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THE JUDICIAL SERVICE ACT

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THE STATE OF JUDICIARY AND ADMINISTRATION OF JUSTICE

ANNUAL REPORT FINANCIAL YEAR 2021/22

FOREWORD

Delivery of Justice is a shared mandate. It is a collective responsibility converging all of us in service for Kenyans. The 11th Edition of the State of the Judiciary and the Administration of Justice Report (SOJAR) highlights the momentous strides we have collectively realised during the period 2021/2022. At the Judiciary, we are currently championing an institutional reform agenda under the vision that we are calling ‘Social Transformation through Access to Justice,’ (STAJ). The Vision aims to put in place a people-centred justice system that addresses the justice gaps that have been obstacles to the realisation of a justice system that is accessible, efficient, timely, and cost-effective.

STAJ pursues a people-centred access to justice model which puts people at the heart of everything it embodies. The vision allows people to be actively involved in all the elements of access to justice facilitated by a Judiciary that is truly accessible, which meets the public needs and inspires confidence. Because many justice systems deliver only for the few by placing sole focus on institutions and existing procedures, STAJ provides pathways to counter this problem. Our inclination towards people-centred Justice will focus primarily on sensitive cases which if unaddressed, tear away at the dignity of those seeking justice. These initiatives feature prominently in this first issue since STAJ was unveiled in September, 2021.

As we focus on honouring our duty of accountability to Kenyans, the launch of the Annual State of the Judiciary and Administration of Justice Report (SOJAR) speaks to the *shared responsibility* towards the realisation of the constitutional right of access to justice as enshrined in Article 48 of our Constitution. Whilst most people tend to think that the realisation of the right to access to justice is an obligation vested solely on the Judiciary, it is in reality, a *shared responsibility* of all state organs and institutions. This means that the SOJAR report is a scorecard for the State, and not just the Judiciary, in delivering on this responsibility.

The Constitution calls on State Organs and Agencies to cooperate in the quest to advance and promote access to justice. This constitutional call for a new direction in inter-institutional relationship is informed by the reality that the 2021/2022 SOJAR Report, like the previous ones, shows that the Judiciary is not operating optimally due to significant budgetary, infrastructural, and human resource constraints. To remedy these shortfalls requires strong inter-institutional relationships founded on a collaborative and cooperative engagement by governmental institutions. Collaborative institutional engagement is set within the very fabric of the Constitution. For the State to realise Kenyans’ long-held desire for a justice sector that is responsive and efficient, there must be a shift in how State institutions engage. There is need for a shift towards a collaborative, as opposed to antagonistic, approach to inter-branch and inter-agency engagement and relations. The spirit of harmony that underlies the Constitution demands for partnership and responsibility sharing by all State institutions in service to the Kenyan people and discharging the shared obligation of ensuring access to justice for all. This spirit of harmony also envisages a balanced relationship of mutual respect for the independence of each arm of government within this collaborative approach.

During the period under review, an exceptional development was the operationalisation of the Judiciary Fund, 12 years since it was established by the Constitution. The Judiciary Fund will address the recurring problems of exchequer delays that hindered the effective administration of justice through provision of a half-year budget by the National Treasury released in monthly disbursements. The process of operationalising the Fund was a classic case of success when Government Agencies cooperate in the spirit of inter-institutional relationships woven together by the Constitution.

We also undertook various initiatives in our aspiration to expand the doorways of justice. We established new courts and sub-registries across the country. Of significance, was the establishment of a Sexual and Gender Based Violence (SGBV) Court to expedite resolution of sexual and gender-based cases. On March 10, 2022, during the first global observation of the International Day of Women Judges as designated by the United Nations General Assembly (UNGA) vide Resolution A/Res/75/274, I launched the first specialised Sexual and Gender Based Violence Court in Shanzu, Mombasa County. The decision to set up specialised SGBV Courts is backed by data and international United Nations best practice. There is evidence that specialised units in the justice system are more responsive and effective in enforcing laws on violence, especially against women and the vulnerable.

We are therefore grateful for the commitment by all actors in the justice chain to make access to justice a reality for the Kenyan people. Under STAJ, we have partnered with other actors to scale-up justice that aims to realise the ambition of setting up and operationalising 100 Small Claims Courts in the country; construction of High Court stations in the remaining seven counties; and Magistrates courts in the remaining 123 sub-counties. We have also expanded Alternative Justice Systems to meet the needs of communities and families by utilising cultural dispute resolution mechanisms that reinforce communal solidarity. Since the outbreak of Covid-19 pandemic, we have leveraged technology in the delivery of judicial services to enhance the efficiency of our processes and service delivery. We also managed a seamless pre-electoral preparation period that enhanced the state of Judiciary's preparedness to deal with any electoral disputes emanating from the 2022 General Election.

As we continue our focus to enhance mechanisms to secure access to justice for all, I invite you to read the full report and share your feedback on aspects that require more attention to realise our mutual constitutional promise of a prosperous and just state and society.

HON. JUSTICE MARTHA KOOME, EGH
Chief Justice and President of the Supreme Court of Kenya.

NOTE FROM THE CHIEF REGISTRAR OF THE JUDICIARY

As the Chief Administrator of the Judiciary and Secretary to the Judicial Service Commission (JSC), the Chief Registrar is the bridge between the management and staff of the Judiciary on one hand, and the JSC on the other hand. Most importantly, the Chief Registrar is the Accounting Officer of the Judiciary.

The Chief Registrar also provides an important link between the Judiciary and the other players in the justice sector to ensure a coordinated approach in the administration of justice in her capacity as the Secretary to the National Council on the Administration of Justice (NCAJ).

With support from various administrative units, the Chief Registrar is responsible for facilitating and coordinating courts to deliver services in consonance with the Judiciary's Constitutional mandate to deliver justice to all citizens efficiently, effectively and affordably, and the vision of social transformation through access to justice.

This edition of the annual SOJAR Report captures the progress registered during Financial Year 2021/2022 which has been a monumental period for the Kenya Judiciary. Significant progress was registered in the court expansion programme, the deployment of ICT in the Judiciary's operations and in the staff establishment which increased from 56% to 66%.

This growth in the institutional capacity translated to improvement in service delivery as evidenced by the positive change in case clearance rate presented in Chapter Two of the report, and in the individual and institutional performance captured in Chapter Four.

The Chapter on Resource Mobilisation and Utilisation details the financial status of the institution noting the financing gaps and absorption of resources by various spending units. The year ended on a high note, with the successful operationalisation of the Judiciary Fund which was established by the Constitution in 2010. Effective July 1, 2022, the budget for FY 2022/2023 will be utilised under the Judiciary Fund account, giving the Judiciary more control over its annual allocation which will still be determined by the National Assembly.

The Judiciary welcomes additional funding from Parliament and support from development partners as we work to expand the reach and quality of our services to the people of Kenya.

ANNE A. AMADI, CBS
Chief Registrar of the Judiciary.

EXECUTIVE SUMMARY

Chapter 1 gives an overview of the leadership of the Judiciary including the existing governance structures and strategic direction pursued during the period in review. The Judiciary has put in place various Committees to support the leadership in decision-making and execution of resolutions.

The Chief Justice launched "the Social Transformation Through Access to Justice (STAJ)" strategic vision that seeks to breathe life into the transformative promise of the Constitution by realising the right of access to justice. The vision aspires to have a strong institution that is independent, accessible, efficient, and protects the rights of all, especially the marginalised and most vulnerable.

During the review period (FY 2021/22), the Kenya Judiciary Academy (KJA) hosted fourteen Chief Justices and Judges from the East African Community during the East African Judicial Education Committee (EAJEC), Forum of East African Chief Justices (EACJF) and Joint Symposium of the EAJEC & EACJF. The meeting discussed the role of Courts as Tools for Economic Development and Social Transformation. The Judiciary also hosted the Southern African Chief Justices Forum (SACJF) which discussed strategies to deepen the rule of law, internet governance and digitization for efficiency and effective administration of justice in Africa. This forum was attended by sixteen Chief Justices and Judges from Kenya and participating countries.

The Judiciary also partnered with development partners including the European Union, UNDP, UNODC, IDLO, ICJ Kenya, ELGIA, IFES, UNFPA, FAO, among others, to complement STAJ strategic objectives.

Chapter 2 highlights the initiatives that were undertaken during the year to enhance access to justice particularly the output of court services. Eleven Environment and Land Court and six High Court stations were established across the Country in the quest to expand the doorways of justice. The establishment of 11 Small Claims Courts – a specialised court handling matters with a value of up to KSh1 million - made significant contributions to the economy and improved Kenya's ease of doing business ranking. During the period under review, the Small Claims Court resolved 9,315 cases valued at KSh1,431 billion.

To expedite resolution of sexual and gender-based violence cases, the Chief Justice operationalised the Sexual and Gender Based Violence (SGBV) specialised Court at Shanzu.

Decentralisation of Political Parties Disputes Tribunal (PPDT) across seven regions during the period made significant contributions to the timely resolution of electoral cases.

To standardise service delivery across all courts, several Court procedures were simplified and disseminated. A revised Presidential Election Petition checklist was produced and shared with the Law Society of Kenya.

The rollout of the Case Tracking System (CTS) during the period assisted the courts in case registration, fee assessment, cause list preparation, generation of court Orders as well as production of performance reports. Additionally, the Judiciary partnered with Google Africa to enhance internet connectivity to support virtual Courts across the country.

During the period, 404,312 cases were filed; 257,205 were criminal and 147,107 were civil. 42 per cent of these cases were filed in five Counties: Nairobi, Nakuru, Mombasa, Kiambu and Machakos. The High Court reported an efficiency of 94 per cent where 381,317 cases were resolved comprising 231,415 criminal and 149,902 civil cases. At the end of the review period, 678,697 cases were pending before the Courts. These cases comprised 294,278 criminal and 384,419 civil matters. This is an increase of 5 per cent from the previous year. 76 per cent of these pending cases

were in Magistrates' Courts. Of the cases pending at the end of the period, 50 per cent (336,426) had been pending in the Court system for over one year. This is a 10 per cent decline from the previous year.

Thousands of judicial decisions were handed down by the courts which settled important questions of constitutional and legal interpretation during the year. Chapter 3 highlights a few of these decisions as an illustration of how the courts are constantly driving evolutions in jurisprudence in keeping with societal developments, the Constitution of Kenya, and the vision of Social Transformation Through Access to Justice.

The Supreme Court pronounced itself on whether Kenya is a unitary or a federal state in light of the system of devolved government and called on the State to take deliberate steps, both immediately and in the future, towards the realisation of the economic and social rights that are protected under Article 43 of the Constitution. The Court of Appeal decried the unsatisfactory state of the law governing the management of persons with mental illness in the criminal justice system and called on the Attorney General to take immediate steps to initiate reform to the law that provides for the conviction of persons found culpable of offences while suffering from mental disorders and those who are subjected to trial without the mental capacity to understand the proceedings. On its part, the Environment and Land Court issued directives to address air and water pollution in Korogocho and Mukuru kwa Reuben slums which are attributed to the Dandora dumpsite and the pollution of the Nairobi River water upstream.

It is evident from the sampled cases – and in thousands that are not presented in this report – that the Courts are exercising their judicial mandate with a conscientious commitment to promote the ideals of the transformative Constitution of Kenya.

The Chapter also carries a list of statutory provisions that were declared unconstitutional during the reporting period to assist Parliament in reviewing these laws to align them with the Constitution.

Chapter 4 outlines the mechanisms the Judiciary put in place during the year to ensure accountability for the exercise of judicial power, and for the resources entrusted by the people of Kenya. The Office of the Judiciary Ombudsman received a total of 1,511 issues comprising 1,493 complaints and 18 inquiries. 76 per cent (1,129) of the complaints were concluded within the year. The chapter also outlines the measures that were instituted to address the root causes of these complaints to minimise recurrence. Key among these is the appointment of Integrity Assurance Officers who will work with the Leadership and Management Teams in each station to set up Anti-Corruption Committees and champion other interventions geared toward minimising unethical conduct among the Judiciary's employees.

It also presents the performance of various units during the sixth cycle of Performance Management and Measurement Understandings whose targets are cascaded to individual employees through Performance Appraisal Systems. During the period, 282 implementing units were evaluated on their performance for FY 2020/21. Overall average performance of the Courts was at 89.83 per cent, a slight improvement from 89.81 per cent in the FY 2019/20. Overall staff performance improved marginally by 1.3 per cent to a mean score of 95.2 per cent compared to 93.9 per cent in previous year.

Aside from the performance management system, employees of the Judiciary are held accountable through a strict code of conduct that is enforced by the Judicial Service Commission. This chapter provides vital statistics on the enforcement of the Code through the resolution of petitions lodged against superior court judges and disciplinary proceedings against Judicial Officers and Staff. As at June 30, 2021, 49 disciplinary cases were brought forward from the previous year; 43 new cases were registered; 31 appeals were lodged; and 89 cases were concluded as at close of the financial year. Of the 89 cases concluded, 36 were dismissed while 24 appeals were disallowed.

The key findings and recommendations from internal audits are highlighted in this chapter. An audit of 23 court stations revealed that there were improved systems and services offered to the Judiciary's clients both in the registries and court rooms; automation of many court processes has improved ease of issuance of court orders, assessment of court fees and the generation of e-receipts; and that the revamping of the JFMIS has facilitated closer oversight of expenditure, revenue and deposit management in the Judiciary.

Chapter 5 presents the status of the Judiciary's human resource capital and explains various strategies employed to enhance this asset. For optimal function, the Judiciary requires 348 Judges, 1,200 Judicial Officers, 650 Law Clerks and legal researchers and 7,219 Judicial Staff, totalling 9,417 employees. However, the overall employee complement at the end of the year was 6,182 or 66 per cent of the required establishment.

While this was an increase by 10 per cent from the previous year, significant gaps remain in the staff establishment due to budgetary limitations that has hampered the Judiciary's ability to recruit employees to critical cadres. This continues to stand in the way of service delivery to the people of Kenya who have a constitutional right access to justice.

As a stop gap measure to mitigate the impact of the low staffing levels, the Judiciary undertook a staff rationalisation exercise to ensure optimal deployment and distribution of existing employees across courts as it pursues long term measures to address the gaps in its establishment.

The Judiciary also made a conscious effort to create a workplace that is inclusive and reflective of the community in which it operates as demanded by the Constitution. As a result of years-long efforts to grant equal opportunities to qualified persons from diverse backgrounds, 49 per cent of the Judiciary workforce is female while 51 per cent is male. Additionally, the vast majority of Judiciary employees are between the age of 26 to 45 years. The resulting diversification in its workforce has paid off by enabling the Judiciary to draw on the unique talents, backgrounds, and perspectives of all employees to drive innovation and better performance, both in the resolution of disputes, and in the performance of administrative functions that support the core mandate.

This chapter also provides information on the training and capacity development activities conducted within the year to enhance the efficiency and effectiveness of the Judiciary. In preparation for the General Election anticipated in August 2022, the Judiciary prioritised EDR training that was offered by the Kenya Judiciary Academy in collaboration with the Judiciary Committee on Elections.

Chapter 6 gives an overview of the financial performance during the reporting period. One of the key achievements is the operationalisation of the Judiciary Fund by the end of the financial year following successful consultations between the Judiciary, the National Treasury, the Central Bank of Kenya, and the Controller of Budget. The Judiciary Fund Account and its operational accounts were opened and activated, and the Fund's Financial System successfully set-up, tested and approved for use. Additionally, the Cabinet Secretary for the National Treasury issued a detailed circular on the operationalisation of the Fund which guides the banking arrangements and flow of funds. The Judiciary was previously implementing the budget under Vote 1261. Upon operationalisation of the Judiciary Fund, the Judiciary was allocated Vote 9011 for implementation of the Judiciary Fund effective on July 1, 2022 where the budget for FY 2022/2023 will be utilised after successful implementation of the above milestones.

Although the annual budgetary allocation for the Judiciary will still be determined by the National Assembly, the operationalisation of the Fund comes with a host of benefits in the management of the funds that are allocated to the Judiciary. It will ensure the retention of unspent money at the lapse of a financial year, enabling the Judiciary to utilise the retained monies as exchequer for the subsequent financial year subject to the budget appropriated by the National Assembly. The Fund will also allow greater control over the monies that are allocated. The Judiciary will enjoy rights to effect budget reallocations in the Integrated Financial Management and Information System with limited reallocations within the Judiciary's Recurrent Vote. Additionally, the Fund allows access to half-year operations and maintenance budget which will improve budget execution especially in the issuance of Authority to Incur Expenditures (AIEs).

The annual allocation to the Judiciary during the year remained at 0.6 per cent of the national budget. The Judiciary was allocated KSh18.56 billion against a request of KSh35.379 billion. The deficit affected some critical projects and activities which ought to have been implemented in FY 2021/22 to expand access to justice to the people of Kenya.

A summary of the key policy issues and recommendations for various stakeholders are presented in Chapter 7.

CHAPTER ONE – GOVERNANCE AND STRATEGY IMPLEMENTATION

1.1 The Judiciary Governance Framework

The Office of the Chief Justice (OCJ) is established by Article 161(2) (a) of the Constitution of Kenya and is mandated to ensure the overarching constitutional objective of the fair, efficient, effective, transparent, and accountable administration of justice. The Chief Justice is the head of the Judiciary, the link between the institution and the other Arms of Government and provides general direction and leadership over the Judiciary. The Chief Justice is responsible for effective and efficient functioning of the Judiciary, a mandate that is delegated to various Standing Committees according to the STAJ vision. The Chief Justice is also the President of the Supreme Court by dint of Article 163 (1) of the Constitution.

The Office of the Deputy Chief Justice (ODCJ) is established by Article 161(2)(b) of the Constitution. The Deputy Chief Justice (DCJ) is the Deputy Head of the Judiciary and Vice-President of the Supreme Court. The Chief Justice assigns duties to the Deputy Chief Justice, who is responsible and accountable to the Chief Justice in the exercise of the functions and duties of that office.

Article 161(2)(c) establishes the Office of the Chief Registrar of the Judiciary (OCRJ), through which the administration of the Judiciary is undertaken. The Chief Registrar of the Judiciary (CRJ) is the chief administrator and accounting officer of the Judiciary responsible for the overall administration and management, and reports to the Chief Justice.

In undertaking this function, the CRJ is assisted by the Deputy Chief Registrar of the Judiciary (DCRJ), Registrars, Directors and Heads of Administrative Units. They are charged with various responsibilities that support and facilitate the delivery of judicial services. These administrative leadership offices provide supervisory roles in ensuring smooth implementation of policies and strategies aimed at strengthening and improving the efficacy and quality of access to justice for Kenyans.

For the successful and efficient governance of the institution, the Chief Justice is assisted by a structured system of standing and ad hoc committees. The committees provide the Chief Justice with a holistic, comprehensive, contextual, and up-to-date status of all activities across the institution.

The ad hoc committees, which are task-specific and/or time-bound, report to the relevant standing committee within their respective thematic area. To ensure a holistic approach to governance, the committees consist of judges, judicial officers and judicial staff.

The apex leadership committee is the Judiciary Leadership Team (JLT) chaired by the Chief Justice. It includes the Deputy Chief Justice, President of the Court of Appeal, the Principal Judges of the High Court and Employment and Labour Relations Court and the Presiding Judge of the Environment and Land Court. The CRJ, DCRJ, Registrar Subordinate Courts, and the Registrar Tribunals also sit on the committee.

Guided by the principles of inclusiveness and shared leadership, the JLT makes policy prescriptions, provides strategic direction for the entire institution and forms a critical link with institutional stakeholders such as the JSC.

The Standing Committees of the Judiciary are:

1. Administration of Justice and Performance Management Committee (AJPMC)
2. Judiciary Fund Management Standing Committee (JFMSC)
3. Human Resource Management and Administration Committee (HRMAC)
4. ICT and Integrated Case Management Systems Committee (ICMS)
5. Building, Infrastructure and Facilities Development Committee (BIFDC)
6. Public Affairs and Communication Committee (PACC)
7. Judiciary Committee on Elections (JCE)
8. Rules Committee (RC)

The Standing Committees cover all the core aspects of the Judiciary operations and report to the Chief Justice.

With regard to the judicial governance of the Judiciary, the Superior Courts in the Judiciary are the Supreme Court, the Court of Appeal, the High Court, the Environment and Land Court (ELC), and the Employment and Labour Relations Court (ELRC).

The Supreme Court is headed by the Chief Justice, who is the President of the Court, and is assisted by the Deputy Chief Justice, who is the Vice President of the Supreme Court. The Court of Appeal is headed by the President of the Court of Appeal who is elected by the judges of the Court of Appeal from amongst themselves.

The High Court and the ELRC are headed by a Principal Judge, while the ELC is headed by a Presiding Judge, who are all elected by the judges of the respective Superior Court from amongst themselves. The High Court Advisory Committee (HCAC) provides guidance and support to the Principal Judge in the administration and management of the High Court.

The President of the Court of Appeal, the Principal Judges of the High Court and the ELRC, and the Presiding Judge of the ELC are each accountable and responsible to the Chief Justice for the general administration and management of their respective court.

The CRJ is responsible to the Chief Justice for the supervision and overall administration of the Subordinate Courts. In actualising this function, the CRJ is assisted by the Registrars of the respective courts, to wit the Registrar, Magistrates Courts, Registrar Tribunals and Registrar, Small Claims Courts.

For efficient delivery of services, the Judiciary works closely with stakeholders including state and non-state agencies as well as civil society organisations that work in the legal sector. This is done under the auspices of the National Council on the Administration of Justice (NCAJ) whose core function is to ensure smooth coordination of delivery of justice by all the agencies.

NCAJ is mandated to meet at least quarterly. It is chaired by the Chief Justice with the Chief Registrar of the Judiciary as its Secretary. The day-to-day administration of the affairs of the Council is undertaken by a Secretariat that is headed by an Executive Director.

At the grassroots level, Court User Committees bring together all the actors and stakeholders in the administration of justice within every court station to ensure timely resolution of challenges that occur at the station.

1.2 Our Strategic Intentions

The Judiciary, like all other State organs and institutions of governance, draws its mandate and authority from the people of Kenya. The Constitution provides, under Article 1(3), that all authority belongs to the people and is delegated collectively to the Judiciary and independent Tribunals, together with the other State organs.

The Constitution specifically provides for the objects, purpose and manner in which judicial power and authority is exercised. Article 159 of the Constitution provides that the exercise of judicial power should ensure equality in the administration of justice, expeditious delivery of justice, employ and embrace alternative justice systems and uphold the substance of justice above technicalities and processes. Judicial power and authority should also enhance and promote the purposes and principles enshrined in the Constitution.

These principles frame the governance and policy framework of the institution and provide the normative basis that binds all to exercise judicial power and authority through courts and tribunals.

During the review period, the strategic direction of the Judiciary was guided by two key complementary documents: The Judiciary Strategic Plan (2019 – 2023) and the Social Transformation through Access to Justice (STAJ) vision. The institutional vision is “*to be an independent institution of excellence in delivering justice to all*”. This vision is realised through “*the dispensation of justice in a fair, timely, accountable, and accessible manner that upholds the rule of law, advances indigenous jurisprudence, and protects and promotes the Constitution*”.

The Chief Justice launched the STAJ strategic vision on September 16, 2021. The STAJ vision is the roadmap for the future of the Judiciary and seeks to breathe life into the transformative promise of the Constitution through access to justice. The primary intention is to see the Judiciary develop into an independent, vibrant, efficient and accessible institution that is responsive to the aspirations of Kenyans and serves as a true guardian of the rule of law and our democracy.

The STAJ vision signals an ideological shift in the administration of justice towards enhancing public welfare and constructing a just society. All activities and interventions in the administration of justice through the Judiciary are thus deliberately instrumentalised with these targets and objectives in mind; the targets are public welfare and social justice, the process, and transformation of society through access to justice.

1.3 Strategic Objectives

Building on the strong foundations set by the previous institutional blueprints, the Judiciary Transformation Framework (JTF) (2012-2016) and the Sustaining Judicial Transformation (SJT): A Service Delivery Agenda (2017-2021), the Judiciary, during the reporting period commenced work towards achieving the five key outcome areas grounded on the STAJ vision of the Judiciary.

Strategic Principles of STAJ

1. Accessibility and Efficiency.
2. Transparency and Accountability.
3. Inclusiveness and Shared Leadership.
4. Cooperative Dialogue.
5. Social Justice.

Expected Results

1. A strong institution that is independent, accessible, efficient, and protects the rights of all, especially the vulnerable. These outcome is to be realised through;
 - i. Standardisation of service delivery across all courts.
 - ii. An informed and empowered citizenry that understands their rights, the law, and mechanisms to obtain justice.
 - iii. Enhanced focus on people-centred service delivery.
 - iv. A multi-door approach to justice.
 - v. Leveraging technology for productivity.
 - vi. Developing indigenous social justice jurisprudence.
 - vii. Improve proximity to courts.
 - viii. Reduce case backlog.
2. An inspired team of Judges, Judicial Officers, and Judiciary Staff committed to excellence in delivery of justice. This outcome is to be realised through;
 - i. Continuous training for Judges, Judicial Officers, and Staff;
 - ii. Fostering a shared leadership approach.
 - iii. Inclusive decision-making.
 - iv. Entrench individual responsibility of Judges and Judicial Officers.
 - v. Enhance results-based management.
 - vi. Establishment of a world-class Judicial Academy.
 - vii. Develop a change management programme.
3. Strengthened financial systems that support the independence and integrity of the Judiciary.
 - i. Operationalise the Judiciary Fund.
 - ii. Operationalise Enterprise Resource Planning.
 - iii. Optimise absorption and utilisation of the funds.

- iv. Enhance resource mobilisation.
 - v. Collaborate with donor agencies and development partners to reinforce the Judiciary's financial ability to implement its interventions and programmes.
 - vi. Timely settlement of financial obligations.
 - vii. Enhanced audits.
 - viii. Ensure there is value for money in all the undertakings.
 - 4. Deepened partnerships that enhance coordination in the administration of justice. This outcome is to be realised through;
 - i. Engage constructively the Executive and Legislative Arms of Government.
 - ii. Deepen partnerships at the county level.
 - iii. Encourage multi-actor collaboration.
 - iv. Strengthen public engagement.
 - v. Strengthen the National Council on the Administration of Justice (NCAJ).
 - 5. Enhanced public trust and confidence in the judicial system. This outcome is to be realised through;
 - i. Enhance transparency and information sharing to meet the demands for public involvement.
 - ii. Enhance the performance of complaints handling mechanisms.
 - iii. Mainstream the principles of leadership and integrity in the administration of justice.
 - iv. Enhance the mechanisms of receiving feedback from Court Users and Customers.
 - v. Establishment and roll-out of a robust and secure Online Case Management System for handling complaints.
- a. 1.5 Highlights of Strategic Interventions
- i. 1.5.1 *Accessibility and Efficiency*
1. 1.5.1.1 Widening the Doorways of Justice

The defining spirit of the STAJ vision for the Judiciary is the constitutional edict that our justice system must be responsive and alive to the realities of our people and offer tangible and substantive justice that speaks to their concerns, vulnerabilities, and pains.

Under the STAJ vision, the Judiciary is dedicated to the idea of justice beyond the confines of State institutions embracing the multi-door institutional approach and nurturing its potential to deepen access to justice.

Alternative Justice Systems (AJS) offer our people an appropriate and effective system of dispute resolution, given that our communities have used elements of facilitated consensus-building in dispute and conflict management outside State structures for centuries. By focusing on root causes of injustice and the justice needs of entire communities and societies rather than just individuals, this model encourages cohesion and unity subsequent to the resolution of disputes.

The Judiciary, through the National Steering Committee for the Implementation of the Alternative Justice Systems continued to promote AJS across the country; implemented the AJS Action Plan and launched AJS Suites (*Ukumbi*) in the counties of Kajiado and Nakuru.

The Judiciary held the first National AJS Conference at Tangaza University College in Nairobi on June 21, 2022. The conference brought together AJS practitioners, justice sector partners, State and non-State institutions, academics, community leaders and students to engage in a structured national conversation on justice in accordance with the purpose and principles of the Constitution and for the benefit of the people of Kenya.

Building on the success of the Programme for Legal Empowerment and Aid Delivery in Kenya (PLEAD I), which was launched in March 2018, the Judiciary partnered yet again with the European Union, development partners and other institutional justice actors for the launch of PLEAD II in January 2022. This is one of the most extensive EU justice programme in sub-Saharan Africa and is expected to run up to 2028. Most of the projects will mainly focus on improving criminal justice systems, anti-corruption strategies, and harnessing the potential of digital technologies to improve access to justice, in particular for the most vulnerable.

Enhancing access to justice, especially for the poor and vulnerable, through provision of legal aid and improving cooperation throughout the justice sector, PLEAD II resonates with the STAJ vision of the Judiciary aimed at developing a people-centred justice system that is focused on people's needs thus reinforcing the idea of justice as a public service.

The Judiciary continues to implement, improve and expand Court Annexed Mediation (CAM) across all the court stations as an avenue to resolve disputes especially in family matters. The project, which has been in operation since 2016, has seen matters resolved amicably and expeditiously with the release of billions of shillings into the economy through the speedy resolution of disputes that would otherwise have spent time tied up in litigation.

Eight CAM registries were established and operationalised in the year under review. One hundred and eighty-one matters were referred to CAM, with 66 matters concluded. The subject value of matters referred to mediation was approximately KSh2 billion, with matters settled having a value of KSh554 million.

The Judiciary remains committed to entrenching ADR across all the court stations and divisions. Leveraging on the synergies brought about through the ADR task force and the Mediation Accreditation Committee (MAC), the Judiciary is committed to improving and strengthening ADR as a key avenue through which it can expeditiously meet the justice needs of litigants, particularly in the commercial justice sector.



A regional conference on witness protection under the theme 'Harnessing Shared Experiences to Enhance Collaboration and Linkages for Effective Witness Protection in Africa' was held in Nairobi in November 2021.

1.5.1.2 Harnessing Technology in the Delivery of Justice

The COVID-19 pandemic continued to impact the performance and direction of the Judiciary in the fiscal year 2021/22. A consolatory positive is the accelerated uptake of Information and Communications Technology (ICT) to facilitate access to justice and mitigate pandemic-related challenges. The Judiciary is committed to harnessing digital technologies, the Internet and ICT to promote access to justice, human development and social transformation.

The institution continues to implement its digitisation agenda, which aims to enhance institutional performance, efficiency and effectiveness in service delivery. Our home-grown e-filing system (that includes e-case registration, automated court fees assessment, e-service facilitation, e-payment and automated generation of orders and communication) has improved access to and efficiency of court operations.

At the end of the reporting period, a total of 8,314 accounts had been created on the e-filing portal comprising 4,826 individual accounts, 3,085 law firms, 333 organisations, and 70 State organisations. In the same period, there were 84,279 matters filed, which included certificates of urgency; 1,800 orders generated; and KSh939,975,091 collected as court fees, fines and deposits.

The Judiciary Case Tracking System (CTS) has brought positive transformations to our registries enabling automated registry functions. These include digital registration of cases, tracking of the case progress, automated court fees assessments and management of the court calendar and cause list. As at June 30, 2021, a total of 1,359,768 cases had been captured in the CTS.

In keeping with the principles under the STAJ vision, the Judiciary remains acutely cognisant of the potential of ICT solutions to negatively impact access to justice through unequal access to technologies, limited internet access across the country and lack of knowledge or ability to use the technologies deployed. The Judiciary is developing strategies and innovations to mitigate the potential of digital exclusion.

These include initiatives to provide e-Judiciary services through *Huduma* Centres and Constituency Innovation Hubs for members of the public without access to the internet. Through these efforts citizens will be able to access judicial services across the country through community centres that are easily accessible to them.

In addition, Judiciary's websites and e-platforms are designed with mobile-friendly interfaces for enhanced accessibility. The Judiciary services can also be accessed using mobile-friendly formats such as USSD and SMS.

In August 2021, the Chief Justice held meetings with Google Kenya, during which the company committed funds geared towards improving access to justice through enhanced connectivity for the Judiciary. The programme will be implemented through Google Kenya support to the Ministry of ICT, Innovation and Youth Affairs and will aid in the digital migration of courts across the country.

In addition, the Chief Justice highlighted the progress that Kenya had made in harnessing technology to provide public services during her address on 'Digital Inclusion and Exclusion; Access to Technology' at the Commonwealth Technology Conference in September 2021.



Hon Justice Martha Koome, Chief Justice of the Republic of Kenya (L), ICT, Innovation and Youth Affairs Cabinet Secretary, Joe Mucheru and President of Estonia, H.E. Kersti Kaljulaid (R) participating in a high-level think-tank panel discussion on e-Governance sustainability at the Strathmore University in September 2021.

1.5.1.3 Court Stations and Sub-Registries Established

The Judiciary is committed to improving accessibility to courts especially ensuring proximity to courts for the marginalised and vulnerable persons. The objective under the STAJ vision is to reduce the proximity of courts to less than 100 kilometres; establish and operationalise a Magistrates' Court in each sub-county; a High Court, ELC & ELRC in each county; and further decentralise the Court of Appeal beyond Nairobi, Mombasa, Kisumu and Nyeri.

Towards this target, the Supreme Court established two sub-registries in Mombasa and Kisumu to enable the filing of cases from these locations, thus defraying the attendant costs of filing the same in Nairobi. The Court of Appeal operationalised its Kakamega sub-registry and held its inaugural court circuit in March 2022. The Court of Appeal further established four other sub-registries in Busia, Meru, Garissa and Kisii. The High Court operationalised two sub-registries in Kapsabet and Kilgoris. In March 2022, an ELC Judge was posted to Iten within Elgeyo Marakwet County and more than 100 land cases were registered. The ELRC sub-registries at Bungoma and Malindi were upgraded to fully fledged courts.

1.5.1.4 Small Claims Courts

The Small Claims Court (SCC) heralds a new dawn in the administration of justice in Kenya. The Courts are a community-oriented social justice forum that seeks to unlock access to justice for the vulnerable and marginalised through accessible, cost-effective, friendly, flexible, and simple processes. They are a critical part of realising the Judiciary's vision to achieve enhanced access to justice.

Indeed, the SCC is a key driver of the STAJ vision as its main objective is to guarantee the right of access to justice through simplified procedures, timely disposal of proceedings, fairness of the process and allowing litigants to process their cases without procedural technicalities and affordably.

Recognising that the SCC enhances access to justice by expanding the reach of the formal justice system to a category of claimants previously unable to access mainstream judicial services for various reasons, the Judiciary continued to implement its ambitious rollout plan for the establishment of Small Claims Courts across the country.

Eleven Small Claims Court were established and operationalised at Kajiado, Machakos, Nyeri, Naivasha, Nakuru, Eldoret, Kakamega, Kisumu, Mombasa, Thika and Meru, as well as one virtual sub-registry. Information, Education and Communication (IEC) material on the Court have been developed and disseminated to the public in English and Swahili to improve understanding of the court's processes and requirements.

Twenty-five Resident Magistrates were designated as adjudicators in the SCC, with efforts also being made to expand the Judiciary ICT infrastructure such as e-filing and the Case Tracking System (CTS) to these courts.

The Judiciary collaborated with the Nairobi Metropolitan Services (NMS) to construct five SCC in Kasarani, Makadara, Dagoretti, Mathare and Embakasi. The Judiciary is committed to strengthening and expanding the SCC as they are key in bringing justice to more Kenyans and further reducing case backlog.



Construction of Small Claims Courts in Nairobi kicked off in February 2022 in Mihang'o, Embakasi with similar courts planned in Kasarani, Mathare, Dagoretti and Madaraka in collaboration with the Nairobi Metropolitan Services.

1.5.1.5 Commercial Sector Justice Reforms

The Judiciary recognises the importance of an efficient commercial justice system to the business, investment and wider economic development of the country. As such, the institution continues to implement commercial justice sector reforms through well-organised court structures and

procedures for commercial matters, efficient case management systems in the commercial division, and ensuring the availability of effective alternative dispute resolution mechanisms in commercial disputes.

A key deliverable under the STAJ vision is ensuring commercial disputes are resolved expeditiously to promote ease of doing business and create a conducive business climate through the provision of a responsive and efficient commercial justice system that also builds investor confidence.

On June 15, 2022, the Chief Justice launched the Commercial Justice Sector Court Users Committees (CUCs). The CUC will provide a platform that brings together actors in the commercial justice sector to engage, develop a shared understanding of access to justice and promote effective partnerships for shared benefits.

The Commercial Justice CUCs that will be rolled out at all major hubs in the country, support and ensure sustained collaboration of the actors in the commercial sector; provide a platform where bottlenecks currently facing the commercial justice sector will be addressed; enhance public participation, feedback mechanisms, dialogue and engagement in the delivery of commercial justice; and provide for structured engagement of the business community in driving commercial justice reforms in the country.



The Commercial Justice Sector Reforms Project Phase II, was launched in May 2022 with support from the Embassy of the Kingdom of the Netherlands in Nairobi, through the International Development Law Organisation (IDLO). The IDLO Country Manager, Ms. Teresa Mugadza [Pictured] speaks at the launch.

1.5.1.6 Election Preparedness

Recognising that fair, efficient, timely, and effective settlement of electoral disputes is a crucial component of achieving a successful electoral process that preserves national unity and cohesion, the Judiciary actively sought to enhance its preparedness to dispose of matters related to the 2022 electoral cycle. This included engagement and collaboration with other institutional actors in the electoral process to enable each institution discharge its functions effectively and optimally.

The Judiciary Committee on Elections (JCE) developed and continued implementing a comprehensive election preparedness work plan to ensure that the institution is positioned to discharge its mandate. These included training of Judges, and Judicial Officers on electoral offences and connected matters. The JCE reviewed electoral legislation and developed a memorandum on areas of statutory reforms touching on Election Dispute Resolution (EDR).

Through engagement with the Legislature and other institutions in the electoral justice space, the JCE contributed towards securing an improved EDR legal framework through reforms to the Political Parties Act, 2011 and the Elections Act, 2011 that will enable the effective and expeditious determination of electoral disputes and ensure certainty of electoral outcomes.

On February 25, 2022, the Chief Justice gazetted 120 Special Magistrates to hear and determine matters relating to offences under the Election Offences Act, 2016. These Judicial Officers were taken through a comprehensive capacity-building programme to prepare them to discharge their special mandate.

Further, the Chief Justice issued a directive to Magistrates handling hate speech matters under the National Cohesion and Integration Act, 2008 to finalise all pending hate speech matters within four months from February 2022.



On May 19, 2022, Hon. Justice Martha Koome, Chief Justice held discussions with the African Union, COMESA and EAC pre-election consultative mission to Kenya ahead of the August 9 General Election.



On December 7, 2021, members of the National Cohesion and Integration Commission met with Hon. Justice Martha Koome, Chief Justice where she committed to set up special courts to expedite hate speech cases ahead of the 2022 polls and to appoint special magistrates under the Elections Act to deal with election offences.



Hon. Lady Justice Philomena Mbete Mwili, Deputy Chief Justice of the Republic of Kenya during discussions with the Kenya Editors' Guild on efficiency and accountability in the Judiciary ahead of the 2022 General Election.

1.5.1.7 Operationalisation of the Judiciary Fund

The financial independence of the Judiciary is an important component of the wider constitutional requirement for the impartiality and independence of the Judiciary. A key aspect of financial independence is establishing and operationalising the Judiciary Fund pursuant to Article 173 of the Constitution. The establishment of the Judiciary Fund will also have a significant and positive impact on the efficiency and effectiveness of the Judiciary in the administration of justice.

During the year under review, the Judiciary intensified its engagements with the National Treasury, Controller of Budget, and the Central Bank of Kenya towards operationalising the Judiciary Fund and strengthening management policies and systems to optimise the management of financial resources.

On September 3, 2021, the Chief Justice established a multi-institutional Technical Committee on the Operationalisation of the Judiciary Fund (TCOJF) to, inter alia, develop clear operating modalities for the management of the Judiciary Fund bank account and, to define connected banking arrangements..

The Technical Committee, supported by the relevant directorates within the Judiciary, developed and implemented a Judiciary Fund operationalisation roadmap that included setting up and testing the operation system, the training of users and support teams, data migration, and system integration.

The Committee also identified areas of legislative reform to augment the Fund's operational structures. As a result of these collaborative efforts, the Judiciary Fund became operational effective July 1, 2022.



The Chief Registrar of the Judiciary, Anne Amadi, receives instruments operationalising the Judiciary Fund from Michael Rundu Eganza, Director - Banking and Payment Services at the Central Bank of Kenya.

1.5.2 The Judiciary of Kenya: A Centre of Excellence

Under the STAJ strategic vision, the Judiciary seeks to evolve into a regional and global centre of excellence in the administration of justice. To this end, the Judiciary actively engages in knowledge and experience exchanges with other judiciaries, justice actors and stakeholders.

The Judiciary also seeks to share best practices and innovations with other jurisdictions to improve efficiency, quality of jurisprudence and services. The Chief Justice encourages this spirit of consultation, cooperation and mutual development and seeks to engage in activities and platforms that foster the sharing of experiences, ideas, and perspectives on the administration of justice and the place of judiciaries as core anchors of the development agenda within their jurisdictions.

In this regard the Judiciary of Kenya hosted the Southern African Chief Justices' Forum (SACJF) Management Committee Meeting, and Judicial Symposium on Digitisation & Internet Governance from April 20 to 23, 2022 bringing together Chief Justices and their Deputies from 12 African jurisdictions to strengthen cooperation and knowledge exchange. The meeting sought to deepen the rule of law regionally and discussed Internet governance, digitisation and the potential of ICT to radically improve the extent, efficiency, and efficacy of access to justice in Africa.



Chief Justices from East Africa at the Forum of East African Chief Justices (EACJF) held in Mombasa from December 13 to 17, 2021 under the theme 'The Role of Courts as Tools for Economic Development and Social Transformation.'

The Judiciary of Kenya also hosted the East African Judicial Education Committee (EAJEC), the Forum of East African Chief Justices (EACJF) and the Joint Symposium of the EAJEC & EACJF from December 13 to 17, 2021 under the theme, 'The Role of Courts as Tools for Economic Development and Social Transformation'. This meeting was attended by seven Chief Justices and Deputy Chief Justice from the East African Region, Judge/President of the East African Court of Justice and the Secretary General of the East African Community.

These initiatives are part of the Judiciary's Vision to build a premier Kenya Judiciary Academy which is the meeting point for ideation and jurisprudential collaboration across the Region.

On May 17 to 18, 2022 Hon. Lady Justice Jamila Mohammed, JA, was nominated by the Chief Justice to represent the Judiciary at celebrations on the establishment of the Union of African State Councils and Supreme Administrative Courts in Cairo, Egypt. In May 2022, the Judges of the Supreme Court participated in a working session with their colleagues on the Federal Constitutional Court of Germany to discuss mutual concerns regarding the independence of the Judiciary.



A delegation from Malawi that was on a benchmarking visit to the Judiciary of Kenya was hosted at the Supreme Court building by Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya, Deputy Chief Justice Philomena Mwilu and Chief Registrar of the Judiciary Anne Amadi.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya attended the Southern African Chief Justices Forum (SACJF) in Zimbabwe, in September 2021, during which she described the COVID-19 pandemic as a silver lining in making justice more accessible to citizens.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya and Deputy Chief Justice Hon. Philomena Mbete Mwili hosted a delegation led by the Chief Justice of Mozambique His Lordship Adelino Manuel Muchanga (C) at the Supreme Court in April 2022.



Supreme Court Judges working visit session in the Federal Constitutional Court of Germany; May 2, 2022



Chief Justice Hon. Martha Koome hosted a delegation from the Judiciary of Uganda led by Chief Justice Hon. Alfonse Chigamoy Owiny-Dollo at the Supreme Court building.

1.5.3 Transparency and Accountability

1.5.3.1 Entrenching Performance and Data-Based Decision Making

Performance measurement and management are a key productivity and accountability tool in the Judiciary. The Performance Management and Measurement Understandings (PMMUs), a negotiated and contextualised performance assessment method, is now in its sixth year of implementation. Courts, Tribunals and Administrative Units across the country are measured on an annual basis to maintain high service delivery standards and leverage on innovations from the courts and units.

The Judiciary's performance management system is a process that facilitates the setting of goals, focusing on performance standards and reporting on the progress made. The system is implemented annually to track the extent of achievement of the Courts, Tribunals and Administrative Units on critical indicators that measure, inter alia, effective case management, the efficiency of registries, and overall success in case disposition. The performance evaluations reveal the achievements of the courts and administrative units against the targets set and any impediments that need to be addressed for improvement.

The launch of the PMMU Evaluation Report, FY 2020/2021 reflects the commitment of the Judges, Judicial Officers and Judicial Staff to excellence in the discharge of their duties and the recognition that they must remain accountable in the exercise of judicial authority that is derived from the people that the Judiciary serves.

The sustained implementation of performance management in the Judiciary has resulted in several gains, including streamlining internal processes and systems, improving efficiency and effectiveness, conducting timely trials, increasing accountability and productivity of Judges, Judicial Officers, and Judicial Staff, and promoting service quality in the courts.

STAJ has created more impetus to deepen the performance management culture within the Judiciary. The targets measured in PMMUs across courts and units are being aligned with institutional priorities to ensure synergy towards attaining the vision's unified objectives. The targets being implemented constitute critical steps towards enhancing accountability and ensuring high performance in the work of the Judiciary.

1.5.3.2 Mainstreaming Integrity in the Administration of Justice

The Judiciary redoubled its efforts towards mainstreaming ethics and integrity in the conduct of Judges, Judicial Officers and Judicial Staff with the aim of enhancing public trust and confidence in the judicial system. A key objective under the STAJ vision is to ensure that corruption and economic crimes cases are expeditiously dealt with by increasing the number of Judicial Officers attending to these cases, embracing proper case management, and working towards automation of the anti-corruption records and proceedings.

Through the Office of the Judiciary Ombudsman (OJO), the Judiciary is committed to promptly and satisfactorily dealing with any complaints implicating any Judge, Judicial Officer or Judicial Staff. Moreover, technology is being utilised to improve lodging and tracking of complaints to enhance the efficacy of Judiciary complaints handling procedures and systems.

On November 3, 2021, the Ethics and Anti-Corruption Commission (EACC) was invited to undertake a comprehensive Judiciary Systems Audit. This systemic review of the policies, procedures, and practices of the Judiciary will identify the avenues and opportunities for unethical and corrupt practices so that the Judiciary can work towards eliminating them.

The Judiciary has taken a proactive and preventive approach recognizing that corruption is both a personal (moral and ethical) and systemic challenge, the latter being a function of inadequate and vague laws, policies, practices, and processes. Weak systems and processes create loopholes for corruption to thrive. The ensuing report will advise the Judiciary on designing, implementing, and strengthening the anti-corruption measures that are currently in place.



Chief Justice Hon. Martha Koome held robust discussions with the Speaker of the National Assembly Speaker Justin Muturi and Members of the Public Accounts Committee, Justice and Legal Affairs Committee and the Budget and Appropriations Committee to discuss the Judiciary's financial capacity to deliver justice.



Chief Justice Hon. Martha Koome of the Eastern Africa Association of Anti-Corruption Authorities during their 14th Annual General Meeting. They play a vital role in preventing and combating graft.



Chief Justice Hon. Martha Koome hosted a delegation from the Agency for the Prevention and Fight Against Corruption of the Democratic Republic of Congo that was accompanied by Kenya's EACC Chief Executive Officer Twalib Mbarak.



Deputy Chief Justice Philomena Mwili with British Deputy High Commissioner H.E. Josephine Gauld, PS EAC Dr Kevit Desai and CEO British Chamber of Commerce Farida Abbas during the Corruption Perception Index Workshop.

1.5.4 Cooperative Dialogue & Partnerships

The Judiciary seeks to actively deepen partnerships that enhance coordination in the administration of justice. This is a foundational aspect of the STAJ vision through which the Judiciary deliberately takes an outward-looking approach that seeks to dialogue with actors within the justice sector and members of the public to identify and address the real barriers to access to justice.

Throughout the year, the Judiciary engaged in cooperative dialogue with institutional agencies and partners, sought to build and deepen partnerships at national and county levels, encouraged multi-actor collaboration, especially through the National Council on the Administration of Justice, and strengthened public engagement to ensure the courts are more engaged and they take into consideration the concerns of court users and the public.

Between March 10 to 11, 2022, the Judiciary participated in a Joint Consultative Retreat with the Judicial Service Commission and the following committees of the National Assembly: Public Accounts Committee; Justice and Legal Affairs Committee; and, the Budget and Appropriations Committee. This unique high-level meeting allowed constructive dialogue on a range of issues, including a discussion on the strategic priorities of the Judiciary and the role of the National Assembly; adequate funding for access to justice activities and programmes; reporting and accountability by the Judiciary; Financing ICT and court infrastructure; and the legal framework for enhancing access to justice and strengthening the operations of the Judiciary.



Chief Justice Hon. Martha Koome spoke at the 7th Annual Devolution Conference in Makueni where she emphasised that the social transformation promise of our Constitution requires the government to reach the most marginalised and vulnerable in our country.



Chief Justice Hon. Martha Koome accompanied by members of the Judicial Service Commission (JSC) held a consultative meeting with the Governor of the Central Bank of Kenya, Dr. Patrick Njoroge to discuss areas of mutual collaboration.

1.5.5 Social Justice, Public Engagement and Outreach

1.5.5.1 Public Engagement and Outreach



After an engaging interview on Capital FM, the staff enjoyed cake with Chief Justice Hon. Martha Koome to mark her 100 days in office.

Hon. Justice Martha Koome in 'The Situation Room' at Spice FM during an interview where she spelt out achievements made during her first year in office.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya hosted Her Excellency Nobel Laureate Ellen Johnson Sirleaf, the first female Head of State in Africa, on March 15, 2022 at the Supreme Court.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya held a meeting with Her Excellency The Most Honourable Dame Sandra Mason, President of Barbados on June 12, 2022 to share insights about the connected legal and leadership journeys and exceptional shared heritage between our two countries and people.



Hon. Justice Philomena Mbete Mwili, Deputy Chief Justice of the Republic of Kenya mentored students from Moi High School Kabarak. She encouraged them to work hard, shared her experience as an advocate, judge and leader. At the end of the tour, she welcomed them to have a feel of her office to inspire them to greatness.

1.5.5.2 Corporate Social Responsibility Engagements

The STAJ vision lays emphasis on children, persons living with disabilities, the youth, minorities, the vulnerable in society and marginalised groups. The Judiciary undertakes Corporate Social Responsibility initiatives to complement this objective.



Lucy Njoki, the top performer in Kiambaa expressed a wish to meet her mentor, Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya . The Chief Justice fulfilled that desire in the company of Deputy Chief Justice Philomena Mwili when Njoki joined Loreto High School Limuru. They also took the opportunity to mentor other students.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya joined the Leader's Build in Machakos County on March 1, 2022 to support the construction of a house for a poor and vulnerable family under an initiative spearheaded by Habitat for Humanity Kenya. The Chief Justice and her family have supported this initiative in Kenya, Cambodia and other deserving communities around the world.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya visited Gede Special Primary School For Hearing Impaired and Physically Challenged in Kilifi County on February 5, 2022 to encourage and wish them a blessed year.



Kenya Women Judges Association accompanied Chief Justice Hon. Martha Koome and Deputy Chief Justice Hon. Philomena Mwilu during a visit to the Okoa Sasa child rescue centre in Utange, Mombasa County..

1.5.5.3 Children and Vulnerable Persons

STAJ pays special attention to enabling vulnerable group's access justice in our judicial system. The Constitution vests various duty bearers including the Judiciary with the mandate of advancing the common good and overcoming exclusion and particularly for the vulnerable groups including women, older members of society, persons with disabilities, children, youth, and members of minority or marginalised communities.

The vulnerabilities of children are unique, and more needs to be done to ensure the justice system protects and does not exacerbate the plight of children who are victims of crimes or those in conflict with the law.

To this end, the Judiciary is committed to ensuring that judicial processes are children friendly. The Judiciary continues to implement the Report of the Special Multi-Agency Task Force on Children Matters (2019) and is an active member of the NCAJ Special Taskforce on Children Matters. On June 13 to 19, 2022, the Deputy Chief Justice led institution-wide Day of the African Child celebrations in Nairobi and Kilgoris under the theme "Eliminating Harmful Practices Affecting Children."

During these celebrations, the Judiciary emphasised the need for improved collaboration amongst all justice system partners. It highlighted the Judiciary's commitment to the constitutional obligation of all State organs to address the needs of vulnerable groups within society, including children and the youth, to ensure children are protected from harmful cultural practices and all forms of violence, inhuman treatment and punishment, and to ensure that in all matters concerning children, the best interest of the child is the priority and of paramount importance.

The Judiciary is also committed to ensuring that it adheres to the principles of gender inclusion and is alert to gender sensitivities in the workplace that often serve to disenfranchise and disempower women.

To this end, the Judiciary launched its Gender Mainstreaming Policy and scorecard in November 2021. The policy seeks to integrate gender considerations in all Judiciary processes, including recruitment and capacity building, to promote gender parity and gender inclusion at all levels within the institution, eliminate all forms of gender discrimination, and, to ensure full and effective participation and equal opportunities for women in the workplace.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya spoke at the launch of Phase II of the Child Online Protection Awareness Campaign by the Communications Authority of Kenya. She called for the speedy enactment of the Children's Bill which provides for delivery of psychosocial support for child victims and contains clauses on emerging issues affecting children such as online child sexual exploitation and abuse.

1.5.6 Inclusiveness and Shared Leadership

The Judiciary continued strengthening governance structures and decision-making processes resulting in better synergy between the court and administrative structures and improved reporting, bring-up and follow-up systems. These initiatives build on the review and rationalisation of the Judiciary committees and task forces that was undertaken in the previous reporting period.

Central to this process, the STAJ vision emphasises a shared leadership approach through which leadership at all levels is urged to innovate unique interventions suitable to their particular circumstances and the contextual needs of their clients. The leadership approach is, therefore, one that places the needs of court users at the centre of all strategies and activities and encourages leadership to take responsibility towards ensuring higher-quality service.

In the STAJ spirit of shared leadership and inclusiveness, the Chief Justice expanded the membership of the JLT to include participation in decision-making to all Courts, Tribunals, and Judiciary units. At the core of the JLT's operations is the realisation of the STAJ vision by supporting and creating an institutional ecosystem that actualises the function of the Judiciary in the manner guided by the Constitution with structured reporting, consultation, and dialogic decision-making.



Hon. Justice David Majanja (L) and Hon. Justice Mohamed Warsame followed proceedings at the three-day Annual Judges Colloquium, which took place in April 2022 after a two year break owing to the effects of the COVID-19 pandemic.

1.5.6.1 Creating An Inspired Team Committed To Excellence In The Delivery Of Justice

A key result area in the STAJ vision is the establishment of a world-class judicial service academy. On October 18, 2021, the Chief Justice launched the Kenya Judiciary Academy (KJA) at its new premises at the KCB Leadership Centre in Karen, transitioning from the Judiciary Training Institute (JTI), and officiated the installation of the Academy's first director, Hon Mr Justice (Dr) Smokin Wanjala. The KJA will exercise the delegated mandate from the JSC, and is thus responsible for meeting the training, research and capacity development needs of the Judiciary.

The KJA seeks to chart a new path with a more ambitious vision for judicial education in Kenya. At the foundation of the KJA's objectives is to ensure that the continuous education and training for judges, judicial officers, and judicial staff enables them to function more effectively as agents of social transformation. Key to this is judicial education programmes that not only promote judicial competence but also aim to spur innovation and improve the quality of substantive and procedural justice.

The KJA will pursue a three-dimensional approach to judicial education that integrates substantive knowledge, skills development and social context in order to expand knowledge, build skills, improve court administration and judicial decision-making, and give effect to the foundational values and principles of the Constitution.

The Office of the Chief Justice, the Deputy Chief Justice, and the Judiciary Ombudsman held a working session from February 15 to 19, 2022 to develop a mechanism of exploring the implementation of the Judiciary's Vision of STAJ and craft modalities for developing the next 10-year Blueprint.

During this important retreat, technical, administrative, and support teams in these offices internalised the STAJ vision in order to develop implementation mechanisms to secure a people-centric approach to justice. They also crafted strategies for engagement of key offices and partners involved in the implementation process to shape and develop a framework that will guide the implementation of the vision in the medium and long term.

The President of the Court of Appeal led the court at a Performance Review Workshop from November 14 to 20, 2021 towards effective and responsive service delivery in the court. The workshop was predicated on the STAJ vision of the Judiciary and sought to engender the principles, strategies and objectives of the strategic vision within the operations and deliverables of the court.

At the High Court, the Principal Judge and the High Court Advisory Committee established High Court regional clusters to foster change management, efficient governance and chart peer review processes to improve efficiency in service delivery. Various High Court Management Committees were also set up to support STAJ implementation, performance management and effective monitoring of the strategic plan, and other High Court operations for efficient service delivery within the court.



Kadhis listen to remarks by the Chief Justice during the Annual Retreat for Kadhis held in Nairobi in May 2022. Kadhis' Courts have become a key player in the delivery of justice, with their footprint throughout the country significantly growing to 47 courts

1.5.7 Ceremonial Duties & Appointments

The Chief Justice is bestowed with the constitutional and statutory mandate of presiding over the swearing-in of various public and state officers, and the admission of advocates of the High Court of Kenya. During the reporting period, the Chief Justice swore in Commissioners of the Teachers Service Commission Commissioners, Salary and Remuneration Commission, Ethics and Anticorruption Commission, and the National Gender and Equality Commission.

The Chief Justice also swore in 64 new magistrates and 19 Small Claims Court adjudicators. A record 1,547 Advocates were admitted to the Bar by the Chief Justice, including the 20,000th person to be admitted as an Advocate since the establishment of the Kenyan bar.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya presides over the admission of 305 lawyers to the Roll of Advocates on May 9, 2022. The ceremony was unique as the country witnessed the admission of Advocate number 20,000 to the Roll of Advocates.

CHAPTER TWO—ACCESS TO JUSTICE

2.1 Introduction

The Constitution of Kenya establishes an elaborate framework for the protection of human rights and provides, under Article 48, that all citizens have the right to access to justice. The primary way in which access to justice is provided is through the exercise of judicial authority by courts, tribunals and other adjudicatory bodies. The authority to resolve disputes is to be exercised in a non-discriminatory manner, expeditiously and without undue regard to procedural technicalities. During the period under review, the Judiciary embarked on several projects to ensure the full realisation of the right of access to justice.

This Chapter sets out the milestones realised by the Judiciary to guarantee access to justice. The chapter is organised in five sections. The first section highlights the strategic initiatives to enhance access to justice. The second section outlines the achievements in dispute resolution by courts and tribunals as the key pillar of access to justice. The third section discusses the deployment of ICT to enhance access to justice while the fourth section traces progress on the entrenchment of Alternative Dispute Resolution (ADR) mechanisms as envisaged in Article 159 (2)(c) of the Constitution. Lastly, the Chapter accentuates the strides made in the improvement of Judiciary infrastructure as a strategy to enhance physical access and improve citizens' proximity to court stations.

SECTION I - STRATEGIC INITIATIVES FOR ENHANCING ACCESS TO JUSTICE

The strategic initiatives to enhance access to justice draw inspiration from the Judiciary's policy documents namely, the Judiciary Strategic Plan (2019-2023) and the STAJ which is the vision of the Judiciary. These initiatives include: expansion of the Small Claims Court (SCC); automation of judicial functions; recruitment and retention of adequate and quality workforce; establishment, construction and renovation of courts; strengthening of the Tribunals Secretariat; continuous research to inform policy and administrative decisions; entrenchment of Alternative Dispute Resolution (ADR) mechanisms for expeditious resolution of disputes; and strategic and collaborative partnerships with external stakeholders to enhance the administration of justice.

2.2 A Strong Institution that is Accessible, Efficient, and Protects the Rights of all especially the Vulnerable

2.2.1 Establishment of Courts and Sub Registries

In order to improve people's ability to access justice, the Judiciary established new courts in different parts of the country. These include two ELRC in Bungoma and Malindi, and 11 ELC in Isiolo, Nanyuki, Nyamira, Kitui, Siaya, Vihiga, Iten, Homa Bay, Kwale, Kapsabet and Kilgoris.

During the period under consideration, the following sub-registries were also established and operationalised: two Supreme Court sub-registries in Mombasa and Kisumu; five sub-registries for the Court of Appeal in Busia, Kakamega, Meru, Garissa, and Kisii.

Table 2.1 below demonstrates how the establishment of these courts and sub-registries has increased the reach and presence of the Judiciary across Kenya:

Table 2.1: Number of Court Stations and Sub-Registries

Court	Court Stations	Sub Registries
1 Supreme Court	1	2
2 Court of Appeal	4	6
3 High Court	41	4
4 ELRC	9	10
5 ELC	37	0

Court	Court Stations	Sub Registries
6 Magistrates' Courts	127	-
7 Kadhis' Courts	47	-
8 Tribunals	19	37
9 Small Claims Courts	11	-

2.2.2 Decentralisation of the Political Parties Disputes Tribunal

In the year under review, the Judiciary initiated critical reforms in the PPDT to ensure prompt resolution of pre-electoral disputes relating to party nominations in readiness for the August 2022 General Election. The Judiciary initiated law reform that saw Parliament amend the Political Parties Act to expand the membership of the PPDT by introducing 18 ad hoc members who are appointed six months to a general election, and whose tenure is limited to 12 months.

Following the enactment of this amendment, the JSC recruited 18 ad hoc members who were immediately deployed to seven regional offices. The Tribunal members were deployed in Mombasa, Eldoret, Kisumu, Kakamega, Nyeri, and Meru where they heard and determined disputes relating to Political Parties Primaries. This greatly enhanced access to justice and as a result there was no violence relating to party nominations. Additional sub registries were established in Machakos and Nakuru to decentralise the services of the Tribunal.

The decentralisation and strengthening of PPDT promoted access to justice especially during Kenya's General Elections of 2022 where there was increased litigation on political rights, duties and obligations. There was timely and peaceful resolution of these disputes and the candidates who were dissatisfied sought alternative means of seeking political office including running for political office as independent candidates.



The vice chairperson of the PPDT, Dr. Mutubwa (centre at the front picture) leading proceedings at Kisumu Law Courts, one of the decentralised stations for the Tribunal

2.3 Multi Door Approach on Access to Justice

2.3.1 Expansion and Strengthening of Small Claims Court

The Small Claims Court (SCC) was set up and established in 11 locations across Kenya, namely, Machakos, Kajiado, Nyeri, Naivasha, Nakuru, Eldoret, Kakamega, Kisumu, Mombasa, Thika, and Meru. In addition to this, the Judiciary enhanced the human resource capacity of the SCC by assigning 25 magistrates as adjudicators of the court thus boosting the capacity of the court to hear and determine disputes.

The SCC has radically transformed the adjudicatory space by expanding the doorways of justice and has so far resolved 9,315 cases which are valued at KSh1.431 billion.

To further improve and expand the SCC, especially in the densely populated areas in cities, the Judiciary has partnered with the Nairobi Metropolitan Services to establish five SCC in the sub-counties of Kasarani, Makadara, Dagoretti, Mathare, and Embakasi.

2.3.2 Tribunals

The Constitution of Kenya provides for a clear separation of powers and demarcation of functions among the three Arms of Government. Judicial power is vested solely in the Judiciary which includes courts and tribunals that exercise judicial and quasi-judicial functions. Consequently, all the tribunals which traditionally had been domiciled under the Executive in the pre-2010 constitutional order are now being progressively transferred to the Judiciary.

During the reporting period, the Tax Appeals Tribunal was successfully transferred from the Executive to the Judiciary after Parliament amended the Tax Appeals Tribunal Act to align the legal regime governing the Tribunal with the Constitution. The amendments gave the Judicial Service Commission authority to recruit members of the Tribunal and to post judicial staff to the Tribunal.

Before this change, there was a sense that the Tribunal was not independent because it was run by the Kenya Revenue Authority, which is the primary respondent in all cases that are brought before the Tribunal. The public's confidence and trust in the Tribunal will be strengthened because of this transfer and demarcation of authority between the Kenya Revenue Authority and the Judiciary.

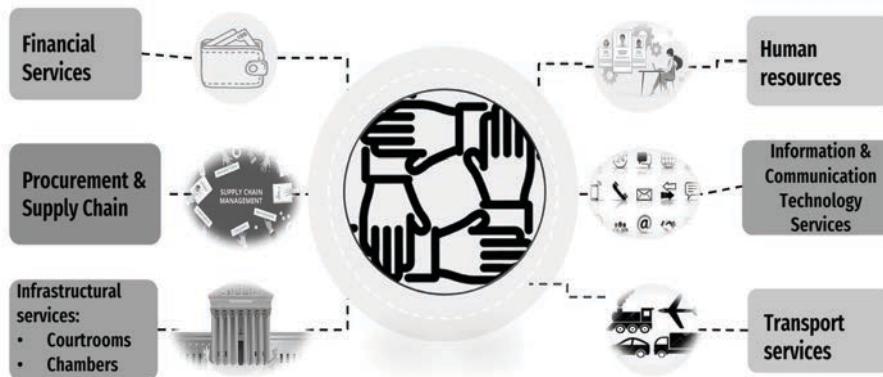


Members of the Tax Appeals Tribunal after their swearing-in ceremony held on 22nd June, 2022 at the Judiciary together with the Deputy Chief Registrar of the Judiciary, Hon. Paul Ndemo in the centre, and the Registrar of the Tribunals, Hon. Ann Asugah, in the extreme left

Tribunals are a critical doorway of access to justice in very specialised areas, responsible for fair and timely determination of disputes. The efficient management of all tribunals has improved with the enhancement of the shared services model which promotes the maximisation of available resources among tribunals. In this way, multiple tribunals share office infrastructure, equipment and staff.

In accordance with the shared services model, the Judiciary is progressively relocating tribunals to common premises at Forodha House. The Education Appeals Tribunal and the Public Private Partnership Petition Committee have recently relocated to this building. In addition, the financial administration of the tribunals has been strengthened and consolidated thus increasing efficiency and security of all financial transactions. These reforms have reduced the processing times for financial transactions by 70 per cent and also reduced the number of audit queries from over one hundred in 2016 to fewer than eight during the reporting period.

Tribunal Shared Services



The Judiciary has also enhanced budgetary support for tribunals which greatly facilitated tribunals to adjudicate cases including through additional circuits and service weeks. As a result of these actions, the total number of pending cases across all tribunals decreased by 27 per cent.

The human resource complement of tribunals was improved with the recruitment and assignment of 33 Court Assistants to the Tribunals Secretariat. These members of staff are critical as part of the shared services model and have favourably impacted service delivery. The JSC has also appointed a substantive Registrar, Tribunals and both of these actions have given impetus to the capacity and good governance of tribunals. In addition to this, the Tribunal's Secretariat has been provided with additional office space, which has significantly contributed to the improvement of the working environment and increased productivity.



Members of staff of the Tribunals Secretariat outside Forodha House.

2.3.3 Strengthening and Expansion of ADR Mechanisms

Court-Annexed Mediation (CAM) was implemented in eight High Court Stations across Kenya as follows: Siaya, Kerugoya, Nanyuki, Kitale, Kapsabet, Kiambu, Meru, and Chuka Law Courts.

The Court-Annexed Mediation Task Force also raised stakeholder awareness on its processes and procedures through engagements with members of the public, respective Court User Committees (CUC's), and bar bench committees in every court where CAM was rolled out. They also trained and sensitised Judges, Judicial Officers and court staff on CAM procedures and processes as part of the capacity building to support the roll out of CAM in the respective courts.

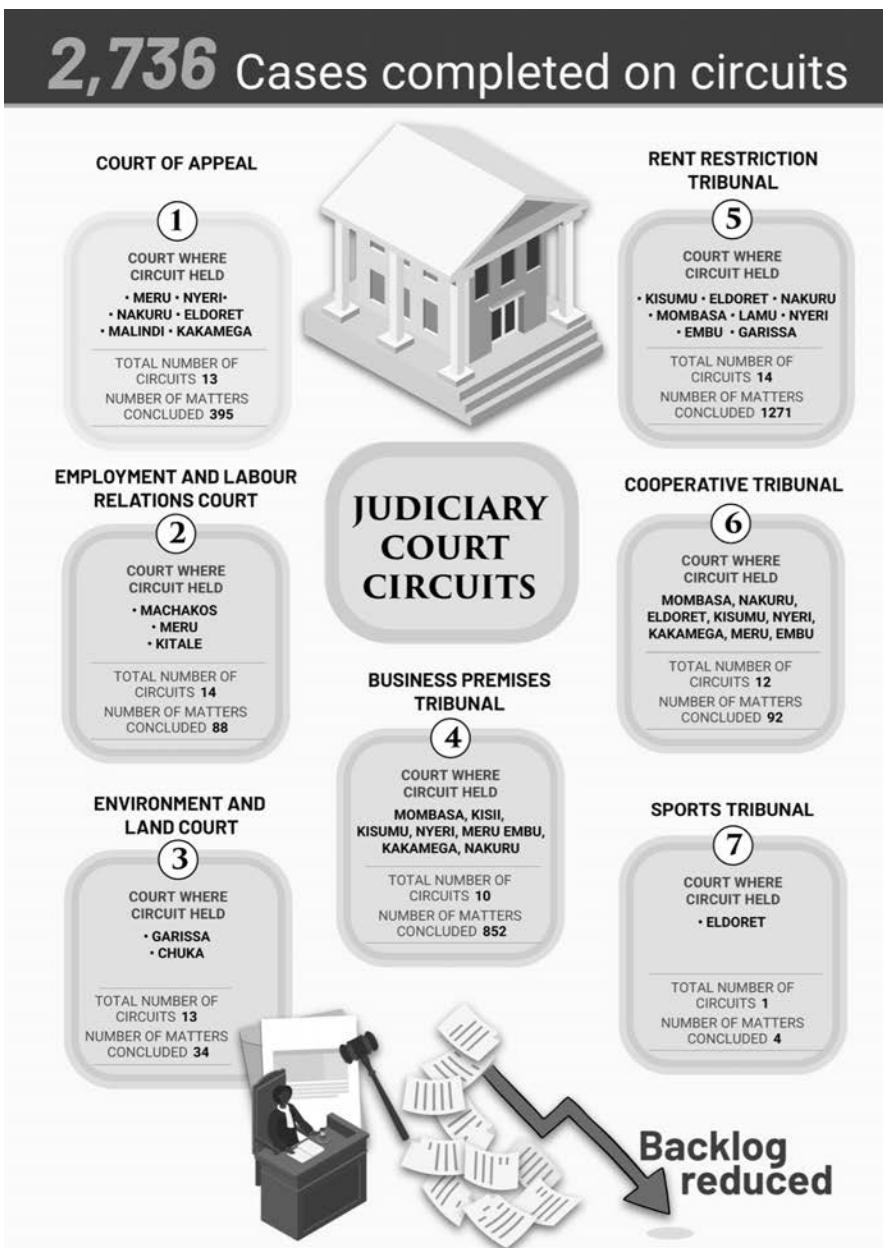
Over 15 different disputes were referred to mediation by the Sports Disputes Tribunal, HIV & AIDS Tribunal (HAT), and the Transport Licensing Appeals Board (TLAB) which led to a more expedient resolution of the cases. The ELRC utilised CAM and referred 127 disagreements to mediators who were able to successfully conclude 95 of these disputes resulting in the freeing up of Ksh482.5 million. In the High Court, 66 cases worth KSh554 million were successfully resolved through CAM.

2.4 Circuit Hearings across Courts and Tribunals

The Judiciary routinely undertakes circuit hearings where Judges and Judicial Officers travel to various court stations across the country to adjudicate disputes. This is done to improve access to justice, increase efficiency within court stations and to deal with case backlog. Circuit sittings help to ameliorate the shortage of Judges and Judicial Officers across the country.

The Court of Appeal held 13 circuit sessions during which a total of 395 appeals and applications were resolved. The High Court held 10 court circuits and 25 special benches; ELRC resolved 88 cases during the 14 circuits that were convened in Kitale, Meru, and Machakos; the ELC conducted circuits at two stations, Garissa and Chuka, and brought closure to 34 cases.

Tribunals also conducted circuits across the country to bring their services closer to the people. The Rent Restriction Tribunal conducted 14 circuits in Kisumu, Kakamega, Eldoret, Nakuru, Mombasa, Lamu, Nyeri, Garissa and Embu, concluding 1,271 matters; the Business Premises Rent Tribunal conducted 10 circuits and concluded 852 matters; and the Cooperative Tribunal held nine circuits and concluded 65 matters among others.



2.5 Mobile Courts

The Judiciary has been implementing various initiatives towards enhancing physical access to courts. These measures include establishment of courts in far flung areas to expand formal justice to areas that are underserved. However, the establishment of new courts has been greatly hampered by lack of adequate resources as well as non-existent infrastructure. In order to bridge the gap, the Judiciary began operating mobile courts targeting selected areas of the country. Most of these areas are remote and citizens are unable to file their cases in the existing courts for various reasons including inaccessibility of formal courts due to long distances, rugged terrain, high costs, insecurity and poor network connectivity, among others.

Mobile courts have been used as an effective stop-gap mechanism to ensure proximity and physical access to judicial services. The presence of mobile courts has strengthened the role of the formal justice system in areas where traditional justice mechanisms are inadequate. In addition, mobile courts are an opportunity for traditional arbitrators to transfer cases for which they do not have jurisdiction such as sexual and gender-based violence cases.

In the FY 2021/22, the Judiciary supported 58 mobile courts across the country with a budget of KSh74 million. Five new mobile courts were operationalised at Waldena (Hola), Marigat (Kabarnet), Kalabeyei (Kakuma), Magarini (Kilifi) and Magadi (Ngong). The average distance from courts to the location of mobile courts is 90 Km, with the furthest being over 270 Km. During the period under review, the mobile courts were able to conclude a total of 5,220 cases.



Figure 2.1. Location of Mobile Courts during FY 2021/22

2.6 Service Weeks Across Courts and Tribunals

The Judiciary implemented service weeks across all courts and tribunals to reduce backlog. Judges and Judicial Officers from other stations were deployed to specific courts on a temporary basis as part of this Rapid Results Initiative.

During the service week that was held by the ELC, 109 of the 559 matters that were on the cause list were resolved. The BPRT held 10 service weeks in Nairobi and was able to close off 2,600 cases that had been inactive for some time. Similarly, the Cooperative Tribunal held three sessions over the course of the service week, 572 out of 672 cases that were on the docket were dismissed, and 27 were decided based on merit.

2.7 Simplification of Court Procedures

Simplified and well understood court procedures are key to delivering on the pillar of access to justice. Court processes and procedures that have been identified as barriers to access to justice have been reviewed and addressed.

Several measures were carried out to facilitate the smooth operation of the judicial system. The Supreme Court developed and distributed a revised presidential petition checklist which simplified the process and requirements for filing a presidential election petition. This checklist was also disseminated in the form of brochures and pamphlets.

The High Court published and disseminated its practice guidelines thus creating awareness on how plaintiffs may file their cases; the Court of Appeal gazetted its standardised court fees to facilitate e-payments; the ELRC finalised its Service Delivery Charter, which specifies service criteria for litigants; the HIV and Aids Tribunal (HAT) finalised its Strategic Plan and Registry Manual; and, the Sports Disputes Tribunal gazetted its Rules of Procedure.

2.8 Leveraging Technology for Productivity

In order to speed up delivery of judicial services, technology was identified as a critical enabling factor and the Judiciary made investments in the purchase of machines, equipment and software in order to facilitate judges, judicial officers and staff to discharge their functions and support the dispensation of justice.

To improve access to justice, courts all over the country continued using technology to convene virtual courts for determination of disputes; adopted electronic filing and case tracking system; as well as electronic assessments and payments. The Judiciary has continued to consolidate, improve and deepen its ability to support e-justice across all courts and tribunals.

The Court of Appeal issued guidelines on electronic case administration, which made it easier for users to query the status of their cases. A Court Recording and Transcription System (CRTS) was also implemented in Nairobi, Nyeri, Malindi, Mombasa, and Kisumu. This was done to ensure accurate and timely transcription of proceedings through the installation of video conferencing technology.

The High Court installed ICT booths in 10 High Court stations to support litigants access online court proceedings. As a result, 763 people were supported to appear in court online thus ensuring their participation and the progression of their cases. The Court also streamlined the process of assessing fees and therefore reduced the opportunities for under assessment and loss of revenue. The amount of money collected in fees increased from KSh119,536,111 to KSh167,844,763, which was a 40 per cent increase in revenue collection.

The ELRC installed video conferencing equipment in Nairobi and Kisumu, as well as a CRTS in Nairobi.



ELRC Hon. Justice Ocharo Kebira conducting virtual court sessions

Additionally, the ELRC utilised the e-filing customer care bureau located in the Commercial Court building to aid litigants who were having difficulties using the e-filing system.

The adoption of virtual courts in the hearing of disputes by tribunals made it possible for litigants to have their cases heard while remaining in the convenience and privacy of their own homes or offices. Specifically, the HIV and AIDS Tribunal was responsible for installing teleconference facilities in eight different stations.

2.9 Awareness and Public Outreach

To raise public understanding of judicial procedures, courts across the country hosted a variety of events designed to educate individuals about the many aspects of the legal system. The courts also participated in a number of radio and television programs, as well as open days.

The High Court developed information booklets to inform and empower the public and other court users on operations, functions and mechanisms of accessing justice in the High Court. They also held a High Court Leaders Conference where they discussed, modalities to enhance leadership skills and integrity in administering justice; collaborative engagement with donor agencies and development partners in promoting quality service delivery; enhancing partnerships in various initiatives such as customer service training; leadership trainings; and, Court Annexed Mediation.

The ELC conducted stakeholder consultative engagements with the BPRT, RRT, NET, as well as the Physical Planning Liaison Committees, to facilitate synergy between the court and its specific stakeholders and to resolve practice difficulties. The court partnered with the county governments of Homa Bay, Nandi and Kiambu, all of which offered to house the courts within their respective counties.

In order to increase public awareness on the various tribunals on their specialised mandates, some of them undertook to sensitise the public through webinars, radio and TV programs.



The Communications and Multimedia Appeals Tribunal (CAMAT) conducted a total of six awareness campaigns aimed specifically at couriers. The Transport and Licensing Appeals Board (TLAB) held a total of five public engagements to educate public service vehicles (*matatu*) owners on their legal rights as well as the procedural requirements for appearing before the Tribunal. The Micro and Small Enterprises Tribunal (MSET) carried out 11 sensitisation sessions across courts to sensitise Judicial Officers on its mandate and to discuss the issue of concurrent jurisdiction. The Standards Tribunal undertook three sensitisation sessions in the Rift Valley region among manufacturers and producers.

2.10 Stakeholder Engagement

Under STAJ, the Judiciary held engagements with various stakeholders to deepen partnerships that increase coordination in the administration of justice. The HIV and AIDS Tribunal, Kituo Cha Sheria, and FIDA signed a Memorandum of Understanding committing themselves to provide pro bono legal assistance to plaintiffs who brought their cases before HIV and AIDS Tribunal. The Sports Disputes Tribunal and Kituo Cha Sheria also signed a Memorandum of Understanding to improve access to justice for low-income litigants by offering pro bono legal services.



Mr. Justus Munyithya, Chairperson Kituo Cha Sheria (extreme left), and Mr. John Ohaga SC, Chairperson Sports Disputes Tribunal (2nd left), during the signing of the MoU between Sports Disputes Tribunal and Kituo Cha Sheria on June 6, 2022

The capacity of the chairpersons and administrators of tribunals to carry out their duties as the heads of their respective tribunals was improved through the engagement of tribunals with development partners such as IDLO, GIZ, and EACC for the purpose of capacity building on a variety of timely issues, particularly, in the areas of leadership and integrity. The training placed emphasis on the observance of Chapter 6 of the Constitution and the implementation of the Leadership and Integrity Act in order to instil public confidence and trust in the judicial process in tribunals.

There were other engagements with ministries, departments and agencies with a view to enhancing capacities and improving synergies for efficient public services. The Public Private Partnerships Petitions Committee and the Communications and Multimedia Appeals Tribunal were the main beneficiaries of these initiatives.

2.11 Operationalisation of Sexual and Gender-Based Violence Court at Shanzu

To hasten the delivery of justice to those who have been victims of sexual violence, the Judiciary established the first SGBV Court on March 10, 2022 at Shanzu Law Courts, Mombasa. A Judicial Officer was appointed to serve at this court and there were 51 new cases before the court at the end of the reporting period.

SECTION II - DISPUTE RESOLUTION THROUGH COURTS

2.12 Caseload Statistics for all Courts

The Judiciary remains accountable to the people for the power, authority and resources given to the institution to hear and determine disputes. After the promulgation of the 2010 Constitution, there has been enhanced accountability mechanisms which allow the Judiciary to report on its caseload performance and other duties related to the exercise of its constitutional mandate. Reports on caseload statistics provide rich quantitative information on access to justice through dispute resolution by courts. This information is critical in informing policy and administrative decisions.

Caseload data is collected in courtrooms and registries using Daily Courts Returns Template (DCRT) and Case Tracking System (CTS) and transmitted to a central point for collation, analysis and reporting.

This section presents information on disputes resolution by courts and tribunals in terms of matters filed, resolved and pending. Filed and resolved cases are disaggregated per court and broad case types and the pending cases are categorised according to age to identify case backlog. Statistics on select court performance indicators are provided and also presented according to the devolved administrative units of counties.

ii. 2.12.1 Filed, Resolved and Pending Cases

A total of 404,312 cases were filed in the Judiciary which comprised 257,205 criminal cases and 147,107 civil cases. The trend of filed cases over time is portrayed in Figure 2.2

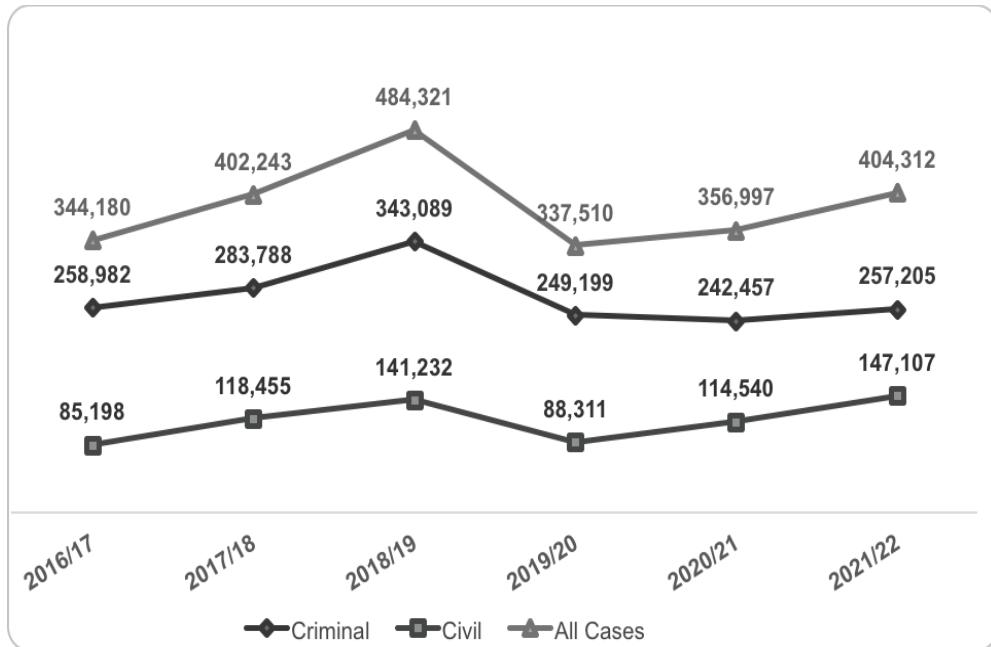


Figure 2.2 Trend of overall Filed Criminal and Civil Cases

Filed Cases are matters initiated, commenced, lodged, registered or filed in a particular court or tribunal for a decision or direction

Resolved Cases are cases which terminated in the court concerned either through a decision by the court, or through any other procedural step which ended the case (e.g. a discontinuance of the case or a settlement) within a defined time period. Termination date, therefore will be the date of:
signing or issuing of the judgement,
approval by the court of a settlement,
formal discontinuance

A total of 381,317 cases were resolved; of which 231,415 were criminal and 149,902 were civil cases. The trends in resolved cases since FY 2016/17 is shown in Figure 2.3

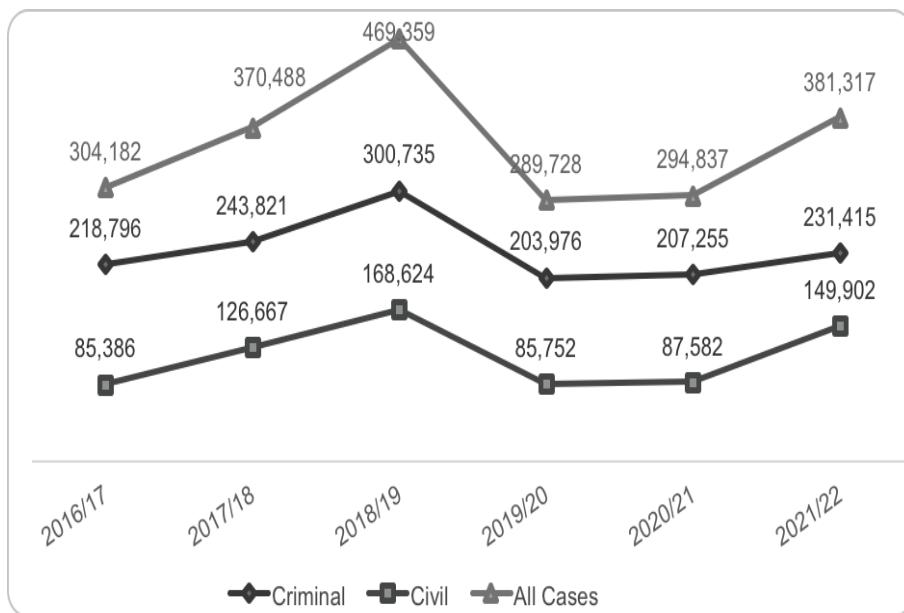


Figure 2.3 Trend of Resolved Criminal and Civil Cases

Majority of the cases filed and resolved were in the Magistrates Courts and High Court stations. The Supreme Court, High Court, ELRC, ELC and Tribunals resolved more cases than were filed. Criminal cases form the largest proportion of cases filed and resolved in the Judiciary.

2.12.2 Comparative Trends of Filed and Resolved Cases

Over the past eight years, the Judiciary managed to resolve on average of 80 per cent of the filed cases. The Case Clearance Rate (CCR) averaged 83 per cent with the highest being 97 per cent in FY 2018/19 and the lowest at 83 per cent in FY 2020/21. The CCR in FY 2021/22 was 94 per cent.

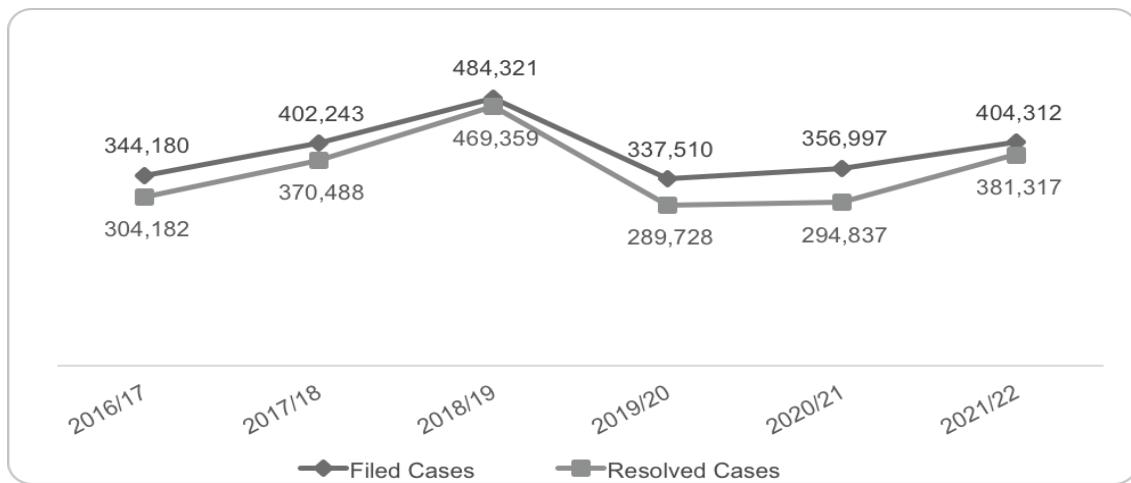


Figure 2.4 Comparative Trends of Filed and Resolved Cases

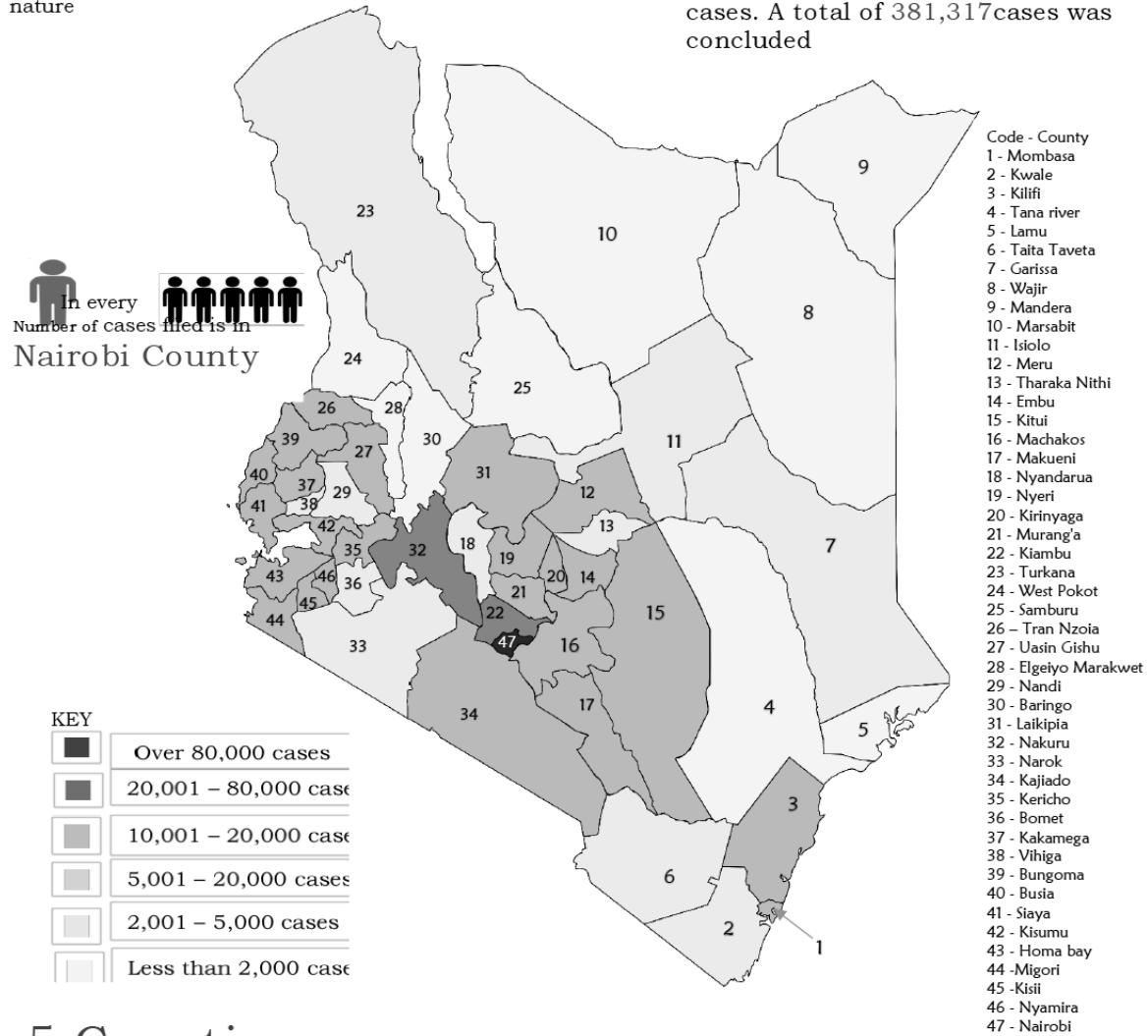
2.12.3 Filed Cases per County

Nairobi City County accounted for 20 per cent of the total filed cases in the country. Nakuru, Kiambu, Mombasa and Machakos counties were the other top regions where most matters were filed. Each of the following counties had less than 2,000 cases filed in the year: Baringo, West Pokot, Marsabit, Elgeyo Marakwet, Wajir, Tana River, Lamu, Mandera and Samburu. The map below shows the distribution of filed cases in the counties in the FY 2021/22.

64% of filed cases
are criminal in
nature

404,312 cases filed
during the FY 2021/22.

94% (CCR)
Efficiency of Court in clearing filed
cases. A total of 381,317 cases was
concluded



5 Counties with highest number of case filings
are Nairobi, Nakuru, Kiambu,
Mombasa and Machakos.

- Comprises of **42%** of all the filed cases

Figure 2.5. Filed Cases per County during FY 2021/22

2.12.4 Pending Cases

A matter which remains unresolved in the Judiciary at a given point in time is referred to as a Pending Case.

The number of pending cases declined marginally in the period under review and stood at 678,697 by the end of the year. These cases comprised 294,278 criminal cases and 384,419 civil matters. Figure 2.6 illustrates the change of pending cases over time by broad case type.

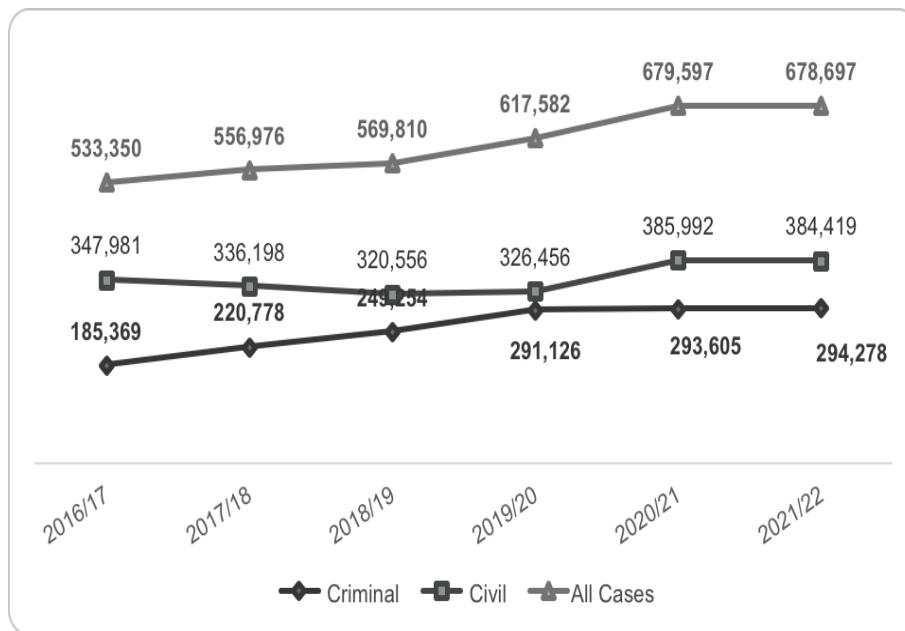


Figure 2.6 Trends on overall Pending Criminal and Civil Cases

Civil matters form the largest share of pending cases. There was a decline in the number of pending civil matters until FY 2018/19 when the trend started rising followed by a slight decrease as at the end of FY 2021/22. There was a marginal increase in the number of pending criminal cases as compared to the previous period; a reverse of the general trend since FY 2016/17. Statistics on filed, resolved and pending cases by court and broad case type is shown in Table 2.2

Table 2.2 Filed, Resolved and Pending cases by Court and Case Type

Court	Pending cases as at 30th June 2021			Filed cases			Resolved cases			Pending Cases as at 30th June 2022			% Change in Pendency
				FY 2021-22			FY 2021-22						
	CR	CC	ALL	CR	CC	ALL	CR	CC	ALL	CR	CC	All	
Supreme Court	N/A	74	74	N/A	41	41	N/A	63	63	N/A	52	52	-30%
Court of Appeal	2,153	6,637	8,790	489	2,345	2,834	200	1,020	1,220	2,442	7,962	10,404	18%
High Court	24,307	66,594	90,901	11,517	19,760	31,277	8,743	25,628	34,371	25,747	57,105	82,852	-9%
ELRC	N/A	14,040	14,040	N/A	3,518	3,518	N/A	5,662	5,662	N/A	11,943	11,943	-15%
ELC	N/A	14,405	14,405	N/A	6,401	6,401	N/A	8,264	8,264	N/A	17,616	17,616	22%
Magistrates Courts	267,145	245,309	512,454	245,199	91,748	336,947	222,472	86,010	308,482	266,089	255,734	521,823	2%
Kadhis' Courts	N/A	8,062	8,062	N/A	9,017	9,017	N/A	6,540	6,540	N/A	10,404	10,404	29%
Small Claims Court	N/A	386	386	N/A	8,503	8,503	N/A	8,226	8,226	N/A	1,239	1,239	221%
Tribunals	N/A	30,485	30,485	N/A	5,774	5,774	N/A	8,489	8,489	N/A	22,364	22,364	-27%
All Courts	293,605	385,992	679,597	257,205	147,107	404,312	231,415	149,902	381,317	294,278	384,419	678,697	-0.10%

There was a marginal decrease in the overall number of pending cases by 0.1 per cent. There was a decline in the pending cases at the Supreme Court, ELRC, High Court and Tribunals, and an increase in the Court of Appeal, the ELC, Magistrates' Courts, Kadhis' Courts and Small Claims Courts.

Most of the matters pending in courts are at the Magistrates Courts and the High Court. This is shown in Figure 2.7.

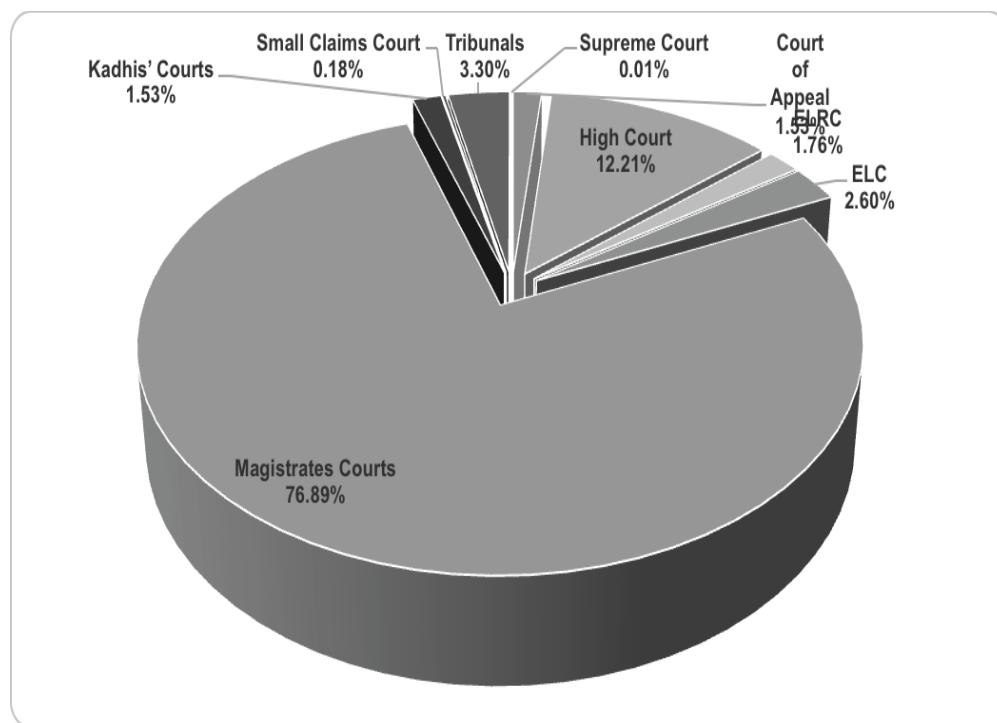


Figure 2.7. Percentage Pending Cases by Court Type

2.12.5 Case Backlog

Case Backlog are matters that are pending at the courts or tribunals and have not been resolved within established timeframes. The timeframes are established by statutes or performance standards.

The case backlog in all courts stood at 336,426 at the end of the FY 2021/22. This was a 10 per cent decline from 374,540 at the start of the reporting period. Majority of these cases are in the Magistrates' Courts and the High Court. The percentage distribution of case backlog by court is shown in Figure 2.8.

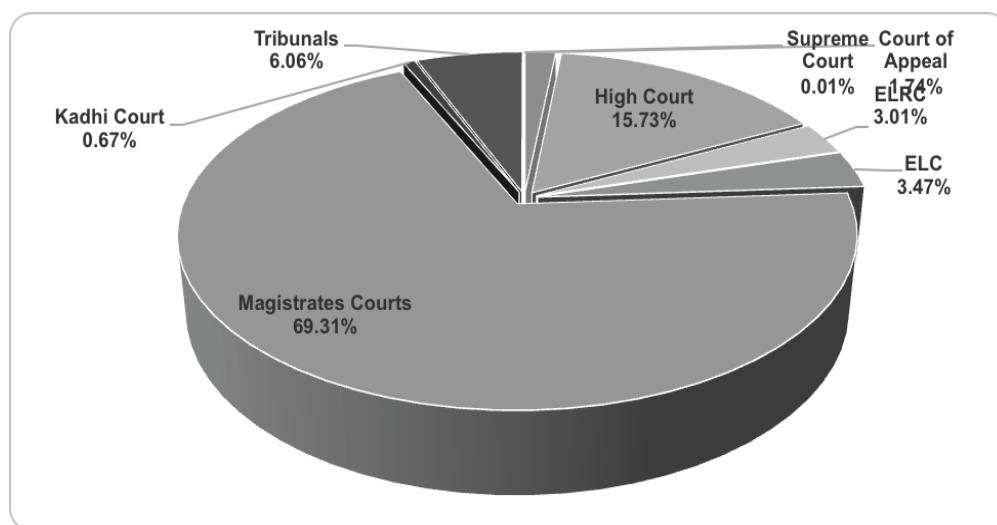


Figure 2.8. Percentage Distribution of Case Backlog by Court

Out of the total case backlog, 60 per cent were aged between one and three years and 40 per cent were older than three years. Table 2.3 gives details of case backlog by court, age and percentage change in backlog.

Table 2.3. Case Backlog by Age FY 2021/22

Court	Backlog as at 30th June 2021	Case Backlog by Age as at 30th June 2022			Change in backlog
		1-3 years	Over 3 years	All Ages	
Supreme Court	46	28	8	36	-22%
Court of Appeal	6,295	3,556	2,313	5,869	-7%
High Court	67,661	33,219	19,701	52,920	-22%
ELRC	11,220	6,852	3,268	10,120	-10%
ELC	12,161	3,545	8,120	11,665	-4%
Magistrates' Courts	274,584	146,323	86,854	233,177	-15%
Kadhis' Court	2,573	2,022	242	2,264	-12%
Tribunals	-	6,678	13,697	20,375	N/A
All Courts	374,540	202,223	134,203	336,426	-10%

All courts had a decline in case backlog with the largest proportional decline being registered at the Supreme Court and the High Court.

2.12.6 STAJ Implementation Status on Reduction of Case Backlog

The Judiciary's vision of STAJ lays emphasis on the reduction of cases which have been pending in the courts for more than three years. The progress made in the period under review is shown in Table 2.4.

Table 2.4. STAJ Implementation Status on Reduction of Case Backlog

Court Rank	STAJ Target (Reduction in Backlog of over 3 years)			
	STAJ target on reduction of case backlog older than 3 years as at 1st July 2021	Resolved cases older than 3 years between 1st July 2021 and 30th June 2022	Case backlog older than 3 years as at 30th June 2022	% change in case backlog older than 3 years (1st July 2021 and 30th June 2022)
Supreme Court	11	9	8	-27%
Court of Appeal	2,620	459	2,313	-12%
High Court	28,324	12,724	19,702	-30%
ELRC	4,212	3,338	3,268	-22%
ELC	7,272	3,636	8,120	12%
Magistrates' Courts	107,278	14,914	86,854	-19%
Kadhis' Courts	291	168	242	-17%
All Courts	150,008	35,248	120,507	-20%

There were 134,203 matters older than three years at the end of the financial year as compared to 150,008 at the beginning of this period representing a 20 per cent decline. All courts had a decline in case backlog of cases over three years. The largest decline was at the High Court, Supreme Court and ELRC.

Matters in Supreme Court are categorized into three broad brackets : Petitions, Applications and Reference/Advisory Opinions.

2.13 Court Specific Statistics

2.13.1 Supreme Court

The Supreme Court is established by the Constitution as the apex court in Kenya's judicial system. The Court was operationalised by the Supreme Court Act (No. 7 of 2011) and inaugurated in October, 2011. The Court has exclusive original jurisdiction to hear and determine disputes relating to the elections to the Office of the President; appellate jurisdiction to hear and determine appeals from the Court of Appeal; to give an advisory opinion at the request of the national government, any State organ, or any county government about any matter concerning county government; appeals from tribunals constituted under Article 168(8) to consider the removal of a judge; and to consider applications emanating from a declaration of a State of Emergency.

2.13.1.1 Supreme Court Caseload Statistics

Forty-one matters were filed in the year while 74 were brought forward from the previous year and the Court therefore had 115 matters and resolved 63 in the period under review. The filed and resolved cases are presented in Figure 2.9.

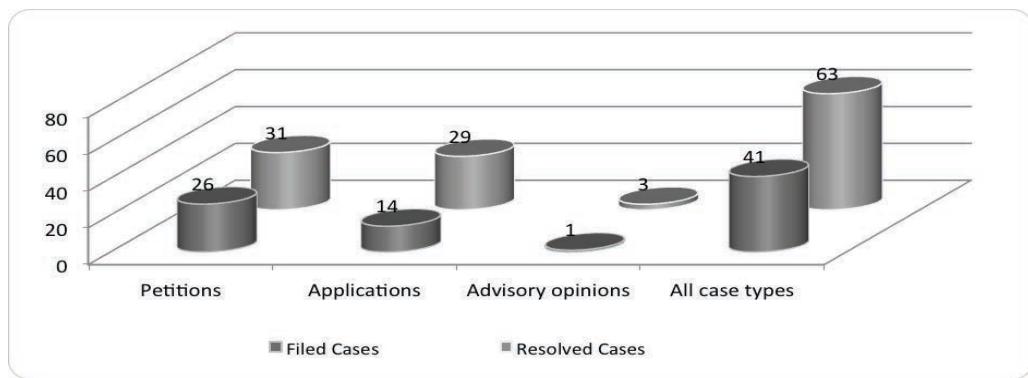


Figure 2.9. Filed and Resolved Cases in the Supreme Court

2.13.1.2 Pending Cases in the Supreme Court

The court had the lowest number of cases in the last eight years that are awaiting determination as it had only 52 pending matters. The number of pending matters in the court has been on a downward trend since FY 2018/19 when it peaked at 93 matters. The trend is shown in Figure 2.10.

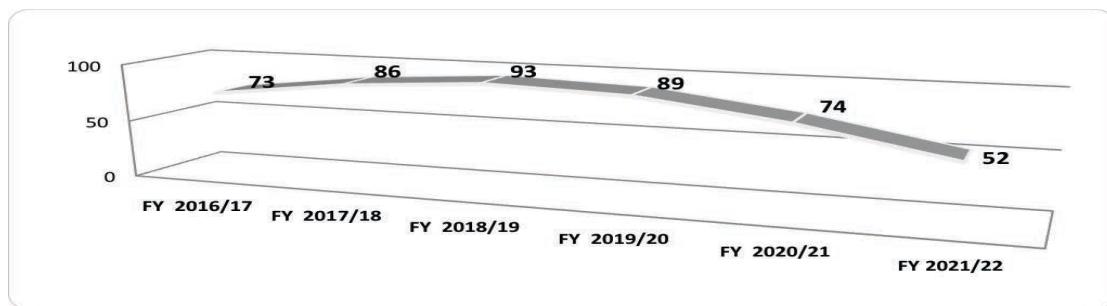


Figure 2.10. Trend of Pending Cases, Supreme Court

Petitions and Applications form the majority of the cases filed and pending in the Court. The Court reduced its backlog by 22 per cent to end the FY 2021/22 with 36 matters as compared to 46 in the previous period. There were 28 matters of between 1-3 years and eight matters over three years since filing.

2.13.1.3 STAJ Implementation Status on reduction of Case Backlog in the Supreme Court

Case Clearance Rate (CCR)

Case Clearance Rate compares the number of resolved cases and filed cases during the reporting period as an indicator of whether a court's pending caseload has increased or decreased over the measurement period. It is measured by dividing the number of resolved cases in a period by the number of filed cases in the same period, multiplied by 100.

A CCR of 100 per cent indicates that the court finalised as many cases as were filed, and the pending caseload would be similar to the previous period

A CCR greater than 100 per cent indicates that the court finalised more cases than were filed, and the pending caseload would have decreased

The Supreme Court reduced the backlog of matters over three years from 11 to 8 which was a 27 per cent reduction for the period under review. Table 2.5 tabulates key statistics for the Supreme Court in the period under review.

Table 2.5. Supreme Court key Statistics

<i>Indicator</i>		<i>Petitions</i>	<i>Applications</i>	<i>Reference/ Advisory Opinion</i>	<i>All Cases</i>
Pending as at 30th June 2021		53	16	5	74
Backlog 30th June 2021	1-3 Years				35
	Over 3 years				11
	All Backlog				46
Jul-21	Filed Cases	2	1	1	4
	Resolved Cases	9	7	2	18
Aug-21	Filed Cases	2	1	0	3
	Resolved Cases	2	3	0	5
Sep-21	Filed Cases	1	1	0	2
	Resolved Cases	1	0	0	1
Oct-21	Filed Cases	3	3	0	6
	Resolved Cases	3	6	0	9
Nov-21	Filed Cases	2	1	0	3
	Resolved Cases	1	1	1	3
Dec-21	Filed Cases	2	2	0	4
	Resolved Cases	2	2	0	4
Jan-22	Filed Cases	1	1	0	2
	Resolved Cases	0	0	0	0
Feb-22	Filed Cases	1	1	0	2
	Resolved Cases	4	4	0	8
Mar-22	Filed Cases	4	0	0	4
	Resolved Cases	3	0	0	3
Apr-22	Filed Cases	2	1	0	3
	Resolved Cases	0	0	0	0
May-22	Filed Cases	3	1	0	4
	Resolved Cases	2	5	0	7
Jun-22	Filed Cases	3	1	0	4
	Resolved Cases	4	1	0	5
Total	Filed Cases	26	14	1	41
	Resolved Cases	31	29	3	63
Case Clearance Rate (CCR)		119%	207%	300%	154%
Pending Cases as at 30th June 2022		48	1	3	52
Backlog 30th June 2022	1-3 Years				28
	Over 3 years				8
	All Backlog				36
% Change in case backlog older than 3 years (30th June 2021 and 30th June 2022)					-27%

2.13.2 The Court of Appeal

The Court of Appeal derives its mandate from Article 164(3) of the Constitution which provides that the court has jurisdiction to hear appeals from the High Court and any other court or tribunal prescribed by an Act of parliament. The Court hears both criminal and civil matters as either an appeal or application. The Court has four stations at Nairobi, Mombasa, Kisumu and Nyeri.

2.13.2.1 Filed and Resolved Cases in the Court of Appeal

The number of cases filed in the Court has been on an upward trajectory. Majority of these cases are civil, constituting over 82 per cent of filed matters. The trend in filed and resolved cases in the Court is shown in Figure 2.11.

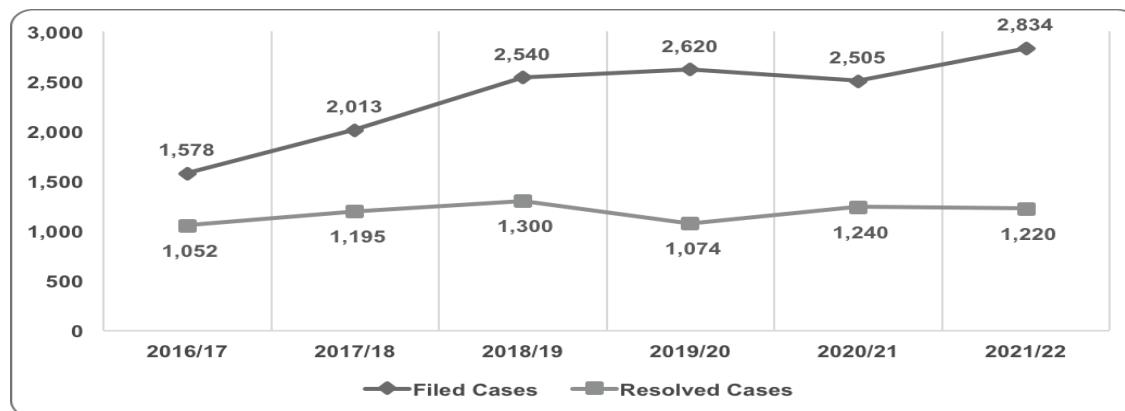


Figure 2.11. Trend in Filed and Resolved Cases in the Court of Appeal

The number of filed cases has more than doubled since FY 2015/16 when 1,374 matters were filed to 2,834 in the FY 2021/22. The number of cases resolved by the court in the FY 2021/22 declined slightly from 1,240 in the previous year to 1,220.

2.13.2.2 Pending Cases in the Court of Appeal

There has been an upward trend in the number of pending cases at the court. At the end of the FY 2021/22, a total of 10,404 cases, comprising 2,442 criminal and 7,962 civil cases, were pending in the Court. The trend of pending cases is given in Figure 2.12.

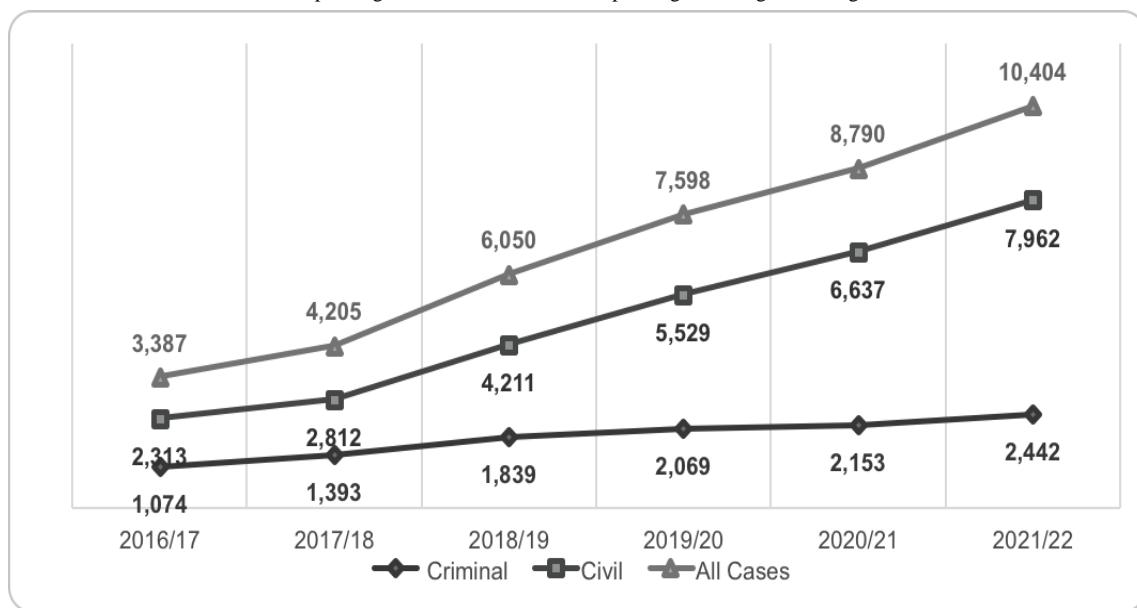


Figure 2.12. Trend in Pending Cases, Court of Appeal

2.13.2.3 Pending Cases by COA Station

The number of pending cases has more than tripled over the last eight years. This has been occasioned by many factors including the court operating with less than half of the Judges required for its full establishment. The breakdown of the pending matters in the FY 2021/22 per station is presented in Figure 2.13.

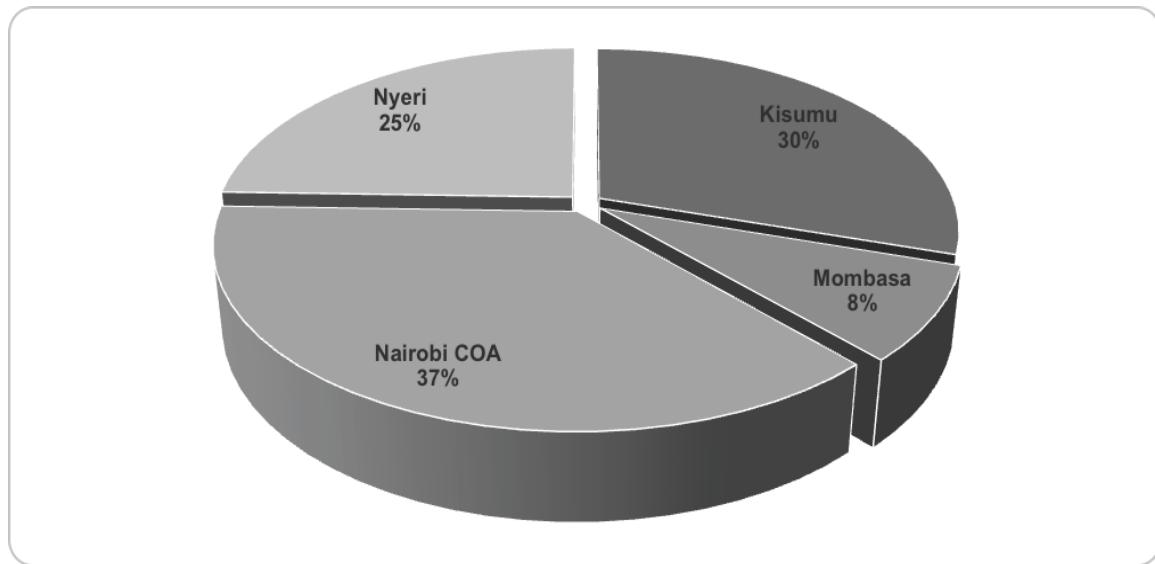


Figure 2.13. Percentage Distribution of Pending Cases in the Court of Appeal stations

2.13.2.4 Case Backlog in Court of Appeal

A large proportion of the case backlog is at Kisumu station while Mombasa station has the least backlog. Majority of the backlog at the court are aged between 1-3 years and so every two in five cases in the court are over three years. This is shown in Figure 2.14.

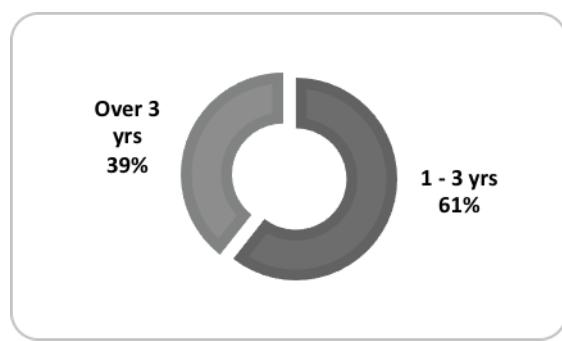


Figure 2.14. Case Backlog by age in Court of Appeal

Key statistics for the Court in the period under review is shown in Table 2.6. The Nairobi station has the highest number of filed cases with over half of the caseload of the court. Civil appeals comprise the majority of the cases before the court.

Table 2.6. Court of Appeal Statistics FY 2021/22

	Case Type/Station	Kisumu	Mombasa	Nairobi	Nyeri	All
Pending as at 30 June 2021	Criminal Appeals	1,290	9	44	531	1,874
	Criminal Applications	84	101	85	9	279
	All Criminal Cases	1,374	110	129	540	2,153
	Civil Appeals	866	209	2,150	1,044	4,269
	Civil Applications	434	422	731	781	2,368
	All Civil Cases	1,300	631	2,881	1,825	6,637
Backlog 30th June 2021	Total Pending Cases	2,674	741	3,010	2,365	8,790
	1-3 Years	1,277	376	946	1,076	3,675
	Over 3 years	848	142	714	916	2,620
Filed Cases	All Backlog	2,125	518	1,660	1,992	6,295
	Criminal Appeals	159	135	100	65	459
	Criminal Applications	7	4	19	-	30
	All Criminal Cases	166	139	119	65	489
	Civil Appeals	279	151	825	146	1,401
	Civil Applications	182	103	554	105	944
Resolved Cases	All Civil Cases	461	254	1,379	251	2,345
	Total Filed	627	393	1,498	316	2,834
	Criminal Appeals	39	53	40	19	151
	Criminal Applications	34	1	10	4	49
	All Criminal Cases	73	54	50	23	200
	Civil Appeals	61	113	243	51	468
CCR	Civil Applications	55	110	332	55	552
	All Civil Cases	116	223	575	106	1,020
	Total Resolved	189	277	625	129	1,220
	Criminal Appeals	25%	39%	40%	29%	33%
	Criminal Applications	486%	25%	53%	N/A	163%
	All Criminal Cases	44%	39%	42%	35%	41%
Pending as at 30 June 2022	Civil Appeals	22%	75%	29%	35%	33%
	Civil Applications	30%	107%	60%	52%	58%
	All Civil Cases	25%	88%	42%	42%	43%
	Total Resolved	30%	70%	42%	41%	43%
	Criminal Appeals	1,410	91	104	577	2,182
	Criminal Applications	57	104	94	5	260
Backlog 30th June 2022	All Criminal Cases	1,467	195	198	582	2,442
	Civil Appeals	1,084	247	2,732	1,139	5,202
	Civil Applications	561	415	953	831	2,760
	All Civil Cases	1,645	662	3,685	1,970	7,962
	Total Pending Cases	3,112	857	3,883	2,552	10,404
	1 - 3 years	1,284	284	933	1,055	3,556
% change in case backlog older than 3 years	Over 3 years	771	112	563	867	2,313
	All	2,055	396	1,496	1,922	5,869
		-9%	-21%	-21%	-5%	-12%

2.13.3 The High Court

The High Court is one of the superior courts and is established under Article 165 of the Constitution. The court has the following jurisdiction: unlimited original jurisdiction to determine all criminal and civil matters, cases concerning violation and or infringement of the bill of rights; appeals emanating from subordinate courts; interpretation of the Constitution; and, supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising judicial or quasi-judicial function.

As at June 2022, there were 41 High Court stations and four sub-registries of the Court established across the Country. Further, the Court has established divisions which are operationalised in various court stations on need basis for efficient case management and effective adjudication of disputes.

2.13.3.1 Filed and Resolved Cases in the High Court

There were 31,277 cases filed in all High Court stations and divisions in the FY 2021/22 comprising 11,517 criminal cases and 19,760 civil matters. In the same period, 34,371 cases were resolved, comprising 8,743 criminal cases and 25,628 civil matters. Disaggregation of filed and resolved cases by court station for the period under review is given in Annex 2.1. The trends of overall filed and resolved cases is presented by Figure 2.15.

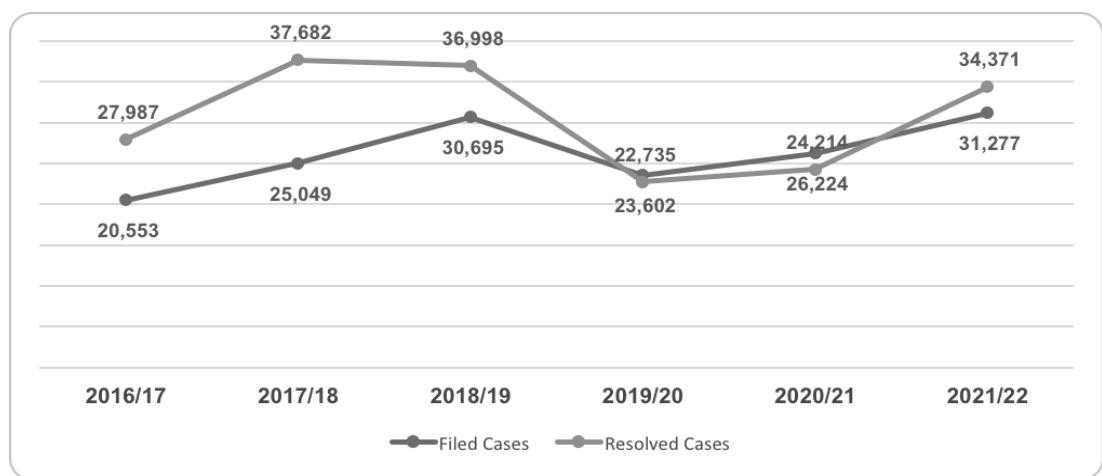


Figure 2.15. Trends of Filed and Resolved Cases in the High Court

2.13.3.2 Filed and Resolved Criminal Cases in the High Court

Criminal revisions constituted the largest percentage of both filed and resolved cases in the High court. Murder cases constituted 11 per cent and 13 per cent of filed and resolved criminal cases respectively. Details on filed and resolved criminal cases is presented in Figure 2.16

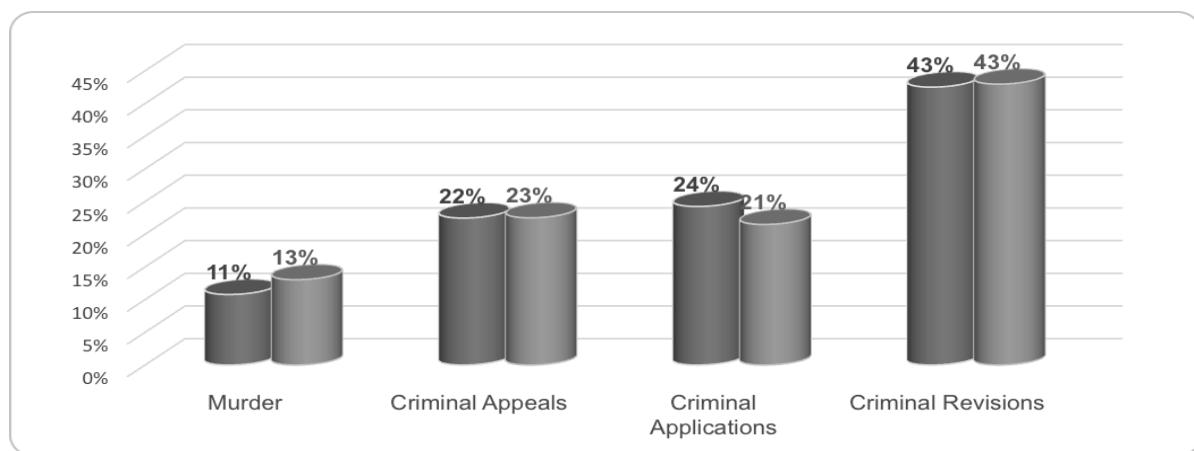


Figure 2.16. Distribution of Filed and Resolved Cases by specific Case Type in the High Court

2.13.3.3 Filed and Resolved Civil Matters in the High Court

During the period under review, 60 per cent of the civil matters in the Court were either miscellaneous applications, appeals, or probate and administration matters. The least cases registered were divorce cases at 0.04 per cent. Details on filed civil matters by case type is presented in Figure 2.17.

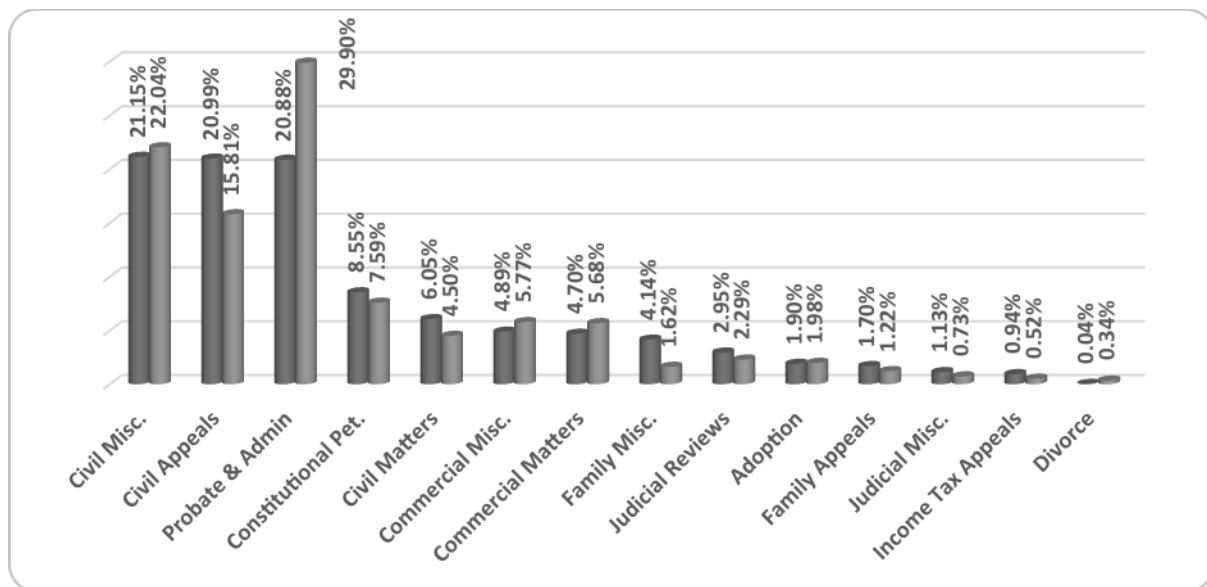


Figure 2.17. Distribution of Filed Civil Cases by Case Type in the High Court

Thirty per cent of matters resolved by the High Court were probate and administration matters. The resolution rates for civil miscellaneous and civil appeals stood at 22 per cent and 16 per cent respectively while the resolution rates for Judicial miscellaneous, income tax appeals and divorce cases were below one per cent.

Annex 2.2 and 2.3 presents the Filed Criminal and Civil Cases and Resolved Criminal and Civil Cases at the High Court respectively.

2.13.3.4 Pending Cases in the High Court Stations

There were 82,852 matters pending at the High Court as at the end of the reporting period. Of these, 31 per cent (25,747) were criminal and 69 per cent (57,105) were civil matters. This was a continuation of the past trend of declining number of pending cases in the court with a significant reduction being on civil matters. Conversely, the number of pending criminal cases at the court has been on an upward trend. Trends of pending cases by case type is provided in Figure 2.18.

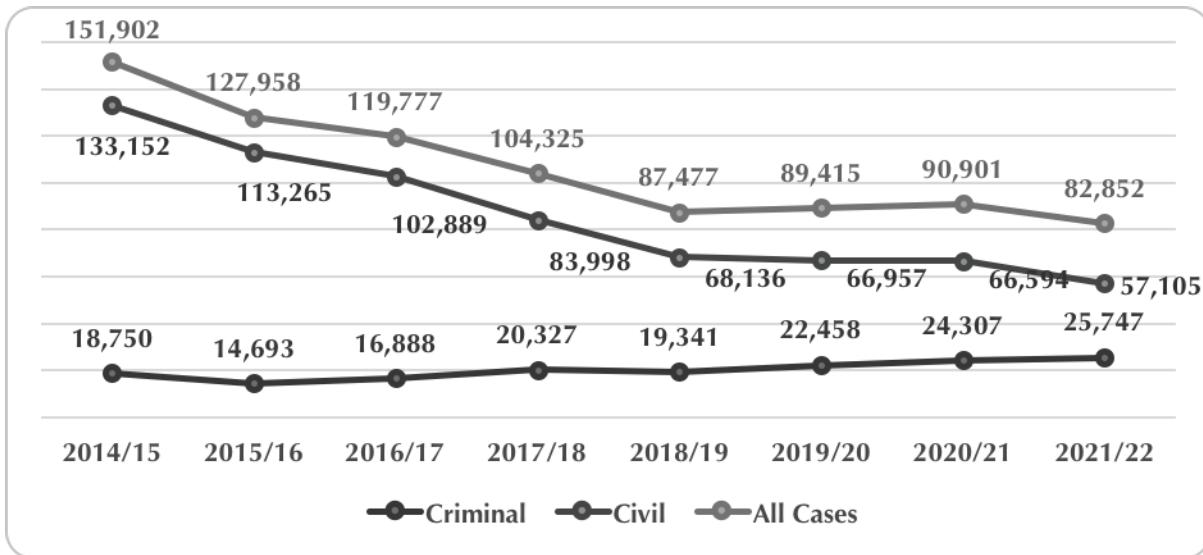


Figure 2.18. Trend of Pending Cases by Case Type in the High Court

The highest number of pending cases were at Mombasa High Court with 9,384 cases, followed by Milimani Civil Division and Nakuru with 6,300 and 6,054 pending cases respectively. Marsabit, Siaya, Lodwar, Garsen, Milimani Anti-Corruption Division, Kapenguria, Vihiga and Nyamira had less than 300 pending cases each. Details on pending cases for each High Court station are provided in Figure 2.19.

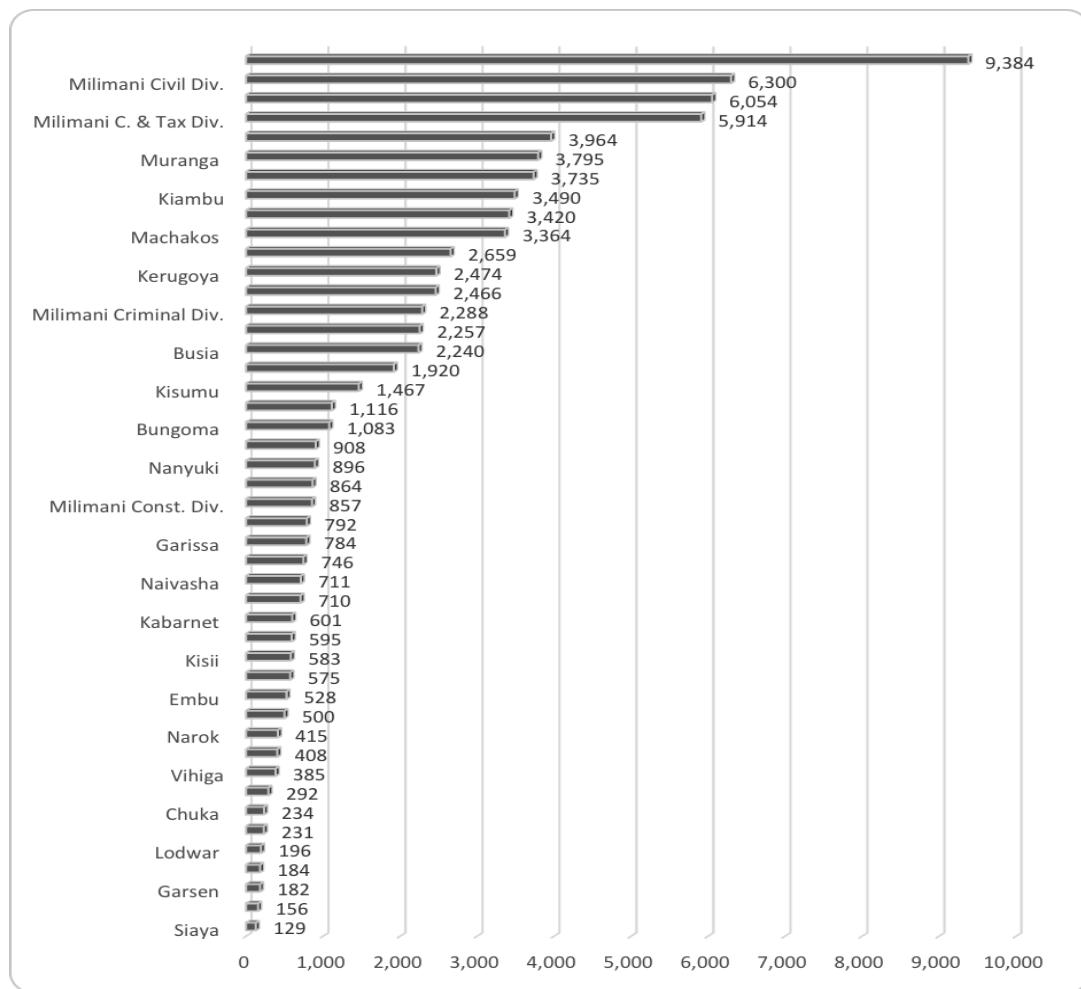


Figure 2.19. Pending Cases in the High Court as at 30th June, 2022

2.13.3.5 Case Backlog in the High Court

Out of the 82,852 cases that were pending at the Court at the end of the FY 2021/22, a total of 52,920 cases were backlog, of which 37 per cent were over three years. Matters over three years reduced by 30 per cent as compared to the previous reporting period. Figure 2.20 presents case backlog by age in the High Court.

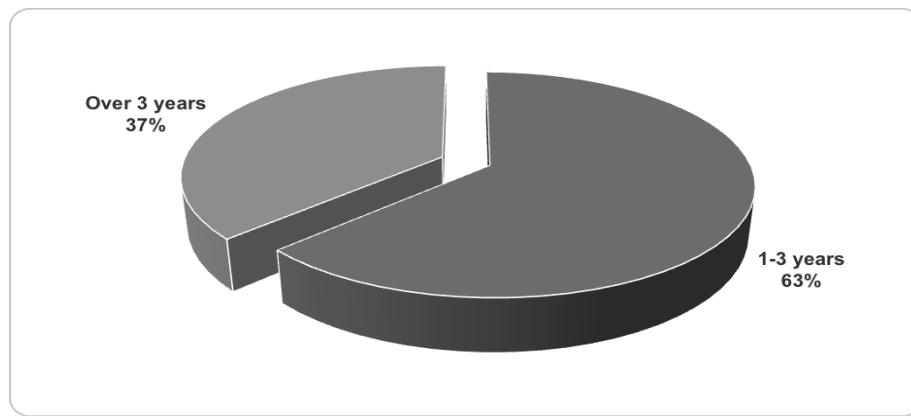


Figure 2.20. Case Backlog by Age in the High Court as at 30th June, 2022

It is observed that in Bungoma, Busia, Embu, Kakamega, Kerugoya, Kitui, Makueni, Muranga, Naivasha and Vihiga stations, the majority of the case backlog were those over three years. Categorisation of case backlog by age for the High Court stations is illustrated in Annex 2.4.

2.13.3.6 STAJ Implementation Status on Reduction of Case Backlog in the High Court

There was a reduction by 30 per cent of cases older than three years at the end of the FY 2021/22 compared to the beginning of the year. This was the general trend in all the stations except in Lodwar and Siaya. Status of case backlog of over three years in the High Court per station is shown in Annex 2.1.

2.13.4 The Employment and Labour Relations Court (ELRC)

The Court is established under Article 162 (2) of the Constitution as a specialised superior court with the mandate to settle employment and industrial relations disputes towards securing good employment and labour relations in Kenya. The first Judges of the Court were recruited in 2012. The number of ELRC court stations increased from six to nine in the FY 2021/22.

Matters at the ELRC are categorized as Collective Bargaining Agreements (CBA), Cause Disputes, Petitions, Miscellaneous Applications, Appeals and Reviews.

2.13.4.1 Filed and Resolved cases in ELRC

There were 3,518 matters filed in the Court adding to 14,040 that were pending at the beginning of the year. Of these, 5,662 matters were resolved hence a case clearance rate of 161 per cent. This implies that the court is reducing pending matters. The CCR of the court has ranged between 33 per cent and 161 per cent in the last eight years. A comparison of the filed and resolved cases at the ELRC from FY 2014/15 to FY 2021/22 is presented in Figure 2.21.

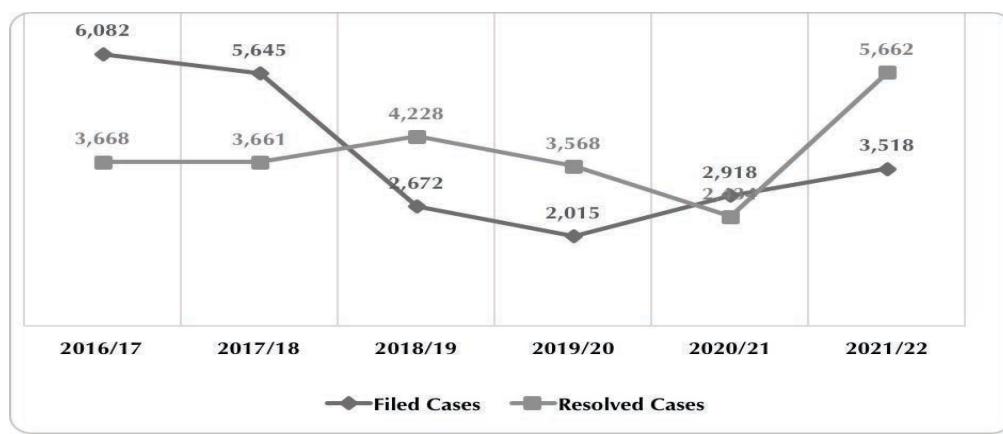


Figure 2.21. Trend of Filed and Resolved Cases in ELRC

The number of cases filed in the court peaked in FY 2015/16 when 6,159 matters were filed. There was a general downward trend till FY 2019/20, after which there has been a general upward trend. Nairobi station had the highest number of filed and resolved cases. Cause disputes constituted over 40 per cent of the matters filed in the Court. Figure 2.22 shows the filed and resolved cases across ELRC stations.

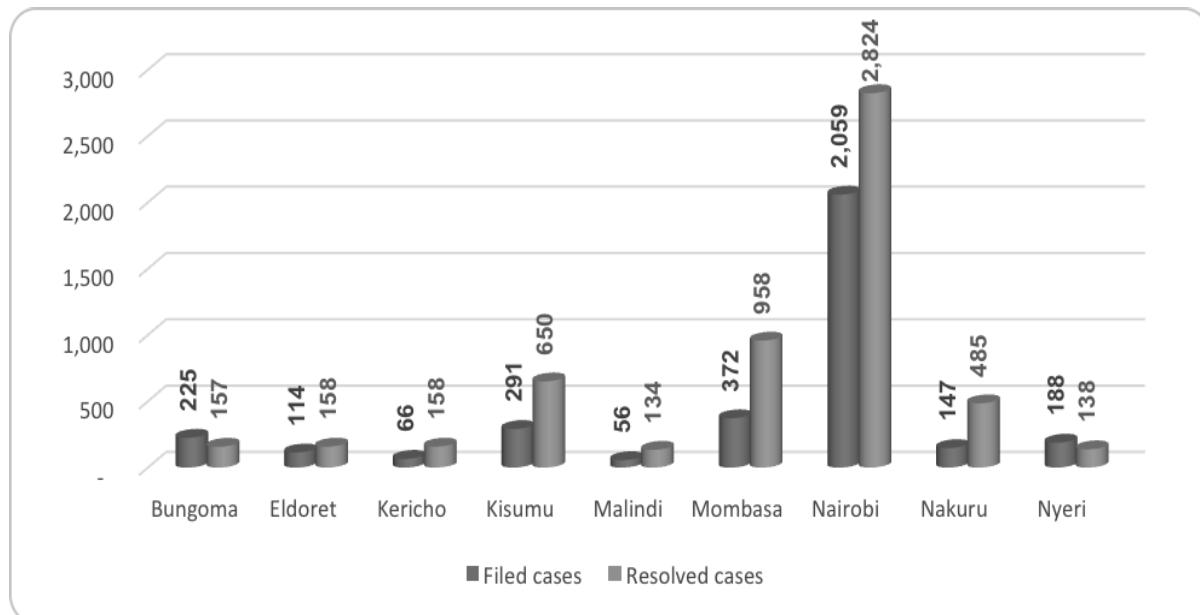


Figure 2.22. Filed and Resolved Cases in ELRC

2.13.4.2 Pending Cases in ELRC

There were 11,943 matters pending at the Court at the end of the reporting period. This was a decline from 14,040 in the previous period. Trends in pending cases at the ELRC is shown in Figure 2.23.

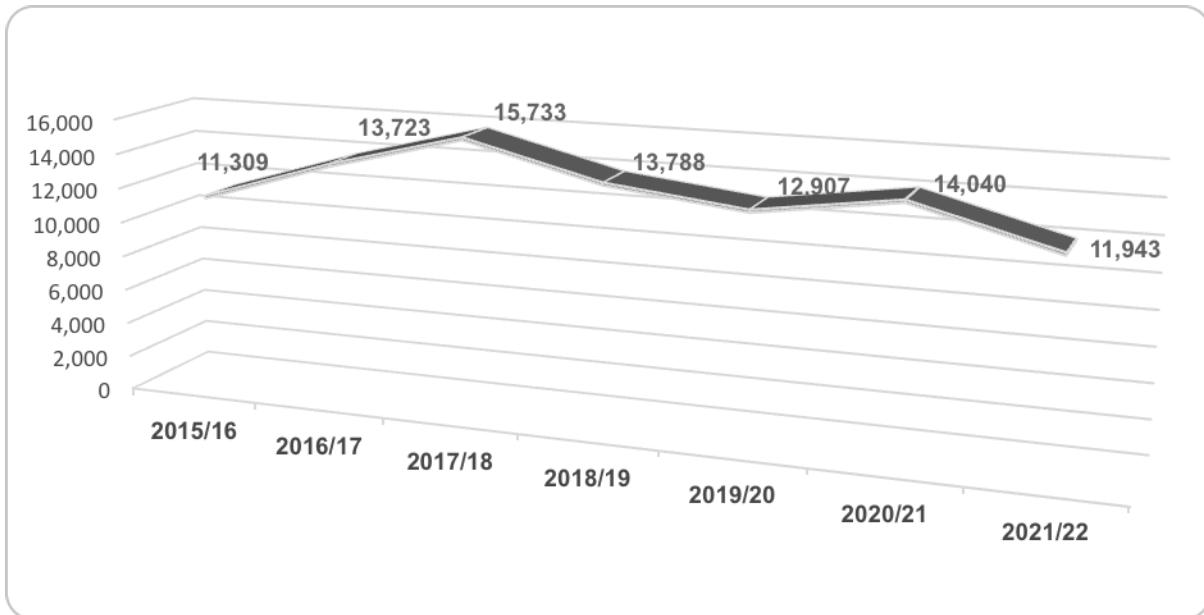


Figure 2.23. Trend of pending cases in ELRC

Of the pending matters, 68 per cent were at the Nairobi court station. Cause Disputes are the majority of the pending cases, followed by Miscellaneous Applications. The nature of pending cases by specific case types is presented in Figure 2.24

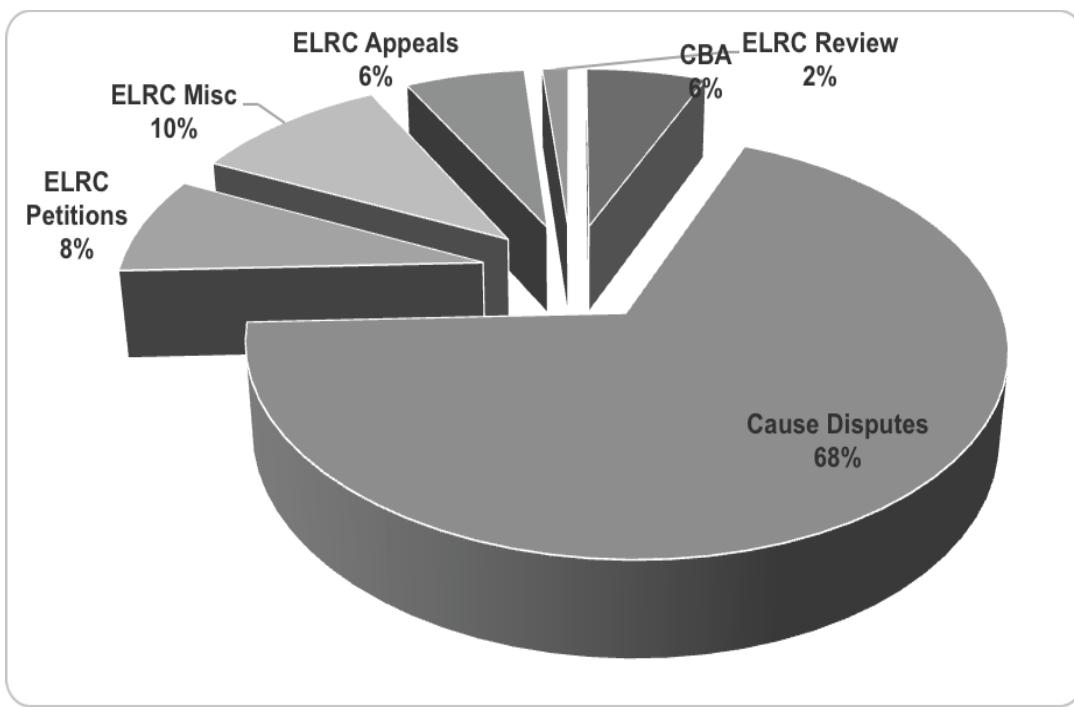


Figure 2.24. Percentage Distribution of Pending Cases by Case Type

2.13.4.3 Case Backlog in ELRC

Out of the 11,943 cases that were pending in ELRC, 10,120 cases representing 85 per cent were backlog. Cases aged between 1-3 years were the majority of the backlog as illustrated in Figure 2.25.

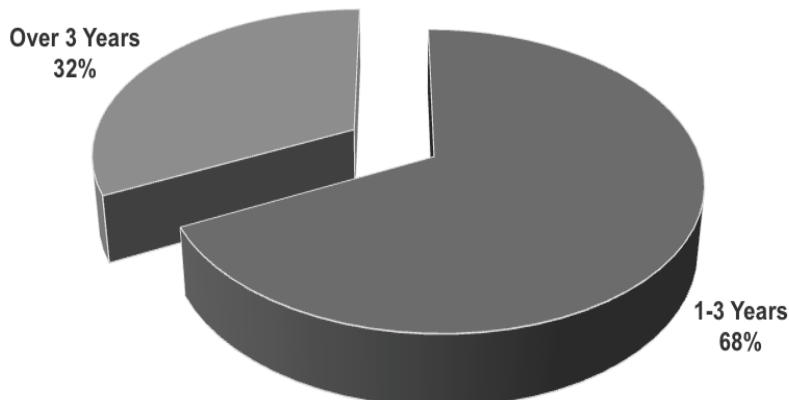


Figure 2.25. Case Backlog by Age in ELRC

2.13.4.4 STAJ Implementation on Reduction of Backlog in ELRC

Cases older than three years were reduced from 4,309 to 3,268 which was a 24 per cent reduction. The greatest reductions were at Nakuru, Kericho, Kisumu and Mombasa court stations. Detailed statistics on the cases filed, resolved and pending at the ELRC are presented in Annex 2.5.

Matters at the ELC are categorised as General Suits, Miscellaneous Applications or Appeals.

2.13.5 The Environment and Land Court (ELC)

The ELC is a specialised superior court established under Article 162 (2) of the Constitution with exclusive original jurisdiction to determine disputes relating to the environment, the use of, and occupation of, and title to land. It also has appellate and supervisory powers over subordinate courts (including specialised tribunals) which deal with matters within the court's specialised jurisdiction. The court also has supervisory roles over public bodies making quasi-judicial decisions within its area of jurisdiction. There were 38 ELC court stations distributed across the country.

2.13.5.1 Filed and Resolved cases in ELC

A total of 6,401 cases were filed in all ELC stations in the FY 2021/22. In the same period, 8,264 cases were resolved. The number of cases filed in the court peaked in FY 2016/17 when 9,770 matters were filed. There was a general downward trend till FY 2019/20, after which there has been a general upward trend for both filed and resolved matters. The trend of these filed and resolved cases in the court in the last eight years is displayed in Figure 2.26

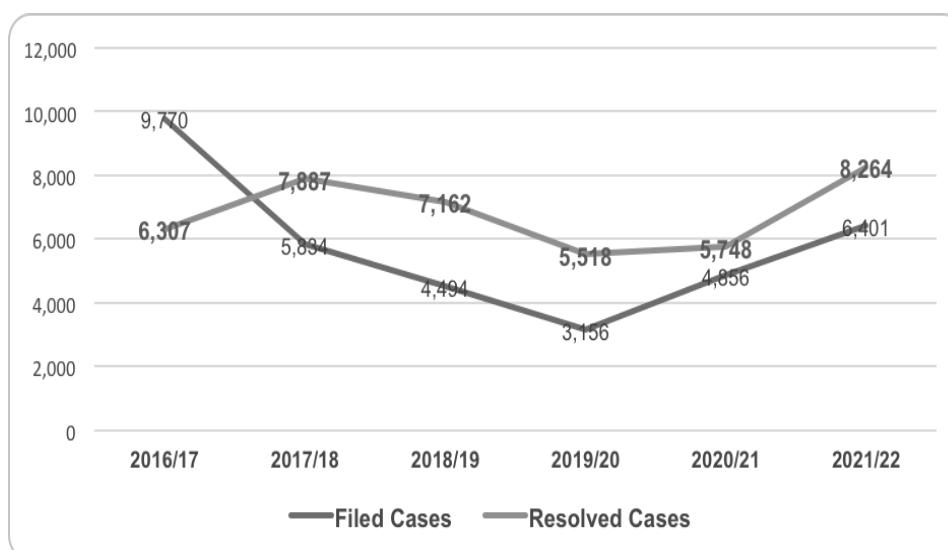


Figure 2.26. Filed and Resolved Cases in ELC

General suits constitute over 50 per cent of the filed and resolved matters in the Court. Nairobi station has the highest number of filed and resolved cases.

2.13.5.2 Pending Cases at the ELC

At the Court, 74 per cent of the pending cases are main suits (ELC general suits), 11 per cent were ELC miscellaneous while the rest were ELC appeals. A breakdown of pending matters per case type is shown in Figure 2.27

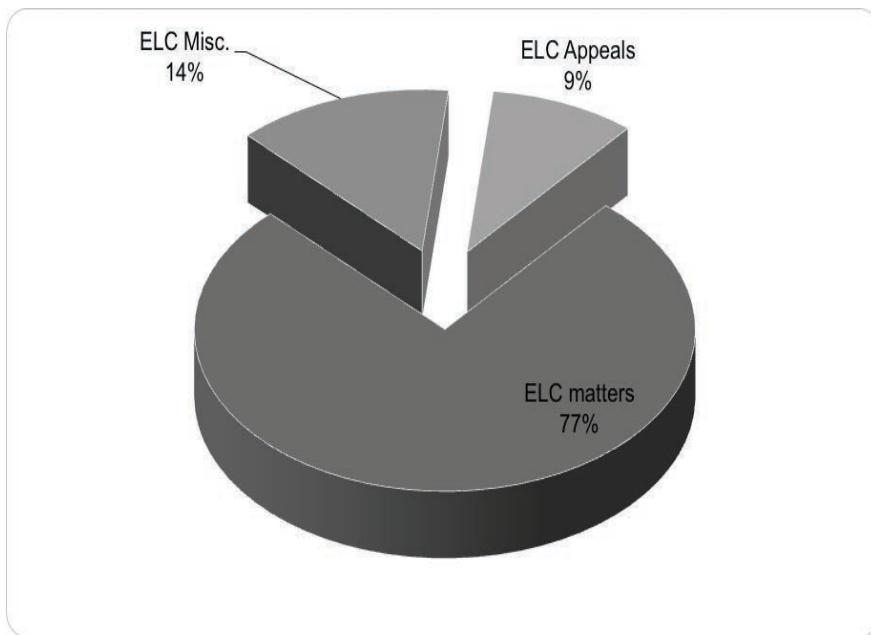


Figure 2.27. Pending Cases in ELC

Figure 2.28 shows that Milimani ELC had the highest number of pending cases, while Chuka ELC had the least number of pending cases.

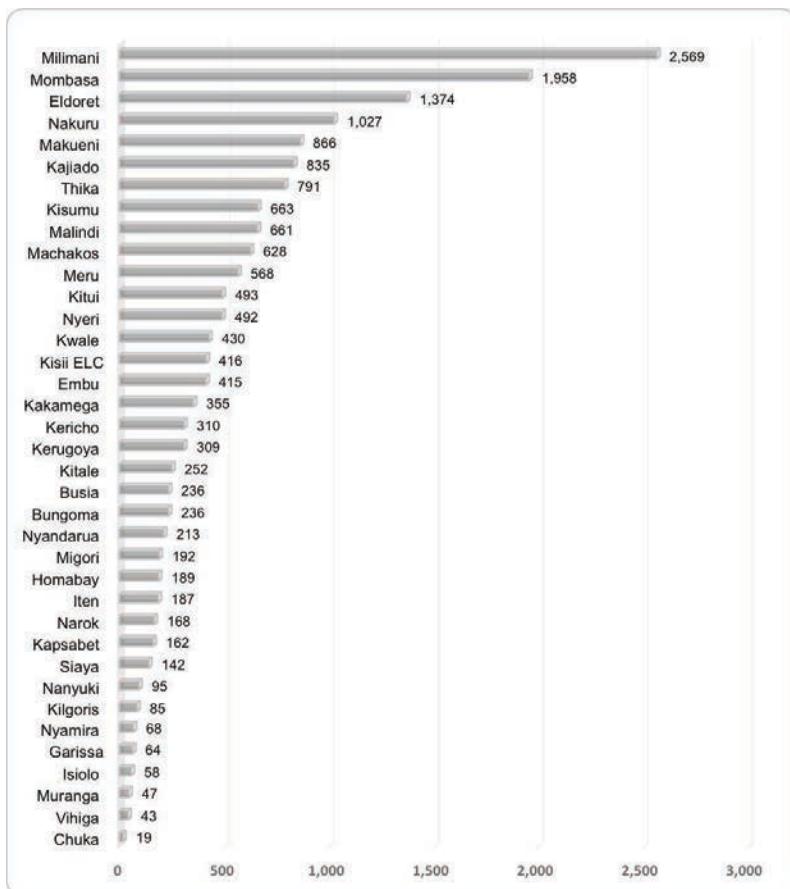


Figure 2.28. Pending Cases per ELC Court Station

2.13.5.3 Case Backlog in ELC

A breakdown of the 17,616 pending cases shows that 11,665 cases were older than one year and thus classified as backlog. The number of cases between 1-3 years were 3,545 while those aged over three years were 8,120. Distribution of case backlog by age is shown in Figure 2.29

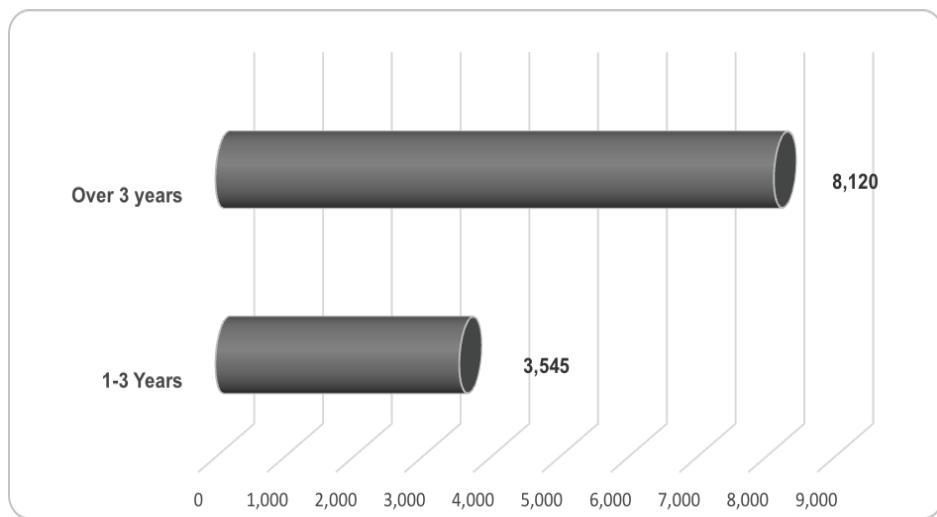


Figure 2.29. Case Backlog by Age in ELC

2.13.5.4 STAJ Implementation on Reduction of Backlog in ELC

The court cases that are aged over three years increased by 12 per cent during the reporting period. Annex 2.6 gives the performance of stations in regard to the reduction of backlog cases aged three years and above.

2.13.6 Magistrates Court

Magistrates Courts are subordinate courts established pursuant to Articles 169 and 23 (2) of the Constitution as read with the Magistrates Court Act (No. 26 of 2015). The courts have jurisdiction and powers in proceedings of a criminal and civil nature as may be conferred by the Criminal Procedure Code, Civil Procedure Act and Rules, or any other written law. There were 127 Magistrates' Court stations across the country.

2.13.6.1 Filed and Resolved Cases in Magistrates' Courts

There were 336,947 cases filed in the Magistrates' Courts out of which the majority were criminal matters constituting 73 per cent. The trend of filed cases in the Magistrates' Court since the FY 2014/15 is illustrated in Figure 2.30.

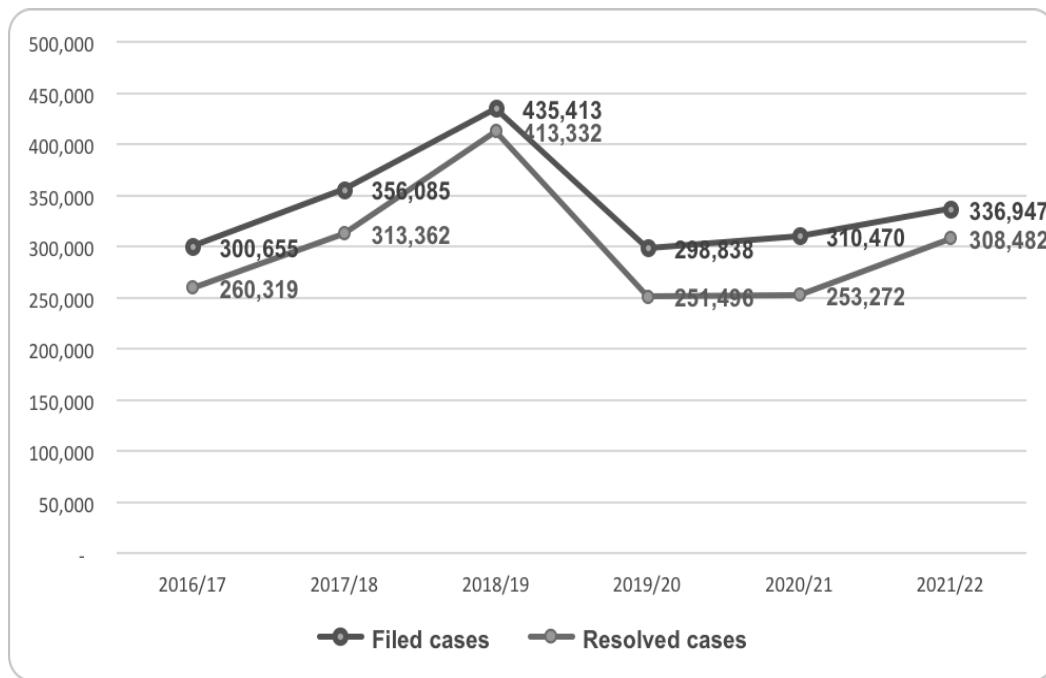


Figure 2.30. Trend on Filed Cases by Case Type in Magistrates' Courts

2.13.6.2 Pending Cases in Magistrates' courts

The number of pending cases in the Magistrates' Courts rose from 512,454 from the previous reporting period to 521,823 at the end of FY 2021/22. Out of these pending cases, criminal cases were 266,108 while civil cases were 255,783. Figure 2.31 depicts the trend of pending cases in Magistrates' Courts over time.

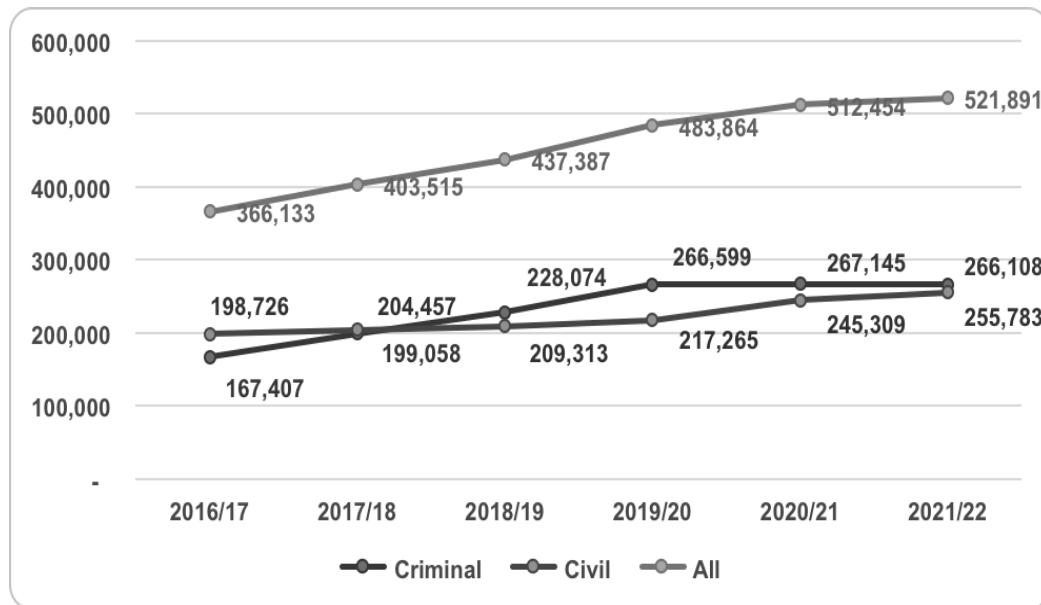


Figure 2.31. Trend of pending cases in Magistrates' Court FY 2016/17-2021/22

2.13.6.3 Case Backlog

Out of the 521,891 cases that were pending, 233,374 were backlog. This marked a 15 per cent reduction from 274,584 backlog cases that were recorded at the end of the previous financial year. The distribution of case backlog in Magistrates' Courts by age is given in Figure 2.32.

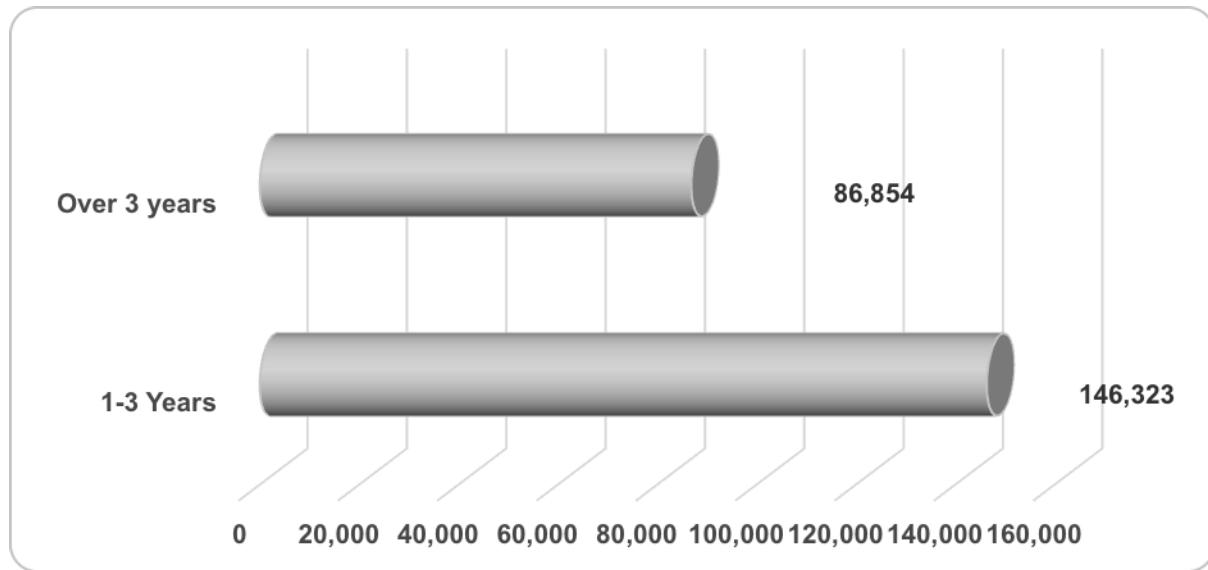


Figure 2.32. Case Backlog by age in Magistrates' Courts

The Magistrates' Courts performance Statistics captured across all its court stations and disaggregated across case types and court stations is presented in Annex 2.7, 2.8, 2.9 and 2.10.

2.13.7 Kadhis Courts

Kadhis' Courts are established under Article 170 of the Constitution with jurisdiction to determine questions of Muslim law relating to personal status, marriage, divorce and inheritance, in proceedings where all parties profess the Muslim faith and submit to the jurisdiction of the court. There were 47 Kadhis' Courts across the country. Matters at the Kadhis' Courts are categorised into divorce, registration of marriage, matrimonial cause, miscellaneous applications, registration of divorce and succession.

2.13.7.1 Filed and Resolved Cases in Kadhis' Courts

During the reporting period, 9,017 matters were filed and a total of 6,540 were resolved. The number of cases filed in the Kadhis' courts has been increasing over time except in the FY 2019/20 when there was a decline. Resolution of matters declined from 7,230 in the FY 2020/21 to 6,540 in the year under review. Figure 2.33 shows the trend on filed and resolved cases over a period of seven years.

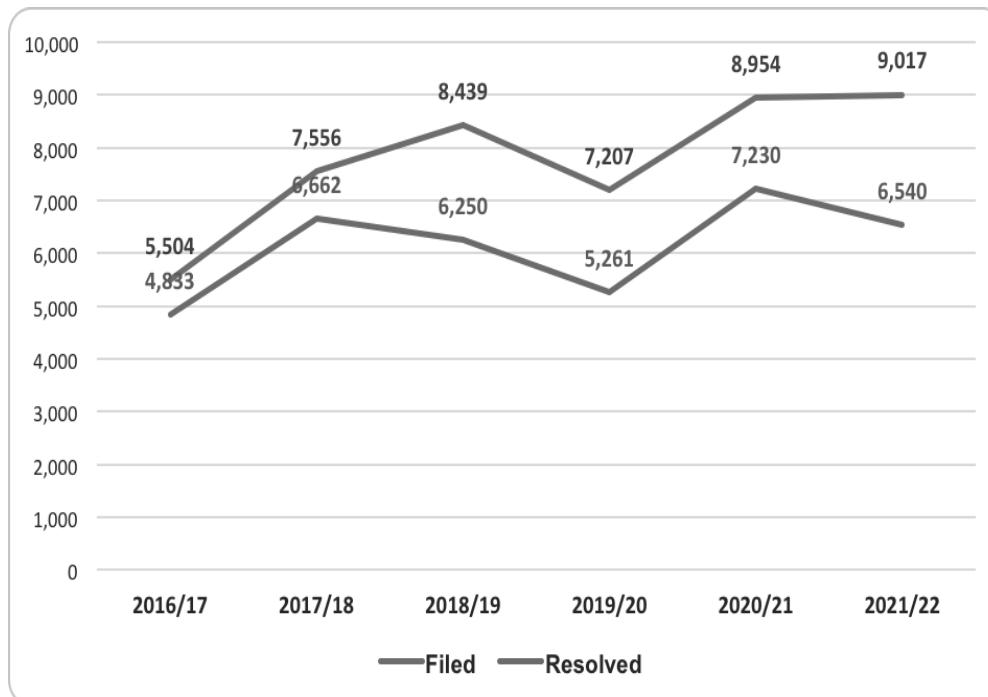


Figure 2.33.Trends of Filed and Resolved cases in Kadhis' Courts.

The majority of the filed and resolved matters were registration of marriages, succession and divorce. Figure 2.34 shows the distribution of matters filed and resolved in the Kadhis' Courts.

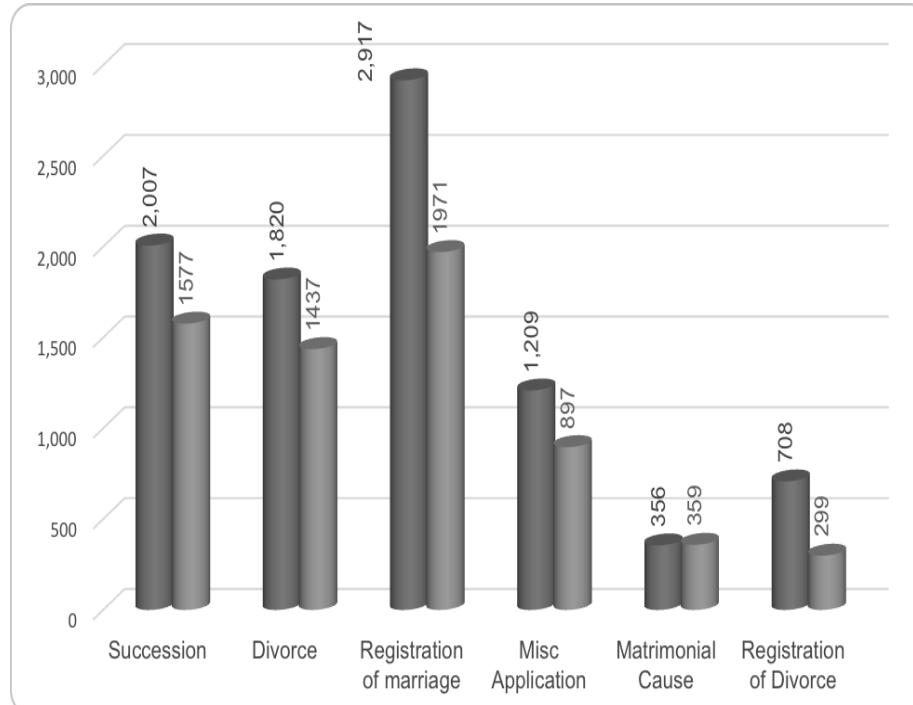


Figure 2.34. Filed and Resolved Cases by Case Type in the Kadhis' Courts, FY 2021/22

2.13.7.2 Pending cases

Pending cases in the Kadhis' Court have been on an upward trend, rising from 2,792 in the FY 2014/15 to 10,400 during the reporting period. The trend of pending matters for the last eight years is presented in Figure 2.35

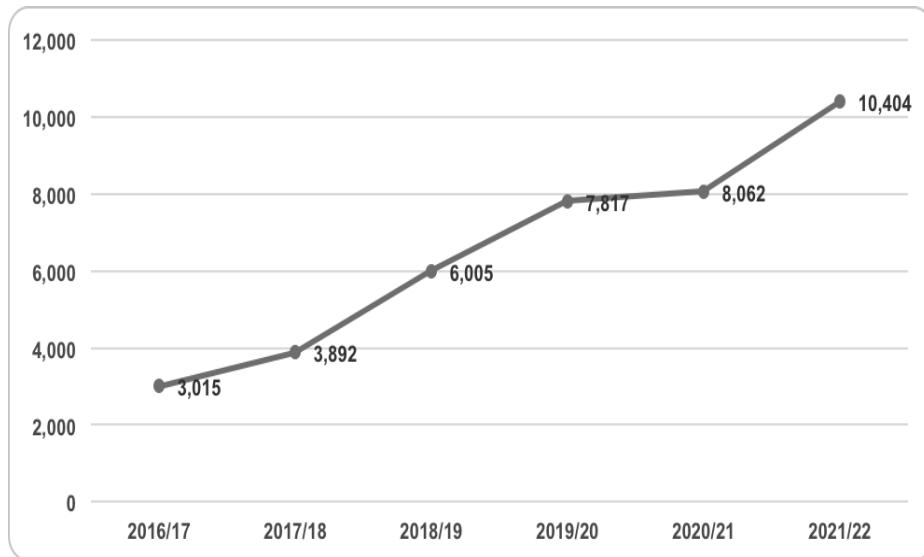


Figure 2.35. Trend of Pending Matters in Kadhis' courts

2.13.7.3 Case Backlog

There were 2,264 cases that had been pending before the court for over a year. This was a decline of 12 per cent from 2,573 recorded in the previous year. Cases over three years were 11 per cent of case backlog. Figure 2.36 provide details on case backlog in the Kadhis' courts.

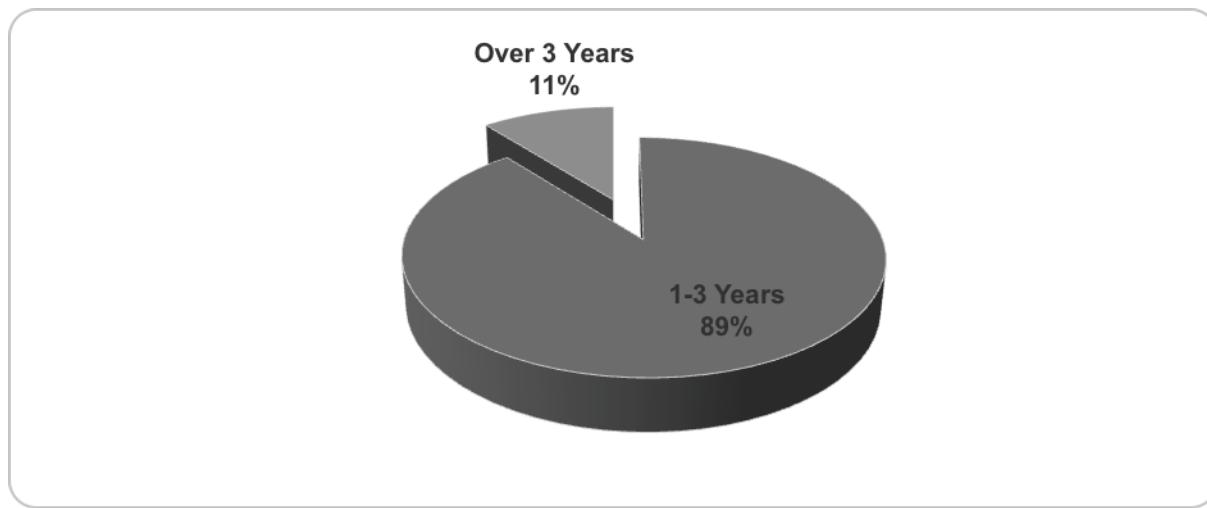


Figure 2.36. Case Backlog by Age in the Kadhis' courts

2.13.7.4 STAJ Implementation on Reduction of Backlog in Kadhis' Courts

There was a 17 per cent reduction of matters over three years as indicated by the decline from 291 pending matters to 242 at the close of FY 2021/22. Most of the matters over three years are in Garissa and Dadaab Kadhis Courts.

Detailed Kadhis' Courts statistics are presented in Annex 2.11.

2.13.8 Small Claims Courts

The Small Claims Court (SCC) is established under Section 2 of the Small Claims Court Act, 2016 as a subordinate court with jurisdiction to determine civil claims relating to: a contract for sale and supply of good or services; a contract relating to money held or received; liability in tort in respect of loss or damage caused to any property or for delivery or recovery of movable property; compensation for personal injuries and set off and counterclaim under any contract. The monetary jurisdiction of the court is one million shillings.

The main objective of the court is to guarantee the right to access to and expeditious delivery of justice through simplicity of court procedures, timely disposal of cases and reasonable court fees. The establishment of the court is part of a wider initiative to enhance the ease of doing business in Kenya by reducing the time and cost of resolving commercial disputes. All cases in the court are required to be finalised within 60 days of filing as per section 34 of the Small Claims Court Act, 2016.

The Small Claims Court was operationalised at the Milimani Law Courts in FY 2020/21 and was rolled out to Machakos, Meru, Kisumu, Mombasa, Eldoret, Kajiado, Kakamega, Naivasha, Nakuru, Nyeri and Thika in the period under review. Matters at the SCC are categorised as either breach of contract, commercial suits, liquidated claims or personal injury.

2.13.8.1 Filed and Resolved cases

In the period under review, 8,978 matters were filed in SCCs across the country. Breach of contract and personal injury claims constituted 90 per cent of the matters filed. The majority of the cases that were filed at the Milimani station were commercial suits and for liquidated claims.

There were 8,295 matters that were resolved in the period under review. Breach of contract and personal injury claims constituted 95 per cent of these resolved matters. Table 2.7 shows the breakdown of matters filed and resolved per SCC station per case type.

Table 2.7. Filed and Resolved Cases in SCC

Station	Filed Cases					Resolved Cases				
	Breach of Contract	Commercial Suits	Liquidated Claims	Personal Injury	Total	Breach of Contract	Commercial Suits	Liquidated Claims	Personal Injury	Total
Eldoret	327	-	-	26	353	233	-	-	19	252
Kajiado	50	-	-	16	66	37	-	-	11	48
Kakamega	49	-	-	13	62	13	-	-	-	13
Milimani	5,916	447	304	884	7,551	6,110	218	222	737	7,287
Naivasha	38	-	-	7	45	15	-	-	8	23
Nakuru	238	-	-	58	296	219	-	-	45	264
Nyeri	87	-	-	24	111	65	-	-	19	84
Thika	430	3	-	61	494	276	4	-	44	324
All Stations	7,135	450	304	1,089	8,978	6,968	222	222	883	8,295

Breach of contract cases constituted the largest number of both filed and resolved cases in the SCC as shown in Figure 2.37.

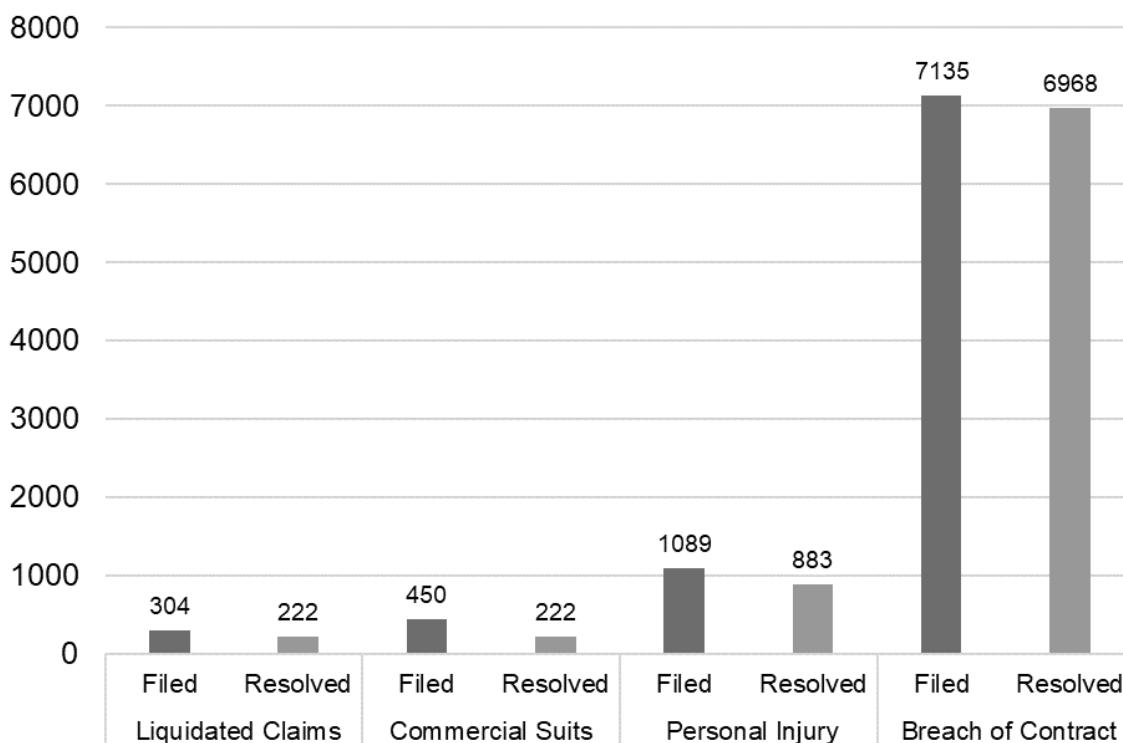


Figure 2.37. Filed and Resolved Cases in the Small Claims Court, FY 2021/22

2.13.8.2 Pending Cases in SCC

At the close of the reporting period, there were 1,239 matters pending in various SCC stations. This is presented according to station and case type in Table 2.8 and Figure 2.38

Table 2.8 Pending Cases in SCC as at 30th June 2022

SCC Station	Breach of Contract	Commercial Suits	Liquidated Claims	Personal Injury	Total
Eldoret	94	0	0	7	101
Kajiado	13	0	0	5	18
Kakamega	36	0	0	13	49
Milimani	2	349	122	177	650
Naivasha	23	0	0	0	22
Nakuru	19	0	0	13	32
Nyeri	22	0	0	5	27
Thika	154	0	0	17	170
All	363	349	122	237	1,069

Milimani Small Claims Court had the highest number of pending cases with 650 pending matters while Kajiado had the least number of pending matters. This is shown in Figure 2.38

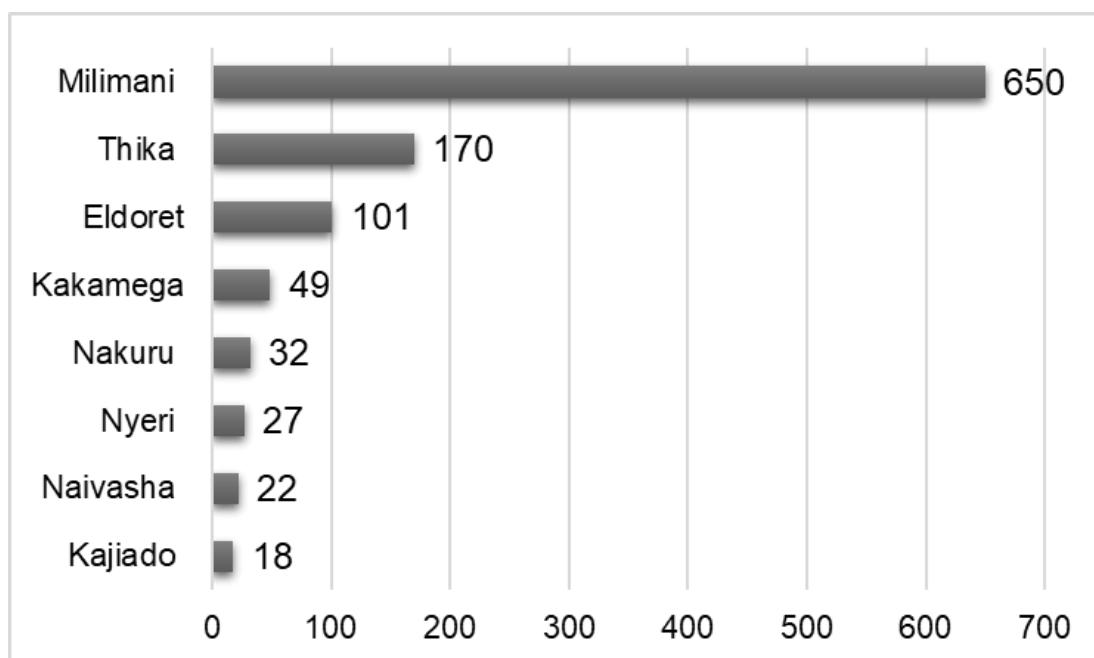


Figure 2.38. Distribution of Pending Matters in the SCC

2.13.9 Tribunals

Tribunals are subordinate courts created pursuant to Article 169 of the Constitution and established by legislation to exercise judicial or quasi-judicial functions. They are established to provide an expeditious and affordable forum for resolution of disputes in specialised areas such as tax, civil aviation, copyright amongst others. During the reporting period, there were 19 Tribunals that were under the Judiciary.

2.13.9.1 Filed and Resolved cases

During the FY 2021/22, 5,774 cases were filed in the various Tribunals. In the same period, 8,489 cases were resolved. The trend of the filed and resolved cases in Tribunals for the last four years is illustrated in Figure 2.39.

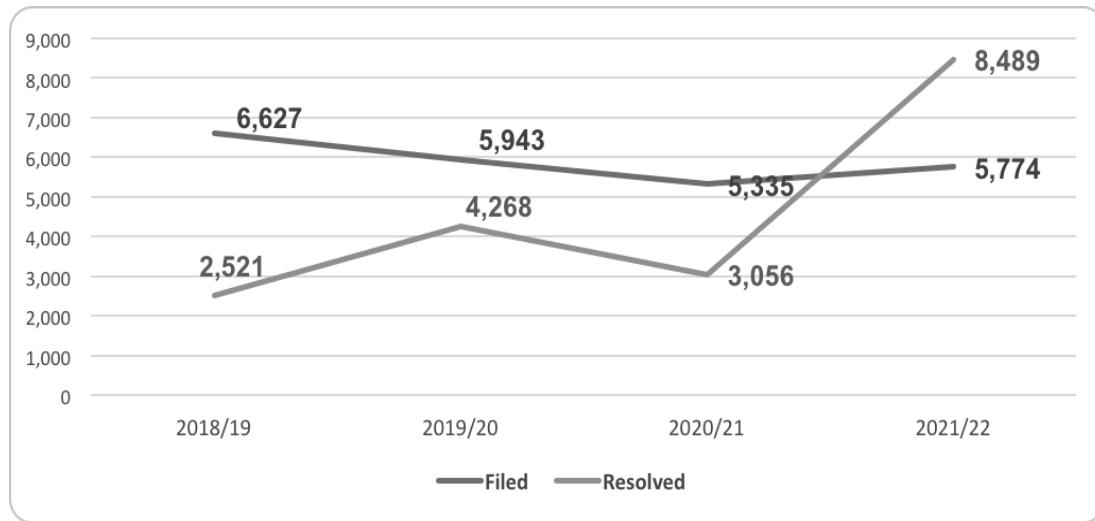


Figure 2.39. Trend on Filed and Resolved Cases in the Tribunals

As shown in Table 2.9, over the past four years, three tribunals, to wit, Business Premises Rent Tribunal, Cooperative Tribunal and Rent Restriction Tribunal recorded 95 per cent of filed and resolved matters at the Tribunals.

Table 2.9. Filed and Resolved Cases in Tribunals

Tribunal	Filed cases				Resolved cases			
	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Business Premises Rent Tribunal	2246	2,261	2,077	2,263	1,065	1627	1039	4859
Communication and Multimedia Appeals Tribunal	6	4	5	2	2	1	3	5
Competition Tribunal	0	6	2	3	0	2	3	5
Cooperatives Tribunal	1112	1149	631	868	570	1772	984	1548
Copyright Tribunal	1	0	0	0	0	1	0	0
Education Appeals Tribunal	4	4	1	0	0	25	9	0
Energy & Petroleum Tribunal	0	1	54	20	0	0	10	15
HIV Aids Tribunal	28	28	20	6	0	28	27	18
Industrial Property Tribunal	5	4	10	4	0	8	8	2
Legal Education Appeals Tribunal	3	1	6	32	2	1	11	34
Micro and Small Enterprises Tribunal	0	22	14	7	0	21	6	31
National Civil Aviation Administrative Review Tribunal	3	10	9	2	1	9	4	7
National Environment Tribunal	30	40	26	23	25	63	58	21
Political Parties Disputes Tribunal	20	29	21	207	18	28	27	252
Public Private Partnerships Petitions Committee	2	0	2	3	2	0	1	2
Rent Restriction Tribunal	3052	2,306	2,397	2,249	810	593	779	1618
Sports Disputes Tribunal	66	47	32	54	22	53	51	45
Standards Tribunal	10	5	4	1	4	2	3	1
Transport Licensing Appeals Board	39	26	24	30	0	34	33	26
All Tribunals	6,627	5,943	5,335	5,774	2,521	4,268	3,056	8,489

2.13.9.2 Pending Cases

Tribunals reduced the number of pending cases from 30,485 reported in the FY 2020/21 to 27,882 in the FY 2021/22. Figure 2.40 illustrates the trends of pending matters in Tribunals in the last four years. Breakdown of these matters per Tribunal is presented in Table 2.10

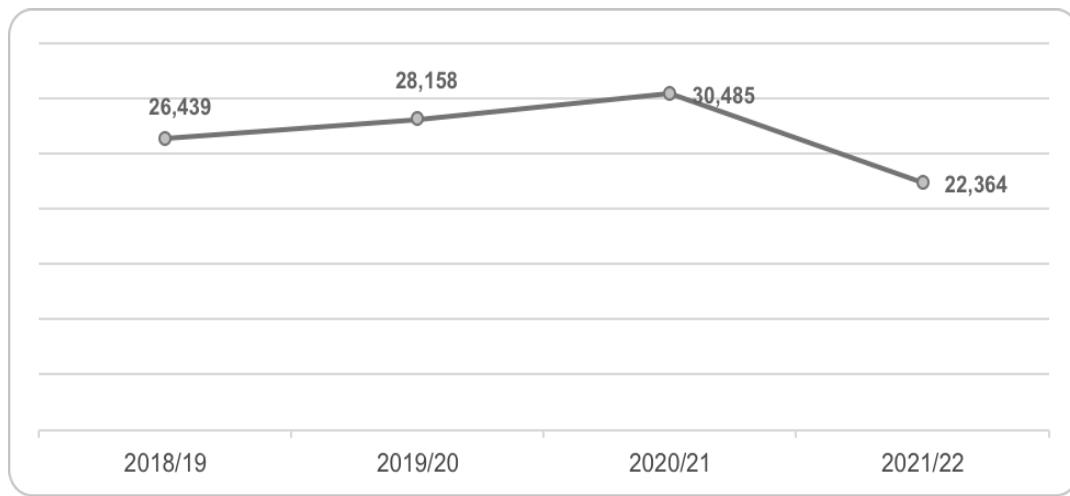


Figure 2.40. Trend on Pending Cases in the Tribunals

Table 2.10. Pending cases by Tribunal Stations

Tribunal	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Business Premises Rent Tribunal	10342	10,976	12,014	6,311
Communication And Multimedia Appeals Tribunal	5	8	10	4
Competition Tribunal	0	4	3	2
Cooperatives Tribunal	4109	3,486	3,133	1,886
Copyright Tribunal	0	1	1	0
Education Appeals Tribunal	0	21	13	2
Energy & Petroleum Tribunal	0	1	45	8
HIV Aids Tribunal	48	48	41	38
Industrial Property Tribunal	13	9	11	14
Legal Education Appeals Tribunal	2	2	3	9
Micro And Small Enterprises Tribunal	0	4	12	6
National Civil Aviation Administrative Review Tribunal	2	3	8	3
National Environment Tribunal	35	12	20	79
Political Parties Disputes Tribunal	4	5	1	4
Public Private Partnerships Petitions Committee	1	1	2	0
Rent Restrictions Tribunal	11765	13,475	15,093	13,942
Sports Disputes Tribunal	70	64	45	27
Standards Tribunal	4	7	8	7
State Corporations Appeals Tribunal	13	13	13	0
Transport Licensing Appeals Board	26	18	9	22
All Tribunals	26,439	28,158	30,485	22,364

2.13.9.3 Case Backlog

As at the end of June 2022, the total case backlog for the tribunals stood at 20,375 cases. The tribunal with the highest backlog was RRT, followed by BPRT and Cooperative Tribunal. Competition, Copyright, HAT, LEAT, MSET, NCAART, PPDT, PPPC and SCAT did not have backlog as at the end of the reporting period as illustrated in Table 2.11.

Table 2.11. Distribution of Case Backlog in the Tribunals

Tribunal	Backlog 1-3 years	Backlog Over 3 Years	Total Backlog
Business Premises Rent Tribunal (BPRT)	1,178	4,484	5,662
Communication And Multimedia Appeals Tribunal (CAMAT)	2	0	2
Competition Tribunal (CT)	0	0	0
Cooperatives Tribunal (COOP)	532	881	1,413
Copyright Tribunal	0	0	0
Education Appeals Tribunal (EAT)	0	2	2
ENERGY & PETROLEUM TRIBUNAL (EPT)	1	0	1
Hiv Aids Tribunal (HAT)	0	0	0
Industrial Property Tribunal (IPT)	11	0	11
Legal Education Appeals Tribunal (LEAT)	0	0	0
Micro And Small Enterprises Tribunal (MSET)	0	0	0
National Civil Aviation Administrative Review Tribunal (NCAART)	0	0	0
National Environment Tribunal (NET)	30	11	41
Political Parties Disputes Tribunal (PPDT)	0	0	0
Public Private Partnerships Petition Committee (PPPC)	0	0	0

Tribunal	Backlog 1-3 years	Backlog Over 3 Years	Total Backlog
Rent Restrictions Tribunal (RRT)	4,916	8,316	13,232
Sports Disputes Tribunal (SDT)	1	2	3
Standards Tribunal (ST)	6	1	7
State Corporations Appeals Tribunal (SCAT)	0	0	0
Transport Licensing Appeals Board (TLAB)	1	0	1
All Tribunals	6,678	13,697	20,375

Out of the 22,364 pending cases, 20,375 were older than a year in the Tribunals. Cases over three years constituted 67 per cent of the case backlog, most of which were in RRT, BPRT and Cooperative tribunals. Figure 2.41 provides details on case backlog in the Tribunals as at 30th June, 2022

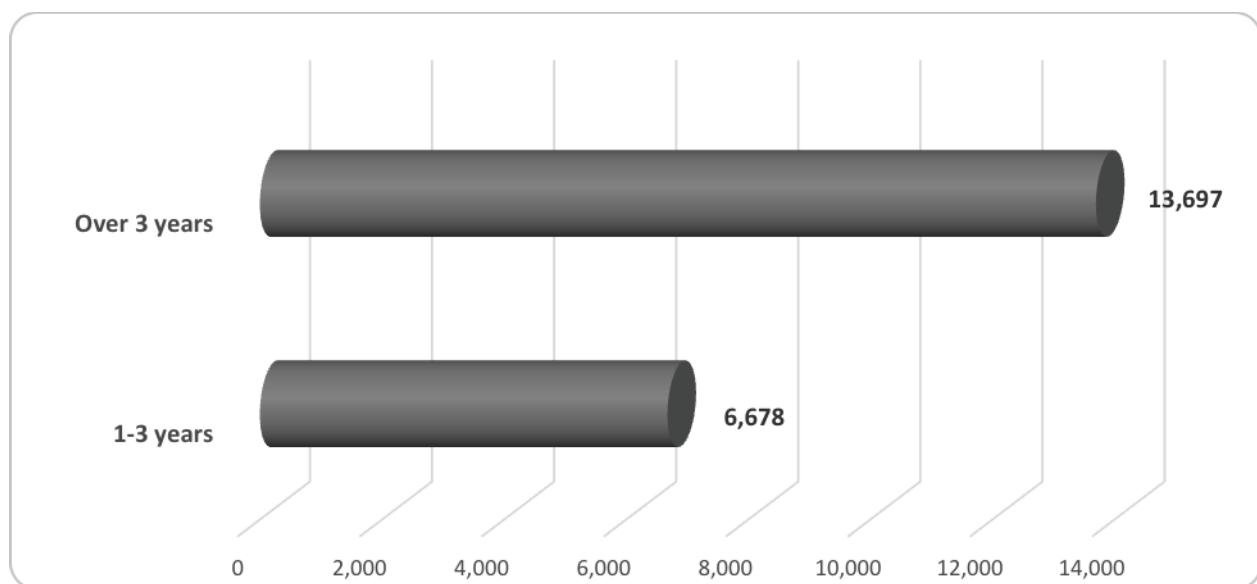


Figure 2.41. Age of Case Backlog in Tribunals

SECTION III - INSTITUTIONALISATION OF ALTERNATIVE DISPUTES RESOLUTION MECHANISMS

Article 48 of the Constitution obligates the state to ensure access to justice for all persons. This right not only means access to courts, but also empowerment of citizens to resolve their disputes in a forum of their choice. Consequently, access to justice calls for facilitation of forums and processes where disputing parties can converse and establish mutually desirable outcomes. Towards this, Article 159 of the Constitution mandates the Judiciary to promote the use of alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms.

With recognition of ADR in the Constitution, the desire to expedite resolution of disputes and focus on the multi-door approach to address the huge case backlog, several policies and strategies have been developed. The Courts have been the main formal forums for dispute resolution in Kenya since independence. Lengthy and tedious litigation processes, high appeal rates, recurrence of conflicts, and the adversarial win-lose outcomes is a clear indicator that courts as the only formal dispute resolution avenue are not yielding optimal results. Cognizant of these challenges, the Judiciary supports resolution of disputes through alternatives to litigation.

Mediation is an alternative dispute resolution mechanism where an impartial third party encourages and facilitates the resolution of a dispute between parties. Court Annexed Mediation (CAM) and Alternative Justice System (AJS) are the primary ADR mechanisms promoted by the Judiciary.

2.14 Caseload Statistics under Court Annexed Mediation

Court Annexed Mediation (CAM) was introduced in the Judiciary in 2016. The objectives of the mediation program in Kenya are: to relieve the courts of the caseload burden; to reduce the time and money spent on litigation; to preserve the relationship between disputants through accommodative resolutions; and to produce higher quality outcomes through a resolution process which encourages self-determination. After a successful pilot in the Commercial and Family Divisions of the High Court at Nairobi, CAM has gradually been rolled out to other Courts and formally employed as an alternative form of dispute resolution.

The Mediation Accreditation Committee (MAC) is established under Section 59A of the Civil Procedure Act as a multi-sector Committee drawing its membership from various institutions. Its mandate includes accreditation and maintenance of a register of mediators, enforcement of a mediator code of ethics, and recommendation of appropriate mediator training programs. The committee received and processed 223 applications from which, a total of 207 new mediators were accredited. In total the Committee has accredited 1,032 mediators since its inception in the year 2015 and those accredited form a pool from which the CAM draws its mediators.

By the end of the FY 2021/22, CAM had been operationalised in 89 court stations across the country; of which 24 were High Court stations, 10 ELRC stations, 22 ELC stations and 28 Magistrates courts, 3 Kadhis courts and 2 Small Claims Courts. Over the years, many disputes have been resolved through CAM resulting in billions of shillings held in litigation released into the economy. The use of Court Annexed Mediation has also restored relationships between disputing parties and improved the commercial environment.

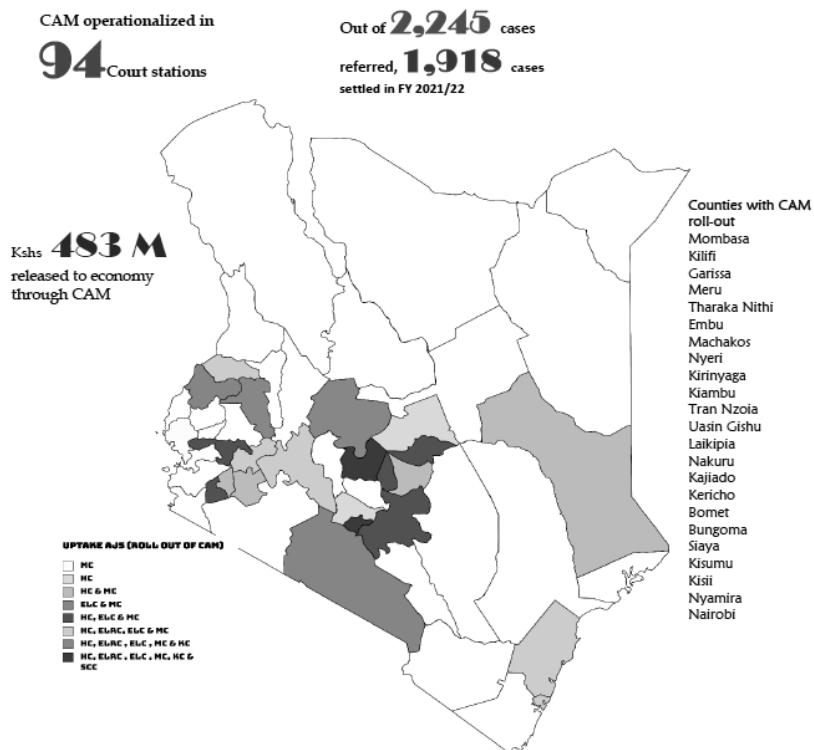


Figure 2.42. Uptake of Court Annexed Mediation

2.15 Matters Referred, Processed and Pending under Mediation

In the FY 2021/22, a total of 2,445 matters were referred to mediation by various courts, which is an increase by 23 per cent (460 matters) as compared to the previous period. These matters, together with 228 matters that were pending under CAM formed a cumulative workload of 2,673 matters. Out of these, 1,918 were processed and 755 matters were pending as at June 30, 2022.

2.15.1 Court Annexed Mediation at the High Court

CAM was introduced in 10 stations in the year; viz Bomet, Chuka, Kapsabet (sub-registry), Kericho, Kiambu, Kitale, Meru, Naivasha, Nanyuki and Siaya. In addition to 55 matters that were pending from the previous period, a total of 597 matters were referred to mediation. Despite the increase in the number of stations with CAM programs, the number of matters referred to mediation declined by 294 across the High Court as compared to the previous period. A total of 423 matters were processed, consequently an increase in the number of pending matters to 229.

The aggregate CAM Case Clearance Rate for the court in the year was 71 per cent and there was no High Court station that resolved more cases than were referred to it. The cumulative value of matters referred to mediation since inception at the Court is KSh55.59 billion, out of which matters with settlement agreements amounted to KSh12.44 billion.

2.15.2 Court Annexed Mediation at the ELRC

CAM was operationalised in nine ELRC stations, which included one new station, Kericho. A total of 154 matters were referred to mediation in addition to 19 matters that were pending from the previous period. Across the ELRC stations, a total of 131 matters were processed, consequently leading to an increase in the number of pending matters to 68. The aggregate CAM CCR for the court in the year was 85 per cent, an improvement from 42 per cent registered in the previous period.

2.15.3 Court Annexed Mediation at the ELC

In the FY 2021/22, there were 22 ELC stations using CAM to resolve disputes. This was an increase by nine from the 13 which had adopted CAM in the previous year. The new stations were Bungoma, Chuka, Kajiado, Kapsabet, Kericho, Kitale, Nanyuki, Siaya and Thika. The cumulative value of matters referred to mediation since inception at the ELC is KSh 2.7 billion, out of which matters with settlement agreements amounted to KSh 174 million.

2.15.4 Court Annexed Mediation at the Subordinate Courts

In the FY 2020/2021, 23 Magistrates Courts, three Kadhis Courts and two Small Claims Courts implemented CAM. It was introduced in Bomet, Bungoma, Chuka, Kapsabet, Kericho, Kitale, Machakos, Meru, Naivasha, Nanyuki, Ngong, Othaya, Runyenjes and Siaya Magistrates Courts. This is in addition to Eldoret, Milimani and Nyeri Kadhis Courts as well as Milimani and Nyeri Small Claims Courts. A total of 1,535 matters were referred to mediation in these courts.

2.16 Matters Settled through Mediation

During the period under review, out of 1,918 matters that were processed through mediation, 962 had settlement agreements hence a settlement rate of 50 per cent. These settlements were either full agreements in 803 matters (84%), partial agreements in 118 matters (12%) or consents in 41 matters (4%). The percentage distribution of outcomes for the matters that were processed through mediation is given in Figure 2.43.

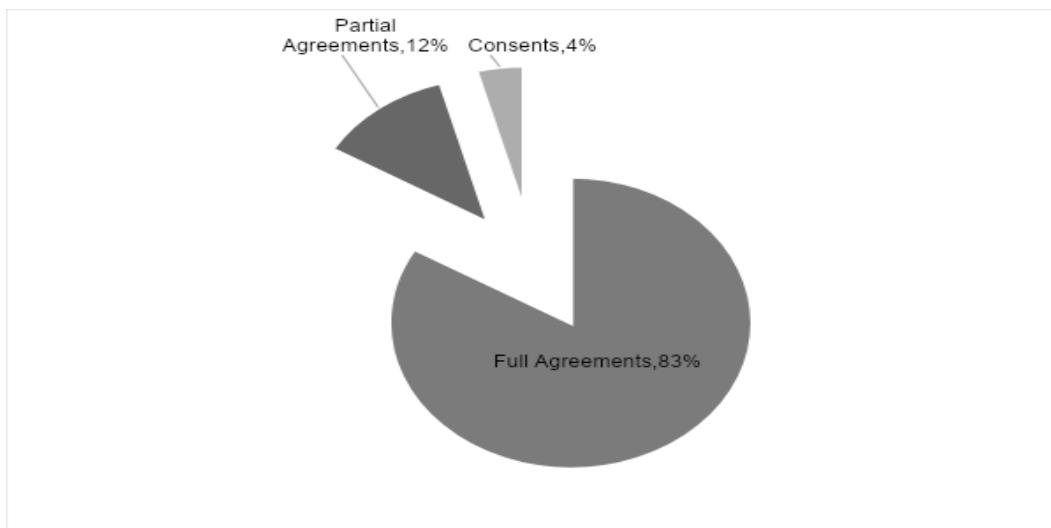


Figure 2.43 Percentage Distribution of Settled Matters by Mode

Settlement rates differed per court. The aggregate settlement rate was 48 per cent at the High Court, 37 per cent at the ELRC and the ELC, 54 per cent at the Magistrates Courts, 100 per cent at the Kadhis Court and 20 per cent at the Small Claims Court.

Annex 12 presents Court Annexed Mediation statistics for the FY 2021/22 across all courts.

2.17 Matters Not-Settled through Mediation

The non-settlement of matters in CAM arises due to parties failing to reach an agreement or non-compliance by parties and/or termination of matters by parties. The breakdown of matters that were not settled under CAM in the FY 2021/22 is given in Figure 2.44.

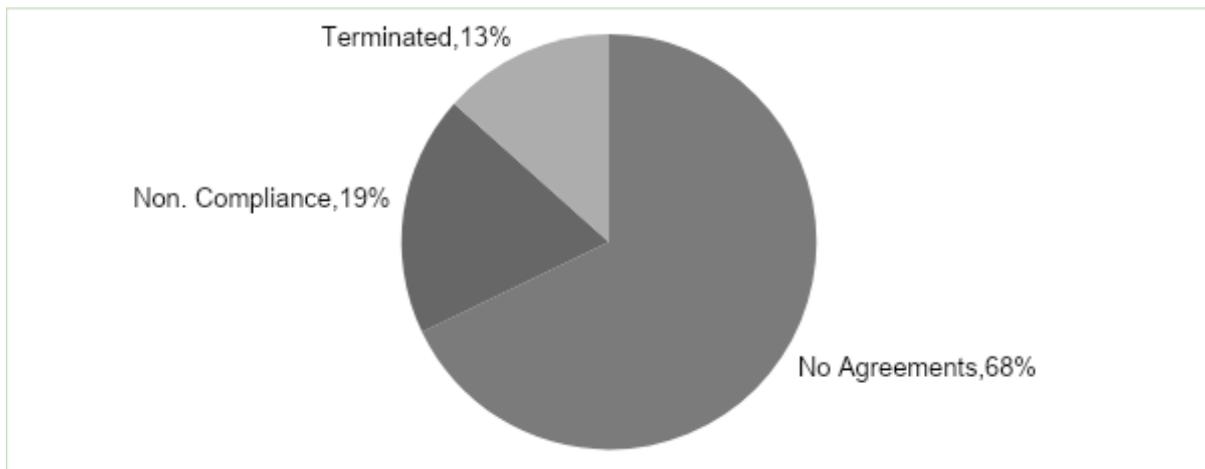
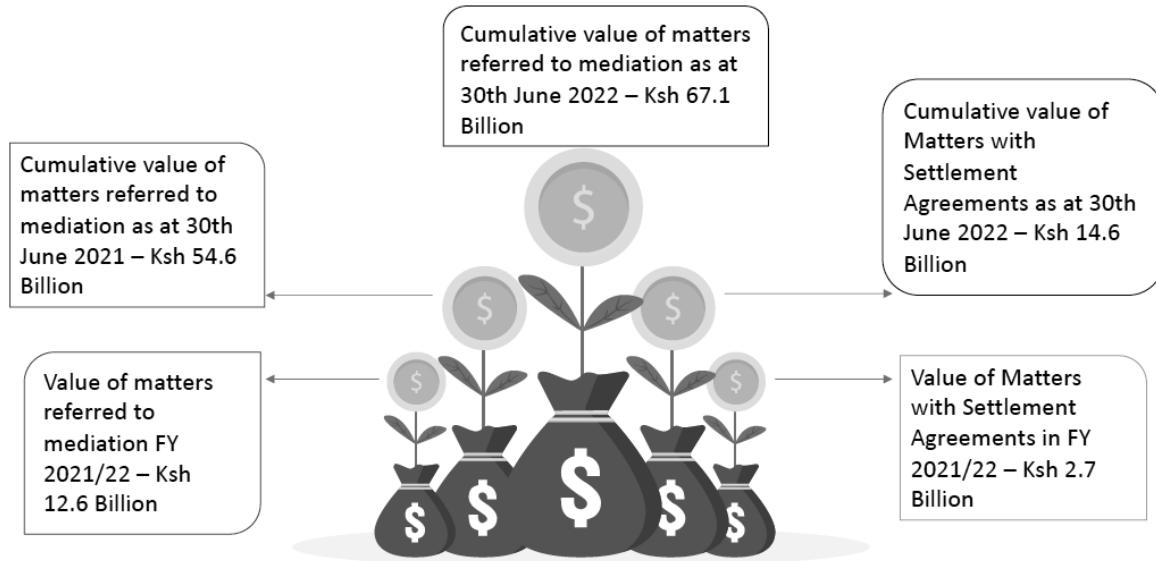


Figure 2.44. Percentage Distribution of Non- Settled Matters under CAM

iii. 2.17.1 Monetary Value of Matters referred to Mediation

Since the inception of CAM in the Judiciary, the cumulative value of matters referred to mediation stood at KSh 67.15 billion with KSh 12.59 billion being the value of matters referred to mediation in FY 2021/22. The cumulative value of matters that have had settlement agreements stood at KSh 11.89 billion at the end of the review period, out of which KSh 2.72 billion was the value of settlements realised during the period under reference. Annex 13 shows the value of all matters referred to mediation disaggregated across court stations.

CAM in Monetary Value



2.18 Efficacy of Court Annexed Mediation

Tracking CAM performance is critical towards ensuring that it is effective and efficient in enhancing access to justice. The key performance indicators under CAM include case processing rate (PR) which compares processed matters against those referred to mediation; settlement rate (SR) which refers to the percentage of the matters where parties reached an agreement against the total processed matters; and non-compliance rate (NCR) which is the percentage of non-compliance certificates filed against the concluded matters. The non-compliance arises from parties failing to conform to the mediation directions/processes.

2.19 Alternative Justice Systems

The Judiciary launched the Alternative Justice Systems Policy in August 2020 and a National Steering Committee for the Implementation of the Alternative Justice Systems Policy (NASCI-AJS) was appointed to steer the AJS policy implementation.

The AJS Policy contextualises the constitutional obligation to promote alternative justice systems under Article 159(2)(c) of the Constitution within a human rights framework constituted by three mutually reinforcing obligations: to protect, to respect and to transform.

The duty to respect requires non-interference by state organs in the enjoyment of rights and freedoms such as those accessed by and through AJS mechanisms. The duty to protect requires the generation of laws, policies, and procedures for AJS that guard against human rights violations and provide remedies for these violations. The duty to transform recognises the transformative character of the Constitution and the goal to institute social change and reform by actively addressing the social inequalities and injustices that exist in Kenya and build an inclusive society. Consequently, the Judiciary's interventions on AJS are organised under these three pillars.

The AJS Committee held engagements in 14 counties, activated 11 AJS Mechanisms, affiliated eight and accelerated five AJS mechanisms. The Committee also raised awareness directly through its activities to 4,478 people out of which 1,290 were designated as AJS champions across the country. Thirty-five Judicial Officers from 14 counties of Tana River, Mombasa, Turkana, Baringo, Nakuru, Isiolo, Kisumu, Marsabit, Bomet, Kajiado, Uasin Gishu, Nyeri, Kilifi and Meru were trained on AJS mechanisms.

The 1st National Conference on AJS in Kenya was held in June, 2022 with 422 participants representing diverse justice seekers and providers who included Judges, Judicial Officers, development partners, AJS practitioners, academia and civil society organisations. The participants resolved to accelerate the rooting of constitutional values in AJS mechanisms and processes; train the duty bearers on how to protect, respect and transform AJS and create a national and large constituency of AJS actors.

The Judiciary has launched three AJS suites and models in Kajiado, Isiolo and Nakuru. Additionally, ten AJS mechanisms panels were launched in Kajiado County. It is noteworthy that in constituting these panels 38 women and 21 individuals below the age of 35 years were selected. The Kajiado model currently focuses on land related matters out of which sixty-one have been resolved successfully. These are cases that had been pending with the National Land Commission for a long time.



Hon. Justice Philomena Mbete Mwili, Deputy Chief Justice (L), Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya (C) with Nakuru Governor HE Lee Kinyanjui (R) at the launch of the Alternative Justice Systems Model (AJS) and Action Plan at the Nakuru Law Courts on May 16, 2022.

2.19.1 Improving Linkages between AJS and Courts

Owing to their contextual innovativeness and adherence to the AJS Policy human rights framework, the Nakuru court annexed AJS panel and the Isiolo autonomous AJS Mechanisms have developed a working relationship with their respective courts. Kajiado autonomous AJS mechanisms are in the process of establishing linkage with the Kajiado Law Courts. The Committee has so far recruited and trained a pool of 46 panellists for the Court Annexed AJS panel to facilitate the operations of the court annexed mechanism. This includes 2 secretariat members.

The Committee facilitated three learning and collaboration exchange visits amongst community and Judiciary based AJS practitioners from Isiolo, Nakuru and Uasin Gishu. The AJS Committee also undertook training interactions with eight Court Users Committees creating 360 AJS champions amongst the impacted CUC members.

The Committee has developed a Monitoring and Evaluation Framework to track its activities consisting 3 Pillars, 13 Targets and 31 Indicators. It is also in the process of developing an integrated Monitoring, Evaluation, Accountability, Research and Learning (MEARL) Information System. The Committee finalised the development of Draft guidelines for Autonomous AJS mechanisms and has embarked on the process of developing guidelines for Third-party and Court Annexed AJS mechanisms. To ensure consistent skills building, the Committee is in advanced stages of writing and publishing an AJS Training Manual.

The AJS Committee redesigned the AJS website and uploaded relevant materials on its mandate and the subject of AJS. The number of users as well as persons downloading materials from the website has increased during the reporting period by 79 per cent. The Committee also developed and updated its android mobile application to facilitate further digital based outreach. The usage of AJS social media sites has also increased exponentially. The Twitter Account has grown to 1,500 followers and the Committee has been using the social media sites to stream events such as the launch of the Nakuru County Action Plan and the Annual AJS Conference.

The Committee held meetings with the Rwandan Legal Aid Delegation who sought to benchmark with its activities and establish partnerships that will lead to mutual cross learning on Alternative Justice System. Noteworthy in this exchange was the need to ensure the institutionalisation of the AJS under the environment of a liberal constitution that considers the agency of citizens as well as the need to safeguard values and dictates of the Rule of Law.

The Committee has invested in increasing the number of people who have their disputes resolved through AJS mechanisms by creating awareness through the dissemination of hard copy and soft copy AJS policies. To cater for the visually impaired, the committee has developed a braille version of this policy. Further to enhance national readership, 200 copies of the Kiswahili version of the AJS Framework policy have been printed and disseminated.

The three models of AJS that have been up scaled in Kajiado, Isiolo, Nakuru and Uasin Gishu offer multiple opportunities for recognition. In essence, recognition is not aligned to attachment to formal Courts, rather recognition requires innovation and adherence to the principles and values in various societies to the extent that they do not deviate from the provisions of the Constitution of Kenya.

The Committee supports the vulnerable and marginalised members in the population to have access to AJS mechanisms. This does not only mean as justice seekers but also as panellists in various AJS mechanisms. Currently there are 2 panellists living with disability in the AJS mechanisms. The just concluded Guidelines for Autonomous AJS Mechanisms also pays attention to the minorities, women, children, persons living with disabilities and the poor in various AJS communities. The mechanism also introduced an affiliation mechanism where AJS mechanisms can undergo an affiliation process. So far 19 new AJS mechanisms have been affiliated.

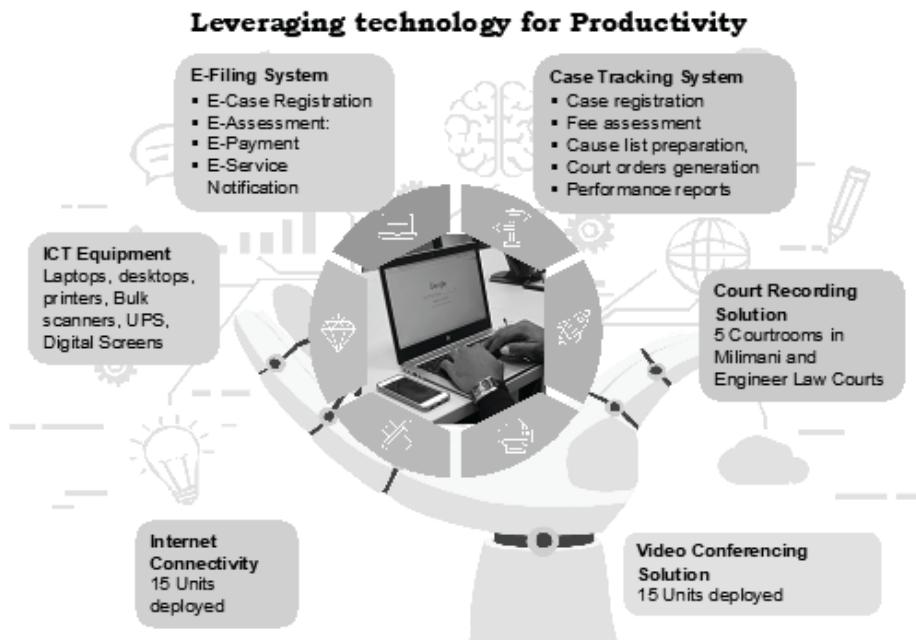
In June 2022, the Chief Justice launched the Nakuru County AJS Model, Action Plan and AJS Suite. The model created a Court Annexed AJS Mechanism which has successfully facilitated the resolution of 74 cases since its launch. Within the same period, 119 determinations from AJS mechanisms in three counties have been adopted by the courts. This is a 37.5 per cent increase in the number of cases adopted by the courts from the last period.

The AJS Committee has partnered with 19 organisations that are helping to institutionalise and root AJS in each County. It is also providing training to champions who in turn are establishing AJS mechanisms in their localities. In the past year, the committee partnered with 300 members of the interfaith community in Nakuru who have in turn established AJS mechanisms among their congregations. This has increased the number of AJS mechanisms available to justice seekers in the country. Similar awareness has been done in the Counties of Kisumu, Siaya, Turkana, Kajiado, Tana River, Isiolo, Wajir, Garissa, Baringo, Bomet, Mandera, Marsabit, Kitui, Nairobi City, Lamu, Nakuru.

SECTION IV - USE OF ICT TO ENHANCE ACCESS TO JUSTICE

Information Communication Technology (ICT) has enormous potential to provide a quantum leap in the administration of justice. The objective of the Judiciary is to create an e-Judiciary where all key processes are automated and ICT is harnessed and deployed to enhance the efficiency and effectiveness of both court and administrative processes.

One of the key deliverables under the STAJ vision is an Enterprise Resource Planning (ERP) System that is under procurement. As the integrated system is being developed, a number of stand-alone systems have been rolled out to automate some critical services and processes.



2.20 Electronic Filing (E-filing) Systems

The E-filing System is an internally developed system which provides a platform for law firms, lawyers, and all court users to file cases remotely. The system has the following major functions;

1. E-Case Registration: The system provides for online registration of new cases thus enabling parties to file and institute cases remotely through the online system.
2. Automated Fee Assessment: The system automatically performs fee assessment and produces the fee invoice to be paid hence eliminating issues such as over-assessment, under-assessment and perceptions of bias.
3. E-Payment: The system supports electronic payments using different payment modes ie Mpesa, EFT, RTGS, Visa etc. Currently, payments are made via the Mpesa platform.
4. E-Service Notification: This is a platform for Law firms and advocates to effect service electronically.

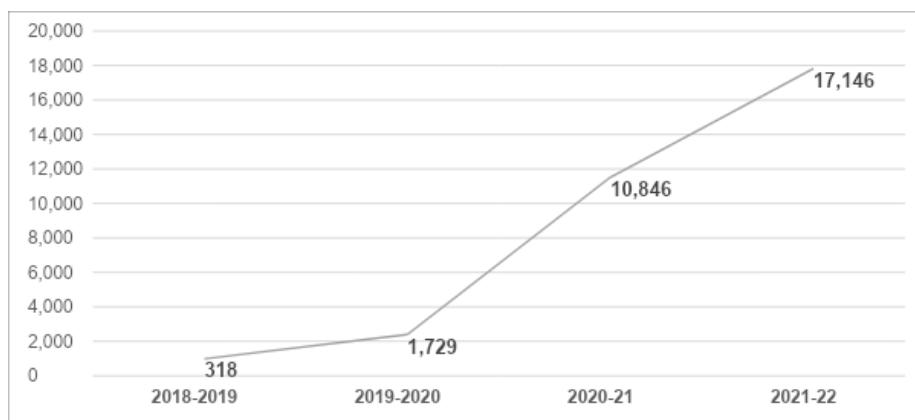


Figure 2.45. Uptake of E-filing across Various Categories of Users

There has been a steep increase in the number of users on the e-filing system attributed to the policy directives on e-filing and the increase in remote working due to COVID-19. The adoption of the e-filing system has increased access to justice and resulted in various advantages to all court users. These advantages include:

- It has made it convenient for advocates and other court users to file pleadings and other documents remotely and at their convenience.
- It has automated the assessment of fees and provided a channel for electronic payments. and cash deposit to Judiciary bank accounts.
- It generates an electronic receipt eliminating the need to physically visit a court station.

- Court users can access all uploaded documents through the system thus providing timeless access to court services as there are no limits on filing times or access to court documents.
- The system allows the litigants to save their documents and to build their case progressively before they are eventually submitted to the court.
- It provides court users instant access to the case status eliminating the need to call or visit a registry.
- It hosts a public information kiosk which allows citizens to get information about any case as long as they have the case reference details such as the case number and the court station where it was filed.

2.21 The Case Tracking System

The Case Tracking System (CTS) is an internally developed court operations automation system that maintains and tracks the entire details of a case from initiation to disposition. The CTS has automated registry operations, namely; case registration, fee assessment, cause list preparation, court orders generation and performance reports.

The CTS has been progressively rolled out and operationalised across all courts and tribunals. A total of 2,133,675 cases had been captured with 93 per cent of all court stations utilising this system as illustrated in Figure 2.46.

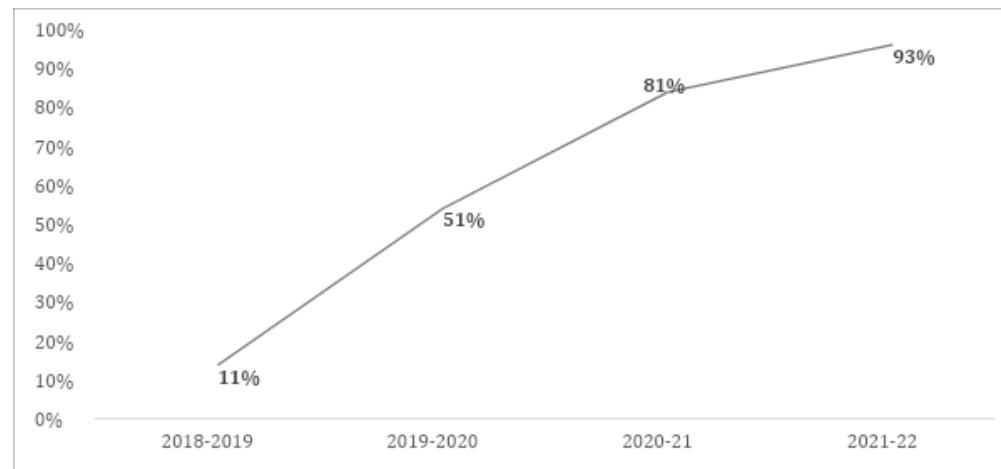


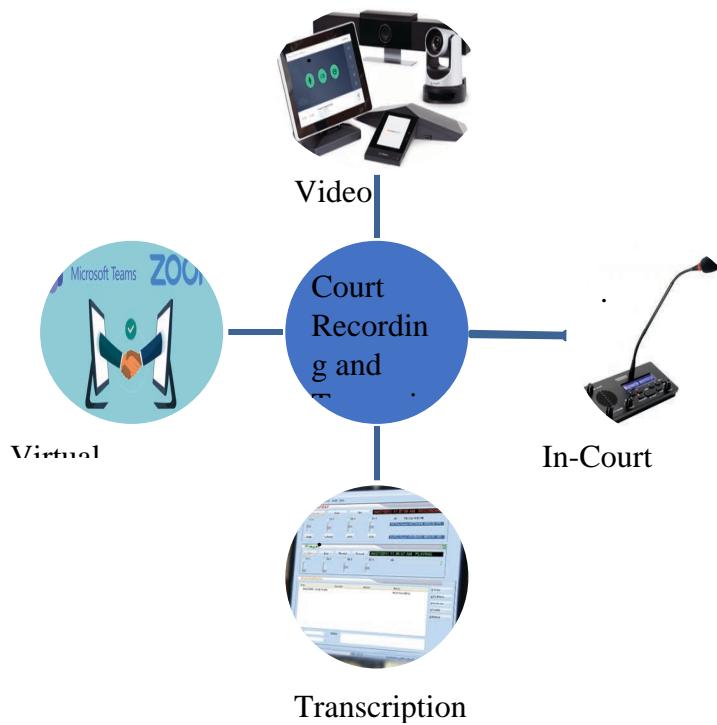
Figure 2.46. Uptake of the Case Tracking Systems across all Court Stations.

The CTS has had a tremendous impact on the management of court processes at the registries, including:

- An ability to track and manage court cases in real time including, file perusal, assessment and payment of court fees among others.
- The automatic generation and issuance of cause lists.
- The use of 'e-service' to issue out summons, pleadings and notices.
- The decongestion of court registries as most services are accessed online through the system.
- The ability for judges and judicial officers to access case files remotely and hear matters virtually especially for applications under certificate of urgency where the directions are published and accessed by parties in real-time. The system also supports the preparation and publication of rulings and judgements.
- CTS provides a number of management reports and statistics including DCRT, an indispensable tool in performance measurement.
- The CTS has an in-built email and SMS-based communication system which communicates with the parties any time there is an update on the case.

2.22 Court Recording Solutions

The Court Recording and Transcription System (CRTS) is one of the technologies under the Integrated Court Management System (ICMS) program, aimed at enhancing court processes to expedite the dispensation of justice. The system is meant to achieve full audio and video recording of court proceedings and, ultimately, quality transcription within the timelines provided by the court.



Transcription

Figure 2.47. Court Recording and Transcription Solutions in the judiciary

During the year under review, five courtrooms in Milimani Law Courts and Engineer Law Courts were completed. This brings the total of courtrooms with CRTS to 37.

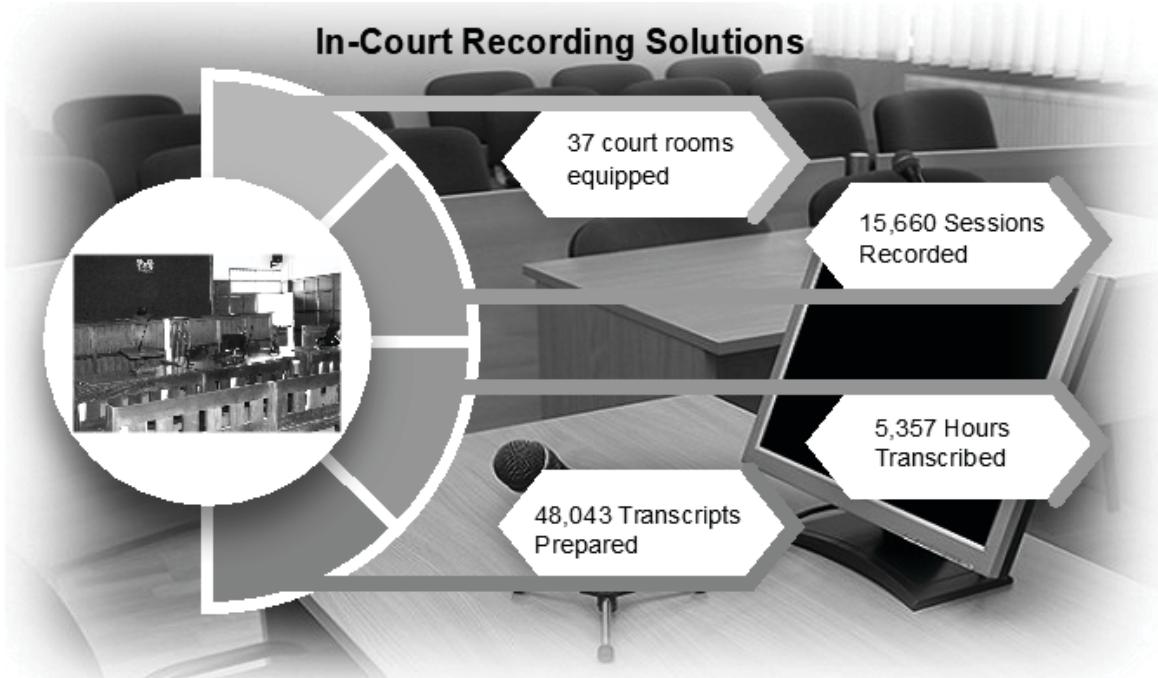
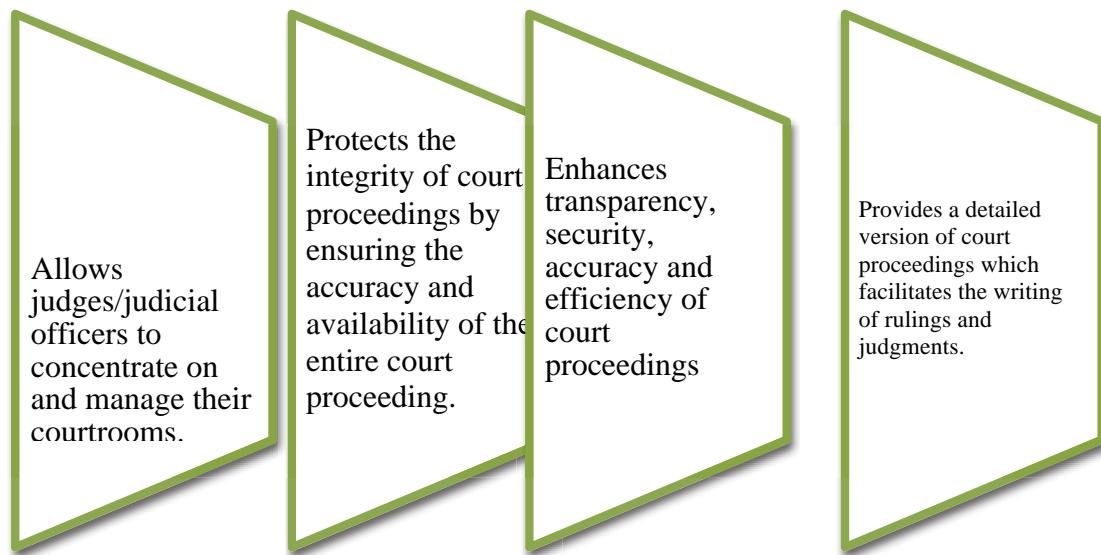


Figure 2.48 Summary Status on the Roll Out of the Court Recording System

The CRTS has revolutionised the way Judges and Judicial Officers conduct their court sessions as there is no need for them to record the court's proceedings in longhand. They are now free to focus on managing their court including reading the demeanour of the parties before them. Once the court session is recorded, draft transcripts are available within seven days but urgent transcripts are processed within 24 hours. The system therefore allows for pleadings to be availed to all parties within a reasonably short time.

Objectives of the Court Recording and Transcription System



2.23 Video Conferencing Solution

The Video Conferencing (VC) System is a solution aimed at enhancing court processes by facilitating remote trials irrespective of the geographical location of the parties. In the last financial year, 70 video conferencing kits were distributed to 71 court stations across 41 counties.

Table 2.12. Distribution of Video Conferencing equipment across the country

<i>SN</i>	<i>COUNTY</i>	<i>VC Equipment</i>
1	Mombasa	2
2	Kwale	1
3	Kilifi	3
4	Tana River	1
6	Taita Taveta	2
7	Garissa	1
8	Wajir	1
10	Marsabit	1
12	Meru	3
13	Tharaka Nithi	1
14	Embu	2
15	Kitui	2
16	Machakos	3
17	Makueni	1
18	Nyandarua	1
19	Nyeri	1
20	Kirinyaga	1
21	Muranga	1
22	Kiambu	3
23	Turkana	1
24	West Pokot	1
26	Trans-Nzoia	1
27	Uasin Gishu	2
30	Baringo	1
31	Laikipia	2
32	Nakuru	2
33	Narok	1
34	Kajiado	2
35	Kericho	1
36	Bomet	1
37	Kakamega	1
38	Vihiga	1
39	Bungoma	3
40	Busia	1
41	Siaya	1

<i>SN</i>	<i>COUNTY</i>	<i>VC Equipment</i>
42	Kisumu	4
43	Homa Bay	1
44	Migori	1
45	Kisii	1
46	Nyamira	1
47	Nairobi	18
	TOTAL	79

The VC system has been particularly useful in facilitating witnesses in remote locations to participate in court sessions. In the superior courts, this system has been a handy tool in enabling virtual sessions when a bench of more than one Judge is sitting as every Judge does not need to use their individual laptops in court.

During court sessions, the screens are used to project evidence both to parties in court and those online through screen sharing. The system also allows the court to sit in a hybrid session where some litigants are physically present in court while others join the sessions remotely. This has greatly improved access to Justice.

2.24 Adoption of Virtual Courts

The Judiciary embraced the use of virtual courts using video conferencing applications such as Microsoft Teams, GoToMeeting, Google Meet, Zoom and Skype. The Judiciary extended these services by standardising the application and establishing an improved user experience solution for all courts to achieve its objective by deploying sustainable, reliable and affordable technologies to serve all litigants.



A virtual court session at the Malindi Law Courts

The adoption of virtual courts has allowed the Judiciary to remotely conduct court sessions thereby increasing the effectiveness and efficiency of the court as more cases may be handled within a short time span. Litigants and parties have been able to save costs and time as they do not have to commute to attend court sessions. The virtual courts also support the recording of court proceedings that are available to parties and Judiciary transcribers.

2.25 Internet Connectivity

The Judiciary continues to enhance the quality and reach of internet connectivity across all court stations. During the reporting period, the Judiciary contracted three service providers to connect 163 locations comprising various court stations, buildings and offices across the country.

Twelve remote stations, namely; Witu Kadhis Courts, Balambala Kadhis Courts, Bura Kadhis Courts, Bute Kadhis Court, Kakuma Law Court, Modogashe Kadhis Courts, Takaba Kadhis Courts, Dadaab Kadhis Court, Eldas Kadhis Court, Elwak Kadhis Courts, Ijara Kadhis Court, and Habasweni Kadhi's Courts were connected to the internet through mobile broadband.

The Judiciary procured 4.57 Gbps of bandwidth compared to 4.31 Gbps procured in the FY 2021/22. The increased internet capacity has improved stability of the various internet services especially the virtual courts and e-filing. It has also allowed these courts to support the other online services, including JFMIS and the CTS.

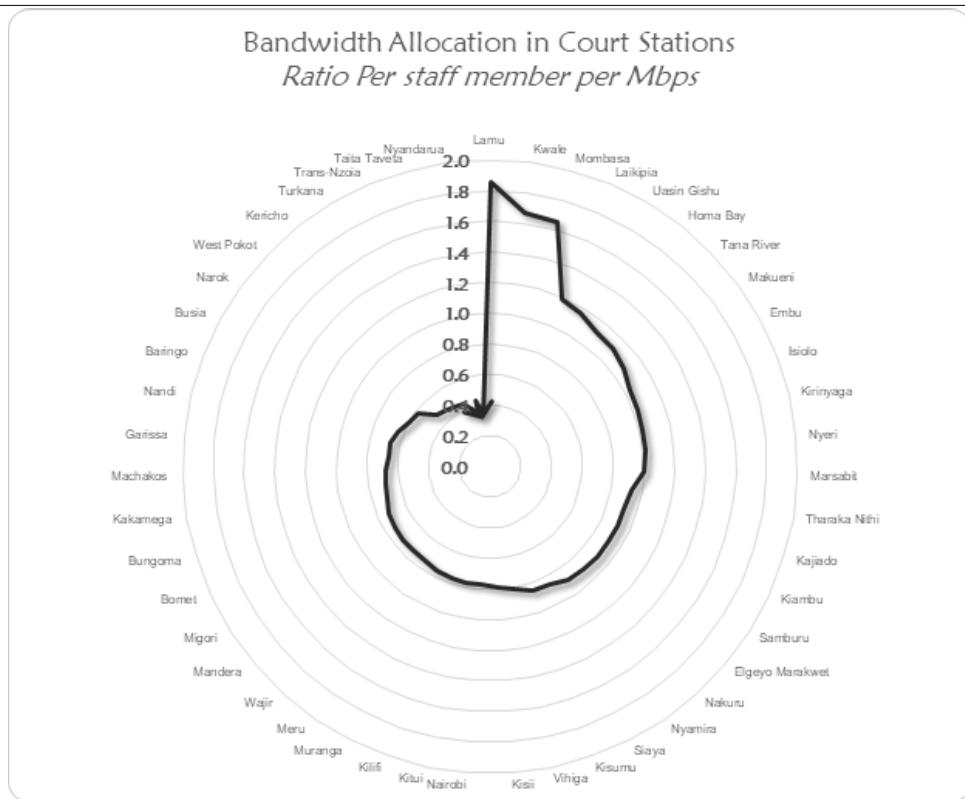
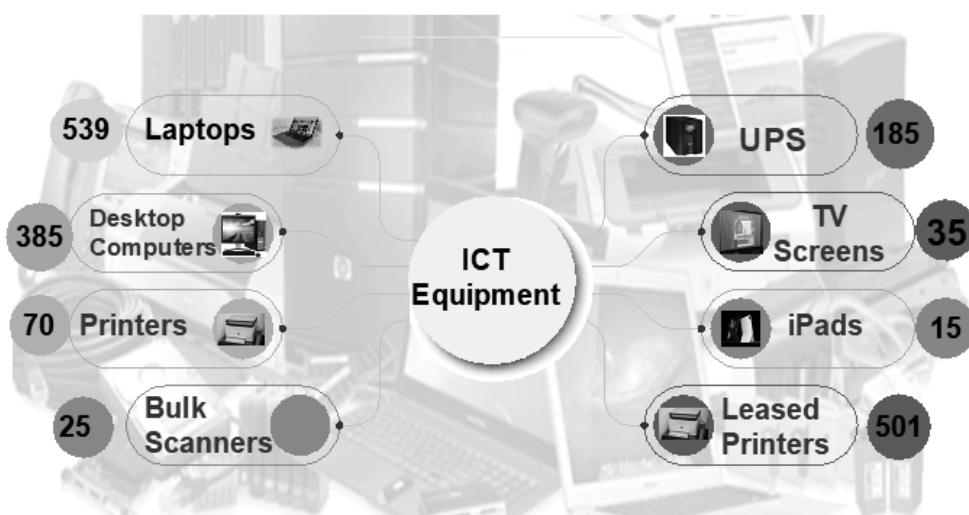


Figure 2.49 Bandwidth Allocation in Court Stations

2.26 ICT Equipment

The Judiciary enhanced its ICT complement by procuring and distributing 1,239 ICT equipment comprising 539 laptops, 385 desktops, 70 printers, 25 Bulk scanners, 185 UPSs, 35 TVs and 15 Tablets. The Judiciary also increased the number of leased printers from 501 to 884. All this ICT equipment will enable the courts to utilise virtual court, CTS e-filing and scale up digitisation of court records.



2.27 Data Centre Services

The Judiciary upgraded and operationalised secure and reliable Primary and Secondary Data Centres in suitable sites with the assistance of the National Treasury and ICT Authority.

The Judiciary secured a data centre in East Africa Data Centre (EADC) and revamped the Supreme Court Data Centre in preparations for migration of services from the cloud to on-premise data centre. Server virtualisation has been completed in EADC and Supreme Court Data Centres and security and network devices have been installed and deployed in both sites. The two sites have been mapped and mirrored to communicate with each other using WAN technology and SD-WAN. There are ongoing efforts to increase the utilisation of government data centres.

2.28 Special Projects

The Judiciary initiated a number of projects with support from development partners. These projects included the Google Connectivity project, the AJIRA Digitization Support project and the Communication Authority supported LAN Infrastructure project.

2.28.1 *The Google Connectivity Project*

The National Optic Fibre Backbone Infrastructure (NOFBI) Connectivity Support Project, sponsored by Google PLC, is the national fibre network which provides connectivity to all Government establishments around the country. At the end of the project, all court stations will be connected to NOFBI, which will provide backup internet service.

Through the collaboration with the Ministry, the status of connectivity for all the court stations is as follows:

1. A total of 11 stations are already connected to NOFBI.
2. The Ministry of ICT, through Google Fund, allocated KSh100 Million to connect 67 Law Courts to the Government Network (NOFBI). The project is underway, with the procurement process ongoing and surveys carried out at sample court stations.
3. An additional 10 stations are currently being connected through a project by the ICT Authority through the County Connectivity Project to be completed by August 2022.

Table 2.13 Court Stations under NOFBI and Communications Authority Project

<i>SN</i>	<i>County</i>	<i>Stations Under NOFBI Project</i>	<i>Stations Under CA LAN Project</i>
1	Mombasa	3	7
2	Kwale	1	0
3	Kilifi	1	2
4	Tana River	0	2
5	Lamu	0	2
6	Taita Taveta	1	2
7	Garissa	1	3
8	Wajir	0	3
9	Mandera	0	1
10	Marsabit	0	2
11	Isiolo	1	2
12	Meru	4	5
13	Tharaka Nithi	2	1
14	Embu	4	3
15	Kitui	1	3
16	Machakos	3	4
17	Makueni	3	2
18	Nyandarua	1	0
19	Nyeri	3	3
20	Kirinyaga	5	5
21	Muranga	4	2
22	Kiambu	7	7
23	Turkana	0	2
25	Samburu	1	0
26	Trans-Nzoia	1	1
27	Uasin Gishu	1	2
28	Elgeyo Marakwet	1	1
29	Nandi	1	0
30	Baringo	2	2
31	Laikipia	2	1
32	Nakuru	3	2
33	Narok		2
34	Kajiado	2	2
35	Kericho	1	1
36	Bomet	1	2
37	Kakamega	1	3
38	Vihiga	2	1
39	Bungoma	3	4
40	Busia	0	1
41	Siaya	1	2
42	Kisumu	1	3
43	Homa Bay	2	4
44	Migori	1	3
45	Kisii	2	2
46	Nyamira	2	1
47	Nairobi	2	7
	TOTAL	78	110

2.28.2 *The Court LAN Project*

It has been established that most court station buildings do not have a working Local Area Network (LAN). Through the Universal Service Fund and in collaboration with the Communication Authority of Kenya, the Ministry has granted the Judiciary KSh250 Million for the installation of LAN in 110 law courts. The Judiciary has submitted technical specifications, bills of quantities and budget estimates and this project is scheduled for funding in FY 2022/2023 (Phase 1) and FY 2023/2024 (Phase 2).

2.28.3 *Judiciary Transcription and Digitization under AJIRA project*

The AJIRA Digital Program, an e-government initiative, has partnered with the Mastercard Foundation, Young Africa Works, to support the Judiciary's digitisation agenda.

This project, which began in December 2020, has supported transcription in the Judiciary by delivering a cumulative of over 154,451 legal transcripts that cover 126 courts stations. These legal transcripts represent the number of court hearings that have been facilitated.

This project has resulted in the following outcomes for the Judiciary and the community:

- i. Improved the timeliness, correctness and precision of the court proceedings. In contrast to instances in which the judge is required to write and listen simultaneously, the judges are provided with an adequate amount of time to listen to the proceedings and apply logic to those proceedings.
- ii. Reduced turnaround time between hearing and judgement. Statistics from the Judiciary indicate that typically, it takes 58 days between the date the court hearing is completed and the date the court proceedings will have been typed, proofread and submitted to the judge. This transcription service has reduced this time to 13 days.
- iii. The AJIRA initiative has made it feasible for court secretaries to be upskilled from their previous roles as mere typists to those of Quality Assurance Specialists for the transcripts of court proceedings.
- iv. The improvement in the arrangement of case files that was brought about by the combination of data entry and scanning will, in the long term, result in the Judiciary being able to conserve space in its storage facilities. As a result, these cases will be located in the digital domain and there won't be a requirement for a physical registry that contains millions of bulky case files.
- v. This project has created over 1,334 employment opportunities and 8,500 indirect jobs for Kenyan youth in Nairobi City County, Homabay County, Mombasa County, Kirinyaga County, Kisumu County and Embu County. This was done through four satellite Business Process Outsourcing (BPOs) firms that were established in these counties so as to deliver on the court transcription service.

2.28.4 Huduma Centre Project

The Judiciary's STAJ vision seeks to ensure physical access to justice for individuals and vulnerable groups by reducing the distance to court stations to less than 100 km. In this regard, the Judiciary has partnered with the State Department for ICT and Innovation, and Huduma Kenya Secretariat under the State Department for Public Service, to operationalise Judiciary service desks in Huduma Centres across the country. This will increase access to justice for all Kenyans by providing a convenient avenue for Self-Represented Litigants (SRL), who typically have limited access to digital platforms, to access digital judicial services through the internet.

On November 25, 2021, an inter-ministerial Taskforce comprising members from the Judiciary, State Department for ICT and Innovation and State Department for Public Service was appointed to roll out Judiciary services in the 52 Huduma Centres. The Taskforce achieved the following:

- (a) Developed a detailed Master Plan on the National Rollout of Huduma Centre Judiciary Desks.
- (b) Documented support procedures and developed Standard Operating Procedures.
- (c) Developed a sustainability plan for the Huduma Centre Judiciary Desks; and,
- (d) Developed a stakeholder engagement framework.

The roll-out of the Judiciary desk at Huduma Centres will be carried out during the next reporting period and is intended to achieve the following objectives.

- (a) Decentralise court and tribunal registry services.
- (b) Provide information on cases filed in the courts and tribunals.
- (c) Provide information on Judiciary services and link the public to the Judiciary Customer Service/Contact Centre.
- (d) Provide general information on Judiciary services.

2.28.5 Program for Legal Empowerment and Aid Delivery in Kenya (PLEAD)

The Program for Legal Empowerment and Aid Delivery in Kenya (PLEAD), is a partnership between the Government of Kenya, European Union, United Nations and Civil Society that aims to improve the administration of justice by supporting various justice sector actors. Under the project, 44 stations in 12 counties benefited from a donation of ICT equipment.

Table 2.14. Distribution of ICT Equipment in the Judiciary

SNo.	County	Court Station	Desktops	Laptop	Backup Power Supplies	All in one MFP	Large Printer Distribution	Production Scanner	TVs
1	Mombasa		10	10	10	7	1	4	5
2	Tana River		4	4	4	2	0	0	2
3	Lamu		4	4	4	2	0	0	2
4	Garissa		6	6	6	5	1	2	2
5	Wajir		2	2	2	1	0	0	1
6	Mandera		2	2	2	1	0	0	1
7	Marsabit		4	4	4	3	0	0	2
8	Isiolo		2	2	2	1	0	0	1
9	Uasin Gishu		7	7	7	5	1	3	2
10	Nakuru		10	10	10	5	1	5	4
11	Kisumu		14	14	14	9	1	4	6
12	Nairobi		20	20	20	19	5	7	7
	TOTAL		85	85	85	60	10	25	35

SECTION V - IMPROVEMENT OF JUDICIARY PHYSICAL INFRASTRUCTURE

2.29 Enhancing Access to Justice through Improvement of Physical Infrastructure

The state of physical infrastructure in the Judiciary can either promote or hinder access to justice. Over the past years, infrastructural investment in the Judiciary has been grossly inadequate whereby some court stations have operated in dilapidated and makeshift structures. The number of courts has also not increased in tandem with the increase in population and this has forced citizens to travel long distances to access judicial services.

In the last decade, the Judiciary has prioritised the construction of new courts and rehabilitation of existing facilities. These initiatives also target the provision of office equipment and tools including internet connectivity, generators and alternative reliable power sources which are essential in supporting court processes.

Refurbishments and renovations have been undertaken to improve the existing infrastructure by providing ramps, restrooms, waiting areas, customer care centers, gate houses, robbing rooms, lifts, signage, holding cells, and mediation rooms.

Infrastructure development attracts huge capital outlay with some projects covering several financial years before completion. The World Bank through the Judicial Performance Improvement Project financed major infrastructure works which lapsed in the FY 2020/21. In the FY 2021/22, court constructions were funded solely by the Government of Kenya.

2.30 Development of Judiciary Physical Infrastructure

The Judiciary absorbed 68 per cent of KSh2.592 billion which was allocated to it for capital infrastructure in the FY 2021/22.

2.30.1 Completed Construction Projects

Construction and renovation of eight court buildings valued at KSh2.08 billion was completed during the year. The detailed information is provided in Table 2.15 below.

Table 2.15 Completed Construction Projects

Project	Contract Value (KSh. Millions)	Start Date	Completion Date
Maralal Law Courts	378.75	6/04/2017	02/09/2021
Garissa Law Courts	14.94	19/10/2021	29/10/2021
Makueni Law Courts	367.10	25/03/2018	2/9/2021
Kwale Law Courts	340.00	19/05/2017	2/9/2021
Completion of Kibera Law Courts	47.79	02/08/2021	22/08/2021
Mombasa Law Courts	395.17	27/03/2017	02/09/2021
Completion of Ol-Kalou Law Courts-Phase 2	182.30	25/03/2021	30/9/2021
Proposed Kapenguria Law Courts	357.96	21/03/2017	30/9/2021

2.30.2 Ongoing Court Construction Projects under GOK

There were 13 ongoing projects valued at KSh3 billion in the FY 2021/22. The status of these projects is shown in Table 2.1.

Table 2.16. Ongoing Court Construction Projects

Project	Contract Value (KSh. Millions)	Start Date	Completion Date
Homabay Law Courts	367.31	13/03/2017	30/06/2023
Kabarnet Law Courts	366.80	17/03/2017	30/06/2023
Marsabit Law Courts	370.22	17/03/2017	30/06/2023
Amagoro Law Courts	138.00	13/03/2017	30/06/2023
Githongo Law Courts	130.90	04/05/2017	30/06/2023
Marsabit Judges Residence	10.89	02/05/2017	30/06/22
Mbita Law Courts	148.33	15/03/2017	30/04/2023
Embu Law Courts	44.86	01/07/2021	31/08/2022
Refurbishment of Murang'a Law Courts	62.09	19/05/2015	30/09/2022
Eldoret High Courts	560.83	01/07/2021	31/5/2023
Refurbishment of Forodha house	157.20	25/04/2019	30/06/22
Meru High Court	637.52	01/07/2021	30/6/2023
Port Victoria Law Courts	13.99	07/04/2022	22/9/2022

The average completion rate for these projects was 59 per cent and Figure 2.50 gives the percentage completion status of GOK projects as at June 30, 2022.

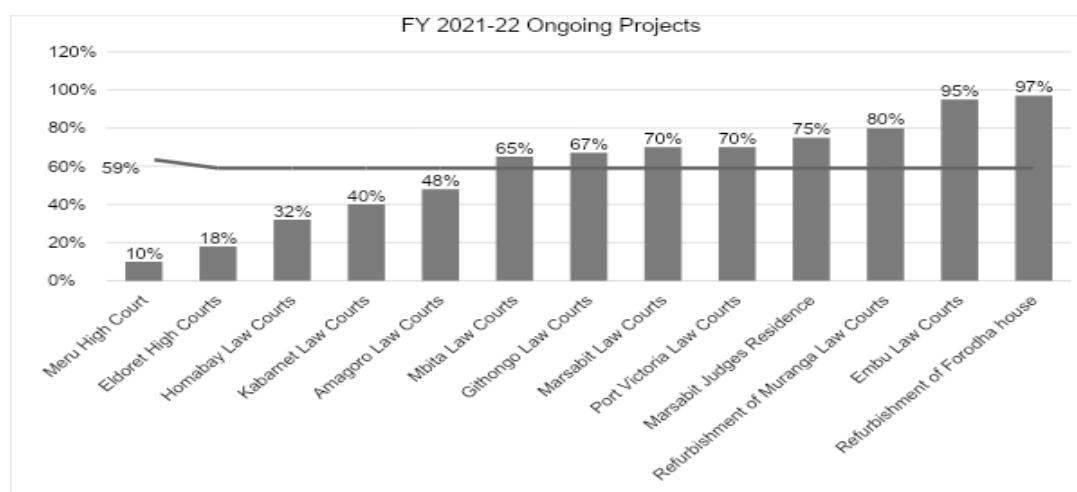


Figure 2.50. Completion Rate on Court Constructions

Construction projects at Habaswein, Bomet, Othaya, Wanguru, Marimanti, Kandara and Narok were recommended for contract termination due to non-performance by the contractors. These projects are expected to resume in the FY 2022/23.

2.30.3 Renovations

The Judiciary undertook various renovations to improve its infrastructure including refurbishment, installation of water tanks and creation of additional storage space using containers amongst other works. These renovations were undertaken in Kangundo, Siaya, Oyugis, Nyando, Bungoma and Nyeri Court stations.

CHAPTER THREE—JURISPRUDENCE

3.1 Introduction

Thousands of judicial decisions were handed down by the courts which settled important questions of constitutional and legal interpretation during the year under review. Some of these decisions had far-reaching implications on the rights and fundamental freedoms of Kenyans, the exercise of State power, and more generally, legal rights and duties of citizens against each other.

All decisions from the Superior Courts and select Tribunals are available on the website of the National Council for Law Reporting - www.kenyalaw.org. This chapter features a selection of those decisions touching on topical issues and areas of law. These include: Family, Succession, Criminal, Civil, Employment and Labour Relations issues, Land, Protection of the Environment, Tax, Contractual Rights and Obligations, among others.

The highlighted decisions are an illustration of how the courts are constantly driving evolutions in jurisprudence in keeping with societal developments, the Constitution and the vision of Social Transformation through Access to Justice.

In the course of resolving disputes that came before them, the courts declared some provisions of the law as unconstitutional. In order to aid in law reform, the chapter also contains a table of Statutes and sections of the law that were declared unconstitutional by the courts during the year.

3.2 Jurisprudence from the Superior Courts

3.2.1 The Supreme Court

1. Whether Kenya is a Unitary or Federal State

Senate & 2 others v Council of County Governors & 8 Others

Petition No. 25 of 2019 (2022) KESC 7 (KLR), February 17, 2022

Brief Facts

At the High Court, the Council of Governors and others (respondents) challenged the constitutionality of various sections of the County Governments Act (No 17 of 2012) that were introduced by the County Governments (Amendment) Act (Act No 13 of 2014). These were: Section 91A (that established, for each county, a County Development Board (Board)), Section 91B (that provided for the operational expenses for the Boards) and Section 91C (that created an offence for unlawful obstruction, or undermining of the Board from discharging its functions).

Both the Court of Appeal and the High Court agreed that the impugned amendments did not meet the test of constitutionality and were in violation of Articles 1(3)(b); 1(4); 6(2); 10(2); 179(4); 183; 185(1); 189(1); and 225(1)(i) of the Constitution as they were antithetical to the oversight role of the Senate, interfered with the legislative power of the County Assembly, violated the functional integrity of County Governments and introduced unnecessary penal sanctions.

Aggrieved by that decision, the Senate (appellant) filed an appeal before the Supreme Court challenging the decision of the Court of Appeal on grounds that Kenya is a Federal and not a Unitary State and that the disputed amendments were not at all unconstitutional.

Issues

- i. Whether the declaration of an amendment to a legislation as unconstitutional created a *lacuna* in the law.
- ii. Whether an issue as to the constitutionality of an amendment to a legislation fell within the appellate jurisdiction of the Supreme Court to determine matters that revolve around the interpretation or application of the Constitution as set out under Article 163(4)(a).
- iii. Whether the presence of penal provisions in civil legislation invalidated the penal provisions.
- iv. Whether Kenya was a Unitary or a Federal State.

- v. Whether the Supreme Court could review its judgments, rulings, and orders in the exercise of its inherent powers.

Holding

- i. The amendment to section 91 of the County Governments Act by deleting subsection (f) thereof was unconstitutional. The Supreme Court unanimously held that “the effect of the superior courts declaring the amendment as unconstitutional restored Section 91(f)”, thereby firming up the position that once an amendment was declared unconstitutional by the court, there was no lacuna left as the previous provision before the amendment was restored.
- ii. The introduction of criminal penalties and sanctions in civil legislation were an increasingly common feature in the current Kenyan legislation. By imposing penal sanctions upon persons who contravened such laws, the Legislature sought to ensure compliance with the key provisions of the Statutes. Their presence in a civil legislation *per se* did not invalidate them.
- iii. A court could not expand its jurisdiction through judicial craft or innovation and neither could parties, either by consent or acquiescence confer jurisdiction upon a court. To bring the appeal to the Supreme Court within the terms of Article 163(4)(a) of the Constitution, it had to be demonstrated that the issues of contestation revolved around the interpretation or application of the Constitution by the Court of Appeal that formed the basis of a challenge to the Supreme Court. Where the dispute had nothing or little to do with the interpretation or application of the Constitution, the Supreme Court would have no jurisdiction to entertain an appeal brought under Article 163(4)(a).
- iv. The Constitution did not alter Kenya’s constitutional design from Unitary to Federal. The devolved system in Kenya was based on a Unitary system of Government that decentralised key functions and services to the county unit. The Kenyan State model was not Federal in nature and did not envisage the workings of a county as a politically and financially independent State.
- v. In exercise of its inherent powers, the Supreme Court could, either upon application by a party, or on its own motion, review its own judgement, ruling, or order in exceptional circumstances so as to meet the ends of justice. Such circumstances were to be limited to situations where:
 - (a) a judgement, ruling or order was obtained by fraud or deceit;
 - (b) the judgement, ruling or order was a nullity, such as when the court itself was not competent;
 - (c) the court was misled into giving a judgement, ruling or order under a mistaken belief that the parties had consented thereto;
 - (d) the judgement or ruling was rendered on the basis of a repealed law, or as a result of a deliberately concealed statutory provision.

Appeals dismissed.

2. Threshold for the Removal of a Judge from Office on Account of Gross Misconduct

Martin Mati Muya v The Tribunal Appointed to Investigate the Conduct of Justice Martin Mati Muya Petition 4 of 2020 (2022) KESC 16 (KLR), May 19, 2022

Brief Facts

The appeal concerned the removal from office of Hon Mr Justice Martin Muya, Judge of the High Court of Kenya, following complaints against his conduct while handling the case of *Alfred Kipkorir Mutai & Kipsigis Stores Limited v NIC Bank Limited* at the High Court in Bomet.

The petitioner (Justice Muya) issued interim orders stopping the bank from seizing, repossessing, advertising for sale, and/or selling some 26 commercial vehicles that were the subject of a hire purchase agreement. He later vacated these orders when the parties failed to file written submissions within the timelines agreed before Court. Following an application from the borrower, the Judge reinstated the interim orders but deferred the reasons for this decision to a later date. He then deferred the matter several times and eventually issued the reasons five months after the date of the ruling.

Aggrieved by the conduct of the Judge, the bank sought the intervention of the Chief Justice to call the file for review and to take the requisite administrative action to remedy the situation. The Chief Justice forwarded the bank’s letter and the Judge’s reply to the JSC which determined that the petition disclosed a ground for the removal of the Judge. The Commission sent a petition to the President to appoint a tribunal to further investigate the conduct of the Judge.

The tribunal that was appointed by the President recommended the removal of the Judge from office having found that the delay of five months was inordinate and amounted to gross misconduct. However, the court file from Bomet was not available during the proceedings that took place before the JSC and the Tribunal. The Judge was aggrieved by the decision of the Tribunal and filed the appeal at the Supreme Court.

Issues

- i. Whether the delay in giving reasons was inordinate and amounted to gross misconduct.
- ii. Whether the unavailability of the court file was prejudicial and amounted to a violation of the right to fair hearing.
- iii. Whether the tribunal considered matters without jurisdiction.
- iv. Whether the Bank suffered loss and prejudice by the decision of the petitioner.

Holding

- i. The unavailability of the court file before the JSC and the Tribunal was prejudicial to the Judge and amounted to a violation of his right to fair hearing and administrative action that is fair.
- ii. There was no proof that the Bank suffered loss or prejudice as a result of the Judge’s decision as the suit was still pending determination.
- iii. In the context of judicial processes, the principal issue could not be the extent of delay, but its reasonableness and justification for it. While there was no single universally accepted definition of the word ‘inordinate,’ it should not be difficult to discern inordinate delay because it should be apparent, self-evident and obvious.
- iv. The petitioner’s conduct did not amount to gross misconduct within the intended meaning in the Constitution. There were different degrees of misconduct. Some undermined public confidence in the administration of justice generally, without having to reach the conclusion that an individual Judge was incapable of performing the duties of his or her office. Others were so grave with the potential of undermining public confidence in the ability of the Judge to perform the duties of office or in the administration of justice generally, warranting the discharge from performing judicial functions.

- v. The conduct of the petitioner was not persistent, or that, considered alone, it was capable of destroying the confidence in the Judge's ability to properly perform his judicial function. There was no discernible pattern of dereliction, but a single act of transgression; a five months delay. He readily admitted the delay, gave an explanation and expressed remorse. Gross misconduct was not proven to the required threshold and the recommendation by the Tribunal to the President to remove the petitioner from office on that ground was therefore erroneous.

The Court reversed the Tribunal's recommendation that the Judge be removed from office.

3. Who Bears the Responsibility for the Progressive Realisation of Rights Under the Constitution?

William Musembi & 13 others v Moi Educational Centre Co. Ltd & 3 others

Petition No. 2 of 2018 (2021) eKLR, July 16, 2021

Brief Facts

The case originated at the High Court where the petitioners, on their own behalf and on behalf of other persons, filed two constitutional petitions to enforce their fundamental rights after they were forcefully evicted from their informal settlements in City Cotton and Upendo villages in Nairobi.

The petitioners claimed that they had settled on the suit property sometimes in 1968, when it was unalienated public land, and that since settlement, they had constructed semi-permanent houses and business structures; had been supplied with social amenities and services such as water and electricity, and had been legally licensed to carry on and operate businesses on the suit property. They also alleged that their children attended nearby public primary schools.

In 1980 or thereabouts, the 1st respondent invaded the suit property and, in the process, evicted and displaced about 200 families. The 1st respondent was then issued with a letter of allotment over the suit property dated January 22, 1981 by the Commissioner of Lands. Thereafter, it commenced the construction of Moi Educational Centre, a private primary school. On May 10 – 17, 2013, an auctioneer instructed by the 1st respondent evicted the petitioners from the suit property with the assistance of police officers.

The High Court found that the demolition of the petitioners' houses and their forced eviction from the suit property without providing them and their children with alternative land or shelter was a violation of their fundamental right to inherent human dignity; security of the person and access to adequate housing; a violation of the fundamental rights of children guaranteed by Article 53 of the Constitution; and a violation of the rights of elderly persons guaranteed by Article 57. In addition to those declarations, the Court awarded the petitioners damages.

In partially allowing an appeal from the 1st respondent, the Court of Appeal issued a declaration that the forced evictions and demolition of the respondents houses without a valid Court order was a violation of their right to inherent human dignity and security of the person but faulted the High Court for extending the obligation for provision of alternative land or shelter to the 1st respondent, a private entity. The Court of Appeal also faulted the High Court for lumping the 1st respondent together with the State, as having or bearing the responsibility or obligation to provide the evictees with housing. The appellate court also held that there was no evidence placed before the trial court to enable it assess and order the payment of damages.

In the ensuing petition of appeal to the Supreme Court, the Court was called upon to interrogate and contrast the obligations of the State and those of private citizens to observe, respect, protect, promote or fulfil constitutional rights.

Issues

- (i) Whether the forced evictions violated the petitioners' rights under Articles 28, 29, 43, 53 and 57 of the Constitution.
- (ii) Whether the Court of Appeal misinterpreted and misapplied the provisions of Article 21 of the Constitution on the doctrine of progressive realisation of rights.
- (iii) Whether the Court of Appeal erred in interpreting Article 23 of the Constitution specifically on the available remedies once a Court had determined that there were violations of rights.

Holding

- (i) The demolition of the petitioner's houses and property, and their forced eviction by the 1st and 2nd respondents without a valid court order was a violation of their fundamental right to inherent human dignity and security of the person guaranteed under Articles 28 and 29(c) of the Constitution.
- (ii) An evicting party ought to carry out the eviction in a manner that respects the dignity, right to life and security of those affected, including protecting the rights of women, the elderly, children and persons living with disabilities as well as according such persons the first priority to salvage their property.
- (iii) The obligation to ensure the progressive realisation of rights under Article 43 (economic and social rights including accessible and adequate housing) lay with the State, and did not extend horizontally to private entities.
- (iv) However, private entities had the obligation, under Article 20(1) of the Constitution, not to violate Article 43 rights since the Bill of Rights applied and bound both the State and all persons.
- (v) Even though the Court recognised that the State had taken some steps towards the progressive realisation of the socio-economic rights, it found that the State had to take a more drastic and purposive approach to its mandate and obligations in ensuring that the rights to the people of Kenya were not violated, or in the very least, that these rights were not deprived or denied.

The judgement of the Court of Appeal was set aside. The Supreme Court affirmed the orders of the High Court awarding damages to the petitioners.

4. Applicability of the Basic Structure Doctrine in Kenya

The Attorney General & 2 others v David Ndii & 79 others

Petition Nos 11, 12 & 13 of 2021, March 31, 2022

Brief Facts

In the aftermath of the contested 2017 presidential election, H.E. President Uhuru Kenyatta and former Prime Minister Rt. Hon. Raila Odinga signed a joint communique on March 18, 2018 committing to work together on nine issues that would cement unity and prosperity in Kenya. Following what was popularly referred to as the 'handshake', the President appointed a 14-member team - the Building Bridges to Unity Advisory Task Force whose key mandate was to come up with recommendations and proposals for building lasting unity in the country.

On January 3, 2020, the President appointed the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce (the BBI Steering Committee). The BBI Steering Committee then published a report which contained a Bill to amend the Constitution of Kenya to implement the recommendations of the BBI process (the Constitution of Kenya Amendment Bill, 2020).

Following the publication of this Bill, eight petitions were filed in the High Court challenging the process that resulted in the Amendment Bill and its contents on the ground that they were not in accordance with the Constitution. The High Court in a Judgment dated May 13, 2021 allowed the petitions in part and issued a number of orders. Thereafter, appeals were filed in the Court of Appeal and by a judgement dated August 20, 2021, the Court of Appeal set aside some of the orders of the High Court.

Aggrieved with the Court of Appeal's decision, the Attorney General, the Independent Electoral Boundaries Commission and Mr. Morara Omoke filed appeals in the Supreme Court which were eventually consolidated. The consolidated appeals asked the Supreme Court to interpret the provisions of Chapter 16 (Articles 255-257) of the Constitution which provides for how the Constitution can be amended and determine whether the Court of Appeal's judgement was sound in law.

Issues

- (i) Whether the Basic Structure Doctrine was applicable in Kenya; and if so, the extent of its application; whether the basic structure of the Constitution could only be altered through the primary constituent power; and what constituted the primary constituent power.
- (ii) Whether the President could initiate amendments to the Constitution; and, whether a constitutional amendment could only be initiated by Parliament through a parliamentary initiative under Article 256 of the Constitution or through a popular initiative under Article 257 of the Constitution.
- (iii) Whether the Second Schedule to the Constitution of Kenya (Amendment) Bill, 2020 which proposed to introduce 70 additional constituencies was unconstitutional.
- (iv) Whether civil proceedings could be instituted against the President or a person performing the functions of the office of the President during his/her tenure of office with regard to anything done or not done contrary to the Constitution.
- (v) The place of public participation under Article 10 *vis-a-vis* the role of IEBC under Article 257(4) of the Constitution; and whether there was public participation in respect of the Constitution of Kenya (Amendment) Bill, 2020.
- (vi) Interpretation of Articles 88 and 250 of the Constitution with respect to composition and quorum of the Independent Electoral and Boundaries Commission (IEBC).
- (vii) Whether the interpretation of Article 257(10) of the Constitution required that all specific proposed amendments to the Constitution should be submitted as separate and distinct referendum questions.

Holding

- (i) No gaps had been identified in Chapter 16 of the Constitution which dealt with amendments to the Constitution that would justify the applicability of the Basic Structure Doctrine in Kenya. The Constitution was self-executing in dealing with any threat of abusive amendments as witnessed in the pre-2010 era. Further, the basic structure doctrine did not form part of the general rules of international law which were applicable under Article 2(5) of the Constitution.
- (ii) Amendments to the Constitution through popular initiative was a citizen-driven process to the exclusion of the President. Despite this, the President initiated the Constitution of Kenya (Amendment) Bill, 2020 as a popular initiative.
- (iii) The Second Schedule of the Constitution of Kenya (Amendment) Bill, 2020, which apportioned and allocated the proposed additional 70 constituencies, was a late addition to the amendment process and was not subjected to public participation as required by the Constitution.
- (iv) Article 143(2) of the Constitution granted immunity to the President by protecting him or her from civil proceedings during his or her tenure for acts or omissions connected with the office and functions of the Office of the President. As such, civil proceedings could not be instituted in any court against the President or the person performing the functions of the office of the President during their tenure of office in respect of anything done or not done under the Constitution.
- (v) There was no obligation under Article 10 and 257(4) of the Constitution on the IEBC to ensure that the promoters of the Constitution of Kenya (Amendment) Bill, 2020 complied with the requirements for public participation. However, there was public participation with respect to the Bill.
- (vi) With three members in office, the IEBC had the requisite composition and quorum to undertake the verification of signatures. Although paragraph 5 of the Second Schedule of the IEBC Act fixed the quorum at five Commissioners, that provision could not override Article 250(1) of the Constitution which placed the minimum composition of constitutional commissions at three members.
- (vii) The question whether Article 257(10) of the Constitution required that all specific proposed amendments to the Constitution should be submitted as separate and distinct referendum questions was not ripe for determination.

Appeal dismissed.

3.2.2 THE COURT OF APPEAL

1. Criminal Responsibility and the Appropriate Sentence, if any, for an Insane Person who Commits an Unlawful Act

Mwachia Wakesho v Republic

Criminal Appeal No. 8 of 2016 (2021) KECA 223 (KLR), December 3, 2021

Brief Facts

The appellant was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code for allegedly killing his mother. He took a plea after the first psychiatric examination established that he had no psychotic features and was able to follow the court proceedings.

He pleaded not guilty and trial eventually commenced after a few mentions and a second psychiatric examination. At the end of the trial, the Judge found the Appellant guilty of the offence of murder and convicted him accordingly.

The trial judge observed that based on the line of cross examination of witnesses, there was a suggestion that at the time of the incident, the accused was insane. During the hearing, the court also observed that the accused did not appear very normal.

During the sentence hearing, the issue of the Appellant's mental state recurred but despite noting the mental status of the accused, the Court went on to sentence him to death. The learned Judge observed as follows: "*I have had the opportunity of observing the demeanour of the accused person and he does not appear mentally stable. This is an issue for the Board of Prerogative of Mercy as there is no evidence to find the accused guilty but insane.*"

The appellant lodged an appeal against the conviction and the sentence. The appellant faulted the trial judge for: failing to find that the offence of murder was not proved beyond a reasonable doubt; disregarding evidence of provocation; and failing to consider the evidence of temporary insanity. The appellant also claimed that the sentence meted out was manifestly excessive and harsh.

Issues

- (i) Whether the offence of murder was proved to the required standard.
- (ii) Whether the defence of provocation was available and established by the defence.
- (iii) Whether the judge erred in rejecting the defence of temporary insanity and whether the sentence meted out is manifestly harsh and excessive.

Holding

- (i) Although the prosecution relied on circumstantial evidence to prove its case against the appellant, the evidence formed a complete chain pointing irresistibly to the appellant as the person who attacked the deceased and inflicted the injuries from which she died.
- (ii) There was no evidence at all based on which the learned Judge would have concluded that there was provocation.
- (iii) Despite the intimation in the two medical reports produced in the lower court that the appellant was fit to plead and follow proceedings, the testimony of the police officers who visited the scene immediately after the incident, considered alongside the conduct of the appellant immediately after the incident as well as the observations by the trial court during the trial, indicated mental sickness on the part of the appellant. The learned trial judge acknowledged this while sentencing the appellant.
- (iv) The critical point at which the mental state of the accused person is relevant for purposes of the defence of insanity is at the time of commission of the act complained of. If the appellant was suffering from a disease which affected his mind and made him incapable of understanding what he was doing or knowing that what he was doing was wrong at the time of the commission of the offence of murder, then he was not responsible for his act.
- (v) Although the defence of insanity does not appear to have been expressly raised, it was a recurring theme throughout the trial and the trial court ought to have specifically inquired into it before convicting the appellant. Had it done so, and as borne out by the probation report that came late in the day, the appellant's mental history would have been established.
- (vi) It is the duty of trial courts to inquire specifically into the question of insanity, not only in situations where such defence is raised but also where it becomes apparent to the court from the accused person's history or antecedent that insanity may be an issue.
- (vii) Where it emerges from the evidence that the defence of insanity is in issue, (and the standard in that regard is on balance of probabilities) the prosecution is required to disprove it.
- (viii) The appellant committed the act as charged but he was insane at the time he committed it. Consequently, the trial Judge ought to have made a special finding of guilty but insane.
- (ix) The Attorney General should take immediate steps to initiate reform to address the unsatisfactory state of the law that provides for the conviction of persons found culpable of offences while suffering from mental disorders and those who are subjected to trial without the mental capacity to understand the proceedings.

Appeal allowed. Conviction and sentence set aside. In its place, the Court of Appeal made a special finding that the appellant killed his mother but he was insane at the time he did it. Appellant ordered to be taken to a mental hospital for medical treatment where he shall remain until such time as a psychiatrist in charge of the hospital certifies that he is no longer a danger to society or to himself.

2. Whether Section 66(1) of the Marriage Act of 2014 was Discriminatory and Unconstitutional for Prohibiting the Dissolution of Civil Marriages before the lapse of a Three-year period without Imposing a similar Condition on other Marriages

The National Assembly of Kenya v Tukero Ole Kina & Another

Civil Appeal No. 166 of 2019 (2022) KECA 548 (KLR), June 10, 2022

Brief Facts

The 1st respondent filed a petition at the High Court seeking a declaration that Section 66 (1) of the Marriage Act, 2014 was discriminatory and unconstitutional in so far as it provided that a party to a civil marriage may not petition for separation or dissolution of the marriage unless three years had lapsed since the celebration of the marriage yet it did not provide a similar three-year waiting period before petitioning for separation or the dissolution of Christian, Customary, Hindu or Islamic marriages. It was also alleged that the provision contravened a host of other fundamental rights including the right to human dignity, the freedom of association, the right to access to justice, and the right to fair hearing.

The High Court agreed with the petitioner and held that the section was discriminatory and in violation of Article 27(4) to the extent that it arbitrarily limits parties to a civil marriage to a three-year waiting period before such a union may be dissolved. The Court also noted that the impugned section was an affront to a person's human dignity as it had the effect of forcefully keeping parties in a situation they no longer wished to be in. Further, the High Court held that restricting parties from enjoying the right to petition for a divorce before the lapse of three years violated their right to access to Justice guaranteed under Article 48.

The National Assembly, being aggrieved with the decision of the High Court, lodged the present appeal.

Issue

Whether the differential nature of Section 66(1) of the Marriage Act was discriminatory in light of the tests set out in Article 24 of the Constitution.

Holding

- (i) The right to equality did not prevent the State from providing differential treatment to certain groups or individuals for a variety of constitutional and legitimate reasons, and it was not every differentiation that amounted to unequal treatment that was discriminatory. For example, Article 27(4) of the Constitution which stated that the provisions on equality shall be qualified to the extent strictly necessary for

the application of Muslim law before the Kadhis' Courts, to persons who professed the Muslim religion, in matters relating to personal status, marriage, divorce and inheritance. That provision underscored the necessity of differential treatment to accommodate personal and religious choices. When there was such different treatment, one had to examine the social, economic, political or other conditions of the relevant individuals to determine whether the State's commitment to equality was being upheld.

- (ii) The policy considerations put forth by the National Assembly to justify the three-year period were supported by the constitutional provisions on protection of the family unit. The restraint with respect to divorce was not only provided for civil marriages alone, but also in the other marriages under the Marriage Act. Under Sections 64 and 68 of the Act in Christian and customary marriages respectively, process of mediation and reconciliation were encouraged in addressing matrimonial disputes before parties resolved to divorce. Christian traditions and teachings, which applied to Christian marriages and divorces, allowed for divorce but did not encourage it, and marriage was considered a sacrament with parties considered as having made a covenant in the presence of God to stay together for life.
- (iii) The court took judicial notice of the fact that the Catholic Church did not recognise divorce, and a marriage could only end when one partner died, or if there were grounds for an annulment if the marriage had not been consummated or it could be proved that the marriage should never have taken place. Under the customary practices and laws of most Kenyan communities, divorce was effected by the wife returning or being sent back to her family and the return of the dowry paid. There were however some communities which did not recognise divorce, especially where dowry had been paid and there were children from a marriage, such as the Kuria, Maasai, Nandi and Kipsigis communities. In Islamic marriages, Section 71 of the Marriage Act of 2014 provided that dissolution of the marriages was undertaken according to Islamic law, under which divorce while allowed, was discouraged and was a last option. There were also processes of reconciliation provided for during the various stages of divorce under Islamic law.
- (iv) There was a legitimate reason and purpose for the provisions of Section 66(1) of the Marriage Act, arising out of the State's positive constitutional obligation to protect the family unit and to recognise the various forms of marriages and divorces under different traditions, religious and personal laws. The provisions of Section 66(1) were neither differential nor discriminatory, given that the other systems of marriage laws also provided various limitations on the right to petition for divorce. The High Court therefore erred in its findings in that regard.
- (v) While under Section 66(1) of the Marriage Act divorce was an extraordinary remedy, the intention of the Constitutional purpose was not to perpetrate a marriage that was no longer beneficial or in the parties' interests, and the legislature should in that regard strike a fair balance between the public and private interests involved in a civil law marriage.
- (vi) Notwithstanding the legitimate constitutional purpose for the time limitations in divorce proceedings arising from civil marriages, as an exception to the general rule, divorce should be allowed for situations which were unavoidable and unendurable for reasons of exceptional hardship or depravity, irrespective of the duration of the marriage for, and to protect the rights of the parties involved.
- (vii) While Section 66(1) of the Marriage Act of 2014 was not discriminatory, it was unconstitutional for reason of, and to the extent of its disproportionate effect in cases where a divorce in a civil law marriage may be necessary and justified before the three-year limitation.

Appeal dismissed. However, the effect of the unconstitutionality was suspended for three years to enable Parliament make the necessary amendments to the Marriage Act of 2014. The Court also noted that Rule 4 of the Marriage (Matrimonial Proceedings Rules) 2020 may in the meantime provide interim relief. Although it is not anchored in the Statute, the said provision allows parties to civil marriages to apply for leave to file a petition for divorce before the lapse of three years.

3. Whether Board Directors are Employees of the Company

Rift Valley Water Services Board & 3 others v Geoffrey Asanyo & 2 Others

Civil Appeal No. 60 of 2015 Consolidated with Civil Appeal No. 61 of 2015,

June 10, 2022

Brief Facts

The 1st respondent was originally appointed to represent the business community on the board of the Nakuru Water and Sanitation Services Company which provided water to the Municipal Council of Nakuru that was established under the repealed Local Government Act (Cap. 265). He served for a term of 3 years which was subsequently extended for a further term of 3 years from December 2012.

His appointment to the board had been in accordance with the company's memorandum and articles of association which were amended at an extraordinary general meeting held in February, 2014 to comply with the Constitution, current laws on devolved government and water regulations. Among the changes was the reconstitution of the company's board to reflect the majority shareholding of the County Government of Nakuru which took over the administration of the company from the defunct Municipal Council of Nakuru. With these changes, the new board had only one instead of three representatives of the business community and the 1st respondent was not appointed to this position. This terminated his membership to the board in March, 2014 before the end of his extended term.

The extension of the 1st respondent's term of appointment to the 2nd respondent's board was notified by its letter dated December 18, 2012, which set out "the common law duties of a director" and the responsibilities of the board. In particular, the 1st respondent was required to "... attend quarterly board meetings and other meetings scheduled as and when it is found necessary." In addition, he was expected to serve as "... a member of one of the committees of the board".

He filed a petition in the Industrial Court at Nakuru claiming to be an employee of the company and faulted what he viewed as dismissal from employment. The Appellants raised a preliminary objection to the petition on the grounds that the 1st respondent was not an employee of the 2nd respondent and further that the 2nd respondent's Memorandum and Articles of Association did not confer employee status on the 1st Respondent. As such, it was contended that the Industrial Court lacked jurisdiction in the matter.

The Industrial Court dismissed the appellants' preliminary objection, holding that the 1st respondent was an employee of the 2nd respondent "both as an appointed director and as a public officer," and that the Industrial Court had jurisdiction to hear and determine his petition. The court proceeded to hear the matter and entered judgement for the 1st respondent, prompting the appeal.

Issues

- (i) Whether the 1st respondent was an employee of the 1st appellant within the meaning of the Employment Act, 2007.
- (ii) Whether the Industrial Court at Nakuru had jurisdiction to hear and determine the 1st respondent's claim.

Holding

- (i) Section 2 of the Employment Act, 2007 defines an “employee” in no uncertain terms as “a person employed for wages or a salary, and includes an apprentice and indentured learner”. Conversely, an “employer” is defined as “any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any individual and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company”. The 1st respondent was not employed by the 2nd respondent “... for wages or a salary.” Neither was he an apprentice or indentured learner. There was nothing on record to suggest that the 2nd respondent had entered into a contract of service to employ the 1st respondent as its employee within the meaning of the Act. Accordingly, the Employment Act did not apply to him.
- (ii) The 1st respondent’s functions as a director of the 2nd respondent’s governance body, and the terms on which he was appointed to represent the interests of the business community on the Board, were governed by the Companies Act and the 2nd respondent’s Memorandum and Articles of Association. The Employment Act did not apply to that relationship so as to confer on the Industrial Court jurisdiction to determine any claim relating to appointment to the board.
- (iii) There is a clear distinction between an employee and a member of a board of directors of a corporate entity, such as the 1st appellant. A company director is an office-holder who is not, without more, an employee of the company. In the absence of a contract of service in terms of which a director is engaged as a full-time employee of a company, it cannot be presumed that such a director is an employee of the company.
- (iv) Consequently, the Industrial Court at Nakuru had no jurisdiction to entertain the petition.

Appeal allowed. Judgement of the Industrial Court set aside.

4. The Jurisdiction of the High Court to Review the Decisions of the Public Procurement Administrative Review Board were Expressly Limited in Terms of Time.

Aprim Consultants v Parliamentary Service Commission & The Public Procurement Administrative Review Board

Civil Appeal No. E039 of 2021, March 3, 2021 (Reasons for the decision delivered on October 8, 2021)

Brief Facts

The appellant, Aprim Consultants, was one of the bidders for a tender for the provision of Consultancy Services for Preparation of a Master Plan, Preliminary and Detailed Design, Tender Documents and Construction Supervision of the Proposed Centre for Parliamentary Studies and Training. However, the procuring entity – the Parliamentary Service Commission - terminated the said tender pursuant to section 63(1) (a) (l) of the Public Procurement and Asset Disposal Act on account of having been overtaken by operation of law. Aprim Consultants challenged the termination at the Public Procurement Administrative Review Board (The Board) which reversed the termination and directed PSC to complete the procurement process to its logical conclusion.

PSC sought a review of the Board’s decision at the High Court. The High Court reversed the Board’s decision and issued a declaration that the letters of termination were valid.

Aggrieved by that decision, Aprim filed an appeal, arguing that the learned judge erred in law in failing to render a decision within 45 days as contemplated by Section 175(3) of the Public Procurement and Asset Disposal Act (PPAD Act).

Section 175(1) of the Act provides that a person aggrieved by a decision made by the Board may seek judicial review by the High Court within fourteen days from the date of the Review Board’s decision, failure to which the decision of the Review Board shall be final and binding to both parties. Section 175(3) states that the High Court shall determine the judicial review application within forty-five days after such application, while Section 175(4) provides that a person aggrieved by the decision of the High Court may appeal to the Court of Appeal within seven days of such decision and the Court of Appeal shall make a decision within forty-five days which decision shall be final. Section 175(5) states that if either the High Court or the Court of Appeal fails to make a decision within the prescribed timeline under subsection (3) or (4), the decision of the Review Board shall be final and binding to all parties.

It was not disputed that the judgement of the High Court was delivered some 185 days outside and beyond the 45 days set by the statute for the determination of the judicial review application.

Issue

Whether the failure by the High Court to render its determination within 45 days as contemplated by Section 175(3) of the Public Procurement and Asset Disposal Act, 2015 rendered the decision of the Board final and binding on all parties.

Holding

- (i) There are serious practical difficulties with meeting the timelines set by the PPAD Act. This may be due to the number of such judicial review matters that get filed before the relevant division of the High Court; the limited number of judges to handle them; and numerous other matters. Besides, as public procurement is but one of the areas in administrative law that spawns judicial review applications, the wisdom of such a short timeline may be fairly questioned.
- (ii) However, inconvenience or difficulty of compliance will never be an excuse for a court to go against the clear language of Parliament. The most a court can do is point out the difficulties created by such requirements and timelines and perhaps make proposals for reform, but as long as the law remains etched, in plain language, it is the province of the courts to interpret and give effect to its express language.
- (iii) A perusal of Section 175 of the PPAD Act reveals Parliament’s unmistakable intention to constrict the time taken for the filing, hearing and determination of public procurement disputes in keeping with the Act’s avowed intent and object of expeditious resolution of those disputes.
- (iv) Parliament was thus fully engaged and intentional in setting the timelines in the Section. But it did not stop there. In one of the rarer instances where all discretion is totally shut out, Parliament expressly enacted a consequence to follow default or failure to file or to decide within the prescribed times: the decision of the Board would crystallise and be vested with finality.
- (v) The High Court was under an express duty to make its determination within the time prescribed. During such time did its jurisdiction exist, but it was a time-bound jurisdiction that ran out and ceased by effluxion of time. The moment the 45 days ended, the jurisdiction also ended. Thus, any judgement issued outside time would be without jurisdiction and therefore a nullity, bereft of any force or effect in law.
- (vi) The jurisdiction of the High Court in public procurement judicial review proceedings is expressly limited in terms of time and is not open to expansion by that court. To step out of time is to step out of jurisdiction and any act or decision outside jurisdiction is, by application of first principles, a nullity.

Appeal allowed. Judgement of the superior court set aside. Certified copies of the judgement and the reasons be served upon the Hon. Attorney General and on the Hon. Speakers of the two Houses of Parliament.

5. Procedure for EDR Appeals from Internal Dispute Resolution Mechanisms, to PPDT, to the High Court and to the Court of Appeal

Jemnyango Moses Kamalik v Abdisalama Hassan Abdi & 2 Others

Civil Appeal No E338 of 2022, June 20, 2022

Brief Facts

The appellant and respondent, both members of ODM, had contested in the party primaries for the nomination of ODM's flag bearer for the seat of Member of County Assembly, Ongata Rongai Ward within Kajiado County. The appellant was issued with a Certificate of Nomination after being declared the winner.

The respondent and the other aspirants who had lost in the primaries lodged an appeal before the ODM Appeals Tribunal. They sought nullification of the results and a repeat of the nomination exercise. The ODM Appeals Tribunal set aside the Certificate of Nomination issued to the appellant and directed the ODM National Elections Board to issue a Certificate of Nomination to the respondent. Being aggrieved by that decision, the appellant filed a complaint before the PPDT.

He stated, *inter alia*, that the ODM Appeals Tribunal acted *ultra vires* by directing the ODM National Elections Board to issue the respondent with the Certificate of Nomination, an order that was not in the prayers sought in the appeal. He also challenged the ODM Appeals Tribunal's finding that the appellant had manipulated the voting kits in his favour and had engaged in acts of bribery of voters based on information that had been obtained from a WhatsApp group.

Upon hearing the parties, the PPDT held that it could not find, on the basis of the evidence on record, that the nomination exercise was not free and fair. It accordingly revoked the Certificate of Nomination issued to the respondent and ordered that the appellant's name be forwarded to the IEBC as the ODM's nominee.

The respondent appealed to the High Court. The High Court held, *inter alia* that the complaint before the PPDT was incompetent for failure by the appellant to comply with Regulation 9(2) of the PPDT (Procedure) Regulations 2017 in as far as copies of the proceedings of the ODM Appeals Tribunal should have formed part of the supporting documents to the complaint. The appeal was allowed and the judgement and orders of the PPDT were set aside.

Dissatisfied with the decision of the High Court, the appellant filed an appeal to the Court of Appeal.

Issues

- (i) Whether the appeal before the High Court was incompetent for want of a certified copy of the decree in the record.
- (ii) Whether the appeal before the High Court was materially defective for failure by the appellant therein to avail copies of proceedings from the ODM Appeals Tribunal.

Holding

- (i) The jurisdiction of the High Court was not extinguished by the respondent's failure to provide a certified copy of the decree being appealed from.
- (ii) It was not a mandatory requirement for an appellant to include both the judgement and the decree appealed from in the record of appeal to the High Court.
- (iii) The absence of the proceedings of the ODM Appeals Tribunal could not have substantially affected the competence of the decision of the PPDT. The failure to produce copies of those proceedings did not go to the substance of the appeal and could therefore not render the appeal before the PPDT incompetent.
- (iv) There was no evidence to demonstrate that the outcome of the ODM nomination exercise for the seat of MCA, Ongata Rongai Ward, did not represent the will of the electorate who participated in the nomination exercise.

Appeal allowed. Respondent to bear the costs.

3.2.3 THE HIGH COURT

1. An Employer was Expected to Provide Reasonable Accommodation to an Employee Living with a Disability.

Macharia v Safaricom Plc

Constitutional Petition No 434 of 2019 (2021) eKLR

High Court of Kenya at Nairobi, Constitutional and Human Rights Division, July 8, 2021

Brief Facts

The petitioner was among the candidates who were shortlisted for a two-stage interview in the recruitment of customer experience executives with the respondent. The first stage was a technical computerised aptitude test which the petitioner was unable to take as he was blind.

He nevertheless was asked to proceed to the oral phase of the interview as the respondent arranged for a workaround for the aptitude test. The respondent had, at that point, commenced a project that would have it employ 10 visually impaired Customer Experience Executives. The project was then at the initial stage, and the respondent had engaged software providers who were working with its internal technical team to review integrations with the existing systems to support it.

Despite not having undertaken the technical part of the interview, the petitioner was invited to undergo a medical test through a message that was sent to candidates who had passed both the technical and oral interviews. When he asked how he had been invited for the medical exam but hadn't yet completed the technical interview, he was told that the medical exam was prepared for when the respondent would have sufficient software to allow the petitioner to complete the technical exam.

On September 7, 2017, the petitioner received a letter to join the Respondent as a trainee despite not having taken the technical test by this time. Shortly thereafter, the respondent withdrew the employment offer, arguing that the offer made to the petitioner was an inadvertent error since he had not sat and passed the technical interview and he could not expect an appointment without having done so.

In proceedings brought to enforce his fundamental rights, the petitioner alleged that the Respondent denied him an employment opportunity based on his disability. He further stated that the Respondent's actions occasioned breaches of his rights to equality and freedom from discrimination and his rights to dignity. He also alleged that the Respondent had breached Sections 12(1), 12(2), 15(1) and 15(2) of the Persons with Disabilities Act as well as Articles 1 and 27(1)(a) of the Convention on the Rights of Persons with Disabilities.

The Respondent explained that despite the fact that it had employed its best efforts, it had not been able to integrate its customer service platform with the requisite software to enable the Petitioner to work as a customer experience executive.

Issues

- (i) Whether it was possible for a visually impaired person to be employed where an employer failed to acquire the software that would enable that person to work.
- (ii) Whether an employment candidate who was invited for an interview by an employer, who could not fully evaluate him due to lack of software and later withdrew a letter of offer of employment on the grounds that it had been issued erroneously, had been discriminated against and had his rights to dignity and fair administrative action violated.

Holding

- (i) Diligent efforts had been made to have a system integration software that could allow visually impaired persons to work as customer experience executives. The respondent explained that such software integration was not possible due to conflicting software configurations that could arise. Therefore, the Respondent's failure to provide reasonable accommodation to the petitioner was a failure to provide an opportunity to the Petitioner on account of lack of software but not on account of his visual disability, and as such, there was no infringement of the Petitioner's rights to equality.
- (ii) The respondent failed to demonstrate that it was impossible to employ the petitioner because he was visually impaired. Sight was not necessary for purposes of operating and working while using a computer in modern society.
- (iii) Under Article 2 of the Convention on the Rights of Persons with Disability, reasonable accommodation meant necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure persons with disabilities enjoyed or exercised on an equal basis with others all human rights and fundamental freedoms. If the respondent had employed the Petitioner, it would have had to make adjustments to its entire system, and that was not viable in the short run due to budgetary constraints. However, the respondent could have ensured that there was an available alternative to cater for an interviewee with visual impairment.
- (iv) The Respondent knew that the Petitioner required software in order to work and allowed the petitioner to undergo the internal recruitment process. The idea that the Respondent was unable to install the software was introduced as an afterthought. The Petitioner was invited for induction as a successful candidate but was rejected when he reported for the induction and training. That subjected the Petitioner to ridicule and humiliation amongst other candidates, and it lowered the Petitioner's dignity.
- (v) The failure to provide the software needed by the Petitioner at the time of recruitment violated the Petitioner's right to fair administrative action. Under Article 47 of the Constitution, everyone had the right to administrative action that was expeditious, efficient, lawful, reasonable and procedurally fair.
- (vi) The Respondent failed to meet its statutory obligation under Section 12 of the Persons with Disability Act to ensure that there was reasonable accommodation for the persons with a visual disability like the Petitioner. The Respondent was accommodative of the Petitioner, who was allowed to go through all stages of the recruitment process except for technical evaluation that required the special software which the Respondent had not acquired.
- (vii) The Petitioner had not shown how he was discriminated against; he had not shown that a visually impaired person was favoured by the Respondent while he was discriminated against. He did not show that he was given differential treatment compared to other candidates on the basis of disability. No evidence was tendered to show that the respondent discriminated against the Petitioner.
- (viii) The Respondent had a duty to act fairly. It invited the Petitioner for interviews while knowing that it lacked special facilities or modifications which were required or necessary at the workplace to accommodate the Petitioner. The Petitioner could not fully be evaluated at the interview stage due to the Respondent's failure to procure the necessary software. The Respondent then erroneously issued the Petitioner with a letter of offer, and the manner in which the offer was withdrawn did not comply with Article 47 of the Constitution.

Petition allowed. Petitioner awarded KSh6,000,000 for violation of rights to be treated with dignity under Articles 28 and 54(1) and for violation of rights to fair Administrative Action under Article 47.

2. Audio-visual Recordings of a Deceased Person's Wishes Cannot be Used to Revoke a Written Will

In re Estate of Kevin John Ombajo (deceased)

Succession Cause 555 of 2018 (2021) eKLR,

High Court of Kenya at Nairobi, Family Division, July 7, 2021

Brief Facts

The deceased, who had been diagnosed with a brain tumour visited his advocate's offices where he executed a written will dated February 20, 2015, appointing his wife and his sister as joint executrices of the said will. He returned to the same advocate's offices on December 23, 2016, and requested to make another will.

Since his sight was failing at this time, his lawyers took an audio-visual recording as he made a new set of last wishes, which altered the contents of the written will. The advocates testified that the intention was for the recording to be reduced into writing and witnessed by the deceased immediately after the Christmas season but this did not happen since the deceased was in and out of hospital during the subsequent period up until his death on July 29, 2017.

Upon his death, his widow lodged a petition for probate of the written will dated February 20, 2015 to be granted to her and the deceased's sister. The deceased's sister objected to this petition. She made her own application for grant of probate of the will made via the audio-visual recording on December 23, 2016, arguing that the written will stood revoked.

The widow maintained that the deceased died testate, having made a valid written will which was never revoked, amended or cancelled and that by the time the purported audio-visual recording was made, the deceased was too ill to understand things and was amenable to manipulation and misguidance. She asserted that the contents of the audio-visual recording were a complete departure from the written will, which was uncharacteristic of the deceased and that the recording was skewed to portray her in bad light and disinherited her even though they had no differences with the deceased when he was alive.

She also argued that the recording did not qualify as an oral will within the provisions of Section 9 of the Law of Succession Act, and that although the deceased made the audio-visual recording before three witnesses, the deceased did not die within three months of making the audio-visual recording but died more than six months after. Further, the deceased was neither a member of the armed forces nor a member of the merchant marine for the exception of Section 9(1) of the Act to apply.

It was further submitted that the audio-visual recording was not a codicil within the meaning of Section 3(1) of the Act and that none of the actions contemplated by Section 18 took place insofar as to revoke the deceased's written will. The widow asserted that Section 18(2) of the Act affirmed that a recording could not revoke the deceased's written will.

On her part, the sister argued that the recording satisfied all ingredients of a valid will and that the only difference between the audio-visual will and the written will was the medium used to capture the wishes of the testator since both were used to memorialise the wishes of the testator for posterity, unlike an oral will where the word and memory of the witness was what was relied upon hence the limited period of its validity.

Issue

Whether an audio-visual recording, meant to make changes to a written will, met the legal requirements of a valid oral will and whether it could revoke a written will.

Holding

- (i) The Law of Succession Act did not provide for audio-visual recordings. However, the Evidence Act under Sections 78A, 106A and 106B provided for the conditions upon which electronic records were admissible in court. The electronic evidence tendered by the deceased's advocate met the conditions for admissibility set out under Section 106B(2) of the Evidence Act and was therefore admissible as evidence. However, the audio-visual recording had to be strongly tested with regard to the well-established principles of a valid will.
- (ii) The validity of a will was dependent on the capacity of its maker and whether it was made in proper form.
- (iii) The soundness of mind of the maker of a will should be presumed unless he was at the time of executing the will, in such a state of mind, whether arising from mental or physical illness, drunkenness, or from any other cause, as not to know what he was doing. The burden of proving lack of capacity on account of lack of a sound mind was cast on the person alleging that the deceased lacked such capacity. No material was placed before the court upon which the court could hold that the deceased did not have the requisite testamentary capacity on December 23, 2016 when the audio-visual recording was made.
- (iv) Section 8 of the Law of Succession Act provided that a will could either be written or oral. The deceased had a written will dated February 20, 2015. As required under Section 11 of the Law of Succession Act. That written will was executed by the deceased and attested by two witnesses. The contents of the written will and the deceased's testamentary capacity at the time of executing the will were not challenged.
- (v) Under Section 9 of the Law of Succession Act, an oral will had to be made before two competent witnesses, and the testator had to die within three months of the making of the will. The audio-visual recording was made before three witnesses, but the deceased died seven months after the recording. In the given circumstances, the audio-visual recording did not qualify as a valid oral will of the deceased made under the Law of Succession Act, even though the facts as narrated pointed to an attempt to make a will.
- (vi) Sections 17 and 18 of the Law of Succession Act provided for the revocation of wills. Under Section 18(2) of the Law of Succession Act, a written will could not be revoked by an oral will.
- (vii) The audio-visual recordings made by the deceased on December 23, 2016 were intended to be a will. Although there was an attempt at making a will, the legal threshold enabling it to be considered as a valid will capable of being enforced by the court was not met.
- (viii) [Obiter] Although not formally recognised in many jurisdictions, including Kenya, electronic wills and the use of technology as a medium of documenting evidence was on the rise, especially in the aftermath of COVID-19. As had been done in other countries, there was a need to have policies and regulations in place to ensure that those processes were guarded against the challenges that were already there such as cyber security, obligations to assess capacity, understanding, undue influence and duress.

The objection and the cross-petition lodged by the deceased's sister were dismissed. The written will executed by the deceased on February 20, 2015 declared to be the valid will of the deceased.

3. Criminalising Abortion under the Penal Code without a Constitutional Statutory Framework impaired the enjoyment of Women's Reproductive Rights.

PAK & Another v Attorney General & 3 others

Constitutional Petition E009 of 2020 (2022) eKLR

High Court at Malindi, March 24, 2022

Brief Facts

The Petitioner, a form two student, became pregnant after sexual intercourse with a fellow student. Upon experiencing complications with her pregnancy, she went to a clinic for treatment. The 2nd Petitioner, upon examining her, conducted an emergency treatment and upon further examination, concluded that she had suffered a spontaneous abortion. The 2nd Petitioner performed a successful manual vacuum evacuation, after which the Petitioner was in general fair condition.

Police officers stormed the clinic demanding the Petitioner's treatment records and subsequently confiscated the same. The Petitioners, and two female employees were arrested and taken to Ganze Police Patrol Base.

The 1st Petitioner alleged that she was forced to undergo a medical examination at Kilifi County Hospital, where a medical examination form was filled out. The 1st Petitioner was later charged with the offence of procuring abortion contrary to section 159 of the Penal Code. The 2nd Petitioner was charged in Kilifi in Criminal case No 395 of 2019 with procuring abortion. The 2nd Petitioner was in the alternative, charged with supplying drugs to procure abortion contrary to Section 160 of the Penal Code.

Aggrieved by the action of the Respondent, the Petitioners moved the Court to quash the criminal proceedings at the Kilifi Law Courts and that the provisions of the Penal Code were unconstitutional for criminalising abortion while there was no statutory scheme to operationalise Article 26(4) of the Constitution.

Issues

- (i) Whether Sections 154, 159 and 160 of the Penal Code that criminalised abortion were unconstitutional in light of Article 26(4) of the Constitution.
- (ii) Whether the lack of access to safe abortion services was a violation of the following human rights, that is; right to privacy, right to life, right to the highest attainable standard of physical and mental health; and freedom from torture, inhuman and degrading treatment and punishment.
- (iii) Whether there was a *lacuna* in Sections 154, 159 and 160 of the Penal Code that criminalised abortion when considered in light of Article 26(4) of the Constitution that provided that abortion was not permitted unless, in the opinion of a trained health professional, there was a need for emergency treatment or the life or health of the mother was in danger.
- (iv) Whether the proceedings at the trial court in which the 1st Petitioner and her doctor were prosecuted under Sections 154, 159 and 160 of the Penal Code that criminalised abortion should be quashed.

Holding

- (i) Where formal legal channels for abortion were lacking or inaccessible, the victims (women) terminated their pregnancies by unscrupulous devices and substances. In abortion cases, pregnant women tended to avoid such medical examination on the ground that it violated the right to privacy or the right to human dignity as enshrined under Articles 28 and 39 of the Constitution.
- (ii) There were no guidelines relating to privacy and on how to reach a trained health professional as stipulated in Article 26(4) of the Constitution. The protection of unborn life was an important motive for restricting abortion, and the Kenyan Constitution at Article 26(4) equated a pregnant woman's life with continued foetal development, thus making it the single greatest impediment to medical abortion services.
- (iii) Abortion care was a fundamental right under the Constitution and the arbitrary arrest and prosecution of patients and health care providers seeking or offering such services was illegal.
- (iv) Protecting access to abortion impacted vital constitutional values, including dignity, autonomy, equality, and bodily integrity. The ability of women to participate equally in the economic and social life of the nation had been facilitated by their ability to control their reproductive lives.
- (v) Criminalising abortion under the Penal Code without a Constitutional statutory framework impaired the enjoyment of women's reproductive rights.
- (vi) Police officers that arrested the Petitioners did not have the medical qualifications to determine whether the 1st Petitioner was in a condition to leave the clinic, that her arrest was inhuman and degrading, and that she should not have been interrogated without legal representation.
- (vii) Private communication between a patient and the health care provider was guaranteed and protected under the Constitution, the right to privacy in Article 31 and other enabling laws. Privacy was a fundamental human right enshrined in numerous international and regional human rights instruments.

Petition allowed. Criminal proceedings against the petitioners quashed.

4. Whether the Victim in a Criminal Case, Having Resolved the Matter with the Accused out of Court, Could Withdraw the Case Without the Consent of the Director of Public Prosecutions

Republic v Peter Kinoti Nyamu

Criminal case E048 of 2021 (2021) eKLR

High Court at Malindi, October, 2021

Brief Facts

The accused had been charged with murder contrary to Section 203 as read with 204 of the Penal Code. He applied for the termination of the charge on the grounds that the family of the victim had after "a series of meetings resolved not to proceed with the charges."

The application for withdrawal of the murder charge was based on an affidavit sworn by the mother, two brothers and two cousins of the deceased who stated that the family members and the community of the deceased had sat to deliberate on the matter and resolved to end the dispute traditionally and amicably to safeguard the cordial relationship in the community. They also stated in their affidavit that pursuing the court process to establish who was to blame for the death of the deceased would prejudice/jeopardise the existing good relationship amongst the members of the two families and the community at large.

Based on the said affidavit, counsel for the family of the deceased sought the withdrawal of the murder charge by the Director of Public Prosecutions (DPP) through a letter written to that office. The DPP was opposed to the withdrawal of the charges.

Issue

Whether the Court could allow the withdrawal of a murder charge at the behest of the family of the deceased person pursuant to Article 159 of the Constitution, which enjoined the Court to promote alternative forms of dispute resolution

Holding

- (i) While the Court respectfully agreed that in a proper case, the Court could terminate or allow withdrawal or discontinuance of criminal proceedings for offences other than common assault under section 176 of the Criminal Procedure Code, the termination, withdrawal or discontinuance must be with the approval of the Director of Public Prosecutions who was the custodian of the State's prosecutorial powers under Article 157 (6) of the Constitution, unless his/her non-approval could successfully be challenged on applicable principles.
- (ii) The DPP's clear mandate could only be interfered with where it could be shown by cogent evidence that by insisting on proceeding with a charge, the DPP was being unreasonable on the facts of the case and/or that by so doing, the DPP was violating the rights of the accused to a fair trial under Articles 25 and 50 (2) of the Constitution; or otherwise abusing the office of the DPP or the process of the court to serve motives ulterior to the prevention of crime, prosecution and punishment of offenders under the State's prosecutorial mandate under Article 157 of the Constitution.

- (iii) A court could not allow a withdrawal of a charge which the DPP, in accordance with his constitutional mandate, sought to take over and/or continue.
- (iv) As stated by Musyoka, J. in *R vs Judith Achola Mulala (2019) eKLR*, the term “complainant” in sections 202 and 204 of the Criminal Procedure Code which allowed, respectively, for the acquittal of an accused where the Complainant did not attend court for hearing and withdrawal of a charge by the Complainant, referred to the prosecutor as the initiator of the criminal case in Court.
- (v) Where the DPP was opposed to the withdrawal of the murder charge herein, the Court was obliged to uphold the DPP’s authority under Article 157(11) of the Constitution unless it was shown that in so doing, the DPP was acting unreasonably, or in violation of the accused’s rights to a fair trial, or in abuse of his office or process of the court, or against public interest.

The application by the family of the deceased for withdrawal of the murder charge against the accused herein, which was opposed by the DPP, was declined.

5. Applicability of the Child of Tender Years Doctrine vis-a-vis the Best Interest of the Child Principle

SMM vs ANK

Children Appeal E011 of 2021 (2022) eKLR

High Court at Nakuru, April, 2022

Brief Facts

SMM and ANK were a married Kenyan couple that lived in the United States. Due to irreconcilable differences, the two mutually agreed to a divorce which was granted by the Domestic Relations Circuit Court of Jefferson County, Alabama on November 20, 2010. By the time of the divorce, the Appellant and the Respondent had one child – SCKK who was born in 2007. With the parties’ consent, the divorce decree stated that the Appellant would have custody of SCKK.

Shortly after the parties finalised their divorce, they reconciled well enough that they moved in together again in Alabama and had a second child – JJWK, in 2013. Since both children were born in the US, they held dual US and Kenyan citizenship by virtue of the Constitution.

The parties agreed that the Respondent would first relocate to Kenya, settle, get a foothold in the family hotel business and then, later on, have the older child, SCKK, and then, the Appellant and the younger child relocate back to Kenya. Further, the plan was to set up a business in Kenya for the Appellant. As conceived, the plan was for the Appellant and the Respondent to continue to live together as a couple in Nakuru, where they would bring up their two children.

Pursuant to this plan, the Respondent relocated to Kenya in 2015. SCKK joined the Respondent in Kenya in late 2015 and was enrolled at an international school in Nakuru. In 2017, ANK relocated with JJWK to Kenya and stayed with the appellant. The second child was also enrolled in a school in Nakuru.

In 2019, ANK returned to the United States, leaving SMM and both children in Kenya. She returned to Kenya in July, 2021, intending to renew the American passports for the two children so that she could return with them to the United States. The Appellant allowed the children to travel to Nairobi for passport processing.

When they did not return as agreed, the Respondent filed a custody case at the Children’s Court in Nakuru, apprehensive that the Appellant would take them to the United States at a point when he no longer held a Green Card and would have challenges accessing them. He also felt that the children were well settled in Kenya and that the move would severely disorient them, and that the Appellant would not be able to financially take care of the children in the United States.

The Children’s Court ruled in favour of the Respondent and granted him legal and actual custody, prompting the Appellant to file the appeal at the High Court. The trial court noted in its judgement that one of the minors was a child of tender years and that as a rule of thumb, custody of children of tender years was usually awarded to the mother. However, the court found that the case presented exceptional circumstances to deviate from this rule.

One of those exceptional circumstances was mainly that the younger minor, in this case JJWK, who was eight years old, had been under the care and custody of the Plaintiff ever since he was four years old. It was documented in the Children’s Report that JJWK, had a very close relationship with his father and would be greatly affected if that relationship was severed suddenly. Additionally, no adverse evidence had been adduced to show that the young minor had undergone any harm or threat of any nature while in the custody of the Respondent.

The Appellant faulted the trial court, among others, for granting immediate actual and legal custody of the minors to the respondent and especially the 2nd minor who was of tender age with undue regard to the law which provided that custody of a child of tender years ought to be with the mother unless there were special circumstances for directing and/or ordering otherwise and which were not adduced and or proved before the trial Court.

She also faulted the trial Court for failing to find that the Appellant was granted custody of the older child SCKK on November 4, 2010 in the Circuit Court of Jefferson County, Alabama Domestic Relations Court, following a mutual agreement between both the Appellant and the Respondent which order was applicable to Kenya as a common law.

Issues

- (i) Whether the actual and legal custody of a child of tender years was automatically vested on the mother.
- (ii) Whether the decree by the Domestic Relations Circuit Court of Jefferson County Court Alabama was enforceable in Kenya, and whether it was still in force.

Holding

- (i) There was no evidence from either party that would lead to the conclusion that either of them was an unsuitable parent. Consequently, the case would not turn on the unsuitability of either parent to have custody of the children, but on the question of who would be best placed to advance the best interests of the children if awarded custody given the diverging geographical locations of the two parents and the impossibility of joint physical custody.
- (ii) Each of the two parents seemed quite financially capable of taking care of the educational, housing, nutritional, upkeep, entertainment and medical needs of the two children. Child custody cases were not duels of who between the two parents was more financially muscled: custody was not a battle for the richer parent to emerge. It was, instead, a delicate exercise aimed at determining, in context, the best interests of the children.

- (iii) Sexual indiscretion only became a factor in custody decisions where it could be demonstrated that the alleged sexual indiscretion had risen to the level of causing actual harm to the children. The Appellant's allegations that the Respondent's relationship with an allegedly younger woman had caused psychological harm to SCKK was, at best, unproven. At the worst, it was falsified by available evidence.
- (iv) The Child of Tender Years Doctrine had continued to evolve with many Courts in various jurisdictions moving away from the doctrine to the more inclusive 'best interest of the child' principle.
- (v) It was apparent that while the Tender Years Doctrine was persuasive in considering custody of children, it could no longer be considered as an inflexible rule of law. This was not to say that the substance of the rule had dissipated completely; it was to say that its inflexibility had been eroded by the evolving standards of decency reflected in Article 53 of the Constitution.
- (vi) The Tender Years Doctrine must now be explicitly subjected to the Best Interests of the Child Principle in determining custody cases. Differently put, the welfare of the children was the primary factor of consideration when deciding custody cases. The judicial rule that a child of tender years belonged with the mother was merely an application of the principle in appropriate cases. The modern rule began with the principle that the mother and father of a child both had an equal right towards the custody of the child.
- (vii) In the present case, neither the trial Court nor the High Court had concluded that the Appellant was a "bad mother" or that she would be unsuitable to have custody of the children. However, her suitability had to be weighed together with other factors such as the fact that the children had been in the actual custody of the Respondent for at least the last four years; her intention to relocate to the US and the difficulty that would clearly be occasioned to the Respondent, with not only accessing the minors, but also enforcing any orders of the Court once the children were outside the jurisdiction.
- (viii) Both the Tender Years Doctrine and the Best Interests of the Child principle would, in the present case, unite to yield the conclusion that custody was best awarded to the respondent. In reaching this conclusion, the court noted that the children had been with the respondent for a significant period of time immediately preceding the suit; the appellant planned to relocate the children out of the country, thereby taking them out of the jurisdiction of the court, and making it difficult for their father to access them; relocating them to the United States would deny them the network of family support and bonding that was happening in Kenya.
- (ix) The foreign Judgement (Reciprocal Enforcement) Act was not applicable in proceedings concerning custody or guardianship of children in Kenya.
- (x) The decree from the Alabama Court was no longer enforceable between the parties because the circumstances of the parties had changed significantly. For instance, at the time of the judgement, SCKK was only three years old, JJWK was not yet born, and both parties were living in the US.
- (xi) The appellant was also estopped from relying on the custody decree because the two parties had agreed to vary the decree on the question of custody by agreeing to remove SCKK from the custody of the appellant and placing him in the custody of the respondent.
- (xii) The trial court erred in granting legal custody to one parent only given that there was no evidence that either parent was unfit or suitable to have custody. Despite the distance inconvenience (a non-factor in decision-making in the modern day due to technological advances), there was no reason to restrict legal custody to one parent only.

Appeal partly allowed. The Court granted the Respondent actual/physical custody of the minors who were to reside with the Respondent in Kenya, with the Appellant allowed unlimited access to the minors when she was in Kenya and unimpeded access to the minors through telephone, video calls and email or through some other use of technology when she was not in Kenya. Legal custody was to be shared between the Appellant and the Respondent.

6. Disclosure of Information Contained in Reports by Security Agencies on Terrorist Attacks was not in the Public Interest

Legal Advice Centre t/a Kituo Cha Sheria & 33 others v Cabinet Secretary, Ministry of Education & 7 others Constitutional Petition 104 of 2019 (2021) eKLR

High Court at Nairobi (Constitutional Division), November, 2021

Brief Facts

Following the 2015 Garissa University terrorist attack, which claimed the lives of 148 people and injured 79 others, the Petitioners moved the High Court for certain declaratory orders and compensation for the lives lost in the attack.

Contemporaneously with the petition, the Petitioners filed an application seeking, among others, an order directing the Independent Policing and Oversight Authority (IPOA) and the Commission on Administrative Justice, who had conducted separate investigations on the responses by various security agencies to the attack, to furnish the petitioners and the court with the reports that they held touching on the terrorist attack.

According to the Petitioners, the right to information was a constitutionally guaranteed right and access to the information and reports regarding the terrorist attack would enhance accountability by State officers and boost confidence in the Government. The Petitioners contended that their ability to demand their rights and seek their protection would be enhanced by accessing the requested information to prove complacency and laxity by State and other office bearers in the said attack.

The Petitioners further argued that withholding of the information by the State did not outweigh the public interest in accountability by the State and the right to information and fair hearing. They further claimed that the information they sought did not compromise national security.

The Respondents opposed the release of their separate investigation reports, arguing that the reports were predicated on and contained critical confidential information from national security organs, information which if disclosed as sought, would seriously imperil security operations against terrorists and undermine national security.

Further, the reports were privileged and confidential and were thereby not subject to disclosure pursuant to Section 6 of the Access to Information Act and Section 24 of the Independent Policing Oversight Authority Act, 2011. They argued further that the right to access of information was not an absolute right but was subject to exceptions and the reports fell within those exceptions.

Issues

- (i) Whether disclosure of information contained in reports by security agencies concerning terrorist attacks could be said to be in the public interest.
- (ii) What were the conditions to be met before a right or fundamental freedom could be limited?
- (iii) What was the test for determining whether a restriction was appropriate?

Holding

- (i) The constitutional and legal provisions set out in Article 35 of the Constitution and the Access to Information Act demonstrated that unless there was good reason, a citizen should not be impeded from accessing information that was in the possession of the State or a State entity that was needed for the advancement or protection of a right. Therefore, a purposive interpretation of those provisions leaned towards a conclusion that their dominant objective was the promotion of access to and disclosure of information by the State and State agencies, which should have been the normal course, and that withholding of information was only in exceptional circumstances.
- (ii) Article 24 of the Constitution provided for limitations of rights and fundamental freedoms. Two conditions had to be met before a right or fundamental freedom could be limited. These were:
 - (a) There had to be a law in place on the limitation.
 - (b) The limitation had to be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including those enumerated in Article 24 of the Constitution.
- (iii) The burden of justifying the limitation on the right to access of information rested on the person resisting disclosure, as provided for in Article 24(3) of the Constitution, which stated that the State or a person seeking to justify a particular limitation should demonstrate to the court, tribunal or other authority that the requirements of the article had been satisfied. The 7th and 8th Respondents had confirmed that they indeed held the reports in question. Accordingly, the burden had shifted to and rested with them to demonstrate to the Court why the reports ought not be released.
- (iv) Although the right of access to information was not absolute, to satisfy the requirements set out under Article 24 of the Constitution, the respondents had to demonstrate that the limitation imposed on a constitutional right was fair, reasonable, necessary and justifiable in a democratic society, and that it fell within the exceptions provided in the Access to Information Act.
- (v) The test for determining whether a restriction was appropriate should be one of proportionality. A proportionality test was appropriate as it preserved rights, provided a framework for balancing competing rights and enabled other important public concerns, such as national security and public order, to be duly taken into account.
- (vi) The 8th Respondent had the mandate of investigating any conduct in State affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that was alleged or suspected to be prejudicial or improper or was likely to result in any impropriety or prejudice.

The mandate also included investigating complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector. The 8th Respondent conducted its own investigations of the terror attack in the interest of the public.
- (vii) Under Principle 4 of the Tshwane Principles, it was not sufficient for a public authority seeking to withhold information to simply assert that there was a risk of harm, but such authority was under a duty to provide specific, substantive reasons to support its assertions. The exceptions should apply only where there was a risk of substantial harm to the protected interest and where that harm was greater than the overall public interest in having access to that information.
- (viii) The information sought by the Petitioners in the reports by the 7th and 8th Respondents related to the Garissa University terrorist attack, which took place on April 2, 2015. The court took judicial notice of the fact that Kenya had been a target of terror attacks since 1998. Prevention of terrorism was not an event, but a continuous process of activities by security agencies. Standard operating procedure operations were reviewed, and lessons were learnt and implemented in the process. The information contained in the reports was clearly like information covered in sections 6(2)(a)(b)(c)(f)(g)(j)(k) and(l) of the Act.
- (ix) Under Section 6(4) of the Access to Information Act the Court could require a public entity or private body to disclose information where the Court formed the opinion that public interest in disclosure outweighed the harm to protected interests.
- (x) The Government of Kenya, through its various agencies, was under an obligation to protect its people and territory against internal and external aggression. To achieve that, the security agencies engaged in military strategy and other operations as more particularly set out in Section 6(2) of the Access to Information Act.
- (xi) The Court took judicial notice of the fact that the threat of terrorism across the world and in Kenya in particular was very real. Due to that threat, and being mindful that Kenya had been a target on several occasions, release of the reports would pose a threat to national security and prejudice public interest. To direct the 7th and 8th Respondents to release reports which contained the strategies employed by the security agencies in combating the threat to terrorism was likely to put Kenya and the lives of its citizens, in jeopardy.
- (xii) On a balance of probabilities, the substantial harm to the overall public interest far outweighed the right of the petitioners to access the information sought. The petitioners had already been supplied with the abridged version of the report for their purposes. Accordingly, the application and threshold for limitation of disclosure of the subject reports had been demonstrated and met by the 7th and 8th Respondents.
- (xiii) The duty of the Court in any matter was to determine the issue in controversy with finality. Even though the threshold of limitation had been met, the court had power and discretion to establish whether the information sought to be withheld on grounds of national security was confidential as alleged.
- (xiv) There is no law in place on the procedures for confirmation of sensitive and confidential information for purposes of its disclosure, and we have had to look to other jurisdictions for guidance. There is therefore need for a law to be enacted setting out the necessary procedures and protocols on disclosure of confidential and sensitive information, including information touching on national security.

Application dismissed. The Deputy Registrar of the Constitutional and Human Rights Division of the High Court at Nairobi directed to transmit a copy of the ruling to the offices of the Attorney General and the Clerk of the National Assembly, for their attention on the proposed law reforms.

7. Authority to Institute Criminal Proceedings and the Formalities of a Charge Sheet

Zacharia Okoth Obado v The Director of Public Prosecutions

Anti-Corruption and Economic Crimes Miscellaneous E032 of 2021 (2022) eKLR

High Court at Nairobi Anti-Corruption and Economic Crimes Division, March, 2022

Brief Facts

On August 27, 2020, the applicant and others were charged before the Chief Magistrate's Anti-Corruption Court with nineteen (19) counts of various corruption related offences. The initial charge sheet was signed by the Office of the Director of Public Prosecutions. Thereafter, on October 12, 2021, the Office of the Director of Public Prosecutions made an application to amend the charges and the trial court granted the application.

He lodged an objection to the amended charge sheet claiming that it was instituted by the Kenya Police which had no constitutional authority to institute criminal proceedings in court. He also claimed the charge sheet was a mere draft as it was not signed by the Police although it was intended to be signed by the officer in charge of Ethics and Anti-Corruption Commission Police Station. Although the charge sheet bore the stamp of the DPP, he took the position that this stamp was no more than an acknowledgement by the ODPP of receipt of the amended draft charge sheet from EACC Police Station.

The trial court overruled his objection and directed him to take plea on that charge sheet.

He lodged an application urging the High Court to quash the proceedings at the lower court on the grounds that he had a legitimate expectation that his prosecution would be instituted in accordance with the Constitution and the Guidelines on the Decision to Charge which spelt out who was to sign a charge sheet and provided a sample charge sheet that mirrors the provisions of Article 157 (6)(a) of the Constitution. He claimed that the criminal proceedings founded on the amended charge sheet were unconstitutional, illegal, null and void for being instituted by institutions that lacked the constitutional mandate to do so and further that the trial court failed to ensure fair administration of justice by ordering him to take plea on a charge sheet which was not signed and which therefore was a draft charge sheet.

The Prosecution opposed the application arguing that that the impugned amended charge sheet was stamped and signed by the designated prosecution counsel on the top right-hand corner and that the presence of the prosecution counsel in court was enough evidence that the decision to charge and the conduct of the matter was under the Director of Public Prosecutions.

Issues

- (i) Whether the trial magistrate's order directing the Applicant and his co-accused to take plea on the Amended Charge Sheet was incorrect, illegal or irregular or whether it was in excess of or without jurisdiction.

Holding

- (i) The mandate to institute criminal proceedings is vested in the Directorate of Public Prosecutions as provided for under Article 156 (6) (a) of the Constitution.
- (ii) The Applicant and his co-accused did not dispute that they were being prosecuted by the Office of the Director of Public Prosecutions and that it was officers of the Office of the Director of Public Prosecution who were in conduct of that case and made the application to amend the charges.
- (iii) It was instructive that neither Article 50(2) of the Constitution nor Sections 134 and 137 of the Criminal Procedure Code required signing a charge sheet. Even so, the courts have held that there is a requirement for signing a charge sheet. However, it is settled law that the test in regard to charge sheets is a substantive test as opposed to a formalistic test. The question then would be whether the omission to sign - if indeed the charge is not signed - goes to the substance or to the form of the charge sheet. If the omission goes to the form but not to the substance of the charge then the court cannot allow the application to strike out the charge sheet.
- (iv) The primary purpose of a charge sheet is to inform the accused person of the charges facing him with sufficient detail to answer it. In the instant case, the applicant did not state that he did not understand the charges facing him. He merely challenged the charges because the same was not signed. However, the charge sheet had a stamp of the DPP on its top right hand side which was signed and initialled "PPC". This was not merely a receipt stamp. The stamp could only mean the approval of those charges by the office of the Director of Public Prosecutions.
- (v) Even in the event that the charge sheet was not signed, that did not invalidate the charge sheet because the omission would be an irregularity which did not occasion a failure of justice and was cured by Section 382 of the Criminal Procedure Code. To invalidate the proceedings would also be an affront to Article 159(a)(d) of the Constitution which obligates the court to do justice without undue regard to procedural technicalities.
- (vi) While it would be ideal for the ODPP to adopt and use the sample charge sheet in the ODPP Guidelines on the Decision to Charge, those guidelines - whether fully rolled out or not - cannot overrule the clear provisions of the Criminal Procedure Code and where they are in conflict with the law, the law must prevail.

Application dismissed. Proceedings at the Anti-Corruption Magistrates Court to proceed.

3.2.4 THE ENVIRONMENT AND LAND COURT

1. An Applicant Seeking Redress for Breach or Threat of Breach of the Right to a Clean Environment did not have to Demonstrate that Any Person had Incurred Loss or Suffered Injury Under Article 70 of the Constitution.

Isaiah Luyara Odando & Another v National Environmental Management Authority & 2 others; County Government of Nairobi & 5 others (Interested Parties)

Milimani Constitutional Petition 43 of 2019 (2021) eKLR

Environment and Land Court at Nairobi, July 15, 2021

Brief Facts

The Petitioners filed the petition on August 29, 2019, initially against the Respondents and amended it on October 25, 2019 to include the Interested Parties. They were officials of Ufanisi Centre which is an environmental CBO in Korogocho area, Nairobi.

The petitioners sought a declaration that the respondents had violated their rights and fundamental freedoms enshrined in the Bill of Rights under Articles 10(2)(b); 26(3); 29(f); 42, 43(1)(d); 47,69 and 232(1)(c) of the Constitution and permanent conservatory orders compelling the Respondents to adopt a precautionary principle in environmental management with respect to preventing the upstream and downstream pollution of Nairobi and Athi Rivers and to implement permanent restoration of the waters therein.

They also sought similar conservatory orders compelling the Respondents to shut down polluters and to force industries to treat their waste before disposing the same into the said rivers; to remove more than 4,000 structures encroaching on the riparian land; and to build embankments and barriers to allow the rivers flow free from contamination.

The Petitioners averred that apart from the desire by the members of their Centre to see their environment revert to the original state from which Nairobi City got its name from the Maasai phrase '*enkare Nairobi*' which meant place of cool waters, they had instituted the petition in the public interest as a class action environmental lawsuit.

They argued that the issue of pollution of Nairobi River had been in the public domain since the 1980's, being polluted upstream by waste from industries, untreated and improperly treated effluent from the Dandora sewerage treatment plant as well as several channels that gathered storm water from the city.

That as a result of the pollution, Kenyans had been treated to high incidences of strange diseases including asthma, bronchitis, emphysema, laryngitis and pneumonia. The Petitioners faulted the Respondents for various failures including the failure to invoke the precautionary approach in environmental management to stop or prevent the pollution, hence the need for the orders sought.

Issues

- (i) Whether the Respondents had jointly and severally violated the Petitioners' rights and fundamental freedoms enshrined in the Bill of Rights under Articles 10(2)(b); 26(3); 29(f); 42, 43(1)(d); 47,69 and 232(1)(c) of the Constitution.
- (ii) Who bore the responsibility for the protection of the environment against pollution.
- (iii) How the court could apply the precautionary principle to matters relating to air and water pollution.
- (iv) Whether the court could issue permanent conservatory orders compelling the Respondents to adopt the precautionary principle in environmental management with respect to preventing the upstream and downstream pollution of the Nairobi and Athi Rivers.
- (v) Whether the Court could issue permanent conservatory orders compelling the Respondents to implement permanent restoration of the Nairobi and Athi River waters.
- (vi) Whether the Court could issue permanent conservatory orders compelling the Respondents to: shut down polluters; force industries to treat their waste before disposing the same into the rivers; direct removal of the more than 4,000 structures encroaching riparian land; and to build embankments and barriers to allow the river to flow free from contamination.
- (vii) What other relief could the court issue for the protection of the environment.

Holding

- (i) The Respondents had failed to eliminate the processes and activities that caused air pollution in Korogocho and Mukuru kwa Reuben slums which were attributed to the Dandora dumpsite. They had failed to stop the pollution of Nairobi and Athi rivers and were therefore responsible for violating the petitioner's rights to a clean and healthy environment under Article 42 of the Constitution.
- (ii) The Respondents had violated the Petitioners' rights to the highest attainable standard of health and to clean and safe water enshrined in Article 43 of the Constitution.
- (iii) The State carried a bigger burden in relation to the management and protection of the environment and the role of citizens was to cooperate with State organs like the Respondents in the protection and conservation of the environment.
- (iv) The duty to eliminate processes and activities that polluted the environment fell on the State and its agencies.
- (v) The principle of intergenerational equity expected the entire present generation, including the petitioners, to bequeath to future generations an environment that was not degraded or polluted by exercising proper disposal of solid and hazardous wastes, limiting the use of non-biodegradable items such as plastics and not disposing solid and hazardous materials into the rivers.
- (vi) One way of implementing the precautionary principle would have been by the respondents shifting the burden of proof to the polluters and exploring alternatives to the harmful actions such as the Dandora dumpsite. The precautionary approach to be adopted by the State should have focused on how much harm could be avoided rather than considering how much could be tolerated.
- (vii) The Petitioners failed to prove that their rights under Articles 26(3) and 29(f) of the Constitution had been violated by the Respondents.
- (viii) The Petitioners did not have to demonstrate that they had suffered injury from the air and water pollution that they complained of for them to be entitled to conservatory orders because they, and all other persons were entitled to a clean and healthy environment that was not polluted. An applicant seeking redress for breach or threat of breach of the right to a clean environment did not have to demonstrate that any person had incurred loss or suffered injury under Article 70 of the Constitution.
- (ix) Owing to the nature of pollution and harm caused to the Nairobi and Athi Rivers, the court needed to issue a structural interdict to be enforced by the respondents for the period of time that it would take for the Nairobi and Athi River water to be restored to a point where they were free from pollution.

Petition allowed. Respondents directed to adopt the precautionary principle in the management of the environment in which the Petitioners reside by taking various measures to stop the air pollution and prevent the pollution of the Nairobi and Athi River.

2. A Statutory Manager had no Powers to Extend a Moratorium to Persons who were not Policyholders or Creditors of the Company

Martha Njeri Mbene v Statutory Manager, United Insurance Company Limited

Environment and Land suit no. 222 of 2015 (2022) eKLR

Environment and Land Court at Nairobi, March 14, 2022

Brief Facts

The Plaintiff filed the suit on March 10, 2015 seeking among others, a declaration that she was entitled to all the parcel of land known as Kajiado/Kaputiei North/15666 and for an order directing the Defendant to immediately transfer and facilitate the issuance of a title deed in respect of the said parcel unto her.

She stated in her plaint that she was the legal representative of the estate of the late James Monari Bosire whilst the defendant was the Statutory Manager of United Insurance Company (UIC) which was under statutory management. The deceased was at all material times an employee of UIC and in the course of his employment, UIC sold him a parcel of land known as LR. No. Kajiado/Kaputiei North/15666 at a consideration of KSh110,000. The purchase price was to be paid by the deceased in 24 installments of KSh4,583.35 per month to be deducted from his salary.

The company was to transfer the suit property to the deceased once the payment was complete. The deceased paid the entire purchase price in 12 months by adjusting his monthly check-off to KSh9,167. However, before the property could be transferred to him, the company was placed under statutory management with the Defendant as its Statutory Manager.

The deceased unsuccessfully followed the issue of transfer of the property unto him during his lifetime until he died on November 22, 2005. The Plaintiff petitioned and obtained a grant of letters of administration over his estate and made a demand notice to the Defendant to effect the transfer. The Defendant refused hence necessitating this case.

In its defence, the Defendant averred that the deceased had failed to pay the agreed purchase price as a result of which the agreement stood rescinded and/or expired by effluxion of time. It further argued that the agreement in issue was null and void for want of the Land Control Board consent and that the suit was time-barred. The defendant strongly argued that at the time of filing the suit, UIC was still under statutory management and as such, the Plaintiff could neither commence nor proceed with the case against the company.

Issues

- (i) Whether the suit was time-barred.
- (ii) Whether the suit was incompetent for want of the Land Control Board's consent.
- (iii) Whether the suit was incompetent on account of the moratorium that was declared in respect of UIC and which had been extended from time to time by the Court.

Held

- (i) Since this was a dispute involving land, the applicable limitation period was 12 years as provided for under Section 7 of the Limitation of Actions Act and not six years as provided for under Section 4(1) of the same Act. The suit was not time barred
- (ii) The agreement for sale between the parties herein did not explicitly refer to the Land Control Board consent. The burden of proving that the transaction in issue required such consent lay on the defendant.
- (iii) Upon payment of the purchase price in full, the company held the suit property in trust for the deceased awaiting the transfer thereof. The transfer of the property from the company as 'trustee' to the deceased who was the *cestui que trust* would not require the consent of the Land Control Board.
- (iv) Moratorium declared under Section 67C(10) of the Insurance Act was restricted to matters set out in that section which entailed payment by the insurer of its policyholders and other creditors. Under section 67C(3) of the Act, the High Court had power to extend the term of the Statutory Manager beyond twelve months. Section 67C(10) of the Insurance Act did not empower the Statutory Manager to extend the moratorium to persons who were not policyholders or creditors of the company.

Judgement entered for the Plaintiff.

3. For a Court to Issue Orders Under Article 23(3) of the Constitution, there ought to Exist a Nexus Between the Facts Pleaded, the Evidence Tendered, and the Prayers Sought.

Johnson Mbaabu Mburugu & Another vs Mathew Nabea and 20 others

ELC Petition No. 35 of 2016 (2022) eKLR

Environment and Land Court at Meru, January 19, 2022

Brief Facts

By an amended petition dated July 28, 2020, the Petitioners stated that they were the registered owners of parcel numbers 1079 and 5165 measuring 5 acres and being part of Mbwa 'A' Adjudication section that was formerly Ruiru Rwarera Adjudication section.

They complained that on February 13, 2016, the 20th Respondent arbitrarily, illegally, unreasonably and un-procedurally made an administrative decision declaring part of the former Ruiru Rwarera Adjudication section a new adjudication section known as Mbwa 'A' without involving them.

The effect of that declaration was to shift part of Ruiru Rwarera Adjudication to a new entity thus depriving the Petitioners their parcels of land. The Petitioners were categorical that the impugned decision by the 20th Respondent was secretly and fraudulently done with an intention of defeating justice as related to their said parcels of land.

The 1st to the 5th and the 8th to the 20th Respondents were blamed for having trespassed upon the Petitioner's parcels of land, annexed, excised and forcibly subdivided the same into 21 new portions. Similarly, the Petitioners termed the annexation and forceful subdivision as illegal, unlawful and one which offended the Constitution for want of notice, public participation, transparency, and accountability.

They averred that the 1st Respondent had been previously charged and convicted for forcible detainer at the Meru Chief Magistrate's Court and hence had no basis in law of being allocated the land in the first instance. The Petitioners sought various reliefs from Court, *inter alia*, a declaration that they were the legal owners of the parcels in issue and an order of certiorari to remove into court the decisions of the 20th Respondent and to quash the subdivisions and resultant titles.

In their opposition to the Petition, the Respondents averred that the Court of Appeal had by consent already quashed and nullified the former adjudication numbers with effect from October 10, 2014 hence the Petitioners' alleged parcel numbers 1079 and 5165 were no longer in existence.

They also blamed the Petitioners for failing to refer their grievances to the Overseer Adjudication Committee. The 8th Respondent stated that he had been in occupation of the parcel in dispute since 1977 and had neither trespassed nor committed any fraud or subdivision.

The 20th Respondent was the District Land Adjudication and Settlement Officer, Tigania West Sub-County. He admitted that parcel numbers 1079 and 5165 were formerly in Ruiri Rwarera Adjudication Section but stated that in line with a consent order of the Court of Appeal made on October 10, 2014, a portion of that adjudication portion was hived off and became part of the newly created Mbwa 'A' Adjudication Section.

While further admitting that the said parcels were indeed in the names of the Petitioners, he averred that it was the Demarcation Officer, the Land Adjudication Committee and the Adjudication and Settlement Officer for Tigania West District who had the mandate to deal with any disputes arising from the Mbwa 'A' Adjudication Section.

At the time of creation of Mbwa 'A' Adjudication Section where the two parcels in issue were situated, the Petitioners had appointed one Washington Kibiti to represent their interests and the said agent was one of the Land Adjudication Committee members when the demarcation process was going on. Washington Kibiti had raised objections over the Petitioner's land being recorded in favour of the 1st to the 19th Respondents but his objection had been overruled by the other members of the Adjudication Committee thereby allowing the demarcation officer to proceed with demarcation.

Issues

- (i) Whether the petition had met the constitutional threshold.
- (ii) Whether the acts of the respondents violated, infringed or threatened the petitioners' rights and freedoms.

Holding

- (i) In a petition claiming violation of a right or fundamental freedom, Rule 10 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules of 2013 required a Petitioner to state the facts relied upon, constitutional provisions violated, nature of injury caused or likely to be caused, details regarding any civil or criminal cases involving the petitioner related to the matters in the petition, and the reliefs sought.
- (ii) The petition herein had met the threshold of a constitutional petition as set out in the case of *Anarita Karimi Njeru v AG (1979) eKLR* and in the case of *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others (2014) eKLR*
- (iii) By dint of the provisions of Section 23 of the Land Adjudication Act, the former numbers and adjudication registers for the old Ruiri Rwarera could not be imported and be used in Mbwa 'A' that had been declared as a new adjudication section. The process of Mbwa 'A' Adjudication Section was starting from scratch with issuance of new numbers to all person raising claims.
- (iv) It was mandatory for whoever claimed or had interests to present his stake before the recording officer and to point out his boundaries. The petitioners would not have been prioritised in the issuance of new parcel numbers merely because they were first in time claiming the suit land once the new adjudication section was declared. The onus was theirs to prove that they were available at the onset and that they had been denied the opportunity to present and stake their claims under the new adjudication section.
- (v) The Court could not base its findings in a constitutional petition on factual vacuum and be expected to issue orders under Article 23(3) of the Constitution where there existed no nexus between the facts, evidence, and the prayers sought.

Petition dismissed.

3.2.5 THE EMPLOYMENT AND LABOUR RELATIONS COURT

1. Whether an Employment Relationship is Created Where an Offer of Employment is Repudiated by the Employer after Acceptance by the New Hire

Keith Wright v Kentegra Biotechnology (Epz) Ltd [2021] eKLR

Employment & Labour Relations Court at Nairobi, December 9, 2021

Brief Facts

On June 6, 2019, the Claimant, while based in the United States, received a letter from the Respondent's Chief Executive Officer offering him employment as the Chief Farm Operations Officer with the respondent in Kenya. The commencement date was July 1, 2020 and the claimant was required to indicate acceptance of the offer by signing and dating the agreement. On May 31, 2020, the Claimant accepted the offer by appending his signature on the contract. However, the respondent via a letter dated June 16, 2020 informed the Claimant that they had repudiated the contract.

The Claimant lodged the case seeking a declaration that he had suffered wrongful repudiation of contract at the hands of the Respondent, an order quashing the alleged repudiation of the contract and compensation.

The Claimant alleged in his suit that he had resigned from his job in the US in readiness for the job in Kenya, incurred moving expenses to relocate and even rented a house in Kenya. The CEO had also paid school fees for the Claimant's children though the company claimed that the payment was not sanctioned.

In response to the claim, the Respondent denied that it offered employment to the Claimant and questioned how he sat on the offer for an extended period before accepting or taking it up. The response also argued that if an offer of employment was extended to the Claimant, the offer was not binding upon the Respondent as it did not accord with the Respondent's Board of Directors' policy on employment of senior executives.

The Respondent's procedures and policies provided that any appointment of a candidate to a senior position had to be approved by the Board of Directors. The company alleged that the CEO did not get approval before extending the offer to the Claimant.

The company also alleged that the position he had been offered and the duties listed therein did not exist and that he only got the offer due to collusion with the company's CEO, making the contract void *ab initio*. The CEO was subsequently dismissed. Additionally, the Respondent argued that if the Claimant had taken up the role, the Respondent would have paid him \$140,000 annually which would amount to 46.06 per cent of the total income making it untenable.

Issues

- (i) Whether there existed an employer/employee relationship between the parties.

- (ii) Whether the rescinding of the aforesaid contract procedurally and lawfully effected.
- (iii) Whether the claimant was entitled to the reliefs sought.

Holding

- (i) Section 9 (2) of the Employment Act, 2007 required that an employer who was a party to a written contract of service should be responsible for causing the contract to be drawn up stating particulars of employment and that the contract was consented to by the employee as per Section 9(3). The claimant fulfilled his obligation under Section 9(3) of the Act by signing acceptance, while the respondent fulfilled its obligation by preparing the contract and having it executed by its CEO.
- (ii) Upon acceptance of an offer, a contract automatically became legally binding and could only be withdrawn or varied by consent or per the contract.
- (iii) The actions of an employee for and on behalf of the employer were binding on the employer by operation of the law. Unless there was express agreement, policy, or treaty directing the employee not to commit the employer in a given matter for and on behalf of the employer, the employer assumed liability for all the actions done by the employee. This meant that where there was a commitment by the CEO for and on behalf of the employer Respondent herein, this became a commitment for the business and company.
- (iv) The employer could only escape liability where there was an offending employee, who, while at work, contravened a provision of the law or that he engaged in any conduct that, if assessed by the employer, would constitute a contravention of a provision of the same law. The challenged conduct must immediately be brought to the attention of the employer and who must consult all relevant parties and must take the necessary steps to eliminate the alleged conduct and in compliance with the provisions of the applicable law. Where the employer failed to take the necessary steps to address the wrong visited against the employee, the employer must also be deemed to have contravened that provision.
- (v) It was not sufficient that the Respondent's Board of Directors met and passed a resolution to issue a notice to show cause against the CEO and passed a resolution that the Claimant's contract of employment was illegal and not properly executed. The Claimant was not privy to internal policies, and operational procedures, and his contract of employment was properly executed by an officer of the respondent. Rights accrue from the employment contract.
- (vi) With a legally binding agreement executed between the parties, an employer-employee relationship was created. It naturally followed that the Respondent could not withdraw from the contract, without regard to the terms of that contract, and the governing law, the Employment Act, 2007.
- (vii) It was a legal requirement that before ending an employee-employer relationship, the employer must meet both the substantial and procedural tests. While the reasons advanced by the respondent for repudiating the contract may meet the substantial test, the procedural test was not met. The Respondent did not make any attempts to engage the employee to ensure due process. They simply wrote a letter rescinding the contract without involving the Claimant.
- (viii) The Claimant suffered wrongful repudiation of the contract and was entitled to compensation under section 45 and 49 of the Employment Act, 2007.
- (ix) The protection of employees against any form of discrimination at the workplace was a significant matter and the burden placed upon an employer to disprove the allegations of discrimination was enormous. The employer must prove that discrimination did not occur as alleged and that where there was discrimination, it was not with regard to any of the specified grounds.
- (x) The Respondent not only failed in discharging its duty but also exhibited discrimination against the claimant on account of his employment status, which exposed him directly and indirectly to loss and damage.

Judgment entered for the Claimant in the following terms: A declaration that the Claimant suffered wrongful repudiation of the contract by the respondent; damages for discrimination KSh5,000,000 based on the prevailing CBK exchange rates; six month's salary in compensation awarded at \$112,500; One- month salary notice pay \$18,750; Shipping costs \$18,000; interest and costs of the suit.

2. Claim that an Employee's Contract of Employment was Terminated as a Result of Discrimination Based on Pregnancy

Mokaya v Kithure Kindiki t/a Kithure Kindiki & Associates (Petition 62 of 2019) [2021] KEELRC I (KLR)

Employment & Labour Relations Court at Nairobi

Brief Facts

The petitioner worked for the Respondent initially as a pupil and later as an Advocate upon admission to the Bar. She served on a contractual basis and her last contract was renewed on December 29, 2017, for a period of one year commencing on January 1, 2018, and was to end on December 31, 2018.

The Petitioner claimed that about January 26, 2018, the Petitioner informed the Respondent that she was pregnant and that she intended to proceed with her maternity leave and the leave was approved. The Petitioner further claimed that the approval of the maternity leave was withdrawn with no sufficient reason.

The Petitioner stated that the Respondent informed her to forfeit any payment and benefits due to her while on maternity leave before the leave could subsequently be authorised. On March 1, 2018, the Petitioner received a letter of termination which stated that the reason for the termination was due to a long spell of financial constraints.

The Petitioner averred that there had been no prior notice that the Respondent was facing financial hardships/constraints and that some of its employees would be declared redundant; there had been no notice to the Labour Office on the purported redundancy and there was no criteria used that led to the selection of the Petitioner as the employee to be declared redundant other than the fact of her pregnancy.

The Petitioner thus filed the instant petition seeking among others; a declaration that the Petitioner's termination of service by the Respondent was based on her pregnancy, and therefore discriminatory, unfair, unlawful, and in violation of the Employment Act, 2007, the Contract of Employment, and the Constitution; and in the alternative, a declaration that the Respondent's purported termination of the Petitioner's employment on grounds of redundancy was a breach of the Petitioner's right to fair labour practices and fair administrative action.

Issues

- (i) What remedies were available to an employee whose employment was terminated on account of pregnancy,
- (ii) What were the ways in which litigants could approach courts on the issues of discrimination in the workplace,

(iii) What was the procedure to be followed in the termination of employment on the ground of redundancy,

Holding

- (i) Section 5(3) of the Employment Act, 2007, specifically prohibited any employer from discriminating directly or indirectly, against an employee or prospective employee or harassing an employee on grounds of pregnancy. Article 27 of the Constitution elevated the matter of discrimination on grounds of pregnancy to the Bill of Rights in the Constitution.

That had seen litigants approach the Court on the issues of discrimination at the workplace by way of a statement of claim under the Employment Act, or by a constitutional petition under Article 23 of the Constitution. Whichever way a litigant followed, the primary onus of proof on the alleged facts lay with the claimant or the Petitioner in terms of Sections 107 and 108 of the Evidence Act.

- (ii) The Director of Finance, Administration, and Strategy of the Respondent (Director of Finance) did not lay the basis of his knowledge of matters discussed in meetings held between the Petitioner and the Chairman of the Respondent. The Director of Finance did not depose that he attended any of the meetings held between the Petitioner and the Chairman in which the veiled threat of termination of employment of the Petitioner if she refused to take unpaid maternity leave was made.

The Petitioner had proved on a balance of probabilities that the Respondent terminated her employment on account of her pregnancy and persistence that she was to take a Statutory three months paid maternity leave.

- (iii) The Petitioner had demonstrated that, even if the termination of the Petitioner, which was denied, was due to financial constraints, the Respondent did not follow the procedure for declaration of redundancy under Section 40 of the Employment Act, 2007. The Respondent neither gave a one-month notice of redundancy to the Petitioner and the Labour Officer nor did they pay the Petitioner severance pay for the period served. In addition, they did not pay the Petitioner in lieu of leave days not taken and in lieu of one month notice period.

- (iv) The Petitioner having served the respondent up to the time she was due for maternity leave was entitled to be paid maternity leave for a period of three months. That amount was payable despite the unlawful termination of the employment of the Petitioner on account of pregnancy. The evidence by the Respondent that the termination of the employment of the Petitioner was due to financial constraints was untenable.

- (v) The Respondent violated Section 5(3)(a) of the Employment Act, 2007 read with Article 27(4) of the Constitution for terminating the employment of the Petitioner on account of her pregnancy. The conduct by the Respondent was discriminatory, unfair, and unlawful.

- (vi) The Petitioner, in addition to the payment of compensation and terminal benefits set out in the petition, was also entitled to an award of exemplary damages for the violation of her Statutory and Constitutional right not to be discriminated against and/or treated differently from other persons on account of her pregnancy.

- (vii) The Petitioner lost nine months of employment and means of livelihood on account of pregnancy at her hour of need, when she needed those finances most, for prenatal and postnatal care. The Petitioner was entitled to compensation for the job loss in terms of sections 49(1)(c) and (4) of the Employment Act, 2007.

- (viii) The concerted defence by the Respondent, which was devoid of any merit, was an aggravating factor in the suit. The Petitioner did not contribute to the termination. The Petitioner had served faithfully for a period of two years. The Petitioner suffered psychological torture and framed accusations during the trial. The conduct by the Respondent was egregious. The Petitioner was not paid terminal benefits nor was she compensated for the job loss. The Petitioner lost prospects of career progression in a good law firm on unjust grounds. The Petitioner earned KSh92,149 per month in the renewed contract. The nine months lost in the renewed contract included the three-month maternity leave period.

Petition allowed. Judgement entered in favour of the Petitioner against the Respondent as follows:

- (i) *The equivalent of six months of compensation for unlawful and unfair termination of employment in the sum of KSh552,894.*
- (ii) *KSh129,008.60, in lieu of taken leave days not taken.*
- (iii) *One month salary in lieu of notice - KSh92,149.*
- (iv) *Exemplary damages for violation of the Petitioner's rights in the sum of KSh1,500,000. Total award – KSh2,274,051.60.*
- (v) *A certificate of service was to be provided within 30 days of judgement.*
- (vi) *Interest at Court rates from the date of judgement till payment in full.*
- (vii) *Costs of the suit.*

3.3 NOTABLE CASES FROM SUBORDINATE COURTS

3.3.1 MAGISTRATE'S COURTS

When Failure by the Prosecution to Carry out a DNA test in a Case of Defilement Could Prove Fatal

Republic v Nurkey Abdi Warsame Ali

MSCO no. E012 OF 2021

Senior Principal Magistrate's Court at Mandera, February 11, 2022

The Accused was charged with the offence of defilement contrary to Section 8(1) as read with Section 8(4) of the Sexual Offences Act, No.3 of 2006. It was alleged that on January 15, 2021, at Bulla Neboi area within Mandera East Sub-County in Mandera County, the accused intentionally and unlawfully had carnal knowledge of SAI, a girl aged 14 years.

In the alternative, the accused faced the charge of committing an indecent act with a child contrary to Section 11(1) of the Sexual Offences Act. The Accused pleaded not guilty and the case had to proceed to a full hearing.

The Complainant was the only witness to what she alleged the accused did to her. She did not report to anyone immediately that the alleged act was done to her until two months later when she was found pregnant. She told the court how on January 15, 2021 at 8:00 pm she was in her mother's shop where she sold a soda to the accused.

That at 8:30 pm she left the shop and was going home when the accused asked to escort her home as it was dark. While on the way home at a corner near their home, the accused pulled out a knife and told her that he would kill her if she disclosed what he was about to do to her. He ended up having sex with her, and thereafter, she left but did not go home. Instead, she went to her aunt Fauzia Abdullahi due to fear. At her aunt's, she took a shower and did not tell anyone what had happened.

Two months later, she noticed that she had missed her monthly periods. She was taken to the hospital, examined, and found to be two months pregnant. She insisted that it was the accused who impregnated her. Fauzia Abdullahi was not called as a witness to confirm if what the complainant stated was true.

The court doubted whether the complainant could have slept elsewhere with someone else on the night of the incident. Her mother said nothing as to where the complainant slept that night. In his defence, the accused raised the issue that he knew that the minor Complainant had a boyfriend who had fled to Somalia on noticing that she was pregnant. No DNA test was not done. Though samples had been taken, nothing more was availed in court despite several adjournments to get the report.

Issues

- (i) How to prove the age of a Complainant
- (ii) Whether in the circumstances of this case, the failure to carry out a DNA test was fatal to the prosecution's case.

Holding

- (i) On the issue of proof of age of a Complainant, the Court cited with approval the holding in *Kitale HC Criminal Appeal No. 69 of 2014 (unreported)* which cited the authority in *Mwalongo Chichoro Mwanyembe v Republic (Mombasa Criminal Appeal No. 24 of 2015 (Unreported))* where the Court had held that the age of a Complainant could be proved either by documentary evidence such as a birth certificate or a baptismal card; or by the oral evidence of the child if the child was sufficiently intelligent; or by the evidence of the parents or guardian; or through medical evidence among other credible forms of proof. The court found that the prosecution had adequately proved the age of the complainant through production of her birth certificate by her mother.
- (ii) While the issue of pregnancy was not in doubt, the long lapse of time between when the incident was alleged to have occurred and the reporting made the Court not to agree with the causal link of the accused to the offence by the Complainant having regard to the defence that had been raised.
- (iii) It was observed that the issue of DNA as raised by the accused was particularly crucial and ought to have been dealt with conclusively in the circumstances of the case. The Court appreciated the import of Section 124 of the Evidence Act but emphasised that this was one peculiar case where a DNA test would have been very crucial and would have linked the accused to the offence beyond any reasonable doubt. In absence of a DNA report, that link was not proved to the required standard.

Charges dismissed under Section 215 of the Criminal Procedure Code.

3.3.2 KADHIS COURTS

Under Islamic Law, the Maintenance of a Wife by the Husband is Due From the Time of Marriage, and if Unpaid Without her Cause, it Remained Outstanding as a Debt.

Fatuma Abdulkadir Sayyid v Khalid Omar Salim

Divorce Cause No. E 073 of 2021

Upper Hill Kadhis Court at Nairobi, October 8, 2021

Brief Facts

The Petitioner filed the case against the husband seeking the dissolution of the marriage and for arrears of maintenance for the last 10 years. The parties got married on December 22, 2006, but according to the Petitioner, the Respondent deserted her for 10 years, neglected her, and never provided for her needs as a wife. Upon desertion, the Respondent never provided food, never paid house rent or hospital bills, and never bought clothes.

The Respondent denied the allegations of desertion and neglect. He said that he was laid off from employment in 2011 but was before then adequately taking care of the Petitioner's needs as they lived in Lavington, Nairobi. The parties were forced to shift to a house in Kileleshwa which belonged to the Respondent's family, but the Petitioner could not get on well with the Respondent's mother. She thus moved out to live with her sister.

At some point in 2013, the Respondent went to South Sudan in search of a job but was forced to come back in 2016 to nurse his ailing late father, who was in the Intensive Care Unit. The Respondent's father's medical bills depleted his earnings. The Respondent submitted that he used to send money to the Petitioner while in South Sudan but that the prevailing problem had forced them to dissolve their marriage. Even though the Respondent filed a cross-petition, he admitted that their marriage had irretrievably broken down and asked that the same be dissolved.

Issues

- (i) Whether the Petitioner was to blame for the marital problems that faced the parties.
- (ii) Whether the Respondent deserted the Petitioner and neglected his marital duties.
- (iii) Whether the Respondent bore the duty to take care of the Petitioner.
- (iv) What was the extent of the Respondent's duty to take care of the Respondent, if any.
- (v) Whether failure by the Respondent to maintain the Petitioner became a debt that was recoverable upon dissolution of the marriage.

Holding

- (i) The Petitioner was not to blame in any way for the marital problems that faced the parties herein.
- (ii) The Respondent deserted the Petitioner and neglected her.
- (iii) Under Islamic law, the Respondent as the husband had a duty to take care of and maintain the Petitioner. He could even borrow money to feed his wife.
- (iv) A majority of Muslim jurists held the view that the maintenance of a wife was due from the time of marriage, and if unpaid without her cause, it remained a debt upon the husband.

The marriage was dissolved by the consent of the parties. Respondent was ordered to repay KSh241, 800 that he had borrowed from the Respondent within three months, and further, within 48 months pay KSh2,400,000 being unpaid monthly maintenance for the last 120 months.

3.3.3 LOCAL TRIBUNALS

1. Power of a Tribunal to Punish for Contempt of Court

Sports Disputes Tribunal Case No. E002 of 2021

Linus Gerald Marangu v Major Rtd Suleiman Sumba & 2 Others

Sports Disputes Tribunal at Nairobi, December 1, 2021

Brief Facts

The Applicant was serving as the National Coach of the Kenya Taekwondo Team in the run-up to the 2020 Tokyo Olympics before he was removed from his position by the Kenya Taekwondo Federation. He lodged a case at the Sports Disputes Tribunal to challenge his removal, and the Tribunal issued a ruling on July 9, 2021 in his favour.

The Tribunal ordered that he be reinstated as the team's coach and facilitated to discharge his duties by kitting, travel arrangements, visa and accreditation.

Although the Applicant was reinstated, a different coach was sent with the team to Tokyo for the Olympics. This prompted the Applicant to lodge a new application urging the Tribunal to find that the Respondents (Kenya Taekwondo Federation and two of its officials and the National Olympic Committee) had committed contempt of court.

The Respondents argued that they had reinstated the applicant and complied with the Tribunal's orders the best they could, except that they could not facilitate his travel since he did not submit a World Taekwondo Level II International Coaching Certificate which was mandatory for a Coach to participate in the Olympics.

It emerged, however, that the Coach who had replaced the Applicant did not himself have the certification before he left for the Olympics, and only obtained it upon arriving in Tokyo for the competition.

Issues

- (i) Whether the Tribunal had jurisdiction to punish for contempt of court.
- (ii) Whether the Respondents were in contempt of the orders issued by the Tribunal on July 9, 2021.

Holding

- (i) Whereas the Sports Act, 2013 did not provide expressly for the Tribunal's powers to punish for contempt, it could be seen from Section 64 of the Sports Act that the Legislature intended that there should be sanction for those who contravened provisions of the Act. Section 64 provided that a person who contravened any of the provisions of the Act committed an offence and should be liable, upon conviction, to a fine not exceeding Sh500,000, or imprisonment for a term not exceeding three years, or both.
- (ii) Considered in their totality, the provisions establishing the Tribunal clothed it with the powers to determine disputes arising under the Act, and it would follow that any party that contravened the orders issued by the Tribunal while discharging its mandate under the Act committed an offence under the Act and was subsequently liable to penal consequence as per Section 64 of the Act.
- (iii) As stated by the High Court in *Kenya Human Rights Commission v Attorney General & another [2018] eKLR*, the power to punish for contempt was inherent to a Court or Tribunal and need not be granted by Statute. As such, the Sports Disputes Tribunal, like any court of law, did have the inherent power to punish for contempt despite it not being expressly provided for.
- (iv) As set out in *Samuel M. N. Mweru & Others v National Land Commission & 2 others [2020] eKLR*, the four elements that must be proved to make out a case for civil contempt were: the terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant; the defendant had knowledge of or proper notice of the terms of the order; the Defendant had acted in breach of the terms of the order, and the Defendant's conduct was deliberate.
- (v) The 1st to 3rd Respondents had acted in bad faith in disobeying the Tribunal's orders and were therefore guilty of contempt. Although the 4th Respondent disobeyed the Tribunal's orders, it did not act in bad faith and was therefore not guilty of contempt.

The 1st and 2nd respondents, who were officials of the Kenya Taekwondo Federation, were held in contempt and each was ordered to personally pay a fine of KSh200,000 or be committed to three months civil jail in default. The 4th Respondent (National Olympic Committee) was censured for disobeying the Tribunal's orders but acquitted of the charge of contempt.

2. Jurisdiction of a Tribunal to Entertain an Application Founded on the Access to Information Act

Legal Education Appeals Tribunal Appeal No. E025 of 2022

Martha Masara Mecheo & 3 Others v Council of Legal Education

Legal Education Appeals Tribunal at Nairobi, June 24, 2022

Brief Facts

Provisional results released by the Respondent showed that the Appellants had passed all units in the November 2021 Bar exam. However, the respondent later informed the Appellants that they had failed some units and that the provisional transcripts had been issued in error attributed to the Council's ERP software.

The respondent invited the Appellants to apply for a remark of their scripts or to resit the failed papers with a corresponding offer to waive the remark or resit fees. The appellants declined this offer and approached the Tribunal for an order compelling the respondent to publish their names in the Kenya Gazette as qualified candidates for bar admission. During this appeal, they made an oral application citing the Access to Information Act for orders compelling the Respondent to release their exam booklets.

Issues

- (i) Whether the Legal Education Appeals Tribunal had jurisdiction to entertain an application for the release of exam booklets which was based on Article 35 of the Constitution and the Access to Information Act.
- (ii) Whether the Legal Education Appeals Tribunal should grant an order compelling the Council of Legal Education to release exam booklets.

Holding

- (i) The Legal Education Appeals Tribunal had no jurisdiction to entertain an application based on the Access to Information Act. The Act had elaborate procedures for accessing information. Section 14 of the Act provided that a person aggrieved by a decision to deny him the information was to approach the Commission on Administrative Justice to review that decision.
- (ii) Nevertheless, in exercising its jurisdiction under the Act, the Tribunal was bestowed with the same powers as the High Court to call for books and other documents.
- (iii) Whereas this power existed:
 - (a) The Applicants did not point the Tribunal to any law imposing an obligation on the Council of Legal Education to release exam booklets;
 - (b) The Tribunal noted that jurisprudence from the Superior Courts in similar cases tilted towards the inclination to deny applications for the release of exam booklets. The Tribunal adopted the same stance and declined the request to order the release of the Appellant's exam scripts.

Application dismissed.

3. Jurisdiction of the Rent Restriction Tribunal in a Claim for Rent Arrears for Property Forming Part of the Estate of a Deceased Person Where Succession Proceedings had not been Undertaken and the Alleged Landlord and Tenant were Potential Beneficiaries of the Property

Rent Restriction Tribunal Case No. 78 of 2022

Martha Masara Mecheo & 3 Others v Council of Legal Education

Rent Restriction Tribunal at Mombasa, September 29, 2021

Brief Facts

The Plaintiff approached the Tribunal seeking rent arrears dating to 2014 in respect of a house occupied by the Defendant. The Defendant denied that any tenancy agreement existed with the Plaintiff, claiming instead that the house was occupied by his mother and that it belonged to his grandparents who left it to his mother, a sister to the Plaintiff.

Evidence presented before the Tribunal showed that the parties to the dispute were part of the family of the original owners of the house who had passed away and left their children in occupation. However, the family had not initiated succession proceedings to divide the property of the deceased.

Issue

Whether the Tribunal could entertain a claim for rent arrears for property forming part of the estate of a deceased person where succession proceedings had not been undertaken and the alleged landlord and tenant were potential beneficiaries of the property

Holding

The Tribunal noted that the suit premises was family property subject to succession proceedings which were yet to be initiated by the beneficiaries. The Court declined to determine the rent dispute and advised the parties to initiate succession proceedings or resolve the matter amicably as per the Pokomo traditions.

Claim dismissed.

3.4 LAWS THAT WERE DECLARED UNCONSTITUTIONAL

Table 3.1: Laws Declared Unconstitutional In FY 2021/2022

S/N	Case Citation & Date of Decision	Affected Legislation	Reason for Unconstitutionality
1	Petition no. 94 of 2016 (2021) Section 42(1) of the Employment Act Offended Articles 41 and 47 of the Constitution as it excluded an eKLR (Monica Kibuchi & 6 others - persons under probationary employee holding a probationary contract from provisions of vs Mount Kenya University, AG contracts were not privy to Section 41 of Employment Act which provided for notification and (Interested Party))	provisions of section 41 of the hearing before termination on grounds of misconduct thus Employment Act	unjustifiably limiting and qualifying a labour right.
	July 30, 2021		It made no sense to accord an apprentice and indentured learner who were included in the definition of an employee under section 2 of the Act the procedural benefits of Section 41 but deny the same to an employee simply because he held a probationary contract.
2	Constitutional Petition no. E327 of Section 5 of the Public Order Act - Placed unjustified limitations to the enjoyment of several 2020 (2021) eKLR (LSK vs AG & provisions regulating public meetings fundamental rights and freedoms guaranteed under the Constitution. Another)	and processions	(Articles 10(2)(a), 27, 245(2)(b), 245(4))
	August 18, 2021		
3	Constitutional Petition E229, Section 22(1)(b)(ii) of the Elections Offended Articles 10(2)(a), 24, 27, 38(3), 56 of the Constitution as E225, E226, E249 & E14 of 2021 Act - requirement for one to have a it subjected all the candidates for the positions of MCA to a (Consolidated) (2021) eKLR degree from a university recognised minimum of university degrees which prejudiced the rights and (County Assembly Forum & 6 in Kenya as one of the qualifications fundamental freedoms of those who were not able to directly others vs AG & 2 others; Senate for nomination as candidate for acquire/afford university degrees (Interested Party))	election as member of county assembly	
	October 15, 2021		
4	Petition no. 201 of 2020 (2021) Paragraph 10 of Part II of the First Offended Articles 1, 27, 35, 201(b)(i) of the Constitution as it eKLR (Association of Kenya Schedule to the VAT Act (as subjected petitioners to additional tax burdens and discriminated Insurers vs KRA & 2 others; IRA amended by the Tax Laws against them. (Amendment) Act, 2020) - Imposed		

- & Another (Interested Parties)) VAT upon insurance agency and brokerage services on petitioner's members whose services were VAT Created uncertainty, ambiguity and absurdity contrary to the principle of Rule of law as set out in Article 10
December 16, 2021
- 5 Petition no. 226 of 2020(2022) Sections 162(4) and (5), 166(2), (3), Detained persons of unsound mind at the President's pleasure eKLR (Isaac Ndegwa Kimaru & (4), (5), (6), and (7) and 167(1)(a), thereby infringing on the doctrine of separation of powers and 17 others vs AG & Another; (b), (2), (3), and (4) of the Penal independence of the Judiciary. This offended Articles 25(a), 27(1), KNHR & EC (Interested party)) Code that provides for the detention (2), (4), 28, 29(d) and (f), 50, 51(1) and (2), 159(2)(a), (b), and (d), of persons of unsound mind at the 160(1) of the Constitution.
February 1, 2022 President's pleasure
- 6 Petition 25 of 2019 (2022) KESC 7 Sections 91A(2)(b) and (c), 91C of Amendment gave excessive powers to the Board beyond what the (KLR) (Senate & 2 others vs the County Governments Constitution permitted, thereby subordinating county organs. This Council of Governors & 8 others) (Amendments) Act that established contravened Article 179(4), (5), and (6) of the Constitution.
February 17, 2022 for each county a county development board, provided for the Was antithetical to articles 179(4), (5) and (6) of the Constitution to operational expenses for those the extent that it altered the hierarchical structure of the county boards, and created an offence for government. unlawful obstruction, or undermining of the board from discharging its functions
- 7 Petition E043, 057 and E109 of Section 34(fd) of the Political Parties Vested the power to regulate political party nominations upon the 2022 (2022) KEHC 482 (KLR) (Amendment) Act that vested power Registrar of Political Parties thus usurping the power of IEBC to (Thuranira & 4 others vs AG & 2 to regulate political party regulate the said nominations under Article 884(d) and (k). others; Registrar of Political nominations upon the Registrar of Parties & 3 others (Interested Political Parties.
Parties)
April 20, 2022

CHAPTER FOUR— ACCOUNTABILITY IN THE JUDICIARY

4.1 Introduction

The Constitution has placed safeguards for all State organs to ensure accountability to the citizens to whom ultimate authority belongs. Article 10(2)(c) demands good governance, integrity, transparency and accountability from all State Organs, State Officers and Public Officers.

The Judiciary is accountable through its decisions which must be impartial, judicious, clear and well-reasoned. Its processes should also be open, simple and efficient. This chapter will report on each of the four areas of accountability in the Judiciary namely;

- (i) Public feedback mechanisms.
- (ii) Performance management.
- (iii) Employee values and conduct.
- (iv) Resource accountability.

4.2 Public Feedback Mechanisms

4.2.1 Compliance and Feedback mechanisms

The Judiciary has established the Office of Judiciary Ombudsman (OJO) under the Office of the Chief Justice to provide a channel for feedback. OJO receives and processes complaints and compliments from the public against the Judiciary and its employees; receives and resolves internal complaints; appraises the Judiciary leadership on significant complaint trends; ensures compliance with various service charters in court stations, tribunals, directorates and units; and monitors integrity and corruption issues.

The office also monitors and evaluates the integrity of staff and court processes and proposes improvements that can be made to ensure that there are effective judicial services and ease of access to justice.

There are various modes of raising complaints and concerns to OJO. These are:

- (i) Walk-in clients
- (ii) Emails
- (iii) Telephone calls
- (iv) Mail - through post or hand delivery
- (v) Referral from other administrative offices and partners such as Kituo Cha Sheria, the Commission on Administrative Justice among others.

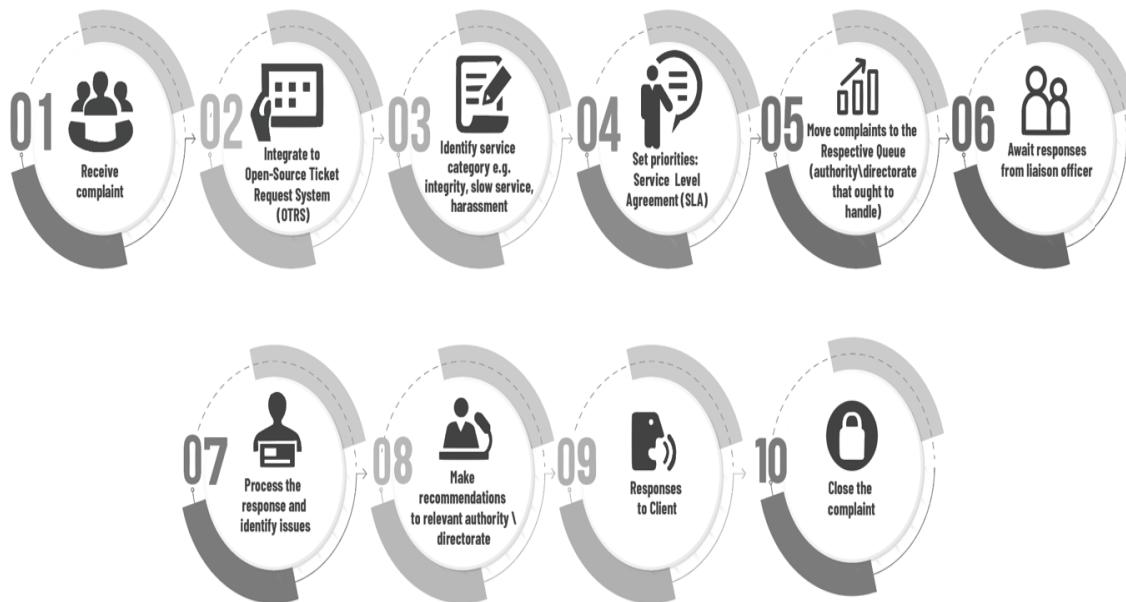


Figure 4.1: Life Cycle of a Complaint

4.2.2 Complaints Received

A total of 1,493 complaints were registered in the system. There were 471 matters pending at the start of the financial year. Seventy-five per cent (1,129) of the complaints received were handled and concluded. Of these, 100 were managed administratively and were being monitored until the final resolution of the issues raised. At the end of the reporting period, 835 cases were at various stages within the complaint's resolution process.

The frequently received complaints include slow/poor service, missing files, delays in cash bail refunds, employee integrity, inordinate delays of rulings/judgments, tampered proceedings/pleadings and loss of exhibits, amongst others.

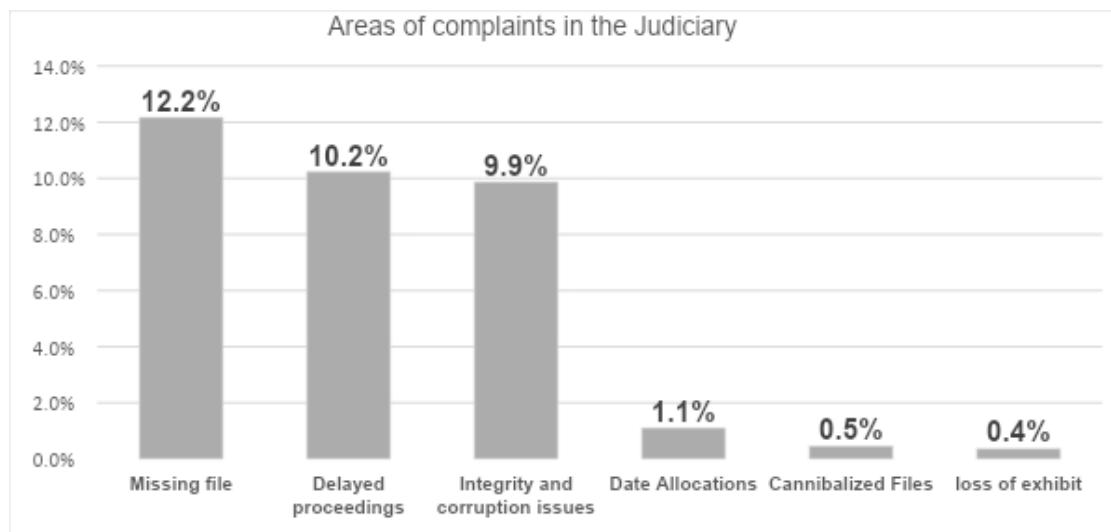


Figure 4.2: Comparative Trends on Prevalent Complaint Areas for FY 2021/22

1. 4.2.2.1 Service Delivery

There were 713 complaints lodged and recorded with regards to inadequate service delivery. The key issues raised in these complaints were slow service and poor service. To mitigate these concerns, the Judiciary continues to hold training and sensitisation sessions for staff and members of the public on the use of technology to access court services. In addition, various public fora have been held to highlight how to access judicial services.

2. 4.2.2.2 Complaints about Files

Court files are pillars of the judicial process. Files are kept in registries and moved to court when required during sessions. There were 132 complaints about missing files during the reporting period. This was a reduction from the previous financial year, which had 203 complaints about missing files.

The Registry Manual provides for modalities of file movement in the registries to prevent the issue of missing files. The Judiciary leadership and management continue to make efforts to eradicate this challenge to ensure the integrity and smooth operations of the court process.

3. 4.2.2.3 Integrity and Corruption-related Issues

Eighty-seven complaints relating to integrity and corruption issues were lodged during the reporting period. These cases related to refund of cash bails and deposits and the integrity of Judicial Officers and Staff.

To address these concerns, the Judiciary has identified, trained and designated integrity assurance officers for all court stations. These officers received training on corruption prevention procedures and have been tasked with setting up Integrity Assurance Committees (IAC) and educating other staff on the consequences of maladministration and corrupt practices and how this can be prevented and reported.

4. 4.2.2.4 Delayed Proceedings, Ruling and Judgments

During the reporting period, 88 complaints were lodged on delayed proceedings, 31 on delayed judgments/rulings and eight cases on delayed orders. The Judiciary continued to implement performance management measures to ensure that timelines in the delivery of justice are monitored and adhered to.

5. 4.2.2.5 Dates Allocation

Fifty-three complaints were received on the allocation of dates for case hearings across the Judiciary. To reduce complaints in allocation of dates, the Judiciary is stepping up the roll out of the Case Management System, which automates the process of date allocation and ensures that it is done on a first come-first allocation basis.

4.3 Outreach and Partnerships

Outreach exercises were conducted to demystify the Judiciary in the eyes of “*Mwananchi*” and educate members of the public on various court procedures. Not only do these outreaches help and minimise complaints lodged by clients who do not understand the procedures of the court, but also provide an avenue for those with genuine concerns to raise them and a mechanism for the redress of those complaints.

The Judiciary undertook nine outreach activities, including a sensitisation exercise in Garissa Remand Prison. This sensitisation exercise allowed the remandees to learn about the court process, the mandate of OJO and modalities for raising complaints.

4.4 Monitoring and Compliance with Practice Directions

Twenty four compliance checks were conducted in court stations to monitor adherence to their respective service charters and compliance with practice directions, memos and circulars. The rationale for these compliance checks was guided by the need for fact-finding visits based on the complaints that had been lodged. Court station liaison officers were re-trained on the complaint handling mechanisms to ensure timely and accurate reporting.

4.4.1 Measures Adopted after Compliance Checks

After a review of the complaint trends, the Judiciary came up with the following stop-gap measures to mitigate these complaints;

(i) Decongestion of Meru and Tigania Law Court Registries

These two court registries have inadequate filing space for the cases they handle and an audit was carried out on these files and all the closed case files were moved to Nkubu Law Courts for archiving. This exercise is proposed to be replicated in other court stations to address misfiling incidences, resulting in files being reported as missing.

(ii) Integrity Assurance Officers

The Judiciary has identified staff across all court stations and trained them to champion the anti-corruption initiatives in their respective court stations and units.

(iii) Backlog Reduction in Milimani and Mombasa Law Courts

The Judiciary has developed a strategy to allocate matters in the two courts to Judicial Officers from court stations with a lesser case load to assist in expediting the cases. Judicial Officers from other court stations are therefore assigned cases from Milimani and Mombasa Law Courts and they hear and determine these matters virtually thereby increasing productivity and case clearance. This exercise will be replicated in other court stations to address the issue of backlog.

4.4.2 Satisfaction Surveys

The Judiciary encourages feedback from its internal and external stakeholders to gauge their satisfaction and perception of its services. Through Court User Surveys, Employee Surveys and Work Environment Surveys, the Judiciary identifies areas to improve towards better service delivery, improved terms of engagement and a conducive work environment. The Judiciary undertook these surveys in 2020 and developed an implementation plan for the recommendations emerging from the surveys. Various initiatives were launched, including committing all units in their respective PMMUs to implement relevant recommendations.

4.5 Performance Measurement

4.5.1 Performance Management and Measurement Understandings

The Judiciary adopted performance measurement as a management strategy to ensure its services are continuously improved and staff have clarity on their deliverables. This accountability mechanism enhances access to justice by streamlining administrative processes. The Administration of Justice and Performance Management Committee (AJPMC) spearheaded this process.

One of the tools adopted to entrench performance measurement at the unit level is the annual target setting and evaluation under Performance Management and Measurement Understandings (PMMUs).

The Judiciary is implementing the sixth cycle of PMMU whose targets are cascaded to individual employees through Performance Appraisal Systems (PAS). Organisational and individual performance is assessed and carried out annually by setting targets at the commencement of the financial year and a performance appraisal review against set targets which is done at the end of each financial year.

Two hundred and eighty two implementing units were evaluated on their performance for FY 2020/21. The Judiciary achieved an overall average performance of 89.83 per cent, and this marked a slight improvement from the performance of 89.81 per cent that was achieved in the FY 2019/20.

Table 4.1 details on the performance score by court level, registrars and directorates.

Table 4.1: Overall Judiciary Scorecard

Courts/Units	2017/18	2018/19	2019/20	2020/2021	Performance Grade
	Performance score (%)	Performance score (%)	Performance score (%)	Performance score (%)	
Supreme Court	98.00	64.00	88.42	100.00	Very Good
COA	92.00	77.00	79.37	94.57	Good
High Court	80.00	90.00	78.20	78.57	Good
ELRC	82.00	95.00	94.08	83.43	Good
ELC	90.00	93.00	84.54	87.55	Good
Magistrates' Courts	94.00	92.00	90.69	90.08	Good
Kadhis' Courts	100.00	93.00	97.52	97.89	Good
Tribunals	-	92.00	90.56	98.38	Good
All Courts	92.48	91.95	89.53	88.91	Good
All Administrative Units	100.00	97.71	97.73	92.97	Good
Overall - Judiciary	93.15	92.35	89.81	89.83	Good

4.5.2 Performance by Implementing Units

Overall, 74 implementing units achieved "Very Good", 158 attained "Good", 46 achieved "Fair" whereas four scored "Poor" performance grade. A total of 65 courts and tribunals attained "Very Good" performance grade while three out of seven registrars achieved "Very Good". Five directorates achieved a performance grade of "Very Good". The performance is as presented in Table 4.2.

Table 4.2: Performance Score by Implementing Units

Courts/Units	Very Good	Good	Fair	Poor
Supreme Court	1	-	-	-
Court of Appeal	1	0	1	0
High Court	4	20	17	2
Employment & Labour relations Court	1	3	1	0
Environment and land court	3	19	4	0
Magistrates' Courts	28	80	16	2
Kadhis' Courts	21	22	2	0
Tribunals	6	6	1	0
Registrars	3	3	1	0
Directorates	5	2	3	0
Other Implementing Units	1	3	0	0
All Implementing Units	74	158	46	4

In FY 2021/22, 281 implementing units comprising courts, tribunals and administrative units committed to annual targets in their signed PMMUs. These targets are scheduled to be evaluated in FY 2022/23.

4.5.3 Performance Appraisal System

The primary objective of Performance Appraisal System (PAS) evaluation is to establish the performance of individual staff with a view to improving overall performance of the Judiciary. The Judiciary has implemented the PAS for the last six cycles to enhance individual accountability and entrench performance measurement.

PAS seeks to cascade the PMMUs and measure the individual's contribution towards the attainment of the Judiciary's goals. The evaluation outcome informs various human resources processes, including career advancement and development. STAJ envisages a 100 per cent compliance in target setting, evaluation and filing returns. The appraisal process involves the setting of targets at the beginning of the appraisal period, conducting mid-year review and end-year assessment.

During the FY 2020-2021, overall staff performance improved marginally by 1.3 per cent to a mean score of 95.2 per cent compared to 93.9 per cent in previous year. The implementing units comprised 153 Court Stations and 29 Administrative Units/ Offices. 3,805 staff out of 4,430 representing 85.9 per cent were appraised and the majority of staff representing 77.2 per cent was rated in the 'Good' category as shown in Table 4.3.

Table 4.3: Summary of PAS rating in FY 2020/2021

No	Performance Grade	No of Staff	Per cent (%)
1.	Outstanding	20	0.5
2.	Excellent	228	6.0
3.	Very good	565	14.8
4.	Good	2937	77.2
5.	Fair	52	1.4
6.	Poor	3	0.1
	Total/Percentage	3,805	100%

4.6 Employee Values and Conduct

The Judicial Service Commission is responsible for exercising disciplinary control over Judges, Judicial Officers, and Judicial Staff to maintain the Judiciary's integrity, independence and accountability. The JSC is guided by the Constitution, the Judicial Service Act, and other relevant enabling acts in performing this function.

4.6.1 Complaints against Judges

One of the primary responsibilities of the JSC, as outlined in Article 168 of the Constitution, is to accept and investigate complaints that have been filed against Judges. If the Commission is convinced that the petitions reveal a reason for removal, it forwards the petition to His Excellency the President with the request that a tribunal be established to determine the matter as provided in the Constitution. During the fiscal year 2021/2022, the JSC received and investigated two petitions lodged against Judges. Both cases brought against the Judges were processed within six months of their filing.

4.6.2 Disciplinary Matters for Judicial Staff

The Judicial Service Commission receives and considers disciplinary matters for Judicial Staff. It has delegated disciplinary powers and removal of Judicial Officers and Judicial Staff to the Chief Justice. As at June 30, 2021, 49 disciplinary cases were brought forward from the previous year; 43 new cases were registered; 31 appeals were lodged; and 89 cases were concluded as at the close of the financial year as indicated in Table 4.4.

Table 4.4: Disciplinary Matters for Judicial Staff Handled in FY 2021/2022

Particulars	Number
Discipline cases pending as of June 30, 2021	49
New discipline cases received as at June 30, 2022	43
Appeals/Reviews received	31
Total Discipline cases	123
Total discipline concluded in FY/2021/2022	89
Discipline cases pending as at June 30, 2022	34

4.6.3 Outcome of Disciplinary Cases

Of the 89 cases concluded, 36 were dismissed while 24 appeals were disallowed as indicated in Table 4.5.

Table 4.5: Outcomes of Disciplinary Cases, FY 2021/22

No.	Disciplinary Outcome	Number
1.	Dismissals	36
2.	Severe Reprimand	13
3.	Reprimands	5
4.	Warnings	2
5.	Reinstated	2
6.	Appeal disallowed	24
7.	Reviews disallowed	7
	Total	89

4.7 Financial Accountability & Compliance

The Chief Registrar of the Judiciary is designated as the Chief Administrator and Accounting Officer of the Judiciary under Article 161(2)(c) of the Constitution. This position is buttressed by Section 2(1)(c) of the Public Finance Management Act, 2012 (PFM Act) which also designates the Chief Registrar of the Judiciary as the Accounting Officer. Section 81(2)(f) of the PFM Act requires that, at the end of each financial year, the Accounting Officer shall prepare financial statements of the National Government entity the standards and formats prescribed by the Public Sector Accounting Standards Board (PSASB) that includes a statement of the National Government entity's performance against predetermined objectives.

4.7.1 Internal Audit and Risk Management

The Judiciary practices financial probity to ensure improved compliance with legal, regulatory and internal administrative policies. Financial performance is tracked and reported in management meetings and is also reported quarterly and annually to the Auditor General, the National Treasury and Office of the Controller of Budget in compliance with Section 82 and 83 of the PFM Act.

Compliance is enhanced by having a robust Internal Audit Directorate that carries out continuous internal audits on various aspects of Judiciary operations. The audits also ensure resources are utilised as planned and the Judiciary gets value for money. It also enables the institution to consider, in advance, the potential risks and take mitigating actions and reports to the JSC Audit Committee.

The Judiciary through the Internal Audit and Risk Management Directorate undertook the following:

- (i) Performed the exit audit of the Judicial Performance Improvement Project (JPIP), a World Bank Project.
- (ii) Audited 23 court stations, namely: Supreme Court, Court of Appeal, Nairobi Employment and Labour Relations Court, Milimani Commercial, JKIA, Kisumu, Wang'uru, Hamisi, Meru, Isiolo, Gatundu, Narok, Ruiru, Nyando, Kikuyu, Kapsabet, Eldoret, Mavoko, Kericho, Ngong, Mandera, Kahawa and Kapenguria.

The audits from the above stations revealed the following:

- (a) Improvement on the uptake and compliance with the various registry manuals comprising the Magistrates' and Kadhis Registry Manual, High Court Registry Manual, Employment and Labour Relations Court Registry Manual, and Environment and Land Court Registry Manual.
- (b) Improved systems and services offered to the Judiciary clients both in the registries and court rooms. This was in the areas of maintenance of case registers, minute sheets, case files, movement registers, periodic census of case files, organised pagination of proceedings and numbering of pleadings in case files, generation and distribution of committal warrants and confirmation of receipt of persons committed to jail being acknowledged and filed in the respective cases files.
- (c) Automation of many court processes has improved ease of issuance of court orders, assessment of court fees and the generation of e-receipts. This includes standard forms for filing of court processes (including pleadings in the Small Claims Courts), and notification to parties through both the email service and SMS service.
- (d) The revamping of the JFMS has facilitated closer oversight of expenditure, revenue and deposit management in the Judiciary. Real-time monitoring of court operations from the Judiciary headquarters is now possible, and this has minimised leakages and losses.
- (iii) A countrywide audit of all assets in the courts, including land, was undertaken. To ensure compliance with the Asset Management best practices, tagging of all assets and incorporation into the station and the Judiciary Master Asset Register was initiated.
- (iv) Audit of Pending Bills of the Judiciary to ensure value for money and only eligible bills were forwarded for processing payment.
- (v) Audit of the Co-operative Tribunal, Sports Disputes Tribunal, Public Private Partnership Petitions Committee, Standards Tribunal and Micro and Small Enterprises Tribunal.
- (vi) Audit of Deposit Management at the Judiciary Headquarters.
- (vii) Audit of Revenue Management at the Judiciary Headquarters.

- (viii) Audit of GOK funded construction projects.
- (ix) Monitoring the Implementation of Internal Audit Report Recommendations contained in 21 internal audit reports.
- (x) Monitored the implementation of recommendations provided by the Public Accounts Committee (PAC) of the National Assembly on the financial statements of the Judiciary for the FY 2016/17.

4.7.2 External Audit

The Judiciary prepares financial reports that are audited by the Auditor General on an annual basis. They are the Receiver of Revenue and Expenditure and Project Financial Statements. The Auditor General obtains reasonable assurance on whether the financial statements as a whole are free from material misstatement and do not contain information that is due to fraud or error.

The Judiciary's Receiver of Revenue report obtained an unqualified audit opinion for the past two financial years, which is an indication of improved revenue collection and disbursement to the exchequer. Most of the issues raised by the Auditor General on revenue management were cleared by the Public Accounts Committee of the National Assembly.

The expenditure and project reports got a qualified report with fewer issues every successive financial year. The reports were tabled before PAC where most of the issues were resolved. The few remaining issues which are being addressed, comprise:

- Management of tribunals – The issues will be addressed by passage of the enabling Legislation;
- Delay in completion of projects – The issue is being addressed by seeking more funds and streamlining internal procurement procedures and strengthening overall project management;
- Court deposits and reconciliations after de-linking from National Sub-County Treasuries. The Judiciary and the National Treasury are jointly addressing the matter;
- Contingent liabilities arose from court awards to contractors for delayed payments due to stalled projects and other delays. These have been complicated by contract periods that have expired before the settlement of bills and insufficient budgetary allocations.

4.8 Enhanced Audits

The Judiciary conducts continuous audits to assess and confirm that risk management, governance and internal control processes are operating effectively. Further, the audits evaluate value for money to confirm that funds are used economically, efficiently, effectively, and equitably.

The Judiciary partnered with the Ethics and Anti-Corruption Commission (EACC) to undertake a comprehensive review of its systems and processes so as to develop recommendations on how to strengthen them.

CHAPTER FIVE—HUMAN CAPITAL MANAGEMENT AND DEVELOPMENT

5.1 Introduction

Human resource is a critical ingredient for the success and sustainability of any organisation. Consequently, the Judiciary is committed to attracting, developing, motivating and sustaining an inspired team of Judges, Judicial Officers and Judicial Staff who are committed to excellence in the delivery of justice as envisioned in the Judiciary vision, STAJ.

In line with this commitment, the Judiciary expanded its workforce and continued to implement initiatives geared toward improving employee well-being and productivity that translated to high quality services for court users.

5.2 Employee Establishment

For optimal function, the Judiciary requires 348 Judges, 1,200 Judicial Officers, 650 Law Clerks and Legal Researchers and 7,219 Judicial Staff, totalling 9,417 employees. However, the overall employee complement was 6,182 or 66 per cent of the required establishment.

While this was an increase by 10 per cent from the previous year, significant gaps remain in the staff establishment due to budgetary limitations that have hampered the Judiciary's ability to recruit employees to critical cadres. This continues to stand in the way of service delivery to the people of Kenya who are guaranteed the right to access to justice.

Except for the Supreme Court, all other superior courts were under-established and this posed significant challenges to litigants. In the Court of Appeal, for instance, judges who had been deployed to Nyeri were recalled to Nairobi and the station downgraded to a circuit court given that the Court of Appeal had only 19 Judges out of a statutory establishment of 30.

The High Court was at 36 per cent of its establishment, with only 72 Judges handling more than 82,000 pending cases. The magistracy which handles 82 per cent of the workload of the Judiciary was also under-established, with only 49 per cent of the required judicial officers. As at June 30, 2022, the 593 Magistrates and Kadhis in office were handling more than 521,000 pending cases.

As illustrated in table 5.1, the biggest shortage was among Law Clerks and Legal Researchers who offer crucial research support to Judges thereby contributing to growth in our jurisprudence and in ensuring that rulings and judgments are delivered timeously. Similar gaps existed among Judiciary Staff who serve in administrative offices and those stationed in registries and courtrooms where they support Judicial Officers and court users.

Table 5.1 Overall Employee Complement

Description	Approved Establishment		Current In Post		Establishment
		Male	Female	Total	
1) Superior Courts					
Supreme Court	7	4	3	7	100%
Court of Appeal	30	10	9	19	63%
High Court	200	33	39	72	36%
Environment and Land Court	63	21	30	51	81%
Employment and Labour Relations Court	47	11	10	21	55%
Total	347	79	91	170	49%
2) Magistrates/Kadhis'					
Chief Magistrate/Chief Kadhis	80	41	29	70	88%
Senior Principal Magistrate/ Senior Principal Kadhis	160	58	23	81	51%
Principal Magistrate/Principal Kadhis'	240	84	72	156	65%
Senior Resident Magistrate/ Senior Resident Kadhis'	400	65	68	133	33%
Resident Magistrate	320	47	106	153	48%
Total	1,200	244	298	593	49%
3) Law Clerks and Legal Researchers	650	30	144	174	27%
4) Judicial Staff	7,219	2,727	2,518	5,245	73%
GRAND TOTAL	9,416	3,080	3,051	6,182	65%

5.3 Employee Diversity

The Judiciary has made a conscious effort to diversify its workforce to create a workplace that is inclusive and reflective of the community in which it operates as demanded by the Constitution. This has enabled the Judiciary to draw on the unique talents, backgrounds and perspectives of all employees to drive innovation and better performance, both in resolving disputes, and in performing administrative functions that support the core mandate.

As a result of concerted efforts to grant equal opportunities to qualified persons from diverse backgrounds, 49 per cent of the Judiciary workforce is female while 51 per cent is male. The vast majority of Judiciary employees are between the age of 26 to 45 years. This young workforce that has injected new energy and perspectives, is receptive to technology that has taken centre stage in judiciary operations, and eager to learn, build their experience and apply their skills in supporting the institution to deliver as a 21st century Judiciary.

There are 102 employees with disability, making up 1.6 per cent of the workforce. Five are Judges, seven are Judicial Officers, and the remaining 90 are Judiciary Staff.

The increasing number of diversified employees are guaranteed a conducive workplace, thanks to the Disability Mainstreaming Policy and the Judiciary Gender Mainstreaming Policy that was launched in November 2021.

Figure 5.1 shows the gender representation across various cadres while Figure 5.2 shows the staff distribution by age.

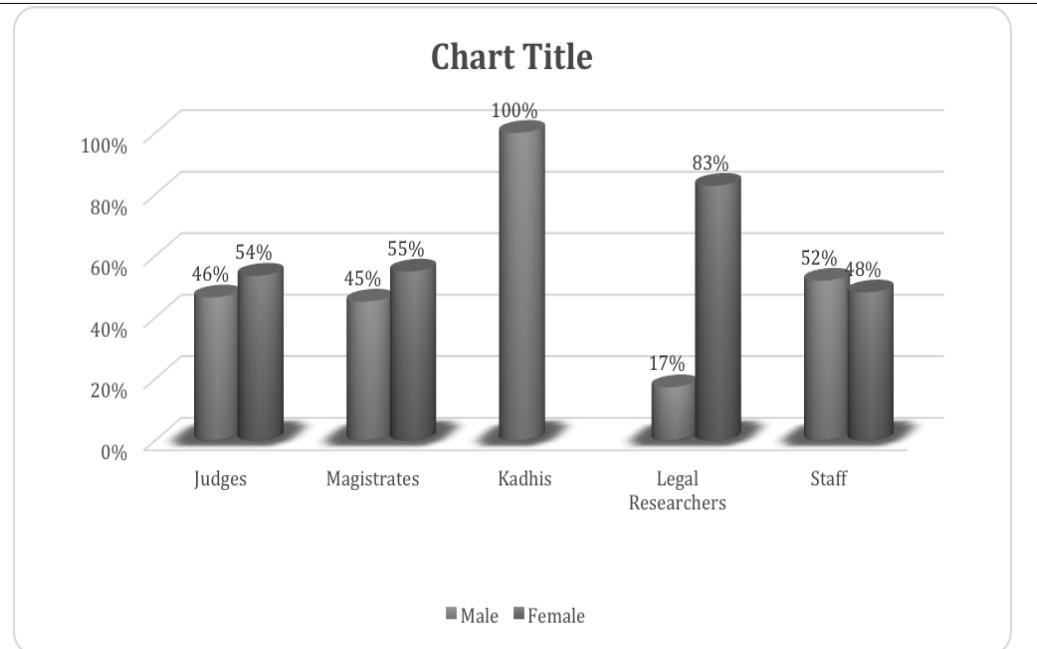


Figure 5.1 Employee Complement per Gender

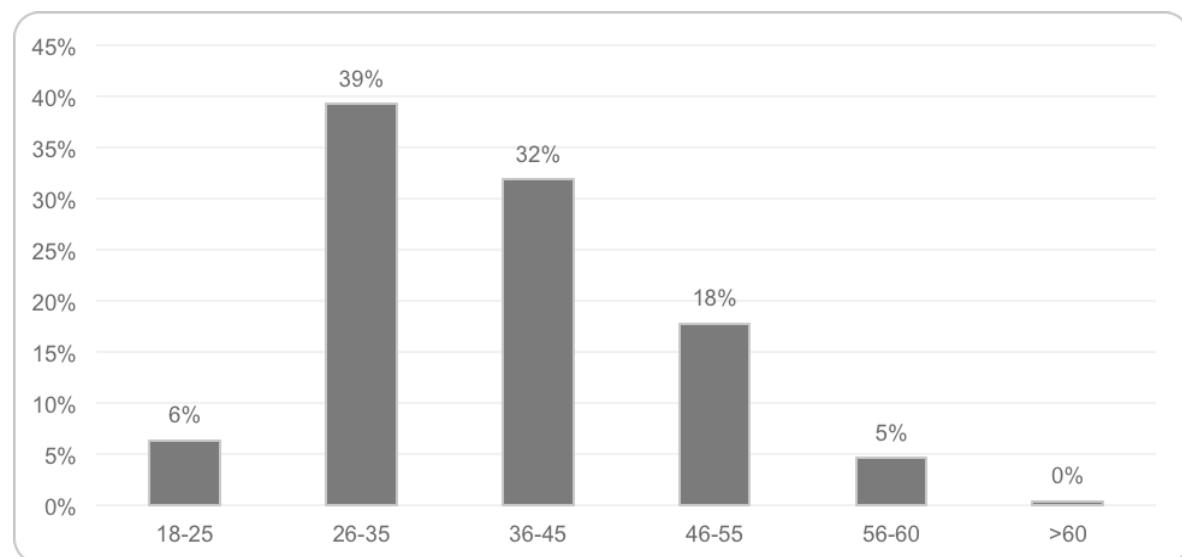


Figure 5.2. Employee Distribution by Age

5.4 Recruitment

The Judiciary conducted recruitment of various employees to address the staffing gaps highlighted in Section 5.2 above. The recruitment process was undertaken by the Judicial Service Commission in exercise of powers bestowed by Article 172 of the Constitution.

Despite the additional employees that came on board, several courts did not reach the ideal staffing levels to permit the efficient disposal of more than 120,000 cases that were pending by the end of FY 2021/2022. Consequently, there is an urgent demand for additional Judges, Judicial Officers and Judicial Staff in order to facilitate the timely disposition of court cases.

5.4.1 Recruitment of Judges

Six vacancies for Court of Appeal Judges were declared during the reporting period and interviews for the shortlisted candidates kicked off in the final days of the financial year. The Court of Appeal had more than 10,000 cases that were pending as at June 30, 2022 and these additional Judges will go a long way toward boosting the capacity of the court to handle this caseload.

The recruitment process to fill 20 vacancies for Judges of the High Court was also ongoing at the close of the financial year. Even when this is concluded, the appointment of 20 additional Judges will only raise the High Court complement to 46 per cent with a caseload of more than 82,000.

Mr Macharia Njeru, a Commissioner of the Judicial Service Commission (JSC), during interviews of candidates for the position of Judge of the Court of Appeal in July 2022.

Hon. Justice Grace Ngenye Kariuki during interviews for the position of Judge of the Court of Appeal in July 2022.

5.4.2 Recruitment of Judicial Officers

The JSC appointed 65 Resident Magistrates during the review period bringing the total number of judicial officers to 542. This makes 49 per cent of their optimal establishment. Twenty two Resident Magistrates were also designated as Adjudicators to preside over Small Claims Courts which have revolutionised the resolution of disputes where the value of the subject matter is less than one million Shillings.

5.4.3 Recruitment of Tribunal Members

As part of the ongoing transition of local Tribunals, 19 Tribunals with 107 members were operating under the Judiciary during the FY 2021/2022. As shown in Table 5.2, the JSC recruited candidates to various positions in these tribunals to strengthen their capacity to resolve disputes expeditiously as envisaged in the Constitution and various establishing statutes.

Table 5.2. Appointment of Tribunal Members and Staff

No	Tribunal	Position	No Appointed
1.	Co-operative Tribunal	Chairperson	1
2.	Political Parties Disputes Tribunal	Member	18
3.	Tax Appeals Tribunal	Member	9
4.	Political Parties Disputes Tribunal	Secretary	1
5.	Tax Appeals Tribunal	Secretary	1

The nine Members of the Tax Appeals Tribunal were appointed after Parliament enacted the Tax Appeals Tribunal Act (Amendment) Act (No 7 of 2022) that bestowed on the JSC the power to appoint members of the Tribunal. Similarly, the 18 Members of the Political Parties Disputes Tribunal were appointed after Parliament amended the Political Parties Act to expand the membership of the Tribunal within an election year in anticipation of electoral disputes.

5.4.4 Recruitment of Judicial Staff

A total of 1,064 Judicial Staff were appointed to various roles during the financial year. These include court assistants who are critical for court processes especially in registry operations. The Judiciary also recruited facilitative staff in the Office of the Chief Justice, technical staff in Directorate of Building Services which is coordinating the Judiciary's ambitious Infrastructure Master Plan and ICT officers who are supporting the extended deployment of technology in the administration of justice.

The processing of applications for other positions advertised during the year was ongoing by the close of the year.

Table 5.3. Judicial Staff Appointed in FY 2021-2022

No.	Designation	Number Appointed
1.	Chief of Staff	1
2.	Senior Legal Counsel	1
3.	Communications Advisor	1
4.	Advisor (Legal, Legislative and Parliamentary Affairs)	1
5.	Senior Protocol and Public Relations Officer	1
6.	Strategy Advisor	1
7.	Personal Secretary to CJ Emeritus	1
8.	PA to the Chief Registrar	
9.	Superintendent of Works	1
10.	Senior Architect	1
11.	Senior Information Communication Technology Assistant	26
12.	Internal Auditor II	9
13.	Supply Chain Management Officer II	4
14.	Senior Office Administrative Assistants	34
15.	Office Assistants	10
16.	Legal Researchers	25
17.	Accounts Assistants	28
18.	Charge Hand	10
19.	Court Assistant II	900
20.	Senior Civil Engineer	1
21.	Senior Mechanical Engineer	1
22.	Senior Electrical Engineer	1
23.	Senior Quantity Surveyor	1
24.	Superintendent of Works	4
25.	Senior Draughtsman	1
	Total	1,064

5.5 Internal Appointments, Promotions and Rationalisation

The Judiciary promoted 87 Resident Magistrates to Senior Resident Magistrates. Additionally, 276 serving Judicial Staff were interviewed and promoted or redesignated into roles that matched their qualifications. By recognizing and rewarding their skills and experience, these promotions are credited with increasing their motivation and productivity in meeting the needs of the contemporary Judiciary and the people it serves.

Table 5.4. Internal Appointments/Promotions

No	Designation	Number
1	Accounts Assistant	89
2	Senior Accounts Assistant	25
3	Senior Court Administrators	10
4	Court Administrator I	61
5	Court Administrator II	91
	Total	276

The Judiciary also undertook a staff rationalisation exercise as a stop gap measure to mitigate the impact of the low staffing levels as the Judiciary pursues long term measures to address the gaps in its establishment. This resulted in equitable distribution of 353 court administrators, 257 accountants, and 451 office administrators across various court stations. Table 5.5. provides a summary of the staff rationalisation exercise.

Table 5.5. Rationalisation of Key Court Staff

No	Designation	Total
1.	Assistant Director Court Administration	3
2.	Senior Court Administrator	25
3.	Court Administrator I	88
4.	Court Administrator II	237
5.	Assistant director Office Administration	21
6.	Senior Office Administration	28
7.	Office Administration I	47
8.	Office Administration II	123
9.	Senior Office Administration Assistant	129
10.	Office Administration Assistant	80
11.	Assistant Director Accounts	16
12.	Senior Accountant	28
13.	Accountant I	54
14.	Accountant II	46
15.	Senior Accounts Assistant	89
16.	Account Assistant	25
	Total	1,039

5.6 Employee Exits

One hundred and sixty-five employees constituting 2.7 per cent of the staff complement of 6,182, exited the Judiciary. Retirement and dismissals are the main reasons for this exit at 60 and 36 employees respectively.

Table 5.6. Employee Exits

	<i>Reason for Exit</i>	<i>Numbers</i>
1	Retirements	60
2	Dismissals	36
3	Resignations	30
4	Contract expiry	20
5	Demise	19
	Total	165

5.7 Training and Development

This section provides information on training and capacity development activities conducted within the review period to enhance the efficiency and effectiveness of the Judiciary.

5.7.1 Institutional Capacity Building: The Kenya Judiciary Academy (KJA)

Continuous capacity building for Judges and Judicial Officers is a constitutional dictate provided for under Article 172(1)(d) of the Constitution. Capacity building acts as an enabler for an efficient and knowledgeable institution equipped to perform its constitutional role. In furtherance of this, one of the key outputs in the STAJ vision is an inspired team of Judges, Judicial Officers and Judiciary Staff committed to excellence in the delivery of justice.

To achieve this, the blueprint underscores the centrality of continuous capacity building for the Institution and provides establishing a world-class Judicial Academy. The allocation of 55 acres of land to the Judiciary for the construction of the Academy during the period under review marks the foundation of the realisation of this vision. A permanent location for the KJA will ensure that Judges, Judicial Officers and staff are well equipped to carry out their roles.

5.7.2 The Kenya Judiciary Academy as a Centre for Regional Judicial Dialogues

The benefits of judicial dialogue as a mechanism for coordinating the constant interaction among courts from the region to exchange jurisprudence and experiences must be accentuated.

Throughout the reporting period, the Academy cemented its place as the foremost centre for judicial dialogues in the region. KJA hosted the East Africa Chief Justices Forum (EACJF), which brought together Partner States' Chief Justices and the Judge President of the East African Court of Justice. Alongside the forum was a joint symposium of the East African Judicial Education Committee (EAJEC) membership which culminated in joint resolutions.



Hon. Justice Dr. Smokin Wanjala and other participants follow proceedings during the East African Judicial Education Committee meeting, which was hosted alongside the 6th Joint Symposium of the East African Chief Justice's Forum in Mombasa, Kenya between December 14 to 17, 2021.



Hon. Justice Charles Nyachae of the East African Court of Justice during the East African Judicial Education Committee meeting that was held in Mombasa, Kenya between December 14 to 17, 2021.

To further underscore the place of judicial collaboration in the region, the Academy also hosted the Southern African Chief Justices Forum (SACJF) Management Committee meeting. Alongside the meeting, a Judicial Symposium on Digitisation and Internet Governance was held under the theme “Digitisation and Internet Governance”.

Hon. Justice Martha K. Koome, Chief Justice and President of the Supreme Court of Kenya with the President of the Republic of Zimbabwe, His Excellency Dr. Emmerson Mnangagwa on the sidelines of the Southern African Chief Justices’ Forum on September 24, 2021.

Hon. Justice Daniel Musinga speaks at the Southern African Chief Justices Forum (SACJF) held in Victoria Falls, Zimbabwe in September 2021.

Other engagements with Judges, Judicial Officers and Judicial Staff focusing on comparative law were held with distinguished jurists from the region. This was in addition to hosting Judiciary training institutions from Zimbabwe, Uganda, Somalia and South Sudan for dialogue on emerging best practices in judicial education.

5.7.3 Skills Audit

The Judiciary conducted an inventory of the educational and professional qualifications as well as the skills and experience of its employees to assess whether they can meet the organisation’s goals. Understanding the pool of current skills, talents and future skill requirements has also been instrumental in strategic planning efforts.

A desk survey revealed that 57 per cent of Judicial Staff had high school qualifications while 26 per cent have at least a bachelor’s degree. All Judges and Judicial Officers have a minimum of a Bachelor of Laws degree which is a basic requirement for judicial appointment. The overall skills distribution is as shown in Figure 5.3.

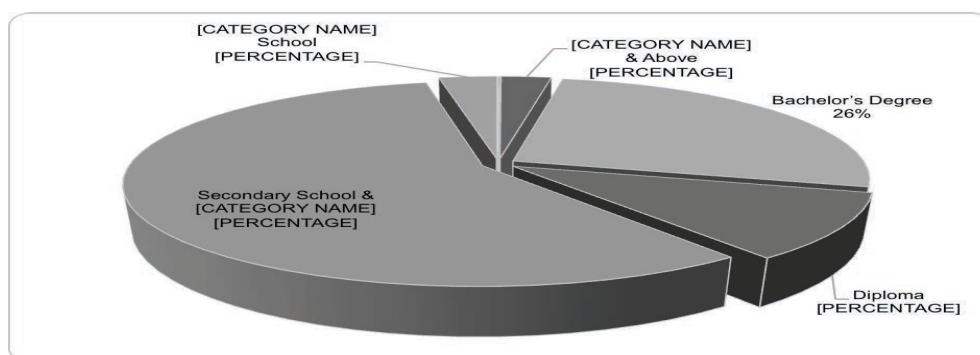


Figure 5.3. Distribution of Education Qualifications

5.7.4 Training Sessions

A summary of other training sessions held for Judges, Judicial Officers and Judicial Staff is illustrated in Table 5.7.

Table. 5.7. Training Sessions Held in FY 2021-2022

	<i>Training</i>	<i>No of Participants</i>
<i>Superior Court Judges</i>		
1	Induction for newly appointed Supreme Court Judges	2
2	Induction for newly appointed Judges of the Environment and Land Court	18
3	Induction for newly appointed Judges of the Employment and Labour Relations Court	9
4	Annual Judges Colloquium	172
5	Sentencing, Bail & Bond and Alternatives to the Death Sentence; Emerging Issues	21
6	Tax Law: Recent Developments	31
7	A Human Rights Approach to Adjudicating Labour Disputes	21
8	Emerging Issues in Devolution	13
9	Training of Judges as Mediators	28
10	Emerging Issues for Environment and Land Court Judges	54
11	TOT Training for Election Dispute Resolution	11
12	Election Dispute Resolution Training for Judges of the Supreme Court, Court of Appeal and High Court	78
<i>Judicial Officers</i>		
13	Induction for newly recruited Resident Magistrates	64
14	Training for Kadhis on Responses to Gender Justice and Access to Justice for Other Marginalised Groups	55
15	Children and the law: Emerging Issues	54
16	Adjudicating Counter Terrorism Cases	25
17	Anti-corruption, Money Laundering and Asset Recovery	73
18	Training of Judicial Officers as Mediators	30
19	Cybercrime and Electronic Evidence	47
20	ICT and Judiciary Automation for Judicial Officers	25
21	TOT Training for Election Dispute Resolution	42
22	Training of Judicial Officers on Adjudicating Election Offences	119
23	Election Dispute Resolution Training for Judicial Officers	225
24	Election Dispute Resolution Training for Deputy Registrars	66
25	AJS Training for CUC Leaders	35
<i>Tribunals</i>		
26	Tribunals Chairpersons and Administrators training on CTS (e-filing cases, e-signing of decisions, commands, decrees and orders, extraction of orders, and verification of tribunals' orders)	53
27	Induction of newly appointed Court Administrators and Accounts Assistants and staff deployed to Tribunals	24
28	Tribunals Secretariat staff CTS Training	24
29	Tribunals Chairpersons and Administrators training on Leadership and Management and Ethics, Anti-corruption and Integrity	30
30	Skills development for MSET, PPPPC, EPT, NCAART and CAMAT staff (Service delivery improvements, extraction orders, service of orders and CTS)	25
31	Induction of newly appointed Court Assistants deployed to Tribunals	58
32	Induction of newly appointed members of the Tax Appeals Tribunal	24
<i>Judicial Staff</i>		
33	Law Clerks and Legal Researchers Training on Election Dispute Resolution	171
34	Customer Care training for staff	72
35	Pre-retirement programme	87

5.7.5 Judicial Attachment, Pupillage & Internships

Through its Judicial Attachment, Pupillage and Internship Programme, the Judiciary offered 1,652 learners real-world experience that will help them excel in their careers. This pool of highly motivated students brought fresh perspectives to various sections while providing mentorship opportunities for existing employees.

The Judiciary is developing a policy whose implementation will ensure these programs are engaging, provide real-world experience and are mutually beneficial to the interns and the Judiciary.

5.7.6 International Trainings/Programmes

To enhance collaborations, partnerships, exchange of knowledge and share multicultural experiences, the Judiciary supported five employees to undertake international training during the review period. The programmes were specifically designed to address the identified training gaps.

5.8 Health, Safety and Wellbeing

The Judiciary is committed to developing and improving the work environment for judges, judicial officers, judicial staff and all court users. A safe and conducive work environment enhances employee motivation and increases work productivity.

Various wellness and benefits programmes were implemented in the year including a medical scheme and cover for employees and their dependents, car loans and a mortgage scheme. The Judiciary also conducted 11 psychosocial support sessions and supported 62 employees with medical ex-Gratia, and facilitated 23 employees to attend counselling sessions. A notable achievement was the appointment of two Judiciary Chaplains who will offer timely religious guidance to employees. The expenditure on the judiciary's employee wellness programme is indicated in Table 5.8.

Table 5.8. Employee Wellness Budget, FY 2021/2022

No.	Item	Budget Allocation	Actual Expenditure	Percentage Absorption
		KSh Million	KSh Million	
1	Personnel Emoluments	8,573	8,541	99.62%
2	Pension Scheme	1,528	1,524	99.79%

3	Training expenses	30	29	97.89%
4	Insurance costs	1,320	1,318	99.83%
		11,451	11,412	99.66%

As part of efforts to improve terms and conditions of service for its employees, the Judiciary participated in stakeholder engagement forums organised by the Salaries and Remuneration Commission (SRC) to collect views on draft regulations and policies on the compensation of public officers. The engagements included Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and Other Public Officers) Regulations, the Public Sector Remuneration and Benefits Policy, Review of the Job Evaluations of the Judiciary, the 3rd Remuneration Review Cycle for the Public Sector, and the SRC Draft Framework and Guidelines for Recognizing and Rewarding Productivity in the Public Sector.

The Judiciary Police Unit was operationalised to provide general security and secure judiciary buildings and property. About 2,000 uniformed police officers are deployed in courts to beef up security.

5.9 Development of Policies

Human Resource policies play a critical role in supporting a culture of trust, fairness and inclusion by outlining the responsibilities of both employer and employee in the employment relationship.

The Judiciary developed a Gender Mainstreaming Policy, a Medical Insurance Policy and a Sexual Harassment Policy. The Judiciary Human Resource Policies and Procedures Manual is undergoing review while a Training and Development Policy and an Internship, Attachment and Pupillage Policy are at advanced stages of development.

Sensitisation on the new policies had commenced with the Gender Policy and will continue in the subsequent financial years.

CHAPTER SIX—RESOURCE MOBILISATION AND UTILIZATION

6.1 Introduction

This chapter gives an overview of the financial resources that the Judiciary utilised in the FY 2021/2022. It outlines the progress made toward operationalisation of the Judiciary Fund; gives a comparative analysis of the budget allocation for the Judiciary in relation to the overall national budget; provides an analysis of financial allocation and expenditure; and analyses the Judiciary's revenue and deposits.

6.2 Operationalisation of the Judiciary Fund

The Judiciary Fund is established under Article 173 of the Constitution which requires the approved estimates of expenditure of the Judiciary to be a direct charge on the Consolidated Fund. The detailed framework for the regulation and operationalization of the Fund is provided under the Judiciary Fund Act (No 16 of 2016) and the Judiciary Fund Regulations, 2019.

The fund was operationalised effective July 1, 2022 following successful consultations between the Judiciary, the National Treasury, the Central Bank of Kenya, and the Controller of Budget. The Judiciary Fund Account and its operational accounts (recurrent, development and deposits) were opened and activated, and the Fund's Financial System successfully set-up, tested and approved for use. Additionally, the Cabinet Secretary for the National Treasury issued a detailed circular on the operationalisation of the Fund which guides the banking arrangements and flow of funds. The Circular also established the Judiciary Fund Management Committee (JFMC) to oversee budget implementation and regularly advise the CRJ on the performance of the Fund. Gaps in statutes on the operationalisation of the Fund were identified and are set to be addressed.

Although the annual budgetary allocations for the Judiciary will still be determined by the National Assembly, the operationalisation of the Fund comes with a host of benefits in the management of the funds that are allocated to the Judiciary. It will ensure the retention of unspent money at the lapse of a financial year, enabling the Judiciary to utilise the retained monies as exchequer for the subsequent financial year subject to the budget appropriated by the National Assembly.

The Fund will also allow greater control over the monies that are allocated. The Judiciary will enjoy rights to effect budget reallocations in the Integrated Financial Management and Information System with limited reallocations within the Judiciary's Recurrent Vote. Additionally, the Fund allows access to half-year operations and maintenance budget which will improve budget execution especially in the issuance of Authority to Incur Expenditure (AIE).

6.3 Budgetary Allocations to the Judiciary

Budgeting in the Judiciary is anchored on Article 173 (3) of the Constitution which stipulates that the CRJ shall prepare estimates of expenditure for each financial year and submit them to the National Assembly for approval. The Judiciary prepares these estimates through a consultative and participatory process in adherence to Article 201 of the Constitution and Section 37(5) (a) of the PFM Act, 2012.

Consequently, the resource requirements submitted to the National Assembly for FY 2021/22 were the product of extensive internal and external consultations with stakeholders who offered valuable input on priority areas for funding. The key recommendations made by stakeholders during the budget hearings include the recruitment of Judicial Officers - especially before the General Election, the operationalisation of the 22 gazetted Magistrates Courts, as well as the roll out Court Annexed Mediation and Small Claims Courts throughout the country.



Participants take part in public hearings led by the Chief Registrar of the Judiciary Anne Amadi and members of the Judicial Service Commission on the Judiciary's budget proposals for the FY 2022 - 2023.

To implement these recommendations and other programmes aligned with the vision of Social Transformation through Access to Justice and Key Result Areas drawn from the Judiciary Strategic Plan (2019-2023), the Judiciary requested KSh35.4 billion for FY 2021/22 but was allocated KSh18.56 billion. This allocation consisted of KSh15.96 billion recurrent budget and KSh2.59 billion development budget.

6.3.1 The National Budget versus the Judiciary Budget

While the National budget has increased from KSh2.33 trillion in the FY 2017/18 to KSh3.03 trillion in the FY 2021/22, there has not been a commensurate growth in the Judiciary's budget. The comparison between the total national budget and allocation to the Judiciary for the past five fiscal years is shown in Table 6.1.

Table 6.1: Five-year Comparison between the National Budget and the Judiciary Budget

Financial Year	National Budget (KSh Billion)	Judiciary (KSh Billion)	Judiciary % Allocation
2017/18	2,330.0	14.2	0.6%
2018/19	2,556.6	16.2	0.6%
2019/20	2,800.0	16.9	0.6%
2020/21	2,890.0	17.1	0.6%
2021/22	3,030.0	18.1	0.6%

The Judiciary has been receiving 0.6 per cent of the national budget which falls far short of the international standard of 2.5 per cent that is echoed in the July 2010 Report of the Task force on Judicial Reforms which observed that:

"To enhance the independence, operational autonomy, efficiency and effectiveness in the governance and management of the Judiciary, it is recommended the annual budgetary allocation to the Judiciary be augmented to a minimum of 2.5 per cent of the national budget, provided that this percentage may be increased in future to cater for the Judiciary's needs."

The proportionality of the allocations of the national budget of KSh3.03 trillion between the three Arms of Government and the County Governments for FY 2021/22 is illustrated in Figure 6.1.

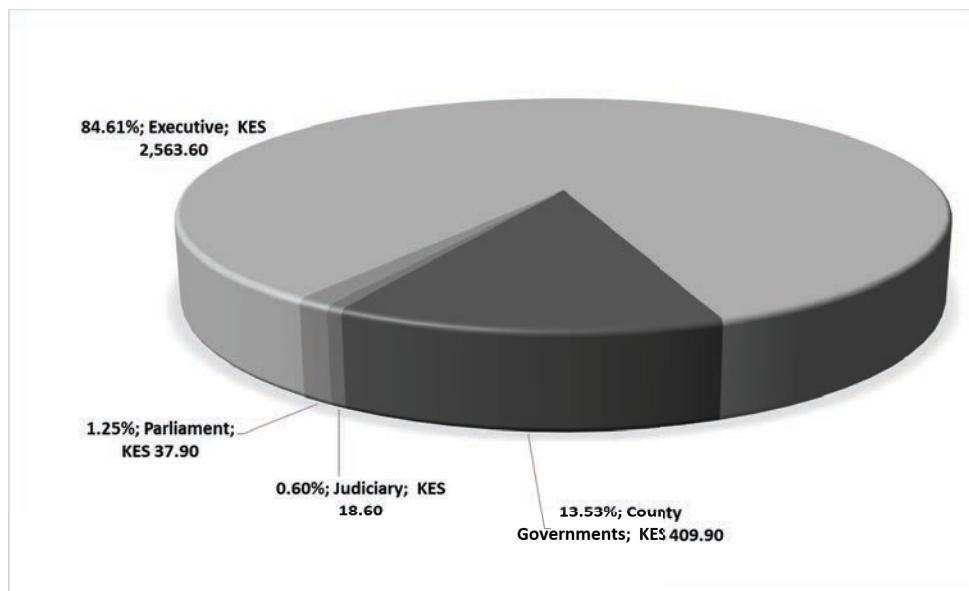


Figure 6. 1 Sharing of National Budget FY 2021/22 (KSh Billion)

6.3.2 Judiciary Budget Requirements versus Allocation (2019/20 – 2021/22)

Whereas the allocation for FY 2021/21 was an increase of KSh1.427 Billion from the previous financial year's allocation of KSh17.133 billion, the analysis in Table 6.2 reveals that budget allocation has consistently fallen short of the Judiciary's resource requirements.

Table 6.2: Resource Requirements versus Allocation

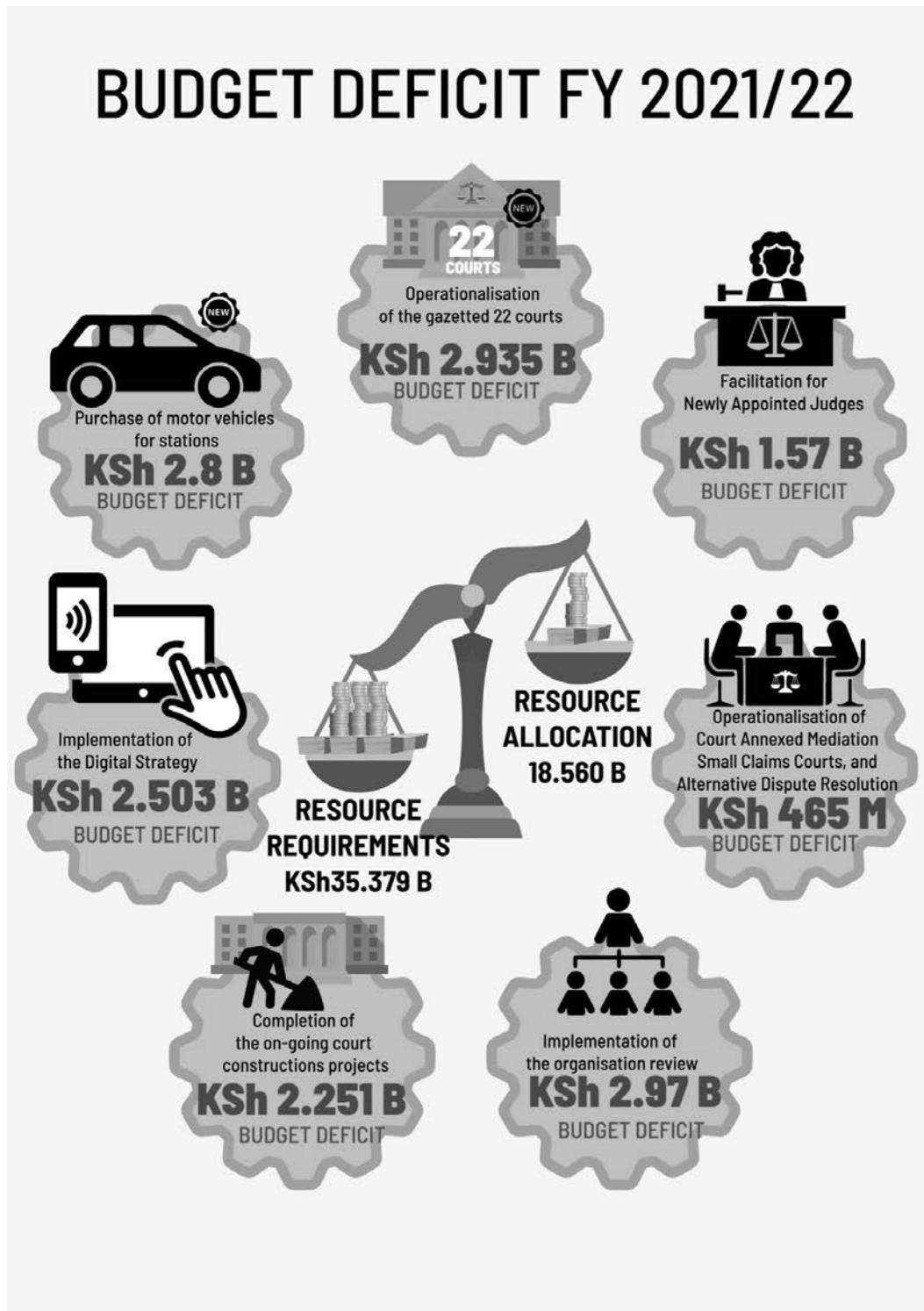
Financial Year	FY2019/20			FY2020/21			FY2021/22		
	Requirements (KSh B)	Allocation (KSh B)	Funding Gap (%)	Requirements (KSh B)	Allocation (KSh B)	Funding Gap (%)	Requirements (KSh B)	Allocation (KSh B)	Funding Gap (%)
Recurrent	16.991	13.797	19%	30.684	14.575	52%	28.293	15.968	44%
Development	6.295	3.166	50%	6.731	2.558	62%	7.086	2.592	63%
Overall	23.286	16.963	27%	37.415	17.133	54%	35.379	18.560	48%

The deficit in the recurrent budget stood at 52 per cent in FY 2020/21 and at 44 per cent in FY 2021/22. This shortage has been particularly dire in the development vote where the deficit increased to 63 per cent in FY 2021/22.

6.3.3 Key Underfunded Areas in the FY 2021/22

This inadequate funding affected some critical projects and activities that were intended to expand access to justice to the people of Kenya in FY 2021/22. The key unfunded and/or underfunded areas included:

- (i) Operationalisation of the gazetted 22 courts was underfunded by KSh2,935 million. This included the purchase of ICT equipment, furniture, operation and maintenance, and rehabilitation of court premises.
- (ii) Facilitation for newly appointed Judges, estimated at KSh1,570 million, were underfunded. These funds were meant for purchase of ICT equipment and other working tools.
- (iii) The purchase of motor vehicles for court stations, tribunals and administrative units was underfunded by KSh2,800 million.
- (iv) Implementation of the Digital Strategy which was costed at KSh3,123 million.
- (v) Completion of the on-going court constructions projects funded by the World Bank through JPIP, which had a budget deficit of KSh2,251 million.
- (vi) Roll out of Court Annexed Mediation operationalisation of the Small Claim Courts, and the implementation of Alternative Dispute Resolution which were budgeted at KSh123 million, KSh150 million and KSh102 million respectively.
- (vii) The implementation of the organisation review had a shortfall of KSh2,970 million. Among the activities to be implemented was the recruitment of Judicial Officers and staff to support service delivery.



6.4 Criteria for Sharing Resources

The funds allocated to the Judiciary were shared among various units using an approved objective criteria that takes account of such parameters as the number of judges, judicial officers and staff per court, the type and number of courts, and caseload statistics for the court. These resources are to be shared out between the core function and support functions while considering discretionary and non-discretionary budget items.

Non-discretionary items including personnel emoluments (PE) and contractual obligations were prioritised and ring fenced under the recurrent vote. Some of these contractual obligations included security and cleaning services, lease of ICT equipment, internet services, medical insurance, general insurance (Group Personal Accident and Group Life Assurance), and utilities (water and electricity).

Funds that remained were shared among all the spending units at the headquarters, courts and tribunals for operations and maintenance (O&M). *Access to Justice* sub-programme which is primarily court work was allocated 79 per cent whereas *General Administration, Planning and Support Services* sub-programme was allocated 21 per cent.

The sharing of the budget of KSh2.45 billion among the courts and tribunals is presented in Figure 6.2.

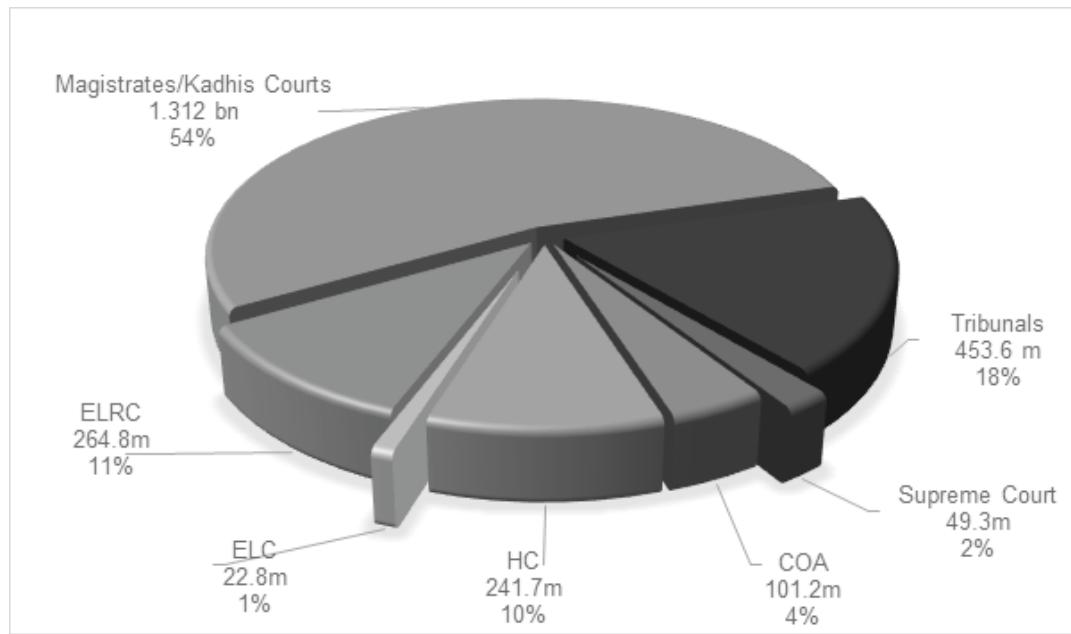


Figure 6.2: Budget Allocation per Court

The Magistrates' Courts received the highest budget allocation at 54 per cent. These funds are used to defray shared expenses such as maintenance of all buildings, payment of utilities (water and electricity), cleaning services, and security services across all Magistrates Court stations. The budget allocation for tribunals, which includes sitting allowances for tribunal members and rent, is also drawn from here.

6.5 Budget Expenditure Analysis

Absorption of the overall budget improved from 92 per cent in the FY 2020/21 to 94 per cent in the FY 2021/22. The improvement in absorption can be attributed to the increase of activities after the easing up of COVID-19 pandemic containment measures. Figure 6.3 is an illustration of the overall budget absorption broken down into recurrent and development votes.

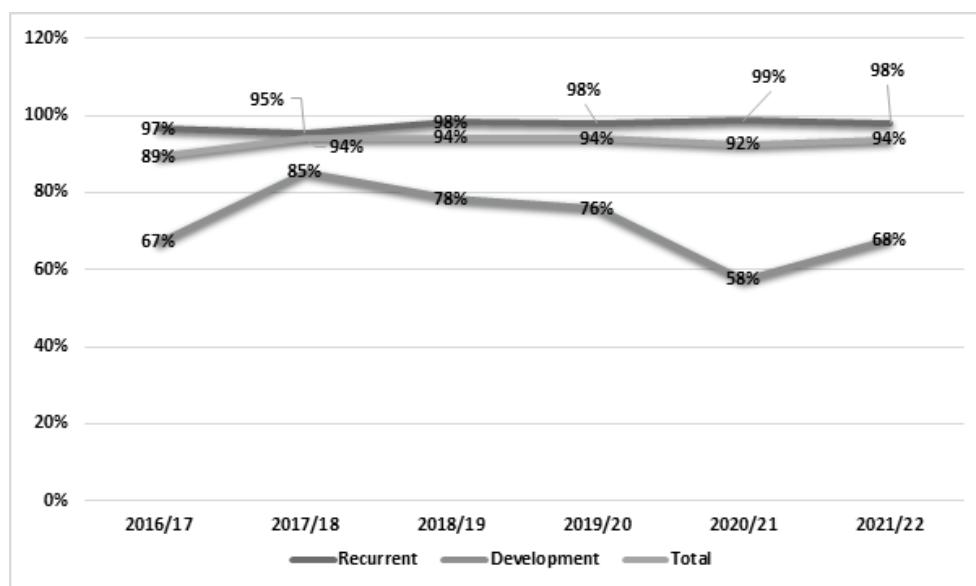


Figure 6.3: Trends in Budget Absorption for FY 2019/20 – FY 2021/22

6.5.1 Analysis of Recurrent Expenditure

Recurrent expenditure is presented under economic classifications which are broken down into different areas of spending namely: compensation for employees; transfers; Appropriation in Aid (AIA); and Operations and Maintenance (O&M). Table 6.3 is a breakdown of the approved estimates versus actual expenditure for the past three fiscal years.

Table 6.3: Analysis of Recurrent Budget of the Judiciary

Economic Classification	Approved Budget Versus Actual Expenditure (KSh Million)					
	Approved (KSh B)	Actual (KSh B)	Approved (KSh B)	Actual (KSh B)	Approved (KSh B)	Actual (KSh B)
	FY2019/20	FY2019/20	FY2020/21	FY2020/21	FY2021/22	FY2021/22
Compensation to Employees	8.190	8.183	9.402	9.398	10.101	10.064
Transfers	-	-	-	-	-	-
Other Recurrent	5.607	5.351	5.173	4.979	5.867	5.596
AIA	-	-	-	-	-	-
	13.797	13.534	14.575	14.377	15.968	15.660

The recurrent budget increased by KSh1.393 billion (9.6%) from KSh14.575 billion in FY 2020/21 to KSh15.968 billion in FY 2021/22 as indicated in Table 6.3. The proportionate share of compensation to employees over the total recurrent budget decreased from 64.5 per cent in FY 2020/21 to 63.3 per cent in FY 2021/22. This reduction of 1.2 per cent was utilised under the operations and maintenance budget. Budget absorption for the recurrent vote for the FY 2021/22 reduced to 98 per cent from 99 per cent absorption recorded in the previous year.

6.5.2 Analysis of Development Expenditure

Development expenditure is classified based on the source of funding which is Government of Kenya (GOK); Loans, Grants, and Appropriations in Aid (AIA). The Judiciary didn't have Grants and AIA. Table 6.4 provides an analysis of the approved vis a vis actual development expenditure.

Table 6.4: Analysis of Development Approved Budget vs Actual Expenditure

Economic Classification	Approved Budget Versus Actual Expenditure (KSh Billion)					
	Approved (KSh B)	Actual (KSh B)	Approved (KSh B)	Actual (KSh B)	Approved (KSh B)	Actual (KSh B)
	FY 2019/20	FY 2019/20	FY 2020/21	FY 2020/21	FY 2021/22	FY 2021/22
GOK	0.971	0.651	0.292	0.269	1.595	0.946
Loans	2.195	1.748	2.266	1.202	0.997	0.814
Grants	-	-	-	-	-	-
Local AIA	-	-	-	-	-	-
Totals	3.166	2.399	2.558	1.471	2.592	1.760

The overall allocation for the Development Vote in the FY 2020/21 increased by KSh34 million from KSh2.558 billion in FY 2020/21 to KSh2.592 billion.

The World Bank funded Judicial Performance Improvement Project (JPIP) was wound up in FY 2021/22. The funds allocated for the JPIP project was KSh997 million in the FY 2021/22 compared to KSh2.266 billion the previous year. These funds were primarily used to settle unpaid contractual obligations.

Government of Kenya funding for the development vote increased from KSh292 million in the FY 2020/21 to KSh1.595 billion in the FY 2021/22. This was an increase of KSh1.3 billion. Absorption of the development budget improved from 58 per cent in FY 2020/21 to 68 per cent in the FY 2021/22.

6.5.3 Analysis of Programme Expenditure

Table 6.5 shows an analysis of the approved budget against the actual expenditure for *Access to Justice*; and *General Administration Planning and Support Services* Sub-programmes for the Judiciary.

Table 6.5: Analysis of Sub-programmes Expenditure

Sub-Programme	Approved Budget Versus Expenditure (KSh Million)		
	FY2019/20	FY2020/21	FY2021/22

	Approved Budget (KSh B)	Expenditure (KSh B)	Approved Budget (KSh B)	Expenditure (KSh B)	Approved Budget (KSh B)	Expenditure (KSh B)
1: Access to Justice	12.824	11.873	13.960	12.804	14.746	13.731
2: General Administration and Support Services	4.139	4.060	3.173	3.093	3.814	3.689
Total	16.963	15.933	17.133	15.897	18.560	17.420

The Access to Justice sub-programme was allocated KSh14,756 million whereas the General Administration Planning and Support Services sub-programme was allocated KSh3,814 million in the FY 2021/22. Figure 6.4 further shows the resource allocation between the two sub-programmes.

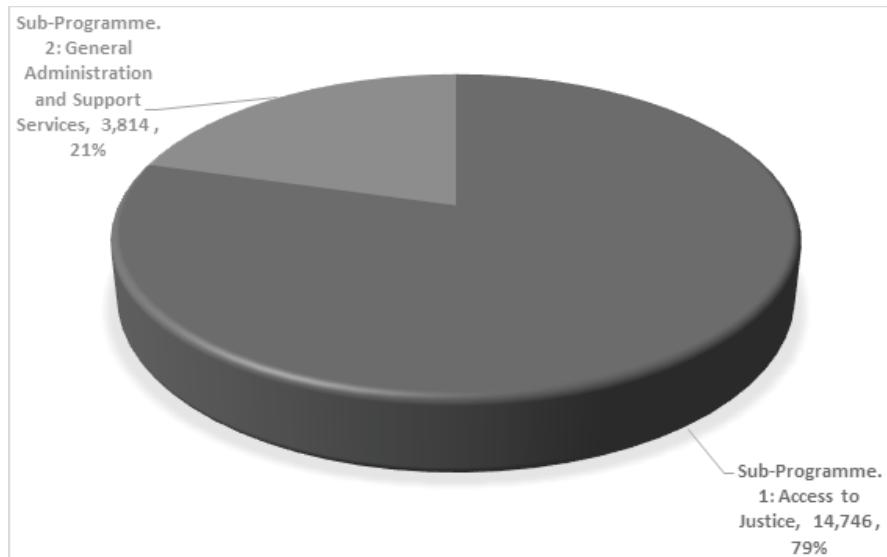


Figure 6.4: Resource Allocation between Sub-Programmes

6.6 Court Revenue

The Chief Registrar of the Judiciary is appointed Receiver of Revenue (ROR) in accordance with Section 75 of the Public Finance Management (PFM) Act, 2012 and Article 209(1) (2) and (4) of the Constitution. In line with Section 76 (1) of the PFM Act, the Chief Registrar of the Judiciary delegates authority to the Heads of Court Stations to be collectors of revenue for the Judiciary and to remit these collections on a monthly basis.

Section 75 (2) of the PFM Act, 2012 states that a receiver of National Government revenue is responsible to the Cabinet Secretary for the collection of revenue for which they are responsible, and such revenue shall be separately accounted for. All revenue collected by the Judiciary is transferred to the exchequer.

Court revenue mainly consists of fines, penalties and forfeitures and other charges, revenue from the sale of goods and fees for services. Other revenue collected by the Judiciary includes interest on court deposits and rent. Court fines are imposed upon the finalisation of a court case and also arise from forfeiture of legal deposits when individuals who paid court deposits fail to abide by court directives or bond terms.

Court fees collected from users of court services include: application fees, cost of orders, service fees and fees related to exhibits, affidavits, copies among other services. It also arises from sale of tender documents, exhibits, revenue from rent of government property, and interest income on deposits among other sources.

6.6.1 Revenue Collection

The Judiciary collected a total of KSh2.65 billion in the FY 2021/22 from four key sources. Figure 6.5 illustrates the breakdown of the revenue collected during the reporting period.

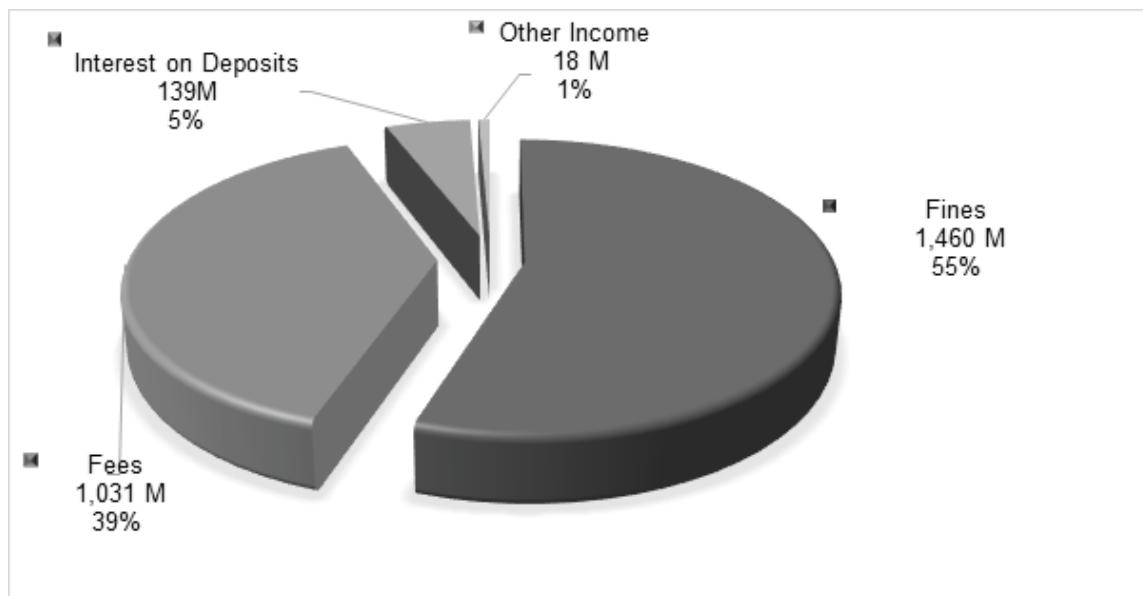


Figure 6.5: Revenue Composition for FY 2021/22

Court fines were the major revenue component for the Judiciary at KSh1.46 billion (55%). Fees collected amounted to KSh1.03 billion (39%), while other income from interest on court deposits amounted to KSh139 million (5%). Commission, rent from property and miscellaneous income amounted to KSh18.15 million (1%).

The revenue collection is comparable to the level of activities in a court station. Busy courts register more cases and hence more revenue. These are mainly stations located in densely populated cities and busy towns. The top ten collectors of fines were: Milimani, Makadara, Kibera, Nakuru, Mavoko, Thika, Mombasa, Ruiru, Naivasha and Kajiado Law Courts, while the top ten collectors of fees were: Milimani Commercial, Nairobi Court of Appeal, Milimani, Mombasa, Nakuru, Eldoret, Kisumu, Machakos, Thika Law Courts and Tribunals.

Annex 6.1 presents revenue collected by all courts over the past three years.

6.6.2 Revenue Trend Analysis

There has been a progressive increase in revenue collected over the past three financial years. The revenue grew from KSh2.27 billion in FY 2019/2020 to KSh2.64 billion in FY 2021/2022. This was an increase of KSh377 million, equivalent to 17 per cent growth. The growth from FY 2019/2020 to FY 2020/2021 was KSh159 million while from FY 2020/2021 to FY 2021/2022 was KSh217 million, translating to 7 per cent and 9 per cent growth respectively. This is illustrated in Table 6.6.

Table 6.6: Revenue Collection Trends for the last Three Financial Years

	FY 2019/20	FY 2020/21	FY 2021/22	Change from		Change from		Change from	
				FY2019/20 - FY2020/21		FY2020/21-FY2021/22		FY2019/20-FY2021/22	
	KSh'M	KSh'M	KSh'M	KSh'M	% age	KSh'M	%age	KSh'M	%age
Fines	1,263.81	1,258.76	1,460.39	(5.05)	-0.40%	201.63	16%	196.58	16%
Fees	932.07	1,065.11	1,030.67	133.04	14.27%	(34.44)	-3%	98.60	11%
Interest on Deposit	62.45	92.38	139.00	29.93	47.93%	46.62	50%	76.55	123%
Other Income	12.87	14.39	18.15	1.52	11.81%	3.76	26%	5.28	41%
Total	2,271.20	2,430.64	2,648.21	159.44	7.02%	217.57	9%	377.01	17%

The revenue collected is dependent on cases filed and matters resolved in a given period and the increase in revenue collection during the year is attributable to the rise in the number of court cases filed. The cases filed increased steadily in the past three financial years from 337,510 in FY 2019/20, 356,997 in FY 2020/21 and 404,312 cases in FY 2021/22.

The increase in revenue is also attributed to the use of technology in case management and revenue collection. Online case registration and a cashless payment platform eliminated opportunities for revenue loss. The progressive use of virtual courts and e-filing also enabled more cases to be registered.

Figure 6.6 shows the revenue trends in the past three financial years.

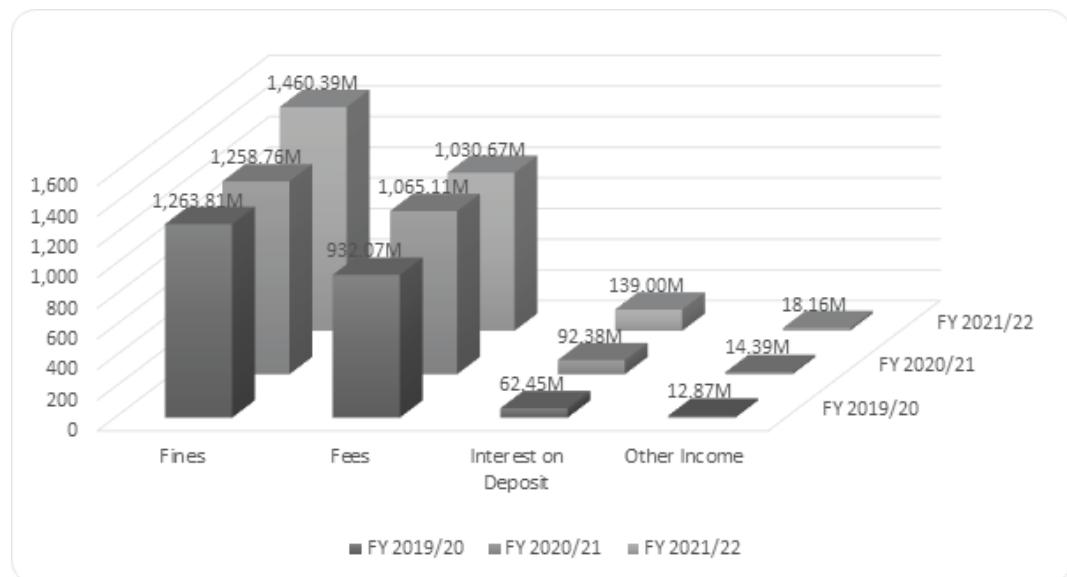


Figure 6.6: Revenue Trends for FY 2019/20 – FY 2021/22 (KSh Million)

Figure 6.6 shows an overall steady rise in revenue collections from the different categories. Court fines reduced slightly from KSh1.26 billion in FY 2019/20 to KSh1.25 billion in FY 2020/21 due to the scaling down of operations because of the COVID-19 pandemic. Fines however, increased to KSh1.4 billion in FY 2021/22 upon easing of containment measures and continued use of electronic case management and fines collections.

The collection of court fees has increased consistently from KSh932 million in FY 2019/20 to KSh1.03 billion in FY 2021/22. However, the fees for FY 2021/22 were KSh35 million below the fees for FY 2020/21 due continued implementation of fee waiver for commercial matters with a value of KSh1 million and below.

Interest on deposits increased from KSh62.45 million in FY 2019/20 to KSh92.38 million in line with increase in deposits held. However, despite reduction in deposits held at the close of FY 2021/22, the interest on deposit increased to KSh139 million due to enhancement of interest rate from 2 per cent to 4 per cent with effect from September 2021. There was a marginal but steady increase in other income over the review period in line with level of court activities.

6.6.3 Revenue Collection vis-à-vis Estimates/Targets

The Cabinet Secretary, National Treasury (NT) sets revenue estimates when designating the Chief Registrar of the Judiciary as a Receiver of Revenue. This is done annually through a Circular issued at the beginning of each financial year to designated Receivers of National Government revenue.

The revenue collected during FY 2021/22 exceeded the targets set by the National Treasury at the beginning of the financial year. Revenue collections have been higher than the estimates over the past two financial years. This is indicative of an improved revenue collection mechanism which sealed revenue leakage and under assessment through automation of fees assessment and collection.

Table 6.7 provides comparative figures for revenue collections and estimates over the last three financial years.

Table 6.7: Revenue Collections vis-à-vis Estimates

Financial Year	Details	Estimates KSh'M	Actual KSh'M	Realisation %
FY 2019/2020	Fines	1,345.87	1,263.81	94%
	Fees	1,644.97	932.07	57%
	TOTAL	2,990.86	2,195.87	73%
FY 2020/2021	Fines	1,033.29	1,258.76	122%
	Fees	778.51	1,065.11	137%
	TOTAL	1,811.80	2,323.86	128%
FY 2021/2022	Fines	1,247.15	1,460.39	117%
	Fees	958.06	1,030.67	108%
	TOTAL	2,205.21	2,491.06	113%

The total revenue realisation increased from 73 per cent in FY 2019/2020 to 128 per cent in FY 2020/2021 but later dropped to 113 per cent in FY 2021/2022. Collections for both FY 2020/2021 and FY 2021/2022 were above the set target by the National Treasury at 128 per cent and 113 per cent respectively. The low collection of 73 per cent in FY 2019/2020 was attributed to downscaling of operations due to COVID-19 Pandemic. The revenue collections in FY 2020/2021 increased due to accelerated use of online case management, electronic filing and the operation of virtual courts.

The revenue realisation level excludes revenue from interest on deposit and other income which were not included in the National Treasury's estimate. Figure 6.7 is an illustration of the set revenue target against the actual revenue collection.

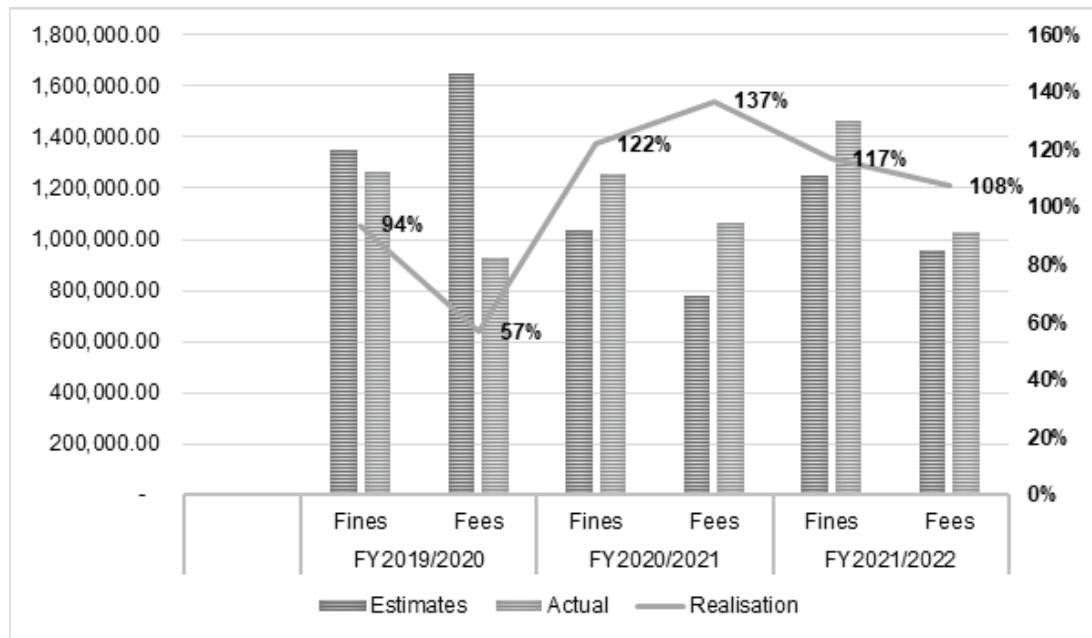


Figure 6.7: Revenue Estimates against Realisation for FY 2019/20 – FY 2021/22

6.7 Court Deposits

Court deposits are payments of funds or property to the court as a precautionary measure during the pendency of a court case. Deposits do not represent revenue to the Judiciary or the government as they are refunded at the conclusion of court proceedings. Cash bail, bond (security), land title deeds, vehicle log books, fixed deposit certificates, travel documents, and pay slips are all forms of court deposits. The bond or bail may be utilised towards payment of fines when the depositor makes a request and could also be forfeited to the state when the accused fails to comply with their bail or bond terms.

Case Tracking System (CTS) and the Judiciary Financial Management Information System (JFMIS) have been rolled out to assist in deposit collection and accounting. Payments and refunds are processed through the KCB bank's Quick Pay (Q-pay) electronic payment system. These digital systems have led to efficiency, effectiveness, transparency and accountability in the collection, refund and accounting for court deposits.

Figure 6.8 shows the trends in amounts of court deposits held by the Judiciary at the end of each financial year.

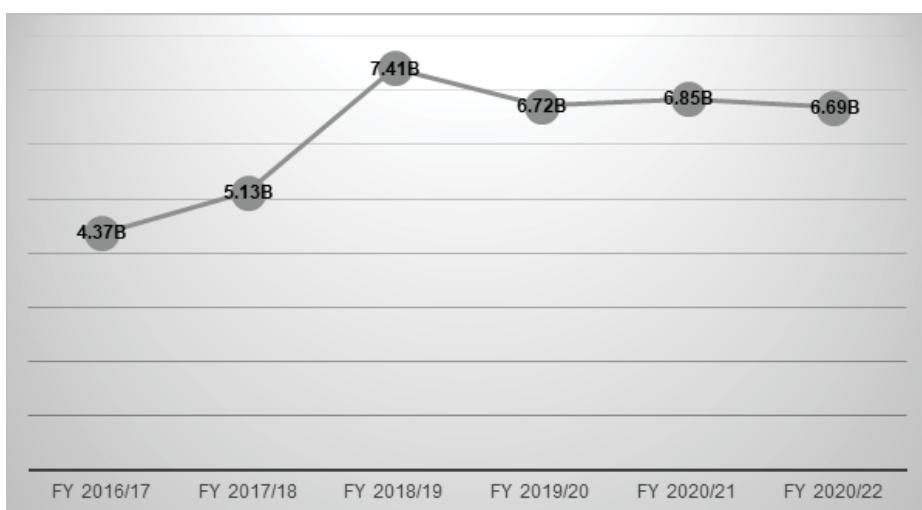


Figure 6.8: Deposits Trend Analysis from FY 2016/17 – FY 2021/22

The average court and tribunal deposits held by the Judiciary for the past three financial years was KSh6.75 billion. Deposits held at the close of FY 2019/20 was KSh6.72 billion which increased by KSh133.66 million to close at KSh6.85 Billion in FY 2020/21. The amount decreased by KSh154.30 million to the closing amount of KSh6.69 billion for the FY 2021/22. The decline in court deposits was attributable to the prompt resolution of court cases and the attendant refund of deposits as well as the issuance of moderate cash bail terms during the COVID-19 pandemic period.

Annex 6.2 details the funds held as cash bail in each court station as at the end of the FY 2021-2022.

6.8 Management of Pending Bills

The Judiciary has made significant efforts to reduce the accumulation of pending bills, which are unsettled financial obligations at the end of a financial year. Pending bills affect subsequent financial years' project implementation as they form the first charge of any budget, that is, their discharge is prioritised over all other payments. The Judiciary endeavours to settle all pending bills as a first charge to new financial year's budgets

by incorporating all the pending certificates during budget preparation. Table 6.8 shows the level of pending bills held over the past three financial years.

Table 6.8 Pending Bills at Close of FY 2019/20 – FY 2021/22

Description	FY 2019/20	FY 2020/21	FY 2021/22	Change	
	KSh'M	KSh'M	KSh'M	KSh'M	%
Development Pending Bills	76.73	332.48	113.10	(219.39)	-66%
Recurrent Pending Bills	711.93	206.94	98.12	(108.82)	-53%
Recurrent & Development	788.67	539.42	211.22	(328.21)	-61%
Court Awards & Arbitration	-	1,138.71	1,088.02	(50,692)	-4%
Total	788.67	1,678.14	1,299.24	(378.90)	-23%

The total pending bills for recurrent and development have reduced from KSh788.67 million in the FY 2019/20 to KSh211.22 million in the FY 2021/22. Development pending bills however increased from KSh76.73 million in the FY 2019/20 to KSh332.48 in the FY 2020/21. This was due to cuts in the development budget that affected the implementation of ICT infrastructure projects and other on-going projects.

The development pending bills reduced in FY 2021/22 attributable to availability of funds that settled bills in FY 2021/22. However, there were unsettled bills amounting to KSh113.10 million that were invoiced after closure of the financial year and that could not be paid. These consisted KSh73.14 million for GoK projects whose certificates/invoices were presented after closure of the financial period and KSh39.96 million being unpaid JPIP bills upon lapse of the project. These bills were transferred to GoK. The recurrent pending bills reduced from KSh711.93 million in FY 2019/20 to KSh211.22 million in FY 2020/21 being a reduction of KSh505 million and further reduced to KSh98.12 million in FY 2021/22. This reduction was achieved through stringent measures that ensured payment of pending bills was the first charge and strict compliance with work plans and budgets.

Limited funds were made available to settle court and arbitration awards during the year, thereby reducing the outstanding amount to KSh1.088 billion from KSh1.138 billion. The bills continued to grow owing to interest accruing over the period they remained unpaid.

6.9 Automation of Financial Management

The Judiciary has continued to employ technology in various aspects of service delivery. The CTS and JFMIS have been integrated with the KCB platform to achieve seamless cash receipt and payment. The system has undergone continued improvement and links with CTS in all court registries thus creating a seamless system for revenue collection, receipting, deposits and court expenditure.

The CTS and JFMIS are used for revenue collection and payment at court stations. The outputs from these systems are relayed to the headquarters and consolidated to create reports on the financial status of the Judiciary. The automation of revenue collection saw the Judiciary revenue collection consistently grow over the past three years from KSh2.27 billion to KSh2.43 billion and KSh2.65 billion in FY 2019/2020, FY 2020/2021 and 2021/2022 respectively.

The automation of Judiciary's financial systems has increased operational efficiency and made it easier and quicker to provide real time reports on all financial transactions. The automation of registry operations and accounting processes has also reduced instances of misappropriation of revenue, deposits and expenditure thus ensuring enhanced integrity in financial transactions.

CHAPTER SEVEN—EMERGING ISSUES AND KEY POLICY RECOMMENDATIONS

1	Insufficient funding for the Judiciary.	<p>Parliament to amend the law (PFM Act) to guarantee the Judiciary at least 2.5 per cent of the national budget to safeguard the financial autonomy of the Judiciary as envisaged in the Constitution. This additional funding will support:</p> <ul style="list-style-type: none"> • Recruitment of judges, judicial officers and critical cadres of judicial staff to increase the human resource complement to at least 80 per cent of the approved establishment. • Implement the revised Terms and Conditions of Service for Judicial Officers. • Review Terms and Conditions of Service for Judicial Staff. • Roll out of a culture change programme aligned to STAJ and the Organisation Review Report. • Establishment and construction of courts in counties and sub-counties. • Operationalisation of gazetted Magistrates Courts. • Acquisition of premises for Tribunals. • Construction of Kenya Judiciary Academy premises. • Implementation of key programmes eg operationalisation of Small Claims Courts, Court Annexed Mediation, Alternative Justice System (AJS), service weeks, mobile courts and circuits. • Enhancement of the security of judiciary infrastructure and its personnel, including security awareness training, purchase of security equipment, and the provision of security guards across 	Parliament.
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		the institution. <ul style="list-style-type: none">Upscaling of judiciary technology including roll-out of an institutional ERP and capacity building on IT across all court functions.	
2	Need to diversify and enhance the funding options for the Judiciary.	Strengthen the Judiciary Committee on Resource Mobilisation to advocate for additional resources and ensure consolidation of resources to actualise programs that are not supported by the National budget.	Judiciary, Committee on Resource Mobilisation.
3	Update legal and regulatory framework for Judiciary finance systems and processes.	Parliament to amend the Judiciary Fund Act and Regulations to address emerging issues since the operationalisation of the Fund.	Parliament.
4	Inadequate legal framework for the National Council on Administration of Justice.	Enactment of an overarching and comprehensive legislation establishing the National Council on Administration of Justice (NCAJ).	Parliament.
5	Insufficient funding for other justice sector institutions.	Budgetary support for all other agencies involved in the administration of justice should be enhanced.	<ul style="list-style-type: none">Parliament.National Treasury.NCAJ.
6	Outstanding payments due from the District Treasuries	The National Treasury to close out the issue of outstanding payments due from various District Treasuries arising from the delinking of the two Arms (Judiciary & Executive) of Government.	National Treasury.
7	Unconstitutional statutory provisions.	There is a need for law reform to cure numerous statutory provisions that were declared unconstitutional by the Courts during the reporting period and in previous years. A comprehensive list of statutory provisions declared unconstitutional in the reporting period is included in Chapter 3. Parliament to consider court decisions when developing its annual legislative agenda to ensure prompt review of laws that are found unconstitutional.	<ul style="list-style-type: none">Attorney General.Parliament.
8	Lack of legal framework for transition of tribunals from the Executive to the Judiciary.	Parliament to expedite the enactment of a legal framework for the transitioning of Tribunals to the Judiciary and their management within the institution. The Tribunals Bill prepared to address some of these challenges is still pending at the office of the Attorney General.	<ul style="list-style-type: none">Attorney General.Parliament.
9	Lack of enabling legal framework for use of ICT in the administration of justice.	Parliament to review and harmonise statutes governing adoption of ICT in court procedures.	<ul style="list-style-type: none">Attorney General.Parliament.
10	Lack of statutory establishment for the Environment and Land Court, and the Employment and Labour Relations Court.	Parliament to amend the law to provide for the full establishment of the Environment and Land Court and the Employment and Labour Relations Court.	<ul style="list-style-type: none">Attorney General.Parliament.
11	Delays in processing title documents for land belonging to the Judiciary.	National Land Commission and the Ministry of Lands to expedite issuance of title documents for Judiciary premises across the country.	<ul style="list-style-type: none">National Lands Commission.Ministry of Lands.
12	Lack of land for the court expansion programme.	Stakeholders (especially County Governments) to allocate land for construction of courts and support the construction of court premises in the counties.	<ul style="list-style-type: none">Council of Governors.County Governments.
13	Need for accreditation and establishment of the Judiciary Training Academy as a world class Judiciary academy.	To undertake necessary internal steps to set the stage for accreditation and the eventual award of a charter (develop/expand appropriate curricula and physical facilities).	Kenya Judiciary Academy
14	Inadequate automation of the complaints handling process in the Judiciary Ombudsman's office.	Complaints system to be audited and reconfigured (overhauled) to ensure it generates quality/accurate data and reports that will inform timely action and decision-making.	Office the Judiciary Ombudsman

Annex 2.1: High Court Statistics, FY 2021/22

High Court Station	Pending 30th June 2021				Filed			Resolved			CCR			Pending June 2022			Backlog 30th June 2022			Average time to disposition		
	Criminal	Civil	All	Backlog > 3 yrs	Criminal	Civil	All	Criminal	Civil	All	Criminal	Civil	All	1-3 yrs	> 3 yrs	Total	Criminal	Civil	All			
Bomet	310	396	706	248	323	187	510	128	183	311	40%	98%	61%	505	403	908	255	199	454	284	925	661

<i>High Court Station</i>	<i>Pending 30th June 2021</i>					<i>Filed</i>			<i>Resolved</i>			<i>CCR</i>		<i>Pending June 2022</i>			<i>Backlog 30th June 2022</i>			<i>Average time to disposition</i>		
Bungoma	778	2,359	3,137	456	367	267	634	328	563	891	89%	211 %	141 %	472	611	1083	336	365	701	601	2,009	1,491
Busia	182	2,089	2,271	1,267	130	167	297	55	280	335	42%	168 %	113 %	257	1,983	2240	646	1,122	1,768	275	2,252	1,927
Chuka	215	473	688	53	190	153	343	93	107	200	49%	70%	58%	100	134	234	427	36	463	395	552	479
Eldoret	1,020	1,087	2,107	865	603	630	1,233	423	660	1,083	70%	105 %	88%	1,200	1,057	2257	906	454	1,360	304	2,267	1,500
Embu	534	2,279	2,813	219	158	221	379	163	422	585	103%	191 %	154 %	131	397	528	124	203	327	444	1,981	1,553
Garissa	450	257	707	204	166	64	230	104	49	153	63%	77%	67%	512	272	784	338	200	538	556	555	556
Garsen	113	82	195	22	155	46	201	174	44	218	112%	96%	108 %	94	88	182	0	0	386	1,300	577	
Homabay	299	479	778	201	129	187	316	173	335	508	134%	179 %	161 %	264	331	595	282	92	374	763	1,114	994
Kabarnet	385	150	535	142	155	71	226	110	54	164	71%	76%	73%	430	171	601	219	130	349	279	529	361
Kajiado	284	286	570	8	144	374	518	51	173	224	35%	46%	43%	377	487	864	193	0	193	386	581	537
Kakamega	747	2,546	3,293	1,618	219	398	617	122	1,225	1,347	56%	308 %	218 %	682	1,784	2466	462	1,559	2,021	1,107	1,966	1,888
Kapenguria	143	37	180	37	94	30	124	57	19	76	61%	63%	61%	180	51	231	47	31	78	196	1,013	400
Kericho	634	1,140	1,774	667	223	192	415	89	180	269	40%	94%	65%	768	1,152	1920	695	609	1,304	493	1,614	1,243
Kerugoya	282	2,111	2,393	1,323	179	205	384	113	191	304	63%	93%	79%	348	2,126	2474	688	1,262	1,950	634	1,195	986
Kiambu	1,550	1,469	3,019	933	468	916	1,384	428	485	913	91%	53%	66%	1,590	1,900	3490	897	888	1,785	220	576	409
Kisii	190	160	350	50	176	481	657	63	534	597	36%	111 %	91%	303	280	583	232	0	232	472	2,655	2,425
Kisumu	660	887	1,547	657	327	499	826	281	625	906	86%	125 %	110 %	706	761	1467	636	591	1,227	308	1,110	861
Kitale	2,062	1,168	3,230	916	483	235	718	316	217	533	65%	92%	74%	2,229	1,191	3420	1,414	833	2,247	384	1,749	939
Kitui	381	259	640	154	223	188	411	296	297	593	133%	158 %	144 %	317	183	500	36	80	116	746	716	731
Lodwar	79	34	113	33	211	14	225	139	3	142	66%	21%	63%	151	45	196	83	36	119	354	397	355
Machakos	1,162	2,210	3,372	951	382	762	1,144	272	880	1,152	71%	115 %	101 %	1,272	2,092	3364	1,744	561	2,305	318	2,110	1,687
Makueni	232	385	617	64	505	262	767	350	318	668	69%	121 %	87%	387	359	746	35	61	96	235	751	481
Malindi	525	847	1,372	290	244	413	657	118	250	368	48%	61%	56%	314	478	792	374	274	648	517	592	568
Marsabit	29	87	116	2	104	27	131	77	19	96	74%	70%	73%	60	96	156	29	1	30	105	367	157
Meru	1,557	2,701	4,258	1,373	512	442	954	447	819	1,266	87%	185 %	133 %	1,622	2,342	3964	2,130	1,016	3,146	619	2,175	1,626
Migori	244	446	690	363	247	342	589	94	482	576	38%	141 %	98%	397	313	710	0	269	269	336	1,001	893
Milimani Anti-corr. Div.	65	142	207	55	97	23	120	105	38	143	108%	165 %	119 %	57	127	184	83	45	128	531	558	552
Milimani Civil Div.	0	6,985	6,985	2,069	0	2,066	2,066	1	2,751	2,752		133 %	133 %	0	6,300	6300	2,474	409	2,883	1,207	2,284	2,283
Milimani C. & Tax Div.	0	6,579	6,579	2,822	0	2,272	2,272	0	2,937	2,937		129 %	129 %	0	5,914	5914	2,345	1,488	3,833	-	1,559	1,559
Milimani Const. Div.	0	643	643	126	0	830	830	0	621	621		75%	75%	0	857	857	138	9	147	-	803	803
Milimani	2,149	0	2,149	476	972	0	972	833	0	833	86%		86%	2,288	0	2288	563	431	994	698	3,857	709

High Court Station	Pending 30th June 2021					Filed			Resolved			CCR			Pending June 2022			Backlog 30th June 2022			Average time to disposition		
Criminal Div.																					8		
Milimani Family Div.	0	5,584	5,584	1,332	0	3,406	3,406	0	5,255	5,255			154 %	154 %	0	3,735	3735	980	0	980	-	2,921	2,921
Milimani Jud. Rev. Div.	0	1,219	1,219	300	0	383	383	0	486	486			127 %	127 %	0	1,116	1116	542	181	723	-	917	917
Mombasa	2,320	7,345	9,665	2,208	525	561	1,086	366	1,012	1,378	70%	180 %	127 %	2,479	6,905	9384	6,293	1,826	8,119	472	1,445	1,188	
Muranga	1,390	2,725	4,115	2,041	236	280	516	351	485	836	149%	173 %	162 %	1,275	2,520	3795	1,451	1,608	3,059	1,547	1,587	1,570	
Naivasha	408	315	723	91	333	220	553	279	287	566	84%	130 %	102 %	462	249	711	23	87	110	392	933	666	
Nakuru	817	5,353	6,170	1,977	765	717	1,482	481	1,117	1,598	63%	156 %	108 %	1101	4,953	6054	3,248	1,431	4,679	407	1,941	1,479	
Nanyuki	710	138	848	311	181	80	261	144	69	213	80%	86%	82%	747	149	896	356	283	639	503	696	565	
Narok	127	243	370	53	136	80	216	135	102	237	99%	128 %	110 %	178	237	415	40	9	49	910	790	858	
Nyamira	44	172	216	14	91	228	319	42	201	243	46%	88%	76%	93	199	292	190	5	195	236	250	248	
Nyandarua	192	231	423	221	165	139	304	187	186	373	113%	134 %	123 %	213	195	408	106	92	198	777	997	886	
Nyeri	528	2,054	2,582	966	224	301	525	124	324	448	55%	108 %	85%	628	2,031	2659	1,155	802	1,957	665	2,514	2,002	
Siaya	75	88	163	2	215	170	385	245	179	424	114%	105 %	110 %	49	80	129	81	6	87	207	259	229	
Vihiga	95	155	250	93	48	110	158	2	21	23	4%	19%	15%	141	244	385	11	93	104	95	199	190	
Voi	340	199	539	51	412	121	533	384	143	527	93%	118 %	99%	368	207	575	269	25	294	155	773	324	
All High Courts	24,307	66,594	90,901	28,324	11,517	19,760	31,277	8,743	25,628	34,371	76%	130 %	110 %	25,747	57,105	82,852	33,576	19,702	53,278	488	1,290	1,005	

Annex 2.2: Filed Criminal and Civil Cases at the High Court, per case type

High Court Station	Filed Criminal Cases								Filed Civil Cases												Total Filed Cases
	Murder	Appl	Appeal	Revisi on	All CR cases	Adopti on	Appeal	Civ Misc	Civ Matte r	Com m Matter s	Com m Misc	Cons t Pet	Divorc e	Famil y Appe al	Famil y Misc	Incom e Tax Appea l	Jud Mis c	Jud Revie w	Prob Admi n	All civil cases	
Bomet	31	47	52	193	323	0	54	57	6	0	0	4	0	0	2	0	0	0	64	187	510
Bungoma	35	62	122	148	367	2	95	109	6	0	0	13	0	5	8	0	2	6	21	267	634
Busia	21	26	48	35	130	0	51	62	8	0	1	31	0	4	1	0	0	4	5	167	297
Chuka	15	33	37	105	190	2	33	23	5	0	0	11	0	0	35	0	1	1	42	153	343
Eldoret	51	137	107	308	603	7	177	183	19	3	3	41	0	3	40	0	2	3	149	630	1,233
Embu	11	31	51	65	158	0	63	59	5	0	4	15	0	0	29	0	3	9	34	221	379
Garissa	17	21	59	69	166	0	15	7	3	0	1	19	0	0	0	0	2	9	8	64	230
Garsen	9	24	22	100	155	0	10	11	11	1	1	6	0	0	0	0	0	2	4	46	201
Homabay	41	29	51	8	129	1	104	50	3	1	0	6	0	0	3	0	2	12	5	187	316
Kabarnet	22	35	35	63	155	0	40	6	2	0	0	2	0	0	9	0	1	4	7	71	226
Kajiado	21	38	25	60	144	9	104	66	29	6	0	9	1	0	18	0	0	9	123	374	518
Kakamega	53	72	75	19	219	2	74	188	13	0	0	39	1	19	17	0	3	12	30	398	617
Kapenguria	15	20	28	31	94	0	6	2	0	0	2	4	0	0	2	0	0	2	12	30	124
Kericho	25	48	46	104	223	7	61	36	5	1	1	9	0	0	4	0	0	4	64	192	415
Kerugoya	26	26	28	99	179	2	88	48	5	0	0	24	0	0	10	0	1	4	23	205	384

High Court Station	Filed Criminal Cases					Filed Civil Cases														Total Filed	
	47	62	92	267	468	30	288	247	34	14	0	62	0	0	37	0	0	24	180	916	
Kiambu	47	62	92	267	468	30	288	247	34	14	0	62	0	0	37	0	0	24	180	916	1,38 4
Kisii	59	20	14	83	176	6	102	328	7	0	0	20	0	0	0	0	0	6	12	481	657
Kisumu	33	114	56	124	327	5	132	188	20	17	0	57	0	8	6	3	6	28	29	499	826
Kitale	29	147	93	214	483	5	44	72	5	2	5	19	0	0	4	0	0	14	65	235	718
Kitui	27	50	74	72	223	3	73	62	9	1	0	12	0	0	6	0	2	8	12	188	411
Lodwar	14	17	56	124	211	0	5	0	4	0	0	2	0	0	0	0	1	1	1	14	225
Machakos	63	97	76	146	382	33	215	243	51	2	0	73	0	26	1	0	2	33	83	762	1,14 4
Makueni	18	107	154	226	505	1	88	116	7	0	0	7	0	7	9	0	1	4	22	262	767
Malindi	22	44	54	124	244	1	110	93	90	2	7	47	0	1	2	0	0	16	44	413	657
Marsabit	10	9	21	64	104	0	8	5	4	0	0	3	0	0	1	0	0	3	3	27	131
Meru	78	76	168	190	512	5	174	102	27	0	0	44	0	0	35	0	1	14	40	442	954
Migori	20	61	107	59	247	1	148	132	7	1	1	25	0	0	2	0	0	18	7	342	589
Milimani Anti-corr. Div.	0	65	19	13	97	0	0	0	23	0	0	0	0	0	0	0	0	0	0	23	120
Milimani Civil Div.	0	0	0	0	0	0	953	851	262	0	0	0	0	0	0	0	0	0	0	2,06 6	2,06 6
Milimani Comm & Tax Div.	0	0	0	0	0	0	0	0	290	863	936	0	0	0	0	183	0	0	0	2,27 2	2,27 2
Milimani Const. Div	0	0	0	0	0	0	0	0	0	0	0	830	0	0	0	0	0	0	0	830	830
Milimani Criminal Div.	94	439	213	226	972	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	972
Milimani Family Div.	0	0	0	0	0	212	0	0	0	0	0	0	5	169	398	0	0	0	2,62 2	3,40 6	3,40 6
Milimani Jud. Rev. Div.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	182	201	0	383	383	
Mombasa	41	180	83	221	525	0	132	128	97	4	1	84	0	33	3	0	0	46	33	561	1,08 6
Muranga	33	33	41	129	236	1	87	64	31	1	0	10	0	15	12	0	4	16	39	280	516
Naivasha	20	109	52	152	333	0	95	70	8	0	0	8	0	0	11	0	0	3	25	220	553
Nakuru	68	175	78	444	765	23	156	191	47	4	2	38	0	15	68	0	2	21	150	717	1,48 2
Nanyuki	11	20	81	69	181	7	16	18	8	0	1	9	0	0	2	0	0	5	14	80	261
Narok	16	45	17	58	136	1	6	12	4	0	0	32	0	0	0	0	0	2	23	80	216
Nyamira	23	27	36	5	91	1	81	121	7	1	0	4	0	1	1	0	1	4	6	228	319
Nyandarua	27	17	28	93	165	3	26	31	7	1	0	10	0	3	11	0	2	9	36	139	304
Nyeri	21	49	54	100	224	6	88	83	16	0	0	20	0	16	19	0	0	16	37	301	525
Siaya	54	110	38	13	215	0	58	63	6	3	0	16	0	3	9	0	1	3	8	170	385
Vihiga	19	18	9	2	48	0	35	10	2	0	0	8	0	7	0	0	1	6	41	110	158
Voi	2	52	88	270	412	0	52	42	3	0	0	16	0	0	4	0	0	1	3	121	533
All High Courts	1,242	2,79 2	2,58 8	4,895	11,5 17	376	4,14 7	4,17 9	1,19 6	928	966	1,68 9	7	335	819	186	223	583	4,12 6	19,7 60	31,2 77

Annex 2.3: Resolved Criminal and Civil Cases at the High Court, per case type

High Court Station	Resolved Criminal Cases					Resolved Civil Cases													Total Resolved Cases		
	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All CR cases	Adoption	Civil Appeal	Civil Misc	Civil Matter	Comm' Matters	Comm' Misc	Const Pet	Divorce	Fam'ly Appeal	Fam'ly Misc	Income Tax Appeal	Jud Mis c	Jud Revie w	Probate Admi n	All civil cases	
Bomet	12	10	32	74	128	1	76	38	0	0	0	16	0	0	0	0	0	3	49	183	311
Bungoma	92	26	116	94	328	6	281	118	29	9	0	33	2	2	3	0	2	6	72	563	891
Busia	26	10	11	8	55	0	46	72	15	2	0	29	8	0	9	0	0	7	92	280	335
Chuka	26	30	27	10	93	2	30	16	3	0	0	2	1	0	22	0	0	1	30	107	200
Eldoret	31	70	40	282	423	4	121	209	23	0	1	72	3	1	20	0	1	11	194	660	1,083
Embu	34	21	32	76	163	9	125	91	20	0	0	51	0	0	20	0	5	6	95	422	585
Garissa	13	32	38	21	104	0	8	15	5	0	0	11	0	0	0	0	3	2	5	49	153
Garsen	23	9	50	92	174	0	7	3	8	5	0	8	0	3	0	0	1	0	9	44	218
Homabay	90	12	67	4	173	1	132	52	2	0	0	18	0	0	3	0	1	6	120	335	508
Kabarnet	11	16	14	69	110	0	26	8	3	0	1	5	0	0	5	0	0	1	5	54	164
Kajiado	7	9	11	24	51	7	38	32	16	0	0	5	0	0	6	0	0	3	66	173	224
Kakamega	32	43	40	7	122	4	121	829	34	2	1	73	1	1	6	0	1	7	145	1,225	1,347
Kapenguria	3	15	8	31	57	0	1	0	0	0	0	1	0	0	1	0	0	0	16	19	76
Kericho	26	16	16	31	89	9	32	34	6	0	0	8	0	0	2	0	0	2	87	180	269
Kerugoya	11	9	24	69	113	2	31	70	19	0	0	30	0	0	10	0	0	4	25	191	304
Kiambu	23	33	28	344	428	19	106	158	19	3	0	36	0	0	0	0	0	11	133	485	913
Kisii	24	6	13	20	63	4	108	174	15	0	0	20	1	0	0	0	0	8	204	534	597
Kisumu	14	54	60	153	281	2	121	249	22	15	0	100	0	3	4	0	1	7	101	625	906
Kitale	15	111	59	131	316	4	12	55	5	1	0	34	0	0	2	0	0	4	100	217	533
Kitui	32	67	94	103	296	8	99	101	16	0	0	43	0	0	2	0	1	10	17	297	593
Lodwar	23	4	19	93	139	0	0	0	1	0	0	1	0	0	0	0	0	0	1	3	142
Machakos	26	51	51	144	272	28	167	313	28	2	0	38	1	0	1	0	0	11	291	880	1,152
Makueni	26	57	92	175	350	0	97	147	2	0	30	4	0	8	3	0	0	2	25	318	668
Malindi	32	34	33	19	118	0	27	68	12	35	4	60	3	0	0	0	0	2	39	250	368
Marsabit	4	14	21	38	77	0	9	1	2	0	0	4	0	0	2	0	0	1	0	19	96
Meru	139	71	186	51	447	12	171	140	51	0	0	59	1	0	47	0	0	20	318	819	1,266
Migori	13	13	52	16	94	0	193	128	8	0	0	45	0	0	0	0	0	16	92	482	576
Milimani Anti-corr. Div.	0	73	21	11	105	0	0	22	16	0	0	0	0	0	0	0	0	0	38	143	
Milimani Civil Div.	0	1	0	0	1	0	991	1,369	389	0	0	2	0	0	0	0	0	0	2,751	2,752	
Milimani Comm & Tax Div.	0	0	0	0	0	0	0	0	0	1,362	1,443	0	0	0	0	0	0	0	2,937	2,937	
Milimani Const. Div.	0	0	0	0	0	0	0	0	5	0	0	616	0	0	0	0	0	0	0	621	
Milimani Criminal Div.	25	361	172	275	833	0	0	0	0	0	0	0	0	0	0	0	0	0	0	833	
Milimani Family Div.	0	0	0	0	0	296	0	0	63	0	0	0	58	175	190	0	0	0	4,473	5,255	
Milimani Jud. Rev. Div.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	166	320	0	486	486	

High Court Station	Resolved Criminal Cases					Resolved Civil Cases														Total Resol
Mombasa	32	90	65	179	366	18	117	108	143	14	0	258	1	90	0	0	0	46	217	1,012
Muranga	39	33	39	240	351	17	114	174	4	0	0	73	0	0	1	0	2	3	97	485
Naivasha	9	150	36	84	279	2	87	159	12	0	0	6	0	0	2	0	0	2	17	287
Nakuru	65	75	56	285	481	31	176	357	105	3	0	41	4	11	33	0	0	33	323	1,117
Nanyuki	9	8	65	62	144	7	11	17	5	0	0	15	1	0	1	0	0	4	8	69
Narok	8	45	70	12	135	1	29	18	5	0	0	23	2	3	0	0	0	1	20	102
Nyamira	22	6	11	3	42	0	62	111	8	0	0	6	0	1	2	0	1	3	7	201
Nyandarua	9	8	89	81	187	0	87	26	12	0	0	11	0	1	5	0	2	3	39	186
Nyeri	34	22	34	34	124	13	82	53	10	0	0	23	0	14	6	0	0	13	110	324
Siaya	72	109	38	26	245	0	65	64	10	1	0	17	0	0	5	0	1	6	10	179
Vihiga	0	2	0	0	2	1	4	9	0	0	0	0	0	0	0	0	0	1	6	21
Voi	8	53	38	285	384	0	41	40	2	2	0	48	0	0	2	0	0	2	6	143
All High Courts	1,140	1,879	1,968	3,756	8,743	508	4,051	5,648	1,153	1,456	1,480	1,945	87	313	415	132	188	588	7,664	25,628
																				34,371

Annex 2.4: Pending Criminal and Civil Cases at the High Court, per case type

High Court Station	Pending Criminal Cases June 2022										Pending civil cases June 2022										All Pending Cases
	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All CR cases	Adoption	Civil Appeal	Civil Misc	Civil Matter	Commatters	Comm Misc	Const Pet	Divorce	Famly Appeal	Famly Misc	Income Tax Appeal	Judicial Misc	Judicial Review	Probation Admin	All civil cases	
Bomet	125	93	56	231	505	1	13	108	34	1	1	0	0	0	7	0	0	0	238	403	908
Bungoma	84	78	240	70	472	5	209	102	25	7	0	57	0	0	1	0	0	7	198	611	1,083
Busia	52	50	61	94	257	0	62	633	165	0	2	19	0	8	2	0	5	47	1,040	1,983	2,240
Chuka	53	8	39	0	100	0	37	14	17	0	0	0	0	0	38	0	1	3	24	134	234
Eldoret	490	260	287	163	1,200	6	145	468	155	4	3	16	29	4	50	0	10	23	144	1,057	2,257
Embu	76	15	39	1	131	0	84	36	32	0	0	21	0	0	29	0	2	7	186	397	528
Garissa	66	137	83	226	512	0	14	28	91	0	1	41	1	0	0	0	3	14	79	272	784
Garsen	16	40	13	25	94	1	26	14	13	3	1	0	0	0	2	0	3	7	18	88	182
Homa Bay	123	19	0	122	264	5	6	20	41	2	0	8	0	1	1	0	4	24	219	331	595
Kabarnet	175	122	34	99	430	1	34	42	7	1	0	0	0	0	10	0	1	16	59	171	601
Kajiado	69	77	18	213	377	4	126	60	89	18	1	26	4	1	36	0	11	33	78	487	864
Kakamega	376	117	167	22	682	2	241	176	56	1	0	102	32	27	43	0	1	17	1,086	1,784	2,466
Kapenguria	44	27	34	75	180	0	9	6	4	0	2	6	0	0	4	0	7	13	0	51	231
Kericho	171	117	110	370	768	14	73	138	115	120	1	69	0	0	2	0	12	18	590	1,152	1,920
Kerugoya	82	34	8	224	348	3	97	88	87	1	2	0	7	2	12	0	5	22	1,800	2,126	2,474

High Court Station	Pending Criminal Cases June 2022						Pending civil cases June 2022															All Pending
	244	409	246	691	1,590	40	568	653	143	58	4	141	29	0	45	1	0	53	165	1,900	3,490	
Kiambu	244	409	246	691	1,590	40	568	653	143	58	4	141	29	0	45	1	0	53	165	1,900	3,490	
Kisii	97	103	23	80	303	10	60	205	0	2	0	2	0	0	0	0	0	1	0	280	583	
Kisumu	134	196	88	288	706	25	140	24	186	25	0	156	11	14	3	3	25	99	50	761	1,467	
Kitale	210	613	342	1064	2,229	11	397	299	59	7	6	0	2	2	47	0	0	69	292	1,191	3,420	
Kitui	131	0	110	76	317	0	104	21	11	6	11	0	0	0	4	0	1	0	25	183	500	
Lodwar	22	46	48	35	151	0	7	9	4	0	0	3	2	1	0	0	2	3	14	45	196	
Machakos	240	402	162	468	1,272	71	514	590	171	6	2	125	3	26	1	0	33	166	384	2,092	3,364	
Makueni	11	70	66	240	387	2	73	104	29	5	0	22	3	6	10	0	2	6	97	359	746	
Malindi	92	9	77	136	314	3	230	65	17	77	0	7	1	0	0	0	0	9	69	478	792	
Marsabit	30	0	2	28	60	1	14	23	29	0	0	17	1	0	0	0	0	2	9	96	156	
Meru	349	339	356	578	1,622	0	247	264	1,238	2	3	0	12	1	47	0	18	502	8	2,342	3,964	
Migori	28	153	74	142	397	3	0	85	32	2	32	3	0	0	6	0	1	57	92	313	710	
Milimani Anti0corr. Div.	3	38	0	16	57	0	15	8	10	0	0	23	0	0	0	0	71	0	0	127	184	
Milimani Civil Div.	0	0	0	0	0	0	2,597	1,610	2,091	0	0	2	0	0	0	0	0	0	0	6,300		
Milimani Comm & Tax Div.	0	0	0	0	0	0	200	30	293	2,921	2,225	7	0	0	0	238	0	0	0	5,914		
Milimani Const. Div	0	0	0	0	0	0	0	0	0	0	857	0	0	0	0	0	0	0	0	857		
Milimani Criminal Div.	378	817	386	707	2,288	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,288	
Milimani Family Div.	0	0	0	0	0	19	3	0	373	1	0	5	83	180	459	0	2	0	2,610	3,735		
Milimani Jud. Rev. Div.	0	0	0	0	0	0	0	1	91	59	0	73	0	0	0	0	49	843	0	1,116		
Mombasa	361	634	831	653	2,479	0	2,171	2,861	54	31	6	346	77	15	127	16	733	227	241	6,905	9,384	
Muranga	317	162	598	198	1,275	22	554	448	151	3	0	85	8	33	51	0	23	69	1,073	2,520	3,795	
Naivasha	75	173	35	179	462	0	118	15	6	0	0	4	2	2	15	0	2	5	80	249	711	
Nakuru	345	116	289	351	1,101	13	690	835	676	7	6	19	22	13	76	2	6	225	2,363	4,953	6,054	
Nanyuki	76	152	202	317	747	2	44	21	13	0	3	6	2	3	1	1	4	5	44	149	896	
Narok	28	76	0	74	178	4	0	95	21	5	0	35	0	0	4	0	4	8	61	237	415	
Nyamira	27	26	31	9	93	1	58	56	22	12	0	18	0	0	2	0	1	1	28	199	292	
Nyandar	104	72	0	37	213	8	0	104	28	3	0	20	0	2	16	0	1	10	3	195	408	

High Court Station	Pending Criminal Cases June 2022					Pending civil cases June 2022													All Pending		
	ua																				
Nyeri	59	232	177	160	628	17	215	715	238	1	1	48	43	40	22	2	15	30	644 2,03 1	2,659	
Siaya	12	8	27	2	49	0	24	38	3	2	0	1	0	3	6	0	1	0	2	80 129	
Vihiga	67	16	56	2	141	0	79	9	14	0	0	19	0	7	0	0	1	7	108 244	385	
Voi	17	113	65	173	368	1	59	7	26	54	1	0	0	0	2	0	1	7	49 207	575	
All High courts	5,45 9	6,169	5,480	8,639	25,7 47	295	10,3 57	11,1 28	6,96 0	3,447	2,31 4	2,40 9	374	391	1,18 1	263	1,061	2,655	14,27 0	57,1 05	82,85 2

Annex 2.5: Employment & Labour Relations Court Statistics

	Case Type/Station	Bungoma	Eldoret	Kericho	Kisumu	Malindi	Mombasa	Nairobi	Nakuru	Nyeri	All Courts
Pending as at 30th June 2021	CBA		-	-	-		3	676	1	1	681
	Causes Disputes		540	278	513		1,259	7,631	534	228	10,983
	ELRC Petition		125	11	95		29	584	29	40	913
	ELRC Misc		14	11	73		154	599	54	29	934
	ELRC Appeal		7	2	28		76	238	29	18	398
	ELRC Review		12	4	15		14	73	10	3	131
	All Pending cases		698	306	724	-	1,535	9,801	657	319	14,040
Backlog as at 30th June 2021	1-3 years	N/A	275	190	223	N/A	713	5,140	269	198	7,008
	Over 3 Years	N/A	394	104	169	N/A	534	2,728	259	24	4,212
	All Backlog	N/A	669	294	392	N/A	1,247	7,868	528	222	11,220
Filed Matters	CBA	0	0	0	0	0	1	314	0	0	315
	Causes Disputes	122	29	26	74	9	150	999	54	85	1,548
	ELRC Petition	27	23	10	64	5	22	243	18	21	433
	ELRC Misc	22	19	16	84	31	90	238	38	22	560
	ELRC Appeal	48	36	11	53	10	100	218	31	55	562
	ELRC Review	6	7	3	16	1	9	47	6	5	100
	Total filed cases	225	114	66	291	56	372	2,059	147	188	3,518
Resolved	CBA	0	0	0	0	0	0	248	0	0	248
	Causes Disputes	127	109	100	439	94	809	2,264	387	80	4,409
	ELRC Petition	12	17	27	93	10	21	187	30	24	421
	ELRC Misc	14	16	20	61	20	57	46	35	19	288
	ELRC Appeal	1	12	8	43	8	63	59	25	10	229
	ELRC Review	3	4	3	14	2	8	20	8	5	67
	All resolved cases	157	158	158	650	134	958	2,824	485	138	5,662
CCR	CBA	N/A	N/A	N/A	N/A	N/A	0%	79%	N/A	N/A	79%
	Causes Disputes	104%	376%	385%	593%	1044%	539%	227%	717%	94%	285%
	ELRC Petition	44%	74%	270%	145%	200%	95%	77%	167%	114%	97%
	ELRC Misc	64%	84%	125%	73%	65%	63%	19%	92%	86%	51%
	ELRC Appeal	2%	33%	73%	81%	80%	63%	27%	81%	18%	41%
	ELRC Review	50%	57%	100%	88%	200%	89%	43%	133%	100%	67%
	All Cases	70%	139%	239%	223%	239%	258%	137%	330%	73%	161%
Pending as at 30th June	CBA	0	0	0	0	0	4	742	1	1	748
	Causes Disputes	91	460	24	148	6	600	6,366	201	233	8,129

	Case Type/Station	Bungoma	Eldoret	Kericho	Kisumu	Malindi	Mombasa	Nairobi	Nakuru	Nyeri	All Courts	
2022	ELRC Petition	19	131	5	66	2	30	640	17	37	947	
	ELRC Misc	10	17	4	96	17	187	791	57	32	1,211	
	ELRC Appeal	54	31	5	38	9	113	397	35	63	745	
	ELRC Review	2	15	2	17	1	15	100	8	3	163	
	Total	176	654	40	365	35	949	9,036	319	369	11,943	
Backlog as at 30th June 2022	1-3 years	40	263	10	184	18	694	5,201	239	203	6,852	
	3 and above	100	362	9	39	1	184	2,531	13	29	3,268	
	All Backlog	140	625	19	223	19	878	7,732	252	232	10,120	
% change in case backlog older than 3 years			N/A	-8%	-91%	-77%	N/A	-66%	-7%	-95%	21%	-22%
Average time to disposition (Days)			610	943	828	1,175	1,432	1,493	1,709	1,465	786	1,160

Annex 2.6: Environment and Land Court Statistics

	Pending as at 30th June 2021				Backlog >3 years	Filed Matters				Resolved Matters				Pending Cases June 2023				Case Backlog as at 30th June 2022			Avg Time to Disposition (Days)
	Gen. Suits	Misc	Appeals	Total		Gen Suit	Misc	Appeals	Total	Gen Suit	Misc	Appeals	Total	Gen Suits	Misc	Appeals	Total	1-3 yrs	Over 3 yrs	All backlog	
Bungoma	58	68	68	194	156	28	33	41	102	69	21	15	105	124	20	92	236	30	107	137	1,764
Busia	308	12	20	340	67	81	15	36	132	202	7	21	230	184	18	34	236	139	49	188	1,939
Chuka	5	-	3	8	2	14	17	12	43	27	13	21	61	9	4	6	19	9	3	12	477
Eldoret	1,037	44	48	1,129	613	91	48	68	207	250	50	58	358	1211	58	105	1,374	332	773	1,105	1,548
Embu	279	23	57	359	225	66	25	24	115	91	18	40	149	325	9	81	415	116	214	330	1,390
Garissa	33	19	14	66	25	11	7	16	34	21	1	11	33	21	25	18	64	12	17	29	953
Homabay				-	0	151	19	120	290	51	15	31	97	97	4	88	189	1	1	2	153
Isiolo				-	0	29	12	31	72	5	1	8	14	24	11	23	58	1	1	2	202
Iten				-		12	5	8	25	8	0	11	19	108	63	16	187	0	1	1	41
Kajiado	199	29	27	255	417	134	64	57	255	152	75	43	270	639	88	108	835	227	384	611	1,037
Kakamega	123	25	27	175	148	68	37	60	165	201	47	33	281	262	17	76	355	77	124	201	1,378
Kapsabet				-	0	237	21	54	312	54	10	11	75	126	8	28	162	0	0	0	151
Kericho	175	10	9	194	62	37	14	12	63	167	12	12	191	278	7	25	310	73	190	263	1,980
Kerugoya	591	116	168	875	383	52	13	30	95	83	2	11	96	227	6	76	309	72	184	256	1,916
Kilgoris				-	0	41	6	38	85	16	2	14	32	47	7	31	85	22	0	22	201
Kisii	405	31	21	457	304	11	11	16	38	121	15	31	167	320	6	90	416	78	263	341	1,939
Kisumu	512	59	111	682	248	77	43	80	200	112	28	44	184	414	49	200	663	250	269	519	1,222
Kitale	610	21	5	636	282	51	20	26	97	156	13	19	188	202	11	39	252	73	120	193	1,816
Kitui				-	0	62	17	54	133	23	29	23	75	351	79	63	493	79	334	413	126
Kwale				-	0	137	14	20	171	17	2	3	22	359	26	45	430	1	0	1	151
Machakos	710	197	84	991	271	122	67	81	270	325	70	46	441	407	171	50	628	19	227	246	1,836
Makueni	37	8	11	56	36	50	8	30	88	103	12	29	144	620	62	184	866	287	402	689	1,043
Malindi	823	6	4	833	231	89	48	57	194	279	37	37	353	620	17	24	661	7	124	131	1,603
Meru	2	108	193	303	108	60	52	105	217	180	58	231	469	288	33	247	568	225	194	419	1,392
Migori	35	34	37	106	29	50	20	38	108	80	19	26	125	68	12	112	192	93	56	149	1,201

	Pending as at 30th June 2021				Backlog >3 years	Filed Matters				Resolved Matters				Pending Cases June 2023				Case Backlog as at 30th June 2022		Avg Time to Disposition (Days)	
	Gen. Suits	Misc	Appeals	Total		Gen Suit	Misc	Appeals	Total	Gen Suit	Misc	Appeals	Total	Gen Suits	Misc	Appeals	Total	1-3 yrs	Over 3 yrs		
Court name	Gen. Suits	Misc	Appeals	Total	Gen Suit	Misc	Appeals	Total	Gen Suit	Misc	Appeals	Total	Gen Suits	Misc	Appeals	Total	1-3 yrs	Over 3 yrs	All backlog		
Milimani	801	494	75	1,370	986	556	239	198	993	1,491	418	229	2,138	2112	283	174	2,569	456	1,682	2,138	1,742
Mombasa	1,538	488	106	2,132	904	159	40	74	273	326	17	68	411	1341	508	109	1,958	36	180	216	1,840
Muranga	38	14	18	70	52	60	26	23	109	89	13	28	130	7	27	13	47	29	671	700	763
Nakuru	829	22	24	875	700	102	51	55	208	258	28	36	322	843	55	129	1,027	279	611	890	1,471
Nanyuki				-	0	86	9	37	132	18	2	8	28	63	5	27	95	88	79	167	177
Narok	181	39	22	242	79	18	11	16	45	62	16	29	107	116	33	19	168	37	116	153	1,051
Nyamira				-	149	113	5	24	142	63	4	7	74	50	1	17	68	0	0	0	130
Nyandarua	190	2	3	195	0	40	14	36	90	34	8	18	60	189	8	16	213	89	91	180	1,066
Nyeri	634	68	77	779	376	33	28	51	112	80	12	21	113	352	80	60	492	80	345	425	1,752
Siaya				-	0	148	29	82	259	64	17	43	124	88	12	42	142	5	0	5	133
Thika	882	75	126	1,083	419	246	70	136	452	306	74	147	527	578	28	185	791	218	308	526	835
Vihiga				-	0	26	10	39	75	26	4	21	51	20	4	19	43	5	0	5	133
All ELC Courts	11,035	2,012	1,358	14,405	7,272	3,348	1,168	1,885	6,401	5,610	1,170	1,484	8,264	13,090	1,855	2,671	17,616	3,545	8,120	11,665	1,042

Annex 2.7: Magistrates' Courts Statistics

Magistrates Court Station	Pending Cases 30th June 2021			Back log >3 yrs	Filed Cases			Resolved Cases			Overall CCR	Pending Cases June 2022			Case Backlog			Average Time to Disposition (Days)			
	Criminal	Civil	All		Criminal	Civil	All	Criminal	Civil	All		Criminal	Civil	All	103 years	Over 3 years	All backlog	Overall	Criminal	Civil	Traffic
Baricho	1,816	1,126	2,942	77	1,638	324	1,962	1,230	342	1,572	80%	2,246	1,108	3,354	1,196	69	1,265	284	174	793	94
Bomet	1,316	571	1,887	16	1,865	435	2,300	1,826	333	2,159	94%	1,355	673	2,028	581	14	595	217	146	539	86
Bondo	732	590	1,322	22	1,803	785	2,588	1,713	873	2,586	100%	822	504	1,326	573	41	614	256	103	459	18
Bungoma	1,168	1,925	3,093	709	2,614	1,539	4,153	2,113	711	2,824	68%	1,669	2,753	4,422	984	217	1,201	351	132	693	45
Busia	6,455	2,278	8,733	152	3,019	1,504	4,523	2,386	1,006	3,392	75%	5,288	2,776	8,064	1,269	1,149	2,418	432	305	830	35
Butali	1,611	1,169	2,780	83	1,298	593	1,891	863	116	979	52%	1,666	1,646	3,312	836	526	1,362	204	179	505	18
Butere	894	1,144	2,038	185	833	424	1,257	771	777	1,548	123%	1,018	490	1,508	352	7	359	504	157	788	35
Chuka	1,252	995	2,247	89	930	649	1,579	1,213	454	1,667	106%	969	1,190	2,159	956	2	958	360	280	392	64
Dadaab	77	0	77	4	116	25	141	77	2	79	56%	117	0	117	25	5	30	171	175	52	0
Eldama Ravine	1,163	279	1,442	17	1,679	264	1,943	1,612	237	1,849	95%	1,297	333	1,630	480	10	490	196	95	696	71
Eldoret	10,297	5,030	15,327	1,842	5,654	3,333	8,987	5,740	2,579	8,319	93%	10,211	5,784	15,995	4,300	1,517	5,817	328	399	348	50
Embu	2,225	530	2,755	376	1,201	584	1,785	1,407	941	2,348	132%	1,813	174	1,987	335	47	382	625	267	1,022	176
Engineer	689	229	918	145	4,035	544	4,579	4,220	865	5,085	111%	504	160	664	276	37	313	206	86	569	44
Garissa	1,366	392	1,758	25	1,948	160	2,108	1,884	181	2,065	98%	1,430	371	1,801	1,153	42	1,195	181	192	221	37
Garsen	561	165	726	26	527	103	630	376	139	515	82%	712	129	841	333	26	359	163	80	304	14
Gatundu	1,073	1,390	2,463	182	1,591	1,086	2,677	1,193	738	1,931	72%	1,471	1,738	3,209	15	139	154	319	103	653	36
Gichugu	749	485	1,234	27	1,081	262	1,343	1,089	251	1,340	100%	741	496	1,237	590	14	604	295	129	844	106
Githongo	615	200	815	30	753	278	1,031	919	224	1,143	111%	449	254	703	357	1	358	235	139	392	136

Magistrat es Court Station	Pending Cases 30th June 2021			Back log >3 yrs	Filed Cases			Resolved Cases			Over all CCR	Pending Cases June 2022			Case Backlog			Average Time to Disposition (Days)			
	Crimi nal	Civi l	All		Crim inal	Civi l	All	Crim inal	Civi l	All		Crim inal	Civi l	All	103 years	Over 3 years	All backlo g	Over all	Crim inal	Civi l	Traf fic
Githunguri	802	565	1,367	58	1,283	317	1,600	1,022	307	1,329	83%	1,063	575	1,638	351	4	355	380	114	1,089	82
Hamisi	1,142	168	1,310	95	1,068	349	1,417	948	146	1,094	77%	1,262	371	1,633	699	91	790	175	101	520	106
Hola	408	31	439	12	317	91	408	373	50	423	104%	352	72	424	213	26	239	224	183	371	53
Homa bay	1,699	911	2,610	27	1,243	550	1,793	1,038	479	1,517	85%	1,464	982	2,446	283	214	497	434	214	557	27
Isiolo	1,694	168	1,862	41	1,230	185	1,415	939	201	1,140	81%	1,500	162	1,662	630	60	690	432	320	667	456
Iten	433	170	603	903	1,377	233	1,610	1,438	251	1,689	105%	372	152	524	129	152	281	161	105	371	24
JKIA	140	0	140	0	111	0	111	127	0	127	114%	124	0	124	53	1	54	282	437	7	0
Kabarnet	536	83	619	37	1,484	158	1,642	1,320	123	1,443	88%	700	118	818	234	19	253	139	88	464	32
Kahawa	18	0	18	0	340	0	340	272	0	272	80%	154	0	154	10	0	10	49	49	0	0
Kajiado	2,660	2,734	5,394	1,007	3,622	857	4,479	2,685	1,165	3,850	86%	3,597	2,426	6,023	1,627	824	2,451	546	229	1,249	51
Kakamega	2,658	5,633	8,291	351	2,784	1,607	4,397	2,624	1,163	3,787	86%	1,298	6,077	7,375	1,482	2,287	3,769	475	304	807	58
Kakuma	467	64	531	11	397	7	404	458	33	491	122%	351	26	377	285	9	294	176	189	169	30
Kaloleni	251	540	791	7	268	376	644	257	381	638	99%	273	530	803	99	44	143	389	213	514	109
Kandara	1,783	1,099	2,882	65	2,448	902	3,350	2,294	589	2,883	86%	2,091	1,725	3,816	663	50	713	208	139	507	41
Kangema	599	327	926	23	809	234	1,043	875	176	1,051	101%	477	443	920	53	22	75	257	169	664	84
Kangundo	1,839	517	2,356	33	2,216	629	2,845	2,105	503	2,608	92%	2,061	769	2,830	480	16	496	169	117	408	13
Kapenguria	2,242	237	2,479	34	1,491	150	1,641	1,467	65	1,532	93%	2,292	407	2,699	1,192	42	1,234	116	113	182	24
Kapsabet	4,019	1,490	5,509	1,300	3,442	838	4,280	3,074	724	3,798	89%	2,044	1,119	3,163	1,112	451	1,563	348	232	813	96
Karatina	1,245	1,387	2,632	502	691	542	1,233	794	477	1,271	103%	1,039	1,517	2,556	552	418	970	490	337	732	161
Kehancha	536	302	838	28	1,496	296	1,792	1,222	267	1,489	83%	810	333	1,143	409	10	419	150	74	465	15
Kericho	3,647	1,493	5,140	301	4,958	861	5,819	4,690	655	5,345	92%	3,915	1,699	5,614	2,446	308	2,754	201	136	632	55
Keroka	1,164	525	1,689	17	1,743	457	2,200	1,614	181	1,795	82%	1,293	801	2,094	3	10	13	179	127	571	18
Kerugoya	1,284	1,814	3,098	210	847	1,196	2,043	892	997	1,889	92%	1,239	2,019	3,258	762	94	856	642	303	972	287
Kiambu	1,374	1,673	3,047	1,074	3,143	1,453	4,596	3,092	1,156	4,248	92%	1,425	1,970	3,395	86	147	233	545	430	821	155
Kibera	13,811	0	13,811	118	6,247	0	6,247	6,490	0	6,490	104%	3,119	0	3,119	1,115	150	1,265	542	554	0	104
Kigumo	3,941	800	4,741	205	1,761	648	2,409	1,829	631	2,460	102%	3,293	817	4,110	997	878	1,875	478	352	742	309
Kikuyu	3,290	2,972	6,262	315	1,724	1,283	3,007	1,627	1,132	2,759	92%	2,437	3,123	5,560	1,704	1,257	2,961	626	586	720	279
Kilgoris	576	167	743	36	1,452	224	1,676	1,012	123	1,135	68%	1,016	272	1,288	59	24	83	188	148	396	33
Kilifi	2,265	1,055	3,320	729	1,623	1,057	2,680	1,171	761	1,932	72%	2,717	1,351	4,068	609	135	744	362	316	495	106
Kilungu	952	719	1,671	2	1,411	462	1,873	1,190	416	1,606	86%	1,173	765	1,938	381	61	442	202	67	586	17
Kimilili	1,726	838	2,564	467	1,011	486	1,497	975	289	1,264	84%	1,810	1,232	3,042	551	416	967	388	274	666	222
Kisii	3,967	4,695	8,662	1,620	2,643	1,603	4,246	2,604	1,702	4,306	101%	4,045	4,497	8,542	985	1,436	2,421	485	262	838	85
Kisumu	7,148	5,423	12,571	3,811	2,406	2,104	4,514	1,703	1,662	3,365	75%	8,554	6,307	14,861	4,514	3,613	8,127	383	182	519	137
Kitale	7,877	991	8,868	429	5,781	1,093	6,874	5,511	1,374	6,885	100%	8,417	1,037	9,454	1,912	83	1,995	351	118	1,030	82
Kithimani	2,175	324	2,499	149	1,708	598	2,306	1,602	501	2,103	91%	2,387	518	2,905	454	96	550	484	214	1,198	92
Kitui	1,416	2,632	4,048	780	1,728	1,029	2,757	1,454	905	2,359	86%	1,690	2,756	4,446	869	342	1,211	647	386	963	119
Kwale	1,800	2,287	4,087	1,297	930	452	1,382	830	344	1,174	85%	1,900	2,395	4,295	1,217	1,266	2,483	425	445	623	36

Magistrates Court Station	Pending Cases 30th June 2021			Back log >3 yrs	Filed Cases			Resolved Cases			Overall CCR	Pending Cases June 2022			Case Backlog			Average Time to Disposition (Days)			
	Criminal	Civil	All		Criminal	Civil	All	Criminal	Civil	All		Criminal	Civil	All	103 years	Over 3 years	All backlog	Overall	Criminal	Civil	Traffic
Kyuso	105	56	161	29	257	54	311	245	67	312	100%	117	45	162	98	22	120	257	210	447	26
Lamu	137	85	222	9	553	94	647	453	48	501	77%	237	131	368	89	8	97	151	152	285	44
Limuru	1,074	2,700	3,774	317	1,631	1,188	2,819	1,385	782	2,167	77%	1,320	3,106	4,426	910	39	949	430	265	802	142
Lodwar	1,354	136	1,490	167	960	117	1,077	913	50	963	89%	1,401	203	1,604	549	170	719	182	200	198	74
Loitoktok	137	149	286	10	435	149	584	466	163	629	108%	87	92	179	12	3	15	194	179	297	41
Machakos	3,255	3,222	6,477	2,659	2,467	2,032	4,499	2,035	1,705	3,740	83%	3,687	3,549	7,236	655	34	689	387	205	706	160
Makadara	13,616	0	13,616	1,061	13,422	0	13,422	10,409	0	10,409	78%	16,629	0	16,629	3,255	310	3,565	317	663	103	151
Makindu	1,219	1,862	3,081	238	1,876	357	2,233	1,477	303	1,780	80%	1,618	1,916	3,534	506	168	674	323	244	828	56
Makuensi	503	664	1,167	157	556	1,036	1,592	550	479	1,029	65%	509	1,221	1,730	219	70	289	370	218	528	28
Malindi	3,673	841	4,514	418	1,331	877	2,208	1,234	691	1,925	87%	3,770	1,027	4,797	941	995	1,936	526	544	680	49
Mandera	290	37	327	5	625	32	657	627	63	690	105%	253	14	267	104	1	105	139	100	295	12
Maralal	309	69	378	6	512	100	612	528	82	610	100%	143	91	234	117	5	122	160	163	304	37
Mariakani	1,507	1,092	2,599	34	1,289	359	1,648	1,387	657	2,044	124%	1,411	856	2,267	340	19	359	399	349	728	60
Marimanti	938	176	1,114	7	866	111	977	800	128	928	95%	654	159	813	408	6	414	163	107	423	20
Marsabit	784	31	815	2	596	66	662	566	64	630	95%	639	39	678	305	12	317	154	112	466	31
Maseno	1,346	569	1,915	322	1,003	282	1,285	926	281	1,207	94%	1,423	570	1,993	704	33	737	373	249	840	16
Maua	3,912	359	4,271	209	2,262	702	2,964	2,793	769	3,562	120%	2,850	289	3,139	1,171	25	1,196	482	454	545	179
Mavoko	2,301	4,571	6,872	232	3,373	1,564	4,937	2,802	1,328	4,130	84%	3,443	5,049	8,492	1,798	23	1,821	327	260	662	38
Mbita	957	105	1,062	58	847	235	1,082	866	166	1,032	95%	919	243	1,162	533	46	579	186	114	359	35
Meru	1,802	4,281	6,083	1,891	2,749	1,128	3,877	2,575	908	3,483	90%	2,150	4,721	6,871	808	1,779	2,587	375	235	720	90
Migori	1,399	2,295	3,694	468	1,221	771	1,992	997	2,499	3,496	176%	1,847	2,737	4,584	1,406	1,494	2,900	1,107	166	1,598	69
Milimani Anticorr	213	0	213	1,170	108	0	108	69	0	69	64%	291	0	291	86	44	130	1,236	0	0	0
Milimani Children's	1,313	7,724	9,037	47	894	2,152	3,046	1,517	3,153	4,670	153%	563	5,722	6,285	2,580	1,155	3,735	694	1,139	686	0
Milimani Comm	0	54,743	54,743	22,561	0	11,802	11,802	0	12,813	12,813	109%	0	53,928	53,928	19,232	17,097	36,329	1,275	0	1,275	0
Milimani CM	5,537	0	5,537	1,170	17,708	0	17,708	16,858	0	16,858	95%	5,839	0	5,839	3,709	863	4,572	159	944	0	67
Molo	4,007	1,116	5,123	926	3,902	684	4,586	4,377	754	5,131	112%	3,161	978	4,139	1,178	744	1,922	307	178	838	53
Mombasa	20,591	28,792	49,383	19,946	5,1537	2,557	7,710	4,622	3,528	8,150	106%	21,122	27,821	48,943	20,682	18,487	39,169	648	424	1,146	67
Moyale	70	27	97	1	580	41	621	571	61	632	102%	90	15	105	50	4	54	105	81	331	4
Mpeketoni	228	94	322	16	311	72	383	380	80	460	120%	159	86	245	119	15	134	194	155	345	7
Msambweni	402	371	773	3	513	188	701	445	212	657	94%	470	347	817	166	4	170	233	212	254	27
Mukurwe Oini	196	795	991	17	826	234	1,060	864	267	1,131	107%	158	762	920	100	9	109	274	119	594	60
Mumias	1,242	536	1,778	264	1,207	497	1,704	987	345	1,332	78%	1,462	694	2,156	71	215	286	367	186	797	43
Murang'a	2,993	4,889	7,882	2,230	1,284	1,377	2,661	1,367	1,639	3,006	113%	2,910	4,627	7,537	2,359	1,818	4,177	585	210	887	215
Mutomo	634	166	800	76	773	162	935	716	94	810	87%	691	234	925	297	66	363	161	111	470	37
Mwingi	1,420	514	1,934	429	1,261	387	1,648	1,249	309	1,558	95%	1,444	684	2,128	170	398	568	342	274	722	111
Nairobi City	298	196	494	188	4	140	144	56	496	552	383%	246	166	412	197	131	328	784	1,453	186	0
Naivasha	4,757	3,291	8,048	1,228	3,807	1,297	5,104	3,415	1,315	4,730	93%	5,149	3,273	8,422	2,207	842	3,049	378	251	744	73

Magistrat es Court Station	Pending Cases 30th June 2021			Back log >3 yrs	Filed Cases			Resolved Cases			Over all CCR	Pending Cases June 2022			Case Backlog			Average Time to Disposition (Days)			
	Crimi nal	Civi l	All		Crimi nal	Civi l	All	Crimi nal	Civi l	All		Crimi nal	Civi l	All	103 years	Over 3 years	All backlo g	Over all	Crimi nal	Civi l	Traf fic
Nakuru	14,71 1	21,26 1	35,972	17,95 0	8,424	3,26 5	11,6 89	5,504	1,64 2	7,14 6	61%	15,73 1	22,8 84	38,61 5	13,35 2	12,27 2	25,624	314	452	560	61
Nanyuki	2,144	1,780	3,924	161	2,694	609	3,30 3	2,420	394	2,81 4	85%	2,418	1,99 5	4,413	2,240	110	2,350	293	249	570	84
Narok	1,540	2,071	3,611	464	2,943	468	3,41 1	2,051	265	2,31 6	68%	2,432	2,27 4	4,706	1,029	349	1,378	231	262	583	47
Ndhiwa	809	628	1,437	10	414	290	704	429	313	742	105 %	602	605	1,207	331	95	426	560	363	827	96
Ngong'	2,968	535	3,503	74	3,436	700	4,13 6	2,749	324	3,07 3	74%	3,155	917	4,072	524	276	800	207	227	418	81
Nkubu	618	360	978	244	805	446	1,25 1	1,046	412	1,45 8	117 %	377	394	771	95	3	98	340	245	451	58
Nyahururu	3,786	2,476	6,262	1,400	3,477	1,15	4,62 8	2,786	789	3,57 5	77%	4,477	2,83 8	7,315	2,040	1,357	3,397	402	325	689	77
Nyamira	1,427	720	2,147	145	2,007	497	2,50 4	2,043	560	2,60 3	104 %	1,041	657	1,698	369	37	406	278	194	544	42
Nyando	2,430	2,637	5,067	1,187	1,391	993	2,38 4	1,569	1,13 6	2,70 5	113 %	1,632	2,49 4	4,126	1,398	1,125	2,523	468	288	669	167
Nyeri	1,323	2,690	4,013	452	2,478	1,39 2	3,87 0	1,954	1,04 6	3,00 0	78%	1,547	3,03 6	4,583	384	14	398	399	198	731	63
Ogembo	2,787	1,814	4,601	501	3,537	765	4,30 2	3,081	413	3,49 4	81%	2,843	2,16 6	5,009	1,074	528	1,602	202	150	556	45
Othaya	536	73	609	16	1,082	12	1,09 4	980	122	1,10 2	101 %	107	370	477	146	11	157	128	36	765	33
Oyugis	1,624	868	2,492	245	1,054	1,17	2,22 5	874	621	1,49 5	67%	1,984	1,97 6	3,960	140	237	377	303	155	533	10
Rongo	396	943	1,339	46	676	487	1,16 3	542	484	1,02 6	88%	664	951	1,615	223	93	316	437	180	744	18
Ruiru	1,120	187	1,307	0	4,140	1,48	5,62 6	3,228	1,54 7	4,77 5	85%	2,032	164	2,196	394	7	401	139	60	304	21
Runyenjes	877	129	1,006	23	814	410	1,22 4	977	598	1,57 5	129 %	230	520	750	431	106	537	388	213	644	90
Shanzu	3,786	0	3,786	451	2,789	0	2,78 9	2,753	0	2,75 3	99%	3,858	0	3,858	1,066	472	1,538	395	403	0	34
Siakago	505	1,135	1,640	168	1,386	684	2,07 0	1,287	917	2,20 4	106 %	505	1,13 5	1,640	195	59	254	472	268	748	182
Siaya	1,176	1,726	2,902	116	999	747	1,74 6	899	405	1,30 4	75%	1,076	2,06 8	3,144	388	343	731	324	210	500	148
Sirisia	1,135	249	1,384	266	694	139	833	591	78	669	80%	1,341	371	1,712	258	279	537	172	144	322	27
Sotik	695	617	1,312	72	2,042	354	2,39 6	1,878	204	2,08 2	87%	1,023	917	1,940	267	70	337	139	95	480	11
Tamu	310	112	422	16	495	218	713	510	211	721	101 %	88	265	353	94	13	107	230	119	469	86
Taveta	607	119	726	45	917	63	980	769	39	808	82%	755	143	898	233	41	274	124	100	389	29
Tawa	775	109	884	47	462	246	708	289	113	402	57%	948	242	1,190	328	49	377	294	208	500	95
Thika	3,894	6,442	10,336	2,509	6,284	1,57	7,85 0	5,778	2,97 2	8,75 0	111 %	4,960	3,69 0	8,650	2,103	997	3,100	652	283	1,2 67	52
Tigania	1,590	535	2,125	372	1,912	441	2,35 3	1,612	564	2,17 6	92%	1,890	502	2,392	922	216	1,138	322	151	664	71
Tononoka	224	736	960	89	410	657	1,06 7	304	289	593	56%	338	1,10 4	1,442	346	79	425	339	323	342	0
Ukwala	959	353	1,312	10	571	587	1,15 8	448	222	670	58%	1,032	718	1,750	58	8	66	258	201	427	12
Vihiga	2,050	1,226	3,276	369	1,164	776	1,94 0	852	439	1,29 1	67%	2,062	1,56 3	3,625	807	665	1,472	373	195	723	41
Voi	1,467	702	2,169	177	1,410	343	1,75 3	1,316	553	1,86 9	107 %	1,561	496	2,057	720	14	734	310	103	733	62
Wajir	813	58	871	5	1,015	87	1,10 2	900	81	981	89%	1,043	70	1,113	363	16	379	58	51	200	6
Wang'uru	1,511	1,037	2,548	315	1,196	573	1,76 9	1,186	486	1,67 2	95%	1,531	1,21 1	2,742	311	261	572	317	208	531	59
Webuye	1,542	512	2,054	398	981	274	1,25 5	1,112	173	1,28 5	102 %	1,280	714	1,994	633	335	968	385	412	807	82
Winam	2,491	470	2,961	225	1,411	654	2,06 5	1,317	486	1,80 3	87%	2,679	812	3,491	772	211	983	260	231	422	23
Wundanyi	357	113	470	38	709	126	835	661	115	776	93%	453	135	588	327	33	360	111	58	377	23
All Magistrat es Courts	267,1 45	245,3 09	512,45 4	107,2 78	245,1 99	91,7 48	336, 947	222,4 72	86,0 10	308, 482	92%	266,0 89	255, 734	521,8 23	146,3 4	86,85 7	233,17 342	246	575	69	

Annex 2.8: Filed Criminal and Civil Cases at the Magistrates' Courts, per Case Type

Court Name	Criminal Cases						Civil Cases						All Filed Cases
	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases	
Baricho	1,406	44	1	9	178	1,638	177	135	7	3	2	324	1,962
Bomet	1,563	86	3	35	178	1,865	275	109	21	1	29	435	2,300
Bondo	1,521	57	1	64	160	1,803	232	525	8	8	12	785	2,588
Bungoma	2,165	142	5	0	302	2,614	1,101	367	30	0	41	1,539	4,153
Busia	2,134	128	10	25	722	3,019	665	783	17	0	39	1,504	4,523
Butali	1,000	75	4	16	203	1,298	424	142	3	1	23	593	1,891
Butere	635	63	5	24	106	833	164	245	5	0	10	424	1,257
Chuka	774	49	9	0	98	930	317	271	24	1	36	649	1,579
Dadaab	94	20	1	1	0	116	2	0	0	0	23	25	141
Eldama Ravine	1,435	30	2	10	202	1,679	137	110	4	0	13	264	1,943
Eldoret	3,943	240	21	75	1,375	5,654	2,591	365	145	0	232	3,333	8,987
Embu	996	25	3	27	150	1,201	303	204	22	0	55	584	1,785
Engineer	3,503	114	10	138	270	4,035	286	231	6	0	21	544	4,579
Garissa	1,341	29	4	6	568	1,948	75	0	0	0	85	160	2,108
Garsen	334	35	1	27	130	527	91	2	0	0	10	103	630
Gatundu	1,289	53	4	20	225	1,591	494	546	29	0	17	1,086	2,677
Gichugu	995	37	2	5	42	1,081	97	147	11	0	7	262	1,343
Githongo	663	24	2	48	16	753	74	170	13	0	21	278	1,031
Githunguri	1,162	43	2	3	73	1,283	152	149	6	4	6	317	1,600
Hamisi	852	73	2	25	116	1,068	79	267	3	0	0	349	1,417
Hola	270	11	0	9	27	317	73	5	0	0	13	91	408
Homa bay	859	67	0	12	305	1,243	247	282	14	0	7	550	1,793
Isiolo	1,053	35	5	15	122	1,230	155	19	2	0	9	185	1,415
Iten	1,115	50	10	6	196	1,377	150	64	4	0	15	233	1,610
JKIA	104	1	0	0	6	111	0	0	0	0	0	0	111
Kabarnet	1,270	78	2	28	106	1,484	93	43	5	0	17	158	1,642
Kahawa	340	0	0	0	0	340	0	0	0	0	0	0	340
Kajiado	1,877	66	1	40	1,638	3,622	664	118	35	0	40	857	4,479
Kakamega	2,128	160	8	0	488	2,784	686	815	35	0	71	1,607	4,391
Kakuma	269	27	1	0	100	397	2	1	1	0	3	7	404
Kaloleni	178	43	0	4	43	268	330	44	1	0	1	376	644
Kandara	1,925	80	8	21	414	2,448	421	451	9	0	21	902	3,350
Kangema	633	38	1	2	135	809	66	156	3	0	9	234	1,043
Kangundo	1,724	56	7	12	417	2,216	395	203	14	0	17	629	2,845
Kapenguria	1,302	36	3	17	133	1,491	92	45	6	0	7	150	1,641
Kapsabet	2,972	213	7	21	229	3,442	375	405	39	0	19	838	4,280
Karatina	520	38	0	17	116	691	142	367	9	1	23	542	1,233
Kehancha	1,247	63	1	40	145	1,496	196	88	9	0	3	296	1,792
Kericho	4,065	86	16	99	692	4,958	447	298	72	0	44	861	5,819
Keroka	1,225	72	8	59	379	1,743	357	72	9	0	19	457	2,200
Kerugoya	736	17	3	10	81	847	431	692	38	0	35	1,196	2,043
Kiambu	2,389	67	20	45	622	3,143	738	635	48	0	32	1,453	4,596
Kibera	2,441	136	6	0	3,664	6,247	0	0	0	0	0	0	6,247
Kigumo	1,504	68	3	42	144	1,761	422	214	5	3	4	648	2,409
Kikuyu	1,281	34	18	48	343	1,724	748	429	60	0	46	1,283	3,007
Kilgoris	1,234	65	0	8	145	1,452	127	69	3	1	24	224	1,676
Kilifi	1,038	136	2	19	428	1,623	686	335	20	0	16	1,057	2,680
Kilungu	1,000	63	6	15	327	1,411	370	81	6	0	5	462	1,873
Kimilili	794	80	4	26	107	1,011	382	71	8	0	25	486	1,497
Kisii	2,353	105	4	0	181	2,643	1,078	392	38	1	94	1,603	4,246
Kisumu	1,832	31	0	185	358	2,406	1,005	908	89	0	102	2,104	4,510
Kitale	4,854	251	14	260	402	5,781	773	212	52	0	56	1,093	6,874
Kithimani	1,341	64	5	29	269	1,708	379	191	11	1	16	598	2,306
Kitui	1,426	83	4	12	203	1,728	565	411	27	0	26	1,029	2,757
Kwale	460	82	4	44	340	930	369	54	11	1	17	452	1,382
Kyuso	189	29	2	8	29	257	45	2	2	0	5	54	311
Lamu	418	39	0	12	84	553	70	7	0	2	15	94	647
Limuru	1,049	52	12	56	462	1,631	814	300	29	0	45	1,188	2,819
Lodwar	712	78	0	64	106	960	71	24	2	1	19	117	1,077
Loitoktok	235	37	0	13	150	435	85	54	2	2	6	149	584
Machakos	2,066	177	4	58	162	2,467	1,527	393	48	2	62	2,032	4,499
Makadara	7,964	374	30	34	5,020	13,422	0	0	0	0	0	0	13,422
Makindu	1,240	127	6	13	490	1,876	274	43	16	2	22	357	2,233
Makueni	450	43	4	1	58	556	280	719	22	3	12	1,036	1,592
Malindi	902	87	0	14	328	1,331	585	217	27	1	47	877	2,208
Mandera	489	41	2	5	88	625	16	0	0	0	16	32	657
Maralal	377	12	1	17	105	512	71	11	3	0	15	100	612
Mariakani	599	79	5	33	573	1,289	316	28	6	0	9	359	1,648
Marimanti	774	33	0	7	52	866	53	57	0	0	1	111	977

	Criminal Cases						Civil Cases						All Filed
	Marsabit	484	21	2	9	80	596	53	4	2	0	7	66
Maseno	684	74	0	20	225	1,003	132	130	7	2	11	282	1,285
Maua	1,997	69	2	60	134	2,262	477	195	6	0	24	702	2,964
Mavoko	1,540	72	19	20	1,722	3,373	1,420	70	40	1	33	1,564	4,937
Mbita	703	35	1	33	75	847	84	140	6	0	5	235	1,082
Meru	2,133	71	16	38	491	2,749	679	350	36	0	63	1,128	3,877
Migori	1,015	82	6	13	105	1,221	375	340	35	5	16	771	1,992
Milimani Anticorr	108	0	0	0	0	108	0	0	0	0	0	0	108
Milimani Childrens	5	21	0	868	0	894	169	0	0	0	1,983	2,152	3,046
Milimani Comm	0	0	0	0	0	0	10,177	55	1,494	41	35	11,802	11,802
Milimani CM	5,784	13	24	0	11,887	17,708	0	0	0	0	0	0	17,708
Molo	3,001	151	2	61	687	3,902	553	102	9	0	20	684	4,586
Mombasa	2,307	189	3	0	2,654	5,153	2,303	177	76	1	0	2,557	7,710
Moyale	441	16	0	2	121	580	22	1	0	0	18	41	621
Mpeketoni	230	13	1	12	55	311	43	17	3	2	7	72	383
Msambweni	347	86	1	44	35	513	165	12	6	0	5	188	701
Mukurweini	718	19	5	43	41	826	60	166	3	0	5	234	1,060
Mumias	932	49	7	85	134	1,207	262	210	11	0	14	497	1,704
Murang'a	1,050	35	6	20	173	1,284	490	841	23	0	23	1,377	2,661
Mutomo	629	19	0	0	125	773	125	22	5	0	10	162	935
Mwingi	939	74	2	10	236	1,261	260	98	15	0	14	387	1,648
Nairobi City	4	0	0	0	0	4	114	24	0	0	2	140	144
Naivasha	2,290	105	37	272	1,103	3,807	931	288	28	0	50	1,297	5,104
Nakuru	6,104	188	34	332	1,766	8,424	1,959	766	154	0	386	3,265	11,689
Nanyuki	2,036	112	12	73	461	2,694	360	189	17	0	43	609	3,303
Narok	1,571	87	19	114	1,152	2,943	348	77	21	4	18	468	3,411
Ndhiwa	304	36	1	25	48	414	79	200	5	5	1	290	704
Ngong'	1,832	74	8	23	1,499	3,436	459	146	54	0	41	700	4,136
Nkubu	572	45	1	21	166	805	163	206	11	0	66	446	1,251
Nyahururu	2,521	148	25	96	687	3,477	465	621	27	0	38	1,151	4,628
Nyamira	1,720	87	14	13	173	2,007	333	116	20	0	28	497	2,504
Nyando	1,122	81	7	12	169	1,391	368	588	11	0	26	993	2,384
Nyeri	1,693	50	15	184	536	2,478	590	680	43	0	79	1,392	3,870
Ogembo	2,980	146	27	13	371	3,537	520	182	25	0	38	765	4,302
Othaya	965	11	1	8	97	1,082	0	12	0	0	0	12	1,094
Oyugis	750	57	2	8	237	1,054	356	784	19	4	12	1,175	2,229
Rongo	467	40	7	9	153	676	324	133	19	0	11	487	1,163
Ruiru	3,063	62	32	8	975	4,140	1,110	167	138	2	69	1,486	5,626
Runyenjes	573	28	3	23	187	814	186	209	10	0	5	410	1,224
Shanzu	1,302	158	9	7	1,313	2,789	0	0	0	0	0	0	2,789
Siakago	1,189	64	4	18	111	1,386	337	326	5	2	14	684	2,070
Siaya	851	81	1	14	52	999	229	495	8	0	15	747	1,746
Sirisia	601	50	1	13	29	694	97	28	3	0	11	139	833
Sotik	1,798	68	3	40	133	2,042	213	87	17	0	37	354	2,396
Tamu	378	44	0	37	36	495	158	47	9	0	4	218	713
Taveta	792	33	1	31	60	917	51	8	1	0	3	63	980
Tawa	359	45	1	1	56	462	185	50	3	1	7	246	708
Thika	3,945	109	20	475	1,735	6,284	1,116	264	79	0	111	1,570	7,854
Tigania	1,709	54	8	39	102	1,912	215	184	8	0	34	441	2,353
Tononoka	15	43	0	352	0	410	115	0	0	0	542	657	1,067
Ukwala	399	33	0	19	120	571	201	372	8	1	5	587	1,158
Vihiga	827	71	0	26	240	1,164	362	380	12	0	22	776	1,940
Voi	1,164	43	10	34	159	1,410	260	48	14	0	21	343	1,753
Wajir	600	24	0	3	388	1,015	17	0	0	0	70	87	1,102
Wang'uru	901	35	8	60	192	1,196	355	184	12	1	21	573	1,769
Webuye	505	40	7	25	404	981	183	55	10	0	26	274	1,255
Winam	950	91	1	90	279	1,411	483	121	17	0	33	654	2,065
Wundanyi	543	28	0	10	128	709	60	45	5	0	16	126	835
All Magistrates Courts	169,470	8,657	745	5,904	60,423	245,199	56,058	25,805	3,784	111	5,990	91,748	336,947

Annex 2.9: Resolved Criminal and Civil Cases at the Magistrates, Courts, per Case Type

Court Station	Criminal Cases						Civil Cases						All Resolved Cases
	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases	
Baricho	1,036	48	19	7	120	1,230	178	150	8	0	6	342	1,572
Bomet	1,516	97	5	29	179	1,826	253	30	22	0	28	333	2,159
Bondo	1,403	104	2	59	145	1,713	289	549	11	4	20	873	2,586
Bungoma	1,715	123	14	0	261	2,113	569	90	23	0	29	711	2,824

Court Station	Criminal Cases						Civil Cases						All
Busia	1,737	101	6	14	528	2,386	392	597	10	0	7	1,006	3,392
Butali	671	19	0	2	171	863	57	53	0	4	2	116	979
Butere	586	70	3	20	92	771	287	458	5	9	18	777	1,548
Chuka	1,073	53	1	0	86	1,213	200	219	19	0	16	454	1,667
Dadaab	77	0	0	0	0	77	1	0	0	0	1	2	79
Eldama Ravine	1,315	59	0	4	234	1,612	90	131	2	1	13	237	1,849
Eldoret	4,106	277	20	55	1,282	5,740	2,085	281	109	0	104	2,579	8,319
Embu	1,144	73	4	23	163	1,407	447	354	51	2	87	941	2,348
Engineer	3,657	155	9	141	258	4,220	435	341	9	10	70	865	5,085
Garissa	1,272	36	3	4	569	1,884	116	0	1	0	64	181	2,065
Garsen	238	13	0	14	111	376	133	1	2	0	3	139	515
Gatundu	999	31	0	12	151	1,193	226	493	7	2	10	738	1,931
Gichugu	1,006	20	4	6	53	1,089	75	163	5	0	8	251	1,340
Githongo	850	22	0	37	10	919	100	97	12	0	15	224	1,143
Githunguri	908	35	1	4	74	1,022	131	153	9	2	12	307	1,329
Hamisi	798	30	3	14	103	948	66	77	1	0	2	146	1,094
Hola	310	25	0	9	29	373	35	2	0	1	12	50	423
Homa bay	784	69	3	3	179	1,038	259	195	17	0	8	479	1,517
Isiolo	824	25	1	2	87	939	171	8	8	0	14	201	1,140
Iten	1,174	63	9	4	188	1,438	194	43	2	0	12	251	1,689
JKIA	119	1	1	0	6	127	0	0	0	0	0	0	127
Kabarnet	1,145	42	1	14	118	1,320	83	23	2	0	15	123	1,443
Kahawa	272	0	0	0	0	272	0	0	0	0	0	0	272
Kajiado	1,471	45	0	31	1,138	2,685	1,001	110	30	0	24	1,165	3,850
Kakamega	2,031	154	2	0	437	2,624	668	434	24	0	37	1,163	3,787
Kakuma	311	42	4	0	101	458	21	1	2	0	9	33	491
Kaloleni	172	40	0	6	39	257	341	35	2	3	0	381	638
Kandara	1,756	102	2	21	413	2,294	306	254	5	7	17	589	2,883
Kangema	686	45	5	4	135	875	46	120	3	0	7	176	1,051
Kangundo	1,664	52	1	9	379	2,105	292	189	11	0	11	503	2,608
Kapenguria	1,273	42	12	15	125	1,467	35	26	1	0	3	65	1,532
Kapsabet	2,696	182	5	0	191	3,074	221	441	33	0	29	724	3,798
Karatina	607	49	7	9	122	794	159	288	10	1	19	477	1,271
Kehancha	1,007	46	0	34	135	1,222	164	84	10	2	7	267	1,489
Kericho	3,892	150	4	40	604	4,690	342	223	56	0	34	655	5,345
Keroka	1,160	53	1	38	362	1,614	159	8	7	0	7	181	1,795
Kerugoya	757	35	14	2	84	892	434	474	63	0	26	997	1,889
Kiambu	2,352	92	5	36	607	3,092	615	466	47	1	27	1,156	4,248
Kibera	2,732	139	24	0	3,595	6,490	0	0	0	0	0	0	6,490
Kigumo	1,555	68	14	16	176	1,829	444	171	5	4	7	631	2,460
Kikuyu	1,259	65	4	20	279	1,627	589	457	41	1	44	1,132	2,759
Kilgoris	842	46	0	10	114	1,012	86	19	3	7	8	123	1,135
Kilifi	707	120	5	8	331	1,171	609	114	17	0	21	761	1,932
Kilungu	822	51	2	11	304	1,190	382	19	9	0	6	416	1,606
Kimilili	744	97	10	22	102	975	219	44	12	0	14	289	1,264
Kisii	2,265	134	7	0	198	2,604	1,196	363	54	0	89	1,702	4,306
Kisumu	1,284	37	2	145	235	1,703	758	784	59	0	61	1,662	3,365
Kitale	4,603	320	8	207	373	5,511	1,076	114	102	0	82	1,374	6,885
Kithimani	1,284	85	5	4	224	1,602	380	103	2	1	15	501	2,103
Kitui	1,180	89	4	7	174	1,454	375	483	35	0	12	905	2,359
Kwale	409	73	1	33	314	830	284	26	4	19	11	344	1,174
Kyuso	177	30	0	8	30	245	50	4	3	0	10	67	312
Lamu	339	34	0	2	78	453	40	1	0	0	7	48	501
Limuru	867	41	1	12	464	1,385	478	224	12	21	47	782	2,167
Lodwar	673	100	3	36	101	913	32	2	2	0	14	50	963
Loitoktok	241	38	3	34	150	466	74	59	4	4	22	163	629
Machakos	1,755	97	2	15	166	2,035	1,396	252	33	3	21	1,705	3,740
Makadara	6,441	268	4	29	3,667	10,409	0	0	0	0	0	0	10,409
Makindu	942	77	2	10	446	1,477	241	22	3	2	35	303	1,780
Makuueni	459	39	1	1	50	550	305	140	13	1	20	479	1,029
Malindi	853	94	7	7	273	1,234	536	60	28	1	66	691	1,925
Mandera	488	44	4	5	86	627	36	0	0	0	27	63	690
Maralal	392	23	3	9	101	528	45	9	4	1	23	82	610
Mariakani	655	106	7	22	597	1,387	570	33	8	43	3	657	2,044
Marimanti	737	19	0	4	40	800	54	58	4	0	12	128	928
Marsabit	461	20	0	7	78	566	44	4	1	0	15	64	630
Maseno	637	63	6	13	207	926	167	101	3	1	9	281	1,207
Maua	2,471	135	2	44	141	2,793	524	198	7	0	40	769	3,562
Mavoko	1,316	82	9	8	1,387	2,802	1,208	18	39	21	42	1,328	4,130
Mbita	730	24	3	31	78	866	62	98	2	0	4	166	1,032
Meru	2,004	77	4	30	460	2,575	568	254	33	0	53	908	3,483
Migori	840	74	3	6	74	997	2,289	114	75	2	19	2,499	3,496
Milimani Anticorr	69	0	0	0	0	69	0	0	0	0	0	0	69

Court Station	Criminal Cases						Civil Cases						All
Milimani Childrens	114	11	0	1,392	0	1,517	88	0	0	0	3,065	3,153	4,670
Milimani Comm	0	0	0	0	0	0	10,352	5	1,271	932	253	12,813	12,813
Milimani CM	5,459	34	26	0	11,339	16,858	0	0	0	0	0	0	16,858
Molo	3,312	215	3	113	734	4,377	611	114	10	0	19	754	5,131
Mombasa	1,920	132	5	0	2,565	4,622	3,111	122	121	174	0	3,528	8,150
Moyale	432	19	0	3	117	571	39	2	0	0	20	61	632
Mpeketoni	290	39	1	11	39	380	36	34	3	0	7	80	460
Msambweni	315	64	1	35	30	445	203	2	3	0	4	212	657
Mukurweini	760	35	6	15	48	864	92	169	2	0	4	267	1,131
Mumias	762	67	5	66	87	987	197	130	4	3	11	345	1,332
Murang'a	1,117	48	21	6	175	1,367	719	837	39	0	44	1,639	3,006
Mutomo	579	14	0	0	123	716	74	13	2	0	5	94	810
Mwingi	975	44	1	2	227	1,249	204	71	12	0	22	309	1,558
Nairobi City	56	0	0	0	0	56	380	79	36	0	1	496	552
Naivasha	2,207	74	17	49	1,068	3,415	946	210	21	108	30	1,315	4,730
Nakuru	3,683	106	14	66	1,635	5,504	991	377	58	0	216	1,642	7,146
Nanyuki	1,885	92	5	61	377	2,420	212	145	16	0	21	394	2,814
Narok	1,105	37	0	26	883	2,051	225	23	8	8	1	265	2,316
Ndhiwa	331	50	1	4	43	429	155	135	13	7	3	313	742
Ngong'	1,415	47	2	14	1,271	2,749	196	65	43	3	17	324	3,073
Nkubu	854	28	1	2	161	1,046	197	180	8	0	27	412	1,458
Nyahururu	2,134	116	14	43	479	2,786	309	440	12	0	28	789	3,575
Nyamira	1,718	132	32	11	150	2,043	425	72	26	1	36	560	2,603
Nyando	1,255	135	10	10	159	1,569	577	493	19	10	37	1,136	2,705
Nyeri	1,378	53	6	91	426	1,954	482	497	26	0	41	1,046	3,000
Ogembo	2,613	141	9	7	311	3,081	327	30	16	5	35	413	3,494
Othaya	875	15	0	2	88	980	24	95	1	0	2	122	1,102
Oyugis	620	40	1	4	209	874	271	325	14	0	11	621	1,495
Rongo	390	28	0	3	121	542	381	84	5	2	12	484	1,026
Ruiru	2,339	50	7	0	832	3,228	1,149	124	158	23	93	1,547	4,775
Runyenjes	703	42	10	22	200	977	275	308	8	0	7	598	1,575
Shanzu	1,523	128	1	5	1,096	2,753	0	0	0	0	0	0	2,753
Siakago	1,081	74	14	3	115	1,287	369	499	13	1	35	917	2,204
Siaya	786	64	0	3	46	899	159	235	2	0	9	405	1,304
Sirisia	520	38	1	7	25	591	57	17	0	0	4	78	669
Sotik	1,665	55	6	33	119	1,878	129	35	8	4	28	204	2,082
Tamu	373	60	1	34	42	510	161	39	4	5	2	211	721
Taveta	668	40	1	9	51	769	32	5	1	0	1	39	808
Tawa	239	8	0	1	41	289	96	13	2	0	2	113	402
Thika	3,591	190	13	498	1,486	5,778	2,213	541	105	0	113	2,972	8,750
Tigania	1,452	54	2	14	90	1,612	329	102	4	0	129	564	2,176
Tononoka	52	31	0	221	0	304	38	0	0	0	251	289	593
Ukwala	346	19	4	10	69	448	128	76	2	2	14	222	670
Vihiga	609	59	3	13	168	852	227	194	3	0	15	439	1,291
Voi	1,077	45	4	22	168	1,316	476	30	17	1	29	553	1,869
Wajir	539	19	1	2	339	900	21	0	0	0	60	81	981
Wang'uru	928	36	1	55	166	1,186	338	120	15	1	12	486	1,672
Webuye	651	37	15	19	390	1,112	133	22	4	0	14	173	1,285
Winam	907	66	2	84	258	1,317	364	81	11	6	24	486	1,803
Wundanyi	499	38	0	2	122	661	53	45	5	0	12	115	776
All Magistrates Courts	154,905	8,498	588	4,631	53,850	222,472	55,364	19,244	3,407	1,477	6,518	86,010	308,482

Annex 2.10: Pending Criminal and Civil Cases at the Magistrates' Courts, per Case Type

Court Station	Criminal Cases						Civil Cases						All Pending Cases
	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases	
Baricho	1,431	197	11	40	567	2,246	1,014	18	1	6	69	1,108	3,354
Bomet	1,096	177	1	9	72	1,355	334	251	7	5	76	673	2,028
Bondo	680	78	0	6	58	822	109	387	1	4	3	504	1,326
Bungoma	1,296	262	22	18	71	1,669	1,693	962	24	25	49	2,753	4,422
Busia	3,532	687	89	116	864	5,288	795	1,856	16	21	88	2,776	8,064
Butali	1,260	261	18	23	104	1,666	837	475	6	230	98	1,646	3,312
Butere	742	136	8	74	58	1,018	329	26	1	94	40	490	1,508
Chuka	273	220	18	28	430	969	954	153	35	3	45	1,190	2,159
Dadaab	80	33	2	2	0	117	0	0	0	0	0	0	117
Eldama Ravine	1,025	50	7	48	167	1,297	166	102	9	15	41	333	1,630
Eldoret	6,890	1,388	58	92	1,783	10,211	4,401	784	100	61	438	5,784	15,995
Embu	1,280	119	10	61	343	1,813	32	1	28	2	111	174	1,987
Engineer	364	36	4	9	91	504	78	32	2	4	44	160	664

	Criminal Cases						Civil Cases						All Pending
Garissa	1,028	145	7	21	229	1,430	143	0	1	1	226	371	1,801
Garsen	507	101	4	29	71	712	112	5	1	0	11	129	841
Gatundu	1,150	115	5	28	173	1,471	1,116	494	39	62	27	1,738	3,209
Gichugu	584	63	6	18	70	741	377	88	8	2	21	496	1,237
Githongo	167	158	4	22	98	449	83	122	14	2	33	254	703
Githunguri	845	169	9	10	30	1,063	357	156	4	20	38	575	1,638
Hamisi	1,010	175	9	16	52	1,262	50	295	4	1	21	371	1,633
Hola	259	47	4	22	20	352	46	7	4	1	14	72	424
Homa bay	773	175	17	23	476	1,464	331	492	1	2	156	982	2,446
Isiolo	1,193	119	11	24	153	1,500	136	17	3	4	2	162	1,662
Iten	310	6	8	16	32	372	38	96	10	1	7	152	524
JKIA	116	2	0	0	6	124	0	0	0	0	0	0	124
Kabarnet	513	124	2	29	32	700	47	50	6	1	14	118	818
Kahawa	154	0	0	0	0	154	0	0	0	0	0	0	154
Kajiado	2,398	185	20	87	907	3,597	1,600	134	30	629	33	2,426	6,023
Kakamega	445	472	16	110	255	1,298	2,275	3,575	74	1	152	6,077	7,375
Kakuma	316	0	3	2	30	351	5	15	0	0	6	26	377
Kaloleni	175	39	1	11	47	273	255	89	0	184	2	530	803
Kandara	1,640	197	15	47	192	2,091	656	975	14	68	12	1,725	3,816
Kangema	353	74	3	1	46	477	87	316	7	1	32	443	920
Kangundo	1,632	229	24	25	151	2,061	475	226	29	1	38	769	2,830
Kapenguria	1,921	181	1	99	90	2,292	292	39	11	5	60	407	2,699
Kapsabet	1,386	593	24	21	20	2,044	592	427	58	0	42	1,119	3,163
Karatina	774	87	2	32	144	1,039	789	578	4	117	29	1,517	2,556
Kehancha	619	134	2	13	42	810	205	123	1	1	3	333	1,143
Kericho	2,877	349	34	165	490	3,915	1,108	451	80	19	41	1,699	5,614
Keroka	846	198	24	47	178	1,293	539	208	10	6	38	801	2,094
Kerugoya	1,008	54	10	12	155	1,239	1,242	743	3	2	29	2,019	3,258
Kiambu	1,163	184	19	35	24	1,425	1,301	625	23	5	16	1,970	3,395
Kibera	1,106	162	5	0	1,846	3,119	0	0	0	0	0	0	3,119
Kigumo	2,208	376	58	38	613	3,293	530	270	6	4	7	817	4,110
Kikuyu	1,484	232	34	117	570	2,437	2,119	541	99	125	239	3,123	5,560
Kilgoris	857	104	2	18	35	1,016	68	70	1	2	131	272	1,288
Kilifi	1,755	591	24	58	289	2,717	694	560	35	2	60	1,351	4,068
Kilungu	788	185	7	50	143	1,173	445	248	0	11	61	765	1,938
Kimilili	1,590	139	5	40	36	1,810	705	434	15	3	75	1,232	3,042
Kisii	3,338	358	13	301	35	4,045	3,000	1,244	56	29	168	4,497	8,542
Kisumu	4,928	153	12	194	3,267	8,554	4,303	1,160	137	136	571	6,307	14,861
Kitale	6,877	762	47	216	515	8,417	192	360	1	40	444	1,037	9,454
Kithimani	1,884	200	7	85	211	2,387	177	259	20	3	59	518	2,905
Kitui	1,368	161	11	6	144	1,690	1,552	1,088	54	1	61	2,756	4,446
Kwale	1,086	455	4	102	253	1,900	1,893	342	31	18	111	2,395	4,295
Kyuso	86	6	4	8	13	117	25	19	0	0	1	45	162
Lamu	185	29	0	11	12	237	82	10	0	2	37	131	368
Limuru	916	111	30	73	190	1,320	1,944	780	73	154	155	3,106	4,426
Lodwar	998	260	6	73	64	1,401	48	27	1	2	125	203	1,604
Loitoktok	48	28	0	0	11	87	10	42	0	40	0	92	179
Machakos	2,540	502	11	184	450	3,687	2,347	891	82	121	108	3,549	7,236
Makadara	12,150	1,093	27	117	3,242	16,629	0	0	0	0	0	0	16,629
Makindu	1,284	192	10	8	124	1,618	1,506	234	38	111	27	1,916	3,534
Makueni	342	88	22	13	44	509	293	871	26	6	25	1,221	1,730
Malindi	2,552	487	49	53	629	3,770	437	477	8	12	93	1,027	4,797
Mandera	141	90	1	3	18	253	7	2	1	0	4	14	267
Maralal	57	4	0	26	56	143	55	14	1	1	20	91	234
Mariakani	881	207	1	29	293	1,411	680	84	6	31	55	856	2,267
Marimanti	424	113	0	45	72	654	36	39	0	1	83	159	813
Marsabit	478	83	3	6	69	639	12	22	2	0	3	39	678
Maseno	998	250	5	23	147	1,423	320	194	7	34	15	570	1,993
Maua	2,098	218	6	176	352	2,850	32	109	27	10	111	289	3,139
Mavoko	1,960	134	76	52	1,221	3,443	2,867	344	30	1,805	3	5,049	8,492
Mbita	673	139	9	8	90	919	100	123	14	1	5	243	1,162
Meru	1,621	78	47	130	274	2,150	2,703	561	55	578	824	4,721	6,871
Migori	1,392	252	19	34	150	1,847	1,739	923	35	8	32	2,737	4,584
Milimani Anticorruption	257	0	0	34	0	291	0	0	0	0	0	0	291
Milimani Children's	262	53	0	248	0	563	613	0	2	41	5,066	5,722	6,285
Milimani Commercial	0	0	0	0	0	0	43,541	134	6,424	3,829	0	53,928	53,928
Milimani	4,416	48	53	0	1,322	5,839	0	0	0	0	0	0	5,839
Molo	1,988	369	58	47	699	3,161	679	211	0	3	85	978	4,139
Mombasa	11,632	720	96	31	8,643	21,122	21,857	731	254	4,977	2	27,821	48,943
Moyale	67	11	2	0	10	90	14	1	0	0	0	15	105
Mpeketoni	99	34	0	2	24	159	50	23	2	3	8	86	245
Msambweni	205	223	0	35	7	470	279	37	6	2	23	347	817

	Criminal Cases							Civil Cases							All Pending
MukurweOini	76	26	2	38	16	158	141	614	4	0	3	762	920		
Mumias	1,092	119	3	118	130	1,462	140	505	15	3	31	694	2,156		
Murang'a	2,312	101	22	68	407	2,910	2,926	1,587	3	4	107	4,627	7,537		
Mutomo	569	83	3	6	30	691	124	90	8	6	6	234	925		
Mwingi	930	302	10	21	181	1,444	439	230	6	2	7	684	2,128		
Nairobi City	167	13	5	23	38	246	74	53	36	0	3	166	412		
Naivasha	2,568	425	50	522	1,584	5,149	1,763	485	74	809	142	3,273	8,422		
Nakuru	10,114	1,054	105	644	3,814	15,731	17,453	1,632	433	1,513	1,853	22,884	38,615		
Nanyuki	1,810	283	31	85	209	2,418	1,710	162	39	16	68	1,995	4,413		
Narok	1,413	461	55	130	373	2,432	1,677	357	52	78	110	2,274	4,706		
Ndhiwa	343	169	7	25	58	602	238	332	17	11	7	605	1,207		
Ngong	2,148	393	15	117	482	3,155	678	150	27	3	59	917	4,072		
Nkubu	130	91	6	46	104	377	146	109	23	8	108	394	771		
Nyahururu	2,845	416	72	566	578	4,477	2,240	229	52	46	271	2,838	7,315		
Nyamira	720	161	13	9	138	1,041	406	222	13	10	6	657	1,698		
Nyando	697	289	3	98	545	1,632	1,720	439	8	294	33	2,494	4,126		
Nyeri	816	188	26	261	256	1,547	1,574	1,101	99	13	249	3,036	4,583		
Ogembo	2,233	416	22	14	158	2,843	1,557	430	60	0	119	2,166	5,009		
Othaya	85	11	0	3	8	107	53	306	6	0	5	370	477		
Oyugis	1,504	188	13	22	257	1,984	448	1,471	32	13	12	1,976	3,960		
Rongo	425	121	19	13	86	664	697	223	29	1	1	951	1,615		
Ruiru	1,439	131	26	9	427	2,032	10	117	5	19	13	164	2,196		
Runyenjes	170	25	4	0	31	230	283	229	5	0	3	520	750		
Shanzu	2,035	644	28	64	1,087	3,858	0	0	0	0	0	0	3,858		
Siakago	390	69	19	1	26	505	514	453	14	124	30	1,135	1,640		
Siaya	866	140	6	13	51	1,076	882	1,123	9	34	20	2,068	3,144		
Sirisia	1,071	206	7	27	30	1,341	240	86	10	4	31	371	1,712		
Sotik	726	179	2	18	98	1,023	466	241	22	2	186	917	1,940		
Tamu	75	9	0	3	1	88	167	87	6	0	5	265	353		
Taveta	589	63	12	61	30	755	107	9	6	0	21	143	898		
Tawa	616	209	7	4	112	948	172	54	5	1	10	242	1,190		
Thika	3,367	4	30	2	1,557	4,960	3,151	320	19	118	82	3,690	8,650		
Tigania	1,626	70	11	79	104	1,890	271	182	4	0	45	502	2,392		
Tononoka	4	29	0	305	0	338	447	0	0	0	657	1,104	1,442		
Ukwala	788	107	1	25	111	1,032	200	464	8	0	46	718	1,750		
Vihiga	1,354	253	2	45	408	2,062	1,088	328	12	15	120	1,563	3,625		
Voi	1,311	119	15	34	82	1,561	405	26	2	8	55	496	2,057		
Wajir	778	66	1	14	184	1,043	35	3	0	1	31	70	1,113		
Wang'uru	998	165	25	133	210	1,531	557	389	17	8	240	1,211	2,742		
Webuye	826	130	30	56	238	1,280	552	83	13	27	39	714	1,994		
Winam	1,927	357	15	272	108	2,679	485	217	17	3	90	812	3,491		
Wundanyi	307	47	3	43	53	453	58	5	3	1	68	135	588		
All Magistrates Courts	180,390	26,051	2,022	8,222	49,404	266,089	169,247	44,015	9,431	16,947	16,094	255,734	521,823		

Annex 2.11: Kadhis' Courts Statistics, FY 2021/22

Kadhi's Court Station	Pending Cases at 30th Jun 2021			Filed Cases					Resolved Cases					Pending Cases as at 30th June 2022				Av. Time to Disposition (Days)				
	Pending	Back log	Back log > 3 yrs	Divo rce	Reg of Marr iage	Matri monial Cause	Mis c Ap p	Reg of Divo rce	Suc c	Total	Divo rce	Reg of Marr iage	Matri monial Cause	Mis c Ap p	Reg of Divo rce	Suc c	Total	Pend ing Case s	103 years	Ove r 3 years	All back log	% Chan ge in Back log >3 yrs
Balambala	6	3	0	13	39	1	0	3	1	57	8	40	1	0	3	1	53	10	2	0	2	N/A
Bungoma	0	5	0	12	75	0	8	2	5	102	0	20	0	0	0	0	20	82	0	0	0	N/A
Bura/Fafi	11	1	0	3	41	2	0	0	3	49	4	38	3	0	0	3	48	12	1	0	1	N/A
Busia	69	15	0	3	26	0	19	1	2	51	3	23	0	16	0	0	42	78	19	0	19	N/A
Bute	8	2	0	12	44	7	0	2	2	67	14	44	10	0	3	2	73	2	5	0	5	N/A
Daadab	104	13	26	88	52	5	2	10	5	162	74	47	11	1	10	3	146	120	0	18	18	031 %
Eldas	43	29	0	8	7	0	1	0	0	16	8	7	0	1	0	0	16	43	39	0	39	N/A
Eldoret	3	0	0	17	36	7	10	7	7	84	13	36	1	10	4	9	73	14	1	0	1	N/A
Elwak	16	6	0	79	29	24	5	5	8	150	73	28	24	5	3	6	139	27	0	0	0	N/A
Garbatulla	10	20	0	13	31	12	8	3	1	68	14	26	5	9	2	2	58	20	3	0	3	N/A

Kadhi's Court	Pending Cases at 30th Jun 2021					Filed Cases					Resolved Cases					Pending Cases as at 30th June 2022					Av. Time to		
	442	69	195	208	90	32	13	20	160	523	116	51	17	10	12	97	303	662	211	179	390	08%	
Garissa	442	69	195	208	90	32	13	20	160	523	116	51	17	10	12	97	303	662	211	179	390	08%	17
Garsen	26	0	0	45	29	16	6	1	4	101	38	23	17	5	4	2	89	38	0	0	0	N/A	53
Habaswei n	17	20	0	15	30	5	1	3	1	55	15	25	5	0	2	1	48	24	3	0	3	N/A	35
Hola	14	6	1	28	14	5	4	8	2	61	26	11	6	4	2	6	55	20	12	0	12	0100 %	70
Homabay	0	48	0	2	9	0	2	1	0	14	1	5	0	2	1	0	9	5	1	0	1	N/A	62
Ijara	32	7	0	49	52	0	2	6	5	114	32	50	0	1	6	3	92	54	7	0	7	N/A	1
Isiolo	34	25	3	40	114	31	44	13	45	287	52	106	27	42	12	46	285	36	24	4	28	33%	4
Kajiado	79	5	0	5	35	0	2	8	12	62	2	6	0	1	3	7	19	122	21	0	21	N/A	35
Kakamega	146	72	0	2	39	0	2	5	1	49	6	38	0	3	5	4	56	0	0	0	0	N/A	1
Kakuma	149	7	0	86	277	21	55	142	1	582	44	167	12	35	79	0	337	394	85	0	85	N/A	7
Kericho	78	5	0	0	42	0	3	3	4	52	0	40	0	3	0	2	45	85	15	0	15	N/A	90
Kibera	46	6	3	5	7	0	3	0	6	21	2	6	1	4	0	3	16	51	13	2	15	033 %	99
Kilifi	110	9	6	16	46	0	49	5	46	162	22	31	1	40	0	71	165	107	81	3	84	050 %	38
Kisumu	27	33	0	20	19	3	0	5	17	64	12	16	1	0	5	8	42	49	15	0	15	N/A	38
Kitui	9	6	0	2	14	0	6	2	17	41	1	14	0	5	1	21	42	8	0	0	0	N/A	8
Kwale	120	24	0	16	225	0	16	6	626	889	3	16	0	6	0	386	411	598	87	0	87	N/A	19
Lamu	124	17	4	26	106	2	26	17	16	193	25	40	6	17	6	24	118	199	43	1	44	075 %	39
Machakos	104	13	3	9	17	0	3	0	11	40	7	5	0	1	0	8	21	123	100	3	103	0%	1
Malindi	33	8	1	2	33	29	6	6	68	144	1	16	21	4	4	58	104	73	0	0	0	0100 %	57
Mandera	44	94	1	58	36	5	16	3	68	186	54	27	1	15	2	45	144	86	32	1	33	0%	55
Mariakani	6	2	0	15	118	0	1	9	18	161	3	21	0	0	1	3	28	139	5	0	5	N/A	1
Marsabit	130	31	1	26	27	22	2	1	18	96	13	20	8	0	0	10	51	175	59	1	60	0%	94
Maua	5	0	0	5	17	0	5	2	5	34	4	14	0	3	1	7	29	10	0	0	0	N/A	2
Merti	22	12	0	11	35	58	42	6	6	158	4	35	67	40	6	7	159	21	1	0	1	N/A	37
Modogash e	6	4	0	10	3	3	0	0	0	16	15	3	5	3	0	0	26	0	4	0	4	N/A	154
Mombasa	3,06 6	184	11	346	369	0	98	232	451	149 6	235	256	0	35	30	421	977	3,58 5	620	0	620	0100 %	56
Moyale	56	23	0	44	109	14	1	3	51	222	57	94	23	1	3	50	228	50	2	0	2	N/A	36
Msambwe ni	102	15	0	15	46	5	3	0	117	186	5	35	2	2	0	87	131	157	61	0	61	N/A	50
Nairobi	2,38 7	161	11	216	327	15	644	80	142	142 4	197	256	10	495	46	119	1,1 23	2,68 8	374	5	379	055 %	2
Nakuru	12	7	0	10	41	1	3	4	9	68	7	36	1	2	3	10	59	21	4	0	4	N/A	2
Nyeri	54	10	0	3	10	2	1	4	13	33	4	8	1	1	3	10	27	60	17	0	17	N/A	28
Takaba	9	9	0	47	39	11	7	8	5	117	39	40	11	7	3	5	105	21	2	0	2	N/A	11
Thika	28	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	28	8	0	8	N/A	0
Vihiga	0	0	0	1	1	0	0	0	1	3	0	0	0	0	0	0	0	3	0	0	0	N/A	0
Voi	6	0	0	15	49	5	2	5	8	84	17	46	6	2	6	11	88	2	0	0	0	N/A	25
Wajir	248	35	25	148	52	13	53	53	4	323	127	42	55	41	17	5	287	278	40	25	65	0%	56
Witu	27	0	0	26	60	0	35	14	15	150	40	63	0	25	11	14	153	24	5	0	5	N/A	4
All Kadhis' Courts	8,06 2	1,06 7	291	1,82 0	2,917	356	1,2 09	708	2,0 07	9,0 17	1,43 7	1,971	359	897	299	1,5 77	6,5 40	10,4 04	2,0 22	242	2,26 4	017 %	30

Annex 2.12: Court Annexed Mediation Statistics, FY 2021/22

S/N o.	Court Station	Matters at Mediation					Matters Settled					Unsettled Matters					
		Pendi ng as at 30th June 2021	Refer red, FY 2021/ 22	Proces sed, FY 2021/2 2	Proces sing rate	Pendi ng as at 30th June 2022	Full Agree ments	Partial Agree ments	Conse nts	Total Settl ed Matt ers	Settle ment Rate	No Agree ments	Non. Compli ance	Noncom pliance rate	Termin ated	Termin ation rate	All non0Se ttled Matters
	High Court Stations (HC)																
1	Bomet	0	31	28	90%	3	17	6	0	23	82%	4	0	0%	1	4%	5
2	Chuka	0	2	2	100%	0	0	0	0	0	0%	2	0	0%	0	0%	2
3	Eldoret	177	44	42	95%	179	13	0	0	13	31%	12	4	10%	13	31%	29
4	Embu	63	35	21	60%	77	13	0	0	13	62%	6	0	0%	2	10%	8
5	Garissa	30	1	0	0	31	0	0	0	0	0	0	0	0	0	0	0
6	Kakamega	334	23	20	87%	337	12	0	0	12	60%	8	0	0%	0	0%	8
7	Kapsabet	0	21	21	100%	0	5	2	0	7	33%	7	7	33%	0	0%	14
8	Kericho	0	25	11	44%	14	5	3	0	8	73%	2	0	0%	1	9%	3
9	Kerugoya	1	3	2	67%	2	1	0	0	1	50%	1	0	0%	0	0%	1
10	Kiambu	0	8	4	50%	4	4	0	0	4	100%	0	0	0%	0	0%	0
11	Kisii	10	1	1	100%	10	0	0	0	0	0%	0	0	0%	1	100%	1
12	Kisumu	168	25	17	68%	176	7	1	0	8	47%	5	0	0%	4	24%	9
13	Kitale	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
14	Machakos	72	36	16	44%	92	7	1	0	8	50%	5	1	6%	2	13%	8
15	Malindi	13	9	7	78%	15	1	0	0	1	14%	4	1	14%	1	14%	6
16	Meru	0	9	4	44%	5	2	0	0	2	50%	1	1	25%	0	0%	2
17	Milimani Civil Division	73	11	8	73%	76	3	0	0	3	38%	4	0	0%	1	13%	5
18	Milimani Commercial Div	237	55	33	60%	259	7	1	2	10	30%	20	2	6%	1	3%	23
19	Milimani Family Division	158	173	122	71%	209	48	7	3	58	48%	49	11	9%	4	3%	64
20	Mombasa	36	13	6	46%	43	2	1	0	3	50%	2	1	17%	0	0%	3
21	Naivasha	0	3	1	33%	2	0	0	0	0	0%	0	1	100%	0	0%	1
22	Nakuru	54	20	18	90%	56	4	1	2	7	39%	7	2	11%	2	11%	11
23	Nyamira																
24	Nyeri	153	48	39	81%	162	17	3	0	20	51%	15	0	0%	4	10%	19
	All High Courts	1579	597	423	71%	1753	168	26	7	201	48%	154	31	7%	37	9%	222
	ELRC Station																
1	Eldoret	16	6	5	83%	17	0	0	1	1	20%	3	1	20%	0	0%	4
2	Kakamega	0	1	1	100%	0	1	0	0	1	100%	0	0	0%	0	0%	0
3	Kericho	0	1	0	0%	1	0	0	0	0	0%	0	0	0	0	0	0
4	Kisumu																
5	Kitale	47	1	1	100%	47	0	0	0	0	0%	1	0	0%	0	0%	1
6	Malindi	0	2	2	100%	0	0	0	0	0	0%	0	0	0%	2	100%	2
7	Milimani	153	128	109	85%	172	25	7	10	42	39%	57	7	6%	3	3%	67
8	Mombasa	58	1	1	100%	58	0	1	0	1	100%	0	0	0%	0	0%	0
9	Nakuru	0	12	10	83%	2	2	1	0	3	30%	4	3	30%	0	0%	7
10	Nyeri	7	2	2	100%	7	1	0	0	1	50%	0	1	50%	0	0%	1
	Total ELRC	281	154	131	85%	304	29	9	11	49	37%	65	12	9%	5	4%	82

		Matters at Mediation					Matters Settled					Unsettled Matters					
	ELC Station																
1	Bungoma	0	1	1	100%	0	0	0	0	0	0%	1	0	0%	0	0%	1
2	Chuka	0	1	1	100%	0	0	0	0	0	0%	1	0	0%	0	0%	1
3	Eldoret	26	8	7	88%	27	0	1	0	1	14%	5	0	0%	1	14%	6
4	Embu	23	17	3	18%	37	2	0	0	2	67%	1	0	0%	0	0%	1
5	Kajiado	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
6	Kakamega	58	14	14	100%	58	7	0	0	7	50%	5	2	14%	0	0%	7
7	Kapsabet	0	13	9	69%	4	4	0	0	4	44%	3	2	22%	0	0%	5
8	Kericho	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
9	Kerugoya	0	5	3	60%	2	1	0	0	1	33%	2	0	0%	0	0%	2
10	Kisii	5	2	2	100%	5	1	1	0	2	100%	0	0	0%	0	0%	0
11	Kisumu	99	2	2	100%	99	1	0	0	1	50%	0	0	0%	1	50%	1
12	Kitale	0	9	9	100%	0	1	1	0	2	22%	0	4	44%	3	33%	7
13	Machakos	32	4	3	75%	33	1	0	0	1	33%	0	2	67%	0	0%	2
14	Malindi	3	3	2	67%	4	1	0	0	1	50%	1	0	0%	0	0%	1
15	Milimani ELC	101	55	36	65%	120	7	1	1	9	25%	21	5	14%	1	3%	27
16	Mombasa	9	2	0	0%	11	0	0	0	0	0	0	0	0	0	0	0
17	Nakuru	0	11	5	45%	6	2	1	0	3	60%	1	0	0%	1	20%	2
18	Nanyuki	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
19	Nyamira	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
20	Nyeri	68	5	5	100%	68	2	1	0	3	60%	2	0	0%	0	0%	2
21	Siaya	0	2	0	0%	2	0	0	0	0	0	0	0	0	0	0	0
22	Thika	0	1	1	100%	0	1	0	0	1	100%	0	0	0%	0	0%	0
	All ELC	424	159	103	65%	480	31	6	1	38	37%	43	15	15%	7	7%	65
	Magistrates' Courts																
1	Bomet	0	6	4	67%	2	2	0	1	3	75%	1	0	0%	0	0%	1
2	Bungoma	0	4	2	50%	2	1	0	0	1	50%	1	0	0%	0	0%	1
3	Chuka	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
4	Eldoret	76	116	99	85%	93	45	6	1	52	53%	29	13	13%	5	5%	47
5	Embu	31	72	44	61%	59	24	2	1	27	61%	13	0	0%	4	9%	17
6	Garissa	20	15	12	80%	23	7	0	0	7	58%	3	1	8%	1	8%	5
7	Kakamega	90	162	142	88%	110	89	3	3	95	67%	35	6	4%	6	4%	47
8	Kapsabet	0	41	35	85%	6	15	5	0	20	57%	9	4	11%	2	6%	15
9	Kericho	0	18	15	83%	3	10	0	0	10	67%	4	1	7%	0	0%	5
10	Kerugoya	7	21	16	76%	12	8	2	0	10	63%	6	0	0%	0	0%	6
11	Kisii	14	108	100	93%	22	52	2	3	57	57%	24	0	0%	19	19%	43
12	Kisumu	32	149	119	80%	62	42	11	3	56	47%	51	0	0%	12	10%	63
13	Kitale	0	25	16	64%	9	5	2	0	7	44%	5	1	6%	3	19%	9
14	Machakos	0	41	32	78%	9	17	4	0	21	66%	4	2	6%	5	16%	11
15	Malindi	15	40	31	78%	24	3	4	0	7	23%	11	6	19%	7	23%	24
16	Milimani Children's court	183	111	93	84%	201	40	6	3	49	53%	30	9	10%	5	5%	44
17	Milimani Commercial	97	37	28	76%	106	6	2	1	9	32%	15	3	11%	1	4%	19
18	Mombasa	260	152	112	74%	300	26	2		28	25%	53	29	26%	2	2%	84

		Matters at Mediation				Matters Settled					Unsettled Matters						
19	Naivasha	0	19	6	32%	13	1	0		1	17%	3	2	33%	0	0%	5
20	Nakuru	84	47	33	70%	98	20	0	2	22	67%	6	5	15%	0	0%	11
21	Nanyuki	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
22	Ngong	0	4	3	75%	1	0	1	0	1	33%	1	1	33%	0	0%	2
23	Nyamira	50	106	88	83%	68	46	7	1	54	61%	22	10	11%	2	2%	34
24	Nyeri	52	126	115	91%	63	69	9	0	78	68%	29	4	3%	4	3%	37
25	Othaya	0	22	22	100%	0	6	4	1	11	50%	10	1	5%	0	0%	11
26	Runyenjes	0	6	4	67%	2	2	0	1	3	75%	0	1	25%	0	0%	1
27	Siakago	18	77	84	109%	11	39	4	0	43	51%	18	22	26%	0	0%	40
28	Tononoka	19	0	0		19	0	0	0	0	0	0	0		0		0
	All MC	1,048	1,527	1,255	82%	1,320	575	76	21	672	54%	383	121	10%	78	6%	582
	Kadhis Courts (KC)																
1	Eldoret	0	1	1	100%	0	0	1	0	1	100%	0	0	0%	0	0%	0
2	Milimani	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
3	Nyeri	0	1	0	0%	1	0	0	0	0	0	0	0	0	0	0	0
	All KC	0	3	1	33%	2	0	1	0	1	100%	0	0	0%	0	0%	0
	Small Claims Courts (SCC)																
1	Milimani	0	4	4	100%	0	0	0	1	1	25%	2	0	0%	1	25%	3
2	Nyeri	0	1	1	100%	0	0	0	0	0	0%	1	0	0%	0	0%	1
	ALL SCC	0	5	5	100%	0	0	0	1	1	20%	3	0	0%	1	20%	4
	All Courts				78%		803	118	41	962		648	179	9%	128	7%	955

Annex 2.13: Court Annexed Mediation, Value of Matters

S/No.	Court stations	Referred to Mediation			Matters with Settlement Agreements		
		Cumulative value at 30th June 2021	Value FY 2021/22	Cumulative value as at 30th June 2022	Cumulative value at 30th June 2021	Value FY 2021/22	Cumulative value as at 30th June 2022
	High Court Stations (HC)						
1	Bomet	0	287,200,000	287,200,000	0	213,000,000	213,000,000
2	Chuka						
3	Eldoret	2,119,204,162	569,915,890	2,689,120,052	744,017,282	15,317,335	759,334,617
4	Embu	3,847,867	24,500,000	28,347,867	2,140,167	21,000,000	23,140,167
5	Garissa	731,419	0	731,419	556,000	0	556,000
6	Kakamega	429,663,048	6,345,000	436,008,048	103,016,121	5,545,000	108,561,121
7	Kapsabet	0	10,000,050	10,000,050	0	0	0
8	Kericho	0	153,199,997	153,199,997	0	53,199,999	53,199,999
9	Kerugoya	26,000,000	1,000,000	27,000,000	4,000,000	1,000,000	5,000,000
10	Kiambu	0	200,000	200,000	0	0	0
11	Kisii	12,839,888	290,000	13,129,888	18,107,108	0	18,107,108
12	Kisumu	609,864,884	44,612,650	654,477,534	13,261,353	1,112,650	14,374,003
13	Kitale	0	5,000,000	5,000,000	0	0	0
14	Machakos	345,609,123	370,160,289	715,769,412	66,879,006	51,400,000	118,279,006
15	Malindi	35,669,663	10,767,545	46,437,208	0	0	0
16	Meru	0	2,560,000	2,560,000	0	0	0
17	Milimani Civil Division	1,190,554,234	33,053,114	1,223,607,348	1,509,150	0	1,509,150
18	Milimani Commercial Division	25,714,675,688	2,971,049,498	28,685,725,186	3,747,773,956	137,076,612	3,884,850,568
19	Milimani Family Division	13,414,245,835	2,453,092,089	15,867,337,924	4,947,384,394	1,152,229,992	6,099,614,386
20	Mombasa	76,602,614	187,612,768	264,215,382	0	0	0
21	Naivasha	0	5,200,000	5,200,000	0	0	0
22	Nakuru	137,834,259	55,544,648	193,378,907	3,894,123	0	3,894,123
23	Nyamira	4,687,500	0	4,687,500	2,222,222	0	2,222,222
24	Nyeri	4,114,585,018	158,764,869	4,273,349,887	1,079,297,081	57,999,998	1,137,297,079
	All High courts	48,236,615,202	7,350,068,407	55,586,683,609	10,734,057,963	1,708,881,586	12,442,939,549
	ELRC						
1	Eldoret	0	3,000	3,000	0	0	0
2	Kakamega	0	0	0	0	0	0
3	Kericho	0	0	0	0	0	0

S/No.	Court stations	Referred to Mediation			Matters with Settlement Agreements		
4	Kisumu	74,093,492	0	74,093,492	0	0	0
5	Kitale	0	0	0	0	0	0
6	Malindi	0	468,236	468,236	0	0	0
7	Milimani ELRC	1,975,524,869	2,021,839,721	3,997,364,590	281,978,708	536,850,014	818,828,722
8	Mombasa	10,142,221	0	10,142,221	0	0	0
9	Nakuru	0	408,403	408,403	0	0	0
10	Nyeri	41,568,298	5,196	41,573,494	11,669,719	102	11,669,821
	All ELRC	2,101,328,880	2,022,724,556	4,124,053,436	293,648,427	536,850,116	830,498,543
	ELC						
1	Bungoma	0	10,000,000	10,000,000	0	0	0
2	Chuka	0	0	0	0	0	0
3	Eldoret	0	0	0	0	0	0
4	Embu	923,836	0	923,836	40,167	0	40,167
5	Kajiado	0	0	0	0	0	0
6	Kakamega	71,984,191	0	71,984,191	15,270,975	0	15,270,975
7	Kapsabet	0	126,000,000	126,000,000	0	100,000,000	100,000,000
8	Kericho	0	10,000,000	10,000,000	0	0	0
9	Kerugoya	1,000,000	0	1,000,000	0	0	0
10	Kisii	1,078,048	0	1,078,048	0	0	0
11	Kisumu	58,838,950	0	58,838,950	2,340,239	0	2,340,239
12	Kitale	0	0	0	0	0	0
13	Machakos	51,671,482	9,000,000	60,671,482	0	9,000,000	9,000,000
14	Malindi	0	0	0	0	0	0
15	Milimani ELC	1,353,554,645	194,483,092	1,548,037,737	0	36,249,692	36,249,692
16	Mombasa	26,645,923	0	26,645,923	0	0	0
17	Nakuru	0	700,000,000	700,000,000	0	0	0
18	Nanyuki	0	0	0	0	0	0
19	Nyamira	0	3	3	0	0	0
20	Nyeri	90,757,666	35,000	90,792,666	11,669,719	0	11,669,719
21	Siaya	0	0	0		0	0
22	Thika	0	0	0		0	0
	All ELC	1,656,454,741	1,049,518,095	2,705,972,836	29,321,100	145,249,692	174,570,792
	Magistrates' Courts						
1	Bomet	0	100,000	100,000	0	0	0
2	Bungoma	0	132,000	132,000	0	132,000	132,000
3	Chuka	0	0	0	0	0	0
4	Eldoret	1,337,825,968	1,439,103,698	2,776,929,666	558,242,987	55,999,998	614,242,985
5	Embu	4,341,932	4,251,778	8,593,710	2,632,267	1,627,843	4,260,110
6	Garissa	0	0	0	0	0	0
7	Kakamega	91,126,659	5,051,559	96,178,218	21,434,203	2,198,559	23,632,762
8	Kapsabet	0	10,600,050	10,600,050	0	600,000	600,000
9	Kericho	0	59,999,997	59,999,997	0	33,999,997	33,999,997
10	Kerugoya	4,000,000	1,320,001	5,320,001	1,000,000	1	1,000,001
11	Kisii	2,441,463	2,140,683	4,582,146	0	1,035,200	1,035,200
12	Kisumu	82,810,374	31,886,398	114,696,772	14,821,512	4,366,352	19,187,864
13	Kitale	0	42,300,000	42,300,000	0	24,000,000	24,000,000
14	Machakos	0	58,624,791	58,624,791	0	17,419,997	17,419,997
15	Malindi	34,195,122	29,330,155	63,525,277	0	556,165	556,165
16	Milimani Children's court	66,264,697	25,000	66,289,697	8,833,262	0	8,833,262
17	Milimani Commercial	105,411,677	72,968,057	178,379,734	23,762,645	19,970,320	43,732,965
18	Mombasa	370,647,544	138,810,728	509,458,272	22,507,726	28,883,242	51,390,968
19	Naivasha	0	61,190,674	61,190,674	0	5,000,000	5,000,000
20	Nakuru	123,828,443	32,810,728	156,639,171	12,432,368	20,510,728	32,943,096
21	Nanyuki	0	0	0	0	0	0
22	Ngong	0	1	1	0	0	0
23	Nyamira	55,312,500	42,667,050	97,979,550	17,777,778	23,516,000	41,293,778
24	Nyeri	280,773,693	104,053,019	384,826,712	152,083,579	68,555,920	220,639,499
25	Othaya	0	12,374,972	12,374,972	0	6,142,312	6,142,312
26	Runyenjes	0	1,300,000	1,300,000	0	0	0
27	Siakago	4,000,000	16,624,995	20,624,995	1,000,000	14,309,995	15,309,995
28	Tononoka	0	0	0	0	0	0
	All MC	2,562,980,072	2,167,666,334	4,730,646,406	836,528,327	328,824,629	1,165,352,956
	Kadhis Courts (KC)						
1	Eldoret	0	0	0	0	0	
2	Milimani	0	0	0	0	0	
3	Nyeri	0	0	0	0	0	
	All KC	0	0	0	0	0	0
	Small Claims Courts (SCC)						
1	Milimani	0	715,104	715,104	0	0	
2	Nyeri	0	0	0	0	0	

S/No.	Court stations	Referred to Mediation			Matters with Settlement Agreements		
	ALL SCC	0	715,104	715,104	0	0	0
		54,557,378,895	12,590,692,496	67,148,071,391	11,893,555,81 7	2,719,806,023	14,613,361,840

Annex 6.1: Revenue Collected by Courts FY 2019/20 – FY 2021/22

S/No	Court	Fines			Fees		
		FY- 2021/22	FY 2020/21	2019-20	FY 2021/22	FY 2020/21	2019-20
	Station	KSh'000	KSh'000	KSh'000	KSh'000	KSh'000	KSh'000
1	Baricho	5.19	4.72	3.43	2.95	3.18	2.36
2	Bomet	11.06	9.89	9.66	3.57	3.28	2.35
3	Bondo	6.64	7.29	3.87	3.49	4.35	2.86
4	Bungoma	11.58	8.17	10.52	10.84	11.01	10.25
5	Busia	14.61	17.67	11.96	10.21	11.03	7.65
6	Butali	3.56	1.43	1.66	2.96	3.18	1.16
7	Butere	3.26	2.53	2.73	2.32	2.63	1.73
8	Headquarters /Supreme Court/COA	-	-	-	20.58	13.45	22.98
9	Chuka	10.05	12.03	11.75	7.13	5.98	4.61
10	Dadaab Law Courts	0.34	0.19	-	0.20	0.04	-
11	Eldama Ravine	7.18	12.48	8.34	1.64	1.97	1.90
12	Eldoret	26.10	25.87	18.01	26.57	32.65	25.82
13	Embu	8.92	6.83	9.35	6.83	8.22	8.16
14	Engineer	17.73	14.82	6.32	3.92	4.27	2.75
15	Garissa - Magistrate	14.77	12.59	10.78	2.81	4.74	2.61
	Garissa - Balambala Kadhi	-	-	-	0.05	0.06	0.07
	Garissa - Dadaab Kadhi	-	-	-	-	0.15	0.16
	Garissa - Ijara Kadhi	-	-	-	0.12	0.12	0.17
	Garissa - Modogashe Kadhis	-	-	-	0.03	0.06	0.15
	Garissa - Bura/Fafi Kadhi	-	-	-	0.03	0.05	0.04
16	Garsen	2.82	3.02	1.93	1.64	1.37	1.33
17	Gatundu	13.64	14.57	8.16	6.23	7.19	4.14
18	Gichugu	3.85	4.82	3.77	1.71	2.17	1.09
19	Githongo	4.47	4.19	3.52	1.84	2.04	1.24
20	Githunguri	5.25	5.79	3.02	3.02	2.72	2.69
21	Hamisi	3.75	3.38	2.67	0.89	0.82	0.75
22	Hola	1.67	2.22	1.14	0.76	0.63	0.52
23	Homa Bay	4.12	7.77	4.84	5.08	4.84	4.36
24	Isiolo - Magistrate	12.95	12.74	8.17	1.96	2.49	1.91
	Isiolo - Garbatullah Kadhi	-	-	-	0.08	0.11	0.09
	Isiolo - Merti Kadhi	-	-	-	0.17	0.28	0.11
25	Iten	5.30	5.25	9.90	2.42	1.94	1.13
26	JKIA	2.42	3.79	4.98	0.08	0.16	0.18
27	Kabarnet	4.65	2.92	2.31	1.56	1.28	1.03
28	Kajiado	27.13	5.51	14.71	13.45	12.77	8.80
29	Kahawa	0.47	0.10	-	0.04	0.00	-
30	Kakamega	8.88	6.37	7.85	11.74	10.43	9.81
31	Kakuma	4.19	1.35	0.88	0.51	0.22	0.11
32	Kaloleni	0.68	1.57	0.89	1.74	2.50	2.29
33	Kandara	9.92	11.24	8.73	5.13	5.70	3.93
34	Kangema	4.22	5.82	3.48	1.53	1.56	1.53
35	Kangundo	11.74	12.07	6.19	4.02	5.57	4.96
36	Kapenguria	5.91	7.13	5.47	1.16	1.69	1.20
37	Kapsabet	12.80	7.10	15.56	5.55	4.89	3.99
38	Karatina	3.66	5.75	3.85	3.60	3.81	2.28
39	Kehancha	4.33	6.24	2.42	0.94	0.74	0.73
40	Kericho	19.71	12.34	14.24	6.61	8.55	7.45
41	Keroka	11.15	8.73	2.50	2.05	2.52	0.81
42	Kerugoya	4.32	3.85	2.93	8.28	8.12	6.70
43	Kiambu	24.29	34.31	13.57	16.32	16.50	13.50
44	Kibera	56.98	50.78	47.01	0.54	0.70	0.90
45	Kigumo	11.08	4.81	5.77	4.26	4.51	3.21
46	Kikuyu	17.13	7.25	6.48	8.20	8.93	7.91
47	Kilgoris	8.15	6.47	6.24	1.85	1.66	1.24
48	Kilifi	1.95	4.14	4.66	7.09	8.37	6.71
49	Kilungu	9.70	15.46	12.84	4.47	4.75	4.07
50	Kimilili	3.60	2.05	5.23	2.66	2.78	1.86
51	kisii	7.70	6.32	8.36	15.04	15.66	13.96
52	Kisumu	13.64	14.85	6.93	24.88	27.96	22.20
53	Kitale	16.80	19.60	17.04	11.34	9.74	10.29
54	Kithimani	8.53	5.55	6.13	3.84	3.56	3.27
55	Kitui	6.42	7.58	7.54	8.06	7.93	6.08

S>No	Court	Fines			Fees		
		FY- 2021/22	FY 2020/21	2019-20	FY 2021/22	FY 2020/21	2019-20
	Station	KSh'000	KSh'000	KSh'000	KSh'000	KSh'000	KSh'000
56	Kwale	5.69	4.58	8.39	6.25	5.99	4.86
57	Kyuso	1.13	0.92	1.16	0.50	0.43	0.49
58	Lamu	3.44	5.11	2.13	0.95	0.78	0.94
59	Limuru	8.77	9.24	7.18	7.57	10.45	6.46
60	Lodwar	4.77	3.26	2.20	1.29	0.68	0.55
61	Loitokitok	3.36	1.55	3.50	0.91	0.97	0.60
62	Machakos	8.60	18.13	10.69	19.56	24.40	19.10
63	Makadara	108.40	75.92	198.28	0.39	0.21	0.44
64	Makindu	11.38	16.62	13.11	4.42	6.83	6.37
65	Makueni	6.01	6.78	4.29	6.93	5.94	5.51
66	Malindi	5.59	6.36	5.31	16.63	14.15	12.60
67	Mandera	5.28	6.84	4.04	0.45	0.56	0.48
	Mandera - Elwak Kadhi Court	-	-	-	0.24	0.33	0.32
	Mandera - Tabaka Kadhi Court	-	-	-	0.12	0.01	0.13
68	Maralal	4.07	3.24	1.91	0.97	0.59	0.48
69	Mariakani	13.63	8.04	8.59	3.72	4.39	3.87
70	Marimanti	0.76	2.17	1.73	0.61	1.57	0.71
71	Marsabit	2.23	2.75	2.81	1.17	0.98	0.92
72	Maseno	6.53	6.20	4.35	1.84	2.59	2.23
73	Maua	8.19	9.37	7.94	7.81	5.96	4.20
74	Mavoko	51.65	30.42	29.27	14.28	15.23	15.87
75	Mbita	2.68	3.73	3.33	0.86	1.19	0.89
76	Meru	12.99	7.96	10.77	14.27	14.20	11.93
77	Migori	7.27	6.44	2.95	8.28	6.84	5.77
78	Milimani Commercial	-	-	0.08	179.66	202.19	201.83
79	Milimani ELRC	7.16	-	0.70	9.59	9.34	7.77
80	Milimani Law	171.35	130.10	194.48	107.07	90.14	87.76
81	Molo	18.11	19.36	9.93	6.37	6.72	4.92
82	Mombasa	39.47	39.27	27.67	61.18	67.51	56.08
83	Moyale	5.10	5.21	6.88	0.58	0.61	0.46
84	Mpeketoni	0.66	0.76	0.23	0.60	0.48	0.37
	Mpeketoni - Witu Kadhis Court	-	-	-	0.15	0.20	0.06
85	Msambweni	1.75	3.72	3.47	1.87	1.93	1.09
86	Mukurwe-ini	1.62	2.58	1.24	1.25	0.90	0.97
87	Mumias	2.86	2.90	4.40	3.09	2.87	2.38
88	Muranga	4.93	6.90	5.29	11.67	12.75	8.77
89	Mutomo	2.71	2.68	1.77	1.10	0.79	0.79
90	Mwingi	17.72	11.38	8.47	3.03	3.50	1.95
91	Naivasha	29.62	11.36	19.29	14.56	17.11	14.89
92	Nakuru	55.28	29.98	28.47	32.17	33.63	25.19
93	Nanyuki	14.01	13.80	7.68	4.21	5.50	4.31
94	Narok	7.93	8.89	8.38	5.33	6.67	5.83
95	Ndhiwa	1.54	1.42	1.91	1.28	1.38	0.95
96	Ngong	18.44	13.40	8.50	6.07	6.91	5.40
97	Nkubu	5.54	6.08	8.79	3.15	3.61	2.86
98	Nyahururu	17.87	11.09	11.66	9.23	9.94	7.59
99	Nyamira	7.50	12.97	7.77	4.36	4.45	3.72
100	Nyando	2.94	3.21	1.74	4.33	4.08	2.66
101	Nyeri	14.08	14.54	13.41	16.25	15.92	13.87
102	Ogumbo	7.73	4.86	6.26	3.46	4.20	3.58
103	Othaya	1.71	1.78	1.49	1.34	1.83	1.04
104	Oyugis	6.31	6.42	5.16	4.89	5.53	4.20
105	Rongo	4.59	3.69	1.88	2.78	2.50	2.66
106	Ruiru	36.45	27.11	15.07	12.25	12.33	7.75
107	Runyenjes	3.86	13.30	3.54	3.08	2.19	2.20
108	Shanzu	14.50	13.25	12.21	0.11	0.05	0.09
109	Siakago	5.48	4.98	4.05	3.75	3.55	2.83
110	Siaya	2.58	4.85	3.96	4.48	4.65	3.61
111	Sirisia	1.57	1.83	3.12	0.87	0.99	0.74
112	Sotik	6.49	5.35	4.92	1.71	2.46	1.60
113	Tamu	1.79	1.90	1.16	1.34	1.29	0.90
114	Taveta	20.59	5.71	12.13	0.87	0.84	0.81
115	Tawa	0.38	1.29	0.94	1.62	1.87	1.65
116	Thika	49.89	40.09	24.43	18.98	21.42	17.30
117	Tigania	3.88	5.20	6.40	2.74	3.68	2.14
118	Tononoka	0.03	0.06	0.01	0.20	0.97	0.65
119	Tribunals	0.40	-	-	28.43	17.18	23.37
120	Ukwala	2.95	5.14	3.54	2.47	1.73	1.74
121	Vihiga	3.11	3.12	2.48	3.85	3.93	3.12
122	Voi	7.01	10.70	7.13	4.20	5.86	4.85

S>No	Court	Fines			Fees		
		FY- 2021/22	FY 2020/21	2019-20	FY 2021/22	FY 2020/21	2019-20
	Station	KSh'000	KSh'000	KSh'000	KSh'000	KSh'000	KSh'000
123	Wajir	6.58	7.28	8.70	0.74	1.60	0.75
	Wajir - Eldas Kadhis Court	-	-	-	0.02	0.03	0.01
	Wajir - Bute Kadhis Court	-	-	-	0.07	0.09	0.08
	Wajir - Habaswein Kadhis Court	-	-	-	0.05	0.05	0.09
124	Wanguru	3.95	6.12	4.40	4.25	3.81	3.16
125	Webuye	7.43	5.36	5.64	1.67	2.46	2.26
126	Winam	6.72	6.86	5.40	2.38	2.22	1.93
127	Wundanyi	2.94	4.04	3.40	0.94	0.87	0.67
	Total Collections	1,460.39	1,258.76	1,263.81	1,030.21	1,065.10	932.07

ANNEX 6.2: Revenue Collected by Tribunals FY 2021/22

	Tribunal	Fines		Fees	
		FY2021/22		FY2021/22	
		KSh'000	KSh'000	KSh'000	KSh'000
(vi)	Business Premises Rent	-	-	10,986	
(vii)	National Environment	-	-	12	
(viii)	Sports Disputes	400	-	538	
(ix)	Cooperative	-	-	9,751	
(x)	Rent Restriction	-	-	3,074	
(xi)	Transport Licensing Appeals Board	-	-	48	
(xii)	Industrial Property	-	-	214.52	
(xiii)	Energy	-	-	28	
(xiv)	Legal Education Appeals	-	-	113.85	
(xv)	Communication and Multi Media Appeals	-	-	49.6	
(xvi)	Micro and Small Enterprises	-	-	8.7	
(xvii)	National Civil Aviation Administrative Review	-	-	1.9	
(xviii)	Political Parties Disputes	-	-	2,313	
	Total			27,139	

Annex 6.3: Court Deposits held by Court Stations FY 2020/21

No	Court Station	FY 2020/21		FY 2021/22		Change	
		KSh'M	KSh'M	KSh'M	KSh'M	%age	
1	Baricho	14,941	-	12,808	(2,133)	-14%	
2	Bomet	19,370	-	16,597	(2,773)	-14%	
3	Bondo	3,481	-	3,803	322	9%	
4	Bungoma	24,683	-	27,053	2,370	10%	
5	Busia	26,813	-	21,651	(5,162)	-19%	
6	Butali	9,477	-	10,799	1,322	14%	
7	Butere	2,367	-	2,581	214	9%	
8	Chuka	18,212	-	17,684	(528)	-3%	
9	Dadaab	195	-	1,138	943	484%	
10	Eldama Ravine	17,815	-	17,698	(117)	-1%	
11	Eldoret	119,255	-	130,804	11,549	10%	
12	Embu	29,314	-	33,744	4,430	15%	
13	Engineer	12,940	-	12,330	(609)	-5%	
14	Garissa	21,008	-	17,973	(3,035)	-14%	
15	Garsen	2,810	-	3,055	244	9%	
16	Gatundu	19,509	-	15,433	(4,076)	-21%	
17	Gichugu	9,701	-	8,562	(1,139)	-12%	
18	Githongo	4,305	-	5,104	799	19%	
19	Githunguri	7,649	-	9,126	1,478	19%	
20	Hamisi	3,536	-	5,649	2,113	60%	
21	Hola	1,756	-	1,604	(152)	-9%	
22	Homa Bay	13,168	-	13,111	(58)	0%	
23	Isiolo	22,441	-	19,440	(3,001)	-13%	
24	Iten	4,358	-	6,064	1,707	39%	
25	JKIA	15,926	-	15,811	(115)	-1%	
26	Kabarnet	3,641	-	4,520	880	24%	
27	Kahawa	1,885	-	9,900	8,015	425%	
28	Kajiado	170,732	-	38,756	(131,976)	-77%	
29	Kakamega	28,934	-	27,171	(1,763)	-6%	

No	Court Station	FY 2020/21	FY 2021/22	Change	
		KSh'M	KSh'M	KSh'M	%age
30	Kakuma	2,288	1,802	(486)	-21%
31	Kaloleni	4,707	4,726	19	0%
32	Kandara	19,050	21,343	2,293	12%
33	Kangema	8,148	7,198	(949)	-12%
34	Kangundo	18,968	24,545	5,576	29%
35	Kapenguria	6,436	6,953	518	8%
36	Kapsabet	23,360	25,342	1,982	8%
37	Karatina	10,199	8,271	(1,928)	-19%
38	Kehancha	5,088	5,614	526	10%
39	Kericho	41,459	39,787	(1,672)	-4%
40	Keroka	3,663	5,285	1,622	44%
41	Kerugoya	22,644	25,304	2,660	12%
42	Kiambu	172,155	209,875	37,720	22%
43	Kibera	204,733	248,613	43,880	21%
44	Kigumo	26,890	28,763	1,873	7%
45	Kikuyu	49,236	51,243	2,007	4%
46	Kilgoris	11,622	12,537	915	8%
47	Kilifi	30,092	32,820	2,728	9%
48	Kilungu	2,908	3,374	466	16%
49	Kimilili	6,957	6,832	(125)	-2%
50	Kisii	34,654	42,782	8,128	23%
51	Kisumu	72,100	95,318	23,218	32%
52	Kitale	37,163	37,402	239	1%
53	Kithimani	18,769	15,387	(3,382)	-18%
54	Kitui	39,046	45,995	6,950	18%
55	Kwale	28,560	35,866	7,305	26%
56	Kyuso	1,294	1,646	353	27%
57	Lamu	11,626	9,589	(2,037)	-18%
58	Limuru	32,524	37,275	4,750	15%
59	Lodwar	7,098	5,680	(1,418)	-20%
60	Loitokitok	1,385	1,857	473	34%
61	Machakos	85,610	95,895	10,285	12%
62	Makadara	398,487	434,757	36,271	9%
63	Makindu	14,471	16,495	2,023	14%
64	Makueni	14,648	15,461	813	6%
65	Malindi	88,090	71,506	(16,584)	-19%
66	Mandera	1,304	3,194	1,890	145%
67	Mararal	3,143	3,389	246	8%
68	Mariakani	26,097	25,313	(784)	-3%
69	Marimanti	2,992	2,257	(736)	-25%
70	Marsabit	20,707	8,787	(11,920)	-58%
71	Maseno	7,057	8,231	1,174	17%
72	Maua	28,685	28,670	(15)	0%
73	Mavoko	84,757	79,268	(5,489)	-6%
74	Mbita	3,413	3,363	(51)	-1%
75	Meru	55,852	61,167	5,314	10%
76	Migori	16,271	18,814	2,543	16%
77	Milimani C.C	218,413	214,803	(3,610)	-2%
78	Milimani L.C	2,090,289	2,104,205	13,916	1%
79	Molo	57,570	54,483	(3,087)	-5%
80	Mombasa	330,143	341,749	11,606	4%
81	Moyale	4,028	2,846	(1,182)	-29%
82	Mpeketoni	1,524	863	(662)	-43%
83	Msambweni	4,561	11,663	7,102	156%
84	Mukurweini	1,807	1,588	(218)	-12%
85	Mumias	7,679	8,976	1,297	17%
86	Muranga	50,130	45,671	(4,460)	-9%
87	Mutomo	1,560	2,243	682	44%
88	Mwingi	19,340	16,571	(2,769)	-14%
89	Naivasha	103,334	124,581	21,247	21%
90	Nakuru	249,677	281,977	32,300	13%
91	Nanyuki	34,206	40,333	6,126	18%
92	Narok	35,758	36,500	742	2%
93	Ndhiwa	1,700	2,401	701	41%
94	Ngong	47,377	58,183	10,806	23%
95	Nkubu	8,675	10,056	1,381	16%
96	Nyahururu	42,897	36,949	(5,948)	-14%
97	Nyamira	14,004	27,919	13,914	99%
98	Nyando	3,393	9,786	6,394	188%
99	Nyeri	61,390	70,847	9,457	15%
100	Ogembo	23,929	23,901	(28)	0%

No	Court Station	FY 2020/21	FY 2021/22	Change	
		KSh'M	KSh'M	KSh'M	%age
101	Othaya	1,612	2,168	556	34%
102	Oyugis	4,883	5,227	345	7%
103	Rongo	4,446	4,725	279	6%
104	Ruiru	13,082	23,457	10,375	79%
105	Runyenjes	4,020	3,379	(640)	-16%
106	Shanzu	111,408	110,954	(454)	0%
107	Siakago	14,093	16,812	2,719	19%
108	Siaya	14,785	16,162	1,377	9%
109	Sirisia	4,770	5,527	756	16%
110	Sotik	6,470	7,104	634	10%
111	Supreme/COA	533,607	284,074	(249,533)	-47%
112	Tamu	1,465	1,794	330	22%
113	Taveta	1,856	8,005	6,149	331%
114	Tawa	4,324	4,916	592	14%
115	Thika	120,426	124,370	3,944	3%
116	Tigania	10,940	11,965	1,026	9%
117	Tononoka	618	788	170	28%
118	Tribunals	39,805	34,879	(4,926)	-12%
119	Ukwala	3,367	3,419	52	2%
120	Vihiga	6,015	6,675	660	11%
121	Voi	12,119	13,063	944	8%
122	Wajir	3,544	3,183	(362)	-10%
123	Wanguru	5,720	10,639	4,918	86%
124	Webuye	12,477	12,701	224	2%
125	Winam	13,977	14,750	772	6%
126	Wundanyi	1,940	1,853	(87)	-4%
	Total	6,801,785	6,747,247	(54,538)	-1%