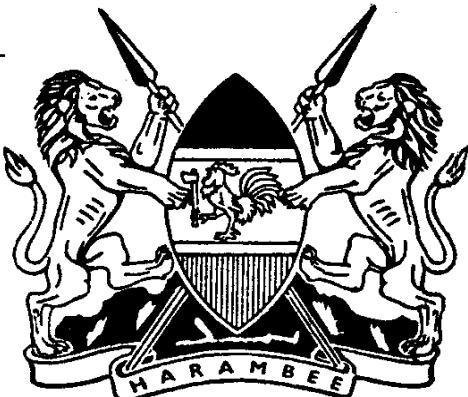


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STATE OF THE JUDICIARY AND THE ADMINISTRATION OF JUSTICE ANNUAL REPORT, 2014 –2015

FOREWORD

The reforms in the entire justice sector accelerated in the financial year 2014/2015. In the Judiciary, significant advances were made in terms of reduction of case backlog; finalization of key policy documents; introduction of performance management framework; review and improvement of the human resource management; continued expansion of court infrastructure; introduction and use of scientific and data analysis methods, the transition of tribunals into the Judiciary, among others.

It is indeed noteworthy that the cooperation and coordination in the justice sector is increasingly deepening. The period under review yielded at least three major policy measures, including *Bail and Bond Policy Guidelines*, *Traffic Guidelines* and *Sentencing Policy Guidelines*. These were developed within the framework of the National Council of the Administration of Justice (NCAJ). The NCAJ also expanded its regime of work to include County Governments, and held the *Inaugural Annual NCAJ-Council of Governors Conference on the Administration of Justice within the Context of Devolution*, which has now become an annual event.

Individual justice sector agencies recorded positive progress on many fronts, as discussed in detail in Chapter Four of this Report. It is indeed gratifying that there is evidently increased cross referencing of agency activities, both in operation and in reporting, which is a positive indicator of emerging coordination and collaboration, the founding bases of the NCAJ. The data presentation of NCAJ agencies is also becoming richer and more robust.

Going forward, it is important that these reform processes are consolidated and sustained as an essential part of fulfilling Kenya's constitutional aspirations. The Judiciary will continue with the transformation work which began in 2011, and which is now further codified in the Strategic Plan, 2014-2018, and in a host of other new sectoral management policy documents including on human resource and finance. It is my hope that Parliament will find urgency in enacting the Judiciary Fund Bill that is four years behind schedule.

The production of this Report would not have been possible without the support of all the heads and technical representatives of the NCAJ agencies and I wish to thank them. Let me recognise the tremendous effort of the technical team, the State of Judiciary and Administration of Justice Preparations Committee led by Duncan Okello, for the excellent work they have done. It is the dogged determination of the Committee members, Moses Maranga, Hon. Moses Wanjala, Hon. Lorraine Ogombe, Hon. Lyna Sarapai, Hon. Maloba Were, Hon. Daisy Mosse, Hon. Kennedy Bidali, Martha Mueni, Jackie Mulwa, John Muriuki, Dr. Masha Baraza and Irene Omari that has made the production of this report possible. I wish to thank the Judiciary family members including judges, magistrates, kadhis, members of the tribunals and judicial staff for the work they continue to do in serving the Kenyan people.

Thank you.

DR. HON. JUSTICE WILLY MUTUNGA

Chief Justice and President of the Supreme Court of Kenya

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LIST OF ABBREVIATIONS

AACs	Area Advisory Councils
ACC	Advocates Complaints Commission
ADR	Alternative Dispute Resolution
ASK	Agricultural Society of Kenya Shows
ATP	Advocates Training Programme
AU	African Union
BCUC	Business Court Users Committee
CCPOs	Child Care and Protection Officers
CCR	Case Clearance Rate
CDF	Constituency Development Funds
CJ	Chief Justice
CLE	Council of Legal Education
CLE	Council of Legal Education
COA	Court of Appeal
COG	Council of Governors
CPCs	Child Protection Centres
CPUs	Child Protection Units
CRJ	Chief Registrar of the Judiciary
CSO	Civil Society Organisation
CUCs	Court Users Committees
DCI	Directorate of Criminal Investigation
DCJ	Deputy Chief Justice
DPAC	Directorate of Public Affairs and Communication
EACC	Ethics and Anti-Corruption Commission
ELC	Environment and Land Court
ELRC	Employment and Labour Relations Court
Fida - Kenya	Federation of Women Lawyers in Kenya
GBV	Gender Based Violence
IC	Initiated Cases
ICJ	International Commission of Jurists
IEBC	Independent Electoral and Boundaries Commission
IEC	Information, Education and Communication
IFMIS	Integrated Financial Management Information System
IG	Inspector General of Police
IGRA	Intergovernmental Relations Act
IJS	Informal Justice Systems
IT	Information Technology
JCE	Judiciary Committee on Elections
JLAC	Justice and Legal Affairs Committee
JMVB	Judges and Magistrates Vetting Board
JPIP	Judicial Performance Improvement Program
JSC	Judicial Service Commission
JTF	The Judiciary Transformation Framework
JTI	Judicial Training Institute
JTSP	Judiciary Transformation Support Project
JWCEP	Judiciary Working Committee on Election Preparations
KAM	Kenya Association of Manufacturers
KCA	Kenya Children Assembly
KCSE	Kenya Certificate of Secondary Education
KHRC	Kenya Human Rights Commission
KIP	Kenya Integrity Plan
KLRC	Kenya Law Reform Commission
KNEC	Kenya National Examinations Council
KSL	Kenya School of Law
LAN	Local Area Network
LRA	Land Registration Act
LRF	Legal Resource Foundation
MDA's	Ministries, departments, agencies

MKCRM	Magistrates and Kadhis Courts Registry Manual
NACCSC	The National Anti-Corruption Campaign Steering Committee
NALEAP	National Legal Aid (and Awareness) Programme
NCAJ	National Council on the Administration of Justice
NCRC	National Crime Research Centre
NCRC	National Crime Research Centre
NGO	Non-Governmental Organisation
NLC	National Land Commission
NPS	National Police Service
NTSA	National Transport and Safety Authority
OAG&DOJ	Office of the Attorney General and Department of Justice
ODPP	Office of the Director of Public Prosecution
OJO	Office of the Judiciary Ombudsperson Office
ORMS	Offender Records Management
PAD	Project Appraisal Document
PAS	Performance Management System
PFM	Public Finance Management Act
PIL	Public Interest Litigation
PMMUs	Performance Management and Measurement Understandings
PRI	Penal Reform International
PSAs	Public Service Announcements
PSC	Public Service Commission
RC	Resolved Cases
SGR	Standard Gauge Railway
SIL	Strategic Impact Litigation
SLAA	Security Laws (Amendment) Act
SOA	Sexual Offences Act
SOPs	Standard Operating Procedures
SSR	Security Sector Reform
SWG	Special Working Group
TA	Transition Authority
TC	Technical committee
TDGA	Transition to Devolved Government Act
TJRC	Truth Justice and Reconciliation Commission
UNCAC	United Nations Convention against Corruption
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UPR	Universal Periodic Review
WPA	Witness Protection Agencies
WPP	Witness Protection Programme

CHAPTER ONE—LEADERSHIP AND MANAGEMENT

1.1 Leadership and Management Outlook, 2014/2015: Context and Overview

Leadership and management arrangements for the Judiciary are provided for in the Constitution and the Judicial Service Act, 2011. The Chief Justice is the head of the Judiciary, President of the Supreme Court, Chairperson of the Judicial Service Commission (JSC), The Chairperson of the National Council on the Administration of Justice (NCAJ) and the Chairperson of the National Council on Law Reporting. The Chief Registrar of the Judiciary (CRJ) serves as the Chief Administrator and Accounting Officer of the Judiciary, and is also Secretary of the Judicial Service Commission and the National Council on the Administration of Justice.

During the FY2014/15, the Judiciary leadership engaged both internally and externally on a variety of issues. *Internally*, consultations with various institutional cadres such as Resident Judges, Heads of Stations, Registrars and other judicial administrators addressed emerging concerns at the service delivery level. Towards this end, leadership and management strategy and planning sessions deliberated and resolved issues related to development of policy documents, case clearance, performance management, infrastructure development, human resource development and management, and inter-agency cooperation through Court User Committees and greater public outreach.

Externally, through the NCAJ, the Judiciary provided institutional leadership in facilitating discussions and initiatives aimed at deepening cooperation in the justice sector within the context of the Constitution. 2010. These included new frontiers such as the *Inaugural Annual NCAJ- Council of Governors (CoG) Conference on Administration of Justice within the Context of Devolution*, as well as capacity-building initiatives for agencies involved in the regulation of cross-border commerce through the launch and subsequent training and sensitization of Judicial officers on the Kenya Association of Manufacturers (KAM) - NCAJ '*Enforcement Manual for Combating Illicit Trade*'. The Chief Justice, Deputy Chief Justice and Chief Registrar of the Judiciary also led official tours to Central, Rift Valley, Western and Nyanza tour to meet and engage with court users and the county leadership where they met with seven Governors and toured 14 court stations.

The leadership and management of the Judiciary *complied with all constitutional and statutory requirements* including holding of quarterly NCAJ Council meetings, preparation and submission of the Judiciary and JSC budgets to the National Assembly; gazettlement and transmittal of the Annual State of Judiciary Report and Administration of Justice Report (SOJAR), 2013/2014 to Parliament; and submission of all the other requisite statutory reports which were filed with the Kenya National Bureau of Statistics, the Committee on National Values and Cohesion and the Auditor General among other agencies.

1.2 Leadership and Management, 2014/15: Strategic Directions and Policy Priorities

During the financial year 2014/2015, the leadership of the Judiciary, and the justice sector in general, primarily focused on the development and finalization of major policy documents; reduction of case backlog; strengthening of accountability frameworks; streamlining human resource operations in the Judiciary; expanding and streamlining of court infrastructure; improving judicial practice and operations through development of various policies; continuous stakeholder engagement; and deepening interagency cooperation.

The reduction of case backlog has remained a centre-piece of Judiciary transformation programme. In February 2015, a Rapid Results Initiative, "Justice@Last: Clearance of Old Cases Initiative" was launched in the High Court at Milimani, Nairobi. The objective of the initiative was to deal with the oldest of the pending cases in the family, civil and criminal divisions of the High Court and to decongest the over-stretched remand and prison facilities. After a successful pilot, the programme was then rolled out to nine other High Court and Magistrates Court stations that had been identified as needing rapid intervention. As a result of the initiative, over 48, 163 cases were concluded in the High Court stations alone over a period of six months. At the end of FY2014/15, the total caseload stood at **612, 309**.

During the reporting period, at least *7 major policy documents* were developed including the Judiciary Strategic Plan, JSC Charter, the Finance Procedures Manual and the Human Resources Manual, Transfer Policy for Judges, Judicial Officers and Staff, Bail and Bond Policy Guidelines among others.

1.3 Improving Judicial Practice

1.3.1 Bail and Bond Policy Guidelines

One of the main developments in the FY2014/15 was the conclusion of the work on Bail and Bond Policy Guidelines, an initiative aimed at streamlining the administration of bail and bond in the criminal justice system. The Taskforce was chaired by Hon. Lady Justice Lydia Achode. The Report of the Task Force contained a detailed Implementation Matrix that sets out the measures to be undertaken in the short, medium term and long term in improving bail and bond administration and application. The Bail and Bond Policy Guidelines will guide police, prosecution, probation, judicial and prison officers on the application and administration of bail and bond; and the Report makes appropriate recommendations on legislative and regulatory amendments necessary for addressing inconsistencies and enabling fair administration of bail and bond measures. The Bail and Bond Policy Guidelines have been disseminated to all judicial officers who have begun to actively implement its provisions.

In October 2015, vide Gazette Notice No. 7480, Hon. Lady Justice Jessie Lesiit was appointed the chair of Bail and Bond Implementation Committee (BBIC) to oversee the implementation of the Bail and Bond Policy Guidelines and Recommendations of the Bail and Bond Taskforce. More particularly, the Implementation Committee will conduct sensitization and training exercises; undertake sector-wide stakeholder engagement; and monitor, evaluate and report on the implementation of the Bail and Bond Policy Guidelines.

1.3.2 Sentencing Policy Guidelines

In order to address the various challenges on sentencing processes in Kenya, the Judiciary Taskforce on Sentencing was established to develop appropriate guidelines. During the reporting period, the Sentencing Taskforce is carried out a review of past sentencing patterns, policies and outcomes; established patterns of disparities; reported on measures to achieve uniformity, certainty and proportionality. Chaired by Hon. Justice Mbogholi Msagha, the Taskforce has undertaken in-depth research, stakeholder engagement, public participation through radio and print media with a view to preparing a robust and comprehensive assessment of sentencing in Kenya. The Taskforce also conducted a series of visits across the country the draft Sentencing Policy & Guidelines were subject to a validation workshop in June 2015.

Chief Justice, Hon. Dr. Willy Mutunga, and High Court Judge and Chair of the Sentencing Policy Taskforce, Hon. Justice Mbogholi Msagha, display a copy of Sentencing Policy Guidelines.

1.4 Improving Judiciary Operations

1.4.1 JSC Charter and Policy Manuals

A number of key operational manuals and policies were developed and launched during the reporting period. The leadership spearheaded the completion of these important policy documents thus firmly establishing the support configurations upon which the Judiciary Transformation Framework is to be implemented. These policies are discussed herebelow:

The Judicial Service Commission Charter sets out roles and responsibilities of each Commissioner, and the standards that each one of them is expected to uphold in the performance of his or her duties. Developed with the representation of courts, registries, directorates and departments across the Judiciary, the JSC Charter ensures that the national values and principles of governance, values and principles of public service, and provisions on leadership and integrity in the Constitution are upheld in the conduct of JSC business. The Charter outlines principles geared towards professional excellence on the part of the Commission.

The Judiciary Strategic Plan 2014-2018 segues into the Judiciary Transformation Framework 2012-2016 (JTF) and operationalizes the objectives and priorities of that Framework. It furthers the vision of JTF, building on the foundations for a transformed Judiciary that the JTF has laid down. The 2014-2018 Strategic Plan for the Judiciary is the culmination of concerted and collaborative multi-stakeholder efforts and consultations.

The Finance and Accounting Policy and Procedure Manual is part of the Judiciary's commitment towards improving the management of public resources and ensuring that the Judiciary remains accountable and transparent in this regard. The manual has been developed in recognition of the need for a single, documented reference guide for Finance and Accounts officers in the Judiciary. The development of the accounting policy and procedure manual was preceded by a detailed gap analysis that identified some key areas of challenge in the existing finance and accounting processes and practices. The guidelines in the manual are anchored in the Constitution with particular reference to Chapter 12 on public financial management as well as the overarching principles expressed in the Public Financial Management Act (2012).

The Human Resource Policies and Procedures Manual affirms the commitment of the Judiciary to the protection of rights of its employees by providing a working environment that is fair, caring and supportive of professional and individual growth. The Judiciary remains committed to protecting the rights of employees to engage in dialogue and express ideas in an environment that is free from harassment, discrimination, victimization or exploitation. Further, it entrenches the commitment of the Judiciary is to expanding and maintaining diversity and to accommodating persons with disability in accordance with the provisions of the Constitution.

Towards enhancing the independence and integrity of the Judiciary, an accountable and transparent Judiciary Transfer Policy has been developed for all courts in regard to the deployment of judicial officers from a court station in one region to another region. The Transfer Policy provides for the smooth, predictable and equitable rotation of judicial officers to minimize undue disruption to the administration of justice and to the lives of judicial officers. The policy infuses openness and transparency, predictability, fairness, equity, objectivity, orderliness, integrity and compassion into the transfer processes for judicial officers within the Judiciary.

1.4.2 Human Resource Development and Management

The findings and recommendations of the Institutional Capacity and Staff Rationalization Survey conducted in the FY2013/2014, the requirements of the new Judiciary Transfer Policy, the desire to deal with corruption cartels in registries, and the decisions and determinations of the Judges and Magistrates Vetting Board had far reaching implications on the human resource management and development in the Judiciary. The interventions were implemented to realign Judiciary manpower with the needs of each court station, to address operational shortages left by the ongoing vetting of Judges and Magistrates, to respond to the high rate of staff attrition and to deal with historical injustices on staff career stagnation. A total of 105 judicial officers and 1,216 judicial staff were transferred. Some of these officers had been in one court station for 10 or 20 years. Further, after several years of career stagnation 447 were promoted.

In the period under review, mortgages worth Ksh.605 million, and car loans of KShs. 50 million were disbursed; review of the scheme of service of staff was commenced in November 2014 and should be finalized in the course of the financial year 2015/2016. A complementary data capture exercise aimed at updating staff records has also been finalized.

1.4.3 Institutionalizing Performance Management

During the reporting period, the Performance Management and Measurement Steering Committee finalized their report and the Chief Justice signed the Performance Management and Measurement Understanding (PMMU) with the Chief Registrar, the Principal Judge and President, Court of Appeal on 15th April 2015. During the reporting period, the Judiciary embarked on a process of creating performance standards, synchronized with the best international standards for continuous performance improvement in the courts spearheaded by the Performance Management and Measurement Steering Committee.

The culmination of this process was the development and signing of the PMMUs as tool of performance management and as a part of the wider strategy of enhancing transparency and accountability to the public. The program is to be rolled out to all court stations from the Supreme Court to the Kadhis courts, Directorates and Registries beginning from August 2015. The performance contracts will be cascaded down to all staff through the Performance Appraisal System.

1.4.4. The Big Data Initiative: Judiciary Annual Statistics and Daily Court Returns Template

As part of its transformation, the Judiciary has introduced the scientific method in its approach and decision making. The Judiciary embarked on a process of tracking its progress by use of statistics which led to the production of the Judiciary Annual Statistics Review. It is the first report of its kind which presents statistics on dispensation of justice, finance, human resources and infrastructure for the period 2014/15 Financial Year. The report daily draws from Daily Court Returns Template and Quarterly administrative returns to provide an amalgamation of annual statistical account of the Judiciary's achievements. The report keeps the Judiciary, it's stakeholders and partners in the justice chain, and the wider public, abreast of Judiciary's achievements and what the institution projects to do. The Judiciary relies upon the statistics for informed decision-making especially on matters of dispensation of justice and improvement of court's efficiency. The Annual Statistical Report 2014/15 shows the Judiciary's commitment and resolve to be transparent and accountable to the public that it serves.

With these statistics, the leadership can now scientifically map resource needs and manage allocation and redistribution. More importantly, these statistics are entrenching a culture of accurate documentation of judicial outputs. The institution is now better equipped to illustrate to the nation the unfolding story of Judicial Transformation and to engage with the public and actors in the justice chain about the trends revealed by the data.

Moving into the next financial year, this Big Data Process approach to strategic management will require more resources in order to capacitate the collection and synthesis of the data as well as in order to address the issues and gaps that the trends revealed by the statistics.

1.4.5 Strengthening Accountability Frameworks for the Judiciary

During the reporting period, several initiatives were undertaken to strengthen the accountability processes in the Judiciary. The Directorate Internal Audit and Risk was established and it conducted audits in various court stations and at the Headquarters. Issues of concern raised in the audit report, and which has led to disciplinary processes being taken against responsible staff, include: non-compliance with the management directive not to collect any cash at the stations that is more than Ksh 500; failure to prepare and maintain cash books as instructed in the circular JA/DB/2011 and make monthly reconciliations; failure to reconcile the manual register with the bank statements; failure to prepare annual procurement plans. As an immediate response, an Audit and Risk Management Committee was formed as stipulated under the Public Finance Management Act of 2012. The Committee reports directly to the Chief Justice. Additionally, an Asset management plan was approved by Chief Registrar and will be implemented in coming year.

1.5. Streamlining Judiciary Infrastructure

1.5.1 Court construction, rehabilitation and expansion projects

In the year under review, under the Judiciary Performance Improvement Project (JPIP), construction of the following courts was commenced: Engineer, Chuka, Kigumo, Nyamira, Oyugis and Muhoroni. All these projects were due for completion in 2016. Other court projects initiated during the period included Garissa, Nanyuki, Nakuru, Ol Kalou, Kakamega, Siaya, Makindu and Kibera law courts. The Infrastructure Committee, then chaired by the Registrar, Court of Appeal, finalized its reports on all the building contracts, including controversial ones, and recommended, among other steps, the establishment of building services unit.

1.5.2 Directorate of Building Services

The establishment of the Building Unit of the Judiciary was one of the activities envisaged in the Project Appraisal Document (PAD) of the Judiciary Performance Improvement Project. Twelve positions were advertised and 119 applications received. The successful candidates were scheduled to come on board before the end of 2015. The team's mandate is to streamline court construction in the Judiciary, including design, supervision, construction and maintenance of all court buildings.

1.5.3. ICT: Resuscitating Pillar 4 of the Judicial Transformation Framework

In the year under review, the Chief Justice established the Integrated Court Systems Committee chaired by Hon. Justice Richard Mwongo, Principal Judge of the High Court, to urgently address the question of ICT in the Judiciary. The Committee has given an initial report and has been authorized to partner with the ICT Authority of Kenya to develop a Strategy for delivering and entrenching ICT in the Judiciary. Consequently, a process has been commenced to harmonize and leverage knowledge and insights emerging from the benchmarking exercise and from the various pilots undertaken by the Judiciary. Already, a pilot audio-visual transcription system is underway.

1.6. Transition of Tribunals

Pursuant to the Constitutional requirement that all tribunals be transited to the Judiciary, a Committee chaired by Hon. Justice Kathurima M'Inoti was appointed to provide for a legal and operational framework for an efficient transition. The team is mandated to develop a draft Bill to manage the process. In the interim, 9 tribunals - HIV and AIDS, National Environment, Rent Restriction, Sports Dispute, Energy, Co-operative Societies,

Industrial Property, Standards and Business Premises tribunals - were transferred to the Judiciary together with their recurrent budget of KShs. 205,658,472.00 and development budget of KShs. 41,000,000.00. The transfer of the nine tribunals brings the number of tribunals under the Judiciary to 10, with 64 tribunals yet to be transitioned. This signals the need for increased budgetary allocation to cater for the infrastructural and administrative support required to settle them into the system of courts as envisaged by the Constitution.

1.7. The Chief Justice's Scholarship Initiative

During the reporting period, the number of beneficiaries of the Chief Justice's Scholarship Initiative increased from three to six. Hon. Moses Wanjala proceeded to study for a Masters in Law at the University of Washington, Seattle, while Mr Stanley Ntogaiti and Ms. Katra Sambili both secured partial scholarship awards towards their tuition and upkeep costs to the University of Nairobi and Harvard University respectively. Ms Rose Wacuka received partial scholarship to Oxford University while Mr. Sam Ngure received institutional support from the Office of the Chief Justice to secure scholarship at Cornell University. They join previous awardees, Magistrates Lyna Sarapai, Shadrack Mwinzi and Lorraine Ogombe who form an increasing internal resource pool of experts on sustainable development, human rights, access to justice, intellectual property, adult pedagogy, project management, law reform and strategic management. Other beneficiaries of diverse learning opportunities were processed through the Judiciary Training Institute (JTI) and are detailed in the section on training and professional development.

1.8. People Centeredness and Public Engagement

1.8.1 Public Outreach

In the period under review, the Judiciary participated in several Agricultural Society of Kenya (ASK) Shows in Bungoma, Nyeri, Mombasa, Kabarnet, Kitale and Nairobi. The high attendance rate made the ASK shows a good avenue for public and stakeholder engagement. Judiciary staff took time to explain court services and processes to members of the public. For pupils and students, the Judiciary stands were a major attraction. The Directorate of Public Affairs and Communication (DPAC) managed Judiciary participation in these shows and it also facilitated seven court stations in Wajir, Isiolo, Malindi, Bungoma, Baringo, Kerugoya, and Machakos to mount similar events and other public-facing activities.

1.8.2 Outreach to County Governments

In an effort to promote government inter-branch relations, the Chief Justice, Deputy Chief Justice and Chief Registrar of the Judiciary led the institution in outreach programmes that covered counties in Central, Western, Rift Valley and Nyanza regions, where they held meetings with the public, stakeholders, and local leaders, including Governors. DPAC also facilitated media coverage and publicity for JSC Commissioners when they toured Rift Valley and Lower Eastern regions. DPAC publicized the executive outreach programmes through eight talk shows on local radio stations, media coverage of the tour and live coverage during the opening of Kisumu Law Courts.

1.8.3 Media Relations

DPAC, in partnership with the Media Council of Kenya and UNDP, mounted a three-day workshop in October 2014 where 30 court reporters were trained on Judiciary Transformation and Its Implications on Media. Meanwhile, DPAC continued to spearhead Judiciary's engagement with the media. The Directorate maintained daily contact with the media, whether by way of facilitating court reporters to access judgments, rulings and other court pronouncements or managing media enquiries. Other approaches included inviting the media to Judiciary functions, developing and issuing press releases and media briefs as appropriate, and organizing one-on-one media interviews with key leaders in the Judiciary. DPAC also shared widely and promptly with media all Judiciary leadership's speeches, statements, photos and video footage of important matters. The media materials were well received and widely used in mainstream newspapers, TV, radio stations and news websites.

DPAC executed a comprehensive communication strategy for the Civil Cases Service Week and Justice@Last Initiative aimed at reducing case back logs. Below is a summary of media coverage of these access to justice initiatives:

Table 1.1: Summary of the media coverage of Justice @ Last Initiative

<i>Media Coverage</i>	<i>Number</i>
No. of stories and photos	7
Media appearances (TV and Radio)	3
Infomercials (TV and Radio)	25
Radio mentions	36
Website	55
Posters and banners	60
Live coverage of official opening of Kisumu Law Courts on KTN	1

1.8.4 Media Centre

A fully equipped Media Centre was established at Milimani and was officially launched by the Chief Justice in October 2014. The Centre assists court reporters to report on court matters real time. In holder to enhance professionalism, DPAC developed Media Guidelines to direct media operations in courts. They were shared widely with both the media and court stations across the country.

1.8.5 Corporate Guests

The Judiciary runs a public and student visitation programme aimed at improving knowledge and awareness of how the courts work. In 2014/15 the Judiciary played host to 30 school parties in Milimani and Supreme Court. The Judiciary leadership also received dignitaries from within and outside Kenya. On a need basis, DPAC facilitated Executive offices with special gifts for the VIPs. Among the notable VIPs who visited the Judiciary was US Secretary of State, Mr. John Kerry.

1.8.6 Internal Relations

In the reporting period, three editions of our corporate magazine, *Inside the Judiciary*, were produced and distributed to staff and stakeholders by the Directorate of Public Affairs and Communication. The magazine serves as a tool for information and continuous engagement on contemporary issues and delivery of important corporate messages. Staff also contributed articles and photographs for use in the publication. The leadership also recognized compelling showcases of Judiciary talent, culture and team spirit through various awards during the Annual Judiciary Sports Day.

1.8.7 Judiciary Museum

During the year under review, the Museum project edged towards completion. The final phase of texting and display was undertaken.

1.9 Office of Judiciary Ombudsman

1.9.1 OJO's Mandate and Modus Operandi

The Office of the Judiciary Ombudsman Office (OJO) was established as an accelerated grievance management mechanism. It has the mandate of processing and resolving pubic complaints against the Judiciary; complaints between Judiciary Employees; and complaints from Judiciary employees against the Judiciary as an institution. It also plays a public education role for the institution and acts as a reviewand monitoring mechanism on the

effectiveness of judicial services from the public's point of view. It executes its mandate by conducting spot checks in court stations, holding clinics to receive public complaints and sensitize them on Judiciary operations, and receiving and processing complaints and petitions. It works closely with other government agencies and has established an effective referral system.

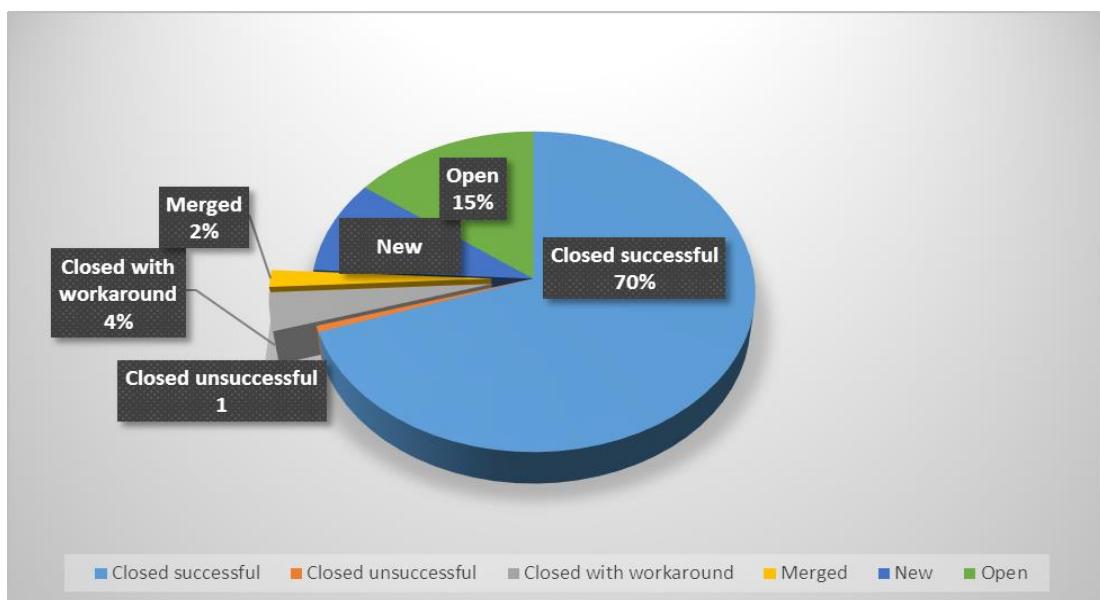
1.9.2 Public Complaints Resolution and Referral Mechanism

During the period under review, the OJO received a total of **2888 complaints**. Out of these, 2013 cases were processed and closed successfully, 111 complaints were closed unsuccessfully and another 18 were closed though not successfully resolved (closed with workaround). The office had a successful closure rate of 74% on all complaints received in 2014/2015.

Table 1.2: OJO Data on Complaints Processing

State	2013/2014	2014/2015
closed successful ¹	2271	2013
closed unsuccessful ²	8	18
closed with workaround ³	123	111
Merged	94	49
New ⁴	93	271
Open ⁵	157	426
Total	2746	2888

Fig. 1.1: Data on complaints processing



As table 1.2 below shows, during the period, there was a significant reduction in the complaints received against delayed rulings, delayed orders as well as delayed allocation of dates. This signifies a tremendous improvement in the dispensation of cases in the various courts. It will however be noted that at 37% and 36% respectively, slow service and missing files constitute the largest complaints received.

Table 1.3: Comparative chart of prevalent complaints

Services	2013/2014	2014/2015	DIFFERENCE
Slow Service	212	155	57
Missing File	161	149	12
Poor Service	75	13	62
Referral cases to Stakeholders	28	14	14
Corruption	21	29	-8
Delayed Rulings	167	28	139
Date allocation	18	8	10
Delayed Orders	20	11	9
Cash Bail Refunds	22	8	14
Cannibalized files	10	4	6

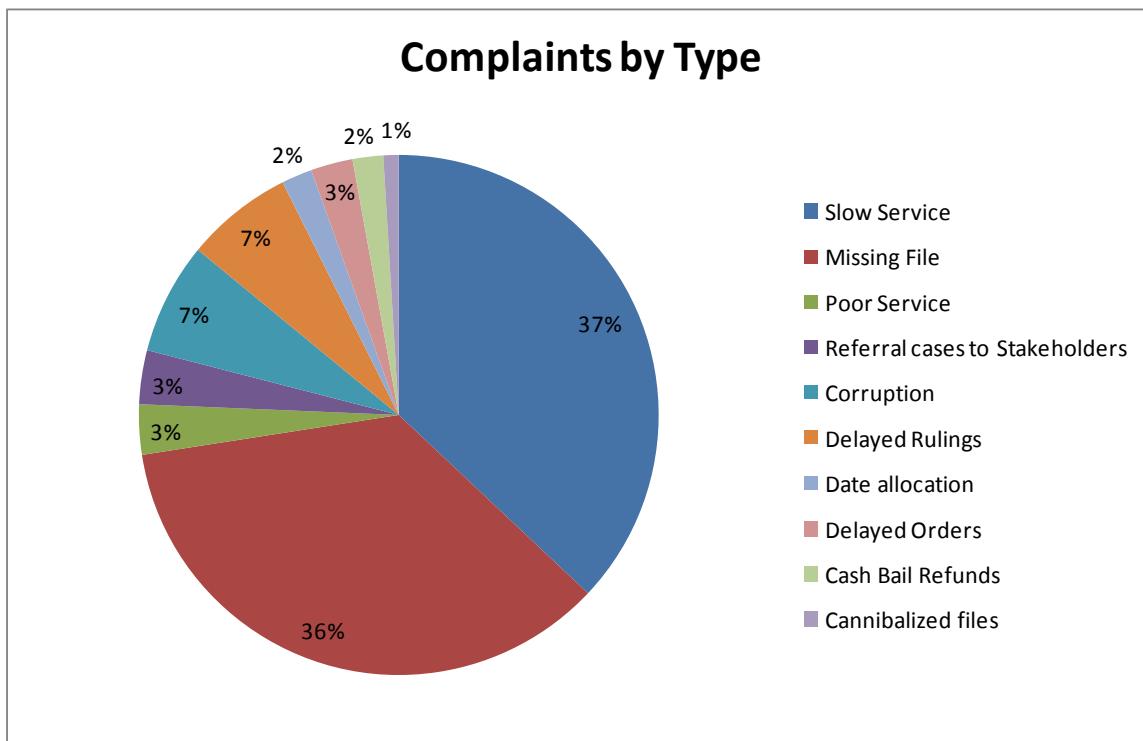
¹ 'Closed successfully' are complaints that are resolved to the client's satisfaction

² 'Closed Unsuccessfully' are complaints tickets that are closed with responses but not to the satisfaction the client e.g those that are referred to other partners

³ 'Closed with work around' are complaints that have been closed from queuing but additional information may be needed or some action is still pending such as finalization of the case.

⁴ 'New' are newly filed complaints that are still waiting the commencement of action by OJO.

⁵ 'Open' are complaints whose processing are still on going.

Fig 1.2: Comparative chart of prevalent complaints**Table 1.4: Annual Trend analysis of resolution process.**

State	2012/2013	2014/2015
Closed successfully	2271	2013
Closed unsuccessfully	8	18
Closed with workaround	123	111
Merged	94	49
New	93	271
Open	157	426
Total	2746	2888

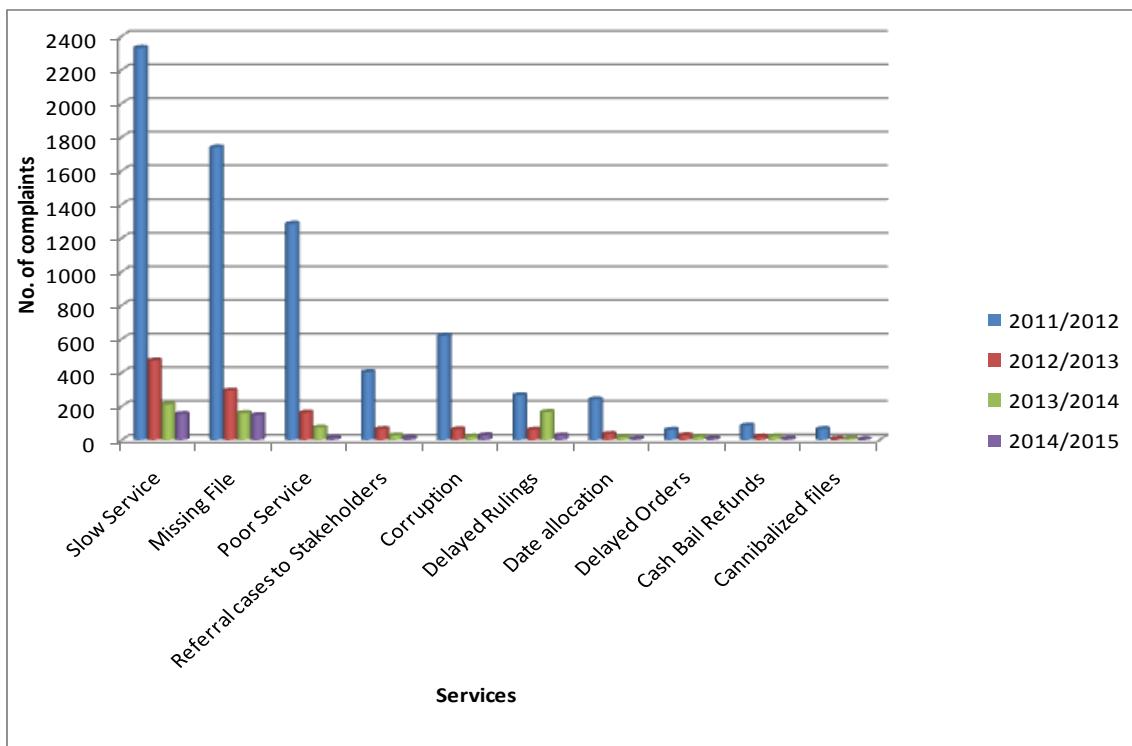
From the figures for 2013/2014 and 2014/2015, it is clear that the complaints processed increased from 2746 (amended)⁶ in 2013/2014 to 2888 in 2014/2015. The increase could be attributed to a combination of factors including greater public confidence in the office's ability to respond to complaints; the expansion of courts infrastructure through establishment of more courts countrywide; or greater public awareness arising from the sensitization programs run by the office.

As table 1.5 below shows, during the period, there was a significant reduction in the complaints received against delayed rulings, delayed orders as well as delayed allocation of dates. This signifies a tremendous improvement in the dispensation of cases in the various courts. It will however be noted that at 37% and 36% respectively, slow service and missing files constitute the largest complaints received. Complaints on corruption increased in the current reporting period (6.9%).

Table 1.5: Complaint trend in percentage

	2011/12	2012/13	2013/14	2014/15
Slow service	32.81%	38.93%	28.88%	36.99%
Missing Files	24.49%	24.20%	21.93%	35.56%
Poor services	18.10%	13.42%	10.22%	3.10%
Referral cases to stakeholders	5.69%	5.43%	3.81%	3.34%
Corruption	8.74%	5.27%	2.86%	6.92%
Delayed rulings	3.76%	5.10%	22.75%	6.68%
Date allocation	3.41%	2.96%	2.45%	1.91%
Delayed orders	0.86%	2.39%	2.72%	2.63%
Cash bail refunds	1.21%	1.73%	3.00%	1.91%
Cannibalized files	0.93%	0.58%	1.36%	0.95%

⁶ The 2013/2014 figures have been amended upwards from the 2000 that had been reported in the 2013/2014 SOJAR .

Figure 1.4: Comparative trend 2011 to 2015

It can be inferred from these tables that there has been an improvement in the services rendered by the Judiciary to public as noted in the steady decline in the complaints over the four years to 3.10% in 2014/2015. This improvement can be attributed to continuous employee education, adherence to the service charter and compliance parameters and checks put in place in the court stations. Delayed rulings reduced to 6.68% in the reporting period.

1.9.3 OJO Outreach and Partnerships

To further create awareness and enhance public participation, the Office of the Judiciary Ombudsman participated in major Agricultural Society of Kenya Shows (ASKs) and Judiciary open days. This provided a good opportunity to engage with the public and other stakeholders. In all these ASK shows and Open Days, OJO had a desk where staff explained complaints management procedures and received complaints from members of the public, which were duly processed.

The Judiciary Ombudsman partnered with the Kenya National Human Rights Commission (KNHRC) in complaints management by establishing a complaints referral mechanism. In these forums, partners in the justice chain discuss strategies of resolving complaints from the public. In the reporting period, the office participated in several clinics including a 5-day clinic in Mwingi and its environs.

1.9.4 Monitoring Compliance with Practice Directions and Service Charters

During the reporting period, the office conducted spot checks and clinics in 32 court stations. The objective of the combined visits was to monitor the running of court stations as per the Judiciary Transformation Framework, follow up on complaints that have remained pending in the court stations, sensitize staff and public on the role of the Ombudspersons and re-train the liaison persons on the use of the online system to respond to complaints. During the spot checks, the office also randomly tests compliance to the timelines in the Service Charters that guide the provision of administrative services in courts stations as well as addressing public complaints at the source and investigating integrity issues.

1.10 Collaborations and Partnerships

The Judiciary had several successful engagements with various stakeholders in the year under review. The Judiciary had productive deliberations with the Commission on the Implementation of the Constitution (CIC), the Kenya Law Reform Commission, Attorney General and the Justice and Legal Affairs Committee (JLAC) on the Bills that were due for tabling in the National Assembly that touch on the Judiciary. These are: The Court of Appeal (Organization & Administration) Bill, 2015; the High Court (Organization & Administration) Bill, 2015; the Magistrates Courts Bill, 2015; the Succession (Amendment) Bill, 2015; the Small Claims Court Bill, 2015; the Judiciary Fund Bill, 2015. The meetings agreed on the contents of the Bills to be presented to Parliament for debate and enactment.

Collaboration with the Executive also continued beyond the confines of NCAJ. For example, subsequent to the State of the Nation address by the President, the Hon. Attorney General appointed a Task Force to consider the Legal, Policy and Institutional reforms required to combat corruption in the country. The Judiciary was made a member of the taskforce and participated in the activities of the taskforce through representation from the office of the Chief Registrar.

On the international stage, the DCJ participated in two major events. First, she presented a paper on 'Sustainable Security Sector Reforms: Reflections from the Judiciary' at the African Union (AU) hosted Africa Forum on Security Sector Reform from 24 - 26 November 2014, at the AU Headquarters in Addis Ababa. This high-level Forum aimed at building on the recent normative developments, in particular the adoption of the AU Policy Framework on SSR. Second, she also made two presentations at the 19th Commonwealth Law Conference held between the 12th – 16th of April 2016 in Glasgow, Scotland. One paper looked at the Judiciary's initiatives towards enhancing justice delivery in Kenya, and the other on Women in the Law, a study in progress towards gender equality in Kenya.

Partnerships between the Judiciary and development partners also continued to grow especially with the World Bank, UNDP, Ford Foundation, GIZ, Embassies of Netherlands, Sweden, Denmark, International Development and Law Organization (IDLO) among others.

1.11 Ceremonial and other engagements

During the reporting period, a total of **1825** new advocates were sworn in. Other major ceremonial events that occurred in the reporting period are listed in Table 1.6 below.

Table 1.6: Key Events Presided Over by the Chief Justice, 2014 / 2015

Date	Event
July	
1st July, 2014	Swearing in of 11 new Judges
3rd July, 2014	Launch of the Constitution of Kenya Commentary by PLO Lumumba & Luis(Strathmore)
18th July, 2014	Special Justice@Last Initiative to clear about 15000 backlog of cases in the Civil Division of the High Court
August	
5th August, 2014	Admission of Advocates
21st August, 2014	Launch of Political Parties Tribunal Strategic Plan
September	
24th September, 2014	Launch of Business Court Users Committee
24th September, 2014	Admission of Advocates
29th September, 2014	Swearing in of Sports Tribunal
December	
3rd – 4th December, 2014	Admission of Advocates
8th December, 2014	Launch of Kenya National Cohesion Index 2013
9th December, 2014	Swearing in of Teachers Service Commission
February	
3rd February, 2015	Swearing in Independent Electoral and Boundaries Commission Secretary
March	
3rd March 2015	1st Annual NCAJ - Council of Governors Conference
9th -13th March, 2015	Admissions of Advocates
20th March, 2015	Swearing in of Teachers Service Commission
April	
15th April, 2015	Launch of Performance Measurement
15th April, 2015	Launch of Mediation & Accreditation Committee
30th April, 2015	Swearing of Tribunal
13th May, 2015	Swearing of New Judges
13th May, 2015	Admission of Advocates
29th May, 2015	2nd Judiciary Sports Day

CHAPTER TWO—ACCESS TO JUSTICE

2.0 Introduction

The Judiciary's constitutional mandate is to administer justice to all people irrespective of status, without delay and without undue regard to procedural technicalities. Judicial authority is vested and exercised by various courts and tribunals based on their jurisdiction as established by the Constitution and enabling statutes. There are two levels of courts in Kenya, namely, the Superior Courts and Subordinate Courts. The Superior Courts are the Supreme Court; the Court of Appeal; High Court, Environment and Land Court; and Employment and Labour Relations Court. The Subordinate Courts are the Magistrates Courts, Kadhis Courts, and Court Martials. Currently, there are twelve tribunals directly under the management of the Judiciary. All the courts and tribunals are required to guarantee access to justice, which is a fundamental constitutional right to Kenyans.

In the financial year 2014/15, the Judiciary continued to improve access to justice through diverse initiatives. These included establishment of new court stations, sub registries and mobile courts; expeditious resolution of cases; reduction of case backlog; construction and renovation of courts; employment of more Judges, Magistrates and Judicial Staff; easing of procedural and administrative barriers to justice; continuous public engagement; and enhancement of the legal and policy environment.

2.1 Dispensation of Justice and Courts' Performance

During the FY 2014/15, the Judiciary embarked on a process of creating performance standards, synchronized with the best international standards for continuous performance improvement in the courts. The culmination of this process was the development and signing of the Performance Management and Measurement Understandings (PMMUs) as a tool of performance management and as a part of the wider strategy of enhancing transparency, accountability to the public and ensuring that the Judiciary delivers justice expeditiously.

Operationalisation of PMMUs requires the collection, analysis and dissemination of accurate statistics on dispensation of justice and other enablers of justice. Through the Performance Management Directorate (PMD), the Judiciary has prepared its first Annual Statistics Report which will be tracking, on annual basis, the diverse Judiciary statistics. The Judiciary Annual Statistics Report (JASR) is the first report of its kind which presents detailed data on dispensation of justice, finance, human resources and infrastructure for the period 2014/15 FY. The report has provided important information that forms the basis for this chapter.

2.1.1 Initiated and Resolved Cases

During the FY 2014/15, a total of **359,806** new cases were filed in all courts in the country, bringing the total caseload in the Judiciary to **612,309**. The new cases in FY2014/15 represents a decrease of 37,437 in new filings as compared to 397,243 new cases that were filed in FY2013/14. Of the new filings in the reporting period, a total of **272,605** cases were resolved. The trend on Initiated Cases (IC) and Resolved Cases (RC) by broad case type and court type are provided in Table 2.1.

Table 2.1: Trend Analysis of Initiated Cases (IC) and Resolved Cases (RC) by Court and broad Case Type

Court Type	2013/2014				2014/2015			
	Criminal (CR)-2013/14		Civil (CV)-2013/14		Criminal (CR)-2014/15		Civil (CV)-2014/15	
	IC	RC	IC	RC	IC	RC	IC	RC
Supreme Court	-	-	67	27	-	-	61	47
Court of Appeal	278	212	929	781	485	312	1090	1108
High Court	11425	9947	34852	17257	10750	9316	28067	40093
ELC*	-	-	-	-	-	-	3436	1129
ELRC**	-	-	-	-	-	-	5,551	2,156
Magistrate Court	304751	243634	41990	28305	231336	168607	77266	48391
Kadhi Court	-	-	3,319	2,963	-	-	1904	1446
All Courts	316,454	253,793	81,157	49,333	242571	178,235	117,235	94,370

* Environment and Land Court

** Employment and Labour Relations Court

The Magistrate Court registered the bulk of the cases during the period under review. In general, more criminal cases were registered as compared to civil cases in the lower courts. However, in the superior courts, more civil than criminal cases were registered.

2.1.2 Pending cases

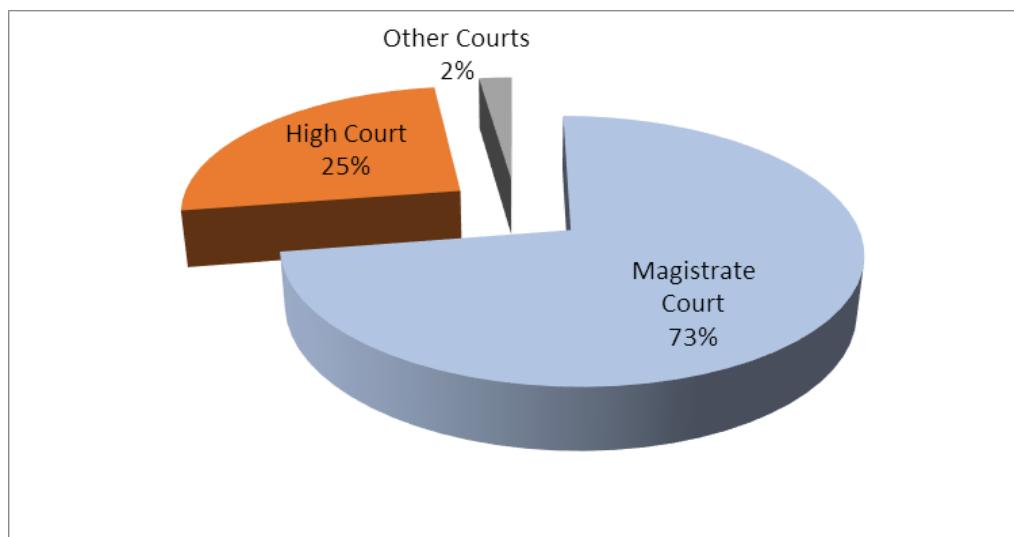
The total number of pending cases, which is a reflection of the workload of courts, stood at **612,309** cases at the end of the FY 2014/15 up from 519,107 cases at the end of the previous review period. The trend on pending cases is presented in Table 2.2.

Table 2.2: Trend Analysis of Pending Cases by court and broad Case Type

Court Type	2012/13			2013/14			2014/15		
	Criminal	Civil	Overall	Criminal	Civil	Overall	Criminal	Civil	Overall
Supreme Court	-	6	6	-	46	46	0	60	60
Court of Appeal	2,514	1,815	4,329	506	2,186	2,692	641	1926	2,567
High Court*	13,666	131,930	145,596	15,144	149,525	164,669	19783	135322	155,105
ELRC	-	4,234	4,234	-	5,537	5,537	0	8,121	8,121
Magistrate Court	77,976	196,673	274,649	139,545	209,799	349,324	203242	240381	443622
Kadhi Court	-	1,940	1,940	-	2,376	2,376	0	2,834	2,834
All Courts	94,156	336,598	430,754	155,195	369,469	524,644	223665	388644	612309

*Includes statistics for the Environment and Land Court (ELC)

Between the FY 2012/13 and 2013/14, there was a **22 per cent** increase in pending cases as compared to **17 per cent** increase between the FY 2013/14 to 2014/15. This is an indication that though pending cases are increasing, the rate of increase is declining. Overall, 73 per cent of all pending cases are in Magistrate Courts, **25 per cent** in High Court while the rest of the courts combined have **2 per cent**. This is elaborated in Figure 2.1

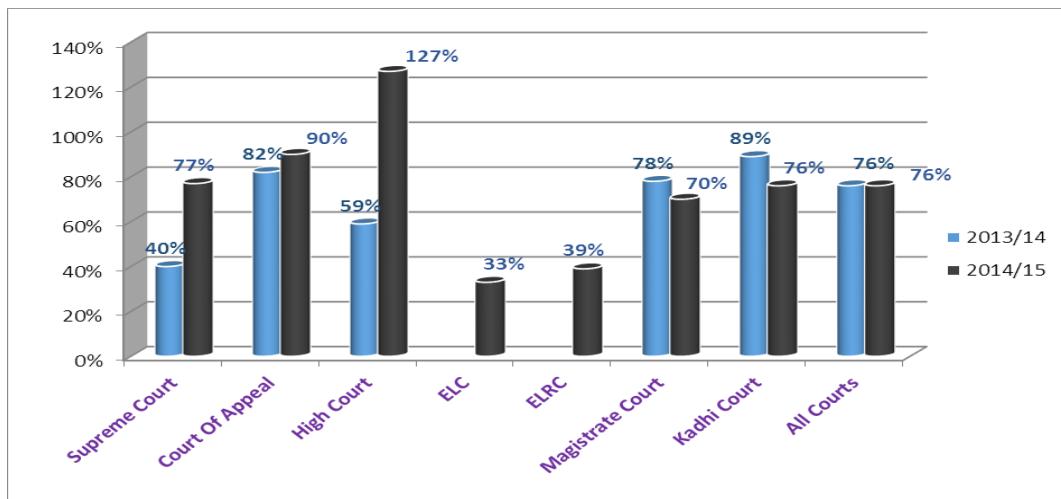
Figure 2.1: Percentage of pending cases by Courts

2.1.3 Case Clearance Rate

Case Clearance Rate (CCR) refers to the ratio of finalized (resolved) cases to the filed (initiated) cases and is expressed as a percentage. It measures the extent to which a court is able to dispose cases relative to the cases filed within a specified period. A CCR of one hundred (100%) per cent implies that the court is coping with its workload. A CCR of more than 100 per cent indicates that the court is reducing the number of pending cases

while that less than 100 per cent means that the court is adding more cases onto the existing pending cases thereby increasing backlog. Figure 2.2 provides a track of CCR for various courts.

Figure 2.2: Trend in Case Clearance Rate by court type



As shown in the figure 2.2, the Case Clearance Rate for all tiers courts stood at 76 per cent. The CCR improved in all courts except Magistrates and Kadhi courts. The huge improvement in CCR for the Supreme Court, Court of Appeal and High Court is attributed to Justice@Last and other Service-Week type initiatives that were conducted to fast track resolution of old cases. The comparatively low clearance rate for the magistrate's courts in this period may be attributed to the vetting exercise that involved a large number of magistrates taking time off during the reporting period.

2.2 Court-by-Court Analysis

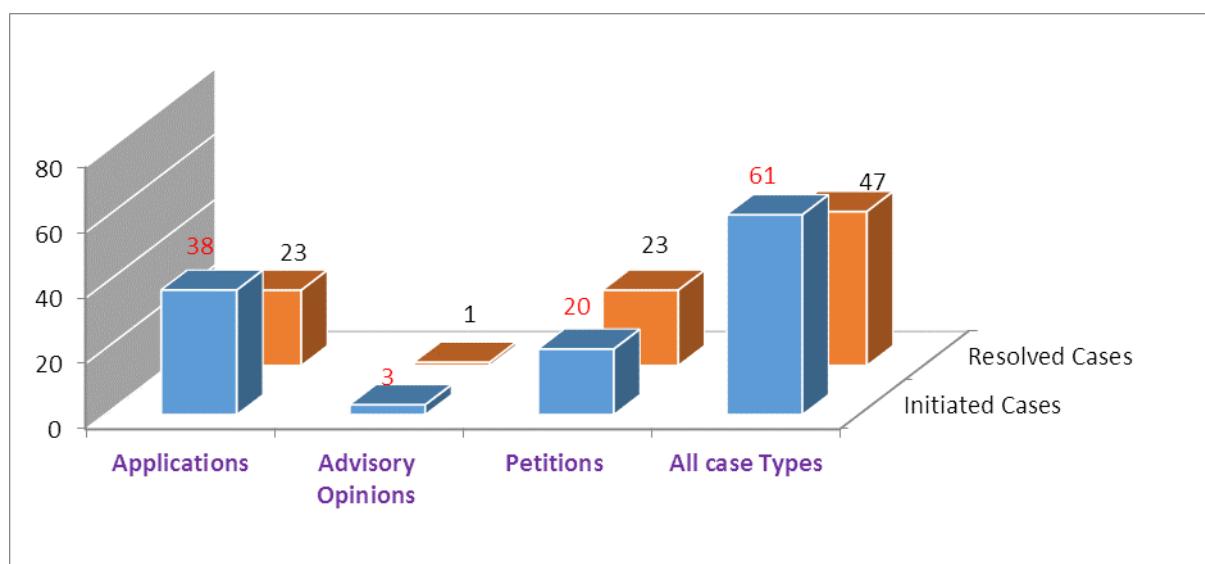
This section analyzes performance by each court beginning with the Supreme Court, Court of Appeal, High Court, Environment and Land Court (ELC), Employment and Labour Relations Court (ELRC), Magistrates Courts, Kadhis Courts and Tribunals.

2.2.1 Supreme Court

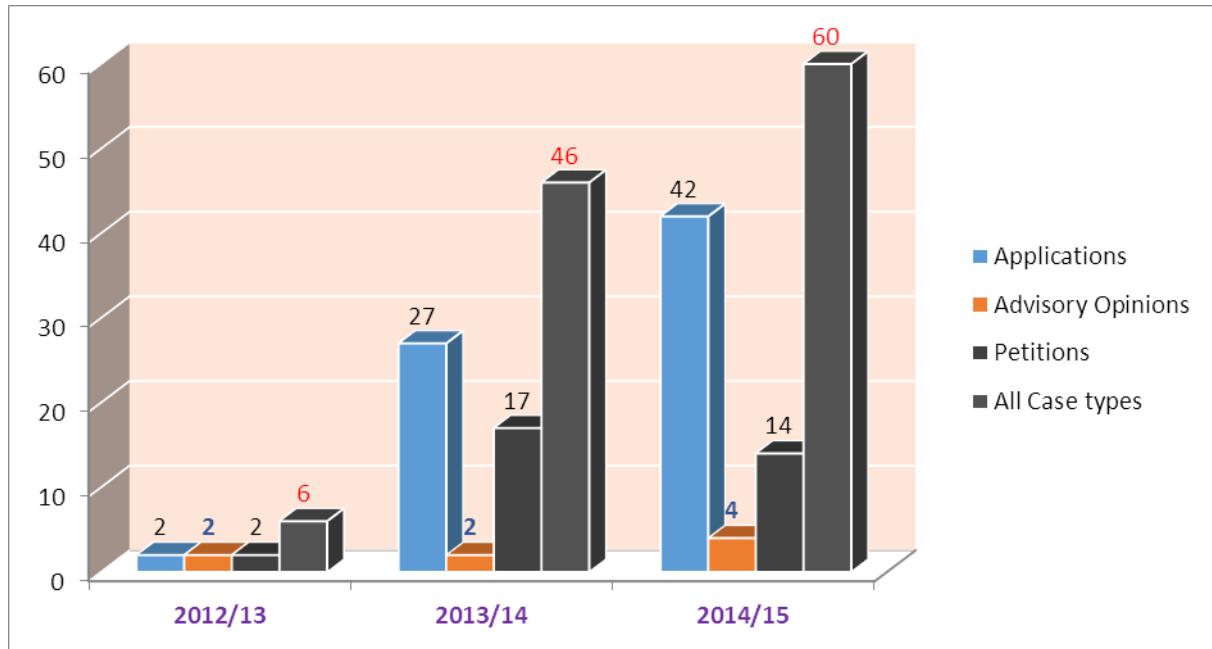
The Supreme Court was established pursuant to Article 163 of the Constitution of Kenya 2010 and the Supreme Court Act, 2011. It is composed of the Chief Justice, who is the president of the Court; the Deputy Chief Justice; and five other judges. The court has exclusive original jurisdiction to hear and determine disputes relating to the elections of the President of Kenya. It also has appellate jurisdiction to hear and determine appeals from the Court of Appeal and any other court or tribunal as prescribed by national legislation that relates to interpretation or application of the constitution of Kenya or to matters of general public importance. The Supreme Court may also give advisory opinions at the request of the National Government, any State organ, or any county government.

During the period under review, **61 cases were filed** while **47 were resolved**. Figure 2.3 elaborates on the initiated and resolved cases in the Supreme Court.

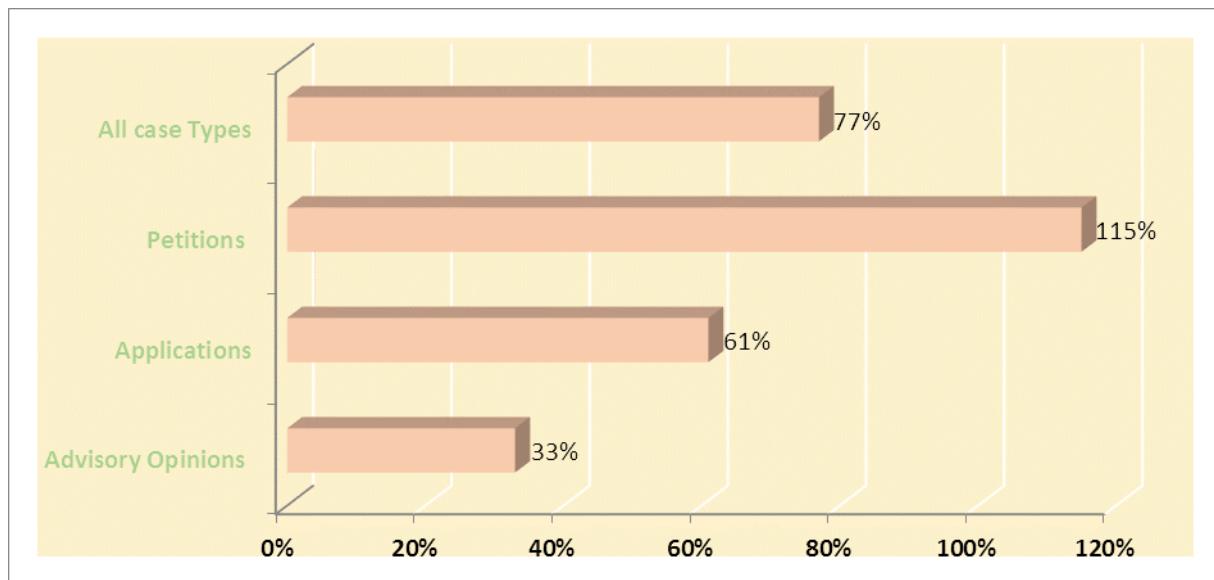
Figure 2.3: Initiated and Resolved Cases by type for the FY 2014/15, Supreme Court



The trend analysis for the various types of pending cases in Supreme Court is highlighted in Figure 2.4:

Figure 2.4: Trend in Pending Cases by case type, Supreme Court.

The Supreme Court registered a CCR of **77 per cent** in FY 2014/15 up from **40 per cent registered** in the previous review period. The CCR for various case types is highlighted in Figure 2.5.

Figure 2.5: CCR for the Supreme Court 2014/15

2.2.2 Court of Appeal

The Court of Appeal (COA) is established under Article 164 (1) of the Constitution of Kenya while the practice and procedure of the court are regulated by the Appellate Jurisdiction Act and the Court of Appeal Rules. The Court of Appeal is currently administered and organized by an Act of Parliament Act No. 28 of 2015, following enactment of the law in December 2015. Rule 6 (2) of the Court of Appeal Rules provides that there shall be such sub-registries of the Court in Kenya as the Chief Justice may from time to time order. Currently, the Court's permanent seats are in Nairobi, Kisumu, Malindi and Nyeri. It has established sub-registries in Nakuru, Eldoret, Kisii, Mombasa, Bungoma, Busia and Meru, where circuit courts are in operation.

In the FY 2014/15, a total of 1575 cases were filed in the COA while 1402 cases were resolved. Table 2.3 tracks the initiated and resolved cases by COA stations.

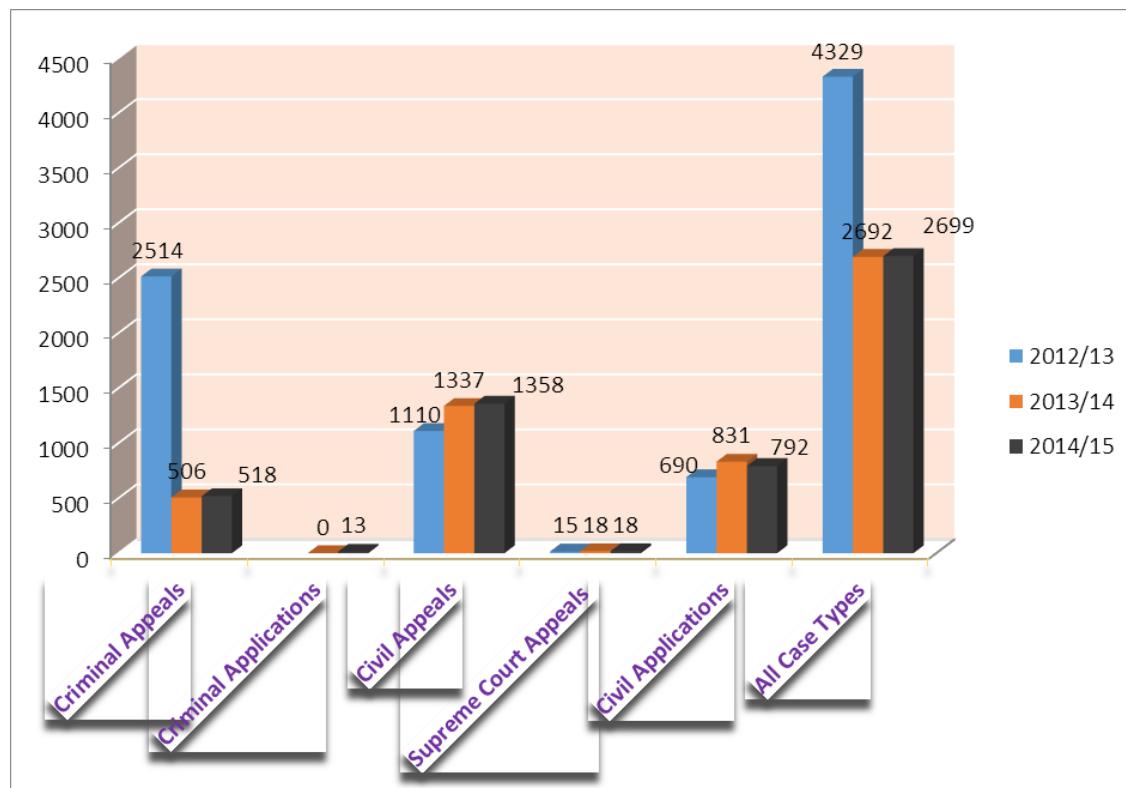
Table 2.3: Trend on Initiated and Resolved Cases by COA station

COA Station	2013/14				2014/15			
	IC	RC	IC	RC	IC	RC	IC	RC
Kisumu Court of Appeal	100	70	123	112	220	112	170	169
Malindi Court of Appeal	138	75	97	142	87	60	162	139

	2013/14				2014/15			
	CR		CV		CR		CV	
COA Station	IC	RC	IC	RC	IC	RC	IC	RC
Nairobi Court of Appeal	0	0	599	422	82	123	661	699
Nyeri Court of Appeal	40	67	110	105	96	17	97	101
All COA Stations	278	212	929	781	485	312	1,090	1,108

At the end of review period, COA had 2699 pending cases as compared to 2692 cases at the closure of the FY 2013/14. The trend analysis of various types of pending cases in COA is highlighted in Figure 2.6.

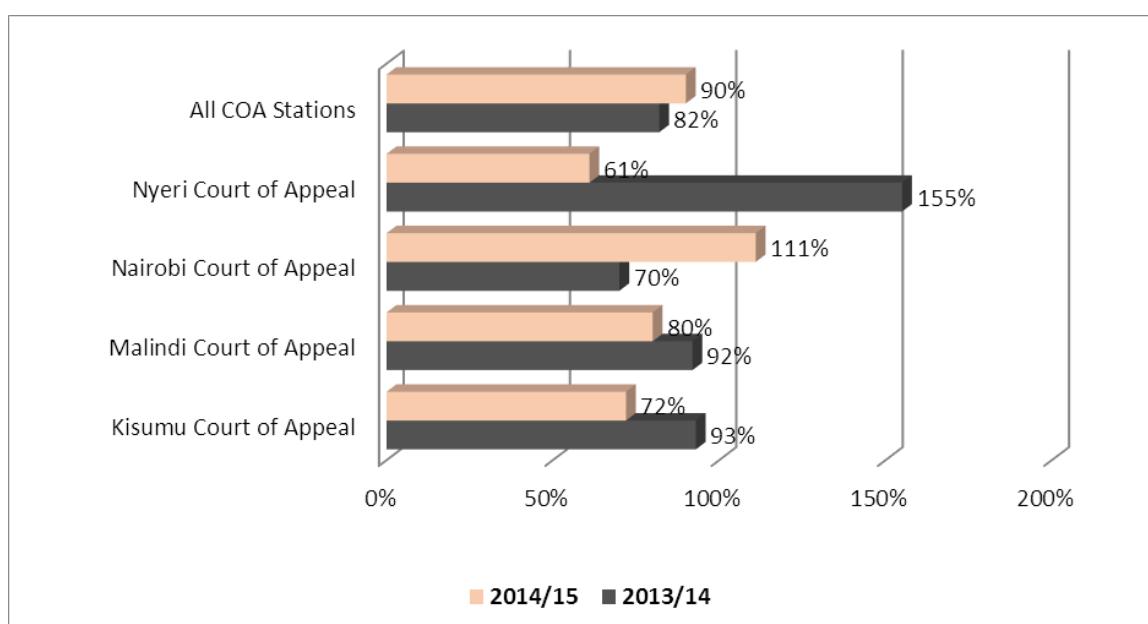
Figure 2.6: Trend in Pending Cases by type, Court of Appeal



In general, civil appeals and civil applications continue to be the bulk of the pending cases for the COA. It is noteworthy that the overall pending cases in COA have reduced significantly in the last three financial years. In FY 2012/13, 4329 cases were pending while at the end of FY 2014/15, the pending cases had dropped to 2699.

The overall CCR for the entire Court is 90%, with different COA stations courts registering different CCR. The trend on overall CCR for COA stations is presented in Figure 2.7.

Figure 2.7: Trend in CCR by Court of Appeal Station, FY2013/14 andF 2014/15



The CCR for civil cases has averaged higher than that for criminal cases. This is elaborated in Table 2.4 for each COA station.

Table 2.4: Case Clearance Rate by Broad Case Type, Court of Appeal Stations

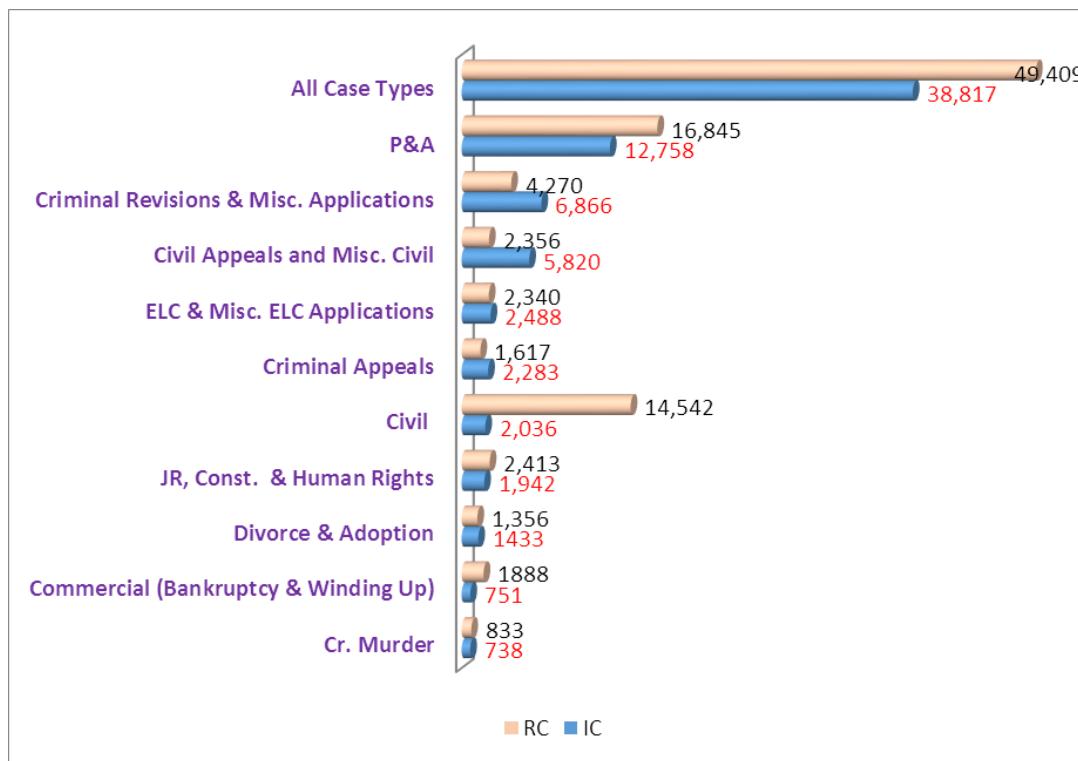
Court of Appeal Station	CR	CV	CR	CV
Kisumu Court of Appeal	70%	117%	50%	99%
Malindi Court of Appeal	54%	146%	68%	86%
Nairobi Court of Appeal	-	70%	150%	106%
Nyeri Court of Appeal	168%	147%	17%	104%
ALL COA STATIONS	76%	84%	64%	102%

2.2.3 High Court

The High Court of Kenya is established under Article 165 of the Constitution. It has unlimited original jurisdiction in criminal and civil matters, as well as jurisdiction to determine Constitutional matters relating to rights and fundamental freedoms. In addition, it has appellate and supervisory jurisdiction over subordinate courts.

During the period under review, a total of 38,817 cases were filed in the High Court while **49,409** were resolved. Details for specific case types are elaborated in Figure 2.8.

Figure 2.8: Initiated and resolved cases by type for High Court, FY 2014/15

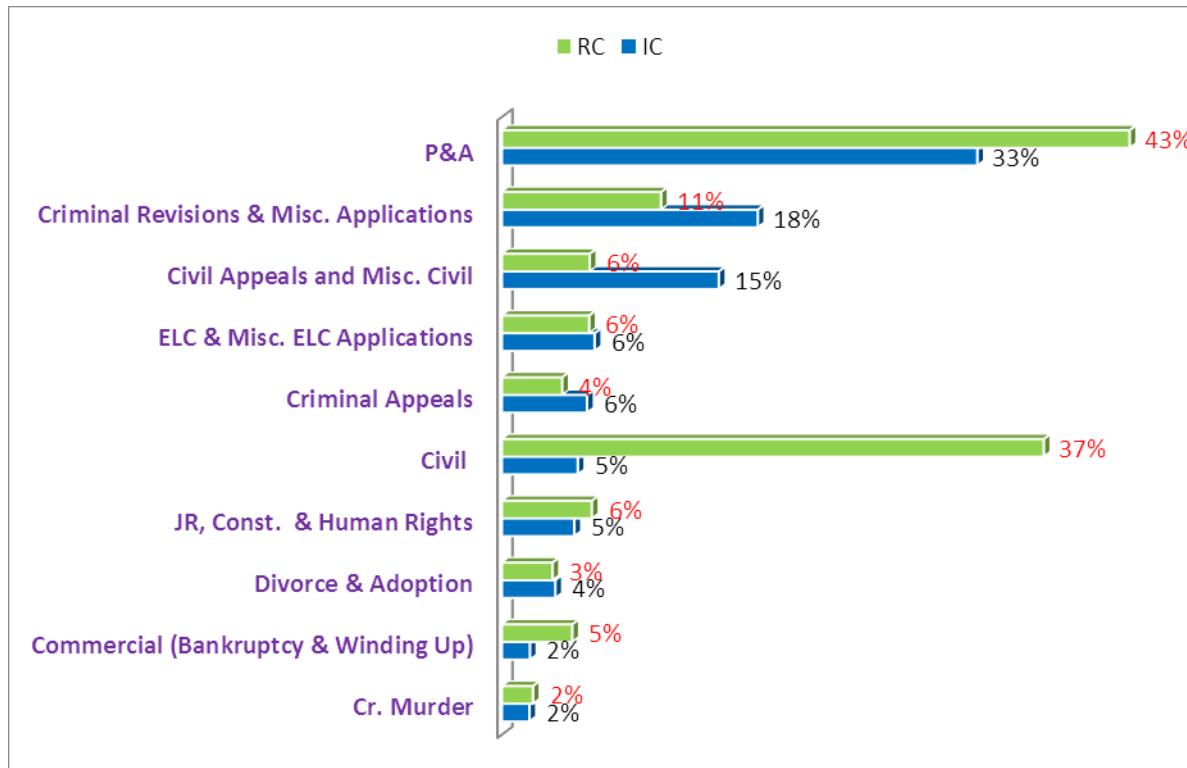


The trend analysis on Initiated (IC) and Resolved (RC) for all High Courts is shown below in Table 2.11 and further elaborated in Annex 2A.

Table 2.5: Trend Analysis of Initiated and Resolved Cases by Case Type

Case Type	2013/2014		2014/2015	
	IC	RC	IC	RC
Cr. Murder	1200	576	738	833
Criminal Appeals	2757	1681	2,283	1,617
Criminal Revisions & Misc. Applications	7468	6097	6,866	4,270
Commercial (Bankruptcy & Winding Up)	851	349	751	1888
Divorce & Adoption	1566	889	1433	1,356
Civil	1227	678	2,036	14,542
JR, Const. & Human Rights	1810	1617	1,942	2,413
Civil Appeals and Misc. Civil	6317	3274	5,820	2,356
ELC & Misc. ELC Applications	6222	1834	2,488	2,340
P&A	16859	10209	12,758	16,845
All Case Types	46,277	27,204	37,115	49,409

Generally, Probate and Administration (P&A) and Civil Cases were the most resolved cases. The percentage initiated and resolved cases in the High Court is summarized in Figure 2.9.

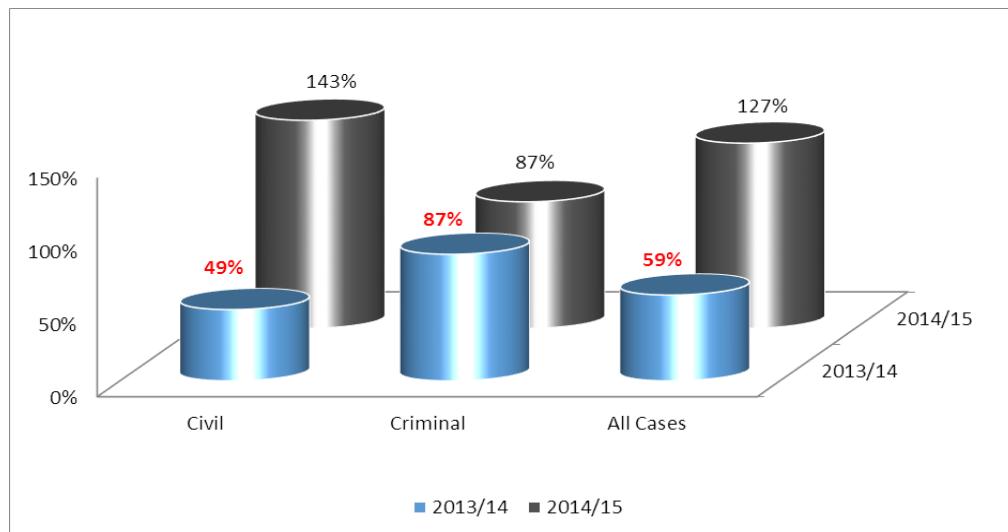
Figure 2.9: Percentage initiated and resolved cases by type for High Court, 2014/15

The total number of pending cases in all the High Court stations as at 30th June, 2015 were 155,203. There is a much larger percentage of pending civil cases as compared to criminal cases. Details of pending cases in the High Court stations are provided in Table 2.6.

Table 2.6: Trend Analysis of Pending Cases by High Court Station

Court Name	2012/2013			2013/2014			2014/2015		
	CR	CV	ALL	CR	CV	ALL	CR	CV	ALL
Bungoma	773	2,721	3,494	844	3,467	4,311	968	3,874	4,842
Busia	377	2,687	3,064	516	3,034	3,550	492	3,270	3,762
Eldoret	1,586	4,020	5,606	1,992	5,151	7,143	1,617	4,856	6,473
Embu	345	2,138	2,483	(137)	2,076	1,939	803	2,617	3,420
Garissa	262	171	433	583	213	796	602	161	763
Homa-bay	105	104	209	31	202	233	83	1,045	1,128
Kakamega	799	3,138	3,937	734	3,496	4,230	924	4,299	5,223
Kericho	117	2,662	2,779	232	3,040	3,272	156	2,712	2,868
Kerugoya	428	3,168	3,596	658	4,621	5,279	924	4,528	5,452
Kisii	665	8,130	8,795	690	9,146	9,836	692	9,535	10,227
Kisumu	699	3,730	4,429	1,088	5,476	6,564	1,107	5,756	6,863
Kitale	159	3,989	4,148	345	4,372	4,717	701	4,307	5,008
Machakos	420	982	1,402	1,154	1,621	2,775	1,325	2,169	3,494
Malindi	364	776	1,140	389	766	1,155	290	788	1,078
Meru	759	4,043	4,802	919	4,828	5,747	196	4,838	5,034
Migori				-	-	-	147	958	1,105
Milimani Civil division		32,138	32,138	-	33,118	33,118		22,382	22,382
Milimani Comm. & Admiralty		6,422	6,422	-	7,275	7,275		7,823	7,823
Milimani Const. Law & Human Rights Div		406	406	-	343	343		930	930
Milimani Criminal Division	2,681		2,681	2,611		2,611	3,162		3,162
Milimani Environ & Land Div		2,632	2,632	-	3,853	3,853		3,301	3,301
Milimani Family Division		24,968	24,968		26,552	26,552		18,917	18,917
Milimani Judicial Review Div		1,214	1,214		1,130	1,130	258	2,534	2,792
Mombasa	490	4,439	4,929	594	4,976	5,570	707	5,699	6,406
Muranga	476	946	1,422	503	970	1,473	799	1,342	2,141
Naivasha							49	861	910
Nakuru	1,555	7,857	9,412	2,357	9,389	11,746	2,377	9,575	11,952
Nyeri	606	4,215	4,821	1,135	6,013	7,148	1,404	6,245	7,649
All High Court stations	13,666	127,696	141,362	17,238	145,128	162,366	18,750	136,453	155,203

During the period under review, there was a marked improvement in the overall CCR for the High Court as shown in the Figure 2.10.

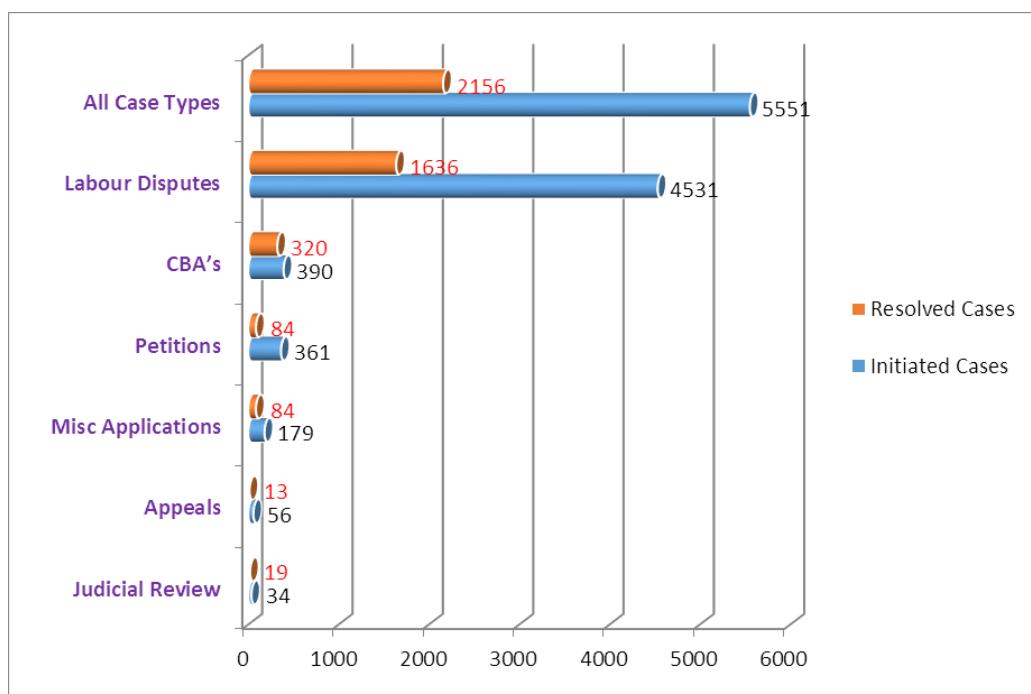
Figure 2.10: Case Clearance Rate FY2013/14 to FY2014/15

In FY2014/15, the CCR for the High Court was 127 per cent up from 59 per cent in the previous period. This improvement is attributable to the Justice @ Last initiative. There was significant improvement in the High Court at Nairobi (Civil and Family Divisions), the Nairobi Environment and Land Court. Outside Nairobi, Eldoret, Garissa, Malindi, Kericho and Meru also cleared significantly high number of cases. Detailed analysis of CCR for specific High Court stations is provided in Annex 2B.

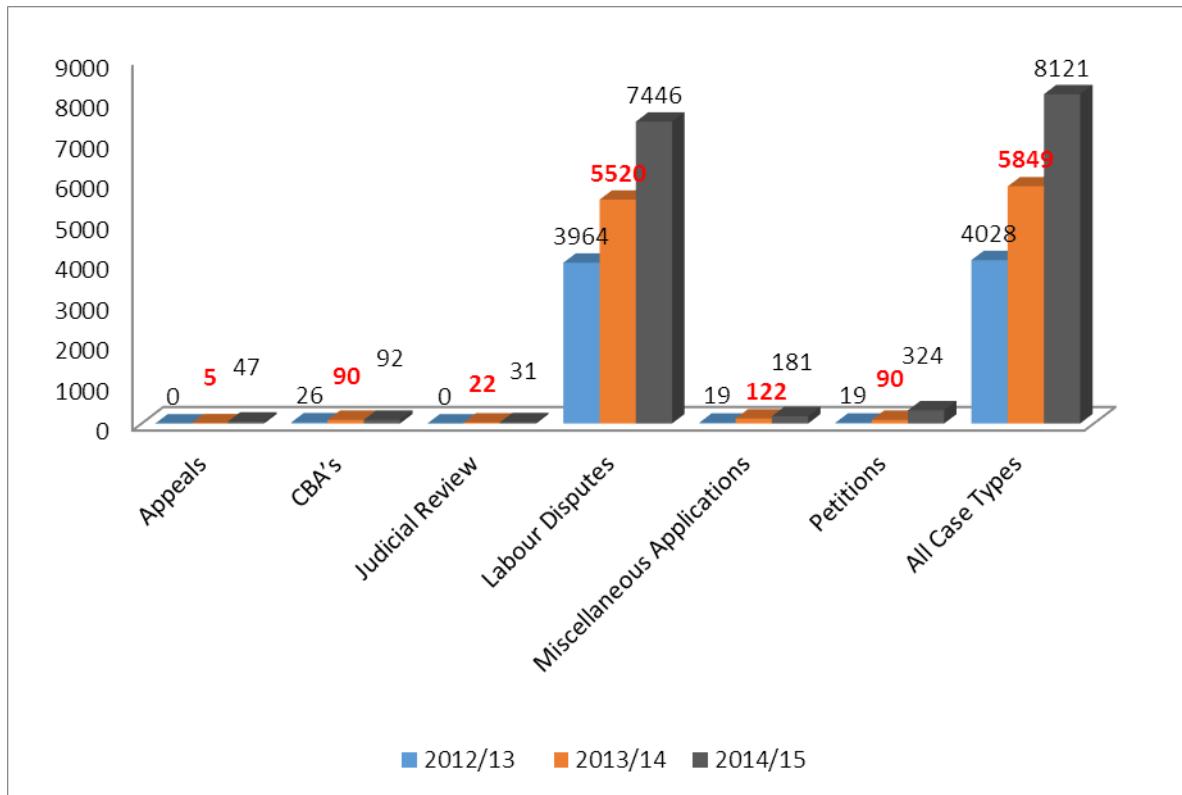
2.2.4 Employment and Labour Relations Court (ELRC)

The Constitution establishes the ELRC pursuant to Article 162(2) of the Constitution to deal with labour and employment matters. It has the same status as the High Court. There are six ELRC stations in the country stationed at Nairobi, Kericho Kisumu, Mombasa, Nakuru and Nyeri served by 12 ELRC judges.

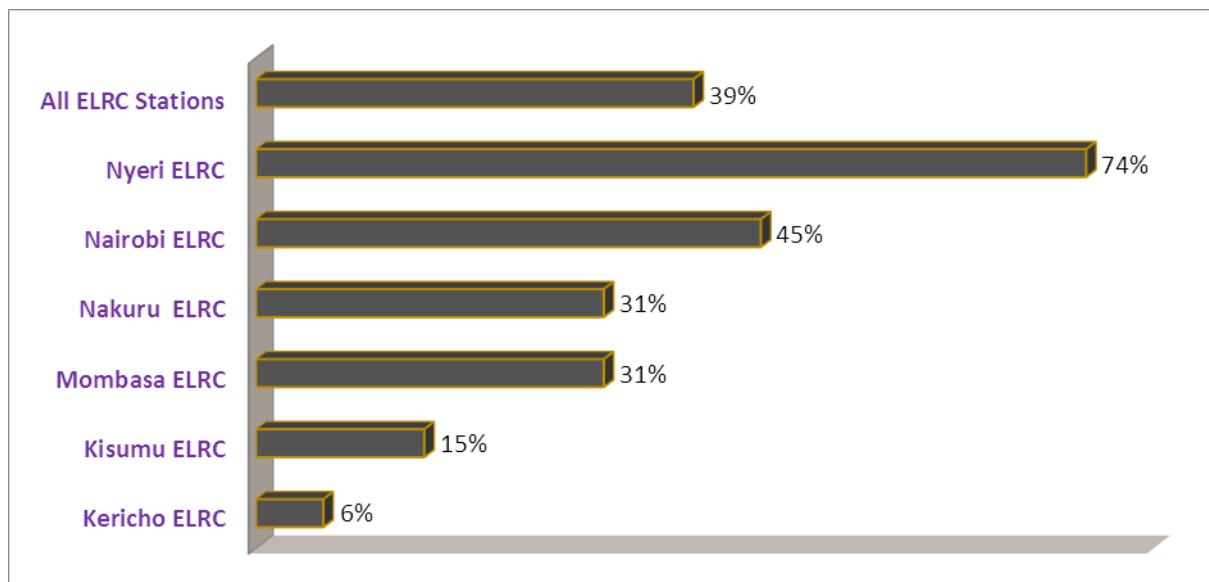
In the reporting period, **5,551 new cases were filed** and **2,156 were resolved**. The initiated and resolved cases by each ELRC station are illustrated in figure 2.12.

Figure 2.11: Initiated and Resolved Cases in ELRC by Type, FY2014/15

At the end of the FY 2014/15, the pending cases in ELRC stood at 8,121 cases. The pending cases by type for ELRC is given in Figure 2.13.

Figure 2.12: Trend in Pending Cases in ELRC by case type, FY2014/15

At the end of the FY 2014/15, the pending cases in ELRC stood at **8,121 cases**. The pending cases by type for ELRC is given in Figure 2.13.

Figure 2.13: CCR by ELRC Station, FY2014/15

2.2.5 The Environment and Land Court (ELC)

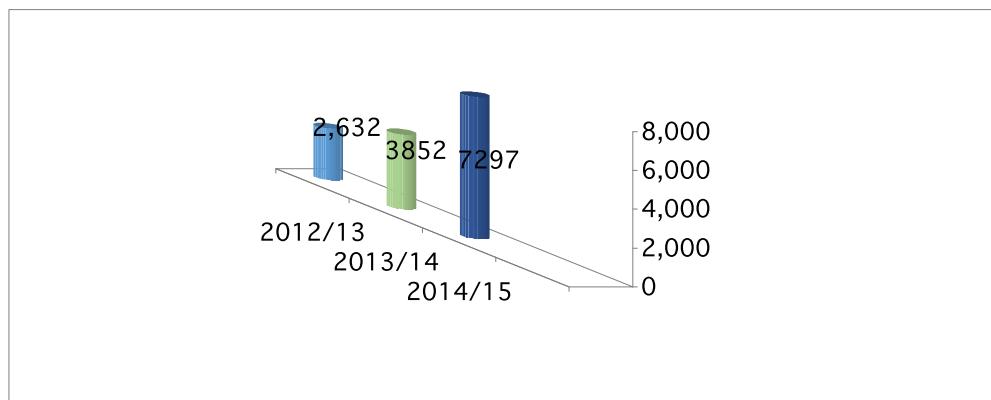
The court is established pursuant to Article 162 (2) of the Constitution and Environment and Land Court Act. It is a Superior Court with the status as the High Court which has the exclusive jurisdiction to handle matters related to environment and land. It has **15 judges** serving across the country in 18 ELC stations.

During the period under review, a total of **5,224** and **3,469 cases** were initiated and resolved in the ELC respectively. This is a significant increase from 3,722 and 1,895 cases initiated FY 2013/14. Details of the IC and RC for ELC stations and the case clearance rate (CCR) are highlighted in Table 2.21.

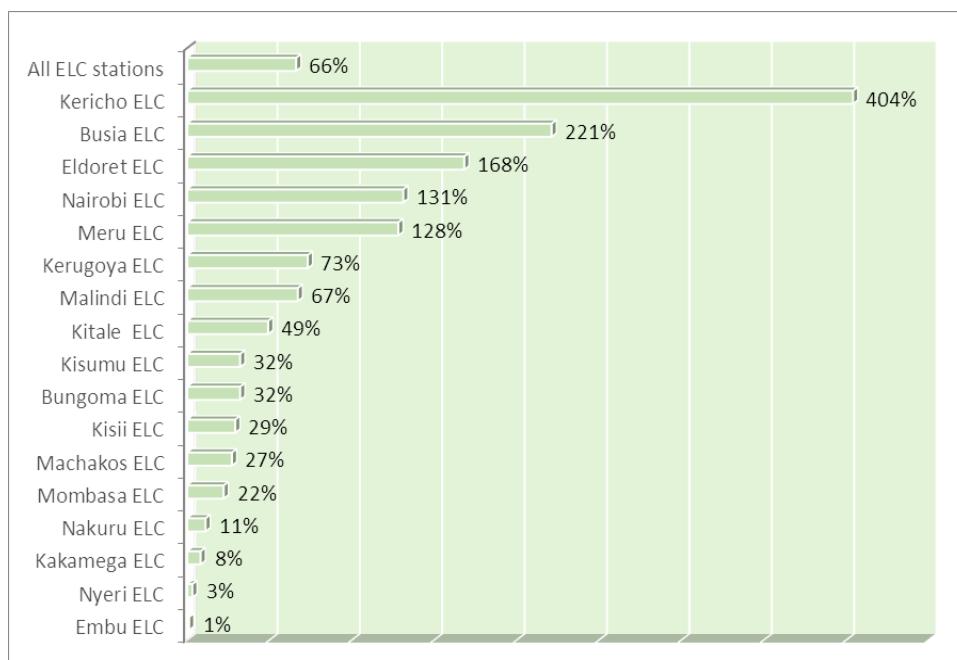
Table 2.7: Initiated and resolved cases for ELC, FY 2014/15

Environment and Land Court	IC	RC
Nairobi	1,788	2340
Bungoma	180	57
Nakuru	161	17
Busia	47	104
Eldoret	113	190
Embu	341	5
Kakamega	544	41
Kericho	23	93
Kerugoya	85	62
Kisii	264	76
Kisumu	109	35
Kitale	65	32
Machakos	293	78
Malindi	227	151
Meru	80	102
Mombasa	305	66
Naivasha	7	0
Nyeri	592	20
All Environment and Land Court Stations stations	5,224	3469

The pending cases for the ELC could not be appropriately determined due to lack of separate data of pending cases for all ELC stations for the previous FY. Statistics for ELC stations, except Nairobi, were captured together with the High Court data during the previous period. The pending cases for the Nairobi ELC have been increasing as shown in Figure 2.15.

Figure 2.14: Trend on pending cases for ELC, FY2014/15

All ELC courts registered 66 per cent CCR during the FY 2014/15. The relatively new ELC had the highest CCR. Details on CCR are highlighted in Figure 2.16.

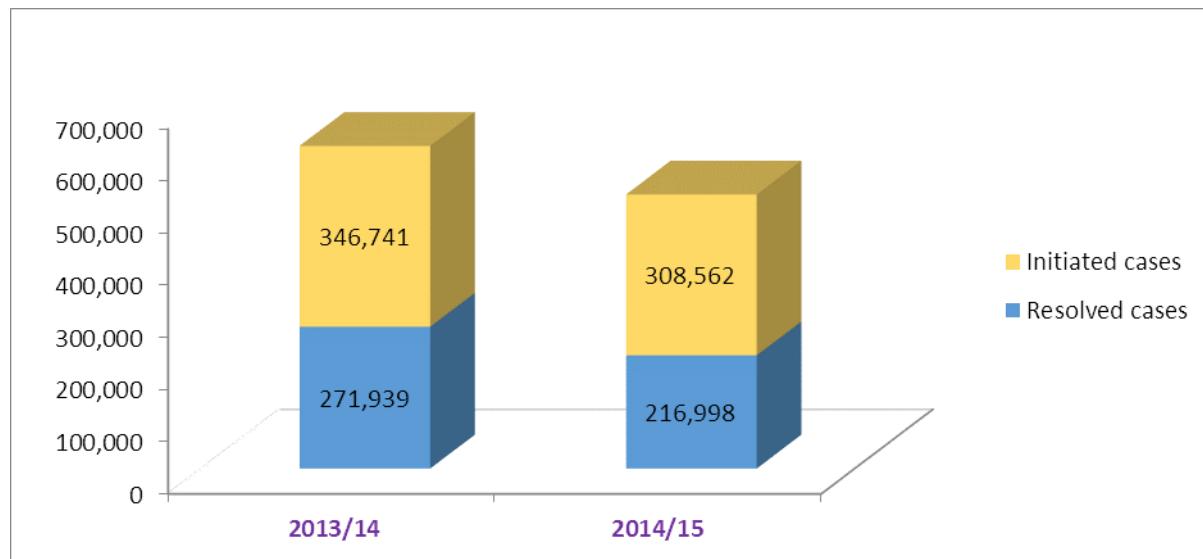
Figure 2.15: Trend on pending cases for ELC, 2014/15

2.2.6 Magistrate Courts

Magistrate's courts are established under Article 169 of the Constitution of Kenya 2010. It is a subordinate court with 119 court stations in Kenya and the bulk of judicial officers totaling 457 magistrates. It has jurisdiction over criminal matters as prescribed by the Criminal Procedure Code and other statutes; and civil jurisdiction according to the pecuniary jurisdiction granted to each cadre of magistrate.

In the FY 2014/15, a total of **308,602 cases were filed** in the Magistrate Courts while **216,998 cases were resolved**. This brought the total caseload in the magistracy to **443,622**. The summary on filed and resolved cases for magistrates' courts is given in figure 2.17

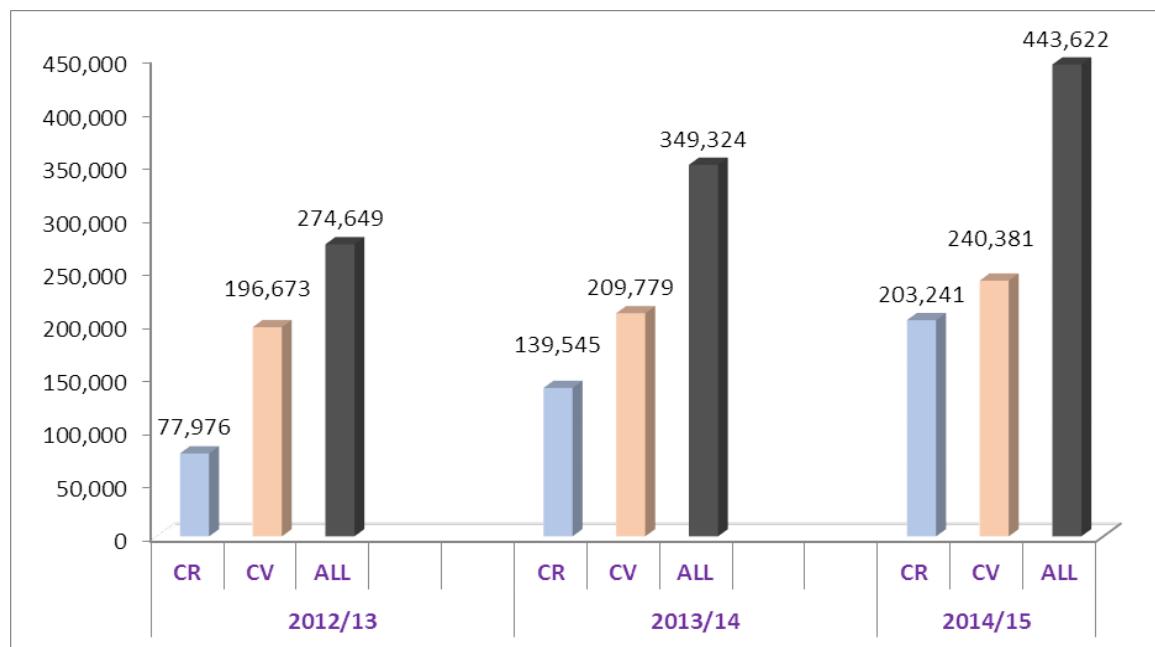
Figure 2.16: Initiated and Resolved cases in the Magistrates Courts FY2013/14 -2014/15



Details of initiated and resolved cases by the magistracy per court station are provided in Annex 2D.

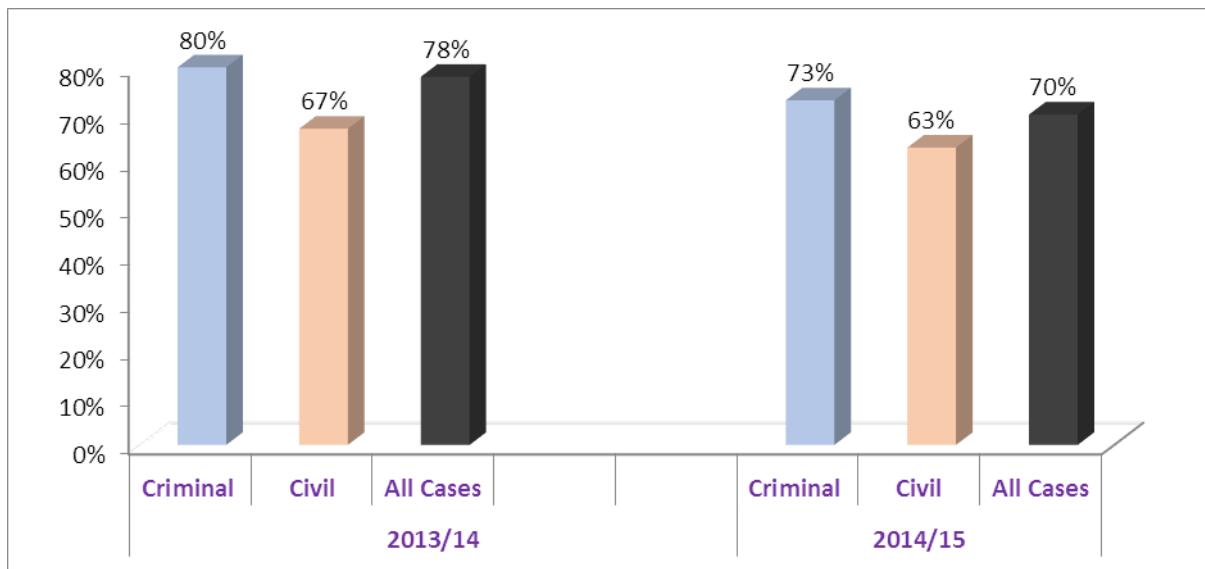
The pending cases in the magistrates' court stood at **443,622** at the end of 2014/15. The trend analysis on growth is shown in Figure 2.18.

Figure 2.17: Initiated and Resolved cases for Magistrate Court, 2012/13 – 2014/15



Annex 2F details the pending cases in specific magistrate's court stations.

The CCR for the magistrate court for the FY 2014/15 was **70 percent**. Generally, CCR for Civil Cases is higher than that for Criminal Cases at 73 and 63 percent, respectively.

Figure 2.18: CCR for Magistrate Court, FY 2013/14 – 2014/15

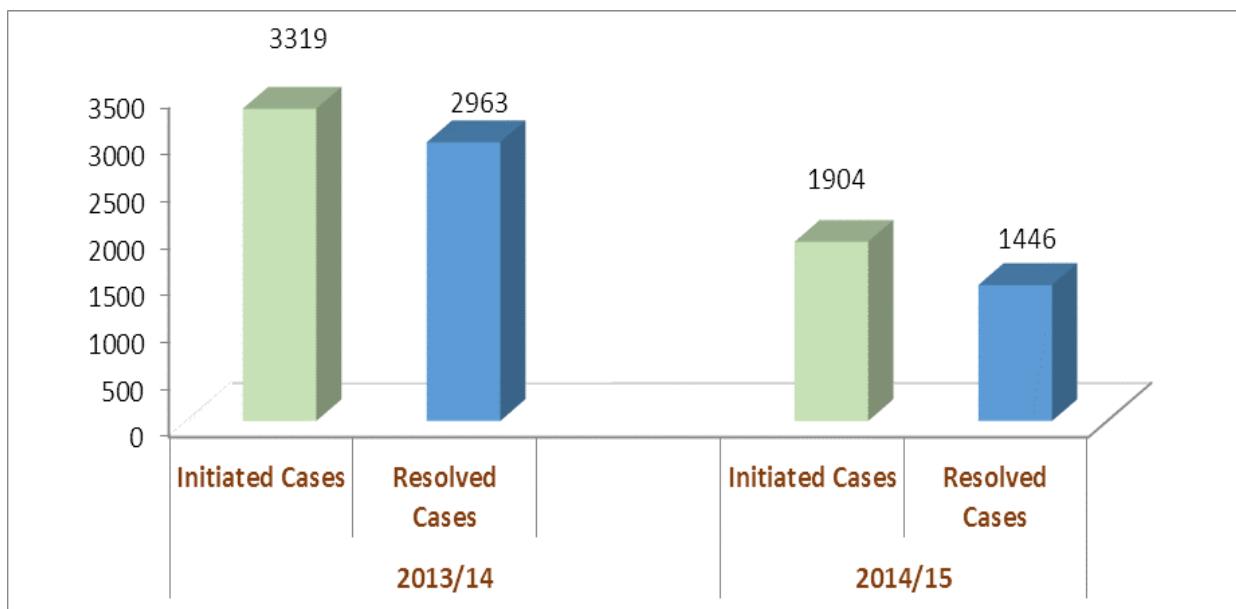
Annex 2E provides a detailed analysis of the CCR for court stations.

2.2.7 Mobile Court Stations

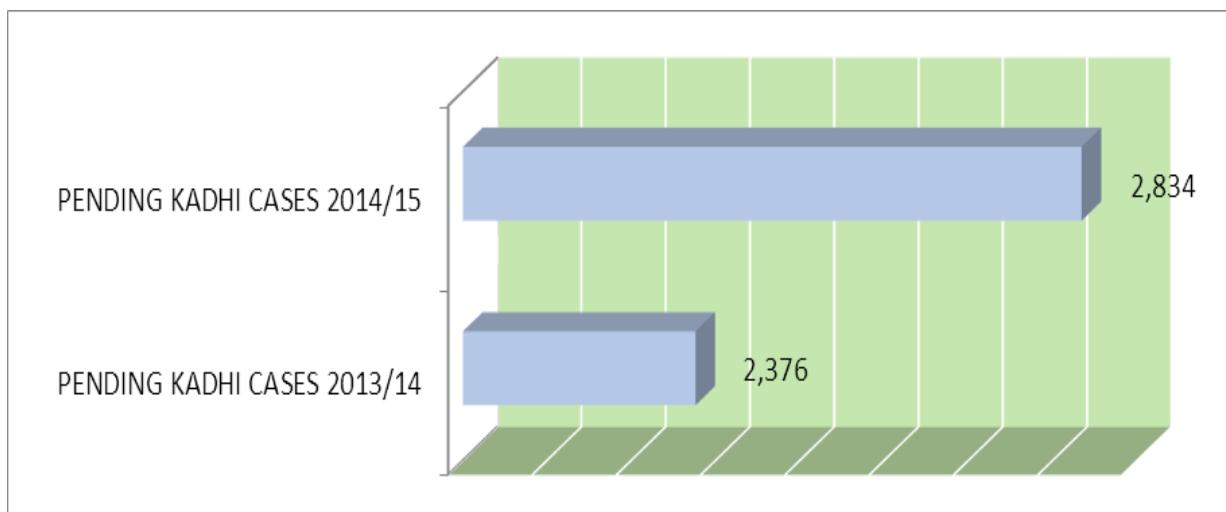
The Magistrates Court also operates 52 Mobile court stations that are crucial in enhancing access to justice. During the period under review, the 33 additional mobile courts were introduced namely: Kisanana (Elama-Ravine), Baragoi (Maralal), Kasigau (Voi), Rumuruti (Nyahururu), Kiambere (Siakago), Nyatike (Migori), North Horr & Loiyangalani (Marsabit), Etago (Ogumbo), Murua Dikir (Kilgoris), Kathangacini (Marimanti), Kuresoi (Molo), Sio Port (Busia), Ngobit (Nanyuki), Olo Kurto (Narok), Bura (Hola), Habasweini & Bute (Wajir), Elwak & Rhambu (Mandera), Borabu (Keroka), Migwani (Mwingi), Kikima (Tawa), Kendu Bay (Oyugis), Navakholo (Kakamega), Mikinduri (Tigania), Kabiyet (Kapsabet), Gaitu (Githongo), Garbatulla (Maua), Tot (Iten), Wamunyu (Machakos), Alale (Kapenguria) and Marafa (Malindi). The case data for the mobile courts forms part of the magistrate's court data.

2.2.8 Kadhis' courts

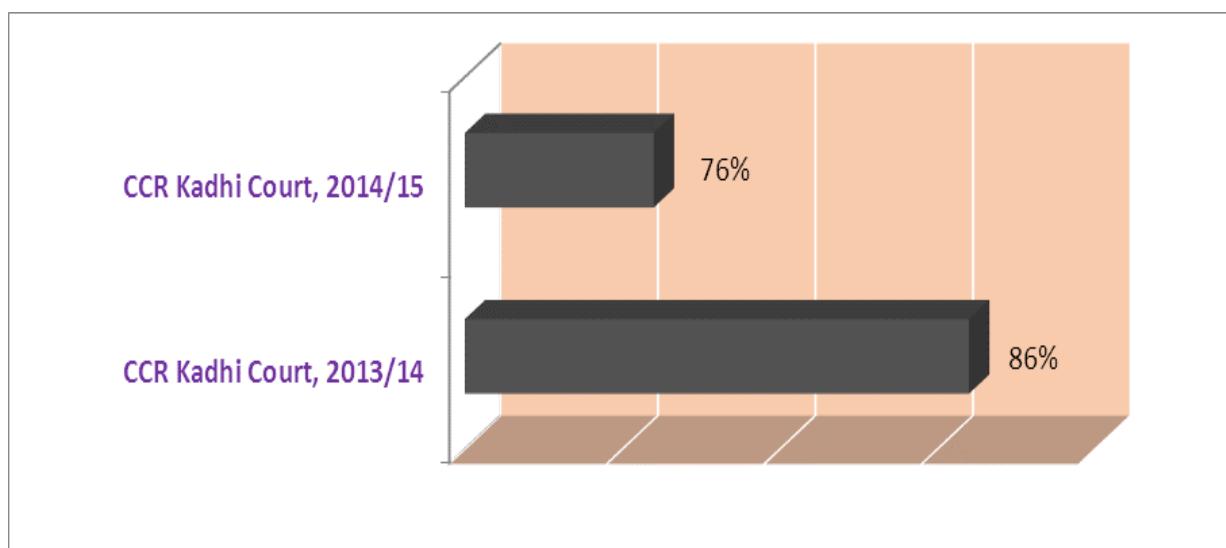
Kadhis' Courts are established under Article 170 and the Kadhis Court Act as a subordinate court. It has limited jurisdiction to determine cases relating to personal status, marriage, divorce and inheritance in proceedings in which both parties profess the Muslim religion. There are **35 Kadhis' courts** in the country. As elaborated in Figure 2.20, **1,904 cases were initiated** while **1,446 were resolved** in Kadhis court.

Figure 2.19: Initiated and Resolved Cases for Kadhis' court, FY 2013/14 -2014/15

The pending cases for Kadhis court at end of the FY 2014/15 were **2,834** up from 2,376 at end of the FY 2013/14. This is shown in figure 2.21.

Figure 2.20: Pending cases for Kadhis' court, FY 2013/14 -2014/15

The CCR for Kadhi court reduced from 86 per cent in FY 2013/14 to **76 per cent** at the end of FY 2014/15. This is shown in figure 2.22.

Figure 2.21: CCR for Kadhis' Court, FY 2013/14 -2014/15

Annexes 2G and 2H provide details of initiated, resolved and pending cases in Kadhis courts. Annex 2I provides details on CCR for Kadhi Court Stations.

2.2.9 Tribunals

In the year 2014, Judiciary established a working committee to spearhead and advice on transition and restructuring of the Tribunals in a manner that gives effect to constitutional requirements. The Committee has so far achieved the following;

- Mapping a total of 74 Tribunals in terms of their legal frameworks, jurisdiction and organizational structure. The Committees established that there exists many Tribunals each independent of the other, set up by different statutes, appointed and constituted differently, operating on different procedural rules, exercising different powers and with different degrees of accountability.
- Formulation of Draft Tribunal Bill, 2015 that is to guide Tribunals operations, promote accountable governance systems, bring clarity on appointment and staffing structures, establish a financing framework and ensure that existence of Tribunals in Kenya is aligned with the Constitution. The draft legislation was subjected to a Stakeholder Validation Workshop to validate the same on 6th November 2015 at Kenyatta International Convention Centre and thereafter presented to the Attorney-General in February, 2016.
- In the FY 2014/15, The Committees held four consultative forums with Tribunals, key stakeholders in the private sector, NGOs and government line ministries with a view also to build consensus on the way-forward for them in line with the constitutional requirement.
- Conducted a comparative analysis of tribunals in other jurisdictions namely United Kingdom, Australia and New Zealand.

Prior to the review period, only two tribunals were under the Judiciary namely Auctioneers Licensing Board and Political Parties Disputes Tribunal. During the FY 2014/2015, 10 Tribunals were transferred to Judiciary. These tribunals are; National Environment Tribunal, Sports Disputes Tribunal, Energy Tribunal, Rent Restriction Tribunal, Business Premises Rent Tribunal, Education Services Tribunal, Standards Tribunal, Industrial Property Tribunal, HIV and AIDS Tribunal, Co-operative Tribunal. The tribunals expected to join the Judiciary in FY 2015/16 are Competition Tribunal, Public Private Partnership Petitions Committee and Transport Licensing Appeals Board.

Table 2.8: Trend Analysis of Registered Cases in Tribunals, FY2009/10-2015/16

Tribunal	Registered Cases					
	2009/ 10	2010/ 1	2012/ 3	2013/ 4	2014/ 5	2015/ 6
1. National Environment	9	9	12	1	-	6
2. Sports Disputes	-	-	-	3	7	1
3. Energy	11	17	8	-	-	-
4. Rent Restriction	960	1137	1362	1641	1620	2113
5. Business Premises Rent	416	340	421	398	383	392
6. Standards	-	-	-	4	6	-
7. Education Services	-	-	-	-	-	-
8. Industrial Property	7	5	9	-	-	7
9. HIV and AIDS	-	-	16	15	13	9
10. Cooperative	673	672	677	686	660	612
11. Auctioneers Licensing Board	180	125	96	112	147	122
12. Political Parties Disputes	24	20	66	40	31	16
13. Competition l	Newly constituted					
14. Public Private Partnership Petitions Committee	-	-	-	-	-	3
15. Transport Licensing Appeals Board	Newly constituted					

*These are cases finalized in the year.

2.3 Efforts to Improve Access to Justice

The Judiciary has adopted innovative and strategic approaches to improve access to justice. These initiatives include: increase of judicial officers and staff; Establishment of new court stations, sub-registries and mobile courts; initiatives to improve case clearance such as Justice@ Last; reducing procedural and administrative barriers to justice; and people centered public engagements.

2.3.1 Increasing the number of Judges and Magistrates

At the end of the FY 2013/2014, there were a total of 622 judges and judicial officers comprising magistrates and Kadhis. These are 7 Supreme Court Judges, 26 Court of Appeal Judges, 70 High Court Judges, 15 Environment and Land Judges, 12 Employment and Labour Relations Court Judges and 457 Magistrates and 35 Kadhis. While there has been an increase in the number of judicial officers since 2011, the numbers as compared to the general population is still low. Consequently, as part of its commitment to bridge this gap, in May 2015, 14 new High Court Judges were appointed by the President on advice of the Judicial Service Commission, and deployed to various court stations around the country.

2.3.2 Establishment of New Courts, Sub registries and Mobile Courts

Access to justice demands proximity to court stations. This requires reduction of physical distance travelled by litigants to get to courts. It is now a Constitutional and Statutory requirement under the Judicial Service Act that High Courts be established in every County while Magistrates Courts are to be established in every District. To fulfill this obligation, the Judiciary has established a Court of Appeal Circuit at Nakuru, Eldoret, Busia, Kisii, Bungoma, Meru and Mombasa. The Judiciary has established five new High Court Sub- Registries in Naivasha, Kitui, Narok, Voi and Migori with effect from 1st April, 2014. The new High Court stations were operationalised and began sitting in July 2014.

Under the Magistrates Courts, Mbita Law Courts was established in July, 2014. This has helped reduce the distance travelled by litigants who hitherto were served at Homa-Bay Law Courts. In addition, thirty three (33) additional Mobile Courts were introduced which have also reduced distance travelled by litigants in far flung areas including but not limited to Lodwar, Mandera, Wajir & Garissa. The new mobile courts are at: Kisanana (Elama-Ravine), Baragoi (Maralal), Kasigau (Voi), Rumuruti (Nyahururu), Kiambere (Siakago), Nyatike (Migori), North Horr & Loiyangalani (Marsabit), Etago (Ogumbo), Murua Dikirr (Kilgoris), Kathangacini (Marimanti), Kuresoi (Molo), Sio Port (Busia), Ngobit (Nanyuki), Olo Kurto (Narok), Bura (Hola), Habasweini & Bute (Wajir), Elwak & Rhambu (Mandera), Borabu (Keroka), Migwani (Mwingi), Kikima (Tawa), Kendu Bay (Oyugis), Navakholo (Kakamega), Mikinduri (Tigania), Kabiyet (Kapsabet), Gaitu (Githongo), Garbatulla (Maua), Tot (Iten), Wamunyu (Machakos), Alale (Kapenguria) and Marafa (Malindi).

2.3.3 Performance Measurement and Management

The Access to justice demands speedy disposal of cases. During the period under review, Judiciary finalized and launched PMMUs as an important performance enhancement tool for all the court stations, registrars and directorates. The PMMUs have numerous performance indicators key among them the case clearance rate and backlog reduction. Judiciary targets to have a CCR of over 100 per cent as well as initiated other measures to reduce case backlog. The Judiciary's commitment to improve case clearance rates is yielding results. The Court of Appeal at Nairobi has mounted and increased benches of Judges sitting daily to four. In general, the court has improved its CCR from 82 to 90%. As a result, in some court stations like Nyeri and Malindi, cases are being heard on real time basis.

2.3.4 Justice@Last: Cleranace of Old Cases Initiatives

In order to speed up delivery of justice for old pending cases, the *Justice@Last Initiative* was launched in February 2015 to clear old cases. In the first phase of the exercise, 15 Judges at the Milimani Law Courts were assigned with the task of exclusively dealing with these files. The second phase covered Nairobi and 9 other High Court stations, that is, Mombasa, Nyeri, Nakuru, Machakos, Kisii, Eldoret, Kisumu, Kakamega and Meru. It ran from 8th June, 2015 to 24th July, 2015. A few magistrates courts also participated.

In total, 48,163 cases were handled out of which 40,953 were resolved. Details on the outcome of the Justice@Last Initiative for High Court Stations is elaborated in table 2.9

Table 2.9: Outcome for the Justice@last initiative carried out in the FY 2014/15

Court	Number of Cases Handled	Number of cases Finalized
Milimani High Court, Criminal Division	549	210
Milimani High Court Judicial Review Division	115	88
Milimani High Court Commercial and Admiralty Division	904	728
Milimani High Court, Family Division	4,479	4,428
Milimani High Court, Civil Division	22738	19662
Machakos High Court	1,703	1,301
Mombasa High Court	3,395	2,822

Court	Number of Cases Handled	Number of cases Finalized
Nakuru High Court	1,972	1,551
Eldoret High Court	1,279	1,140
Kisumu High Court	2,091	1,777
Kakamega High Court	2,308	1,914
Kisii High Court	3,497	3,184
Nyeri High Court	1,702	995
Meru High Court	1,431	1,153
Total	48,163	40,953

During the review period, a total of 48,163 cases were handled out of which 40,960 cases were resolved. This initiative had a great impact on access to justice and the overall performance of the High Court as evidenced by a CCR of 127 per cent for the FY 2014/15.

2.3.5 Reducing Procedural and Administrative Barriers to Justice

The Court of Appeal developed and gazetted new Practice Directions on Civil Appeals and Applications to assist advocates and litigants comply with provisions of the Court of Appeal Rules. The Practice Directions were formally issued on 19th March 2015. In addition, a simplified version of the practice directions was crafted and disseminated. Plans are underway to develop criminal appeal practice directions to clarify processes to litigants and advocates.

The Court of Appeal has improved its service delivery through an improved system of creation of cause lists and service on litigants which were created and implemented during the FY. Under the new system, the Cause list is prepared by case management secretariat and put on the notice board a week before the beginning of a new month. This has improved service delivery and reduced applications for adjournments by advocates as they are put on notice in good time to prepare for the hearing of their clients' cases. In addition, members of the public are served at least a week before hearing. Court of Appeal registry processes have also been simplified for members of the public and advocates. As a result of the improved registry functions, fewer cases have collapsed for non-attendance. In addition, daily and monthly returns are submitted to the case management secretariat which has improved collection and collation of the daily court return templates. As a result, fairly accurate statistics are available on all appeals filed, heard, pending and delivered. The court has also signed performance undertakings which will further streamline many Court processes.

There have been several efforts by the Magistrate Courts to improve service delivery in traffic cases. The functional MPesa Pay Bill System introduced in November 2013, continued to be used for payment of traffic fines. In 2014/2015 traffic fines in majority of our court stations were paid using this system which ultimately eliminates interaction between staff and cash. It has significantly increased convenience court users. In addition, the Traffic Guidelines were operationalised and implemented. Sensitization exercises were carried out aimed at creating awareness among Kenyans on their rights and obligations in regard to traffic matters.

A Committee was established to develop a Magistrates and Kadhis Courts Registry Manual (MKCRM), after realizing the practice in most stations across the country was varied. The aim of the MKCRM was to simplify and standardize registry procedures and improve functional access to courts and court services across the country.

Additionally, Case Process Flow Charts in the Magistrates Court, have been developed to assist court users in Criminal, Civil, Traffic & Succession matters. Lack of clear processes was identified as a challenge to litigants, and also a breeding ground for corrupt practices. These flow charts show how cases are processed at a glance.

2.3.6 Continuous Public Engagement

The Courts have continued to focus on people centered public engagement. Courts regularly collaborate with members of the public and stakeholders with a view to improving access at all levels. For instance, CUCs, customer care desks in various stations engaged members of the public and other justice sector players thereby fostering stronger ties that will culminate into enhanced access to justice. Open days have been conducted in several stations including but not limited to Maralal, Marimanti, Marsabit and Kapenguria. Courts also interacted with members of the public at Agricultural Shows in Kenya (ASK) shows held in collaboration with DPAC.

During the reporting period, the Supreme Court visited the United Kingdom and India. The overall objective of these trips was to build the capacity of the Supreme Court through training and judicial dialogue. The visits provided rich insights into methodologies that have been utilized in other progressive jurisdictions. The Judges engaged their counterparts in intellectual discourse on landmark jurisprudence on devolution matters, international human rights, constitutional law and reforms.

The Chief Justice, Dr. Willy Mutunga and the Chief Justice of the Constitutional Court of South Africa, Justice Mogoeng launched a Law Clerks Exchange program between the Supreme Court of Kenya and the Constitutional Court of South Africa. The inaugural exchange program began on 1st July, 2014. During the period under review, two law clerks from the Kenyan Supreme Court participated in the program.

2.3.7 Enhancement of Legal and Policy Environment

For better organization, management and service delivery, the Judiciary through the Court of Appeal and the High Court, developed Court of Appeal (Organization and Administration) Bill 2015 and High Court (Organization and Administration) Bill 2015. This was done through a consultative process involving meetings and forums with all stakeholders.

CHAPTER THREE—JURISPRUDENCE

3.0 Introduction

The Judiciary's role in the dispensation of justice and as a guardian of the Constitution was well projected through the jurisprudence that came from the Courts during the period under review. During the FY2014/2015, Courts made key determinations on a wide range of issues touching on the Constitution, Land and Environment, Political Rights and the transfer of functions from the National to County Governments. In addition to the broad topics cited above, Courts made specific significant decisions on the jurisdiction of the High Court and the Specialized Courts on matters touching on the Constitution; the retirement age of judges; the application of the provisions of the Prevention of Terrorism Act in relation to the right to a fair administration action under Section 47 of the Constitution; the validity of documents prepared by an advocate without a valid practising certificate; and an Advisory Opinion by the Supreme Court on the relationship of the mandate of the National Land Commission and the Ministry of Land, Housing and Urban Development.

The discussion below gives a broad but pointed overview of the major areas of jurisprudence that emerged from court decisions during the review period.

3.1 The Elections Act

The Limitation of the Rights of Public Officers to vie for by-elections: Court Declares Section 43(5) of the Elections Act unconstitutional to the extent that it applied to a by-election.

The Union of Civil Servants & 2 Others -vs- Independent Electoral and Boundaries Commission & Another, Petition No. 281 of 2014.

This case raised the issue of the constitutionality of Section 43(5) of the Elections Act, 2011 which had provided that a public officer must resign six months before a by-election date if s/he wished to contest such an election. Further, that the said law unfairly barred such an officer from lawfully contesting for a position in a by-election because it was practically impossible to meet its expectations. The petitioners also alleged that Section 43(5) as read with Section 43(6) of the Elections Act was discriminatory if applied in General Elections regarding public officers. An issue of *res judicata* was also raised claiming that the issues in this case had been dealt with in previous cases and were therefore barred.

The issue before court was whether there was a difference in the application of the doctrine of *res judicata* in civil law and in constitutional matters and whether Section 43(5) of the Elections Act had violated the petitioner's right to equity and freedom from discrimination as provided under Article 27 of the Constitution by barring a public officer from vying in a by-election. The court was therefore called upon to determine whether the limitation of the right to enjoyment of political rights as set out in Section 43(5) of the Elections Act was reasonable and justifiable in the context of a by-election.

The court observed that it had generally been the position of the High Court that *res judicata* should only have been invoked in the clearest of cases and only where a party was litigating the same issue twice, on the same conditions. In rights based litigation particularly, the invocation of the principle should only be done very sparingly and in the most obvious of cases. In other words, in constitutional matters, Courts ought to be slow to invoke *res judicata* or risk violating the same rights, including that of access to justice, which they ought to jealously guard. Further, the court opined that no other case had addressed the issue of constitutionality of Section 43(5) of the Elections Act in depth, neither was there a categorical decision made on the issue. The issue before the Court was therefore live and had not been previously determined because while all the Petitions referred to basically concerned eligibility to contest in an election, the instant Petition sought a determination of the constitutionality or otherwise of Section 43(5) of the Elections Act in so far as the eligibility of a public officer to contest in a by-election was concerned.

The court noted that in the context of a general election and by comparison, there was certainty as to the date of such an election because as provided for under Article 101(1) of the Constitution, general elections were to be held on the second Tuesday in August every fifth year. Therefore, a public officer had sufficient notice of an election date and could properly resign within the period given which was otherwise reasonable.

On the issue of equality and freedom from discrimination and political rights under Articles 27 and 38 of the Constitution respectively, the court observed that the rights could be limited. Further, Article 24 permitted the limitation of certain rights but under a strict and elaborate scrutiny anchored upon the test of reasonability and justifiability. Section 43(5) of the Elections Act was not reasonable and justifiable in the context of a by-election because as could be discerned from the provisions of Article 101(4) of the Constitution, a by-election was conducted subject to a vacancy arising in circumstances contemplated under Article 103 of the Constitution. Taking those circumstances into account i.e. death, resignation, disqualification etc., it would have been difficult to predict and foresee the possibility of a vacancy arising in Parliament or a County Assembly so that a public officer could prepare to contest in that by-election. Those circumstances were also uncertain. The court thus found that applying the reasonability test to the circumstances of the Petitions before court, it was clear that section 43(5) of the Elections Act did not meet the fairness and reasonability test as provided for under Article 24 of the Constitution. Article 159(2) (d) of the Constitution was relevant in such a situation as it empowered the Court to administer justice without undue regard to technicalities and having found Section 43(5) of the Elections Act to be unreasonable in limiting the political rights of public officers under Article 38 of the Constitution to contest a by-election, it was therefore declared unconstitutional only to the extent that it applied to a by-election.

3.2 Family Law

The courts enriched the existing jurisprudence on Family law in Kenya through a number of cases that were decided over the reporting period, touching on the institution of the family, matrimonial property, succession and child law as shown in the following cases.

3.2.1 Court Orders the Teachers Service Commission (TSC) and State to Compensate Minors Defiled in School by their Deputy Head Teacher

WJ & another (suing through their guardians) v Astarikoh Henry Amkoah & 4 others, Petition no. 331 of 2011.

The case arose in the constitutional court and raised the issue of the liability of the state and state organs in the education sector when persons under their employ, and over whom they exercise powers of discipline and control, violate the rights of children placed under their care. It questioned the policies or lack thereof pertaining to steps and process when persons in the position of the 1st Respondent abuse their positions and violate the rights of those under their charge. The petitioners in the case alleged violation of their rights by the Deputy Head teacher (1st respondent) of their school. They accused him of defiling them on various dates causing them physical, emotional and psychological harm and trauma. The petitioners also accused the state and the Teachers Service Commission (TSC) of failing to protect their rights and those of other school going children by failing to protect them from sexual abuse by persons in the position of the Deputy Head Teacher. They further alleged that the state and TSC were vicariously liable for the violation of their rights by the Deputy Head Teacher.

The issues before court were whether acts of sexual violence against a student amounted to a violation of the right to education and health as provided for under Article 43(1) of the Constitution and Section 7 of the Children Act; whether the State and the Teachers Service Commission were vicariously liable for the unlawful acts of defilement by the 1st respondent; whether a decision of a Criminal Court acquitting an accused person would bar the Constitutional court in considering issues of alleged violation of constitutional rights on the basis of the same facts and finally whether the petitioners were entitled to damages based on the consequences of the defilement.

The court held that the decision of the Criminal Court acquitting an accused on the merits of a case would not bar disciplinary proceeding against him on the basis of the same facts, nor would it operate as conclusive evidence in the disciplinary proceedings, reason being that a criminal court required a high standard of proof for convicting an accused given that the case had to be proved beyond reasonable doubt. However, the acquittal of an accused by a Criminal Court only meant that the case had not been proved against him beyond reasonable doubt since such a standard of proof was not required for finding a person guilty in a disciplinary proceeding.

The court thus found that the 1st Respondent committed the acts of defilement that he was being accused of and his employer, the TSC, found him culpable of breaching the Code of Conduct and Ethics, and not only dismissed him from employment but struck him off the register of teachers. At the very least, even though the acts of defilement were not proved against him in the criminal trial where proof beyond reasonable doubt was required, on the balance of probability test, the 1st Respondent did defile the petitioners. The court noted that the consequences of sexual violence against minors were severe as they could affect their physical and emotional well-being and expose them to the risk of contracting sexually transmitted illnesses, thus affecting their right to health. In addition, the fact that their psychological well-being was affected was a clear violation of their right to health, which was defined as including the highest attainable standard of physical and mental well-being.

The court opined that there was a need to provide psycho-social support to children in the position of the petitioners who were adversely affected by the unlawful acts of sexual abuse committed against them by the 1st respondent and who, as in the case of the 2nd Petitioner, found it difficult to

continue with their education. Further, that public policy considerations dictated that those in charge of educational and other institutions be held strictly liable for abuses committed by those whom they have placed in charge of vulnerable groups such as minors in educational institutions. It was not enough to prosecute those found to have breached the duty of care, and to have intentionally committed criminal acts against minors. The institutions were under a duty to ensure that there was no room for abuse by those they had placed in charge of those vulnerable groups. In the circumstances, the 3rd and 4th respondents were vicariously liable for the unlawful acts of the 1st respondent against the petitioners.

The court found that damages were the only remedy that the Court could offer and proceeded to award the same. In respect of the vicarious liability of the 3rd and 4th respondents, such damages ought not to be borne only by the 1st Respondent as the perpetrator, but also by his employer who was the State through the TSC, which had failed to adequately exercise its duty of care to the petitioners. The court noted that any teacher, who had violated his duty as a teacher and abused the trust of parents who left their vulnerable children in their charge, and who turned like a wolf against them, would be held civilly liable, even though they might escape criminal culpability.

In conclusion, the court held that the State through the TSC, ought to up its game with respect to protection of minors. It could not shuffle pedophiles from one school to another, and finally, be content with dismissals. It had to put in place an effective mechanism, whether through an inspectorate department within TSC or the Quality Assurance Department within the Ministry, to ensure that no-one with the propensity to abuse children was ever given the opportunity to do so. The court found that dismissal and even prosecution while important could never restore the child's lost innocence.

3.2.2 Extent of assertion of spousal rights over property whose sale and transfer was alleged to be fraudulent and whose title was held by a 3rd Party

Anthony Isaac Mwaro (suing as the legal administrator of the estate of Ferdinand Kahindi Mwaro – Deceased) –vs- Diamond Trust Bank of Kenya Ltd & 2 others, ELC Civ. Case no. 173 of 2014.

The main issue before the court was whether spousal rights could effectively be asserted over property whose sale and transfer was alleged to be fraudulent and the title was no longer held by a spouse. Also pertinent in the matter was whether spousal rights could be asserted to prevent the exercise of a statutory power of sale in a charge instrument to which only a 3rd party, and not a spouse, was party.

A ruling had been issued by the court to the effect that there was no privity of contract between the Bank (1st Defendant) and the plaintiff and for that reason the plaintiff could not challenge the Bank's statutory power of sale.

On the issue of spousal rights, the court held that spousal rights were recognized when the Land Registration Act came into force in the year 2012. The provisions on spousal rights could not operate retrospectively and defeat the charge which was registered by the 1st Defendant in the year 2008. It would have been necessary for the sale of the suit property to be set aside successfully on grounds of fraud or mistake before the Applicant's assertion of spousal rights as overriding interest could be used to defeat the exercise of the statutory right to sell the property.

3.2.3 Inconsistency of Rule 2 of the Matrimonial Causes Rules to the Marriage Act, 2014

Rule 2 of the Matrimonial Causes Rules allowed an applicant to seek leave of court before commencing divorce proceedings for a marriage that had lasted less than 3 years. The Marriage Act under section 66(1) did not give power to the Court to allow a petition for divorce to be presented before the lapse of three years after marriage. The said section clearly stated that a party to a marriage could not petition the Court for dissolution of the marriage unless 3 years had elapsed since the celebration of the marriage. Section 6 in the repealed Matrimonial Causes Act empowered a judge on application by way of originating summon, to allow a petition for divorce to be presented before the expiry of 3 years after the celebration of a marriage.

In *J A C v P W, case no. 22 of 2015 (OS)*, the Applicant sought leave of court to commence divorce proceedings for the dissolution of a marriage that had been solemnized less than three years before the presentation of the application. The ground for the intention to divorce was based on an alleged adultery on the part of the respondent. There was pictorial evidence to justify the allegations and the respondent had admitted doing so. The legal question for determination before the court was whether the Matrimonial Causes Rules made under the repealed Matrimonial Causes Act allowing any person to file an application for leave to present a petition for divorce before three years had passed since the date of marriage, was inconsistent with the Marriage Act, 2014.

In determining the question, the court cited Section 24 of the Interpretation and General Provisions Act which required that subsidiary legislation should only remain in force if it was not inconsistent with the repealing Act. The court found that there was no specific provision in the Marriage Act, 2014 allowing a petition for dissolution of marriage to be presented before three years had passed. The court ruled that rule 2 (1) of the Matrimonial Causes Rules was inconsistent with the Marriage Act 2014 and could not therefore remain in force pending the promulgation of rules under the Marriage Act, 2014.

It was then apparent to the Court that a reading of Section 66 informed that, when passing the Marriage Act, 2014, Parliament was of the view that marriage was a serious institution and parties should not be allowed to enter into and out of it trivially or on a whim. Had Parliament wanted to give to the Courts power to allow the filing of divorce petitions before the expiry of 3 years, it would have done so. Despite the weight of the circumstances in the case, the law had not opened a window for applicants to present a petition for the dissolution of his marriage before three years had elapsed since the celebration of the marriage.

3.3 The Bill of Rights

During the FY 2014/2015, the courts through their pronouncements enforced various aspects of the Bill of Rights. The notable areas that were covered by the courts as discussed below, included the freedom of the media and fair administrative actions by government officials.

3.3.1 The application of Section 3 of the Prevention of Terrorism Act in relation to the right to fair administrative action under Article 47 of the Constitution of Kenya, 2010, Petition No.9 of 2015

In a period where there was heightened government measures taken to counter terrorist activities, the Courts had occasion to consider the legality and fairness of some of the government's administrative actions. The Inspector General of Police issued a Notice in the Kenya Gazette listing 85 entities and individuals suspected to be associated with *Al Shabaab*. Consequently, the Government froze the bank accounts of people and institutions suspected to be funding terrorists pending investigations before action could be taken against them. In *Muslims for Human Rights (Muhuri) & another v Inspector-General of Police & 4 others*, Petition No. 19 of 2015, the petitioners, who were among those listed by the Inspector General sought, *inter alia*, declaratory reliefs that the actions of the Respondents were unconstitutional, orders to unfreeze their respective bank accounts as well as an injunction restraining the Inspector General of Police and Cabinet Secretary in the Ministry of Interior and Coordination of National Government from proceeding any further or declaring them as specified entities. The main issue for determination was whether the actions of the police under Section 3 of the Prevention of Terrorism Act violated the right to fair administrative action as provided for under Article 47 of the Constitution of Kenya, 2010.

The court held that whereas it was correct that Section 3(2) of the Prevention of Terrorism Act did not lay down the manner in which an entity could be informed of the suspicion of acting in terms of Section 3(1) (b) of the Act, Article 27 (1) of the Constitution guaranteed every person protection and equality before the law, and Article 29 the right not to be subjected to torture in any manner, whether physical or psychological. Further, Article 244(c) of the Constitution required the National Police Service of which the Inspector-General of Police was its Chief Executive Officer, to comply with constitutional standards of human rights and fundamental freedoms. In summoning the Applicants' representatives by way of Gazette Notice without a prior notice to appear before him within twenty-four hours, the Inspector General of Police subjected the representatives of the petitioners to psychological torture, which was prohibited by Article 29(d) and deprived those representatives of their dignity and equality before the law as guaranteed by Article 27 of the Constitution.

The court further held that the jurisdiction of the High Court could not be taken away by the procedural aspects of the Prevention of Terrorism Act, since this would result in a conflict with the supremacy provisions of the Constitution. Thus, the objection on grounds of jurisdiction was dismissed.

3.3.2 The nexus between trans-sexual gender identity and human dignity.

Republic v Kenya National Examinations Council (KNEC) & Another Ex-parte Audrey Mbugua Ithibu, JR No. 147 of 2013.

This case marked the first time that an issue involving the gender identity of a transsexual was brought before the court. Audrey Mbugua Ithibu was identified in the birth records as a male child. However, she felt more inclined to be female and underwent certain procedures including hormonal treatment to achieve this end. At the time of the case, Audrey lived and dressed as a woman.

She had written to KNEC severally about the possibility of change of name and gender on her Kenya Certificate of Secondary Education (KCSE) certificate but her request had however been denied.

The main issue before the court was whether KNEC owed a duty to the applicant to change the name and remove the gender mark on the Certificate.

One of the issues that was highlighted during the hearing was that of human dignity in Article 10 of the constitution as one of the national values and principles of governance. The judge pointed out that if democracy was based on the recognition of the individuality and dignity of man, we have to recognize the right of a human being to choose his gender which is one of the most basic aspects of self-determination, dignity and freedom.

The Court referred to Rule 9 (3) of the KNEC (KCSE Examination) Rules in making its decision. It was held that the rules do not require that a gender mark be imposed on a KCSE certificate. A KCSE Certificate, the court said, could therefore be complete without a gender mark.

The court issued an order of mandamus compelling KNEC to recall the Applicant's certificate and replace it with one in the name of Audrey Mbugua Ithibu without a gender mark.

3.3.3 Setting the bar for discriminatory government policies: Court declines to order the scrapping of National Examinations in the North Eastern region and parts of the Rift Valley.

Ndoria Stephen V. Minister for Education and 2 others, Petition 464 of 2012.

The petitioners were challenging what they termed as 'discriminatory government policies' in provision of education to children from the North and North Eastern regions as well as parts of the Coast and Rift Valley (what are considered as marginalized areas. As a result of the discriminatory educational policies by the government, the children in those areas were unable to access the right to education on the same basis as children in other more developed parts of the country. The court was further urged to scrap the Kenya Certificate of Primary Education and Kenya Certificate of Secondary Education because it would violate the right to education of the poor, marginalized and children displaced by war if the examinations were allowed to proceed without the issues raised in the matter being determined. The court observed that the government had taken steps with respect to realization of the right to education for all. Therefore, there was no basis for alleging discrimination against the children by the government. The state had shown that it had policies in place and that it had been taking measures including affirmative action to ensure the children in marginalized areas accessed education. Even assuming that the disparities in the area of education were as a result of discrimination from the material placed before the court, the state was acting in accordance with its constitutional duty under Article 27(6) which requires it to take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination". The state had not failed in its obligation to set policies that would have accorded children in marginalized areas access to basic education. The state had put in place a quota system for admission of children from marginalized areas to secondary and university. Hence, a declaration to the effect that children from marginalized and hardship areas were entitled to special provisions in their admission to secondary schools and universities would have been redundant. The court observed that there were concerted efforts being made to ensure access to education for the petitioner's target group. The challenge had been to monitor the implementation of the programmes to ensure realization of the right to education. It was concluded that scrapping the National examinations through an order of the Court, without careful consideration of the advantages or benefits of such action against the shortcomings of the present situation, could not work for the benefit of the children in marginalized areas.

3.4 Decisions touching on Employment and Labour Relations

Disputes relating to the employment and labor relations were also dealt with by the courts during the period under review. The courts had occasion to clarify on certain issues affecting employment relations and to set the liabilities and duties that are created when employment relations are created.

3.4.1 Determination of the retirement age of all serving judges at the time of the promulgation of the Constitution of Kenya, 2010

Leonard Njagi V. Judicial Service Commission & 2 Others, Petition 495 of 2014.

The petitioner was found unsuitable to continue serving as a Judge of the High Court by a determination of the Judges and Magistrates Vetting Board on 21st of December, 2012. His removal was arrested by a temporary conservatory order issued in Petition No. 320 of 2013 that preserved his status as a judge of the High Court with all perks pending the hearing and determination of the main petition. Subsequently, the petitioner and others received a communication from the JSC notifying them that the retirement age of all judges serving at the time of promulgation of the Constitution, 2010 was seventy years. That was a variation to JSC's earlier circular to judges communicating a retirement age of seventy-four years. Thereafter, the petitioner and others each received a letter from the Secretary to the JSC and Chief Registrar of the Judiciary (CRJ) giving them notice of retirement. Aggrieved by the retirement notice, the petitioner filed the instant petition contending that he was yet to attain the age of seventy years and that the CRJ ought to observe the rule of law, respect the Constitution and obey the Order in Petition No. 320 of 2013. The court stated that it was bound by the Supreme Court determination in petition number 13a of 2013 where it was held that the High Court had no jurisdiction to intervene in the vetting process carried out by the Judges and Magistrates Vetting Board (JMVB). Hence the court could not resort to petition number 320 of 2013 in order to reach the same conclusion the Supreme Court had reached. That was to say, the petitioner had been removed from the judiciary upon rejection of his application for review by the vetting board. Hence, the retirement age of the petitioner was no longer governed by Article 167 (1) of the Constitution of Kenya 2010. That was because Section 23 (1) of the sixth schedule of the Constitution was clear that Article 167 was among the provisions of the 2010 Constitution suspended or precluded by the vetting process. Consequently, a judge who was in office on the effective date could be removed from office through vetting despite the fact that Article 167 provided for a judge's tenure of office. The fact that Article 167 (1) was not operational in regard to a judge removed through vetting was buttressed by the provision of Section 24 of the Vetting of Judges and Magistrates Act, 2011. A removal through vetting was a statutorily imposed early retirement and could not be equated to voluntary or elective

retirement upon attainment of the age prescribed in Article 167 (1) of the Constitution. The question as to whether the petitioner should retire at the age of 70 became moot upon his removal by the vetting board. Hence the question could no longer be considered a justiciable matter.

3.4.2 Determination of the jurisdiction of the courts in intervening in matters being handled by the Judges & Magistrates Vetting Board.

Judges & Magistrates Vetting Board & 2 others v Centre for Human Rights & Democracy & 11 others, Petition no 13A of 2013 (Consolidated with petition numbers 14 and 15 of 2013)

This was a case on its second appeal at the Supreme Court from the Judgment of the Court of Appeal which had affirmed the decision of the High Court sitting in Nairobi. The two issues for determination before the Court were: whether Section 23(2) of the Sixth Schedule to the Constitution and Section 22(4) of the Vetting of the Judges and Magistrates Act oust the jurisdiction of the High Court to review the decision of the Judges and Magistrates Vetting Board (JMVB); and whether the Court of Appeal erred in law, regarding the supervisory jurisdiction conferred upon the High Court under Article 165 of the Constitution over the JMVB.

The Court observed that ouster clauses may be categorized as constitutional or statutory. Statutory ouster clauses may confer exclusive jurisdiction on the relevant body to determine the relevant matter. It observed further that in interpreting ouster clauses as was in this case, the courts have in general been guided by the inclination that legislative bodies have a popular mandate to make law as they find appropriate, in the public interest, but that their law-making function falls within a constitutional order in which the Judiciary is the regular custodian of the rule of law, and of the rights and freedoms of the individual.

The Court observed further that the High Court's general supervisory powers over quasi-judicial agencies, and its mandate in the safeguarding of the fundamental rights and freedoms of the Constitution, by no means qualify the ouster clause which reserves to the Judges and Magistrates Vetting Board the exclusive mandate of determining the suitability of a Judge or Magistrate in service as at the date of promulgation of the Constitution, to continue in service. The basis of the said ouster clause is found in the history attending the Constitution; in the requirement of the Constitution for essential transitional arrangements; and in the express terms of the Constitution, by virtue of which the Vetting Board was established to determine the suitability of certain judicial officers, for the purposes of the values and principles declared in the Constitution itself.

It was held that in line with the terms of Section 23(2) of the Sixth Schedule to the Constitution, none of the Superior Courts has the jurisdiction to review the process or outcome attendant upon the operation of the Judges and Magistrates Vetting Board by virtue of the Constitution, and the Vetting of Judges and Magistrates Act.

3.4.3 Duty of the Employer to provide Sufficient and proper health care for his employees, including medical attendance during serious illness

Sections 34 and 35 of the Employment Act (2007) addressed the issues of medical attention as a duty of the employer as well as the duty to issue notice to the employee before termination of employment. In the case of *Eddie Mutegi Njora v Mega Microfinance Co. Ltd [2015] eKLR*, the questions before the court with respect to the duties of the employer were firstly, the extent to which the employer ensures medical care and attendance to the employee, secondly, whether the employer's refusal to pay accumulated leave days to an employee amounted to a violation of the claimant's employment rights, and thirdly, the question as to who between the employer and the employee under a fixed term contract was responsible for statutory dues, deductions and remittances. Accordingly, Section 35 (5) of the Employment Act made provision for service pay that, an employee whose contract of service had been terminated under subsection 1(c) should be entitled to service pay for every year worked, the terms of which should be fixed. Section 35 (1) of the Act stated that; where the contract was to pay wages or salary periodically at intervals of or exceeding one month, a contract terminable by either party at the end of the period of twenty-eight days should be preceded by giving of notice in writing.

The duty to deduct and remit was upon the employer and not on the employee. To leave such a duty upon an employee was a misapplication of the law and the responsibility attached to the employer. Before an employer could approve any payments to its employee, due diligence, duty and responsibility dictated that such an employer should ensure all statutory deductions were remitted with regard to all its employees, the chief executive officer, the administrator, accountants; all these inclusive. It was not the position held that matters in that regard, it was the status of being an employee that was important. In the instant case the Respondent should have ensured that all its employees were registered with the NSSF and all remittances deducted and made to such a body.

In addressing the issue of leave, the court stated that leave was a legal entitlement which should be taken when due. It enabled an employee to rest as such rest could not be postponed and to do so only creates burnout and less productivity from such an employee.

The duty to provide a medical cover; medical attention or medical care was upon the employer. Section 34 of the Employment Act required that the employer should ensure provision of sufficient and proper medicine for his employees during illness and if possible, medical attendance during serious illness. An employer should take all reasonable steps to ensure that he was notified of the illness of an employee as soon as reasonably practicable after the first occurrence of the illness. If the employer showed that he did not know that the employee was ill and that he took all reasonable steps to ensure that the illness was brought to his notice or that it would have been unreasonable, in all the circumstances of the case, to have required him to know that the employee was ill. Where an employer provided a medical cover, such a cover was to ensure the employer had taken a progressive step to ensure all employees were covered in terms of medical care and attention at all times.

Where an employer had not provided such a medical cover once an employee was unwell, such information should be brought to the attention of the employer as soon as it was reasonably practical. The employer then had a duty to address the matter as appropriate where such sickness had been brought to their attention.

3.5 Land and Environment Matters

3.5.1 Relationship between the mandates of the National Land Commission and the Ministry of Land, Housing and Urban Development

The Constitution of Kenya, 2010 vests jurisdiction in the Supreme Court to issue Advisory Opinions in references filed before it by parties seeking clarification on certain national issues. The Court had opportunity to issue such opinion with regard to the specific functions of the National Land Commission.

In the matter of the National Land Commission Advisory Opinion Reference No. 2 of 2014

The Constitution of Kenya, 2010 established the National Land Commission (NLC) as an independent office with specific functions some of which were previously under the Executive. Prior to that, the Commissioner of Lands and the President had monopolized the powers to manage, and to dispose of land. That broad land-disposal empowerment had led to certain abuses.

The NLC, which was established under Article 67(1) of the Constitution of Kenya, 2010 to, amongst other things, manage public land on behalf of the National and County Governments, sought a clarification on its functions and powers, on the one hand, and the functions and powers of the Ministry of Land, Housing and Urban Development (the Ministry), on the other hand, in light of the three main statutes that were enacted in line with Article 68 of the Constitution. The Acts were the National Land Commission Act No. 5 of 2012; Land Act, No. 6 of 2012; and the Land Registration Act No. 3 of 2012.

The Commission filed an application before the Supreme Court seeking to be advised on the mandate and relationship between NLC and the Ministry of Lands and Urban Development.

The issues canvassed before the Court related to the mandate of the two offices in relation to: administration and management of public land, community land, and private land; the allocation of public land; the renewal and extension of leases; issuance of licenses, leases and grants in respect of public land; compulsory acquisition of land; the creation of land registration units; the establishment of a land register.

At the heart of the Reference before the Court was the issue of ‘land administration and management’ as per the wording of Articles 62(2) and 67 (2) (a) of the Constitution.

The Supreme Court in a wide view and in a nutshell *inter alia* advised that: while endowing the Commissions and independent offices with competence, the Constitution (Article 67) itemized the functions of the National Land Commission, which include: “*to manage, to recommend, to advise, to monitor and to assess*”. That mandate was to be exercised in the best interest of the people, whose sovereignty was to be protected.

It found that the NLC was required to obtain ‘consent’ from the National or County Governments in the discharge of its functions as stipulated in Section 5 (2) (a) of the NLC Act. That provision was to be read in conjunction with Article 259(11) which required that any function or power that was to be exercised on the advice or recommendation or with the approval or consent of or in consultation with another ought only to be exercised after such fact.

The NLC was not to work in isolation, but rather in consultation and co-operation with the Ministry. That was an interdependent relationship, with one body formulating the policy, whereas the other implemented the policy; it was not prudent for any State organ to be the one formulating, implementing, and at the same time overseeing the implementation of the policy. That apportionment of responsibility did not invalidate the doctrine of separation of powers, but rather, redefined and consolidated the essential principle that separation was not the goal in itself, but was a vital means to assert checks upon each organ of Government, so as to achieve constitutionally-restrained governance.

The relationship intended between the NLC on the one hand, and the National and County Government on the other, did not lend itself to the agency template; rather, it was a straightforward constitutional relationship, in the public-law mode. Besides, the NLC was an independent commission in the terms of Article 248(1) (b), as read with Article 249(2) of the Constitution, and with the provisions of the relevant statutes. The NLC was not subject to direction or control by any person or authority; and it could not, thus, be considered an agent of the National or County Government, in the legal sense.

The NLC’s mandate, which was required to function in a collaborative and consultative constitutional and legal setting, belonged squarely to the mechanism of checks-and-balances, rather than that of an isolated fourth arm of government, entrusted with tasks unrelated to those falling under the dockets of other State organs. Indeed, the neat paradigm of a fourth arm of government appeared not to be in the contemplation of the Constitution of Kenya, 2010 which specified [Article 1(3)] that the people’s sovereign power devolved to just three vital State organs: the Executive; the Legislature; and the Judiciary and independent tribunals.

3.5.1.1 Land Administration and Management

The Land Registration Act (LRA) defined the term ‘land administration’ as the process of determining, recording, updating and disseminating information about the ownership, value and use of land by the relevant provisions under Part II of the Land Registration Act, the process of registration was undertaken by various agencies, starting with the NLC, establishing the registration units; and culminating with the Registrar, registering the title documents.

Section 6(6) of LRA stipulated that, “*the land registration units shall be established at County level and at such other levels to ensure reasonable access to land administration and registration services*”. The foregoing sub-section separated the role of “land administration” from “registration”, notwithstanding that the term “land administration” had a wider meaning under the Act, which suggested the inclusion of functions of registration of title. As implementation was of the essence, a definition on its own did not confer any definite category of power; only by a substantive provision in the relevant Act, could a specific head of power be vested upon any agency. According to Land Registration Act, the NLC had no power to register title documents.

There had been a misconception of roles, which created a conflict between the constitutional provisions relating to the NLC, and statutory provisions that were to be found in the provisions of the Land Act, and similar legislation relating to Land. It was incumbent upon the Legislature, and the concerned commission and its agents, to tread carefully to avoid the creation of such conflicts.

Article 67(g) of the Constitution required the Commission to assess tax, and not levy or collect the same. Article 200 of the Constitution, in the Public Finance Chapter mandated the National Government to impose *inter alia* income tax, value added tax, excise tax. It further required parliament to authorize the national government to impose any other tax or duty. Sub-Article (3) mandated the county to impose property rates. If the NLC could collect taxes, it could only be in respect of public land, as private and community land fell outside its mandate. However, it was unlikely that different systems of collection of revenue or tax for different categories of land was envisaged within the framework of the Constitution.

3.5.1.2 Features of the Independence of Commissions and Offices

The independence of Commissions such as the National Land Commission was a pivotal feature in the newly-established commissions and independent offices. The key features of the independence of commissions were; firstly, that of functional independence: that entailed commissions exercising their autonomy through carrying out their functions, without receiving any instructions or orders from other State organs or bodies. That had also been referred to as administrative independence. Functional independence was in line with the general functions and powers of commissions, as provided under Articles 252 and 253 of the Constitution.

Secondly, that of operational independence: it included functional independence, and was a safeguard or shield for independence, manifested through the procedure of the appointments of commissioners; composition of the commission; and procedures of the commission. Article 255(1)(g) provided an elaborate procedure for the amendment of the Constitution in matters dealing with the independence of the Judiciary, as well as commissions and independent offices to which Chapter 15 applied.

Thirdly, that of financial independence: it meant that a commission had the autonomy to access funds which it reasonably required for the conduct of its functions. However, according to Article 249(3) of the Constitution, Parliament was mandated to set for the commission the budget considered adequate for its functions.

Finally, was the perception of independence: here, the commissions had to be seen to be carrying out their functions free from external interferences. The perception of independence was crucial in showing proof of independence.

3.5.1.3 Doctrine of separation of Powers and System of checks and Balances between State Organs

The system of checks and balances served the cause of accountability, and it was a two-way motion between different State organs, and among bodies, which exercised public power. The commissions and independent offices restrained the arms of Government and other State organs, and vice versa. The spirit and vision behind separation of powers was that there be checks and balances, and that no single person or institution should have a

monopoly of all powers. If the NLC was created as a watchdog and an oversight body, it could not carry out the direct functions of the Ministry, even as it performed its oversight role.

The doctrine of separation of powers required that organs of Government should carry out their functions without encroaching on each other. It was thus recognized that there was scope for a Government organ to act in excess of its proper mandate, or to abuse its powers. The system of checks and balances were put in place to empower other organs of Government to apply their countervailing powers, to prevent, or limit the excessive use of powers.

While the doctrine of separation of powers, and the principle of checks and balances, had conventionally been associated with the Executive, the Legislature and the Judiciary, it was entirely proper to associate them with any State organ that exercised public power and thus ought to be checked and balanced, to avoid abuse of power. The effect was that, the independence of commissions did not exempt them from being overseen, and held accountable in their operations.

Article 249(1) of the Constitution signaled the checks that the commissions had on other arms of Government. Article 254 indicated the checks which the Executive and the Legislature had upon the Commissions which took the form of accountability and transparency mechanisms. Article 254(1) required commissions to file annual reports to the President and to Parliament; Article 254(2) provided that the President and the National Assembly may require a commission to submit a report on a particular issue.

In the context of NLC, there was a kind of vertical accountability, which the commission held towards the people in general. Article 254(3) required every commission or independent office to publish and publicize its reports. That was a check-and-balance mechanism, as well as an exercise of inclusivity, accountability, transparency, good governance and integrity as recognized under the national values and principles of governance (Article 10(2) of the Constitution). It was also a mode of promoting constitutionalism, as required by Article 249(1).

Section 28 of the Land Act provided for the collection of rent charged on the use of land, and required the NLC to account for the payments received under any lease or license, to the respective Governments. Those provisions were a clear indication of the constitutional design of decentralizing the powers of public governance, within a context of checks-and-balances.

3.5.1.4 The Law: Constitution of Kenya 2010 and the Legislations on Land

Article 62(2) specified the categories of public land that vest in county governments and the NLC Act conferred power upon the NLC to administer and manage public land that was vested in County Government. However, “community land”, as defined in Article 63(1), had its own place and system of governance; and the land referred to in section 5 (2)(e) of the NLC Act, was “community land”, and not “public land”.

Those distinct definitions of “community land” and “public land”, as well as their applicable governance systems as provided in the Constitution, did not require any special professional input, as a basis for interpreting Articles 62(2) and (3) and 67 (2) (a). The Commission had no special claim to the remit of administering or managing community land. From the historical background, recognition of the special character of community land was essential, with attendant cautions in its management.

It was hence necessary for Parliament to make amendments to Section 5(2) (e) of the NLC Act, to bring it into line with the constitutional provisions.

The mandate of the NLC was set out in the Constitution [Article 67(2) (d), (e) and (f)]. From those provisions, NLC bore a brains-trust mandate in relation to land grievances, with functions that were in nature consultative, advisory, and safeguard-oriented. As regards such functions, the NLC, on the basis of clearly-formulated statutes, should be able to design a clearly-structured agenda for regular operations and *inter alia*, should seek to devise a well-focused safeguard-mandate in relation to land issues. Co-operation and consultation with other State organs would be important, in identifying, and defining urgent tasks on the NLC’s agenda.

Section 18 of the NLC Act provided for the establishment and functions of County Land Management Boards, the functions assigned to the Board, with regard to the processing of land allocation; change and extension of user; conducting subdivision of land; and renewal of leases gave indications as to the essence of the phrase, “administering and managing public land”. The functions undertaken by the Board were ordinarily, the preparatory steps towards acquisition of ownership to land, which culminated in registration and issuance of title by the National Government. It could thus be inferred, that the purpose of the Board was to effect the devolution of land-administration to the counties.

The Land Act, 2012 enjoined the NLC and the Cabinet Secretary responsible for land, to undertake certain functions, for the effective management of land. Sections 6 and 8 of the Act prescribed the functions of the Cabinet Secretary and the Commission, as regards the management and administration of land. Those provisions gave an impression as to the roles of the Ministry, in Section 6, and the NLC, in Section 8, in the management of land. Sections 6 and 8 of the Land Act, 2012 indicated that neither the Ministry nor the NLC was in a position to perform its tasks in isolation. The Ministry was required to develop and facilitate land policies on the basis of advice and recommendations from the NLC; while the land database to be prepared and kept by the NLC had to be geo-referenced and authenticated by the statutory body in charge of survey, which was the Land Surveyors’ Board, established under the Survey Act. The officers serving on that Board were appointed by the Public Service Commission, and, by Section 6(e) of the Act, were to be regulated by the Cabinet Secretary, as an aspect of quality control. That was a typical instance in which it fell to the Executive to exercise check-and-balance upon a different State organ.

The provisions in the Land Act with respect to conversion of land from public to private (Section 9); the development of guidelines on the management of public land by public agencies and bodies that were in actual occupation (Section 10); allocation of public land (Section 12); renewal and extension of leases (section 13); reservation of certain public land for a public-interest purpose (Section 15); issuance of licenses for the use of unalienated public land (Section 20); Compulsory acquisition of public land (Section 107-113); Implementation of settlement programmes (Section 134); entrusted the NLC with the responsibility of protecting and overseeing the public’s rights and interest, under the Constitution. However, the NLC’s mandate in that regard was not held single-handed, and was not unqualified: provision was made for approval from the National Assembly; and the consent of the National Government, or relevant County Government. That provided a check-and-balance, to ensure that the NLC operates within the prescribed limits.

Section 7 of the Land Registration Act required that a land registry be maintained in every registration unit, in which a land register was to be kept. The NLC’s role in that respect was to determine the form of the land register. However, the obligation to establish the land registry rested with the Public Service Commission and the Cabinet Secretary as stated in Section 7 (3). The NLC’s officers (the Chief Land Registrar and other public officers to discharge functions under the Act) who ensured the taking and implementation of its decisions, were appointees of the Public Service Commission.

Section 38 of the Land Registration Act related to land that fell within the area of a County authority; Section 39 related to land rents owing to the National or County Governments; while Section 55 required that a land-rent clearance certificate, and consent to the lease, showing the full payment of rent for the land to the Commission, be produced before the Registrar. The requirement of consent operated as a check on the exercise of power by the Registrar, allowing the registration of an instrument that effects a transaction on public land.

The Supreme Court found that there was a mismatch in the land legislations and as such recommended and directed a professional review of its complete set.

3.5.1.5 The role and place of public participation in the administration and management of land in Kenya

Article 1 of the Constitution declared the sovereignty of the people. That direct exercise of sovereign power by the people was crucial in the administration and management of land in Kenya. Land was a fundamental resource for the material and cultural livelihoods of the people. The State, for example, through civic education, could ensure that participation of the people takes place on matters concerning land. That was because, ultimately, any decisions made concerning land would affect them and, although the NLC or the Ministry of Lands could make information on land available, the public ought to be educated on how to access the information and participate in consultation processes on land matters affecting them. Public participation could also take an indirect form, where the national and county Legislatures were mandated to enact legislation on land laws. That those Legislatures were to involve the people they were elected to represent, in law-making processes, was a matter of accountability, and of enrichment of the voices of the people.

The NLC, as well as the national and county governments, were required to promote public participation, as they conduct their functions. Article 254 of the Constitution required the NLC to promote the participation of the people, as it conducts its mandate. By that Article, the NLC was held accountable to the people, and upheld the participation of the people in two ways. Firstly, the people indirectly participate in holding the NLC accountable, through their democratically elected officials (the President and Members of Parliament). The NLC was required to submit annual reports to the President and Parliament. Secondly, the people had the opportunity to participate directly, and to exercise their right of access to information, as the NLC was required to publish and publicize its reports. The public was thus accorded an opportunity to examine the reports, and to determine whether the Commission was carrying out its constitutional and legislative mandates, or whether the NLC had made any decisions affecting their land.

The principle of the participation of the people did not stand in isolation; it was to be realized in conjunction with other constitutional rights, especially the right of access to information (Article 35); equality (Article 27); and the principle of democracy (Article 10(2)(a)). The right to equality related to matters concerning land, where State agencies were encouraged also to engage with communities, pastoralists, peasants and any other members of the public. Thus, public bodies should engage with specific stakeholders, while also considering the views of other members of the public. Democracy was another national principle that was enhanced by the participation of the people.

Kenya had ratified the United Nations International Covenant on Civil and Political Rights, 1966 (ICCPR) as well as the African Charter on Human and Peoples' Rights, 1981 (ACHPR), and those international and regional instruments also recognized the participation of the people in public affairs. By virtue of Article 2(6) of the Constitution, those treaties formed part of Kenyan law.

The participation of the people was a constitutional safeguard, and a mechanism of accountability against State organs, the national and county governments, as well as commissions and independent offices. It was a device for promoting democracy, transparency, openness, integrity and effective service delivery. During the constitution-making process, the Kenyan people had raised their concerns about the hazard of exclusion from the State's decision-making processes. The Constitution had specified those situations in which the public was assured of participation in decision-making processes. It was clear that the principle of public participation did not stop with the constitution-making process; it remained as crucial in the implementation phase as it was in the constitution-making process.

Public participation was not an abstract notion and, on matters concerning land, State organs, the Ministry, and the NLC must breathe life into that constitutional principle, and involve the public in land management and administration; legislative plans and processes; and policy-making processes. That was clear from the terms of Article 10 of the Constitution, which required those bodies to: (a) apply or interpret the Constitution; (b) enact, apply or interpret any law; or (c) make or implement public policy decisions bearing in mind the participation of the people, and the goals of democracy, and transparency.

An array of rich ingredients of the participation of the people, emerged from various sources: decisions by superior Courts in Kenya; comparative jurisprudence from another jurisdiction; works by scholars; draft principles and guidelines bearing upon public participation by various State organs and governments; and relevant constitutional and legal provisions. The common denominator in those various ingredients of participation by the people was the supremacy and sovereignty of the Kenyan people. The ingredients of public participation called for significant mental shifts in the mode of consultation, communication, learning, and accommodation of the views of ordinary Kenyans. It was a must to provide the objective information to facilitate such participation in all societal affairs.

3.5.2 *Ledidi Ole Tauta & Others V. Attorney General & 2 others, Petition No. 47 of 2010.*

The Petitioners brought a petition before the High Court seeking *inter alia* a declaration that they (Petitioners) together with the Maasai community of Ngong Hills were entitled to the suit land known as Ngong Hills measuring approximately 577 hectares. They sought an order directing the government to immediately survey the suit land and issue title deeds to them and other bona fide Maasai residents of Ngong Hills. The major issues that were addressed in the petition included: the jurisdiction of the high court; the identification of the appropriate organ that could carry out investigation and/or inquiry into historical land injustices; and whether it was premature of the petitioners to resort to court process before exhausting the process of obtaining degazettement of Ngong Hills forest as a state forest. The court stated that in Constitutional matters touching on the violation and/or infringement of the fundamental rights and freedoms in as far as the same relate to the environment and land, both the High Court and the Environment and Land Court have concurrent jurisdiction to deal with such matters and a party could bring such matters either before the High court and/or before the Environment and Land court. Therefore, the Environment and Land court had the jurisdiction to deal with the petition. On the issue of degazettement, the court stated that Ngong Hills Forest had not been degazetted as such and its boundaries had not been varied to make it available for alienation to the Petitioners. The petitioners ought to have petitioned the Minister through the Kenya Forest Service Board to consider whether any basis existed to have the Ngong Hills Forest degazetted to accommodate their interests. The petitioners' claim to the land was predicated on what the petitioners claimed to be historical injustices that were visited on the community by the colonial masters. Hence, the High Court would not have been the right forum for the petitioners to ventilate their claim which was founded on historical injustices. The National Land Commission had the mandate to investigate into historical land injustices and make appropriate recommendations for redress. The High Court was not the appropriate organ to carry out the investigation and/or inquiry and where the law had made provision for a state organ or institution to carry out a specific function, that institution should be allowed to carry out its mandate. The court should not usurp the roles of other state institutions. It was premature on the part of the petitioners to come to court without either exhausting the process of obtaining a degazettement of Ngong Hills Forest as a state forest under the provisions of the Forest Act and/or having the National Land Commission exercise its mandate under Article 67(2) (e) of the Constitution.

3.6 Constitutionality of Certain Legislations

Once again, during the FY2014/2015, the Constitutionality of certain pieces of legislation was brought to test through a number of petitions that were decided by the courts. The judiciary's role as a custodian of the constitution became prominent when the courts considered whether certain provisions of the laws that had either been enacted or amended passed the constitutional test. Some of these provisions were either suspended or struck out for failing the constitutional test.

Institute of Social Accountability & Another -vs- National Assembly & 4 others, Petition No. 71 of 2013.

In this case, the petitioners sought declarations that the Constituencies Development Fund Act No.30 of 2013 (CDF Act) violated the constitution. They challenged the Act on two fronts; the process leading to its enactment and the substance of legislation including the nature and administration

of CDF. The petitioners also contended that the CDF Act contravenes the constitutional principles of the rule of law, good governance, transparency, accountability, separation of powers and the division of powers between the national and county government and the public financial management and administration.

The issues for determination by the court were; whether the process leading up to the enactment of the CDF Act is constitutional; whether the CDF Act offends the principles of public finance and division of revenue provided under the constitution; whether the CDF Act violates the division of functions between the national and county government; and whether the CDF Act offends the principles of separation of powers.

The court found that the process leading to the enactment of the CDF Act was unconstitutional because it was a bill involving the county governments yet the Senate was not involved. There however had been sufficient public participation and Section 14 of the Sixth Schedule to the Constitution had been adhered to.

It was held that the CDF is not a conditional grant under Article 202(2) of the Constitution and that Article 202 envisages equitable sharing of the national revenue between the national and county governments. However, the national government has the power to grant additional revenue where it sees fit through the county governments.

The court also observed that by charging the CDF Act with local projects under Section 22 of the said Act, the Act threatened to upset the division of functions between the national and county levels of government and interfered with the county government's autonomy.

It was also the observation of the court that the CDF Act by involving Members of Parliament in the planning, approval and implementation of the CDF projects violated the doctrine of separation of powers between executive and legislative functions.

3.6.1 Suspension of Public Finance Management (Affirmative Action Social Development Fund) Regulations, 2015, pending the hearing and determination of the main petition

The Cabinet Secretary of the National Treasury made a Subsidiary Legislation in form of impugned regulation that is: Public Finance Management (Affirmative Action Social Development Funds) Regulations. The regulations introduced the involvement of the County Women Representative in the disbursement of funds from the national revenue as well as the execution of local projects, that is, Affirmative Action Social Development Fund (AASDF). In *Wanjiru Gikonyo and 2 others vs National Assembly of Kenya and 3 others, Petition no. 453 of 2015*, a conservatory order was sought based on the contention that the Cabinet Secretary acted in excess of his powers and abuse of his office in promulgating the Impugned Regulations. The contention was that the said regulations offended the principles of public finance as well as division and separation of powers in that the said regulations disbursed and administered public finance in the same manner that the Constituency Development Fund was disbursed and administered yet the High Court had in *Institute of Social Accountability –v- Attorney General & 4 Others HCCP No. 71 of 2013* (hereinafter CDF Case) already declared the Constituency Development Funds Act, (CDF Act) unconstitutional for violating the doctrine of separation of powers and division of functions as provided under the constitution. Apparently, the function that was to be undertaken through the Fund established via the Impugned Regulations were functions assigned constitutionally to the County Government.

The Court on surety of its jurisdiction under Article 165(3) (d) to hear and determine whether any law was inconsistent with or in contravention of the Constitution, was tasked to determine whether the Impugned Regulations duplicated the role of the National Social Authority which sponsored, developed and operated social services and whether that amounted to an imprudent use of public resources. It was apparent to the Court that, the CDF case had clearly made delineations in respect to the use of public funds that national funds ought to be shared only as provided for under the Constitution's Articles 201 and 202. It was the duty of the National Government to fund the devolved units. It stated that any law which introduced ambiguity into how revenue raised by the National Government or how public funds was to be divided or shared needed deeper interrogation. The Court concluded that the architecture and design of the Affirmative Action Social Development Fund (AASDF) was similar to that of the Constituency Development Fund (CDF) which the Court had already declared unconstitutional and as such should be stopped.

3.6.2 High Court declares the County Government's (Amendment) Act that introduced the County Development Board as unconstitutional.

Council of Governors & 3 others v Senate & 53 others, Petition 381 and 430 of 2014.

The main issues for the court to determine were whether the amendment to the County Governments (Amendment) Act 2014 (hereafter CGAA), which introduced the County Development Board and assigned it a role in the planning and budgetary processes of counties, was unconstitutional; and whether every Act of Parliament enjoyed a presumption of constitutionality until the contrary is proven.

The court ultimately held that the principle of presumption of constitutionality was a sound principle except in the case of legislation that limited fundamental rights which the Constitution had provided at Article 24(3) the parameters against which the constitutionality of such legislation was to be weighed. The presumption of constitutionality applied in the case, and the petitioners had an obligation to establish that the County Governments Amendment Act was unconstitutional.

The composition and mandate of the CDBs had upset and was in violation of the framework created by the Constitution with respect to devolution and the separation of powers between the various institutions created under the Constitution which granted the approval of county development plans and budget to county assemblies.

The involvement of the Senate, National Assembly and national executive in the CDB violated the tenets and principles of the Constitution in three fundamental respects.

- (a) It interfered with and compromised the roles of those organs in the exercise of their oversight functions over the functioning of counties and the use of revenue allocated to them.
- (b) It undermined the principle of devolution, a key cornerstone of the Constitution, 2010 and the governance structure of the country.
- (c) It violated the principle of separation of powers

Under Article 6 of the Constitution, National and County Governments had equal status as organs of state power, and in the exercise of their respective mandates, they had to do so in a spirit of mutual respect.

The structure of devolved government as envisioned by the people of Kenya and encapsulated in the Constitution could not be altered without an elaborate amendment process that required the direct endorsement of such a change by the people of Kenya in accordance with the requirements of Article 255(1)(i) of the Constitution.

The CGAA had effectively altered the structure of devolution by involving in its functioning and operations persons and officers from other levels of government and it effectively vested in the same hands the powers of planning, implementation and oversight, in clear violation of the principles of checks and balances and separation of powers principles.

By purporting to create an oversight role for national government in the counties, Section 91A purported to allocate to national institutions roles in the counties that were not in compliance with the Constitution.

The CGAA attempted to extend the powers of the National Legislature, the National Assembly and Senate, into the county executive by assigning to the CDBs a role in the planning and budgetary processes of counties. That not only undermined devolution, but was a direct threat to the principle of separation of powers which was one of the cornerstones of Kenya's new democratic dispensation.

Section 91A of the County Government (Amendment) Act was unconstitutional. By necessary extension, Sections 91B and 91C, which were intended to bolster the provisions of 91A of the CGAA, were also of necessity unconstitutional. As the entire County Governments (Amendment) Act consisted of those three provisions, the entire Act was unconstitutional, and therefore null and void.

3.6.3 Court declares certain Sections of the Security Laws (Amendment) Act, Unconstitutional

In *Coalition for Reform and Democracy (CORD) & 2 others v Attorney General & 7 others, Petition No.628 of 2014 (Consolidated with Petition No.630 of 2014 and Petition No.12 of 2015)*, the consolidated petitions challenged the constitutionality of various sections of the Security Laws (Amendment) Act, No 19 of 2014 (SLAA) which amended the provisions of twenty two (22) other Acts of Parliament concerned with matters of national security.

The main issue was whether the amendments to the various Acts of Parliament contained in SLAA limited the Bill of Rights and whether the limitation was justifiable in a free and democratic society. More specifically, the constitutionality of the provisions of SLAA vis-à-vis the Bill of Rights in that whether SLAA was unconstitutional for violation of, *inter alia*, the right to freedom of expression and the right to freedom of the media guaranteed under Articles 33 and 34; the rights of an arrested person under Article 49 and the right to fair trial under Article 50; entitlement to citizenship and registration of persons under Article 12; and the right to freedom of movement under Article 39 and the rights of refugees under Articles 2(5) and (6) of the Constitution and International Conventions.

On whether the impugned provisions of SLAA were unconstitutional for violating the Bill of Rights, the High Court declared that Section 12 of the SLAA and Section 66A of the Penal Code were unconstitutional for violating the freedom of expression and the media guaranteed under Articles 33 and 34 of the Constitution. The court also declared that Section 16 of the SLAA and section 42A of the Criminal Procedure Code were unconstitutional as they violated the right of an accused person to be informed in advance of the evidence the prosecution intended to rely on as provided under Article 50(2)(j) of the Constitution. The court further declared Section 48 of the SLAA which introduced Section 18A to the Refugee Act, 2006 was unconstitutional for violating the principle of *non-refoulement* as recognized under the 1951 United Nations Convention on the Status of Refugees which was now part of the laws of Kenya by dint of Article 2(5) and (6) of the Constitution.

Conversely, the High Court held that Section 56 of SLAA and the new section 42 of the National Intelligence Service Act as well as Section 69 of SLAA and Section 36A of the Prevention of Terrorism Act were constitutional and did not violate the right to privacy guaranteed under Article 31 of the Constitution.

3.7 Other decisions touching on important subjects in jurisprudence

3.7.1 Validity of Documents Prepared by an Advocate who does not hold a valid Practicing Certificate

The Supreme Court in *National Bank of Kenya Limited v Anaj Warehousing Limited, Petition 36 of 2014* (hereinafter referred to as *Anaj Case*) was asked to revisit the Court of Appeal decision in *National Bank of Kenya Limited vs. Wilson Ndolo Ayah Civil Appeal No. 119 of 2002 [2009] eKLR*, (hereinafter referred to as *Wilson Ndolo Ayah Case*). The said case had established the position that: documents of conveyance prepared by an advocate who at the time of such preparation and or execution the advocate was without valid practicing certificate were invalid. In the pursuit to alter the principle, The Supreme Court in *Anaj Case* while revisiting the same question that is: whether a document or instrument of conveyance was null and void for all purposes, on ground that it was prepared, attested and executed by an advocate who did not have a current practicing certificate, within the meaning of Section 34 (1) (a) of the Advocates Act.

The Supreme Court found that the decision by the Appellate Court in *Wilson Ndolo Ayah* case was based on certain fundamental assumptions that; the phrase "an unqualified person" was synonymous with "an advocate without a current practicing certificate". According to the Supreme Court Section 34(1) of the Advocates Act, the assumption was not without merit, especially taking into account the provisions of Section 2 of the Advocates Act, which defined "an unqualified person" as "a person not qualified under Section 9 of Act as an advocate". Section 9 of the Advocates Act in turn provided that; no person should be qualified to act as an advocate unless; firstly, he had been admitted as an advocate, secondly, his name was for the time being on the Roll; and finally, he had in force a practicing certificate.

Objective and discrepancy of section 34 of the Advocates Act

The main objective of Section 34 of the Act was to prohibit unqualified persons from preparing certain documents. It was directed at "unqualified persons". It prescribed clear sanctions against those who transgress the prohibition. The sanctions prescribed were both civil and criminal in nature. But the law was silent as to the effect of documents prepared by advocates not holding current practicing certificates. The illegality was the assumption of the task of preparing the conveyancing documents, by the advocate, and not the seeking and receiving of services from that advocate.

In *Anaj Case* the Supreme Court found that a financial institution that called upon any advocate from among its established panel to execute a conveyance, committed no offence if it turned out that the advocate did not possess a current practicing certificate at the time he or she prepared the conveyance documents. The spectra of illegality lie squarely upon the advocate, and ought not to be apportioned to the client.

The Court stated thus:

"To hold that monies lent in conformity with the provisions of the law, save that the relevant conveyancing instruments were drawn by an advocate who at the time did not hold a practicing certificate, are not recoverable, would be to sanction unjust enrichment for unscrupulous borrowers, while depriving innocent lenders ½ creating a wide scope for fraudulent borrowing. Such a position in law, in our view, does not represent an "announced rule" – precedent that should guide the disposal of the matter now before us. Just as the law frowns upon unscrupulous lenders, especially those whose actions would fetter the borrower's equity of redemption, so also must it frown upon unscrupulous borrowers, whose actions would extinguish the lender's right to realize his or her security. There is to be, in law, a substantial parity of rights-claims, as between the lender and the borrower."

The Appellate Court's assumption in *Wilson Ndolo Ayah* case was that Section 34(1) of the Advocates Act had the effect of rendering all instruments of conveyance prepared by advocates without current practicing certificates, null and void for all purposes. It was at the moment clear that such an assumption was not based on any express or implied meaning of Section 34, or other provisions of the Advocates Act. In the reasoning of the Appellate Court, the ground for invalidating such documents rested in public policy: citizens should obey the broad intent of the law of the land; and Courts should enforce the law of the land, and deter acts of illegality. Within context, and by the terms of the constitutional law, the Courts were under obligation to resolve live disputes on questions that were governed by quite specific propositions of law.

In considering what would be most equitable, the Supreme Court ruled that; even as *stare decisis* assured orderly and systematic approaches to dispute resolution, the common law retained its inherent flexibility, which empowered the Court, as the custodian of justice under the Constitution, to proceed on a case-by-case basis, invoking and applying equitable principles in relation to every dispute coming up. Precedent (such as that in *Wilson Ndolo Ayah* case), was to be perceived, in general, as the “announced rule”; but in the quest for justice in the context of a particular case such as the instant case, there was a basis for departing therefrom.

The Supreme Court found that to invalidate an otherwise binding contractual obligation on the basis of a precedent, or rule of common law even if such course of action would subvert fundamental rights and freedoms of individuals would run contrary to the values of the Constitution as enshrined in Article 40 as regards the protection against arbitrary legislative deprivation of a person’s property of whatever description, Article 20 (3) (a) and (b) as regards interpretation that favored the development and enforcement of fundamental rights and freedoms and Article 10 on values and principles of governance. The proper direction in law, that, no instrument or document of conveyance becomes invalid under Section 34(1)(a) of the Advocates Act, only by dint of it having been prepared by an advocate who at the time was not holding a current practicing certificate. The contrary effect was that documents prepared by other categories of unqualified persons, such as non-advocates, or advocates whose names had been struck off the roll of advocates, should be void for all purposes.

In the ultimate, the Supreme Court established that; while securing the rights of the client whose agreement had been formalized by an advocate not holding a current practicing certificate, such advocate’s obligations under the law remained unaffected. Such advocate remained liable in any applicable criminal or civil proceedings, as well as any disciplinary proceedings to which he or she could be subject.

3.7.2 Disclosure and Proof of the Particulars of the Offence of Desertion under Section 74 of the Kenya Defence Forces Act

Jeffery Okuri Pepela & 25 Others V. Republic, Criminal Appeal No. 153 of 2014.

The appellants, who were servicemen in the Kenya Navy, decided to terminate their services by way of resignation between the years 2007 and 2008. They embarked on a clearing process and left the forces upon submitting requisite documentation. Between January and March 2014, they were summoned by the Defence Forces Council to report to their former bases for documentation and payment of terminal dues. On reporting, they were placed under closed arrest, charged with the offence of desertion contrary to Section 74(1) of the Kenya Defence Forces Act and consequently convicted and sentenced to life imprisonment. On appeal, the main issue that arose was whether the particulars of the offence of desertion while on active service were disclosed in the charge sheet and whether the offence had been proven beyond reasonable doubt. The court stated that the decision of the court martial to convict and sentence the appellants to life imprisonment for the offence of desertion ought to have been made after the court was satisfied that the appellants were still on active service when they left the Defence forces. The prosecution had a duty to prove beyond reasonable doubt that the appellants had formed an intention to remain permanently out of duty and whether it was an offence per se to leave the Defence forces. The court observed that the conduct of the appellants in following the right channels to obtain the requisite authority to leave active service was consistent with a desire to follow the law governing termination of their service. However, the appellants made a grave mistake when they did not wait for a discharge from the commander as per Section 245 and 257 of the Kenya Defence Forces Act. Active service was defined as a unit engaged in operations against the enemy whereas an enemy was any person or enemy committing external aggressions against Kenya. In the charge sheet, there was no reference to an operation titled ‘Operation Linda Mpaka’ and the identity of the targeted enemy in 2007 was never disclosed. The charge sheet failed to disclose the particulars of desertion hence the charges facing the appellants did not contain sufficient details to enable the appellants to answer the charges. The actions the Kenya Defence Force had undertaken to advance the appellants’ process of being discharged from the defence forces were not a reflection of the fact that the forces were facing aggression from an enemy. The respondents failed to prove beyond reasonable doubt that that the appellants were on active service when they left the defence forces. The offence of desertion while on active service was not proven beyond reasonable doubt. However, the offence of absence without leave contrary to Section 75 of the Kenya Defence Forces Act had been proven. The offence carried a sentence of two years in prison. The appeal was therefore allowed and the appellants set at liberty.

3.7.3 Transfer of functions from the National Government to the County Government

Council of County Governors V. Attorney General and 4 others, Petition No. 472 of 2014.

This matter revolved around the transfer of the roads function from the national government to the county government. At the core of the petition was the question of the devolution of the roads function and the constitutional provisions with regard to the management and control of the various roads in the country. The court stated that the transition from a centralized to a devolved system of government had to involve consultation between the national and county governments. Consultation envisaged under the Intergovernmental Relations Act between the national and county governments had taken place. Thus, consultations necessary with respect to the classification of roads among other functions had taken place as required by the Constitution and relevant legislation. However, the Attorney General and the National Assembly Departmental Committee on Transport, Public Works and Housing were dissatisfied with the Senate’s decision recommending that the roads function had to be transferred to the counties and thus failed to gazette the transfer of the roads. The office of the Attorney General had overreached itself at the instigation of the National Assembly Departmental Committee on Transport, which was also overreaching itself, in failing to gazette the transfer of the roads function as requested by the Transition Authority. The Constitution vested the function of construction, operation and maintenance of county roads, as well as the control of outdoor advertising, in county governments. According to Section 18, part 1 of the Fourth Schedule of the Constitution, the national government was vested with the construction and operation of national trunk roads, and the setting of standards for the construction and maintenance of other roads by counties. It had no role in the construction and maintenance of county roads, or in the control of outdoor advertising on roads. The issue of classification of roads was discussed at various meetings involving the Intergovernmental Consultative Forum, and there appeared to have been an agreement on what constituted county roads. It was on that basis, following the decision of the Senate that allowed the roads function to be transferred and thereafter the Transition Authority prepared the gazette notice for publication. The effect of the legislation would be to among other things, formalize the identified roads, or the criteria or manner of their identification. Thus, in light of Section 7 of the sixth schedule, the pending legislation could not be a sufficient reason for opposing the transfer of functions. A proper reading of Section 23 of the Transition to Devolved Government Act resulted in the conclusion that the Senate could only deal with the issues that had been placed before it on appeal. Therefore, it was overreaching when it made recommendations in respect of matters that were not before it. It could only make recommendations for the transfer of the roads function in respect of the 29 counties that had appealed to it against the decision of the Transition Authority.

3.7.4 Court holds that the High Court has concurrent and/or coordinate jurisdiction with the specialized courts (ELC & ELRC) on matters touching on the Constitution

Following the Court of Appeal decision in *Karina Chengo & 2 others v Republic, Criminal Appeal Nos. 44, 45 and 76 of 2014* that a judge appointed to any of the two specialized courts (Environment and Land Court & Employment and Labor Relations Court) did not have jurisdiction to sit in courts other than the one he/she was specifically appointed to, the High Court determined almost a similar matter. The main petition before the High Court in *Patrick Musumba v. National Land Commission & 4 Others*, Petition 613 of 2014, challenged the manner in which compulsory acquisition of land had been conducted in Kibwezi Constituency and secondly, the process of the Environmental Impact Assessment (EIA) for the construction of the Standard Gauge Railway (SGR).

A preliminary objection was raised by the respondents challenging the jurisdiction of the court on the ground that the court empowered to hear such matters was the Environment and Land Court (ELC) established under the Environment and Land Court Act (Cap 12A) (the ELC Act) as read together with Article 162 of the Constitution. It was submitted that both Articles 162 and 165 of the Constitution limited the jurisdiction of the High

Court. It was argued that the presiding judicial officers empaneled by the Chief Justice were not qualified to handle the Petition as they had not been appointed as ELC Judges. It was further argued that the jurisdiction of the court could only flow from the appointment of the judge and hence, the bench as constituted was not constitutionally compliant.

The court held that both the High Court and the ELC Court had a concurrent and/or coordinate jurisdiction and could determine constitutional matters when raised and do touch on environment and land. Neither the Constitution nor the ELC Act limited the High Court's jurisdiction in that respect. The ELC, when dealing with disputes concerning the environment and land could also deal with claims of breaches of fundamental rights touching on the subject at hand. In matters Constitution the ELC had jurisdiction not just when it involved clean and healthy environment but also land.

Though the High Court affirmed that it was bound by the Court of Appeal's decision in *Karisa Chengo & 2 others v Republic* (supra) pursuant to the well-known curial hierarchical principle of precedent, even if it were to hold the view that the Court of Appeal's decision was erroneous, it however sought to distinguish facts of *Karisa Chengo & 2 others v Republic* from those of the case before the High Court. First, in *Karisa Chengo & 2 others v Republic*, the jurisdiction in question involved the exercise of criminal jurisdiction which was exclusive to the High Court and not the exercise of constitutional jurisdiction which was coordinate and/or concurrent amongst the three courts namely the ELC, the ELRC and the High Court. Secondly, *Karisa Chengo & 2 others v Republic* involved constitution of a bench under Section 359 of the Criminal Procedure Code; while at the instant case it was an empanelment of a bench under Article 165(4) of the Constitution.

The court observed that for purposes of Article 165(4) judges appointed under the Constitution were those appointed to the High Court and courts of even status. That Article of the Constitution did not distinguish between judges. Indeed, Article 161(1) of the Constitution made a case for the collectivity of judges of the superior court. Flowing from the reasoning in *Karisa Chengo & 2 others v Republic* case that judges as recruited were specialized in various fields, the Chief Justice could be constrained to consider a judge's special field before assigning him or her to the special bench so certified to consider a substantial question of law.

The court noted that Article 165(4) of the Constitution created two circumstances. First, was the certification by the Court that the matter raised a substantial question of law under clause 3(b) or (d) of the Constitution. Thereafter the matter moves to the next level where the Chief Justice assigned the hearing of the matter to an uneven number of Judges. The clause did not state that the judges were restricted to High Court Judges. The Constitution clearly empowered the Chief Justice to assign Judges to hear the matter not to assign the Court to hear the matter and he was at liberty to assign any Judge, as he found appropriate, that duty.

The High Court concluded that the ELC and the High Court had a concurrent and/or coordinate jurisdiction on the matters raised in the petition. The Chief Justice could thus have appointed either ELC Judges or High Court Judges or a mixture of both. He could have appointed three or seven. He settled for five, all of whom were from the High Court. Nothing indeed stopped the Chief Justice from creating a triangular jurisdictional relationship in constitutional matters when he acted under Article 165 (4).

3.7.5 Circumstances where two separate life insurance payments can be issued to the dependants of a deceased person

Meshack Owino Onyango (Suing as Legal Representative of the Estate of Silas Ochieng Onyango (Deceased) V the Board of Trustees, National Social Security Fund, Civ. Appeal No. 87 of 2007.

The deceased was an employee of the 1st respondent. The deceased was a member of the 1st respondents pension scheme and was also entitled to be insured by the 1st respondent's Group Life Assurance Scheme with UAP Provincial Assurance Company Ltd. Upon his death, his dependents sought compensation from both schemes, but only got the sum due under the Group Life Assurance Scheme.

The High Court agreed with the respondents that two separate payments were not to issue from both the pension and Group Assurance funds, hence the appeal. The main issue to be determined at the appellate court was whether two separate life insurance payments can be issued to the dependants of a deceased person.

The Appellate Court overturned the decision of the High Court and ultimately stated that without a specific and express bar to benefit or justification not to benefit from two payments from the group assurance and the pension scheme; then both were payable.

3.7.6 Article 164(3) (a) of the Constitution confers simultaneously jurisdiction and the right of appeal to the Court of Appeal.

Judicial Service Commission & another v Kalpana H Rawal, Civil Application No. Nai 308 of 2015.

The main issues the courts had to determine were whether an intending appellant had a right of appeal to the Court of Appeal in matters involving fundamental rights and freedoms in the absence of a statute conferring that right and whether the court of Appeal had the jurisdiction to determine appeals from the High Court that interpreted and applied the Constitution and jurisdiction to enforce the Bill of Rights.

The five judge bench held that the jurisdiction of the Court of Appeal was conferred directly by Article 164(3) of the Constitution of Kenya, 2010. The right of appeal could either be conferred by the Constitution or by statute. Where a right of appeal was not established there could be no jurisdiction. The right to appeal (or the law granting leave to appeal) had to first be established before jurisdiction could be invoked. Without the right of appeal, the High Court would be a final court on the Bill of Rights and that would deny litigants' access to the Court of Appeal and to the Supreme Court.

The absence of an explicit provision conferring in the Court of Appeal jurisdiction to hear appeals from the High Court on the Bill of Rights or on the interpretation of the Constitution was not an accidental omission. The Constitution having expressly vested in the Court under Article 164 the general appellate jurisdiction to hear appeals from the High Court and having explained how appeals relating the interpretation and application of the Constitution were to be appealed from the Court of Appeal to the Supreme Court under Article 163, that per se was sufficient conferment of appellate jurisdiction.

The Constitution had to be read to give effect to Articles 19, 20 (application of the Bill of Rights), 25 (right to fair trial) and 48 (access to justice, in the instant case appellate justice). In doing so, a party had a right to appeal to the Court of Appeal involving alleged violations of fundamental rights and freedoms. The Constitution intended to confer the right of appeal in Article 164(3) and as the failure to expressly mention the words, "right of appeal" in the Article was merely a faultiness of expression, the Court had to read the obviously donated right of appeal as being incorporated in the enforcement of jurisdiction under Article 163(3). Article 24(2)(b) stipulated that a legislation limiting a right or a fundamental freedom could not be construed as limiting the right or fundamental freedom unless the provision was clear and specific about the right or freedom to be limited and the nature and extent of the limitation and could not limit the right or fundamental freedom so far as to derogate from its core or essential content.

Article 165(3) (b) and (d) of the Constitution had mandated the Court of Appeal and expected it to hear appeals from decisions of the High Court on the interpretation and application of the Constitution as well as on decisions made by the High Court under Article 165(3) (b) on determination of the question whether a fundamental right or fundamental freedom on the Bill of Rights had been denied, violated, infringed or threatened; and on interpretation and application of the Constitution under Article 165 (3) (d).

Article 10(1) and (2) of the Constitution of Kenya, 2010 bound judicial officers, state officer and public officers to national values and principles of governance while discharging their duties. Those constitutional requirements showed that the right of appeal had to exist to challenge in the Court of Appeal decisions of the High Court as they appertained to determination of the question whether a right or a fundamental freedom in the Bill of Rights had been breached, violated, infringed or threatened or any question with respect to the interpretation and application of the Constitution.

Section 9(5) of the Fair Administrative Action Act was the express statutory provision that granted and conferred a right of appeal to the Court of Appeal in relation to the enforcement of the Bill of Rights. By referring a person aggrieved by an administrative action to the Court with original jurisdiction to enforce the Bill of Rights, the Fair Administrative Action Act was applicable to rights and fundamental freedoms.

Section 9(1) of the Fair Administrative Actions Act required that a person who was aggrieved by an administrative action could apply to the High Court which was the Court with original jurisdiction under Article 23(1) of the Constitution following the procedure provided for in Article 22(3) of the Constitution as implemented by the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and procedure Rules 2013, (the Mutunga Rules). Section 9(1) of the Fair Administrative Actions Act was in tandem and consonance with Articles 22(3); 23(1) and Articles 165(3) (b) of the Constitution that vested upon the High Court original jurisdiction to redress violation and infringement of the Bill of Rights.

There was an express provision in Section 9(5) of the Fair Administrative Action Act which had a constitutional underpinning in Article 47(3)(a) of the Constitution that conferred a right of appeal to the Court of Appeal on matters relating to the enforcement of the Bill of Rights. Section 9(5) conferred the right of appeal to the Court of Appeal from decisions of the High Court sitting as a judicial review court procedurally empowered vide Section 9 of the Act and conferred original Bill of Rights enforcement jurisdiction pursuant to Articles 22(3); 23(1) and 165(3)(b) of the Constitution.

Further the Mutunga Rules were drafted in compliance with the constitutional requirement. Rule 32 provided that, an appeal or second appeal could not operate as a stay of execution or proceedings under a decree or order appealed. The Mutunga Rules though subsidiary legislation envisioned a scenario where an aggrieved person had a right to appeal and made provision for it.

Given the historical context in which the 1997 constitutional amendment was made to introduce Section 84(7) in the former Constitution, the principle in the case of *Anarita Karimi Njeru case* that there was no right of appeal in Bill of Rights litigation was dead and buried in 1997. Section 3(1) of the Appellate Jurisdiction Act reflected the notion that appeals to the Court of Appeal had to be conferred by statute. When Parliament established the Court of Appeal for Kenya in 1977 by substituting Section 64 of the former Constitution, it conferred jurisdiction on it, not in the Constitution itself but outside of it, in a statute, namely the Appellate Jurisdiction Act, 1977 at Section 3(1). The 1997 constitutional amendment overturned, set aside or impliedly repealed the principle in *Anarita Karimi Njeru case* as law in Kenya. *Anarita Karimi Njeru case* was decided under the old constitutional dispensation that was grounded in totalitarian values where fundamental rights and freedoms did not belong to the individual but were granted by the State.

Section 20 of the Interpretation and General Provisions Act, unless expressly stated, repeal of a law that repealed an earlier law did not revive the earlier law. The repeal of the former Constitution by the 2010 Constitution did not revive the principle in Anarita Karimi Njeru case to the effect that there was no right of appeal in Bill of Rights litigation.

The Anarita Karimi Njeru case law principle that a person who alleged violation of his/ her constitutional right and fundamental freedom had to specifically plead and cite the Article violated had been subsumed and codified in the Mutunga Rules as Rule 10(c). Enforcement of the Bill of Rights in Kenya was a subject of Fair Administrative Action Act. Based on that, there was an express statutory right of appeal to the Court of Appeal on matters relating to the Bill of Rights.

3.7.7 Order 2 Rule 15(2) rendered unnecessary by the requirement to disclose evidence from the outset or inception of the suit or filing of the defence.

Susan Muthoni Kimani v Land Registrar Thika & 2 others, ELC No. 656 of 2013.

The main issue the court had to determine was whether the plaintiff's suit was frivolous, vexatious and did not disclose any reasonable cause of action to warrant a striking out. The court observed that the Civil Procedure Rules under Order 2 Rule 15 had made provisions for striking out of pleadings by the court and in addition the court had an inherent and general jurisdiction to strike out or stay all proceedings before it which were an abuse of its process under Sections 1A, 1B and 3A of the Civil Procedure Act.

The court held that there could be no objection in principle to an application being made to the court under Order 2 Rule 15(1)(a) on the basis that a plaint or a defence should be struck out because as disclosed in affidavits filed in support of the application, the claim or defence was incapable of proof. The current nature of Civil Procedure that required disclosure of evidence from the outset or inception of the suit or filing of the defence had effectively rendered Order 2 Rule 15(2) superfluous and unnecessary. It was no longer reasonable to assume that a party would at trial be able to prove all the facts alleged in the pleading. Rather, an opposing party should be able to state that there was no reasonable defence or cause of action and rely on the evidence on record to support such contention.

The court held that in an application for striking out ought to foremost concentrate on the pleadings. Secondly, the court ought to also review the evidence on record. The court will however only exercise its undoubted right to strike out all or part of the pleadings in a very clear case. As it led to locking out parties from their guaranteed right to access the court, it was deemed as a draconian remedy and the court ought to be very reticent practicing it.

Ultimately, the court held that the plaint did not fall within the ambit of Order 2 Rule 15(1) (a) and (b) of the Civil Procedure rules and hence dismissed the application. It was not as frivolous and vexatious.

3.7.8 East Africa Pentecostal Churches Registered Trustees & 1754 others v Samwel Muguna Henry & 4 others, Petition No. 14 of 2014.

This case arose out of misunderstandings in church elections which generated a number of suits contrary to the spirit and letter of Article 21 of the Churches Constitution. Article 21(a) therefore provides thus: "No dispute concerning the affairs of the society shall be referred to or instituted in a court of Law by a member or members of the society but shall be dealt with by the following church organs, namely; the board of elders, the parish council, the district executive committee and the National Committee."

The issues for consideration by the court were whether Article 21 of the East Africa Pentecostal Church (EAPC) Constitution ousts the jurisdiction of the courts to entertain disputes between members of the church, whether the petitioner had a laid down mechanism of dispute resolution, and whether the plaintiffs in various suits set out in paragraph 7 of the petition pursued their disputes through the said mechanism before filing their respective suits.

The court observed that the matters raised in various courts by various parties were matters of mixed spiritual and temporal characters whereas in others, there was no spiritual character. Since the election on 19th August, 2010, a period of 4 years down the line, the church had been unable to offer any resolution to its members' grievances, the members had no alternative but to seek redress outside the church organization. The only place the members could think of and hope to have a fair determination of the claims to get a fair determination of the claims is at the court of law as the petitioner failed to initiate the dispute resolution mechanism as per its constitution.

The court also stated that Article 21 of EAPC Constitution could not oust the jurisdiction of the courts to entertain disputes between members of the church.

On the issue of whether the churches had mechanisms of dispute resolution, the court observed that though the court had jurisdiction to deal with the plaintiff's complaints, it was premature as they did not strictly follow the church constitution providing for dispute resolution mechanism.

3.8 Conclusion

It cannot be overemphasized that the Judiciary's role in the dispensation of justice, both as an impartial arbiter and custodian of the Constitution was achieved at all court levels during the period under review. The development of a sound and robust jurisprudence remains a core objective of the judiciary. Under the Judiciary Transformation Framework, and now the Strategic Plan, the Judiciary will strive to partner with stakeholders and create a productive interface with the academia with a view of consolidating a progressive jurisprudence that addresses the legal needs and challenges of the country. Even though much was achieved in the reporting period, much remains to be done if this country has to fully implement the rights envisaged under the Constitution. The fact that the Judiciary was capable of delivering on this promise in a less enabling environment and with limited resources is proof of its resolve to actualise the objectives set out in the Strategic Plan.

CHAPTER FOUR—INTER-AGENCY COLLABORATION: NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE

4.1 Introduction

The National Council on the Administration of Justice is established under Section 34-37 of the Judicial Service Act (No. 1 of 2011). NCAJ was officially launched in August 11, 2011 and the Council is constituted by high level members, with the authority and power to make decisions relating to the administration of justice. NCAJ is the statutory organ mandated to oversee and promote sector-wide partnership through regular Council meetings; issue based special working committees and the implementation of the recommendations of Court Users Committees (CUCs).

This Chapter highlights the efforts and progress made in establishing and sustaining linkages within and between state and non-state actors. The Chapter also discusses in detail the achievements and challenges encountered by individual agencies during the reporting period.

4.2 Activities of the National Council on the Administration of Justice

During the reporting period, the NCAJ held four full Council meetings, including the Inaugural Retreat at the Fairmont Mount Safari Club, Nanyuki in July 2014. The main NCAJ activities during this period focused on eight key initiatives: (a) Sexual and Gender Based Violence (b) Streamlining Traffic Operations (c) Bail and Bond Guidelines Implementation (d) Illicit Trade (e) Audit of the Criminal Justice System (f) Children Matters (g) Collaboration with the Council of Governors (COG) on the Administration of Justice within the Context of Devolution (h) Sentencing Policy Guidelines.

4.2.1 Sexual and Gender Based Violence

NCAJ had identified sexual offences as a special issue and the need for a specialized committee to deal with sexual offences. The Special Committee on Sexual Offences, chaired by Dr. Ruth Aura was conceptualized took over the work of the defunct Task force that had been appointed by the then Hon Attorney General, Amos Wako. The Committee reviewed the Sexual Offences Act (SOA) and proposed a series of amendments that are to be forwarded to Parliament.

4.2.2 Special Working Group on Traffic Matters

In an attempt to respond to the difficulties that citizens face on the roads, the NCAJ Special Working Committee was established to draft guidelines that would help streamline the traffic sector. On June 2nd 2015, the Chief Justice and the Inspector General of Police (IG) issued Traffic Guidelines containing a raft of new directions to guide courts and police officers across the country in the handling of traffic cases. These measures were partly intended to curb corrupt practices in traffic courts and on the road, and to mitigate the negative economic impact of delays attributable to the pace of processing of traffic cases. The Guidelines provided that:

1. Traffic courts shall process the payment of traffic fines in open court. The respective Heads of Stations shall ensure that adequate facilities are accorded to accused persons to pay the imposed fine or cash bail.
2. No accused persons in traffic cases will be locked up in cells without first being granted time, place and adequate facilities to pay fines and bail.
3. It shall be the responsibility of every head of station and presiding trial magistrate to fight corruption cartels in court corridors, courtrooms and court cells.
4. This circular shall be implemented immediately and failure to comply will attract sanctions.
5. Kenyans must help enforce this circular by reporting all magistrates who violate it.

4.2.3 Special Working Group on Bail and Bond

The Bail and Bond Policy Guidelines were launched in March 2015. They were widely disseminated to various justice sector actors and the public. The Guidelines were gazette vide Gazette Notice No. 4010 of 5th June, 2015

Subsequently, a Bail and Bond Policy Guidelines Implementation Committee (BBIC) was appointed. The Committee was gazetted under Notice No. 7480 of 9th October, 2015 to be chaired by Lady Justice Jessie Lesiit. The Terms of Reference for the Committee were to:

1. Conduct sensitization and training exercises among the relevant stakeholders and the public generally on the application of the bail and bond terms and related matters;
2. Engage the relevant actors as necessary to enable operationalization and the streamlining of the bail and bond processes across all relevant justice sector actors;
3. Recommend and/or undertake such measures, including legislative interventions as necessary to achieve the operationalization of the recommendations of the Taskforce by the relevant agencies;
4. Monitor, evaluate and report on the implementation of the Bail and Bond Policy Guidelines and Recommendations contained in the Report of the Taskforce.

During the reporting period, the taskforce on sentencing policy was still working on its mandate. The lack of framework for assessing the exercise of discretion in sentencing, disparities in sentencing, over utilization of custodial sentences, lack of participation of victims in sentencing, undue injustices occasioned to special needs offenders and lack of review mechanism for offenders on Presidential Pleasure were cited as some of the

challenges plaguing the criminal justice system. The recommendations of the Taskforce on Sentencing Policy were going to address these issues including the capacity gaps in Probation and Police.

4.2.4 Special Working Group on Illicit Trade

This Special Working Group was drawn from the NCAJ Technical Committee with the support of the Kenya Association of Manufacturers. The main output was the development of the *Enforcement Manual to Combat Illicit Trade* that was launched on March 25th 2015 in Malaba.

4.2.5 NCAJ Annual Conference NCAJ and COG

NCAJ and the Council of Governors (COG) convened the *First Conference on the Administration of Justice within the Context of Devolution*. The conference brought together key players in the justice chain and Governors to discuss and agree upon a framework for engagement towards the administration of justice by various actors. The main themes discussed and agreed included collaboration in security and policing between the two levels of Government; support of the County prosecution services through the recruitment of County Prosecutors guided by recruitment standards set by the ODDP; legislative drafting support from Kenya Law Reform Commission and speedy gazettlement of County Legislations; Judiciary decentralization; institutionalization of the office of County Attorneys. The Conference also resolved to have a structured partnership with counties in order to enhance supervision under Community Service Orders. Some of the areas identified in which offenders could be absorbed included agriculture, environmental conservation, infrastructure, public works, drainage, garbage collection, substance abuse and prevention.

The Conference established a Joint Technical Working Committee to oversee the implementation of the following resolutions. It also resolved that the NCAJ-COG Conference on the Administration of Justice within the Context of Devolution will become an annual event to be held every **first Tuesday of March** every year.

4.3 NCAJ Secretariat

During the reporting period, the Judiciary seconded Mr. Duncan Okello as Executive Director of NCAJ and Ms. Katra Sambili, Head of NCAJ's secretariat, proceeded to pursue further studies at Harvard University.

4.4 Highlights of Activities, Achievements and Challenges of Select NCAJ Agencies in the Administration of Justice

4.4.1 Office of the Attorney-General and Department of Justice

The Office of the Attorney General and Department of Justice [OAG&DOJ] has contributed to the state of justice in the country through the formulation and review of policies, development of bills towards reviews and enactment of various legislation, and providing guidelines aimed at facilitating implementation of the Constitution.

In pursuit of its mandate and fulfilment of its commitment to full implementation of the Constitution, OAG&DOJ initiated the following:

4.4.1.1 Civil Litigation

In the FY 2012/13 the OAG&DOJ through the Civil Litigation Department, achieved the following: promoted dispensation of justice by concluding a backlog of **2500 cases filed against the Attorney General**; prepared well researched legal opinions within four (4) days in all civil disputes upon receipt of all pleadings, documents and instructions; communicated to client Ministries and Departments in all new suits within 5 days upon receipt of pleadings; sensitized clients on the provisions of the Constitution of Kenya, 2010; court attendances were improved to over 90%; The Department sensitized the MDAs on their role in facilitating the finalization of cases and trained counsel on emerging constitutional theme

In the FY 2013/14 the Department, achieved the following; promoted dispensation of justice by concluding **1800 backlog of cases filed against the Attorney General**; Prepared well researched legal opinions within four (4) days in all civil disputes upon receipt of all pleadings, documents and instructions; and Sensitized clients on emerging legal issues.

During the FY 2014-15, **1507 backlog of cases filed against the Attorney General were concluded**. In a bid to promote dispensation of justice, a total of 1,289 well researched legal opinions in all civil disputes were prepared within 3 days. In addition, communication to client ministries and departments in all new suits, petitions and judicial review was done within 3 days. 63 State Counsel were trained and clients sensitized on emerging legal issues.

Advocates Complaints Commission (ACC)

During the FY 2012/13, the Commission filed charges with the Disciplinary Committee within three days against the set target of eight days. In the same year, all complaints were subjected to ADR and 15 Counties were covered. Finally, public awareness was conducted in 15 Counties.

During the FY 2013/14 the Commission subjected 72 complaints to ADR in order to enhance the speedy resolution of disputes. In the same year, time taken to file charges with the Disciplinary Tribunal reduced to 5 days against the target time of 8 days. To promote public awareness on their mandate, ACC successfully conducted public awareness in 11 Counties, where County Commissioners, Deputy County Commissioners, Chiefs, Assistant Chief, Village Elders and Opinion leaders in the 11 Counties were involved. ACC also conducted stakeholders' consultative workshop in 9 counties.

During the FY 2014/15, the office conducted ADR sessions in 11 counties; filed charges with the Disciplinary Tribunal (DT) within 5 days against the set target of 8 days. The office also held 9 sensitization workshops on the mandate of the ACC. In the same year, 500 files were digitized.

4.4.1.2 Legislations, Treaties and Advisory Services

Legislative Drafting

In the FY 2012/13, all Subsidiary Legislation proposed by line ministries were finalized within 65 days. Bills were posted on OAG&DOJ Website 5 days after publication.

In the FY 2013/14, the OAG&DOJ conducted a general audit of all laws of Kenya in support of the Constitution in collaboration with the Kenya Law Reform Commission. From this audit, 14 bills were prioritized for review. The Commission was able to draft and finalize **24 bills** during this period. The full list of Bills is provided for in the Kenya Law Reform Commission section in this report.

In the FY 2014/15, a total of 17 bills for the implementation of the Constitution were finalized. In the same year **20 Bills for the harmonization** of existing laws with the Constitution were finalized. Legislative Drafting Department also managed to Finalized 186 pieces of subsidiary legislation, and facilitated the **publication of 69 legal notices within 50 days**.

Treaties and Advisory Services

In the FY 2012/2013, the Department provided legal advice to Government on its obligations on treaties and agreements that it is a party to within seven days. It also represented the Office in negotiations and conclusion of Government contracts and transactions. In addition, the Department

participated in the negotiation and ratification of various international instruments. Further it conducted research and published peer review Articles in reputable journals on topical legal issues and participated in regional and international meetings pertaining to matters related to international law.

In the period July 2013 - June 2014, the Department rendered 416 legal opinions to MDAs; established a committee to oversee the setting up of a registry of treaties which developed a plan of activities and developed a catalogue of all treaties to which Kenya is a signatory; Legal advisory services were provided to MDAs and County Governments within three and seven days respectively upon receipt of documentation; and guidelines to assist the Office in the vetting of MoUs, Agreements and Contracts were developed.

During the FY 2014/15, **95 Legal advice** and opinions to MDAs were rendered within 3 days upon receipt of necessary documentation and instructions; 443 Legal opinions files were scanned and digitized; 51 legal opinions to government on its obligations on international Law that is party to, were rendered within 5 days and report provided; and 47 Legal and advisory services to County Governments were rendered within 7 days.

4.4.1.3 Management of Public Trusts and Estates

Public Trustee

During the FY 2012/2013, the department decentralized Public Trustee services to two counties namely, Garissa and Meru; conducted public awareness campaigns to sensitize the public on the role of the Public Trustee thereby creating awareness and further enhanced citizen knowledge as well as accountability and efficiency; Interagency collaboration was enhanced with various stakeholders by making visits to Ex-officio Agents in various districts. In addition, the department developed and procured the Public Trustee Business Process Management System.

In the FY 2013/14 the Public Trustee finalized **798 estates** within an average of 22.5 days. It also held interagency collaborative meeting with Ex-officio agents in 25 sub-county offices. To enhance quality assurance, the department conducted monitoring and evaluation in all the 12 regional offices.

In the FY 2014/15, the Public Trustee enhanced access to justice by reducing the time taken to draw final distribution accounts of estates. A total of **4,133 files were finalized** at an average of 16 days and all the 12 regional offices and Nairobi were assessed for levels of compliance with the law and laid down procedures. Feasibility study to establish an additional regional office was undertaken in Kericho County and office space acquired. Ex-officio agents were sensitized in 10 counties on Public Trustee operations. The department partnered with Safaricom and paid beneficiaries over Ksh. 60 million via Mpesa thereby reducing the cost to beneficiaries in accessing funds by real-time transfer of funds.

4.4.1.4 Registration Services

During the FY 2012-13, the Marriage Registry was moved from 2nd floor Sheria House to Ground floor Sheria House which created a more spacious marriage room and waiting area. In the same year, County Commissioners and Deputy County Commissioners were gazetted as marriage officers to enhance service delivery in areas where the Registrar of Marriages does not have a Marriage Officer. New offices were opened in Kisii and Machakos Counties to increase access to services. Name search and reservation at the Companies Registry, were conducted in one day from the previous target of three days. Mobile money transfer was introduced for payment of registration of limited companies, companies limited by guarantee and business names hence reducing the long queues. The use of Mobile Short Message Services to reserve company and business names was introduced. There was also the establishment of a call center for enquires from the Companies Registry.

In the FY 2013/14 the President launched the one-day registration of companies. In the same year, Huduma centres were established at General Post Office Nairobi, City Square Post Office Nairobi, Makadara (Nairobi), Nakuru, Kisumu, Mombasa and Machakos. Through the Huduma Centres the members of public reserve names and make payments for the registration of new companies, business names and registration of welfare societies.

In this period, the Marriage Act, 2014 was enacted and implementation commenced wherein church ministers were sensitized. County Governments were sensitized on the designing and registration of Coat of Arms. The Official Receiver completed closing all the loan account files for Rural Urban Credit Finance Limited.

In the FY2014/15, the Companies Registry commenced name search and reservation services through the e-citizen portal. During this period, additional Huduma Centres were established in Kisii, Eldoret, Kakamega, Meru, Kajiado, Eastleigh (Nairobi) and Nyeri in which registration services such as name search and reservation, registration of welfare societies and payment of registration of companies and business names is conducted. A total of **1713 loan account files** for Continental Credit Finance Limited were closed. A total of **71 Hire Purchase** companies were inspected for compliance. Marriage officers in 26 Counties and the public were sensitized on the new Marriage Act through seminars and radio talk shows.

4.4.1.5 Kenya Copyright Protection

During the period under review, 240 inspections were conducted resulting to more than 600 cases being registered and 157 cases determined for the same period. A total of 998 officers drawn from various enforcement agencies namely the police, customs and judiciary were trained. The Kenya Copyright Board (KECOBO) has also developed training material for enforcement and general copyright training; The Board was ISO certified in 2012 and has continued to maintain the certificate. A mini library has been established, a database developed; 19 stakeholder workshops held and developed a communication policy, published 14 editions of the copyright which are available online and partnered with various academic institutions to create awareness on copyright and related rights.

Constitutional Reform

4.4.1.6 Law Reform: Directorate of Legal Affairs

Anti-Corruption:

In the FY2012 /2013 the Directorate of Legal Affairs achieved the following: reviewed Malaysia's implementation of United Nations Convention Against Corruption and developed a Leadership and Integrity Code under the Leadership and Integrity Act, 2012 (No. 19 of 2012). In the FY2013/2014, it developed the Draft Kenya Country Report on the Implementation of United Nations Convention against Corruption (UNCAC) which was reviewed by the UNCAC review experts drawn from Papua New Guinea, and Cape Verde. The Directorate also developed the Kenya Integrity Plan (KIP), which was adopted by the National Anti-Corruption Plan Coordinating Committee. The Public Officers Ethics Act 2003 was reviewed and harmonized with the Constitution and other integrity-related legislation.

- In the period 2014/2015 the following achievements were realized by the Directorate: a Task Force on the Review of the Legal, Policy and Institutional Framework for Fighting Corruption in Kenya appointed by the Attorney General prepared elaborate proposed amendments to various Acts of Parliament, with a view to strengthening the legal regime for preventing and combating corruption in Kenya; a Draft National Ethics and Anti-Corruption Policy was developed; and a newspaper supplement commemorating the International Anti-Corruption Day was published.

Human Rights

In the FY 2012/2013, the Directorate achieved the following: Kenya's Core document to support reporting on all the International and Regional Human Rights instruments was developed; a Mid Term Review Report on the implementation of the Universal Periodic Review recommendations was prepared and submitted to the United Nations Human Rights Council; the National Policy and Action Plan for Human Rights was developed and submitted to Cabinet for approval; the second state report on the Convention against Torture, and other Inhuman, Degrading and Cruel Punishment or Treatment (CAT) was prepared and presented to the UN Committee against Torture; and the Concluding Observations of the Committee against Torture were disseminated to government officers, civil society organizations and national human rights institutions.

In the FY2013/2014, the 8th -11th periodic report on the African Charter on Human and Peoples' Rights was submitted to the African Commission on Human and Peoples' Rights. In the period 2014 /2015, the *Sessional Paper No. 3 of 2014 on the National Policy and Action Plan* was tabled in Parliament for adoption; 200 Public officers were trained on the Human Rights-Based Approach to programming and planning. A further 200 public officers were sensitized on the National Policy and Action Plan on Human Rights disseminated to all public officers. A concept paper and a national implementation framework to guide the development of a Policy on Public participation was developed and the Directorate facilitated the development of the *2nd to 5th State Report on the International Convention on Economic, Social and Cultural Rights* which submitted to the Committee on Economic, Social and Cultural Rights. In the same period, Kenya's report on the universal periodic review was presented to the UN Human Rights Council during the second cycle of the review; and a review of the concept paper on the National Legal Education and Training Policy, which captured new and emerging issues that concern legal education and training.

Electoral Reform, Devolution, TJRC Report

In the 2013/2014, civic education on the Constitution was conducted and IEC material distributed in ten Counties. In the 2014/2015, a draft Manual on civic education, devolution and public participation were developed in collaboration with Transition Authority and Ministry of Devolution & Planning. In the same period, the Truth Justice and Reconciliation Commission (TJRC) completed its report and handed it to the President and thereafter to Parliament for debate. In addition, a multi-stakeholder forum on electoral reforms was held, Draft amendments and proposals for regulations to operationalize the Elections Act, the Independent Electoral and Boundaries Commission (IEBC) Act, Political Parties Act prepared.

National Legal Aid and Awareness

During the year 2012/13, the National Legal Aid and Awareness Program (NALEAP) undertook two baseline surveys on the use of Alternative Dispute Resolution in Kenya and on access to justice by persons living with disabilities. A Summative Evaluation of the six pilot projects of the NALEAP Programme for the period 2009 to 2012 was undertaken. These reports informed the development of the Draft National Legal Aid and Awareness Policy and the Draft Legal Aid Bill.

The programme also offered legal aid to over 3000 vulnerable members of the society, with over 200 people offered legal counseling and advice through legal open days and legal aid clinics in six legal aid pilot projects. Over 500 litigants were trained on self-representation in family, children and robbery with violence cases. In addition, the programme recruited pro bono lawyers and trained them on ADR. The programme also offered psycho-social counselling to over 30 litigants.

A Self Representation Manual on Family and Children's cases was developed and disseminated to members of the public, institutions in the justice sector and staff. The programme also built capacity of staff on ADR, Management and Kenya Sign Language undertaken.

During the period 2013/14 NALEAP built the capacity of over 210 stakeholders drawn from of Justice Sector institutions; judiciary, probation and aftercare services, department of children services, police, prisons, lawyers and community elders on Alternative Dispute Resolution. In addition, it built the capacity of over 137 lawyers drawn from Nairobi, Mombasa, Kisumu, Nakuru, Eldoret and Nyeri on the Civil Procedure Rules, 2010. Further, the capacity of 287 remandees and convicts in six G.K Prisons on self-representation as well as 64 paralegals and prison officers was built on criminal law. The programme also established three Legal Resource Centres in Nairobi, Kisumu and Eldoret to enhance the knowledge of lawyers, paralegals and law students in the three regions.

The programme facilitated and offered legal aid through legal advice, awareness and representation to over 3500 vulnerable members of the society, developed and disseminated 1,000 IEC materials (500 on child rights, 250 on capital offences and 250 on alternative dispute resolutions). In addition, the programme laid a foundation for a collaboration and coordination framework for legal aid providers in Kenya through the establishment of 4 regional (119 representatives) and 1 national network (26 representatives). A cabinet memo on the Legal Aid Bill 2014 and the National Legal Aid and Awareness Policy was prepared and submitted to the Attorney General. The National Steering Committee of the Programme also developed and validated a Transition strategy to transit the programme to the proposed Legal Aid Service under the Legal Aid Bill.

During the FY 2014/15, NALEAP developed its 2013-2017 Strategic Plan. 150 stakeholders in the justice sector (judicial and non-judicial) were trained on Mediation. In collaboration with International Commission of Jurists-Kenya Section, the Programme conducted Legal open days and clinics in Mathare in Nairobi, Shimo la Tewa main and female G.K prisons in Mombasa, Nyalenda-Kisumu, Nakuru/Naivasha and Eldoret/Iten. The Programme further offered legal aid through legal advice, provision of legal representation through probono lawyers to over 4,420 vulnerable persons.

During the said period, the Draft National Legal Aid and Awareness Policy 2015 and the Draft Legal Aid Bill, 2015 were approved by Cabinet and submitted to the National Assembly for adoption and enactment respectively.

Kenya Law Reform Commission (KLRC)

During the 2012/2013 review period, the Kenya Law Reform Commission achieved the following: The development of the Kenya Law Reform Commission Act, the Assumption of the Office of the President Act; Leadership and Integrity Act; Pest Control Act; Kenya Citizenship and Immigration Act; Devolved Government Act and Political Parties Act; all of which have since been enacted. The Kenya Law Reform Commission was also involved in the consolidation of the electoral laws. Additionally, the Commission facilitated the preparation of the six bills to operationalize the system of Devolved Government, developed the Ethics and Anti-Corruption Act and the Salaries and Remuneration Bill.

In the 2013/2014 review period the KLRC facilitated the development of the following Acts: Marriage, National Security Council, Kenya Defence Forces, National Land Commission, Land Registration, National Intelligence Service, National Social Security Act, Vetting of Judges and Magistrates, Judicial Service Commission, Supreme Court, Salaries and Remuneration Commission, Kenya National Commission on Human Rights, National Gender and Equality Commission, Commission on Administrative Justice, Independent Offices (Appointment), Kenya Citizens and Immigration, Commission on Revenue Allocation, Power of Mercy, Environment and Land Court, National Government Loans Guarantee, Contingencies and County Emergency Funds, National Police Service, National Police Service Commission, and National Police Oversight Authority.

In the 2014/2015 review period the KLRC facilitated the development of the following Acts: Crops, Agriculture Fisheries and Food Authority, Mining, Ratification of Treaties, Kenya School of Government, Public Service Commission, and Teachers Service Commission. In addition, the KLRC developed legislation, regulations and administrative procedures to implement the Constitution under the 5th and non-5th Schedule Laws, provided technical assistance to County Governments on the Development and Reform of County Legislation implemented the report on the Audit, Prioritization and Harmonization of legislation with the Constitution of Kenya. Further, KLRC undertook audit of Post-Constitutional Promulgation Legislation and assisted MDAs to review, develop and align legislation with the Constitution. The Commission also undertook preparation of a

Legislative Guide for National and County Governments and developed regulations on legislation relating to the agricultural sector, marriage and insolvencies.

The National Anti-Corruption Campaign Steering Committee

During the period 2012/13, NACCSC established and operationalized Anti-Corruption Civilian Oversight Committees in 19 counties and implemented anti-corruption Campaign in those Counties. Two studies were undertaken on the 'Ethical conduct of the Youth' and on the 'Effects of corruption on service delivery in the Public Sector' to inform the campaign. In addition, NACCSC monitored the levels of corruption in the National Examinations and Police Recruitment exercise. Six sensitization forums and nine social audits were conducted on public projects and the public engaged on topical issues on corruption through 52 multi- media programmes. 11,000 Information, Education and Communication (IEC) materials conveying varied anti-corruption messages were produced and distributed.

In the FY 2013/14, anti-corruption campaign strategies meetings were undertaken in 27 counties, nine sensitization fora on corruption, and 75 social audits conducted, anti-corruption messages disseminated through 48 media programmes and 2,900 IEC materials produced and distributed. Design of the values-based anti-corruption campaign was undertaken and 2 Public Service Announcements (PSAs) to promote the embrace and practice of the National Values transmitted. The UN International Anti-Corruption Day was also commemorated.

In the FY2014/15, Anti-Corruption Civilian Oversight Committees were reconstituted in six Counties to make them effective. 19 sensitization fora were held for partners and vulnerable groups, 109 social audits and open fora for the public and campaign strategy meetings held in 10 additional Counties. 60 values PSAs were produced and transmitted, 184 and 55 anti-corruption media radio and television programmes produced and disseminated; and 2,000 IEC materials distributed.

Promotion of Democracy, Agenda Four Commissions and Committees

Truth Justice Reconciliation and Commission

In the period 2012/13, TJRC developed its hearing rules and published a popular version of these rules in the local dailies. The Commission held outreach and public education sessions throughout the country with special focus to conflict prone areas. The Commission further undertook statements throughout the country. At the conclusion of the exercise, a total of 42,098 statements were recorded. In addition, the Commission set up data management tools that enabled it to process statements received and other information gathered and finally compiled and submitted their report to the President. The Commission published popular version of the its report in the local dailies, held TV talk programmes and radio sensitization programmes pertaining to the TJRC findings and recommendations.

The Judges and Magistrates Vetting Board (JMVB)

During the period 2012/13, The Board vetted 53 judges in the first phase. This included 9 Court of Appeal Judges, 3 judges of the Supreme Court; received and considered applications for review by the four Judges of Court of Appeal who were found unsuitable; completed the second phase by vetting 44 Judges of the High Court; received and considered applications for review by the four (4) judges of the Court of Appeal and eleven (11) Judges of the High Court. Further, the Board vetted 87 Magistrates in the third phase and compiled all announcements on the determinations documented in both print and braille form.

In FY2013/14, the Board distributed complaint forms, sensitized the public through the local radio stations and daily newspapers on its role and mandate including the schedule for conducting vetting. In addition, the Board launched and distributed the Judges and Magistrates Vetting Board's Interim Report.

Legal Education Policy

In the period 2012/13 The Council of Legal Education (CLE) commenced. The Council fully accredited 1 Diploma in law programme and provisionally accredited 4. It fully accredited 6 LL.B programmes and provisionally accredited 7 programmes in legal education training institutions. The Council further provisionally accredited 1 programme in LLM and PH.D. It sensitized legal education providers on the new onsite inspection parameters for the accreditation process; conducted legal education stakeholder conference to enhance collaboration and benchmarking to international standards; and developed draft regulation as provided in the Legal Education Act, 2012.

In the period 2013/14, the CLE undertook basic ICT infrastructural development for automation and service delivery to the public and developed Bar Examination management structures. The Council also developed 2014 -2018 Strategic plan in the financial year 2014-15.

Legal Education Training

During the period 2012/13, the Kenya School of Law Act, No. 26 of 2012 was promulgated in September 2012, institutionalized clinical training by introducing moot courts, and undertook 20 legal aid clinics, conducted pupillage supervision for students. In the same year, the School implemented the following programmes; Advocates Training Programme (ATP); conducted customer focused legal courses for both government and non-government institutions.

The Kenya School of Law has undertaken various programmes and projects with a view to institutionalizing the reform agenda as articulated in various policy documents, including the Report of the Task Force on the Legal Framework for Legal Education and Training (2006) and Strategic Plan (2007-2010) revised in (2009-2017) and 2013-2017.

In the FY2013/2014, KSL revamped Advocates Training Programme; introduced Continuing Professional Development Programme; introduced Para-Legal training; introduced Research and Consultancy Services; attained some financial sustainability at 65%; and developed capital infrastructure to accommodate increased number of students

Crime Research

During the period 2012/13, the National Crime Research Centre (NCRC) finalized a study on Organized Criminal Gangs and on Gender Based violence. The Centre strengthened crime data-base to enable law enforcement agencies to share the information regarding strategies and measures applied in combating crime. During the period 2013/14, NCRC carried out research into the causes of crime to attain its objects. The Centre built an effective model for criminal investigation through training of Prosecutors and Police in major case management. The Centre also conducted institutional capacity building for crime prevention through an integrated security system.

In the period 2014/2015, NCRC carried out research project activities in the following areas; organized criminal gangs, Gender Based Violence (GBV), a study on Election Crimes and Offences, Human Trafficking in Kenya; Kidnapping and Delivery of Community Based Sentences in Kenya. In addition, the following studies were conducted in collaboration with various institutions: A Study of Community Based Sentences in Kenya: The Case of Probation Orders in Kenya, A Study of Community Based Sentences in Kenya: The Case of Community Service Orders in Kenya, National Crime Mapping; Undertook research collaboration with various institutions such as Penal Reform International (PRI); Development of a Directory of Stakeholders for NCRC Research Projects.

4.5.2 Office of the Director of Public Prosecutions

The mandate of the DPP is provided for in Article 157 of the Constitution of Kenya 2010 and further stated in the Office of the Director of Public Prosecutions Act 2013. This includes; exercising state powers of prosecution, directing investigations, offering criminal legal opinion to government

ministries and departments, processing extradition and mutual legal requests from both within and outside Kenya and to facilitating witness protection and victim's participation in criminal justice.

Specifically, the Office decides which cases referred by the various investigative agencies should be prosecuted; determines the appropriate charges to be preferred in all cases; directs and advises investigative agencies at various stages during investigations; prepares and presents cases in court; and provides information, assistance and support to victims and prosecution witnesses.

ODPP Activities

Up until the reporting period, the ODPP has undertaken a number of activities as discussed in detail under the following sub-themes:

1. Enhance Access to Justice

The **decentralization of prosecution services** has been key and to date the ODPP has presence in all the **47 Counties** of the Republic, as well as all the **117** stations where court exist, thus enhancing access to justice. A **public complaints handling mechanism** has been operationalized which has promoted accountability and transparency in the discharge of the prosecution mandate, providing a platform for review of prosecutorial decisions which is a crucial component of access to justice. The ODPP Complaints and Compliments Section have, since inception in January 2012, been able to process **9943** public complaints. The office has invested in the **capacity development and professionalization of services** to respond to the increasing sophistication of crime, prosecutors continued to receive specialized training in various thematic areas. In the **fight against corruption**, ODPP developed and disseminated Anti-corruption Prosecution Guidelines for Prosecutors to guide in the handling of corruption cases. Senior officers underwent sensitization on compliance with integrity provisions under the law, conducted by Officers from EACC. The DPP also dedicated a specialized pool of senior prosecutors to review, brief and guide investigators in the compilation of requisite evidence in all Anglo-Leasing and the 'List of Shame' cases submitted to the Office for expedient action. The ODPP has engaged in **infrastructural revamping of the ODPP** which saw acquisition of additional office space, refurbishing and equipping of the newly opened sub-county offices. To achieve **public engagement and media use** with the Office actively maintained its social media platforms on *Twitter* and *Facebook*.

2. Institutional Reforms and Restructuring

Specialized divisions, sections and units have been revamped by expanding existing divisions, sections and units and establishing new ones, such as Anti-Money Laundering Division, Land, Environment and Related Crimes Division and Crime Data Collection and Analysis Unit. The **Human resource management and staff was improved** by recruiting **420** new staff of whom **85%** were prosecution counsel and **15%** were central facilitation staff. ODPP staff complement rose from **671** to **933**. Staff have been deployed to the County levels where they execute and support the prosecution mandate.

Table 4.1: ODPP Staff Complement

Current Staffing Levels	2011/2012	2012/2013	2013/2014	2014/2015
Total No. of Staff	185	357	671	933
Growth		93%	88%	39%

Source: ODPP

Figure 4.1: Total Number of Staff

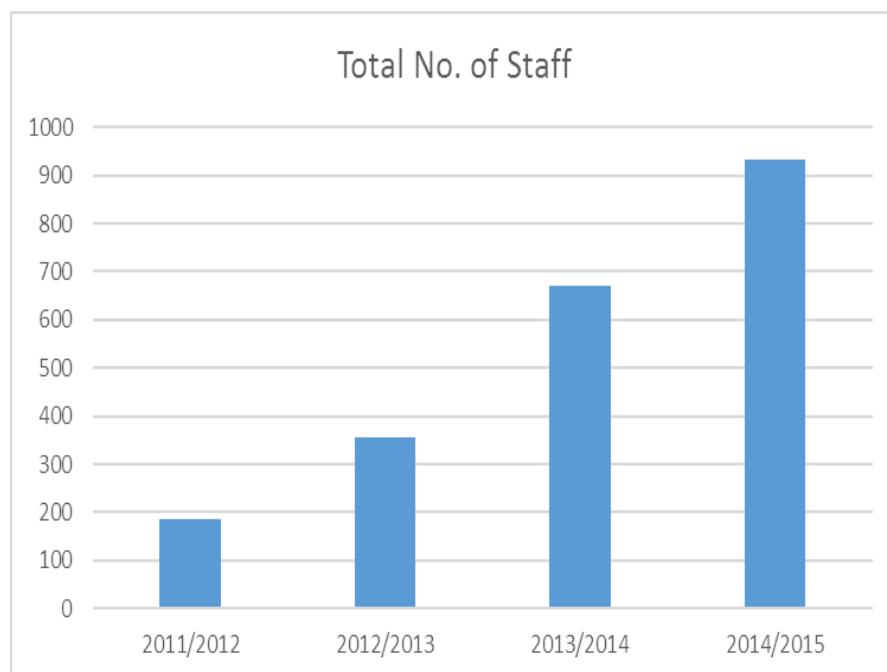


Table 4.2: ODPP Staff Complement

Trainings Programme	No. of Officers	Sponsor
Induction Seminar	61	ODPP
Induction and Trial Advocacy Program	543	ODPP/GIZ/IJM
Complex Crime Transactions Involving Laundering of Criminal Proceeds	11	DOJ
Wildlife	58	ODPP/UNODC/BHC/ANAW
Cyber Crime	27	ODPP/UNODC
Terrorism	28	ODPP/DOJ/IGAD
Sexual Gender Based Violence/Trafficking in Persons	49	ODPP

Source: ODPP

The **investment in professional skills development** continued. Trainings were delivered by internal and external facilitators and benefited officers from partner agencies, including the National Police Service, Kenya Wildlife Service, Kenya Revenue Authority, Kenya Airports Authority, NEMA, and Judiciary, amongst others.

3. Professionalization of Prosecution Services:

The ODPP developed general and thematic policies and guidelines which are informed by its vision and core values. The policies and guidelines are National Prosecution Policy, Code of Conduct and Ethics for Public Prosecutors, General Prosecution Guidelines and Corruption and Economic Crimes Prosecution Guidelines. The Office has so far gazetted **254** prosecutors from **sixteen agencies** to exercise delegated prosecutorial powers. The Office has taken over control of prosecutions from the police in all the **117** court stations in the country. Consequently, the overall conviction rate is steadily rising and currently stands at **89.4%** up from **82%** in the previous reporting period.

4. Promote Inter-Agency Co-operation and International Collaboration:

The ODPP operates within the larger criminal justice system which has various investigative agencies, the Judiciary, as well as non-state actors. Further, as part of the collaboration efforts with various agencies, the ODPP developed Standard Operating Procedures (SOPs) and reference manuals for capacity building. This included the Rapid Reference Guides “Points to Prove” on wildlife and terrorism crimes. Sensitization on the same is ongoing.

5. Strengthen Policy and Legislative Framework

Through the review of internal policy its internal policy and operational instruments including the Revised National Prosecution Policy, the Revised Code of Ethics and Conduct for Public Prosecutors, General Prosecution Guidelines, Prosecution Guidelines on Economic Crimes, Prosecution guidelines on SGBV and Trafficking in Persons, Standard Operating Procedures on Wildlife Crimes, Standard Operating Procedures on Terrorism Offences, Standard Operating Procedures on Anti-FGM Offences, Standard Operating Procedures on Hate-Speech Offences, Compendium on prosecution of International Crimes and a Piracy and Other Maritime Crimes.

6. Formulation of Criminal Justice Sector Policies

The ODPP contributed to the development and implementation of a number of criminal justice sector policies and legislative initiatives. For instance, ODPP contributed to the development of the Bail and Bond Policy Guidelines and the Sentencing Policy Guidelines under the NCAJ. The Office was involved in Inter-agency taskforces including the IDPs Taskforce and the Taskforce to Develop the Court of Appeal and High Court Administration Bills. ODPP also contributed in discussions on the proposed establishment of the High Court Division on International and Organized Crime by Judiciary and the National Organized Crimes Centre by NPS.

7. Law Reform

The ODPP was involved in various law reform initiatives which include the development of the Court of Appeal Bill, High Court Administration Bill, National Coroners Service Bill 2015, and Rules on Witness Protection in Court. The Office also initiated the development of Plea-bargaining Rules and Guidelines, Cybercrime Bill 2014, Wildlife Management & Conservation (Amendment) Bill 2014, Security Laws (Amendment) Act, 2014 and the Victims Protection Act, 2014.

8. Facilitation of Witnesses and Victims of Crime

In realization of the role of victims in the criminal justice system, the ODPP operationalized the specialized thematic Division on Children, Witness and Victim Support. The Division proposed modalities for the support of and facilitation of witnesses and victims including, the entering into an MoU with WPA in this regard.

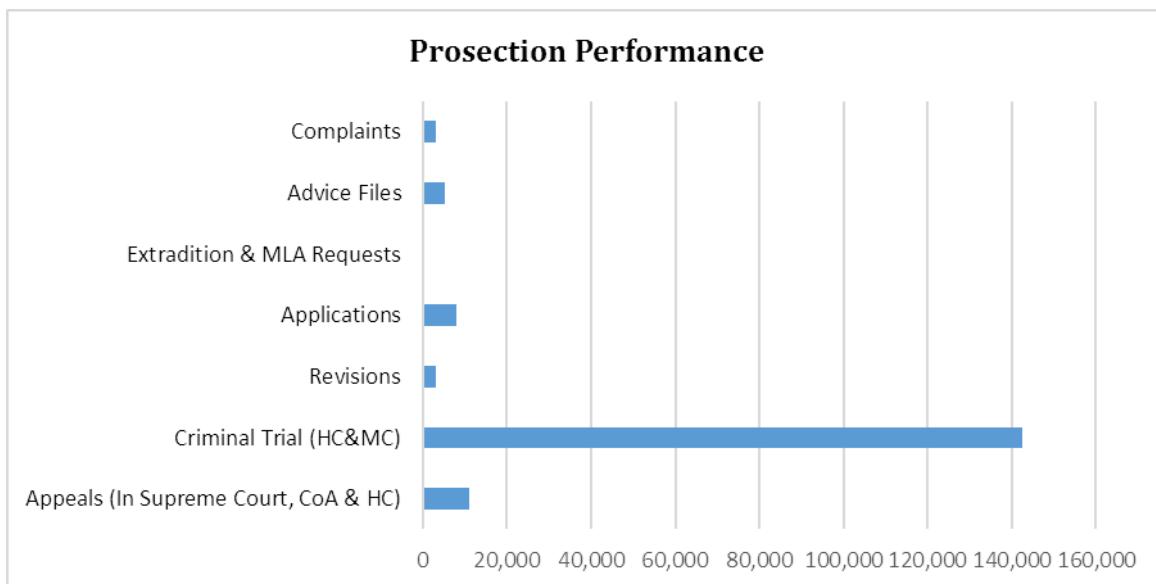
9. Prosecution Performance

There was a 55% increase in the total number of matters handled compared to the previous period which is attributed to the decentralization of prosecution services to all court stations in country and the taking over of the decision to charge by ODPP.

Table 4.3: Prosecution Performance

Matter	Registered	Proportion
Appeals (In Supreme Court, CoA & HC)	11,071	6.39%
Criminal Trial (HC&MC)	142,516	82.30%
Revisions	3,061	1.77%
Applications	8,035	4.64%
Extradition & MLA Requests	55	0.03%
Advice Files	5,179	2.99%
Complaints	3,244	1.87%
Total	173,161	100%

Source: ODPP

Figure 4.2: Prosecution Performance

Challenges facing the ODPP

1. *Low conclusion rate in criminal trials:* While the justice system suffers from accumulated backlog of cases as exhibited by the low case conclusion rate, the ODPP's overall prosecution performance is adversely impacted.
2. *Inadequate infrastructural capacity:* While the ODPP has a presence in all counties in Kenya, there is need for infrastructural development of the County Offices. The Office lacks adequate infrastructural capacity in terms of vehicles, legal resources, furniture, equipment and office space, both at the headquarters and the County Offices.
3. *Limited capacity to handle emerging crimes:* The ODPP is faced with inadequate specialized skills and knowledge in handling new, emerging and complex forms of crime such as money laundering, cybercrime and other transnational crimes.
4. *Archaic Case-file and mail management process and procedures:* Due to lack of adequate resources, ODPP has not been able to effectively put in place an enabling ICT environment to facilitate the Office in automating the new manual case management system.
5. *Inadequate witness and victim facilitation:* The ODPP faces challenges in conducting pre-trial sessions due to limited resources for pre-trial facilitation of witnesses and victims within the criminal justice system. This results in poor witness preparation, witness fatigue and eventual collapse of otherwise meritorious cases.
6. *Inadequate human resource capacity:* The ODPP staff optimal level is 1297 staff, comprising 927 counsel and 360 central facilitation staff. The ODPP has not been able to attain the desired level due to its inability to attract and retain staff. Harmonization of terms and conditions of service with the wider justice sector is necessary to ensure increased retention of ODPP staff.
7. *Archaic and unresponsive laws:* The current criminal laws are not sufficiently applicable to new and emerging crimes and technological advancements. There is need for continuous review and revision of key procedural, evidential and substantive criminal laws in order to respond to the complex and ever mutating forms of criminality.
8. *Capacity constraints within other criminal justice agencies:* A number of key agencies within the criminal justice system such as; the National Police Service, and the Government Chemist, suffer acute capacity constraints which inevitably affect the efficient delivery of services by the entire system. For instance, insufficient use of modern investigation techniques due to the lack of a modern National Forensic Crime Laboratory and inadequate forensic investigation skills have greatly hampered the ability of the investigative agencies to investigate complex and emerging crimes. This impact greatly on the ability of the ODPP to offer effective and efficient prosecution services. There is need to modernize and enhance capacity of investigative agencies so as to improve quality of investigations, and in turn impact positively on the effectiveness of prosecution.
9. *Security and safety of staff:* In carrying out the mandate, officers are faced with threats from the suspects and criminals during trial and when out on bail and bond. In addition, ODPP offices, both at the headquarters and the Counties are housed in rented insecure premises, thus exposing officers to vulnerable and unsecure conditions.
10. *Budgetary constraint:* The ODPP experiences acute financial constraints due to inadequate budgetary allocation. A number of planned activities remain pending due to disparity between the requisitions and the actual allocations from the exchequer.

4.5.3 National Police Service

The year 2015 recorded an increase of **2754** crime cases, which represents a **4%** rise from 2014. The trend of crime and insecurity in the country was driven by terrorism, proliferation of small arms and light weapons, inequity of resources, organized crimes, drug and substance abuse, community boundary disputes, theft of stock, sophistication of technology and politics driven by ethnic rivalry.

In the year 2015, the overall crime recorded was **72490** as compared to **69736** in 2014. The country experienced **decreases** in certain categories of crime. These included the theft of motor vehicles and their parts which declined by 10% with 128 cases reported. Stealing cases stood at **514** cases representing a decline of **5%**; robbery cases stood at **146** representing a decline of **5%**; theft by Servant reported **95** cases marking a decrease by **5%**; and breaking had **65** cases representing a **4%** decline.

However, **increases** were noted in: Offences against morality **980** cases or **19%**, Dangerous drugs **675** cases or **14%**, Other Penal Code Offences **573** cases or **10%**, Criminal Damage **275** cases or **7%**, Economic Crimes **207** cases or **7%**, Other Offences Against Persons **1263** cases or **6%** and Theft of Stock **113** cases or **6%**. The least number of crimes were recorded in: Isiolo (**213** cases), Mandera (**271** cases), Wajir (**317** cases), Samburu (**355** cases) Marsabit (**468** cases), and Lamu (**492** cases).

Defilement under the offences against morality recorded an increase of **820** cases or **22 %** and incest by **96** cases or **40 %**. Under other offences against persons, assault increased by **972** cases or **7 %**, affray by **10** cases or **3%** and creating disturbance **281** cases or **5%** increase.

In the period between 1st July 2014 and 30th June 2015 the total caseload the police handled was **188,661** of those a total of **86,651** cases had been reported, investigated and taken to court.

Table 4.4: Breakdown of police cases in court

Categories of Cases	Total
Cases dismissed	3905
Cases discharged	9563
Cases acquitted	7746
Cases Pending Before Court	37127
Cases convicted	21789
Other disposals	6521
Cases taken to court	86651

Source: National Police Service

Figure 4.3: Categories of Cases

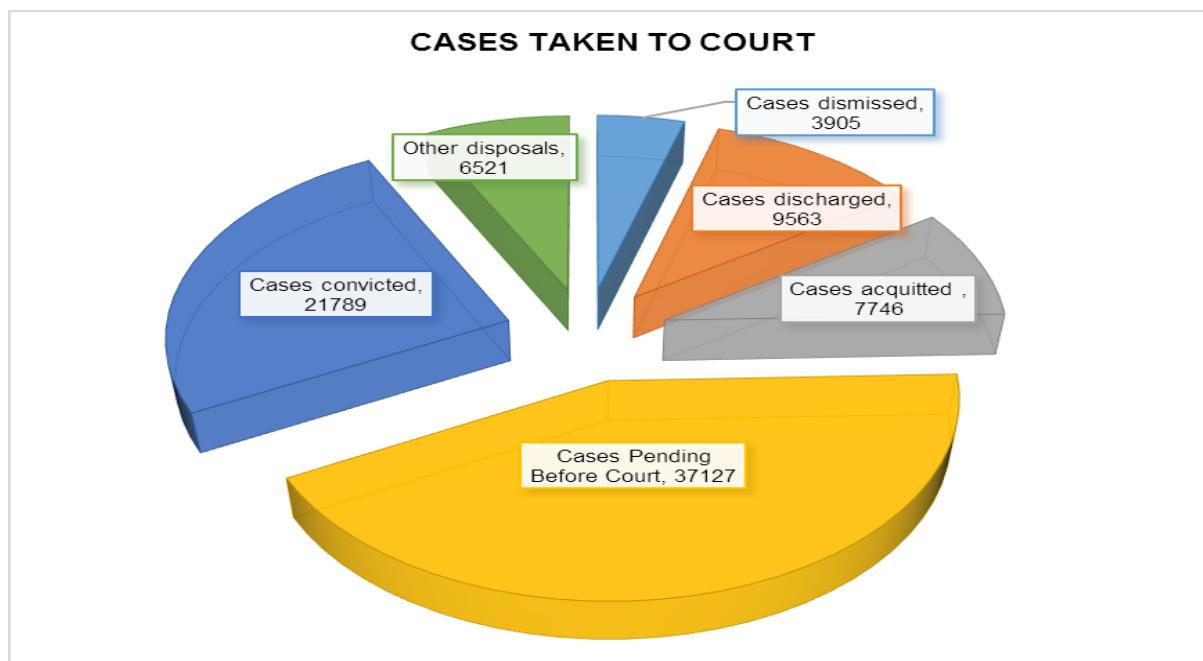


Table 4.5: Cases Handled by Police By County, FY 2014/15

Region (Counties)	Cases Reported	Cases Taken to Court	Cases Dismissed	Cases Discharged	Cases Acquitted	Cases P.B.C	Cases Convicted	Cases On Any Other Disposal
EASTERN REGION								
Marsabit	554	471	23	70	38	150	150	40
Isiolo	252	265	5	3	9	78	154	16
Meru	9608	5617	88	275	496	2609	2014	135
Tharaka	831	787	146	0	145	225	232	39
Embu	932	332	0	26	12	30	261	3
Kitui	773	461	3	37	20	178	165	58
Machakos	3198	3003	25	234	197	1403	954	190
Makueni	4657	2253	43	316	194	850	516	334
Total	20805	13189	333	961	1111	5523	4446	815
CENTRAL REGION								
Nyandarua	2032	1876	15	281	43	786	540	211
Nyeri	2247	2073	157	223	206	619	725	143
Kirinyaga	2887	2198	39	187	273	637	964	98
Murang'a	1146	6056	899	1566	1452	525	1173	441
Kiambu	7422	5744	215	676	304	2658	1243	648
Total	15734	17947	1325	2933	2278	5225	4645	1541
WESTERN REGION								
Bungoma	2838	2774	90	353	121	1359	712	139
Kakamega	3710	3445	391	297	283	1511	903	60
Busia	1777	1746	99	104	235	947	267	94
Vihiga	1241	1189	57	53	86	586	353	54
Total	9566	9154	637	807	725	4403	2235	347
NAIROBI REGION								
Nairobi	82601	7865	317	551	511	4878	636	972
Total	82601	7865	317	551	511	4878	636	972
RIFT VALLEY REGION								
Baringo	956	861	11	221	146	209	109	165
Bomet	1057	1026	29	120	87	353	344	93
Uasin Gishu	1820	1659	41	25	176	1146	238	33
Kajiado	7131	1514	41	153	83	942	162	133
Elgeyo Marakwet	1283	1208	1	98	36	679	303	91
Kericho	1772	1656	104	237	196	558	468	93
Trans-Nzoia	1836	1728	8	123	57	759	415	366
Laikipia	978	837	39	80	110	408	200	0
Nakuru	5803	5070	306	427	353	2465	1368	151
Nandi	838	831	5	140	73	287	302	24
Narok	2299	1798	21	287	106	554	511	319
Samburu	458	425	4	51	45	80	184	61
Turkana	140	58	0	6	1	26	24	1
West Pokot	1915	1724	10	209	14	1340	121	30
TOTAL	28286	20395	620	2177	1483	9806	4749	1560
COAST REGION								
Mombasa	1022	974	17	106	53	429	236	133
Kilifi	2225	1838	57	227	415	777	274	88
Kwale	1558	1031	16	99	57	476	329	54
Lamu	529	496	0	25	112	166	87	106
Taita Taveta	1531	1279	0	156	126	324	584	89
Tana River	1061	934	19	92	121	250	432	20
Total	7926	6552	109	705	884	2422	1942	490
NYANZA REGION								
Kisumu	2791	2039	25	201	92	1139	455	127
Siaya	1473	1379	96	278	136	493	356	20
Homa Bay	6044	1744	124	124	103	739	372	282
Migori	3176	1484	141	106	78	721	300	138
Kisii	2554	2119	82	404	187	947	403	96
Nyamira	1023	909	42	191	64	393	219	0
Total	17061	9674	510	1304	660	4432	2105	663
NORTH EASTERN								
Garissa	3979	1136	38	82	70	181	729	36
Wajir	2165	289	14	24	12	45	185	9
Mandera	284	284	2	14	5	136	53	74
Kapu	124	102	0	3	3	67	15	14
MARTIME	130	64	0	2	4	9	49	0
Total	6682	1875	54	125	94	438	1031	133
Grand Total	188661	86651	3905	9563	7746	37127	21789	6521

Source: National Police Service

Achievements of the National Police Service**1. Manpower:**

- The National Police Service recruited and graduated 10,000 more Police Officers in a deliberate effort of increasing the police to public ratio to 1:450 which is the United Nations recommended figure.
- Counter terrorism was introduced into the recruits' training curriculum to prepare them adequately to deal with the changing environment brought about by terror threat.

2. Equipment:

- Additional assorted vehicles totaling over 2,320 were procured and Police presence on the ground is now more evident.
- The Government installed an **Integrated Communication Command and Control Centre** which has surveillance and monitoring CCTV cameras, as well as synchronized emergency call lines (999, 112) from across the country with reports of reduced crime especially in Nairobi and Mombasa.

3. Procurement of armored personnel cameras

- To enhance the protection of officers serving in operational areas.
- Contracts have been issued for the overhaul of our troop carrier helicopters to improve troop deployment in troubled areas.

4. Traffic Management

- A number of speed guns for speed checks in major highways were procured and are doing a great deal in reducing the number of speed violators on our roads.
- The NPS and the Judiciary jointly introduced regulations in the management of traffic offenders whereby they are supposed to be granted Bail and Bail Bonds. This has reduced congestion in Police Cells as well as addressed unnecessary inconvenience on road users.
- In collaboration with the NTSA, the re-introduction of Alco blow has reduced the rate of accidents due to drunken driving.
- A Kenya Traffic Law Handbook was launched. It is a summary of offences and penalties and the Traffic Act which was developed Public – Private Partnership with the Bookman Consultants Ltd pursuant to Section 117A of the Revised Traffic Act.

5. High Profile Visitors

- The country last year hosted very high profile visitors namely the US President, His Highness the Pope, and the World Trade Organization among others. NPS played an integral role in securing these visitors and all the events ended without any security hitches.
- 6. Decrease in cases like robbery with violence due to cooperation between members of the public and police.
- 7. Intelligent reports are available hence helping in better policing.
- 8. Attending of court user's seminars has enhanced the interaction between the police and the judiciary at large
- 9. Prosecution allowing investigation officers to have the suspect remanded in station in order to exhaust investigation. This is made possible by swearing of affidavit.

Challenges

1. Interference of investigation by senior officers
2. Lack of enough stationeries and equipment for investigation e.g. tracking devices.
3. Officers have no means of transport while working on investigations, going to court, and taking exhibits for analysis.
4. Inadequate time to investigate cases due to unavailability of vital services at the station level e.g. scene of crime personnel.
5. Courts are slow in concluding cases making the witnesses tire on the way hence most fail to appear for subsequent hearing and even disappear.
6. Delay of experts report in cases where experts are involved.
7. Adjournment of cases on several times resulting of police files getting lost.
8. Disappearance of accused persons after being given bails out of court.
9. Acquittal of cases in court due to lack of enough evidence where witnesses do not attend court even after being bonded by the investigating officer.
10. Lack of enough personnel as compared to the population being served by the divisions.
11. Lack of witness cooperation with the investigating officers once the case is arraigned in court.
12. Since the coming into force of the 24-hour rule to produce accused persons in Court, challenges arise in cases which require complex investigations.
13. With the increase in numbers of officers, shortage of housing continues to be a big problem.
14. Lack of a forensic laboratory is a big issue because the Government Chemist is not able to analyze all specimens as soon as they are delivered. This causes delays in the production of exhibits in Court resulting into delayed justice delivery.
15. NPS suffers from inadequate budgetary allocation and this delays the completion of infrastructural development projects.

4.5.4 Kenya Prisons Services

The Kenya Prison Services plays an important role in the facilitation of justice. The departments' goals are: containment and safe custody of inmates; rehabilitation and reformation of Prisoners; facilitation of administration of Justice; promote prisoner's opportunities for social reintegration; provision of facilities for children aged 4 years and below accompanying their mothers to prisons.

As of 30th March, the prisons held a total of **55613** inmates, 33,294 convicted and over 21,648 un-convicted pending trials. There are 118 penal institutions in the country with a recommended holding capacity of 27,000 inmates.

During the period under review, the KPS has been attending regular CuCs meeting, enhancing collaboration between different actors. It has carried out decongestion of prisons through non-custodial sentences, revision of sentences and community service order. It has also enhanced legal awareness amongst prisoners.

The challenges faced include congestion, inadequate resources and an outdated legal framework.

4.5.5 Kenya Law Reform Commission

The Kenya Law Reform Commission (KLRC) has a statutory and ongoing role of reviewing 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 new legislation 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 KLRC to assist county governments and ministries, departments, agencies (MDAs) in the preparation and reform of their legislation respectively. In satisfying this mandate, KLRC recognises that the Constitution requires new laws to ensure that county governments have adequate support to enable them to perform their functions and MDAs have the requisite legal frameworks under which they may effectively execute their mandate.

Achievements of Kenya Law Reform Commission

In the reporting period, KLRC initiated various reform and realignment measures to accelerate and meet the demand for quality legislation at both levels of government. KLRC strengthened collaboration frameworks with the Executive and Legislative authorities at each level of government towards a fully participatory and consultative process of policy formulation, legislative development and reform of the law. In particular, KLRC was able to achieve the following:

1. *Development of legislation:* KLRC, together with the Office of the Attorney-General and the Commission for the Implementation of the Constitution ensured that the laws were developed within the deadlines set out in the Fifth Schedule of the Constitution (See Table 4.7 below).
2. *Dissemination:* Over fifty pieces of model laws for customization by county governments.
3. *Review and harmonization of their respective legislative frameworks:* Assisting a number of MDAs with the review and harmonization of their respective legislative frameworks with the Constitution.
4. *Providing technical assistance:* This was done to a number of counties.
5. *Auditing of legislation:* KLRC believes that a successful legal audit and implementation will see KLRC remain true to its mission of facilitating law reform conducive to social, economic and political development.
6. *Guide to the Legislative Process in Kenya:* KLRC developed, published and launched a comprehensive Guide to the Legislative Process in Kenya. KLRC hopes that the Guide will come in handy as a key reference tool for, amongst others, policy makers, legislative drafters, legislators and the public at large.
7. *Human Resource Manual:* Developed KLRC's Human Resource Manual, Organization Structure and Career Progression Guidelines which, after formal adoption by the Commission, recommended the training and hiring of additional staff.
8. *Mid-Term Review of its 2013-17 Strategic Plan:* Aimed at enabling KLRC to align its strategies not only with the Government's Mid-Term Development Plan but also the goals of Kenya's Vision 2030 especially in the context of the devolved system of government.
9. *Surveys and mapping:* This was undertaken by KLRC which helped in remodeling its feedback mechanisms and enhanced public engagement.

Challenges

KLRC achieved a lot in the discharge of its mandate in the period under review. However, the realization of these important milestones was not without challenges. Some of these challenges included:

1. *Policy on their areas of mandate:* Quite a number of MDAs do not have in place policy on their areas of mandate. It is now that many of them are starting to develop their policies. Implementation of the Constitution is therefore sometimes delayed where disputes and disagreements on policy have cropped up either between a ministry and its departments or agencies, a ministry and its experts or task forces or between two ministries.
2. *Lack of consensus among stakeholders:* This has resulted in a delay in the publication of the relevant Bills and in some instances it has resulted in numerous Bills on the same subject. This has resulted in confusion.
3. *Inadequate communications equipment:* In meeting the dynamic global trends in the Information Technology (IT) sector, KLRC's communications equipment also proved inadequate in propelling its services to the far-flung areas of the Republic. While KLRC acknowledges government support and assistance from development partners, KLRC's budgetary allocation and available resources remain severely limited.
4. *Transition:* The transition from a centralized to a devolved system of government which has required concurrent devolution and provision of services to county governments which saw KLRC staff capacity seriously overstretched.

Table 4.6: Bills, Laws and Policies Developed by KLRC

BILLS	STATUS
County Retirement Scheme Bill, 2014	Completed
Community Land Bill, 2014	Completed (Taskforce)
Witness Protection (Amendment) Bill, 2014	Completed
Kenya Institute for Public Policy Research and Analysis (Amendment) Bill, 2014	Completed
National Museums Bill, 2014	Completed
Culture Bill, 2014	Completed
Pest Control Bill, 2014	Completed
Kenyatta National Hospital Bill, 2014	Completed
Persons with Disabilities Education Bill, 2014	Completed
Kenya Society for the Blind Bill, 2014	Completed
National Heritage and Antiquities Bill, 2014	Completed
Occupation Safety and Health Bill, 2014	Completed
National Library of Kenya Bill, 2014	Completed
National Cohesion Bill, 2014	Completed
Music Commission Bill, 2014	Completed
Kenyatta National Hospital Bill, 2014	Completed
Work Injuries Compensation Bill, 2014	Completed
Geophysics Bill, 2015	Completed

BILLS	STATUS
Associations Bill, 2015	Completed
Tribunal Bill, 2015	Completed
Prisons (Amendment) Bill, 2015	Completed
Borstal Institutions (Amendment) Bill, 2015	Completed
Burial Bill, 2015	Completed
Persons with Disability (Amendment), 2015	Completed
Witchcraft Act, 2015	Completed
Public Participation Bill, 2015	Completed
Labour Industrial Bill, 2015	Completed
Labour Relations Bill, 2015	Completed
High Court (Organization and Administration) Bill, 2015	Completed (Technical Committee)
Law of Succession Act and Probate Rules (Committee of the High Court Family Division), 2015	Completed
Magistrates Bill, 2015	Completed (Working Committee)
Advocates Bill, 2015	Ongoing
Public Remuneration and Benefit Bill, 2015	Ongoing

REGULATIONS/RULES	
Crop (Coconut Directorate) Regulations, 2014	Completed
Crops (Pyrethrum Directorate) Regulations, 2014	Completed
Cotton (General) Regulations, 2014	Completed
Tea Directorate Regulations, 2014	Completed
Crops (Horticultural Crops Directorate) Regulations, 2014	Completed
National Land Commission (Review of Grants and Dispositions) Regulations, 2014 (Taskforce)	Completed
County Land Management Boards Regulations, 2014 (Taskforce)	Completed
National Police Safety and Oversight Aviations Regulations, 2015	Completed
Kenya National Commission on Human Rights Regulations, 2015	Completed
Biosafety Regulations	Completed
Hazardous Waste Regulations	Completed
High Court (Organization and Administration) Rules	Ongoing (Technical Committee)
Nairobi Coffee Exchange Rules, 2014	Completed
Coffee Industry Rules, 2014	Completed
Commodities Fund Rules, 2014	Completed
Crops (Arbitration Tribunal) Rules, 2014	Completed
Kisumu County Persons with Disabilities Bill, 2014	Completed
Baringo County Public Markets Bill, 2014	Completed
Baringo County Outdoor Advertising Bill, 2014	Completed
Advisory Opinions on the Kitui County Health Facilities and Licensing Bills, 2015	Completed
Kiambu County Co-operatives Bill, 2015	Completed
Kiambu County Tourism Bill, 2015	Completed
Murang'a Transport and Roads Bill, 2015	Completed
Kitui Assembly Abattoirs Bill, 2015	Completed
Kitui County Alcoholic Bill, 2015	Completed
Kitui County Sorghum Bill, 2015	Completed
Kajiado County Trade Licence Bill, 2015	Completed
Kajiado County Revenue Administration Bill, 2015	Completed
Kajiado County Rating Bill, 2015	Completed
Kajiado County Disaster Management Bill, 2015	Completed
Kajiado County Village Polytechnic Bill, 2015	Completed
Nyandarua County Spatial Planning Bill, 2015	Completed
Nyandarua County Survey and Mapping Bill, 2015	Completed
Elgeyo Marakwet County Public Service Board Bill, 2015	Completed
Kisii County Cooperative Societies Bill, 2014	Completed
Embu County Trade License Bill, 2014	Completed
Embu County Youth Trust Fund Bill, 2014	Completed
Samburu County Culture Bill, 2014	Completed
Samburu County Non-Governmental Entities Registration, Recognition and Co-ordination Act, 2014	Completed
Samburu County Agricultural Machinery Service Act, 2014	Completed
Samburu County Bursary Fund Act, 2014	Completed
Taita Taveta Investment and Social Development Bill	Completed
Samburu County Co-ordination and Administration of Government Functions Bill, 2014	Completed
Samburu Persons with Disabilities Bill, 2015	Completed
Kisii County Health Social Protection Bill, 2015	Completed
Murang'a County Tea Bill, 2015	Completed
County Allocation of Revenue Bill, 2015	Completed
Division of Revenue Bill, 2015	Completed
Urban Area and Cities Amendment Bill, 2015	Completed
Nairobi Metropolitan Area Transport Authority Bill, 2015	Completed
Kisii County Ward Development Fund Bill, 2015	Completed
Kisii County Enterprises Credit Scheme Bill, 2014	Completed
Elgeyo Marakwet County Equitable Development Bill, 2014	Completed
Nyandarua County (Emergency Fund) Regulations, 2015	Completed
Nyandarua County Executive Committee (Car Loan Members Scheme) Fund Regulations, 2015	Completed
Vihiga County (Community Empowerment Fund) Regulations, 2015	Completed
Vihiga County (Community Empowerment Fund) Regulations, 2015	Completed

REGULATIONS/RULES	
Murang'a County Government (Mortgage Scheme) Fund Regulations, 2015	Completed
Murang'a County Government (Car Loan Scheme) Fund Regulations, 2015	Completed
Migori County (Car Loan and Mortgage Fund) Regulations, 2015	Completed
Embu County Youth Trust Fund Bill, 2014	Completed
Baringo County Assembly (Ward Offices) Regulations, 2014	Completed
Meru County Grants (Administration) Regulations, 2014	Completed
Machakos County Assembly (Mortgage Scheme Fund) Regulations	Completed
Kirinyaga County Assembly Service (Ward Offices) Regulations, 2014	Completed
Public Finance Management (Baringo County Community Wildlife Conservation Fund) Regulations, 2014	Completed
Public Finance Management (Baringo County Co-operative Development Fund) Regulations, 2014	Completed
Public Finance Management (Baringo County Small and Medium Enterprises Fund) Regulations, 2014	Completed
Kirinyaga Alcoholic Drinks Control Regulations, 2015	Completed
Public Finance Management (Nyandarua County Emergency Fund) Regulations, 2015	Completed
Machakos County Executive Committee Car Loan and Mortgage Scheme Fund Regulations, 2015	Completed
Embu County Education Support Fund Regulations, 2015	Completed
Embu County Youth Trust Fund Regulations, 2015	Completed
Marsabit County Executive Committee Car Loan Scheme Fund Regulations, 2015	Completed
Marsabit County Executive Committee Mortgage Scheme Fund Regulations, 2015	Completed
Elgeyo Marakwet County Public Participation Regulations, 2015	Completed
Nyandarua Executive Car and Mortgage Schemes Regulations, 2015	Completed
Marsabit County Social Protection Fund Regulations, 2015	Completed
Nandi County Assembly (Car Loan and Mortgage Scheme) Fund Regulation, 2015	Completed
Murang'a County Alcoholic Drinks Control (Licensing) Regulations, 2015	Completed
Murang'a County Assembly Mortgage Scheme Fund Regulations, 2014	Completed
Murang'a County Assembly Car Loan Fund Regulations, 2014	Completed
Migori County (Car Loan and Mortgage Fund) Regulations, 2015	Completed
Baringo County (Emergency Fund) Regulations, 2015	Completed
Geophysics Policy, 2015	Completed
Public Remuneration and Benefit Policy, 2015	Ongoing
Judicial Code of Conduct	Ongoing

Source: Kenya Law Reform Commission (KLRC)

4.5.6 National Transport and Safety Authority

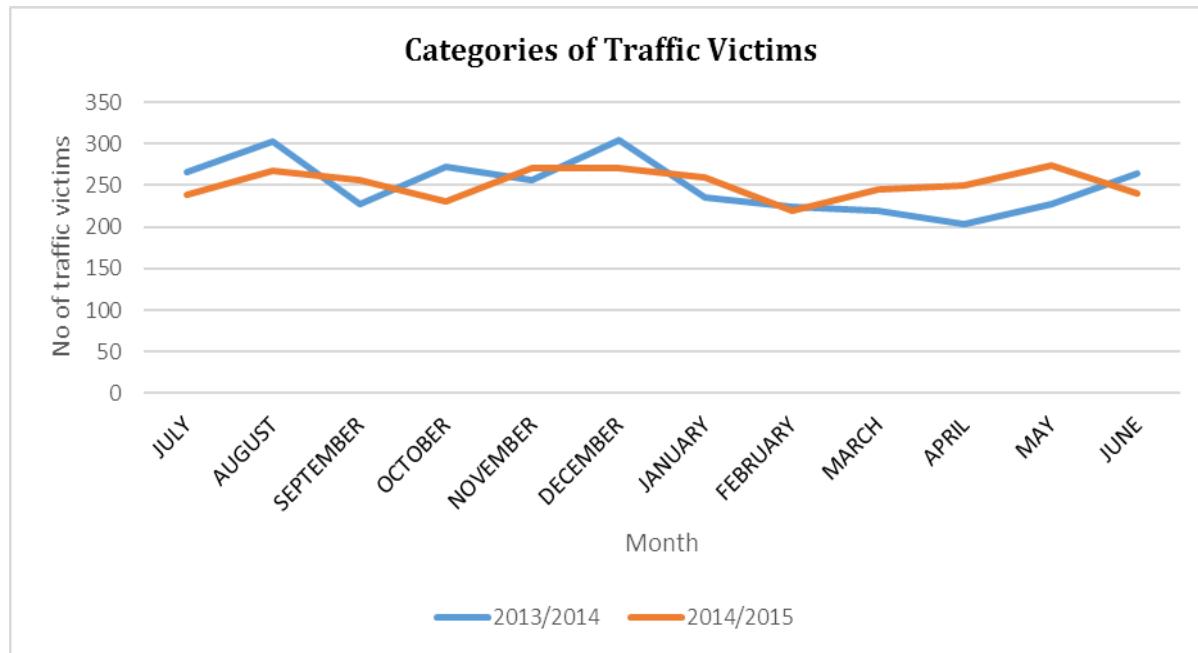
In the FY2014/15, the total number of traffic victims stood at 3023, marking a very marginal increase from 3004 in the FY2013/14. As shown in Table 4.8, the month of May recorded the highest traffic casualty rate, closely followed by August, November, and December. As Table 4.9 shows, pedestrians form the bulk of traffic victims, accounting for nearly 50 per cent of victims, followed by passengers and motor cyclists, in that order.

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. Consequently, significant achievements have been realized including improvement on speed limit enforcement on Nairobi-Naivasha Highway and other key roads; and reduced drunk-driving among motorists.

Table 4.7: Categories of Traffic Victims FY2013/14 and FY2014/15

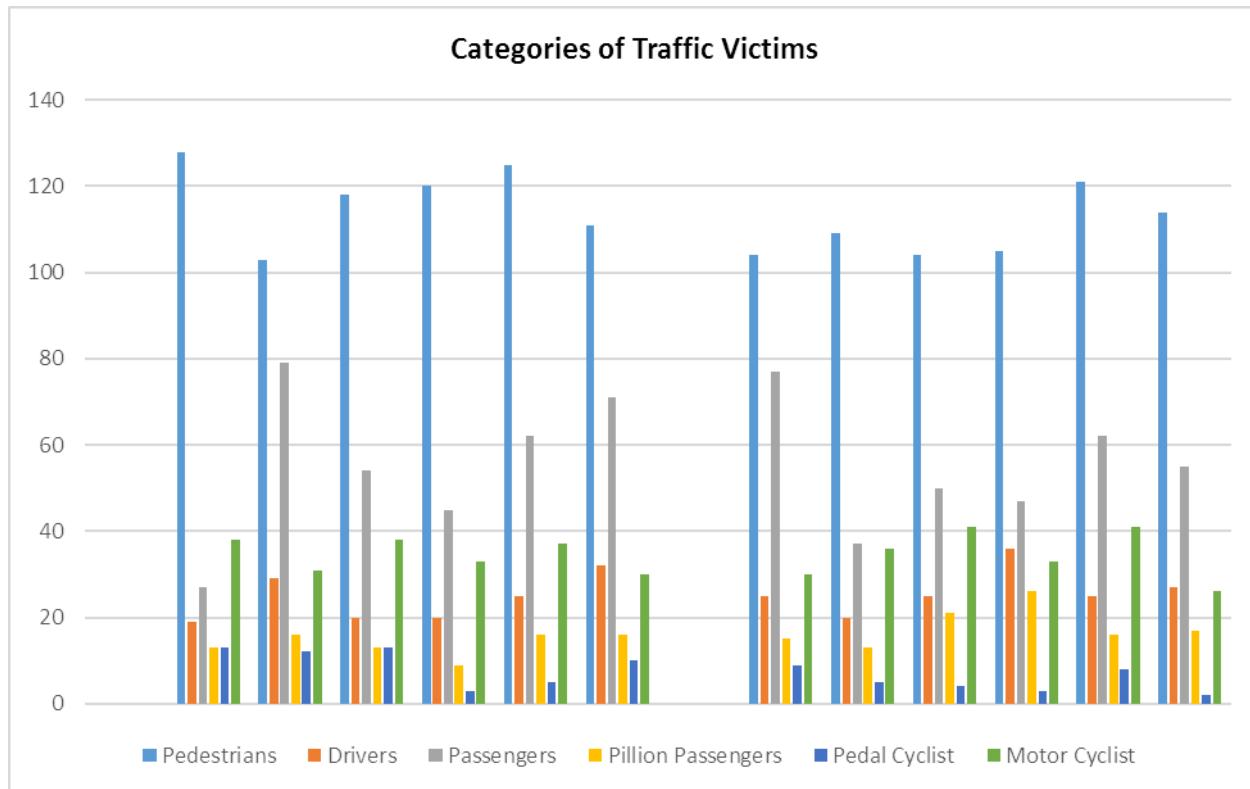
Months	2013/2014	2014/2015	VAR	%VAR
July	266	238	-28	-10.5
August	302	270	-35	-11.6
September	227	256	29	12.8
October	272	230	-42	-15.4
November	257	270	13	5.1
December	304	270	-34	-11.2
January	235	260	25	10.6
February	224	220	-4	-1.8
March	220	245	25	11.4
April	204	250	46	22.5
May	228	274	46	20.2
June	265	240	-25	-9.4
Totals	3004	3023	19	

Source: NTSA

Figure 4.4: Categories of Traffic Victims**Table 4.8: Categories of Traffic Victims**

Month	Pedestrians	Drivers	Passengers	Pillion Passengers	Pedal Cyclist	Motor Cyclist	TOTAL
2014							
July	128	19	27	13	13	38	238
August	103	29	79	16	12	31	270
September	118	20	54	13	13	38	256
October	120	20	45	9	3	33	230
November	125	25	62	16	5	37	270
December	111	32	71	16	10	30	270
2015							
January	104	25	77	15	9	30	260
February	109	20	37	13	5	36	220
March	104	25	50	21	4	41	245
April	105	36	47	26	3	33	250
May	121	25	62	16	8	41	273
June	114	27	55	17	2	26	241
TOTAL	1362	303	666	191	87	414	3023

Source: NTSA

Figure 4.5: Categories of Traffic Victims

Challenges facing NTSA

1. *Insufficient funding for Road Safety:* With the increased lengths of the paved roads, coupled with the increasing population and motorization, the exposure to crashes will increase as well.
2. *Behavioral aspects:* The bad road behavior and attitude of the Kenyan road e.g. drunk driving, speeding, jay walking, disregard of the laws, impunity/careless and dangerous driving etc. Fairly Low levels of Road Safety Awareness amongst road users in Kenya.
3. *Road engineering challenges.* Inadequate facilities for pedestrians, non-motorized & intermediate means of transport. Inadequate treatment of black spots
4. *Inadequate enforcement power:* To support and complement education and engineering measures. NTSA currently relies on other agencies to support its enforcement operations.
5. Insecurity issues
6. Corruption
7. Court outcomes on traffic offences that does not serve to deter traffic offenders.
8. Emerging and increasing boda boda related challenges.
9. *Challenges in the county governments in supporting transport and safety* eg: Urban planning and land use; allocation of bus stages and parking lots, boda boda enforcement, encroachment of small scale traders along the highways, hawkers thereby increasing the human-vehicular conflict; vandalism of road signs.

4.5.7 Council of Legal Education

The Council of Legal Education has been re-established under the Legal Education Act, No.27 of 2012 with the twin primary purposes of: promoting legal education and training, and the maintenance of the highest possible standards in legal education providers; and the provision of a system to guarantee the quality of legal education and legal education providers. As a member of NCAJ, the Council has made progress in the fulfilment of its mandate under the Legal Education Act 2012 as amended by The Statute Law (Miscellaneous) Amendment Act 2014.

Table 4.9: Data on Advocates trained, admission, pass/fail as at November 2015

	ATP 100	ATP 101	ATP 102	ATP 103	ATP 104	ATP 105	ATP 106	ATP 107	ATP 108
Candidates present	1803	1803	1803	1803	1803	1803	1803	1803	1803
Percentage pass	58.5	72.5	88.5	84.5	95.5	80.5	80	71	32
Percentage fail	41.5	27.55	11.5	15.5	4.5	19	20	29	68
Total Qualified	375								
Percentage qualified	21%								

Source: Council of Legal Education

Table 4.10: LL. B. Programme

Name of Institution	Status
Riara University School of Law (Main Campus)	Licence valid until 05.07.2016
Kisii University School of Law (Main Campus)	Licence valid until 02.10.2016
Africa Naarene University School of Law (Main Campus)	Licence valid until 29.05.2019
University of Nairobi School of Law (Parklands Campus)	Licence valid until 07.08.2019
University of Nairobi School of Law (Mombasa Campus)	Licence valid until 19.02.2021
Kabarak University School of Law (Main Campus)	Licence valid until 08.09.2020
Egerton University School of Law (Nakuru Town Campus)	Licence valid until 12.02.2021
Strathmore University School of Law (Main Campus)	Applied for renewal of Licence on 19.10.2015
Kenyatta University School of Law (Parklands Campus)	Applied for renewal of Licence on 29.02.2016

Source: Council of Legal Education

Table 4.11: Diploma in Law Programme

Name of Institution	Status
Kisii University School of Law (Main Campus)	Licence valid until 02.10.2016

Source: Council of Legal Education

Table 4.12: Schedule of Increment of fees

Service	Fees chargeable (Kshs)
Licensing process	
Diploma programme/renewal	450,000.00
Degree 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

Source: Council of Legal Education

There has been no increment in fees during the last financial year. Licensing fees are payable once every five (5) years which is the equivalent of the period of the licence.

There no changes have been made to the examination regulations as applied by KSL before Council took over the mandate.

The pre-bar examination was introduced by the Statute Law Miscellaneous Act, 2014. They are the exclusive mandate of the KSL.

Achievements

1. Bar examination: Council as a result conducted the July and November 2015 examinations and continues to put structures and systems in place in the fulfilment of this mandate.
2. Recognition and Approval of Foreign Qualifications in Law.

The biggest challenge has been the exponential growth in the number of student taking the Bar examinations. This has put great strain on training resources.

4.5.8 Witness Protection Agency

Witness protection is recognized as a fundamental human right. Article 50 of the Constitution of Kenya, under the Bill of Rights, not only provides for the protection of the identity of witnesses and vulnerable persons in the interests of fair hearing before a court or tribunal, but also for enactment of legislation providing for the protection, rights, and welfare of victims of offences. The Witness Protection Agency provides the framework and procedures for giving special protection to such persons to ensure an effective and efficient administration of justice in the country.

Table 4.14 shows the growth in Witness Protection Program since its inception. The figures show a steady rise in the demand of WPA services.

Table 4.13: Growth of Witness Protection Programme

Category	2009/12	2012/13	2013/14	2014/15	TOTAL
Applications received for witness protection	60	72	130	207	469
Applicants admitted into WPP	10	18	55	97	180
Total number of dependants	44	76	242	198	560
Applications closed - interventions made and advice given on the right authority to report the matter	20	54	72	107	253
Witnesses who were discharged	5	6	13	16	40
Witnesses harmed in the programme	0	0	0	0	0
Witnesses fallen out of the programme	0	2	1	6	9
Applicants who successfully testified	9	11	29	14	63

Source: Witness Protection Agency

Activities of the WPA

1. *Witness Protection Rules of Court:* The Agency drafted the Rules of Court which were formally presented before NCAJ on 15th July 2014. The Witness Protection Rules 2015 were gazetted vide Legal Notice No. 225 of 2015. The gazettement of the Witness Protection Rules of Court is a major milestone in guiding courts and parties to trials on judicial witness protection measures and procedures.
2. *Sensitization Forums:* The Agency undertook sensitization and awareness outreach with other NCAJ partners and stakeholders in the criminal justice system. This outreach included:
 - Intervention and awareness meetings in Embu County from 6th- 9th December 2015 targeting Police, Prison, County administrators, Office of the Director of Public Prosecutions, Judiciary Officials.
 - Sensitization meetings with Naivasha Chief Magistrate, Judiciary officials and officers from Office of the Director of Public Prosecutions on 9th September, 2015.
 - Participation in a public forum on complaints handling organized by Kenya National Commission on Human Rights held in Ngaaie-Mwingi on 3rd June, 2015.
3. *Special CUCs:* The Agency participated in the following special CUC meetings (Naivasha CUC 9TH September 2015; Nanyuki CUC - 3rd December 2015). The meetings were attended by officials drawn from the Judiciary, Police, Probation, Children department and law society of Kenya. The Agency sensitized the officials about the Agency, the Act and its role in enhancing access to justice through provision of specialized Witness Protection measures. As a result of the sensitization forums, the Courts and other Criminal justice chain stakeholders gained knowledge of the role of the Agency and witness in the administration of justice and the applicable protection measures. Consequent to this outreach and sensitization, there was a marked increase in the referrals for witness protection and, more significantly, a reduction in the duration it took the Court to issue witness protection orders.
4. *Special Taskforce on Children:* The inclusion of the Agency in the special Taskforce on children will improve the protection of child witnesses and victims of crime through development of appropriate policies and guidelines for the criminal justice players and enactment of legislation to protect Vulnerable Child Witnesses.

Achievements

1. *Regional Offices:* The Agency established two regional offices in Mombasa and Kisumu to cover the larger Coastal, Western and Nyanza provinces respectively. The Judiciary donated office space for the Agency at the Kisumu Law Courts. This will enhance easier engagement not only with other NCAJ members but also with members of public seeking witness protection or related advice.
2. *Witness Protection Programme (WPP):* WPP has finally come of age going by the recognition it received by other countries during the year under review. The WPP was the point of focus by criminal justice delegations from Namibia, Uganda and Zambia who visited the Agency to learn how the WPP operates and with a view to establishing similar programmes in their own countries.

Challenges

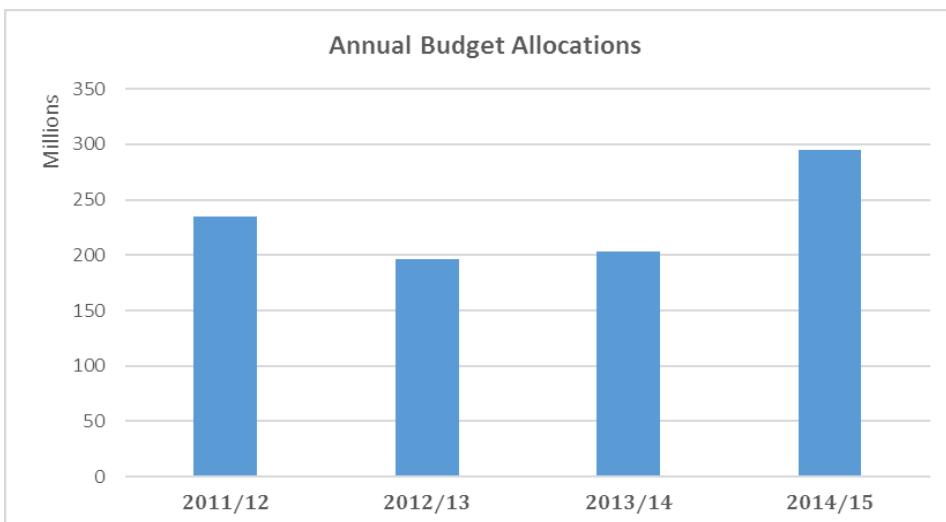
1. *Inadequate budgetary allocation:* The budget has minimally increased thus stalling recruitment of more Protection Officers, purchase of operational vehicles to accelerate more devolvement of services to the regional level.

Table 4.14: WPA Annual Budget Allocations

Year	Allocation in Kes	Increase/Decrease (Kes)
2011/12	235,000,000	N/A
2012/13	196,523,378	(38,576,622)
2013/14	202,808,999	(6,385,621)
2014/15	295,200,213	92,391,214

Source: Witness Protection Agency

Figure 4.6 : Annual Budget Allocations



2. *Slow pace of trials:* This has contributed substantially to high costs of maintaining witnesses and related persons under the Programme vis-a-vis the meagre budgetary allocation. Vetting, promotion and transfer of judicial officers have to some extent affected speedy trials.

3. *Lack of formal judicial protection infrastructure:* This has seen slow uptake of procedural protection measures of protected witnesses in court. The establishment of the International Crimes Division and the recently created High Court Division on Anti-Corruption and Economic Crimes should be impetus enough to expedite the infrastructure.
4. *Wider appreciation of the criticality of witness protection in criminal justice* has been wanting. For instance, the non-inclusion of the Agency in the membership of the Multi-Agency Team formed to deal with the investigation, prosecution and trial of Corruption related cases is an oversight.

4.5.9 Federation of Women Lawyers in Kenya (Fida-Kenya)

FIDA-Kenya has attained recognition as a critical partner for government and civil society in ensuring policy, legislative and constitutional reforms. FIDA-Kenya has worked to create awareness and significance of inclusiveness with a view to embracing a culture that respects and promotes justice for women. Further activities include working with the courts (through the CUC) in selected regions to promote integrity, working 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 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 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-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.

Achievements by FIDA

1. *Legal Advice and Litigation:* The organization provided legal advice to **8504** clients. **618** cases were taken and filed in court while others were handled through other interventions. **105** cases filed in court were concluded with a 90% success rate.
2. *Strategic Impact Litigation (SIL):* FIDA - Kenya has been engaged in a number of public interest litigation cases in various courts across the country. The organization litigated cases on women's land and property rights, registration of children born out of marriage and the Tana River Clashes.
3. *Pro bono Lawyers Scheme:* FIDA Kenya has been able to mobilize and enroll over **400** lawyers into the scheme whereby both male and female lawyers in private practice countrywide have volunteered to take up cases on behalf of FIDA Kenya clients. The organization has recruited **153** lawyers and referred **283** clients to various pro bono lawyers. To enhance the pro bono lawyers' capacity and as an incentive FIDA Kenya offers the pro bono lawyers' training on new and emerging legal issues.
4. *Self-Representation:* The organization provided training to **677** clients and filed **421** cases in court **104** completed their cases.
5. *Alternative Dispute Resolution:* 1491 mediation invitations were sent out and **484** mediations conducted where **305** were successful.
6. *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 recruited **5** IJS namely; Othaya, Taita Taveta, Busia, Kipsigis and Tharaka Council of Elders. **12 cases** were determined successfully by the respective council of elders at the end of the financial year.

4.5.10 Council of Governors

The 47 County Governments enshrined in the First Schedule of the Constitution and the two levels of government are obligated by the Constitution to work in a spirit of cooperation and consultation. In recognizing that we are one Republic, and that there is need for dialogue in the implementation of devolution, the Intergovernmental Relations Act 2012 established institutions that would promote cooperation and mutual relations between the two levels of government. The mandate of the Council is canvassed in Section 20 of the IGRA as a forum for consultation and information sharing amongst County Governments.

The CoG has registered some significant achievements. First, it has **promoted intergovernmental relations**. CoG has successfully played a role in promoting intergovernmental relations by establishing beneficial and strategic linkages between County Governments and the National Government Ministries, departments and agencies, Parliament and the private sector including civil society. This multifaceted approach has provided a platform for policy and legislative collaboration, and importantly, the Council has been able to step up confidently and assert itself as a leader and custodian of devolution.

Second, *sharing best practices:* COG has shared and exchanged on best practices, spoke with a collective voice on national policy and have committed to improve relations between the various actors of national government and County Governments especially on matters of health, human resource, disbursement of funds to Counties, legislation of interest to County Governments and transfer of functions. Through our Committees, we have been able to share best practices, promote cohesiveness amongst Counties and address key service delivery concerns.

Third, the *formation of new economic blocs:* Counties formed new economic blocs - six in number to spur development based on economies of scale and comparative advantage.

Fourth, *extensive consultations:* COG held over 100 meetings held involving over 1000 County and National Government officials working on matters of health, agriculture, energy, improvement of the road infrastructure and support, trade and development, donor liaison and resource mobilisation, public administration and governance, management of the Governor's office and diary, ASAL, intergovernmental relations; County law and policy among others.

However, despite these achievements, major challenges still perist including the following;

1. *Management and transfer of national and County functions:* While the TA has, through various Legal Notices, transferred various functions to County Governments, several critical issues have not been addressed. The TA has not effectively unbundled and clarified all functions under the Fourth Schedule. TA is yet to finalize the unbundling and costing of concurrent functions. The delays have led to difficulties in ascertaining the functional boundaries between the two levels of government and other important processes such as National and County budgeting.
2. *National legal and policy framework:* Parliament was expected to have passed all laws by August 2015. However, this period has been extended by Parliament to allow more time for debate and passing of the laws. There are many laws that need to be passed to provide the national legal framework for effective implementation of devolution.
3. *Institutional restructuring and alignment:* Not much has happened in terms of restructuring of institutions and as the transition period comes to an end, there is a need for an assessment of the transition process as a well as discussions on the way forward with the pending institutional transition issues.

4. *Prudent and accountable use of public funds allocated to Counties:* There have been concerns about the misuse of resources allocated to Counties. The CoG remains committed to ensuring that the forty-seven Counties are committed to the principles of transparency, prudence, accountability and participation in the use of County resources.
5. *Efficient disbursement of funds to County Governments:* Consistent delays in the disbursement of monies have, on numerous occasions, led to derailment of service provision and halting of development projects.
6. *Institutional capacity and effectiveness:* There is a need for requisite capacity and systems that will ensure follow-up on decisions that are meant to enhance the implementation of devolution.
7. *Resources:* The funding received is hardly enough to support the CoG's activities. The CoG heavily relies on donor support and support from the Counties to enable it to perform its functions. There is a need to ensure that the CoG has adequate capacity to perform its functions and execute its mandate effectively.

4.5.11 National Crime Research Centre

National Crime Research Centre (NCRC) mandate is to carry out research into the causes of crime and its prevention and to disseminate the research findings and recommendations to the Government Agencies concerned with the administration of criminal justice and other stakeholders. NCRC undertook the following activities during the reporting period:

Research study on:

1. Survey of Gender Based Violence, which was launched on 10th April, 2015 at Serena Hotel, Nairobi.
2. A study of Election Crimes and Offences in Kenya
3. Human Trafficking in Kenya
4. Emerging Crimes: The Case of Kidnapping in Kenya
5. Delivery of Community Based Sentences: The Case of Community Service Orders in the Meru High Court Administrative Jurisdiction, Kenya (launched on 11th March, 2015, Meru Slopes Hotel).
6. A Study of Community Based Sentences in Kenya: The Case of Probation Orders in Kenya
7. A Study of Community Based Sentences in Kenya: The Case of Community Service Orders in Kenya
8. National Crime Mapping

The NCRC continue to face a number of challenges. First, **understaffing** which contributed to implementation of activities at a slow pace not desirable to the Centre. This was mainly evident in the Research and Information Technology related activities because of lack of an ICT Officer. Second, **insufficient funding** which resulted to the following inadequacies at the Centre: shortage of necessary equipment to facilitate the implementation of Research activities; inability to devolve the activities of the Centre to counties; inability to train members of staff; inability to carry out collaborative programmes with other relevant research institutions regionally and internationally in research matters; delay in establishing crime databank to establish with ease crime trends in the Country; failure to adequately fulfill the statutory obligations of the Centre to the public; and inadequate publicity of the role of NCRC and hence the inability to attract extra funding from outside the government allocation. Third, **bottlenecks in accessing some information** and in interviewing of key government personnel during data collection for research studies.

4.5.12 Kenya Association of Manufacturers

The Kenya Association of Manufacturers (KAM), Kenya Magistrates and Judges Association (KMJA) and NCAJ have been collaborating on a number of initiatives. These include the development of the '**Enforcement Manual to Combat Illicit Trade in Kenya**', as well as the development of the **Commercial Bench Book**. These have further led to the establishment of Business Court Users Committees (BCUCs) as a forum where the Judiciary and the private sector engage on matters of administration of justice.

These initiatives were grounded in the resolutions of the KAM-supported KMJA Annual General Conference on *Securing Justice for the Economy: Implication of Judgments*, which was held in November 2014. At this Conference, the **Enforcement Manual to Combat Illicit Trade in Kenya** was officially unveiled. The Conference also resolved that KMJA and KAM should partner with other stakeholders for the development of an Alternative Dispute Resolution Guidelines and Manual for Judicial Officers.

Subsequently, in 2015, NCAJ and KAM conducted awareness trainings on the 'Enforcement Manual' in 6 major regions namely: Coast, North Eastern/ Upper Eastern, Rift Valley, Lower Eastern, Nyanza/Western, Nairobi and Central Kenya. Approximately 400 law enforcement officers, drawn from all agencies, undertook the training. The project also witnessed the development of a Practitioner's Guide, which is a simplified practitioner's handbook on combating illicit trade. It is hoped that the Guide will provide an easy step-by-step approach to a practitioner on investigating and combating illicit trade incidences when they arise.

On July 9, 2015, The KMJA and KAM signed an agreement initiating a partnership between the two Associations towards the development of a Commercial Bench Book for Kenya. The Commercial Bench Book will provide judicial officers with a quick reference guide detailing key considerations to make in the handling of a commercial case.

The Commercial Bench Book will be a tool to be used by the judicial officers and will capture local and international best practice in handling commercial disputes; relevant precedence; landmark cases that inform judgments; key laws utilized in commercial cases. Ultimately, it is hoped that the book should help in improving case-flow management and increasing the speed at which cases are handled therefore reducing the cost to businesses.

So far, a series of regional meetings have been held on the development of the Commercial Bench Book. An expert's review meeting will be held followed by stakeholder consultations and finally the validation and launch of the Commercial Bench Book

This inter-agency collaboration is a historic milestone in Kenya's Judicial System. Efficient commercial dispute resolution has many benefits and courts are essential for business because they interpret the rules of the market and protect economic rights. The Business Court Users Committees (BCUCs) that are being launched as a result of this partnership bring together the main actors in the justice system and provide for better administration of commercial matters in a manner that boosts the country's economic development.

4.5.13 Ethics and Anti-Corruption Commission (EACC)

The mandate of the Directorate is to enforce the provisions of Chapter Six of the Constitution on leadership and integrity and promote ethical standards and in public service. In fulfilment of the mandate, the Commission has initiated a number of programs with the County Government to promote integrity and ethical standards in public service. Key among them include the following:

*Achievements**1. Corruption Prevention*

The Commission launched a corruption prevention advisory programme for 4 County Governments to support the establishment of laws, policies, systems and procedures of work that are intolerant to corrupt practices. The advisories focused on mapping out corruption prone areas in operational systems and procedures; developing strategies and measures to address corruption and unethical practices in operational systems and procedures; and developing and enforcing codes of conduct, anti-corruption policy and anticorruption action plan. At the end of the advisory programme, respective county governments signed an action plan for implementation of anti-corruption measures.

2. Follow-up/assessment of the implementation of the agreed actions with the Machakos County Government.

The Commission assessed the implementation of the recommendations made to the County Government of Machakos following an advisory provided to the County Government. It was noted that the County Government had not implemented most of the agreed measures, including: Formation and Operationalization of the Corruption Prevention Committee; Development and operationalization of the Anti-Corruption policy; Development of a specific code of conduct for state officers; Conducting Corruption Risk Assessment and Developing Corruption Prevention Plan for the County Government. During the follow-up, the team identified further weaknesses in the systems of the County Government and has made recommendations to the County Government as indicated below.

3. Education, Training and Public Awareness

Anti-Corruption Outreach Clinics was a designed strategy to intensify anti-corruption, public education and awareness conducted in Nandi, Migori, Isiolo and Kilifi counties. The Commission reached out to institutions of learning, sensitizing a total of 58,445 learners and members of staff from 92 primary, secondary schools in 11 counties. This was aimed at promoting good character development through the establishment of Integrity Clubs.

Table 4.15: Education, Training and Public Awareness

	No. of Schools and colleges	No. of students and teachers sensitized
Nandi	10	7,656
Migori	11	6,723
Busia	8	3,768
Kakamega	6	6,257
Embu	3	1,347
Elgeyo/marakwet	14	6,550
Homabay	10	6,583
Isiolo	10	4,003
Garissa	6	5,287
Kilifi	12	8,983
Makueni	1	488
Nairobi	1	800
Total	92	58,445

Source: EACC

Training of 441 Education Managers in the education sector on ethical leadership. These comprised 441 Heads of primary and secondary schools

Table 4.16: Training of education manager

County	Category	No. of Heads of Schools trained
Kwale	Primary school	58
	Secondary school	70
Kilifi	Primary school	74
	Secondary school	74
Uasin Gishu	Secondary school	67
Elgeyo/Marakwet	Secondary school	98
Total		441

Source: EACC

Training of County Government staff and MCAs and assembly staff on issues of anti-corruption, ethics and integrity.

Table 4.17: Number of MCAs and county staff trained

County	No. MCAs trained	No. of County Staff trained
Meru County Assembly	-	99
Malindi Constituency Development Fund, Kilifi County	-	10
Migori County	59	10
Nyamira		83
Nandi	42	
Mombasa County	-	58
Bungoma County Constituencies Roads Committees	-	70
Revenue collectors from Bungoma County	-	50
Isiolo county	21	
Kilifi County	53	17
Chief Officers-Finance, Heads of Supply Chain Management and Heads of Treasury– Accounts from Kisumu, Vihiga, Homa-Bay, Migori, Kisii, Busia and Bungoma counties	-	18
Total	175	405

Source: EACC

- Development and Implementation of Specific Leadership and Integrity Regulations: The County Assemblies and County Executive have state officers are therefore obligated to develop Leadership and integrity Codes.
- Technical support and development of Generic Leadership and integrity Codes for county Governments: The Commission organized for a workshop bringing together participants from County Assemblies and County Executives with the objective of the workshop to build the capacity of the County Governments to develop their respective
- Development of specific Leadership and integrity Codes: 36 County Executive/County Assemblies have customized and developed their Leadership and integrity Codes and submitted the same to the Commission for review and approval;
- Vetting for Persons Seeking Public Office: To determine this threshold, the Commission is mandated to inquire into the conduct of such persons and make recommendations to the interested institutions. The commission has been supporting the recruitment of officers in the County Governments by verifying integrity suitability of shortlisted candidates.

Challenges faced

- Inadequate support and cooperation of county governments
- Political interference in the fight against corruption
- Slow judicial process and numerous constitutional review applications
- Inadequate Budgetary allocation to EACC for regional expansion and recruitment of personnel
- Strengthening for the Policy and legal Framework for anticorruption, ethics and integrity
- Lack of National Policy Framework

4.5.15 Kenya Human Rights Commission (KHRC)

The report looks at work conducted by the KHRC relevant to the State of the Judiciary and the Administration of Justice. The report primarily focuses on KHRC's national work but it should be noted that KHRC also engages in work at the sub-regional, regional and international levels. The report also highlights some of the key contextual challenges that the commission has faced in the last year.

The achievements registered during the reporting period include:

1. Increase in the number of clients served by KHRC through legal aid to **988** in the current year.
2. Most cases attended to where labour, land, extra judicial killing, police harassment or torture related.
3. Increased support for KHRC's Electoral Reform proposals which is evidenced by the following
4. Strengthened documentation of electoral jurisprudence in Kenya by producing a case digest on the decisions and outcomes of electoral petitions following the '13 general elections.
5. Advanced durable solutions for IDPs through Public Interest Litigation:
6. A Bill for immediate realization of the 2/3rds gender rule was tabled in parliament
7. The Political Parties Amendment Bill (2016) in congruence with KHRC's recommendations now defines ethnic minorities widely as they vary from society to society.
8. The Elections laws amendment Bill (2015) stipulates, in accordance with KHRC's recommendations, that in view of the fact that youth form the majority of the population, nominated positions for affirmative action should be allocated on a 50-50 basis among youth and older persons.
9. In the proposed Elections (amendment) Bill it states that 50% of affirmative action positions for youth be reserved for the youth of the lesser gender.
10. Increased support for the Green Amendment Campaign (GAC) to achieve the 2/3rds gender rule
11. Increased provision of ID cards in Wajir and birth registration in Kwale: **700** citizens were registered with the support of 33 paralegals trained by KHRC.
12. KHRC has worked in partnership to develop a draft national action plan that that through 9 actions should help to reduce, prevent and hopefully end statelessness in Kenya.
13. KHRC has been asked by the Senate Committee on National Security and Foreign Affairs to submit a comprehensive memorandum on and a draft of the Identification and Registration Bill (2014) and to submit proposed amendments to the Kenya Citizenship and Immigration Act.
14. Increased awareness of the violence, discrimination and repression faced by LGBTIQ persons in Kenya by supporting the Gay and Lesbian Coalition of Kenya to celebrate IDAHOT which reached over 600 people.
15. A draft Public Interest Litigation (PIL) policy has been developed.

The Challenges

1. The possibility of restrictions being imposed on CSOs receiving funding from international partners. In late 2015 the NGO Board threatened to freeze KHRC's bank account and to de-register it as an NGO.
2. The assumption that KHRC would continue to receive media coverage held true with some exceptions.
3. The risk that Human rights workers will be co-opted and stop advancing the human rights agenda has occurred in some instances.

4.6.16 Independent Electoral and Boundaries Commission (IEBC)

Agency	Activities	Achievements	Challenges
Parliament	Review of electoral laws	Publication of the Elections (Amendment) Bill 2015.	Delay in parliamentary debate on draft bills. Origination of several private bills concerning similar issues with conflicting provisions
Judiciary	Electoral Reform review on dispute resolution mechanisms. Ongoing Election petitions (Party List-allocation of special seats)	Consultative workshops with Judiciary, Office of Registrar of Political Parties and the Political Parties Dispute Resolution Tribunal. Judicial review/Court orders	Conflicting provisions within existing electoral laws. (Constitution; Elections Act, political Parties Act) Lack of cooperation from County Assemblies in implementing court orders. Unending litigation affecting composition of nominated members to the County Assembly.
State Law Office	Electoral law reform: Development of proposals for realisation of gender equity in representation Development of Draft Referendum regulations	Publication of the Elections (Amendment) Bill 2015. Draft Referendum Regulations, 2016	Competing agencies developing regulations on Referendum by example.
Office of Director of Public Prosecution	Collaboration in prosecution of election offenders	Ongoing prosecution on electoral offenders Institution of Charges e.g. Kieni /Laikipia East Incident -Illegal voter Registration in a private Home on grounds of Breach of official duty contrary to sec. 59 (1) of the Election Act 2011. Knowingly Subverting the process of free and fair election contrary to sec. 71 (1) of IEBC Act of 2011. Abetting the commission of an offence contrary to sec. 71(1) of election No.24 of 2011.	Insufficient evidence particularly with respect to misuse of public resources. Difficulties in preferring charges.
Security Agencies	Collaboration with Police and other law enforcement agencies in investigation of electoral malpractices.	Law enforcement in By-elections; Kajiado- Malindi- Kericho; Nyangores ward- By-elections)	Difficulty in preferring charges owing to lack of sufficient evidence.
County Government	County Mobilisation on Voter Registration Review of emerging issues out of court decisions arising from boundary delimitation. Enhanced decentralisation of electoral operational activities.	County Forums held to create awareness on mass voter registration Intervention through shared data/information on the ground. County Stakeholder Forums	Limited resources for extensive outreach Competing interests remain within communities. Limited personnel for effective collaboration

4.5.17 Probation and Aftercare Service

Probation and Aftercare Service strives to promote and enhance the administration of justice, community safety and public protection through provision of social inquiry reports, supervision and reintegration of non-custodial offenders, victim support and social crime prevention. The mandate of the department of Probation and Aftercare Service is expanding rapidly owing to the increasing role it plays in the administration of criminal justice. The department is thus crucial in the administration of criminal law through the advisory reports given to courts and penal authorities for making case disposal decisions and release assessments respectively. It is also significant in the enforcement of various non-custodial Court orders under the probation of offenders Act and the Community service orders Act which are the primary legislation geared towards reduction of penal overcrowding.

Activities and achievements:

- Policy and Legislation:** Two main statutes are implemented by the department viz; the probation of offenders Act Cap 64 and the Community Service Orders Act No. 10 of 1998. Weak legislation is still a drawback for the Department as the initiated review of the Probation of Offenders Act Cap 64 and that of the Community Service Orders Act No 10 of 1998 has not been effected. This is despite the fact that draft Bills (proposals) had been presented to the Ministry of Interior and Coordination of National Government. The amendments of the two legislations had

been proposals to make them interndem with the Constitution and also to have new practices embedded therein. The amendments are also proposed to address other operational challenges including legal anchorage for new functions.

- 2. Probation Service Court Work:** The department currently is engaged in provision of advisory reports on matters of sentencing with respect to offenders deemed appropriate for probation orders and community service orders. Probation officer also provide bail information advisory reports, victim impact statements and reports on select criminal matters requiring alterative dispute resolutions.

Probation Orders

Probation orders is a judicial supervision order pronounced on low risk offenders deemed suitable for community supervision without any form of punishment. For the last 12 months (July 2014 to June 2015), a total of **12,936** Court inquiries were made by probation officers and Presentence reports prepared; out of that number **8,842** offenders were placed on probation. As at the end of June 2014, there were !The Formula Not In Table probationers (those serving probation orders) under probation order supervision.

Table 4.18: Probation Caseloads

	Enquiries		Orders		Daily average Caseload
	Males	Females	Males	Females	
	AD	AD	AD	AD	
Jul-14	899	231	621	203	13057
Aug-14	899	254	638	218	12084
Sep-14	999	292	661	267	13131
Oct-14	902	202	612	172	13124
Nov-14	919	218	544	153	12993
Dec-14	894	190	559	161	13048
Jan-15	796	171	511	122	12462
Feb-15	752	197	477	156	12038
Mar-15	913	232	583	182	13008
Apr-15	822	177	538	142	13382
May-15	770	176	485	136	11909
Jun-15	817	214	535	166	12070
Total	10382	2554	6764	2078	
Grand Total		12936			8842

Source: Probation and Aftercare Service

Community Service Orders

Community Service Order (CSO) is a punishment order requiring offender to perform unpaid work for the benefit of the community for a period of one day and up to 3 years. For the last 12 months (July 2014 to June 2015), a total of **42,058** cases were referred from courts for CSO out of which **41,666** offenders were found suitable and served their sentences under community service orders. In terms of gender comparison, 35537 male offenders were given CSO while 6,129 were females. It should be noted that courts place offenders on CSO for a very short time e.g one day meaning that probation offices have not adequate time to addressing their crime risk factors. Arresting those who do not comply with community service work especially in urban slums is still a challenge.

Table 4.19: Community Service Order Caseload

2014/2015	Enquiries		Orders		Daily average Caseload
	Males	Females	Males	Females	
	AD	AD	AD	AD	
Jul-14	3569	777	3666	708	10147
Aug-14	2230	560	2150	527	9431
Sep-14	3681	723	3402	729	8734
Oct-14	2493	538	2878	462	7814
Nov-14	2524	432	2492	430	7843
Dec-14	3087	419	2801	402	7752
Jan-15	2720	571	2998	520	7726
Feb-15	3215	559	3180	520	8179
Mar-15	2920	515	2789	482	7500
Apr-15	3411	637	3567	635	7963
May-15	2360	288	2363	297	2856
Jun-15	3433	396	3251	417	7309
Total	35643	6415	35537	6129	
Grand Total		42058			41666

Source: Probation and Aftercare Service

Community Service Orders driven Prison Decongestion Sentence Review

Prison decongestion exercises where carried out with probation officers providing Sentience review reports in which **2,579** convicted prisoners had their sentences reviewed and ordered to serve various alternatives measures to imprisonment a majority of whom were offloaded to service community service orders. This is a reduction from the previous year where more than **6,000** prisoners had their cases reviewed

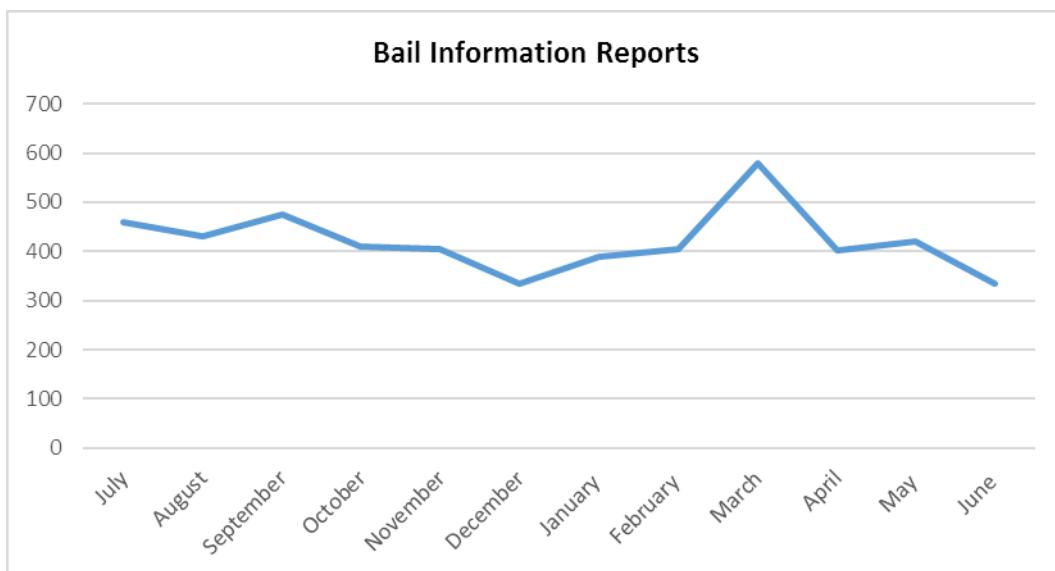
Bail and Bond Information Reports

The department had not been capturing data related to the number of bail information reports generated each year. However, this began in FY2014/2015 in which 5,042 criminal cases were referred for probation officers input in the bail decision making.

Table 4.20: Number of Bail Reports

Month (2014/2015)	No. of Bail reports
July	459
August	431
September	474
October	409
November	405
December	335
January	390
February	404
March	579
April	402
May	421
June	333
Total	5,042

Figure 4.7:Bail Information Reports, 2014/5



Resource Allocation

In the FY 2013/14, the department received Ksh. 151,268,342.00 to cover court work, offender supervision, office supplies, and running of Probation Institutions) excluding the personnel emolument. Similarly, the number of probation officers has reduced from 592 the previous year to 572 as at June 2015. The Community service orders secretariat which oversees programmed implementation countrywide including direct prison decongestion exercises, was allocated a paltry **Kshs 5,072,290.00** for operations with an additional Kshs. **5,222,904.00** for personnel emolument.

Table 4.21: Resource Allocation

Item	FY 2013/2014	FY 2014/2015	Variance
Recurrent budget	151,268,342.00	230,587,528.00	79,319,186.00
Development budget	173,522,650.00	62,850,000.00	-110,672,650.00
Recurrent and Development budget combined	324,790,992.00	293,437,528.00	-31,535,464.00

Source: Probation and Aftercare Service

Human Resource

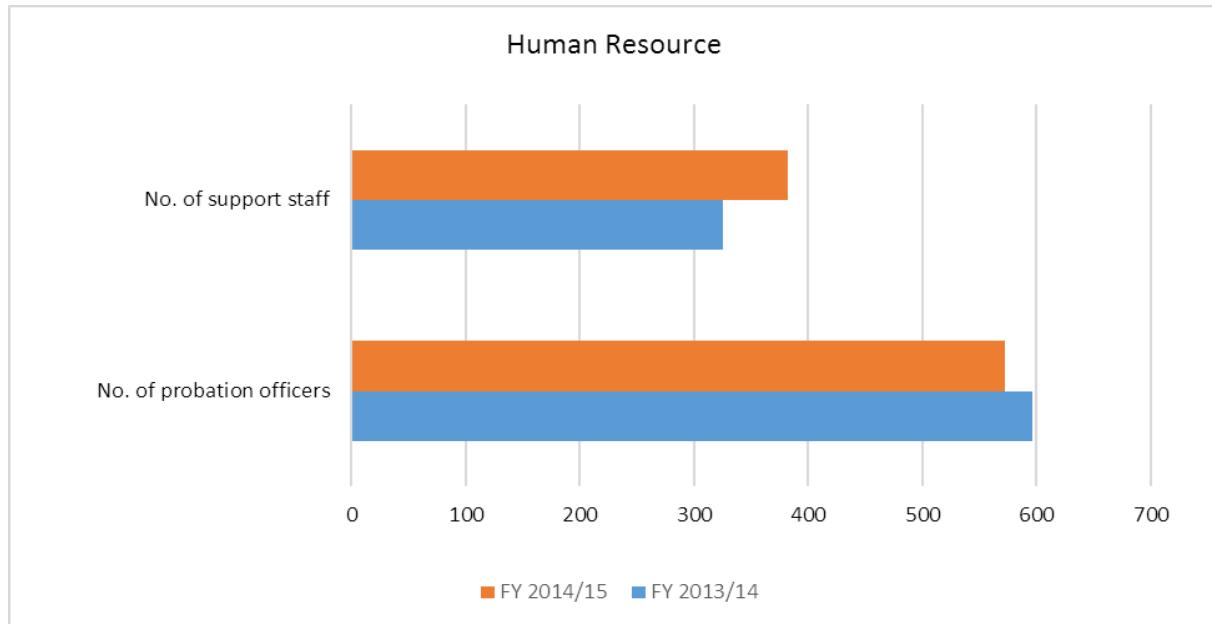
The number of probation officers has reduced from **592** the previous year to **572** as at June 2015. This is far less than the optimum number that the government initiated programme of human resource Capacity Assessment and Rationalization Programme (CARPS) that capped required probation officers at 3000. We hope that the appeal to increase the number of probation officer will be headed to accommodate increased demands from the courts and increased number of magistrates and judges, work created by the Power of Mercy Committee and the Psychiatric Offenders at Mathari Mental Hospital.

Table 4.22: Human Resource

Item	FY 2013/14	FY 2014/15	Variance	Percentage variance
No. of probation officers	596	572	-24	(Negative) -4.03%
No. of support staff	325	382	57	(Plus) 17.54%

Source: Probation and Aftercare Service

Figure 4.8: Human Resource



Infrastructure and Office Construction

There is not project that was initiated in the department in the period under review as all infrastructural development projects were carried forward from the previous year. As can be noted above, there was a massive reduction in development expenditure by over 63%. Siaya Girls Probation Hostel is the second such facility for females other than the one in Nakuru while others for males are in Nairobi, Mombasa and Eldoret.

Table 4.23: Development projects

Name of the Project	Location	Contract Sum/ Estimated Cost	Status
Construction of Siaya probation Girls hostel	Siaya county	56,689,477.55	On-going
Construction of Msambweni Probation office	Kwale County	7,500,000.00	On-going
Construction of Muranga East Probation office	Muranga County	14,000,000.00	On-going
Construction of Makueni Probation office	Makueni County	10,500,050.00	On-going
Construction of Turkana West (kakuma) Probation office	Turkana County	9,500,000.00	On-going
Construction of Nyeri Central Probation office	Nyeri County	9,500,000.00	On-going
Construction of Kisumu Probation office	Mombasa County	7,500,000.00	On-going
Kapsabet (Nandi) Probation office	Nandi County	9,500,000.00	On-going
Construction of Nyandarua South (Engineer) Probation office	Nyandarua County	7,500,000.00	On-going

Source: Probation and Aftercare Service

Information Community and Technology

- (a) The department has fully adopted its usage amidst challenges. Some of the computers used by the department are more than 10 years old. Nevertheless, each probation court station has at least a computer shared among all the offices. During the period in question, 16 computers have been issued for field work. There is thus, serious need for more computers to ease court work and generally improve on case management practices
- (b) Offender Record Management System was developed couple of years to address record management challenges. However, the system which was developed couple of years ago is experiencing challenges mostly associated with internet service provision and it also requires a comprehensive systems upgrade.

Challenges

Most of the challenges which were experienced in 2013/2014 persisted into the current period under review.

1. The Kenyan Society is so vindictive and in some instances do not appreciate non-serious offenders to serve non-custodial measures in the community thus always demanding harsh penalties even for petty offences placing high demand on courts.
2. Inadequate transport/vehicles to carryout supervision of offenders service non-custodial orders is still with the department as no vehicle was purchased or allocated to the department. Not all probation stations have a vehicle and unserviceable 1978 Land Rovers which are uneconomical to run with the meager resources are still in use.
3. There is greater increase for demand for probation officers by the Judiciary (particularly with Bond and Bail Policy implementation) and for community supervision of offenders yet only 572 are in place. A significant number of officers have left the service to join County governments and Constitutional Commissions while others have exited due to natural attrition. This has left us with a deficit which poses a serious challenge in service delivery as there is no immediate replacement.

4. Generation of social advisory reports to courts and other penal release organs is greatly hampered by inadequate government funding in spite of increased workload.
5. The Probation Service offender records management system (ORMS) is now not in operation owing to technical problems and internet connectivity. The inability to complete LAN installation as a result of lack of funding for ICT compounds this problem.
6. Inadequate hygienic holding facilities in courts and police stations, some of which are inappropriately used to hold men, women and children together;
7. Limited space and overcrowding of cells and holding facilities leading to detention of hardcore criminals together with petty offenders;
8. Lack of separate prisons for women and juvenile detention facilities, as a result of which women and children remandees are detained in common cells at police stations;
9. Lack of proper and secure means of transportation for persons held in prison custody, posing the risk of escape by prisoners or assault on prison officers by such detainees;
10. Persistent delay in production of prisoners and accused persons and late arrival in court due to lack of transport facilities leading to delays in hearing and determination of cases;
11. Prolonged detention in prison of Death row convicts without commutation of sentence to life or pardon to ensure that they are gainfully engaged in productive occupation as opposed to idle detention that burdens prison facilities at which they are held;
12. Shortage of prosecutors, resulting in inordinate delay in determination of criminal cases;
13. Insufficient and inaccessible court facilities in many parts of the country leading to overcrowding of courtrooms;
14. Lack of effective secretarial services for CUCs at county level compounded by inadequate funding, which impacts negatively on their performance;
15. Shortage of magistrates in various counties resulting in case backlogs and general inefficiency in the administration of justice;
16. Lack of funds to meet Medical Bills for remandees and for victims of offences, including payments levied by public hospitals to issue P3 forms to victims of offences and to carry out post-mortem examinations on murder victims;
17. Lack of witness protection and legal aid programmes in various court jurisdictions;
18. Lack of coordination between various State organs and institutions; and
19. Inadequate Capacity and Budgetary allocation.

4.5.18 Department of Children Services

The Department provides for the leadership in co-ordination, supervision and provision of services towards promoting the rights and welfare of all children in Kenya.

The Department managed to rehabilitate **1200** children in the 10 rehabilitation schools. The Department provided care and protection to **4843** children in the 13 remand homes and **461** children in four rescue centres.

Activities and achievements

1. Provision of child welfare services through conducting social inquiries, preparing and presenting court reports in the best interest of the child.
2. Rescuing, tracing and securing alternative placement for children in need of care and protection.
3. Writing timely court reports based on the best interest of the child.
4. Provision of counselling and guidance to children and their families and enforcing orders made by courts of law
5. Management and supervision of statutory children rehabilitation schools, children rescue institutions and children remand homes.
6. Supervision, inspection and facilitation of the registration of charitable children institutions and programmes in order to safeguard and promote the welfare of children admitted therein.
7. Facilitation of adoption, foster care and guardianship of children.
8. Coordination of service provision by partners and other stakeholders in the children sector.
9. Participation in court user committees.
10. Rehabilitation and reintegration of child offenders into the community.
11. Provision of safe custody to children who are in contact with the juvenile justice system through the establishment of the Child Protection Units (CPUs) and Child Protection Centres (CPCs).
12. In collaboration with the judiciary partners like International Commission of Jurist (ICJ) and the Legal Resource Foundation (LRF) has seen children officers network with stakeholders and partners.
13. Judiciary through the Family Division continues to be a critical player in child protection issues through handling civil disputes related to custody, maintenance, issuance of guardianship and adoption orders
14. Response to and management of cases reported to the child helpline 116 (a toll free line)
15. Launch of counter trafficking in person's advisory committee
16. Collaboration and networking which led to the training of 30 Child Care and Protection Officers (CCPOs) and the Area Advisory Councils (AACs) which have been established in the 47 counties.
17. Partnership in AACs matters and numerous capacities building on legal instruments
18. Engagement through mobile courts e.g. Kinoo juvenile remand

19. Establishment and operationalization of Kenya Children Assembly (KCA) to promote and enhance child participation.
20. Finalization and launch of the costed National Plan of Action for Combating Human Trafficking Strategic Framework 2013 - 2017
21. Training of 10 identified service providers (police) on combating human trafficking.
22. Combating violence against children through creation of awareness and advocacy on child rights.

Challenges

1. Weak linkages between the juvenile justice actors which may at times compromise the rights of a child.
2. Delay in cases especially for children who have committed capital offences.
3. Delay in child cases where children fail to testify immediately. In some cases, hearing come after a year and the child may have forgotten.
4. Children placed in rescue centres to protect evidence, the waiting detaches him/her from the family for long and some rescue centres do not offer education such as the remand homes. In this case, a child is denied some rights after being aggrieved.
5. Loss and comprise of sexual and physical abuse cases
6. Loss of evidence in delayed defilement cases.
7. Problem with age assessment – over age find themselves in the remand homes and this has contributed to breakouts and escapees.
8. Inadequate legal aid and lack of legal representation for children involved in court cases.
9. Inadequate holding places for children as they await trials in court
10. Inadequate or lack of proper means of transport for the children to courts

Many of these challenges will be addressed by the NCAJ Taskforce on Children Matters which is chaired by Justice Martha Koome.

CHAPTER FIVE–HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

5.1 Introduction

The Human Resource Staff Rationalization Exercise conducted in the Financial Year 2013/2014 established several challenges in the management of human resource issues in the Judiciary. As a result, several attempts had to be made in order to address these issues in the 2014/2015 FY.

The following key assignments were undertaken during the reporting period;

- Recruitment and appointment of Judges.
- Advertisement for other various posts.
- Mass transfers and deployment of staff.
- Staff training and capacity building.
- Promotion of both judicial officers and staff.
- Increased opportunities for attachments and pupilage in order to improve efficiency and effectiveness in Job performance and ensure that the Judiciary plays its rightful role in relation to its mandate.

It was also established that the employee separation rate was going to be high in coming years, and succession management needed to be addressed.

5.2 Recruitment and Appointments

The Staff Rationalization exercise revealed a lot of gaps in the Human Resource docket, especially in the Court Administration staff. It establishes, for example, that the Judiciary was operating with a 41 per cent staff capacity deficit based on its 2009 Staff Establishment. The expansion of the Judiciary in terms of geographical spread and infrastructure has created further strain. The Judiciary prepared a comprehensive proposal for immediate and medium term implementation in relation to staffing.

To sufficiently process High court cases (workload) in a timely, effective, and efficient manner, during the year under review, 14 judges were appointed and deployed to various High Court stations. This brought the total number Judges to 145 representing an increase of 40% between 2012/2013 to 2014/2015. Similarly, 15 staff were recruited to enhance the capacity of the judiciary to deliver services effectively.

In its continued commitment to strengthen the tribunals, four persons were appointed as members of various tribunals. There are plans to recruit an additional 11 High Court Judges, 20 ELC Judges, 20 Kadhis and 30 magistrates and 1117 staff.

Table 5.1: Judiciary Recruitment, FY 2014 / 2015

	2013/2014	2014/2015
No of New Judges and Judicial Officers Appointed	11	14
No of Staff Appointed	35	15
No. of Members of Tribunals Members	12	4

Below is the breakdown of the distribution of the 14 Judges and the cadre of the 15 staff recruited/appointed in the reporting period

Table 5.2: Judges Appointed in FY2014/2015 By Court and Gender

Court	Male	Female	Total
High Court	8	6	14
	(57%)	(43%)	(100%)

Table 5.3: Cadre of Staff Recruited in FY2014/2015 by the Judiciary

Designation	Total
Support Staff	11
Secretaries	3
Personal Secretary III	1
Total	15

So as to address the immense shortage of Court Administrative staff, the exercise of undertaking a massive recruitment was initiated with the advertisement of 1117 post for the various cadres. Their recruitment shall be undertaken in 2015/2016.

The vacancies advertised were as listed below.

Table 5.4: Judiciary Vacancies Advertised, FY2014/15

Position	No of Vacancies	No of Applicants
Archives Assistant II	43	2396
Archivist III	30	746
Clerical Officer	716	45508
Clerical Officers (Court Interpreters)	41	1100
Court Bailiffs	8	2346
ICT Officer I (Applications Development/Programming)	3	360
ICT Officer I (Database Administrator)	3	275
ICT Officer I (Network Administration)	2	569
ICT Officer I (Systems Administration)	2	560
ICT Officer I (Systems Analyst)	2	375
ICT Officer II	10	3480
ICT officer II (Audio-Visual Technicians)	2	797
ICT Officer III	12	4630
Kadhi II	20	46
Personal Secretary II	30	1210
Personal Secretary III	54	1059
Process Servers	17	3313
Secretarial Assistant II	122	3590
Total	1117	72360

The Judiciary continues to grow and expand its human resource capacity through recruitment, promotion, training and development. There will be continuous staff rationalization, skills audit and work load analysis to inform the staffing needs.

5.3 Promotions

In order to address the chronic career stagnation and low morale among employees as well as to enhance efficiency and effectiveness in job performance, Human Resources Directorate initiated and coordinated promotions through JSC. During the year, suitability interviews were conducted to 262 Magistrates out of whom 115 were promoted to various cadres as below.

Table 5.5: Promotions

From	To	Number
Senior Principal Magistrate	Chief Magistrate	19
Principal Magistrate	Senior Principal Magistrate	17
Senior Resident Magistrates	Principal Magistrates	20
Resident Magistrates	Senior Resident Magistrates	59
		115

In addition, 1500 staff of various cadres underwent suitability interviews out of which 447 were promoted in a process to be concluded in the next financial year.

Table 5.6: Judiciary Staff Promotions, FY2014/15

Cadre	Promoted from	Promoted to	Total
Support Staff	Support staff II	Support Staff 1	49
	Support staff I	Senior support Staff	32
	Senior Support Staff	Support staff Supervisor	93
	Support staff Supervisor	Cleaning Supervisor	37
Security Guard	Security Guard III	Security Guard II	10
	Security Guard I	Senior Security Guard	11
	Security Warden I	Assistant Security Officer I	1
Drivers	Driver III	Driver II	7
	Driver II	Driver I	3
	Driver I	Senior Driver II	1
	Driver	Support Staff	1
Clerical Officer	Clerical Officer	Higher Clerical Officer	77
	Higher Clerical Officer	Senior Clerical Officer	81
Telephone Officer	Telephone Operator II	Telephone Operator III	1
	Telephone Operator I	Senior Telephone Operator	4
Library Assistant	Library Assistant II	Library Assistant I	1
Archives Assistant	Archives Assistant III	Archives Assistant II	2

Cadre	Promoted from	Promoted to	Total
Process Server	Process Server II	Process Server I	1
	Process Server I	Senior Process Server	6
Secretarial Assistant	Secretarial Assistant II	Secretarial Assistant I	23
	Secretarial Assistant II	Personal Secretary III	6
Total			447

5.4 Transfers and Deployments

During the rationalization exercise, the Judiciary established that some judicial employees had worked in one station for more than five years and this was impacting negatively on its core mandate and was not in line with the Judiciary Transfer Policy. Consequently, one thousand two hundred and sixteen (1216) Judicial staff, one hundred and forty-six (146) Magistrates and four (4) Kadhis were transferred.

5.5 Disciplinary Matters

5.5.1. Judicial Officers

During the year under review, 15 disciplinary cases and 32 appeals were received. Out of these, 29 were heard and concluded. This represents an increase in the rate of conclusion of disciplinary matters from 43% in 2013/2014 to 62% in 2014 /2015.

5.5.2 Judicial staff

Similarly, a total of 47 disciplinary cases for the Judicial staff were received and concluded with the affected staff being issued with warnings, severe reprimand and deferment of promotion, suspension and interdictions as was found applicable.

5.5.3 Judicial Employee's with Court Cases

The figures in the table below represent the number of Judges, Magistrates and Staff with Court cases pending or concluded during the reporting period. They include instances where an officer or staff appears in more than one case.

Table 5.7: Judiciary Employee's with Cases in Court

	Judges	Magistrates	Staff	Total
Cases Concluded	14	23	2	39
Cases Pending	2	0	37	39

5.6 Employee Separation

Due to vetting of Judges and Judicial Officers by the Judges and Magistrates Vetting Board (JMVB), indiscipline among staff, retirement, resignations and natural attrition, at 94, employee separation rate was high during the year under review as reflected in the tabulation below.

Table 5.8: Judiciary Employee Separation

Nature of Cases	Number of cases
Judges and magistrates vetted out	9
Dismissals	10
Retirement on fifty-year rule	3
Termination	2
Normal retirement	34
Resignations	19
Deaths	17
Total	94

5.7 Professionalization of the Human Resource Docket

The Judiciary Transformation Framework (JTF) envisages adoption of modern human resource management practices. To this end, a number of initiatives were undertaken in the human resource directorate.

5.7.1 Performance Appraisal System

During the year under review, various strategies were pursued towards institutionalization of a Performance Management System. The Directorate developed a framework for Annual Performance Appraisal, developed an Appraisal Tool and sensitized employees on both instruments. Moving forward, all employees of the Judiciary will be signing performance targets at the beginning of every financial year, with the Directorate of Human Resources coordinating all activities involved in the appraisal cycle.

5.7.2 Scheme of Service

The scheme of service is an empowering tool to Judicial staff outlining the career progression available to them. Taking cognizance of the changing job requirements globally, and staff wide readership, the scheme of service was revised during the financial year. This draft shall be presentation to the Judicial Service Commission for deliberation and adoption in the next financial year.

5.7.3 Human Resource Policies and Manual

The Directorate carried out employee sensitization on the new Human Resources Policy and Manual. This manual is a collection of human resource policies and procedures that guide management of human resource activities and serves as a reference for judicial officers and staff. It incorporates provisions of the Constitution of Kenya, 2010 and legislation governing various aspects of employee and employer relationship.

5.7.4 Development of Records Management Curriculum

The Directorate identified a major gap in regard to Records Management and conducted a comprehensive situation analysis in the courts and administrative units. The survey established that: (a) there were many challenges in record management and this affected performance, (b) the Judiciary needed a tailor-made Record Management Curriculum to standardize the way records are managed and, (c) there was urgent need to equip employees with relevant skills, competencies and right attitude towards records and their users .

A proficiency program was developed and designed to equip staff with knowledge, skills and attitudes to enable them apply the fundamentals of records management in managing Judiciary records throughout the records life cycle, and maintain proper security and control of Judiciary records all the time. The rolling out of this program will see major improvements in the court registries and improve service delivery.

5.8 Training and capacity building

The Directorate carried out Training Needs Analysis that identified training gaps. As a result of this, the HR Directorate, in collaboration with the Judicial Training Institute, organized trainings for forty-one (41) senior managers including Judicial Officers at the Kenya School of Government, Nairobi for a Strategic Leadership Development Program. The objective of this course was to enhance professionalism in the administrative function of the Judiciary. Similarly, fifty-four (54) middle level managers and thirty-seven (37) supervisors were sponsored in the same institution for courses in Senior Management and Supervisory Skills Development, respectively.

5.9 Attachment and pupilage programs

The Directorate of Human Resource and Administration, in collaboration with the Registrars of various courts, other directorates and universities, ensured that the Judiciary played a key role in extending attachments and pupilage opportunities to young Kenyans in our institutions of learning. During this period, the Judiciary provided 992 attachment opportunities as follows:

Table 5.9: Attachment and pupilage programs

Area of Attachment	No. of candidates
Judicial clinical Attachments	658
Pupilage	12
Other areas of specialization other than law	252
Total	992

The demand for these opportunities has continued to grow day by day and the Judiciary will endeavor to provide them to young Kenyan so long as the facilities allow.

5.10 Gender Analysis

5.10.1 Employee Composition

During the reporting period, the Judiciary's overall staff strength was 4326 comprising of 145 Judges (3%), 489 Judicial Officers (11%) and 3700 Judicial Staff (86%).

Figure 5.1: Employee Composition

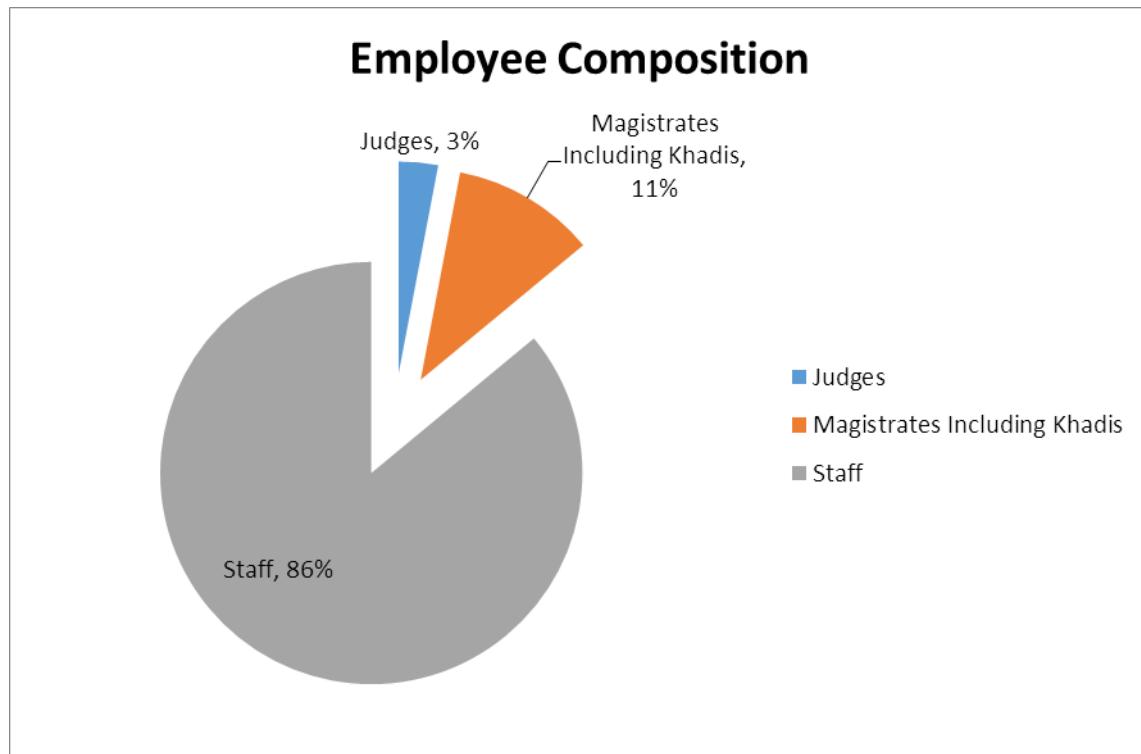


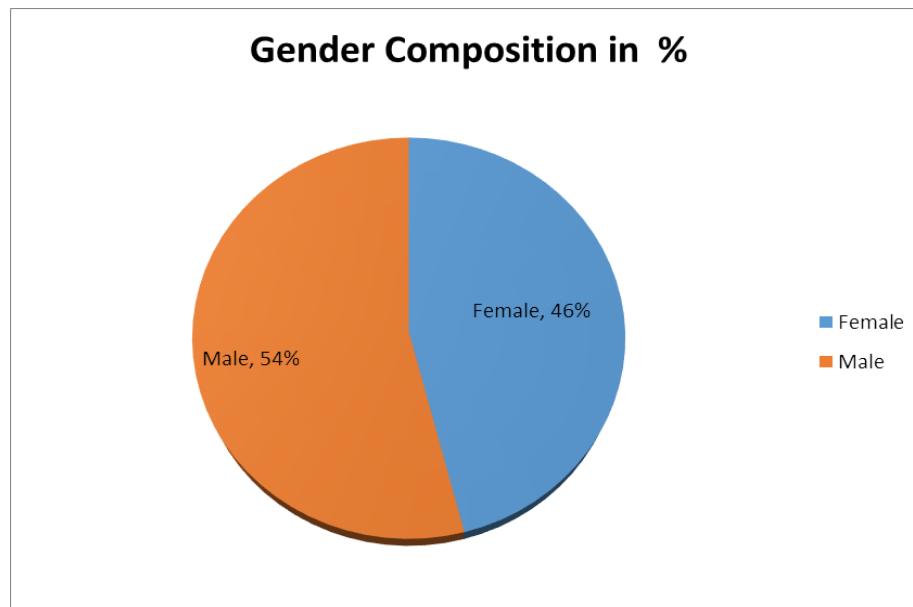
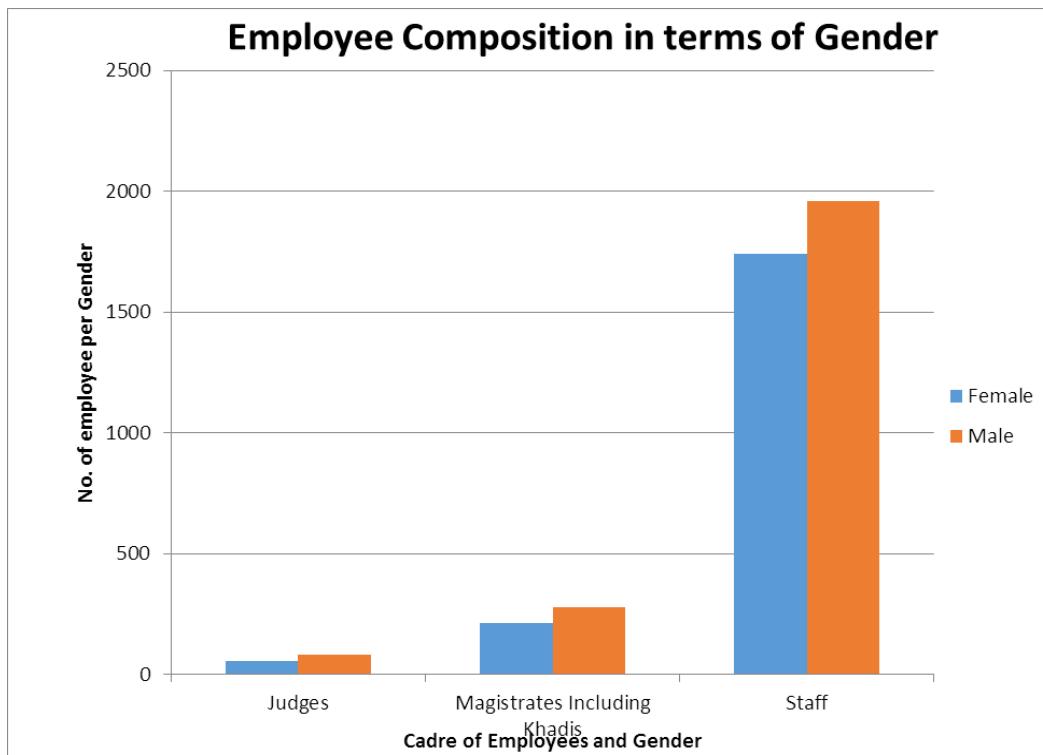
Table 5.10: Age Profile by Cadre

Cadre	Age Bracket									SUB-TOTAL
	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-65	
Judges										137
Accountants			17	57	53	29	22	20	2	200
Administrator General			1							1
Architects		2	4	3						9
Archivists				5	8	11	12	4	3	43
Photojournalist		1								1
Assistant Legal Researcher		2	1							3
Assistant Registrar				1	1					2
Auditors			4	3	2					9
Chairman-Corporate Tribunal					1					1
Clerical Officers	7	138	260	343	190	109	65	51		1163
Communication Officers				1	3	1				5
Court Bailiffs		3	15	15	14	33	39	1		120
Deputy Director - Administration							1			1
Deputy Director - Performance Management							1			1
Deputy Director - Public Affairs & Comm.						1				1
Deputy Director of Accounts				1		1				2
Deputy Registrar					4					4
Chief Of Staff					1					1
Director- Building Services							1			
Director- Performance Management								1		1
Director- Public Affairs & Communication						1				1
Drivers	16	36	57	25	17	12	6			169
Economists			1	1	4	6	1			13
Executive Assistants		9	14	13	49	62	86	1		234
Executive Officers	2	7	4	7	8	8	43			79
Finance Officers	3	3	3	6	3	1				19
HR Officers	13	21	15	12	11	9	5			86
ICT Officers	4	27	11	4						46
Law Clerks	1	8								9
Legal Researcher	4	37	12	5	1					59
Librarians		1	8	14	13	1	5			42
Magistrates & Kadhis	5	136	135	97	65	34	16	0		488
Performance Officers		4	5	2		1	1			13
Procurement Officers	54	27	20	9	3	4				117
Registrar				1		5				6
Secretaries	6	27	98	107	45	70	38			391
Security Officers	19	35	36	23	15		10			138
Support Staffs	108	138	151	109	60	55	54	2		677
Telephone Officers				11	5	6	4	7	1	34
										4326

5.10.2 Gender Composition**Table 5:11 Gender Composition**

	Female	Male	Total
Judges	54	83	137
Magistrates including Kadhis	213	276	489
Staff	1741	1959	3700
Totals	2008	2318	4326

The Judiciary's overall staff strength of 4326 can further be categorized at 54% male and 46% Female

Figure 5.2. Employee Composition –Gender %**Figure 5:3: Employee Gender Composition in Each Cadre**

5.11 Welfare and Benefits

Under the leadership of the JTI, the Judiciary finalized the following 3 policies:

1. The Disability Mainstreaming Policy.
2. The Sexual Harassment Policy.
3. The Gender Mainstreaming Policy.

To address the challenges faced by retirees, the Judiciary moved all its employees from Defined Benefits to Defined Contribution Scheme. Retired employees are hence able to access their enhanced benefits in a timely manner. All employees due to retire in the next 5 years went through a pre-retirement counseling and training to equip them with the necessary skills as they plan to retire.

CHAPTER SIX-TRAINING UNDER JUDICIARY TRAINING INSTITUTE

6.1 Introduction

The Judiciary Training Institute is the organ of the Judiciary mandated with training, capacity building and conducting research. Since its inauguration in 2008, the JTI has blazed the trail and emerged as a centre of excellence both in the country and the East African region in providing judicial education of the highest standards. This progress was made possible by the leadership of a full time Director, Hon Mr. Justice Prof Joel Ngugi, who was appointed on 1st March, 2013. The Director is assisted by judicial officers and staff deployed at the Institute.

The JTI, through its training curriculum, follows the archetype set by the JTF which stipulates that JTI as an institution for judiciary education should ensure that there is transformative leadership, people-focused delivery of service, an organizational culture, professional and motivated staff.

6.2 Activities Undertaken in the Reporting Period

In the course of the period between July, 2014 and June, 2015, JTI undertook several activities in line with this mandate.

6.2.1 Trainings

6.2.1.1 Continuous Judicial Education for Judges

JTI held several trainings for different groups of Judges as shown in the table below.

Table 6.1: Judicial Education for Judges

Date	Training Title	Target Group
13th -19th July, 2014	Induction Training Workshop for the Newly Appointed Judges	Newly sworn Judges
12th– 16th October, 2014	Training on Emerging issues in Devolution Jurisprudence	Judges
3rd – 6th December, 2014	Interactive Meeting for the Supreme Court and Court of Appeal Judges on Election Dispute Resolution	Judges
27th January to 1st Feb, 2015	Workshop on Emerging Issues in Constitutional Law and Adjudication	Judges
22nd – 25th March, 2015	Advanced Judicial Writing	Judges
24th–28th March, 2015	Docket and Trial Management	Judges
30th March – 3rd April, 2015	High Court Judges Retreat	Judges
12th - 15th April, 2015	Emerging Issues in Devolution Jurisprudence & Author's Conference	Judges, County Attorneys and State Counsels
12th -18th April, 2015	Mid-Year Review for Newly Recruited Judges (Induction Part 2)	Judges appointed in 2014
2nd- 6th June, 2015	Court of Appeal Retreat: Emerging issues at the Court of Appeal	Court of Appeal Judges

6.2.1.2 Continuing Judicial Education (CJE) for Magistrates

JTI offered a one-week training programme in which all Magistrates across the country are required to attend. In expanding the jurisprudential knowledge of the magistrates the topics covered in this period were;

1. ICT and the Law
2. Children and the Law
3. Evidence Analysis: The key to excellent Judgment writing
4. National Security and Terrorism: A practical primer for Judicial Officers
5. Disability
6. An Insight to the Bail and Bond Guidelines
7. Sexual Harassment
8. Alternative Dispute Resolution
9. Smart Practices in the Law of Succession.

The CJE trainings for Magistrates were as hereunder:-

Table 6.2: Continuing Judicial Education Trainings for Magistrates

Activity	Dates
CJE I	9th November – 15th November, 2014
CJE II	30th November – December, 6th 2014
CJE III	11th -16th January, 2015
CJE IV	1st-7th February, 2015
CJE V	1st -7th March, 2015
CJE VI	12th-18th April, 2015
CJE VII	20th-26th April, 2015
CJE VIII	17th-23rd May, 2015

Source: Judicial Training Institute

Other trainings held for the Magistrates were:

Table 6.3: Other Trainings for Magistrates

Activity	Dates
Gender Based Violence and Judicial Enforcement of Sexual Offences Act	12th -15th November, 2014
Innovative Teaching Techniques	25th – 27th March, 2015
Active Case Management for Mombasa Magistrates	31st March- 2nd April, 2015

Source: Judicial Training Institute

6.2.1.3 Joint Trainings

JTI also held joint trainings for Judges and Magistrates outside of their respective CJE program.

Table 6.4: Joint trainings for Judges and Magistrates

Activity	Dates
Debrief on Election Dispute Resolution	28th September to 2nd October, 2014
Refugee Law for Judicial Officers	16th -20th December, 2014
Children and the Law: Nuts and Bolts	19th -24th January, 2015
Alternative Dispute Resolution	20th-25th July, 2015
Intensive Pilot Course on Injunctions	May 30th –1st June, 2015

6.2.2 Staff Development Trainings

The planned theme for this financial year staff development was “Transformation (Phase 2: Re-induction into the Judiciary” - keeping in tandem with the Judicial Transformation Framework”. These were re-induction workshops for all judiciary staff. During the reporting period 10 trainings were held drawn from a cross section of staff from different stations. These included 2 trainings for Law Clerks and Support staff on Law Clerks: “Supporting the Judiciary; and Professional Development, Team Work and Adopting to Change” for court support staff, respectively.

6.2.3 Multi-Stakeholder Forums

JTI in conjunction with other organizations, organized forums bringing together individuals from various government and non-government institutions to discuss issues of common concern to the stakeholders with regard to the administration of justice. The table below carries details of these forums:

Table 6.5: Multi-Stakeholder Forum

Activity	Dates	Participants
Sentencing Stakeholder Forum	17th October, 2014	Judges, Magistrates, Police Officers, prison wardens and those involved in the criminal justice system.
Colloquium on the establishment of the International, Serious and Organized Crimes Division (IOCD) in Kenya	22nd – 25th October, 2014	Participants from inter-agencies involved in organized crimes.
Judicial Dialogues on HIV/AIDS	1st -4th December, 2014	Judges and Magistrates
Maputo Protocol Regional Conference	17th- 21st February, 2015	Judges and Magistrates from across the Region
Stakeholder Meeting on ACM in Mombasa	30th March, 2015	Judges, Magistrates, Prosecutors, Probation officers, and legal practitioners involved in the Criminal Justice System.
Wildlife Dialogues on Marine Wildlife and Environmental Resources	27th-30th April, 2015	Judges, Magistrates, Prosecutors, KWS Officers, The Police and Conservationists

Source: Judicial Training Institute

6.2.4 Judiciary/Senate Consultative Workshop

Following months of strained relations between the Judiciary and Senate, a collaborative forum was held on 1st December 2014 to provide an opportunity for the two arms of government to interact but also for an examination of:-

- The constitutional mandate and functions of the Senate and the Judiciary;
- Role of Parliament and the Judiciary and the Transformative Constitution.
- Enhancing interlinkages, cooperation and consultation between the Legislature, the Executive and the Judiciary.

After a productive day of deliberations, it was agreed that dialogue is the key in dealing with the challenges faced by the two institutions. The two institutions agreed to keep lines of communication open.

6.3 Research and Policy Development

JTI remains steadfast in ensuring growth of legal research, policy review and development by identifying laws and policies that need enhancements and alterations for better, fair and efficient administration of justice to all.

In this financial year, the Judiciary resolved to address the issue of sentencing following the divergent sentences that were being churned from the bench. The JTI in conjunction with the Sentencing Task Force worked to;

1. provide statistical information on sentencing, including information on current sentencing practices to members of the Judiciary and other interested persons.
2. conduct research and disseminate information to members of the Judiciary and other interested persons on sentencing matters.
3. gauge public opinion on sentencing by holding ‘barazas’ to meet members of the public in different parts of Kenya.
4. consult on sentencing matters with government departments and other interested persons and bodies as well as the general public.

5. advise on the mode of regulating Sentencing whether by having a Sentencing Policy or using Sentencing Guidelines. Towards this end, a Task Force chaired by the Hon. Justice Mbogholi Msagha was Gazetted by the Chief Justice on May 30th 2014. The product of their work was the Sentencing Policy Guidelines which were launched by the Hon. Chief Justice on 25th January, 2016.

JTI also successfully carried out two validation workshops in which a representative of Judiciary employees was present. These workshops were;

- | | | |
|-----------------------------|---|-----------------|
| 1. Sexual Harassment Policy | - | April 24th 2015 |
| 2. Disability Policy | - | April 30th 2015 |

CHAPTER SEVEN—FINANCE AND INFRASTRUCTURE

7.1 Overall Financial Review

The Kenya Vision 2030 provides the overall framework for the management of the country's economic and development agenda. Under Vision 2030's Second Medium Term Plan (2013 - 2017), the government has pledged to "provide full support to the ongoing transformation of an independent Judiciary by providing it with adequate human and financial resources and with political support." The Judiciary therefore continues to carry out its mandate of dispensing justice by aligning its activities with the national vision but guided by the Constitution. This is done through implementation of the Judiciary Transformation Framework (2012 – 2016) and the Strategic Plan (2014 – 2018).

7.2 Judiciary Funding in the National Context

Figure 7.1 below shows the national budget allocation between the three organs of State. In comparative terms, the allocation to the Judiciary has continued to be unfavorable. The executive has continued to be allocated almost the entire country's budget taking a staggering 97% of the entire budget, Parliament an average of 2% and Judiciary an average of 1%. The figure further shows that during the past three years, budget allocations for Judiciary has been fluctuating and in the FY2014/15 fell under 1%. In the FY 2013/14 the allocations increased by KSh. 3.54 billion from KSh 12.61 billion in FY 2012/13 to KSh. 15.7 billion. However, the allocations declined the following FY 2014/15 by KSh. 1.54 billion to KSh. 14.16 billion.

Figure 7.1: Overall Budget Allocation

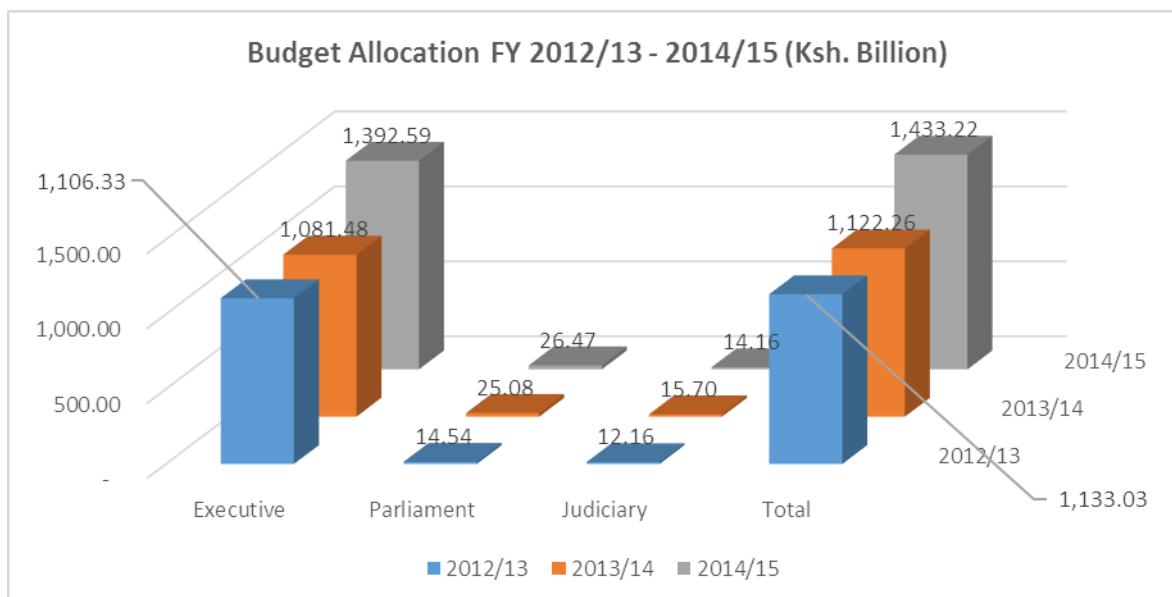


Table 7.1: Overall Percentage Budgetary Allocation

	2012/13	2013/14	2014/15
Executive	97.64%	96.37%	97.16%
Parliament	1.28%	2.24%	1.85%
Judiciary	1.07%	1.40%	0.99%
Total	100.00%	100.00%	100.00%

Judiciary plays a major role in development of the economy, however despite the critical role it plays, the budget allocation compared to the national budget indicates that it has continued to be under funded. The above table shows that Judiciary's allocation is way below the internationally agreed benchmark of 2.5 per cent of the national budget.

7.3 Resource Requirement versus Resource Allocation

In the FY2012/13, the resource requirements for the Judiciary for implementation of its core functions as stipulated in the Constitution was KShs.14.991billion against an allocation of KSh. 12.157 billion. In the FY 2013/14 resource requirement increased to KSh. 22.075 billion of which an allocation of only KSh. 12.157 billion was made. Given the coming on board of tribunals to the Judiciary, the resource requirement increased tremendously in the FY 2014/15 to 26.211billion. However, only KSh. **14.163 billion** was allocated to the Judiciary.

Table 7.2: Resource Requirements versus Allocation

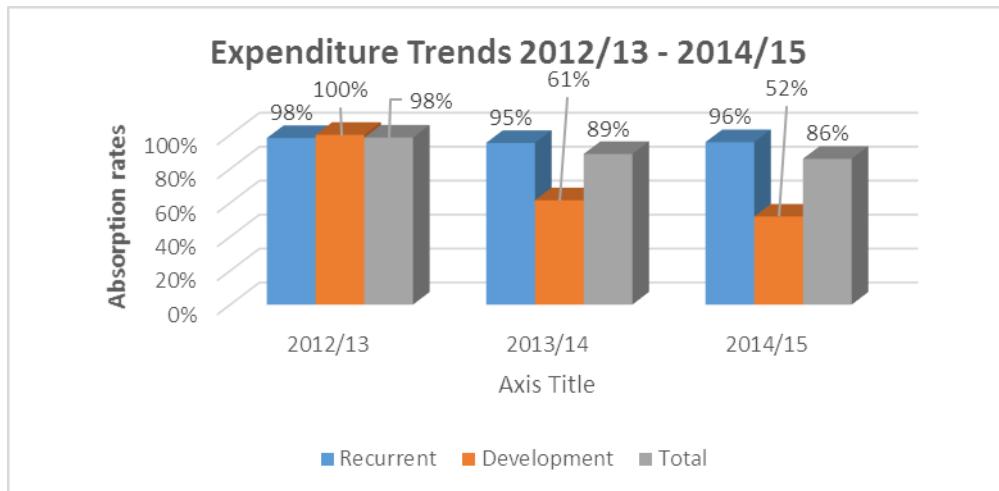
Financial Year	Requirement	Allocation	Percentage shortfall
2012/13	KSh. 14.991 billion	KSh.12.157 billion	19%
2013/14	KSh. 22.075 billion	KSh. 15.699billion	29%
2014/15	KSh. 26.211billion	KSh.14.163billion	46%

In other words, as shown in Table 7.2 above, there has been huge budgetary shortfall throughout the review period by 19% in FY 2012/13, 29% in FY 2013/14 and 46% in FY 2014/15 respectively. These shortfalls have continued to pose a major challenge to the implementation of programmes and projects on dispensation of justice in Kenya. In addition, the persistent inadequate allocation of resources has resulted in delays in the achievement of the goals envisioned in the Vision 2030 goals and the Judiciary Transformation Framework.

7.4 Budget absorption

Figure 7.2 below shows that, during the period under review, the absorption levels for the total budget was above 86%. The breakdown on recurrent vote shows that absorption has been at least 95%. On the other hand, there has been a decline in absorption for development vote from 98% in FY 2012/13 to 61% in FY 2013/14 to 52% in FY 2014/15 respectively. This is attributed to the challenges of technical capacity within the counties, slow approvals of building plans by the relevant government agencies, disputes on land ownership, contractual disputes leading to delays in making payments for works done among others. The Judiciary has now established a fully-fledged Directorate of Building Services to oversee and supervise on a full time basis its construction works.

Figure 7.2: Overall Expenditure Trends (2012/13 – 2014/15)



The budget expenditure in the Judiciary is undertaken on the basis of two Sub-Programme: Access to Justice and General Administration, Planning and Support Services. The following table shows a breakdown of expenditure per the sub-programme.

Table 7.3: Budget Implementation by Sub-Programme

	Approved Budget			Actual Expenditure		
	2012/13	2013/14	2014/15	2012/13	2013/14	2014/15
Programme: Dispensation of justice						
Sub-Programme 1: Access to Justice	7,567.00	11,074.50	9,759.00	7,536.00	8,274.00	7,823.00
Sub-programme 2: General Administration, Planning and Support Services	4,590.00	4,625.00	4,404.00	4,425.00	4,062.00	4,050.00
Totals	12,157.00	15,699.50	14,163.00	11,961.00	12,336.00	11,873.00

7.5 Infrastructure Development

During the period under review, **20** courts were renovated while **19** mobile courts were established across the country. The Judiciary also networked 17 high court stations, 6 magistrate courts and 4 offices to enhance communication and interconnectivity. 34 courts stations installed ramps.

Kisumu Court complex and Migori courts were completed. Construction works started for Embu High Court. Construction works continued in Lodwar and Bomet as on-going projects. Similarly, Construction works commenced for 7 Magistrate courts namely, Nkubu, Hamisi, Butali, Eldama-Ravine, Mandera, Mpeketoni and Port Victoria. Rehabilitation and refurbishment of 13 courts namely; Kitui, Eldoret, Muranga, Kakamega, Bungoma, Homa Bay, Nyeri, Kericho, Nakuru, Kisii, Malindi and Meru continued. Further, rehabilitations for 24 magistrate courts were also done. (See Annex 2)

7.6 Criteria for allocation of funds

As part of the transformation programme, a more scientific method of budgeting and allocating resources was though necessary in order to eliminate biases. A criteria on allocation of resources to court stations, which was developed and approved by JSC in FY 2013/14, was used during this reporting period. This has intrduced equity and transparency both in the budget process as well as in the sharing of resouces one secured. Several variables were assigned weights as determinants of the size of the envelope. The three variables used were: number of judges, judicial officers; number of staff; and caseload data. The weights are as presented below:

Table 7.4: Allocation of Funds

	Percentage
Number of Judges, Magistrates and Kadhis	50%
Number of Staff	30%
Annual Caseload	20%

Source: Judiciary

7.7 Revenue

7.7.1 Collected by Judiciary

Total revenue collected in 2013/14 rose to **Ksh2.068 billion**, up from *Ksh1.48 billion* recorded in 2012/13 and thereafter to KSh. 2.109 billion in FY 2014/15 representing an increase of 39.7% and 2% respectively. This increase was attributed to the Automation and diversification of the revenue and deposits collection systems.

7.7.2 Revenue from Development Partners' Funding

Development partner's funding contribute significantly in resource gaps. Judiciary has been therefore been collaborating with three development partners in supplementing its budget deficits. These are the World Bank through Judicial Performance Improvement Program (JPIP), United Nations Development Programme through Judiciary Transformation Support Project (JTSP) and Ford Foundation.

7.7.3 Judiciary Performance Improvement Project (JPIP)

The World Bank signed a Financing Agreement with the National Treasury on December 5, 2012 to develop management capacity in the Judiciary. JPIP aims to support and achieve the objective of the Judiciary Transformation Framework.

It was the first major partnership between the Judiciary and the World Bank. The World Bank's investment in Kenya's efforts recognizes, quite rightly, that an inefficient and ineffective Judiciary can undermine socio-economic and political growth with negative consequences for the whole the society. Its key objective is to improve the performance of the Judiciary to enable it provide its services in a more effective, efficient and accountable manner.

The project comprises of four components; which include Court Administration and Case Management with an allocation of KSh. 3.4 billion; Judiciary Training and Staff Development with an allocation of KSh. 1.36 billion; Court infrastructure allocated KSh. 4 billion; and Project Management, which amounts to KSh. 765 million.

The total budget for the 2014/15 amounted to KSh. 2.832 billion. The overall expenditure at the end of the FY 2014/15 was KSh. 585 million, translating into an absorption rate of 20.7 per cent. The low absorption was due to the fact that the activities listed under these components required long preparation procedures involving procurement, recruitment of specialists/experts as well as purchase of high capital items. JPIP is currently in its third year of implementation.

7.7.4 United Nations Development Programme (UNDP)

The Judiciary sought support from UNDP to coordinate and implement technical and financial aspects of the Judiciary Transformation Framework through a multi-donor basket fund. The support has been running since May 2013 and will lapse in June 2016. The financing agreement with UNDP signed in June 2013 amounts to \$1,430,099. The various areas of intervention supported under the project referred to as 'the Judiciary Transformation Support Project (JTSP), 2013-2016' are focused on two outcome areas: people-focused delivery of justice; and strengthened capacity within the Judiciary to deliver on its mandate.

The key project outputs include the development and deployment of processes and systems enabling access to court services by citizens including special interest groups. Other objectives include establishing a performance management system informed by a comprehensive job evaluation as well as effective coordination. It also seeks to develop the capacity of the Judiciary Training Institute.

7.7.5 The Ford Foundation

The Ford Foundation pledged a US\$1 million grant to the Judiciary to support capacity development for the Supreme Court. The project seeks to develop the capacity of judges, clerks and legal researchers of the Supreme Court of Kenya in order to enhance its capacity to play its constitutionally mandated role. It is designed in four components, namely, nurturing of transformative human rights jurisprudence; capacity building on devolution and intergovernmental dispute resolution; judicial exchange and visiting programme and judicial knowledge management.

7.8 Challenges in implementing the Budget

The Judiciary has continued to experience several challenges in the implementation of its budgetary programmes. During the period under review, these included: -

1. *Integrated Financial Management Information System (IFMIS) challenges:* The judiciary relies on IFMIS for its financial management. The system is web based and can only be accessed where there is internet connectivity while there is no connectivity in most of the court stations.
2. *Varied pace of reforms within the justice sector:* The lack of harmonization of reform initiatives by the different players within the justice chain, continues to undermine the gains made in reforming the justice sector.
3. *Vetting of Judges and Magistrates:* The protracted vetting process continues to cause anxiety among the judicial officers and uncertainty and thus impeding on the expeditious delivery of justice. Due to this protracted process, the cases scheduled to be heard are adjourned thereby increasing the case backlog.
4. *Delay in processing land ownership documents:* These delays have impacted on the pace of construction of courts and absorption rate of allocated resources.
5. *Insufficient resources:* Inadequate funding of the Judiciary occasions postponement of the necessary infrastructural work, delaying operations of the Judiciary across the country, and make it harder for the Judiciary to operate effectively.
6. *Absence of legal framework to transition Tribunals to the Judiciary:* Inadequate legal framework – lack of elaborate legal provision in regard to a smooth transition of tribunals to the Judiciary and effectively undertake their mandates. However a Committee on the transition and restructuring of the Tribunals headed by Justice Kathurima M'noti was appointed to advise on this process.

7.9 International Funding Standards

The total development budgetary allocation to the Judiciary for the fiscal year 2014/15 accounts for a paltry 0.99 % which is way below the accepted international standard of 2.5 per cent of the total national budget. This inadequate resource allocation to the Judiciary impacts negatively on the implementation of its core mandate.

To address this challenge, the Judiciary can properly discharge its functions in dispensing Justice only if it enjoys administrative and financial autonomy. This can be addressed though operationalization of the Judiciary Fund. Parliament needs to pass this legislation as a matter of urgency.

7.10 Audit and Risk Management

Until August, 2013, internal auditing services in the Judiciary were exclusively provided by the office of the Internal Auditor General (IAG), National Treasury. The IAG deployed internal auditors to the Judiciary headquarters and used district internal auditors to audit court stations. The arrangement of having the IAG audit the Judiciary faced many challenges. Consequently, the Judiciary decided to create its own internal audit unit, within the Finance Directorate. Seven internal auditors were recruited and reported on various dates with effect from 1st August, 2013.

The initial set up of the internal audit unit had some shortcomings. First, the internal audit unit was created as a section within the Finance Directorate. This structure was not consistent with the provisions of the International Standards for the Professional Practice of Internal Auditing which requires the Chief Audit Executive to report to a level within the organization that allows the internal audit activity to fulfill its responsibilities. Subsequently, the unit has since been delinked from the Finance docket and elevated to a full fledged Directorate directly answerable to the JSC and Chief Justice.

The establishment of the Audit and Risk Management Directorate is consistent with the provisions of Section 73 of the Public Finance Management Act (PFM), 2012. The section requires every national government entity to ensure that it has appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board and that where any regulations are in force, those regulations are complied with.

The Audit and Risk Management directorate is established to provide independent, objective assurance and consulting services designed to add value and improve the Judiciary's operations; and to help the Judiciary accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

7.10.1 Audit, Governance and Risk Management Committee of the JSC

The Committee was formed in June, 2014 to: oversee the performance of the directorate; approve the annual work plan of the directorate; reviews audit reports prepared by the directorate and; make recommendations that are implemented by the Judiciary.

The formation of the Committee is consistent with the provisions of Section 73(5) of the PFM Act, 2012 which requires every national government entity to establish an audit committee.

7.10.2 Establishment of Audit and Risk Management Directorate

To enhance the independence of the Internal Audit function, the JSC, in May, 2015, approved the establishment the Audit and Risk Management Directorate, the scheme of service of the Audit and Risk Management staff, the expansion of the staff establishment from 7 to 48 auditors.

The directorate is now headed by an acting director and has seven internal auditors. The directorate functionally reports to the Chief Justice and the Audit, Governance and Risk Management Committee of JSC, and administratively to the Chief Registrar of the Judiciary.

7.10.3 Performance of the Audit and Risk Management Directorate

During the 2014/15 financial year, the Audit and Risk Management planned to carry out 32 audit assignments in accordance with the annual work plan that was approved by the Audit, Governance and Risk Management Committee of JSC. In total the Directorate completed 29 audit assignments.

The audits provided vital recommendations that are being implemented to improve the Judiciary's operations. Some of the recommendations include:

1. Automation of revenue and deposits receipting and accounting processes to enhance efficiency and internal controls
2. Submission of revenue surrender documents by court stations to the Judiciary headquarters by the 10th of the subsequent month to facilitate timely review and transfer of revenue from the court stations' bank accounts to the Judiciary revenue collection bank account.
3. Maintenance of cash books and preparation of monthly bank reconciliation statements by court stations.
4. All court stations to maintain deposit ledger running balances, reconcile the balances to the deposit bank accounts and ensure that a deposit liability listing is extracted monthly.
5. All court stations to prepare annual procurement plans and submit to the Judiciary headquarters for consolidation.
6. Carry out a job evaluation to determine the optimal staffing levels and prepare an organization structure for all court stations and the Judiciary as a whole.
7. Ensure that written Job Descriptions are prepared and issued to all heads of court stations and staff.
8. Ensure that all Heads of Court Stations and staff transferred prepare hand over reports.
9. Ensure that a training needs assessment is carried out and the training needs identified attended to.
10. Preparation and implementation of Procurement and Financial Management Policies and Procedures Manuals
11. Preparation of an appropriate fee assessment form to be used by all court stations.
12. Automation of file management system for the courts to minimize on disappearance of case files.
13. Ensure that court registers are up dated with all the relevant details and are frequently reviewed.
14. Develop a transfer policy for staff involved in revenue and deposits management.

Implementation of the above recommendations is at various levels.

The current staffing levels are inadequate to sufficiently audit the entire Judiciary and hence recruitment of additional auditors shall be done in three phases with effect from the 2015/16 financial year.

The first phase of recruitment of additional auditors will involve recruitment of 18 auditors. Among the auditors to be recruited are ICT auditors. This will not only enhance the capacity of the directorate to audit computerized systems, but also enhance the capacity of the directorate to provide adequate independent, objective assurance and consulting services designed to add value and improve the Judiciary's.

7.11 Supply Chain Management

7.11.1 Introduction

The directorate of supply chain management is responsible for obtaining quality goods and services at the lowest possible cost to ensure value for money to the Judiciary. So as to be in tandem with its core functions and performance standards, in 2014/2015, the directorate reviewed its supply chain management service charter and continued putting systems and structures in place to ensure enhanced delivery of services.

With the guidance of the directorate, procurement planning exercises were undertaken with all spending units resulting in the annual Judiciary consolidated procurement plan, an instrument that ensured the effective and prudent use of resources in the reporting period.

The directorate is currently working on the final procurement manual for the organization. Once this manual is launched, it will ensure that the internal systems and processes are standardized. In the meantime, the directorate periodically issues procurement guidelines to court stations to ensure compliance.

7.11.2 Contract Management

Contract management is a key component of the procurement process since the hub of all major procurements of goods and works and services in the Judiciary is through tender. The contract management section established in the previous financial period is now operational but requires additional staffing to ensure optimal operation.

7.11.3 ICT Compliance Supply Chain Management Procedures and Processes

So as to be compliant with the new act, a prototype register was prepared, approved and is currently in use as a baseline for developing policy and procedures for the management of the institutions assets. The directorate has ensured that the headquarter is IFMIS compliant and is working with the ICT directorate to put in place the requisite infrastructure at court stations to enable roll out.

7.11.4 Establishment of procurement committees

As part of the decentralization process of supply chain management functions, during the reporting period, the following committees were established in various Court Stations:

Table 7.5: Procurement Committee

Committee	No
Procurement	42
Inspection and Acceptance	27
Disposal	7

The establishment and operationalization of these committees has ensured that procurement exercises are done in a timely and more competitive manner in the courts. The directorate continues to submit statutory reports to the Public Procurement Oversight Authority on a quarterly basis.

ANNEXES

Annex 1: Analysis of Court Users Committees (CuCs) Report, FY2014/155

Stations	No. of Meetings	Achievements	Challenges
Baricho	2	<ul style="list-style-type: none"> • Reduction in numbers of road accidents due to improved services from traffic department • Good working relationship between court and stakeholders • Reduction in the supply and sale of illicit brew. • Increased revenue collection quick disposal of cases • Demystification of court processes and continuous improvement in service delivery 	<ul style="list-style-type: none"> • Securing convenient venues for CUC meetings as the court doesn't have sufficient space. • Implementing of resolutions passed at CUC meetings e.g. construction of women prison and children remand home in Kirinyaga county. • Lack of a government chemist within the county. • Inconsistent CUC membership and attendance due to transfers, leave of absence or other official commitments.
Bomet	4	<ul style="list-style-type: none"> • Improved stakeholder engagement • Sensitizing the public on the law and Court procedures 	<ul style="list-style-type: none"> • Lack of sufficient funds to conduct more public outreaches. • Representatives of the County Government fail to attend the meetings.
Bungoma	2	<ul style="list-style-type: none"> • Greater stakeholder engagement with improved service delivery. • Secured County Government Consent to allocate land for building a High Court Station 	<ul style="list-style-type: none"> • Inadequate funding for planned C.U.C activities. • Lack of sustainable partnerships with key stakeholders.
Busia	4	<ul style="list-style-type: none"> • Better handling and resolution of complaints from stakeholders 	<ul style="list-style-type: none"> • Inadequate funding.
Chuka	2	<ul style="list-style-type: none"> • More stake holders involved 	<ul style="list-style-type: none"> • Inadequate resources and transfer of judicial officers.
Eldoret	4	<ul style="list-style-type: none"> • Public sensitized on role of CUC • Meetings attended without failure • Trainings by ICJ and NALEAP on ADR • Collaboration with other stakeholders. KEMRI to fast tract issues of DNA in Sexual Offence Cases • Formation of task force e.g. children's task force for construction of Child Protection Unit • Reduced number of street children • Partnered with Moi Teaching and Referral Hospital in medical examination and age 	<ul style="list-style-type: none"> • Inadequate funding. • Lack of training of CUC members on human rights and other areas. • Frequent transfers of stakeholders who are active in CUC.

Stations	No. of Meetings	Achievements	Challenges
		assessment issues	
Garissa	4	<ul style="list-style-type: none"> • Enhanced stakeholders engagement • Efficient and timely delivering of justice • Enhanced public/ image • Enhanced public confidence. • Stakeholders and public enlightened on court processes and procedures. • Justice agents especially police and prosecution sensitized on need to avail files in time. • Alternative justice resolution methods promoted • Improved performance • Reduced case backlog 	<ul style="list-style-type: none"> • Nil.
Gatundu	3	<ul style="list-style-type: none"> • Good co-operation among various court users. • Elimination of suspicion among the court users on corruption issues • Expedited hearing and disposal of case 	<ul style="list-style-type: none"> • Failure of some members to attend meetings. • No proper ways of implementing resolutions. • Members not understanding their roles in the CUC.
Homa Bay	2	<ul style="list-style-type: none"> • Managed to bring on board stakeholders who have trained the CUC members on matters to do with HIV Aids, Land and Succession matters, women and child some of the stakeholders include ICJ Kenya, Kelin, LRF among others 	<ul style="list-style-type: none"> • Inadequate funding to carry out its activities. • Inconsistency attendance – some departments keep on changing the officers attending leading to inconsistency of ideas and planning. • Lack of /or incomplete strategic CUC plan. This has arisen from inadequate experts and funds.
Isiolo	4	<ul style="list-style-type: none"> • Involvement of all stakeholders leading to better work output • Encourages teamwork • Faster resolution of cases 	<ul style="list-style-type: none"> • Lack of adequate resources.
Kakamega	2	<ul style="list-style-type: none"> • Improved relation and communication with the stakeholders. • Improved participation in court process by the stakeholders. 	<ul style="list-style-type: none"> • Limited Funding. • Transport for members. • Recommendation made not implemented at the national level. • Judicial Officers overwhelmed with work hence limited time for CUC activities.
Kaloleni	2	<ul style="list-style-type: none"> • Visit St. John Girls 	<ul style="list-style-type: none"> • Time of meetings. • Court proceedings affected as the meetings are held on working days. • Funds to run the meeting is inadequate. • The venue of the meeting is a court room which does not accommodate all the stakeholders.
Kandara	3		<ul style="list-style-type: none"> • Low allocation of funds thus not being able to engage more stakeholders and public barazas. • Inadequate resources and transfer of judicial officers.
Kangema			
Karatina	2	<ul style="list-style-type: none"> • Alternative Dispute Resolutions (ADR) 	<ul style="list-style-type: none"> • Lack of funds.
Kehancha		<ul style="list-style-type: none"> • Members realized that CUC is a national issue • Positive attitude towards team work • Members of CUC are now free to air their views • Members participation in partnership towards application of ADR has worked so much hence reducing the backlog 	<ul style="list-style-type: none"> • Inadequate funds to facilitate CUC, particularly when we travel to Kuria East (Kegongwa an outreach). • Hostility from the community because they usually carry crude weapons during the day which is risky for our members who come from far. • Language barrier for communication purpose. • Traditional ties (FGM) and other negative cultural practices like early marriages. • P3 forms, withdrawal of cases, absconding of accused persons after being given free bond.

Stations	No. of Meetings	Achievements	Challenges
Kerugoya	4	<ul style="list-style-type: none"> • Activities are more coordinated. 	<ul style="list-style-type: none"> • Lack of enough funds in 2014-2015 and 2015-2016.
Kibera			
Kikuyu			
Kilgoris	2	<ul style="list-style-type: none"> • Appreciation from the public on the openness of the Judiciary. • A constructive engagement resulting to cordial work relations. • A tool of awareness on the performance of the Judiciary and the stakeholders. 	<ul style="list-style-type: none"> • This kind of forum is likely to prompt some representative of acting as middle men between litigants and judicial officers. • Proposal for development cannot be achieved due to lack of funds.
Kilifi	4	<ul style="list-style-type: none"> • Prison Visit • Two Trainings 	<ul style="list-style-type: none"> • Lack of resources and funding.
Kwale	4	<ul style="list-style-type: none"> • The committee has managed to bring about cordial working relationship amongst service providers and recipients of the services leading to prompt determination of cases. • The committee has managed to reach out to the community through its outreach program which has enabled the committee to understand the plight of the people while trying to access the services e.g. the cost implication in traveling to the courts, fear by witnesses, and ignorance in interpretation of legal terminologies used in courts. • The committee made bench marking visit to other courts in Taita Taveta county, members exchanged views on how best to improve services. This also motivated members. • Through its leadership and style of execution of its businesses especially our good rapport with recipients of the service - many donors have come forth to fund the activities of the committee. • There is wide sharing of resources amongst members for the common good of service delivery as opposed to rivalry and competition among members. • There is smooth flow of information and policy guidelines amongst members leading to quicker delivery of service. • Through members interaction, the government has saved resources by not convicting immigrants for long period in custody. Instead a mutual agreement was reached whereby they are repatriated to their country immediately. 	<ul style="list-style-type: none"> • Resources remain a challenge to scale up the outreach program. • High poverty index amongst the community members and the large area covered by the court makes it difficult to access the court. • Bureaucracy in both levels of government in delivery of necessary instruments for the rapid response to people's needs, for instance- it has taken long to get title deeds for the construction of courts in Lunga Lunga and Kinango and even High Court in Kwale town. • Need to establish more courts in remote areas.
Machakos	2	<ul style="list-style-type: none"> • Sensitisation of the members of public on the Kadhi's Court at Machakos. • Sensitisation of the court users on Active Case Management. • Visit to the Children Remand Home. • Meeting with stakeholders at Wamunyu to sensitize them on the court procedures. 	
Maralal	4	<ul style="list-style-type: none"> • Successful Judiciary Open day that was held on 18/9/2015. • More cooperation and collaboration from stakeholders. • Fewer adjournments. • Faster conclusions of cases. 	<ul style="list-style-type: none"> • Failure to attend meetings by some stakeholders.
Marimanti	4	<ul style="list-style-type: none"> • Decentralized operations to improve efficiency. 	<ul style="list-style-type: none"> • Lack of more professionals in different duties.

Stations	No. of Meetings	Achievements	Challenges
Marsabit	3	<ul style="list-style-type: none"> • Meeting brings on board all the stakeholders in the justice sector in the county to discuss various issues they share in common and it has been very successful. • The County Government has allocated land for building the High Court. • There have been discussions of the various issues concerning administration of justice and especially in rehabilitation institutions and child rescue centers in the county. • Formalized ADR mechanism within the county is being explored. 	<ul style="list-style-type: none"> • Not all departments attend these meetings regularly dues to other commitments and hence cannot meet the set targets. • Inadequate funding for the CUC. • Marsabit County is very vast and getting stakeholders from far-flung areas to attend CUC meetings is a challenge. • Stakeholders lack inadequate knowledge on the mandate of the CUC.
Mbita	4	<ul style="list-style-type: none"> • Able to sensitize and train members on their roles. • Sensitization seminars at the beaches. • Resolved teething issues on administration of justice. 	<ul style="list-style-type: none"> • Inadequate funding for CUC Activities. • Most members are not conversant of their roles as CUC members.
Migori	8	<ul style="list-style-type: none"> • Establishment of a Mobile court at Nyatike. • Transparency in court operations. • Positive response from the stakeholders towards the court. • Regular CUC meetings translates to smooth administration of justice. • Plans are underway for the establishment of a rescue center for children in Migori County. 	<ul style="list-style-type: none"> • Lack of funds. • Shortage of prosecutors which hampers speedy finalization of cases. • Some major stakeholders such as police are not fully reformed to adhere to the bill of rights. • Lack of remand facilities for young people.
Milimani Criminal	7	<ul style="list-style-type: none"> • Inter-agency coordination, improve service delivery, a unique launch of Milimani HC Criminal CUC at Kamiti Maximum prison presided by the Hon. Chief Justice on 22nd March, 2016. 	<ul style="list-style-type: none"> • Inadequate channel/facilities, irregular attendance by some members. • Lack of resources. • Lack of training for members.
Molo	3	<ul style="list-style-type: none"> • Community cooperation. • Equal access to justice for all. • Reduction of loss of file and case backlogs. • Positive public perception. • Reduced court brokers within court premises. 	<ul style="list-style-type: none"> • No adequate funding. • No space where it accommodates all stakeholders. • Not all stakeholders attend meetings. • Community Illiteracy.
Muranga	5	<ul style="list-style-type: none"> • Training session for CUC on Child Protection and Care held on 25th June 2015. • Formation of the Child Protection and Welfare Committee. • Formulation of the Murang'a Law Courts CUC Strategic Plan 2014-2018 yet to be launched. • Holding meetings on schedule. • Full participation and cooperation of the CUC stakeholders. 	<ul style="list-style-type: none"> • Inadequate policy on legal framework for the entire sector. • Weak operational framework for the CUC and its membership. • Insufficient resources for efficient and effective administration of justice. • Poor co-ordination, monitoring and evaluation of strategies on the administration justice. • Inconsistency of the attendees.
Naivasha			<ul style="list-style-type: none"> •
Nanyuki	4	<ul style="list-style-type: none"> • Reduction in case backlog. • Enhanced co-operation with stake holders. • Better Service delivery. • Reduction in number of people in custody. • Sensitization on children matters. • Special treatment of persons with disability. • Public engagements and prison visits by the CUC members. 	<ul style="list-style-type: none"> • Failure by police to bond witnesses/avail police files. • Failure to provide statements to accused persons in time. • Challenges in availing pre-bail reports. • Frequent and unnecessary adjournments by the prosecution. • Lack of coordination by the various security organs especially in wildlife and environment related matters. • Lack of cells for children and women. • Increased remand population.

Stations	No. of Meetings	Achievements	Challenges
Nyando	2	<ul style="list-style-type: none"> Proposed construction of new court at Nyakach. Remandees are brought to court promptly and on rotational basis from prison by the police stations Proposed construction of new court at Nyakach. Remandees are brought to court promptly and on rotational basis from prison by the police stations. 	<ul style="list-style-type: none"> Limited funds.
Othaya	3	<ul style="list-style-type: none"> Help to iron out the differences in different players of criminal justice system. No cases of missing files. Increased no. of witnesses attending court. P3 Forms filled timely. Prison visit to sensitize our clients on the Criminal Procedures, the rights of accused persons and emerging issues of the new constitution (2010). Donations of food staff and sanitary towels to the Nyeri Women Prison. 	<ul style="list-style-type: none"> Inadequate funding to support CUC programmes. Transfer of CUC members. Delegations to less active members.
Oyugis	5	<ul style="list-style-type: none"> Acquired piece of land for constructing Kendu-Bay court. Establishment of Kendu-bay mobile court. Efficient supervision of children homes which led to closer of one of the children's home which mistreating the minors. Establishment of children rescue centers. 	<ul style="list-style-type: none"> Insufficient funding to construct children home. Lack of CUC members training. Some CUC members send their junior who are not conversant to CUC roles.
Sotik	2	<ul style="list-style-type: none"> Well-coordinated working relationships among the CUC stakeholders. 	<ul style="list-style-type: none"> The funding for CUC is inadequate. It needs to be enhanced so as to improve the facilities accessed by the CUC members.
Taveta	3	<ul style="list-style-type: none"> Improved cooperation among all the stakeholders. Cordial relationship among the stakeholders. Improved service delivery to clients. 	<ul style="list-style-type: none"> Lack of funds to finance proposed projects.
Tawa	3	<ul style="list-style-type: none"> We are able to reach out to the various stakeholders in the justice system. Timely disposal of cases. Some of the problems have been solved in the CUC meetings. 	<ul style="list-style-type: none"> Most of the time we receive our AIE late thereby forcing to postpone our meetings. Limited resources.
Voi	3	<ul style="list-style-type: none"> -Public outreach in public in Mbololo Chief camp by CUC members to discuss defilement and drug issues among others. Engagement by select committee with the County Government and prison department to secure land for children's remand facility. Increased collaboration by all the players in Criminal Justice System resulting to speedy dispensation of justice. Successful launching of Voi High Court Sub-registry. 	<ul style="list-style-type: none"> Lack of finances for purchase of land as well as lack of goodwill from the county government for land allocation. Poverty, illiteracy and retrogressive cultural belief compromise the fight against sexual offenses and drug and alcoholic related cases. Lethargy from some of the players in the justice system leads to backlog. Harsh climatic conditions.

Annex 2A: Initiated Cases and Resolved Cases by High Court Station, FY 2014/15

Court Name						
	Criminal		Civil		Overall	
	IC	RC	IC	RC	IC	RC
Bungoma	460	336	800	393	1,260	729
Busia	154	178	846	610	1,000	788
Eldoret	224	599	572	867	796	1,466
Embu	235	259	847	306	1,082	565

Court Name						
	Criminal		Civil		Overall	
	IC	RC	IC	RC	IC	RC
Garissa	318	299	94	146	412	445
Homa-Bay	356	408	1,131	288	1,487	696
Kakamega	696	506	1,939	1,136	2,635	1,642
Kericho	15	91	40	368	55	459
Kerugoya	334	68	815	908	1,149	976
Kisii	288	286	682	293	970	579
Kisumu	434	415	1,038	758	1,472	1,173
Kitale	402	46	413	478	815	524
Machakos	549	378	1,569	1,021	2,118	1,399
Malindi	290	389	657	635	947	1,024
Meru	220	1,143	733	723	953	1,866
Migori			1,476	2,738	1,476	2,738
Milimani Civil Division			1,476	12,212	1,476	12,212
Milimani Comm. & Admiralty Division			1368	1686	1368	1686
Milimani Const. Law & Human Rights Div	1,183	596			1,183	596
Milimani Criminal Division			1,788	1,237	1,788	1,237
Milimani Environment & Land Division			1,788	2,340	1,788	2,340
Milimani Family Division			1,019	774	1,019	774
Milimani Judicial Review Division	538	280	2,074	670	2,612	950
Mombasa	179	66	922	199	1,101	265
Muranga	2,540	2244	580	208	3120	2452
Naivasha	133	84	1,260	399	1,393	483
Nakuru	107	87	336	150	443	237
Nyeri Court	438	169	360	128	798	297
All High Court Stations (TOTAL)	10,224	8,898	26,891	39,155	37,115	48,460

Annex 2B: Trend Analysis of Pending Cases by Broad Case Type, High Court Stations

Court Name	2012/2013			2013/2014			2014/2015		
	CR	CV	ALL	CR	CV	ALL	CR	CV	ALL
Bungoma	773	2,721	3,494	844	3,467	4,311	968	3,874	4,842
Busia	377	2,687	3,064	516	3,034	3,550	492	3,270	3,762
Eldoret	1,586	4,020	5,606	1,992	5,151	7,143	1,617	4,856	6,473
Embu	345	2,138	2,483	(137)	2,076	1,939	-	2,617	2,617
Garissa	262	171	433	583	213	796	602	161	763
Homa-bay	105	104	209	31	202	233	-	1,045	1,045
Kakamega	799	3,138	3,937	734	3,496	4,230	924	4,299	5,223
Kericho	117	2,662	2,779	232	3,040	3,272	156	2,712	2,868
Kerugoya	428	3,168	3,596	658	4,621	5,279	924	4,528	5,452
Kisii	665	8,130	8,795	690	9,146	9,836	692	9,535	10,227
Kisumu	699	3,730	4,429	1,088	5,476	6,564	1,107	5,756	6,863
Kitale	159	3,989	4,148	345	4,372	4,717	701	4,307	5,008
Machakos	420	982	1,402	1,154	1,621	2,775	1,325	2,169	3,494
Malindi	364	776	1,140	389	766	1,155	290	788	1,078
Meru	759	4,043	4,802	919	4,828	5,747	-	4,838	4,838
Migori				-	-	-	20	186	206
Milimani Civil Division		32,138	32,138	-	33,118	33,118	-	21,975	21,975
Milimani Comm. & Admiralty		6,422	6,422	-	7,275	7,275	-	6,957	6,957
Milimani Const. Law & Human Rights Div		406	406	-	343	343	-	343	343
Milimani Criminal Division	2,681		2,681	2,611	-	2,611	3,198	-	3,198
Milimani Environ. & Land Div		2,632	2,632	-	3,853	3,853	-	7297	7297
Milimani Family Division		24,968	24,968	-	26,552	26,552	-	18,917	18,917
Milimani Judicial Review Div		1,214	1,214	-	1,130	1,130	-	1,375	1,375
Mombasa	490	4,439	4,929	594	4,976	5,570	852	6,380	7,232
Muranga	476	946	1,422	503	970	1,473	799	1,342	2,141
Naivasha							269	232	501
Nakuru	1,555	7,857	9,412	2,357	9,389	11,746	2,630	9,820	12,450
Nyeri	606	4,215	4,821	1,135	6,013	7,148	1,184	6,874	8,058
All High Court Stations (TOTAL)	13,666	127,696	141,362	17,238	145,128	162,366	18,750	136,453	155,203

Annex 2C: Trend in Case Clearance Rate by High Court Station

	CCR	
	2013/14	2014/15
Bungoma	46%	58%
Busia	58%	79%
Eldoret	44%	184%
Embu	137%	52%
Garissa	25%	108%
Homa-Bay	95%	47%
Kakamega	90%	62%
Kericho	29%	835%
Kerugoya	15%	85%
Kisii	40%	60%
Kisumu	41%	80%
Kitale	44%	64%
Machakos	52%	66%
Malindi	96%	108%
Meru	64%	196%
Migori	-	53%
Milimani Civil Division	36%	855%
Milimani Comm. & Admiralty Division	35%	123%
Milimani Const. Law & Human Rights Div	112%	50%
Milimani Criminal Division	106%	69%
Milimani Environment & Land Division	18%	131%
Milimani Family Division	66%	76%
Milimani Judicial Review Division	117%	36%
Mombasa	52%	24%
Muranga	24%	79%
Naivasha	-	35%
Nakuru	46%	53%
Nyeri	0%	37%
All High Court stations	59%	131%

Annex 2D: Initiated and Resolved Cases, Magistrates' Courts

Magistrate Court	2013/2014						2014/2015					
	CR		CV		ALL		CR		CV		ALL	
	IC	RC	IC	RC	IC	RC	IC	RC	IC	RC	IC	RC
Baricho	1,550	1,296	104	32	1,654	1,328	3,384	3,290	3,596	3,373	6,980	6,663
Bomet	2,032	1,417	236	0	2,268	1,417	1,825	1,716	184	0	2,009	1,716
Bondo	1,402	753	74	10	1,476	763	711	440	150	19	861	459
Bungoma	4,899	3,939	1,626	765	6,525	4,704	2,287	1,533	457	1,078	2,745	2,611
Busia	4,236	3,664	566	536	4,802	4,200	4,521	3,659	489	88	5,010	3,747
Butali	1,029	863	272	29	1,301	892	671	564	240	98	911	661
Butere	687	551	205	236	892	787	658	522	267	90	925	612
Chuka	1,787	1,690	487	435	2,274	2,125	1,477	1,380	459	316	1,936	1,696
Eldama Ravine	1,940	1,679	84	84	2,024	1,763	170	1,556	264	105	434	1,661
Eldoret	10,957	5,310	919	402	11,876	5,712	1,225	7,591	875	270	2,100	7,861
Embu	1,942	1,699	340	99	2,282	1,798	504	313	248	184	752	497
Engineer	1,665	1,473	86	10	1,751	1,483	1,439	265	1,032	39	2,471	304
Garissa	2,649	1,932	73	23	2,722	1,955	1,222	1,045	71	62	1,292	1,107
Garsen	451	349	61	49	512	398	175	87	8	2	183	89
Gatundu	1,746	1,417	326	14	2,072	1,431	2,332	1,283	324	87	2,656	1,370
Gichugu	930	1,260	27	12	957	1,272	544	346	94	504	638	851
Githunguri	1,841	1,690	246	56	2,087	1,746	184	167	154	116	338	283
Hamisi	1,186	871	38	4	1,224	875	887	753	86	103	973	857
Hola	311	296	15	11	326	307	108	176	7	4	114	181
Homabay	2,410	2,123	179	243	2,589	2,366	1,167	880	136	659	1,304	1,539
Isiolo	926	887	79	23	1,005	910	667	511	124	116	791	627
Iten	3,420	3,179	74	29	3,494	3,208	2,791	1,197	67	12	2,859	1,209
Kabarnet	1,319	1,684	103	43	1,422	1,727	954	591	36	126	991	717
Kajiado	2,127	2,055	226	426	2,353	2,481	1,135	848	827	178	1,963	1,026
Kakamega	5,546	2,568	472	459	6,018	3,027	4,481	3,883	584	379	5,065	4,262
Kaloleni	359	263	148	32	507	295	384	214	82	82	466	296
Kandara	617	347	315	219	932	566	202	345	234	90	436	435
Kangema	1,857	1,678	51	30	1,908	1,708	1,228	1,102	33	36	1,261	1,138
Kangundo	1,045	998	192	54	1,237	1,052	1,351	863	210	57	1,561	920
Kapenguria	1,938	1,474	36	126	1,974	1,600	2,692	2,130	23	90	2,715	2,220
Kapsabet	5,258	4,825	415	280	5,673	5,105	3,301	3,748	457	209	3,758	3,957
Karatina	2,697	2,549	280	323	2,977	2,872	3,115	3,015	290	394	3,405	3,409
Kehancha	1,013	627	31	19	1,044	646	301	127	56	42	357	169

Magistrate Court	2013/2014						2014/2015					
	CR		CV		ALL		CR		CV		ALL	
	IC	RC	IC	RC	IC	RC	IC	RC	IC	RC	IC	RC
Kericho	4,805	4,354	496	160	5,301	4,514	4,831	4,433	63	15	4,894	4,448
Keroka	2,066	1,919	280	88	2,346	2,007	1,827	1,455	337	177	2,164	1,632
Kerugoya	1,010	492	419	304	1,429	796	667	512	124	11	791	523
Kiambu	5,448	4,840	610	483	6,058	5,323	1,550	1,229	447	179	1,997	1,408
Kibera	4,996	3,169	0	0	4,996	3,169	4,379	591	4,182	591	8,561	1,182
Kigumo	3,303	2,187	194	45	3,497	2,232	2,327	2,013	2,623	2,099	4,950	4,112
Kikuyu	2,305	1,934	368	164	2,673	2,098	2,697	2,362	623	373	3,320	2,735
Kilgoris	2,171	1,843	73	42	2,244	1,885	1,915	880	214	167	2,129	1,047
Kilifi	890	388	323	365	1,213	753	76	39	342	103	709	274
Kilungu	533	475	130	33	663	508	533	261	176	14	2,961	2,375
Kimili	2,479	2,174	105	32	2,584	2,206	2,768	2,309	193	66	4,564	2,576
Kisii	4,473	4,083	447	83	4,920	4,166	3,911	2,213	653	363	1,278	673
Kisumu	2,564	2,109	1,118	1,188	3,682	3,297	889	621	389	52	7,043	6,256
Kitale	6,004	3,594	556	471	6,560	4,065	6,668	6,150	375	106	1,712	1,676
Kithimani	1,750	1,544	271	18	2,021	1,562	1,346	1,522	367	154	1,475	5,220
Kitui	1,655	1,169	347	262	2,002	1,431	1,132	1,178	344	4,042	2,615	1,986
Kwale	2,704	2,392	335	69	3,039	2,461	2,300	1,842	315	144	473	377
Kyuso	482	457	120	61	602	518	370	346	104	30	743	607
Lamu	511	414	43	13	554	427	700	592	43	15	3,130	1,464
Limuru	2,339	2,260	687	437	3,026	2,697	2,446	1,252	684	212	1,017	497
Lodwar	1,012	635	9	1	1,021	636	956	491	61	6	1,771	1,273
Machakos	1,935	1,930	854	434	2,789	2,364	1,294	799	477	474	8,365	5,425
Makadara	14,843	7,566	0	0	14,843	7,566	8,365	5,425	0	0	4,337	2,611
Makindu	3,302	2,538	453	232	3,755	2,770	3,870	2,542	467	70	1,090	775
Makuueni	1,617	1,613	349	311	1,966	1,924	1,365	1,077	1,612	1,122	395	211
Malindi	1,503	856	463	711	1,966	1,567	1,486	637	89	25	2,353	1,257
Mariakani	2,631	2,075	400	17	3,031	2,092	1,886	1,083	467	174	686	495
Marimanti	857	868	59	33	916	901	640	474	46	21	4,205	2,092
Maseno	2,015	1,323	257	33	2,272	1,356	3,877	2,022	327	70	3,900	3,016
Maua	5,828	5,554	474	220	6,302	5,774	3,660	2,975	240	41	395	211
Mavoko	4,635	3,880	1,157	381	5,792	4,261	385	186	10	25	2,560	1,284
Meru	3,803	2,089	677	282	4,480	2,371	2,001	1,181	559	103	709	274
Migori	1,370	1,393	562	833	1,932	2,226	1,445	822	4	284	1,449	1,106
Milimani Anti-Corruption	27	9	-	-	27	9	10	2	0	0	10	2
Milimani Children's	684	556	1,911	365	2,595	921	110	112	1,898	765	2,008	877
Milimani Commercial			4,550	7,989	4,550	7,989	0	0	8,831	10,148	8,831	10,148
Milimani Magistrate	28,902	25,082	0	0	28,902	25,082	12,190	6,037	0	0	12,190	6,037
Molo	7,110	7,056	290	151	7,400	7,207	7,073	685	5,634	78	12,707	763
Mombasa	2,955	2,495	3,007	552	5,962	3,047	3,511	2,623	1,625	181	5,136	2,804
Mumias	2,043	1,577	355	232	2,398	1,809	1,869	1,638	225	86	2,094	1,724
Mukurweini	730	703	64	46	794	749	790	352	20	101	810	453
Muranga	2,577	1,866	438	308	3,015	2,174	1,453	562	556	163	2,009	725
Mutomo	625	570	171	161	796	731	490	236	122	17	612	253
Mwingi	1,114	976	132	36	1,246	1,012	1,139	864	1,034	150	2,174	1,014
Nairobi City					0	0	0	0	0	0	0	0
Naivasha	12,919	12,206	806	105	13,725	12,311	3,130	1,871	543	314	3,673	2,184
Nakuru	9,198	7,115	2,134	396	11,332	7,511	5,296	3,806	8,924	9,377	14,221	13,183
Nanyuki	1,497	1,625	129	92	1,626	1,717	1,743	1,494	161	47	1,904	1,541
Narok	4,014	3,070	254	74	4,268	3,144	2,909	2,023	171	30	3,080	2,053
Ndhiwa	633	477	43	5	676	482	339	277	77	25	416	302
Nkubu	2,434	1,878	146	26	2,580	1,904	1,596	1,103	60	65	1,656	1,168
Nyahururu	3,921	3,046	310	133	4,231	3,179	1,361	1,421	391	126	1,752	1,547
Nyamira	1,876	1,611	306	122	2,182	1,733	1,445	1,236	1,646	191	3,091	1,427
Nyando	2,396	2,169	233	130	2,629	2,299	2,562	2,326	241	29	2,803	2,355
Nyeri	1,720	1,541	447	361	2,167	1,902	20024	17,033	4,245	1,890	24,269	18,923
Ogumbo	2,241	1,168	275	73	2,516	1,241	2,124	1,201	2,774	1,211	4,898	2,412
Othaya	498	373	46	23	544	396	666	635	211	191	877	826
Oyugis	2,167	1,612	124	78	2,291	1,690	530	482	215	77	745	559
Rongo	947	595	329	67	1,276	662	889	575	389	52	1,278	627
Runyenjes	854	728	90	72	944	800	272	188	199	165	471	353
Shanzu	1,893	1,125		0	1,893	1,125	2,057	1,538	0	0	2,057	1,538
Siakago	1,470	1,175	79	15	1,549	1,190	1,107	872	1,237	964	2,344	1,836
Siaya	1,102	1,060	138	53	1,240	1,113	1,037	531	306	65	1,343	596
Sirisia	1,314	814	23	43	1,337	857	1,458	920	79	192	1,537	1,112
Sotik	3,218	2,675	420	129	3,638	2,804	2,189	1,574	379	122	2,568	1,696
Tamu	518	357	64	0	582	357	188	165	70	31	258	196

Magistrate Court	2013/2014						2014/2015					
	CR		CV		ALL		CR		CV		ALL	
	IC	RC	IC	RC	IC	RC	IC	RC	IC	RC	IC	RC
Taveta	674	457	62	23	736	480	550	382	83	44	633	426
Tawa	524	439	285	249	809	688	449	428	331	140	780	568
Thika	10,547	9,354	1,096	1,592	11,643	10,946	3,876	2,361	926	294	4,802	2,655
Tigania	2,437	1,823	176	172	2,613	1,995	2,748	2,264	196	12	2,944	2,275
Tononoka	352	237	563	207	915	444	57	27	525	100	582	127
Ukwala	778	817	57	15	835	832	916	455	130	34	1,046	489
Vihiga	1,782	1,654	195	600	1,977	2,254	1,258	733	362	402	1,620	1,135
Voi	1,947	1,767	227	222	2,174	1,989	1,973	1,894	218	6	2,191	1,900
Wajir	673	571	18	4	691	575	153	262	66	131	219	393
Wanguru	1,122	786	174	112	1,296	898	1,068	717	571	245	1,639	962
Webuye	2,569	2,205	228	59	2,797	2,264	3,653	2,202	610	56	4,263	2,258
Winam	1,749	1,163	162	127	1,911	1,290	1,486	985	349	92	1,835	1,077
Wundanyi	801	690	128	25	929	715	698	561	92	40	790	601
Maralal	876	828	47	11	923	839	687	395	13	47	701	442
Githongo	952	793	36	6	988	799	173	131	7	3	180	133
Kakuma	317	87	0	0	317	87	75	56	53	28	127	83
Mandera	288	242	152	113	440	355	520	281	39	2	560	283
Marsabit	924	628	30	2	954	630	658	284	30	16	688	300
Moyale	231	260	18	10	249	270	111	82	247	1	358	83
Mbita					0	0	1,229	534	530	41	1,759	575
All Magistrates' Courts(TOTAL)	304,751	243,634	41,990	28,305	346,741	271,939	206,529	167,074	76,758	48,921	283,287	215,994

Annex 2E: Pending Cases, Magistrates' Courts

Magistrate Courts	Pending Cases as at 30th June, 2013			Pending as at 30th June, 2014			Pending as at 30th June, 2015		
	CR	CV	ALL	CR	CV	ALL	CR	CV	ALL
Baricho	288	72	360	542	144	686	636	367	1,003
Bomet	1,079	1,042	2,121	1,694	1,278	2,972	1,803	1,462	3,265
Bondo	129	135	264	778	199	977	1,049	330	1,379
Bungoma	4,020	3,141	7,161	4,980	4,002	8,982	5,734	3,381	9,115
Busia	302	2,172	2,474	874	2,202	3,076	1,736	2,603	4,339
Butali	196	415	611	362	658	1,020	469	800	1,270
Butere	131	736	867	267	705	972	403	882	1,285
Chuka	690	1,025	1,715	787	1,077	1,864	884	1,220	2,104
Eldama Ravine	65	279	344	326	279	605	-	438	438
Eldoret	1,344	3,104	4,448	6,991	3,621	10,612	625	4,226	4,851
Embu	493	282	775	736	523	1,259	927	587	1,514
Engineer	39	52	91	231	128	359	1,405	1,121	2,526
Garissa	224	82	306	941	132	1,073	1,118	141	1,258
Garsen	81	55	136	183	67	250	271	73	344
Gatundu	364	1,425	1,789	693	1,737	2,430	1,742	1,974	3,716
Gichugu	151	276	427				198	-	198
Githunguri	205	1,456	1,661	356	1,646	2,002	373	1,684	2,057
Hamisi	294	354	648	609	388	997	743	370	1,113
Hola	11	13	24	26	17	43	-	19	19
Homabay	399	493	892	686	429	1,115	973	-	973
Isiolo	167	154	321	206	210	416	362	218	580
Iten	2,181	419	2,600	2,422	464	2,886	4,016	520	4,536
Kabarnet	121	220	341				363	-	363
Kajiado	758	2,379	3,137	830	2,179	3,009	1,117	2,828	3,945
Kakamega	1,301	1,880	3,181	4,279	1,893	6,172	4,877	2,098	6,975
Kaloreni	147	531	678	243	647	890	413	647	1,060
Kandara	142	580	722	412	676	1,088	269	820	1,089
Kangema	127	294	421	306	315	621	432	312	744
Kangundo	218	384	602	265	522	787	752	676	1,428
Kapenguria	287	239	526	751	149	900	1,313	82	1,395
Kapsabet	1,007	1,632	2,639	1,440	1,767	3,207	993	2,015	3,009
Karatina	157	498	655	305	455	760	405	351	756
Kehancha	224	295	519	610	307	917	784	321	1,105
Kericho	565	1,514	2,079	1,016	1,850	2,866	1,414	1,898	3,312
Keroka	292	554	846	439	746	1,185	811	906	1,717
Kerugoya	317	2,496	2,813	835	2,611	3,446	990	2,724	3,714
Kiambu	868	2,180	3,048	1,476	2,307	3,783	1,796	2,575	4,371
Kibera	3,579	0	3,579	5,406	0	5,406	9,194	3,591	12,785
Kigumo	391	875	1,266	1,507	1,024	2,531	1,821	1,548	3,369
Kikuyu	429	1,735	2,164	800	1,939	2,739	1,135	2,189	3,324
Kilgoris	265	102	367	593	133	726	1,628	180	1,808
Kilifi	667	2,893	3,560	1,169	2,851	4,020	1,206	3,090	4,295

Magistrate Courts	Pending Cases as at 30th June, 2013			Pending as at 30th June, 2014			Pending as at 30th June, 2015		
	CR	CV	ALL	CR	CV	ALL	CR	CV	ALL
Kilungu	78	160	238	136	257	393	408	419	828
Kimilili	1,091	262	1,353	1,396	335	1,731	1,855	462	2,317
Kisii	541	2,147	2,688	931	2,511	3,442	2,630	2,801	5,430
Kisumu	570	3,895	4,465	1,025	3,825	4,850	1,293	4,162	5,455
Kitale	1,305	2,210	3,515	3,715	2,295	6,010	4,233	2,564	6,797
Kithimani	230	598	828	436	851	1,287	260	1,064	1,324
Kitui	2,010	5,142	7,152	2,496	5,227	7,723	2,450	1,529	3,979
Kwale	761	1,253	2,014	1,073	1,519	2,592	1,531	1,690	3,221
Kyuso	70	73	143	95	132	227	118	205	324
Lamu	200	107	307	297	137	434	405	165	570
Limuru	518	2,482	3,000	597	2,732	3,329	1,791	3,204	4,994
Lodwar	245	75	320	622	83	705	1,087	138	1,225
Machakos	661	4,994	5,655	666	5,414	6,080	1,160	5,417	6,577
Makadara	4,672		4,672	11,949	0	11,949	14,889	0	14,889
Makindu	471	232	703	1,235	453	1,688	2,563	850	3,413
Makueni	348	596	944	352	634	986	640	1,124	1,764
Malindi	944	1,523	2,467	1,591	1,275	2,866	2,440	1,339	3,779
Mariakani	524	241	765	1,080	624	1,704	1,883	917	2,800
Marimanti	106	6	112	95	32	127	261	57	318
Maseno	620	1,614	2,234	1,312	1,838	3,150	3,167	2,096	5,263
Maua	1,969	1,146	3,115	2,243	1,400	3,643	2,927	1,599	4,527
Mavoko	967	1,115	2,082	1,722	1,891	3,613	1,921	1,875	3,797
Meru	692	3,252	3,944	2,406	3,647	6,053	3,226	4,103	7,329
Migori	384	2,705	3,089	361	2,434	2,795	984	2,154	3,138
Milimani Ant-Corruption	78	0	78	96	0	96	104	0	104
Milimani Childrens		7,000	7,000	128	8,546	8,674	126	9,679	9,805
Milimani Commercial		32,506	32,506	0	29,067	29,067	0	27,750	27,750
Milimani Magistrate	2,304	949	3,253	6,124	949	7,073	12,277	949	13,226
Molo	866	1,414	2,280	920	1,553	2,473	7,308	7,109	14,417
Mombasa	11,509	21,539	33,048	11,969	23,994	35,963	12,857	25,437	38,295
Mumias	485	1,725	2,210	951	1,848	2,799	1,182	1,987	3,169
Mukurwe-ini	35	72	107	62	90	152	500	8	508
Muranga	894	2,681	3,575	1,605	2,811	4,416	2,496	3,203	5,700
Mutumo	38	109	147	93	119	212	346	224	571
Mwingi	203	1,390	1,593	341	1,486	1,827	616	2,370	2,986
Nairobi City	0	889	889	0	889	889	0	889	889
Naivasha	546	2,868	3,414	1,259	3,569	4,828	2,519	3,798	6,317
Nakuru	2,999	16,897	19,896	5,082	18,635	23,717	6,572	18,182	24,754
Nanyuki	603	515	1,118	475	552	1,027	724	666	1,390
Narok	765	1,284	2,049	1,709	1,464	3,173	2,595	1,605	4,200
Ndhiwa	62	137	199	218	175	393	280	227	507
Nkubu	688	434	1,122	1,244	554	1,798	1,737	549	2,286
Nyahururu	1,041	2,088	3,129	1,916	2,265	4,181	1,856	2,530	4,386
Nyamira	494	508	1,002	759	692	1,451	968	2,147	3,115
Nyando	398	3,160	3,558	625	3,263	3,888	861	3,475	4,336
Nyeri	517	3,969	4,486	696	4,055	4,751	3,687	6,410	10,097
Ogembo	716	1,294	2,010	1,789	1,496	3,285	2,712	3,059	5,771
Othaya	83	30	113	208	53	261	239	73	312
Oyugis	479	982	1,461	1,034	1,028	2,062	1,082	1,166	2,248
Rongo	413	332	745	765	594	1,359	1,079	931	2,010
Runyenjes	33	255	288	159	273	432	243	307	550
Shanzu	470		470	1,238	0	1,238	1,757	0	1,757
Siakago	468	99	567	763	163	926	998	436	1,434
Siaya	209	244	453	251	329	580	757	570	1,327
Sirisia	169	80	249	669	60	729	1,207	-	1,207
Sotik	341	874	1,215	884	1,165	2,049	1,499	1,422	2,921
Tamu	35	286	321	196	350	546	219	389	608
Taveta	86	53	139	303	92	395	471	131	602
Tawa	31	123	154	116	159	275	137	350	487
Thika	1,537	4,580	6,117	2,730	4,084	6,814	4,245	4,716	8,961
Tigania	1,155	647	1,802	1,769	651	2,420	2,254	835	3,089
Tononoka	27	1,271	1,298	142	1,627	1,769	172	2,052	2,224
Ukwala	363	82	445	324	124	448	786	219	1,005
Vihiga	478	2,182	2,660	606	1,777	2,383	1,132	1,736	2,868
Voi	185	688	873	365	693	1,058	444	905	1,349
Wajir	157	63	220	259	77	336	150	12	162
Wanguru	213	822	1,035	549	884	1,433	900	1,210	2,110
Webuye	682	1,283	1,965	1,046	1,452	2,498	2,497	2,006	4,503
Winam	366	3,886	4,252	952	3,921	4,873	1,453	4,178	5,631
Wundanyi	63	92	155	174	195	369	311	247	558

Magistrate Courts	Pending Cases as at 30th June, 2013			Pending as at 30th June, 2014			Pending as at 30th June, 2015		
	CR	CV	ALL	CR	CV	ALL	CR	CV	ALL
Maralal				48	36	84	340	2	342
Githongo				159	30	189	202	34	236
Kakuma				230	0	230	249	25	274
Mandera				46	39	85	285	76	361
Marsabit				296	28	324	670	42	712
Moyale							29	246	275
Mbita							695	488	1,184
Total	77,976	196,673	274,649	139,545	209,779	349,324	200,127	238,264	438,391

Annex 2F: CCR for Magistrates Court January to June 2015, DCRT Data

Case Type	CCR
Criminal Cases	
Abortion, Infanticide, Concealing Birth, Killing Unborn Child	
Alarming Publications	0%
Arson, Setting Fire to Crops and Offences Allied to Arson	43%
Attempted Murder, Suicide and Related Offenses	43%
Attempted Robbery	62%
Burglary, Housebreaking, Entering Dwelling-House with Intent to Commit Felony and Similar Offences	52%
Child in Conflict with The Law	38%
Child Stealing	77%
Corruption and Integrity	38%
Counterfeiting Trademarks	54%
Creating Disturbance, Drunk and Disorderly, Affray, Unlawful Assembly, Riots, And Other Offenses Against Public Tranquility	73%
Criminal Negligence, Recklessness, Nuisances	46%
Criminal Trespass, Forceable Detainer	54%
Fraud, Forgery (Including Coining), Obtaining by False Pretenses, Treachery, Personation, Frauds by Trustees and Persons in A Position of Trust and False Accounting	51%
Grievous Harm, Assault Causing Actual Bodily Harm, Common Assault	52%
Inquest	52%
Kidnapping, Abduction, Detention of Female for Immoral Purposes	48%
Libel, Defamation, Slander	45%
Malicious Damage, Injury to Property, Goods Etc.	53%
Manslaughter	37%
Miscellaneous Criminal Applications	18%
Obstruction of Justice: Perjury, Conspiracy to Defeat Justice, Escapes from Custody, Resisting Arrest and Miscellaneous Offenses Against the Administration of Justice And Public Authority	46%
Offences Allied to Morality Including Prostitution, Bigamy, Marriage with Fraudulent Intent	57%
Offences Relating to Alcoholic Drinks Control and Licensing	76%
Offenses Under Public Health Act	78%
Other Criminal Cases	58%
Possession of Firearms, Explosives and Related	65%
Possession of Narcotic Drugs and Psychotropic Substances	62%
Preparations/Conspiracy to Commit Felony, Neglect to Prevent a Felony, Unlawful Oaths, Threats to Kill	64%
Robbery	28%
Robbery with Violence	58%
Sexual Offenses (Defilement, Attempted Defilement, Rape, Gang Rape, Incest, Indecent Acts with A Child or Adult, Sexual Harassment and Others)	49%
Stealing, stealing by Agent, stealing by Servant and Offences Allied Stealing	44%
Stock Theft, And Injuring, Killing or Maiming of a Domestic Animal with Intent to Steal	53%
Terrorism, Piracy and Related Offenses	58%
Theft, stealing by Servant, Handling Stolen or Suspected Stolen Property/Goods, Possession of Government/Public Stores, And Related Offenses	53%
Traffic	68%
Wildlife and Forestry Offenses	49%
Sub-Total	64%
Civil Cases	
Adoption	64%
Bankruptcy and Winding Up Causes	46%
Children in Need of Care and Protection, Including Orphaned And Vulnerable Children, Children Subjected To Harmful Cultural Practices (Fgm And Early Marriages), Torture, Prostitution, Trafficking, And Other Offenses Under The Children's Act	53%
Collective Bargaining Agreements (CBAs)	22%
Commercial	77%
Divorce	102%
Etc Miscellaneous Cases	91%
Environment and Land Cases (ELC)	65%
Matrimonial Property Dispute	15%
Miscellaneous Civil Applications	11%
Miscellaneous Commercial Applications	106%
Other Civil Case	123%
Personal Injury (Running Down)	255%

Case Type	CCR
Personal Injury (Workmen's Compensation)	200%
Succession (Probate & Administration - P&A)	101%
Sub-Total	92%

Annex 2F: Case Clearance Rate, Magistrates' Courts

Magistrate Court	CCR 2013/14			CCR 2014/15		
	CR	CV	ALL	CR	CV	ALL
Baricho	84%	31%	80%	97%	94%	95%
Bomet	70%	0%	62%	94%	0%	85%
Bondo	54%	14%	52%	62%	12%	53%
Bungoma	80%	47%	72%	67%	236%	95%
Busia	86%	95%	87%	81%	18%	75%
Butali	84%	11%	69%	84%	41%	73%
Butere	80%	115%	88%	79%	34%	66%
Chuka	95%	89%	93%	93%	69%	88%
Eldama Ravine	87%	100%	87%	915%	40%	383%
Eldoret	48%	44%	48%	620%	31%	374%
Embu	87%	29%	79%	62%	74%	66%
Engineer	88%	12%	85%	18%	4%	12%
Garissa	73%	32%	72%	86%	88%	86%
Garsen	77%	80%	78%	50%	25%	48%
Gatundu	81%	4%	69%	55%	27%	52%
Gichugu	135%	44%	133%	64%	538%	133%
Githunguri	92%	23%	84%	91%	75%	84%
Hamisi	73%	11%	71%	85%	121%	88%
Hola	95%	73%	94%	164%	63%	158%
Homa Bay	88%	136%	91%	75%	483%	118%
Isiolo	96%	29%	91%	77%	94%	79%
Iten	93%	39%	92%	43%	17%	42%
Kabarnet	128%	42%	121%	62%	349%	72%
Kajiado	97%	188%	105%	75%	21%	52%
Kakamega	46%	97%	50%	87%	65%	84%
Kaloleni	73%	22%	58%	56%	100%	64%
Kandara	56%	70%	61%	171%	38%	100%
Kangema	90%	59%	90%	90%	109%	90%
Kangundo	96%	28%	85%	64%	27%	59%
Kapenguria	76%	350%	81%	79%	389%	82%
Kapsabet	92%	67%	90%	114%	46%	105%
Karatina	95%	115%	96%	97%	136%	100%
Kehancha	62%	61%	62%	42%	75%	47%
Kericho	91%	32%	85%	92%	24%	91%
Keroka	93%	31%	86%	80%	53%	75%
Kerugoya	49%	73%	56%	77%	9%	66%
Kiambu	89%	79%	88%	79%	40%	71%
Kibera	63%	-	63%	13%	14%	14%
Kigumo	66%	23%	64%	87%	80%	83%
Kikuyu	84%	45%	78%	88%	60%	82%
Kilgoris	85%	58%	84%	46%	78%	49%
Kilifi	44%	113%	62%	52%	30%	34%
Kilungu	89%	25%	77%	49%	8%	39%
Kimilili	88%	30%	85%	83%	34%	80%
Kisii	91%	19%	85%	57%	56%	56%
Kisumu	82%	106%	90%	70%	13%	53%
Kitale	60%	85%	62%	92%	28%	89%
Kithimani	88%	7%	77%	113%	42%	98%
Kitui	71%	76%	71%	104%	1176%	354%
Kwale	88%	21%	81%	80%	46%	76%
Kyuso	95%	51%	86%	94%	29%	80%
Lamu	81%	30%	77%	85%	35%	82%
Limuru	97%	64%	89%	51%	31%	47%
Lodwar	63%	11%	62%	51%	9%	49%
Machakos	100%	51%	85%	62%	99%	72%
Makadara	51%	-	51%	65%	-	65%
Makindu	77%	51%	74%	66%	15%	60%
Makuwei	100%	89%	98%	79%	70%	74%
Malindi	57%	154%	80%	43%	28%	42%
Mariakani	79%	4%	69%	57%	37%	53%
Marimanti	101%	56%	98%	74%	46%	72%
Maseno	66%	13%	60%	52%	21%	50%
Maua	95%	46%	92%	81%	17%	77%
Mavoko	84%	33%	74%	48%	258%	53%

Magistrate Court	CCR 2013/14			CCR 2014/15		
	CR	CV	ALL	CR	CV	ALL
Meru	55%	42%	53%	59%	18%	50%
Migori	102%	148%	115%	57%	7100%	76%
Milimani Ant-Corruption	33%	-	33%	25%	-	25%
Milimani Childrens	81%	19%	35%	25%	-	25%
Milimani Commercial	-	176%	176%	-	115%	115%
Milimani Magistrate	87%	-	87%	50%	-	50%
Molo	99%	52%	97%	10%	1%	6%
Mombasa	84%	18%	51%	75%	11%	55%
Mumias	77%	65%	75%	88%	38%	82%
Mukurwe-ini	96%	72%	94%	45%	513%	56%
Muranga	72%	70%	72%	39%	29%	36%
Mutumo	91%	94%	92%	48%	14%	41%
Mwingi	88%	27%	81%	76%	15%	47%
Nairobi City	-	-	-	-	-	-
Naivasha	94%	13%	90%	60%	58%	59%
Nakuru	77%	19%	66%	72%	105%	93%
Nanyuki	109%	71%	106%	86%	29%	81%
Narok	76%	29%	74%	70%	18%	67%
Ndhiwa	75%	12%	71%	82%	32%	73%
Nkubu	77%	18%	74%	69%	108%	71%
Nyahururu	78%	43%	75%	104%	32%	88%
Nyamira	86%	40%	79%	86%	12%	46%
Nyando	91%	56%	87%	91%	12%	84%
Nyeri	90%	81%	88%	85%	45%	78%
Ogembo	52%	27%	49%	57%	44%	49%
Othaya	75%	50%	73%	95%	91%	94%
Oyugis	74%	63%	74%	91%	36%	75%
Rongo Court	63%	20%	52%	65%	13%	49%
Runyenes	85%	80%	85%	69%	83%	75%
Shanzu	59%	-	59%	75%	0%	75%
Siakago	80%	19%	77%	79%	78%	78%
Siaya	96%	38%	90%	51%	21%	44%
Sirisia	62%	187%	64%	63%	244%	72%
Sotik	83%	31%	77%	72%	32%	66%
Tamu	69%	0%	61%	88%	44%	76%
Taveta	68%	37%	65%	69%	53%	67%
Tawa	84%	87%	85%	95%	42%	73%
Thika	89%	145%	94%	61%	32%	55%
Tigania	75%	98%	76%	82%	6%	77%
Tononoka	67%	37%	49%	47%	19%	22%
Ukwala	105%	26%	100%	50%	27%	47%
Vihiga	93%	308%	114%	58%	111%	70%
Voi	91%	98%	91%	96%	3%	87%
Wajir	85%	22%	83%	171%	199%	180%
Wanguru	70%	64%	69%	67%	43%	59%
Webuye	86%	26%	81%	60%	9%	53%
Winam	66%	78%	68%	66%	26%	59%
Wundanyi	86%	20%	77%	80%	43%	76%
Maralal	95%	23%	91%	58%	356%	63%
Githongo	83%	17%	81%	75%	42%	74%
Kakuma	27%	-	27%	75%	52%	65%
Mandera	84%	74%	81%	54%	5%	51%
Marsabit Law	68%	7%	66%	43%	54%	44%
Moyale	113%	56%	108%	74%	0%	23%
Mbita	-	-	-	43%	8%	33%
All Magistrates' Courts	80%	67%	78%	81%	64%	76%

Annex 2G: Initiated and Resolved Cases, Kadhis' Courts

Kadhi Court	2013/14		2014/15	
	IC	RC	IC	RC
Kilifi	44	26	15	11
Kitale	6	2	10	9
Kwale	440	321	169	47
Lamu	47	41	81	70
Malindi	68	43	14	17
Mandera	241	227	105	100
Marsabit	80	71	0	0
Mombasa	528	320	210	350
Moyale	40	28	0	0
Nairobi	329	275	328	294
Thika	57	53	24	23
Voi	227	222	11	5
Garissa	278	442	68	74
Garsen	35	31	66	57
Hola	56	45	101	79
Kajiado	6	2	0	0
Nyeri	31	25	0	0
Bungoma	88	72	53	56
Eldoret	32	46	4	7
Isiolo	42	13	0	0
Kakamega	185	195	0	0
Kibera	-	-	0	0
Kitui	-	-	56	49
Lodwar	-	-	0	0
Machakos	8	5	56	49
Wajir	407	403	0	0
Kisumu	35	47	23	68
Makindu	-	-	456	135
Migori			28	16
Muranga	9	8	0	0
All Kadhi Courts			1,878	1,516

-The kadhi courts were not in existence

Annex 2H: Pending Cases, Kadhi Court

Kadhi Court	Pending Cases 2013/14	Pending Cases 2014/15
Kilifi	22	26
Kitale	12	13
Kwale	312	434
Lamu	79	90
Malindi	107	104
Mandera	68	73
Marsabit	121	121
Mombasa	1,246	1,106
Moyale	61	61
Nairobi	185	219
Thika	5	6
Voi	6	12
Garissa	-	-
Garsen	31	40
Hola	28	50
Kajiado	8	8
Nyeri	20	20
Bungoma	28	25
Eldoret		-
Isiolo	29	29
Kakamega	-	0
Kibera	-	0
Kitui	-	7
Lodwar	-	0
Machakos	3	10
Wajir	4	4
Kisumu		-
Makindu	-	321
Migori		12
Muranga	1	1
Total	2,376	2,792

Annex 2I: CCR, Kadhis' Courts

Kadhi Court	CCR 2013/14	CCR 2014/15
Kilifi	59%	73%
Kitale	33%	90%
Kwale	73%	28%
Lamu	87%	86%
Malindi	63%	121%
Mandera	94%	95%
Marsabit	89%	-
Mombasa	61%	167%
Moyale	70%	-
Nairobi	84%	90%
Thika	93%	96%
Voi	98%	45%
Garisa	159%	109%
Garsen	89%	86%
Hola	80%	78%
Kajiado	33%	-
Nyeri	81%	-
Bungoma	82%	106%
Eldoret	144%	175%
Isiolo	31%	-
Kakamega	105%	-
Kibera	-	-
Kitui	-	88%
Lodwar	-	-
Machakos	63%	88%
Wajir	99%	-
Kisumu	134%	296%
Makindu	-	30%
Migori		57%
Muranga	89%	-
All	89%	81%

Annex 3**SUMMARY OF PROGRAMME KEY OUTPUTS BY THE OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE****Legal Services****OUTCOME: Enhanced rule of law, access to justice, good governance and provision of quality legal services for all****SUB-PROGRAMME: Civil Litigation and Promotion of Legal Ethical standards**

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
Civil Litigation Department	Backlog of cases filed against the Attorney General and the Government	No. of cases concluded adequately	1926
Civil Litigation Department	Well researched legal opinions in all civil disputes provided to Ministries, Departments and Agencies	No. of days taken to issue legal opinions	3
Civil Litigation Department	Promoting respect for the rule of law and protection of public interest through sensitizing, clients on compliance with the law	No of Sensitization workshops	2
Civil Litigation Department	Timely issuance of legal opinions/briefs upon receipt of all pleadings and documents within 3 days	No of days taken to issue a legal opinion	3
Advocates Complaints Commission	Charges filed with the Disciplinary Tribunal within	No. of days taken to file charges with the Disciplinary Tribunal, completion of investigation and consideration of the findings	5
Advocates Complaints Commission	Digitized complaints records	No. of complaints records digitized	1,100
Advocates Complaints Commission	County Offices Established	No. of County Offices established	-
Advocates Complaints Commission	Dispute resolutions programs in counties.	No. of counties	11

SUB-PROGRAMME: Legislations, Treaties and Advisory Services

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
Legislative Drafting Department	Draft prioritized legislation to harmonize existing laws with the Constitution	No. of prioritized bills drafted for the harmonization of the existing laws with the constitution	17
Legislative Drafting Department	Harmonize Existing Laws with the constitution	No. of Bills drafted to harmonize existing laws with the Constitution	21
Legislative Drafting Department	Draft subsidiary legislation within 50 days upon receipt of all necessary information from the client Ministry	No of days taken to draft subsidiary legislation	50
Treaties and Agreements Department	Legal advice to Government on its obligations on International Law that it is a party to	No. of days taken to provide legal advice to the government	7
Treaties and Agreements Department	Legal advisory services to County Governments	No. of days taken to provide legal advice to county governments	5
Treaties and Agreements Department	Legal advisory services on Government Transactions to MDAs	No. of days taken to provide legal advice on Government Transactions	3
Treaties and Agreements Department	Negotiate commercial and financial agreements	No. of Days taken to furnish reports	7
Treaties and Agreements Department	Provide legal services to the Government during negotiations and ratification process of regional and international legal instruments	No. of Days taken to furnish reports	7
Treaties and Agreements Department	Provide legal advice in 15 regional and international conferences as requested by MDAs	No. of Days taken to furnish reports	7
Treaties and Agreements Department	Provide legal services to the Government on its obligations on regional and International treaties and the status of implementation	No. of Days taken to furnish reports	7
Treaties and Agreements Department	Review and conduct sensitization and dissemination workshops for OAG&DOJ circular and guidelines	No. of workshops conducted	2

SUB-PROGRAMME: Public Trusts and Estates Management

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
Public Trustee	Finalized Estates and Trusts	No. of days taken to finalize Estates and Trusts	16
Public Trustee	Public Trustee Act Reviewed	% of Public Trustee Act reviewed	30
Public Trustee	Decentralization of Public Trustee office to Counties	No. of County offices established	1
Public Trustee	Automation of Public Trustee services	Functional Public Trustee Business Process Management system installed	30%
Public Trustee	Capacity Building conducted	No. of staff trained	20
Public Trustee	Enhanced inter Agency collaboration	No. of Ex Officio agents visited	12
Public Trustee	Modernization of Public Trustee offices	No. of offices partitioned and equipment procured	2 regional offices
Public Trustee	Enhances knowledge of Public Trustee services	No. of public Awareness Campaigns Conducted	2 counties

SUB-PROGRAMME: Registration Services

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
Registrar General	Digital records on Societies, Marriage, Chattels, official receiver, college of arms files	% of Digitalized records	10%
Registrar General	Reduction of time taken to undertake Registration of companies	No. of days taken to undertake registration of companies	1

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
Registrar General	Prompt registration of chattel mortgages	No. of days taken to register chattel mortgages	2
Registrar General	Reduction of time taken to undertake registration of welfare societies	No. of days taken to undertake registration of welfare services	1
Registrar General	Inspection of hire purchase companies	No. of hire purchase companies inspected	71
Registrar General	Reduce time taken to certify copies of registration certificates and constitution of societies	No. of days taken to certify copies of registration certificates and constitution of societies	2

SUB-PROGRAMME: Copyrights Protection

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
Kenya Copyrights Board	Draft Revised Copyright Law operational	Number of revised copyright law operational	1
Kenya Copyrights Board	Legal framework for TK and TCEs	Legal framework for TK and TCE established	1
Kenya Copyrights Board	Supportive networks	Partnership policy in place	4
Kenya Copyrights Board	Dynamic and interactive website and intranet	Dynamic website operational	1
Kenya Copyrights Board	Automated system of service delivery	Percentage of automation in service delivery	59%
Kenya Copyrights Board	Digitize library services	Percentage in digitization of library services	-

PROGRAMME: Governance, Legal Training and Constitutional Affairs**OUTCOME: Enhanced ethics, integrity, access to justice and constitutional order****SUB-PROGRAMME: Governance Reforms**

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
National Anti-corruption Campaign Steering Committee	Anti-corruption awareness campaigns	No. of counties where anticorruption awareness forums are held	10
National Anti-corruption Campaign Steering Committee	Operational County Anti-Corruption Civilian Oversight Committees (CACCOCs)	No of fully constituted and operational CACCOCs	6
National Anti-corruption Campaign Steering Committee	Sensitization of partners and vulnerable groups	No of Sensitization of forums held with partners and vulnerable groups	10
National Anti-corruption Campaign Steering Committee	Social audits in public projects and programmes	No. of social audits conducted	62
National Anti-corruption Campaign Steering Committee	Undertake research studies to inform and affirm anti-corruption	No of research studies conducted	0
National Anti-corruption Campaign Steering Committee	Empower the public and mobilized to prevent and combat corruption and embrace national values	No of Anti-corruption and values messages produced and disseminated	5
National Anti-corruption Campaign Steering Committee	Empower the public and mobilized to prevent and combat corruption and embrace national values	No. of Public Service Announcements (PSAs) Messages and Programmes Produced and Disseminated	61
National Anti-corruption Campaign Steering Committee	United Nations Anti-Corruption Day observed	No. of Messages disseminated	5
Directorate of Legal Affairs	Civic education fora on the Electoral processes in Counties	No. of counties where sensitization has been done	-
Directorate of Legal Affairs	Provide legal opinions on the East African Community's Good Governance and Political Federation issues	Reports on legal opinions on the East African Community's Good Governance and Political Federation issues	1

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
Directorate of Legal Affairs	Facilitate the setting up of Human Rights Units in all ministries to act as focal points	Number of MDAs with operational human Rights Units	-
Directorate of Legal Affairs	National Policy on Public Participation developed	% completion of the National Policy on Public participation	10%
Directorate of Legal Affairs	Finalized amendments to various laws pertaining to elections	% Completion of Amendments to the laws on the elections	11%
Directorate of Legal Affairs	Preparation and follow up of Country Reports on 5th - 7th State Report on the International Convention on the Elimination of Racial Discrimination (ICERD) and 4th State Report on the International Convention on the Civil and Political Rights (ICCPR) and the second cycle Universal Periodic Review (UPR)	No. of reports prepared and follow up activities undertaken	3
Directorate of Legal Affairs	National Ethics and Anti-Corruption Policy finalized and implementation plan developed	% completion of the National Ethics and Anti-Corruption Policy validated and implementation plan developed	30
Directorate of Legal Affairs	Finalize of the review of Kenya's implementation of the United Nations Convention against Corruption (UNCAC) and develop an implementation plan	% completion of the review of Kenya's implementation of UNCAC and Plan.	40%
Directorate of Legal Affairs	Conduct a Survey and Monitor the implementation of the financial declarations provisions of the Public Officer Ethics Act (Cap. 183) and follow up undertaken.	Survey Report on Financial Declarations of Public Officers for 2013 published and follow up undertaken.	1
Directorate of Legal Affairs	Develop the Leadership and Integrity Programme	% completion of the development of Leadership and Integrity Programme	10%
Directorate of Legal Affairs	Prepare and monitor the implementation of the recommendations of the Report of the Taskforce on the Review of the Legal Policy and Institutional Framework for Fighting Corruption in Kenya	% completion of the preparation and monitoring of the implementation of the recommendations of the Report of the Taskforce on the Review of the Legal Policy and Institutional Framework for Fighting Corruption in Kenya	30%
Directorate of Legal Affairs	Dissemination of the National Policy and Action Plan on Human Rights to national and county governments	No. of counties where the policy has been disseminated	10
Directorate of Legal Affairs	Presentation and follow up activities of the 5th -7th State Report on the International Convention on the Elimination of Racial Discrimination (ICERD) and 4th State Report on the International Convention on the Civil and Political Rights (ICCPR) , the second cycle Universal Periodic Review(UPR) and Convention against Torture. African Charter on Human and Peoples Rights(ACHPRs) prepared and follow up activities	The ICERD, ICCPR, UPR and the ACHPRs State Reports presented and follow up activities undertaken	2
Directorate of Legal Affairs	Develop and monitor the Leadership and Integrity Code	% Completion of the Development and monitoring of the leadership and Integrity Code	10%
Directorate of Legal Affairs	Develop and monitor the National Action Plan on Business and Human Rights	% completion of the National Action Plan on Business and Human Rights	20%
	Finalize the National Policy on Legal Education and Training	%completion of the National Policy on Legal Education and Training	10%
National Legal Aid and Awareness Programme	Train and establish of 1000 mediators in Nairobi, Mombasa, Kisumu, Nakuru and Eldoret from the justice sector.	No. of justice sector actors trained on ADR-mediation and pool established in Nairobi, Mombasa, Kisumu, Nakuru and Eldoret.	180
	Develop and implement a Strategic Plan (2013-17) for the programme	Strategic Plan 2013-17 document developed	Strategic Plan 2013-17 developed
	Conduct legal open days	No. of counties legal open days conducted.	5
	Sensitize members of the National Assembly on the Legal Aid Bill, 2015	Report on the Sensitisation forum	-

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Actual Achievement 2014/2015
	Develop and disseminate 10,000 I.E.C materials in English, Kiswahili and Kenya Sign Language	No. of I.E.C materials developed and disseminated	-
	Provide legal aid to 3700 members of the public in six pilot projects	No. of public offered legal aid in the six pilot projects	4420
	Develop regulations under the Legal Aid Bill, 2015	% Regulations under the Legal Aid Bill, 2015 developed	-
	Hold national fora with University law clinics	No. of national forum with University law clinics held.	-
	Develop and implement a National Plan of Action on Access to Justice	National Action Plan on Access to Justice developed	-
	Develop and implement a Monitoring and Evaluation system for monitoring legal aid providers and services.	Monitoring and Evaluation system developed.	-
	Capacity building of 1500 stakeholders in the justice system on child and family law, trial advocacy, legal aid issues.	No. of stakeholders in the justice system capacity built	150
	Map, develop and publish a directory of legal aid providers.	% of Legal aid providers mapped and Directory of legal aid providers developed.	-
	Conduct capacity assessment of legal aid providers and staff	No of legal aid providers and staff assessed.	-
	Conduct a national legal needs assessment	national legal needs assessment conducted (%)	-
	Develop training programmes for community paralegals	Training programmes for community paralegals developed	-
	Establish and operationalise 4 toll-free call centres	No of toll-free call centres established	-

SUB PROGRAMME: Constitutional and Legal Reforms

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Achievements 2014/2015
Kenya Law Reform Commission	Legislation, Regulations and Administrative Procedures to implement the Constitution of Kenya (5th Schedule Laws)	No. of draft Bills to implement the Constitution under the 5th Schedule of the Constitution developed	14
Kenya Law Reform Commission	Legislation, Regulations and Administrative Procedures to implement the Constitution of Kenya (non-5th Schedule Laws)	No. of draft Bills, Rules and Regulations to implement the Constitution developed (non- 5th Schedule legislation)	4
Kenya Law Reform Commission	Implement the report on the Audit, and Harmonization of legislation with the Constitution of Kenya, 2010	Number of new Draft Bills and/or Amendment Bills developed	11
Kenya Law Reform Commission	Technical assistance to County Governments on the Development and reform of County Legislation	Number of draft Bills developed in consultation with respective County Governments	7
Kenya Law Reform Commission	Assist Ministries, Departments, Agencies (MDAs) to review, develop and align legislation with the Constitution	Relevant draft legislations for respective MDA are developed in consultations with those MDA's	9

SUB-PROGRAMME: Legal Education Training and Policy

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Achievements 2014/2015
Kenya School of Law	Students trained	No. of Students trained	1346
Kenya School of Law	Continuing professional development short courses conducted	No. of courses conducted	12
Kenya School of Law	Paralegal students trained	No. of paralegal students trained	98
Council for Legal Education	Develop the National Legal Education and Training Policy	National Legal Education and Training Policy developed	10
Council for Legal Education	Legal education providers evaluated and accredited	No of Legal education providers evaluated and accredited	1
Council for Legal Education	Legal education programmes accredited	No of programmes accredited	4

SUB-PROGRAMME: SP 2.4 Crime Research

Delivery Unit	Key Output (KO)	Key Performance Indicators (KPIs)	Achievement 2014/2015
National Crime Research Centre	Crime research conducted	No. of crime research reports prepared	2
National Crime Research Centre	Updated Crime database	Up to date database	Updated
National Crime Research Centre	NCRC Strategic plan, Policy documents, NCR Act and the strategic plan	% completion in review of the NCRC Strategic Plan, Policy and NCR Act	100%

Annex 4: Status of Court Construction and Rehabilitation Works

Project	Location	Financing		Contract Cost (KSh. Million)	Expected final cost (KSh. Million)	Contract Date	Expected completion date	Contract completion date	Completion Stage			Budget Provision (KSh. Million)		
		GOK	JPIP						2012/13	2013/14	2014/15	2012/13	2013/14	2014/15
Migori court	Migori			31.50	39.30	4.10.12	02.09.13	07.10.13	80% Complete	95% complete	Completed	20.00	20.00	10.00
Naivasha court	Naivasha			36.80	42.40	-	complete	complete	Phase I complete	complete	Complete	30.00	12.40	
Narok court	Narok			20.50	61.00	-	-	-	Phase I complete	Phase I complete	Phase II tendering process begun	25.00	21.00	
Busia court	Busia			162.70	-	-	-	complete	90% complete	complete	complete	100.00	0.00	0
Prefabricated Courts	Bomet			81.70	81.70	15.01.13	15.07.15	4.10.13	Tendering complete	75% complete	75% complete	-	40.00	41.70
Prefabricated Courts	Othaya			81.70	81.70	15.01.13	Othaya – 18.04.14	Othaya - 31.10.13	Tendering complete	70% complete	80% complete	-	-	
	Marimanti			81.70	81.70	15.01.13	Marimanti – 18.04.14	Marimanti – 1.11.13	Tendering complete	50% complete	60% complete	-	-	
	Wanguru			81.70	81.70	15.01.13	Wanguru – 18.04.14	Wanguru – 4.11.13	Tendering complete	40%	60% complete	-	-	
Prefabricated Courts	Garsen			99.90	99.90	23.01.13	Garsen – 25.09.13	Garsen – 15.11.13	Tendering complete	35%	65%	-	-	
	Tawa			99.90	99.90	23.01.13	Tawa – 26.09.13	Tawa – 22.12.13	Tendering complete	65%	70%	-	-	
	Runyenes			99.90	99.90	23.01.2013	Runyenes 3	Runyenes 13.11.13	Tendering complete	15%	55%	-	-	
Rehabilitated Court	Kangema			49.00	49.00	08.07.13	30.06.15		-	-	100%	-	-	38.50
Rehabilitated Court	Kitui			65.00	65.00	06.12.13	25.11.14		-	-	100%	-	-	55.50
Rehabilitated Court	Engineer			90.00	90.00	01.01.14	31.12.15		-	-	10%	-	-	8.50
Rehabilitated Court	Chuka			120.00	120.00	01.01.14	31.12.15		-	-	23%	-	-	15.00
Rehabilitated Court	Kiambu			90.00	90.00	01.01.14	25.11.14		-	-	95%	-	-	8.30
Rehabilitated Court	Molo			90.00	90.00	01.01.14	31.12.15		-	-	15%	-	-	38.50
Rehabilitated Court	Vihiga			120.00	120.00	01.01.14	31.12.15		-	-	0	-	-	13.30
Rehabilitated Court	Nyando			90.00	90.00	01.01.14	31.12.15		-	-	3%	-	-	8.30
Rehabilitated Court	Oyugis			90.00	90.00	01.01.14	31.12.15		-	-	4%	-	-	8.30
Rehabilitated Court	Nyamira			120.00	120.00	01.01.14	31.12.15		-	-	15%	-	-	13.30
Rehabilitated Court	Tamu			80.00	80.00	01.01.14	31.12.15		-	-	21%	-	-	8.30
Refurbishment of Court	Mombasa COA			46.90	46.90	30.10.14	30.06.16	-	-	-	20%	-	-	58.90
Refurbishment of Court	Nyeri			34.50	34.50	02.02.15	12.08.15	-	-	-	90%	-	10.00	24.50
Refurbishment of Court	Malindi			28.70	28.70	18.06.14	19.09.14				99%			28.70
Refurbishment	Kakamega			34.60	34.60	23.06.15	28.02.16				0			34.60

Project	Location	Financing		Contract Cost (KSh. Million)	Expected final cost (KSh. Million)	Contract Date	Expected completion date	Contract completion date	Completion Stage			Budget Provision (KSh. Million)		
		GOK	JPIP						2012/13	2013/14	2014/15	2012/13	2013/14	2014/15
of Court														
Refurbishment of Court	Rongo			7.00	7.00	05.02.15	23/6/2015				75%			7.00
Refurbishment of Court	Isiolo			5.50	5.50	30.12.14	30/6/2015				85%			5.50
Refurbishment of Court	Kabarnet			8.00	8.00	18.12.14	30/6/2015				90%			8.00
Refurbishment of Court	Kilgoris			9.00	9.00	19.12.14	23/6/2015				80%			9.00
Refurbishment of Court	Kilungu			5.90	5.90	18.12.14	2/6/2015				95%			5.90
Refurbishment of Court	Kwale			4.80	4.80	30.03.15	25/5/2015				75%			4.80
Refurbishment of Court	Limuru			8.10	8.10	14.11.14	6/2/2015				100%			8.10
Refurbishment of Court	Maseno			4.80	4.80	01.07.14	30/6/15				50%			4.80
Refurbishment of Court	Tigania			12.80	12.80	04.12.14	4/1/2015				85%			12.80
Refurbishment of Court	Wajir			4.20	4.20	1/2/2015	30/5/2015				100%			4.20
Construction of Court	Embu			229.40	229.40	4/12/14	15/09/2016	-	-	-	25%	-	-	60.00
Refurbishment of Court	Busia			25.90	25.90	18/12/14	12/2/2015	-	-	-	60%	-	-	26.00
Construction of Court	Nakuru			9.50	10.10	4/12/14	24/4/2015	-	-	-	75%	-	-	13.00
Construction of Court	Kitale			23.70	23.70	28.05.15	30.11.15				Phase 1 - 85% Phase 2 - 25%			25.00
Construction of Court	Nkubu			85.90	85.90	19.12.14	30.06.16				10%			85.90
Construction of Court	Hamisi			44.30	44.30	04.12.14	03.11.15	-	-	-	75%	-	-	35.00
Construction of Court	Siaya			350.00	350.00	01.07.15	30.06.16				0			350.00
Construction of Court	Iten			9.30	9.30	19.05.15	30.06.16	-	-	-		-	-	9.50
Refurbishment of Court	Meru			13.90	13.90	20.02.15	30.06.16	-	-	-	90%	-	-	14.40
Refurbishment of Court	Kerugoya			21.10	21.10	16.01.15	30.06.16	-	-	-	80%	-	-	21.10
Refurbishment of Court	Kisii			29.50	29.50	02.02.15	30.06.15	-	-	-	85%	-	-	30.00
Construction of Court	Butali			32.70	32.70	16.02.15	09.03.16	-	-	-	40%	-	-	25.00
Construction of Court	Mpeketoni			34.40	34.40	10.03.15	30.10.15	-	-	-	50%	-	-	35.00
Construction of Court	Mandera			107.00	107.00	20.02.15	15.11.16	-	-	-	40%	-	-	60.00
Construction of Court	Port Victoria			46.60	46.60	03.02.15	15.02.16	-	-	-	55%	-	-	25.00
Construction of Court	Eldama-Ravine			65.60	65.60	04.02.15	03.03.16	-	-	-	40%	-	-	35.00
Construction of Court	Eldoret			38.10	38.10	16.01.15	30.06.16	-	-	-	Phase 1 - 100% Phase 2 - 25%	-	-	38.00
Construction of Court	Kigumo			94.20	94.20	01.07.15	30.06.16				20%			94.20
On-going constructions	Lodwar			814.80	814.80	30.09.13	stalled				stalled			
On-going constructions	Kisumu			556.00	556.00	01.07.06	Completed				100%			100.00
Refurbishment of Court	Homa Bay			8.20	8.20	16.01.15	30.06.15	-	-	-	100%	-	-	8.00

Annex 5: List of Judges, 30th June, 2014/2015

NAME	STATION
CHIEF JUSTICE	
Hon. Justice Dr. Willy Mutunga	Nairobi
DEPUTY CHIEF JUSTICE	
Hon. Lady Justice Kaplana Rawal	Nairobi
SUPREME COURT JUDGES	
Hon. Justice Philip K. Tunoi	Nairobi
Hon. Prof. Justice Jackton Boma Ojwang	Nairobi
Hon. Justice Mohammed K. Ibrahim	Nairobi
Hon. Justice Smokin Wanjala	Nairobi
Hon. Lady Justice Susanna Njoki Ndungu	Nairobi
COURT OF APPEAL JUDGES	
Hon. Mr. Justice Paul K. Kariuki	Nairobi (President, Court of Appeal)
Hon. Mr. Justice E. M. Gitinji	Nairobi
Hon. Mr. Justice Philip Nyamu Waki	Nyeri
Hon. Justice Alnashir Ramazanali Visram	Nairobi
Hon. Lady Justice Roselyne Nambuya	Nyeri
Hon. Lady Justice Hannah M. Okwengu	Nairobi
Hon. Lady Justice Martha Karambu Koome	Nairobi
Hon. Mr. Justice David Kenani Maraga	Kisumu
Hon. Lady Justice Wanjiru Karanja	Nairobi
Hon. Justice John Wycliffe Mwera	Nairobi
Hon. Justice Mohamed Abdulahi Warsame	Nairobi
Hon. Mr. Justice George B.M. Kariuki	Nairobi
Hon. Lady Justice Philomena M. Mwilu	Nairobi
Hon. Mr. Justice Milton S.A. Makhandia	Malindi
NAME	STATION
Hon. Mr. Justice Daniel Musinga	Kisumu
Hon. Mr. Justice F. Azangalala	Nairobi
Hon. Mr. Justice William Ouko	Malindi
Hon. Mr. Justice Patrick Omwenga Kiage	Nyeri
Hon. Mr. Justice Steven Gatembu Kairu	Kisumu
Hon. Mr. Justice Kathurima M'inoti	Malindi
Hon. Lady Justice Agnes K. Murgor	Kisumu
Hon. Lady Justice Fatuma Sichale	Nairobi
Hon. Lady Justice Jamila Mohammed	Nairobi
Hon. Mr. Justice Prof. James O. Odek	Nairobi
Hon. Mr. Justice Sankale Ole Kantai	Nairobi
CHIEF REGISTRAR OF THE JUDICIARY	
Mrs. Ann Amadi	Nairobi
LIST OF MAGISTRATES – NAIROBI PROVINCE	
REGISTRARS	
Esther Nyaiyaki	Registrar - Supreme Court
Hon. Lucy Njora	Deputy Registrar – Supreme Court
Anne Asuga	Senior Principal Magistrate
	Deputy Registrar – Supreme Court
Hon. Moses K. Serem	Registrar – Court of Appeal
Hon. Paul K. Rotich	Senior Principal Magistrate
Hon. Hellen Okwani	Deputy Registrar – Court of Appeal
	Principal Magistrate
Hon. Judith Omange	Deputy Registrar – Court of Appeal
	Senior Resident Magistrate
Registrar – High Court	
	Senior Principal Magistrate
NAME	STATION
Hon. Jane Kemunto Ocharo	Office of the RHC Resident Magistrate
Hon. Kennedy L. Kandet	Registrar – Industrial Court Principal Magistrate
Hon. Eunice Cherotich Kimaiyo	Deputy Registrar – Supreme Court Resident Magistrate

Hon. Peter M. Mulwa

Hon. Caroline Kabucho

Hon. Barbara Ojoo

Hon. Herbert Inonda Mwendwa

Hon. Wilfrida Mokaya

Hon. John Tamar

Hon. Sarapai Lyra Nafuna

Hon. Lorraine Dinna Ogombe

Hon. Manuela Wanjiru Kinyanjui

Hon. Joseph Were

Hon. Becky Mulemia Cheloti

Hon. Lilian Arika

Hon. Denis Mikoyan

Clarence Otieno

Hon. Angela Njeri Thuku

Hon. Benjamin A. Mitullah

NAME

MILIMANI LAW COURTS

HIGH COURT DEPUTY REGISTRARS

Hon. Jacob ole Kipury

Hon. Rose A.A. Otieno

Hon. Rose Nyanunga Makungu

Hon. Thomas Muraguri Mwangi

Hon. Elizabeth Chepkoech Tanui

Hon. Caroline J. Kendagor

Hon. Sandra Achieng Ogot

Hon. Isabela Nekesa Barasa

Hon. Sharon Muteitsi Mwayuli

Hon. Rosaline Adhiambo Aganyo

Hon. Esther Wangare Mburu

Hon. Vincent Kibichi Kiptoon

Hon. Moses Wanyonyi Wanjalal

Hon. Fatuma Mwanza Rashid

CHIEF MAGISTRATES' COURT

Hon. Daniel Ogola Ogumbo

Hon. Daniel Ochenja

Hon. Joyce Mkambe Gandani

Hon. Martha W. Mutuku

Hon. Charity Chebii Oluoch

Hon. Grace Mmasi

Hon. Kenneth Kipkurui Cheruiyot

Hon. Beatrice M. Mosiria

Hon. Theresa Nyangena

Hon. Eddah Savai Agande

Hon. Miriam Mugure Peter

Hon. Hannah Wamuyu Wandera

Registrar – Magistrate CourtSenior Principal Magistrate
Assistant Registrar – High Court
Principal Magistrate
Assistant Registrar – High Court
Principal Magistrate**Office of the Judiciary Ombudsman**
Resident Magistrate**Registrar - Judicial Service Commission**
Senior Principal MagistrateDeputy Registrar – Supreme Court
Senior Resident MagistrateOffice of the Chief Justice
Senior Resident MagistrateOffice of the Chief Justice
Resident MagistrateOffice of the Deputy Chief Justice
Senior Resident MagistrateOffice of the Chief Registrar of the Judiciary
Principal Magistrate
Office of the Chief Registrar of the Judiciary
Resident Magistrate
Office of the Principal Judge
Senior Principal Magistrate**JTI/ Judiciary Transformation Secretariat**
Principal Magistrate
Principal Magistrate

Senior Resident Magistrate

Community Service Order Coordinator
Principal Magistrate

STATION

Chief Magistrate - DR HC CA
Senior Principal Magistrate – DR Dismissals
Principal Magistrate – DR Civil
Principal Magistrate – DR Criminal
Principal Magistrate – DR Commercial Div.
Senior Resident Magistrate – DR Family
Resident Magistrate – Commercial Div.
Resident Magistrate – DR Envir & Lands
Resident Magistrate – DR Envir & Lands
Resident Magistrate – DR Criminal
Resident Magistrate – DR Const. & JR.
Resident Magistrate – DR Family
Resident Magistrate - DR Const. & JR
Resident Magistrate - DR HC CivilChief Magistrate
Senior Principal Magistrate
Principal Magistrate
Principal Magistrate
Principal Magistrate
Resident Magistrate
Resident Magistrate
Resident Magistrate

NAME

STATION

ANTI-CORRUPTION COURT

Hon. Kennedy Bidali
 Hon. Lawrence N. Mugambi
 Hon. Felix Kombo

Chief Magistrate
 Senior Principal Magistrate
 Principal Magistrate

TRAFFIC COURT

Hon. Benson Musyoki Nzakyo
 Hon. Eleuter Akoth Riany

Senior Resident Magistrate
 Resident Magistrate

CHILDREN'S COURT

Hon. Lucy Gitari
 Hon. Faith K. Munyi
 Hon. Derrick Khaumba Kuto
 Hon. Anne Wanjiku Nyoike
 Hon. Zipporah Wawira Gichana

Chief Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate

CITY COUNTY COURT

Hon. Theresa Murigi
 Hon. Mary Wanja Njagi
 Hon. Joe Mkuu Omidu
 Hon. Margaret Wangare Kurumbu

Chief Magistrate
 Principal Magistrate
 Senior Resident Magistrate
 Resident Magistrate

MILIMANI COMMERCIAL COURT

Hon. Rachel Ngetich
 Hon. Linus Pogh' on Kassan
 Hon. Elizabeth Katiwa Usui
 Hon. Letizia M. Wachira
 Hon. David Mburr Wanjohi
 Hon. Mildred Obura
 Hon. Timothy Nchoe Sironka
 Hon. Maisy P. Chesang
 Hon. Leah Wandia Kabaria
 Hon. Irene Wangui Gichobi

Chief Magistrate
 Senior Principal Magistrate
 Senior Principal Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Principal Magistrate
 Resident Magistrate
 Resident Magistrate
 Resident Magistrate

NAME

STATION

Hon. Sheikh A. Omar

Deputy Chief Kadhi – Upper Hill

MAKADARA LAW COURTS

Hon. Emily Ominde
 Hon. Heston N. Nyaga
 Hon. Victor Nduru
 Hon. Everlyne S.A. Olwande
 Hon. Eunice Kagure Nyutu
 Hon. Angelo Kithinji Rwito
 Hon. Emily Nyongesa Nafula
 Hon. Linda Chebichii Kosgei
 Hon. Alice Wambui Macharia
 Hon. William Otieno Oketch

Chief Magistrate
 Chief Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Resident Magistrate

KIBERA LAW COURTS

Hon. Anne C. Onginjo
 Hon. Elizabeth Nyarangi Juma
 Hon. Lucas O. Onyina
 Hon. Bernard Ochoi
 Hon. Tito Maoga Gesora
 Hon. Ase Meresia Oondo
 Hon. Bryan Khaumba Mandila
 Hon. Charles Nchore Ondiek
 Hon. Ishaq Abduljabbar Hussein

Chief Magistrate
 Senior Principal Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Kadhi II

NYANZA PROVINCE:

KISUMU LAW COURTS

Hon. Jesse Njagi Nyaga
 Hon. Ezra Odondi Awino
 Hon. Thomas Obutu Atanga
 Hon. Phylis Lusuah Shinyanya
 Hon. Ezekiel Angaga Obina
 Hon. Harrison Adika Musa Sajide
 Hon. Angeline Achieng A. Odawo

Chief Magistrate
 Chief Magistrate
 Principal Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate

NAME	STATION
Hon. Martha Awidhi Agutu	Resident Magistrate
Hon. Sukyan Omar	Principal Kadhi
Hon. Mursal Mohamed Sizi	Kadhi II
WINAM LAW COURTS	
Hon. Bernard Kasavuli	Senior Resident Magistrate
Hon. Carolyne Naliaka Njalale	Resident Magistrate
MASENO LAW COURTS	
Hon. Dolphine Okundi	Senior Principal Magistrate
Hon. Millicent Chepkurui Nyigei	Resident Magistrate
SIAYA LAW COURTS	
Hon. Hazel Wandere	Principal Magistrate
Hon. Celesta Asis Okore	Senior Resident Magistrate
Hon. Jared Nyangena Sani	Resident Magistrate
Hon. Simon Kimani Mburu	Resident Magistrate
BONDO LAW COURTS	
Hon. Moses Oyoko Obiero	Principal Magistrate
Hon. Margaret Nafula Makokha	Senior Resident Magistrate
UKWALA LAW COURTS	
Hon. Robert M. Oanda	Senior Resident Magistrate
Hon. Claire Nanjala Wanyama	Resident Magistrate
NYANDO LAW COURTS	
Hon. Julius K. Ng'arng'ar	Senior Principal Magistrate
Hon. Patrick Olengo	Principal Magistrate
Hon. Bethwel Kimutai Matata	Senior Resident Magistrate
TAMU LAW COURTS	
Hon. Sammy Aswani	Senior Resident Magistrate
Hon. Maureen Cherono Nyigei	Resident Magistrate
HOMA-BAY LAW COURTS	
Hon. Patricia Gichohi	Chief Magistrate
Hon. Paul Mutia Mayova	Senior Resident Magistrate - DR
NAME	STATION
Hon. Nelly Wangechi Kariuki	Resident Magistrate
MBITA LAW COURTS	
Hon. Samson Ongerri Omwenga	Senior Resident Magistrate
NDHIWA LAW COURTS	
Hon. Bernard Obae Omwansa	Senior Resident Magistrate
Hon. Bernard Kipyegon Rugut	Resident Magistrate
MIGORI LAW COURTS	
Hon. David Kemei	Chief Magistrate
Hon. Edwin Nyaga Muriuki	Senior Resident Magistrate
Hon. Phoebe Yiswa Kulecho	Resident Magistrate
Hon. Lucy Khahendi Sindani	Resident Magistrate
Hon. Adan Ibrahim Tullu	Kadhi II
RONGO LAW COURTS	
Hon. Purity Chepkorir Koskey	Senior Resident Magistrate
Hon. Joselyn Rino Kimeto	Resident Magistrate
OYUGIS LAW COURTS	
Hon. George M.A. Ong'ondo	Senior Principal Magistrate
Hon. Joy Shiundu Wesonga	Resident Magistrate
Hon. Lawrence Kyasya Mwendwa	Resident Magistrate
KISII LAW COURTS	
Hon. Bildad Ochieng	Chief Magistrate
Hon. John N. Muniu	Senior Principal Magistrate
Hon. Gilbert K. Too	Senior Principal Magistrate

Hon. Ruth B. Nabwire Maloba	Senior Principal Magistrate
Hon. Lucy Chebet Kaittany	Senior Principal Magistrate
Hon. Virginia Karanja	Resident Magistrate - DR
Hon. Vincent Mugendi Nyaga	Resident Magistrate
Hon. Symphie Nekesa Makila	Resident Magistrate
NYAMIRA LAW COURTS	
Hon. Renee Musimbi Kitagwa	Resident Magistrate
NAME	
OGEMBO LAW COURTS	
Hon. Naomi Wairimu	Senior Resident Magistrate
Hon. Caroline R.T. Ateya	Resident Magistrate
KEROKA LAW COURTS	
Hon. James N. Mwaniki	Principal Magistrate
Hon. Calestous Sindani Nambafu	Senior Resident Magistrate
Hon. Rachael Njoki Kahara	Resident Magistrate
KEHANCHNA LAW COURTS	
Hon. Peter Ndwiga	Principal Magistrate
Hon. Charles Mwaniki Kamau	Resident Magistrate
WESTERN PROVINCE	
KAKAMEGA LAW COURTS	
Hon. Rosemary Kimingi	Chief Magistrate
Hon. Samuel Wahome	Senior Principal Magistrate
Hon. Daniel Ole Keiwsa	Senior Principal Magistrate
Hon. Benson Sikuku Khapoya	Senior Resident Magistrate - DR
Hon. James Ongondo	Senior Resident Magistrate
Hon. Felix Makoyo Omweri	Resident Magistrate
Hon. Wilson Rading Outa	Resident Magistrate
Hon. Sheikh Shaban Issa Muhammed	Kadhi II
MUMIAS LAW COURTS	
Hon. Solomon K. Ngetich	Senior Resident Magistrate
Hon. Grace Nasike Sitati	Resident Magistrate
BUTERE LAW COURTS	
Hon. Charles Soi Mutai	Principal Magistrate
Hon. Maureen Iberia Shimenga	Resident Magistrate
BUTALI LAW COURTS	
Hon. Maureen Lambisia Nabibya	Senior Resident Magistrate
Hon. Tony Kipkorir a.k.a. Tony Kwambai	Resident Magistrate
VIHIGA LAW COURTS	
Hon. Jacinta Atieno Orwa	Principal Magistrate
Hon. Susan Njeri Mwangi	Resident Magistrate
NAME	
HAMISI LAW COURTS	
Hon. Evans W. Muleka	Senior Resident Magistrate
Hon. Dennis Onyango Ogal	Resident Magistrate
BUNGOMA LAW COURTS	
Hon. John G. King'ori	Chief Magistrate
Hon. Teresia Ngugi	Senior Principal Magistrate
Hon. Stephen O. Mogute	Principal Magistrate
Hon. Christopher L. Yalwala	Senior Resident Magistrate - DR
Hon. Peter Nyagaka Areri	Senior Resident Magistrate
Hon. Innocent Toyo Maisiba	Senior Resident Magistrate
Hon. Daisy Chebet Mutai	Resident Magistrate
Hon. Lynet A. Olel	Resident Magistrate
Hon. Sebastian G.O. Ratori	Kadhi I
WEBUYE LAW COURTS	
Hon. William Chepseba	Senior Principal Magistrate
Hon. Stella Nabwire Abuya	Principal Magistrate
Hon. Chrispine Noel Choka Oruo	Resident Magistrate

KIMILILI LAW COURTS

Hon. Dickson Odhiambo
 Hon. George Rachemi Sagero
 Hon. Martha Nanzushi Anyona
 Hon. Christine Achieng Menya

Senior Principal Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate

SIRISIA LAW COURTS

Hon. Francis N. Kyambia
 Hon. Mukabi Kimani

Principal Magistrate
 Resident Magistrate

BUSIA LAW COURTS

Hon. Hannah Njeri Ndungu
 Hon. Josephine Nyatuga Maragia
 Hon. Christabel Irene Agutu

Chief Magistrate
 Resident Magistrate
 Resident Magistrate

NAME**STATION****RIFT VALLEY REGION****NAKURU LAW COURTS**

Hon. Doreen Mulekyo
 Hon. Joel K. Ng'eno
 Hon. Liz Lynne W. Gicheha
 Hon. Monica Nyarango Nyakundi
 Hon. Bernard N. Ndeda
 Hon. Judicaster Nthambi Nthuku
 Hon. Ritah Mukungi Amwayi
 Hon. Mary Anjao Otindo
 Hon. Kelly Eunice Aoma
 Hon. Faith Kawira Muguongo
 Hon. Abdilaziz Maalim Mohamed

Chief Magistrate
 Chief Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Kadhi II

NAIVASHA LAW COURTS

Hon. Peter Gesora
 Hon. Esther Kimilu
 Hon. Shadrack Mwendwa Mwinzi
 Hon. Zainab Abdul Rahaman
 Hon. Selina Nelima Muchungi

Chief Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate - DR
 Resident Magistrate

MOLO LAW COURTS

Hon. Wendy K. Micheni
 Hon. Mary G. Chepseba
 Hon. Alice Chemosop Towett
 Hon. James Helekia Sijenyi Wanyanga

Chief Magistrate
 Senior Principal Magistrate
 Resident Magistrate
 Resident Magistrate

ELDORET LAW COURTS

Hon. Tripsisa Wamae
 Hon. Margaret Wambani Onditi
 Hon. Charles Obulutsa
 Hon. Samuel M. Mokua
 Hon. Lily M. Nafula
 Hon. Harrison Barasa Omwima
 Hon. Mildred Munyekeny

Chief Magistrate
 Chief Magistrate
 Senior Principal Magistrate
 Senior Principal Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate - DR

NAME**STATION**

Hon. Stella Nekesa Telewa
 Hon. Pauline Wangari Mbulika
 Hon. Tom Mark Olando
 Hon. Nicodemus Nyamwega Moseti
 Hon. Zaharani Omar

Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Kadhi I

KAPSABET LAW COURTS

Hon. Gladys Adhiambo
 Hon. Barnabas Kibet Kiptoo
 Hon. Caroline Mutenyo Watimmah

Senior Resident Magistrate
 Resident Magistrate
 Resident Magistrate

KITALE LAW COURTS

Hon. Patrick Wandera
 Hon. Paul Biwott
 Hon. Mary Immaculate Gwaro
 Hon. Dorcas Wangeci Maiteri
 Hon. Peter Wabomba Wasike
 Hon. Carolyne Nyaguthii Mugo

Chief Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate – DR
 Resident Magistrate
 Resident Magistrate

Hon. Charity Cheruto Kipkorir
Hon. Habib Salim Vumbi

Resident Magistrate
Kadhi II

KERICHO LAW COURTS

Hon. Joseph Nduri
Hon. Wilson Kaberia
Hon. Lilian Nafula Kiniale
Hon. Judith Achieng Nyagol
Hon. Byson Benjamin Limo
Hon. Ezra Masira Ayuka

Principal Magistrate
Principal Magistrate
Senior Resident Magistrate
Resident Magistrate
Resident Magistrate
Resident Magistrate

SOTIK LAW COURTS

Hon. Nancy Nang'uni Barasa

Resident Magistrate

BOMET LAW COURTS

Hon. Pamela Achieng
Hon. Gideon Kiage Oenga

Principal Magistrate
Resident Magistrate

NAME

STATION

ITEN LAW COURTS

Hon. Hezron Moibi Nyaberi
Hon. Dolphina A. A. Kayila
Hon. Rose Mugeni Ndombi
Hon. Nelly Chepchirchir

Principal Magistrate
Principal Magistrate
Resident Magistrate
Resident Magistrate

KABARNET LAW COURTS

Hon. Samson. O. Temu
Hon. Emily Chemeli Kigen

Senior Resident Magistrate
Resident Magistrate

ELDAMA-RAVINE LAW COURTS

Hon. Margaret A. Kasera

Principal Magistrate

Hon. Rhoda Yator

Resident Magistrate

NAROK LAW COURTS

Hon. Wilbroda Juma
Hon. Wilkinson Nyaga Njagi
Hon. Alex Ithuku
Hon. Temba A. Sitati

Chief Magistrate
Chief Magistrate Magistrate
Senior Principal Magistrate
Senior Resident Magistrate

KILGORIS LAW COURTS

Hon. Amos Kiprop Makoross
Hon. Monica Nasiche Munyendo

Senior Resident Magistrate
Resident Magistrate

KAJIADO LAW COURTS

Hon. Stephen Mbungi
Hon. Mathias Okuche
Hon. Mary Ashisero Akala
Hon. Evans Ayiema Mbicha
Hon. Juma Khamisi Tsamuo

Senior Principal Magistrate
Senior Resident Magistrate
Senior Resident Magistrate
Resident Magistrate
Kadhi I

KAPENGURIA LAW COURTS

Hon. Douglas Machage
Hon. Martin Maina Wachira

Principal Magistrate
Resident Magistrate

MARALAL LAW COURTS

Hon. Charles N. Ndegwa
Hon. Abraham Karugia Gachie

Principal Magistrate
Resident Magistrate

NAME

STATION

LODWAR LAW COURTS

Hon. Edwin K. Mwaita
Hon. Ronaldine Mocho Washika
Hon. Isaac Odhiambo Otieno

Principal Magistrate
Senior Resident Magistrate - HOS
Resident Magistrate

KAKUMA LAW COURTS

Hon. Edwin Wasike Nyongesa
Hon. Khamis Ramadhani

Resident Magistrate
Kadhi II (Resident at Lodwar)

NANYUKI LAW COURTS

Hon. Teresia Matheka
 Hon. Josephat W. Gichimu
 Hon. Evanson Bett

Chief Magistrate
 Principal Magistrate
 Senior Resident Magistrate

NYAHURURU LAW COURTS

Hon. Judith Wanjala
 Hon. Peter Ndege
 Hon. Peter Omuyele Muholi
 Hon. Victoria Achieng Ochanda
 Hon. Alice Wairimu Mukenga

Chief Magistrate
 Senior Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Resident Magistrate

CENTRAL REGION

NYERI LAW COURTS

Hon. John Onyiego
 Hon. Susan Ndegwa
 Hon. Philip Mutua
 Hon. Joane N. Wambilyanga
 Hon. Christine Wekesa Mulongo
 Hon. John Ochoe Aringo
 Hon. Catherine Wanjugu Mburu
 Hon. Kutwaa Mohammed Abdalla

Chief Magistrate
 Principal Magistrate
 Principal Magistrate - DR
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Kadhi I

OTHAYA LAW COURTS

Hon. Ben Mark Ekhubi
 Hon. Raymond Kibet Langat

Senior Resident Magistrate
 Resident Magistrate

NAME

STATION

KARATINA LAW COURTS

Hon. Florence Wangari Macharia
 Hon. Vicky Adhiambo Kachuodho

Principal Magistrate
 Resident Magistrate

MUKURWEINI LAW COURTS

Hon. Johnstone Munguti
 Hon. Victor Otieno Chianda

Principal Magistrate
 Resident Magistrate

MURANG'A LAW COURTS

Hon. Lucy Mutai
 Hon. Thomas Nzyoki
 Hon. Antony Mwicigi
 Hon. Brenda Naswa Kituyi
 Hon. Jackline Wekesa Mukhwana
 Hon. James Jesse Masiga
 Hon. Malampu Abdilatif Silau

Chief Magistrate
 Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate - DR
 Senior Resident Magistrate
 Resident Magistrate
 Kadhi II

KANGEMA LAW COURTS

Hon. Jared O. Magori
 Hon. Edgar Matsigulu Kangoni

Principal Magistrate
 Senior Resident Magistrate

KIGUMO LAW COURTS

Hon. Desderias Orimba
 Hon. Agnes Mwangi Wahito
 Hon. Agneta Atieno Ndege Ogonda

Principal Magistrate
 Senior Resident Magistrate
 Resident Magistrate

THIKA LAW COURTS

Hon. Loise C. Komkingoi
 Hon. Abdulgadir R. Lorot
 Hon. Benson Ireri
 Hon. Jerop Brenda Bartoo
 Hon. Christine Asuna Okello
 Hon. Geoffrey Onsarigo Osoro
 Hon. Isaack Hassan Mohamed Noor

Chief Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Resident Magistrate
 Resident Magistrate
 Resident Magistrate
 Kadhi II
 STATION

NAME

GATUNDU LAW COURTS

Hon. Anne Mwangi
 Hon. Daisy Jepkemboi Mosse

Principal Magistrate
 Resident Magistrate

KANDARA LAW COURTS

Hon. Peter Nditika
 Hon. Cecilia Karimi Kithinji

Senior Principal Magistrate
 Resident Magistrate

KIAMBU LAW COURTS

Hon. Roselyne Oganyo
 Hon. Julie Oseko
 Hon. Diana Rachel Kavedza - Mochache
 Hon. Justus Mulei Kituku
 Hon. Simon Kaigongi Arome
 Hon. Monica Njoki Kivuti

Chief Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Principal Magistrate
 Resident Magistrate
 Resident Magistrate

GITHUNGURI LAW COURTS

Hon. Jacinta Dibondo Kwena
 Hon. Stella Atambo
 Hon. Ngumi Wangeci
 Hon. Eric Otieno Wambo

Senior Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate
 Resident Magistrate

KIKUYU LAW COURTS

Hon. Daniel M. Ngalu
 Hon. Elvis Michieka

Principal Magistrate
 Senior Resident Magistrate

LIMURU LAW COURTS

Hon. Godfrey Oduor
 Hon. Timothy Ole Tanchu
 Hon. Nancy Mwende Nzau Makau

Senior Principal Magistrate
 Senior Resident Magistrate
 Resident Magistrate

ENGINEER LAW COURTS

Hon. Martin Kinyua Mutegi
 Hon. Georgina Nasaakopakasi

Senior Resident Magistrate
 Resident Magistrate

KERUGOYA LAW COURTS

Hon. Francis Andayi
 Hon. Juliet Atema Kasam

Chief Magistrate
 Senior Resident Magistrate - DR

NAME

Hon. Yusuf Barasa Mukhula Barasa

STATION

Resident Magistrate

BARICHO LAW COURTS

Hon. Evans Hezekiah Keago
 Hon. Stephen Samuel Wadida Jalang'o

Principal Magistrate
 Senior Resident Magistrate

GICHUGU LAW COURTS

Hon. Mogire Onkoba

Senior Resident Magistrate

WANG'URU LAW COURTS

Hon. Peter N. Kiama
 Hon. Teresia M. Mwangi
 Hon. Stephen Kalai Ngii
 Hon. Daffline Nyaboke Sure

Principal Magistrate
 Principal Magistrate
 Resident Magistrate
 Resident Magistrate

EASTERN REGION:**EMBU LAW COURTS**

Hon. Maxwell Gicheru
 Hon. Alfred G. Kiburu
 Hon. Robinson O. Oigara
 Hon. Samuel Kiprotich Mutai
 Hon. Andrew Githinji Munene
 Hon. Vincent Obondi Nyakundi

Chief Magistrate
 Senior Principal Magistrate
 Principal Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate - DR

RUNYENJES LAW COURTS

Hon. Beatrice Muthoni Kimemia
 Hon. John Paul Nandi

Principal Magistrate
 Senior Resident Magistrate

SIAKAGO LAW COURTS

Hon. Agnes Ndunge Makau
 Hon. Jackson Obuya Omwange

Senior Resident Magistrate
 Resident Magistrate

MERU LAW COURTS

Hon. Evans Makori	Chief Magistrate
Hon. Simon R. Rotich	Senior Principal Magistrate
Hon. Joseph Karanja	Principal Magistrate
Hon. Bernard O. Ochieng	Principal Magistrate
NAME	STATION
Hon. Charles Ariba Kutwa	Principal Magistrate
Hon. Carolyne Kenda Obara	Senior Resident Magistrate - DR
Hon. Eva Wanjiku Wambugu	Resident Magistrate
Hon. Mercy Nasimiyu Wanyama	Resident Magistrate

CHUKA LAW COURTS

Hon. Samuel Kamunya Gacheru	Principal Magistrate
Hon. Hellen Malikia Siika	Resident Magistrate

MARIMANTI LAW COURTS

Hon. Linus Nyakundi Mesa	Senior Resident Magistrate
Hon. Fredrick Mayaka Nyakundi	Resident Magistrate

NKUBU LAW COURTS

Hon. Duke Atuti Ocharo	Senior Resident Magistrate
Hon. Nerolyne Miraho Idagwa	Resident Magistrate

GITHONGO LAW COURTS

Hon. Charles Alberto Obonyo Mayamba	Senior Resident Magistrate
-------------------------------------	----------------------------

MAUA LAW COURTS

Hon. Samuel Soita	Senior Principal Magistrate
Hon. Cosmas Mutungwa Maundu	Senior Principal Magistrate
Hon. John Waweru Wang'ang'a	Resident Magistrate
Hon. Caroline Kemei	Resident Magistrate
Hon. Oscar Muigai Ruguru Wanyaga	Resident Magistrate

TIGANIA LAW COURTS

Ben Mararo	Principal Magistrate
Paul Matanda Wechuli	Resident Magistrate

MACHAKOS LAW COURTS

Hon. Lucy Mbugua	Chief Magistrate
Hon. Mwangi Karimi Mwangi	Principal Magistrate
Hon. Carolyne Ocharo	Principal Magistrate
Hon. Anne Ruguru Ireri Maina	Senior Resident Magistrate
Hon. Lester Simiyu	Senior Resident Magistrate
Hon. Irene Marcia Kahuya	Senior Resident Magistrate
Hon. Catherine Khakasa Kisangani	Resident Magistrate

NAME

Hon. Mwaito Salim Juma	Kadhi II
------------------------	----------

MAVOKO LAW COURTS

Hon. Teresia A. Odera	Principal Magistrate
Hon. Peter Oduor Ooko	Principal Magistrate
Hon. Edward Kiprono Too	Senior Resident Magistrate
Hon. Linda Akosa Mumassabba	Resident Magistrate

KITHIMANI LAW COURTS

Hon. Martha Akoth Opanga	Senior Resident Magistrate
Hon. Gilbert Omuyaku Shikwe	Resident Magistrate

KANGUNDO LAW COURTS

Hon. Timothy O. Okello	Senior Principal Magistrate
Hon. Japheth Cheruiyot Bii	Resident Magistrate
Hon. Sinkyian Nkini Tobiko	Resident Magistrate

TAWA LAW COURTS

Hon. Willy Kipkoech Cheruiyot	Resident Magistrate
Hon. Hosea Mwangi Nganga	Resident Magistrate

MAKUENI LAW COURTS

Hon. Richard Kipkemoi Koech	Senior Resident Magistrate
Hon. Melanie Celestine A. Awino	Senior Resident Magistrate

KILUNGU LAW COURTS

Hon. Patrick Wambugu Mwangi
Hon. Everlyne Makungu Onzere

Senior Resident Magistrate
Resident Magistrate

MAKINDU LAW COURTS

Hon. Gerald Muuo Mutiso
Hon. David Munyao Ndungi
Hon. Elizabeth Murugi Muiru

Senior Resident Magistrate
Resident Magistrate
Resident Magistrate

KITUI LAW COURTS

Hon. Mary Anne Murage
Hon. Esther Boke
Hon. Albert Saitabau Lesootia
Hon. Rose Ombata
Hon. Ali Dida Wako
NAME

Chief Magistrate
Principal Magistrate
Senior Resident Magistrate
Resident Magistrate
Kadhi II
STATION

MUTOMO LAW COURTS

Hon. Joseph N. Nyakundi

Principal Magistrate

MWINGI LAW COURTS

Hon. Samuel Kibet Sambu
Hon. Margaret Wanjeri Murage
Hon. Grace Wangui Kirugumi

Principal Magistrate
Resident Magistrate
Resident Magistrate

KYUSO LAW COURTS

Hon. Erick Musyoka Mutunga

Resident Magistrate

MARSABIT LAW COURTS

Hon. Boaz Maura Ombwa
Hon. Tom Mbayaki Wafula
Hon. Abdullahi Mohammed

Senior Resident Magistrate
Resident Magistrate
Kadhi I

ISIOLO LAW COURTS

Hon. Samuel M. Mungai
Hon. Rosemelle Anyango Mutoka
Hon. Joan Irura
Hon. Robert Gitau Mundia
Hon. Kunyuk John Tito

Chief Magistrate
Chief Magistrate
Senior Resident Magistrate
Resident Magistrate
Kadhi II

MOYALE LAW COURTS

Hon. Sogomo Gathogo
Hon. Vincent Okello Adet
Hon. Abdi Osman Sheikh

Senior Resident Magistrate
Senior Resident Magistrate
Kadhi II

COAST REGION

MOMBASA LAW COURTS

Hon. Susan M. Shitibi
Hon. Julius Mukut Nangea
Hon. Richard O. Odenyo
Hon. Nicholas N. Njagi
Hon. Henry Nyabuto Nyakweba
Hon. Davis G. Karani
Hon. Betty Chepkemei Koech
Hon. Irene Ruguru Ngotho

Chief Magistrate
Chief Magistrate
Senior Principal Magistrate
Senior Principal Magistrate
Principal Magistrate
Principal Magistrate
Senior Resident Magistrate
Senior Resident Magistrate – DR

NAME

Hon. Lillian Tsuma Lewa
Hon. Dorothy I.N.N. Wekesa
Hon. Geoffrey Ontita Kimang'a
Hon. Viola Jepkorir Yator
Hon. Jane Wambui Kamau
Hon. Al Muhdhar A. Hussein
Hon. Athman Abdualhim Hussein
Hon. Salim Mwidadi Abdullah

STATION

Resident Magistrate
Resident Magistrate
Resident Magistrate
Resident Magistrate
Resident Magistrate
Chief Kadhi
Principal Kadhi
Kadhi II

MALINDI LAW COURTS

Hon. Charles C. Mbogo
Hon. Sylvia R. Wewa
Hon. Yusuf Abdalla Shikanda

Chief Magistrate
Principal Magistrate
Senior Resident Magistrate

Hon. Caroline Muthoni Nzibe
 Hon. Janette Wandia Nyamu
 Hon. Salim S. Mohammed

Resident Magistrate
 Resident Magistrate
 Kadhi I

GARSEN LAW COURTS

Hon. James Macharia Muriuki
 Hon. Stephen Munene Nyaga
 Hon. Rashid Kokonya Otundo

Senior Resident Magistrate
 Resident Magistrate
 Kadhi II

KALOLENI LAW COURTS

Hon. Robinson K. Ondieki

Principal Magistrate

KILIFI LAW COURTS

Hon. Dominica Nyambu
 Hon. Dennis Abraham Kinaro
 Hon. Leah Njambi Waigera
 Hon. Leah Nekesa Kisabuli
 Hon. Talib B. Mohammed

Senior Principal Magistrate
 Senior Resident Magistrate
 Senior Resident Magistrate
 Resident Magistrate
 Kadhi I

VOI LAW COURTS

Hon. Elena Gathoni Nderitu
 Hon. Eugene Melville Kadima
 Hon. Swaleh Mohamed Ali

Senior Principal Magistrate
 Resident Magistrate
 Kadhi II

MARIAKANI LAW COURTS

Hon. Nathan Shiundu Lutta
 Hon. Michael Kizito
 Hon. Lewis Kamanga Gatheru

Senior Principal Magistrate
 Principal Magistrate
 Resident Magistrate

WUNDANYI LAW COURTS

Hon. Isaac Karasi Oreng
 Hon. Gerhard Gitonga Muchege

Senior Resident Magistrate
 Resident Magistrate

TAVETA LAW COURTS

Hon. James Omburah
 Hon. Wilson Kipchumba Kitur

Senior Resident Magistrate
 Resident Magistrate

KWALE LAW COURTS

Hon. Christine Mukami Njagi
 Hon. Paul Kipkemtoi Mutai
 Hon. Bedzenga Said Khamis

Resident Magistrate
 Resident Magistrate
 Kadhi I

LAMU LAW COURTS

Hon. Walter Onchuru
 Hon. David Muchangi Irieri
 Hon. Julian Kabugo Ndeng'eri
 Hon. Hamisi M. Mshali

Principal Magistrate
 Resident Magistrate
 Resident Magistrate
 Kadhi I

HOLA LAW COURTS

Hon. Dennis Matutu Kiprono
 Hon. Juma A. Abdalla

Senior Resident Magistrate
 Kadhi I

NORTH-EASTERN REGION

GARISSA LAW COURTS

Hon. Margaret Wachira
 Hon. Victor Karago Asiyo
 Hon. Sheikh M. Hassan
 Hon. Mvudi Masoud Makange

Chief Magistrate
 Resident Magistrate - DR
 Kadhi I
 Kadhi II (Daadab)

WAJIR LAW COURTS

Hon. Enock Cherono
 Hon. Bildad Rogoncho Kimwele
 Hon. Muktar Billow Salat
 Hon. Abdullahi Abdiwahab Mursal

Senior Principal Magistrate
 Resident Magistrate
 Kadhi II (Habaswein)
 Kadhi I

MANDERA LAW COURTS

Hon. Duncan Kiptoo Mtai
 Hon. Galgalo Adan

Resident Magistrate
 Kadhi II

**The list of judges and magistrates does not indicate judges or magistrates who were at various stages of vetting or disciplinary procedures or processes.*