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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

THIRD REPORT ON THE STATUS OF IMPLEMENTATION OF THE CONSTITUTION BY:

1. THE TEACHERS SERVICE COMMISSION;
2. THE PUBLIC SERVICE COMMISSION; AND
3. THE JUDICIAL SERVICE COMMISSION.

NOVEMBER, 2025

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 18 NOV 2025	DAY: TUESDAY
TABLED BY:	HON. CAROLI OMONDI, MP (CHAIRPERSON)
CLERK-AT-THE-TABLE:	INZOU MWALE, #X

Directorate of Audit, Appropriations and General Purpose Committees
National assembly
Parliament buildings
NAIROBI

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ABBREVIATIONS

CBE	Competency Based Education
SCAC	State Corporation Advisory Committee
TVET	Technical and Vocational Education and Training
TSC	Teachers Service Commission
SRC	Salaries and Remuneration Commission
PSC	Public Service Commission
PSIP	Public Service Internship Programme

CHAIRPERSON'S FOREWORD

The Constitutional Implementation Oversight Committee is established under Paragraph 4 of the Sixth Schedule to the Constitution of Kenya which provides as follows:

There shall be a select committee of Parliament to be known as the Constitutional Implementation Oversight Committee which shall be responsible for overseeing the implementation of this Constitution and which, among other things—

(a) shall receive regular reports from the Commission on the Implementation of the Constitution on implementation of this Constitution including reports concerning—

(i) the preparation of the legislation required by this Constitution and any challenge's in that regard;

(ii) the process of establishing the new commissions;

(iii) the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff;

(iv) the devolution of powers and functions to the counties under the legislation contemplated in section 15 of this Schedule; and

(v) any impediments to the process of implementing this Constitution;

(b) coordinate with the Attorney-General, the Commission on the Implementation of the Constitution and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by this Constitution; and

(c) take appropriate action on the reports including addressing any problems in the implementation of this Constitution.

Pursuant to this mandate, the Committee has so far between February and July 2025, invited three Constitutional Commissions with a view of understanding their operations vis-a vis their constitutional mandate and any impediments in the performance of their role.

The commissions are: **Teachers Service Commission, Public Service Commission and Judicial Service Commission.**

This interaction made the Committee aware of the achievements and challenges of these Constitutional Commissions. Some of the challenges include inadequate budget allocation, despite their constitutional duty to submit reports, Parliament does not deliberate on these reports and lastly, the existence of conflict between TSC, JSC and PSC and the Executive and other State organs.

In conclusion, Honourable Speaker, I wish to express my appreciation to fellow Honourable Members of the Committee, the Office of the Speaker, the Clerk of the National Assembly and the Secretariat for facilitating in the production of this report.

Honourable Speaker, pursuant to Standing Order 199(6), it is my pleasant duty and privilege, on behalf of the Constitutional Implementation Oversight Committee, to lay this report on the Table of the House and urge the House to adopt it and recommendations therein.

HON. CAROLI OMONDI, CBS, MP.

**CHAIRPERSON, CONSTITUTIONAL IMPLEMENTATION OVERSIGHT
COMMITTEE**

I PREFACE

I.1 Mandate of the Committee

1. The Constitutional Implementation Oversight Committee is established under Paragraph 4 of the Sixth Schedule to the Constitution which provides for the Parliamentary Select Committee as follows-
2. *(a) the preparation of the legislation required by this Constitution and any challenges in that regard;*
 - (i) the process of establishing the new commissions;*
 - (ii) the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff;*
 - (iii) the devolution of powers and functions to the counties under the legislation contemplated in section 15 of this Schedule; and*
 - (iv) any impediments to the process of implementing this Constitution;*
- (b) coordinate with the Attorney-General and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by this Constitution; and*
- (c) take appropriate action on the reports including addressing any problems in the implementation of this Constitution.*

1.2 Committee Membership

3. The Committee membership comprises: -

Chairperson

Hon. Caroli Omondi, CBS, MP

Suba South Constituency

Orange Democratic Movement

Vice-Chairperson

Hon. William Kamket, MP

Tiaty Constituency

KANU - Party

Members

Hon. Sylvanus Osoro, MP

South Mugirango Constituency

United Democratic Alliance

Hon. Mejjadonk Benjamin Gathiru, MP

Embakasi Central Constituency

United Democratic Alliance

Hon. Mary Wamaua, MP

Maragua Constituency

United Democratic Alliance

Hon. Jesica Mbalu Nduku Kiko, CBS, MP

Kibwezi East Constituency

Wiper Democratic Movement

Hon. Charles Nguna Ngusya, MP

Mwingi West Constituency

Wiper Democratic Movement

Hon. Jackson Lekumontare, MP

Samburu East Constituency

KANU

Hon. George Risa Sunkuiya, MP

Kajiado West Constituency

United Democratic Alliance

Hon. Paul Abuor, MP

Rongo Constituency

Orange Democratic Movement

Hon. Peter Oscar Nabulindo, MP

Matungu Constituency

Orange Democratic Movement

Hon. Teresia Wanjiru Mwangi, M.P

Nominated

United Democratic Alliance

Hon. Nimrod Mbithuka Mbai, MP
Kitui East

United Democratic Alliance

Hon. John Murumba Chikati, MP
Tongaren Constituency

FORD-K

Hon. Patrick Osero Kibagendi, MP
Borabu Constituency

Orange Democratic Movement

Hon. Ali Abdisat Kalif, MP
Nominated Member

United Democratic Alliance

Hon. John Gitonga Mukunji Mwaniki, MP
Manyatta Constituency

United Democratic Alliance

Hon. Umulkher Harun Mohamed, MP
Nominated

Orange Democratic Movement

Hon. Hamisi Kakuta Maimai, MP
Kajiado East Constituency

Orange Democratic Movement

Hon. Geoffrey Ekesa Mulanya, MP
Nambale Constituency

Independent

Hon. Daniel Karitho Kiili, MP
Igembe Central Constituency

Jubilee Party

Hon. Bernard Kitur, MP
Nandi Hills Constituency

United Democratic Alliance

Hon. Lawrence Mpuri Aburi, MP
Tigania East Constituency

NOPEU

I.3 Committee Secretariat

4. The Secretariat facilitating the Committee in executing its mandate comprises of: –

Mr. Oscar Namulanda

Principal Clerk Assistant I

Lead Clerk

Ms. Hellen Kina

Senior Clerk Assistant

Ms. Kafuyai Wamae

Clerk Assistant III

Ms.Emma Essendi

Senior Legal Counsel

Mr. Jillo Yeziel

Sergeant -at- Arms

Ms. Mary Ann Gabow

Public Communications Officer

Mr. Kelvin Lengasi

Audio Officer

Ms.Rinha Saineye

Media Relations Officer

Mr. Alvin Ochieng

Research Officer

Ms. Pauline Sifuma

Hansard Reporter

2 INTRODUCTION

5. The Constitutional Implementation Oversight Committee commenced to apprise itself on the implementation status of the Constitution of Kenya according to Part Four of the Sixth Schedule to the Constitution which requires the Committee to take appropriate actions on the reports/submissions including addressing any problems in the implementation of the Constitution.
6. The report contains the status of implementation as submitted by various commissions between February to July 2025, as follows: -

1) *The Teachers Service Commission.*

2) *The Public Service Commission*

3) *The Judicial Service Commission*

3 THE TEACHERS SERVICE COMMISSION (TSC).

3.1 Establishment and Mandate

7. The Teachers Service Commission (TSC) is one of the Independent Commissions established under Chapter Fifteen of the Constitution of Kenya, 2010. The Commission is established under Article 237 of the Constitution.
8. Article 237(3) further provides for the mandate of the Commission, it provides as follows:
 - 3) *The Commission shall—*
 - (a) *review the standards of education and training of persons entering the teachers service;*
 - (b) *review the demand for and the supply of teachers; and*
 - (c) *advise the national government on matters relating to the teaching profession.*
9. The Teachers Service Commission Act, Cap. 212, operationalizes the Commission and provides the legal framework for the Commission's functions and operations. The Act establishes the Commission as a body corporate with perpetual succession and outlines its comprehensive mandate including the recruitment, registration, employment, assignment, promotion, transfer, discipline, and termination of teachers in public institutions.
10. Additionally, the TSC Act, Cap. 212 provides for the governance structure of the Commission, including the appointment and tenure of commissioners, the establishment of regional and county offices and the creation of various committees to facilitate the Commission's work.

3.2 Background

11. The Constitutional Implementation Oversight Committee wrote to the Teachers Service Commission (TSC) on Tuesday, 8th April, 2025 to report on the extent of the Commission's discharge of its mandate pursuant to Article 237 of the Constitution including any impediments to the process of implementing the Constitution and the way forward.
12. Dr. Nancy Macharia, the Chief Executive Officer, accompanied by other officials from TSC appeared before the Committee and submitted as follows:

3.3 Submission by the Teachers Service Commission

On Recruitment and Employment of Registered Teachers

13. The Commission faces significant challenges in fulfilling its mandate to recruit and employ registered teachers. The primary impediment is inadequate budget allocation, which has resulted in a critical teacher shortage of 98,261 teachers in public schools, including Junior Secondary School (JSS) teachers. This shortage undermines the constitutional right to education as enshrined in Article 43 of the Constitution. The situation is expected to worsen in 2026 with the anticipated rollout of Senior schools.
14. The Commission has not achieved optimal teacher numbers since its establishment, highlighting the persistent nature of this challenge. Additional complications arise from the irregular establishment of new schools without corresponding budgetary provisions for teaching staff, creating further strain on the system.
15. The Commission also faces challenges with the lack of qualified teachers in new learning areas introduced by Competency-Based Education (CBE), including leather craft, picture making, sculpture, jewelry and ornament making, media technology, marine and fisheries technology, general science, and indigenous languages.
16. The proposed solutions include securing increased budgetary allocations from the National Assembly for teacher recruitment, strengthening coordination among stakeholders to ensure planned school establishment and implementing advisories to the National Government for training teachers in new learning areas.

On Transfer and Assignment of Teachers to Public Schools and Institutions

17. The Commission encounters significant obstacles in its mandate to transfer and assign teachers for service across the country. Security concerns present a major challenge, with teachers facing threats from banditry, Al-Shabaab attacks and community hostility, particularly when accused of non-performance by local stakeholders.
18. Environmental conditions in certain regions create additional hardships for teachers, making assignments to these areas difficult to fill and maintain. The situation is further complicated by competing stakeholder interests that often conflict with the Commission's placement decisions.
19. To address these challenges, the Commission proposes improved security measures by the National Government, enhanced stakeholder engagement to protect teachers from unfounded attacks, adherence to constitutional values by all stakeholders and

enhanced budgetary allocations for differentiated hardship allowances in extreme hardship areas.

On Promotion of Teachers

20. The Commission's ability to promote deserving teachers is severely constrained by insufficient budgetary allocations for implementing Career Progression Guidelines for Teachers. As of December 2024, a total of 200,022 teachers were qualified for promotion, having completed three years or more in their current grade, with additional teachers becoming eligible annually.
21. This backlog represents a significant challenge to teacher motivation and career development within the public education system. The Commission recommends continuous budgetary provisions specifically allocated for teacher promotions to address this growing backlog and ensure career progression remains viable for serving teachers.

On Exercise of Disciplinary Control Over Teachers

22. The Commission faces complex challenges in maintaining disciplinary standards among teachers. Harmful cultural practices in some communities lead to the protection of accused teachers while exposing learners to inappropriate sexual activities, undermining child protection efforts.
23. Additionally, Section 62 of the Anti-Corruption and Economic Crimes Act, Cap. 65, provides that employees charged with corruption-related offences shall be suspended on half pay from the date of the charge until the conclusion of the case, which must be determined within twenty-four months. However, since many cases take years to conclude, this provision often contributes to staff shortages, as teaching positions remain unfilled for extended periods.
24. The Commission proposes stakeholder collaboration on sensitization and awareness programs for child protection in local communities and amendments to the Anti-Corruption and Economic Crimes Act, Cap. 65 requiring corruption cases to be concluded within six months to minimize disruption to educational services.

On Registration of Trained Teachers

25. The Commission encounters challenges with training institutions admitting teacher trainees who lack the requisite qualifications for registration as teachers. This practice undermines the quality and standards expected in the teaching profession and creates complications in the registration process.

26. The proposed solution involves enhanced stakeholder engagement with training institutions to ensure admission standards align with professional registration requirements.

Committee Observations

- I. The Committee observed as follows: -

THAT-

27. The Commission faces significant challenges affecting teacher deployment and career progression within the public education system. The Committee noted a pronounced imbalance in teacher distribution across constituencies, with certain constituencies experiencing complete absence of teaching staff while others maintain adequate coverage;
28. Teachers across the country face excessive workloads, particularly in populous counties such as Kakamega County. This situation is compounded by insufficient teacher deployment to these high-demand areas due to budgetary constraints. The Committee noted that counties like Kakamega specifically demonstrate severely inadequate teacher distribution ratios;
29. The Public Service Commission has established a joint assessment team, which includes TSC personnel, to evaluate and compile a comprehensive list of hardship areas across the country. While the TSC has completed its identification of these areas, the Commission awaits the Public Service Commission's finalized recommendations before implementation;
30. The current budget allocation of One Billion Kenya Shillings is insufficient, to cover for the promotion of only 600,000 teachers. The Committee noted additional complications arising from veteran teachers who decline promotions to avoid mandatory transfers from their preferred duty stations;
31. TSC requires an additional Five Billion Kenya Shillings beyond the current budgetary allocation, to fulfill the legal mandate of promoting all eligible teachers. This highlights the substantial funding gap preventing full implementation of the teacher's career progression requirements;
32. The Commission faces a critical teacher shortage of 98,261 teachers in public schools, undermining the constitutional right to access basic quality education as enshrined in Article 43 of the Constitution;

33. There is an imbalance in teacher distribution across constituencies, with certain constituencies experiencing complete absence of teaching staff while others maintain adequate coverage;
34. The irregular establishment of new schools occurs without corresponding budgetary provisions for teaching staff, creating further strain on the system;
35. There is a shortage of qualified teachers in new learning areas introduced by Competency-Based Education, including leather craft, picture making, sculpture, jewelry and ornament making, media technology, marine and fisheries technology, general science and indigenous languages;
36. Teachers face security threats from banditry, Al-Shabaab attacks, and community hostility, particularly when accused of non-performance by local stakeholders;
37. Harsh environmental conditions in certain regions create additional hardships for teachers, making assignments to these areas difficult to fill and maintain; and
38. The Commission's ability to promote deserving teachers is severely constrained by insufficient budgetary allocations, with 200,022 teachers qualified for promotion as of December 2024
39. There are significant concerns regarding the classification, adequacy, and equitable distribution of hardship allowances for teachers serving in challenging environments across the country. While the TSC has acknowledged the need for enhanced budgetary allocations for differentiated hardship allowances in extreme hardship areas, the current framework for determining and classifying hardship areas presents several challenges that undermine teacher retention and motivation in these critical regions
40. The absence of a transparent, objective, and regularly updated mechanism for assessing and classifying hardship areas undermines the effectiveness of the hardship allowance scheme and contributes to teacher reluctance to accept postings in genuinely difficult areas, thereby exacerbating the teacher shortage crisis in marginalized regions;

Way Forward

- I. The Committee to invite the Teachers Service Commission to appear before it again to provide comprehensive data on the distribution of teachers across all constituencies in the country. This data should include specific breakdowns by county and constituency, identifying areas with teacher shortages and surpluses, and explaining the criteria used for teacher deployment decisions. The Commission should also provide

comparative analysis showing teacher-to-student ratios across different regions to demonstrate the extent of the imbalance observed;

2. TSC to provide detailed data on teachers who have been promoted, including their original employment dates and corresponding promotion dates. This information should demonstrate the correlation between graduation years, employment periods, and promotion timelines to address the inconsistencies observed in the employment and career progression patterns. The data should also include analysis of promotion trends over the past five years to identify any systemic delays or preferential treatment patterns;
3. TSC to provide data on teachers who remain eligible for promotion but have not yet been promoted, categorized by years of service and qualification levels. The Commission should indicate the specific budget requirements for promoting these teachers as mandated by law, building upon the identified need for an additional five billion Kenya shillings beyond the current one billion allocation. This should include a detailed breakdown of promotion costs and a proposed timeline for addressing the backlog; and
4. The TSC to provide specific information on affirmative measures taken or planned for counties affected by teacher shortages to ensure equitable teacher distribution. Further, the Commission should outline concrete strategies, timelines, and resource allocations to address these disparities and ensure every constituency has adequate teaching staff as constitutionally mandated.

4 THE PUBLIC SERVICE COMMISSION (PSC).

4.1 Establishment and Mandate

41. The Public Service Commission (PSC) is one of the Independent Commissions established under Chapter Fifteen of the Constitution 2010. The Commission is established under Article 233 of the Constitution.
42. Article 234(2) further provides for the mandate of the Commission, it provides as follows:

234. (2)

The Commission shall—

(a) subject to this Constitution and legislation—

(i) establish and abolish offices in the public service; and

(ii) appoint persons to hold or act in those offices, and to confirm appointments;

(b) exercise disciplinary control over and remove persons holding or acting in those offices;

(c) promote the values and principles referred to in Articles 10 and 232 throughout the public service;

(d) investigate, monitor and evaluate the organisation, administration and personnel practices of the public service;

(e) ensure that the public service is efficient and effective;

(f) develop human resources in the public service;

(g) review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service;

(h) evaluate and report to the President and Parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service;

(i) hear and determine appeals in respect of county governments' public service; and

(j) perform any other functions and exercise any other powers conferred by national legislation.

43. The Public Service Commission Act, Cap. 185, operationalizes the constitutional provisions by providing comprehensive frameworks for public service management.

The Act establishes the Commission as the principal authority responsible for human resource management in the public service, with powers to develop policies, procedures and guidelines governing recruitment, appointment, promotion, transfer, discipline and termination of public officers.

44. The legislation emphasizes merit-based selection processes and mandates adherence to constitutional values including transparency, accountability, competitiveness and non-discrimination in all public service operations.
45. Additionally, the PSC Act, Cap. 185 provides for the establishment of the Commission's organizational structure, including the creation of county and regional offices to enhance service delivery and oversight functions. The Act empowers the Commission to conduct investigations, audits and inspections of public institutions to ensure compliance with established standards and procedures.

4.2 Background

46. The Constitutional Implementation Oversight Committee wrote to the Public Service Commission (PSC) 26th May, 2025 to report on the extent of the Commission's discharge of its mandate pursuant to Articles 234, 155(3)(a), 158(2)(3) and (4), 171(2), 230(2)(b) and 236 of the Constitution including any impediments to the process of implementing the Constitution and the way forward.
47. PSC wrote to the Committee vide a letter (**Ref: PSC/ADM/26/IVI (5)**) dated 5th June, 2025 requesting for a reschedule. The Committee acceded to this request during its 23rd Sitting and communicated this to PSC via a letter dated 12th June, 2025.
48. Mr. Paul Famba, the Chief Executive Officer, accompanied by other officials from PSC appeared before the Committee on Tuesday, 24th June, 2025. PSC submitted as follows:

4.3 Submission by the Public Service Commission

Encroachment of the Commissions mandate by other public agencies.

49. The State Corporations Advisory Committee (SCAC) and the Inspectorate of State Corporations have consistently encroached on the constitutional and statutory mandate of the Commission over the management of human resources in state corporations and public universities.

50. The Salaries and Remuneration Commission's mandate over public officers is to advise on remuneration and benefits. This advice is supposed to be given to PSC as the employer of public officers. However, SRC has consistently given advice directly to agencies that fall under the mandate of PSC thereby distorting remuneration in the public service and intensifying discrimination, unfairness and inequity.

Limited financial allocation relative to expanded mandate

51. The Public Service Commission submitted that annual budget allocations have been inadequate to fund projected programs and activities. The Commission noted that during the FY 2023/24 Budget Sector retreat, it presented resource requirements of KES 5.61 Billion to implement its five programs, but received only KES 3.67 Billion, leaving a deficit of KES. 1.94 Billion.

Understaffing at Commission Secretariat

52. The Commission submitted that it faces a critical staffing capacity gap of 45% despite an expanded mandate. The Commission noted that understaffing results from limited budgets while responsibilities have significantly increased. The Commission submitted that its mandate expansion includes senior management positions in public universities, constitutional commissions and statutory bodies.
53. The Commission further noted that Technical and Vocational Education and Training (TVET) functions were transferred from TSC to PSC in 2018 without corresponding resource allocation. The Commission submitted that it also handles increasing numbers of appeals from counties, universities and state corporations, along with related court litigation under its quasi-judicial functions.

Facility constraints

54. The Commission noted that they operate under severe facility constraints, including inadequate office space, limited work equipment, and restricted mobility resources. The Commission noted that attempts to enhance staff numbers within the same constrained office space have created operational challenges.
55. The Commission submitted that it requires additional office space to fully implement its expanded mandate and is exploring options for securing government plot allocation. The Commission noted that a permanent facility would provide an ideal environment for consolidating all functions under one roof with adequate parking and supporting infrastructure.

Inadequate office accommodation

56. In an attempt to enhance staff numbers in the face of an expanded mandate, PSC has had to operate in the same constrained office space but would need additional office space to roll out all its functions.
57. The Commission is exploring options for securing allocation of a government plot as this would have provided a permanent solution and ideal environment for accommodation of all facilities/ full roll out of PSC functions under one roof including adequate parking spaces.

Legal constraints and Court cases based on misinterpretation of the law

58. The Commission submitted that despite clear constitutional and statutory mandates, fragmentation and gaps in the legal framework persist. The Commission noted that disruptive court rulings continue to impede effective mandate discharge, with numerous court cases challenging human resource decisions in the public service.
59. The Commission submitted that as the service commission overseeing human resource practices in the public service, it finds itself enjoined in most litigation cases. The Commission noted that many court cases arise from misinterpretation of existing laws, creating additional operational burdens.

Lack of statutory or regulatory anchoring of Public Service Internship Programme (PSIP)

60. The Public Service Commission submitted that while it successfully initiated the Public Service Internship Programme (PSIP) in 2019, the programme lacks statutory or regulatory anchoring. The Commission noted that despite smooth implementation over five years, the absence of legal foundation presents ongoing challenges. The Commission submitted that an Internship Bill is currently before the National Assembly to address this gap.

Committee Observations

I. The Committee observed as follows: -

THAT-

- I. There is overlap in functions between PSC, SRC and SCAC creating confusion and inefficiency in public service management;

2. The Commission recruits on request from various institutions rather than through strategic workforce planning;
3. SCAC is to focus on governance issues however, it is doing human resource functions which is a mandate role of PSC;
4. SRC has exceeded its advisory role by directly engaging with agencies under PSC's mandate rather than channeling advice through the designated employer;
5. There is an affirmative program for all institutions under PSC where each has been given a target to meet on all marginalized groups;
6. The Commission faces a 45% staffing gap at the Secretariat despite expanded mandate to include senior management positions in public universities, constitutional commissions and statutory bodies; and
7. TVET functions were transferred from TSC to PSC in 2018 without corresponding resource allocation.

Way Forward

1. The Public Service Commission to provide comprehensive tabulated data of its proposed changes and amendments to various laws and policies within ninety days, including specific legislative gaps, recommended amendments and implementation timelines;
2. The Committee to engage the Attorney General to develop legislation bringing the State Corporations Act, Cap. 446 into full compliance with the Constitution to eliminate Jurisdictional overlaps between PSC, SCAC and other agencies;
3. The Public Service Commission to present detailed budget proposals to the National Treasury and Parliament addressing the identified deficit of KES. 1.942 Billion for effective mandate implementation;
4. The Commission to establish formal coordination frameworks with SRC and SCAC to eliminate functional overlaps and ensure clear protocols for consultation and decision-making hierarchy; and
5. The Public Service Commission to fast-track legal anchoring of the Public Service Internship Programme by providing technical input to support the Internship Bill currently before Parliament

5 THE JUDICIAL SERVICE COMMISSION (JSC).

5.1 Establishment and Mandate

61. The Judicial Service Commission (JSC) is one of the Independent Commissions established under Chapter Fifteen of the Constitution 2010. The Commission is established under Article 171 of the Constitution. Article 172 further provides for the mandate of the Commission.
62. Article 172(1) outlines the comprehensive mandate of the Commission, which includes:
- (a) recommending to the President persons for appointment as judges;*
 - (b) reviewing and making recommendations on the conditions of service of judges and judicial officers, other than their remuneration;*
 - (c) appointing, removing, and exercising disciplinary control over magistrates and other judicial officers; and*
 - (d) preparing and implementing programmes for the continuing education and training of judges and judicial officers.*
63. The Judicial Service Act, Cap. 8A operationalizes the Constitutional provisions by establishing detailed procedures for the Commission's functions in judicial administration. The Act empowers the Commission to ensure the independence and accountability of the judiciary through merit-based appointments, performance evaluation systems and disciplinary mechanisms.

5.2 Background

64. The Constitutional Implementation Oversight Committee wrote to the Judicial Service Commission (JSC) on 26th May, 2025 to report on the extent of the Commission's discharge of its mandate pursuant to Article 171 of the Constitution including any impediments to the process of implementing the Constitution and the way forward.
65. JSC wrote to the Committee vide a letter (**Ref:JSC/ORJSC/51/813**) dated 3rd June, 2025 requesting for a reschedule of the aforementioned meeting. The Committee acceded to this request during its 23rd Sitting and communicated this to JSC via a letter dated 12th June, 2025.

66. Hon. Isaac Ruto, EGH, the Vice Chairperson of the Commission, accompanied by other officials from JSC appeared before the Committee on Thursday, 17th July, 2025. TSC submitted as follows:

5.3 Submission by the Judicial Service Commission

Discharge of JSC Constitutional Mandate

67. On the discharge of its mandate, the Judicial Service Commission submitted that it has embraced strategic planning to guide its diverse constitutional activities and ensure effective mandate delivery. The Commission noted that it is currently implementing its 2022-2027 Strategic Plan, which provides a comprehensive framework for the next five years of operations.
68. The Commission submitted that the Strategic Plan prioritizes five key themes derived from situational analysis. These strategic themes include: efficient, accountable, transparent and transformative administration of justice; motivated, professional, dynamic, responsive judges, magistrates, registrars, judicial officers and judicial staff; financially independent and suitable Judiciary and JSC; increased public confidence and trust in the JSC; and strengthened institutional capacity.

Inadequate budgetary allocation

69. The Judicial Service Commission submitted that it faces underfunding that significantly limits its ability to discharge its constitutional mandate effectively. The Commission noted that current budgetary allocations represent less than 1% of the National Budget, which is insufficient to meet operational requirements.
70. The Commission submitted that inadequate funding particularly affects infrastructure development across more than 140 court stations, recruitment of judges, magistrates and support staff, and technology adoption for e-justice systems. The Commission noted that these funding constraints undermine the judiciary's capacity to deliver timely and accessible justice to citizens.

Mobility restrictions for specialized court judges.

71. The Commission submitted that judges serving in specialized courts, including the Employment and Labour Relations Court (ELRC) and Environment and Land Court (ELC), cannot be cross-deployed to the High Court or other divisions. The

Commission noted that these mobility restrictions create operational inefficiencies and limit career development opportunities for judicial officers, affecting overall judicial administration effectiveness.

Disciplinary framework limitations.

72. The Judicial Service Commission submitted that current disciplinary mechanisms under Article 168 are inadequate for addressing judicial misconduct comprehensively. The Commission noted that it can only recommend removal of a judge or dismiss petitions and complaints, with no provision for intermediate sanctions when minor infractions are identified.
73. The Commission noted that this binary approach fails to provide proportionate disciplinary responses and undermines the intended purpose of judicial accountability.

On Judges' Pension Scheme and Retirement Benefits

74. The Judicial Service Commission submitted that there has been delay in the enactment of the Judges Retirement Bill, 2025, which is denying retired judges fair compensation in line with rising living costs. The Commission noted that the Bill seeks to establish a dedicated pension framework for judges of superior courts, providing for annual pension adjustments pegged to inflation but capped at five percent.
75. The Commission submitted that currently, pension reviews are conducted every two years under the Pensions Increase Act (Cap. 190), which grants a three percent increment applicable to all pensioners. The Commission noted that if the proposed Bill is passed into law, these general provisions will no longer apply to judges, whose benefits will be handled separately under a specialized scheme.
76. The Commission further submitted that under the proposed framework, judges will contribute 7.5 percent of their salaries during service, while the government will contribute 15 percent of each judge's pensionable pay, with contributions charged directly to the Consolidated Fund. The Commission noted that pensions will be paid from a proposed Judges' Retirement Benefits Fund.
77. The Commission submitted that the Bill, sponsored by Majority Leader Kimani Ichung'wah, seeks to give preferential treatment to retired judges over other public servants who are not entitled to similar inflation-adjusted benefits. The Commission noted concerns raised by the Salaries and Remuneration Commission regarding

jurisdictional overlap, but emphasized the unique demands of judicial service that justify a dedicated pension framework.

On Establishment of High Courts in Every County

78. The Judicial Service Commission submitted that Section 12(1) of the High Court (Organization & Administration) Act mandates the Chief Justice, in consultation with the Principal Judge, to establish at least one High Court station in every county to facilitate reasonable and equitable access to court services.
79. The Commission noted that there are currently forty-five High Court stations and seven High Court sub-registries spread throughout 46 counties, with ongoing work to ensure that each of the 47 counties has at least one High Court station. The Commission submitted that chronic underfunding remains a major obstacle to achieving this constitutional and statutory requirement.
80. The Commission further submitted that inadequate infrastructure development funding has particularly affected the establishment of new High Court stations in underserved counties. The Commission noted that while progress has been made since 2010, when only 16 High Court stations existed, substantial gaps remain in ensuring access to superior court services across all counties.

On Utilization of NG-CDF for Court Construction

81. The Judicial Service Commission submitted a proposal for Parliament to consider allocating part of the National Government Constituency Development Fund (NG-CDF) to support court construction across the country, as the Judiciary grapples with a staggering 257,000 case backlog.
82. The Commission's Vice Chair Isaac Rutto noted that conditional allocation from the NG-CDF could fast-track access to justice, especially in underserved areas, stating that such allocation would make it possible for constituencies without courts to finally have them in place.
83. The Commission submitted that the NG-CDF has already supported construction of 14 courts across the country, with three more underway, built using Judiciary-issued prototypes and cost estimates. The Commission noted that 16 other court projects have stalled due to lack of funds.
84. The Commission further submitted that its long-term plan is to ensure every sub-county has a court, but chronic underfunding remains a major obstacle. The Commission noted that this proposal comes despite the recent High Court decision

in September 2024 declaring the NG-CDF unconstitutional, with the National Assembly now pushing for a constitutional amendment through parliamentary initiative to salvage the fund.

Tension between Arms of Government on Judicial Appointments.

85. The Commission submitted that tensions between arms of government regarding judicial appointments pose significant challenges to constitutional implementation. The Commission noted instances of delays or refusal by the Executive to appoint judges recommended by the JSC, which undermines constitutional expectations and strains inter-governmental relations.
86. The Commission further submitted that persistent attacks on judges for decisions made in their judicial capacity compromise judicial independence and erode public confidence in the justice system. The Commission noted that such interference contravenes constitutional principles of separation of powers and judicial independence.

Overlapping mandates among Constitutional Commissions

87. The Judicial Service Commission submitted that mandate ambiguity between the Salaries and Remuneration Commission and JSC over judges' and judicial officers' terms, benefits and allowances create institutional friction. The Commission noted that this overlap has resulted in inconsistent conditions of service and undermines effective judicial administration.
88. The Commission submitted that clear delineation of roles between Constitutional Commissions is essential to avoid duplication of functions and ensure coherent policy implementation across the justice sector.

Delayed enactment of proposed legislation by JSC.

89. The Commission submitted that significant delays in enacting JSC-proposed legislation impede effective justice administration and judicial officer welfare improvement. The Commission noted that the Tribunals Bill, Judges Retirement Bill and amendments to several other statutes remain pending despite their critical importance to judicial operations.
90. The Commission submitted that these legislative reforms are designed to enhance effective administration of justice and improve employee welfare, emphasizing the

need for fast-tracking their enactment to support constitutional mandate implementation.

Committee Observations

The Committee observed as follows: -

THAT-

1. There is urgent need for a comprehensive case management policy to ensure timely delivery of justice and reduce case backlogs across all court levels, with clear timelines for case progression and mechanisms for monitoring judicial performance;
2. The Constitution and the Judicial Service Act are silent on the process of reprimanding judges, providing only for removal while lacking intermediate disciplinary measures. Unlike jurisdictions such as South Africa and Uganda which have established procedures for judicial reprimand, Kenya's binary system of dismissal or exoneration is inadequate for addressing minor judicial infractions;
3. There is need for an official Judicial journal that displays comprehensive data on cases concluded, judgements delivered by each judge, scholarly works and judicial performance metrics to enhance transparency and accountability in the justice system;
4. A comprehensive database is required to track fines collected by courts, their destination, utilization and impact on justice delivery, ensuring transparency in Judicial revenue management and accountability for collected funds;
5. There is concerning weaponization of the Judiciary by law enforcement agencies, with many recently arrested youth being denied bail or charged with serious offenses like terrorism despite exercising their constitutional right to peaceful demonstration and assembly;
6. The current budgetary allocation of less than 1% of the National Budget is grossly inadequate for effective Judicial operations, infrastructure development across 140+ court stations, recruitment of Judicial officers, and technology adoption for e-justice systems;
7. Mobility restrictions preventing judges in specialized courts from cross-deployment to other divisions create operational inefficiencies and limit career development opportunities for Judicial officers; and

8. Overlapping mandates between JSC and SRC regarding judges' terms, benefits, and allowances have created institutional friction and inconsistent conditions of service that undermine effective judicial administration.

Way Forward

1. The Judicial Service Commission to develop and publish a comprehensive judicial journal that displays data on cases concluded, judgements delivered by each judge, scholarly works and performance metrics to improve transparency and enhance services to the public;
2. The Commission to propose amendments to the Judicial Service Act to enable it to conduct proportionate disciplinary action against judges, including reprimand procedures for minor infractions, and develop comprehensive disciplinary regulations that provide intermediate sanctions beyond removal or dismissal;
3. The Judicial Service Commission and Salaries and Remuneration Commission to engage in formal dialogue within ninety days to resolve existing overlaps in their mandates regarding judges' terms, benefits, and allowances, and establish clear protocols for future coordination;
4. The Commission to develop a comprehensive case management policy with clear timelines for case progression, monitoring mechanisms and performance indicators to ensure timely delivery of justice and reduce case backlogs across all court levels;
5. The Judicial Service Commission to create a transparent database system for tracking court fines collection, allocation, and utilization to enhance accountability in judicial revenue management;
6. The Committee to convene a meeting with all Constitutional Commissions and Independent Offices within three months to be briefed on various constitutional amendments that each CCIO intends to propose before Parliament, ensuring coordinated legislative reform approaches;
7. The Commission to engage with law enforcement agencies to address concerns regarding weaponization of the judiciary and ensure constitutional rights of citizens are protected during arrest and prosecution processes; and
8. The Judicial Service Commission to present detailed budget proposals to Parliament addressing the critical funding gap, with specific allocations for infrastructure development, judicial officer recruitment, and e-justice system implementation to meet the constitutional mandate of accessible justice delivery.

6 GENERAL COMMITTEE OBSERVATIONS

1. The Committee's interactions with the **Teachers Service Commission, the Public Service Commission, and the Judicial Service Commission** revealed several fundamental, cross-cutting challenges that impede their effective implementation of the Constitution. The Committee observes that:
 2. All three commissions operate with significant budget deficits that prevent them from fulfilling their constitutional mandates. The TSC lacks funds for promotions and recruitment, the PSC faces a deficit for its expanded functions, and the JSC receives less than 1% of the national budget, crippling its operations. This systemic underfunding directly undermines the delivery of essential public services; education, administration of justice, and effective public administration - as guaranteed by the Constitution.
 3. Operational inefficiencies due to mandate overlaps and legislative gaps are prevalent. The functional conflicts between the PSC, SRC, and SCAC, and the jurisdictional ambiguities between the JSC and SRC, demonstrate a wider problem of poorly defined legal boundaries. This leads to confusion, inter-agency friction, and a waste of public resources.
 4. Inadequate Human Resource capacity severely affects all three institutions. The TSC faces a critical teacher shortage and an imbalanced distribution, the PSC has a 45% staffing gap in its own secretariat, and the JSC is constrained in recruiting judicial officers. This chronic lack of adequate and strategically deployed human resources is a primary barrier to achieving their constitutional objectives.
 5. A deficit in transparency and data-driven management was noted across the board. The absence of comprehensive data from the TSC on teacher deployment and promotions, the lack of a judicial journal and fines database for the JSC, and the need for better workforce planning at the PSC all point to a need for enhanced accountability mechanisms and evidence-based decision-making to bolster public trust.
 6. The transfer of functions without corresponding resources is a recurring theme that cripples effectiveness. The PSC's acquisition of TVET functions without a budget and the sporadic establishment of new schools without provisions for teachers for the

TSC are indicative of a systemic failure to align policy decisions with budgetary and logistical support, setting these commissions up for failure.

7 COMMITTEE RECOMMENDATIONS


1. In light of the above general observations, the Committee makes the following recommendations to address these cross-cutting challenges:
2. The National Treasury, in conjunction with Parliament, shall prioritize and ensure adequate budgetary allocations to all Constitutional Commissions. Funding must be commensurate with their expanding mandates and critical national functions to safeguard the constitutionally protected rights to education, justice, and efficient public service.
3. The Attorney General, in consultation with the relevant commissions, should urgently undertake a legislative review to:
 - a) Clarify and delineate the mandates of the PSC, SRC, SCAC, and JSC to eliminate overlaps and operational conflicts.
 - b) Propose amendments to address identified legislative gaps, such as introducing intermediate disciplinary measures for judicial officers in the Judicial Service Act.
 - c) Ensure all legislation governing Constitutional Commissions is fully aligned with the spirit and letter of the Constitution.
4. All Three Commissions (**TSC, PSC, JSC**) are urged to develop and implement robust, transparent data management systems. This includes:
 - a) The TSC providing detailed, public data on teacher distribution, promotions, and vacancy projections.
 - b) The JSC publishing a judicial journal and a transparent fines database.
 - c) The PSC moving towards strategic, data-driven workforce planning.
5. The Public Service Commission should take the lead, in collaboration with the SRC and SCAC, to establish a formal Inter-Commission coordination framework. This framework will ensure clear protocols for consultation, eliminate duplication of effort, and resolve disputes regarding terms and conditions of service for public officers.
6. Parliament to prioritize and finalize the Public Service Internship (National Assembly Bills No. 63 of 2022) within six months of this report's consideration by the House.

7. Parliament to prioritize and finalize the Judges' Retirement Benefits Bill (National Assembly Bills No. 27 of 2025) within six months of this report's consideration by the House.
8. The JSC to present proposed amendments to the Committee addressing disciplinary mechanisms for minor offences and immediate sanctions for judges.
9. The Executive Arm of Government must ensure that any future transfer of functions to a constitutional commission, or any policy decision that expands a commission's operational burden, is accompanied by a commensurate and timely allocation of financial and human resources.
10. This Committee resolves to conduct a follow-up audit within twelve months to assess the implementation of these recommendations and the progress made by the commissions in addressing the outlined challenges.

SIGNED.....  DATE 11/11/25

THE HON. CAROLI OMONDI, CBS, MP

CHAIRPERSON, CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

 THE NATIONAL ASSEMBLY PAPERS LAID			
DATE: 18 NOV 2025			
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TUESDAY			
TABLED BY:	Hon. CAROLI OMONDI, MP (CHAIRPERSON)		
CLERK-AT THE-TABLE:	INZO PU MWALE, JSC		



THE NATIONAL ASSEMBLY
13TH PARLIAMENT – 4TH SESSION (2025)

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

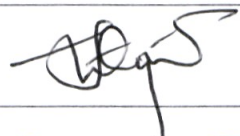
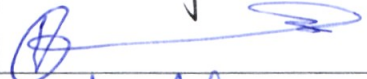

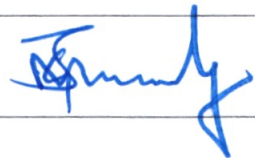

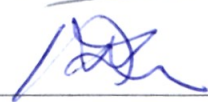
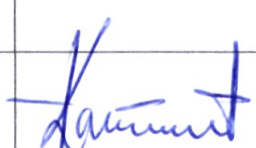
ADOPTION LIST

Third Report on the Status of Implementation of the Constitution by;

1. The Teachers Service Commission;
2. The Public Service Commission; and
3. The Judicial Service Commission.

We, the undersigned, hereby affix our signatures to this report to affirm our approval:

	HON. MEMBER	SIGNATURE
1.	Hon. Caroli Omondi, CBS, M.P. - Chairperson	
2.	Hon. William Kamket, M.P. - Vice Chairperson	
3.	Hon. Jessica Mbalu, CBS, M.P.	
4.	Hon. Silvanus Osoro, M.P.	
5.	Hon. Lawrence Aburi Mpuru, M.P.	
6.	Hon. Mejjadonk Benjamin Gathiru, M.P.	
7.	Hon. George Risa Sunkuyia, M.P.	
8.	Hon. Mary Wamaua, M.P.	

	HON. MEMBER	SIGNATURE
9.	Hon. Jackson Lekumontare, M.P.	
10.	Hon. Charles Nguna Ngusya, M.P.	
11.	Hon. Paul Abuor, M.P.	
12.	Hon. Oscar Nabulindo, M.P.	
13.	Hon. Dr John Murumba Chikati, MBS, M.P.	
14.	Hon. Nimrod Mbai, M.P.	
15.	Hon. Bernard Kitur, M.P.	
16.	Hon. Geoffrey Ekesa Mulanya, M.P.	
17.	Hon. Abdisirat, Khalif Ali, M.P.	
18.	Hon. Mwangi, Teresia Wanjiru, M.P.	
19.	Hon. Osero, Patrick Kibagendi, M.P.	
20.	Hon. Karitho, Kiili Daniel, M.P.	
21.	Hon. Mohamed, Umulkher Harun, M.P.	
22.	Hon. John Mukunji Gitonga, MP	
23.	Hon. Hamisi, Kakuta Maimai, M.P.	

MINUTES OF THE THIRTY FOURTH SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD AT COMMITTEE ROOM 14, 2ND FLOOR, BUNGE TOWER ON TUESDAY 11TH NOVEMBER 2025 AT 12:00 PM.

PRESENT

1. Hon. Caroli Omondi, CBS, M.P – Chairperson
2. Hon. William Kamket, M.P – Vice Chairperson
3. Hon. Mary Wamaua, M.P - **Chairing**
4. Hon. Lawrence Aburi Mpuru, M.P
5. Hon. Mejjadonk Benjamin Gathiru, M.P
6. Hon. George Risa Sunkuyia, M.P
7. Hon. Charles Nguna Ngusya, M.P
8. Hon. Geoffrey Ekesa Mulanya, M.P
9. Hon. Patrick Osero Kibagendi, M.P
10. Hon. Paul Abuor, M.P
11. Hon. Jackson Lekumontare, M.P
12. Hon. Teresia Mwangi Wanjiru, M.P
13. Hon. Kakuta Maimai Hamisi, M.P

ABSENT WITH APOLOGIES

1. Hon. Jessica Mbalu, CBS, M.P
2. Hon. Silvanus Osoro, M.P
3. Hon. Bernard Kitur, M.P
4. Hon. Daniel Kiili Karitho, M.P
5. Hon. Abdisirat Khalif Ali, M.P
6. Hon. John Mukunji Gitonga, M.P
7. Hon. Oscar Nabalondo, M.P
8. Hon. Dr John Murumba Chikati, MBS, M.P
9. Hon. Nimrod Mbithuka Mbai, M.P
10. Hon. Umulkher Harun Mohamed, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | |
|-----------------------|------------------------|
| 1. Ms. Hellen M. Kina | Senior Clerk Assistant |
| 2. Ms. Kafuyai Wamae | Clerk Assistant III |
| 3. Ms. Audrey Andala | Legal Counsel II |
| 4. Mr. Alvin Ochieng | Research Officer III |
| 5. Mr. Kelvin Lengasi | Audio Officer |

MIN NO. CIOC/134/2025: PRELIMINARIES

The meeting was called to order at 12:00 PM followed with a word of prayer by the Chairperson. He led Members in introduction and briefed them on the agenda of the meeting.

MIN NO. CIOC/135/2025: ADOPTION OF AGENDA

The proposed agenda was adopted having been proposed by Hon. George Risa Sunkuyia, M.P and seconded by the Hon. Charles Nguna Ngusya, M.P.

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Consideration and adoption of the Third Report on the status of implementation of the Constitution by:
 - i. The Teachers Service Commission;
 - ii. The Public Service Commission; and
 - iii. The Judicial Service Commission.
6. Any Other Business
7. Adjournment
8. Date for the next Sitting

MIN NO. CIOC/136/2025: CONFIRMATION OF MINUTES

1. The minutes of the 25th sitting held on Tuesday 24th June, 2025 were confirmed as a true record, having been proposed by Hon. William Kamket, M.P and seconded by Hon. Paul Abuor, M.P.
2. The minutes of the 26th sitting held on Thursday 17th July, 2025 were confirmed as a true record, having been proposed by Hon. William Kamket, M.P and seconded by Hon. Geoffrey Ekesa Mulanya, M.P.
3. The minutes of the 27th sitting held on Tuesday 29th July, 2025 were confirmed as a true record, having been proposed by Hon. Charles Nguna Ngusya, M.P and seconded by Hon. Mjejjadonk Gathiru, M.P.
4. The minutes of the 28th sitting held on Wednesday 13th August, 2025 were confirmed as a true record, having been proposed by Hon. William Kamket, M.P and seconded by Hon. Geoffrey Ekesa Mulanya, M.P.
5. The minutes of the 29th sitting held on Tuesday 2nd September, 2025 were confirmed as a true record, having been proposed by Hon. Hamisi Kakuta Maimai, M.P and seconded by Hon. George Risa Sunkuyia, M.P.

6. The minutes of the 30th sitting held on Thursday 4th September, 2025 were confirmed as a true record, having been proposed by Hon. Mejjadonk Benjamin Gathiru, M.P and seconded by Hon. George Risa Sunkuyia, M.P.
7. The minutes of the 31st sitting held on Tuesday 16th September, 2025 were confirmed as a true record, having been proposed by Hon. William Kamket, M.P and seconded by Hon. Paul Abuor, M.P.
8. The minutes of the 32nd sitting held on Thursday 25th September, 2025 were confirmed as a true record, having been proposed by Hon. William Kamket, M.P and seconded by Hon. Geoffrey Ekesa Mulanya, M.P.
9. The minutes of the 33rd sitting held on Tuesday 7th October, 2025 were confirmed as a true record, having been proposed by Hon. Charles Nguna Ngusya, M.P and seconded by Hon. Geoffrey Ekesa Mulanya, M.P.

MIN NO. CIOC/137/2025: CONSIDERATION AND ADOPTION OF THE THIRD REPORT ON THE IMPLEMENTATION OF THE CONSTITUTION

1. The Research Officer took the Committee through the draft Third Report on the status of implementation of the Constitution by: The Teachers Service Commission, Public Service Commission and Judicial Service Commission.
2. The report on the Teachers Service Commission was adopted having been proposed by Hon. William Kamket, M.P and seconded by Hon. Geoffrey Mulanya, M.P.
3. The report on Public Service Commission was adopted having been proposed by Hon Jackson Lekumontare, M.P and seconded by Hon. Kakuta Maimai Hamisi, M.P.
4. The report on Judicial Service Commission was adopted having been proposed by Hon. Paul Abuor, M.P and seconded by Hon. William Kamket, M.P.
5. The Committee unanimously adopted the third report on the status of implementation of the Constitution by: Teachers Service Commission, Public Service Commission and Judicial Service Commission, having been proposed by Hon. William Kamket, M.P and seconded by Hon. Geoffrey Mulanya, M.P.

MIN NO. CIOC/138/2025: ADJOURNMENT

There being no other business, the meeting was adjourned at 1:30PM. Next meeting to be held on notice.

Signed..........Date. 13/11/25.....

Hon. Caroli Omondi, CBS, MP – Chairperson

**MINUTES OF THE THIRD SITTING OF CONSTITUTIONAL IMPLEMENTATION
OVERSIGHT COMMITTEE HELD ON TUESDAY 8TH APRIL, 2025 AT 12:00 NOON
IN COMMITTEE ROOM, 2ND FLOOR, CONTINENTAL HOUSE**

PRESENT

1. Hon. Muchangi Karemba, CBS, M.P.
2. Hon. William Kamket, M.P.
3. Hon. Murumba, John Chikati, M.P.
4. Hon. Risa Sunkuyia George, M.P.
5. Hon. Mukunji, John Gitonga, MP
6. Hon. Abdisirat, Khalif Ali, M.P.
7. Hon. Karitho, Kiili Daniel, M.P.
8. Hon. Nabulindo, Peter Oscar, M.P.
9. Hon. Caroli Omondi, M.P.
10. Hon. Mejjadonk Benjamin Gathiru
11. Hon. Osero, Patrick Kibagendi, M.P.
12. Hon. Nguna, Charles Ngusya, M.P.
13. Hon. Paul Abuor, M.P.

ABSENT WITH APOLOGIES

1. Hon. Mbalu, Jessica Nduku Kiko, CBS, M.P.
2. Hon. Lentoijoni, Jackson Lekumontare, M.P.
3. Hon. Aburi, Lawrence Mpuru, M.P.
4. Hon. Mohamed, Umulkher Harun, M.P.
5. Hon. Geoffrey Ekesa Mulanya, M.P.
6. Hon. Kitur, Bernard Kibor, M.P.
7. Hon. Onyiego, Silvanus Osoro, M.P.
8. Hon Njoroge, Mary Wamaua, M.P.
9. Hon. Mwangi, Teresia Wanjiru, M.P.
10. Hon. Hamisi, Kakuta Maimai, M.P.

IN ATTENDANCE

SECRETARIAT

1. Ms. Hellen Kina - Senior Clerk Assistant
2. Ms. Kafuyai Wamae - Third Clerk Assistant III
3. Ms. Audrey Andala - Legal Counsel
4. Mr. Alvin Ochieng - Research Officer III
5. Ms. Pauline Sifuma - Hansard Officer
6. Mr. Kelvin Lengasi - Audio Officer
7. Mr. Jillo Yeziel - Sergeant at arms
8. Ms. Mary Ann Gabow - Public Communications Officer

TEACHERS SERVICE COMMISSION

1. Dr. Nancy Njeri Macharia - Chief Executive Officer
2. Mr. Cavin Anynor - Director, Legal Affairs
3. Mr. Ibrahim Mumia - Director, Administrative Services

4. Mr. Paul Njuguna – Personal Assistant to the CEO

Min No. CIOC/09/2025:

Preliminaries

1. The meeting was called to order at 12:00 noon with a word of prayer by the Chairperson. He led members in introduction and briefed them on the agenda of the meeting being a meeting of the Committee with the Teachers Service Commission to deliberate on the extent of the commission's discharge of its mandate pursuant to Article 237 of the Constitution including any impediments to the process of implementing the Constitution

Min No. CIOC/10/2025:
Commission

Presentation by the Teachers Service

2. The Chief Executive Officer, Dr. Nancy Macharia, apprised the committee as follows-

No.	Commission's Mandate	Impediment to the execution of the Mandate	Proposed solution/way forward
1	Recruitment and employment of registered Teachers	a) The lack of adequate budget to recruit teachers has led to teacher shortages in public schools therefore impeding the right to access basic quality education enshrined under Article 43 of the Constitution. Currently the teacher shortage stands at 98,261 including JSS teachers. This number is anticipated to rise in 2026 following the roll out of Senior schools. TSC has not achieved the optimal number of teachers since its establishment hence the need for more budgetary allocations.	<ul style="list-style-type: none"> • Increased budgetary allocation from the National Assembly for recruitment of additional teachers.
		b) Rampant/sporadic establishment of new schools without corresponding budgetary allocation to recruit the teaching staff.	<ul style="list-style-type: none"> • Increased budget for recruitment of teachers to meet the staffing needs of the newly established schools. • Strengthen coordination between key stakeholders including sponsors,

			investors, politicians to ensure planned establishment of new schools and expansion of existing ones.
		c) Lack of qualified and trained teachers in a number of new learning areas introduced by CBE eg. Leather craft, picture making, sculpture, jewelry and ornament making, media technology, marine and fisheries technology, general science. Indigenous languages.	<ul style="list-style-type: none"> • Implementation of advisories to National Government issued by the Commission on training of teachers in the new learning areas.
2.	Transfer and assignment of teachers for service in any public school or institution	a) Insecurity and hostility from host community and stakeholders. Incidents of banditry, Al-Shabaab attacks and sporadic attacks and hostility against teachers for alleged non-performance.	<ul style="list-style-type: none"> • Improved security by the National Government • Stakeholder engagement to protect teachers from attacks on allegations of non-performance.
		b) Harsh environmental conditions in some regions across the country	<ul style="list-style-type: none"> • Enhanced budgetary allocations to improve terms and conditions of service for teachers serving in such areas extreme hardship areas e.g. payment of differentiated hardship allowances.
		c) Competing stakeholder's interests.	<ul style="list-style-type: none"> • Adherence to the constitutional values by stakeholders. • Regular consultations with the Constitutional Committee
3.	Promotion of teachers	a) Insufficient budgetary allocation for implementation of Career Progression Guidelines for Teachers. As at December 2024, 200,022 teachers were qualified for	<ul style="list-style-type: none"> • Continuous budgetary provisions for promotion of teachers.

		promotion(completed 3 years and above in one grade) with others joining these teachers on annual basis	
4.	Exercise of disciplinary control over teachers	<p>a) Harmful cultural practices leading to protection of the accused teacher or officer and exposure of learners to sexual activities.</p> <p>b) Provision of Section 62 of the Anti-Corruption and Economic Crimes Act which requires an employee charged with anti-corruption and economic crimes to be suspended from service on half pay until the case is finalized by court leads to shortage of staff.</p>	<ul style="list-style-type: none"> Stakeholder collaboration on sensitization and awareness action on child protection in local communities. Amendment of the Anti-Corruption and Economic Crimes Act and relevant legislations to require anti-corruption and econom. crime cases to be concluded by courts within six months.
5.	Registration of trained teachers	a) Admission of teacher trainees without the requisite qualifications for registration as a teacher.	<ul style="list-style-type: none"> Adequate stakeholder engagement with training institutions.

Committee Observations

3. The Committee observed as follows: -

1. Allocation of TSC Numbers

The Teachers Service Commission issues TSC numbers after candidates' graduate; however, the issuance has not been consistent with the years of employment and graduation. It has been noted that recently graduated teachers seem to have secured employment, while those who graduated earlier have not. This discrepancy arises because recruitment occurs at the grassroots level, following local guidelines. This issue is particularly pronounced in rural areas, where the number of graduating teachers is lower than in other regions, thereby giving those from rural areas an advantage in terms of promotion and employment opportunities.

2.Re distribution of Teachers

On October 25th, 2022, Hon. Titus Khamala moved a motion on the review of the Teachers Deployment Policy, where the debate was concluded on October 26th, 2022. Furthermore, on November 3rd, 2022, the National Assembly resolved that the Teachers Service Commission immediately reverses the ongoing delocalization of teachers; initiates a comprehensive review of the Teachers Deployment Policy with the involvement of teachers in order to make the policy consistent with International Labour Organization (ILO) and UNESCO laws and practices on teachers' management and deployment; and reviews the teachers' recruitment policy with a view to devolving it to zonal levels at the point of recruitment.

3.Overworking Teachers

The Commission confirmed during the meeting that teachers are overworked, particularly in large counties such as Kakamega. This situation is exacerbated by a limited number of teachers assigned to these areas, resulting from budget constraints. Furthermore, resources are allocated for the deployment of teachers, and the TSC also employs field teachers who are responsible for redistributing educators in such regions.

4. Recruitment and Understaffed

Counties such as Kakamega County has a very low distribution of teachers,

5. Hardship Allowance: -

The meeting discussed the hardship allowance, noting that the current gazette recognizes two islands as hardship areas. The Public Service Commission has formed a team, including personnel from the TSC, to assess the country and compile a list of hardship areas. Although the TSC has already identified these areas, they are awaiting the Public Service Commission to forward the finalized list.

6. On stagnation of Teachers and Promotions.

The Teachers Service Commission informed the Committee that the budget allocated for promotions is one billion Kenya shillings, which is only sufficient to cover the promotion of 600,000 teachers. Furthermore, the meeting revealed that one of the challenges TSC faces in promoting teachers is that some older teachers refuse promotions to avoid being relocated from their preferred stations. Additionally, to promote all teachers as mandated by law, TSC requires an additional five billion Kenya shillings.

7. Chronic Shortage of Teachers

The chronic shortage of teachers is attributed to delocalization and budget constraints. The Teachers Service Commission has issued several advisories on this issue, but no action has been taken to address it.

8. Training of Teachers

Most teachers, particularly those in primary education, are trained but remain unemployed. The TSC has issued advisories regarding this issue, yet no action has been taken. Additionally, the CEO confirmed that while the TSC registers Early Childhood Education teachers, it does not engage in the registration of Adult Education instructors.

9. Healthcare for Teachers.

The CEO confirmed that all teachers contribute to SHAA, and the Commission has approached SHAA to provide comprehensive medical coverage for all teachers. However, SHAA indicated that the large number of teachers makes it challenging to accommodate this request. In the meantime, teachers are also covered by MNET insurance, which addresses services not included under SHAA. Additionally, the meeting highlighted that delays in the Exchequer contribute to poor service delivery.

10. Collective Bargaining Agreement

Regarding the implementation of the Collective bargaining Agreement (CBA), the meeting was informed that the Commission has already written to the Salary Remuneration Commission (SRC) to expedite the new CBA, as the current agreement is set to expire in June 2025.

Way Forward

The Commission to provide the following information.


1. Additional Information:
 - I. Expound on any other information necessary to achieve maximum results.
2. Data on Teacher Distribution:
 - II. The Teachers Service Commission (TSC) to provide data on the distribution of teachers across the country.
3. Promotion Statistics:
 - III. Include the number of teachers who have been promoted, along with clear data indicating:
 - When they were employed and when they were promoted.
4. Unpromoted Teachers:
 - IV. Provide details on teachers who have not been promoted.
 - V. Indicate the budget required for their promotions as mandated by law.
5. Affirmative Actions in Kakamega County:

VI. Outline actions taken for affirmative measures in Kakamega County

Min No. CIOC/11/2025

Adjournment

4. There being no other, the meeting was adjourned at 2:20 P.M

Signed..........Date.....29/05/2025.....

Hon.Muchangi Karemba MP - Chairperson

MINUTES OF THE TWENTY FIFTH SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD ON TUESDAY 24TH JUNE, 2025 AT 12:00 PM AT COMMITTEE ROOM 18, THIRD FLOOR, BUNGE TOWER.

PRESENT

1. Hon. William Kamket, M.P.- Vice-Chairperson
2. Hon. Lawrence Aburi Mpuru, M.P
3. Hon. Charles Ngusya Nguna, M.P
4. Hon. Paul Abuor, M.P.
5. Hon. Osero Patrick Kibagendi, M.P.
6. Hon. Karitho, Kiili Daniel, M.P.

ABSENT WITH APOLOGIES

1. Hon. Muchangi Karemba, CBS, M.P. –Chairperson
2. Hon. Mbalu, Jessica Nduku Kiko, M.P.
3. Hon. Caroli Omondi, CBS, M.P.
4. Hon. George Risa Sunkuyia, M.P
5. Hon. Mejjadonk Benjamin Gathiru, M.P.
6. Hon. Oscar Nabulindo, M.P.
7. Hon. Bernard Kitur, M.P.
8. Hon. Geoffrey Ekesa Mulanya, M.P.
9. Hon. Hamisi, Kakuta Maimai, M.P.
10. Hon. Mary Wamaua, M.P.
11. Hon. John Murumba Chikati, MBS, M.P.
12. Hon. Onyiego Silvanus Osoro, M.P.
13. Hon. John Mukunji Gitonga, MP
14. Hon. Jackson Lekumontare, M.P.
15. Hon. Abdisirat, Khalif Ali, M.P.
16. Hon. Mwangi, Teresia Wanjiru, M.P.
17. Hon. Mohamed, Umulkher Harun, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|----------------------|---|-------------------------|
| 1. Ms. Kafuyai Wamae | - | Clerk Assistant III |
| 2. Mr. Murimi Mwangi | - | Media Relations Officer |
| 3. Mr. Jillo Yeziel | - | Sergeant at arms |

PUBLIC SERVICE COMMISSION

- | | | |
|------------------------------|---|--------------------------|
| 1. Amb. Anthony Muchiri, CBS | - | Chairperson |
| 2. Mr. Paul Famba | - | Commission Secretary/CEO |

- | | | |
|--------------------------|---|---------------------------------|
| 3. Ms. Jacqueline Manani | - | Legal Services |
| 4. Mr. John Muriungi | - | Deputy Commissioner Secretary |
| 5. Dr. Juma Gabriel | - | Director Performance Management |
| 6. Mr. Simon Mwangi | - | Human Resource and Development |
| 7. Mr. Simiyu Jerale | - | Deputy Director Finance |

MIN NO. CIOC/94/2025: PRELIMINARIES

1. The Chairperson called the meeting to order at 12:00 p.m. and said a word of prayer. He led members in introduction and briefed them on the agenda of the meeting.

MIN NO. CIOC/95/2025: ADOPTION OF THE AGENDA

2. The proposed agenda was adopted having been proposed by Hon. Paul Abuor, M.P and seconded by the Hon. Patrick Osero Kibagendi, M.P.

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Meeting with the Secretariat, Public Service Commission regarding the mandate of the office pursuant to Articles 234,155(3)(a),158(2)(3)(4),171(2),230(2b) and 236 of the Constitution and impediments to implementing the Constitution
6. Any Other Business
7. Adjournment
8. Date for the next Sitting

MIN NO. CIOC/96/2025: CONFIRMATION OF MINUTES

3. This agenda item was deferred to the next sitting.

MIN NO. CIOC/97/2025: MEETING WITH THE PUBLIC SERVICE SUBMISSION

4. The Chairperson informed the meeting that the Honorable Members of the Committee were from a Speaker's 'Kamkunji' and due to time constraint in preparation of the scheduled afternoon House Sitting, he directed the Public Service Secretariat to present directly on pertinent issues that require the committee 's attention.

Amb.Anthony Muchiri, CBS presented the following on the impediments that the Commission faces in its discharge of its mandate:

Constraints related to mandate.

5. These are represented largely by structural impediments to the ability of the Commission to discharge its mandate more effectively.

Encroachment of the Commission mandate by public agencies.

6. The State Corporations Advisory Committee(SCAC) and the Inspectorate of State Corporations have consistently encroached on the constitutional and statutory mandate of the Commission over the management of human resources in state corporations and public universities.

7. The Salaries and Remuneration Commission's mandate over public officers is to advise on remuneration and benefits. This advice is supposed to be given to PSC as the employer of public officers. However, SRC has consistently given advice directly to agencies that fall under the mandate of PSC thereby distorting remuneration in the public service and intensifying discrimination, unfairness and inequity.

Limited financial allocation relative to expanded mandate

8. The annual budget allocations for the Commission over the years has not been adequate to fund the projected annual programs/activities. For instance, during the FY 2023/24 Budget Sector (Planning, Administration & International Relations- PAIR) retreat, the Commission presented a resource requirement of Ksh. 5,610.2 million to implement its five (5) programs. However, only Ksh. 3,667.53 million was allocated leaving a financial deficit of Ksh. 1,942.67 million.

Acute understaffing at Commission Secretariat

9. The current levels of understaffing is due to limited budgets. The Commission is currently experiencing staffing capacity gap of 45% in the face of an expanded mandate, as outlined:

- i. The Commission's mandate was expanded to include senior management positions in public universities, constitutional commissions and other statutory bodies;
- ii. Technical and Vocational Education and Training (TVET) functions were transferred from TSC to PSC in 2018 however, no additional resources were allocated to PSC; and
- iii. Administration of county, university and state corporations appeals and court litigation under administration and quasi-judicial functions. Under its mandate, the Commission is required to receive appeals from counties, public universities and state corporations. These appeals have been increasing at a very high rate.

Facility constraints

10. There is inadequate office space, limited work equipment and limited means of mobility.

Inadequate office accommodation

11. In an attempt to enhance staff numbers in the face of an expanded mandate, PSC has had to operate in the same constrained office space but would need additional office space to roll out all its functions. The Commission is exploring options for securing allocation of a government plot as this would have provided a permanent solution and ideal environment for accommodation of all facilities/ full roll out of PSC functions under one roof including adequate parking spaces.

Legal constraints

12. Whereas the mandate of PSC is clear in the Constitution, the PSC Act and other forms of enabling legislation, fragmentation and gaps in the legal framework coupled with disruptive

court rulings still persist. These legal issues have the potential to impede the effective discharge of PSC mandate.

Court cases based on misinterpretation of the law

13. Numerous court cases have challenged various decisions regarding human resources in the public service. As the service commission vested with overseeing HR practices in the public service, PSC finds itself enjoined in most cases.

Lack of statutory or regulatory anchoring of Public Service Internship Programme(PSIP)

14. The Commission initiated PSIP in 2019. Whereas the programme has been implemented smoothly during the last five years, there is a challenge that it is not anchored in law or regulations. A Bill on internship is currently within the National Assembly.

Way forward

15. Gradual enhancement of budget allocation by parliament, an increase of budget by 50% relative to the current allocation spread across two financial years i.e. approximately Ksh 980 million per year.

16. Review of legislation. Some mandate conflicts such as those between PSC and SCAC and the AGs Office call review of conflicting sections of related legislation. Some of the reviews can be undertaken through miscellaneous amendments.

17. For sustainability and stability, the Commission will work closely with Parliament and other actors to draft legislation that anchors the Public Service Internship Programme.

18. The Commission proposes the use of alternative dispute resolution through mediation by the office of the Deputy President as contemplated in executive order No.1 of 2025 to resolve some of the conflicts.

Committee Observations

1. The Committee observed as follows: -
THAT-


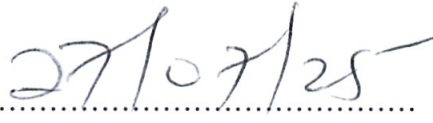
1. There is overlap in functions between PSC, SRC and SCAC;
2. The Commission recruits on request from various institutions;
3. SCAC is to focus on governance issues however, it is doing human resource functions which is a mandate role of PSC; and
4. There is an affirmative program for all institutions under PSC where each has been given a target to meet on all marginalized groups.

Way Forward

1. The Public Service Commission to come up with a tabulated data of its proposed changes and amendments to its various laws and policies.
2. The Committee to guide the Attorney General to come up with a Bill to bring the State Corporations Act to abide by the Constitution.

MIN NO. CIOC/98/2025: ADJOURNMENT

19. There being no other business, the meeting was adjourned at 1:00 P.M.
The next meeting will be held on Tuesday, 8th July, 2025.

Signed..........Date..........

Hon. Karemba Muchangi, MP – Chairperson

MINUTES OF THE TWENTY SIXTH SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD ON THURSDAY 17TH JULY, 2025 AT 12:00 PM AT COMMITTEE ROOM 20, THIRD FLOOR, BUNGE TOWER.

PRESENT

1. Hon. William Kamket, M.P.- Vice-Chairperson
2. Hon. Charles Ngusya Nguna, M.P.
3. Hon. Caroli Omondi, CBS, M.P.
4. Hon. Oscar Nabulindo, M.P.
5. Hon. Geoffrey Ekesa Mulanya, M.P.
6. Hon. Osero Patrick Kibagendi, M.P.

ABSENT WITH APOLOGIES

1. Hon. Muchangi Karemba, CBS, M.P. –Chairperson
2. Hon. Mbalu, Jessica Nduku Kiko, M.P.
3. Hon. George Risa Sunkuyia, M.P.
4. Hon. Mejjadonk Benjamin Gathiru, M.P.
5. Hon. Lawrence Aburi Mpuru, M.P.
6. Hon. Paul Abuor, M.P.
7. Hon. Mwangi, Teresia Wanjiru, M.P.
8. Hon. Karitho, Kiili Daniel, M.P.
9. Hon. Bernard Kitur, M.P.
10. Hon. Hamisi, Kakuta Maimai, M.P.
11. Hon. Mary Wamaua, M.P.
12. Hon. John Murumba Chikati, MBS, M.P.
13. Hon. Onyiego Silvanus Osoro, M.P.
14. Hon. John Mukunji Gitonga, MP.
15. Hon. Jackson Lekumontare, M.P.
16. Hon. Abdisirat, Khalif Ali, M.P.
17. Hon. Mohamed, Umulkher Harun, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|-----------------------|---|-------------------------|
| 1. Ms. Hellen Masiyoi | - | Senior Clerk Assistant |
| 2. Ms. Kafuyai Wamae | - | Clerk Assistant III |
| 3. Mr. Alvin Ochieng | - | Research Officer |
| 4. Ms. Audrey Andala | - | Legal Counsel |
| 5. Ms. Lilian Mburugu | - | Media Relations Officer |
| 6. Ms. Pauline Sifuma | - | Hansard Officer |
| 7. Mr. Kelvin Lengasi | - | Audio Officer |
| 8. Mr. Jillo Yeziel | - | Sergeant at arms |

JUDICIAL SERVICE COMMISSION

1. Hon. Isaac Ruto, EGH - Vice Chairperson, Public Representative
2. Hon. Jacqueline Ingutiah - Law Society of Kenya Representative
3. Hon. Caroline Nzilani - Public Representative
4. Hon. Charity Kisoto, CBS - Public Service Commission Representative
5. Hon. Justice Fatuma Sichale - Court of Appeal Representative
6. Hon. Winfridah Mokaya, CBS - Secretary/ Chief Registrar of Judiciary
7. Mr. Isaac Wamaasa - Ag. Registrar
8. Mr. Rebecca Kiplagat - Director Finance and Administration
9. Mr. Martin Machira - Director Legal Services
10. Ms. Cynthia Osiro - Legal Counsel
11. Mr. David Ruto - Quantity Surveyor

MIN NO. CIOC/99/2025: PRELIMINARIES

1. The Chairperson called the meeting to order at 12:00 p.m. and said a word of prayer. He led members in introduction and briefed them on the agenda of the meeting.

MIN NO. CIOC/100/2025: ADOPTION OF THE AGENDA

2. The proposed agenda was adopted having been proposed by Hon. Caroli Omondi, CBS, M.P and seconded by the Hon. Patrick Osero Kibagendi, M.P.

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Meeting with the Judicial Service Commission regarding the mandate of the office pursuant to Articles 171 of the Constitution and impediments to implementing the Constitution
6. Any Other Business
7. Adjournment
8. Date for the next Sitting

MIN NO. CIOC/101/2025: CONFIRMATION OF MINUTES

3. This agenda item was deferred to the next sitting.

MIN NO. CIOC/102/2025: MEETING WITH THE JUDICIAL SERVICE SUBMISSION

4. Hon. Winfridah Mokaya, CBS presented the following on the impediments that the Commission faces in its discharge of its mandate:

Discharge of JSC Constitutional Mandate.

5. In order to deliver its mandate, the JSC has embraced strategic planning to guide its diverse activities. The Commission is implementing its 2022-2027 Strategic plan for the next five years.
6. The JSC Strategic Plan has prioritized five strategic themes from the situation analysis, and they form the main areas of focus. The themes are:
 - i. Efficient, accountable, transparent and transformative administration of justice;
 - ii. Motivated, professional, dynamic, responsive judges, magistrates, registrars, judicial officers and judicial staff;
 - iii. Financially independent and suitable Judiciary and JSC;
 - iv. Increased public confidence and trust in the JSC; and
 - v. Strengthened institutional capacity.

Challenges faced by JSC in implementing the 2010 Constitution

7. Inadequate budgetary allocation. The JSC face chronic underfunding, limiting its ability to discharge its mandate. Its current budgetary allocations are less than 1% of the National Budget which is insufficient for:
 - i. Infrastructure development in 140+ court stations;
 - ii. Recruitment of judges, magistrates and support staff; and
 - iii. Technology adoption for e-justice systems.
8. Mobility restrictions for judges. Judges in specialized courts (ELRC, ELC) cannot be cross-deployed to the High Court or other divisions, creating inefficiencies and limiting career development.
9. Disciplinary limitations. Under Article 68, the JSC can only recommend removal of a judge or dismiss a Petition/Complaint. No room for other sanctions when minor infractions are discernible making the process inadequate to address the intended purpose.
10. Tension between Arms of Government on Judicial Appointments. Occasions of delay or refusal by the Executive to appoint judges recommended by the JSC and persistent attacks on judges on decisions made undermine constitutional expectations and strain inter-arm relations.
11. Overlapping mandates among Constitutional Commissions (JSC & SRC). Mandate ambiguity between SRC and JSC over judge's and judicial officer's terms, benefits and allowances has led to institutional friction and inconsistent conditions of service.
12. Delayed enactment of proposed legislation by JSC. There has been delay in the enactment of the Tribunals Bill, Judges Retirement Bill and amendments to several other statutes proposed by JSC. The reviews are meant to enhance effective administration justice and improve employee welfare. The Bills ought to be fast tracked.

Committee Observations

The Committee observed as follows: -
THAT-

1. There is need for a Case Management Policy. This policy would ensure that there is a timely delivery of cases.
2. The Constitution and the Judicial Service Act are silent on the process of reprimanding judges. The constitution only talks of removal of judges and not on reprimanding judges unlike jurisdictions like South Africa and Uganda where there is a process and procedure on reprimanding judges.
3. There is need for an official judicial journal that displays data on cases concluded, judgements delivered by each judge and scholarly works.
4. A data base is also needed on the fines collected by courts, where they go and what they are used for.
5. There is weaponization of the judiciary by the police. Many of the recently arrested youth are denied bail or charged for offenses like terrorism yet they were simply exercising their legal right to picket.

Way Forward

1. The Judicial Service Commission to come up with a judicial journal that displays data on cases concluded, judgements delivered by each judge and scholarly works to improve their services towards the public.
2. The Commission to come up with amendments to the Judicial Service Act to enable it to conduct disciplinary action towards judges and disciplinary regulations towards judges.
3. There is need for dialogue between SRC and JSC to deliberate on their existing overlaps.
4. The Committee to meet with all the Constitutional Commissions and Independent Offices to be apprised on the various constitutional amendments that each CCIOs intends to bring as an amendment before the House.

MIN NO. CIOC/103/2025: ADJOURNMENT

13. There being no other business, the meeting was adjourned at 1:00 P.M.

Signed..........Date.....29/07/25.....

Hon. Karemba Muchangi, MP – Chairperson

TEACHERS SERVICE COMMISSION



REPORT ON THE EXTENT OF THE COMMISSION'S DISCHARGE OF ITS
CONSTITUTIONAL MANDATE PURSUANT TO ARTICLE 237 OF THE
CONSTITUTION

DATED 8TH APRIL, 2025

PART 1: BACKGROUND INFORMATION

- 1.1. The Teachers Service Commission (hereinafter, "the Commission") is established under **Article 237 (1)** of the Constitution as a constitutional Commission with primary functions being to: -
 - a) Register trained teachers,
 - b) Recruit and employ registered teachers,
 - c) Assign teachers for service in any public school or institution,
 - d) Promote and transfer teachers,
 - e) Exercise disciplinary control over teachers, and
 - f) Terminate the employment of teachers engaged in public service.

- 1.2 The Commission is further mandated Under **Article 237 (3)** of the Constitution to: -
 - a) Review the standards of education and training of persons entering the teaching service,
 - b) Review the national demand for, and the supply of teachers, and
 - c) Advise the National Government on matters relating to the teaching profession.

- 1.3 On the other hand, **section 11** of the Teachers Service Commission Act (hereinafter, "The Act") requires the Commission to: -
 - a) Formulate policies to achieve its mandate,
 - b) Provide strategic leadership and direction,
 - c) Prescribe teaching standards and ensure compliance,
 - d) Manage the teachers' payroll,
 - e) Facilitate career progression & professional development,
 - f) Monitor the conduct and performance of teachers, and
 - g) Do all such other things as may be necessary for the effective discharge of its functions and the exercise of its powers.

- 1.4 In carrying out its functions, the Commission is bound by the **National Values and Principles of Governance** set out under **Article 10** of the Constitution which include: -

- a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy, and participation of the people,
- b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, and protection of the marginalized,
- c) Good governance, integrity, transparency, and accountability, and
- d) Sustainable development.

1.5 Further, being an employer of teachers in public service, the Commission's operations are also guided by the **Values and Principles of Public Service** set out under **Article 232** of the Constitution. These Principles are: -

- a) High standards of professional ethics,
- b) Efficient, effective, and economic use of resources,
- c) Responsive, prompt, effective, impartial, and equitable provision of services,
- d) Involvement of the people in the process of policy making,
- e) Accountability for administrative acts,
- f) Transparency and provision to the public of timely, accurate information,
- g) Subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions,
- h) Representation of Kenya's diverse communities, and
- i) Affording adequate and equal opportunities for appointment, training, and advancement, at all levels of the public service, of: -
 - (i) Men and women,
 - (ii) The members of all ethnic groups, and
 - (iii) Persons with disabilities.

1.6 Section **47** and **48** of the Act empowers the Commission to publish a Code of Regulations and Code of Conduct for Teachers to assist the Commission in regulating the teaching service. In this regard, the Commission published the two codes which came into effect on **1st July 2016**.

- 1.7 Further in compliance with the provisions of **Article 41** of the Constitution the Commission has negotiated and signed **Collective Bargaining Agreement 2021-2025 (CBA)** with the teacher unions.
- 1.8 Accordingly, the constitution of Kenya, the Teachers Service Commission Act, the Code of Regulations and Code of Conduct for Teachers, Collective Bargaining Agreement (CBA) 2021-2025 forms the legal framework underpinning the Commission's operations.

PART 2: HIGHLIGHT ON THE DISCHARGE OF THE FUNCTIONS OF THE COMMISSION

Table 1: Mandate of the Commission

S/ No.	Commission's Mandate	Impediment to the Execution of the Mandate	Proposed solution/way forward
1.	Recruitment and employment registered Teachers	<p>a) The lack of adequate budget to recruit teachers has led to teacher shortages in public schools therefore impeding the right to access basic quality education enshrined under Article 43 of the Constitution. Currently, the teacher shortage stands at 98,261 including JSS teachers. This number is anticipated to rise in 2026 following the roll out of Senior schools.</p> <p>TSC has not achieved the optimal number of teachers since its establishment hence the</p>	<ul style="list-style-type: none"> Increased budgetary allocation from the National Assembly for recruitment of additional teachers.

S/ No.	Commission's Mandate	Impediment to the Execution of the Mandate	Proposed solution/way forward
		<p>need for more budgetary allocations.</p>	
		<p>b) Rampant/sporadic establishment of new schools without corresponding budgetary allocation to recruit the teaching staff.</p>	<ul style="list-style-type: none"> • Increased budget for recruitment of teachers to meet the staffing needs of the newly established schools. • Strengthen coordination between key stakeholders including sponsors, investors, politicians to ensure planned establishment of new schools and expansion of existing ones.
		<p>c) Lack of qualified and trained teachers in a number of new learning areas introduced by CBE e.g. Leather craft, Picture making, Sculpture, Jewelry and ornament making, Media Technology Woodwork, Media Technology, Marine and Fisheries Technology, General science, indigenous languages,</p>	<ul style="list-style-type: none"> • Implementation of advisories to National Government issued by the Commission on training of teachers in the new learning areas.

S/ No.	Commission's Mandate	Impediment to the Execution of the Mandate	Proposed solution/way forward
		Marine and Fisheries Technology	
2.	Transfer and Assignment of teachers for service in any public school or institution	<p>a) Insecurity and hostility from host community and stakeholders. incidents of banditry, Al-Shabaab attacks and sporadic attacks and hostility against teachers for alleged non-performance.</p> <p>b) Harsh environmental conditions in some regions across the country</p> <p>c) Competing stakeholder's interests.</p>	<ul style="list-style-type: none"> Improved security by the National Government. Stakeholder engagement to protect teachers from attacks on allegations of non-performance. Enhanced budgetary allocations to improve terms and conditions of service for teachers serving in such areas extreme hardship areas e.g. payment of differentiated hardship allowances. Adherence to the constitutional values by stakeholders. Regular consultations with the Constitutional Committee.
3.	Promotion of teachers	a) Insufficient budgetary allocation for implementation of Career Progression Guidelines for Teachers. As at December 2024, 200,022 teachers	<ul style="list-style-type: none"> Continuous budgetary provisions for promotion of teachers.

S/ No.	Commission's Mandate	Impediment to the Execution of the Mandate	Proposed solution/way forward
		were qualified for promotion (completed 3 years and above in one grade) with others joining these teachers on annual basis	
4.	Exercise of disciplinary control over teachers	<p>a) Harmful cultural practices leading to protection of the accused teacher or officer and exposure of learners to sexual activities.</p> <p>b) Provisions of section 62 of the Anti-Corruption and Economic Crimes Act which requires an employee charged with anti-corruption and economic crimes to be suspended from service on half pay until the case is finalized by court leads to shortage of staff.</p>	<p>Stakeholder collaboration on sensitization and awareness action on child protection in local communities.</p> <p>Amendment of the Anti-Corruption and Economic Crimes Act and relevant legislations to require anti-corruption and economic crime cases to be concluded by courts within six months.</p>
5.	Registration of trained teachers	Admission of teacher trainees without the requisite qualifications for registration as a teacher.	Adequate stakeholder engagement with training institutions.

.....**END**.....



PUBLIC SERVICE COMMISSION

REPORT ON EXTENT OF DISCHARGE OF THE PUBLIC SERVICE COMMISSION MANDATE

FY 2010/11- FY2023/24

June 2025



VISION

A Citizen–Centric Public Service

MISSION

To ensure an efficient, effective, ethical and inclusive public service for delivery of quality services to the citizenry

OUR CORE VALUES

Integrity

Diversity

Equity

Efficiency

Effectiveness

Transparency

Accountability

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Public Service Commission

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Executive Summary

The Public Service Commission presents this report in response to an invite by the Constitutional Implementation Oversight Committee of the National Assembly vide Ref: NA/DAA&GPC/CIOC/2025/9 of 26th May, 2025. Specifically, the Committee requested the Commission to report on: (i) The extent of the Commission's discharge of its mandate pursuant to Articles 234, 155(3) (a), 158(2)(3) and (4), 171(2), 230(2)(b) and 236 of the Constitution; (ii) Highlight any impediments to the process of implementing the Constitution; and (iii) Propose the way forward.

Approach and Methodology

The preparation of this report relied on reviews of relevant internal and public-facing reports prepared by the Commission over the 13-year period, since the promulgation of the Constitution of Kenya; spanning 2011 to 2024. The report is presented as a combination of qualitative narratives and assessments on mandate delivery coupled with integration of supporting quantitative data on trends on outputs, results and outcomes. With the exception of instances where data do not exist, every effort has been made to present a quantified longitudinal chronology in delivery of results

Methodology

Qualitative narratives and longitudinal trends

Organization of the Report

This report comprises six chapters. Chapter one sets the context by outlining a brief background to the role of independent Commissions, generally, and the scope of PSC mandate and the motivation for the report. In Chapter Two the report unpacks the mandate of the Public Service Commission into distinct functions, as aligned to the Commission delivery structure. In Chapter Three, the report presents qualified evaluation and synthesis on the extent to which the Commission has discharged its mandate in view of available enabling resources and instruments since 2010. Chapter Four reviews the overall institutional capacity of the Commission to deliver on its mandate. Chapter Five outlines the structural, systemic and operational constraints that the Commission faces in the course of delivering on its mandate. Finally, in Chapter Six the report consolidates recommendations for improving the overall institutional capacity of the Commission to better deliver its mandate.

Unpacking the Mandate of The Commission

Functions of the Commission can be unpacked into three main typologies namely executive, oversight and dual. Executive functions are those performed by the Commission directly without delegation, e.g. establishment and abolition of offices, hearing and determining appeals. Oversight functions include those that the Commission may choose to delegate as authorised by the Constitution provided the Commission oversees their implementation. Dual functions, on the other hand, refer to those that are deemed both executive and oversight in nature.

EXTENT OF DISCHARGE OF COMMISSION MANDATE

Article 234: Core Mandate Functions

Establishment and abolition offices in the public service: Cumulatively, between FY 2014/205 and FY 2022/23, the Commission established a total of 39,664 posts in the public service.

39,664

Number of posts established

Appointments, Promotions and Re-designations: During the period 12-year period spanning FY 2012/2013 to FY 2023/24, The Commission under took a cumulative total of 63,899 appointments. Peak appointments were registered during FY 2016/17 (13,041), FY 2017/18 (8,087) and FY 2020/21 (8,522). Cumulatively promotions were 57,122 while Cumulative re-designations were 2,547 over the same period.

63,899

Cumulative appointments,
FY 2011/12 – FY 2023/24

Disciplinary Control: During the 13-year period spanning FY 2011/12 – FY 2023/24, the Commission received a total of 7,348 appeal cases from MDAs out of which 4,576, constituting 62% had been determined. The 3-year period FY 2021/22 to F 2023/24 registered a total of 81 appeal cases from state corporations. Out of these, 69 cases, representing 85%, had been resolved.

85%

County Appeals Resolved

Promotion of Values and Principles: Between FY 2016/17 and FY 2020/21, the Commission had only been able to one promotion event for values and principles each year. During the 2022/23 the number of events increased significantly to five before declining to three during FY 2023/24. The total number of organizations reached through sensitization increased two fold over a period of 4 years, from 215 during FY 2016/17 to 426 during FY 2020/21. By FY 2023/24 the number of organizations reached through sensitization programmes had increased to 585, representing an increase of 172% relative to the baseline of 215. In terms of number of individual public officers reached, the scope of sensitization programmes has been on a steady rise. Over the 8-year period spanning FY 2016/17 to FY 2023/24, the number of individual officers reached by sensitization programmes increased exponentially by over 1000% from 424 to 5000.

1000%

Increase in number of individual public officers reached by sensitization programmes on values and principles

Investigating, monitoring and evaluating the organisation administration and personnel practices of the public service:

In this broad functional area, the Commission plays a number key roles: (i) receiving, analyzing and investigating complaints on the organization, administration and personnel practice in the public service; (ii) receiving and analyzing yearly returns from Ministries and State Departments on the organization, administration and personnel practice in the public service; (iii) receiving, analyzing and approving shortlisting and selection reports on the delegated Human Resource powers and functions in the public service; and (iv) receiving quarterly returns from MDAs on the organization, administration and personnel practice in the public service. A cumulative total of 173 complaints were received over the four-year period FY 2020/21 and FY

2023/24. Out of the complaints received, 145 cases, representing 84% were finalized. Year by year efficiency in the resolution of complaints was appreciably high over the first 3 years of the 4-year period under review. While all cases were resolved in the first two FYs, the resolution rate was 86% in FY 2022/23, compared to 53% for FY 2023/24.

86%

Average Complaint Resolution Rate

Efficiency and effectiveness in the Public Service: In efforts to ensure efficiency and effectiveness in the public service, the Commission, among other things undertakes the following measures: Determination of citizen delivery satisfaction level; Setting of service delivery standards; Monitor implementation of service charters; Determination of citizen service delivery satisfaction levels; Assessment of internal processes; Formulation of performance Management Guidelines; Staff Performance Appraisal; and Public Service Excellence

43%

Citizen satisfaction Index

Awards (PSEA), Key Measures of efficiency and effectiveness of the public service include Customer satisfaction, PC scores index, Public service productivity index, Citizen satisfaction; Budget absorption rates. A country-wide survey carried out by PSC in 2016, established a citizen satisfaction index of 43%. Whereas the conduct of annual citizen satisfaction surveys is ideal, they are cost intensive thus requiring ring-fenced budget provisions.

Human Resource Development in the Public Service: At the time of this report, the role of the Commission under this function has remained largely regulatory. Key functions include: Development, issuance and review of policy guidelines, manuals and Standards on Human Resources Development in the Public Service; Capacity Building for PSIP mentors; and issuance of Circulars HR policy matters. Key metrics in the determination of extent to which the Commission has discharged this mandate would include: number of projected trainings, number of officers trained and trends in training budgets across MDAs. However, given the operational fragmentation in the implementation of trainings across the Service, no data were available.

Qualifications and Code of Conduct: Key roles played by the Commission under this function include: development, issuance and review of policy on career management in the Public Service; issuance of norms and standards on career management in the Public Service; and receiving requests for development and review of career guidelines from public bodies, processing the requests and issuing career guidelines.

Terms and Conditions of Service: Commission functions on matters of terms and conditions of service were anchored on: Development of Framework for Review of Terms and Conditions of Service in the Public Service, 2016; Development of the Human Resource Policies and Procedures Manual for the Public Service, 2016; undertaking two cycles of Job Evaluation exercise in collaboration with SRC; and Review of salaries and Remuneration in consultation with the SRC.

Evaluation and Reporting on Compliance with Values and Principles: Between FY 2012/13 and FY 2015/16, the number of MDAs evaluated under compliance with values and principles in Articles 10 and 232 had declined by 47% from 335 to 178. From FY 2015/16, the number of institutions participating in the evaluation increased steadily to peak at 523 in FY 2022/23. FY 2023/24 however saw a marginal decline of



“ Values and principles Compliance index has been on a general decline ”

3%. Relative to the compliance levels registered during FY 2015/16 (68%) and FY 2016/17 (70%), the compliance

index had been on a general declining trend. The index remained below the 43% mark between FY 2018/18 and FY 2021/22

County Appeals: During the 3-year period spanning FY 2021/22 and FY 2023/24, the Commission had received a total of 366 appeals cases from the counties. In comparison, 327 cases had been determined of the same period. Processing efficiency of appeals remained high at an overall of 89%.

Other Functions Under the Constitution

Article 155(3) (a): Recommendation of Principal Secretaries for Appointment: The Commission nominated 66 persons in 2013/14; 184 persons in 2017/2018 and 250 persons in 2022/2024 for appointment by the President as Principal Secretaries in various Ministries State Departments.

Article 158 (2): Petitions for the Removal of the Director of Public Prosecutions: Whereas the Commission has received petitions for the removal of the DPP over the years, none of the petitions have been handled to conclusion for the last 6 years due to court orders or the withdrawal of the petitions by the Petitioners. The Commission developed Regulations for handling petitions for removal of the DPP in the year 2017. The Commission has since developed revised Regulations but the same has not progressed to the stage of approval by Parliament due to a court order that stayed the process.

Article 171 (1) (2): Nomination of PSC Representative to the Judicial Service Commission: Under this provision, the Public Service Commission has since 2012 made three nominations to the JSC. The next nomination is expected to be made in 2027.

Article 230(2)(b): Nomination of PSC Representative to the Salaries and Remuneration Commission: This Article provides for the nomination of one person is not a member of the Public Service Commission to represent it in the Salaries and Remuneration Commission (SRC). The PSC has, since 2013, nominated two representatives to the SRC. There is currently a vacancy which the PSC is in the process of nominating a presentative under this provision.

Article 236: Protection of public officers: Primarily, the Commission has discharged this mandate through it oversight role in handling appeals and applications for reviews by public officers on disciplinary matters and through complaints received from public officers. It is however clear that more pre-emptive interventions in this mandate area need to be designed and rolled out by the Commission.

PSC Functions under Schedule 4 of the Constitution: Provision of Technical Support to Counties: In line with the provisions of the Fourth Schedule to the Constitution of Kenya, the Commission continues to provide technical support to counties. At the start of devolution in 2013, the Commission played a crucial role in helping counties establish functional structures. Beyond the development of capacities of counties through trainings, the Commission seconded staff to assist counties in setting up. The Commission also continues to support counties through trainings on key aspects of human resource management and development and related policies.

COMMISSION INSTITUTIONAL CAPACITY

Staffing: The number of staff in-post has been on a gradual increasing trend over the period under review. However, the number of unfilled positions remains significantly high.



Staffing Gap as Proportion of Approved Establishment has been on decline from a high of 56% in FY 2010/11 to 45% in FY 2024/25. This suggests a gradual strengthening of the Commission's staff complement. However, at 45% the 2024/25 data implies that staffing gaps at the Commission still remains significant at a level that profoundly and adversely impacts performance and delivery.

Finances: The overall budget allocation to Commission core mandate functions has grown from Ksh 418.9 Million during FY 2010/11 to 1,783.7 during FY 2023/24. While this increase looks significant in absolute terms, it only reflects an average annual increase of 17% over the 13-year period. As demonstrated in this report, the level of increase in financial resourcing of the Commission remains disproportionately low relative to scope of mandate.

Facilities, Equipment and Infrastructure: However, despite these investments, the Commission still remains acutely under-resourced in terms of facilities, equipment and infrastructure. At the time of this report, the Commission was yet to purchase vehicles, laptops and other work-related accessories for the new commissioners. Secretariat staff faced similar predicaments characterised by inadequate computers, office space and lack of basic office supplies.

IMPEDIMENTS TO THE DISCHARGE OF COMMISSION MANDATE

In the process of discharging its mandate, the Commission has faced myriad impediments. This section highlights the constraints faced under the following categories: (i) Constraints Related to Mandate; (ii) Facility Constraints; (iii) Legal constraints; and (iv) Remoteness and marginalization.

Constraints Related to Mandate include: Encroachment on the Commission mandate by Public agencies; Limited Financial Allocation Relative to Expanded Mandate; and Acute Understaffing at Commission Secretariat.

Facility Constraints are: Inadequate Office Accommodation and Limited Work Equipment and Means of Mobility.

Legal Constraints include: Lack of Statutory or Regulatory Anchoring for PSIP; Court ruling on transfer of TVET institutions to PSC; Court cases based on misinterpretation of the Law.

Remoteness and Marginalization: Partly explains diversity, equity and inclusivity concerns (DEI) on minorities, the marginalized and people living in remote areas.

THE WAY FORWARD

To support the efficient and effective discharge of Commission constitutional mandate as contemplated in view of the impediments experience over the last decade, the Commission proposes the following interventions:

- **Gradual Enhancement by 25% of Commission Budget Allocation by Parliament over two financial years**
- **Funding for bridging the staffing gap**
- **Budget for equipment and mobility**
- **New Office Space**
- **Review of Enabling Legislation**
- **Anchoring of PSIP in Legislation**
- **Mediation on Mandate Conflicts**
- **Establishment of Regional Offices**
- **Enhanced Advocacy and Sensitization**

Acronyms

BPR	Business Process Re-Engineering
CAJ	Commission on Administrative Justice
CoK	Constitution of Kenya
CSG	Civil Service Grade
EACC	Ethics and Anti-Corruption Commission
HRMAC	Human Resource
JSC	Judicial Service Commission
MDA	Ministry Department Agency
PSC	Public Service Commission
PSEA	Public Service Excellence Award
SCAC	State Corporations Advisory Committee
SPAS	Staff Performance Appraisal System
SRC	Salaries and Remuneration Commission
TVET	Technical Vocational Education Training

CHAPTER 1: INTRODUCTION

1. The Public Service Commission (PSC) is the oldest Constitutional Commission in Kenya, whose mandate has expanded over the years. The Commission dates back to 1954 when the British Colonial Government established the Civil Service Commission following the Holmes Commission Report, 1948. The Civil Service Commission played an advisory role to the Governor in matters of appointments. At independence in 1963, it was enshrined in the Constitution and renamed the Public Service Commission. Under the Independence Constitution, there were Regional PSCs, but these were abolished in 1964 following a constitutional amendment.
2. The Commission was then constituted of a chairman, a deputy chairman, and 15 members appointed by the President. It handled human resource management matters in the public service, especially the civil service and local authorities. The Constitution of Kenya, 2010, promulgated on 27th August, 2010, reconstituted the Commission with a redefined and expanded mandate and a lean membership of a chairperson, vice chairperson, and seven members. The Commissioners enjoy tenure of office guaranteed by the Constitution.
3. Chapter 15 of the Constitution of Kenya (CoK) 2010 designates the Public Service Commission as one of the 10 independent commissions. Article 249 of CoK 2010 stipulates the core objects of the commissions and the independent offices as: protecting the sovereignty of the people; securing the observance by all state organs of democratic values and principles; and promotion of constitutionalism.

Role of the Commission and Scope of Mandate

4. PSC is an independent Commission established under Article 233 of the Constitution of Kenya. The mandate of the Commission includes the establishment and abolition of offices, provision of competent human resources, promotion of good governance and ensuring efficiency and effectiveness in the provision of quality services in the public service.
5. In performing its functions, the Commission is responsible for human resource matters in Ministries, Departments, State Corporations, Universities and TVET Institutions. With regard to the function of promotion, compliance, evaluation and reporting on values and principles referred to in Articles 10 and 32 of the Constitution, the Commission is responsible for the implementation of both executive and oversight roles in six service sectors: Ministries and State Departments; Constitutional Commissions and Independent Offices; State Corporations and SAGAs; Statutory Commissions and Authorities; Public Universities and TVET Institutions.

Why this Report ?

6. The Public Service Commission presents this report in response to an invite by the Constitutional Implementation Oversight Committee of the National Assembly vide Ref: NA/DAA&GPC/CIOC/2025/9 of 26th May, 2025. Specifically, the Committee requested the Commission to report on:
 - I. The extent of the Commission's discharge of its mandate pursuant to Articles 234, 155(3) (a), 158(2)(3) and (4), 171(2), 230(2)(b) and 236 of the Constitution.
 - II. Highlight any impediments to the process of implementing the Constitution; and
 - III. Propose the way forward.

Approach and Methodology

7. The preparation of this report relied on reviews of relevant internal and public-facing reports prepared by the Commission over the 13-year period, since the promulgation of the Constitution of Kenya; spanning 2011 to 2024. The report is presented as a combination of qualitative narratives and assessments on mandate delivery coupled with integration of supporting quantitative data on trends outputs, results and outcomes. With the exception of instances where data do not exist, every effort has been made to present a quantified longitudinal chronology in delivery of results.

Organization of the Report

8. This report comprises six chapters. Chapter one sets the context by outlining a brief background to the role of independent Commissions, generally, and the scope of PSC mandate and the motivation for the report. In Chapter Two the report unpacks the mandate of the Public Service Commission into distinct functions, as aligned to the Commission's delivery structure. In Chapter Three, the report presents qualified evaluation and synthesis on the extent to which the Commission has discharged its mandate in view of enabling resources and instruments since 2010. Chapter Four reviews the Commission's overall institutional capacity to deliver on its mandate. Chapter Five outlines the structural, systemic and operations constraints that the Commission faces in the course of delivering on its mandate. Finally, in Chapter Six the report consolidates recommendations for improving the overall institutional capacity of the Commission to better deliver its mandate.

CHAPTER 2: UNPACKING THE MANDATE OF THE COMMISSION

9. This section maps, unbundles and operationalizes the mandate of the public service into specific functions. It presents the functional dichotomy of the mandate into oversight and executive functions and aligns the functions into the Commission's delivery structure.

Objectives

10. The Commission's overall objective is to support the government in pursuit of high performance in the public service in Kenya. In the fourteen years of its operations as an independent Constitutional Commission, the PSC has successfully established itself as a key player in Kenya's policy arena in public service performance and thus contributed to the country's national development agenda.

Mandate and Functions

11. The mandate of the Commission is spelt out in Articles 234, 155(3)(a), 158(2)(3) and (4), 171(2), 230(2)(b) and 236 of the Constitution. Among the key functions and powers of the Commission set out in Article 234 of the Constitution and the enabling legislation is to ensure that the public service is efficient and effective and develop human resources in the public service. In discharging its mandate, the Commission is guided by the values and principles in Articles 10 and 232 of the Constitution, the Public Service Commission Act of 2017 and its Regulations, the Public Service (Values and Principles) Act of 2015 and other relevant legislations Under Article 234, the Constitution of Kenya assigns the Commission the following functions:

- a) Subject to the Constitution and legislation:
 - i. Establish and abolish offices in the public service, and
 - ii. Appoint persons to hold or act in those offices, and to confirm appointments;
- b) Exercise disciplinary control over and remove persons holding or acting in those offices;
- c) Promote the values and principles of public service referred to in Articles 10 and 232 throughout the public service;
- d) Investigate, monitor and evaluate the organization, administration and personnel practices of the public service;
- e) Ensure that the public service is efficient and effective;
- f) Develop human resources in the public service;

- g) Review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service;
- h) Evaluate and report to the President and Parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service;
- i) Hear and determine appeals in respect of county governments' public service; and
- j) Perform any other functions and exercise any other powers conferred by national legislation

12. These functions can be unpacked into three main typologies executive, oversight and dual, as indicated in Table 1.1.

Table 1. 1: Functional Classification of Commission Functions

Function	Executive	Oversight
Subject to the Constitution and legislation		
i. Establish and abolish offices in the Public Service	√	√
ii. Appoint persons to hold or act in those offices and to confirm appointments	√	
Exercise disciplinary control over and remove persons holding or acting in public offices including removal of non-disciplinary grounds	√	
Promote the National values and principles in Article 10 and Public Service Values and Principles in Article 232	√	√
Investigate, Monitor and Evaluate the organization, administration and personnel practices of the public service	√	√
Ensure the public service is effective and efficient		√
Develop human resources in the public service	√	√
Review and make recommendations to the National Government in respect of conditions of service, code of conduct and qualification of officers in the public service	√	√
Evaluate and report to the President and Parliament on the extent to which the values and principles in Articles 10 and 232 are complied with in the public service	√	√

Function	Executive	Oversight
Hear and determine appeals in respect of county governments' public service	√	
Nominate persons to the Judicial Service Commission and the Salaries and Remuneration Commission	√	

Key:

Executive functions: The Commission performs these functions by itself, it does not delegate, for example, establishing and abolishing offices, hearing and determining appeals.

Oversight functions: These include functions that the Commission may choose to delegate as authorised by the Constitution and then oversee the implementation or those functions for which the Constitution provides that other organizations execute the functions and the Commission oversees. The terms used include ensure, investigate, monitor, and evaluate.

CHAPTER 3: THE EXTENT OF DISCHARGE OF COMMISSION MANDATE

13. This section of the report outlines key functions under each core mandate area and highlights the specific ways the Commission has discharged its mandate over the years. Where data were available, trends key deliverables and achievements under the discharge of mandate are illustrated.

Article 234: Core Mandate Functions

Establishment and abolition offices in the public service

14. A key role of the Commission is designing fit-for-purpose organizational and grading Structures that are properly aligned to the mandates of respective MDAs and State Corporations for improved harmonization, coordination and integration of functions for enhanced and seamless service delivery and productivity. The Commission also determines optimal staffing levels and issues career guidelines to MDAs and State Corporations.

15. Under this function, the Commission focuses on issuance of policy guidelines on establishment and abolition of offices and reviewing requests for determination of staffing levels for public bodies. Table 3.1 summarises the status of implementation of key aspects of the function and the specific achievements.

Table 3.1: Status of Implementation of PSC Function on Establishment and abolition of offices in the public service

Status of implementation of Key Functions	Specific Deliverables / Achievements
The Commission has issued policy guidelines on establishment and abolition of offices	<ul style="list-style-type: none">• Guidelines on establishment and abolition of offices in the public service, 2015• Guidelines on organizational design 2015• Guidelines on development and review of HR instruments for State Corporations and Public Universities 2023• The Commission has from time to time issued guidelines on norms and standards in the establishment and abolition of offices through circulars and decision letters

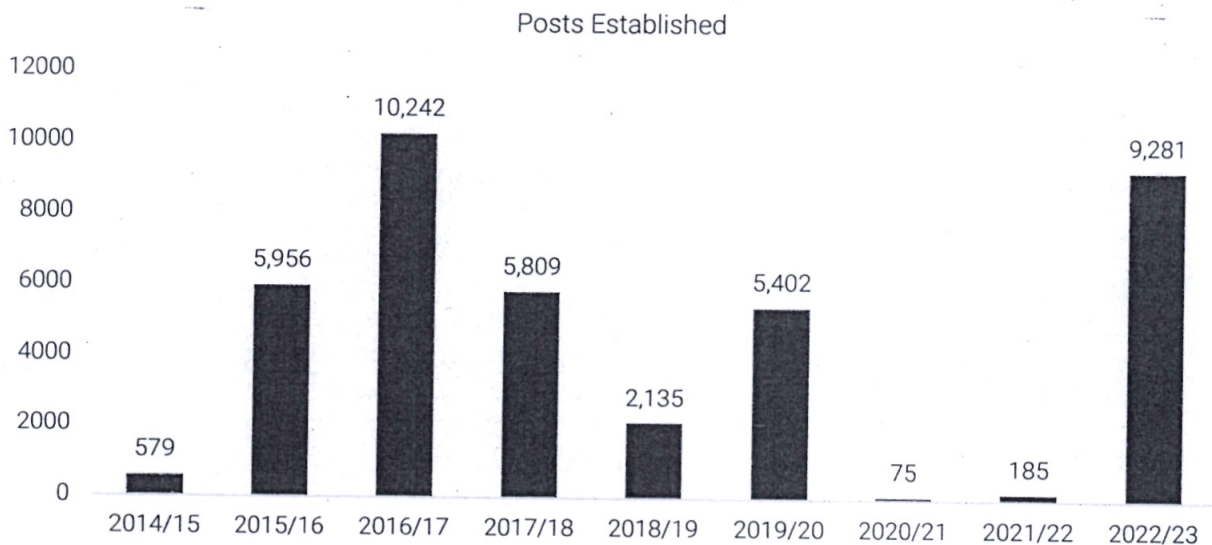
- Developed and reviewed organizational structures, grading and staff establishment for public bodies
- Based on the prevailing policy guidelines, the Commission undertakes reviews of grading structures for individual public bodies

The Commission receives and reviews requests for determination of staffing levels for public bodies

- Since 2011, the Commission has cumulatively received request and determined staffing levels for 175 public bodies.

16. Cumulatively, between FY 2014/205 and FY 2022/23, the Commission established a total of 39,664 posts in the public service. Figure 3.1 illustrates trends in the number of unique posts established in the public service over the period.

Figure 3.1: Number of Posts Established in the Public Service, FY 2014/205 - FY 2022/23



Appointments, Promotions and Re-designations

17. In this broad functional area, the Commission develops, reviews and issues policy guidelines on appointments, promotions and re-designation in the public service. Further, The Commission also delegates powers and functions on human resource matters to Authorized Officers. Table 3.2 presents narrative on status of

implementation of functions and specific achievements over the period under review.

Table 3.2: Status of Implementation of PSC Function on Appointments, promotions and re-designations

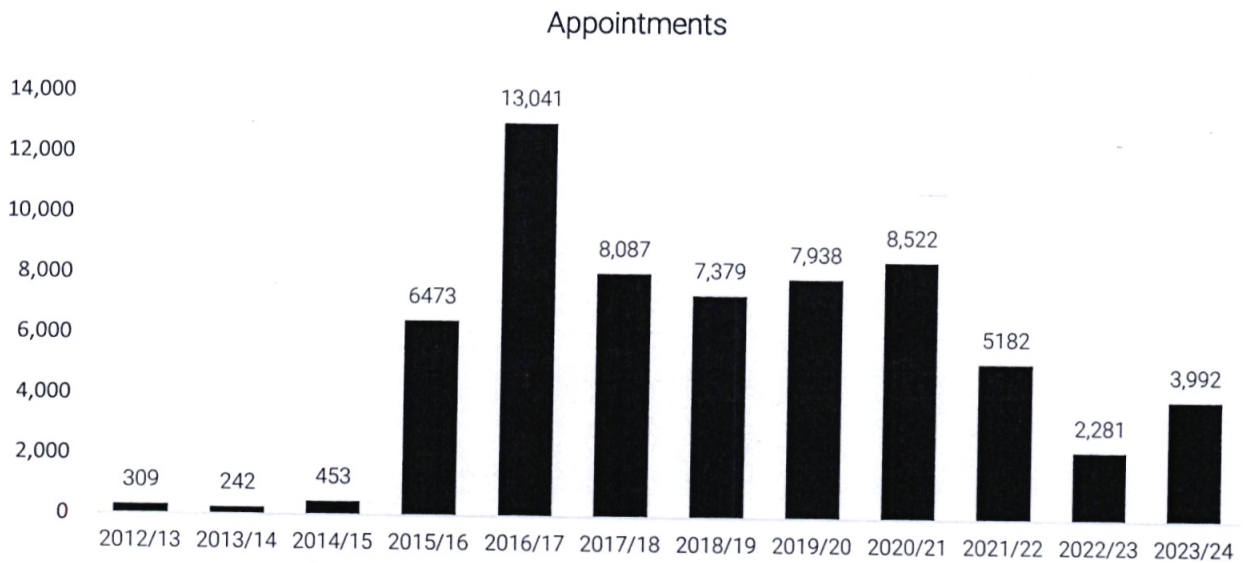
Status of implementation of key functions	Specific deliverables / achievements
The Commission has developed, reviewed and issued policy guidelines on appointments, promotions and re-designation in the public service	<ul style="list-style-type: none"> • Developed the Human Resource Policies and Procedures Manual for the Public Service 2016 to replace the previous Code of Regulations 2006 • Draft on recruitment and Selection Guidelines, 2025 • Draft guidelines for nomination of Vice-Chancellors, Principals and Deputy Principals of Public Universities and Constituent Colleges • Draft on Standard Operating Procedures for Recruitment and Selection • Promotion of various cadres and levels of officers in the public service through succession management initiatives and recruitment and selection process
<p>The Commission has reviewed policy guidelines on the delegated Human Resource powers and functions to Authorized Officers in MDAs.</p> <p>Note: The scope of delegated authority covers recruitment, promotion, re-designation, among other related HRM&D functions as may be determined by PSC.</p>	<ul style="list-style-type: none"> • The Commission has delegated some powers to Authorized Officers vide the Delegation Instrument on the Exercise of Human Resource Powers and Functions in the Public Service dated 23rd September, 2024 • Authorized Officers are responsible for promotion in Job grades 'CSG 17' to 'CSG 8', of officers within their jurisdiction subject to guidelines issued by PSC from time to time. • Promotions under delegated authority are processed considering the officer's demonstrable performance in addition to fulfilling other requirements prescribed in applicable career guidelines. • Authorized Officers on request, have powers to re-designate officers in grades 'CSG 17' to 'CSG 12' upon recommendation of HRMAC and in accordance with existing guidelines. • Re-designation of staff in 'CSG 11' and above remains the responsibility of PSC

Appointments

18. As illustrated on Figure 3.2, during the 12-year period spanning FY 2012/2013 to FY 2023/24, The Commission under took a cumulative total of 63,899 appointments. Peak

appointments were registered during FY 2016/17 (13,041), FY 2017/18 (8,087) and FY 2020/21 (8,522).

Figure 3.2: Appointment Trends, FY 2012/13 – FY 2023/24



Promotions

19. During the 12-year period spanning FY 2012/2013 to FY 2023/24, the Commission, cumulatively, made 57,122 promotions. Highest cases were registered during FY 2016/17 (7,860), FY 2020/21 (7,415) and FY 2022/23 (10,051). Figure 3.3 illustrates the promotion trends.

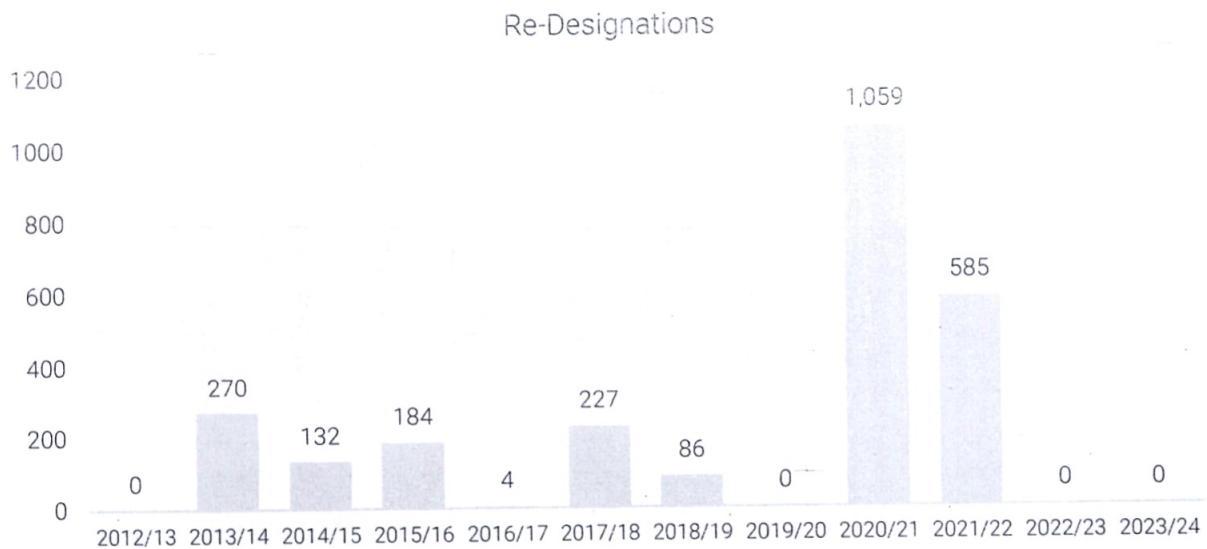
Figure 3.3: Promotion Trends, FY 2012/13 – FY 2023/24



Re-Designations

20. Cumulative, there were **2,547 re-designations** undertaken by the Commission over the period FY 2012/2013 to FY 2023/24. Typically, re-designations have lower frequencies compared to other appointments and promotions (Figure 3.4).

Figure 3.4: Re-Designation Trends, FY 2012/13 – FY 2023/24



Disciplinary Control

21. In this functional area, the Commission develops, reviews policies & regulations on disciplinary control as aligned with provisions of the Constitution, PSC Act 2017 and PSC Regulations 2020. Further, The Commission also determines discipline matters, appeals and application for reviews as guided by law and policy. Table 3.3 presents narrative on status of implementation of key disciplinary control functions and specific achievements over the period under review.

Table 3.3: Status of Implementation of PSC Function on Disciplinary Control

Status of implementation of Key Functions	Specific Deliverables / Achievements
Reviewed policies & regulations on disciplinary control and aligned with provisions of the Constitution, PSC Act 2017 and PSC Regulations 2020	<ul style="list-style-type: none"> Issued Discipline Manual 2022 for the Public Service

Reviewed the delegation instrument vide circular PSC/SEC/93/37/VOL.VI /140 dated 19.1.2023

- Delegated handling of discipline matters for officers in CSG 17 to CSG 8 to Authorized Officers except dismissals and reduction in rank for officers who had served for 15 years and above
- Authorized Officers to take initial disciplinary action for officers in CSG 7 and above including interdiction and suspension and forward to PSC for determination

Established a discipline & wellness department in the PSC Organisation Structure

- Revision of internal staff code of conduct

Issued various circulars on discipline matters to guide the service

PSC/ADM/13/63 dated 25.3.2025 on disciplinary process

PSC/ADM/13 /37 dated 16.12.2022 on Terminal Benefits on dismissal

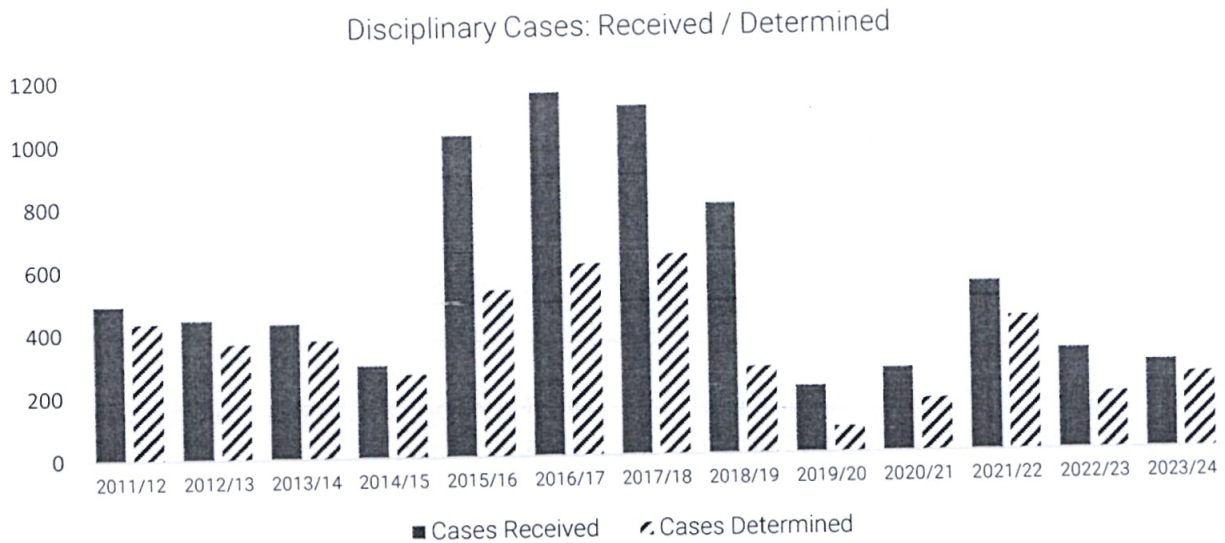
PSC.ADM/13 dated 25.4.2022 on handling disciplinary control

Determined discipline, appeal cases and application for reviews as guided by law and policy

A total of 278 cases were received out of which 238 were determined and finalized

22. During the 13-year period spanning FY 2011/12 – FY 2023/24, the Commission received a total of 7,348 appeal cases from MDAs out of which 4,576, constituting 62% had been determined. Trends illustrated on Figure 3.5 show that appeal cases peaked over the FY 2015/16 and FY 2018/19 period.

Figure 3.5: Trends MDA Appeals and Determination, FY 2011/12 – FY 2023/24



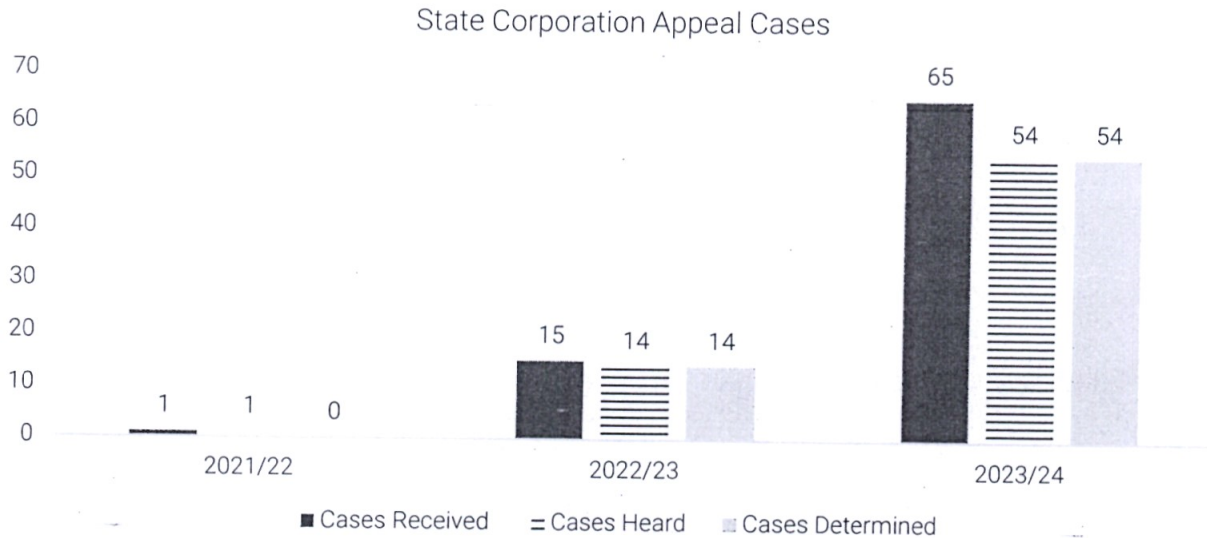
23. As part of the exercise of disciplinary control, the Commission receives, hears and determines appeals arising from State Corporations and Public Universities. The Commission has exercised this mandate as set out below. This function gained traction during FY 2020/21 after court pronouncements that affirmed the Commission's disciplinary control responsibility over state corporations (Table 3.4).

Table 3.4: Status of Implementation of PSC Function on Disciplinary Control

Status of Implementation of Key Functions	Specific Deliverables / Achievements
The Commission receives, considers, hears and determines appeals from State Corporations and Public Universities.	<ul style="list-style-type: none"> The Commission has considered and determined appeals from State Corporations and Public Universities.
The Commission has developed enabling legal instruments for handling disciplinary matters from State Corporations and Public Universities	<ul style="list-style-type: none"> The Commission has developed the PSC (State Corporations and Public Universities) (Disciplinary Appeals Procedures), 2025.

24. The 3-year period FY 2021/22 to F 2023/24 registered a total of 81 appeal cases from state corporations. Out of these, 69 cases, representing 85%, had been resolved (Figure 3.6).

Figure 3.6: State Corporation Appeals Cases Trends, FY 2020/21 – FY 2023/24



Promotion of Values and Principles

25. Promotion of Values and Principles is an overt outreach to create awareness through messaging, advertisements, publicity and campaigns amongst the public officers and citizens on the Constitutional Values and Principles. Through these outreach programmes, public officers and citizens, who are the key stakeholders in the implementation process are enabled to have a meeting of minds and common purpose in the adoption, observance and implementation of the values and principles for transformation of the Kenyan society.

26. The promotional programmes and activities are based on the prescribed strategies for promoting values and principles in the Commission's Framework on Implementation of Values and Principles 2015. The promotional programmes and activities include those mainstreamed into the organization's business processes, training on values and principles, civic education, media engagement through talk shows, print and social media. Others included sponsored activities, promotional activities through performing arts, artwork, sports and institutional awards for value carriers and drivers (Table 3.5).

Table 3.5: Status of Implementation of PSC Function on Promotion of values and Principles

Status of implementation of key functions	Specific deliverables / achievements
Support and sponsorship programmes	<ul style="list-style-type: none"> The Commission has sponsored trophies for the Drama and Music festivals
Training, civic education and sensitizations on Values and Principles	<ul style="list-style-type: none"> 18 training programmes and sensitizations conducted covering 10,814 officers drawn from over 600 institutions
Development of Promotional Manuals and Materials	<ul style="list-style-type: none"> Developed a Framework for the Implementation of Values and Principles in Articles 10 and 232 of the Constitution in the Public Service
Formulation of enabling legislation	<ul style="list-style-type: none"> The Commission participated in the development of the Public Service (Values and Principles) Act, 2015

27. Between FY 2016/17 and FY 2020/21, the Commission had only been able to undertake one promotion event for values and principles each year. During the FY 2022/23 the number of events increased significantly to five before declining to three during FY 2023/24 (Table 3.6).

Table 3.6: Trend in Promotion of values and principles, FY 2016 – FY 2023/24

Count Metric	Financial Year							
	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Promotion events undertaken	1	1	1	1	1	2	5	3
Institutions sensitized	215	274	298	305	426	477	523	585
Officers sensitized	424	501	298	639	600	1,300	2,052	5,000

28. The total number of organizations reached through sensitization increased two-fold, over a period of 4 years, from 215 during FY 2016/17 to 426 during FY 2020/21. By FY 2023/24 the number of organizations reached through sensitization programmes had increased to 585, representing an increase of 172% relative to the baseline of 215 (Table 3.6).

29. In terms of number of individual public officers reached, the scope of sensitization programmes has been on a steady rise. Over the 8-year period spanning FY 2016/17 to FY 2023/24, the number of individual officers reached by sensitization programmes increased exponentially by over 1000% from 424 to 5000 (Table 3.6).

Investigating, monitoring and evaluating the organisation administration and personnel practices of the public service

30. In this broad functional area, the Commission plays a number of key roles: (i) receiving, analyzing and investigating complaints on the organization, administration and personnel practice in the public service; (ii) receiving and analyzing yearly returns from Ministries and State Departments on the organization, administration and personnel practice in the public service; (iii) receiving, analyzing and approving shortlisting and selection reports on the delegated Human Resource powers and functions in the public service; and (iv) receiving quarterly returns from MDAs on the organization, administration and personnel practice in the public service (Table 3.7).

Table 3.7: Status of Implementation of PSC Function on Investigating, monitoring and evaluating the organisation, administration and personnel practices

Status of implementation of key functions	Specific deliverables / achievements
<p>The Commission receives, analyzes and investigates complaints on the organization, administration and personnel practice in the public service</p>	<ul style="list-style-type: none"> • The Commission handles complaints lodged by known individuals, MDAs or anonymous sources for purposes of promoting good public sector governance, efficiency and effectiveness: <ul style="list-style-type: none"> ◦ Investigations were conducted in public institutions following court orders: County Government of Garissa, KPA, CAK. ◦ Investigations were conducted in public institutions following complaints from individuals, MDAs or anonymous sources to the Commission: Sports, EAC, Tourism, Wildlife, KWS, REREC, etc. ◦ The Commission will undertake audits/site visits to collect all documentary evidence and exhibits to support/better understand the case: NACOSTI, KPLC, KARLO, KASNEB, KDIC and Witness Protection Agency • The Commission also handles complaints:

- From CAJ on various matters e.g. maladministration of the HR function, harassment, discrimination, unfair labour practices, delay in salary payments, delay in issuance of personal number, wrongful grading, deployments, etc.
- That do not fall under its purview/mandate e.g. complaints on abuse of office, corruption/bribery, forgery/impersonation so as to be appointed as chief), etc. Such complaints were referred to competent bodies e.g. EACC, DCI etc., to investigate and finalize
- Addressed to other public organizations (e.g. CAJ, EACC, DCI, etc.), but copied to PSC to note. Such complaints were noted and recorded.
- The Commission has developed an enabling instrument i.e. the *Workplace Investigation Standards and Procedures Manual (2016)*. The Manual provides the standard guidelines, procedures, code of conduct for investigators, and institutional framework for conducting workplace investigations in the Public Service

The Commission receives and analyzes yearly returns from Ministries and State Departments on the organization, administration and personnel practices in the public service

- The Commission conducts annual compliance audits and reports on discharge of the human resource function by Ministries and State departments
- The Commission has developed an enabling instrument i.e. the *Compliance Audit Standards and Procedure Manual (2016)*. The Manual spells out the standards, process, and code of conduct. Further, it has provided the responsibilities of the actors in compliance audit and the audit instruments

The Commission receives, analyzes and approves shortlisting and selection reports on the delegated Human Resource powers and functions in the public service

- The Commission undertakes quarterly compliance auditing and reporting on the delegated human resource powers and functions in the public service
- The Commission has developed an enabling instrument i.e. the Delegation Instrument on the Exercise of Human Resource Powers and Functions in the Public Service. The Delegation Instrument provides the scope of delegated authority and norms including standards for Human Resource Management and Development in the Public Service. It is expected to enhance efficiency, effectiveness and accountability in the management and development of Human Resource by ensuring that public officers are accountable to the Authorized Officer

The Commission receives quarterly returns from MDAs on the organization, administration and personnel practice in the public service

- The Commission undertakes quarterly monitoring evaluation and reporting on the implementation of its decisions resulting from organization, administration and personnel practice in the public service
- The Commission has developed a Monitoring, Evaluation and Reporting Procedures Manual (2017). The Manual outlines the key principles, processes and procedures that underlie an effective monitoring, evaluation and reporting framework

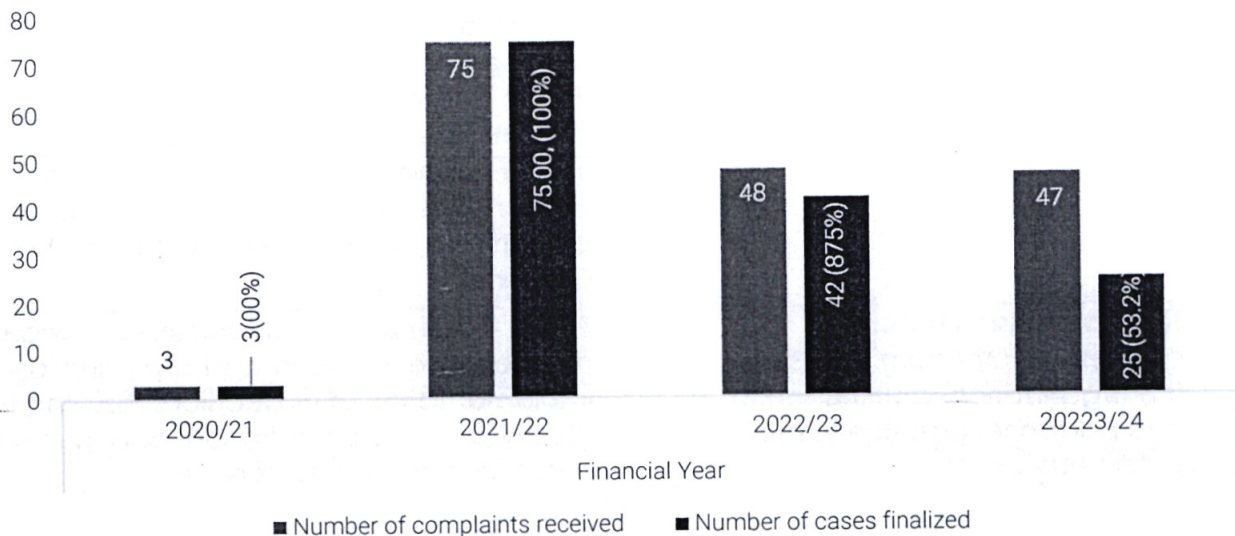
31. A cumulative total of 173 complaints were received over the four-year period FY 2020/21 and FY 2023/24. Out of the complaints received, 145 case, representing 84% were finalized (Table 3.8).

Table 3.8: Complaints Trends, FY 2020/21 - FY 2023/24

Count	Financial Year			
	2020/21	2021/22	2022/23	20223/24
Number of complaints received	3	75	48	47
Number of cases investigated	3	75	48	47
Number of agencies investigated	3	60	42	47
Number of cases finalized	3	75	42	25
	100.0	100.0	87.5	53.2

32. Year by year efficiency in the resolution of complaints was appreciably high over the first 3 years of the 4-year period under review. While all cases were resolved in the first two FYs, the resolution rate was 86% in FY 2022/23, compared to 53% for FY 2023/24 (Figure 3.7).

Figure 3.7: Comparison Between Complaints Received Vs Complaints Resolved, FY 2020/21 - FY 2023/24



Efficiency and effectiveness in the Public Service

33. The Commission is constitutionally mandated to promote an efficient and effective public service, as anchored in Article 234(2)(e) of the Constitution of Kenya, 2010. This Article entrusts the Commission with the responsibility of ensuring that public services are delivered to citizens in a manner that is timely, professional, responsive, and results-oriented. To operationalize this constitutional responsibility, key legal and regulatory instruments are in place that define, empower and operationalize its functions. These include: The Public Service Commission Act, 2017, The PSC Regulations, 2020 and The Public Service Commission (Performance Management) Regulations, 2021.

34. These legal instruments provide a structured and participatory approach to performance management across public institutions. They provide a framework for: citizen feedback on their needs; identifying and implementing programmes and services that will meet those needs; ensuring that policies, strategies, and services are

aligned; supporting accountability, both within the organization and to the public; and encouraging citizen involvement in decision-making processes. The Commission thus sets service delivery standards for the public service; publicize citizen service delivery charters to foster transparency and inform the public of service expectations and commitments, and determine citizen satisfaction levels

35. In efforts to ensure efficiency and effectiveness in the public service, the Commission, among other things undertakes the following measures: Determination of citizen delivery satisfaction level; Setting of service delivery standards; Monitor implementation of service charters; Determination of citizen service delivery satisfaction levels; Assessment of internal processes; Formulation of performance Management Guidelines; Staff Performance Appraisal; and Public Service Excellence Awards (PSEA) (Table 3.9).

Table 3.9: Status of Implementation of PSC Function on Efficiency and effectiveness

Status of implementation of key functions	Specific deliverables / achievements
Determination of citizen delivery satisfaction level	<ul style="list-style-type: none"> The Commission conducted a baseline citizen satisfaction survey in FY 2015/2016. Satisfaction index was 42.6 In FY 2023/2024 the Commission conducted a customer satisfaction survey in 29 sampled counties and impact evaluation on implementation of values and principles. Customer satisfaction index was 79.
Setting of service delivery standards	<ul style="list-style-type: none"> The Commission standardised timelines for the common services and issued a circular in September 2023 instructing all public institutions under its jurisdiction to review their service charters and adopt the standardized timelines for common services. Phase two on standardization of core services could not progress due to budgetary constraints
Monitor implementation of service charters	<ul style="list-style-type: none"> This has been undertaken consistently through the evaluation of public service compliance with values and principles and through the Performance Contracting platform.
Determination of citizen service delivery satisfaction levels	<ul style="list-style-type: none"> A survey was conducted in 2023/2024, and online surveys were undertaken in 2021/22 and 2022/23. Inadequate resources have

	hindered the ability to conduct these surveys annually.
Assessment of internal processes	<ul style="list-style-type: none"> • Applied Business Process Reengineering (BPR) and Rapid Results Initiatives (RRI) to improve service delivery: • Cleared 10,000+ backlog pension cases (some dating back to 2008), disbursing over Ksh. 40 billion. • Trained 70 officers from 30 MDAs on BPR. • Reviewed and reengineered processes at the Pensions Department, Teachers Service Commission, Postal Corporation of Kenya, Directorate of Immigration Services, and State Department for Planning.
Formulation of Performance Management Guidelines	<ul style="list-style-type: none"> • Continuous collaboration with the Public Service Performance Management Unit to review and disseminate Performance Contract (PC) guidelines.
Staff Performance Appraisal	<ul style="list-style-type: none"> • Develop and review Staff Performance Appraisal System (SPAS) Guidelines • Initiated the review of the 2016 SPAS Guidelines • The FY 2023/2024 Consolidated Annual Performance Appraisal Report is currently under preparation. • Continuous monitoring of implementation of SPAS
Public Service Excellence Awards (PSEA)	<ul style="list-style-type: none"> • Recognized 15 public officers during the 2019 Public Service Excellence Awards (PSEA) under the themes: Citizen-Focused Service Delivery, Public Service Values and Ethics, and Innovation for Efficiency and Productivity • Implementation of the PSEA Scheme is ongoing.

36. Key Measures of efficiency and effectiveness of the public service include Customer satisfaction, PC scores index, Public service productivity index, Citizen satisfaction; Budget absorption rates. A country-wide survey carried out by PSC in 2016, established a citizen satisfaction index of 42.6%. Whereas the conduct of annual citizen satisfaction surveys is ideal, they are cost intensive thus requiring ring-fenced budget provisions.

Human Resource Development in the Public Service

37. At the time of this report, the role of the Commission under this function has remained largely regulatory. Key functions include: Development, issuance and review of policy guidelines, manuals and Standards on Human Resources Development in the Public Service; Capacity Building for PSIP mentors; and issuance of Circulars on HR policy matters (Table 3.10).

Figure 3.10: Status of Implementation of PSC Function on Human Resource Development

Status of Implementation of Key Functions	Specific Deliverables / Achievements
Development, issuance and review of policy guidelines, manuals and Standards on Human Resources Development in the Public Service	<ul style="list-style-type: none"> • Developed the Human Resources Development Policy for Public Service in 2015 • Developed Guidelines for Managing training in the Public Service in 2017 • Developed Induction Handbook for the Public Service in 2017 • Developed Internship Policy and Guidelines for the Public Service in 2016 • Developed Guidelines for Management of Public Service Internship Programme in 2019 • Enrolled 29,818 interns under PSIP since inception in 2019 to date
Capacity Building for PSIP mentors	<ul style="list-style-type: none"> • Capacity building for 400 Mentors and Coaches from 150 MDAs under PSIP;
Circulars HR policy matters	<ul style="list-style-type: none"> • Issuance of circulars to guide on PSIP and authentication of certificates

38. Key metrics in the determination of extent to which the Commission has discharged this mandate would include: number of projected trainings, number of officers trained and trends in training budgets across MDAs. However, given the operational fragmentation in the implementation of trainings across the Service, no data were available.

Qualifications and Code of Conduct

39. Key roles played by the Commission under this function include: development, issuance and review of policy on career management in the Public Service; issuance of norms and standards on career management in the Public Service; and receiving requests for development and review of career guidelines from public bodies, processing the requests and issuing career guidelines (Table 3.11).

Figure 3.11: Status of Implementation of PSC Function on Qualifications and Code of Conduct in the Public Service

Status of implementation of key functions	Specific deliverables / achievements
The Commission develops, issues and reviews policy on career management in the Public Service.	<ul style="list-style-type: none"> The Commission has embarked on the development of Policy on Career Management in the Public Service
The Commission issues norms and standards on career management in the Public Service	<ul style="list-style-type: none"> Norms and Standards on Career Management issued to public bodies in the form of circular decision letters, sensitization forums etc from time to time.
The Commission receives requests for development and review of career guidelines from public bodies, processes the requests and issues career guidelines	<ul style="list-style-type: none"> The Commission develops and issues career progression guidelines to MDAs and State Corporations on need basis.

Terms and Conditions of Service

40. Commission functions on matters of terms and conditions of service were anchored on: Development of Framework for Review of Terms and Conditions of Service in the Public Service, 2016; Development of the Human Resource Policies and Procedures Manual for the Public Service, 2016; undertaking two cycles of Job Evaluation exercise in collaboration with SRC; and Review of salaries and Remuneration in consultation with the SRC (Table 3.12).

Figure 3.12: Status of Implementation of PSC Function on Qualifications and Code of Conduct in the Public Service

Status of implementation of key functions	Specific deliverables / achievements
Developed Framework for Review of Terms and Conditions of Service in the Public Service, 2016	<ul style="list-style-type: none"> • Conversion of the grading structure from 21-Tier to 17-Tier in 2019
Developed the Human Resource Policies and Procedures Manual for the Public Service 2016	<ul style="list-style-type: none"> • Human Resource Policies and Procedures Manual for the Public Service issued to the service in 2016 and has been the basis for management of human resources. The Manual is currently under review
Job Evaluation exercise carried out twice	<ul style="list-style-type: none"> • Job Evaluations undertaken in collaboration with SRC
Reviews of salaries and Remuneration undertaken in consultation with the SRC	<ul style="list-style-type: none"> • Salary Reviews undertaken (reviewed salary structures) for public service, the latest being w.e.f. 1st July 2024 • Salary structures were implemented

Evaluation and Reporting on Compliance with Values and Principles

41. The Commission is mandated under Article 234(2) (h) to evaluate and report to the President and Parliament on the extent to which the values and principles mentioned in Articles 10 and 232 are complied with throughout the public service. Table 3.13 outlines some of the specific achievements registered by the Commission under this function.

Table 3.13: Status of Implementation of PSC Function on Evaluation and reporting on compliance with values and principles

Status of implementation of Key Functions	Specific Deliverables / Achievements
Evaluation of Values and Principles in the Public Service.	<ul style="list-style-type: none"> • The Commission has developed 12 reports on the status of compliance on Values and Principles in the public service. It has also evaluated over 550 public institutions as part of the reports.

Reporting to the President and Parliament on the extent to which the Values and Principles have been complied with.

- The Commission has submitted 12 reports to the President and Parliament since 2013.

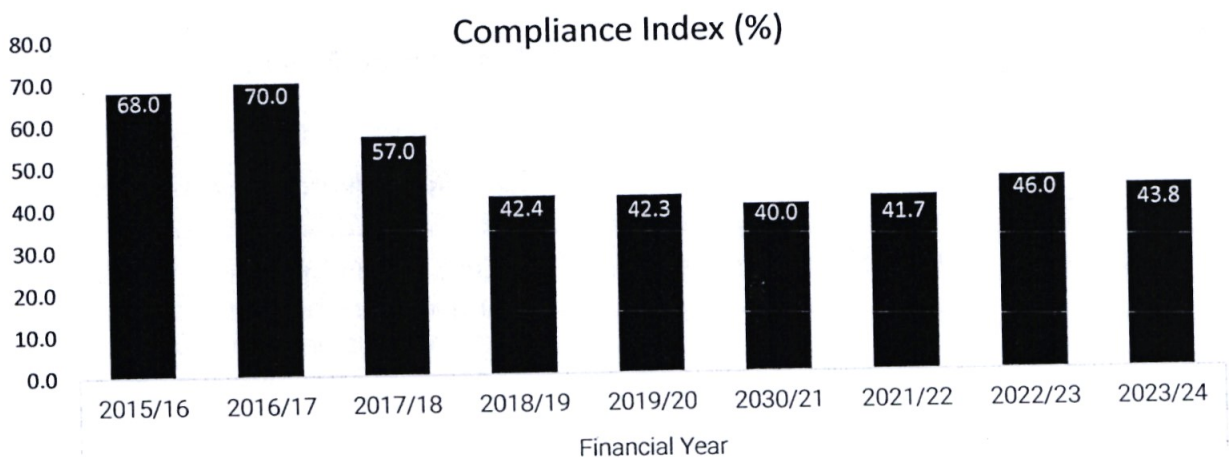
42. Between FY 2012/13 and FY 2015/16, the number of MDAs evaluated under compliance with values and principles in Articles 10 and 232 had declined by 47% from 335 to 178. From FY 2015/16, the number of institutions participating in the evaluation increased steadily to peak at 523 in FY 2022/23. FY 2023/24 however saw a marginal decline of 3% (Table 3.14).

Table 3.14: Trends in MDA Participation in Compliance Evaluation, FY 2020/21 - FY 2023/24

	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Number of MDAs Evaluated	335	249	243	178	185	251	281	291	426	477	523	508
Compliance Index (%)	-	-	-	68.0	70.0	57.0	42.4	42.3	40.0	41.7	46.0	43.8

43. Relative to the compliance levels registered during FY 2015/16 (68%) and FY 2016/17 (70%), the compliance index had been on a general declining trend. The index remained below the 43% mark between FY 2018/18 and FY 2021/22 (Figure 3.8).

Figure 3.8: Values and Principles Compliance Trends, FY 2016/17 - FY 2023/24



County Appeals

44. Under Article 234 (2) (i) of the Constitution, the Commission has the mandate of hearing and determining appeals in respect of county government public service. Table 3.15 outlines how the Commission has implemented this mandate.

Table 3.15: Status of Implementation of PSC Function on County Appeals

Status of implementation of key functions	Specific Deliverables / Achievements
The Commission receives, considers, hears and determines appeals arising from the county government public service.	<ul style="list-style-type: none"> The Commission has considered and determined appeals from the county governments public service.
Develop Regulations and procedures for the hearing and determining of appeals.	<ul style="list-style-type: none"> The Commission developed the Public Service Commission (County Appeals Procedures) Regulations, 2016. The Commission developed the revised Public Service Commission (County Appeals Procedures) Regulations, 2022.

45. Over the 3-year period spanning FY 2021/22 and FY 2023/24, the Commission had received a total of 366 appeals from the counties. In comparison, 327 cases had been determined of the same period. Processing efficiency of appeals remained high at an overall of 89% (Table 3.16).

Table 3.16: County Appeals Trends, FY 2021/22 - FY 2023/24

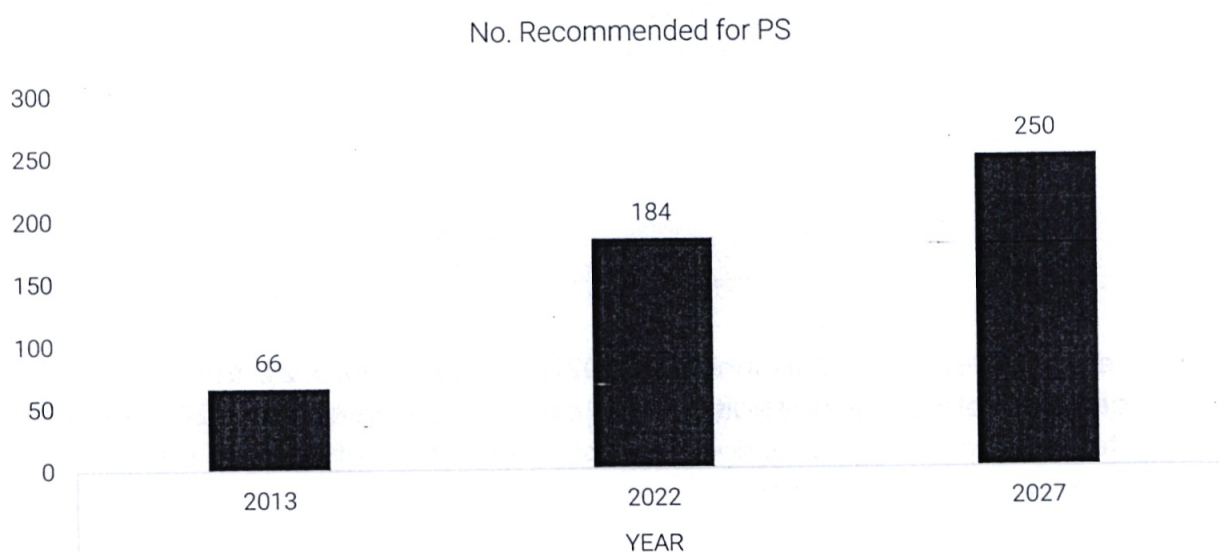
Count Metric	Financial Year		
	2021/22	2022/23	2023/24
Number of cases received	105	129	132
Number of cases determined	105	125	97
Number of applications for review received	8	23	26
Number of applications for review determined	8	22	21

Other Functions Under the Constitution

Article 155(3) (a): Recommendation of Principal Secretaries for Appointment

46. Under Article 155(3) (a), the President shall: Nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission. The Commission nominated 66 persons in 2013/14; 184 persons in 2017/2018 and 250 persons in 2022/2024 for appointment by the President as Principal Secretaries in various Ministries State Departments (Figure 3.9).

Figure 3.9: Trends in Number of Persons Recommended for Appointment as Principal Secretaries



Article 158 (2): Petitions for the Removal of the Director of Public Prosecutions

47. Article 158 (2) of the Constitution provides that a person desiring the removal of the Director of Public Prosecutions may present a petition to the Public Service Commission which, shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Director. Further, Article 158 (3) of the Constitution provides that the Public Service Commission shall consider the petition and, if it is satisfied that it discloses the existence of a ground under clause (1), it shall send the petition to the President.

48. Whereas the Commission has received petitions for the removal of the DPP over the years, none of the petitions have been handled to conclusion for the last 6 years due

to court orders or the withdrawal of the petitions by the Petitioners. In addition, the Commission developed Regulations to handle the petitions in the year 2017. In 2024, the developed draft revised Regulations on the removal from office of the DPP, the same has however been stayed by the court (Table 3.17).

Table 3.17: Status of Implementation of PSC Function on Removal of the Director of Public Prosecutions

Status of implementation of key functions	Specific deliverables / achievements
The Commission receives petitions for removal of the DPP.	<ul style="list-style-type: none"> The Commission has received petitions for the removal of the DPP.
Formulation of enabling Regulations	<ul style="list-style-type: none"> The Commission has developed Regulations in 2017. The Commission has developed draft revised Regulations which have been stayed by the court.

Article 171 (1) (2): Nomination of PSC Representative to the Judicial Service Commission

49. Article 171 (1) (2) provides for the nomination of one member by the Public Service Commission to represent it in the Judicial Service Commission (JSC). Under this provision, the Public Service Commission has since 2012 made three nominations to the JSC. The next nomination is expected to be made in 2027.

Article 230(2)(b): Nomination of PSC Representative to the Salaries and Remuneration Commission

50. Article 230(2)(b) provides for the nomination of one person who is not a member of the Public Service Commission to represent it in the Salaries and Remuneration Commission (SRC). The Public Service Commission has since 2013 nominated two persons to represent it in the SRC and is in the process of nominating a presentative under this provision to fill a current vacancy.

Article 236: Protection of public officers

51. Article 236 provides that a public officer shall not be: (a) victimised or discriminated against for having performed the functions of the office in accordance with this Constitution or any other law; or (b) dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due process of law.

52. Primarily, the Commission has discharged this mandate through its oversight role in handling appeals and applications for reviews by public officers and through handling other complaints received from public officers on disciplinary matters and through handling other complaints received from public officers. It is however clear that more pre-emptive interventions in this mandate area need to be designed and rolled out by the Commission.

PSC Functions under Schedule 4 of the Constitution: Provision of Technical Support to Counties

53. In line with the provisions of Fourth Schedule to the Constitution of Kenya, the Commission continues to provide technical support to counties. At the start of devolution in 2013, the Commission played a crucial role in helping counties establish functional structures. Beyond the development of capacities of counties through trainings, the Commission seconded staff to assist counties in setting up. The Commission also continues to support counties' trainings on key aspects of human resource management and development and related policies (Table 3.18).

Table 3.18: Status of Implementation of PSC Function on Provision of technical support to counties

Status of implementation of key functions	Specific deliverables / achievements
Provision of technical support to counties	<ul style="list-style-type: none"> • Capacity building on organization, administration and personnel practices in the county public service. • Sensitization to 47 County Public Service Boards on: <ul style="list-style-type: none"> ○ Disciplinary procedures and the Public Service Commission (County Appeals Procedures) Regulations, 2022 ○ Board management ○ Organizational design and development ○ Career management ○ Human resource policies and guidelines • Sensitization of Human Resource Advisory Committees in MDAs on management of the HRM&D function in the service

CHAPTER 4: INSTITUTIONAL CAPACITY OF THE COMMISSION

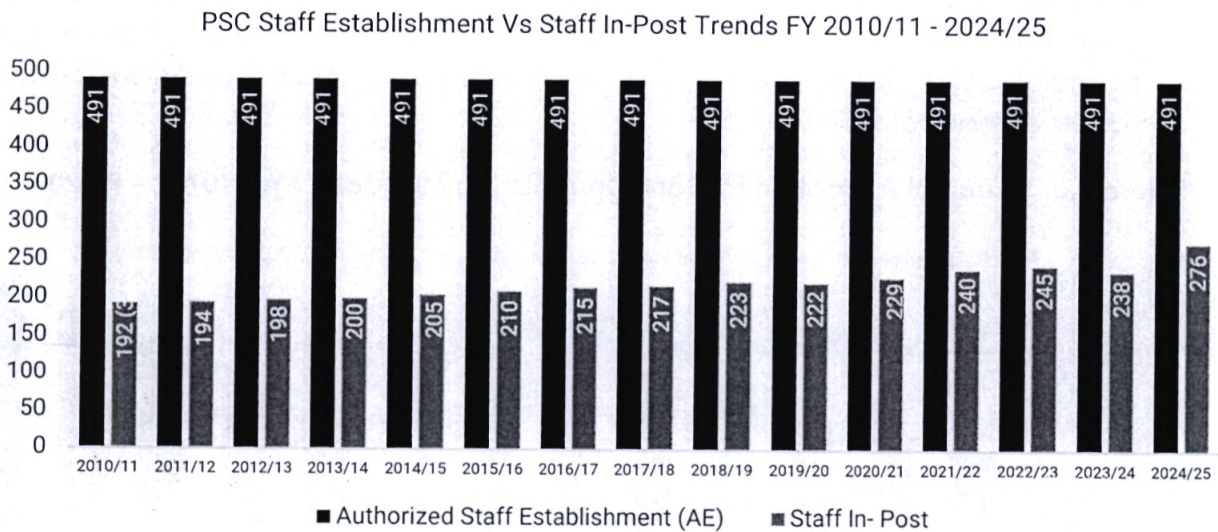
54. In this section, the report reviews overall institutional capacity of the Commission to deliver on its mandate. The analysis employs three main metrics; people, finances and systems. It presents analysis on trends and the current condition of the Public Service Commission in terms of its institutional delivery capacity factors that include people, finances and budgets, facilities and equipment, and systems.

Staffing

Staff In-Post

55. Staffing Trends in Figure 4.1 illustrate that between FY 2010/11 and FY 2017/18, the number of staff in-post remained less than half of the establishment. The number of staff in-post has been on a gradual increasing trend over the period under review. However, the number of unfilled positions remains significantly high.

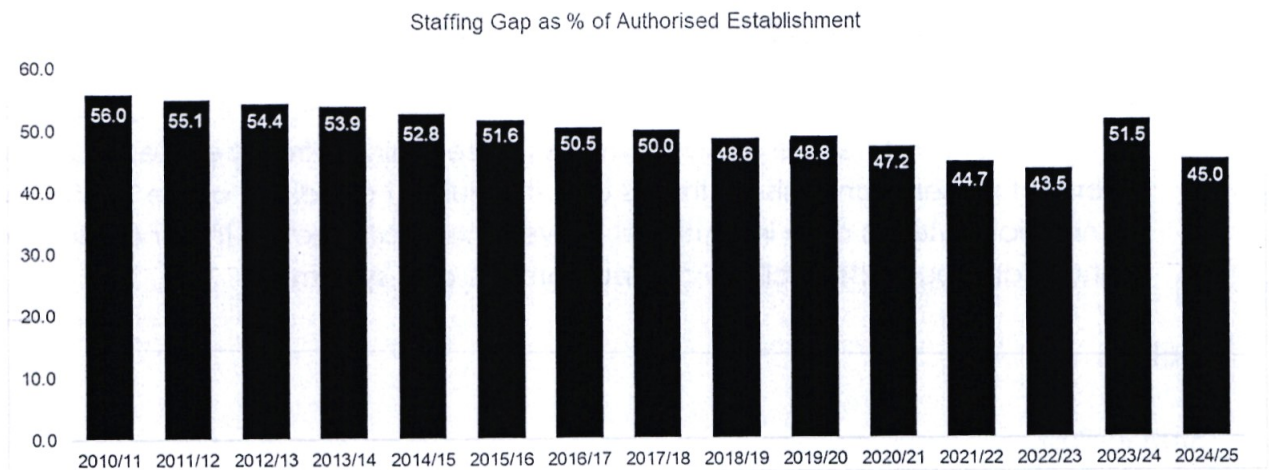
Figure 4.1: PSC Staff Establishment Vs Staff In-Post Trends FY 2010/11 – FY 2024/25



Staffing Gap as Proportion of Approved Establishment

56. As illustrated on Figure 4.2, staff Gap as Proportion of Approved Establishment has been on decline from a high of 56% in FY 2010/11 to 45% in FY 2024/25. This suggests a gradual strengthening of the Commission's staff complement. However, at 45% the 2024/25 data implies that staffing gaps at the Commission still remains significant at a level that profoundly and adversely impacts performance and delivery.

Figure 4.2: Staffing Gap as Proportion of Approved Establishment, FY2010/11 – FY 2023/24

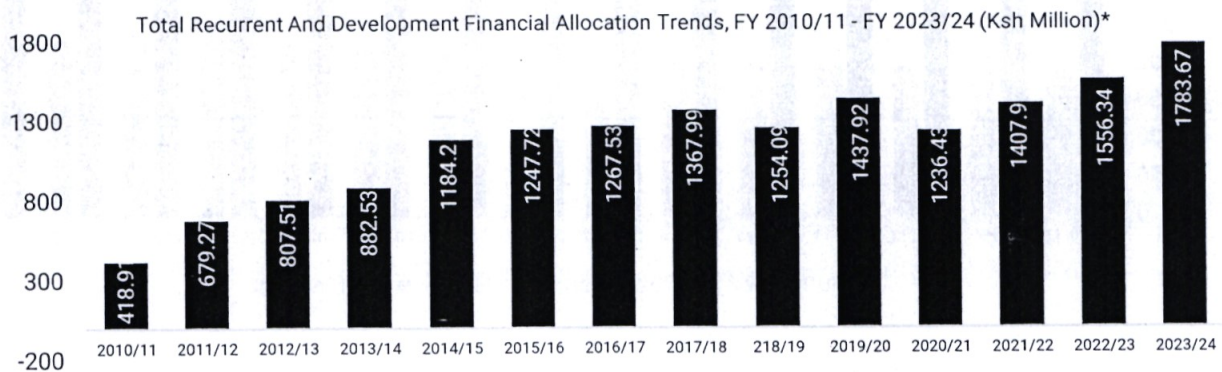


Finances

Financial Resourcing for Core Commission Mandate

57. The overall budget allocation to Commission core mandate functions has grown from Ksh 418.9 Million during FY 2010/11 to 1,783.7 during FY 2023/24. While this increase looks significant in absolute terms, it only reflects an average annual increase of 17% over the 13-year period. As demonstrated in this report, the level of increase in financial resourcing of the Commission remains disproportionately low relative to scope of mandate (Figure 4.3).

Figure 4.3: Financial Allocation to Core Commission Mandate, FY2010/11 – FY 2023/24



Key: * Budget Allocation to Commission functions excluding PSIP

Facilities, Equipment and Infrastructure

58. To ensure a conducive work environment, the Commission has implemented various projects and initiatives. These included the expansion of office space through the

construction of a seven storey office block for Commissioner's offices together with basement parking, an additional 5th floor at the top of the old Commission House; procurement of work equipment and tools, including desktop computers, laptops, printers, and office furniture; and refurbished the PSC offices at Commission House and Bruce House.

59. However, despite these investments, the Commission still remains acutely under-resourced in terms of facilities, equipment and infrastructure. At the time of this report, the Commission was yet to purchase vehicles, laptops and other work-related accessories for the new commissioners. Secretariat staff faced similar predicaments characterised by inadequate computers, office space and lack of basic office supplies.

Key Capacity Metrics

60. Trends on availability of budgets for core Commission programmes and activities show erratic financial allocation to the Commission's core mandate areas. Within limits of data availability, the analysis focuses on three metrics: (i) Nominal Per Capita Budget Allocation to Core Mandate of the Commission; (ii) Real Per Capita Allocation to Core Mandate of the Commission; (iii) Per Capita Budget Allocation to the Promotion of Values and Principles.

Nominal Per Capita Budget Allocation to Core Mandate of the Commission

61. The nominal per capita budget allocation to the core mandate of the Commission is computed as a quotient between the total budget allocated in a financial year and the number of MDAs that the Commission is responsible for on mandate delivery. While this metric gives the average amount of money that can be spent on each MDA in the discharge of Commission mandate, it remains an inaccurate metric in measuring real Commission capacity since some Ksh 2 billion is exclusively budgeted for the PSIP. In actual numbers, at Ksh 2 billion, PSIP is the single biggest budget programme on Commission financial books. Its allocation remains bigger than total allocation to all other mandate areas of the Commission.

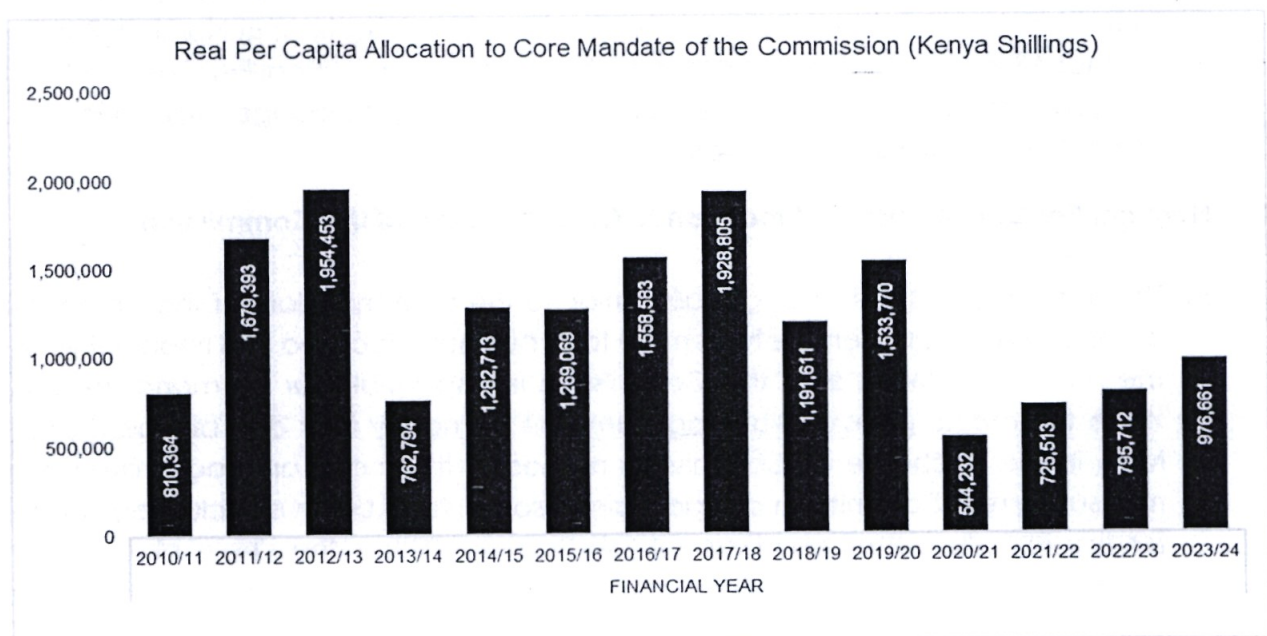
Real Per Capita Allocation to Core Mandate of the Commission

62. The real per capita budget allocation to the core mandate of the Commission is computed as a quotient between the amount of budget allocated to the core mandate in a financial year and the number of MDAs that the Commission is

responsible for on mandate delivery. In terms of Commission capacity to deliver on mandate, the real per capita budget allocation is the more accurate measure of PSC's ability to actually finance programmes and activities under its core mandate.

63. Over the past 14 financial year cycles, real budget per capita trends can be categorised into 5 transition trends. The first phase was characterised by a 141% increase from FY 2010/11 (Ksh 810,364 Million) to FY 2012/13 (Ksh 1,954,453 Million). The second transition was characterised by a 61% decline from FY 2012/13 to FY 2012/3 (Ksh 762,794 Million). The third transition saw a gradual increase of 153% between FY 2012/13 and FY 2017/18 (Ksh 1,954,453 Million). Real per capita allocation was lowest during the FY 2020/21 (Ksh 544,322 Million) was partly attributable to major government budget cuts arising from the adverse economic effects of Covid-19 (Figure 4.4).

Figure 4.4: Real Per Capita Budget Allocation to Core Mandate of the Commission – FY 2010/11 – FY 2023/24

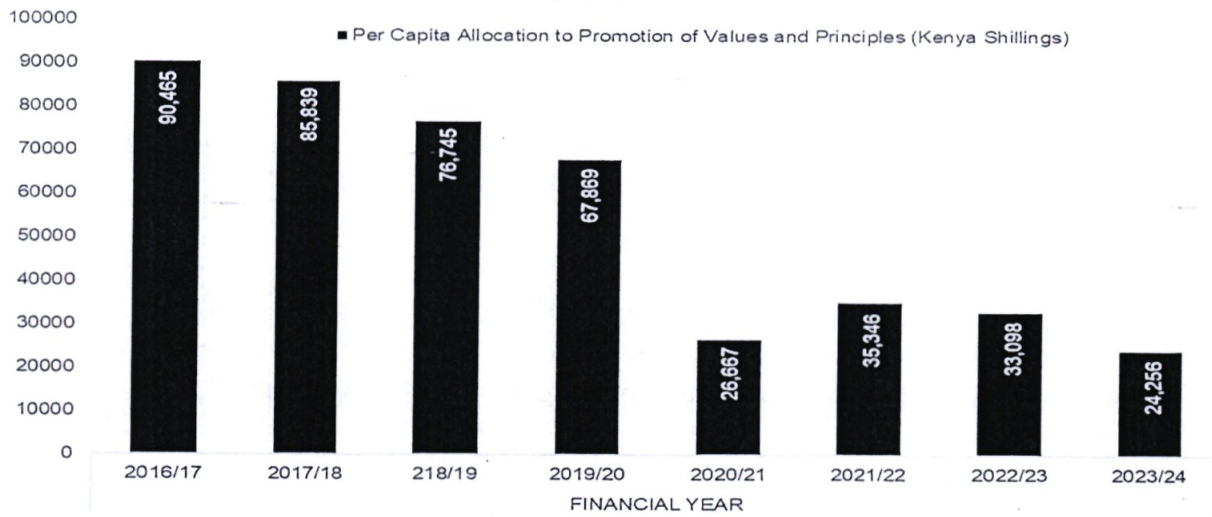


Per Capita Budget Allocation to the Promotion of Values and Principles

64. As illustrated on Figure 4.5, per capita allocation to the promotion of values and principles of public service had a general declining trend over the 8-year period. Between FY 2016/17 and FY 2023/24, the allocation declined from Ksh 90,465 to Ksh

24, 256. This trend suggests increasing financial strain at the Commission that impedes effective promotion of the values and principles.

Figure 4.5: Per Capita Allocation to Promotion of Values and Principles



CHAPTER 5: IMPEDIMENTS TO THE DISCHARGE OF COMMISSION MANDATE

65. In the process of discharging its mandate, the Commission has faced myriad impediments. This section highlights the constraints faced under the following categories: (i) Constraints Related to Mandate; (ii) Facility Constraints; (iii) Legal constraints; and (iv) Remoteness and marginalization.

Constraints Related to Mandate

66. These represented largely structural impediments to the ability of the Commission to discharge its mandate more effectively. While most of these impediments are explained by external factors some represent a combination of both external and internal factor.

Encroachment on the Commission mandate by Public agencies

67. The State Corporations Advisory Committee (SCAC) and the Inspectorate of State Corporations have consistently encroached on the constitutional and statutory mandate of the Commission over the management of human resources in state corporations and public universities. The most recent encroachment was the issuance of Guidelines for Management of State Corporations, issued vide an Executive order published in the Gazette on 3rd June 2024. The Courts have declared that the Commission is responsible for reviewing Human Resource instruments for state corporations. Despite this, SCAC continues undertaking the Commission functions in contravention of existing court decisions. Two pending court cases touch on the question of SCAC encroachment on the Commission mandate.

68. The Salaries and Remuneration Commission's mandate over public officers is to advise on remuneration and benefits. This advice is supposed to be given to PSC as the employer of public officers. However, the SRC has consistently given advice directly to agencies that fall under the mandate of the PSC, thereby distorting remuneration in the public service and intensifying discrimination, unfairness and inequity. Only the PSC has the power to determine the remuneration and benefits of public officers upon advice from the SRC. SRC has no power to determine remuneration and benefits in the public service.

69. In May 2024, Parliament passed a State Law (Miscellaneous Amendment) Bill, which gave the Commission's powers of establishment of offices and appointment of persons in the office of the Attorney General to an Advisory Board. This was deemed

as an outright unconstitutional action that went contrary to the wishes of the people of Kenya. A petition challenging the said amendments has since been determined by the Employment and Labour Relations Court which confirmed the mandate of the Commission over the Office of the Attorney General. A similar petition is pending determination before the High Court.

Limited Financial Allocation Relative to Expanded Mandate

70. The annual budget allocations for the Commission over the years has not been adequate to fund the projected annual programmes/activities. For instance, during the FY 2023/24 Budget Sector (Planning, Administration & International Relations - PAIR) retreat, the Commission presented a resource requirement of Kshs. 5,610.2 million to implement its five (5) programmes. However, only Ksh 3,667.53 million was allocated leaving a financing deficit of Ksh 1,942.67million.
71. Budget cuts directed by the Government in the course of budget implementation have adversely affected implementation of planned programmes. The budget deficit has further been aggravated by expanded mandate of the Commission that covers 40 public universities, 300 state corporations and 227 TIVET institutions.

Acute Understaffing at Commission Secretariat

72. Primarily, the current levels of understaffing at the Commission is due to limited budgets. As demonstrated under institutional capacity, the Commission is currently experiencing staffing capacity gap of 45% in the face of an expanded mandate, as outlined:
- i). **Recruitment for public universities, constitutional commissions, and other statutory bodies:** The Commission's recruitment mandate was expanded to include senior management positions in public universities, constitutional commissions, and other statutory bodies.
 - ii). **Technical and Vocational Education and Training (TVET) functions:** This function was transferred from the Teachers Service Commission to PSC in 2018. However, no additional resources were allocated to PSC. Currently, there are 230 TVET institutions and 24 National Polytechnics. To enable the Commission to undertake these functions, additional resources are required to effectively discharge the added TVET functions. With adequate resources, the Commission plans to move quickly to start developing HR instruments for these institutions that will address their current organizational challenges and improve their operations. In addition, the Commission will continue to investigate the welfare of the trainers, particularly the promotion of officers who have stagnated in one position for a long time.

- iii). **Administration of county, university and state corporations appeals and Court litigation under Administration of Quasi-Judicial Functions:** Under its mandate, the Commission is required to receive appeals from counties, public universities and state corporations. These appeals have been increasing at a very high rate. Due to resource constraints, the Commission cannot conduct the appeals at the areas of origin, especially from counties, to mitigate the costs for the appellants. In addition, for most legal matters, the PSC is usually enjoined in cases requiring the Commission to file responses and attend courts across the country. Additional resources are, therefore, required to enable the Commission to execute this critical function.

Facility Constraints

73. Facility constraints represent a category of operational impediments to the capacity of the Commission to deliver services effectively. The constraints in this category the PSC context include inadequate office space and limited work equipment and means of mobility.

Inadequate Office Accommodation

74. In an attempt to enhance staff numbers in the face of an expanded mandate, the Commission has had to operate the same constrained office space but would need additional office space to roll out all the functions with the spirit and letter of the Constitution under one roof. The current location cannot accommodate the envisaged expansion. To address the challenge of office accommodation, the Commission in 2019/20 constructed additional offices on the roof top of Old Commission Block to create more space and decongest offices.
75. Although this initiative has eased office congestion, the Commission still faces inadequate office accommodation for its officers as of 2023/2024 FY. The Commission is also exploring options of securing allocation of a Government plot as this would have provided a permanent solution and ideal environment for accommodation of all facilities/full roll out of PSC functions under one roof including adequate parking spaces.

Limited Work Equipment and Means of Mobility

76. Despite concerted efforts at investments, on equipment, the Commission still remains acutely under-resourced in terms of facilities, equipment and infrastructure. At the time of this report, the Commission was yet to purchase vehicles, laptops and other work-related accessories for the new commissioners. Secretariat staff faced similar predicaments characterised by inadequate computers, office space and lack of basic office supplies.

Legal Constraints

77. Whereas the mandate of the Commission is clear in the Constitution, the PSC Act and other forms of enabling legislation, fragmentation and gaps in the legal framework coupled with disruptive court rulings still persist. These legal issues have the potential to impede the effective discharge of Commission mandate.

Lack of Statutory or Regulatory Anchoring for PSIP

78. The Commission initiated PSIP in 2019. Whereas the programme has been implemented smoothly during the last five years, there is a challenge that it is not anchored in law or regulations. A Bill on internship is currently with the National Assembly and this is a threat to the future of the Programme.

Court ruling on transfer of TVET institutions to PSC

79. In 2018, the Government transferred the HR functions of TVET institutions to PSC from the Teachers Service Commission. However, this transfer was challenged in the High Court, which ruled that TVET employees are legally under the TSC. Without legal backing, the continuity of this role is not certain.

Court cases based on misinterpretation of the Law

80. Numerous court cases have challenged various decisions regarding human resources in the public service. As the service commission vested with overseeing HR practices in the public service, the PSC finds itself enjoined in most cases. This causes delays in the implementation of decisions, uncertainties in the direction the service should take, and unplanned and unbudgeted use of human and financial resources. Therefore, there is a need to engage stakeholders in public service more robustly through continuous sensitization to minimize litigation.

Remoteness and Marginalization


81. Remoteness and Marginalization partly explains diversity, equity and inclusivity concerns (DEI) on minorities, the marginalized and people living in remote areas. With the uptake of online interviews, there are emerging challenges of reaching out to candidates in remote areas of the country where mobile and internet connectivity is low.

CHAPTER 6: THE WAY FORWARD

82. To support the efficient and effective discharge of Commission constitutional mandate as contemplated in Articles 234, 155(3)(a), 158(2)(3) and (4), 171(2), 230(2)(b), and 236 of the Constitution, and taking cognisance of the impediments experience over the last decade, the Commission proposes the following interventions:
83. **Gradual Enhancement of Budget Allocation by Parliament:** In view of the persistent limited budgetary allocation in the face of expanded mandate to oversight over 585 MDAs the Commission seeks the intervention of Parliament for a gradual increase of PSC budget by 50% relative to the current allocation spread across two financial years; i.e, approximately Ksh 980 million per year.
84. **Funding for bridging the staffing gap:** To deliver efficiently and effectively on its mandate, the Commission requires a dedicated budget for hiring new staff to cover the current staffing gap of 45% within two financial years.
85. **Budget for equipment and mobility:** The Commission urgently needs emergency allocation to purchase office equipment such as computers for new staff and commissioners and vehicles for new commissioners. This allocation would also cater for pool vehicles for secretariat staff to replace old and boded fleet.
86. **New Office Space:** In the short term, the Commission requests parliament for consideration for additional funding to the tune of Kshs 40 million annually to acquire additional office space to house its staff working from shared and congested offices. In the long term, the Commission presents a request to Parliament for consideration for development budget of an estimated Ksh 600 Million to construct a new office block within the Harambee House Compound. Alternatively, there should be consideration for allocation of an appropriate government parcel on which the new office block can be developed .
87. **Review of Legislation:** Some mandate conflicts such as those between PSC and SCAC and the AG's Office call review of conflicting sections of related legislation. Some of the reviews can be undertaken through miscellaneous amendments.
88. **Anchoring PSIP in Legislation:** For sustainability and stability, the Commission will work closely with Parliament and other actors to draft legislation that anchors the Public Service Internship Programme.

89. **Mediation on Mandate Conflicts:** The Commission proposes the use of alternative dispute resolution through mediation by the office of the Deputy President as contemplated in executive order No. 1 of 2025 to resolve some of the conflicts.
90. **Establishment of Regional Offices:** The establishment of regional offices, especially in remote regions, will be instrumental in taking commission services within the reach of hard-to-reach segments of the population.
91. **Enhanced Advocacy and Sensitization:** The Commission has planned to enhance its advocacy and sensitization programmes as a way of improving engagement with actors with the aim of minimizing conflicts or disputes arising from misinterpretation of policy, legislation or regulations.

This Report Signed for and on Behalf of the Public Commission

Signature:  Name of Signatory: **ANTHONY M. MUCHIRI (AMB.)**

Designation: **CHAIRPERSON**

Date: **23rd June, 2025**



JUDICIAL SERVICE COMMISSION

REPORT ON THE EXTENT OF THE JUDICIAL SERVICE COMMISSION DISCHARGE OF ITS CONSTITUTIONAL MANDATE PURSUANT TO ARTICLE 171 OF THE CONSTITUTION

SUBMITTED TO THE:

**NATIONAL ASSEMBLY CONSTITUTIONAL IMPLEMENTATION
OVERSIGHT COMMITTEE**

DURING A MEETING HELD ON THURSDAY, 17TH JULY, 2025 AT 12 NOON AT
THE COMMITTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS, NAIROBI

BACKGROUND:

1. On 26th May, 2025 the Clerk of the National Assembly invited the Judicial Service Commission (JSC) for a meeting with the Constitutional Implementation Oversight Committee on 3rd June, 2025 to report on the extent of the JSC discharge of its mandate pursuant to Article 171 of the Constitution, including any impediments to the process of implementing the Constitution and the way forward.
2. Because of other earlier scheduled engagement that could not be deferred, the JSC requested that the meeting be rescheduled.
3. The Committee acceded to the Commission request and rescheduled the meeting to 17th July, 2025.

INTRODUCTION

4. The Judicial Service Commission (JSC) is established under **Article 171(1) of the Constitution**. The operational procedures of the Commission are laid down in the Judicial Service Act 2011.
5. The mandate of JSC under **Article 172** is to promote and facilitate the independence and accountability of the Judiciary and the efficient, effective and transparent administration of justice.
6. The functions of JSC under Article 172 are:
 - a. Recommending to the President persons for appointment as judges.
 - b. Reviewing and making recommendations on the conditions of service of:
 - i) Judges and judicial officers, other than their remuneration
 - ii) Staff of the Judiciary.
 - c. Appointing, receiving complaints against, investigating and removing from office or otherwise disciplining registrars, magistrates, other judicial officers and other staff of the Judiciary.
 - d. Preparing and implementing programmes for the continuing education and training of judges and judicial officers.

- e. Advising the national government on improving the efficiency of the administration of justice.
 - f. Under **Article 168 (3) and (4)** the Commission also has the function of receiving and considering petitions for the removal from office of judges and if satisfied that the petition discloses a ground for removal, send the petition to the President to appointment a Tribunal to investigate the matter.
7. The Membership of the JSC is diverse as provided under **Article 171(2)** as follows:
- i) The Chief Justice, is the Chairperson
 - ii) A Judge of the Supreme Court elected by the Judges of the Supreme Court
 - iii) A Judge of the Court of Appeal elected by the Judges of the Court of Appeal
 - iv) A Judge of the High Court Judge and a Magistrate (man and woman) elected by the Kenya Magistrates and Judges and Association
 - v) The Attorney General;
 - vi) Two Advocates of the High Court (man and woman) , elected the Law Society of Kenya
 - vii) A Public Service Commission representative
 - viii) Two public representatives (man and woman) appointed by the President with approval of the National Assembly.

The Chief Registrar of the Judiciary is the Secretary to the Commission as provided for under Article 172(3) of the Constitution.

DISCHARGE OF JSC CONSTITUTIONAL MANDATE:

8. In order to deliver on its mandate, the JSC has embraced strategic planning to guide its diverse activities. The Commission is implementing its 2022-2027 Strategic plan for the next five years.
9. The JSC Strategic Plan has prioritized five strategic themes from the situation analysis, and they form the main areas of focus. The themes are:
 - i) Efficient, accountable, transparent and transformative administration of justice
 - ii) Motivated, professional, dynamic, responsive judges, magistrates, registrars, judicial officers and judicial staff
 - iii) Financially independent and suitable Judiciary and JSC
 - iv) Increased public confidence and trust in the JSC
 - v) Strengthened institutional capacity

PROMOTING AND FACILITATING THE INDEPENDENCE AND ACCOUNTABILITY OF THE JUDICIARY AND THE EFFICIENT, EFFECTIVE AND TRANSPARENT ADMINISTRATION OF JUSTICE:

8. The independence and accountability of the Judiciary is an important marker of any Constitutional democracy. The Constitution of Kenya 2010 recognized this fact and created JSC to protect and promote the independence and accountability of the Judiciary.
9. Since 2010 after the promulgation of the Constitution, JSC made great strides in fulfilment this constitutional mandate. JSC has protected the decisional independence of judges and judicial officers to ensure fairness in disputes resolution.
10. The Judiciary Fund is established in the constitution. JSC has overseen the operationalization of the Judiciary Fund. The Judiciary Fund Act and regulations

have been enacted to provide legal and policy framework and guidelines for accountability. The Fund is expected to eliminate challenges of budget cuts and delays in disbursement of funds, which hamper judicial operations.

11. The JSC revised the Judicial Code of Conduct and Ethics, 2003 and developed the Judicial Service (Code of Conduct and Ethics) Regulations, 2020 to enhance accountability.

12. In terms of enhancing the operational efficiency of the Judiciary, JSC has put in place governance structures and administrative policies to ensure the Judiciary is run smoothly. Policies issued since 2011 are available in the JSC website. Mention of a few policies and governance instruments issued in 2024 include;

S/NO.	POLICY
1.	Leadership and Integrity Code for Members of the Judicial Service Commission
2.	Revised JSC Charter
3.	JSC Committee on Administration of Justice Charter
4.	JSC Finance, Planning and Administration Committee Charter
5.	JSC Anti-Corruption Policy
6.	Stakeholders Engagement & Communication Policy
7.	JSC Corporate Responsibility Guidelines
8.	Investigations Procedures Manual
9.	Bench Book on Wildlife, Forest and Fisheries Crimes
10.	Court Administrators Handbook
11.	Court Process Servers Handbook
12.	Curriculum for Training Court Administrators

S/NO.	POLICY
13.	Judges and Judicial Officers Performance Appraisal Framework
14.	Caseload Data Policy
15.	Judiciary Data Management Policy
16.	Judiciary Incentives Policy
17.	ICT Business Continuity Plan and Disaster Recovery Policy
18.	Alternative Justice System (AJS) Baseline Policy
19.	Communication Policy for the Judiciary
20.	Curriculum for Training at Kenya Judiciary Academy
21.	Tool for Evaluation of Judicial Training at KJA
22.	Handbook on Training for Judicial Trainers
23.	Pupillage Policy

Digital Transformation and Modernization

13. JSC has provided leadership and support in the following automation and digitization programmes in the Judiciary:

- i) Digitization of court records and case management systems.
- ii) Introduction of **online court services**, including e-filing, virtual hearings, and online judgments.
- iii) Enhanced **transparency, efficiency, and user access** through ICT integration.
- iv) Reduced delays and backlogs through improved data management.

14. JSC has issued the following ICT policies:

- i) Policy on ICT Security.
- ii) Policy on Systems Development and Management.

- iii) Policy on Network Administration.
- iv) Policy on Systems and Database Administration.
- v) Policy on Leasing of ICT Equipment
- vi) Policy on End User Computing Devices.
- vii) Policy on Digitization of Records.

Infrastructure Expansion and Decentralization of Court Services

Court of Appeal Decentralization

- 15. JSC has facilitated the establishment of **five (5)** Court of Appeal stations beyond Nairobi to improve regional access.
- 16. High Court stations operational in **all 47 counties**, completing national decentralization.
- 17. **Mahakama Popote initiative** - to mitigate the unequal distribution of work among judicial officers and staff, where judicial officers in less busy stations hear cases from courts with higher caseload virtually.
- 18. **Mobile Courts** - Deployment of mobile courts to serve **remote and marginalized communities** thus significant reduction of geographic and financial barriers to accessing justice.
- 19. JSC has secured funds and facilitated the construction of new court buildings. This aimed at reducing the distance travelled by litigants and the associated costs, when accessing courts. It also serves to decongest the existing courts and enable them to serve court users expeditiously.
- 20. **JSC has facilitated various initiatives to enhance access to justice as follows:**
 - i) Operationalization of specialised courts including the Employment and Labour Relations Court, Environment and Land Court and Sexual and Gender-Based Violence Courts.

- ii) Expansion of **Small Claims Courts** for expedited resolution of low-value civil disputes.
- iii) Support and integration of **Alternative Justice Systems (AJS)** including community and customary mechanisms.
- iv) Promotion of **court-annexed mediation** and pro bono legal services.

Transitioning Tribunals from the Executive to the Judiciary

- 21. The JSC facilitated the development of the **Tribunals Bill** that was given a green light by the Cabinet and is pending parliamentary approval. The purpose of the Bill is to:
 - i) Implement **Article 169** of the Constitution.
 - ii) Establish **uniform standards and procedures** for all tribunals.
 - iii) Facilitate the **full transition** from Executive control to JSC oversight.
- 22. The JSC has advancement of judicial independence and institutional credibility of Tribunals and increased public confidence in Tribunal decision-making.
- 23. The Commission has approved the policy to decentralize Tribunals operations to the counties.
- 24. The Commission has overseen the transitioning of 28 Tribunals to the Judiciary as required by the constitution as follows:
 - i) Business Premises Rent Tribunal (BPRT)
 - ii) Capital Markets Tribunal (CMT)
 - iii) Communication And Multimedia Appeals Tribunal (CAMAT)
 - iv) Competition Tribunal (CT)
 - v) Co-operatives Tribunal (CT)
 - vi) Copyright Tribunal (CT)
 - vii) Education Appeals Tribunal (EAT)
 - viii) Energy & Petroleum Tribunal (EPT)

- ix) Financial Centre Tribunal (FCT)
- x) HIV & AIDS Tribunal (HAT)
- xi) Industrial Property Tribunal (IPT)
- xii) Land Acquisition Tribunal (LAT)
- xiii) Legal Education Appeals Tribunal (LEAT)
- xiv) Micro & Small Enterprises Tribunal (MSET)
- xv) National Civil Aviation Administrative Review Tribunal (NCAART)
- xvi) National Environment Tribunal (NET)
- xvii) National Examination Appeals Tribunal (NEAT)
- xviii) Political Parties Disputes Tribunal (PPPDT)
- xix) Public Private Partnerships Petition Committee (PPPPC)
- xx) Public Benefit Organizations Disputes Tribunal
- xxi) Rent Restrictions Tribunal (RRT)
- xxii) Retirement Benefits Appeals Tribunal (RBAT)
- xxiii) Sports Disputes Tribunal (SDT)
- xxiv) Standards Tribunal (ST)
- xxv) Sugar Arbitration Tribunal
- xxvi) Tax Appeals Tribunal (TAT)
- xxvii) Transport Licensing Appeals Board (TLAB)
- xxviii) Water Tribunal

Constitutional Reporting Compliance:

25. JSC adheres to the constitutional value transparency by providing access to information on its activities through:
- i) Submission of **annual reports to Parliament** under Article 254.

- ii) Publication of **State of the Judiciary Reports** detailing judicial performance and challenges.
- iii) Regular engagement with **parliamentary committees** and submission of ad hoc reports when required.

RECOMMENDING TO THE PRESIDENT PERSONS FOR APPOINTMENT AS JUDGES:

25. In 2010 the Judiciary had a total 53 Judges. Currently the establish has a total of ²⁰³~~302~~ judges distributed as follows:
- Supreme Court - 7 Judges
 - Court of Appeal – 28 Judges
 - High Court – 95 Judges
 - ELC – 52 Judges
 - ELRC – 21 Judges
26. Recruitment for additional 15 Court of Appeal Judges, 20 High Court Judges and 10 ELC Judges is ongoing.
27. The number of judges is still below the optimal number required to serve the 55 million Kenyans.
28. A major stride in the nomination of persons to be appointed as Hon. Judges is the transition from Executive involvement to a **merit-based, transparent, and competitive recruitment** process.
29. Recruitments have also seen full implementation of **Articles 10 and 232** in all appointments, ensuring:
- Gender balance
 - Regional representation
 - Affirmative action
 - Protection of marginalized groups and minorities

30. The Commission has enhanced diversity, integrity, and professionalism in the Judiciary.

REVIEWING AND MAKING RECOMMENDATIONS ON THE CONDITIONS OF SERVICE OF JUDGES AND JUDICIAL OFFICERS, OTHER THAN THEIR REMUNERATION AND STAFF OF THE JUDICIARY

31. The JSC undertook an organization review of the Judiciary and the JSC Secretariat, which led to implementation of new administrative and functional structures for the Judiciary, new grading structures and career guidelines.
32. The Judiciary has implemented the Performance Management and Measurement Understanding (PMMU) which provides a mechanism for setting annual targets and commitments which are evaluated to determine the level of achievements and success in critical indicators.
33. The Commission has developed schemes of services to provide career growth opportunities to employees of the judicial service.
34. The Commission issued a revised Human Resource Policies and Procedures Manual for the Judiciary.

APPOINTING, RECEIVING COMPLAINTS AGAINST, INVESTIGATING AND REMOVING FROM OFFICE OR OTHERWISE DISCIPLINING REGISTRARS, MAGISTRATES, OTHER JUDICIAL OFFICERS AND OTHER STAFF OF THE JUDICIARY:

Strengthening Human Resource capacity

35. The Commission has strengthened the human resource capacity through recruitment and selection of judicial officers and judicial staff.
36. The approved posts for Magistracy is 1200 posts. The current in post is 570.

Processing of Complaints and Petitions

37. The Commission has put in place transparent and structured mechanisms for handling public complaints against judicial officers thus strengthened accountability and public trust in judicial discipline systems.
38. Under **Article 168 (3) and (4)** the Commission has the function of receiving and considering petitions for the removal from office of judges and if satisfied that the petition discloses a ground for removal, send the petition to the President to appointment a Tribunal to investigate the matter.
39. Between 2011 to 2024 the Commission received and processed a total of **953 Petitions against Hon. Judges. 12 Petitions were forwarded to the President to appoint Tribunal to investigate them further.** 82% of the Petitions touched on the merit of the cases and decisional independence of the Judges.
40. The Commission processed an average of 50 disciplinary cases, appeals and reviews against judicial officers and staff per year.

PREPARING AND IMPLEMENTING PROGRAMMES FOR THE CONTINUING EDUCATION AND TRAINING OF JUDGES AND JUDICIAL OFFICERS:

Judicial Training and Capacity Building

41. The Commission has put in place programmes for Continuous professional development and training programs for judges and magistrates focusing on specialized training on **constitutional interpretation, human rights, and ethics** aimed at enhancing competence, consistency, and responsiveness in judicial decision-making.

Kenya Judiciary Academy (KJA)

42. The Commission has established the Kenya Judiciary Academy to co-ordinate the preparation and implementation of the judicial education for the Judiciary.
43. The Commission had developed the **KJA Bill** to formalize the Academy legal standing.
44. The Commission secured land in Ngong from the County Government of Kajiado to put up a permanent premise for KJA.

ADVISING THE NATIONAL GOVERNMENT ON IMPROVING THE EFFICIENCY OF THE ADMINISTRATION OF JUSTICE:

Strategic Engagements:

45. JSC has deployed strategic engagements as one of the mechanisms to entrench public participation by involving the people in decision making as decreed in the Constitution. The strategic engagement has been conducted across the stakeholder spectrum. This involved the Executive and Parliament.
46. The National Council on Administration of Justice (NCAJ) is Statutory body that brings together all actors in the justice sector including the national government agencies. JSC provides the Secretariat services to NCAJ.
47. NCAJ produce Annual Reports on the administration of justice that are submitted to the Executive and Parliament.
48. he Commission secured land in Ngong from the County Government of Kajiado to put up a permanent premise for KJA.

CHALLENGES FACED BY JSC IN IMPLEMENTING THE 2010 CONSTITUTION:

49. Inadequate Budgetary Allocation:

The JSC face chronic underfunding, limiting its ability to discharge constitutional mandates.

The Judiciary current budgetary allocations is less than 1% of the National Budget which is insufficient for:

- i) Infrastructure development in 140+ court stations.
- ii) Recruitment of judges, magistrates, and support staff.
- iii) Technology adoption for e-justice systems.

Impact:

- i) Backlogs due to staff shortages.
- ii) Limited access to justice in rural areas.
- iii) JSC's oversight role compromised.

Way Forward:

- i) Fully operationalize the Judiciary Fund, ensuring direct transfers from the Consolidated Fund.
- ii) Peg Judiciary and JSC budget to **at least 3.5% of the National Budget** through constitutional/statutory amendment.
- iii) Include JSC as a direct beneficiary of the Judiciary Fund under Article 173.
- iv) Duplication of structures for the administration of the fund, where the Controller of Budget comes in to determine access of the funds is an affront to the independence of the Judiciary to should be addressed.

50. Mobility Restrictions for Judges:

Judges in specialized courts (ELRC, ELC) cannot be cross-deployed to the High Court or other divisions, creating inefficiencies and limiting career development.

Impact:

- i) Case backlogs in some courts while others have underutilized capacity.
- ii) Narrow specialization limits professional growth and flexibility.

Way Forward:

- Amend Article 162 to allow cross-deployment among High Court and courts of equal status.

51. Disciplinary Limitations

Under Article 168, the JSC can only recommend removal of a judge or dismiss a Petition/Complaint. No room for other sanctions when minor infractions are discernible making the process inadequate to address the intended purpose.

Impact:

- Lack of proportionate sanctions for less serious misconduct.

Way Forward:

- Amend Article 168 to empower JSC to handle minor infractions internally (e.g., warnings, reprimands) without forming a tribunal.

52. Tension Between Arms of Government on Judicial Appointments

Occasions of delay or refusal by the Executive to appoint judges recommended by the JSC and persistent attacks on Judges on decisions made undermine constitutional expectations and strain inter-arm relations.

Impact

- i) Signals possible encroachment on judicial independence protected under Articles 160 and 172.
- ii) Public perception of politicization of the bench.

Way Forward

- Respect by each arm of its mandate and powers and constant engagement to reduce tensions.

53. Overlapping Mandates Among Constitutional Commissions (JSC & SRC)

Mandate ambiguity between the Salaries and Remuneration Commission (SRC) and the JSC over judges' and judicial officers' terms, benefits, and allowances has led to institutional friction and inconsistent conditions of service.

Impact

- i) Conflicting circulars and litigation over remuneration, benefits (e.g., transport, housing), and facilitative resources.
- ii) Administrative delays and budgeting uncertainty.
- iii) Risk of undermining judicial independence if remuneration decisions are used to exert indirect pressure.

Way Forward

- Clarify mandates through targeted statutory or constitutional alignment:

54. Delayed enactment of proposed legislation by JSC

There has been delay in the enactment of the Tribunals Bill, Judges retirement Bill and amendments to several other statutes proposed by JSC. The reviews are meant to enhance effective administration justice and improve employee welfare. The bills be fast tracked.

Hon. Winfridah B. Mokaya, CBS

Secretary

JUDICIAL SERVICE COMMISSION

14th July, 2025

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