> •Inadequate funding for projects in the CUC's Workplan •The Court and all police stations under its jurisdiction do not have holding cells •No Response on the request for funding to construct a fence •High illiteracy levels which have contributed to the continued negative cultural practices such as the prevalence of Female Genital Mutilation and application of ADR in serious offences such as defilement. 	<ul style="list-style-type: none"> •Need for the establishment of Mobile Courts in Tseikuru, Mumoni, and Thagichu sub-counties

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
LAW LAMU COURTS	<ul style="list-style-type: none"> •Scheduled meetings held. •Agreement with the Witness Protection Agency to provide witness boxes (this led to the supply of 1 witness box - the intervention of the Registrar of Magistrates' Courts) •Children Service Week successfully held on September 8 – 12, 2018. 15 matters went to arbitration with 9 successful arbitrations, 2 cases went to probation. •DPP Service Week successfully held from March 18 – 22, 2019 with all CUC Members participating. 43% of the targeted cases concluded. •To ameliorate on the absence of legal aid during the DPP's Service Week, there was established a Justice Centre at Hindi GK Prison under the DPP's leadership. •To enhance capacity to run the now established Justice Centre, 6 CUC members were trained as Paralegal Officers from July 8 – 12, 2019 under auspices of The US Embassy OPDAT- USDOJ in collaboration with Lamu CUC. The 6 trained paralegals now work at the Hindi GK Prison Justice Centre as paralegals. •Plea bargaining tools introduced by DPP and successfully applied by the courts. This has reduced the waiting period for criminal cases. •Diversion tools introduced by DPP and successfully applied by the courts. This has led to many cases of children in conflict with the law being concluded speedily. •The decision to Charge Policy introduced by DPP and successfully applied by the courts. This has led to reduced frivolous cases being filed in court. •More than 100 Narcotic exhibits successfully destroyed. •Adoption of the NCAJ Report about output from Lamu. •Sifa Radio program to sensitize the community. •P3 Forms now being filled for free by CUC Stakeholders after deliberation of the High Court ruling. •A Special interest group coopted into Lamu CUC – MEWA- which then agreed to provide rehabilitation at no cost to convicted addicts •Red Cross as a Special Interest group coopted into the CUC. Agreed to provide a subsidized rehabilitation program to convicted addicts. 2 were placed. •Increased filing of protection and care files for children to address child neglect cases Increased the speed of the conclusion of Cases. Now there is a single criminal case over 3years old pending. •Reduction of backlog to nil •Purchase and installation of 10, 000 litre water tank at Faza Kadhi's Court which also doubles up as a magistrate's mobile court. •To enhance capacity Bail Bond Policy training undertaken in Nairobi for 4 CUC members from May 12 – 14, 2019; the 4 trainees reported to the CUC meeting about best practices on bond and bail and encouraged members to adopt them •To enhance capacity 2 CUC members attended the Biannual CUC Sharing Conference in Mombasa on July 16, 2019 funded by a CUC Specialized Interest member (Search for Common Ground together with MUHURI AND HURIA under PLEAD program). The main agenda was countering violent extremism in the coastal region. •Elimination of fake title deeds used as security by sureties due to coordinated verifications. •Visit the New Leaf Rehab Centre 	<ul style="list-style-type: none"> •Total lack of representation from major stakeholders in Lamu – IPOA, EACC, Attorney General, National Gender Commission, Kenya National Commission of Human Rights, Witness Protection Agency. •Lack of allowances to provide for transport and accommodation reimbursement for members from Lamu East which is far and remote •Failure of witnesses to attend court session due to threats •Limited judiciary budget for Legal Aid – KES 90, 000 per quarter can only cover 3 to 6 files. •Scarcity of government analysts for narcotic cases. •Loss and poor custody of exhibits. •Lack of Child Protection Unit at the police stations in Lamu •Lack of process servers in Lamu •Scarcity of lawyers in Lamu – only 2 are resident lawyers in the whole county. •Scarcity of certified mediators and arbitrators in Lamu Court •Poor protocols of handing over police files during transfers •Failure of drug convicts to comply with probationary and community service terms 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
LIMURU COURTS	LAW <ul style="list-style-type: none"> •Held five Court Users Committee meetings within the financial year 2018-2019 •Held Chiefs training on procedures in succession matters and ADR •Held public Baraza at Kimende bus terminus ground to sensitize the community on the effects of drug abuse, road safety, security, and succession matters. •Held a civil cases service week and managed to clear a backlog of sixty files. •Construction of wall shelves •Purchase of civil registry workstation •Lobbied and procured Lari police station lorry to transport prisoners. 	<ul style="list-style-type: none"> •Low attendance by some stakeholders especially Lawyers. •Limited time to cover all areas of discussions. •Insufficient funding. •Lack of fuel for transport. 	
LODWAR COURTS	LAW None Reported	None Reported	
LOITOKTOK COURTS	LAW <ul style="list-style-type: none"> •The increased case clearance rate •The timely arrival of remandees •The accused person is given statements on time. 	<ul style="list-style-type: none"> •No funding to undertake projects 	
MACHAKOS COURTS	LAW For County CUC <ul style="list-style-type: none"> •It was noted that the working relationship between the police and the prosecutors had improved. •Prison daycare center had been established after the CUC members had honored their pledges. •It was resolved that files of convicts in lower court should be sent back to the same court so as not to deny the convicts the right of appeal. •Victim impact and probation resentencing to be availed and the officers be given adequate time to prepare the same. •Support offered by the judiciary in the form of 14 beds for the remand section of Machakos G.K prison. •A WhatsApp group was started to enhance communication. •It was noted that land had been identified in the Athi River for the Mavoko Law Court. •A Court annexed mediation registry had been opened in Machakos law court and the same was fully functional. •The county government of Machakos had offered to construct a mediation center. For Magistrate Courts <ul style="list-style-type: none"> •A customer care desk is to be established at the court premises to direct litigants on the sitting of the courts. 	<ul style="list-style-type: none"> •ELC Court building had stalled due to funding problems. •Shortage of sitting space for courts. •Limited land space and lack of title deeds for the court led to the construction project being stopped. •Delayed judgments by the judges who come for service weeks. •It was noted that many death convicts are flooding the courts for resentencing hence members raised concerns that that would lead to case backlog. •It was noted that a lot of time was being wasted on the pre-trial direction more so in criminal cases where the ODPP was taking a lot of time before complying with Pretrial directions hence delaying cases. •It was also noted that hearing of work injury claims had stalled. •ODPP noted that there were no standard criteria used by the courts in regard to bond approvals. •It was noted that the police were not bonding witnesses on time. •It was also noted that some files for Wamunyu mobile Court were not being taken. •Wildlife officers noted that bond terms in regard to wildlife ought to correspond to the fine applicable to discourage pouching. •Pleas were not being brought in court on time. •Wamunyu mobile court was yet to be gazette. •Some exhibits were being released without a court order. •Bond terms not being standard. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
<p>MAKADARA LAW COURTS</p>	<ul style="list-style-type: none"> • Formed different sub-committees within the CUC such as the children Court Users Committee, to handle children matters. This has led to improved service delivery among stakeholders, the children Protection Units have become more effective, and children who appear in court are provided with milk and sometimes meals depending on the circumstance. • The Traffic Court Users Committee through its meetings has led to improved communication between stakeholders and service delivery. • Improved stakeholder engagement due to a good working relationship. • Reduction in complaints from the members of the public. The CUC sponsored a workshop with a representative of Mathare-Ghetto Youth, ODPP-Makadara, NPS and various CBO's where the Mathare-Ghetto were able to bring out issues of conflict they faced with the different departments and amicable solutions reached. • Service delivery improvement-cases where Police files were not brought to court on time or not availed has been handled with the officers-in-charge and appointment of a Liaison Officer timely. • Submissions of forfeitures by police officers – This has been achieved through frequent engagement with the Officer-in-charge Crime together with the involvement of the Police Liaison Officers. • Quarterly Legal Aid Clinics – The same is held in different areas with the support of community-based organizations. • Quarterly service weeks – There are organized in collaboration with the CUC members – whereby police files are retrieved together the court proceeds to decongest prisons through plea bargaining. • Introduction of new programmes such as Diversion – New programmes are introduced through the CUC for example, diversion programmes among children, play therapy whereby all members are sensitized on the topics before implementation, and this has led to improved service delivery. • P3 Forms have been decentralized. There are specific county hospitals charged with the responsibility such as Makadara health center, Mama Lucy Hospital, MSF clinic – Lavender house, Kasarani health center, and Dandora Health Centre. Leading to improved service delivery and access to justice • Decongestion Exercise; Through collaboration with the Prisons department, Makadara law courts held its sitting at the prison and managed to reduce bond terms, enter plea agreements and generally reduce the population of inmates at the Nairobi Allocation Prison. • Plea Bargain has been adopted within the court in collaboration with the ODPP. Many children's cases have been handled through the plea bargain and have led to a reduction of court cases. 	<ul style="list-style-type: none"> • Frequent transfers of police officers therefore not easy to implement directives that have been set by the CUC. • Funding of the CUC is not sufficient as the jurisdiction for Makadara Court is big. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
MAKINDU COURTS LAW	<ul style="list-style-type: none"> The court does not entertain adjournments from the prosecution and the defense in old matters The police have been availing comprehensive case files with all documentations There was a prison visit Partnering with the County Government of Makueni in handling County matters There have been timely stakeholders report Police have been supplying charge sheets on time hence courts start on time There have been discussions on fight team-building corruption There was a team-building activity funded by the Tsavo West National Park Cause lists are issued one week in advance 	<ul style="list-style-type: none"> Underfunding of activities Lack of remand prison in Makindu Delays in analysis of exhibits by the Government Chemists Unavailability of doctors during the hearing of cases of defilement and assault 	
MAKUENI COURTS LAW	None Reported	None Reported	
MALINDI COURTS LAW	<ul style="list-style-type: none"> The committee held a community sensitization meeting at Karimboni primary on children's rights Deployment of adequate security within the court premise Expansion of the new membership in CUC to add more activities in CUC Formation of Sub Committee to deal with drug menace, violent extremism, gender-based violence, and resource mobilization. Sub Committees are aimed at addressing the rise in crimes CUC training on violent extremists to create awareness and engage the community on prevention of Violent extremists Educational tour of the members to Malindi Marine park to sensitize members to marine laws and illegal marine activities. Destruction of narcotic drugs (exhibits) valued at Sh17 Million at the Mayungu dumping site. The court received two witness protection boxes (mobile) by Haki Yetu for use in court where witnesses who are children under protection can adduce their evidence without fear The committee was able to allocate furniture to all the police station to have a functional gender desk to handle victims of gender-based violence 	<ul style="list-style-type: none"> Prevalence of disco matangas which contribute to high school drop-out and child pregnancies Failure to report defilement cases due to poor infrastructure Illegal out of court settlement of defilement matters Lack of awareness creation Frequent terror threats on the court building Lack of adequate training of security guards manning the court building Lack of adequate funding to hold regular subcommittee meetings Limited funding to enable the committee to reach to many maskanis or communities to create awareness on violent extremism Inadequate motor vessels for members to access the activities in the ocean Lack of modern machines to destroy drugs without the effect of pollution. This delays the process of destroying the narcotic drugs More witness boxes required at the police stations for witnesses and victims to rehearse before adducing evidence in court. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
MANDERA LAW COURTS	<ul style="list-style-type: none"> • Court premises are properly fenced and there is a gate properly installed to control access to court premises • The flow of information between staff and judicial officers is good • No cases of corruption reported • No cases of sexual harassment reported • Knowledge of court procedures and the process was enhanced through training of some CUC members through NCAJ • The relationship between the court and the public has improved. • Smooth working relationships between stakeholders/Court Users Committee members • A mobile court has been established to cover areas of Rhamu and Elwak sub-counties • Express Duplication of documentary exhibits is provided for. 	<ul style="list-style-type: none"> • Insecurity from AlShabaab terrorist attacks • Acute staff shortage • Language barrier –use languages such as Somali, Borana, Amhari, Rahwein, Sign language, Arabic • Inadequate funding from the treasury • Lack of continuous training for CUC members • Cases of violence against Women and Girls are still prevalent • Some sections of the society still prefer the traditional Maslaha system which is injurious to the victims and does not protect the rights of the victim • The large geographical area means that many people cannot access justice because of the distance they have to travel to reach the court or the police • Legal representation is lacking in this area where most victims are illiterate and do not understand the court processes 	
MARALAL LAW COURTS	<ul style="list-style-type: none"> • Reduced case adjournments due to payment of witness expenses and provision of witness statements to accused persons. • Reduced case backlog through stakeholder engagement and application of the SJT Principles. • Reduced number of days spent in custody due to expedited hearings and application of the Bond/bail Policy. • Training held for CUC members and Chiefs on the application of Bail/Bond Policy. • Training held for Chiefs, Assistant Chiefs, County Commissioner and his officers on the Law of Succession. • Printing/photocopying papers procured to facilitate the provision of witness statements to accused persons. • Court Process Server posted to Maralal Law Courts at the request of the CUC. • CUC members visited a Children's home and donated some consumables to the home. • Pre-trial conferences introduced in criminal cases. • Successful Prison Decongestion through the use of alternative sentences like Community Service and Probation of offenders. • Training of CUC Members on Integrity and Principles of Public Service. 	<ul style="list-style-type: none"> • Lack of adequate court facilities which will be addressed soon through ongoing construction of a modern court building. • Stoppage of Mobile Court clinics due to lack of funds. • Missing Police files during the hearing of criminal cases. • Adjournments occasioned by a lack of witnesses who are mostly not bonded to attend court. • Complaints by litigants regarding distance covered to reach Nanyuki High Court for appellate matters. • Inadequate funding for pro bono services. • Poor understanding by stakeholders of the Succession process. • Lack of Probation & Aftercare services at Baragoi and Wamba Mobile Courts. • Missing or misplaced exhibits during hearings. 	
MARIKANI LAW COURTS	<ul style="list-style-type: none"> • Construction of Customer waiting bay. • Sensitization of CUC members of their roles and functions. • Through prisons visits, issues raised by remandees and inmates were well addressed. 	<ul style="list-style-type: none"> • Lack of transport from Mariakani station to G. K. Prison Kalolent which is about 20km away. • Witnesses not availing themselves to courts for fear of reprisals/revenge (need for sensitization of members of the public on the availability of witness protection services which is unknown to many at the grass-root level. • Lack of photocopier machine for processing witness statements. • Inadequate funding on witness/interpreters expenses. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
MARIMANTI LAW COURTS	<ul style="list-style-type: none"> •Construction of two water tanks 5000LTRS concrete bases ensuring sufficient water supply for Law Court use. •Training of 20 Investigating Police Officers from both Tharaka South and North sub-counties on proper handling of investigations. •Training of 20 Chiefs from both Tharaka South and North sub-counties on proper handling of reported incidents/cases like FGM. •Construction and Management of Tharaka Child Protection Unit at Marimanti Police Station •Improved case management in the courtroom as a result of trained Investigation Police Officers. •One prison visit at GK Prison Marimanti •One open day at Marimanti Law Courts Compound. •Use of JFMIS E-receipting in Accounts Department – CUC Computer supplied for Accounts Departments •Case Tracking Management System CUC Computer supplied for DCRT Department 	<ul style="list-style-type: none"> •Delay in disbursement of funds from Judiciary Headquarters, for example, 1st Quarter A.I.E being received in the month of September 2019; three months from the start of the financial year. •Securing funding of expanded CUC activities is very difficult considering law courts receive only Kshs. 30,000/- 	
MARSABIT LAW COURTS	<ul style="list-style-type: none"> •Adoption of Alternative of Justice system on land matters •Laisamis and North Horr Mobile courts resumption •Prison decongestion. •Revision of criminal cases in the high court. •Purchase and installation of 1 10,000 Litres tank, 3 water dispensers, 5 executive chairs and 120 reams of printing papers. 	<ul style="list-style-type: none"> •Judiciary open day pushed to the next financial year due to a lack of funds. •Absence of AG's office in Marsabit •Lack of Moyale Sub County CUC. •Laisamis CUC open day not held due to a lack of funds. •Poor attendance of CUC members due to long distances e.g Ileret 540 Kms 	
MASENO LAW COURTS	<ul style="list-style-type: none"> •Reduction of case backlogs. •Witnesses are timely bonded and availed in court promptly from the CUC resolutions. •P3 forms are timely filed and promptly produced in court whenever required. •Police files are promptly and timely availed to State Counsels hence making it easy for a court to expeditiously conclude matters before the court. •Number of State counsel increased from 2 to 3 hence efficiency. Each court has its own State Counsel. •Members were sensitized on ADR. •Courtesy of incorporating KENHA in the CUC, the court compound received a facelift. KENHA donated 5 lorries of ballast 	<ul style="list-style-type: none"> •Poor attendance occasioned by financial constraints due to inability to provide fare refund to those from far areas as the court covers two sub-counties. •Inability to the operationalization of the mobile court as proposed by the CUC due to financial constraints. 	
MAUA LAW COURTS	None Reported	None Reported	None Reported

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
MAVOKO COURTS	LAW <ul style="list-style-type: none"> • Acquired a new courtroom and a magistrate chamber from the County Government • Improved and purchased new filing racks which have resulted in easy retrieval of files and streamlined registry operations • Court compound and infrastructure improved by the County Government. • Reduced time is taken before the finalization of cases. • Children matters handled faster. • Improved prisoners' welfare and relationship through prison visit by the Court Users Committee. 	<ul style="list-style-type: none"> • Limited funds • Failure to attend by some stakeholders • Transportation to the venue 	
MBITA COURTS	LAW <ul style="list-style-type: none"> • Training of Police, Chiefs and BMM's. • Cases filed are finalized within a reasonable time • Now that the Station has two Prosecutors, matters are heard in time and the number of adjournments has been minimized. • Members of the public were sensitized on GBV, Drug & Substance Abuse. 	<ul style="list-style-type: none"> • Inadequate funds • Terrain due to far-flung islands • Delay of cases due to failure by witnesses to attend court. • Existence of many cases in Magunga Mobile Court because the court is sitting once a week. • Lack of working space due to the slow pace of the Court's building carried out. • Increase in Defilement cases and Drugs and Alcohol Abuse along the beaches. 	
MERU COURTS	LAW None Reported	None Reported	
MIGORI COURTS	LAW <ul style="list-style-type: none"> • Land identified to build a Child Protection Unit. • Bill of Quantities developed for putting up a Child Protection Unit. • Measures to curb the loss of files introduced and the problem is eliminated. 	<ul style="list-style-type: none"> • Lack of Child Protection Unit • Loss of Court Files 	
MILIMANI COMMERCIAL COURTS	LAW <ul style="list-style-type: none"> • A computer was acquired to help operationalize the customer care desk. • Milimani Commercial Courts were recognized for its efficiency despite the hard circumstances. • Old matters have been dispensed with to a large extent. • Improvement in the amendments of decrees thus reduction in complaints. • Quick payment of court fees through M-Pesa • Divorce matters are cause-listed in abbreviation. 	<ul style="list-style-type: none"> • Could only acquire one computer due to lack of funds due to the austerity measures. • Lack of enough space at the registry and also judicial officers' seating space. • Inconsistency of attendance by the CUC members who are not Judicial Officers. • Insurance Companies not paying claims after the determination of matters • Workman Compensation: Parties in a dilemma as there are matters pending before this court. • Inadequate working space in this court. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
MILIMANI COURTS-CRIMINAL	<ul style="list-style-type: none"> Member was trained in the following areas: <ul style="list-style-type: none"> i. Forensic documentations It was sponsored by IMLU (Independent Medico-Legal Unit). ii. Role of legal aid in the criminal justice system. Sponsored by IJM (International Justice Mission) and LRF (Legal resource Foundation). iii. Emerging issues on resentencing. Sponsored by IJM (International Justice Mission) and LRF (Legal resource Foundation). iv. Concerted effort in handling case backlog. Sponsored by IJM (International Justice Mission) and LRF (Legal resource Foundation). v. Handling of small court fines. A number of new partners were coopted who assisted in the smooth running of the criminal justice system. Able to bring together a number of criminal justice players. Magistrates were sensitized on NCM (Noncustodial measures) by RWI (Raoul Wallenberg Institute) 	<ul style="list-style-type: none"> Failure by some departments to send representations during CUC meetings. Limited resources Departments sending different representatives in different meetings forcing them to be inducted afresh. 	
MILIMANI CHILDREN'S COURT	<ul style="list-style-type: none"> Received feedback on the performance of the court. Successfully held an open day on May 6, 2019 Successfully held 4 service weeks in the year where 3161 cases were closed. Held healthy discussions affecting each user. The children's lobby was renovated. There was an improved relationship between the court and the public. 	<ul style="list-style-type: none"> Lack of enough funds to cater for our budget. Lack of Commitments by some CUC Members who at times did not attend. Lack of training due to inadequate funding. 	
MILIMANI ELC COURT	None Reported	None Reported	
MILIMANI ELRC COURTS	None Reported	None Reported	
MOLO LAW COURTS	<ul style="list-style-type: none"> ADR adopted Set days(Wednesday) for handling Children Matters There is a package to support witness attendance in court although limited Spacious courtrooms have ben built Ramps have been constructed to aid persons living with a disability There are different holding cells for the prison and the police Set Days (Thursdays of every week) for doctors appearance in court Agreed court start time to be 9.00 am Kuresoi mobile court gazetted Probation and Aftercare provided an office for confidential inquiries Classification as a top-performing court 	<ul style="list-style-type: none"> Lack of basic hygiene at the police cells No prison in Molo and there is a lack of land for such a facility No Child rescue center Some police stations do not register files on time Prevalent crimes such as defilement among the youth which need crime prevention programs Charges for p3 forms ranging from Kshs 500-1000 Police files without exhibits Lack of washrooms for court officers who are not direct staff No provision of sanitary towels to women and mothers with babies 	
MOMBASA LAW COURTS	None Reported	None Reported	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
MOYALE LAW COURTS	<ul style="list-style-type: none"> • Installation of solar panel • Purchase of a photocopying machine 	<ul style="list-style-type: none"> • Sometimes the court experiences low turnout by members • Financial challenges 	<ul style="list-style-type: none"> • Need to create more space for staff. The court has only one courtroom • There is a need for a perimeter wall as the court is exposed • There is a need for an extra room for the Kadhi as he is been hosted at the probation where he is facing an eviction • The court Bailiff needs a motorbike to • access areas that have a poor road network • Need for a toilet suitable for a person with a disability to be utilised by the staff
MPEKETONI LAW COURTS	<ul style="list-style-type: none"> • Put up metallic gate within the premises • Held a successful children's week through CUC initiated sub-committees • Trained CUC Members on ADR through the grant. • Put up a temporary barbed wire fence around the court premises 	<ul style="list-style-type: none"> • The acute need for capacity building • Insufficient funding • Lack of transport 	
MUKURWEINI LAW COURTS	<ul style="list-style-type: none"> • Enhanced expedition of criminal matters. National Police Service is bonding witnesses in a good time. • Quarterly departmental reports which highlight areas of improvement through stakeholder engagements. • Training of CUC and staff members on the mandate of Ethics and Anti-corruption Commission and concept of corruption, Obligation of Public officers under Chapter Six of Constitution and Leadership and Integrity Act of 2012 	<ul style="list-style-type: none"> • Failure of National Council of Administration of Justice (NCAJ) to approve the proposal of activities by the CUC for the F/Y 2018/19 despite the CUC meeting the guidelines set out by the CRJ and lack of communication and or feedback for reasons why the same was disapproved. • Insufficient funds • Poor turnout of CUC members during the meeting. 	
MUMIAS LAW COURTS	<ul style="list-style-type: none"> • Digitization • Putting up a playground (volleyball and netball pitches) • Installing solar panel to curb power outage • Installation of a water tank • Training of local administration on mediation 	<ul style="list-style-type: none"> • Inadequate infrastructure • Lack of sufficient number of Judicial Officers, children officers, and Prosecution Counsels • Lack of Children holding areas • Challenge in transporting children to court and other facilities since there is no vehicle for the Children's department and the probation office lacks a driver 	<ul style="list-style-type: none"> • Need for capacity building for investigation officers and prosecutors
MURANG'A LAW COURTS	None Reported	None Reported	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
MUTOMO COURTS LAW	<ul style="list-style-type: none"> Operational Customer Care desk and waiting bay Enough water Referral of land and petty cases for ADR Incorporated all chiefs in the CUC The unveiling of women and juvenile holding cells within Mwingi Law Courts Follow up of the status of the children protection facility at Mwingi Police Station Successful launching of the children service week 	<ul style="list-style-type: none"> No mobile court Minimal allocation for witness expenses Insufficient CUC funds Furnishing of both women and juvenile holding cells and children protection facility Attendance of some experts stakeholders 	
NAIVASHA COURTS LAW	None Reported	None Reported	
NAKURU COURTS LAW	<ul style="list-style-type: none"> 3 Training for stakeholders (sponsored by LRF) Court users committee members retreat and stakeholder engagement Open service week for stakeholders and the public Implementation of separate court users committee for children Partnership with Legal resource foundation Children service week 	<ul style="list-style-type: none"> Funding 	
NANYUKI COURTS LAW	<ul style="list-style-type: none"> Reduced case Backlog through use of plea bargaining, quick execution of warrants, provisions of trial necessary documents to the accused and conducting a service week for Civil and ELC in the lower court among other measures Increased reliance on ADR to resolve disputes by the chiefs after training was conducted Successfully participated in public engagements forums. These were the ASK show, prison visits, and sensitisation forums Increased stakeholder engagements that have contributed to increased participation in CUC activities, improvement in transparency and accountability leading to expeditious delivery of service Installation of a case tracking system that has to lead to an efficient way of tracking cases and better services to court users 	<ul style="list-style-type: none"> Adjournments by forensic experts and document examiners Ignorance by the litigants Suspects who are out on bond threaten witnesses in serious cases Challenges in bonding witnesses who are mostly nomads Lack of enough judicial officers in the lower court and the High Court has lead to case backlog Challenge in managing children cases where there are no good policies and basic needs in children's homes; backward practices that lead to early child marriages; reconciliation and withdrawal of sexual offences cases Lack of sign interpreters impede access to justice 	
NAROK COURTS LAW	<ul style="list-style-type: none"> Reduced backlog, especially murder and criminal appeals Decongestion of prison facilities Narok GK Prison visit, Children home visits (Osotua Girls Rescue Centre, Jeremiah Children Home and House of Hope Home. inaugural children court user committee conference in June 2019 Regular CUC meetings, Bar-bench meetings, and LMT meetings. 	<ul style="list-style-type: none"> Lack of adequate accommodation (courtrooms) to hold court sessions. Lack of washroom facilities for litigants, Judicial officers, Judicial staff, members of the bar and other court users. Absence or lack of attendance of CUC meetings by some stakeholders. Transport challenges faced by CUC members due to the vast jurisdiction of Narok Law Courts. Lack of training for registry staff e.g. cause a listing of matters concerning minors, divorce. Shortage of qualified accountants and auditors. Limited budget (inadequate funding) towards holding CUC meetings and re-treats. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
NDHIWA COURTS	<ul style="list-style-type: none"> There is improved working relationships with other stakeholders/departments due to frequent discussions There is improved delivery of justice due to improved working relationship since the department work together in the tracking of cases There is improved stakeholder engagement by ensuring that each department plays its role without delay and continuous consultations There is reduced backlog of cases due to a good working relationship with other departments/stakeholders 	<ul style="list-style-type: none"> Lack of adequate accommodation (courtrooms) to hold court sessions. Lack of washroom facilities for litigants, judicial officers, judicial staff, members of the bar and other court users. Absence or lack of attendance of CUC meetings by some stakeholders. Transport challenges faced by CUC members due to the vast jurisdiction of Narok Law Courts. Lack of training for registry staff e.g. cause a listing of matters concerning minors, divorce. Shortage of qualified accountants and auditors. Limited budget (inadequate funding) towards holding CUC meetings and re-treats. 	
NGONG COURTS	<ul style="list-style-type: none"> Three meetings held. Incorporation of new members. Installation of a container that serves as criminal registration. Photocopier for making copies for remandees. Photocopy papers from CUC members 	<ul style="list-style-type: none"> Frequent transfers of court station heads which hampered timely holding of meetings and follow up of proposals. Inadequate funding thus activities limited to meetings only. Congestion of the temporary court facility. Lack of holding cells for remandees. No interviewing room/space for the various CJS players such as the Probation and Children's department. Removal of Magadi Mobile Court 	
NKUBU COURTS	<ul style="list-style-type: none"> Improved relationships between the courts and the public. Collaboration with relevant stakeholders in clearing case backlog CUC well represented by all relevant stakeholders The CUC Public Relations and Communications Committee managed to sensitize the community on sexual offences and succession matters A CUC CSO banana project started to impart skills to offenders and close up the existing gap between the community and the courts. Community sensitization and awareness created on succession, sexual offences and Gender-Based violence on Weru TV and Radio The CUC partnered with South Imenti Pastors' Welfare Initiative (SIPWI) and constructed human-friendly female/children holding cells at Nkubu police station. Prison mentions done fortnightly. Community outreach through corporate social responsibility to St. Lawrence Children's Home to facilitate physiotherapy services Through the CUC meetings, the courts have been able to communicate the challenges experienced in service delivery to other stakeholders. This has necessitated effective service delivery through collaboration and teamwork. The created a conducive environment between the Court and the Localities Managed to reduced clogging of court with many minor cases which could be finalised by the local administration 	<ul style="list-style-type: none"> Inadequate/untimely funding from the treasury Cultural beliefs and dysfunctional families largely contributing to sexual offenses. Lack of viable projects where CSO offenders can be placed to learn skills which they can apply in their daily life. Communication barrier due to illiteracy. 	
N Y A H U R U R U LAW COURTS			<ul style="list-style-type: none"> Unfinished project of a CPU located at the Nayhururu Police Station

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
NYAMIRA LAW COURTS	<ul style="list-style-type: none"> •Improved administration of Justice within the Jurisdiction of the court after sharing challenges experienced by stakeholders. •Strengthened feedback mechanisms among stakeholders. •Improved dialogue among stakeholders. •Improved information sharing and learning among stakeholders. •Improved working relationships among stakeholders. •Reduced conflicts among stakeholders. 	<ul style="list-style-type: none"> •Inconsistence of members who do not attend CUC meetings frequently thus hindering the subsequent deliberations. •Delayed timely planning of the CUC meetings as a result of delayed funding. •Inadequate funding for training of the members who don't understand the process, organization, and objectives of CUC. •Inadequate funding to facilitate the holding of more meetings. 	
NYANDO LAW COURTS	<ul style="list-style-type: none"> •The court was able to acquire land in Nyakach (Sundu Miriu law courts) 	<ul style="list-style-type: none"> •Financial problems to implement the project 	
NYERI LAW COURTS	<ul style="list-style-type: none"> •The shelving of registries and also some floor repairs •Training of investigations officers on job efficiency and effectiveness •Training for the chiefs, elders and assistant chiefs on ADR/AJS •File audit and integrity •Purchase of stationeries and the coat of arms •There have been the expeditious submission of case files after the training of the investigation officers and the administrators •There has been safe custody of files and conducive working environment after the registry improvements 	<ul style="list-style-type: none"> •Lack of training especially for the County CUC •Inadequate infrastructure and funding especially for stakeholders such as the Police, the ODPP and the Children Department 	
OGEMBO LAW COURTS	<ul style="list-style-type: none"> •Great uptake of mobile court services through the three namely Etago, Nyamarambe, and Nyamaiya who fully comply and file all pleas through the mobile court register. •A surety database was created to help curb brokers •Photos of exhibits especially that of large quantities of Alcohol were encouraged to cut on transportation. •Worked with stakeholders like the LSK South Nyanza branch to ensure that the court land is protected. This is in a matter before the court in Constitutional Petition 7 of 2018. 	<ul style="list-style-type: none"> •Heavy cause list for a day's visit to the mobile court. •Increase to 2 per week •Cells at the court have no provision for juveniles. This led to the mix-up but the Head of Station issued notices for them to be separated •Lack of a holding cell for juvenile and traffic offenders. •Funds should be availed for washrooms, juveniles, and traffic offenders •Lack of storage facility •Lack of a scene of crime officer to prepare a certificate of photographs for production. •Lack of a title deed for the court's land and continued land planning by the county government on up hazard. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
OTHAYA COURTS	<ul style="list-style-type: none"> •Partnered with JPIP and FIDA-Kenya where elders were trained on Alternative Justice Systems. The participants were equipped with knowledge of the law of succession and children matters. •Purchased furniture, stationery and procured a witness protection box which has been useful in taking evidence of children. •Partnered with FIDA Kenya and held a one-day meeting where members were trained on Court Annexed Mediation and were encouraged to take up the course and were urged to disseminate the information to the public. •The Othaya Constituency Development Fund has issued to the court a grant of Sh500000 for purchase of furniture. •Reduction of Case Backlog where with cooperation with the area chiefs we were able to reach out to parties in Succession matters filed in 2016 and 2017 we had most of the matters revived and /or disposed-off. •Quarterly Prison Barazas at GK King'ong'o Prison with the remandees. where the remandees were able to raise issues that were addressed by the relevant offices. •Visit the Nyeri Juvenile Home •Visit Kiamuya Secondary School and held candid discussions on issues affecting the youth and the role of the various departments that work with the court. 	<ul style="list-style-type: none"> • Stalled Construction • Difficulty in availing expert witnesses • Resentencing of Offenders as a result of the Muruatetu case. •Nyeri County Alcoholic Drinks Control and Management Act - There is difficulty in implementing the said Act especially Section 40 touching on the offence of breach of licences. • Inadequate funding for CUC activities 	<ul style="list-style-type: none"> •NCAJ to pursue the matter with the Director Building Services to have the matter of stalled construction resolved •With no clear direction or guidelines as to how this resentencing should be conducted. We urge the NCAJ to pursue the issue with the relevant office in order to have uniform procedures and outcomes. •Increased funding to CUCs
OYUGIS COURTS	<ul style="list-style-type: none"> •Improved relationship between the court and the public. •The public has been sensitized on the court processes and procedures. •The good working relationship between the court and the other stakeholders. 	<ul style="list-style-type: none"> •Inadequate funding. •Inconsistent members who don't attend the meetings frequently thereby hindering the subsequent deliberations. •Timely organization of meetings due to delayed funding. •Inadequate training for members who don't understand the process, composition or organization of the court users committee. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
<p>RONGO COURTS</p> <p>LAW</p>	<ul style="list-style-type: none"> • There has been improved the cordial relationships between stakeholders. • There has been consultation among stakeholders on various issues and the judicial services to the people has improved. • Through the CUC stakeholder's efforts in public barazas and other fora, members of the public have been able to have enhanced access to court and the traditional fear that people had towards the court has been demystified. • Through the CUC efforts, members of the public have been able to be enlightened on the jurisdiction of the court as far as environmental and land matters are concerned. This has reduced the cost of access to justice to the members of the public who initially used to travel a long distances to Kisii and Migori to seek redress over issues of land and environment. • Through the endeavors of the CUC, the perception of the members of the public as regards court and judiciary generally has improved and there has been an increased visit by members of the public to consult on various issues. • Reduced case backlog which was a result of each concerned stakeholder performing its work effectively and on time. Many warrants of arrest were executed and reports from both probation and children departments were filed on time. • The sensitization of community members through various public fora by the CUC members has improved the way in which cases such as defilement are reported. It is currently in the public domain that such cases should never be concealed and neither should they be handled by local administrators nor by village kangaroo courts. • The CUC met quarterly during the period under review and its agenda generated/crafted depending on matters/crime trends in the surrounding community. This created an enabling environment to discuss issues of real-life affecting communities. • Due to discussions, there has been a decrease in the number of court brokers and quacks at Rongo Law Court. • Through CUC engagement with the public, we have witnessed the growing consciousness of the public on court processes and increased confidence in the judiciary. Swelled registration of cases in this court attests to this. 	<ul style="list-style-type: none"> • Lack of enough resources/finances to facilitate certain core activities. With the availability of resources, the Rongo CUC would be able to carry out community outreach programmes effectively. • Dynamism in crime trends makes it challenging to discuss issues with finality and conclusively. • Traditional thinking held by members of the community towards the judiciary impedes sensitization exercises. 	
<p>RUIRU COURT</p> <p>LAW</p>	<ul style="list-style-type: none"> • Meeting as stakeholders in our inaugural CUC meeting of May 31, 2019 to discuss and set the goals for the court 	<ul style="list-style-type: none"> • Lack of funding for CUC meetings as the court commenced operations in the last quarter of the last financial year 	
<p>RUNYENJES COURTS</p> <p>LAW</p>	<ul style="list-style-type: none"> • Established closer collaboration and good working relationships among all stakeholders. • Reduced backlog in petty offences through alternative dispute resolution (ADR) • On June 11, 2019 the CUC held a special meeting with Chiefs and Ass. Chiefs on issues of ADR. • Reduced crime rates through information sharing and collaboration. • Peer review among members and fruitful discussions. 	<ul style="list-style-type: none"> • Inadequate funding • Late disbursement of funds. • Members are not adequately trained on the role of CUC members. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
SHANZU COURTS	<p>LAW</p> <ul style="list-style-type: none"> Members were trained on human rights and the role of CUC by Non-governmental organization MUHURI Members addressed the issues and challenges concerning plea bargaining which was a relatively new approach in the criminal justice system. Sensitization of Police bail and bond policy hence proper understanding of work between court and police. Sensitization on Human trafficking issues and Commercial Sexual exploitation of Children There was clear clarification on how best to handle drug addicts, members appreciated that accused persons who are drug addicts need help and not punishment. Collaboration with UNODC and put up a Methadone Centre within Shimo La Tewa Prison. Collaboration with TRACE KENYA for training an The ODPP and Judiciary resolved the issue of amendments to the charge sheets. Kwale, Malindi, Mombasa, and Shanzu court users committee were brought together at a common sharing platform presenting an opportunity for actors to share and emulate best practices. Search for Common Grounds implemented the justice for peace project which aims at preventing violent Conflict through constructive engagement between the Criminal Justice Actors and communities at risks. Members discussed on FY 2019/2020 CUC work plan which proposed training for members on operations of CUC and what is expected of them, training on juvenile matters focusing on conviction and their welfare, a training on integrity and good governance. Likoni Children’s remand offered to train and sensitize members on the distinction between services offered at children remands and rehabilitation schools. MUHURI will support the training on countering violent extremism and also on the Human Rights-Based Approach and Training on drug and substance abuse. 	<ul style="list-style-type: none"> Most of the youth in Mombasa and Kilifi Counties are affected by drug addiction because it is easily available. There were only a few drug traffickers and barons being arrested and prosecuted. Cases of defilement among the minors in the region were quite alarming. The law seems punitive to only the boy child, this, therefore, does not discourage girls from involving in sexual activities. Lack of funds for some programs which were previously being supported by local NGOs Members need reimbursement for transport costs to attend the meeting venues but the CUC vote is not sufficient and does not cater for the same. 	
SIKAGO COURTS	<p>LAW</p> <ul style="list-style-type: none"> Renovated the old court cells building into a good civil registry. A further request was made for more funds to make shelves in the refurbished civil registry and members gave the go-ahead. Shelves were put in the renovated civil registry and lockable steel cabinets put in Children service week was done 	<ul style="list-style-type: none"> Lack of funds to equip Children Protection Units with necessities such as mattresses, blankets, and other requirements. Our registries are congested due to limited space. The court does not have a perimeter wall/fence. No sufficient space in the holding cells. There are no separate cells for children and women. There are no toilets in the cells There are police stations and police posts that are far away from Sikago Law Courts and take time to return these forms. No funds to make the follow-up. Siakago Law court does not have a waiting bay forcing our visitors to wait under the trees during both sunny and rainy seasons. 	<ul style="list-style-type: none"> Need to ensure Child Protection Units for the children in conflict with the law are functional or set up in all police stations.

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
SIAYA COURTS LAW	<ul style="list-style-type: none"> • Training local administrators i.e chiefs and assistant chiefs from Alego Usonga and gem sub-county on evidence storage on defilement cases. • Partnerships to hold CUC meetings e.g. Plan International supported a meeting held on March 20, 2019. • Acquisition of witness box for two courts • It has improved the working condition between the stakeholders and the court 	<ul style="list-style-type: none"> • Inadequate funding • Lack of donors to sponsor various CUC activities. • Delay in funding causes a delay in organizing the CUC meetings. 	
SIRISIA COURTS LAW	<ul style="list-style-type: none"> • Solar panel installed • Waiting bay for Court users • Prison mentions in two weeks • Delinking from National Treasury • Open day in Sirisia and in Cheptais-Chesikaki • Refurbishment of exhibit store and archives • Furnished board room • Training of Investigating Officers, Prosecutors, and CUC Stakeholders • CUC Meetings on Quarterly basis was held. • Trained the Chiefs, Assistant Chiefs, and IOs. • Purchased the MFP Printer, Steel Cabinets and Witness Box • Improved criminal case clearance • Improved provision of witness statements to the accused through a collaboration of various stakeholders • The improved customer satisfaction rate • A better understanding of roles played by various departments in the justice system 	<ul style="list-style-type: none"> • Staffing issues; No process servers; More support; More Accountants and Clerks due to delinking 	
SOTIK COURTS LAW	<ul style="list-style-type: none"> • CUC Meetings on Quarterly basis was held. • Trained the Chiefs, Assistant Chiefs, and IOs. • Purchased the MFP Printer, Steel Cabinets and Witness Box 	<ul style="list-style-type: none"> • Inadequate funds for CUC meetings • Mobile court yet to be opened 	
TAMU COURTS LAW	<ul style="list-style-type: none"> • Improved criminal case clearance • Improved provision of witness statements to the accused through a collaboration of various stakeholders • The improved customer satisfaction rate • A better understanding of roles played by various departments in the justice system 	<ul style="list-style-type: none"> • Nonattendance by policymakers • Inadequate funding • Non Attendance by LSK • Non approved stakeholders requesting to attend and participate 	
TAVETA COURTS LAW	<ul style="list-style-type: none"> • Timely availing of witnesses by the prosecution. • Acquisition of a new Photocopying Machine and this has enhanced • Timely supply of statements • The smooth operation of court cases • Increased awareness of the public that has led to more people reporting offences i. e sexual cases and domestic violence • Through the Children's Officer's office, the number of children requiring Protection and Care has subsided. 	<ul style="list-style-type: none"> • Cultural practices i. e Disco Matanga that have eroded some of the gains that have already been achieved. • Inadequate funding • Regular transfer of Departmental Heads. • Failure to post promptly the Departmental Heads once transferred. 	
TAWA COURTS LAW	<ul style="list-style-type: none"> • The accused person and the police can easily acquire witness statements. • Community sensitization to access to justice • Promotes people-focused delivery to justice • Reduction of case backlog through ADR • Promoting inter-agency co-operation 	<ul style="list-style-type: none"> • Inadequate funding • Inconsistency in attendance affected mostly by member transfers • Lack of motivation for members. • Lack of interest by some stakeholders 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
THIKA COURTS	<p>LAW</p> <ul style="list-style-type: none"> •Active CUC committee with good collaboration and representation of all stakeholders. •The thorny issue of delay in acting on production orders was resolved after all parties concerned promised to play their roles. The court assistants were tasked to ensure that they delivered the signed orders to specific officers charged with producing such persons. •Strict adherence to separation of women, children and men inmates at court cells to be reinforced by the court orderlies. •A sub-committee headed by the sub-county children officer constituted to oversee the completion of the CPU at Thika police station. •A prison visit by the judiciary made to find out the level of congestion and case backlog. •The issue of delay in determination of cases where exhibits needed to be taken to government chemist for authentication resolved by concerned parties agreeing not to be waiting for the same when the exhibits involved were small and of little value like a few rolls of bhanga. •Police files/statements availed daily due to close collaboration amongst stakeholders. 	<p>CHALLENGES</p> <ul style="list-style-type: none"> •Frequent transfers of I.Os leading to delays in hearing cases. •Lack of facilitation for witnesses who travel from far to attend court hearings leading to adjournment and delay in hearing and determination of cases. •Lack of finances to complete the CPU at Thika police station. •Overcrowding in court cells causing concern over possible mixing of inmates i.e. males, females, and juvenile inmates. The court cells need to be expanded and security reinforced to avoid the possible escape of inmates. •Inadequate staffing in Thika court station especially for magistrates leading to case backlog. •Delay in production of test reports from Government chemists. 	
TIGANIA COURTS	<p>LAW</p> <p>None Reported</p>	<p>None Reported</p>	
UKWALA COURTS	<p>LAW</p> <ul style="list-style-type: none"> •Members of the public were sensitized through public barazas on land matters. •A court registry has been extended •Funding by Malaika Foundation to Ukwala CUC in a partnership where a workshop was held theme was 'the role of court users in promoting safe space for women and girls in Siaya County. •CUC Members visited Siaya Prisons where inmates aired their grievances. •Solar Panels were installed due to frequent power outages. 	<ul style="list-style-type: none"> •Some proposed CUC activities were rejected. •Allowances not facilitated, only lunch was provided. •In attendance by some members due to other commitments. •Financial constraints in the last financial year. •Short notices to prepare proposals forcing inviting CUC members at short notice. 	
VIHIGA COURTS	<p>LAW</p> <ul style="list-style-type: none"> •Purchase and installation of solar panels •Witnesses' expenses for those who testify in court are paid promptly. •The new building of is now operational after inauguration ceremony conducted by His Lordship DAVID K. MARAGA the president of the Judiciary of Kenya on July 12, 2019. •The CUC had a retreat tour to Mbita in Homa Bay County and successfully interacted with their counterpart of Mbita on CUC related issues. They played soccer/football and Hon. Willy Cheruiyot emerged as the best player by scoring goals. •The CUC also successfully conducted service week on sexual offences related matters, incest cases, children cases and other criminal& family-related cases on November 12 – 16, 2018 where members of the CUC and non-governmental organizations participated in sensitizing the public on how courts operate starting from customer care desk to registries. 	<ul style="list-style-type: none"> •The CUC lacks fundings for training or sensitizations. 	

COURT	ACHIEVEMENTS	CHALLENGES	RECOMMENDATIONS
VOI LAW COURTS	<ul style="list-style-type: none"> •Collaborated with Kituo cha Sheria and sensitization for CUC members on refugee protection was done on July 18 – 19, 2019. •Participated in the stakeholder engagement by the court fees assessment committee on October 15, 2018. •Construction of witness boxes for courts No. 1, 2 and 3 funded to a tune of Sh100,000 •Sensitization training of chiefs, assistant chiefs and village elders on alternative justice systems •Purchase of a bulk filer funded to a tune of Sh100,000 and Sh70,000 intended for toners. 	<ul style="list-style-type: none"> •Lack of quorum in the meeting 	
WAJIR COURTS	None Reported	None Reported	
WANG'URU COURTS	<ul style="list-style-type: none"> •Reductions in complaints from the public and office of ombudsman. •Zero corruption-related cases. •Remandees getting their statements on time from the CUC kitty. •Speedy determination of cases by promoting the ADR mechanism. •Flexible bond terms offered to decongest prisons •CUC members appointed to visit schools and talk to children on the dangers of drug abuse. •Mobile court-Karaba going on well. 	<ul style="list-style-type: none"> •Yet to get funding on Karaba land to construct court. •The road to Karaba is still in poor condition. •No women prison at Kirinyaga county. The nearest is in Embu county. •No children's remand home in Kirinyaga county. The children's remand home is only found at Murang' a which is nearest. •No cells for holding women and children at Wang'uru due to the stalled building under construction. •Court no.2 still housed by Kirinyaga county and they need their building back. •Pit latrines for staff at the court are filled up. •Pro Bono fees for Advocates not paid on time. 	
WEBUYE COURTS	<ul style="list-style-type: none"> •Training of Chiefs, Assistant Chiefs and one Member from each Sub location-based ADR committee from Webuye West. •Pro Bono Services which was funded. Matters were concluded professionally without delay. •Witness Expenses which we were funded assisted in paying witness expenses who came to give evidence minimizing adjournments of cases. •1 A photocopier machine was purchased. We received 80 reams of photocopying papers which has assisted the court make statements for remandees to enable them to prepare themselves for hearings. 	<ul style="list-style-type: none"> •Failure to train ADR Members from Bungoma East due to lack of enough funds and time due to HUDUMA No. exercise which was ongoing. •No more funding for Probono services, we Still have matters Pertaining to children who are in conflict and in contact with Law. •Funds were not received in time prompting us to underspent our AIE. The balance in our AIE was sent back to the treasury. 	
WINAM COURTS	<ul style="list-style-type: none"> • Reaching out to other co-opted members of the CUC. •Proposed projects sailing through e.g. partitioning of holding cells to separate adults from children. •Bonding amongst stakeholders has been enhanced from time-to-time meetings. •Improvement in the administration of justice 	<ul style="list-style-type: none"> •No proper feedback because of the delegation of officers from time to time. •Late disbursement of funds which delays planning for 1st quarter meetings. •Most members do not act on committee resolution. 	
WUNDANYI COURTS	<ul style="list-style-type: none"> •There have been sensitisation on sexual offences especially for the Police and Prisons Departments •Specialised witnesses such as Doctors have hence been ready to testify in sexual offences cases •There is a good working relationship between the court and the public •There have been better communication through social media thus engaging more members •There have been quarterly visits to remandees and prisoners as part of CSR 	<ul style="list-style-type: none"> •Inconsistencies in attendance and sometimes double attendance from similar departments •Lack of cooperation in providing records after sexual offenders have been convicted despite such discussions in the CUCs •Lack of a second prosecution Counsel has had a negative impact on court cases and the clients 	<ul style="list-style-type: none"> •Recommendation for out of pocket allowances for attending meetings



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