REPUBLIC OF KENYA

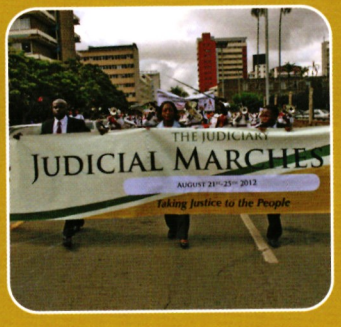
THE JUDICIARY

STATE OF THE JUDICIARY AND THE ADMINISTRATION OF JUSTICE











Annual Report

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2012 - 2013

REPUBLIC OF KENYA

THE JUDICIARY

VISION

» To be the independent custodian of Justice in Kenya.

MISSION

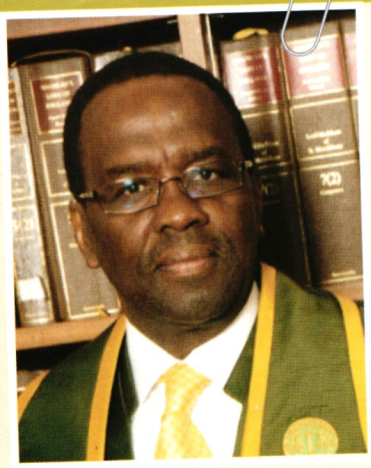
» To deliver justice fairly, impartially and expeditiously, promote equal access to justice, and advance local jurisprudence by upholding the rule of law.

CORE VALUES

» Accountability | Integrity | Openness | Humility | Fairness | Professionalism

MANDATE

» To expeditiously administer justice to all irrespective of status
» To protect and promote the purpose and principles of the constitution, and
» To promote alternative forms of dispute resolution, including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms.



Hon. Dr. Willy Mutunga, D. Jur, SC, EGH,

Chief Justice and President of the Supreme Court of Kenya Republic of Kenya.

Preface

This is the Second Annual State of the Judiciary and Administration of Justice Report (SOJAR), which has been prepared in fulfillment of Section 5 (2) (b) of the Judicial Service Act. It covers the period July 1, 2012 to June 30, 2013, which coincides with the Government of Kenya financial year. It is also the second report since the launch of the Judiciary Transformation Framework (JTF) in May 2011.

This has been an eventful year for the Judiciary. We have made marked progress but also witnessed serious challenges that have threatened the Judiciary's transformation and shaken public confidence in the process.

The Judiciary has had to make tough decisions in order to protect public resources. And whereas the process may look a little messy to the public eye, there is no doubt that these choices have been made and decisions taken in the public interest. The Judiciary remains supremely confident that it shall build on the achievements made and deal with the challenges posed while the compass of transformation remains firmly fixed.

This has been the year of active implementation of the JTF at the macro level, and combined planning and implementation at the micro level, particularly within departments and directorates. We have been testing the objectives and viability of transformation and transition on the ground, and are learning important lessons.

We have made progress, but we also made mistakes. Some of these challenges are disappointing but not entirely surprising. Some, such as emergent corruption at the administrative cadres that ha- attended the increase in our budget size, are a natural consequence of the transformation objective of securing additional resources the institution required in the first place to undertake far reaching reforms at a time when the institution still had weak and underdeveloped internal oversight and codified mechanisms and processes. Others are a product of the political context of transition in 2012/2013.

Going forward, the Judicial Service Commission and the Judiciary will invest heavily in the establishment of an elaborate and effective internal accountability infrastructure that has in-built checks and balances for the protection of public resources.

Arguably, infrastructure expansion, broadly defined, has been the embodiment of the Judiciary and justice sector transformation this year. We have expanded the attitudinal infrastructure of the staff through culture change workshops; the physical infrastructure of the courts through construction and rehabilitation; inter-agency cooperation through revitalization and expansion of the National Council for the Administration of Justice (NCAJ); and the resource base infrastructure of the institution through government, World Bank and United Nations Development Programme support. These investments will continue. The rest of the justice sector

has also made important strides in the administration of justice. Various reform initiatives are on course as a consequence of the implementation of the Constitution. NCAJ and the Court Users Committees (CuCs) will begin to play a much bigger and central role in the administration of justice.

Though the NCAJ is still in its nascent stages, it has taken off to a good and encouraging start. However, challenges still remain: low and inequitable budgetary allocation; insufficient collaboration and coordination; uncertainties of transition; statutory instabilities; low to average productivity and efficiency of partner agencies are some of the key challenges among others. In this regard, it is important that additional resources are directed to NCAJ and its agencies so that they are able to execute their mandates effectively.

At the Judiciary, courts construction will continue, as will be the decentralisation of courts. The legal requirement of having a High Court station in each county will continue to be pursued, as will be the decentralization of the Court of Appeal, possibly to Eldoret and Nakuru. However, this will require additional resources. We are glad to note that several Governors are donating land for court construction and expansion, and more should be encouraged to follow suit.

In order to facilitate increased access to justice, the JSC will have a structured conversation with various ministries on how to systematically bring Tribunals under the Judiciary to give effect to the constitutional provisions that make them part of the institution. It is important that Parliament notes that this, together with courts construction, will again have huge budgetary implications.

The success of Judiciary transformation and the justice sector depends on a constructive collaboration among the branches of government. It is important that a harmonious inter-branch relationship is nurtured and cultivated if all the agencies work towards the betterment of the society and service of the Kenyan people. The Judiciary and the NCAJ will play their part in this regard and invite other actors to similarly do the same. The quest for justice and the administration of justice stretches beyond the courtrooms. Every institution, including Parliament, the Executive, Independent Commissions and Offices, and every member of the public has a duty to serve the cause of justice. We must recognize therefore that while the Judiciary is intent on establishing itself as a hub of homegrown jurisprudence, it will take more than the courts to entrench a culture of Rule of Law in our institutional and public psyche. The other organs of government, non-state actors and the public must therefore do their part.

The data in this Report demonstrates that whereas work is being done across other justice sector agencies, the output is still not optimal. There is certainly still a lot more to be done in order for the Judiciary and other justice sector agencies to meet the full expectations of the Kenyan people.

Hon. Dr. Willy Mutunga, D. Jur, SC, EGH,
Chief Justice and President of the Supreme Court of Kenya
Republic of Kenya

ACKNOWLEDGEMENTS

This 2nd Annual State of the Judiciary and Administration of Justice Report is the cumulative handiwork of extraordinary dedication. This progress would not have been possible without the new culture of constant documentation and periodic reporting that the employees of the Judiciary are beginning to, and must forever, embrace. Nevertheless, this report was prepared in difficult and challenging circumstances.

I would therefore like to salute all the Judiciary's members of staff who worked with a renewed spirit, adapted to rapid change, and made the achievements we record here possible in these trying times. I want to thank them also for providing the information and data that has made this report possible. The Registrars and Directors have done a good job in helping to compile this.

I would like to express my sincere gratitude to the many resourceful stakeholders in the justice sector through the NCAJ for their unwavering cooperation and support in the collection, analysis and reporting of the information that went into this report. I also thank GIZ and UNDP for their support for the transformation programme including their contribution in the preparation of this report.

Finally, I wish to extend my special thanks to the State of the Judiciary and Administration of Justice Report Editorial Committee comprising of **Abdul Omar, Dennis Kabaara, Duncan Okello, Hon. Lyna Sarapai, John Muriuki, Katra Sambili, Kwamchetsi Makokha** and **Muthoni Njunge** as well as **Aaamera Jiwaji, Michael Murungi** and **Ednar Kuria** who reviewed and edited the draft. Their singular dedication, insight, professionalism and creativity ensured that this report is done. The institution is grateful to them for their service in facilitating the establishment of a comprehensive reporting framework of its own that will be used for years to come.

Thank you.

Hon. Dr. Willy Mutunga, D. Jur, SC, EGH,
Chief Justice and President of the Supreme Court of Kenya
Republic of Kenya

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LIST OF ABBREVIATIONS

CIC	- Commission for the Implementation of the Constitution
CJ	- Chief Justice
CUCs	- Court Users Committees
DPAC	- Department of Public Affairs and Communication
EACC	- Ethics and Anti-Corruption Commission
GOK	- Government of Kenya
ICT	- Information Communication Technology
IEBC	- Independent Electoral and Boundaries Commission
JPIP	- Judiciary Performance Improvement Project
JSC	- Judicial Service Commission
JTF	- Judiciary Transformation Framework
JTI	- Judiciary Training Institute
JWCEP	- Judiciary Working Committee on Elections Preparations
K-NICE	- Kenya National Integrated Civic Education programme
KLRC	- Kenya Law Reform Commission
LSK	- Law Society of Kenya
NCAJ	- National Council for the Administration of Justice
NCLR	- National Council for Law Reporting
ODPP	- Office of the Director of Public Prosecution
OJO	- Office of the Judiciary Ombudsperson
UNDP	- United Nations Development Programme

Overview

STATE OF THE JUDICIARY AND ADMINISTRATION OF JUSTICE REPORT, 2012/2013: AN OVERVIEW

1.0 INTRODUCTION

As part of on-going implementation of Kenya's Constitution, 2010, significant developments and changes are taking place both in the Judiciary and in the entire justice sector. These developments have not been without challenges. The State of the Judiciary Report, 2012/2013 shows that the Judiciary has made significant progress in the transformation journey it embarked on in 2011 as codified in the Judiciary Transformation Framework (JTF), even though major setbacks have also been experienced.

These setbacks have, admittedly, slowed down the pace of transformation, and, understandably, shaken public confidence in the process. However, they have not caused the abandonment of the transformation program. Instead, they have provided vital lessons for what the Judiciary views as the second phase of transformation.

This Report demonstrates that even though a lot has been achieved in promoting access to justice, significant challenges have also emerged. There have been many interventions ranging from the generation and creation of progressive jurisprudence, massive court and staff expansion, huge investment in training and evolution of constructive inter-agency cooperation. However, it also acknowledges that rapid budget growth, within the context of accountability systems and processes that are still evolving, has bred some threats to the vision. These threats are being dealt with if and when they arise.

"This Report demonstrates that even though a lot has been achieved in promoting access to justice, significant challenges have also emerged."

The incipient corruption in the administrative cadres in the Judiciary; the emerging discord in inter-branch relations; the rising budget deficit in the Judiciary and low and declining resource allocation to other justice sector agencies; the occasional political and public skepticism on judicial pronouncements on political questions, including presidential election petition and devolution; the legal, leadership, and governance instability in some justice sector agency institutions; the markedly uneven public confidence levels in justice sector agencies, emerging but still inchoate cooperation in the justice chain, constitute some of the challenges that we have had to deal with during this reporting period. Whereas internally the Judiciary remains confident that it shall surmount the challenges it faces, it recognizes that it has a duty to the public to reclaim public confidence and build it on a sustainable basis.

2.0 Culture change strategy

Even though the more 'common face' of judiciary transformation has been the vetting of judges

and magistrates; the expansion of court infrastructure; the construction, rehabilitation and decentralization of courts; recruitment of more judges, magistrates and other judicial staff, it is important to point out that the most important investment, and from which the institution has arguably had the greatest return, has been on culture change. Premised on the logic that to change the quality of service you have to first change the quality to the agency, the culture change strategy was based on two important limbs: one, improvement of staff welfare and attitude as a self-confidence-building strategy and, two, transformation from below for ownership and sustainability.

During the reporting period, the institution dramatically improved the terms and conditions of all its staff members, and invested heavily in training programs in an equitable manner. Under the leadership of the Judiciary Transformation Secretariat (JTS), the Judiciary held 38 workshops for all court stations across the country, and reached literally all the 4,564 members of staff (judges, magistrates, and judicial staff) who were in service as at that time. Subsequently, the Judiciary also identified and trained 174 Change Champions who are to be found in each and every court station, an initiative designed to promote local/on-site leadership and ownership of the transformation program. This level of reach, engagement and output is probably unprecedented in Kenya's public service history.

The difference in the treatment of members of the public in our court stations and courtrooms throughout the country is an outcome of this investment – an outcome which we shall consolidate and sustain in the next year. It has yielded positive results - an institutional cultural revolution - including the establishment of Customer Care Desks that are in each and every court station throughout the country, a growing and effective public complaints system, a more widespread internal ownership of the transformation program, and, most significantly, an important realization among staff that the Judiciary is and should always be a public rather than self service institution. At the interpersonal level, individual court stations have carried out simple initiatives that range from starting sessions by greeting litigants and other court users, and beautifying court premises to explaining the day's business.

However, challenges to achieving the level of service delivery and quality that is consistent with the expectation of the citizen remain, even as opportunities emerge for the Judiciary to effectively position itself and play its role in Kenya's economic, social, and political development.

3.0 Elections and transition

In many respects, 2012/2013 was a unique year, during which the first elections under the new

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constitutional were held. It was a transitional year characterized by uncertainties and anxieties inherent to moments such as these. The Judiciary carried the triple burden of overseeing the implementation of the new Constitution, undertaking rapid institutional changes internally in an unprecedentedly radical manner, while at the same time providing confidence, credibility, and stability to avoid the electoral violence of 2007/2008 that was, in large part, blamed on a failed judicial system. It is a triple burden that it discharged with calm professionalism and confidence, the absence of unanimity in some of its decisions and actions notwithstanding.

During the reporting period, the Judiciary handed down important decisions around the electoral processes that helped successfully steer an otherwise perilous transition. Five groups of cases are important in this regard: the election date decision, the integrity decision, the electoral boundaries matter, the presidential election petition, and the 188 election petitions that relate to counties and the national legislature.

The Judiciary's success in handling the elections was not accidental. It was a product of innovative ways that enabled the institution to prepare in advance. In May 2012, the Chief Justice appointed the Judiciary Working Committee on Elections Preparations (JWCEP). The Committee conducted comprehensive training in electoral laws and procedures for all judicial officers, proposed amendments to the electoral law, drafted facilitative electoral rules, including the proposal to extend the registry hours, provided for online filing of petitions, among others. The Chief Justice set up an Ad Hoc Electoral Disputes Division in the High Court headed by Justice David Majanja and gazetted electoral courts throughout the republic in unprecedented. The selected Electoral Disputes Bench managed to finalize all the 188 election petitions within the statutory time limit of under six months. It is the first time in Kenya's political and judicial history that this has happened.

4.0 Case load data

In the reporting period, 116,754 new cases were filed in courts across Kenya. During the same period, the courts heard and determined some 190, 093 cases. This means that on average all the courts across Kenya completed 757 cases every working day. Still, some 657,760 are pending. The Supreme Court had 18 new cases, resolved 11 and had seven (7) pending as at the close of the reporting period. The Court of Appeal received 1,183 new cases over and above the 6,174 already pending. It resolved 1,032 cases. Between January and June 2013, a total of 812 cases in the Court of Appeal were disposed of compared to only 379 between June and December 2012, representing an over 100 per cent improvement in the disposal rate. This improvement can be

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attributed to the increased number of Judges following the recruitment of additional members to the Court of Appeal. The court now supports four benches sitting daily in Nairobi and 3 in the decentralized Courts of Appeal in Malindi, Nyeri and Kisumu. With seven benches sitting in a day, up from the previous three, it is clear the initiatives of recruitment and decentralisation are yielding results. Within barely two months, the decentralized courts in Malindi, Kisumu and Nyeri had disposed a total of 277 cases – or 46 cases per bench of three every month.

The High Court – including the Industrial Court and the Environment and Land Court - had a total caseload of 162,772, receiving 54,602 new cases and resolving 26,502 as at June 30, 2013. This works out to 105 cases resolved every working day, or three cases per judge every two working days.

The Industrial Court transited to the Judiciary with a total of 4,566 cases. By June 30, 2013 the court had received 4,673 new cases and decided 2,165 cases. These numbers suggest that each Industrial Court judge heard and determined 180 cases in nine months – a record of 20 cases a month or one case for every working day.

The Environment and Land Court had 16,407 pending cases, many of which had been taken over from the civil courts. There were 8,039 fresh cases filed and 443 resolved during the year. On average, every one of the 15 judges in the court concluded three cases per month.

The Surbodinate Courts had 60,484 new cases filed; 163, 312 determined leaving another 485, 976 still pending.

116,754

New cases filed in **2012 - 2013**

The Judiciary Service Week was launched country wide on October 11 , 2013 by the Chief Justice at Kamiti Maximum Prison and Resident Judges across the country. During the Service Week 68 Judges of the High Court, the Industrial Court and the Land and Environment Court concentrated on hearing Criminal Appeals. The total number of appeals concluded during the week was 1587. The targeted number of 1,500 was exceeded by 87.

5.0 Jurisprudence

Courts play an integral role in interpreting and expounding the Constitution, contested legislation, establishing case law and other policies. The JTF states that it is sound jurisprudence that enables the Judiciary to assert its authority, command public respect and enjoy distinction among peers while maintaining legitimacy and credibility.

Some of the most significant decisions from the courts in the recent past have settled important questions of constitutional and legal interpretation on the implementation of socio-economic rights, the jurisdiction of Kenyan courts to determine matters of international law, the outer limits of integrity jurisprudence, electoral law jurisprudence, children's rights, refugee law and rights, labour rights, and environmental law.

The High Court has broken important ground on Article 43 on Economic and Social Rights. In the Mitu-Bell Case and Satrose Ayuma Case, the court observed that socio-economic rights had 'crystallized' and could no longer be said to be merely 'aspirational'. Thus the state could not rely on the 'progressive realization' principle and must be seen to take active steps towards realization of these rights by its citizens. The court in both cases also underlined the importance clear policy to guide evictions and the importance of consultation with the affected victims before drastic measures such as evictions are taken.

In the matter of Attorney General v Mohamud Mohammed Hashi & 8 Others, the Court of Appeal held that being a signatory to several relevant international instruments, and on the basis of customary international law, Kenya has jurisdiction to try pirates even if the crime was committed outside the country's territory.

On the Mumo Matemo Case, the Court of Appeal and the High Court were in agreement that the High Court has jurisdiction to hear any question respecting the interpretation of the Constitution, including the determination of a question regarding whether an appointment by any arm of the Government is inconsistent with, or in contravention of the Constitution. It concluded by noting that although the emerging jurisprudence and practice on integrity was still in its infancy, there was compelling public aspiration towards cleaning up politics and governance structures.

Robai Musinzi v Mohammed Safdar Khan I.C. Cause No. 26 of 2012 focused on the termination of the employment of a domestic help worker on account of being too old, and her entitlements after such termination. Previously, individual domestic workers could not approach the court since it was a preserve of unions. With this decision, the rights of individual domestic employees are exalted and it is now recognized that such employees can get terminal benefits in their personal capacity for wrongful dismissal.

The various courts made important judicial findings and pronouncements on elections. These include the Supreme Court on the question of time; the Court of Appeal on interlocutory applications, the High Court on the meaning of declaration of election, scrutiny, role of Form 35

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in an election, costs in election petitions, free and fair elections, transfer of petitions filed in the wrong court, whether to order for a by-election among others.

6.0 Courts expansion and infrastructure

Almost all the 111 court stations in the country were in a poor state of repair and in need of massive rehabilitation. Many court buildings had been condemned as unfit for human occupation. Many court buildings had stalled. A comprehensive rehabilitation programme is leveraging budgetary allocations from the Government of Kenya as well as funding from the World Bank.

By June 2011, there were 16 High Court stations and 111 magistrates' courts, meaning that additional 31 High Court stations needed to be built to meet the statutory requirement of 47. In the past year, four more High Court stations have been established in Garissa, Kerugoya, Muranga and Homa Bay, bringing the total to 20. In the past one year, two additional magistrates' courts have been established bringing the total to 113. In order to cover all the 285 districts an additional 172 magistrates' court will be required to be built. Under the World Bank JPIP program a pilot court in Kangema is currently undergoing rehabilitation and major face lift which will form a model for the other courts to be rehabilitated.

During the reporting period, several stalled court construction programs were revived and completed and are now operational courts. These include Busia High Court, Malindi High Court, Nyeri High Court, Sirisia Law Courts, Gatundu Law Courts and Naivasha Law Courts. Kisumu and Migori Law Courts are expected to be handed over by March 2014 . The remaining works at Narok Law Courts will be completed during this financial year and it is intended to be a High Court Station.

With the budgetary allocation from the Government in the current financial year, the Judiciary will construct a further three High Courts in Lodwar, Bomet and Kapsowar, raising the number to 23. Subsequently it is anticipated that ongoing negotiations with the World Bank will yield resources to finance the construction of 10 High Courts in the next six years. Sufficient budgetary support from the Government in the next few years would go a long way in covering the deficit of 14 to enable every county to have a High Court.

During the reporting period, prefabricated courts have been constructed and are ongoing with a projected completion date of December 2013. These courts are, Wanguru, Marimanti, Othaya, Bomet, Tawa, Garsen and Runyenjes.

Through the Judiciary Court Development Programme, a total of 26 courts were refurbished and a further nine (9) prefabricated courts will be constructed and completed by March 2014.

"Several stalled court construction programs were revived and completed and are now operational courts. These include Busia High Court, Malindi High Court, Nyeri High Court, Sirisia Law Courts, Gatundu Law Courts and Naivasha Law Courts. Kisumu and Migori Law Courts are expected to be handed over by March 2014 . The remaining works at Narok Law Courts will be completed during this financial year and it is intended to be a High Court Station."

In addition to the 113 courts, two dilapidated buildings have been refurbished to establish new courts whose operations commenced on October 7, 2013. These are Githongo in Meru County and Migwani in Kitui County.

7.0 Asset and property recovery

The Judiciary is also engaging in an asset and property recovery program. Land belonging to Judiciary in Garissa, Kerugoya, Kisumu, Eldoret and Mombasa had fallen into private hands and we are glad that some of the titles have since been revoked, and efforts to reclaim them are ongoing. Heads of court stations around the country are under firm instructions to secure the station and its property. The ongoing cooperation between the Ministry of Lands and the Judiciary has facilitated the repossession of land that had been allocated to private developers in Mombasa and Eldoret.

8.0. Inter-agency collaboration in the administration of justice

The Judicial Service Act operationalises the principle of collaboration and cooperation between stakeholders by creating the National Council for the Administration of Justice (NCAJ). During the reporting period, NCAJ held a total of 10 Council Meetings. The NCAJ Strategic Plan and Court Users Committee Guidelines were launched. Whereas the Secretariat is still thin, the NCAJ has created Special Working Groups and the Technical Committee as its working method for now. NCAJ had a special elections program that ensured interagency cooperation in the delivery of peaceful elections.

Individual agencies are executing their constitutional and statutory mandates, even though budget constraints are evident. In the reporting period, the Kenya Law Reform Commission (KLRC), for example, developed the legislation required to implement the Constitution and thus the laws have continued to be enacted within the deadlines set out in the Fifth Schedule of the Constitution. The Commission developed 22 model laws for customization by the county governments. Further, the Commission assisted a number of ministries, departments and agencies to review and harmonise their respective legislative frameworks with the Constitution.

The overall budget requirement for the implementation of the NCAJ Strategic Plan (2012-2016) of Sh1.49 Billion is already facing a net shortfall of Sh680 Million in the second year of implementation. In order to successfully meet its five strategic objectives, NCAJ will need to urgently explore funding for the entire sector and expand resource options through additional funding from government, cost-sharing among agencies, budget neutral spending, private sector contributions and civil society support at the devolved level.

Unequal support for reform measures in the justice sector sees some agencies well funded while others are neglected. Many of the NCAJ agencies have witnessed rather sharp budget cuts which is a worrying development. NCAJ will develop a strategy to make the justice sector politically and economically attractive.

The critical success factors for the administration of justice are optimum human and financial resource allocation, effective communication, coordination and cooperation and a comprehensive policy and legal framework that consolidates the programmes and operations of all justice sector agencies for the citizenry. Additional and adequate financial allocation, building sufficient technical capacity, and ensuring coordination are the minimum conditions necessary for a successful inter agency cooperation in the administration of justice.

9.0 Public outreach and media

The Judiciary has adopted deliberate innovations that provide information to the public and receive feedback, and has opened itself up to scrutiny through continuous media engagement. A Directorate of Public Affairs and Communication (DPAC), which had not existed before, has been established. The Office of the Judiciary Ombudsperson (OJO), in place since August 2011, continues to be an important site of interaction with people who have complaints about the Judiciary.

We have increased station-based open-days and community outreach visits to enhance public scrutiny and localize complaints handling. Courts countrywide received delegations of school and college students of between 20 and 50. Between July 1, 2012 and June 30, 2013 some 600 pupils drawn from 10 primary schools, 540 students from 9 secondary schools, as well as 80 students from 4 universities and colleges visited the Supreme Court. Others were 91 other guests drawn from Ministry of State for Defence, School of Military Police and the Kenya Paralegal Network.

Public complaints to the Office of the Ombudsperson have declined from 9,776 in 2011/2012 to 9,093 in 2012/2013. In 2012/13, the Judiciary received a total of 9,093 complaints. Of these, 6,496 were closed successfully, 1,457 closed with workaround (meaning file found or hearing date given), 622 new and still active.

Slow services and missing files still constitute more than 50% of public complaints. Investment in further training, culture change workshops, and technology will eliminate or substantially reduce these numbers. And whereas the decline in the number of complaints is an encouraging trend, we are still not satisfied with the response rate. The OJO will decentralize in the next year to all stations and we expect that with an increased and aggressive public outreach programme

> “Between September 2012 and June 2013, four newspapers with national circulation published 1,051 stories on the Judiciary. Of these, 132 were stories placed on the front page – indicating the prominence and importance of the issues the Judiciary was either raising or dealing with. It remained engaged in the public sphere, accounting for 76 editorials in the study period, and four cartoons.”

we shall see an upsurge in complaints which we will be keen on solving.

10.0 The judiciary in the media

Over the past year, the Judiciary had a very robust engagement with the media, as demonstrated by tracking print media coverage. Between September 2012 and June 2013, four newspapers with national circulation published 1,051 stories on the Judiciary. Of these, 132 were stories placed on the front page – indicating the prominence and importance of the issues the Judiciary was either raising or dealing with. It remained engaged in the public sphere, accounting for 76 editorials in the study period, and four cartoons.

The Judiciary has embraced a culture of openness, allowing unprecedented media access and public scrutiny of its processes with regard to court hearings where matters of great public interest are concerned. Courts have repeatedly relaxed their rules to allow for important cases to be televised live. These include the reading of judgments in the delimitation of boundaries case, the election date case and its appeal, the judgment on the eligibility of certain individuals to run for political office, and the presidential election petitions in 2013.

The hearing of the presidential election petition at the Supreme Court was relayed live on television and also streamed live on webcast. It is estimated that 70 million watched the proceedings on television or webcast, and 150 law schools are reported to have been following as well. The election petitions were observed by senior judges from the region including the Chief Justice of Tanzania, former Chief Justice of Zambia and senior judges from Botswana and Zimbabwe.

11.0 Judiciary in the global and regional stage

The Judiciary's ambitious transformation program, and its expanding role in superintending the new Constitution through its decisions, continues to attract considerable international and regional recognition and respect. In this regard, the Judiciary has played hosts to a number of high profile guests including US Secretary of State, Hilary Clinton, former UN Secretary General, H.E. Kofi Annan, former Tanzanian President, H.E. Benjamin Mkapa, International Criminal Court (ICC) Prosecutor, Ms. Fatou Bensouda, the Chief Justices of South Sudan, Tanzania, Zanzibar and other judges from across the world. These also include the President and three judges of the African Court on Human and Peoples' Rights, the former Deputy Chief Justice of Israel, a Supreme Court judge of South Korea.

The Chief Justice, Judges and Magistrates also continue to be invited to international and regional fora. The CJ was invited and honoured by the American Bar Association (ABA) and, alongside 12

“The Judiciary has played hosts to a number of high profile guests including US Secretary of State, Hilary Clinton, former UN Secretary General, H.E. Kofi Annan, former Tanzanian President, H.E. Benjamin Mkapa, International Criminal Court (ICC) Prosecutor, Ms. Fatou Bensouda, the Chief Justices of South Sudan, Tanzania, Zanzibar and other judges from across the world. These also include the President and three judges of the African Court on Human and Peoples' Rights, the former Deputy Chief Justice of Israel, a Supreme Court judge of South Korea.”

other Chief Justices from Africa, was invited to a meeting with US President Barack Obama in Senegal where discussions centered on the support and collaboration that the US government and African judiciaries could forge in the promotion of the rule of law and democracy in Africa. The Kenyan judiciary has also mounted successful training and exchange programs with the Government of South Sudan.

The international appeal of Kenya's Judiciary is evidenced by two significant appointments. Justice Philip Waki of the Court of Appeal was appointed to the Appeals Chamber to the UN Special Tribunal for Sierra Leone while Justice Lenaola has been appointed to the UN Residual Court for Sierra Leone.

12.0 Judiciary and the academy

The Judiciary has also forged close relationships with the academy. In this regard, several high profile international academics have given lectures to judges. These include Prof. Ali Mazrui, and Prof. Robert Martin. The Chief Justice and judges have also given public lectures in various universities including Nairobi, Maseno, and Riara. Supreme Court Judge, Justice Prof. Jackton Ojwang, published a book, Ascendant Judiciary in East Africa: Reconfiguring the Balance of Power in a Democratizing Constitutional Order, which was launched by the Chief Justice at the Strathmore Law School.

In September 2013, the Chief Justice handed over the Presidential Election Petition documents to all public and private universities for further scholarly inquiry. The University of Nairobi has scheduled a Symposium on the decision in November 2013.

13.0 Admission of advocates

One of the noticeable developments in the justice sector is the remarkable increase in the number of lawyers being admitted to the Bar. Between June 2012 and July 2013, a total of 842 advocates were admitted to the Bar. The Bar is also becoming increasingly female as the gender gap closes. Of the admitted advocates, 468 were female and 364 male signifying the rapid but certain ascendancy of the female gender in the legal profession.

14.0 Administration of Oaths

The implementation of the Constitution as well as the episodic demand for emergent public interest issues has seen an upsurge in the number of public bodies that are sworn into office.

> "During the reporting period, the Chief Justice swore in a total of 72 commissioners, members, and secretaries drawn from at least 13 Commissions, Tribunals, or Authorities."

During the reporting period, the Chief Justice swore in a total of 72 commissioners, members, and secretaries drawn from at least 13 Commissions, Tribunals, or Authorities between July 1 2012 and June 30 2013. These included the Transition Authority (TA), the Ethics and Anti-Corruption Commission (EACC), National Land Commission (NLC), Teachers Service Commission (TLC), National Gender and Equality Commission (NGEC), National Police Service Commission (NPSC), Public Service Commission (PSC), Political Parties Dispute Tribunal (PPDT), Judicial Service Commission (JSC), HIV/AIDS Tribunal (HT), Commission on Administrative Justice (CAJ), Commission to hold Public Inquiry into the Causes and Circumstances Surrounding and Leading to fatal Accident Involving Aircraft Registration 5Y-CDT Type AS 350 B3, and Commission to hold Public Inquiry into the Ethnic Violence in Tana River, Tana North and Tana Delta Districts.

15.0 Judiciary and budget: Allocation trends

Whereas there has been improvement in budget allocation to the Judiciary since 2009/10 financial year, when compared to the national budget and institutional needs, the Judiciary continues to be under funded. The current allocation is way below the internationally agreed benchmark of 2.5% of the national budget.

The budget allocation has improved by 21.5%, 92.8% and 61.1% in the 2010/11, 2011/12 and 2012/13 financial years respectively. However, despite this improvement the allocations have continuously fallen short of the requested budget meaning that the resource requirements have never been realized. For the past four years allocations have been below the requirement by 10% for the 2010/11, 5% for the 2011/12, 19% for the 2012/13 and 23% for the 2013/14 financial year. In other words, budget deficit has been deteriorating over time from 5% in 2011/12 to 19% in 2012/13 to a level whereby the current financial year's deficit hit 23%. This has been a major challenge particularly in the implementation of programmes and projects.

16.0 Judiciary and the budget: revenue

The Judiciary exceeded and surpassed the revenue estimate in the 2012/2013 financial year by Sh70, 459,876.70. There has been an improvement in revenue collection from a low of Sh524 million in 2010/11 to Sh1,078 million in 2011/12 to Sh1,481 million in 2012/13. In other words, there has been an improvement from a negative growth of 7% in 2010/11 to a positive growth of 105% and 37.5% in 2011/12 and 2012/13 respectively. The Judiciary held deposits and trust funds amounting to Sh.2,423,705,298.70 in its accounts as at June 30 2013 for all court stations.

“Whereas there has been improvement in budget allocation to the Judiciary since 2009/10 financial year, when compared to the national budget and institutional needs, the Judiciary continues to be under funded. The current allocation is way below the internationally agreed benchmark of 2.5% of the national budget.”

17.0 Judiciary and budget: Expenditure

The spending record indicates that there has been an upward trend in expenditure with a higher margin on access to justice sub-programme. Specifically, expenditure on access to justice improved tremendously from a negative 9.9% in 2010/11 to a positive 195.6% and to 69.1% in 2011/12 and 2012/13 respectively compared to a gradual increase of 55.5%, 25.4% and 55.1% in 2010/11, 2011/12 and 2012/13 respectively on judicial services sub-programme.

This means that in past two years the overall mandate of the Judiciary on dispensation of justice has seriously been taken into consideration. Overall spending increased by 23.7% from 2009/10 to 2010/11, by 92.9% from 2010/11 to 2011/12 and by 63.6% 2011/12 to 2012/13 financial years.

18.0 Judiciary and budget: Absorption

Absorption of the budget has been improving for the past four years. The overall absorption has improved from 95.2% in the 2009/10 to 96.9% in 2010/11 and 98.5% in 2012/13.

19.0 Judiciary and budget: Staffing and Systems

The Judiciary's finance directorate was set up in the last financial year and is currently developing a robust financial and accounting system. A professional qualified staff has been recruited to strengthen and enhance capacity in the accounting and revenue divisions both at the Headquarters as well as at the field. A total of 91 staff was recruited and deployed in all court stations at the beginning of the 2013/2014 financial year. Regional offices have been established in different areas all over the country to ensure oversight in all accounting units at the stations. The new staff and integrated structures will ensure value for money, revamping of the planning and budget preparation as well as control of expenditure.

20.0 Judiciary and budget: External support

The Judiciary has secured financial support from both the World Bank and UNDP. The World Bank's Judiciary Improvement Project (JPIP) is worth USD 120 million and will be implemented over a six year period. Further a 3 year financing agreement was signed between the Government of Kenya, Government of Netherlands and the UNDP amounting to the turn of USD 22,965,000 to support the Judiciary Transformation Framework.

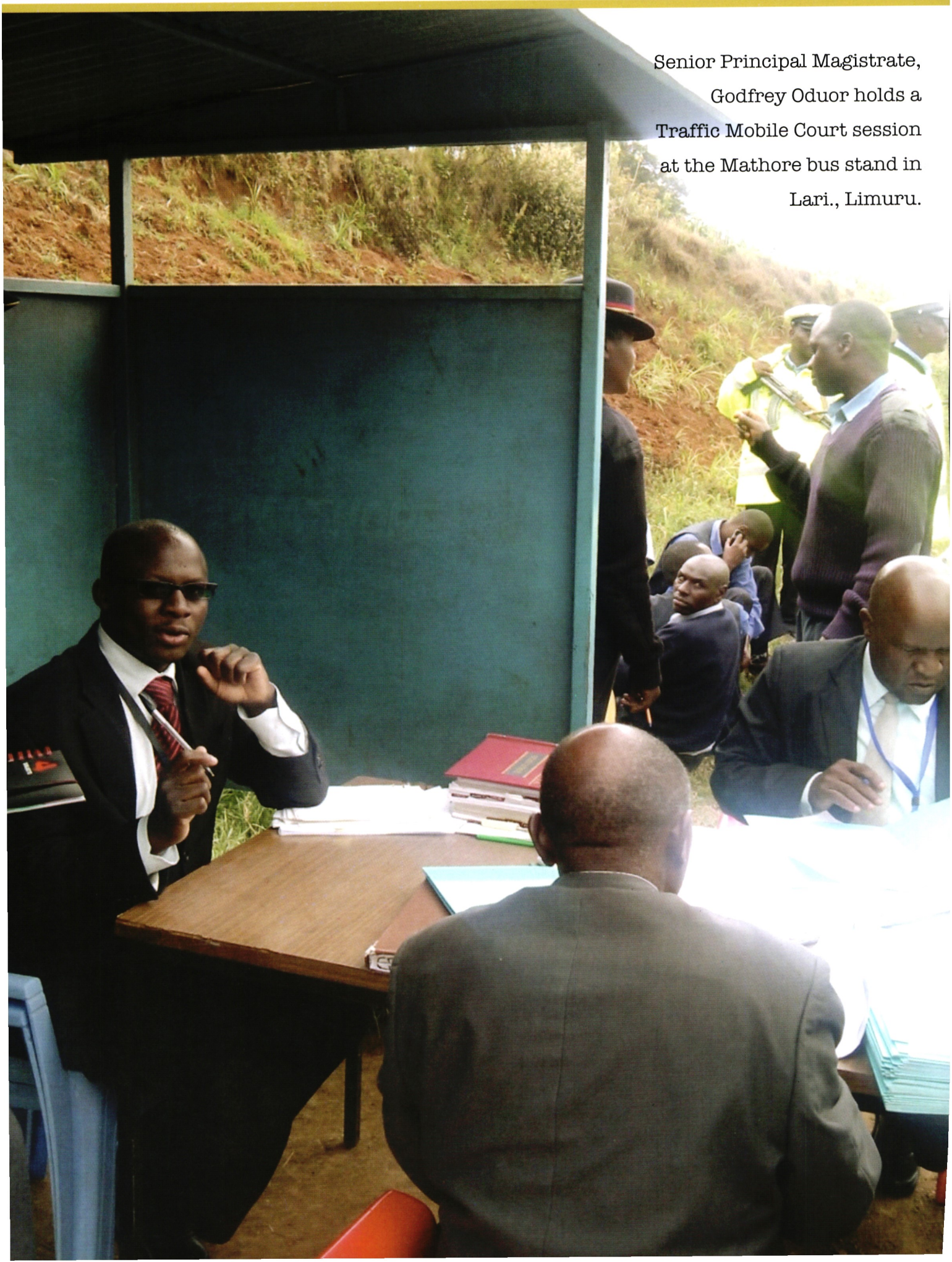
21.0 Conclusion: Report structure

This Report is organized in four parts. Part I on Access to Justice examines People-Focused Delivery of Justice and Caseload Data; Public Engagement and Interagency Cooperation. Part II on Quality of Justice examines emerging Jurisprudence from our courts; Part III on Governance focuses on Philosophy and Culture; and Leadership and Management; Part IV on Resources looks at finances, infrastructure and ICT.

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Part 1

ACCESS TO JUSTICE



Senior Principal Magistrate, Godfrey Oduor holds a Traffic Mobile Court session at the Mathore bus stand in Lari., Limuru.

Chapter 1

PEOPLE - FOCUSED DELIVERY OF JUSTICE

1.0 INTRODUCTION

Access to justice is the primary reason for which the judicial system exists. It is an obligation that Kenya's 2010 Constitution imposes on the judiciary and which is further recognized as the overriding objective of the Judiciary Transformation Framework (JTF), 2012 – 2016.

Previously, access to justice in Kenya was impeded by inadequate staff numbers, tortuous procedures, distances to court, as well as inefficiency and corruption. During the reporting period several substantive and procedural interventions have been made both in the judiciary and the entire justice sector to address some of these challenges. These interventions, however formative, have definitely improved court users experiences by affording more and finer opportunities for the just resolution of disputes.

1.1 Systems of courts and case load

The Constitution establishes the superior courts – consisting of the Supreme Court, the Court of Appeal and the High Court as well as the Industrial Court and the Environment and Land Court – and the subordinate courts, which group the Magistrates' Courts, the Kadhis courts, courts Martial and other courts or local tribunals. These are the formal sites for the delivery of justice, even though the Constitution additionally recognises alternative justice systems and requires the Judiciary to promote them.

The Judiciary Transformation Framework (JTF) 2012 – 2016, the institution's blueprint for effecting systemic and cultural change, identifies and recognizes people-focused delivery of justice as the overriding objective of all the work the courts do. The four pillars that support the Judiciary Transformation, as well as each of the 10 Key Result Areas under them, are aligned towards one goal: the expeditious and equitable delivery of justice. The JTF is a technocratic response to some of the barriers litigants face in their quest for justice, including geographical distance from courts, technicalities of procedure, lack of legal representation, and the lack of information on court processes, impartial and unfair decisions among other challenges.

The most visible quantitative indicator of service delivery of justice is the numerical turnover of cases. The total number of cases filed is an important indicater of people's confidence in the court. In the reporting period, 116,754 new cases were filed in courts across Kenya. During the same period, the courts heard and determined some 190,093 cases. This means that on average all the courts across Kenya completed 757 cases every working day. Still, some 657,760 are pending.

> "A total of **116,754** new cases were filed in courts across Kenya. The courts heard and determined some **190,093** cases."

TABLE 1.1: Consolidated Caseload for all Courts, 2012/13

COURT	FILED	RESOLVED	PENDING
Supreme Court	18	11	7
Court of Appeal	1,162	1,191	5,687
High Court	54,602	26,502	162,772
Magistrates	60,484	163,132	485,976
Kadhis Courts	488	257	3,318
TOTALS	116,754	190,093	657,760*

*These figures include raw estimates of cases carried forward from previous years. A comprehensive audit and caseload census is currently underway and will provide the definitive statistics on case backlog.

The bulk of the Judiciary's service delivery occurred in the Magistrates' and Kadhis' courts, where Kenyans first - and often last - interact with the Judiciary. During the period under review, the total case load in Magistrates' and Kadhis' courts was 652,683. Of these, 60,484 new cases were initiated in the Magistrates' courts, which also resolved 163,132 cases and still had 485,976 pending by June 30, 2013. Another 488 cases were commenced in the Kadhis' courts, which resolved 257 and had 3,318 still pending by June 30, 2013.

These numbers present a mixed picture of triumph as well as fresh challenges requiring quantitative and qualitative study of the Judiciary's method and capacity to deliver access to justice. The upsurge in recruitment of judges and magistrates, investment in technology for better case management, review of our working methods and introduction of an institution wide Performance Management System, are measures being undertaken to clear this heavy case backlog.

1.1.1. The Supreme Court

Established pursuant to Article 163 of the Constitution of Kenya and the Supreme Court Act, 2011, the Supreme Court has exclusive original jurisdiction to hear and determine disputes relating to the elections to the office of President. It also has appellate jurisdiction over matters emerging from the Court of Appeal and other courts or national tribunals as may be prescribed by statute. It also has a third duty, which requires it to issue advisory opinions to State organs, the national and county governments; and pursuant to Article 58 (5) to determine questions relating to the declaration of State of Emergency. Within 18 months of its establishment in August 2011, the Supreme Court



Hon. Lady Justice Kalpana Rawal, Deputy Chief / Vice President of the Supreme Court of Kenya

"The upsurge in recruitment of judges and magistrates, investment in technology for better case management, review of our working methods and introduction of an institution wide Performance Management System, are measures being undertaken to clear this heavy case backlog."

determined a presidential election, sat on appeal over matters emerging from the Court of Appeal, and issued advisory opinions on a variety of major constitutional questions. The Court's advisory opinion on the implementation of the gender rule on the composition of public elective bodies, and the parameters of its jurisdiction over presidential elections, clarified important issues ahead of the March 4, 2013 elections.

For most of the year, and until after the determination of the presidential election petition, the Deputy Chief Justice and the Court's vice president, was suspended from office and subsequently found unsuitable to continue to serve. This reduced the number of judges in the court by one, with the consequence that the presidential election petition was heard by all the court's six judges in office at the time. In February, 2013, the JSC nominated Justice Kalpana Rawal who was appointed as the new Deputy Chief Justice and Deputy President of the Supreme Court after successful vetting by Parliament. Justice Rawal was sworn in on 3rd June, 2013. The Supreme Court had 18 new cases, resolved 11 and had seven (7) pending as at the close of the reporting period.

Table 1.2: Caseload for the Supreme Court

TYPE OF MATTER	CASES FILED	CASES DETERMINED	PENDING CASES
Applications	7	4	3
Advisory Opinions	3	1	2
Petitions	8	6	2
Total	18	11	7

The Supreme Court heard and determined the presidential election petition within the constitutional timeline of 14 days. Even though the decision was contested, the speedy resolution of the electoral dispute and the acceptance of the decision deepened the rule of law. Similarly, the Supreme Court's advisory decision on the gender composition of persons elected to public bodies staved off the sense of crisis looming before the March 4, 2013 elections given that there was no legal framework for realising the constitutional provision.

1.1.2 The Court of Appeal

Established under Article 164(1) of the Constitution, the Court of Appeal has jurisdiction to hear appeals from the High Court, the Industrial Court, the Environment and Land Court, as well as any other cases as prescribed by law. After the most expansive recruitment in the court's history in 2012, bringing on board 14 new judges, the Court of Appeal's bench strength presently stands

"In February, 2013, the JSC nominated Justice Kalpana Rawal who was appointed as the new Deputy Chief Justice and Deputy President of the Supreme Court after successful vetting by Parliament."

at 26. The court is headed by a President who is elected for elected for a term of five years, and is required to be organized and administered in the manner prescribed by legislation. The first election of a President of the Court of Appeal was concluded in March 2013 and Justice Paul Kihara Kariuki was elected to office.

1.1.3 Decentralization of the Court of Appeal

The Court of Appeal has its headquarters in Nairobi, where the main registry is located. It also had sub-registries in Kisumu, Mombasa, Nyeri, Nakuru and Eldoret. The Court of Appeal visited Mombasa, Nyeri, Kisumu on circuits twice a year, spending two weeks in each station. It also visited Eldoret and Nakuru for a week each twice a year. Decentralising the court is a step towards addressing these challenges. With between 11 and 14 judges, and case backlog running into 6,077, it became necessary to expand and decentralise the court to make it more efficient and accessible. The decentralisation programme began in 2011 with the enactment of the Judicature (Amendment) Act, 2011, which increased the number of judges of appeal from 14 to 30. The Judicial Service Commission subsequently recruited 15 Court of Appeal judges. One judge has been appointed to the Supreme Court, leaving a balance of 26.

A major milestone in the Judiciary's transformation was the recruitment of 15 new judges of the Court of Appeal and its subsequent decentralisation to three stations with the greatest case backlog burden. In January 2013, the Chief Justice established four permanent Courts of Appeal. On April 15, 2013, the Court of Appeal in Kisumu, Malindi and Nyeri began operations, each with three judges.

Table 1.3: Caseload for Court of Appeal , 2012/13

TYPE OF CASE	FILED	FINALISED	PENDING
Civil Appeals	399	463	1,850
Criminal Appeals	408	374	3,756
Civil Applications	376	195	719
Totals	1,183	1,032	6,322

Between July 1, 2012 and June 30, 2013, the Court of Appeal received 1,183 new cases over and above the 6,174 already pending. It resolved 1,032 cases – an average four cases concluded each working day. Since each case in the Court of Appeal is heard by a bench of three or five judges, the numbers show that each bench disposes of an average one case each working day.

Between January and June 2013, a total of 812 cases in the Court of Appeal were disposed of compared to only 379 between June and December 2012, representing an over 100 per cent improvement in the disposal rate. This improvement can be attributed to the increased number

> "Decentralizing the Court of Appeal makes it the most accessible highest court across the country. It shall radiate its knowledge across the country ... Its leadership in promoting constitutional development, ... becomes weightier if a matter is not litigated in the Supreme Court."
>
> *-- Chief Justice Willy Mutunga at the Inauguration of the Court of Appeal at Nyeri*

of Judges following the recruitment of 16 new members to the Court of Appeal bench. The court now supports four benches sitting daily in Nairobi and 3 in the decentralized Courts of Appeal in Malindi, Nyeri and Kisumu. With seven benches sitting in a day, up from the previous three, it is clear the initiatives of recruitment and decentralisation are yielding results. Within barely two months, the decentralized courts in Malindi, Kisumu and Nyeri had disposed a total of 277 cases – or 46 cases per bench of three every month. The Court of Appeal remains in the grip of a physical facilities challenge. The recruitment of additional judges and the establishment of the Supreme Court have raised the need for more space. Plans to decentralize the court to Nakuru and Eldoret are similarly hampered by infrastructure challenges.

1.1.4 The High Court

Established under Article 165 of the Constitution, the High Court has unlimited original jurisdiction in criminal and civil matters, as well as jurisdiction to determine questions to do with a right or fundamental freedom in the Bill of Rights, to hear an appeal from a decision of the subordinate courts, or of a tribunal, to hear any question respecting the interpretation of this Constitution, to determine whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, this Constitution, and any matter relating to constitutional powers of State organs in respect of county governments and any matter relating to the constitutional relationship between the levels of government and any other powers conferred on it by law.

The Judicature Act was amended to raise the ceiling for the number of judges from 70 to 150. In the past two years, new recruitments have raised the bench strength from 44 judges to 70. However, the vetting of judges has seen nine High Court judges being found unsuitable to continue serving.

In the reporting period, three new High Court stations were established in Kerugoya, Murang'a and Homa Bay in addition to the 17 already in place. In the past year alone, the new courts have registered remarkable results – receiving 4,919 cases between July 1, 2012 and June 30, 2013.

Table 1.4 Cases Filed in New High Court Stations

STATION	CASES REGISTERED
Homa Bay	218
Kerugoya	3,153
Murang'a	1,548
TOTAL	4,919

In Nairobi, where the bulk of litigation is, the High Court has been organised into seven divisions, each headed by a judge – the Criminal, Civil, Commercial and Admiralty, Judicial Review, Land, Constitution and Human Rights, and Family division. An ad hoc Elections division was constituted this year.

"The Judicature Act was amended to raise the ceiling for the number of judges from 70 to 150. In the past two years, new recruitments have raised the bench strength from 44 judges to 70. However, the vetting of judges has seen nine High Court judges being found unsuitable to continue serving."

In sum, the High Court – including the Industrial Court and the Environment and Land Court - had a total caseload of 162,772, receiving 54,602 new cases and resolving 26,502 as at June 30, 2013. This works out to 105 cases resolved every working day, or three cases per judge every two working days. Table 1.5 presents a detailed statistical snapshot of the cases in the High Court between July 1, 2012 and June 30, 2013.

Table 1.5: High Court Caseload

CASE STATISTICS JULY 2012 - JUNE 2013			
	FILED	PENDING	DECIDED
Criminal Matters			
Criminal Misc Appl.	1807	3684	1346
Murder	1181	3250	813
Ordinary Crim. Appeals	2951	8501	3199
Capital Crim. Appeals	374	1787	735
Criminal Rev.	2056	3103	2574
SUB-TOTAL	8369	20325	8667
Civil Matters			
AD-LITEM/ AD COLL/ CITATION	585	127	586
Adoption & Divorce	1194	980	212
Citations	30	73	22
Civil Appeals	4242	19981	1956
Civil Cases	990	18703	897
Civil Misc. Application	4819	8305	2494

Constitutional & Human Rights	642	732	386
Election Petitions	118	90	28
Family Appeals	3	27	0
Family Misc	145	117	33
HCCC	2432	28909	915
Judicial Review	683	3084	235
Other Civil Cases	3439	3913	363
P & A	5711	17587	3929
P&A APPLICATION	73	1160	0
P&A MISC APPLICATION	71	119	9
Petitions/ Constitutional References	65	1306	10
Succession	7596	13836	3044
SUB-TOTAL	32838	119049	15119
Commercial Matters			
Bankruptcy	66	209	9
Winding Up	36	142	4
ITA	381	698	75
Admiralty	17	4	20
SUB-TOTAL	500	1053	108
ENVIRONMENT & LAND CASES	8222	16407	443
INDUSTRIAL COURT CASES	4673	5938	2165
GRAND TOTAL	54,602	162,772	26,502

1.1.5 The Industrial Court

The Industrial Court is established pursuant to Article 162 (1) (a) of the Constitution. The JSC appointed 12 judges, who began sitting in September 2012. In spite of a very difficult transition period, moving from the supervision of the Ministry of Labour to the Judiciary, the court now administers justice at Nairobi, Mombasa, Kisumu and Nakuru. The Court transited to the Judiciary with a total of 4,566 cases. By June 30, 2013 the court had received 4,673 new cases and decided 2,165 cases . These numbers suggest that each Industrial Court judge heard and determined 180 cases in nine months – a record of 20 cases a month or one case for every working day.

Table 1.6: Caseload Summary for Industrial Court

CASE TYPE	FILED	PENDING	RESOLVED
Labour Disputes	3,232	5,080	1,628
Misc. Applications	642	556	66
Industrial (Collective Bargaining Agreements)	680	239	439
Petitions	76	21	31
Judicial Review	43	42	1
SUB-TOTAL	4,673	5,938	2,165

1.1.6 The Environment and Land Court

The Environment and Land Court was established pursuant to Article 162 of the Constitution of Kenya, 2010, and the Environment and Land Court Act, 2011. The court was established as a response to the complexity of land disputes, some subsisting for the country's half a century of independence.

Fifteen (15) judges of the Environment and Land Court were appointed and posted to 14 stations across the country. The Court is headed by a Head of the Environment and Land Division. The Chief Justice issued practice directions through Gazette No. 16268 to facilitate case load redistribution and initial administration of the new court's registry. The court handles all disputes relating to the environment and land, including those relating to environmental planning and protection, trade, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources. The other disputes under the court's jurisdiction include those

relating to compulsory acquisition of land; land administration and management; public, private and community land contracts; or any other instruments granting any enforceable interests in land. The court also has jurisdiction over any other dispute relating to the environment and land.

Table 1.7: Caseload for Environment & Land Court

CASE TYPES	FILED	PENDING	RESOLVED
Environment & Land	8,039	16336	443
Miscellaneous	131	19	0
Appeals	41	41	0
Judicial Review	4	4	0
Petitions/ Const References	7	7	0
SUB-TOTAL	8,222	16,407	443

By June 30, 2013 the new Environment and Land Court had 16,407 pending cases, many of which had been taken over from the civil courts. There were 8,039 fresh cases filed and 443 resolved during the year. On average, every one of the 15 judges in the court concluded three cases per month.

Table 1.8: Comparative Analysis of Decided Cases in 2011, 2012 & 2013

TYPE OF CASES	2010/2011	2011/2012	2012/2013
Criminal Misc Application	1346	1566	1346
Murder	697	691	813
Ordinary Criminal Appeals	2247	2470	3199
Capital Criminal Appeals	446	842	735

Criminal Revision	1022	5963	2574
Judicial Review	77	2403	235
Constitutional & Human Rights	386	529	386
P&A / Succession	1780	7791	6973
P & A Misc Application			9
Divorce / Adoption			212
Family Misc			33
Ad Litem/Ad Coll/Citation			586
Citations			22
Petitions & Constl References			10
HCC (commercial cases)			915
Civil Cases	9890	25371	897
Other Civil cases			363
Civil Misc Applications			2494
Civil Appeals	3292	3061	1956
Bankruptcy	114	256	9
Winding Up	223	661	4
ITA			75
Admiralty			20
Election Petitions			28
Land & Environment			443

Industrial Court			2165
TOTAL	21520	51604	26502

There has been an increase in the number of cases filed in the High Court from the 37,954 in 2011/2012 to 54, 602 in 2012/13. The number of decided cases fell from 51, 604 to 26,502, largely because many months were used up hearing the election petitions, and also because the vetting process required many judges to take time off to prepare for it. The loss of 9 judges to the vetting process and 8 judges on promotion to the Court of Appeal has taken its toll on the High Court's output. It is expected that after the recruitment of new judges, which is on-going, and at the conclusion of election petitions, the High Court will stabilise and regain lost ground.

1.1.7 The Subordinate Courts

The subordinate Courts are provided for under Article 169 (1) (a) of the Constitution and include the Magistrates Courts, the Kadhis' Courts, the Courts Martial and Tribunals. These courts comprise the most extensive service network of the Judiciary and perform the bulk of service delivery because they are the courts of first instance and the first port of call for many litigants. They are oftentimes the last forum for the majority of Kenyans. The Judiciary Transformation Framework recognizes that true institutional progress towards people-centered justice delivery must focus on these courts.

There are 150 Magistrates' court stations across the country. In July 2012, the Judicial Service Commission recruited 104 magistrates bringing the total number to 421. In 2013, the JSC recruited another 66 Resident Magistrates, 50 of whom reported to duty on October 1. The current establishment in the magistracy is therefore 471.

On December 18, 2012, the Judiciary made history when it recruited and posted to various stations 20 new Kadhis, bringing the total number of Kadhis to 35. Some of the new Kadhis were posted to far-flung areas where marginalised communities in Habaswein, Kakuma, Kwale, Dadaab and Faza Islands subscribing to the Muslim faith previously had to travel long distances to resolve matters of marriage and divorce and inheritance. Within the reporting period, 488 matters were initiated at the Kadhis Courts and 257 resolved. It is hoped that the increase in Kadhis Courts will reduce the pending 3,318 cases.Lack of synergy has also resulted in inefficiency among justice sector institutions consequently undermining the expeditious resolution of cases involving children and cases filed under the Sexual Offences Act. For instance, 436 new cases were filed in the Children Court and 488 were resolved but 3,919 are still pending. Some 1,178 cases relating to sexual offences and offences against morality, e.g., conspiracy to defile, to procure an abortion, and gender based violence, were initiated in the magistrates courts. Of these, 1,671 were resolved but there still remain 6,312 cases pending resolution.

Table 1.9: Caseload for Magistrates Courts

CRIMINAL CASES			
Type of Cases	Initiated	Resolved	Pending
Murder/ manslaughter, suicide	1,633	1,119	2,175
Robbery	248	356	926
Robbery with violence	783	1,001	2,674
Traffic cases	17,314	18,842	18,905
Unlawful assembly and riot	1,111	1,361	2,065
Theft and offenses allied to stealing	6,064	8,188	18,940
Forgery and impersonation	473	720	3,380
Assault with grievous harm /affray	3,447	5,088	12,103
Children in conflict with the law	436	488	3,919
Sexual offences/ against morality	1,178	1,671	6,312

Offences against liberty	55	46	240
Offences against marriage and domestic obligations	29	23	746
Anti-corruption /economic crime cases	37	51	278
Other criminal matters	15,973	12,626	19,784
SUB TOTAL	48,781	51,580	92,447
CIVIL CASES			
Tort (personal injury/ defamation), negligence and recklessness	4,209	70,354	115,813
Disputes from contracts (excl. land)	856	9,904	72,372
Land (not involving title deeds)	574	7,659	10,586
Succession	1,009	7,807	8,517
Matrimonial: Protection & care	554	3,994	6,399
Child maintenance and custody	508	591	3,192
Committal proceedings for abandoned babies	65	37	237

Miscellaneous applications (including applications not under Children Act)	250	5,768	162
Sub Total	8,025	106,114	217,278
TOTAL	56,806	157,694	309,725
GRAND TOTAL	60,484	163,312	485,976

1.1.8 Tribunals

The Constitution now brings all Tribunals, most of which operated under the Executive, under the ambit of the Judiciary. The transition of those Tribunals will constitute one of the major programs for the Judiciary from the beginning of the next financial year. This will have significant budgetary implications.

Case Study: Auctioneers Licencing Board

This is a quasi- judicial tribunal that is established under Section 3(1) of the Auctioneers Act to exercise general supervision and control over the business and practice of auctioneers. It licences and regulates the business and practice of auctioneers, supervises and disciplines licensed auctioneers, and carries out training programmes for licensed auctioneers. It sits bi-monthly at the Milimani Law Courts Boardroom to consider applications for fresh licences (Class A) and applications for enhancement of licences (from Class A to B) as well as to hear and determine disciplinary cases filed by members of the public against the conduct of individual auctioneers.

The auctioneering sector had for the longest time harboured some of the most incorrigible abusers of court processes. During the period under review the board dealt with 159 disciplinary matters, determining 72 of them by ordering disqualification, suspension or revocation of licences for those involved.

The board also visited major urban centres and conducted supervision surveys meant to verify compliance with the law and regulations relating to display of current licences, location and security, financial propriety and bookkeeping and staffing. The board is in consultation with other stakeholders to make their services more responsive to customer needs, notably through enhanced use of information communication technologies. For tabular reports, see annexure 1.10.9 at the end of this report. (Auctioneers)

“The Constitution now brings all Tribunals, most of which operated under the Executive, under the ambit of the Judiciary. The transition of those Tribunals will constitute one of the major programs for the Judiciary from the beginning of the next financial year. This will have significant budgetary implications.”

1.2 Expeditious Delivery Of Justice

1.2.1 Delivering Speedy Electoral Justice

The Constitution, 2010 phenomenally increased the number of electoral seats and set tight time deadlines for the determination of electoral disputes. Read against the public confidence gap in the institution that was partly blamed for the post-election violence on 2007/08, the Judiciary was under immense pressure to deliver on its constitutional mandate and duties. An elaborate preparations strategy was designed and successfully implemented which saw the judiciary conclude all the election petitions within the constitutionally set timelines.

As a first step, the Chief Justice established the Judiciary Working Committee on Election Preparations (JWCEP) to lead efforts to ready the institution for dealing with the disputes emerging from the transitional elections of March 2013. Courts at all levels were involved in hearing and resolving electoral disputes - starting with the Political Parties Disputes Tribunal, which adjudicated contests over party nominations, the magistrates' courts which adjudicated petitions arising from the election of county assembly representatives, and the High Court, which heard all the other election petitions. The Court of Appeal heard and determined appeals from the High Court. The Supreme Court heard and determined the presidential election petitions and would be called upon to repeatedly offer advisory opinion on issues connected to the elections.

The Judiciary Working Committee on Election Preparations, drawing representation from the Supreme Court, the Court of Appeal, the High Court and the magistracy, focused on five tasks:

1. Identifying the existing legal gaps and proposing the development of rules of procedure and where need be, amendments to the laws related to electoral dispute resolution. It also advised the Judiciary on the administrative arrangements and measures for the efficient disposal of election cases.
2. Developing and implementing a training programme for the efficient and effective management of election disputes for judicial officers and staff in conjunction with the Judiciary Training Institute.
3. Designing and instituting a system for monitoring and evaluating management and administration of election related disputes in court.
4. Liaising and coordinating with stakeholders to ensure efficient, effective and timely resolution of election related disputes and offences.
5. Advising the Judiciary on the information that needed to be developed and disseminated to the public on the avenues open to it to pursue electoral disputes and the approaches that will be employed.

In setting up a proper legal and administrative framework for resolving election-related disputes, the committee drafted amendments to the Elections Act, and drafted and published the Elections (Parliamentary and County Elections) Petition Rules 2013 as well as the Supreme Court (Presidential Election Petition) Rules 2013. Additionally, a record 95 judicial officers were trained

"The Chief Justice established the Judiciary Working Committee on Election Preparations (JWCEP) to lead efforts to ready the institution for dealing with the disputes emerging from the transitional elections of March 2013."

on electoral laws and dispute resolution procedures, as well as on the preparation of various practice notes on elections. Judges were moved to High Court stations to hear petitions. These preparations laid the groundwork for the expeditious hearing and determination of election petitions in 2013. The Chief Justice designated election courts to handle the 188 petitions filed after the elections. Of these 188 petitions, 118 were filed in the High Court and 70 in the Magistrates' Courts. The Chief Justice selected the judges and magistrates to hear election petitions and listed the various stations, which were published in the Kenya Gazette as well as in the national newspapers. The list was also posted on the Judiciary website.

Before the elections, the Political Parties Dispute Tribunal and the High Court heard and resolved 47 cases from the nomination challenges in five days; concluded integrity challenges against some of the candidates in the elections and made arrangements for judicial officers to hear election offences cases round the clock. Earlier, the High Court had concluded the hearing of 136 boundary delimitation cases and resolved the election date case. The Court of Appeal upheld the High Court's decision on the election date.

The presidential election petition was the first of its kind in Kenya under the new Constitution. It was also the first presidential election petition to be heard and determined on merit. In the past, presidential election petitions were dismissed on technicalities before they proceeded to full hearing. The petition was determined within the timelines set out in the Constitution. The decision of the court was delivered on March 31, 2013, with the full judgment and reasons for the decision being delivered on April 16, 2013.

The Supreme Court has exclusive original jurisdiction to hear and determine all disputes touching on the election of the President. The role of the Supreme Court in determining the three presidential petitions filed after the March 4, 2013 elections was, therefore, critical to entrenching public confidence in the rule of law.

The court's decision has been praised and criticised in equal measure for its contribution to electoral jurisprudence in Kenya and on the continent. The decision of the parties to abide by the decision of the Supreme Court ensured peace, unlike 2007 when the aftermath of the elections created a crisis of international proportions. The existence of the Supreme Court together with the public's acceptance of its decision played a significant role in managing disagreements emerging from a hotly contested election.

The 28-day deadline for filing petitions lapsed on April 10, 2013. The legal research team produced a synopsis of election petitions that had so far been filed. The list of election petitions enabled the Chief Justice to publish the names of the judges and magistrates selected to handle election petitions in the Kenya Gazette. The summary table of petitions and orders sought was also used in the colloquium for the selected Bench. It gave the judges and magistrates a preview of the cases they were required to adjudicate as they waited for the delivery of the physical files.

"Before the elections, the Political Parties Dispute Tribunal and the High Court heard and resolved 47 cases from the nomination challenges in five days and concluded integrity challenges against some of the candidates in the elections. The High Court also concluded the hearing of 136 boundary delimitation cases and resolved the election date case."

The designation of courts to hear petitions emanating from the election required a delicate balance between the speedy and timely resolution of cases while ensuring that other court processes continued with minimal interruption. Beyond the innovation of designating magistrates' courts to hear petitions arising from county assembly elections, the JWCEP Secretariat maintained a centralised database with a list of cases filed, and the respective elective posts to which they related, where the interim and final orders were constantly documented, updated, disseminated, monitored and evaluated by purposely designated information communication technology specialists and legal researchers.

The innovative use of magistrates' courts, coupled with the requirement that election petitions be heard on a day-to-day basis with minimal adjournments (if any) in order to ensure the expeditious conclusion of the cases and the collaborative case management system not only brought proceedings closer to the people and secured localized public access and participation, but also pre-empted a heavy backlog. The database indicated where more than one petition had been filed in respect of the same election. For the first time in Kenya's history, there was an unprecedented, faster turnaround time for electoral disputes, with all petitions being concluded in six months. The committee's work in guiding the institution through the electoral dispute resolution process resulted in the Judiciary being recognised as the institution that was most prepared for the elections.

Table 1.10: Summary of Election Petition Outcomes

Allowed	24
Dismissed	115
Withdrawn	17
Struck out	31
Pending	1
Total	188

In Table 1.10 and 1.11, judgements delivered refers to those given on the merits of the petition while petitions struck out refers to cases dismissed on technical grounds. In one instance, a retrial was ordered following a successful appeal against a decision to strike out the case.

"The designation of courts to hear petitions emanating from the election required a delicate balance between the speedy and timely resolution of cases while ensuring that other court processes continued with minimal interruption."

Table 1.11: Election Petitions Detailed Summary

POSITION	JUDGMENTS			Withdrawn	Struck out	Pending hearing	Filed
	Allowed	Dismissed	Delivered				
Governor	3	19	22	0	2	0	24
Senator	2	5	7	2	4	0	13
Member of National Assembly	9	45	54	5	11	0	70
Women Representative	0	3	3	1	5	0	9
County Assembly Rep	9	42	51	7	8	1*	67
Speaker of County Assembly	1	1	2	2	1	0	5
	24	115					
TOTAL	139			17	31	1	188

The committee is still monitoring about 49 electoral issues with a view to charting improvements for the future. Some of the areas where the judges have recommended reform (see 'Jurisprudence' section) include the amendment of section 76 of the Elections Act to provide clarity on the meaning of a declaration of election results, the transfer of election petitions filed in the wrong court, the inconsistency between the Elections Act and the Elections (Parliamentary and County Elections) Petition Rules on the time for filing election appeals in the High Court and the jurisdiction of the appellate court in relation to interlocutory appeals.

The sheer scale of court resources that were directed towards the resolution of election disputes, combined with a simultaneous increase in the consumption of court services, resulted in a rise in pending cases. Criminal appeals that had been scheduled for hearing during the period that the petitions were being heard were delayed.

Consequently, judges of the High Court, Industrial Court and Land and Environment Court decided to forego their annual vacation and dedicate one week to hearing criminal appeals as single or two-judge benches.

1.2.2 The Judiciary Service Week

The Constitution of Kenya guarantees every accused person the right to appeal once convicted. Visits to 10 prisons in 2012 revealed that 3,008 prisoners had been waiting for the hearing of their appeals for over five years.

The situation of the prisoners was made worse by the fact that during the period of hearing election petitions, hearing of Criminal Appeals almost came to a standstill. The Chief Justice visited Kamiti, King'ong'o and Kodiaga prisons to reassure prisoners that every effort possible would be made to address their concerns.

Between October 14 and 18, 2013, the High Court, together with judges of the Industrial Court and the Environment and Land Court held a Judiciary Service Week to accelerate the completion of criminal appeal cases that had been pending because of priority being given to election petitions. The Judiciary Service Week was held in place of the Judicial Marches staged the previous year as a public outreach activity. The week is an emerging tradition of service where judges, judicial officers and staff set aside a week in which normal court business will be supplemented by a single distinct and impactful activity throughout the country.

The Chief Justice launched the Judiciary Service Week on October 11, 2013 at the Kamiti Maximum Security Prison, while Resident Judges across the country officiated at similar launches that brought together members of various Court Users Committees at the various High Court stations.

During the Judiciary Service Week, 70 Judges of the High Court, the Industrial Court and the Environment Court heard 2,241 cases. The target for the service week was for the Judges to hear 1,500 appeals. Of the 2,241 cases that had been listed for hearing, 836 cases were adjourned

"During the Judiciary Service Week, 70 Judges of the High Court, the Industrial Court and the Environment Court heard 2,241 cases."

for one reason or another. A total of 1,193 appeals were heard and are scheduled for Judgment in November, 2013. Another 394 appeals were heard and determined during the week. This brings the total number of appeals concluded during the week to 1587. The targeted number of 1,500 was exceeded by 87.

In 2012, the High Court finalised 3,944 criminal appeals, leaving 10,289 pending appeals – a figure that includes 3,325 new appeals filed during the year. Therefore, the 1,587 appeals that were finalised during the Judiciary Service Week reduced pending cases significantly.

Moreover, prison records showed that out of 33,194 convicted prisoners, 12,704 were eligible for Community Service Orders allowing them to complete their sentence out of custody. During the Judiciary Service Week, the Judges set aside October 18, 2013 to review cases of prisoners deserving release under the Community Service Orders. The target for the number of cases to be reviewed was 3,500. A total of 4,054 cases were reviewed and 3,830 offenders released to serve Community Service Orders. The tax payer has been saved an estimated total of Sh241,290,000 that would have been the minimum amount spent on food for the prisoners for a year at a cost of Sh175 daily. The Judges were mindful of the fact that not all cases qualified for Community Service Orders, hence the 1,106 cases found to be unsuitable. Some 624 cases are still being reviewed.

During the week, other matters scheduled for hearing were handled by the Deputy Registrars who ensured that litigants were not unduly inconvenienced. The lessons learned during this exercise are expected to inform the establishment of a case management system.

1.2.3 Speeding up Justice for Prisoners

Access to justice by people in custody is closely tied to the inviolable rights of equality before the law and to a fair and expeditious trial provided for in the Constitution.

In April 2013, inmates at Kamiti Maximum Security Prison went on a hunger strike to protest delays in hearing their cases in the Court of Appeal. The Chief Justice, the President of the Court of Appeal and the Chief Registrar visited the prison to listen to inmates' grievances on May 29, 2013.

Subsequently, the Chief Justice and the President of the Court of Appeal took pro-active measures to clear the criminal cases backlog in the Court of Appeal.

A comprehensive analysis of the reasons for the delays revealed that:

1. Cases were listed based on the year they were filed in the Court of Appeal rather than when they first entered the judicial system. The oldest case was 21 years old.
2. The service process in the Court of Appeal posed serious challenges and could not be done in time.
3. The compilation of records of appeal had systemic challenges which had not been addressed, leading to delays in concluding cases.

> "1,587 criminal appeals concluded during the Judiciary Service Week."

> "Sh241,290,000 saved by the release of 3,830 offenders to serve on community service orders during the Judiciary Service Service Week."

4. There was no link between the advocates, the prisons, the Director of Public Prosecutions and the court.
5. Appellants were not always interested in prosecuting their cases and would seek adjournment on flimsy grounds.

A meeting with 25 pro bono advocates handling capital offenders' matters was held under the leadership of the Law Society of Kenya, the President of the Court of appeal, A Judge of Appeal, and the registrars of the court. The meeting made several recommendations, which are being implemented.

Additionally, a liaison with prisons was established to ease the transmission of communication relating to prisoners such as availability, production notices, and memoranda from the prisoners to the Director of Public Prosecutions. The liaison would also double up as a communication office linking the court with pro bono advocates. It was decided that a meeting be held with the Director of Public Prosecutions to agree on how to avoid any adjournments. It was also agreed that periodic meetings would be held with inmates to impress upon them the need to clear their cases.

Documentation of process and the creation of checklists was agreed on to minimise cases of incomplete records and thus avoid the interruption of hearings. Executive summaries of cases would be provided to judges to enable them to distill the issues raised.

The operationalisation of the case management system to capture daily returns from Malindi, Nyeri, Kisumu and Nairobi was also considered a priority.

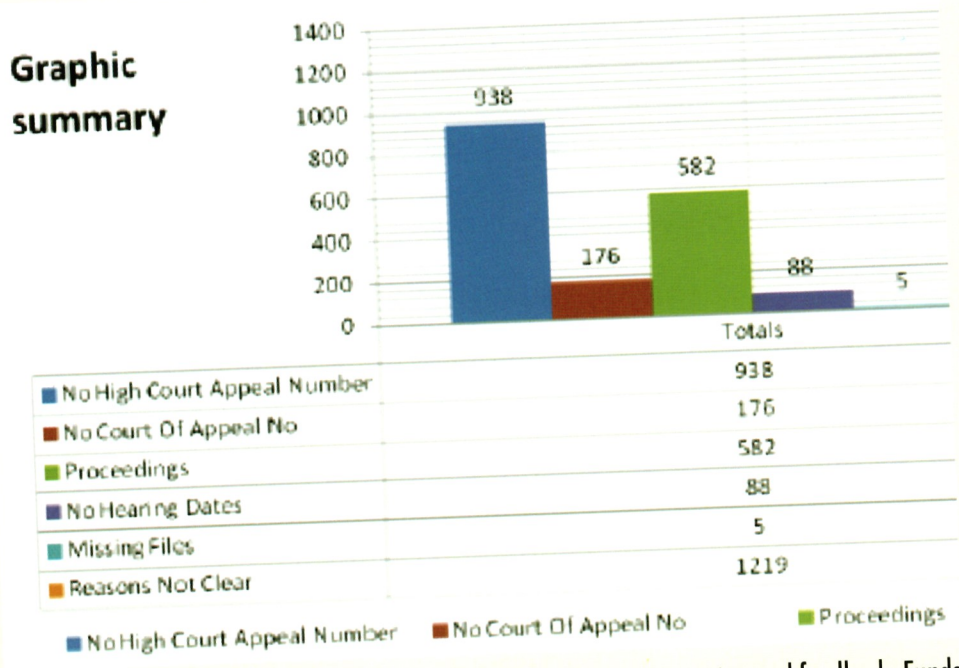
These findings confirmed the findings of earlier visits in the year 2012 / 2013, when 10 prisons were visited - Kamiti, Langata Women, Naivasha Maximum, Kisumu Main, Kibos, Shimo-la-Tewa, Manyani, Nyeri (King'ong'o), Main Meru and Embu.

The visits sought to establish the number of prisoners who had been in the justice system for more than five years, and to identify the cause of the delays in completing their cases.

A team led by a Deputy Registrar from the criminal division visited the prisons and prepared a findings report .

During the visit, 3,008 prisoners complained of delays in the hearing of their cases for a variety of reasons. Most complaints arose from administrative failures such as lack of case file numbers for appeals filed in the High Court. The High Court has elected to work closely with other stakeholders, such as prisons, to ensure proper coordination and minimise the recurrence of such incidents.

Figure 1.1: Why cases delay



The complaints were forwarded to each court station for appropriate action and feedback. Funds to aid in typing of proceedings have since been released to the stations. As a result, 3,908 records of appeal have been prepared. The cases were scheduled for hearing during the Judiciary Service Week, with priority given to older cases.

The Registrar of the High Court established a section to nationally monitor the hearing of the appeals with a view to eliminating delays. A bring-up system was introduced in all High Court stations to monitor all pending requests from High Court and the Court of Appeal. All Deputy Registrars of the High Court are now required to periodically visit prisons in their jurisdictions.

1.3 Increasing Access to Justice

Following a national audit of backlog and a survey of optimal service ratios, the Judiciary established new courts in several parts of the country and extended others to increase physical access to justice. The Court of Appeal and the High Court have been expanded, staffed, moved closer to the people in an effort to make them more physically accessible. The Judiciary also launched a mobile courts strategy as a quick response to delivering justice in underserved and geographically marginal areas.

1.3.1 Mobile Courts

In the period under review, the Judiciary increased the number of mobile courts from five to 20, thereby reducing distances to court through innovative approaches such as buying boats to serve Mfang'ano and Rusinga Islands in Homa Bay County and Lamu in Lamu County. In addition, stations were restructured and re-aligned to provide supervision for mobile courts services to ensure that

they achieved the objectives of reducing distances covered by litigants to the nearest court, the inconvenience to litigants and their witnesses and case numbers.

For example, the mobile courts in Karaba and Archers Post, which were previously under the supervision of Embu and Maralal law courts, are now supervised by Wang'uru and Isiolo law courts, respectively. Other deliberate steps have also been taken to achieve responsive service delivery through efficient and inclusive administration.

The budgeting operations and monitoring of new mobile courts is authorized by the Registrar of the Magistrates Courts while all case statistics and monthly returns from mobile courts are separately sent to the Directorate of Performance and Management. At the very minimum, the Judiciary allocates funds only to its officers for mobile court visits. For those courts that visit areas where security is a concern, the Judiciary facilitates two Administration Police officers to ensure safety of justice sector staff, witnesses and litigants. Apart from allowing prosecutors to use court station vehicles on such visits, and with the exception of visits to scenes-of-crime, the Judiciary is keen to maintain a visible distance in order to promote independence between the police, the prosecution, the prisons and the defence.

Mobile courts currently operate on a maximum of five days in a month but can be spread out to deliver services continuously once in a month, or one day each week for four weeks. Even with these innovations, there is recognition that five days in a month may not be sufficient to ensure meaningful access to justice for people living in marginalised areas. A total of 51 Land Rovers were allocated to stations for mobile court services, in addition to the 58 allocated the previous year.

The Judiciary, in collaboration with the police and agencies under the National Road Safety Board, has also instituted mobile traffic courts to expeditiously deal with matters as they occur.

A tabular representation of developments relating to mobile and mobile traffic courts is available in annexure 1.10.5 at the end of this report.

> "A total of 51 Land Rovers were allocated to stations for mobile court services, in addition to the 58 allocated the previous year."

What is a Mobile Court?

A Mobile Court team consists of a Judicial Officer, often a magistrate, a court administrative assistant, a prosecutor a driver and a security officer where necessary.

They were established by the Judiciary to bring services closer to the people in remote areas where Kenyans previously had to choose between foregoing justice and undergoing undue hardship in pursuit of Justice.

How is a mobile Court different form a mobile traffic court?

Mobile Traffic Courts were a collaborative effort between the Judiciary, the National Road Safety Board and the Judiciary.

The main aim was to encourage responsible motoring and expedite processing of traffic matters.

1.3.2 Beyond the Mobile Court

Areas in Kenya's former Northern Frontier Districts – Mandera, Wajir, Garissa, Moyale, Marsabit, Isiolo and Turkana – have remained on the margins of administrative, infrastructural and judicial service delivery. In recognition of the marginal status of Kenyans living in these areas, the Chief Justice visited Isiolo, Marsabit, Moyale in Eastern Province and Lodwar, Kakuma, Lokitaung and Lokichar in Turkana County during November and December 2012. He met local communities and heard firsthand about the poor infrastructure and distances they had to cover in search of justice.

After the initial response of establishing mobile courts to serve in Lodwar, Moyale, Marsabit and Isiolo, the Chief Justice convened a consultative meeting with judicial officers serving in these areas to consider how best to assess the effectiveness of mobile courts in promoting access to justice in these areas.

It emerged that allocating mobile court vehicles to judicial officers already serving in the base stations not only destabilised those stations but sometimes failed to meet the needs of the target communities because of the distances between mobile court sites and the nearest administrative centres.

A special consideration was made in planning to accelerate the construction of permanent courts with a stable presence of judicial officers, staff and resources. With the support of the United Nations High Commissioner for Refugees, the Judiciary established a court station in Kakuma and posted staff. A new High Court is being constructed in Lodwar.

1.3.3 New Courts

It is envisaged that every county in Kenya should have a High Court and every district a magistrate's court. These investments are heavy and depend on the availability of budgetary allocations from Parliament. Many county governments have offered land for the construction of these courts.
The new Kakuma Law Court in Turkana County previously operated as a mobile court from Lodwar. The magistrate, the clerk and the prosecutor would travel and take up residence for a week in Kakuma, and return to their station for three weeks. This inconvenienced the public and the accused persons, who had to wait for the three weeks for their cases to begin - despite the law providing for a case mention every 14 days for persons in custody. A magistrate and a Kadhi have been posted to the station, and it is now a fully operational court.

The establishment of the Engineer Law Court retired the dubious reputation Nyandarua had of being the only county in the republic without a court. An unused building was renovated and cells and offices created to make an operational court. A magistrate was posted to the station in March 2013 and court operations commenced on April 22, 2013. Previously, cases from this region were heard at the Naivasha Law Courts. Due to the increasing work load, an additional magistrate has been posted to the court from October 1, 2013.

1.3.4 Dignity and Convenience at the Court

Many courts in Kenya had no basic amenities like separate holding cells or toilets for men and women, or waiting bays. Where they existed, they were often in a deplorable state. People with disabilities were not considered in the physical design of courts and had to endure great difficulty whenever they attended court.

A nationwide survey revealed many frustrations Kenyans endured when seeking services at such courts. At the Githunguri Law Courts, for instance, litigants and their counsel missed the mention of their cases whenever they had to leave the court compound in order to attend to calls of nature in the town centre, a good distance from the court compound. On returning, they would find that the court - not being seized of their whereabouts when their matters were called out – had sometimes already issued orders or adjourned their cases.

New constructions and renovations have been carried out to upgrade viable structures to accommodate all Kenyans with a focus on creating barrier-free access and preserving the dignity of women, children, the elderly and people with disabilities.

It is expected that the expansion of supporting infrastructure, such as separate holding cells for women and children, will continue so that eventually these courts can overcome challenges relating to physical access and offer comprehensive services to their communities.

1.3.5 Reducing Procedural Barriers to Justice

In the reporting year, the Chief Justice published many rules to enable parties, courts and tribunals to make better use of the opportunities to resolve disputes in our system.

1.3.6 Legal Representation and Legal Aid

The courts are a reflection of the bar from which its membership is drawn and with which, as far as the legal profession goes, are jointly charged to promote social justice through technocratic court processes. Between July 1, 2012 and June 30, 2013, the Chief Justice admitted 832 lawyers to the Roll of Advocates – 468 women and 364 men. These admissions now occur every two months, with thematic speeches from the Chief Justice, the State Law Office, the Law Society of Kenya and other invited guests. The newly admitted advocates are counseled on their special role in promoting access to justice and exhorted to serve the society for the common good.

Embracing the same spirit and aiming to cultivate a conscientious bar to complement the Judiciary's efforts to deliver justice this past year, the Judiciary Transformation Secretariat partnered in a pilot project with Legal Resources Foundation (LRF) to train and provide paralegals with a forum in which they can usefully apply their skills to assist pro se court users to navigate the court process. The pilot programmes have been instituted in the Meru, Embu, Makadara and Kisii law courts.

> "Between July 1, 2012 and June 30, 2013, the Chief Justice admitted 832 lawyers to the Roll of Advocates – 468 women and 364 men."

Other courts have also made steps towards increasing access to justice. For instance, Naivasha Law Courts works with advocates and community paralegal groups and periodically holds clinics at the Naivasha Medium and Maximum Security Prisons to sensitise accused persons on the trial process and their rights. They also equip them with the information they need to navigate the process.

All magistrates are now gazetted under section 73(d) (ii) of the Children Act, No. 8 of 2001, to handle children matters in their stations. Previously, children matters could not be processed expeditiously because only specially gazetted magistrates could hear the cases.

Similarly, all principal magistrates and others of higher rank have been gazetted to hear matters under the Anti-Corruption and Economic Crimes Act.

Magistrates' courts continue to make innovations to enhance procedural access to justice. For instance, at the Naivasha Law Courts, a "request for mention" form has been made available so that accused persons in remand can request a mention of their cases before the date indicated on file for various reasons. This has helped to not only to speed up trials but also reduce avenues for corruption, particularly in cases of withdrawal of complaints.

A committee consisting members of the LSK Litigation Committee has been formed to review the Court of Appeal Rules, 2010, which were gazetted September 17, 2010 vide Legal Notice No. 152 of 2010. The committee will make recommendations to promote expeditious disposal of cases and has proposed the following amendments:

1. Applications for extension of time to file appeals at the Court of Appeal under Rule 4 of the Court of Appeal Rules be heard by a single judge with provision for a reference to the full court provided that, in the event of a reference, the parties shall within seven (7) days of the determination of the single judge, file and serve written submissions with an option of highlighting of those submissions by the parties.
2. Development of practice notes to guide the filing of documents in the Court of Appeal.
3. Responsibilities and powers on issues relating to the Court of Appeal vested in the Chief Justice be devolved to the President Court of Appeal.
4. Provision of free legal services – since few lawyers are committed to offering free legal services to capital offenders. The advocates handling pro bono briefs may be awarded Counsel for Legal Education (CLE) points to motivate advocates to join the pro bono scheme.
5. Contempt laws should be amended to enable courts to enforce their orders.
6. Inclusion of a provision for striking out suits for want of prosecution. The Appellate Jurisdiction Act and the Court of Appeal Rules are silent on this issue.
7. Parties filiing submissions should forward them by e-mail to the Court of Appeal registry.
8. Inclusion of a provision for the court to compensate some litigants, particularly the vulnerable where, for example, it adjourns a matter on its own motion or for failure on the part of court if the parties were ready to proceed.
9. For administrative purposes it is proposed that what constitutes an appeal should be the lodging of a record of appeal, notwithstanding the statutory requirement of filing a notice of appeal. This will enable the court to determine the exact number of cases that are pending and are likely to proceed to hearing.

> "The Chief Justice's Northern Frontier Initiative was a response to the plight of Kenyans in the north of Kenya that was previously marginalized in the distribution of government administrative and judicial services."

1.4 Outlook for 2013-2014

1.4.1 Establish New Courts

In the period starting July 1, 2013, it is hoped that six new courts will be established in Githongo, Migwani, Loitoktok, Turbo and Zombe. Githongo Law Courts operations were expected to commence on October 7, 2013 and Migwani from December, 2013.

During the Judicial Marches in 2012, the residents of Migwani raised the issue of a court in their area to avoid covering the long distance to court in Mwingi. In the 1970s the court was closed for political reasons. The building had been run down but was handed back to the Judiciary by the District Commissioner and the members of the Court Users Committee for renovations, which have now been completed.

1.4.2 Exploring viable alternative Justice Systems

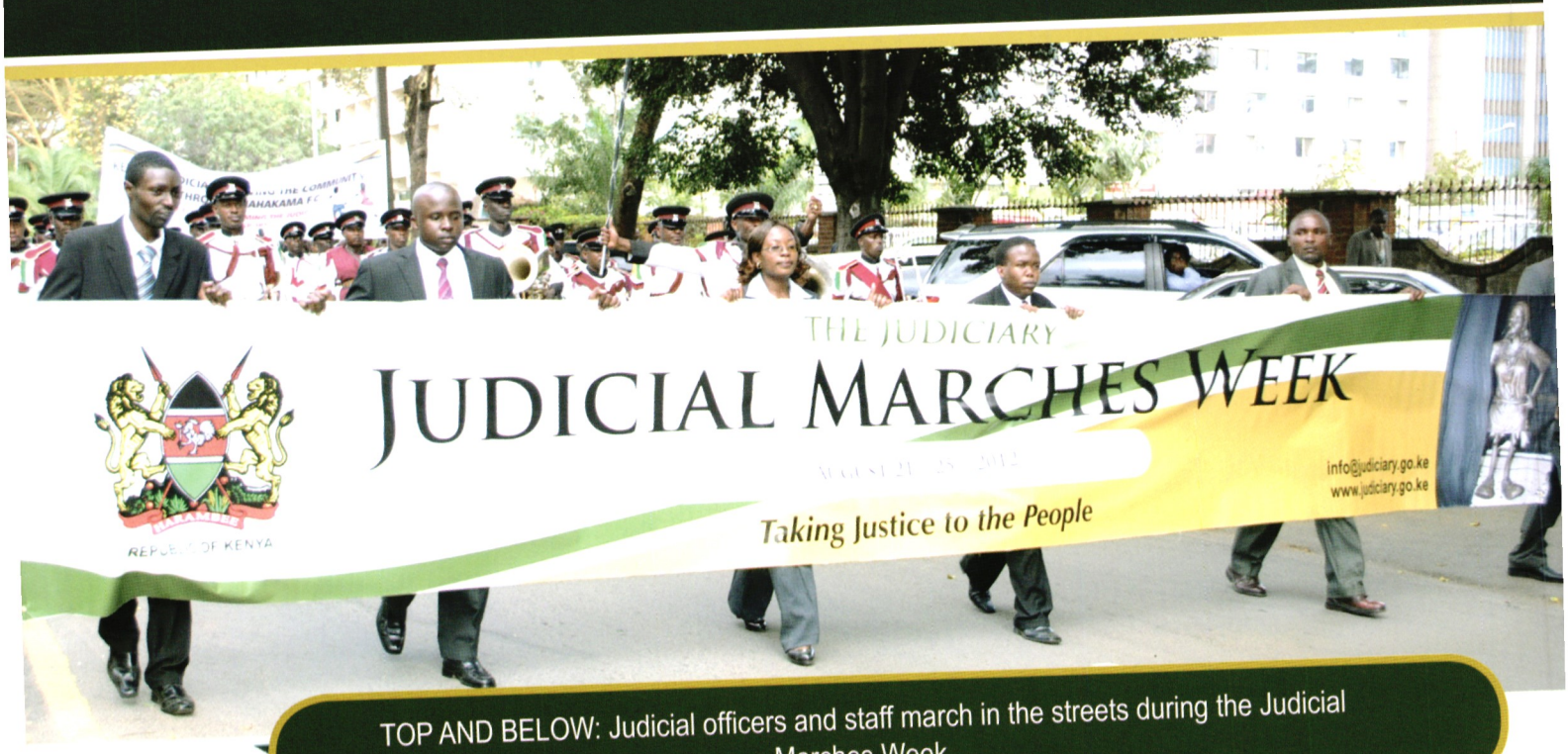
One of the key result areas of the Judiciary's transformation is the equitable access to, and expeditious delivery of, justice. The Judiciary Transformation Framework acknowledges the complementary role of alternative justice systems to which many Kenyans turn. The Constitution also calls upon the Judiciary to promote the usage of such systems.

In response to this call, the Judiciary Training Institute (JTI) partnered with the Usalama Forum to organise a workshop to explore 'The Role of Councils of Elders in Promoting Access to Justice in Isiolo County'. The workshop, which was held between June 24 and 26, 2013, brought together stakeholders from different government and non-government organizations working on promoting alternative justice systems.

Isiolo County will serve as the pilot for this project. Once modalities for engaging elders are formulated in the county, they will be replicated across the country. The Judiciary has planned several high impact initiatives that will require renewed commitment from its stakeholders.

The High Court will also disseminate its service charter and have it on display at prominent places in the stations. This move follows recognition that lack of information on court processes is a major obstacle to accessing justice in the courts. Many litigants who are not knowledgeable on court processes are swindled out of their money by con artists who pose as officials. It is for this reason that the High Court developed a service charter, which outlines various processes. Kenyans can now access information on their rights and responsibilities under the charter. The charter also sets out standards of performance that each court is expected to adhere to. A copy of the service charter detailing a comprehensive list of directions for court users at High Court stations is attached to this report as annex 1.10.4.

In the charter, court users have been given additional avenues to report any services that are inconsistent with the charter to the Office of the Chief Justice through a hotline (SMS 5434), to the Chief Registrar of the Judiciary and Registrar of the High Court through email addresses chiefregistrar@judiciary.go.ke and rhc@judiciary.go.ke, respectively.



TOP AND BELOW: Judicial officers and staff march in the streets during the Judicial Marches Week.

Chapter 2

PUBLIC ENGAGEMENT

2.0 INTRODUCTION

Public participation is one of the principles of governance that binds all State organs. The Judiciary is especially required to entrench public participation because judicial authority derives from the people.

Judicial officers and staff have traditionally maintained distance in an attempt to communicate impartiality and neutrality. This posture has limited public access to information and created unnecessary mysticism, thus feeding a negative public perception of the justice system in Kenya.

The 2010 Constitution placed new expectations on the Judiciary, requiring it to meaningfully engage with the public and all stakeholders. It is an expectation further amplified in the Judiciary Transformation Framework 2012-2016 (JTF).

Consequently, the Judiciary has adopted various public facing mechanisms that include holding events at which citizens are not just spectators but participants. Long seen as an institution out of touch with the concerns of the public it served, the Judiciary has been keen to engage and interact with the public as part of its transformation agenda. Moving from a posture of insularity and remoteness, judicial officers and staff have been active in the public sphere in the spirit of people-centredness in service delivery, a key plank of our transformation agenda.

The Judiciary has adopted deliberate innovations that provide information to the public and receive feedback, as well as positioned itself as an important participant in the public arena by opening itself up to scrutiny through continuous public, stakeholder and media engagement. A Directorate of Public Affairs and Communication, (DPAC) which did not exist before, was established, and the Office of the Judiciary Ombudsperson (OJO), in place since August 2011, continues to be an important site of interaction with people who have complaints about the Judiciary.

2.1 Outreach

The Judiciary has carried out public outreach activities in an attempt to give the institution and its staff a voice to communicate what they do and how the institution works. Through various platforms of dialogue and feedback, the Judiciary has begun to nurture and sustain broad public support for its activities. These activities have sought to promote public participation in the administration of justice, as well as increase access to justice. They also seek to enhance the public accountability of individual judicial officers and staff, as well as the whole institution.
Between August 21 and 25, 2012, for example, the Judiciary held a series of activities that placed its officials in the 112 court stations across the country in direct contact with citizens. The Judicial Marches Week was the crowning of an aggressive citizens' engagement strategy aimed at drawing public interest and participation in shaping the changes that were being carried out in the institution.

"Moving from a posture of insularity and remoteness, judicial officers and staff have been active in the public sphere in the spirit of people-centredness in service delivery, a key plank of our transformation agenda."

The Judicial Marches, held in the week when judges would traditionally hold their annual colloquium, recast the Judiciary as an accessible and responsive institution. Judges, magistrates and kadhis across the country marched in a symbolic gesture to take justice to the people. The marches were a bolder version of the Judiciary Open Days that had been tried earlier. Judicial officers held meetings in public places to explain how the courts work, and how one could access and use them. Judicial officers and staff gave talks in institutions and professional associations, and took part in charity activities. The Chief Justice gave a public lecture at the University of Nairobi.

In 2013, a year in which the courts were under extreme pressure from handling election petitions and therefore unable to spare time away from the courts, judges of the High Court took part in a Service Week instead of holding Judicial Marches. The Service Week – a dedication of time when judges would have taken leave after the conclusion of election petitions – was held between October 14 and 18 to hear and conclude criminal appeal cases that had been waiting all year. A total of 1,587 criminal appeals were heard during the week. The 70 judges involved in the initiative also reviewed cases relating to 4,054 inmates and removed 3,880 of them from the justice system, saving the taxpayer Sh241,290,000 per year in prisoner upkeep costs.

Although the DPAC has led many of the Judiciary's public-facing initiatives, each court station, directorate and unit in the Judiciary has mainstreamed public engagement in its work. More importantly, there has been a deliberate effort to build the capacities of various units in the Judiciary to communicate coherently and engage with the public meaningfully. The Judiciary Transformation Secretariat (JTS) has been popularising the JTF and sensitising internal and external constituencies about the programme of change and its objectives.

There is an increasing move towards station-based open-days and community outreach visits to enhance public scrutiny and localise complaints handling. In Eldoret, the court receives at least four primary school delegations every month. Around the country, courts received numerous delegations of between 20 and 50 school and college students who met judicial officers and received information about how the courts work.

The figures for the Supreme Court Building are also illustrative. Between July 1, 2012 and June 30, 2013 some 600 pupils drawn from 10 primary schools visited the Supreme Court. In addition, 540 students from 9 secondary schools visited, as well as 80 students from 4 universities and colleges. Meanwhile there were 91 other guests drawn from the Ministry of State for Defence, School of Military Police and Kenya Paralegal Network.

Courts are going beyond the call of duty to partner with organisations to serve the communities in which they work. The court in Kitale has partnered with Handicap International to create awareness on the rights of physically challenged children as well as on sexual and gender based violence. It has also created a partnership with the Kenya National Commission on Human Rights to offer free photocopying of witness statements for suspects. The court in Machakos this year adopted a child rescue centre. In Tawa and Wanguru, court staff this year volunteered to clean the local market.

At the court in Kakamega, business starts with a morning assembly where the public receives

information on court processes and questions are answered. The courts have also initiated a one-day meet-the people tour at Shinyalu.

In Malindi, judicial officers and staff visited schools to educate them on court processes, while the Deputy Registrar in Kericho holds meetings with elders to promote Alternative Dispute Resolution. Each court and its staff have found innovative ways of engaging with the public and presenting a human face of the justice system. Court staff in Ukwala and Eldama Ravine visit prisons periodically and open their suggestion box daily. In Busia, public engagement is signaled by the Deputy Registrar sitting in the registries to sign documents so as to increase interaction with court users and staff. A contact register for litigants and advocates has been set up in Malindi, and prison decongestion is regular. Court staff in Kericho carry out regular retrieval and dismissal of files where the accused have completed their sentences.

IIn the High Court at Nairobi, the Civil Division has introduced a feedback form in every case filed, while the Family Division encourages communication with parties on status of cases by way of telephone. Rulings and Judgments are emailed to parties in the Judicial Review as well as the Constitutional and Human Rights Divisions while in Nyeri, communication goes out promptly to parties and advocates when matters are adjourned.

All major policy decisions and initiatives in the Judiciary have been launched at public events that not only draw large public attendance but also deliberately factor in participation by representatives of various sectors of the citizenry.

The Judiciary invited public participation in a court design competition launched in March 2012. The competition not only yielded a design prototype that has been modified and is in use when constructing courts, but also provided an important avenue for learning about the inadequacies of the physical infrastructure of the Judiciary.

In February, 2013, the Judiciary launched a public competition for the design of a Coat of Arms for the institution, an exercise that attracted 175 designs that were evaluated and winning entries picked.

In the past year, the Judiciary staged over 130 institutional events, attracting thousands of participants, among them partners and stakeholders in the justice sector as well as the Kenyan public.

Many of the public events were staged to signal the launch of important initiatives and make important policy pronouncements. The Judiciary has been an exhibitor at the Mombasa and Bungoma Agricultural Society of Kenya Show and Nairobi International Trade Fair.

The Judiciary has used public fairs to explain its services and distribute information and communication material to the public as well as receive feedback on its performance. An average of 4,000 people visited the Judiciary stand during the show period. Officers from the various courts, the Judiciary Transformation Secretariat, the Office of the Judiciary Ombudsperson, the National Council for Law Reporting and the Directorate of Information and Communication are usually on hand to explain innovations and new initiatives. They distribute and explain the service charters of the various court units and offer guidance on how to lodge complaints or follow up on the status of a case.

The launch of the decentralised Court of Appeal in Nyeri, Kisumu and Malindi, as well as the inauguration of the Busia High Court are cases in point. These events not only attract public participation through attendance, but also enable communities to talk to the Judiciary. Some

> “600 pupils from 10 primary schools; 540 students from 9 secondary schools ; and 80 students from 4 universities and colleges visited the Supreme Court. 91 other guests drawn from the Ministry of State for Defence, School of Military Police and Kenya Paralegal Network aslo visited.”

participate as speakers and others as entertainers.

Such events have also presented an opportunity for the Judiciary to showcase its brand. A case in point was the staging of the inaugural annual State of the Judiciary Address, which was attended by all the heads of the three organs of government – Chief Justice as host, Speaker of the National Assembly, and Vice President (on behalf of the President as head of the Executive) – as well as all the independent office holders and constitutional commissions. The Judiciary successfully staged the first inauguration of the President and the Deputy President under the new Constitution. Both events were televised live on national television and reached an estimated 22 million viewers in Kenya.

2.2 Documentation and Publication

The Judiciary has used many channels to publish material with information to guide the public on how to access and use court services. Some of these include use of the website, production of television documentaries, publication of reports, notices and posters as well as leaflets and brochures.

The Judiciary's website continues to be an important source of news as well as useful information for many people. The Judiciary's web portal has been updated to provide search-driven access to information, services, directories and mobile applications.

The summaries of cases of public interest and cause lists from courts are now published on the website. More significantly, court users can now access from the Judiciary website some 58 forms needed to make basic court applications. There is an automated job application system developed to ease the process, as well as scores of important official forms that can be downloaded for various uses in court processes. The website is also a repository of policy, official speeches, a daily cause list, list of licensed process servers and general regulations. In the current year, the website will be upgraded to host more institutions and provide more content. Moreover, a new website will be launched to support the activities of the National Council on the Administration of Justice as well as the court users committees.

Court users in Kisii use the social media platform of Facebook, to interact with officers while the court in Kerugoya also uses the same medium to post adjournment notices.

The Judiciary continues to publish robustly on a variety of subjects, but most importantly, it released the inaugural annual State of the Judiciary and Administration of Justice Report, which is the statutory instrument through which the institution reports results to Parliament and to the Kenyan public.

Buoyed by among other awards, the Technology in Government in Africa Award and international Association of Law Libraries Award, the NCLR has made great strides in asserting itself as the first stop for Kenyans from all walks of life looking to access information ranging from legislation, case law, government bills and gazette notices to journals and international comparative law. In 2013 alone the NCLR website (http://www. kenyalaw.org) received millions of visitors averaging about 9955 hits per month with 71.8% of these being returning visitors, and 28.2% visiting for the first time. In addition to these visits, Kenyans constantly give feedback to the NCLR requesting additional and more specialized services.

The NCLR is now working on achieving universal access by availing some of its publications in Kiswahili and in formats accessible by people living with disabilities. Subsequently, more Kenyans

> "Court Users can now access from the Judiciary website some 58 forms needed to make basic court applications."

will be able to enjoy free 24 hour access to legislation, jurisprudence and legal notices and to use the new products to prepare for their own cases and keep abreast of legislative developments.

Additionally, the Supreme Court continues to be an important site for solemn ceremonies, from the admission of Advocates to the Roll, to the swearing in of various constitutional and statutory office holders. These events usually attract great media interest for their historical significance and formality. The media coverage of these events has entrenched the role of the Judiciary as a co-ordinate arm of government that upholds the Constitution. The Judiciary also received eminent guests, among them the US Secretary of State Hillary Clinton, the Chair of the Panel of Eminent African Personalities Kofi Annan, and former Tanzanian President Benjamin Mkapa, the ICC Chief Prosecutor Fatou Bensouda, Chief Justices of Tanzania, Zanzibar, South Sudan, Prof Ali Mazrui and Prof. Robert Martin.

The Supreme Court Building, which dates back to 1938, has been gazetted as a national monument. The Judiciary has entered into a partnership with the National Museums of Kenya to establish a Sh70 million museum at the Supreme Court. The project was launched in May 2013. A photographic exhibition capturing the history of the Judiciary from pre-colonial times to the present was unveiled in May as the first step in the two year project. The project aims to recover, preserve and promote the rich heritage of the Judiciary. The Museum will be housed in the basement of the Supreme Court, which formerly served as holding cells. The project will take two years and aims to recover, preserve and promote the rich heritage of the Judiciary.

2.4 Public Complaints

The Office of the Judiciary Ombudsperson (OJO) directly receives complaints about service and responds to them. The ombudsperson's role rests on three fundamental principles: neutrality, confidentiality and independence. Underpinned by these cornerstones, the office serves three vital functions: problem assistance, organizational critical self-analysis and education. It is therefore a resource for the benefit of all - the public it serves, stakeholders and the institution.

Established in August 2011 under the Office of the Chief Justice, the Office of the Judiciary Ombudsperson (OJO) is an accelerated grievance management mechanism. The office is mandated to receive complaints from the public against judicial officers and staff, staff against fellow staff and staff against the Judiciary (employer). Since its establishment two years ago, the office expanded and trained staff, uses better and more efficient internet connections and enjoys a good working relationship with its liaison persons in the courts countrywide. As judicial officers and staff respond to the public complaints, offering personalized assistance and successfully resolving issues raised, the public's view of and approach to the Judiciary has greatly changed for the better.

From the figures for 2011/12 and 2012/13, it is clear the number of complaints is reducing across the board from 9776 in 2011/2012 to 9093 this year.

> “Eminent guests: US Secretary of State Hillary Clinton, Eminent African Personalities Kofi Annan and Benjamin Mkapa, ICC Chief Prosecutor Fatou Bensouda, and the Chief Justices of Tanzania, Zanzibar, South Sudan, Prof Ali Mazrui and Prof Robert Martin.”

Table 2.1 : Comparative Chart of Prevalent Complaints

SERVICES	2011/2012	2012/2013	DIFFERENCE
Slow services	2331	473	1858
Missing File	1740	294	1446
Poor service	1286	163	1123
Referral cases to stakeholders	404	66	338
Corruption	621	64	557
Delayed Rulings	267	62	205
Date Allocation	242	36	206
Delayed Orders	61	29	32
Cash Bail refund	86	21	65
Cannibalized files	66	7	59

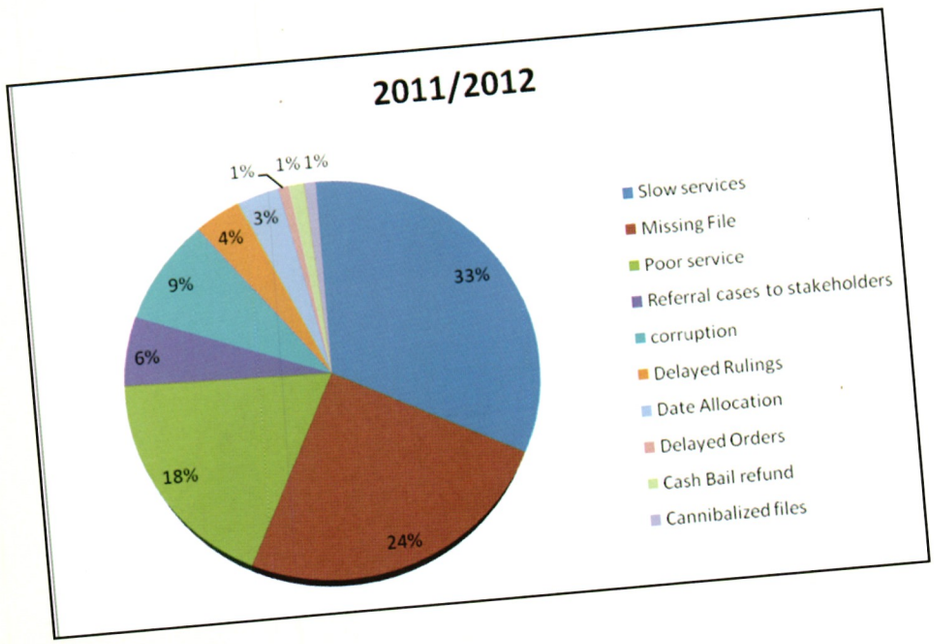
9093

Total No. of complaints to Ombudsperson, 2012/13

Figure 2.1: Complaints trends to the Ombudsperson, 2011/2012 - 2012/2013



Figure 2.2: Comparison of Complaints By Type to the Ombudsperson, 2011/12 and 2012/13



At **39** percent, slow services constitute the single largest complaint

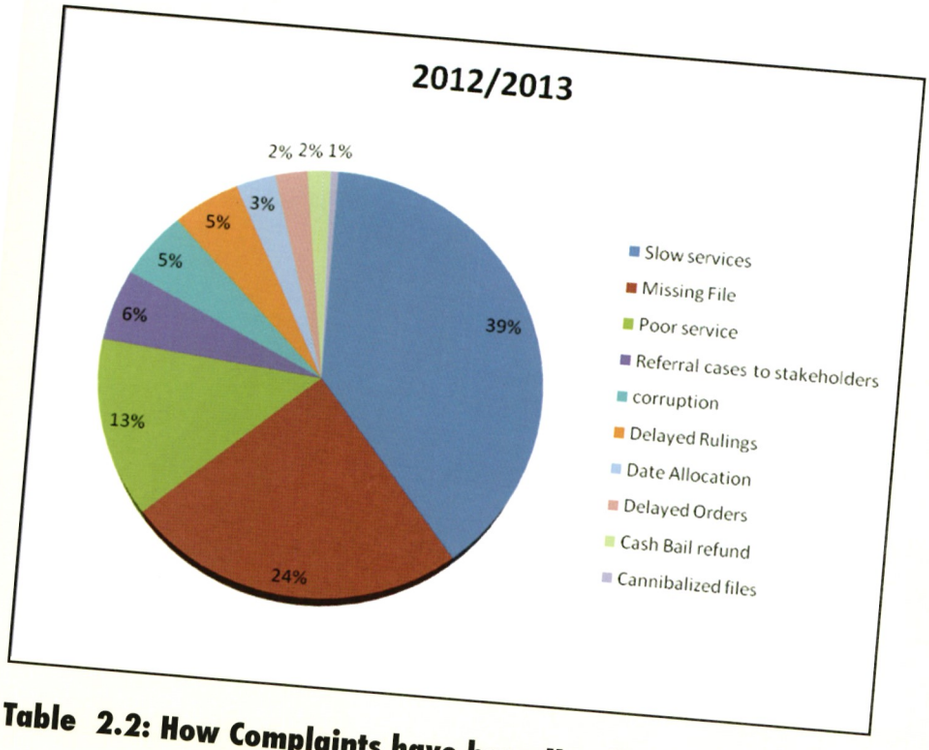
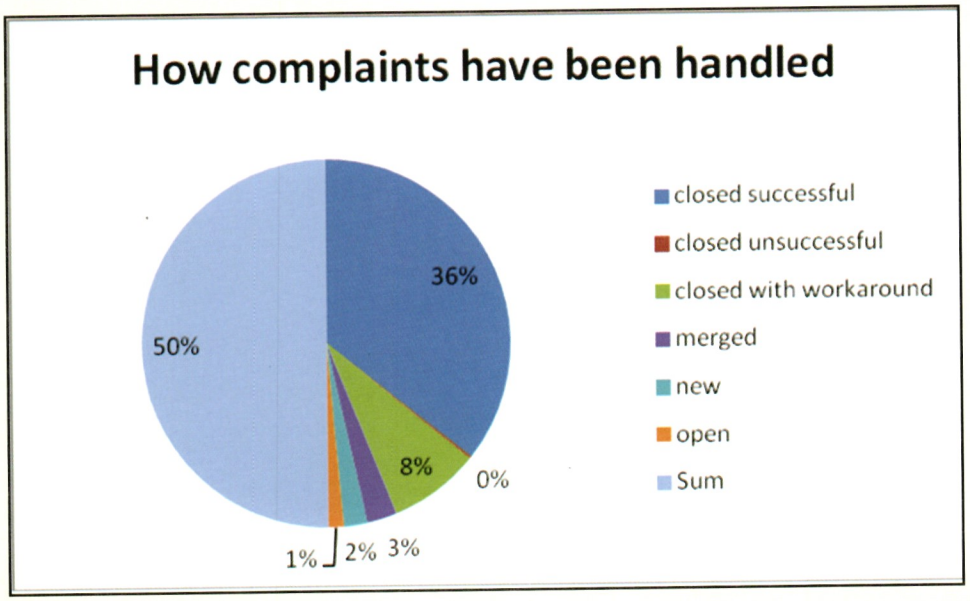


Table 2.2: How Complaints have been Handled

STATE	COMPLAINT
Closed Successful	6496
Closed Unsuccessful	38
Closed with Workaround	1457
Merged	480
New	374
Open	248
TOTAL	9093

Figure 2.3: How Complaints have been Handled



In resolving complaints, the Ombudsperson has engaged stakeholders in the justice sector like the police and the office of the Director of Public Prosecutions. The recent official launch of the National Council on Administrative Justice (NCAJ) will help the office to reach out to more stakeholders hitherto unreached.

The Ombudsperson has made elaborate plans to devolve its services to all regions of the country with preference for those with High Court stations. To achieve this, the OJO hopes to recruit and train officers to run these offices. There are also training schedules in place for existing staff in various areas of concern like public relations, counseling and ICT.

Even though this is in decline, one of the biggest challenges is the negative perception of the Office of the Judiciary Ombudsperson by a large section of judicial officers and staff fuelled by failure to understand the general mandate of the office. It is now incumbent upon the OJO to repackage and market itself as a resource that can help resolve employee issues and make the Judiciary a better place to work.

The other major challenge is that with the Judiciary opening up to the public and freedom to air grievances to the highest office, some litigants have become openly rude and disrespectful towards judges, magistrates and other court officials.

2.5 Media Access and Use

The leadership of the Judiciary has regularly granted interviews and written opinion-editorial articles in the media to communicate important policy decisions as well as clarify issues as they arise. Magistrates in Webuye and Hola regularly use the local radio to engage the public on how justice is being served.

In November 2012, the Judiciary entered into an agreement with the Kenya News Agency for training and collaboration, and also partnered with the Kenya Correspondents Association to provide orientation for rural-based correspondents on the JTF. A total of 150 correspondents from the Kenya News Agency and the Kenya Correspondents Association received training. Further, Judiciary leaders and decision makers held briefing meetings with critical role players – such

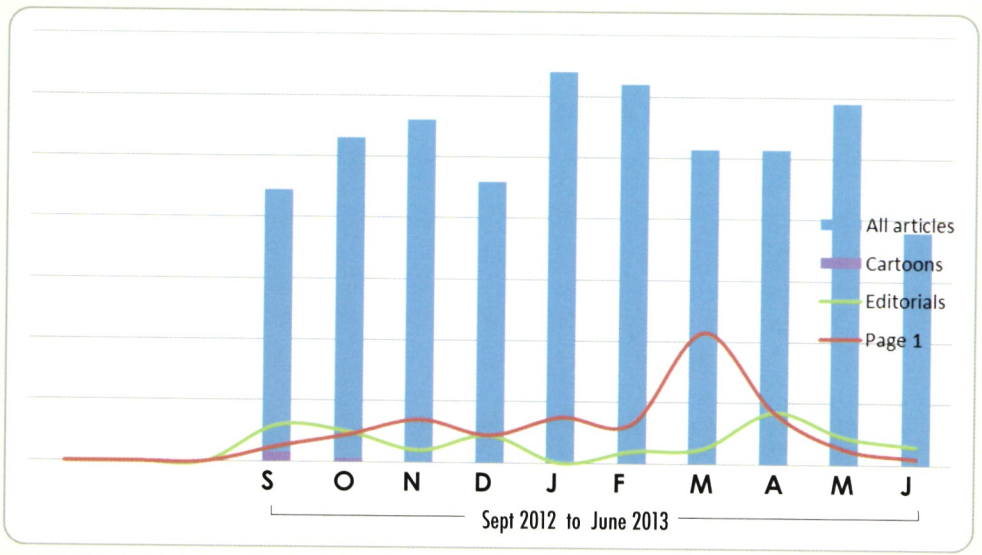
as editors, specialist journalists and managers - to explain their strategy and actions. These engagements yielded positive results.

Over the past year, the Judiciary had a very robust engagement with the media, as demonstrated by tracking print media coverage. Between September 2012 and June 2013, four newspapers with national circulation published 1,051 stories on the Judiciary. Of these, 132 were stories placed on the front page – indicating the salience and importance of the issues the Judiciary was either raising or dealing with. It remained engaged in the public sphere, accounting for 76 editorials in the study period, and four cartoons.

Table 2.3 Media Coverage of the Judiciary, June 2012 to June 2013

Month	All articles	Page 1	Editorials	Cartoons
Sep-12	89	5	12	3
Oct-12	106	9	10	1
Nov-12	112	14	4	--
Dec-12	92	9	9	--
Jan-13	128	15		--
Feb-13	124	13	4	--
Mar-13	103	43	5	--
Apr-13	103	17	17	--
May-13	118	5	9	--
Jun-13	76	2	6	--
TOTAL	1051	132	76	4

Figure 2.4: Accents of media coverage of the Judiciary, Sept 2012 to June 2013



"Between September 2012 and June 2013, four newspapers with national circulation published 1,051 stories on the Judiciary. Of these, 132 were stories placed on the front page – indicating the salience and importance of the issues the Judiciary was either raising or dealing with. It remained engaged in the public sphere, accounting for 76 editorials in the study period, and four cartoons."

The Judiciary has embraced a culture of openness, allowing unprecedented media access and public scrutiny of its processes with regard to court hearings where matters of great public interest are concerned. Courts have repeatedly relaxed their rules to allow for important cases to be televised live in order to encourage public participation. Some cases in point include the reading of judgments in the delimitation of boundaries case, the election date case and its appeal, the judgment on the eligibility of certain individuals to run for political office, and the presidential election petitions in 2013. During the hearing of the presidential election petition at the Supreme Court, the Judiciary made arrangements for the proceedings to be relayed live on television. The proceedings were also streamed live on webcast. It is estimated that 70 million watched the proceedings on television or webcast, and 150 law schools are reported to have been following as well. The election petitions were observed by senior judges from the region including the Chief Justice of Tanzania, former Chief Justice of Zambia and senior judges from Botswana and Zimbabwe.

Case Study: Engaging the Public on Elections

Before the March 2013 elections, the Judiciary Working Committee on Election Preparations built public confidence in the electoral dispute resolution mechanisms and the Judiciary by providing information. The need to raise public confidence in the ability of the Judiciary to resolve any disputes informed the public engagement agenda. Prior to the elections, Judiciary representatives actively participated in public forums where the various dispute resolution avenues that exist in the current electoral regime were explained. In particular, the committee emphasised the preparation activities the Judiciary was undertaking for the electoral dispute resolution process. Its members held meetings with editors and journalists, gave interviews and participated in public forums. It also generated its own infomercials and editorial supplements, culminating in the Chief Justice's message to the country broadcast during the live Second Presidential Election Debate. The committee issued media statements on the progress in disposing of election petitions and published reports of its work in national newspapers as well as on the Judiciary website. The committee also took part in preparing a television documentary on the role of the Judiciary in the electoral process, the challenges faced and the lessons learnt for future electoral processes.

These experiences provide useful lessons as well as challenges that will no doubt shape the way in which such engagements are conducted in the future.

Additionally, the Judiciary has used the media to advertise jobs as well as issue important public information notices. The Auctioneers Licensing Board published the list of licensed auctioneers in the press, thus exposing those who had been masquerading as licensed auctioneers.

2.6 Living the Judiciary Brand

The Judiciary has claimed its place in the minds of Kenyans through the creation of a distinctive image and the cultivation of its brand. In defining its identity, the Judiciary has carved a niche for itself as a distinctive government organ through the use of its emblematic green and gold colours. It has designed and commissioned the use of its own logo, alongside the official coat of arms.

"During the hearing of the presidential election petition at the Supreme Court, the Judiciary made arrangements for the proceedings to be relayed live on television."

Branding and signage have been another key project of the Directorate of Public Affairs and Communication. The project purposes to propagate the institutional branding concept to all court stations. Already, several court stations are branded, while others, such as Milimani Law Courts, maintain clear labels on doors and signs giving directions. Most courts have staffed customer service desks that provide information to make visits to courts quicker and more efficient. Most courts and Judiciary buildings have been branded to ease identification and recognition.

Placing the Judiciary brand, augmented by the Judiciary Flag and the Chief Justice's Standard, in visible spaces has helped to enhance the recognition of the institution as a distinct organ of government.

Figure 2.5 The new brand identities of the Judiciary

CHIEF JUSTICE/ PRESIDENT OF THE SUPREME COURT



JUDICIARY



THE SUPREME COURT



The Judiciary brand is characterised by values embodied in Service Charters that have been developed. An institutional Service Charter spells out the Judiciary's service delivery commitments to the public and provides feedback channels. Line units have also developed their charters that customize their commitments to their publics.

Several corporate videos produced by the Directorate of Public affairs and Communication have reinforced the Judiciary brand. The production of the Chief Justice's television infomercial containing the six pledges of every Judiciary employee to Kenyans earns a special place in this context.

Trust and confidence in the courts is, in large part, shaped by the experiences that the public has within the justice system. In the past, many Kenyans reported that they found courts to be unfriendly places with poor amenities and even poorer customer care. This, in turn, contributed to the perceptions by many Kenyans that the justice system has failed them and did not provide equity and fairness for all.

As a first step towards transforming courts to be more customer-friendly and less intimidating public spaces, the Judiciary Transformation Secretariat encouraged all staff to adopt an orientation of excellent customer service, and all court stations to establish a properly staffed Customer Care Desk. The decision to champion the establishment of customer care desks as one intervention aimed at improving access to justice was informed by the results of surveys which showed that one of the most significant contributions to poor service was the lack of information for would-be court users. Many times a would-be litigant would walk into a court building for the first time in his or her life without any idea of how the court system works, or where to seek help. Some members of staff had not been patient with such people.

Court stations have set up customer care desks at the points of entry into the courts. These desks are manned by members of staff who provide information to court users on a variety of issues that can help them get prompt service within the court building or elsewhere, depending on

the nature of their problem. The queries posed by litigants range from seeking directions to a particular court where a matter is listed, to advice on where to seek help when filing a new case. The Judiciary Transformation Secretariat in conjunction with the Judiciary Training Institute has offered specialized customer service skills training to the staff designated to run customer care desks. All staff proudly wear identification badges, which enable the public to identify them and track the quality of service.

At the interpersonal level, individual court stations have carried out various initiatives that range from starting sessions by greeting litigants and other court users, and explaining the day's business, while others have decorated and beautified their premises.

At the Supreme Court, judicial officers and staff meet once a month for the Judiciary family tea to bond, touch base and discuss how they work as a way of assuring consistency in their service delivery to the public.

"Court stations have set up customer care desks at the points of entry into the courts. These desks are manned by members of staff who provide information to court users on a variety of issues that can help them get prompt service within the court building or elsewhere, depending on the nature of their problem."



Deputy Chief Justice Kalpana Rawal crowns an inmate after a beauty pageant in Langata Women's Prison.

Chapter 3

INTER-AGENCY COOPERATION IN THE ADMINISTRATION OF JUSTICE

3.0 INTRODUCTION

Until the promulgation of the Constitution of Kenya, 2010, many of the critical actors in the assembly line of justice worked in isolation from one another, giving rise to numerous impediments. All actors in the justice chain are now required to perform corresponding and complementary roles in order to ensure a just society. The Judicial Service Act operationalizes this principle of collaboration and cooperation between stakeholders by creating the National Council on the Administration of Justice (NCAJ). This chapter highlights the efforts and progress made in establishing and sustaining linkages with state and non-state actors, and the problems encountered by agencies constituting the NCAJ between July 1, 2012 and June 30, 2013. NCAJ is the statutory organ mandated to oversee and promote sector-wide partnership through regular Council meetings; issue based special working committees and the implementation of the recommendations of Court Users Committees.

3.1 NCAJ Membership

The Membership of the Council is outlined in Section 34 (2) of the Judicial Service Act, and is drawn from across the public and private sectors. Until the promulgation of the Constitution of Kenya, 2010, many of the critical actors in the assembly line of justice worked in isolation from one another, giving rise to numerous impediments.

NCAJ was officially launched in August 11, 2011 and is made up of the heads of key justice sector agencies who have the authority and power to make decisions relating to the administration of justice. The Chief Justice is the Chair of the Council and the Chief Registrar of the Judiciary is Secretary. The Attorney General, Director of Public Prosecutions, the Inspector General of Police, the Commissioner General of Prisons, the Director of the Witness Protection Agency and Director of Probation and After-Care Services as well as Principal Secretaries for Public Service, Gender, Children, Women's affairs, Labour, Land and Environment. Non-state actors in the Council include the Law Society of Kenya, civil society organisations dealing with human rights in providing legal aid as well as those serving children and women. Presently, the Council has co-opted members from the Ministry of Defence, the Kenya Law Reform Commission, the Commission on Administrative Justice, the Kenya National Commission on Human Rights, the Independent Electoral and Boundaries Commission, the Commission on the Implementation of the Constitution, the Community Service Orders programme, the National Council for Law Reporting, and notable civil society organisations. (The full membership of NCAJ is listed in Annex 3.1).

3.2 NCAJ Mandate

The Council is mainly a policy organ which however designates the delivery of services to the members that constitute it. It is mandated to develop institutional linkages with all bodies engaged in the administration of justice. Section 35 of Judicial Service Act mandates NCAJ to ensure a coordinated, efficient, effective and consultative approach in the administration of justice and reform of the justice system. Its specific functions include:

1. Formulating policies relating to the administration of justice;

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1. Implementing, monitoring, evaluating and reviewing strategies for the administration of justice;

2. Facilitating the establishment of Court Users Committees at the county level; and

3. Mobilising resources for purposes of the efficient administration of justice.

3.3: NCAJ Calendar of Activities

By law, NCAJ is required to meet at least once every three months. Between July 1, 2012 and June 30, 2013, NCAJ convened ten Council meetings and several Technical committee and Special Working Groups meetings.

The Council's programme of work is developed by the Secretariat, which works in tandem with the NCAJ Technical Committee. The Technical Committee, which comprises nominees of each of the Council's member agencies, prepared various technical documents and agenda for NCAJ meetings, workshops and retreats over the reporting period.

In July 2012, for example, the Technical Committee developed the NCAJ Strategic Plan (2012-2016), which outlined the Council's priorities under a comprehensive Plan of Action. This Plan was approved by the Council and was launched on June 20, 2013. Similarly, the Policy Development Special Working Group developed a Draft NCAJ Policy in August 2012, which was further revised between September and October 2012 and is currently under discussion and will be finalized in early 2014.

Significantly, at the Council's sixth meeting, held in August 2012, the Attorney General proposed the establishment of a Special Committee to review and propose amendments to various Bills, laws and policies affecting the administration of justice. The NCAJ Special Committee on Reforms tabled its report before the Council on December 5, 2012 for validation.

In mid February, all Heads of Stations convened for a National CUCs Workshop at which the CUC Guidelines were validated and a draft CUCs reporting template developed. This workshop also benefited from the completion of all Station Annual Work Plans, which were then subsequently launched at CUCs meetings across the country. Subsequently in April 2013, the Chief Justice published the CUCs Guidelines, which were disseminated to all stations countrywide. The guidelines greatly enriched the discussions and decisions of various CUCs as indicated in their reports to the Council.

Following a request by the Judicial Service Commission to hold a Stakeholders' meeting in November 2012 to share its proposal to establish an International Crimes Division in the High

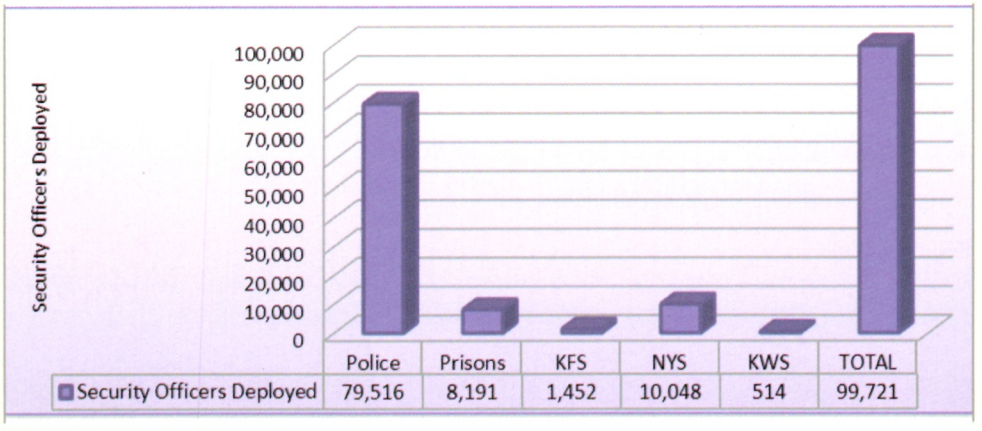
Court, the International Centre for Transitional Justice, a lobby group with a presence in Kenya, prepared and delivered a presentation to the Technical Committee which the NCAJ agencies made further recommendations on.

On December 5, 2012, the NCAJ Technical Committee presented the report on various justice agencies' preparations for the elections. The compendium is a brief illustration of the diverse challenges and opportunities facing institutions. On the basis of the report's recommendations, the Council resolved to develop a Joint Strategy on the Elections to harness the role of NCAJ. The Technical Committee convened to finalise the Joint Strategy on the Elections as well as outline various meetings to be held in 2013.

The Council, being uniquely placed to foster cooperation and co-ordination among its members, held a Special Session on the Elections in January 2013 to enable members to further discuss their preparations for the historic elections, give progress reports as well as obtain the Council's support where required. Additionally, a delegation of NCAJ agency heads visited the Office of the Chairperson of the Independent Electoral and Boundaries Commission to receive an update of preparations for the elections.

A primary component of elections planning was the provision of nationwide security. To prepare for the General Elections the Inspector General of Police held several meetings with National Police Service Commanders to secure their commitment and review proposals on how to ensure peace during the campaign period. 90,000 Security Officers were required to provide general security, cover polling stations and escort IEBC materials. Working in collaboration with Kenya Prisons (8191), Kenya Forestry Services (1452), the National Youth Service (10,048) and Kenya Wildlife Services (514) as well as additional Special Police Officers recruited from the three police colleges resulted in 99,721 officers deployed (see Fig. 3.1).

Fig. 3.1: Security Officers Deployed During the 2013 Election Period



To complement the initiative by the National Police Service, various ministries also provided vehicles to transport the deployed officers who were provided with Election Handbooks and Basic Training by IEBC on charge sheets relating to election offences, election procedures and the monitoring of hate speech as directed by the National Cohesion and Integration Commission.

Between March and April 2013, the NCAJ Technical Committee contributed to the finalisation of the Vision 2030 Second Medium Term Plan for the Governance, Judiciary and Rule of Law Sector. This exercise was especially important considering the planning and budgetary implications occasioned by NCAJ's exclusion from the nation's development blue print.

Following a presentation on Gender and Judging in November 2012 and a January 2013 meeting between the Chief Justice and the UN Women Country Director as well as the Gender and Governance Advisor, the NCAJ Gender Committee visited UN Women Offices in April 2013 to review the Terms of Reference for a Judiciary-based Gender Advisor to implement Gender Mainstreaming Strategies within the justice sector in general and the Judiciary in particular.

Towards the end of the 2012/13 Financial Year, the NCAJ Technical Committee reviewed the 2012/13 Annual Work Plan and developed the 2013/2014 Annual Work Plan as well as strategies for its successful implementation. It further convened in mid-June 2013 to finalise preparations for the official initiation of the NCAJ Strategic Plan, which was launched by the Chief Justice on June 20, 2013. The launch marked the beginning of the fortification of NCAJ's identity as the coordinating agency in the administration of justice.

A quick overview of frequently asked customer care questions indicate the inter-relatedness of the justice sector agencies and further augmenting the argument for increased collaboration (see Box 3.1.).

The critical success factors for the administration of justice are optimum human and financial resource allocation, effective communication, coordination and cooperation and a comprehensive policy and legal framework that consolidates the programmes and operations of all justice sector agencies for the citizenry.

Further, the flowchart in Fig. 3.2 below is a hypothetical illustration of the number of NCAJ agencies the ordinary citizen would potentially interact with in the unfortunate event that he/she purchases of property from fraudulent individuals:

BOX 3.1 QUESTIONS OF JUSTICE

- How much am I required to be a witness?
- Where is the probation office located?
- Why is my advocate not telling me the truth?
- Where is the prosecution office?
- Where is the traffic registry?
- What is the procedure of withdrawing a case?
- How do I access free legal aid?
- Why is a murder suspect released on bond?
- Where is the prosecutor?
- What are the charges required when I want to transfer the shamba of my father?
- Can I get the date of the hearing of my case?
- My advocate has disappeared and I have paid my dues, what do I do?
- My husband has run away from home and left me with the children, where do I get justice?
- Where is the Children's Office/
- I want to see where my son is in the cells, may I?
- Which court can I get probation/children's office?
- How long before I get refund from cash bail?
- Where can I complain against an advocate?
- Why are the prosecutors/advocates colluding with parties?
- Where is FIDA?
- What is the procedure of securing the release of an accused using a title deed as security?
- Why are the remandees not produced?
- I want a witness statement.
- I want to report a death.
- I reported someone in court and yet I saw them in town, why were they released?

3.4 Highlights of Some NCAJ agencies report in the Administration of Justice

3.4.1 State Law office

3.41.1 Office of the Attorney General and Department of Justice

The Attorney General is the Principal Legal advisor to the Government and the head of the Department of Justice since May 2013 vide Executive Order No. 2 of 2013. The Attorney General sits in the Cabinet to provide legal advice on all matters of policy. The responsibilities of the office include promoting, protecting and upholding the rule of law. In execution of its mandate the office is divided into various departments offering different specialized legal services to the government and the public. Some of the key departments are:-

(i) The Civil Litigation Department which represents the government in our domestic courts and tribunals and regional courts. In the year under review, 1,396 cases were filed against the Attorney General, bringing the total number of pending cases against the office to 35, 217 of which 594 cases were concluded by the 90 lawyers in the Civil Litigation Department. Notable among the cases are the petitions before the Supreme Court seeking advisory opinion on the 30 percent gender requirement, the presidential election petition where the office acted as amicus curiae. Other notable cases in which the office represented the Government were before the African Commission on Human and People's Rights in Gambia, African Court of Justice in Arusha, Tanzania and the East African Court of Justice based in Arusha. The office recruited 60 litigation counsel, to facilitate further decentralization of services in phases to the counties who are currently undergoing on the job training.

The office, in promoting the use of Alternative Dispute Resolution mechanisms as provided by the Constitution, ensured that legislation on the Nairobi Centre for International Arbitration was enacted and the Board inaugurated.

(ii) The office through the Treaties and Agreements department advised the Government on Bilateral and Multilateral treaties and other legal transactions.

(iii) Through the Legislative Drafting department the office drafted Government Bills for presentation to the National Assembly

The office is faced with many challenges which include lack of adequate budgetary allocation to enable the office decentralize its services, lack of experienced counsel, and very high turnover of staff. In the last financial year the office lost 32 of its highly trained staff to other Constitutional Commissions, notably the Judicial Service Commission. and to the private sector.

"In the year under review, 1,396 cases were filed against the Attorney General, bringing the total number of pending cases against the office to 35, 217 of which 594 cases were concluded by the 90 lawyers in the Civil Litigation Department."

Table 3.1: Statistical Summary for State Law Office

CATEGORY	NO. OF CASES
Civil cases filed against the Attorney General in 2012/2013	1,396
Civil cases completed/concluded	594
Civil cases pending	35,217
Lawyers at Civil Litigation Department	90

3.4.1.2 Civic Education

Between July 1, 2012 and June 30, 2013, the Department of Justice (working under the Office of the Attorney General) reached 266,570 people directly in the 47 counties through the Kenya National Integrated Civic Education programme (K-NICE). It competitively selected 101 non-state actors to work as its partners, contracted 38 media stations for the use of television and radio in a campaign estimated to have reached more than 2 million Kenyans.

Further, some 2,021 senior public servants (in the Job Groups P and Q) received civic education training at the Kenya School of Government. The programme exceeded its targets, thus confirming an increased demand for civic education among public servants.

Non-state actors were co-opted in the distribution of 30,000 posters and IEC materials on civic education across Kenya. The KNICE website (www.knice.go.ke) successfully launched on September 12, 2012. A draft report on the audit and prioritisation of all existing legislation for harmonization with the Constitution was completed. Further, desk research was undertaken on the County Public Works Bill and the County Transport Bill. A technical drafting retreat was held to improve the draft Bills. Similarly, the Media Bill was reviewed and submitted to the Commission for the Implementation of the Constitution (CIC). A briefing report prepared and submitted on how existing legislation addresses Bills envisaged under Articles 190, 196 and 197 of the Constitution.

A draft Cabinet memo was finalised and the Campaign Finance Bill approved by Cabinet and presented to Parliament. The elections regulations were developed, approved by Parliament and gazetted. The Political Parties Act was also reviewed.

3.4.1.3 Human Rights

Sensitisation workshops were held on the National Policy on Human Rights in July and August 2012. The Third Report on the International Covenant on Civil and Political Rights was presented to the Human Rights Committee on Civil and Political Rights in Geneva Switzerland on the July 17

and 18, 2012. The dissemination workshop for report was held on October 31, 2012 and an action plan prepared. The second dissemination forum held on May 29 and 30, 2013.

Additionally, a Country Report on the African Charter on Human and Peoples' Rights prepared. Between June 2 and 5, 2013, the Country Report on ICESCR was developed through a consultative process and submitted to the Committee on Economic, Social and Cultural Rights. The second periodic report on the International Covenant against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment was prepared through a highly consultative process and submitted to the UN Committee against Torture on September 23, 2012. It was thereafter presented to the Committee on the May, 15 and 16, 2012. A mid-term review was conducted and a report prepared and submitted to the Human Rights Council in July 2012.

3.4.1.4 Integrity

The Leadership and Integrity Act, 2012, was enacted by Parliament and assented to by the President. It came into force on August 27, 2012. The Act has been in force and was applied during the March 4, 2013 elections.

The Kenya: UN Convention against Corruption Convention and Implementation Action Plan was prepared and finalised before it was shared with stakeholders during a retreat at the Panari Hotel, Nairobi, between June 18 and 20, 2013.

An analysis Report on the Public Officer Ethics Act (Cap. 183 of the Laws of Kenya) vis-à-vis the Leadership and Integrity Act, 2012, and the Constitution of Kenya, 2010, was prepared and shared with stakeholders.

The slow pace of implementing the constitution was occasioned by slow and lengthy procurement procedures, a weak monitoring and evaluation framework critical for tracking performance and informing programming.

Inadequate funding, huge budgetary cuts and late release of exchequer by Treasury caused major delays in the preparation and execution of the planned projects and programmes. Furthermore, weak inter and intra-sectoral collaboration and coordination, inadequate capacity relating to staff, equipment and accommodation; and difficulties in mainstreaming public consultations and participation combined with demand for high quality policies and legislation under tight constitutional deadlines and protracted litigation arising from the new constitution undermined the office's ability to deliver on its mandate. Some government agencies were also not committed to sharing information on the same platform.

3.4.2 Kenya Law Reform Commission

The Kenya Law Reform Commission has a statutory and ongoing role of reviewing all the law of Kenya to ensure that it is modernized, relevant and harmonized with the Constitution. Following the promulgation of the Constitution in 2010, the Commission has an additional mandate of preparing new legislation to give effect to the Constitution. Further, both the County

Governments Act, No. 17 of 2012 and the Kenya Law Reform Commission Act, No. 19 of 2013 require the Commission to assist county governments and ministries/departments/agencies in the preparation and reform of their legislation. The Commission recognises that the Constitution requires new laws to ensure that county governments have adequate support to enable them to perform their functions and ministries, departments and agencies have the requisite legal frameworks under which they may effectively execute their mandate.

In the reporting period, the Commission developed the legislation required to implement the Constitution and thus the laws have continued to be enacted within the deadlines set out in the Fifth Schedule of the Constitution. The Commission developed 22 model laws for customization by the county governments.

Further, the Commission assisted a number of ministries, departments and agencies to review and harmonise their respective legislative frameworks with the Constitution. It also lobbied successfully for the enactment of the Kenya Law Reform Commission Act, which gives it financial and operational autonomy.

Quite a number of ministries, departments and agencies do not have policy on their mandate areas. Many are only just beginning to develop their policies. Implementation of the Constitution is, therefore, sometimes delayed when disputes and disagreements on policy crop up between a ministry and its departments or agencies, a ministry and its experts or task forces and even between two ministries.

Sometimes, lack of consensus among stakeholders has resulted in delayed publication of the relevant Bills, or the production of numerous Bills on the same subject, which can cause confusion.

The Commission has not been able to create additional capacity to deal with the new volume of work following the promulgation of the Constitution and the enactment of the County Governments Act. Despite the increased workload, the number of researchers and legislative drafters at the commission has not changed (seven researchers and legislative drafters). Additionally, the terms of the commissioners expired on June 3, 2013 and new ones have not been named, thus stalling of some policy decisions and operations in the commission.

Table 3.2 Bills, Laws & Policies Developed by KLRC

BILL/ LAW/ POLICY	STATUS
The Contempt of Court Bill	Pending, KLRC forwarded to AG and CIC
The Office of the Director of Public Prosecutions Bill	
The Office of the Attorney General Bill	
The Transfer of Prisoners Bill	Pending, AG/DPP
The National Coroner Bill	Pending, CIC/AG
The Small Claims Courts Bill	Pending, KLRC forwarded to AG and former Ministry of Justice (now Department of Justice)
Kenya Law Reform Commission Bill	
The Petty Offender's Bill	Pending, KLRC
The Bail Information and Supervision Policy	DPP/AG/Probation/Ministry of Interior
The Bail Information and Supervision Bill	DPP/AG
The Court Bailiff's Bill	DPP/AG
The Legal Aid and Awareness Policy	Finalized with former Ministry of Justice now Department of Justice
The Legal Aid Bill	Pending, KLRC forwarded to AG/CIC

Table 3.5: Summary of Cases handled by DPP July 2012 - June 2013

TYPE OF CASES	COUNT
Criminal	1,627
Appeals and applications	8,159
Legal advice (cases from EACC)	110
Anti-corruption	147
TOTAL	10,043

3.5.1.1 Human and Financial Resource Constraints

The emergence of new forms of crimes such as money laundering, drug and human trafficking, cybercrime, terrorism, wildlife crimes and maritime piracy require specialized skills across the sector. Fig. 3.3 illustrates the measures that ODPP has undertaken to train its staff on the same.

Table. 3.6 Training Programmes undertaken by Officers in the ODPP

TRAINING PROGRAMME	OFFICERS TRAINED
Counter Terrorism	35
Sexual and Gender Based Violence (SGBV)	35
Anti-Money Laundering and Mutual Legal Assistance	30
Human Rights in the Administration Of Justice	30
Trial Advocacy	29
International Criminal Justice	19
Fraud Investigation	18
Hate Speech	5
Cybercrime	3
Public Relations & Customer Care	13

The Criminal Justice system is like a chain and is only as strong as its weakest link. Fig. 3.4 illustrates the discrepancy in financial resources that constrain the administration of justice. Indeed, over the past 3 financial years the budgetary allocation of ODPP and the Judiciary illustrates a worrying trend.

"

10,043
Cases handled by DPP July 2012 - June 2013

"

3.5.1: Office of the Director of Public Prosecutions

The Office of the Director of Public Prosecutions (ODPP) is a key player in ensuring access to justice for all Kenyans as envisaged in Article 48 in the Constitution. It aims to offer its service in an efficient, effective, fair and just manner through quality, impartial and timely delivery of prosecution services. Such aspirations are anchored not only on the values and principles enshrined in the Constitution, but also on international best practices.

During the reporting period, decentralization of prosecution services was identified as one of the urgent activities for the effective and efficient delivery of services. This has been rolled out in line with the devolved system of government as well as the expansion of the Judiciary.

During this period, the ODPP upgraded the following sixteen (16) field offices to fully fledged county offices in Mombasa, Embu, Machakos, Malindi, Meru, Nyer,i Kakamega, Kisumu, Busia, Nakuru, Garrisa, Kericho, Kisii, Kitale, Eldoret, and Bungoma.

In addition the ODPP opened the following thirteen (13) new county offices in Wajir, Lodwar, Narok, Kajiado, Voi, Marsabit, Bomet, Kerugoya, Homabay, Murang'a, Isiolo, Nyahururu and Thika. The offices listed above account for 29 of the 47 county offices that the ODPP intends to open. The establishment of the county offices involved acquisition of office space, deployment of staff and procurement of furniture and equipment. The decentralization process also involved;

- the re-vamping of existing office space through the acquisition of additional office space,
- deployment of additional staff,
- library and research facilities, and
- refurbishment as well as provision of the necessary furniture and equipment.

In addition vehicles were procured for all county offices to facilitate mobility within the respective counties. These measures have contributed to efficiency and effectiveness in the discharge of the prosecution mandate as prosecutors now have the basic necessities for their work.

With a workforce of 474 prosecution counsel, the Office of the Director of Public Prosecutions discharged prosecutorial services in the Court of Appeal, in the High Court in Nairobi and across 20 county offices. The categories of cases registered include 1,627 criminal cases, 8,159 appeals and applications, legal advice (110 cases brought forward by EACC and 147 anti-corruption cases) and public complaints.

The Victim of Offences Bill	Pending, with former OVP and Ministry of Home Affairs (now Interior) Taskforce appointed to draft the Victim of Offences Bill
The Correctional Policy	Probation and former OVP and Ministry of Home Affairs (now Interior)
The Sentencing Policy	Pending, DPP/AG/Judiciary
The Rights of Persons Deprived of Liberty Bill	(5th Schedule)Pending, KLRC forwarded to former OVP and Ministry of Home Affairs (now Interior) Taskforce appointed to draft the Bill on the Rights of Persons detained, held in custody or imprisoned- Report submitted to former OVP
Enforcement of orders of Constitutional Commissions and Local Tribunals.	Forum of Constitutional Commissions and Independent Offices to deliberate
Art. 49(1)(h) Constitution	Already being implemented by the Courts
Law of Evidence Act, CAP 80, Laws of Kenya	Pending, AG to deal via Statute Law Miscellaneous Amendment Bill
Child Justice Bill	Pending, LSK/The CRADLE. Hon. Millie Odhiambo- Private Members Bill.
Children's Act	Children Department/KLRC/AG/ NCC working on Amendments
Prisons Act and Power of Mercy Act	AG, delete sections 46 and 48 which are in conflict with Article 133 of the Constitution

3.5 Investigation and Prosecution

Major reform measures envisaged in the 2010 Constitution began to take place in the police. The National Police Service Commission was appointed and sworn into office, as was the leadership of the National Police Service. The management of the National Police Service has been the subject of intense debate, especially around the architecture of power and its functioning. In the reporting period, a dispute arose over how the National Police Service Commission and the Inspector-General of Police would work.

Notwithstanding these challenges, the National Police Service recorded important results. A total of 221,478 crimes were reported ofwhich 68 ,257 constituted serious crimes. A total of 71,924 crimes were investigated, 59,424 arrests were made and 54,368 cases prosecuted.

Table 3.3: Criminal Cases Reported to the Police, 1st June 2012 - 31st May 2013

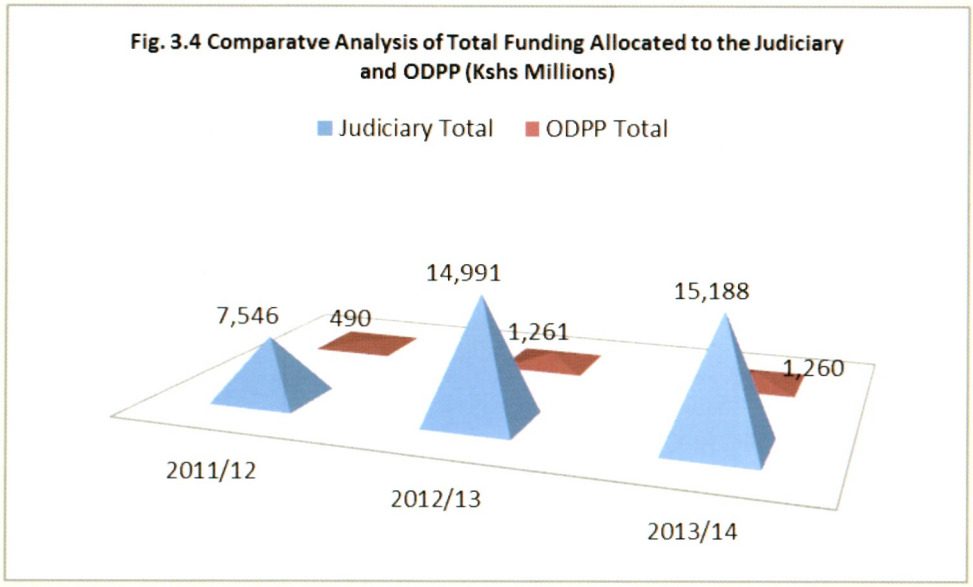
1	Crimes reported as per occurrence book	221, 478
2	Crimes detected and investigated	71, 924
3	Crimes for which suspects arrested	59, 424
4	Crimes prosecuted	54, 902
5	No of Expunged Cases	3, 141

Some 14,905 ended in convictions. However, a large number of cases (29,192) taken to court by the police were pending. Dismissals account for 2,627 cases, acquittals 4,327 and other disposals 3,851.

Table 3.4: Police Cases in Court Statistical Summary

1	Cases dismissed	2,627
2	Cases discharged or acquitted	4,327
3	Cases awaiting trial	29,192
4	Cases convicted	14,905
5	Other disposals	3,851
	TOTAL	54,902

Fig. 3.2: Comparative Analysis of Total Funding Allocated to the Judiciary and ODPP (Kshs Millions)



It is time that the justice chain actors come up with a vibrant strategy on how to approach the budgeting and resource allocation process as a unified sector. The current scenario of idle capacity in some public agencies in the justice chain is enough evidence that lobbying for the perennially underfunded public agencies ought to be a joint exercise in order for all to rise and perform to the expectations of the Constitution.

3.6 Witness Protection Agency

The Witness Protection Agency offers protection for people at risk in high level cases. It has sensitised stakeholders on witness protection, recruited staff to strategic positions and developed a collaboration plan for selected stake holders. It has undertaken a customer satisfaction survey, trained staff both locally and internationally and bought critical equipment.

During the reporting period, the Witness Protection Agency developed its five-year Strategic Plan and launched a review of the Witness Protection Act and other enabling laws, then proposed amendments. The agency has prepared the WPA 2013 Amendment Bill, which is awaiting stakeholder consultations. It has prepared the Standard Operating Procedures for effective and efficient management of the programme, resettlement and discharge of witnesses. It has also developed policy frameworks on the establishment of the Witness Protection Appeals Tribunal and the Witness Protection Victim Compensation Fund.

Table 3.7: Statistical Summary for Witness Protection Agency

ACTION	NUMBERS
Applications for Witness Protection processed	134
Witnesses placed under protection programme	30
Persons related to witnesses under WPP	80
Staff in the Witness Protection Agency	29

The agency received reduced funding, which greatly hampered its operations. The agency has requested Treasury for additional funding during the supplementary Budget.

The slow pace of trials has led to witnesses staying in the programme longer than planned for, leading to strains on the available resources to maintain the witnesses. The priotisation of election cases early this year, led to the adjournment of many other cases. Similarly, inadequate court protection measures and rules of receving evidence from protected witnesses also pose a challenge for the audience. The agency has undertaken a situational analysis, which identified the gaps within the institution and is in the process of preparing the rules of court under Section 36 of the Witness Protection Act.

The agency has developed and continues to develop inter-agency collaboration mechanisms with identified stake holders. It has also embarked on countrywide sensitisation of stakeholders. The Agency has also come up with a tool free line to be used by the members of the public and stake holders The Salary structure does not allow the Agency to attract and retain staff. The Agency has made proposals for review to SRC and is awaiting advice.

Due to inadequate funding, the agency has not been able to open regional offices in the counties but has requested additional funds for it.

3.7 Corrections and Rehabilitation

Kenya continues to face the challenge of congestion which negatively impacts prison conditions and stretches the human and financial resources of the Prisons Service. The national prisons hold 50,329 inmates against a capacity of 30,000

Table 3.8: Prison Population

OVERVIEW	MALES	FEMALES	TOTAL
Number of persons in remand	17316	1170	18486
Number of persons in prisons for less than 3 years	22487	832	23319
Total number of prisoners	31843	18486	50329
Number of Uniformed Prison Officers Number of Civilian Prison Officers	19836 593		20429

Source: Kenya Prisons Service, September 2013

Community-based penalties have given some respite by providing alternatives to imprisonment. Despite the fact that courts still make considerably low use of the available supervised non-custodial sentences, it is worth noting that, in the reporting period, 628 Probation and AfterCare Services Officers who also double up as Community Service Orders officers recommended a total of 50,722 non custodial orders that were adopted by the court.

Table 3.9: Statistical Summary for Probation Services

CATEGORY	PROBATION	CSOs	TOTAL
Social investigations/ inquiries reports made in the year	13,275	44,651	57,926
Orders issued during the year	9,161	41,124	50,285
Orders in force at end of period	11,453	9,498	20,951

Officers	628	628	628*
Offenders and ex-offenders reintegrated into society (*Aftercare)	985	–	985

Source: Probation and AfterCare Services Department, September 2013

3.7.1: Probation and Aftercare Services

The Probation and Aftercare Services department issued some 50,722 non-custodial orders in the reporting period. Although the figures of those who served under Community Service Orders are impressive, the courts sentenced them to serve relatively few hours/days. This meant that the cases exited the system quickly and would not accumulate till the end of the year end, with only a few carried forward the following year.

Probation officers inquire into pre-trial cases, but not all the courts make use of this facility for lack of clear policy or legislation. Courts still make considerably low use of the available supervised non-custodial sentence, preferring imprisonment and fines instead.

Probation officers also prepare victim impact statements as directed by the courts but their work is hampered by limited and reducing funding.

The Probation and Aftercare Services department constructed nine new offices in Kaloleni, Taveta, Makindu, Meru (Imenti North), Othaya, Athi River, Ugunja, Eldoret, Maralal and opened six new stations in Msambweni, Kakuma, Engineer (Kinangop), Kisauni, Mbita (Suba) and Athi River. A Local Area Network was installed in 15 stations and 15 field vehicles purchased.

The department is hampered by weak and outdated laws, such as the Probation of Offenders Act and CSO Act, which do not govern new areas of work such as bail information services and aftercare. There is also lack of an approved policy on aftercare and bail information.

Decreasing funding increases the need for enhanced resource mobilization and the ring-fencing of certain budget lines for probation. There are limited funds to carry out capacity building, especially in new areas like pre-bail information and management of sexual offences, low number of vehicles for court inquiries. The Judiciary and the public have heavily relied on probation services in spite of limited resources. For example, in the current financial year, the department received Sh324,790,992, down from Sh605,036347 in 2012/2013 and lower than the 2011/2012 allocation of Sh410,931,979.

Table 3.10: Annual Financial Report for Probation

Voted Provisions	2011/1/2	2012/13	2013/14
Recurrent	135,931,979	260,036,347	151,268,342
Development	275,000,000	345,000,000	173,522,650

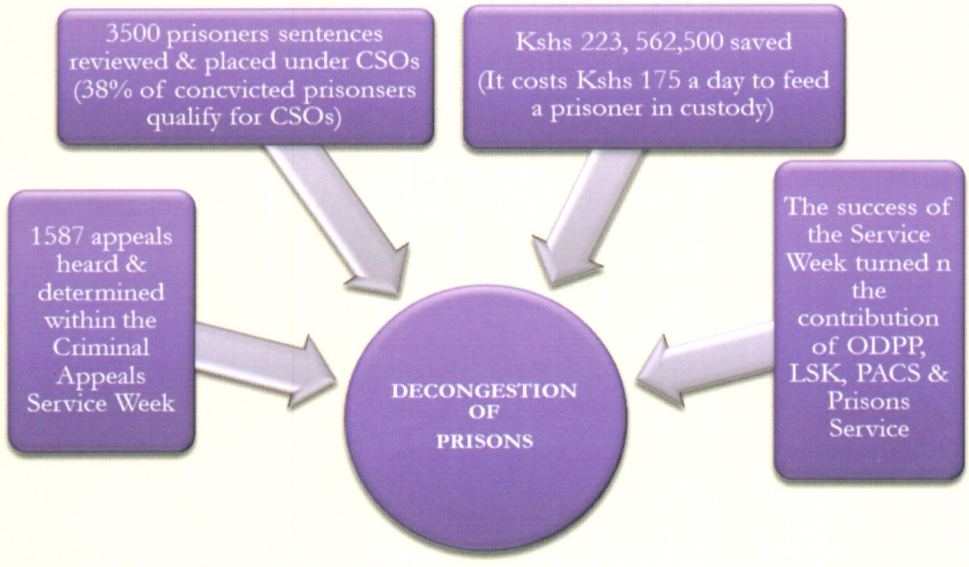
3.8 Collaborative Innovations

3.8.1 Judicial Service Week

The Constitution of Kenya guarantees every accused person the right to appeal once convicted. It is thus the responsibility of the Judiciary to hear and determine criminal appeals expeditiously. Still, many accused persons complete serving sentence before the hearing of their appeals. Many others are still waiting for the hearing of their appeals. A visit to 10 prisons last year revealed that 3,008 prisoners had been waiting for hearing of their appeals for over five years.

Last year, the High Court cleared 3,944 leaving 10,289 pending appeals, which includes 3,325 new appeals filed during the year. Building on these achievements, it is expected that prison decongestion will become an ongoing collaborative initiative.

Fig. 3.3: Judiciary Service Week



3.8.2 Operationalisation of CUCs

Court Users Committees (CUCs) provide a platform for actors in the justice sector at the local or regional level, to consider improvements in the operations of the courts, coordinate functions of

all agencies within the justice sector and improve the interaction of these stakeholders.

Despite facing numerous challenges in their first stages of operationalisation, including having limited financial resources and in many cases no funding at all, there are several exciting trends emerging from CUCs. Members across the justice chain are collaborating in creative ways to improve the administration of justice throughout the country. A few examples illustrate the positive, innovative ways in which CUCs have been able to surmount significant challenges in discharging their mandate:

- **Nkubu:** The Law Reform Commission teamed up with the Imenti Probation Office to start a fish farm whose proceeds would be used to finance activities of the local CUC.
- Bomet: Like several others, the Bomet CUC does not have enough resources to secure space for meetings. The Prisons Department, therefore, lends its boardroom for CUC members to meet regularly.
- **Busia:** There are remarkable improvements at the Busia Law Courts. Case backlog is reducing, registries are better organised and a new court building has been constructed. It is encouraging to note the county government broke away from the tradition of waiting for change to happen and decided to further promote positive transformation. It donated land that will house prefabricated courts in Amagoro and Khakati.
- **Siakago:** Through CUCs, the Kenya Wildlife Society (KWS) has offered to train members – including prosecutors, police and judicial officers – on the gravity of poaching.
- **Isiolo:** In a region where the local CUC does not have a Treasurer because there are absolutely no funds to manage, it is heartening that local elders are working diligently to ensure alternative dispute resolution mechanisms are actualised in the manner envisaged in the Constitution of Kenya, 2010.

This willingness to come together to find local solutions to local problems is a testament to the potential of CUCs to revolutionise the justice sector in Kenya. The CUCs have also been important sites for nurturing Bar-Bench relations.

3.9 Outlook For 2013/2014

3.9.1 Joint Resource Mobilisation Strategy

The overall budget requirement for the implementation of the NCAJ Strategic Plan (2012-2016) is Sh1.49 Billion is already laden with a net shortfall of Sh680 Million in the second year of

implementation. In order to successfully meet its five strategic objectives, NCAJ will need to urgently explore funding for the entire sector and expand resource options through cost-sharing among agencies, budget neutral spending, private sector contributions and civil society support at the devolved level.

Unequal support for reform measures in the justice sector sees some agencies well funded while others are neglected which directly impacts the performance of the sector. NCAJ will develop a robust resource mobilization strategy to make the justice sector politically and economically attractive and propose strategies for joint-lobbying by the council.

3.9.2 Special Initiatives

A National Conference of Court Users Committees is planned for November 2013, as are various public engagements such as the launch of the NCAJ website featuring the updated activities of CUCs, the introduction of an online reporting tool to harvest public complaints, channel them to appropriate officers and also receive feedback on performance by justice sector actors. The CUC Guidelines and other IEC materials have been developed and will also be widely published and circulated to deepen ownership and encourage their use across the country.

> "The overall budget requirement for the implementation of the NCAJ Strategic Plan (2012-2016) is Sh1.49 Billion is already laden with a net shortfall of Sh680 Million in the second year of implementation."

Part 2

QUALITY OF JUSTICE



Lawyers follow proceedings in the Supreme Court.

Chapter 4

JURISPRUDENCE

4.0 INTRODUCTION

Courts play an integral role in interpreting and expounding the Constitution, contested legislation, case law and other policies. Courts are constantly driving evolutions in jurisprudence in keeping with societal developments. Jurisprudence is the theory of general principles of law and government. Over the past year, the courts have delivered notable decisions forming a wealth of progressive jurisprudence informed by the Constitution of Kenya, 2010, and the Judiciary Transformation Framework. The Judiciary Transformation Framework states that it is sound jurisprudence that enables the Judiciary to assert its authority, command public respect and enjoy distinction among peers while maintaining legitimacy and credibility.

Some of the most significant decisions from the courts in the recent past have settled important questions of constitutional and legal interpretation on the implementation of socio-economic rights, the jurisdiction of Kenyan courts to determine matters of international law, and the outer limits of integrity jurisprudence, between the Court of Appeal and High Court development of jurisprudence in Kenyan courts can be categorized under several thematic areas, including:

4.1 Implementation of Social and Economic Rights:

The High Court is developing a consistent framework that has ensured that the promise of progressive realization is not just an empty promise but comprises of certain minimum standards and content. Two cases in particular illustrate this point:

- Mitu-Bell Welfare Society v Attorney General and 2 Others, Nairobi Petition No. 164 of 2011
- Satrose Ayuma & 11 others v The Registered Trustees of The Kenya Railways Staff Retirement Benefits Scheme & 2 others, Petition No.65 of 2010

These two judgments dealt with the issue of evictions in urban settlements. Article 43 of the Constitution of Kenya, 2010 provides for Economic and Social Rights which include the right to health care services and the right to accessible and adequate housing. The petitioners in the Mitubell case were residents of Mitumba Village situated near Wilson Airport, in South C, Nairobi while the Satrose case involved residents of Muthurwa Estate in Nairobi.

The court in both cases observed that socio-economic rights had 'crystallized' and could no longer be said to be merely 'aspirational'. Further, the time had come for the State to take affirmative steps towards fulfilment of these rights including the right to adequate housing. The court underlined the State's responsibility to 'observe, respect, protect, promote and fulfil' socio-economic rights according to Article 21 of the Constitution. The State could thus not rely on the 'progressive realization' principle and must be seen to take active steps towards realization of these rights by its citizens. The Court found that the Government had both a positive and negative duty to provide adequate housing from its citizens and abstain from breaching the rights of the residents.

The cases also emphasized the need for the country to put in place a clear policy to guide evictions, which policy should be in line with international standards and the Constitution. The court in both cases also underlined the importance of consultation with the affected victims before drastic measures are taken.

"The court in both cases observed that socio-economic rights had 'crystallized' and could no longer be said to be merely 'aspirational'."

Another acclaimed decision on protection and strengthening of socio-economic rights was delivered by Lady Justice Mumbi Ngugi in what is now popularly known as, 'the Kenyan generics case.'

Patricia Asero Ochieng, Maurine Atieno and Joseph Munyi vs Republic H.C.C.C. Petition No. 409 of 2009

The petitioners were Kenyans living with HIV. They claimed that provisions of the Anti-Counterfeiting Act, 2008 (the Act) unduly restricted access to affordable, essential medicines, including generic medicines for HIV-related diseases. This, according to the petitioners, violated their fundamental rights to life, dignity and health protected under articles 26(1), 28 and 43 of the Constitution of Kenya, 2010.

After promulgation of the Industrial Property Act in 2001, Kenyans who could not afford treatment for HIV related diseases were able to obtain medication free of charge since the Act allowed for importation of affordable generic drugs. The HIV and AIDS Prevention and Control Act, 2006 requires the Government to ensure the availability of resources to guarantee access to medicines to treat HIV.

The petitioners argued that the Government failed to specifically exclude generic medicines from the definition of "counterfeiting" in section 2 of the Act, therefore, generic medicines could be considered counterfeit. To buttress their point, the petitioners observed that generic HIV medicines in transit to developing countries had actually been seized in the Netherlands and Germany pursuant to laws similar to the Act.

The Attorney General, respondent in the case, argued that generic drugs are not the same as counterfeit drugs. The Attorney General stressed the importance of the Government's responsibility to protect people from counterfeit drugs, which may lead to harm or fatalities. The respondent averred that the definition of counterfeit in the Act was sufficiently precise and did not encompass generic medicines.

The court decided that the Anti-Counterfeiting Act, 2008 infringed upon the fundamental rights to life, dignity and health protected under the Constitution of Kenya, 2010.

The court recognized that HIV/AIDS is a serious threat to health and life and continues to pose a major challenge to Kenya's socio-economic development.

The court also acknowledged the interconnectedness of the rights to life, dignity and health. Without health, the right to life is at peril. The court held that if a law has the effect of limiting accessibility of HIV medicines; it would "ipso facto threaten the lives and health" of people living with HIV "in violation of their rights under the Constitution."

The Court held that:

"The state's obligation with regard to the right to health therefore encompasses not only the positive duty to ensure that its citizens have access to health care services and medication but must also encompass the negative duty not to do anything that would in any way affect access to such health care services and essential medicines. Any legislation that would render the cost of essential drugs unaffordable to citizens would thus be in violation of the state's obligations under the Constitution."

The Court held that sections 2, 32 and 34 of the Act threatened to violate the rights to life, dignity and health and must be reviewed in light of the Government's constitutional obligation

"The court decided that the Anti-Counterfeiting Act, 2008 infringed upon the fundamental rights to life, dignity and health protected under the Constitution of Kenya, 2010."

to protect the fundamental right to health, which includes access to affordable medicines. The Court declared:

"There can be no room for ambiguity where the right to health and life of the petitioners and the many other Kenyans who are affected by HIV/AIDS are at stake."

Michael Mutinda Mutemi v Permanent Secretary, Ministry of Education & 2 others

4.2 International Law as Part of Kenyan Law:

The Court of Appeal delivered a widely acclaimed decision clarifying the jurisdiction of Kenyan courts to determine international crimes even if committed outside Kenya.

Attorney General v Mohamud Mohammed Hashi & 8 Others Civil Appeal No.113 of 2011

This case involved allegations of piracy committed outside Kenya's territorial waters. The accused persons contested Kenya's jurisdiction to hear the matter as the alleged offence was committed in the High Seas. The lower court agreed that Kenya could not entertain the case as the offending act was committed beyond the court's territorial jurisdiction.

The Court of Appeal reversed the decision and held that being a signatory to several relevant international instruments and on the basis of customary international law, Kenya has jurisdiction to try pirates even if the crime was committed outside the country's territory. The court even highlighted an American court decision that made reference to the fact that in prosecuting many modern day piracy cases, Kenya relies on international law and particularly the United Nations Convention on the Law of the Sea.

The Court of Appeal affirmed that Kenya has universal jurisdiction to try piracy no matter where the offence is committed.

4.3 Dialogue on the outer Limits of Integrity Jurisprudence between the Court of Appeal and High Court

Mumo Matemu vs. Trusted Society of Human Rights Alliance & 5 Others Civil Appeal No. 290 of 2012

This was an appeal filed at the Court of Appeal at Nairobi challenging the High Court's decision to set aside the appointment of Mumo Matemu as the Chairperson of the Ethics and Anti-Corruption Commission.

The Ethics and Anti-Corruption Commission Act, 2011 was enacted in accordance with Article 79 of the Constitution of Kenya, 2010. Section 6 of the Ethics and Anti-Corruption Commission Act establishes the procedure for the appointment of the Chairperson and members of the Ethics and Anti-Corruption Commission.

The Constitution provides that the appointments of the Chairpersons of Commissions shall be identified and recommended for appointment in a manner prescribed by legislation, and the appointment shall be approved by the National Assembly before the formal appointment by the President.

After receiving the list of shortlisted candidates for the posts of Chairperson and members of the Commission, the President (H.E. Mwai Kibaki) in consultation with the Prime Minister (R.H. Raila Odinga) selected Mr. Matemu from the list of persons recommended as the Chairperson and

"The Court of Appeal affirmed that Kenya has universal jurisdiction to try piracy no matter where the offence is committed."

submitted his name and other members' names to the National Assembly.

The National Assembly, through its Departmental Committee on Justice and Legal Affairs invited members of the public to submit any representation on the suitability or otherwise of the nominees, including Mr. Matemu. After being interviewed by the Justice and Legal Affairs Committee, it made a recommendation rejecting the nomination of the nominees stating that "they lacked the passion, initiative and the drive to lead the fight against corruption." Following a prolonged debate, the National Assembly rejected the Justice and Legal Affairs Committee's recommendation and approved all the nominees.

The President subsequently Gazetted the appointment of the nominees.

The Trusted Society of Human Rights Alliance, a non-governmental organization, challenged the appointment in the High Court. It argued, among other things, that the process of Mr. Mutemu's appointment was unconstitutional. The High Court applied the rationality test in conducting a judicial review of the actions of separate arms of government in this case. The rationality test determines whether a reasonable person would have reached the same conclusion based on the same facts. Since the court was reviewing actions of different arms of Government it did not look into the merits of the decision but stated that it had the power to investigate whether the recruitment process and the individuals selected met the Constitutional requirements.

The High Court decided that the doctrine of separation of powers did not prevent it from determining the petition. The Court held that it had jurisdiction to review the process of appointments of persons to State or Public Offices where mandatory procedures as well as the law were not followed. It eventually found that Constitutional requirements were not met and set aside the appointment.

On appeal, the Court of Appeal agreed that the High Court has jurisdiction to hear any question respecting the interpretation of the Constitution, including the determination of a question regarding whether an appointment by any arm of the Government is inconsistent with, or in contravention of the Constitution. Therefore, the High Court had jurisdiction to review and set aside the appointment of the appellant on grounds of constitutionality or legality.

Although it ended up reversing the High Court's decision, the Court of Appeal concluded by noting that although the emerging jurisprudence and practice on integrity was still in its infancy, there was compelling public aspiration towards cleaning up politics and governance structures. The Constitution of Kenya envisages the enactment of laws to provide a process for realizing the constitutional aspirations enshrined in Chapter 6 and the courts must hasten this process by providing safeguards for due process, justice and fairness.

4.4 On the Political Participation of Vulnerable Groups

A case in point that illustrates how interested groups have influenced political processes by utilizing the Courts is where the National Gender and Equality Commission (NGEC) together with five other interested parties were able to successfully bar the IEBC from gazetting names of County Assembly Representatives based on party lists submitted by political parties. (National Gender and Equality Commission (NGEC) v Independent Electoral and Boundaries Commission & 5 others. Petition 147 Of 2013)

In that case, a Constitutional Petition was filed against the IEBC and sought orders to direct the

"The Court of Appeal agreed that the High Court has jurisdiction to hear any question respecting the interpretation of the Constitution, including the determination of a question regarding whether an appointment by any arm of the Government is inconsistent with, or in contravention of the Constitution."

IEBC to comply with its Constitutional duties with regards to the conduct and supervision of elections for special seats allocated to political parties.

The petitioner averred that the Constitution places an obligation on the IEBC to conduct and supervise elections for the party list seats in Parliament and the County Assemblies. According to the petitioner the IEBC did not conduct and supervise the County Assembly representatives' elections for the party lists and stood in violation of its Constitutional mandate.

In considering whether the IEBC could be restrained from gazetting names of county representatives on the basis of the party lists submitted by the political parties pending hearing and final determination of the main suit, the Court ruled that the applicable procedures prescribed under the Constitution or an Act of Parliament must be strictly followed. The Court, therefore, restrained the IEBC from gazetting the names of the particular County Assembly Representatives nominated based on the party lists.

4.5 Advances in Labour Law

During the Mid-Year Review workshop for Judges of the Industrial Court conducted under the auspices of the JTI, the Judges engaged in intellectual discourse on a number of jurisprudential issues that they face on a daily basis. These include the legal effect of wage guidelines, precedential value of Court of Appeal decisions which are contrary to the new statute, the award of costs on labour disputes, the representation of parties before the Court, the jurisdiction of the Industrial Court in issuing judicial review orders and the assessment of compensation for unlawful termination.

The Judges also Discussed Several Precedent-Setting Decisions Including:

1. Robai Musinzi v Mohammed Safdar Khan I.C. Cause No. 26 of 2012 on the termination of the employment of a domestic help worker on account of being too old, and her entitlements after such termination. This is a landmark case showing how far the country has come with regard to disputes of this nature. Previously, individual domestic workers could not approach the court since it was a preserve of unions. With this decision, the rights of individual domestic employees are exalted and it is now recognized that such employees can get terminal benefits in their personal capacity for wrongful dismissal.
2. Jane Wairimu Macharia v Mugo Waweru & Associates I.C. Cause No. 621 of 2012 on the entitlement of female employees to maternity leave despite the duration of employment, the extension of probation periods beyond the period stipulated in the contract without good cause, and considerations before dismissing an employee for poor performance.
3. Robert Muriithi Ndegwa v The Minister for Tourism, Petition No. 41 of 2012 on statutory and constitutional standards for the appointment of public CEOs, and considerations for issuing a stop order on hiring.
4. Macharia Machocho v Total Kenya Ltd, I.C. Cause No. 2 of 2012 on discretion of the court to extend the time for filing a case based on contract (such as an employment contract) that is statutorily time-barred.

"Previously, individual domestic workers could not approach the court since it was a preserve of unions. With this decision, the rights of individual domestic employees are exalted and it is now recognized that such employees can get terminal benefits in their personal capacity for wrongful dismissal."

5. KPWAWU v Maji Mazuri Flowers Ltd, I.C. Cause No. 1365 of 2011 on employers reneging on return-to-work agreements, especially those presided over by Ministry of Labour officials. The agreement was signed after the employees engaged in an unprotected strike.

6. Jane Khatechi v Oxford University Press EA Ltd, I.C. Cause No. 924 of 2010 which explored the mala fides/ill motivation and consequences thereof; for employees' retrenchment/redundancy even though the process was above board.

4.6 The Advances in Electoral Law Jurisprudence Arising out of the Election Petitions

In part fulfilment of the commitment to engagement with the public and promote the growth of jurisprudence, the Chief Justice handed over material used at the hearing of the presidential election petition to Deans of law schools on the 6th of September 2013. In the words of the Chief Justice:

> Our intention today is not to reopen the case - that is not possible. Rather, it is to launch a robust debate and lifelong scholarly inquiry on the cases and the decisions that flowed from them. This evaluation should include an assessment of the performance of the Bench as well as the Bar, the quality of the advocacy as well as that of the judging. Through this engagement, the Supreme Court, and indeed the Judiciary, is inviting constructive research and reflections on its decisions and processes not so much to re-litigate issues it has already determined with finality but rather to explore and expand the frontiers of knowledge for the benefit of current and future Supreme Court and Judiciary. It is only through constant engagement that we can build public confidence in Kenya's justice system.

The electoral dispute resolution process in 2013 conducted under the leadership of the Joint Working Committee on Election Petitions (JWCEP) has given the courts an opportunity to develop jurisprudence underpinned by the Constitution and its principles and values. The entrenchment of important electoral principles in the Constitution, the enactment of the Elections Act, 2011 and the Rules of Procedure and the incorporation of international legal principles by the Constitution have provided a firm foundation for the growth of jurisprudence in this area of law.

The latest JWCEP reports indicate that so far, decisions have been delivered setting the record clear on issues such as: the constitutionality of Section 76 of the Elections Act, 2011, the declaration date of election results and the deadline for the date of filing; security for costs; judicial scrutiny; the meaning of free and fair elections; determination of costs; interlocutory appeals, and the validity of elections. The decisions delivered so far have drawn from precedents in other parts of the world and international legal instruments.

The following are some of the precedent-setting quotes that can be gleaned from the some of the election courts in 2013:

4.6.1 The Supreme Court on time

"The parties have a duty to ensure they comply with their respective time – lines, and the Court must adhere to its own. There must be a fair and level playing field so that no party or the Court loses the time that he/she/it is entitled to, and no extra burden should be imposed

"The entrenchment of important electoral principles in the Constitution, the enactment of the Elections Act, 2011 and the Rules of Procedure and the incorporation of international legal principles by the Constitution have provided a firm foundation for the growth of jurisprudence in this area of law."

on any party, or the Court, as a result of omissions or inadvertences which were foreseeable or could have been avoided."

The Supreme Court in its ruling on the petitioner's affidavit in reply delivered on the 26th of March stated at page 9.

4.6.2 The Court of Appeal on Interlocutory Appeals

"It is our considered view that passage or lapse of time does not and cannot confer jurisdiction; jurisdiction is a continuum, jurisdiction cannot lack today and by passage or lapse of time exist tomorrow. Jurisdiction is either present ab-initio or absent forever. We find that Rule 35 of the Election Petition Rules does not oust the jurisdiction of the Court of Appeal to hear interlocutory appeals. We also find that it is not only upon final judgment or decree of the High Court being made, that the Court of Appeal acquires or assumes jurisdiction. A judgment and decree of the High Court cannot ipso facto confer or vest jurisdiction to the Court of Appeal. We are of the considered view that the Court of Appeal always has jurisdiction to hear appeals in interlocutory matters arising in an Election Petition; and that it is only that the jurisdiction to hear such a matter is delayed or deferred and not ousted. The issue is not absence of jurisdiction but deferred or delayed jurisdiction. It is our considered view that Section 80 (3) of the Elections Act does not oust the jurisdiction of the Court of Appeal to hear interlocutory matters of law arising in an Election Petition; rather, the section must be read with Articles 105 and 164 (3) of the Constitution. Section 80(3) in the context of Articles 105 and 164 (3) of the Constitution simply delays the exercise of the appellate jurisdiction to such a time when the constitutional time lines for hearing and determining an Election Petition by the High Court has expired. In this context, we hold that any and all interlocutory appeals that could be preferred in an Election Petition are deferred and delayed and should be raised as grounds of appeal in any substantive Election Petition Appeal."

Per Visram, Koome & Otieno-Odek, JJ.A. in the Court of Appeal in Nyeri in Peter Gichuki King'ara v. IEBC & Others Civil Appeal No. 23 of 2013

"The practice of appealing against interlocutory decisions in the final judgment is not unknown to our jurisdiction. It is the order of the day in criminal cases, where interlocutory de¬terminations in the course of the trial are raised on appeal after conclusion of the trial. The concern may be addressed by formulation of procedural rules specific to election petitions. In addition, in view of what we have held above, particularly about the constitutional rights and values, we do not see how the Court of Appeal Rules can stand on the way of an appellant who wishes to address, in an appeal after the final disposal of a petition, a determination that was made in an interlocutory stage. All that is required is purposive interpretation of the rules to ensure that the appellant's constitutional right to raise an issue that was determined in the interlocutory stage is protected."

Per Nambuye, Kariuki, Gatembu, M'Inoti and Murgor JJA in Jared Odoyo Okello & Others v IEBC and Others Nairobi Civil Appeal No. 16 & 19 of 2013 (Consolidated)

"Under our democratic form of government, an election is the ultimate expression of sovereignty of the people and the electoral system is designed to ascertain and implement the will of the people. The bedrock principle of election dispute resolution is to ascertain the intent of the voters and to give it effect whenever possible."

Per Majanja J. in Richard Kalembe Ndile v. Patrick Musimba Mweu & Others Machakos Election Petition 1 of 2013

4.6.3 Pre-Trial Conferencing

"Rule 17 of the Election Rules provides for pre-trial conference and prohibition of delayed interlocutory applications. This rule, in my view, is a measure to safeguard the adjudication process of an election petition from interlocutory applications made after the commencement of the hearing. The rule also ensures that both the court and the parties narrow down to the contested issues and adopt the best and [most] practical way of resolving the disputes."

Per Ogolla J. in Arthur Kibira Apungu & Others v. IEBC & Others, Kakamega Election Petition 7 of 2013

4.6.4 Meaning of Declaration of Election

The meaning of 'declaration' as used in Article 87 (2) of the Constitution and section 76 of the Elec¬tions Act:

"In the absence of a clear picture emerging from both the Constitution and the Act with respect to what constitutes a 'declaration', the law is that the purpose of legislation must be looked at to see whether or not it is unconstitutional. In my view, the insertion of gazettement in section 76(1)(a) of the Act was meant to give certainty to reckoning of time. That being the position and pursuant to my finding that one of the intentions of the framers of the Constitution was to give certainty to electoral dispute resolution mechanisms, I am unable to find that by merely requiring that the results be gazetted, section 76(1)(a) is unconstitutional on that score. In fact, I doubt if this Summons would have been taken if the gazettement had been done on the very day that the results were announced by the Returning Officer."

Per Odunga J. in Gideon Mwangangi Wambua v. IEBC & Others (Mombasa Election Petition 4 of 2013)

"The Applicants have asked the court to find that declaration has the meaning attached to it under Regulations 79 and 83. In my view the declaration that is referred to in Regulations 79 and 83 is in respect of particular polling stations and tallying centres. What this means is that if 'declaration' were to be taken to mean the issuance of the forms, it would have the effect of creating several declaration dates, which would result in an absurdity. It could not have been the intention of the drafters of the Constitution that it be interpreted in a manner that would result in an absurdity. Indeed this is contrary to the purposive approach that is required to be adopted in relation to Constitutional interpretation. Indeed the publication of the results in the Kenya Gazette provides a uniform reference point for assessing when the jurisdiction of the IEBC ends and that of the High Court begins, as provided for in the Constitution. In my view the insertion of gazettement in section 76(1) (a) of the Act was meant to give certainty and uniformity to reckoning of time. It was not meant to create a parallel time frame or a contradiction to the Constitution. I am unable to find that by merely requiring that the results be gazetted, section 76(1) (a) is unconstitutional on that score."

Per Lesiit J. in Mercy Kirito Mutegi v. Beatrice Nkatha & Others (Meru Election Petition 5 of 2013)

"In my view the insertion of gazettement in section 76(1) (a) of the Act was meant to give certainty and uniformity to reckoning of time. It was not meant to create a parallel time frame or a contradiction to the Constitution. I am unable to find that by merely requiring that the results be gazetted, section 76(1) (a) is unconstitutional on that score."

4.6.5 Scrutiny

"Form 35 is meant to be a snapshot of the votes cast. Its contents are then transposed into Form 36 that captures the constituency total tallies for all the candidates. When Form 35 is then impugned, a full inquiry must extend to the ballot box."

Per Kimondo J. in Kakuta Maimai v. Peris Pesi Tobiko & 2 Others (Nairobi Election Petition 5 of 2013)

"The importance of scrutiny in an election petition cannot be gainsaid. This is because under ... the Election Petition Rules, the court now has jurisdiction to declare a petitioner to have been validly elected. This is in a situation where the court establishes that it is the petitioner who actually won the election and not the respondent. I agree ... that the court cannot declare a petitioner as having been duly elected without scrutiny. Scrutiny and recount therefore can be used by the court as a basis of declaring a petitioner as having been duly elected in the position that is the subject of the election petition."

Per Kimaru J. in Rishad Hamid Ahmed Amana v. IEBC & Others Malindi Election Petition 6 of 2013 (2013) eKLR.

"Having said so, the petitioner must shoulder the blame for failing to seek a recount at the polls... The point to be made is that Courts are ill-equipped to carry out a recount. It is a laborious and time-consuming exercise. The polling stations provide a better forum, soon after close of polls, and in the presence of agents or candidates. In that scenario a fairly smaller number of votes would be recounted."

Per Kimondo J. in Kakuta Maimai v. Peris Pesi Tobiko & 2 Others (Nairobi Election Petition 5 of 2013)

"...a party must not be allowed to use scrutiny as a fishing expedition to discover new or fresh evidence. It would be expected that a party filing an Election Petition is, from the outset, seized of the grounds, facts and evidence for questioning the validity of an election. And where the evidence is unclear then a party can, on application to Court, seek and obtain better particulars of that evidence from its adversary. But it would be an abuse of process to allow a party to use scrutiny for purposes of chancing on new evidence. Scrutiny should not be looked upon as a lottery."

Per Tuiyott J. in Philip Osore Ogutu v. IEBC & Other (Busia Election Petition 1 of 2013)

"The Learned Judge went further to state, correctly in my view, that scrutiny should not afford a petitioner the opportunity to embark on a fishing expedition to discover new or fresh evidence. In this regard, scrutiny cannot be ordered where the petitioner has not specifically pleaded for scrutiny in his petition. It will not do for the petitioner to aver in the petition that he desires scrutiny and recount to be undertaken in respect of all the polling stations in the electoral area that is the subject of the dispute. The petitioner must plead in sufficient detail why he requires the court's intervention to order scrutiny. In that regard, the petitioner is required to state the specific polling stations that he alleges there were irregularities and therefore should be scrutinized... This court agrees with the Respondents that the Petitioner can only ask for scrutiny and recount in respect of polling stations which he specifically pleaded in his petition. A party is bound by his pleadings."

Per Kimaru J. in Rishad Hamid Amana v. IEBC & Others Malindi Election Petition No. 6 of 2013 (2013) eKLR:

4.6.6 The Role of Form 35 in an Election

"The returning officer in the tallying centre announces results from the various polling centres in the constituency. Those results are contained in Form 35. Form 35 is a snapshot of the contents of the ballot box as documented by presiding officers and verified by agents. Form 35 in my view is the most important primary record of the election. All the other forms are built atop it. The sealed ballot boxes delivered to the returning officer cannot be reopened except by an order of the election court."

Per Kimondo J. in Steven Kariuki v. George Mike Wanjohi & Others Nairobi Election Petition 2 of 2013:

4.6.7 Costs in Election Petitions

"One other issue calls for my observation. The 3rd Respondent has repeatedly asserted that this Petition is brought by the Petitioner as a proxy of some named principals. The 3rd Respondent will have to prove those allegations. Needless to say, no adverse finding can be made against the so-called principals without affording them an opportunity of answering the allegations. But in the event that the proxy arrangement were to be proved and the Petition fails, then a fair question would be whether the Respondents should have a remedy of costs against the 'principals.' It is the suggestion of this Court, without pretending to provide a final answer, that Rule 36(1) of the Election Petition (Parliamentary and County Elections) Petition Rules 2013 is wide enough to enable a Court direct an order of costs against such persons... The use of the word 'persons' and not 'party' is, in my view, deliberate. In appropriate circumstances, persons other than the Petitioner/s or the Respondents may be subjected to costs. There is no reason why the actual owner of a failed Petition should be left unpunished. This would be one way of deterring the abuse of Court process. And this may yet be another way of addressing the 3rd Respondent's fears."

Per Tuiyott J. in Henry Okello Nadimo v. IEBC & Other Busia H. C. Election Petition 2 of 2013

4.6.8 Free and Fair Elections

"Lack of the counterfoils is therefore grave as the ballot papers in the ballot boxes cannot be ascertained and verified if indeed they were duly cast as votes or not. Missing counter¬foils would basically mean that ballot papers in ballot boxes were not the ones used by the voters."

Per Mutende J. in Thomas Malinda Musau & Others v. IEBC & Others (Machakos Election Petition 2 of 2013)

4.6.9 Transfer of Petitions Filed in the wrong Court

"Is the High Court devoid of jurisdiction to transfer this case to the proper court for determi¬nation? The answer to this question should be seen within the authority of the High Court to transfer cases as a jurisdiction by itself. I hold the view that, the jurisdiction to transfer cases ordinarily resides in a superior court; in this case it is the High Court. Unlike in purely private civil claims, the jurisdiction should be broadly exercised in public-law-remedy proceedings depending on the circumstances of each case. I am not able to find any express limitation on that kind of exercise of that jurisdiction in the Constitution or a statute or a charter that Kenya has ratified. Nor has it been ousted, expressly or by necessary implication by the Constitution or Elections Act or the Rules... That power, it bears repeating, is a constitutional power vested in the High Court, and should not be limited by a practice of by-gone years: which is out of tune with our Constitution.

What is imperative is for the court to pay homage to the Constitution by developing strong deprecation against any position that negates the demands of the Constitution. It is this kind of legal evolution that is necessary in any country that is advancing in the polity of legal, socio-political and economic realities."

Per Gikonyo J. in Miliah Nanyokia Masungo v. Robert Wekesa & Others Bungoma High Court Election Petition 1 of 2013.

"In this case, it is regrettable that the parties, by curtailing the calling of witnesses, have conducted their cases in such a manner, as to make the testing of evidence difficult. Yet clarity of the court as to all matters that transpired is critical. The object of the Elections Petitions Rules is not to create a field for the display and testing of strategy and tactic games by parties. The overriding objective of the Rules is stated in Rule 4 as being to facilitate the just, expeditious, proportional and affordable resolution of election petitions. Likewise, the duty of the court is to further the overriding objectives by conducting the proceedings with the aims of just determination of a petition in an efficient and expeditious manner."

Per Mwongo J. in Ferdinard Waititu v. IEBC & Others Nairobi Election Petition 1 of 2013

4.6.10 Whether to Order for a By-Election

"While I agree that the result of the recount and scrutiny is not the only consideration to be taken into account in deciding whether or not to declare the petitioner entitled to the much coveted seat, as indeed I pointed out to the parties after the results of the recount and scrutiny were made known, I am aware that each case must be decided on its own circumstances. I am aware that mounting and conducting an election is not a cheap affair. Elections are not fuelled by water or air. They are fuelled by cash that must come from the public coffers through taxation. It is public knowledge that the Kenyan taxpayer is extremely overtaxed, and that taxpayer includes the Kerubos, the Wanjikus and the Nafulas of this County. Where it appears, as indeed it does appear to me in this case, that the outcome of this petition has reflected the will of the people of Bonchari Constituency in the choice of their member of the National Assembly, I see no reason for punishing the taxpayer a second time."

Per Sitati J., in John Oyoo Oyioka and Another v IEBC and Others Kisii Petitions Nos. 2 & 4 of 2013 [2013]eKLR

> "Elections are not fuelled by water or air. They are fuelled by cash that must come from the public coffers through taxation."

4.1.11 Jurisprudence Emanating from Courts and Institutions

In addition to the aforementioned sub-titles, specific initiatives and decisions by particular courts were also delivered in furtherance of progressive jurisprudence. Of import are the following notable examples:

4.1.12 The Supreme Court's Law Clerks Programme

The Supreme Court of Kenya is the first Court in Kenyan history to pioneer the clerkship program. This program is operational in other jurisdictions such as the United States of America, Canada, India, United Kingdom and South Africa.

The first group of law clerks in Kenya was appointed in January, 2013. They compromise skilled lawyers with experience and expertise in different areas of the law and other disciplines. Each law clerk has to demonstrate strong research and analytical skills.

There are two law clerks attached to each judge of the Supreme Court with the Chief Justice and the Deputy Chief Justice each assigned three law clerks. Their primary duty is to assist the relevant judge with official court duties and their responsibilities include but are not limited to:

- Conducting extensive research on particular matters before the Court.
- Preparing bench memoranda for the judges on the matters filed in Court.
- Writing legal opinions on various topical issues as directed by the respective judge.
- Scrutinizing the various case-law as cited by counsel in court to ascertain its authenticity, applicability and to contextualize it.

The clerkship program is a means through which the judiciary is investing in research which in turn leads to more informed decisions of the Court. Although it is in its infancy in Kenya's judicial history, the clerkship program has undoubtedly proved to immensely support the Supreme Court's objective under section 3 of the Supreme Court Act, No. 7 of 2011 of developing indigenous jurisprudence.

4.7 The Supreme Court Library

The Supreme Court Library is a unique library reserved exclusively for the use of the Supreme Court with a view to be a provider of relevant legal information for the fast dispensation of justice. It is managed by the Registrar of the Court as provided for under Section 10(1) (h) of the Supreme Court Act, No. 7 of 2011.

Before the Supreme Court of Kenya was established, the library was known as the High Court library. The High Court library started in the colonial period when the judiciary was established in Mombasa in 1897 with a small collection of books under the Judge in charge in chambers and later moved to the judiciary headquarters Nairobi in the 1930's.It later became the biggest and best equipped Law Library in Kenya and was used by litigants, advocates, Judges and Magistrates, scholars, students, other arms of the Government, and the general public.

When the High Court moved to the New Milimani Law Courts the Library was designated to serve the Supreme Court. By that time, it had lost its original glory. For example, the catalog was not up to date and the manual system of management of collections was an impediment to expeditious delivery of justice.

The collections in the library were also antiquated and better suited for Judiciary's museum project than for use by the highest Court in the land. For the first time since its establishment the library has had its collections updated with new material reflecting the latest jurisprudence; and the process is ongoing.

The library catalog can be accessed through:-

http://library.judiciary.go.ke

Through the collection development policy and the Integrated Library Management System users are able to suggest any collection they come across for the Librarian to procure. This ensures that all integrated library management system users have access to a plethora of jurisprudential materials such as numerous information resources, books, reports, speeches, and Court decisions both reported and unreported.

The Supreme Court library has since been digitized in line with The Judiciary Transformation Framework. This has facilitated remarkable innovations including the ability to trace and reserve books via smart phones.

4.8 Personal Contribution to Jurisprudence

In addition to authoritative and progressive decisions and advisory opinions, the Supreme Court is proud to have its members contribute to the development of jurisprudence in their personal capacity. In the period under review, Hon. Justice Prof. J.B. Ojwang published a book titled 'Ascendant Judiciary in East Africa; Reconfiguring the Balance of Power in a Democratizing Constitutional Order.'

The significance of the book is manifest in three different respects. First, it is a pioneering study on the dynamics of a transforming constitutional order, departing from distinctly retrograde conditions of the colonial and immediate post-colonial status quo. Second, it comprehensively considers a factor in political development generally overlooked in Africa: that democracy and constitutionalism are invariably inter-connected with judicialism. Third, it demonstrates the primacy of the professional dimension of law, as institutionally played out, proceeding in tandem with the endowments of scholarship. At this third level, it is evident to the reader that the book combines a scholarly approach with a profound engagement with the administration of justice from the Bench.

The stature of this study is aptly captured by the comments of the learned Chief Justice, Dr. Willy Mutunga, D.Jur; SC; EGH during the launch, thus:

"...I'm pleased to present an excellent work by one of the most prolific Judges in Kenya, Justice (Prof.) J.B. Ojwang. In his work, Justice Ojwang analyses the vital role of the judicial power in Kenya before, during and after the first truly consultative constitution-making exercise which culminated in 2010 and which, in Ojwang's words, 'depicts the Kenyan nation's date with destiny.'"

4.9 High Court Constitutional Interpretation

It is said that even the most progressive legal reform can be destroyed by a stroke of the judicial pen. The burden of translating the provisions of the new Constitution has fallen squarely on the High Court which has the jurisdiction to interpret the Constitution. The Court has not disappointed. The Judges of the High Court have continued to make landmark decisions that have left their mark on the annals of history. A few of the decisions are highlighted below:

(i) Adopted Children entitled to Birth Certificates:

Organization for National Empowerment v Principal Registrar of Birth and Deaths & another, Nairobi Petition No. 289 of 2012.

The case dealt with the issue as to whether children who are adopted under the Children Act, No. 8 of 2001, are entitled to a birth certificate as opposed to an adoption certificate only. There was also a question as to whether the system whereby adopted children registered in an adoption register as opposed to registration under the births and deaths register is discriminatory and contrary to Article 27 of the Constitution.

Lenaola J., held that adopted children are entitled to birth certificates just like biological children. The court observed that there is no rationale for a policy that exposed such children to stigma. In allowing the petition, the court observed:

"[20] What is the policy question involved in denial of a birth certificate when there is no doubt that an adopted child was indeed born and is not a ghost? What is the policy question involved when the adopted parent(s) are indeed to all intents and purposes of the law, the parents of the child who has been assigned a surname, particulars of dates and place of birth by the Court? What is the policy question involved when an adopted child is given the comfort of growing up with loving adoptive parents only to be saddled and stigmatized with a certificate of adoption whenever their identity is required?"

The court directed the Principal Registrar of Births and Deaths to issue all adopted children appearing in the Register for Adopted Children with birth certificates based on the particulars appearing in the said Register but with no reference to the parents as "adopter" or "adopters" and with no reference to the child as "adopted".

With this decision millions of children who would have been stigmatized by having adoption orders in place of birth certificates can now have birth certificates like other children.

(ii) State's obligation to safeguard Rights of Refugees:

Kituo Cha Sheria & 7 Others Nairobi Petition No. 19 of 2013 [2013] eKLR Consolidated with petition no. 115 of 2013

The two consolidated petitions were brought by refugees living in Kenya's urban areas and a separate petition was filed by Kituo cha Sheria. The petitioners were opposed to the government's policy of removing refugees from the urban centers to the designated camps and the close down of registration centers in urban areas.

The Court held that the policy was unreasonable and a breach of Article 47(1) of the Constitution in as far as it did not make provision for examination of individual circumstances and anticipated exceptions. The Court noted that the Government directive was unfair and unreasonable within the meaning of Article 47(1) of the Constitution in so far as it did not provide for application of due process in adjudicating the rights of pe sons with refugee status.

The Court also observed that implementation of the Government directive would violate State international refugee protection obligations as aggressive pursuit of such a policy could have the negative effect of constructively repatriating urban refugees back to the countries from which they had fled hence violating the international law principle of *non-refoulement.*

The court also stated that the burden of justifying a limitation to the Bill of Rights lay on the State to prove that the restriction was in harmony with the limitation clause set out under the Article 24 of the Constitution. National security could no longer be used to camouflage the State's transgressions and the burden was on the State to establish a real connection that the presence of the refugees in the urban areas was a threat to national security as opposed to painting the entire urban refugee population with a broad brush of criminality.

"With this decision millions of children who would have been stigmatized by having adoption orders in place of birth certificates can now have birth certificates like other children."

4.10 Judges' Legal Researchers

Under the Judicial Service Act, each Judge is entitled to have a legal researcher. One of the core duties of a legal researcher is to support the judge in delivering well-reasoned decisions considering relevant authorities and jurisprudence.

In line with the JTF, the JTI conducted induction programs for the new Legal Researchers. They held a retreat to enable them interrogate their role and develop a clear mindset that would

enable them to successfully fulfill their mandate within the Judiciary.

Following the retreat the Legal Researchers charged three committees with, among other things, the following functions:

- Continuous Professional Development and Editorial Committee which will have as one of its mandates the responsibility to oversee the development of a digest to document ground breaking decisions by the courts.
- Conduct and identify training needs and frequency levels in a year.

The development of the legal researcher program is already showing positive impacts in the quality of decisions from our Courts and is expected to improve significantly over time.

4.11 The Industrial Court of Kenya

The Industrial Court was first established in 1964 under the Trade Disputes Act Cap 234(repealed) and later under the Labour Institutions Act No. 12 of 2007(Repealed). In its initial phase, the Court was presided over by only one Judge; the late Hon. Justice Saeed R. Cockar until 1989 when a second Judge was appointed. In 2003 the number of Judges was increased to 5 Judges.

The Court, as it currently exists, is established under Article 162(2)(a) of the new Constitution which alleviated it to the status of the High Court and also formally brought it under the Judiciary. The Court currently sits in five locations being Nairobi, Mombasa, Kisumu, Nyeri and Nakuru.

Jurisdiction of the Court

The Court has exclusive powers to handle labour and employment matters by virtue of section 12 of the Industrial Court Act which provides for jurisdiction over the following:

a. Disputes arising to or arising out of employment between an employer and employee
b. Disputes between an employer and trade union
c. Disputes between an employer's organization and trade unions organization
d. Disputes between trade unions
e. Disputes between employer organizations
f. Disputes between an employer's organization and trade unions
g. Disputes between a trade unions and the members thereof
h. Disputes between an employer's organization or federation and members thereof
i. Disputes concerning the registration and election of trade unions officials and
j. Disputes relating to the registration and enforcement of collective agreements.

The Court has powers to make the following orders as set out in section 12(3) of the Act:



The Supreme Court library



i. Interim Preservations including injunctions

ii. Prohibitory Orders

iii. Specific Performance

iv. Declaratory Orders

v. An award of compensation

vi. Award of damages

vii. Reinstatements

4.12 Emerging Industrial Court Jurisprudence

Safeguarding the Constitutional Right to Form Trade Unions

Seth Panyako & 5 Others V Attorney General & 2 Others [2013] eklr Case Number : Petition 50 Of 2012

In this case the Industrial Court determined that:

1. That it was unlawful for persons serving in an essential service sector to hold a strike or lock-out. Section 81(3) of the Labour Relations Act provides that there would be no strike or lock-out in an essential service, whereas section 81(4) provides that any trade dispute in a service that was listed as or was declared to have been an essential service might be adjudicated upon by the Industrial Court. The two provisions were meant to protect life of a person or health of the population or any part of the population.

2. That the provisions of section 14(1)(d)(i) as read with section 14(2) of the Labour Relations Act, No.14 of 2007 did not limit the Constitutional right of workers to form, join and participate in a union of their choice in that the provisions did not clearly and specifically limit the said right and did not clearly define the nature and extent of the limitation as required by Article 24(2)(b) of the Constitution. Therefore allowed multiplicity of trade unions in sectoral interest.

Nicky Njuguna & 3 Others V Registrar of Trade Unions [2013] Eklr Case Number : Appeal 1 Of 2007

For the first time in Kenya's history the Police were allowed to form a trade union. The Industrial Court made bold and affirmative decisions and held:

1. Section 3(b) of the Labour Relations Act No. 14 of 2007 was declared unconstitutional, null and void for being inconsistent with Article 41 and 24 of the Constitution to the extent that it entirely took away the right of all the members of the National Police Service to form, join and participate in all the activities of a trade union.

2. Section 47(e) of the National Police Service Act, No. 11A of 2011 was declared unconstitutional, null and void for being inconsistent with article 41 and 24 of the Constitution to the extent that the it entirely took away the right of all the members of the National Police Service, to form, join and participate in all the activities of a trade union.

Casual Employment Discouraged in Public Service

Peter Wambugu Kariuki and Others -Versus- Kenya Agricultural Research Institute, Petition No. 2 of 2013

Where the issue of conversion of a Casual Employee was settled as held below:

"As already found by the court, the petitioners were never in a relationship of casual employment with the respondent. A considerable attention need to be paid to provisions of section 37 of the Employment Act, 2007 which provides for conversion of casual service to permanent employment. In particular subsection 37(5) provides that an employee whose contract of service has been converted (on account of a continuous service of three or more months like in the petitioners' case) and who has worked for two or more months from the date of employment as a casual employee shall be entitled to such terms and conditions of service as he would have been entitled to under the Act had he not initially been employed as a casual employee."

The court decided that in seeking workers for temporary duties, employers in public service should utilize public procurement laws and engage private sector service providers to avoid contravention of the constitutional and statutory provisions on public employment.

Jurisdiction of Industrial Court in Contempt of Court Proceedings

Teachers Service Commission V Kenya National Union Of Teachers & 2 Others [2013] Eklr Case No : Petition 23 Of 2013

Where it was decided that the Industrial Court, as a Court of equal status, has the same jurisdiction to punish for contempt of court as the High Court.

4.13 Environment and Land Court

The Environment and Land Court is established as a Court of equal status to the High Court under Article 162(2) (b) of the Constitution and the Environment and Land Court Act No. 19, 2011. Initially, it was a Division of the High Court.

With the advent of the new Constitution, 2010 and the Land and Environment Act No.19, 2011, fifteen judges were appointed to handle environment and land matters and posted to various stations in Kenya which include, Milimani , Bungoma, Malindi, Kerugoya, Nyeri, Kisumu, Kakamega, Nakuru, Meru, Busia, Mombasa, Kisii, Eldoret and Kitale Law Courts. There are currently a total 16 ELC judges in Kenya.

Parliament has enacted various legislation affecting Land and Environment while repealing, amending and/or consolidating others. Under section 13 of the Environment and Land Act the Court has appellate jurisdiction from subordinate court and tribunal decisions while section 150 of the Land Act gives the Court exclusive jurisdiction.

On 9/11/2012 Practice Directions were issued in order to have a smooth transition in handling environment and land matters from the former courts which had jurisdiction in the matters to the Environment and Land Court. Whereas magistrate's courts still retain jurisdiction to hear Environment and Land matters, the Environment and Land Court Act and the Land Act have not expressly conferred jurisdiction on those courts. In order to remove any bottlenecks on jurisdiction, plans are underway to amend the law to specifically confer jurisdiction on magistrate's courts and also remove any gaps or ambiguity that may exist to streamline the operations of the court.

Land cases usually take a long time to dispose; perhaps these are the matters which take the longest time to determine in court. This is so because of interlocutory applications filed by parties before the final hearing and determination of a case. In consultation with the Environment and Land Court judges, there has been developed Draft Environment and Land Practice Directions; there will be a consultative stakeholder's forum soon to validate the same before issuing them under section 24 of the Environment and Land Act. The Practice Directions are meant to ensure parties and practitioners do not waste time in court. The Practice Directions are also meant to give a judge full control of the court and overall case management and ensure a matter is heard expeditiously and determined in good time.

It is hoped that these amendments coupled with the Court's specialization in terms of subject matter and personnel skill will create a conducive environment to generate well-versed jurisprudence in relatively less time.

Plans are underway to recruit more Environment and Land Court Judges and post them across the forty seven Counties to speed up the hearing and disposal of these matters. Increased output in delivery of decisions will undoubtedly lead to development of environment and land jurisprudence.

Plans are also underway to amend the law to enable the Chief Justice to transfer judges from the High Court to the Environment and Land Court and vice versa in order to tap the talent and expertise that may exist amongst the judges within the Judiciary and bridge any imbalance that may exist across the High Court and Courts of equal status.

4.14 Environment and Land Court Case Highlight

Jurisdiction of the Environment and Land Court to Determine Disputes Concerning Breach of Fundamental Rights and Freedoms In Relation to Land and the Environment

Mohammed Said v County Council of Nandi [2013] eKLR E&L Petition No. 2 of 2013

The Petitioner in this case filed a Constitutional Petition in the Land and Environment Court, alleging breach of his fundamental rights and freedoms with regard to his rights to land. The second respondent in protest claimed that the Environment and Land Court had no jurisdiction to hear a constitutional petition unless it fell under articles 42, 69 and 70 of the Constitution of Kenya 2010.

Article 42 of the Constitution of Kenya 2010 provides for the protection of the right to a clean and healthy environment; Article 69 puts an obligation on the state to ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources and to ensure equitable distribution of accruing benefits, while Article 70 provides for enforcement of environmental rights.

In its decision, the Environment and Land Court determined that in addition to matters falling under the previously mentioned sections of the Constitution, it has jurisdiction to interpret any other provision of the Constitution of Kenya including fundamental rights and freedoms within the purview of environment and land.

The Court went further to state that the High Court does not have jurisdiction to determine matters touching on the environment and land even if they are filed as constitutional petitions.

4.15 The National Council for Law Reporting (Kenya Law)

Having recently adopted an new strategic plan with a mission "To Provide Universal Access to Public Legal Information by Monitoring and Reporting on the Development of Jurisprudence for the Promotion of the Rule of Law", the National Council for Law Reporting has been instrumental in facilitating the growth of jurisprudence in Kenya. Despite various challenges, the Council has been able to mine and widely disseminate a wealth of jurisprudence and other resources which promote progressive development of the Kenyan legal system.

4.16 Reclaiming Lost Jurisprudence

After a failed effort to solicit the services of a consultant editor sourced mainly from law firms, Kenya Law embarked on a mission to retrieve 'lost jurisprudence' by reviewing previous judicial opinions of the superior courts of record with a view to identifying unreported judicial opinions which have made a contribution to the growth and development of jurisprudence; and to report and publish these opinions in a special edition of the Kenya Law Reports.

Out of the initial batch of 95 identified cases, 80 are online and 17 have been categorized as reportable. A further second batch of 840 cases was received from the Hon. Justice J. B Ojwang; 76 of those have been identified as reportable.

Kenya Law is in the process of contacting legal scholars, judges and practitioners through the media and other Kenya Law outlets to solicit their input on decisions that have juristic value yet may not have been reported.

Kenya Law Reports

This year, Kenya Law has managed to update jurisprudence collections in the following publications:

- KLR 2010 Vol 1
- KLR 2010 Vol 2
- Bench bulletin (Jan-June) Issue 21
- Presidential election petition- Mwananchi Series 2
- Supreme Court Ruling – one third rule-Mwananchi Series 1

Below are the publications that the department is currently working on that are at various stages of the work flow process.

Table 4.1: Publications that are work in Progress

KLR VOLUMES		
YEAR	WORK FLOW PROCESS STAGE	STATUS
2011 Vol. 1	Complete.	Printed
SPECIALIZED EDITIONS		
Election Petition Vol. 4	Complete	Printed
Supreme Court Case Digest -2011 and 2012	Ready for Print	Ready for print
OTHER PUBLICATIONS		
Issues 21 and 22	Complete	Printed
A handbook on the Practice of an Auctioneer	Complete	Printed
A handbook on the Practice of an Auctioneer	Complete	Printed
The One Third Gender Rule Ruling	Complete	Printed
The Presidential Election Petitions, 2013	Complete	Printed

4.17 Revision of the Laws of Kenya

A complete revision of the Laws of Kenya had not been done for over 20 years. The Laws of Kenya had run into over 600 individual chapters/statutes with approximately 30,000 pages of legislative content and subsidiary legislation.

Kenya Law identified the need for the comprehensive updating and revision of the Laws of Kenya as contemplated under the Revision of the Laws Act (Chapter 1 of the Laws of Kenya) as being critical. Since the mandate to revise the laws of Kenya had been passed to Kenya Law by the Attorney General, it was imperative that Kenya Law revises these laws and does away with the "cut and paste" method of law revision.

By the beginning of 2012, Kenya Law had revised close to 500 chapters of the Laws of Kenya.

Mid-year, the organization engaged Lexis Nexis (Pty), to fully take charge of the revision exercise. Printing of Laws of Kenya under the Lexis Nexis Project begun in December 2012 and is on-going.

Kenya Law in partnership with Lexis Nexis (Pty), provided revised and updated chapters of the Laws of Kenya in print and electronic format. Kenya Law further put in place programs to ensure the sustainability of the future update of the Laws of Kenya.

"By the beginning of 2012, Kenya Law had revised close to 500 chapters of the Laws of Kenya."

4.18 Impact Sourcing to Convert Kenya Gazettes Into Universally Accessible Formats

Kenya Law partnered with Digital Divide Data (DDD), a Business Process Outsourcing (BPO) service provider, under an initiative that aims to improve the welfare of socio-economically disadvantaged and vulnerable persons by having them employed in the BPO industry - an employment model known as Impact Sourcing.

DDD empowers young women and men in emerging economies to lift themselves and their families out of poverty. Through a work-study program, DDD builds the skill sets of its staff, which helps them establish promising professional careers in the global economy.

Under the partnership, DDD was contracted to convert current and past editions of the Kenya Gazette and Parliamentary Hansard into a format that makes them easily publishable and accessible on www.kenyalaw.org

The work is part of an initiative in Kenya Law titled Improving Public Access to Information through Impact Sourcing - IMPACT-IS that is supported by a grant from the Rockefeller Foundation's Poverty Reduction through Information and Digital Employment (PRIDE) initiative.

This conversion will enable Kenya Law to fulfill its constitutional and legal obligation to provide access to public legal information to all citizens, including access to 'materials and devices to overcome constraints arising from the person's disability' and more particularly, to secure the enjoyment by persons with disabilities of their right 'to a barrier-free and disability friendly environment to enable them to have access to social amenities and assistive devices'. The first step in fulfilling this obligation is to convert the Council's public legal information into universally accessible formats.

By continuing to outsource the work of converting the information published by the Council into universally accessible formats to an Impact Sourcing Service Provider (ISSP) Kenya Law will fulfill its universal service obligation and at the same time achieve another positive social outcome - help reduce poverty and create employment for a vulnerable segment of the society.

Part 3

GOVERNANCE



Chief Justice Willy Mutunga joins staff at a Judiciary Transformation workshop

Chapter 5

PHILOSOPHY AND CULTURE

5.0 INTRODUCTION

Even though justice is primarily dispensed in the courtrooms, several critical factors determine its speed and quality. The competence and welfare of staff, as well as the culture that an institution espouses internally and externally, are important determinants of the quality of service the Judiciary renders to the public.

The philosophical and cultural orientation of the Judiciary has reflected its history of dominance, power, prestige and remoteness - as opposed to service and equality to both the public and its staff. Historically, most Judiciary staff were so demoralized that to have expected them to perform their role effectively in the dispensation of justice would have been widely optimistic. The institution was defined by the corruption and ineptitude of its judicial officers and staff; an unfair and exaggerated emphasis on hierarchy that bordered on official segregation; poor pay and little or no training, and a cloistered culture that hid these problems from the public glare.

Over the years, the Judiciary engaged in numerous reform initiatives based on recommendations produced by several committees and task forces. These 'round table' generalized solutions imposed from the headquarters never worked successfully. In order to effect change, the very people for whom this change was intended had to be involved in delivering and securing it. The solution therefore was to hear employees' grievances in an environment where they could freely propose solutions that best suited their situations and varied from station to station.

The Judiciary Transformation Framework (JTF) fashioned a vision to completely overhaul how justice was delivered by first cleaning house from within. The entire institution was, therefore, mobilised towards a mindset of transformation by putting every member of staff through culture change training, dubbed 'Transformation Workshops'.

5.1 Establishing a Nerve Centre for Transformation

At the launch of the Judiciary Transformation Framework in May 2012 , an ambitious 10-point blueprint for change, the Chief Justice established the Judiciary Transformation Secretariat on the same day - May 31, 2012 - to lead its implementation. The secretariat conducted culture change workshops countrywide and led the philosophical repositioning of the institution that enabled it to appreciate it needed to change how it treated its own employees if it was to obtain value for money.

Justice Prof Joel Ngugi, Judge of the High Court of Kenya who had led a pilot transformation programme at the Machakos Law Courts, was named the secretariat's head. The establishment of the secretariat was in line with one of the strategies identified in the JTF under Key Result Area 5 – to establish a "fit-for-purpose" secretariat to manage and coordinate transformation. Its functions included creating awareness of the JTF; coordinating transformation activities, facilitating culture change, capacity building, as well as monitoring and evaluation.

At the core of the JTF is culture change, the lifeblood that set it apart from other still-born attempts to change in other sections of government and even in other judiciaries around the world. The

JTF is an all-embracing, ambitious dream, but every line rests on the pragmatic principle that for any of the initiatives outlined to have impact, there has to be culture change that is aligned to the spirit of the JTF. Such change is the insurance for sustainable transformation. It was, therefore, appreciated that blueprints, however elegant and detailed, would come to naught if they were not internalised by the majority of staff. Additionally, governance structures, however rational, would be futile if not supported by a new leadership ethos in the institution. Furthermore, public perceptions would not improve unless the Judiciary got out of the Ivory Tower and effectively engaged the ordinary citizen on her terms. Transformation would not occur if the judge, however pious, remained in chambers while the court clerk took bribes at the front office. Finally, the best and surest way to entrench transformation far beyond the tenure of the current Chief Justice was by persuading the majority of Judiciary staff that, in terms of political economy, they have a stake in the transformation. They needed to fight for it.

The untold story of transformation is about the culture change in the Judiciary. It is the institution's most important achievement because it springs from a realisation first that the Judiciary is about administering justice - it is not about buying things and procuring services; it is not about mega-projects; it is instead about micro-actions of winning back the trust and confidence of Kenyans through better performance and service.

5.1.1 Culture Change Workshops

Culture change runs through all the 10 Key Result Areas of the JTF. Specifically, JTF's fourth key result area is achieving organisational culture change.

During the year under review, the bulk of activities conducted by the transformation secretariat involved workshops to educate staff on the transformation process as guided by the JTF. The Transformation Workshops were the first phase in an elaborate strategy to develop and execute culture change for the Judiciary. The Secretariat adopted this strategy in response to the failure of previous reform attempts in the Judiciary. Many of these efforts had not succeeded because they were managed from the headquarters, with little meaningful involvement of the staff at the grassroots.

Table 5.1: Transformation Training Workshops Conducted in 2012/13

	PARTICIPATING STATION(S)	STAFF TRAINED
1	Mombasa Law Courts	185
2	Embu Law Courts	90
3	Kisumu Law Courts	125
4	Meru Law Courts	99
5	Kerugoya, Baricho, Gichugu, Wang'uru Law Courts	98
6	Voi, Wundanyi, Taveta, Mariakani, Kwale, Kaloleni Law Courts	95

7	Supreme Court, Administrative Group "A"	136
8	Supreme Court, Administrative Group "B"	126
9	Kilifi, Lamu, Malindi, Garsen Law Courts	93
10	Busia Law Courts	50
11	Siaya, Bondo, Winam, Ukwala, Tamu, Maseno Law Courts	155
12	Kakamega, Vihiga, Hamisi, Butere, Butali, Mumias Law Courts	170
13	Nyeri, Othaya, Karatina, Mukurweini, Nanyuki Law Courts	165
14	Muranga, Kandara, Kangema, Kigumo Law Courts	91
15	Supreme Court and Court of Appeal, Nairobi	100
16	Kibera and Makadara Law Courts	108
17	Iten, Kapsabet, Eldoret Law Courts	148
18	Milimani Chief Magistrates Court & Children Court	120
19	Nkubu, Chuka, Tigania Law Courts	101
20	Isiolo, Marsabit, Marimanti & Moyale Law Courts	64
21	Wajir, Mandera, Kyuso, Mwingi, Garissa, Hola Law Courts	128
22	Isiolo, Marsabit, Marimanti & Moyale Law Courts	64
23	Chief Magistrates Court	122
24	Bungoma, Webuye, Kimilili, Sirisia Law Courts	132

25	Kericho, Bomet, Sotik Law Courts	77
26	Kiambu, Thika, Githunguri, Kikuyu, Gatundu Law Courts	182
27	Narok and Nakuru Law Courts	126
28	Molo, Naivasha, Eldama Ravine, Kiambu, Thika Law Courts	154
29	Milimani High Court (Human Rights, Constitutional and Civil Divisions)	137
30	Milimani High Court (Commercial, Criminal, Land and Environment Court)	107
31	Kilgoris, Kehancha, Migori, Nyamira, Rongo Law Courts	135
32	Industrial Court and Kitale Region	173
33	Kisii, Ogembo, Keroka Law Courts & the Land and Environment Court	131
34	Homa Bay, Oyugis, Ndhiwa Law Courts	171
35	Mix of staff from all stations left behind - Group 1	128
36	Mix of staff from all stations left behind - Group 2	118
37	Mix of staff from all stations left behind - Group 3	160
38	Machakos Law Courts	184
	TOTAL STAFF TRAINED	**4,748**

In sum, 38 workshops were held away from the court station and reached all the 4,564 staff in the institution. New staff recruited after the transformation workshops have undergone an induction programme that includes the ethos of Judiciary transformation.

The workshops introduced a culture of equity and equality. The secretariat deliberately arranged the seating in a random manner that saw staff across all ranks sit next to each other throughout the sessions. This was a break from the past where judicial officers and senior staff would be given preferential seating and accommodation ahead of everyone else.

Similarly, job titles were deliberately omitted from the name tags placed on tables to entrench

> "I have worked with the Judiciary for the past 22 years. I have attended a number of seminars, but in all the seminars our seniors were sitting on one side and the juniors on the other side. Right now we are saying we are all equal before God."
>
> -- Victor Ekejeli, Bungoma

the culture of equality. Throughout the training, everyone was referred to by his or her name and not as 'Judge so and so' or 'Madam so and so'. This enabled junior staff to appreciate their senior colleagues as fellow human beings.

The workshops gave the Transformation Secretariat an opportunity to share with the staff the vision of a transformed Judiciary and opened a window through which it could understand firsthand some of the challenges faced by the stations and staff in carrying out the mandate of the Judiciary

Midway through the transformation workshops, the transformation secretariat started an initiative that saw staff who had served the Judiciary for more than 30 years receive token rewards for their service. Many of these individuals had served the Judiciary for decades without any recognition or appreciation. Most had never attended any training or retreat sponsored by the Judiciary. This was traditionally considered to be way above their pay cheque! They were, therefore, really gladdened when the management finally acknowledged their long service and contributions to the institution.

5.1.2 Success stories from the transformation workshops

BOX 1: The Individual Transformation of John Karuri, Kikuyu Law Courts

Judiciary Transformation is not just about transforming the institution but also about the individuals that make up the Judiciary. Several Judiciary employees took a personal initiative to transform with the institution they serve. Many committed to improve their work ethic, report to work on time, work with diligence, serve clients better, abandon corrupt practices and improve relations with colleagues.

One of the most captivating stories of individual transformation is that of John Karuri, a process server at Kikuyu Law Courts on the outskirts of Nairobi. Karuri, 50, had never touched a computer. As a process server, he was required to file affidavits as proof of service in all matters. He relied heavily on the goodwill of two secretaries in the station to type his affidavits. Often, he delayed the filing of affidavits when the secretaries were occupied with other responsibilities.

Unhappy about these delays, he started typing his own affidavits. With close to zero knowledge in computer applications when he began, it took two weeks to complete his first affidavit. The second one took just one week. Soon, he was able to finish an affidavit in a day, and with more practice, he became an even faster typist.

Karuri was allocated a computer, which inspired him to start typing the Cause List for civil cases at Kikuyu. He requested a modem to enable him to connect to the Internet, and with assistance from his colleagues; he created a mailing list for all the advocates practising in Kikuyu. Soon, Karuri was emailing the advocates the Cause List three days before the hearing dates!

His personal transformation and commitment to improving access to justice for litigants in Kikuyu saw him receive recognition as the Employee of the Month at the Kikuyu Law Courts.

> "Now I am proud to be working with the Judiciary. I used to be embarrassed to introduce myself as a Judiciary employee. I am happy that we can now interact with Judges just like any other staff."

BOX 2: Leadership and Station Transformation – Case Study of the Embu Law Courts

Immediately after the launch of the Judicial Transformation Framework, the Embu Law Courts formed the Leadership and Management Team to support the implementation of the JTF at the station level.

In a short while, the team was able to record many achievements. Simplified court language and procedures were adopted to enable the public to understand proceedings.

A 'Customer Care Desk' was established where litigants and the public could get legal aid and information relating to their cases. The courts also became more open, reaching selected constituencies by running students' visitation programmes with Kamama Boys High School, Gatondo Day School, and Embu Urban Primary School, among others. The station also undertook public outreach programmes such as judicial officers giving public lectures on the structure of the Judiciary, human rights and court functions and duties.

The court displayed its Service Charter, which went a long way in setting public expectations with respect to service delivery. Small changes such as dress-down Fridays not only promoted the Judiciary's corporate image, but also inculcated a positive attitude in the staff to improve service delivery. As a result, staff stopped banging doors to announce the entry of judicial officers in the court room, and staff and judicial officers greeted clients before the proceedings began. These initiatives immensely improved confidence in the Judiciary and public satisfaction in the court's service delivery. The head of station hardly receives any complaints from the public.

Consistency in this culture change is monitored through regular staff and stakeholder meetings. All these changes were purely an initiative of the leadership and staff at Embu Law Courts, led by the Chief Magistrate Margaret Wachira and Justice Hedwig Ong'udi. They recognized and successfully tackled a lapse in service and justice delivery in the station entirely caused by a negative culture in the Judiciary. It bears mentioning that all these achievements did not require any monetary support from the headquarters but were triggered by a change in the lethargic culture that saw both staff and clients miserable but which changes have created a vibrant environment for all and eased access to justice for the ordinary person.

"It's my pleasure to be here. I have never had the chance in 32 years that I have worked in the Judiciary. This is my first retreat ever."

BOX 3: A Clean Break with Demeaning Job Titles

One of the issues that emerged at the Judiciary Transformation workshops was the unhappiness that different cadres of staff had about their jobs titles. Many found them demeaning and unreflective of who they were and what they actually did.

Many magistrates were of the view that being referred to as "County Judges" would be more appropriate. However, changing their title would be more difficult since it is a constitutional office. For other cadres, changing titles would be easier since it would be an administrative decision that did not require a constitutional amendment. Some of the proposed titles are as follows:

- Secretaries were comfortable with their title, but wanted the "Secretarial Assistant Cadre" scrapped and replaced with the title "Administrative Assistant"
- Court Clerks preferred to be called "Court Assistant"
- Registry Clerks preferred to be called "Registry Officer" or "Record Management Officer"
- Support Staff preferred the title "Registry Assistant"
- Drivers – Many preferred the title "Transport Officer" while many others were content with the current title
- Cashiers preferred the title "Accounts Assistant"
- Executive Officers preferred the title "Court Administrator"
- Archivists preferred the title "Records Manager"

Many station leaders felt that the proposed titles were more appropriate to the different cadres. As a result, many courts made resolutions to adopt the titles as soon as they returned to their stations, even though official records still indicated the old titles.
The Judiciary management is in the process of revising the Judicial Service Staff Regulations to capture some of the recommended titles. Most notably, the grading of staff as "PLS" or "Paralegals" is to be done away with under the revised regulations.

"I was employed in the Judiciary in 1980. Those days, Asians were the magistrates and Judges. We could not enter their chambers. I am glad that we can now sit with Judges in same seating. We shall continue working together."

5.1.3 Taking the Transformation Forward

Drawing from all the workshops , the following list of challenges, and recommendations were put forward and implemented as immediate/short term solutions by the participants under each pillar.

Table 5.2: Progress made in Transformation

PILLAR	CHALLENGES	INTERVENTIONS
ONE: People-Focused Delivery of Justice	Unnecessary adjournment of cases	• Publishing cause lists in advance and putting them online • Notice of cancelled or postponed cases on the notice board and online
	Poor customer service	• All Court stations have established customer care desks.
	Missing files due to misfiling	• Digitization of files • Introduction of modern filing cabinets • Labeling and organizing registry files • Pro-activeness in knowing file statistics
	Complex procedures	• Educating members of the public on the procedures of the court • Frequent open days • Improvement in communication • Create a requisition form – counter book for each registry to treat in order of first-come-first-serve • Prepare feedback form for complaints and act on them
	Extortion by the askaris and other stakeholders	• Collection of fines inside the court rooms • Informing clients on legal costs and fines • Put up notices in court stations to warn litigants about trading without getting receipts • Use of social media • Pamphlets explaining court procedures

PILLAR	CHALLENGES	INTERVENTIONS
TWO: Transformative Leadership, Organizational Culture, and Professional and Motivated Staff	Poor remuneration and terms and conditions	• Improvement of terms and conditions • More information to staff on efforts to improve salaries • Staff reward schemes to be established with non-monetary incentives
	Lack of a clear career progression path; lack of predictable path to promotion; lack of responses to requests for promotions – some employees have been waiting for more than 3 years for responses	• HR policy with clear outlines on career progression and procedures/ qualifications for promotions implemented
	No job descriptions	• Rationalization of jobs • Job descriptions formulated and disseminated • Working in teams
	Lack of training and staff development policies	• Established continuous training program for all the staff with admissions to JTI programs based on a competitive and fair basis.
	Lack of inclusive decision making and lack of coordinated decision making	• Collective and shared leadership at the Station and Regional levels has been entrenched. The Leaderhip and Management Committees now have representation of staff from every level.

PILLAR	CHALLENGES	INTERVENTIONS
	Lack of team work	• Public relations training for all staff • Working in teams rather than in job functionality • Ban vernacular in the work place (only three languages- English, Swahili and sign language should be used in the office unless communicating with a court user)
	No staff reward mechanisms	• Utilize inexpensive methods of showing appreciation/recognition of staff e.g. thanking staff for good performance • Create reward mechanisms
	Lack of public awareness of procedures	• Development of service charter, customer care and information desk • Judicial open days
THREE: Adequate Financial Resources and Physical Infrastructure	Bureaucracy and inefficiency in using District Treasury	Judiciary delinked from the District Treasury to reduce bureaucracy
FOUR: Harnessing Technology as an Enabler for Justice	Inadequate computer skills by members of staff	In-house training of members of staff on ICT

5.1.4 Baseline Survey

One of the Judiciary Transformation Secretariat's first activities was to conduct a survey, which sought to establish baseline data for the four pillars of the Judiciary Transformation Framework; provide a basis for development of the JTF monitoring and evaluation framework and plan, and provide information on the basis of which JTF implementation could be refined to establish targets and develop appropriate transformation strategies.

According to the survey, court users' "access index" was 78 per cent. This index is at the highest level on the 100-scale point, which shows that most court users perceive the courts to be doing reasonably well but need improvement. It also revealed that persons attending court for traffic offences, first time court users, those with primary education or no education, those aged over 55 years, the accused persons, and those that visit the court to make a payment or attend a hearing have the lowest rating of access to the court.

BOX 4: THE SUNRISE DECLARATION – OCTOBER 13, 2012

- We will treat fellow team members, litigants and other stakeholders with courtesy and serve them expeditiously.
- We will provide information by publishing terms for bond, fees for succession cases, civil cases and fines for traffic offences - within 14 days of Monday, Oct 15, 2012
- We shall improve access to succession filing forms by making them available at the registries in soft copy; and work with other stakeholders including lawyers to come up with innovative ways of improving access to justice to indigent litigants.
- We will conduct public awareness forums on court procedures and court processes regularly.
- All team members hereby resolve that they shall adopt a positive attitude in the performance of their professional duties and embrace teamwork.
- Minutes of Court User Committee meetings will be disseminated to all team members within seven days of each meeting.
- It is hereby resolved that the Judiciary's representation to the CUC shall be expanded to include a member of the judicial staff.
- It is hereby resolved that Fridays shall be dress-down days, and official T-shirts shall be made available to the team members.
- A Leadership and Management Team shall be established within seven days from October 15, 2012.
- Regular team meetings will be convened by the Court Manager to discuss team welfare.
- It is hereby resolved that team members shall share information and knowledge freely with each other to enable effective and efficient performance of functions.
- It is hereby resolved that each team member shall be computer literate within six months and to that effect, there shall be internal training of team members organised by the court management.
- It is hereby resolved that all team members shall be trained on customer care to make them more responsive to the needs of customers.
- A procurement committee will be established within seven days, with membership drawn from all team members (excluding judicial officers, though they can be co-opted to advise on specific issues).
- We commit to be good time managers with immediate effect.
- We will set up a peer review committee to resolve internal disputes among team members - membership to exclude the Judge, the Chief Magistrate and the Court Manager.
- It is hereby resolved that we shall always endeavour to assist each other in the performance of our respective duties.
- To encourage use of computers, it is hereby resolved that within 14 days of moving to the new court building, all team members will have operational e-mail addresses.
- It is hereby resolved that all team members shall wear identification badges at all times
- It is hereby resolved that we shall develop and maintain an electronic database, which shall include daily cause lists, daily returns and registers.

The survey revealed that judges, women employees, those who have worked in the institution for between 10 and 19 years, those with degree education level and above, as well as employees between 45 and 55 years of age were the least satisfied. For instance, the judges' satisfaction with supervision they received was as low as 40 per cent.

The report recommended that the Judiciary should develop policies and strategies geared towards improving the customer care skills of staff, providing information to court users, communication, staff inducement, reduction of the time taken to provide services and improving court facilities. It was also recommended that the Judiciary improve court leadership, management and operations, develop robust court improvement plans with clear performance indicators and accountability as well as establish case clearance and time standard targets.

5.2 Entrenching the Transformation

5.2.1 Commitment to Improve Service Delivery

The Judiciary Transformation workshops were, in many ways, an opportunity for Judiciary staff to examine areas in which service delivery was poor, and to come up with their own solutions for filling these gaps. The staff left the workshops with a renewed commitment to serve Kenyans better.

The staff from Busia Law Courts, who held their workshop at the Sunrise Hotel in Kisumu, for instance, came up with a 20-point resolution dubbed "The Sunrise Declaration."

BOX 5: Frequently asked questions at the customer care desks

1) Why are court fines and fees high?
2) How does one bail out a person?
3) Why are witnesses not paid?
4) Why are land matters only heard in High Court?
5) How do I have my cash bail refunded and how long does it take?
6) Is the court sitting?
7) Why is the Jurisdiction of the subordinate Court in succession matters limited to Sh100, 000?
8) What are the court procedures?
9) What is the difference between bond and cash bail?
10) Are there free services offered by the Judiciary to the marginalized people?
11) Where is the toilet?

Further, in seeking to change the cultural orientation of the Judiciary, the JTF provides a clear philosophical compass for the institution founded on the Constitution and informed by the country's social context. In light of this, Accountability, Integrity, Openness, Results and Humility are the values that inform the daily conduct of Judiciary staff.

Guided by these values, directorates and court stations across the country embarked on culture change oriented activities such as:

a) Every court station publicly displaying six pledges that outline the Judiciary's new culture of service to the ordinary citizen, conversely informing the public of the level of expected service to be received from all courts nationwide.

b) Every court station, directorate and registry publishing a Service Charter, as a way of codifying culture change lessons learnt from the transformation workshops for improved service delivery.

c) Collective and shared leadership at the station and regional levels has been entrenched. The leaderhip and management teams now have representation of staff from every level. Furthermore, the heads of stations are no longer automatically the senior-most magistrates or judges. The best performing judicial officers are accorded this responsibility.

d) Introducing a performance culture through performance contracting by establishing a Performance Management and Steering Committee whose mandate includes, among others, to establish an understanding of performance management systems in courts; performance indicators, targets and measures by judicial officers and staff. The committee has undertaken a situation analysis and reviewed international best practices in other jurisdictions. It is in the final stages of preparing performance management guidelines for the Judiciary.

5.2.2 Establishment of Customer Care Desks

Trust and confidence in the courts is, in large part, shaped by the experiences that members of the public have within the justice system. In the past, many Kenyans have reported that they found the courts to be unfriendly places with poor amenities and even worse customer care. This has, in turn, contributed to the perceptions by many Kenyans that the justice system has failed and does not provide equity and fairness for all.

Following the introduction of customer care desks at each court station, court users have found the court environment more friendly and easier to use.

The Judiciary Transformation Secretariat, in conjunction with the Judiciary Training Institute, offered specialized customer service skills training to 108 members of staff, who have been designated to run customer care desks, between September 17 and 22, 2013.

5.2.3 Development of a Code of Conduct for the Judiciary

The Chief Justice formed a task force to spearhead the review of the present Code of Conduct for Judiciary Staff, which was gazetted in 2003 following the enactment of the Public Officer Ethics Act.

With the support of the United Nations Office on Drugs & Crime (UNODC), the Task Force managed to retain a consultant who came up with draft codes of conduct for Judiciary staff, judicial officers and judges. The Judiciary Training Institute is leading an internal consultative process and is in the final stages of concluding a draft, which, once complete, will be handed to the Chief Justice for gazettement as required by law.

5.2.4 Change Champions – Entrenching the Culture of Transformation at the Station Level

Whereas the JTF places the overall responsibility of coordinating the transformation process on the Transformation Secretariat, each and every member of staff shares in the responsibility of giving Kenyans a better Judiciary.

The secretariat is also alive to the fact that it does not have the human resource capacity to maintain a physical presence in each and every station. In response to this deficiency, the secretariat came up with a strategy of recruiting staff from each station to assist in keeping the transformation spirit alive wherever they are. These individuals - branded Change Champions - were selected by the transformation asecretariat in conjunction with station heads from among members of staff who had embraced the spirit of transformation as evidenced in their daily work. The selection cuts across all levels of staff, both judicial officers and Judiciary staff.

The secretariat held a training workshop for 174 of these Change Champions in 2013. The objective of the workshop was to induct the selected staff into their new role, to give them the requisite skills and to elaborate the secretariat's vision of the parameters of their function.

The secretariat is now working with this network of staff to ensure the transformation agenda is entrenched in the hearts and minds of all staff. (See Annex for the Change Champions) .

5.3 Continuous Learning

5.3.1 Training

Training in the Judiciary had long been limited to the judicial officers and high ranking Judiciary staff. All other staff had never received any sort of training or induction on joining the institution. This culminated in stalled career progression and a disheartening lack of clear reporting lines.

In the period between July 2012 and June 2013, JTI undertook several activities in line with its training mandate. The Institute organized induction workshops for all levels of staff that joined the Judiciary during the year. This includes Judges and Magistrates, as well as Judiciary staff. It should be noted that the culture of having induction trainings for all new staff of all cadres is now a permanent feature in the Judiciary. It provides a platform for familiarising new staff with the Judiciary's strategic plan, that is, the JTF.

JTI also held several training workshops for different cadres on different thematic areas. The Institute also continued with the support it offers the Judiciary of South Sudan in conjunction with the Kenya South Sudan Liaison Office (KESSULO). This saw a group of 10 Judges from South Sudan attend a week-long training in Mombasa while another group of seven attended a two-week attachment programme at the Court of Appeal and the High Court in Nairobi.

During the year, JTI explored its expanded mandate of leading research and playing the role of the Judiciary's think-tank on areas of focus such as sentencing, bail and bond, and case backlog. JTI has formed task forces to spearhead debate on these issues. JTI is also in the process of formulating a policy on sexual harassment for the Judiciary under the leadership of the Deputy Chief Justice. It is also at the forefront of exploring options for mainstreaming Alternative Justice Systems into the resolution of disputes.

The Institute has also developed a mid-year review training programme for judicial officers who have served for less than a year since their recruitment. The first such workshop was conducted for

judges of the Industrial Court. Riding on the success and lessons of the inaugural workshop, JTI plans such workshops for all judges and magistrates who will be recruited in the future.

JTI has also started a compulsory continuing judicial education programme for all judges and magistrates. Under this programme, all judicial officers will be required to attend at least one training each year to ensure they are updated on developments in law and judicial practice.

The induction workshops held for new staff hired by the Judicial Service Commission between July 2012 and June 2013 are tabulated below:

Table 5.3: Induction Workshops For New Staff

TRAINING ACTIVITY	DATES
Induction for newly-appointed Resident Magistrates	July30 - Aug 10, 2012
Induction for newly appointed High Court Judges	Sept 18 – 23, 2012
Induction for newly appointed Judges of Court of Appeal	Dec 3 - 7, 2012
Induction for Registrars, Law Clerks & Legal Researchers of the Supreme Court of Kenya	April 22 – 26, 2013
Induction for Drivers	May 22 – 26, 2013
Induction for Kadhis	June 4 –9, 2013
Induction for Supply Chain Management Officers	June 19 – 23, 2013

5.3.2 Other trainings

JTI has organized a number of other trainings for several cadres of Judiciary staff as tabulated below. These trainings include: two (2) retreats for Judges of the Court of Appeal and four trainings on the implementation of the Judiciary Performance Improvement Project (JPIP) organized in conjunction with the World Bank.

Trainings will be held for all newly employed Judges within the first six to 12 months of their recruitment to address any skills gaps identified after their induction and to discuss administrative and other challenges they may be facing as they settle into their jobs.

Table 5.4: Training

	TRAINING ACTIVITY	DATES
1	Basic Crime Investigation Course for Security Officers	Aug 13 -Sept 14, 2012
2	Training for judicial staff, Court Clerks and prosecutors on GBV	Oct 25 – 27, 2012
3	Sensitization of the Judiciary on intellectual property rights and anti-counterfeit laws	Feb 20 – 22, 2013
4	JPIP Work plan Review workshop	Mar 25, 2013
5	Retreat for Court of Appeal Judges	April 1 – 5, 2013
6	JTI Staff Retreat (team building)	May 19 – 22, 2013
7	Anticorruption exploratory workshop	June 17 – 18, 2013
8	Retreat for Court of Appeal Judges	June 27 – 30, 2013

A baseline survey conducted by the Kenya School of Government revealed that a majority of Judiciary officers and staff who had attended various trainings had been able to translate their learning into actual performance. The survey also revealed that the JTI made milestones that will contribute to the goal of sustainably improving technical capacities of Judiciary staff in Kenya as well as a significant contribution of the institute's programmes to the achievement of the wider Judiciary transformation goals. It also showed that there is a significant transfer of knowledge and competencies learnt in JTI programmes to the workplace.

5.4 Owning the Change

5.4.1 Development of Strategic Work Plans for all Court Stations

The objective of developing strategic work plans for all court stations was to implement capacity development activities from station heads and senior staff in accordance with developed strategic and operational plans.

To achieve this, strategic planning workshops were held for all court stations, with each station represented by the leadership team comprising a magistrate, the executive officer and an accountant, with a view to developing tools for data collection and dissemination.

This deepened the understanding of the JTF as the participants had to develop specific results in four

pillars and all result areas and self-reflection particularly in result areas such as value for money and decision making criteria in terms of improved service delivery.

One of the main challenges faced was inadequate capacity to use ICT and midway through this planning workshop, the team realised that it had to include a session on use of computers.

5.5 Outlook For 2013/14

At the conclusion of the first phase of transformation activities, the Judiciary Transformation Secretariat invited a select number of staff to a one-day forum to discuss the Secretariat's past strategy as well as the proposals it had come up with for the next phase of the transformation.

The forum which was held on April 5, 2013 at the Judiciary Training Institute gave the secretariat an opportunity to receive a candid review, critique and feedback on the strategy, methodology and activities it carried out in Phase One of the transformation. The comments received were incorporated into planning the next phase of activities and strategies.

The transformation Secretariat has planned the following activities for the coming year:

i. Design and implementation of a training curriculum in change management and leading change.

ii. Leadership and Management Training for Leadership and Management Committee members.

iii. Development of guidelines for preparing stations' work plans and budgets and a training manual.

iv. Mapping of stations for Smart and Best Practices.

v. Local benchmarking exchange programmes.



An election official marks a Judiciary employee's finger after voting in the Kenya Judiciary Staff Association

Chapter 6

LEADERSHIP AND MANAGEMENT

6.0 INTRODUCTION

This chapter examines progress made in creating a new organisational structure, as well as establishing leadership and management arrangements in the Judiciary as articulated in Key Result Areas 5 and 6 of the Judiciary Transformation Framework.

The JTF agenda demands greater effort to strengthen governance and management in 2012/13, which the Judiciary rose up to. Culture change workshops were completed by early 2013, translating into action for the centre and every court station.

The Judiciary's organisational structure has started moving from being highly-centralised at the national level and convoluted at the devolved level, to allowing individual court stations to have greater say in making work plans and drawing up budgets. Linkages between the headquarters and the stations have been created to enhance organised matrix or network reporting, with strong vertical and horizontal accountability. Job descriptions have been finalised and assigned to all staff, making it possible to objectively and systematically assign institutional objectives and targets to individuals and thus launch a culture of performance.

"The Judiciary's organisational structure has started moving from being highly-centralised at the national level and convoluted at the devolved level, to allowing individual court stations to have greater say in making work plans and drawing up budgets."

6.1 Background and Context

The Judiciary was initially established as a law and order institution within the colonial administration, and has only operated as an independent arm of Government – even if only on paper – for less than 20 years, having been de-linked from the civil service as recently as 1993 at the beginning of the political multi-party era.

Chapter 10 of the Constitution, 2010, which drew heavily from the 2009 Task Force Report on Judicial Reforms, radically transformed the policy, legal and institutional context for the Judiciary by emphasizing the critical values of integrity, efficiency, transparency, accountability and effectiveness in delivery. The Constitution established an expanded and more representative Judicial Service Commission and further created and fortified the independence of the Judiciary, including through the creation of the Judiciary Fund – which has now been operationalised – and dispersed power.

Clear and practical recommendations were made on performance improvement. Some implementation success was achieved at the institutional level, including the creation of specialised courts (and court divisions) and establishment of the National Council for Law Reporting and Judicial Training Institute. These isolated reforms were, however, not sufficient to bring the change needed to transform the Judiciary into a strong and independent institution that is properly governed and managed.

Several governance and management challenges remained outstanding. The Judiciary Transformation Framework, 2012–2016, envisions a transformative leadership, organisational culture and professional, motivated staff. A new philosophy and culture is being created in the Judiciary by promoting and enhancing good governance, and embracing change in accordance with the institution's transformed mandate. A new leadership and management ethos is being constructed by establishing frameworks that support the transformation on a day-to-day basis.

Performance management and accountability are being institutionalised even as the human

resource is optimised and staffing strengthened. Overall, an organisational structure is being developed that clearly delineates judicial functions from administrative ones. This structure supports the effective devolution of the Judiciary, defines the roles, mandates, responsibilities and accountabilities of different organisational units at different levels, and cascades theses roles to individuals through job descriptions.

6.2 Narrative on 2012/13

In 2012/13, the governance and management agenda was chiefly focused on a range of strategic initiatives aimed at laying a firm foundation for full implementation of the Judiciary Transformation Framework. This is highlighted in the progress report that follows.

6.2.1 Organisational Structure

Following the reconstitution of the JSC in 2010 as the policy organ responsible for recruitment, discipline and preparation of the budget of the Judiciary, a massive recruitment drive was launched to fill vacancies in the judicial and other professional cadres.

During the 2012/2013 financial year, Mr Titus J.K. Gateere, former Chairman Public Service Commission (PSC), retired from the Commission and was replaced by Prof Margaret Kobia, the new Chairperson of the PSC as required by the Constitution. Justice Mohamed Warsame was elected to sit in the JSC as a representative of the Court of Appeal. The Commission was, therefore fully constituted of its 11 members with the Chief Justice as chairperson, and the Chief Registrar of the Judiciary as Secretary.

The reconstituted and revamped Judicial Service Commission has, in accordance with Section 14 of the Judicial Service Act, 2011, delegated some of its functions to its subcommittees to facilitate management of the Judicial Service. Standing sub-committees now exist for Human Resource Management, Legal and Technical matters and Finance and Administration, while ad-hoc committees are constituted as and when the need arises.

While the Human Resource Management and Finance and Administration sub-committees have focused on a large workload relating to their subject-matter areas, the Legal and Technical sub-committee has developed Regulations under Section 47 of the Judicial Service Act, as well as amended proposals to enhance the operational efficacy of the various courts. The JSC is also expected to provide a secretariat for the National Council for the Administration of Justice.

The Commission mainly discharges its mandate through board meetings, but has also begun creating capacity in its secretariat. During the 2012/2013 fiscal year, the Commission approved the absorption and appointment of 14 officers deployed from the Judiciary into the JSC secretariat. It also advertised 11 professional positions to support the JSC Secretariat in risk and internal systems audit, planning and budgeting, procurement, accounting, education and training, legal affairs, monitoring and evaluation, inspection, communication and administration. The selection process is ongoing and the posts will be filled in the 2013/2014 financial year.

6.2.2 Leadership & Management Structures

The Constitution of Kenya, 2010, places the Chief Justice at the apex of the Judiciary as its head – with additional responsibilities as chairperson of the Judicial Service Commission and President of the Supreme Court. Further, the Chief Justice is the chair of the National Council for the Administration of Justice and chairs the board of the National Council for Law Reporting as well as that of the

> “Mr Titus J.K. Gateere, retired from the JSC and was replaced by Prof Margaret Kobia, the new Chairperson of the PSC. Justice Mohamed Warsame was elected to the JSC as a representative of the Court of Appeal.”

Judiciary Training Institute.

Recognising that successful and sustainable transformation of the Judiciary rests on the leadership, management and staff at all levels, the highly centralised and concentrated organisational structure is being replaced by a consultative and participatory one.

The Chief Justice is assisted by five other leadership offices - the Deputy Chief Justice, who was appointed in May 2013, the Chief Registrar of the Judiciary, the President of the Court of Appeal, who was first elected in April 2013, and the Principal Judge of the High Court, also elected in April 2013, and the Presiding Judge of the Industrial Court. Further, the representatives of the Kenya Magistrates and Judges Association and the Kenya Judicial Staff Association bring important perspectives to the management of the Judiciary. These office holders, as well as the Chief Registrar of the Judiciary, as well as the representatives High Court Divisions, High Court outstations, Tribunals, the directorates and court registries constitute the Leadership and Management Committee - the principal policy organ of the institution.

Executive offices for the Chief Justice, Deputy Chief Justice, Chief Registrar, the President of the Court of Appeal, Principal Judge of the High Court, Presiding Judge of the Industrial Court, Heads of High Court Divisions and Heads of Stations were being established and strengthened to enable them to perform their leadership roles effectively.

The Judiciary Transformation Secretariat, which was set up in May 2012 and is headed by a Judge, has been twinned with the Judiciary Training Institute to leverage the coordination of all transformation efforts.

In a deliberate effort to decouple the judicial functions from the administrative ones, the Constitution created the Office of Chief Registrar of the Judiciary. Operationally, the Office of the Chief Registrar has been split vertically (between five Registrars) and horizontally (between seven directorates, each headed by a director).

The restructuring of the administrative function has focused on streamlining the Judiciary at two levels - first, within the judicial officer cadre; and second, within the High Court and Magistrate Court stations with a view to launching the institution's overall strategy for devolution. These initial, building-block processes will lead to the finalization and rollout of a comprehensive national and model devolved level organizational structure in 2012/13.

Day-to-day human resource management is run by the Human Resources and Administration Directorate, which was established to develop and operationalise policies and programmes for effective and proper utilisation of the human capital in the Judiciary. One division in the Human Resource and the Administration directorate addresses recruitment, mobility, values and employee relations, organisational development, records, salaries and welfare, while the other, focusing administration, manages the infrastructure, security and transport functions.

The Human Resource and Administration function has been decentralised to the regional headquarters and to the large court stations. Recruitment for the regional functional heads in Finance, Human Resource and Administration was completed and officers posted. Other directorates will also be devolved to the regions first, and later to court stations.

In order to standardise development and cascading of the Judiciary's strategic plan and work plans, guidelines that outline essential ingredients have been developed. Communication to and from

"The Judiciary Transformation Secretariat, which was set up in May 2012 and is headed by a Judge, has been twinned with the Judiciary Training Institute to leverage the coordination of all transformation efforts."

staff has improved both in terms of medium and language. The Judiciary now uses a combination of email and paper-based communication, which has made interaction more individualised, faster and, therefore, more responsive staff needs.

6.3 HR Policy Leadership through the JSC

Policies on human resource management and development were not only outdated but also located in a disparate set of multiple documents. A comprehensive review of existing policies was launched during the reporting period. The objective of the review was to update human resource planning, recruitment and selection, induction, placement, deployment and transfers. It would also examine training and development, pay, benefits and welfare, performance management, career planning and development, maintenance, safety and health, industrial relations, grievance handling and discipline and exit/separation. The review also covered general policies relating to human rights, gender and diversity.

All policies have been aligned with existing legal and regulatory frameworks (including the new constitution and the Judicial Service Act) and good practices in human resource management. As the institution responsible for overall human resource management and development with regard to judicial officers and staff, the Judicial Service Commission and its sub-committees were tasked with a heavy agenda. During the year under review, the total number of meetings held by the full Commission and the subcommittees totaled 247 as detailed in Table 6.1.

Table 6.1 – JSC meetings for 2012/2013

TYPE OF MEETING	NO. OF MEETINGS
Full Commission	23
Human Resource Management committee	31
Finance and Administration committee	8
Selection interviews	113
Adhoc committee meetings	72
Total	247

The absence of clear policies on a number of human resource management issues has hampered the creation of a responsive scheme of service for staff, resulting in frustration and job dissatisfaction. In order to address this gap, a team of consultants have been engaged to work on outlines of a Human Resource Manual and Training Policy. Draft documents have been presented to staff in sample stations and their inputs incorporated before presentation to the Judicial Service Commission and stakeholders for validation. The existing scheme of service is also being reviewed to generate recommendations that will culminate into a responsive policy.

A Human Resource Manual was developed and presented to the JSC for discussion. Amendments to some sections were recommended and they are being incorporated before it is re-introduced at the JSC.

A draft human resource management and development policy was developed and presented to the Judicial Service Commission, while initial piloting of the Integrated Performance Management and Accountability System has been completed, evaluated and fine-tuned in readiness for full launch and rollout across the Judiciary in the 2013/14 year.

JTI made progress in the formulation of codes of conduct for ethics for Judiciary staff, which started in 2011. The Institute organised a validation workshop for the draft codes, which have been developed, and is likely to complete the process before the end of 2013.

The Chief Justice formed a Task Force to spearhead the review of the present Code of Conduct for Judiciary Staff, which was gazetted in 2003 following the enactment of the Public Officer Ethics Act.

With the support of the United Nations Office on Drugs and Crime, the Task Force retained a consultant to draft codes of conduct for judiciary staff and judicial officers.

The Judiciary Training Institute distributed the drafts to all members of staff inviting their comments and input. JTI also held a one-day conference on June 14, 2013 in which some 150 members of staff drawn from all over the country got to review the drafts jointly with the consultant who drafted them and three members of the Task Force.

At the conclusion of the forum it was resolved that members of staff should be given more time to go through the drafts and to give their feedback before the documents could be adopted. The window for submitting this feedback has now closed, and the views from the staff have been forwarded to the consultant for inclusion in the final draft.

JTI expects to organise a forum between the consultant and the Task Force to check whether the final draft of the codes reflect the input received from staff. Once this is complete, the drafts will be handed to the Chief Justice for gazettement as required by law.

During the year, JTI explored its expanded mandate of leading research and playing the role of the Judiciary's think-tank on areas of focus such as sentencing, bail and bond, as well as on case backlog. JTI has formed taskforces to spearhead debate on these issues. JTI is in the process of formulating a policy on sexual harassment for the Judiciary and is at the forefront in exploring options for mainstreaming Alternative Justice Systems into the resolution of disputes.

These discussions are held by different taskforces, which have been formulated with membership drawn from both within the Judiciary and from other stakeholders. There is a Task Force on Sexual Harassment, a Taskforce on Sentencing, Bail and Bond, and a Task Force on Case Backlog.

6.3.1 Recruitment and Deployment

The JSC advertised vacancies for various judicial positions. Through competitive selection processes, it carried out interviews and recommended the appointment of 12 Industrial Court judges, eight High Court judges, and 15 Environment and Land Court judges. It also recruited 16 Court of Appeal judges.

Table 6.2 Recruitments for 2012/13

POSITION	NO. RECRUITED
Industrial Court judges	12
High Court judges	8
Environment & Land judges	15
Court of Appeal judges	16
Magistrates	66

Further, the Judicial Service Commission advertised 51 positions of Resident Magistrate, received 344 applications and short listed240 candidates for interviews. The JSC resolved to increase from 51 to 70. Of these, 50 magistrates were recruited. The JSC declared vacant 40 posts for the position of Judge of the High Court and advertised January 25, 2013. Some 193 applications were received, 76 applicants shortlisted for interview. The interviews were conducted between June 4, 2013 and July 23, 2013. Another 85 posts for legal researchers were advertised on October 4, 2013 and interviews conducted. The results for both processes are being rationalised before appointments are made in the 2013/2014 financial year.

The Judicial Service Commission advertised vacancies in various directorates, conducted interviews and approved the appointment of 169 professional staff. Of these, 120 professional staff were recruited and deployed in the directorates. In order to assist the Judiciary improve its transport system, 69 drivers were recruited upon the purchase of 69 vehicles. Communication between the drivers and the officers they are attached to has been enhanced by providing the drivers with monthly mobile telephone airtime.

JSC also advertised and interviewed candidates for the positions of registrar and member of the Legal Education Appeals Tribunal and approved the appointment of five people. The Commission subsequently petitioned the Attorney General to operationalise the fund in accordance with Section 40 Part VI of the Legal Education Act.

As at June 30, 2013, the total workforce in the Judiciary stood at 4,484 – with 2481 being male and 2003 female. Male employees, therefore, comprise 55.4 per cent of the workforce while female ones make up 44.6 per cent.

Table 6.3 – Staff Distribution by Category

Category of staff	Male	Female	Total
Judges	75	45	120
Magistrates & legal officers	287	255	542
Judicial staff	2,119	1,703	3,822
Total	2,481	2,003	4,484

Inaccurate data on numbers, staffing, deployment and skills particularly as concerning Judiciary staff has greatly undermined fair employment practices in the Judiciary. This is being addressed by collecting a comprehensive staff data and analyzing it. Although the existing human resource complement in the Judiciary appears under-staffed, it is skewed towards a preponderance of judicial support staff over judicial officers, with particularly high staffing levels in general clerical and support positions. A comprehensive human resources inventory and knowledge/skills appraisal has been completed. The information from the exercise will enable the Judiciary to refine its organisation structure and rationalise staff in the court stations to ensure optimum levels across the country.

Still, it appears that the Judiciary is hampered by inadequate staff levels in some directorates and court stations. To address this challenge, a team of consultants will be engaged to carry out job evaluation, analysis and the fashioning of job descriptions to establish optimum staffing levels for the Judiciary.

Of the 4484 employees, 5.9 per cent have primary school certificates, 75.91per cent hold high school certificates, 16.89 per cent have graduate qualifications, and 0.85 hold post graduate qualifications. A team of consultants has been verifying the authenticity of academic and professional certificates obtained by staff, and the exercise is expected to be concluded by year-end.

6.3.2 Training and Capacity Building

The Judiciary Training Institute is the organ of the Judiciary responsible for ensuring that the Judiciary's training, capacity development and research needs are met. A draft Training and Development Policy is being jointly developed by the Judicial Training Institute and the directorate of Human Resource Management. It is expected to act as a guide for all training for judicial officers and staff.

Between July 1, 2012 and June 30, 2013, the Judiciary Training Institute organised induction workshops for all levels of staff joining the Judiciary during the year. The Judicial Service Commission recruited staff in different cadres to boost the Judiciary's human resource capacity in line with Key Result Area 5 of the Judiciary Transformation Framework. Although the staff recruited met the requirements for the job and were thus competent, the new staff needed to learn more about the Judiciary as a unique institution with its own peculiarities before they could perform optimally. JTI therefore organized several induction workshops for all the new staff who joined the Judiciary between July 2012 and June 2013 Induction training was offered to all cadres of staff, a move away from the tradition of offering training and inductions to judicial officers only.

In January 2013, the Chief Justice shuffled all Judges of the High Court and the Court of Appeal. As part of these changes, Hon Mr Justice Kihara Kariuki, who had headed the Judiciary Training Institute since its inception was moved to the bench of the Court of Appeal in Nairobi. He was subsequently elected President of the Court by his peers. Hon Justice Prof Joel Ngugi was appointed as Director of the Judiciary Training Institute from March 1, 2013.

All new employees undergo an induction course. Such an induction course for 158 newly employed, re-designated and promoted judicial staff was carried out in August 2013. Training and development programmes are coordinated by the human resources division but implemented by the Judiciary Training Institute.

These trainings include: two (2) retreats for Judges of the Court of Appeal and four trainings on the implementation of the Judiciary Performance Improvement Project (JPIP) organized in conjunction with the World Bank. JTI also organised the inaugural Mid-year Review Training for Judges of the Industrial Court between April 16 and 20, 2013. Mid-year Review Trainings will be held for all newly employed Judges, within the first six to 12 months of their employment to address any skills gaps identified after their induction and to discuss administrative and other challenges they may be facing as they settle into their jobs. JTI has also started a compulsory Continuing Judicial Education Programme for all Judges and Magistrates. Under this programme, all Judicial Officers will be required to attend at least one training each year to ensure they are updated on developments in law and judicial practice.

JTI also held several training workshops for different cadres on different thematic areas, while continuing the support it offers the Judiciary of South Sudan in conjunction with the Kenya South Sudan Liaison Office. Ten Judges from South Sudan attended a week-long training in Mombasa while another group of seven attended a two-week attachment programme at the Court of Appeal and the High Court in Nairobi.

The Judiciary Training Institute held a one-day forum in which it invited various government and non-government organizations which have partnered with the Institute in the past to explore the successes of these partnerships and to chart the way forward for more coordinated and systematic collaboration.

All partners agreed to send JTI information on all the trainings they planned for Judiciary staff so that JTI could include them in the annual training calendar to assist with better planning in the release of judiciary staff to attend the trainings. Before acquiescing to a training workshop proposed by a partner, the JTI will conduct a needs and mode assessment to determine both the need and utility of the course to the Judiciary as well as the pedagogical effectiveness of the proposed course. All organizations which have planned and approved trainings for Judiciary staff in the year 2013/2014 have communicated those trainings and these have been added onto JTI's annual calendar.

For the past two years, the Judiciary Training Institute has worked in partnership with the Kenya South Sudan Liaison Office to offer support to the Judiciary of South Sudan. JTI held a week-long training for 10 Judges from South Sudan between May 5 and 12, 2013 on the theme, "Building a Robust Judiciary for an Emergent Nation." In the course of the training the Judges visited the Mombasa Law Courts, where they spent time in and outside court with Judiciary staff as well as Judges and Magistrates.

Between June 7 and 22, 2013, JTI hosted nine Judges from South Sudan in an attachment programme that saw them sit both in chambers and in open court with Kenyan Judges of the High Court and the Court of Appeal. The attachment enabled the visiting Judges to observe firsthand the workings of the Kenyan Judiciary, an important lesson for a country with a nascent Judiciary.

The Director of JTI and his assistant travelled to South Sudan on July 25, 2013 to meet with the Chief Justice of South Sudan, representatives from the Kenya South Sudan Liaison Office and other key people to review past activities and to discuss future cooperation between JTI, KESSULO and the Judiciary of South Sudan.

"For the past two years, the Judiciary Training Institute has worked in partnership with the Kenya South Sudan Liaison Office to offer support to the Judiciary of South Sudan."

6.3.4 Pay and Benefits

The JSC successfully engaged the Salaries and Remuneration Commission in the determination of salaries for judicial officers. On June 10, 2013, the SRC issued revised salaries for judicial officers effective March 1, 2013. Earlier in the year, the Judicial Service Commission also implemented salary reviews for judicial staff, thus addressing the huge disparities between the low earners and high earners.

A comprehensive, subsidised mortgage scheme is now in place for all judicial officers and staff, while the existing staff car loan scheme is being expanded to extend to all judicial officers and staff.

Furthermore, an enhanced medical scheme for judicial officers and staff has been rolled out which gives members and their families access to services from listed providers.

6.3.5 Discipline and Separation

Besides the usual avenues for addressing grievance among and between staff and their employer in the office of the Judiciary Ombudsperson, a task force has been formed to address the issue of sexual harassment in the Judiciary.

A tribunal appointed by the President, following a petition by the Judicial Service Commission, recommended the removal of Lady Justice Nancy Baraza as Deputy Chief Justice. Additionally, the constitutionally-mandated process of vetting of sitting judges and magistrates continued throughout the year, resulting in the removal of nine judges. The vetting of magistrates is still ongoing.

Although the Judicial Service Commission's investigation into allegations of financial and human resource mismanagement against the Chief Registrar of the Judiciary falls outside the reporting period, it is nevertheless significant to warrant mention. At the conclusion of the investigation into allegations of impropriety and irregularities in procurement, the JSC resolved to remove the Chief Registrar from office. The position has been advertised and interviews to fill the vacancy are under way.

6.4 Performance Management

For the first time ever, performance management has begun to be institutionalized in the Judiciary. A Performance Management Directorate has been established, and a Director for Performance Management Director, who reports directly to the Chief Justice, was competitively recruited. A draft Integrated Performance Management and Accountability Framework (IPMAF) and System (IPMAS) have been developed and are being piloted.

Across the Judiciary, service delivery charters have been developed and are being implemented. All court registrars and key directorates have developed their charters and are expected to implement them up to the grassroots level, clearly displaying them to court users so as to enhance service delivery. The central objective of the service charters is to raise and secure quality and better value of services provided to the public and extends accountability for the same to judicial officers and staff. A Customer Service Delivery Charter which outlines the time lines within which services will be provided to ensure efficiency.

In January 2013, the Chief Justice constituted a Performance Management and Measurement Steering Committee to provide leadership on the entrenchment of the performance management system in the Judiciary. The committee finalised the performance management guidelines for adoption in the Judiciary, which will be rolled out in the 2013/14 financial year.

"Chief Justice constituted a Performance Management and Measurement Steering Committee to provide leadership on the entrenchment of the performance management system in the Judiciary. The committee finalised the performance management guidelines for adoption in the Judiciary, which will be rolled out in the 2013/14 financial year."

Three satisfaction surveys were conducted between October and December 2012. The satisfaction levels were found to be 67.5 per cent for customers, 19.1 per cent for employee and 26 per cent work environment. These surveys will be the baselines for future surveys.

A Microsoft Excel-based electronic template was developed and rolled out in January 2013 to all stations for submitting case data returns that are used to determine the status of all cases in the court system. This information enables the Judiciary to understand why and where service gaps exist and to identify policy measures to bridge the gaps.

A smart card has been introduced to serve as both an identity card and accessing medical services. In order to improve speed and quality of decisions, the Judiciary has decentralised most of the professional administrative functions.

6.5 Outlook for 2013/14

While this progress report presents a fairly comprehensive menu of actions undertaken and completed in 2012/13, the ambitious JTF agenda will demand even greater efforts to strengthen governance and management in 2013/14. JTI will continue to carry out research and training for the entire Judiciary. As one of the beneficiaries of the World Bank funded Judiciary Performance Improvement Project (JPIP), launched in July 2013, JTI will obtain technical assistance for the following:

- Completion of the Strategic Plan for the JTI and Review its Organizational Structure
- Enhancement of JTI's knowledge management and policy advisory capacity including the development of an interactive website
- Development of a research policy for JTI and policy advisory guidelines
- Assessment of the Judiciary's training needs and development of a comprehensive training programme and curricula for building the capacity of all Judicial Officers and judiciary staff
- Development of content and effective pedagogy for courses on JTI's thematic areas of focus including constitutional interpretation, devolution jurisprudence, jurisprudence on Chapter 6 of the Constitution, and leadership and management
- Development of specialised programmes and materials on judicial craft, practice and skills to improve the speed and accuracy including drafting bench books, other induction material, court-accredited mediation/arbitration personnel, and other requirements.
- Design of tools to monitor and assess the effectiveness and impact of JTI training programs
- Design and establishment of a Learning, Research and Development centre
- Carrying out empirical and qualitative research to support the work of Taskforces and Working Committees formed to formulate policies on selected areas of Judiciary focus namely: Techniques for reducing case backlogs; mainstreaming alternative justice systems; establishing a sentencing policy; harmonizing jurisprudence on bail/bond; and harmonising jurisprudence on temporary injunctions.
- Technical assistance to support the overall management and coordination of JPIP at JTI
- Development of a training manual and curriculum on emerging issues in judicial ethics.

JTI also plans to hold workshops and trainings to validate its e Strategic Plan and organizational structure. Training workshops will be conducted for JTI staff based on regular Training Needs

"While this progress report presents a fairly comprehensive menu of actions undertaken and completed in 2012/13, the ambitious JTF agenda will demand even greater efforts to strengthen governance and management in 2013/14."

Assessment including training on new policies on knowledge management, research and policy advisory guidelines.

The Steering and Technical Committees and the Project Management Unit will also be trained on capacity building and evaluation of project (JPIP) implementation. All Judiciary staff will receive training on the new judiciary culture and basic functional skills using Training of Trainers method at each station level (Re-induction of all staff into the New Judiciary)

There shall be mandatory Continuous Judicial Education for all magistrates, training workshops for Judges on Social and Economic Rights, training workshops for Judicial Officers on case and docket management strategies to reduce backlog and training workshops for Judicial Officers on the law, practice and economic impacts of temporary injunctions. Judges will receive training on integrity and devolution jurisprudence while secretarial staff and court clerks will be trained on the basics of judicial practice (Law 101). Legal Researchers and Law Clerks will receive training on advanced techniques in legal research and legal writing, while judicial officers, legal researchers and law clerks will receive training on emerging issues on judicial ethics.

The Judiciary Training Institute and the Supreme Court of Kenya submitted a joint proposal for funding aimed at improving the capacity of the Supreme Court. Ford Foundation approved the proposal and it is anticipated that the funds will be available soon to enable the rollout of planned activities such as:

Developing, reviewing, validating, publishing and disseminating a curriculum and handbook on Human Rights

Developing, reviewing, validating, publishing and disseminating a curriculum and handbook on devolution and inter-government dispute resolution jurisprudence

- Developing a Judicial Knowledge Management System
- Organising exchange visits by Judges of the Supreme Court to Colombia, India and South Africa.

Given that the institutionalisation of a Performance Management System is integral to the success of judicial transformation, the following activities will be undertaken and or fast tracked in 2013/2014:

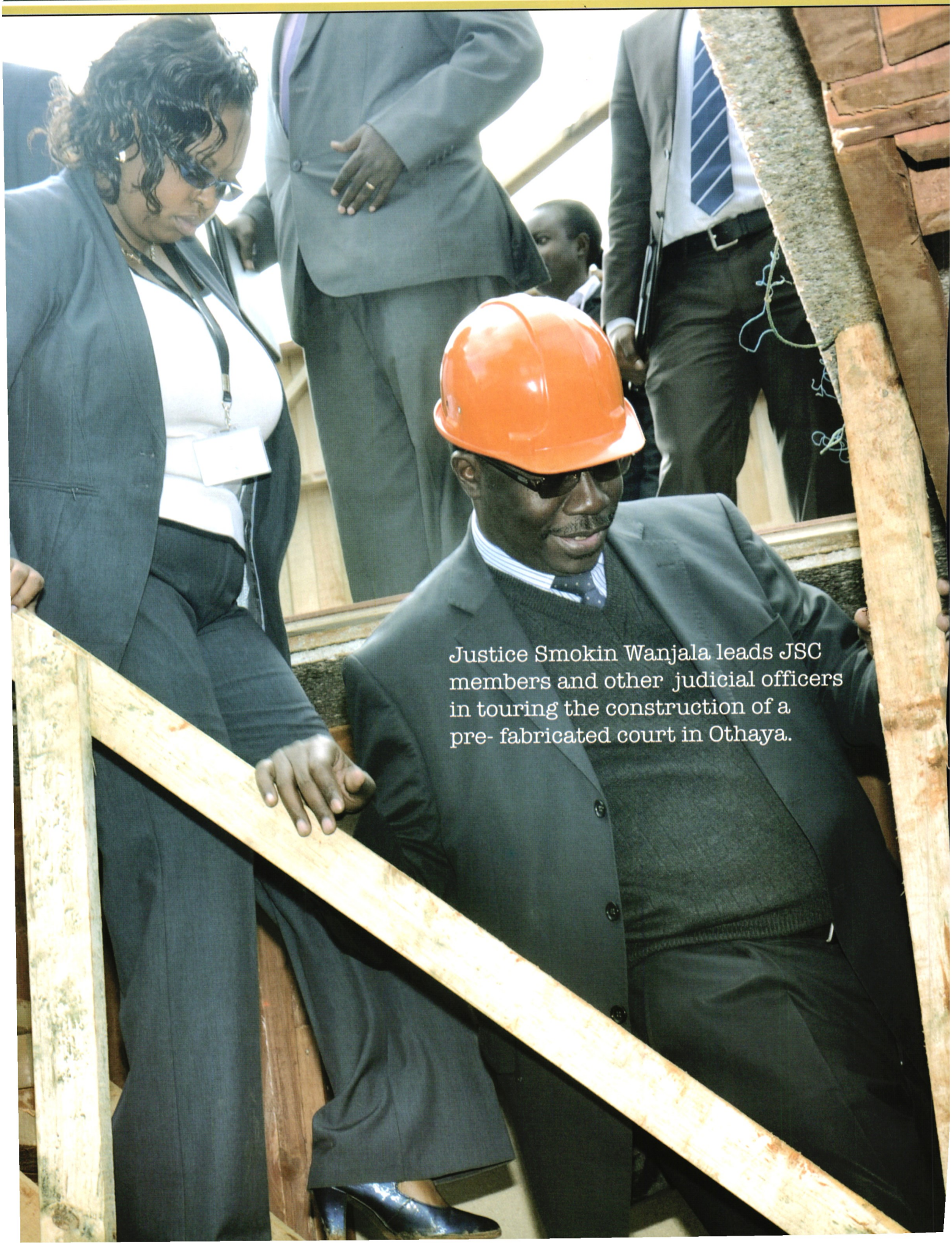
- Conduct countrywide census of all pending cases as at June 30, 2013 to establish the overall and case backlog, nature of backlog cases including their age and court specific backlog among other parameters.
- Finalise and rollout of the Performance Management Guidelines and establish performance standards for the judicial officers and judiciary staff based on international best practices.
- Pilot performance management and measurement system in selected courts and directorates.
- Build capacity and enhance training for judicial officers and staff on IPMAS and ASPRS, performance target setting and measurement, negotiation, evaluation and reporting.

Develop concept notes on cost efficiency, gender mainstreaming, compliance with budget, integrity and corruption eradication criteria, cost efficiency, disability mainstreaming, implementation of client service charters, ISO certification, prevention of alcohol and drug abuse, prevention of HIV/ Aids infection, research and development, staff appraisal, customer, work environment and employee satisfaction and pension mechanism. These concepts will be shared with various stakeholders for ownership and policy direction.

"There shall be mandatory Continuous Judicial Education for all magistrates, training workshops for Judges on Social and Economic Rights, training workshops for Judicial Officers on case and docket management strategies to reduce backlog."

Part 4

RESOURCES



Justice Smokin Wanjala leads JSC members and other judicial officers in touring the construction of a pre- fabricated court in Othaya.

Chapter 7

INFRASTRUCTURE

7.0 BACKGROUND AND CONTEXT

Almost all the 111 court stations in the country were in a poor state of repair and in need of massive rehabilitation because of many years of underfunding and neglect. Some court buildings had been condemned as unfit for human occupation, while others had been constructed using poor quality materials and workmanship and not respond to the needs of court staff or its users.

A comprehensive rehabilitation programme is currently ongoing leveraging on budgetary allocations from the Government of Kenya as well as funding from the World Bank. It is in response to the constitutional and statutory commands to the Judiciary to establish a presence in every county.. By June 2011, there were 16 High Court stations and 111 magistrates' courts, meaning that an additional 31 High Court stations need to be built to meet the statutory requirement of 47. In the past year, four more High Court stations have been established in Garissa, Kerugoya, Muranga and Homa Bay, bringing the total to 20. In the past year, two additional magistrates' courts have been established bringing its total to 113. In order to cover all the 285 districts, an additional 172 magistrates' court will be required to be built.

With the budgetary allocation from the Government in the current financial year, the Judiciary will construct a further three High Courts in Lodwar, Bomet and Kapsowar, raising the number to 23.

Subsequently it is anticipated that ongoing negotiations with the World Bank will yield resources to finance the construction of 10 High Courts in the next six years. Sufficient budgetary support from the Government in the next few years will go a long way in covering the deficit of 14, and allowing the Judiciary to fulfill its mandate of having a High Court station in every county.

Property and asset management has been a major challenge for the Judiciary for a long period of time. Officers have not exhibited sufficient professionalism as custodians of Judiciary property. For example, land belonging to the Judiciary in Garissa, Kerugoya, Kisumu, Eldoret and Mombasa had fallen into private hands. Some of the titles have since been revoked, and efforts to reclaim them are ongoing. Heads of court stations around the country are under firm instructions to secure the station and its property. The ongoing cooperation between the Ministry of Lands and the Judiciary has fortunately facilitated the repossession of land that had been allocated to private developers in Mombasa and Eldoret.

> "By June 2011, there were 16 High Court stations and 111 magistrates' courts, meaning that an additional 31 High Court stations need to be built to meet the statutory requirement of 47."

7.1 Infrastructure Narrative on 2012 / 2013

Infrastructure development is one of the key pillars of the Judiciary Transformation Framework and the Judiciary Court Construction Development Plan has been developed to help guide this process. Indeed, physical access to courts is an important determinant in the access to justice. By October 2013, there were 113 magistrates' courts, which included the newest: Engineer Law Court. Engineer Law Court is in Nyandarua County, and was the only County without a court. It is now a fully operational court comprising of one courtroom, two chambers, a registry, an office, women and men cells and a waiting bay.

In addition to the 113 magistrates courts currently in existence, two dilapidated buildings have been refurbished to establish new courts whose operations commenced on October 72013. These are Githongo in Meru County and Migwani in Kitui County. In order to cover the 285 districts an additional 172 magistrates' courts require to be built. The construction of Kakuma and Bomet Law Courts are on-going.

During the reporting period, 5 previously stalled court constructions were revived and completed and are now operational . These include Busia High Court, Malindi High Court, Sirisia Law Courts, Gatundu Law Courts and Naivasha Law Courts. Kisumu High Court is expected to be handed over by March 2014, while Migori Law Courts is expected to be handed over by December 2013. The remaining works at Narok Law Courts, earmarked to be a High Court, will be completed during this financial year.

TABLE 7.1 - Previously Stalled Court Construction: Progress in 2012/13 – all GoK-financed

COUNTY	COURT STATION	STATUS
1. Kiambu	Gatundu Law Courts	Completed during the year
2. Busia	Busia High Court	Completed during the year
3. Bungoma	Sirisia Law Courts	Completed during the year
4. Nakuru	Naivasha Law Courts	Completed during the year
5. Malindi	Malindi High Court	Completed during the year
6. Kisumu	Kisumu High Court	Ongoing
7. Migori	Migori Law Courts	Ongoing
8. Narok	Narok Law Court	Ongoing

"During the reporting period, 5 previously stalled court constructions were revived and completed and are now operational ."

Some court buildings had been condemned and were a danger to the members of staff and the public. This necessitated an urgent need to construct habitable courtrooms and offices. During the reporting period, and using Government of Kenya funding, nine (9) prefabricated courts have been constructed and are ongoing with a projected completion date of March 2013. These are Garsen, Wanguru, Marimanti, Othaya, Bomet, Tawa, Mavoko, Webuye and Runyenjes. The model comprises of two courtrooms and all the necessary facilities. This has been in response to the ongoing recruitment of more magistrates who are now deployed across the country.

TABLE 7.2 Court Construction in 2012/13, to be completed March 2014– all GoK-financed

During the reporting period, 5 previously stalled court constructions were revived and completed and are now operational . During the reporting period, 5 previously stalled court constructions were revived and completed and are now operational .

County	Court Station	Status
1. Kirinyaga	Wang'uru	Ongoing
2. Tharaka-Nithi	Marimanti	Ongoing
3. Nyeri	Othaya	Ongoing
4. Bomet	Bomet	Ongoing
5. Machakos	Mavoko	Ongoing
6. Makueni	Tawa	Ongoing
7. Bungoma	Webuye	Ongoing
8. Kilifi	Garsen	Ongoing
9. Embu	Runyenjes	Ongoing

Through the Judiciary Court Development Plan, a total of 26 courts were refurbished (see Table 7.3 below) and a further nine (9) prefabricated courts constructed that will be completed by March 2013. Refurbished Courts are in the following counties: Kakamega, Kisumu, Machakos, Kiambu, Makueni, Nyamira, Bungoma, Homa Bay, Nyeri, Migori, Kirinyaga, Kitui, Meru, Nyandarua, Tharaka-nithi, Kwale, Siaya, Kajiado, Embu, Kisii and Baringo. The 9 prefabricated ones are in Kirinyaga, Tharaka Nthi, Nyeri, Bomet, Machakos, Makueni, Bungoma, Kilifi, and Embu.

TABLE 7.3 - Court Refurbishment in 2012/13 – all GOK-financed

COUNTY	COURT STATION	COST (Shs)
1. Kakamega	• Butere	10,377,360.00
	• Mumias	1,728,179.60
2. Kisumu	• Tamu	153,000.00
	• Winam	4,984,562.60
	• Maseno	10,591,009.00
	• Nyando	1,642,141.00
3. Machakos	• Kithimani	622,829.00
4. Kiambu	• Githunguri	2,71,705.00
	• Kikuyu	4,300,000.00
	• Kiambu	1,410,000.00
	• Thika	2,543,130.00
5. Makueni	• Makindu	5,167,200.50
	• Tawa	1,027,720.50
	• Kilungu	7,453,670.00
6. Nyamira	• Nyamira	506,270.40
7. Bungoma	• Webuye	1,017,700.00
	• Kimilili	4,269,606.40
8. Homa Bay	• Ndhiwa	1,786,806.00
9. Nyeri	• Mukurweini	1,218,966.30
10. Migori	• Rongo	2,500,000.00
	• Migori	2,662,397.20
11. Kirinyaga	• Baricho	1,800,000.00
12. Kitui	• Migwani	3,612,605.50
	• Mutomo	1,334,000.00
13. Meru	• Githongo	1,470,401.00
	• Nkubu	3,505,443.60
	TOTAL COST	77,756,705.6

By June 2013, the Judiciary had 20 Mobile Courts most of them concentrated in marginalized areas.

TABLE 7.4 : List of Mobile Courts in place by end-June 2013

County	"Home" Court Station	Mobile Court
1. Garissa	a. Garissa	i. Dadaab
		ii. Modogashe
		iii. Ijara
		iv. Bangale
2. Kajiado	b. Kajiado	v. Loitokitok
3. Kitui	c. Kitui	vi. Zombe/Mutito
4. Baringo	d. Kabarnet	vii. East Pokot
5. Kirinyaga	e. Wang'uru	viii. Karaba
6. Homa Bay	f. Homa Bay	ix. Mbita
7. Lamu	g. Lamu	x. Faza
		xi. Mpeketoni
8. Samburu	h. Maralal	xii. Wamba
9. Marsabit	i. Marsabit	xiii. Laisamis/Merille
10. Turkana	j. Lodwar	xiv. Lokichar
		xv. Lokitaung
11. Isiolo	k. Isiolo	xvi. Merti
		xvii. Archer's Post
12. Nandi	l. Kapsabet	xviii. Songhor
13. Kilifi	m. Garsen	xix. Kipini
14. Bungoma	n. Kimilili	xx. Kapsokwony

During the reporting period, a financing agreement was signed for the Judiciary Performance Improvement Project (JIPIP), which is a World Bank supported programme. The project funding is $120 Million for a funding period of six years. The project has four major components namely,

1. Court administration and case management,
2. Judiciary Training and staff development,
3. Court infrastructure and
4. Project management. A pilot court in Kangema is currently undergoing rehabilitation and a

major face-lift under the Court infrastructure component of the JPIP, and it will form a model for the other courts to be rehabilitated.

7.2 Infrastructure Devlopment Outlook, 2014/2015

In the next financial year, additional resources will be required from GoK to finance an expanded courts development plan as indicated in the table below. The Judiciary has already secured most of its infrastructural development funding from the World Bank-JPIP for the construction and rehabilitation of various courts.

As shown in Table 7.5 below, in the 2014/15 financial year, we expect to construct 13 new High Court stations for which funding has already been secured both from the government (3 courts) and World Bank - JPIP (10 courts).

TABLE 7.5 : On-going High Court Construction in 2013/14

County GoK - Financed Construction	Court Location
1. Bomet	1. Bomet High Court
2. Turkana	2. Lodwar High Court
3. Elgeyo Markawet	3. Kapsowar High Court
JPIP-Financed Construction	
• Kajiado	• Kajiado High Court
• Laikipia	• Nanyuki High Court
• Garissa	• Garissa High Court
• Kakamega	• Kakamega High Court
• Mombasa	• Mombasa High Court
• Nakuru	• Nakuru High Court
• Kiambu	• Kabete Children's Court
• Nyandarua	• Ol Kalou High Court
• Siaya	• Siaya High Court
• Wajir	• Wajir High Court

The World Bank- JIPP will also finance the construction of 5 new magistrates courts in Laisamis, Lokichar, Emuhaya, Kapsokwony, and Archers' Post and fund the rehabilitation of another 23 magistrates courts.

TABLE 7.6: Planned Magistrate Court Rehabilitation/Construction in 2014/15 - JPIP-financed (funds already allocated)

COUNTY	COURT STATION
1. Kitui	• Kitui – (pilot)
2. Murang'a	• Kangema – (pilot)
	• Kigumo
3. Vihiga	• Vihiga
	• **Emuhaya**
4. Makueni	• Makindu
	• Makueni
	• Tawa
5. Nyeri	• Karatina
6. Kirinyaga	• Karaba
7. Kisumu	• Nyando
	• Tamu
8. Nakuru	• Molo
	• Eldama Ravine
9. Tharaka-Nithi	• Chuka
10. Taita Taveta	• Wundanyi
11. Lamu	• Lamu
	• Mpeketoni
12. Homa Bay	• Oyugis
	• Homa Bay
13. Machakos	• Kangundo
	• Mavoko
14. Nyamira	• Nyamira
15. Tana River	• Hola
16. Marsabit	• **Laisamis**

17. Nyandarua	• Engineer
18. Baringo	• Kabarnet
19. Nairobi	• Kibera
20. Siaya	• Bondo
21. Meru	• Nkubu
22. Bungoma	• **Kapsokwony**
23. Busia	• Budalang'i
24. Turkana	• **Lokichar**
25. Isiolo	• **Archers' Post**
26. Kisii	• Kisii
27. Kiambu	• Githunguri
28. Nyeri	• Mukurweini

NB: Items in bold are NEW courts

The Judiciary Court Construction Development Plan has also identified 35 other courts, as shown below, for refurbishment under GoK funds in the next financial year.

TABLE 7.7 : Court Construction Development Plan FOR 2014/15 - GOK-FINANCED (FUNDS TO BE SOURCED)

County	Court Station
• Nakuru	1. Nakuru High Court
	2. Eldama Law Courts
• Kericho	3. Kericho High Court
• Embu	4. Embu High Court
• Kirinyaga	5. Kerugoya High Court
• Homa Bay	6. Homa Bay High Court
• Nyeri	7. Nyeri High Court
• Busia	8. Busia High Court
• Bungoma	9. Bungoma High Court
	10. Kimilili Law Courts

• Murang'a	11. Murang'a High Court
• Kitale	12. Kitale High Court
• Nairobi	13. Milimani Law Courts
	14. Milimani Commercial Court
	15. Supreme Court Building
• Kisii	16. Kisii High Court
• Kakamega	17. Kakamega High Court
• Kilifi	18. Malindi High Court
	19. Kilifi Law Courts
• Baringo	20. Kabarnet Law Courts
• Elgeyo Marakwet	21. Iten Law Courts
• Kajiado	22. Ngong Law Courts
• Laikipia	23. Nyahururu Law Courts
• Lamu	24. Mpeketoni
• Samburu	25. Wamba
• Turkana	26. Kakuma
• Garissa	27. Dadaab-Lodwar
• Kajiado	28. Loitokitok
• Kwale	29. Lungalunga
• Nandi	30. Songhor
	31. Iten
• Kitui	32. Zombe
• Murang'a	33. Maragua
• Machakos	34. Kangundo
• Homabay	35. Mbita

7.3 Administration

The Administration Division successfully carried out a number of activities to support both staff and the ongoing infrastructural processes. These include providing support and technical assistance to civil works at planning and construction stages to ensure they meet user needs; managing contracted security services in all Court stations and Judiciary Senior staff residents; carrying out an inventory of old furniture at the warehouse and centralizing the archiving system; providing hospitality and housekeeping services to all Judiciary employees, ensuring that their environment integrates with people, place, processes and technology by using the best practice to improve efficiency, by reducing operating costs while increasing productivity and finding a vendor has been contracted and currently managing cleaning services in all court stations.

Some of the challenges the Directorate encountered include pressure of work on staff as a result of new ideas, procedures, systems, and expectations, which were brought about by the demands of transformation; inaccurate data on numbers, staffing, deployment and skills particularly as concerning Judiciary Staff; lack of properly designed court buildings in some court stations; and inadequate furniture in most court stations (even though furniture is currently being procured according to station cost work-plans).

During the reporting period, we reviewed the security arrangements of the Judiciary, which plans to establish a Judiciary Marshall/Security Unit. Currently, we have 667 Security guards deployed in court stations countrywide and there are plans to install electronic surveillance cameras in all the courts. We are carrying out an asset inventory in all courts and an Asset Management and Inventory Unit of the Judiciary will be formed to secure Judiciary assets. There are also plans to renovate all the AFC premises across the country.

In the transport department a fuelling card system has been introduced and a vehicle tracking device system installed. Sixty-nine drivers were recruited to improve the transport system in the Judiciary.

"During the reporting period, we reviewed the security arrangements of the Judiciary, which plans to establish a Judiciary Marshall/ Security Unit."

7.4 Conclusion

Infrastructure development will remain a major component of the Judiciary's transformation. The recruitment of more judges and magistrates, the need to service marginalized areas and the legal requirement to have at least one High Court in every County, when examined against a long history of neglect, points to the need for accelerated investment in infrastructure. This investment is both for court buildings and staff housing to make the inevitable frequent transfers for judicial officers more tolerable. In the 2014/15 financial year, additional resources will be required from GoK to finance an

expanded courts development plan. Further, a staff housing scheme will need to be budgeted for to meet the objectives of a transfer policy that will make judicial officers in particular want to stay in stations for much shorter periods.

"Infrastructure development will remain a major component of the Judiciary's transformation. The recruitment of more judges and magistrates, the need to service marginalized areas and the legal requirement to have at least one High Court in every County, when examined against a long history of neglect, points to the need for accelerated investment in infrastructure."



Judiciary staff key in proceedings of a case.

Chapter 8

HARNESSING TECHNOLOGY AS AN ENABLER FOR JUSTICE

8.0 INTRODUCTION

Leveraged across the three pillars that support the Judiciary Transformation Framework – people-focused delivery of justice, internal human resource capacity, and infrastructure and resources - information communication technologies have the potential to improve the administration of justice, as well as ensure institutional efficiency and effectiveness. Information communication technologies, constitutes the fourth pillar of the Judiciary Transformation Framework.

Adoption and utilisation of information and communication technologies in the Judiciary has traditionally been depressed, and its uptake haphazard. Previously, judicial officers maintained records by hand, which would then be transcribed and typed. Critical processes to turn the wheels of justice could not begin without manually filling forms. All these activities created a mountain of paperwork, together with the attendant bureaucracy and delays, which bred inefficiency and corruption.

Communication within the institution relied on traditional channels such as letter writing and trunk telephony, resulting in inordinate delays, lost correspondence and high costs.

Although some steps had been taken to introduce information communication technologies, they were tenuous and lacking in the boldness necessary to deliver change. In 2012, an ICT strategy for the Judiciary was developed, adopted and its implementation commenced.

As a first step, every judge was issued with an ipad and iphone, while each magistrate received a laptop to enable all judicial officers to key in their notes and save time on transcription and typing. An increasing number of staff is being trained on the use of Linux-based (Ubuntu) open source software. In Nairobi, 350 employees have been trained while in other stations, this is being systematised with the hiring of new staff. Up to 98 per cent of staff access and use official email addresses.

Overall, investment in information communication technology in the year 2012/2013 on power, communications and labour for work in 21 court stations across the country reached Sh941 million. This significant investment is expected to set the base for the deployment of the case management

“Every judge was issued with an ipad and iphone, while each magistrate received a laptop to enable all judicial officers to key in their notes and save time on transcription and typing.”

system. The Case Management System will assist the Judiciary to better manage cases, as it will keep a repository of all court documents, manage judicial resources like court rooms and judicial officers, as well as raise red flags where exceptions are noted for action.

The ICT investment programme has sought to secure sustainability by investing in generators, data lines, equipment replacement and training staff on the proper care of equipment.

8.1 Networking and Equipment

The ICT Directorate has embarked on various projects in line with the Judiciary Transformation Framework and market best practices. The ICT Directorate is in the final stages of installing Local Area Networks in 21 High Court and five magistrates' stations with all active devices – switches, routers, phones, cameras. These stations will in turn be interlinked in a Wide Area Network. Closed Circuit Television Cameras have been installed and are about to go live in these courts to enhance security and ensure protection of files in the registries. This project will increase inter-connectivity between the court stations and improve communication and data sharing between them. Internet Protocol phones have been set up to reduce the cost of inter-station communication and improve access to telephony services. In response to the need for data security and integrity in the court stations, a backup solution has been procured to ensure that all data is centrally saved.

All stations are Wide Area Network-ready and waiting to be powered up from the head station at the Milimani High Court, where a Network Operating Centre has been set up. In the first phase of installing the local area network, 5,549 data points have been created in 21 High Court stations and five High-Court-level stations, 16 generators installed and configured, and 236 CCTV cameras switched on. A 10-station call centre will also be set up at the Milimani Law Courts to manage any queries members of the public may have on the Judiciary.

Uninterruptible Power Supply Systems have been installed to ensure that all ICT equipment is protected from damage arising from power fluctuations, as well as to ensure the continuity of work. Access control systems have also been set up for all server rooms with an automatic fire suppression system. The system is also GSM-enabled for SMS alerts in case of a break-in or fire outbreak.

A container data centre is already at the Supreme Court and is awaiting configuration. When ready, the Data Centre will house computer systems and associated components, such as telecommunications and storage systems. It includes backup power supplies, redundant data

communications connections, environmental controls (e.g., air conditioning and fire suppression) and security devices. Its job is to securely host server equipment and provide backup.

Audiovisual recording and transcription systems have been installed in 35 courtrooms in Milimani Law Courts, the Court of Appeal at Elgon Place, and the Supreme Court in an attempt to reduce human error in recording proceedings.

In the current financial year, it is anticipated that similar equipment will be installed in at least one court room in each High Court station across the country.

The Judiciary has moved to reduce the cost of buying and maintenance of printers by leasing them. This has removed the need for purchase of toners that could not be accounted for, and has also removed the need for maintenance of printers, thereby freeing staff to carry out their core mandate of supporting the delivery of justice. All court stations have multi-function printers on lease that will allow for scanning of court documents.

In order to safeguard and track ICT equipment, all new purchases are now being bar-coded. This information will eventually be uploaded into the Configuration Management Database System that has already been integrated with the online ICT call centre. The items will then be discoverable online around the country and their status determined at the click of a button.

8.2 Case Management

An integrated case management system has been set up and is capable of managing diaries of both judicial officers and courtrooms; keeping an online repository of documents and recordings in a Document Management System; managing fines and deposits made by the public; disseminating information to stakeholders through e-mail, SMS and website; and producing statistical reports that will assist management decisions.

This system was successfully used by the Judicial Working Committee on Election Preparations to manage all the 188 election petition cases, which were monitored from their filing until their conclusion. A summary of all election petitions is available as follows:

- Cause List Summary - http://cases.judiciary.go.ke/docs/all_open_cases.html
- Global Case Statistics - http://cases.judiciary.go.ke/docs/cases_summary_categories.html
- Case Summary - http://cases.judiciary.go.ke/docs/case_summary.html

The system was deployed in the Court of Appeal from June 1, 2013, where all cases will eventually be uploaded, and age analysis performed. Election petitions for the Court of Appeal will be similarly managed as was the case in the High Court.

A prototype case management system for the Supreme Court is being tested and is under configuration. Staff in the High Court at Mombasa and Eldoret have been trained in readiness for the deployment of the case management system. Its features include Enterprise Case Management, Incident Management, Offense/Offender Tracking, Suspect and Victim Tracking, Lead/Tips Management, Evidence Management, Universal Case Inbox, Investigative Analytics, Document Management, Delays in scheduling court cases due to difficult planning and allocation systems as well as competition for limited court resources.

8.3 Integrated and Automated Systems

The ICT Call Centre and Helpdesk integrate all requests and channel them into a one-stop shop. If the call centre is unable to deal with an issue, it escalates the call to the relevant office for resolution. From incidents to service requests, with the web-based Open Source helpdesk software, no communication is lost and requests are routed automatically to the right service team, ensuring that they are answered quickly.

The Helpdesk has been useful in tracking all ICT incidents countrywide where it is used to manage ICT assets, track communication and service level agreements. The ICT Call Centre (Helpdesk) is a software solution that makes communication with staff easier and more transparent. It is free of licence costs and comes with an open and flexible architecture solution resulting in high quality service at minimal operational cost.

An online certificates system facilitates the processing and issuance of practising certificates for Advocates while tracking the status of new applications. A time consuming, labour intensive and error-prone application process that would sometimes produce forgeries has been automated, bringing the time needed to issue certificates to less than three minutes.

An automated job application system has been developed to ease the process, reduce paper work and ensure openness and transparency. The system has been in use for the past 12 months and is currently undergoing review and modification based on user experiences.

The Supreme Court library has been digitised, shifting from the Manual Card Catalog to the digital catalog. The National Council for Law Reporting has also launched a new online product in 2012.

Case Updates is a weekly digest of recent precedent-setting judicial opinions from the superior courts of record. It was developed and deployed using the latest technological tools and has received accolades from members of the legal fraternity as well as the public. Moreover, the council, in partnership with Strathmore University and Samsung are developing an application to be used in handheld mobile devices such as iPads and Tablets to enable easier and friendly access to Judiciary materials and publications.

Automation and diversification of the revenue and deposits collection systems is in progress. Soon, it will be rolled out to all court stations when mechanisms are put in place, including capacity building and infrastructure development, to support it. The installation of a case management system in Kibera, Milimani and Makadara magistrates' courts is expected to ease revenue collection and management in the Judiciary once rolled out in court stations.

Plans are under way to automate all revenue units and management in order to reduce and curb process losses that result from weak systems and understaffing in most of the courts.

Since the installation of the Service Desk in 2012, the Office of the Judiciary Ombudsperson has been able to migrate from the manual system to increase efficiency. All complaints are entered into the system, thus making it easy to check the status of the tickets in the system instead of combing through files.

Some 12,943 tickets have been created in the system. The total number of tickets created through the Short text Message System (SMS) 5834 reached 2,000 before the number ceased to be in use because of changes in the numbering system allocated by the Communications Commission of Kenya. A new number, 20583, has been assigned and will be popularized for use.

A mobile money transfer solution was implemented in 2012 to ease the payment of traffic fines. Faini Chap Chap slowed down, however, because of infrastructure challenges, including the lack of a high-speed link and redundancy server that will be up and running 24 hours a day 7 days a week. The container data centre will resolve this issue.

Procedures and policies to deal with issues emanating from the public, for example, sending money to the wrong account, and enquires, are being drawn.

Qualified accountants and other staff have been recruited to address inadequate employee numbers to run the system and respond to inquiries that arise in regards to payments, as well as to collect revenue and resolve accounting issues that may arise.

"Some 12,943 tickets have been created in the system. The total number of tickets created through the Short text Message System (SMS) 5834 reached 2,000 before the number ceased to be in use because of changes in the numbering system allocated by the Communications Commission of Kenya. A new number, 20583, has been assigned and will be popularized for use."

A prototype has been designed for introducing the use of major debit and credit cards for paying fines. This solution will be Visa-enabled in order to interface with all major banks countrywide.

8.4 Savings made from ICT Investments

The Judiciary set out to leverage the benefits of open source technology. In the past one year, a lot has been learnt, tweaked and successfully implemented. The table below summarises the savings the Judiciary has made by using this model:

TABLE 8.1 : Savings made from ICT projects

PROJECT	SAVINGS MADE*	REMARKS
Integrated Service Desk	Sh60 million	Uses Opensource; developed internally - Has won 2 awards this Year: CIO100, Plus One Award
Enterprise Mail	Sh30 million (annual)	Uses Opensource & is cloud based - Currently supporting over 6000 mailboxes
PC Software Licenses	Sh213 million (annual) and increasing with new staff joining The Judiciary	Shift to Ubuntu & Open office; No Microsoft licenses required for 5000 users
Microsoft Server Licences: Datacenter 2012 Client Access License (CAL) for 5000 users	Sh70 million	All Servers migrated to Linux

Database Licenses:

- Oracle Enterprise Edition for 20 Quad Core Servers EquivalentSh71 million (annual)	Adapted Alternative Opensource PostgreSQL & MySQL DBMS

***Savings based on what would have been spent on purchase of commercial packages**

8.5 Conclusion and Outlook

The Judiciary's technology efforts have won a number of awards in the region in competition with the private and public sectors. The 2013 CIO100 Awards competition was held in Kigali, Rwanda. Every year, the CIO100 Awards honour 100 companies that demonstrate excellence and achievement in ICT. The process for choosing the CIO100 awardees is systematic and competitive. The competition, on the theme, "Value creation through innovation", attracted more than 300 participants from across East Africa. The Judiciary won awards in the following categories in use of technology:

- The Most Innovative Use of Technology in Public Sector in the Region (Plus One Award)
- Second most innovative use of technology out of 100 Top Companies in the Region (Private & Public Sector Combined) – for vast use of video conferencing terminals, digitising its manual records and use of integrated mobile money transfer to ease payment of traffic fines.

Going forward, the ICT directorate is developing an identity management framework that enables Kenyans to gain access to Judiciary services simply and securely. It is also developing a channel strategy to provide guidance on channel selection, identify high volume transactions that should be offered online and guide stakeholders on the adoption of mobile technology. Stakeholders will be encouraged to commence transition of frequent transaction services online. The Judiciary will additionally continue to implement information security standards to ensure citizen and institutional data is protected.

A review and rationalisation of the Judiciary website portfolio is under way to avoid complexity and ensure ease of navigation. This springs from the realisation that a simple website is critical to ensuring access to information, hence access to justice.

In the coming year, the use of the Case Management System will be rolled out to all the High Court

stations since the ICT infrastructure will have been completed at these sites. The expected deliverables to the public will be increased access to online information; erformance reporting of judicial matters; communication to litigants and their legal teams by email; and easier methods of making payments to the Judiciary. It is also intended that all new courts will be constructed with inbuilt ICT Systems and a Wide Area Network will be consolidated by carrying out an analysis of what can be improved on the installations.

A review and rationalization of the Judiciary website portfolio is under way to enhance accessibility and clarity. In the coming days, the Judiciary will also establish and implement a public facing ICT-enabled projector that will serve as a status dashboard providing information to increase accountability and transparency.

Accordingly, an ICT strategy was developed for pioneering in the Supreme court as an emblematic program from which other courts ICT capacities can be modeled. So far, the Supreme court is spearheading process automation with documents being filed in both soft and hard copies. The court has also reached advanced stages of a plan to install a secure case management system; in the meantime, parties send and receive advance communication like hearing notices and pretrial memoranda through email. Proceedings in the Supreme court are televised whenever a matter of public interest is before the court. For instance during the presidential election petition, proceedings were streamed through a live feed shared by all the media houses enabling Kenyans from all over the world to keep abreast of developments.

Nonetheless, the judiciary is cognizant of that fact that in the majority of our courts, judicial officers still maintain records by hand and that critical processes to turn the wheels of justice cannot begin before forms are manually filled by parties or court staff. Indeed, the "all-paper" approach has proved inefficient because it eventually manifests in bureaucratic delays, breeds corruption and ultimately occasions many Kenyans injustice, especially when transcripts of these records are required for appeal purposes. Moreover, continued reliance on antediluvian methods such as trunk telephony, and typewritten letters, also significantly contributes to inordinate case delays, lost correspondence and high costs for court users.

In this coming year the lessons we have gained from the use of ICT in the Supreme Court will prove instrumental in the execution of programmes aimed at facilitating the use of ICT at the very grassroots. Notably, it is envisaged that an online case management system will be developed to ease backlog and to provide 24 hour access to electronic filing facilities and court documents by parties. In addition to that, live-feed court sessions will be improved to include recording which

together with the electronically filed pleadings will eventually replace manual files. To this end, the Judiciary will collaborate with other stakeholders to ensure that an affordable, efficient and secure system is installed.

In this past year the Judiciary has complemented the aspiration to automated court process and case management, taken the preliminary step of enhancing the capacity of its own staff to use ICT in order to equip them with the skills they will need to use ICT enabled processes to serve Kenyans efficiently. Up to 98 per cent of staff access and use official email addresses and have also been trained on the use of the open source of software, Ubuntu. In Nairobi, 350 have been trained . The ICT Directorate is in the final stages of connecting all court stations though a wide area network and local area network.

The ICT Call Centre and Helpdesk integrate all ICT requests and channel them into a one-stop shop from which users concerns can be channeled to the relevant departments. From incidents to service requests, with the web-based Open Source helpdesk software, no communication is lost and requests are routed automatically to the right service team, ensuring that they are answered quickly. These developments mean that Kenyans will be able to securely and conveniently access court services from any location in Kenya thereby saving them the resources usually applied in physical travelling to courts in order to obtain peripheral services for which attendance is not required by law. In due course the Judiciary aspires to develop an automated case management and performance monitoring system to ease processes, reduce paper work and ensure openness, transparency and convenient user experiences.





Chapter 9

FINANCE AND RESOURCE DEVELOPMENT

9.0 INTRODUCTION

The Constitution of Kenya, 2010 and the Kenya Vision 2030 are the twin national frameworks guiding the country's long-term development agenda. Vision 2030 aims to transform Kenya into a modern, globally competitive, middle-income country providing a high quality of life to all its citizens. The Vision is anchored on three key pillars: Economic, Social and Political. The Political Pillar aims at realizing a democratic political system founded on issue-based politics that respect the rule of law, and protect the fundamental rights and freedoms of every individual in the Kenyan society. In its first Medium Term Plan (2008 – 2012) the strategy aimed at operationalizing the policy, legal and institutional framework vital for fair, affordable and equitable access to justice by 2012 by streamlining the organization of legal and judicial institutions and the professionalization of their personnel.

The framework of the economic agenda is premised on anchoring stability to sustain higher and inclusive growth that opens economic opportunities and provides a better future for all Kenyans. This can only be achieved where there is existence of a well-functioning justice sector which is a precondition for spurring economic growth. In order to achieve the Kenyan aspirations, the overall mandate of the Judiciary, which is "Dispensation of Justice", is being achieved through implementation of the Judiciary Transformation Framework (2012 – 2016).

During the reporting period the resource development and management strategy has been guided by four main principles: seeking more resources from GoK and development partners; maximization of and internal revenue generation potential; improvement of staffing levels and quality of the finance directorate; and establishment of internal accountability systems and procedures.

"The resource development and management strategy has been guided by four main principles: seeking more resources from GOK and development partners; maximization of and internal revenue generation potential; improvement of staffing levels; and establishment of internal accountability systems and procedures."

9.1 Narrative on 2012/13

9.1.1 Staffing

The Judiciary's finance directorate was set up in the last financial year and is in pursuit of developing a robust financial and accounting system. As per pillar number 2 of the Judiciary Transformation Framework (JTF) 2012 - 2016, professional qualified staff have been recruited in order to strengthen and enhance capacity in the accounting and revenue divisions both at the Headquarters as well as at the field. A total of 91 staff were recruited, inducted and deployed in all court stations at the beginning of the 2013/2014 financial year. Regional offices have been established in different areas all over the country to ensure oversight in all accounting units at the stations. Newly recruited officers include Finance Officers, Planning & Budgeting Officers, Accountants and Risk & Systems Auditors. The new staff and integrated structures will ensure value for money, revamping of the planning and budget preparation as well as control of expenditure.

9.1.2 Review of Revenue Performance

The Judiciary's revenue comprises of court fees, fines, forfeitures and other charges. These are paid directly into the treasury accounts as revenue. A resolution by parliament on 14th April

2010, directed that all court fees and other Appropriations-in-Aid received by the Judiciary be transferred directly to treasury accounts beginning in 2011/2012 financial year. Table 1 below gives comparative figures of revenue collections and estimates for the last two financial years, 2011/12 and 2012/13 respectively.

Table 9.0: Revenue Collections and estimates for the 2011/12 and 2012/13 FY

Comparative Year to Year Review of Revenue Collections (2011/12 And 2012/13)					
	2011/12		2012/13		Comparative growth in revenues
	Estimates	Actual collections	Estimates	Actual	
Total Revenues (KSh.)	1,032,000,000	1,078,000,000	1,410,574,516		403,034,392

The table above shows that actual revenue collection improved by 37.4 per cent from the previous financial year. The growth in revenue collections was attributed to collections of fines and charges of heavy traffic offenses' due to amendment of the Traffic Act in the year 2012. Other sources are faster disposal of court cases and improved collection control measures such as direct banking systems and internal controls. On this basis therefore, the Judiciary can project total revenue collections in 2013/14 at a figure beyond the previous estimates.

Table 9.1: Remittances versus Collection (2012/13)

	KSh.
Printed estimates	1,410,574,516.00
Collections and remittances to the exchequer	1,481,034,392.70
Surplus of collections over estimates	70,459,876.70

The Judiciary exceeded and surpassed the revenue estimate in the 2012/2013 financial year by Sh70, 459,876.70.

"The Judiciary actual revenue collection improved by 37.4 per cent from the previous financial year."

Table 9.2: Trends in revenue collection for the past 4 years

Year	2009/10	2010/11	2011/12	2012/13
Actual collection	528,152,403.95	524,246,388.65	1,078,000,000	1,481,034,392.70

There has been an improvement in revenue collection from a low of Sh524 million in 2010/11 to Sh1,078 million in 2011/12 to Sh1,481 million in 2012/13. In other words there has been an improvement from a negative growth of 7% in 2010/11 to a positive growth of 105% and 37.5% in 2011/12 and 2012/13 respectively. The growth in 2011/12 was as a result of the fines collections being included in the revenue for the Judiciary. This was previously collected by the Kenya Revenue Authority.

9.1.3 Deposits and funds held in Trust

The Judiciary held deposits and trust funds amounting to Sh.2,423,705,298.70 in its accounts as at June 30 2013 for all court stations.

Sh. 2,423,705,298.70
Deposits and trust funds

Deposits in the past have been a major financial management concern. Streamlining the management of these deposits and funds held in trust is core to the Judiciary's transparency and accountability agenda, and arrangements are already in place to ensure a robust, efficient and effective deposit management system is in place across the country.

In the interim, the process of refunding deposits has been improved greatly and complaints about delays in payment have reduced. Introduction of the Q-pay system of refunding deposits was rolled out as a pilot in Milimani Law Courts and has helped solve this problem substantially.

Automation and diversification of the revenue and deposits collection systems are in progress and will be rolled out in all court stations when mechanisms are put in place including capacity building and infrastructure development in terms of technology. The case management system was also implemented in Kibera, Milimani and Makadara courts. This is an initiative which will ease revenue collection and management in the Judiciary once rolled out in all court stations.

The Faini chap chap initiative and case management system of revenue collection and management has much reduced the delays in banking queues and faster court case disposal by providing an alternative revenue collection mechanism. The initiative managed to collect revenue amounting to Shs13,037,417.00 between the periods October 2012 and June 30 2013 from both Kibera and Milimani courts.

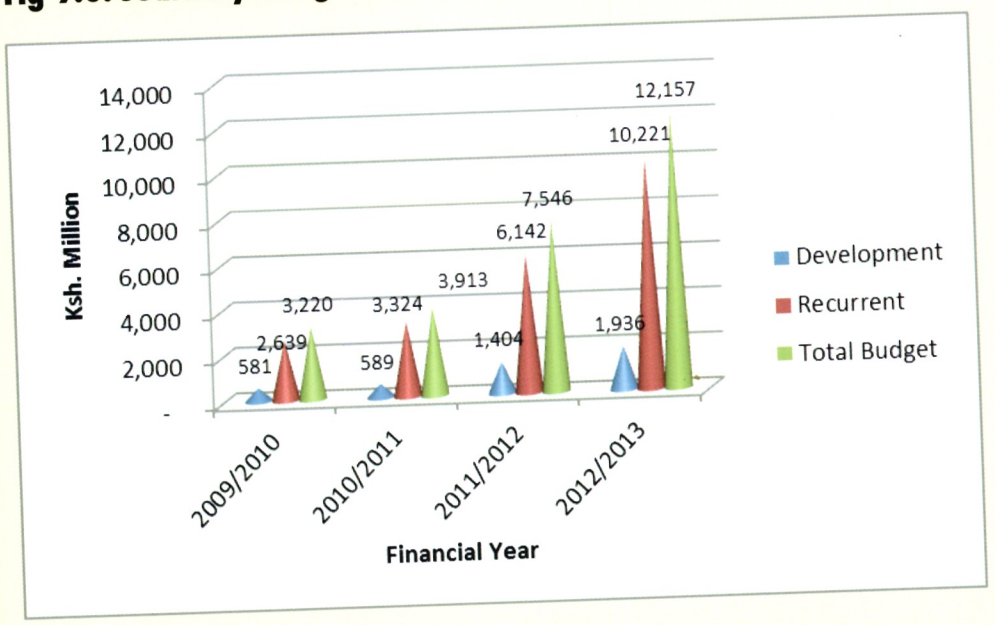
Future plans are underway to automate all revenue units and management in order to reduce and curb against process losses which result due to weak systems and understaffing in most of the courts. This is as envisaged in the JTF (2012-2016) under KRA 10 (harnessing technology as an enabler for justice).

9.2 Overall Financial Review

9.2.1 Review of Budget Allocation for the Past Four Years

During the review period, budget allocations for both Development and Recurrent for the past four financial years have been on an upward trend although not sufficient compared to resource requirements as indicated by the figure below.

Fig 9.0: Judiciary Budget Allocation for the Past Four Years



9.2.2 The Judiciary Budget allocation trends 2009/2010 to 2012/2013

The Judiciary has over the years been grossly underfunded for a long time. Nevertheless, the figure above shows that there has been some improvement. The budget allocation has improved by 21.5%, 92.8% and 61.1% in the 2010/11, 2011/12 and 2012/13 financial years respectively. However, despite this improvement the allocations have continuously fallen short of the requested budget as per the table below which shows that the resource requirements have never been realized.

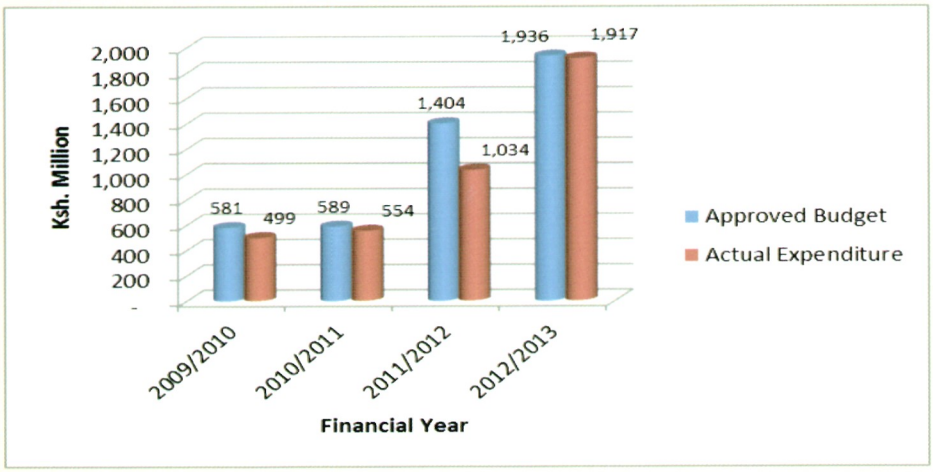
For the past four years allocations, have been below the requirement by 10% for the 2010/11, 5% for the 2011/12, 19% for the 2012/13 and 23% for the 2013/14 financial year. In other words, budget deficit has been deteriorating over time from 5% in 2011/12 to 19% in 2012/13 to a level whereby the current financial year's deficit hit 23%. This has been a major challenge particularly in the implementation of programmes and projects. In addition, persistence inadequate allocation of resources means delays in the achievement of the Vision 2030 particularly goals envisioned in the third pillar and the Judiciary Transformation Framework.

"For the past four years allocations, have been below the requirement by 10% for the 2010/11, 5% for the 2011/12, 19% for the 2012/13 and 23% for the 2013/14 financial year."

Table 9.4: Resource Requirement versus Allocation for the past 4 Years (KSh. Million)

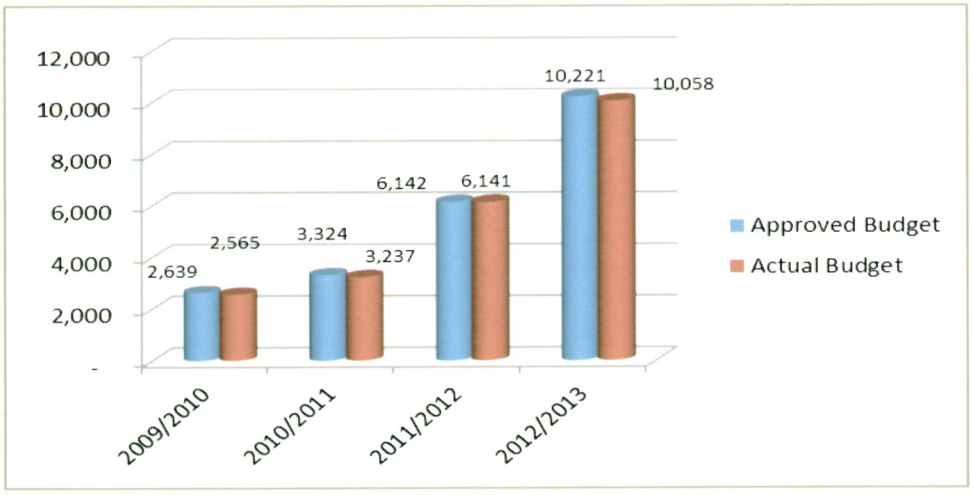
2010/11			2011/12			2012/13			2013/14		
Resource requirement	Allocation	% Resource Allocation	Resource requirement	Allocation	% Resource Allocation	Resource requirement	Allocation	% Resource Allocation	Resource requirement	Allocation	% Resource Allocation
4,148	3,714	90%	4,597	4,371	95%	14,991	12,157	81%	22,075	16,900	77%

Fig 9.1: Development Vote expenses for the Past 4 Financial Years



The actual expenditure on development vote shows that there has been an upward trend from the year 2009/10. The actual expenditures increased by 11%, 86.6% and 85.4% in the 2010/11, 2011/12 and 2012/13 financial years respectively as shown by the figure above.

Fig 9.2: Recurrent Vote expenses for the Past 4 Financial Years



Actual recurrent expenditure has also been on an upward trend since the year 2009/10. The actual expenditures increase by 26.2%, 89.7% and 63.8% in the 2010/11, 2011/12 and 2012/13 financial years respectively as shown by the figure above.

Table 9.5: Expenditure by Programme 2009/10 – 2012/13 (Sh Million)

Year	2009/10			2010/11			2011/12			2012/13		
	Approved Estimates	Actual Estimates	Variance	Approved Estimates	Actual Estimates	Variance	Approved Estimates	Actual Estimates	Variance	Approved Estimates	Actual Estimates	Variance
Access to Justice	1661	1593	68	1570	1503	67	4673	4443	230	7544	7513	31
Judicial services	1559	1471	88	2343	2287	56	2873	2868	5	4613	4448	165
Total Expenditures (Million)	3220	3064	156	3913	3790	123	7546	7311	235	12157	11961	196

The table above reviews expenditure of the two sub-programmes namely, access to justice and judicial services, for the past four years from 2009/10 – 2012/13. The spending record indicates that there has been an upward trend in expenditure with a higher margin on access to justice sub-programme. Specifically, expenditure on access to justice improved tremendously from a negative 9.9 per cent in 2010/11 to a positive 195.6 per cent and to 69.1 per cent in 2011/12 and 2012/13 respectively compared to a gradual increase of 55.5 per cent, 25.4 per cent and 55.1 per cent in 2010/11, 2011/12 and 2012/13 respectively on judicial services sub-programme. This means that in past two years the overall mandate of the Judiciary on dispensation of justice has seriously been taken into consideration. Overall spending increased by 23.7 per cent from 2009/10 to 2010/11, by 92.9 per cent from 2010/11 to 2011/12 and by 63.6 per cent 2011/12 to 2012/13 financial years.

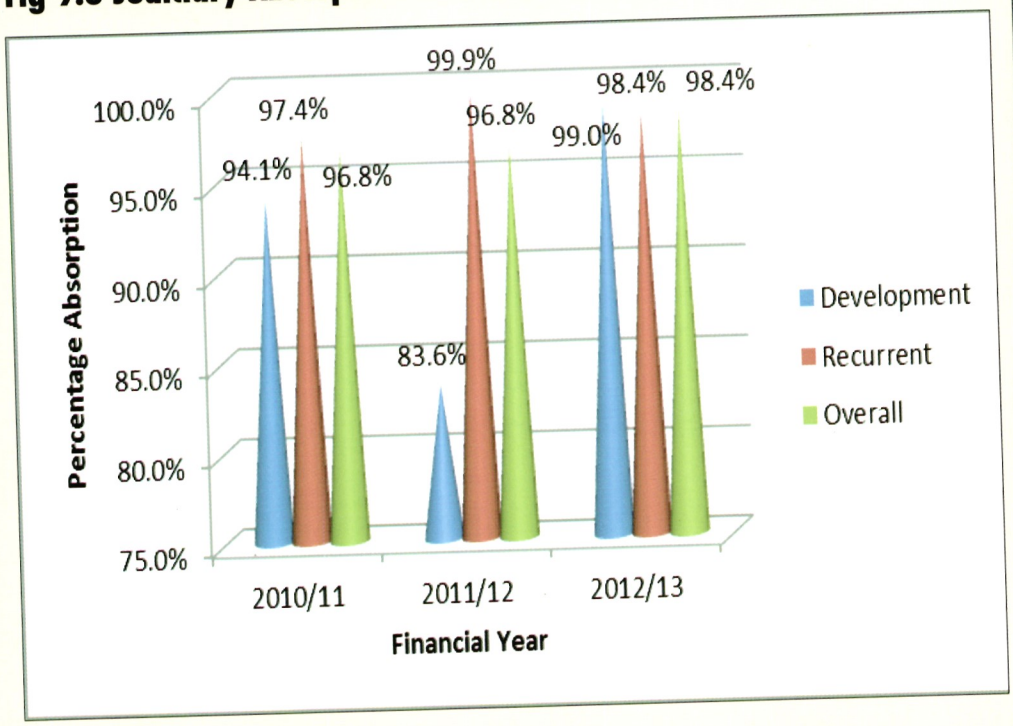
Table 9.6: Programme Implementation per Programme and Sub-programme for the 2012/13 Financial Year

	Approved Estimates 2012/2013 (Ksh. Million)	Actual Expenditure 2012/2013 (Ksh. Million)
Programme: Dispensation of Justice		
Current Expenditure		
Compensation to Employees	5,027	5,023
Use of Goods and Services	4,584	4,398
Grants and Other Transfers	312	307
Acquisition of Non-Financial Assets	298	297
Capital Expenditure		
Acquisition of Non-Financial Assets	1,936	1,936
Total	12,157	11,961
	Approved Estimates 2012/2013 (Ksh. Million)	Actual Expenditure 2012/2013 (Ksh. Million)
Sub-Programme: Access to justice		
Current Expenditure		
Compensation to Employees	4,347	4,347
Use of Goods and Services	972	946
Grants and Other Transfers	289	284

Acquisition of Non-Financial Assets	0	0
Capital Expenditure		
Acquisition of Non-Financial Assets	1936	1936
Total	7,544	7,513
Sub-Programme: Judicial Services		
Compensation to Employees	680	676
Use of Goods and Services	3,612	3,452
Grants and Other Transfers	23	23
Acquisition of Non-Financial Assets	298	297
Capital Expenditure		
Acquisition of Non-Financial Assets	0	0
TOTAL	4,613	4,448

The Judiciary focuses on attracting and retaining qualified professional staff that are aimed at actualizing the transformation and hence delivering its mandate of dispensation of justice. The table above shows that more than 40% of expenditure was used for compensation to employees, 38% on use of goods and services, and 16% on capital expenses in FY 2012/13.

Fig 9.3 Judiciary Absorption of Funds for the previous 4 Years

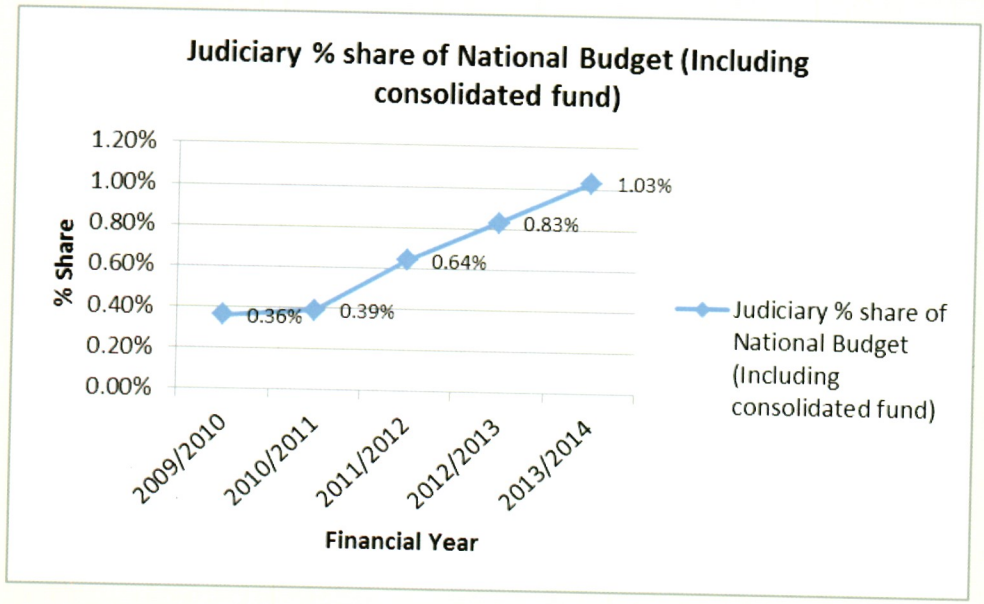


Absorption capacity of the budget has been improving over the review period. Overall absorption has improved from 96.8% in 2010/11 to 98.4% in 2012/13. The absorption capacity on development experienced some fluctuations which were brought about by the need to suspend and review construction procurement process in FY 2011/12 which improved tremendously to 99% in the FY 2012/13.

Table 9.7: National Perspective versus the Judiciary Share of the National Budget (Ksh Million)

Financial Year	The Judiciary Budget	Total National Budget
2009/2010	3,220	887,017
2010/2011	3,913	1,001,168
2011/2012	7,546	1,170,532
2012/2013	12,157	1,459,850
2013/2014	16,900	1,640,900

Fig 9.4 Judiciary Allocation compared to the Total National Budget



Despite the major role played by the Judiciary, the budget allocation compared to the national budget indicates that it has continued to be under funded. The above figure shows that there has been some improvement in allocation since 2009/10 financial year. However, the current allocation is way below the internationally agreed benchmark of 2.5 per cent of the national budget.

Table 9.8: Capital Projects implemented during the 2012/13 financial Year

PROJECT	LOCATION	CONTRACT COST (sh MILLION)	EXPECTED FINAL COST (SH MILLION)	CONTRACT COMPLETION DATE
Kerugoya court	Kerugoya	72	72	complete
Nyeri court	Nyeri	166.4	189	complete
Malindi court	Malindi	285.7	285.7	complete
Kisumu court	Kisumu	221.3	334.5	21.03.2014
Migori court	Migori	31.5	39.3	07.10.2013
Naivasha court	Naivasha	36.8	42.4	complete
Narok court	Narok	20.5	20.5	2013/14

Busia court	Busia	162.7	-	complete
Prefabricated courts	Bomet	81.5	81.5	4.10.2013
Prefabricated courts	Othaya	224	224	Othaya - 31.10.2013
	Marimanti			Marimanti – 1.11.2013
	Wanguru			Wanguru – 4.11.2013
Prefabricated courts	Garsen	299.9	299.9	Garsen – 15.11.2013
	Tawa			Tawa – 22.12.2013
	Runyenjes			Runyenjes – 30.11.2013

9.5 Development Partners Funding

9.5.1 United Nations Development Fund (UNDP)

Section 27 of the Judicial Service Act 2011 allows the Judiciary to receive gifts, grants and donations from donors in support of it objectives. A 3 year financing agreement was signed between the Government of Kenya, Government of Netherlands and the UNDP amounting to the turn of USD 22,965,000 to support the Judiciary Transformation Framework. The three year funding was signed at on June 10, 2013.

The overall objective of the project is to support the Judiciary in realizing the objectives outlined in the JTF. The project purposes to work in two outcome areas: a) People-focused delivery of justice; and b) Strengthened capacity within the Judiciary to deliver on its mandate. Six project outcomes are defined under these outcome areas, corresponding to some KRAs of the JTF: a) Access to and Expeditious Delivery of Justice is Enhanced; b) People-Centeredness and Public Engagement is Improved; c) Stakeholder Engagement is Strengthened; d) Leadership and Management in the Judiciary is Strengthened; e) Growth of Jurisprudence and Judicial Practice Improved; and f) Technology as an Enabler for Justice is Harnessed.

The project outputs under the outcomes are:1) Processes and systems enabling access to court services by citizens including special interest groups developed and deployed; 2) Alternative Dispute Resolution (ADR) mechanisms developed and embedded in law; 3) A comprehensive Judiciary information, education and communication strategy developed and implemented; 4) Public complaints mechanism in the Judiciary strengthened; 5) The National Council for the Administration of Justice is operationalized; 6) Court User Committees operating framework and guidelines implemented; 7) An institutional performance management system informed

by a comprehensive job evaluation established; 8) Capacity for effective coordination of the judiciary transformation strengthened; 9) Capacity of the Judiciary Training Institute on training monitoring and reporting developed; 10) Judicial practices through sharing of information and knowledge is strengthened; 11) A reviewed Judiciary ICT policy and ICT strategy implemented. A number of activities are proposed to contribute to each of the outputs.

9.5.2 Judiciary Performance Improvement Project (JPIP)

Financing agreement for the Judiciary Performance Improvement Project (JPIP), a World Bank support programme, was signed on December 5, 2012. It was declared effective on April 30, 2013. The project amounts to Sh10.5 billion (USD 120 million) and was launched on July 30, 2013. The main objective of the project is to improve the performance of the Judiciary to provide its services in a more effective and accountable manner. The project comprises of four main components, namely: Court Administration and Case Management, Judiciary Training and Staff Development, Court Infrastructure and Project Management.

- Component 1: Court Administration and Case Management component is estimated to cost USD 42.8 million. It comprises of two sub-components. The Court Administration sub-component cost estimate is USD 13.8 million and aims at improving the organizational structure, functions, and culture of the Judiciary for optimum performance and accountability. The Case Management sub-component cost estimate is USD 29 million and aims at promoting access to and the expeditious delivery of judicial services, and assisting the Judiciary in reducing case delays and hence contributing to the effective delivery of justice. The expected key results of the component include: (a) reduction in the average time it takes to dispose of cases in courts adopting the new case management system; (b) use of the Integrated Performance Management and Accountability System (IPMAS) for assessing staff performance; (c) reduction in the backlog of cases; and (d) improved user satisfaction with the delivery of court services in project courts.

- Component 2: Judiciary Training and Staff Development is estimated to cost USD 17.0 million. This component aims at strengthening the administrative and training capacity of the JTI. It will also support the delivery of training in support of the Judiciary's transformation agenda and its expanding workforce. The expected key results are: (a) increased number of Judiciary staff who are satisfied with the knowledge and skills acquired from training; and (b) improved impact of training on personnel trained.

- Component 3: Court Infrastructure is estimated at USD 50.0 million. The project will support the construction of eight High Court buildings, the refurbishment of approximately 30 magistrates' courts, the construction of two magistrate courts and the supply of at least 20 demountable or temporary courts. The expected key results include: (a) reduction in the average distance to courts as a result of constructing new courts; (b) construction of new courts to improve access to courts; and (c) renovation of existing courts to improve quality and access to judicial services.

- Component 4: Project Management is estimated to cost USD 10.2 million. It is meant to assist the Judiciary in managing and coordinating project activities, including environmental and social impacts of the project. It will also build the capacity of Judiciary personnel in procurement, managing financial resources, and monitoring and evaluation. Specifically, the component will: (a) support the function of a Project Management Unit (PMU); (b) finance an Integrated Fiduciary Agent (IFA) responsible for the financial management and procurement functions of the project during the

U$D 120 million

"Judiciary Performance Improvement Project (JPIP), a World Bank support programme, was signed on December 5, 2012."

initial two years of project implementation; (c) support M&E and the collection of data to facilitate impact evaluation, and (d) implement environmental and social safeguard requirements. It will also support development and implementation of an information, education, and communications strategy for the project.

9.5.3 Challenges in the Implementation of the Budget

The Judiciary has continued to experience several challenges in the implementation of its budget. During the period under review the following challenges were experienced, among others:

a) System operation challenges

The Judiciary relies on the Integrated Financial Management Information System (IFMIS) manned by the National Treasury in execution of all its transactions. This means that in case of any fault of the system, the operations within the Judiciary are disrupted hence payments are delayed. Delays in the release of funds have affected the level of implementation of programmes and projects.

b) Inadequate resources

The Judiciary has been grossly underfunded for a long time. The current allocation is way below the internationally agreed benchmark of 2.5% of the national budget as it is currently at 1.18%. Inadequate allocation of resources to support operations and reduction of already approved budget during supplementary budget revision exercises. For instance, the Judiciary's budget was reduced twice in the financial year 2012/13 by the National Treasury during the Supplementary Budget revision exercises conducted in November 2012 and April 2013. Specifically, the amount reduced from the Judiciary's Budget for FY 2012/13 was over KSh. 2.8 billion, thus slowing implementation of core programmes and creating pending bills.

> "The current allocation is way below the internationally agreed benchmark of 2.5% of the national budget as it is currently at 1.18%."

9.6 Supply Chain Management

9.6.1 Introduction

The Directorate of Supply Chain Management is critical in the transparent management of resources and assets at the Judiciary. This has been one of the most underdeveloped directorates in the institution. In this reporting period, a number of initiatives have been undertaken to build the staffing capacity of the institution as well as standardise and regularise its operations. These still are woefully inadequate interventions even though some accelerated measures will be undertaken in the next financial year as discussed here.

In the 2011/2012 State of Judiciary Report, the challenges facing the directorate were highlighted. It lacked a substantive head, suffered a shortage in the number of procurement officers required to carry out its operations, lacked professional supply chain officers and was, therefore, not able to operate at optimum levels of compliance with various laws and regulations. It also lacked a database for unit/standard costs for common user items leading to items being procured at inflated prices. Further, the procurement of goods and services did not match the institutional needs and capacity due to the fact that the demand was supplier-driven rather than being user driven. There was no procurement plan leading to haphazard purchase of goods and services. The Directorate also lacked a structured records management system. It was difficult to trace historical records relating to various procurements that had been undertaken by the Judiciary.

9.6.2 Interventions in 2012/2013

In the 2012/2013 reporting period a number of measures were undertaken to respond to some of these challenges. These are discussed below:

9.6.3 Market surveys to establish a database for standard costs

Market surveys for some of the commonly purchased items such as stationery were conducted to facilitate a comparison when awarding contracts for goods and services and avoid the purchase of goods and services that are not within market rates.

9.6.4 Framework contracts for common and frequently used goods and services

In the financial year 2011-2012, up to 90 per cent of the procurement of goods and services was carried out through the use of quotations. However, due to the inherent risks in the continuous use of quotations for the procurement of goods and services, it is not a viable option in the long term. During the reporting period the Judiciary reduced this to 70 per cent and, at the moment, 30 per cent of the commonly used goods and services are obtained through the use of a framework contract, with majority of the contracts running for a two-year period.

> "In the financial year 2011-2012, up to 90 per cent of the procurement of goods and services was carried out through the use of quotations."

9.6.5 Preparation and implementation of a procurement plan

The procurement plan was meant to guide the procurement operations of the directorate. However, due to lack of sufficient user involvement in its preparation, it was not implemented in full, though it was a starting point. The lessons drawn from the year 2012-2013 in relation to the procurement plan were used to guide the preparation of the procurement plan for the financial year 2013-2014.

9.6.6 Preparation of a contract register

The Judiciary did not have a contract management policy in the financial year 2011-2012. It was not possible to determine how many contracts were running in the Judiciary. However, during this reporting period, the directorate has implemented and maintained a contract register to monitor the number of contracts that had been entered into for the purpose of future planning as well as payment for the goods and services consumed. Though the register was not detailed, it has assisted the directorate in record keeping during the financial year.

The contract register will be refined further by separating the contracts for capital projects from the rest of the contracts for ease of monitoring the progress payments made.

9.6.7 Increase in the number of Supply Chain Officers to Enhance Efficiency of the Directorate

Lack of qualified professionals to run the operations of the Directorate has been a major problem. This year the Judiciary filled the positions of Director and Deputy Director of Supply Chain. Another 32 Supply Chain Officers were recruited to assist in running its operations in various court stations in addition to over 100 storekeepers who were deployed to the various stations. However, to assist in the decentralization efforts, the directorate requires more professional supply chain officers.

9.6.8 Prequalified List of Suppliers

In the financial year 2012-2013, the directorate shortlisted suppliers for the categories listed:

to be done through the use of quotations.

The contract register assisted the directorate in monitoring the number of running contracts that the Judiciary had entered into. However, there is still need for additional data mining of the contracts, especially construction related contracts which need to be monitored in terms of certificates issued and progress payments made. Use of contract management software is one of the options that is being considered to enhance efficiency of contract management.

The list of prequalified suppliers was not adequate to meet the needs of the Judiciary since some categories were not available forcing the directorate to use the prequalified lists of other procurement entities. The absence of a comprehensive asset register for all the court stations is a challenge that will be dealt with conclusively in the next financial year. A complete inventory of assets will be prepared and an asset recovery initiative executed.

> "An asset register for the Judiciary is a major priority during the financial year 2013-2014."

9.7 Road Map for the Financial Year 2013-2014

9.7.1 Preparation of a Comprehensive Asset Register for all the Court Stations

An asset register for the Judiciary is a major priority during the financial year 2013-2014. Currently, the process of carrying out a comprehensive stock take of all the assets in the various court stations in order to create an asset register has commenced. The Directorate will carry out the exercise of compiling the asset register systematically beginning with all the court stations in Nairobi, all the 47 high court stations and then move progressively to the rest of the court stations. This is to ensure that we have milestones which can be used to assess our progress in the next financial year. To enhance accountability of the asset register, the directorate intends to use asset tags in identification of all the assets in the long run.

9.7.2 Prequalification of Suppliers

With the assistance of the various users in the Judiciary, the directorate intends to prequalify new suppliers in the last quarter of the financial year 2013-2014, taking into consideration unique goods and services that might be specific to a particular user. With a well-defined database of prequalified suppliers, the Judiciary will be assured of obtaining quality goods and services from capable suppliers.

9.7.3 Staffing and Decentralisation

The Judiciary will provide additional procurement professionals to run activities of the Directorate, especially in regard to the decentralization efforts that the Directorate will be undertaking.

Decentralization of procurement and disposal functions will be undertaken. Currently, majority of the procurement activities in the local stations are undertaken by the district procurement unit. The Judiciary will de-link the procurement activities from the district procurement unit through the establishment of procurement and disposal committees in all the court stations. This will be in line with the efforts of other Judiciary directorates, in particular directorate of finance, to decentralize their activities from the district treasury.

9.7.4 System Operation Challenges

The Judiciary relies on the Integrated Financial Management Information System (IFMIS) manned

by the National Treasury in execution of all its transactions. This means that in case of any fault of the system, the operations within the Judiciary are disrupted hence payments are delayed. Delays in the release of funds have affected the level of implementation of programmes and projects.

The Judiciary has been grossly underfunded for a long time. The current allocation is way below the internationally acknowledged benchmark of 2.5 per cent of the national budget as it is currently at 1.18 per cent. The inadequate allocation of resources to support operations is firther affected by reduction in already approved budget during supplementary budget revision exercises. For instance, the Judiciary's budget was reduced twice in the financial year 2012/13 by the National Treasury during the Supplementary Budget revision exercises conducted in November 2012 and April 2013. Specifically, the amount reduced from the Judiciary's Budget for FY 2012/13 was over Sh2.8 billion, thus slowing implementation of core programmes and creating pending bills.

The Judiciary requires additional resources to finance its core activities but also to invest in programmes that have been occasioned by the transitional realities of transformation, such as infrastructure and institutional expansion. Orbit institutions such as NCLR and the Auctioneers Licensing Board will require more funding in the next financial year. The massive transition of Tribunals to begin operation under the Judiciary as required by the Constitution will also have huge budgetary implications and will require a substantial increase in allocation of funds to the Judiciary. The Judiciary has taken the view that the Kenyan taxpayer should underwrite the cost of justice and that we need to minimise and eliminate in the long run dependence on donor funding. This would only be made possible if GoK allocation is sufficient.

A functional Judiciary is critical to the enhancement of productivity of a country. This means that spending on the Judiciary is an investment decision both for justice and for the economy.

9.8 Conclusion

In a bid to keep abreast with the Judiciary Transformation Framework, the Judiciary is putting in place measures geared towards best practice in supply chain management, in addition to ensuring adherence to the relevant legislation related to procurement.

The Judiciary aims to enhance its record keeping and contract monitoring activities (especially those related to capital projects) which are essential for the success of the supply chain operations. With adequate staffing and funding, these activities should be embedded into the main operations of the Directorate which will lay the ground for automation of the Directorates' activities. The streamlining of the manual processes will be a key consideration before any ICT systems can be introduced into the directorate.

Based on JSC's experience, review, and investigations radical changes will be undertaken in the Directorate to ensure that operations, policies, and plans are consistent with the statutory requirements and that transparency and accountability are maintained in judiciary contracting.

"The massive transition of Tribunals to begin operation under the Judiciary as required by the Constitution will also have huge budgetary implications and will require a substantial increase in allocation of funds to the Judiciary."

ANNEXTURES

CHAPTER 1

1.1 Tabular reports from the Auctioneers Licensing Board

(I) Licensing

YEAR	FRESH APPLICANTS CLASS A	NUMBER LICENSED	ENHANCED TO CLASS (B)	NUMBER OF LICENSED AUCTIONEERS	
				CLASS A	CLASS B
2012	71	13	3	90	207
2013	70	57 applicants to be interviewed(written) in September session 2013	21 Auctioneers to be interviewed (written) for enhancement in September session 2013	96	200
		41 Applicants to be interviewed (oral) in November 2013 session after passing written interview.	11 class 'A' Auctioneers to be interviewed (oral) for enhancement in November 2013 session after passing written interview		

(II) Status of disciplinary matters before the Auctioneers Licensing Board as at 2nd October 2013

YEAR	CASES BROUGHT FOWARD	NO. OF CASES FILED	TOTAL CASES	NO. OF CASES DETERMINED	PENDING CASES & CARRIED FORWARD	NO. OF SUSPENDED/DISQUALIFIED/REVOKED		
						DISCPLINARY CASES	TOTAL DISCIPLINARY CASES (DETERMINED AND PENDING)	LICENSE
2012	28	47	75	39	33	3	75	4
2013	33	51	84	33	49	2	84	4

(III) Inspection/supervision visits by the Auctioneers Licensing Board

YEAR	DATES	REGION	OBSERVATIONS / CHECK LIST
2012	1. 20th - 24th February	Rift Valley, South Rift and North Rift	➢ State of office ➢ Licence display and when renewed ➢ Stores location and security ➢ Books of accounts kept - ledger books and cashbooks ➢ Bank statements whether they are designated or not ➢ Organization of Staff.
		Coast	
	2. 16th - 19th April	Eastern, North Eastern and Mount Kenya	
	3. 25th - 28th June	Nairobi	
	4. 27th - 31st August	Eastern and part of Nairobi	
	5. 16th - 18th October	Nairobi	
2013	1. 12th - 13th February	Nairobi and Nyahururu	
	2. 16th 17th May		

1.2 : Schedules for Mobile and Traffic Courts during the reporting period.

1.10. (A) Schedule of Mobile Courts

STATION	MOBILE COURT
GARISSA	Dadaab Modogashe Ijara Bangale
KAJIADO*	Loitoktok
KITUI*	Zombe
KABARNET	East Pokot
WANGURU*	Karaba
HOMA BAY*	Mbita
LAMU*	Faza Islands Mpeketoni
MARALAL	Wamba
MARSABIT	Laisamis/Merille
LODWAR	Lokichar Lokitaung
ISIOLO	Merti Archers Post
KAPSABET*	Songhor
GARSEN	Kipini
KIMILILI*	Kapsokwony

*Courts which do not need extra security arrangements (AP officers)

**Being considered for mobile court: Kisanana (under Eldama Ravine)

1.3 High Court Service Charter

SERVICE	REQUIREMENTS	COST (KSHS)	TIME-LINE
File petition for Grants of Administration/ Probate/Resealing of Grant	Petition in the appropriate form Affidavit in support of the Petition Letter from Chief or any authority confirming the Beneficiaries of the deceased estate Guarantors(where necessary) Two sureties(where necessary) Receipt for filing fees Receipt for Government Printers fees (for full Grants) Evidence of ownership of assets (title documents) Consent from adult beneficiaries not applying in cases of Intestate succession More than One (1) Petitioner to apply in the event that the estate comprises of Minors Original Will and Two (2) copies in cases of Testate succession Certified true copy of grant to be related	Between Kshs. 1,250 - Kshs. 3,500 depending on the number of Petitioners applying and the number of documents filed.	1 day
Checklist and place filed Petition before Deputy Registrar for approval	Receipt for filing fees Filed Petition	Nil	1 day
Approval of Petition by Deputy Registrar	Filed Petition	Nil	3 days
Forwarding approved Petitions to the Government Printers for publishing	Draft Gazette Notices	Nil	7 days after approval by Deputy Registrar
Approval of published Petitions by Deputy Registrar	No objections noted	Nil	2 days if no objection after lapse of 30 days

Type Grants of Letters of Administration /Probate	Correctly extracted Grants	Nil	4 days after approval by Deputy Registrar
Signing of Grants of Letters of Administration / Probate	Correctly extracted Grants	Nil	1 day
Notification for collection of signed Grants	Customers to avail their contacts – mobile contacts as well physical addresses for use by the liaison office	Nil	2 days
Confirmation of Grants	Consents of beneficiaries Application for Confirmation Affidavits Consents to mode of distribution and to confirmation	Kshs. 900 - Kshs. 1000/-	6 months after issue of Grants
Hearing date for confirmation of Grants	Duly filed application for Confirmation	Nil	1 day
Type Certificates of Confirmation	Court Order	Nil	2 days after court order 4 days for unrepresented parties
Notification for collection of signed Certificates	Avail contacts	Nil	2 days
Reply to correspondence	Case number File reference dates Subject matter Content	Nil	5 days
Preparation of Cause list	Call over/ listing of matters Case number Parties Coram Advocate	Nil	7 days

Signing of Court Orders and Decrees	Correctly extracted Court Orders (Civil Appeals, Civil Suits, Adoption, Succession Suits) Decrees (Nisi & Absolute)	Kshs. 135 Kshs. 425	1 day
Allocation of Mention and Hearing dates	Case number Parties Advocate	Nil	1 day after making a booking at the enquiries desk
Receiving and Certification of documents	Verification of Court Records Receipts in payment of certification fees	Kshs. 30 per page	2 day
Verifying Petitions	Filed Petition	Nil	1 day
Inform litigants of changes in case allocation	Dates Case number Advocates Parties Customer's contacts	Nil	2 days

1.4 : Commercial & Admiralty Division

SERVICE	REQUIREMENTS	COST (KSHS)	TIME-LINE
Assessment of fees and Registration of cases	Affidavits	Kshs. 75	1 day
	Plaint	Kshs. 1500 - Kshs.70,000	
	List of documents	Kshs. 75	
	Notice of Motion	Kshs. 250-1500	
	Chamber Summons	Kshs. 250-1500	
Bundle of documents	Relevant docs	Kshs. 450	
Annextures	Annextures	Kshs. 10 per annexture	
Winding up Causes	Petition	Kshs. 1875 - Kshs. 2250	
Bankruptcy Causes	Petition	Kshs. 875	
Bankruptcy Notices	Notice & Statement of claim	Kshs. 575	
	Documents attached to the B.N/B.C.	Kshs. 10 per Document	
Bankruptcy Causes & Winding Up Causes attract a mandatory deposit payable to the Registrar General, Office of the Attorney General before filing of the Causes in Court	Receipt from the Registrar General, Office of the Attorney General	Nil	
	Bill of Costs	Kshs. 325	
Misc./Bill of Costs	Chamber Summons /Notice of Motion	Kshs. 1350-Ksh 1480 depending on the number of prayers	
Applications	Notice	Kshs. 950-1350	
Income Tax Notices	Memorandum of Appeal	Kshs. 2250 - Kshs. 2550	
Income Tax Memorandum of Appeal			
Process and issue of Summons	Correctly extracted Summons	Kshs. 50	3 days
Notification of collection of Summons for service	Case number	Nil	5 days
	Parties		
	Advocate		

Extend validity of Summons	Correctly extracted summons	Kshs. 50	1 day
Notify appellant after perusal of Income Tax Appeal file	Case number Parties Advocate	Nil	3 days
Effecting service of Memorandum and Statement of Appeal	Service	Kshs. 150	7 days
15 days' Notice in writing to the parties of date and place for Hearing of the Appeal.	Case number Parties Dates Advocate	Nil	3 days
Notify parties of filing of arbitration award	Case number Parties Advocate	Nil	14 days
Listing of Originating Summons.	Case numbers Case files Parties Advocates Listing of matters	Kshs. 1,500 - Kshs. 70,000	30 days
Process notices of writ of Summons for service in Foreign Country	Case numbers Parties Advocate Service to enter appearance Seek leave from to serve Foreign Country Chamber Summons	Kshs. 250	50 days
Receive document	Stamp receiving date	Nil	1 day
Register cases	Case number	Nil	1 day
Issue receipts	Receipts	Nil	1 day

File retrieval	Case number Parties	Nil	1 day
Diarise Hearing & Mention dates	Diary Dates Advocates Parties	Nil	1 day
Process and issue Winding Up Petitions and Taxation Notices	Correctly extracted Petitions and Taxation Notices	Nil	5 days
List Cases & Appeals for Hearing/Mention	Dates Advocates Parties Case numbers Listing of matters	Nil	1 day
Process & issue Decrees, Orders, Warrants, Notices, N.T.S.C and Certificates	Decrees Witness Summons Warrants(Depending on distance from court) An additional amount dependent on distance Re-issue of Warrant of Arrest & N.T.S.C N.T.S.C Orders Court collection fees Certificate of Costs/Application	Kshs. 225 Kshs. 50 Kshs. 950 (Minimum) Kshs. 300 - Kshs. 1000 Kshs. 450 Kshs. 950 Kshs. 135 Kshs. 1500 Kshs. 175	7 days
Send Notice to the Decree-Holder and his Advocate	Notices	Nil	3 days
List Decrees and issue Notices	Correctly extracted Decrees Notices	Nil	3 days

Prepare a list of all Exhibits	Exhibits	Nil	1 day
Prepare list of witnesses	Names of witnesses & contacts	Nil	1 day
Prepare and issue notices	Dates Advocates Parties Case numbers	Nil	1 day
Type Proceedings & Rulings	Request letter Case number Contents	Deposit of 50% of estimated cost	45 days
Notify parties to collect typed proceedings, Rulings and Judgment	Receipts Case number Parties Advocates	Nil	7 days
Process and issue Certificates of Delay	Court Order	Nil	7 days
Supply photocopies of Court Record	Certified copies	Certified copy Kshs. 60 per page Uncertified copy Kshs. 30 per page	7 days

SERVICE	REQUIREMENTS	COST (KSHS)	TIME-LINE
Dispatch correspondence	Case number File reference date Subject matter Content	Nil	7 days
Issuance of Summons	Summons	Kshs. 50	1 day

Preparation of Warrants, Notices & Decrees	Warrants Notice Decrees	With Nairobi Kshs. 950 Outside Nairobi Kshs. 1450 450 225	2 days
Preparation of Cause list	Case number Case file Parties Advocates	Kshs. 20	7 days
Receive & stamp documents	Stamp receiving date	Nil	1 day
Verification of Pleadings before filing	Correctly prepared Pleadings	Nil	1 day
Issuance of Rulings & Judgments	Correctly extracted Rulings & Judgments	Certified copies Kshs. 60 per page Uncertified copies Kshs. 30 per page	60 days
Verification of Exhibits	Exhibits Registers	Nil	1 day
Notify litigants of changes in case allocation	Date Case file Advocates Parties Contacts	Nil	1 day
Allocation of Hearing dates	Available dates as per court diary	Nil	1 day

SERVICE	REQUIREMENTS	COST (KSHS)	TIME-LINE
Assessment of fees and registration of cases	Affidavits Plaint List of documents Notice of motion Chamber summons Physical and Email Addresses	Kshs. 75 Kshs. 1500-70,000 Kshs. 75 Kshs. 250-1500 Kshs. 250-1500	1 day
Issuance of Summons	Summons	Kshs. 50 per defendant	1 day
Receive & file documents	Requisite documents	Kshs. 75 Kshs. 10 per annexture	1 day
File retrieval	Case number	Nil	1 hour
Perusal of file	Case number	Kshs. 50	1 day
Allocation of Hearing date and Mention date	Compliance with Order 11 CPR	Nil Kshs. 375 (Mentions)	1 day
Allocation of cases	Distribution of files	Nil	1 day
Preparation of Cause list	Case number Case file Parties Advocates	Kshs. 20 per copy	1 day

Hearings	Case number Case file Parties	Nil	Varies from case to depending on the nature, complexity and number of witnesses involved. We guarantee to expedite all hearings and give timely justice
Issuance of Rulings & Judgments	Correctly extracted Rulings & Judgments	Certified copies Kshs. 60 per page Uncertified copies Kshs. 30 per page	60 days
Preparation of Decrees, Orders and Warrants	Decrees Orders Warrants N.T.S.C Payment of further court fees as assessed	Kshs. 225 Kshs. 100-135 Kshs. 525-1250 Kshs. 450-550	2 days
Service of Warrants	Warrants	Within Nairobi Kshs. 300 Outside Nairobi Kshs. 1450	4 days
Notify litigants of changes in case allocation	Date Case file Advocates Parties Contacts	Nil	1 day
Type proceedings, Rulings, Orders and Judgments	Request letter Case number Content Certificate of Delay	Certified copy Kshs. 60 per page Uncertified copy Kshs. 30 per page Kshs. 100	60 days 1 day

Filing Application	Pleadings Statement of inability to pay fees Verifying Affidavit Witnesses (if any)	Nil	2 days
Registration of Appeals	Memorandum of Appeal	Kshs. 800 Rulings Kshs. 1550 Judgments Kshs. 225 for Decrees Kshs. 135 for Orders Kshs. 30 for any extra copy Kshs. 2550 for Appeals from Tribunals	1 day
Checking for Decrees and Orders	Lower Court Record Details of decision Appealed from Case number	NIL	30 days
File retrieval	Appeal number Case number Parties	Nil	1 day
Allocation of Hearing Dates& Mention dates in Civil Appeal matters	Invitation letter Case number Parties Record of Appeal	Nil Kshs. 375 (Mentions)	1 day

Receive and file Record of Appeal	Record of Appeal	Kshs. 75 Kshs. 10 per annexture	1 day
Retrieval of files for perusal	Case Number Case Parties Completion of Civil 50 perusal form	Kshs. 50	1 day
Retrieval of files for taking of Hearing and Mention dates	Formal application	Nil	1 day
Typing of proceedings	Receipt of Formal application	Nil	60 day
Retrieval of Court Registers for perusal	Case Number Year of filing	Nil	1 day
Preparation of dismissal notices under Order 17 Rule 2 (1) &(4) of the CPR	Case file	Nil	1 day
Re-routing of files to other Courts/Divisions	Formal Request	Nil	1 day
Conducting file census at various work stations in the registry.	Case Files	Nil	10 days
Appraisal of Civil case files for purposes of disposal, preservation and or transfer to the National Archives	Case files	Nil	14 days
Forwarding draft Gazette Notices on disposal of court records to the Government Printer	Draft Gazette Notices	Nil	1 day
Communicating disposal authority to court stations	Authorization for disposal	Nil	1 day

SERVICE	REQUIREMENTS	COST (KSHS)	TIME-LINE
Receiving, stamping and filing of documents	Stamp receiving date Filing	Nil	1 day
Request for perusal of files	Case Number	Kshs. 50	1 day
Application for Execution Orders	Preparation of orders	Kshs. 135 per page	1 day
Preparation of cause list	Case Number	Kshs. 50	7 days
Filing Judicial Review	Notice to Registrar Chamber Summons for leave to file Each Order thereon Statement of Facts Verifying Affidavit Annexure Main Notice of Motion	Kshs. 1000 Kshs. 150 Kshs. 75 Kshs. 75 Kshs. 10 each Kshs.6000 per Prayer	1 day
Filing Petitions	Certificate of Urgency Notice of Motion Petition Supporting Affidavit Annexture	Kshs. 75 Kshs. 1,500 Kshs. 6000(Except where exempted under Article 22 of the Constitution) Kshs. 75 Kshs. 10 each	1 day
Receiving, stamping and filing of documents	Stamp receiving date Filing	Nil	1 day
Request for perusal of files	Case number Parties	Kshs.50	1 day

Application for Execution Orders	Preparation of Orders	Kshs. 135 per page	1 day
Preparation of Cause List	Case files Case number Parties Advocate Listing of matters	Kshs. 20	7 days
Allocation of Mention dates	Available date as per the court diary Advocate Parties	Nil	1 day
Dispatch and handling of correspondence	Case number File reference dates Subject matter Content	Nil	7 days
Typing of proceedings	Case number File reference dates Subject matter Content Proceedings Rulings Judgments	Certified copies Kshs. 60 per page Uncertified Kshs. 30 per page	7 days
Issuance of Proceedings	Correctly extracted proceedings	Certified copies Kshs. 60 per page Uncertified Kshs. 30 per page	7 days
Dealing with Complaints	Case number Nature of complainants	Nil	2 days

Informing Litigants of changes in case allocation	Dates case files Advocates Parties	Nil	1 day
	REQUIREMENTS	**COST (KSHS)**	**TIME-LINE**
Registration Assessment A) Appeal	Petition Certified Charge Sheet Certified Copy of Proceedings or Judgment (4 Sets)	Kshs. 500	1 day
B) Misc. Application	Notice Of Motion Orders Affidavit Annextures	Kshs. 300 Kshs. 150 - Kshs. 1500 Kshs. 75 Kshs. 10	1 day
C) Revision	Application	Kshs. 300	
Stamping Documents	Stamp receiving date	Nil	1 day
1st Letters Calling for Lower Court Record	Registration of Appeal	Nil	3 days
Receiving Lower Court Records	Certified 7 Copies of Proceedings	Nil	1 day
Proof Reading Proceedings	Proceedings	Nil	1 day
Merging of Files	Proof Read Lower Court Records High Court File - Petition, Charge Sheet, Proceedings Or Committal Warrant	Nil	1 day
Preparation of Records after Admission	Merged Files	Nil	1 day

Advising Litigants	Case file Case number	Nil	1 day
Plea Registration	information from the Office of the Director of Public Prosecutions Presence of the Accused Person	Nil	1 day
Bond Processing	Bond Title Deed(s) Log Book(s) Copy of Search & Valuation Report Document Verification	Nil	14 days
Proceedings	Proceedings	Certified copies Kshs. 60 per page Uncertified Kshs. 30 per page	14 days
Rulings & Judgments	Correctly extracted Rulings & Judgments	Certified copies Kshs. 60 per page Uncertified Kshs. 30 per page	1 day
Communication	Customers to avail their contacts – mobile contacts as well physical addresses	Nil	1 day
SERVICE	**REQUIREMENTS**	**COST**	**TIMELINE**
Fixing of Dates	Advocate Available Dates as per the Court's Diary	Nil	1 day
Preparation of Signals	Court Orders	Nil	1 day

Bond Processing	Bond Title Deed(s) Log Book(s) Copy of Search & Valuation Report Verification Of Documents	Nil	14 days
Preparation of Release Order	Cash bail Receipt Verified Security Documents	Nil	1 day
Issuance Of Proceedings, Judgment & Ruling	Proceedings Judgments Rulings	Certified copies Kshs. 60 per page Uncertified Kshs. 30 per page	14 days
Issuance of Orders	Formal request	Kshs. 105	1 day
Effecting Services of the Court Orders	Correctly extracted Court Orders	Nil	1 day
Perusal of Court Files	Formal request	Kshs. 50	1 day
Receiving Notice Of Appeal	Notice Of Appeal	Kshs. 200/-	1 day
Call For High Court File & Lower Court File.	Notice Of Appeal	Nil	30 days
Type Proceedings	Notice Of Appeal	Nil	3 days
Proof reading of Proceedings	Notice Of Appeal	Nil	2 days
Preparation of Record	Notice Of Appeal A)First Copy B) Subsequent Copies	Kshs. 10 per page Kshs. 5 per page	4 days

CHAPTER 3

3.1 National Council on Administration of Justice (NCAJ) Membership

MEMBER	INSTITUTION
Chief Justice (as NCAJ Chair) NB: Chief Registrar Judiciary is the NCAJ Secretary	Judiciary
Cabinet Secretary responsible for matters relating to the Judiciary	Ministry of Justice
Attorney-General	State Law Office
Director of Public Prosecutions	Office of the Director of Public Prosecutions
Person responsible for exercising command over the National Police Service	National Police Service
Commissioner of Prisons	Kenya Prisons Service
Principal Secretary responsible for matters relating to Cabinet and the Public Service	Office of the President (Cabinet Office)
Principal Secretary responsible for matters relating to gender, children and women's affairs	Ministry of Gender, Children and Social Development

Principal Secretaries responsible for matters relating to labour, environment and land	Ministry of Labour
	Ministry of Environment and Mineral Resources
	Ministry of Lands
Director of the Witness Protection Agency	Witness Protection Agency
Director of Probation and After Care Services	Probation and After Care Services
NON-STATE ACTORS	
Chairperson of the Law Society of Kenya	Law Society of Kenya
Representative of an organization or association dealing with human rights issues and the provision of legal aid to women	FIDA (Kenya)
Representative of an organization or association dealing with human rights issues and the provision of legal aid to children	The CRADLE – The Children's Foundation
Representative of the private sector	Kenya Private Sector Alliance
Representative of Non-Governmental Organisations dealing with human rights and the provision of legal aid	Kenya Human Rights Commission

CO-OPTED MEMBERS STATE & NON-STATE ACTORS	
Legal Resources Foundation	Executive Director, Legal Resources Foundation
Ministry of Defense	Cabinet Secretary for Defense
Kenya Law Reform Commission	Chair, KLRC
Commission on Administrative Justice	Chair, CAJ
Kenya National Commission of Human Rights	Commissioner, KNCHR
CIC	Commissioner, CIC
Community Service Orders Programme	Chairman, Judge Fred Ochieng
National Council for Law Reporting	Executive Editor
Independent Electoral and Boundaries Commission	Director Legal Affairs, IEBC

CHAPTER 5

5.1. List of Transformation Champions

LIST OF CHANGE CHAMPIONS

	NAME	STATION
	Richard Tamar	Nakuru
	Roselyne Ochieng	Nakuru
	Elphas Baraza	Naivasha

	Njeri Kamau	Engineer
	Patrick Chege	Eldoret
	Lilian Okodoi	Eldoret
	Abraham Chebii	Eldoret
	Caroline Peres Manuango	Molo
	Serena Jemmim Sausen	Kapsabet
	John Lotir	Kitale
	Solomon Langat	Kericho
	Soila Kantai	Kericho
	Anita Hilda	Sotik
	Sammy Ngeno Chemwolo	Bomet
	Philomon Kibet Chesos	Iten
	Anne Birgen	Kabarnet
	Ezra Odhiambo	Eldamaravine
	Grace Lemomo	Narok
	Keneddy Kimiring	Kilgoris
	Jimmy Mbithi Mutua	Kajiado
	Andrew Maiyo	Kapenguria
	Regina Lolochum	Maralal
	Joseph Elimlim	Lodwar
	Joseph Kipruto	Kakuma
	Gladys Muthiora	Nanyuki
	Albert Nyakundi	Nyahururu
	Patrick Muriuki	Mombasa

	Philip Kitula	Mombasa
	William Gari	Tononoka
	Bakari Makundia	Garsen
	Kwekwe Jembe Mekunde	Kaloleni
	Purity Mwakideo	Kilifi
	Richard Warukandia	Voi
	Monica Ndunge	Mariakani
	Penina Wawazi	Wundanyi
	Ramadhan Omar	Shanzu
	Joyce Nyakarura	Taveta
	Regina Ndune	Kwale
	Awadhi S. Hiyesha	Lamu
	Mwaro Benson Baya	Hola
	Rakel Lekembune	Malindi
	Rhwobha Mathew	Malindi
	Edward Kiptanui Chelang'a	Garissa
	Hassan Ali	Garissa
	Shama Chari Guyo	Mandera
	Abdulahi Osman Bidu	Wajir
	Catherine Katuku	Kangundo
	Regina Kagweria Muungania	Chuka
	Beth Ndambiri	Embu
	Charles Karanja	Embu

	Faith Mbinya	Kilungu
	Sarah Nzivu	Kithimani
	Boru Wako	Isiolo
	Benson Muinde	Kitui
	George Miruka	Kitui
	Francis Mulinge	Kyuso
	Bernard Kimondo	Machakos
	Collins Muthiani	Machakos
	Kyalo Mutua Patrick	Makindu
	Concepta Muli	Makueni
	Florence M. Kathuri	Runyenjes
	Rose Wangiri Kiura	Siakago
	Alex Muthengi Makuya	Marimanti
	Felix Ekalot	Marsabit
	Doreen Kageni	Maua
	Khalifa Hindu	Mavoko
	Lewis Njiru	Mavoko
	Charity W. Kimani	Meru
	Oscar Muchiri Kihono	Tawa
	Irene Kanyua Mbaka	Tingania
	Nasibo Abdia Ali	Moyale
	Risper Nzili Mukimwa	Mutomo
	Johnson Mwendwa	Mwingi
	Grace Kathomi Munyua	Nkubu

	Maurice Odudo Oliech	Bondo
	William Mada	Kehancha
	Dorothy Gesare	Keroka
	Moffat Nyambane	Kisii
	Cleophas Ombengu	Kisii
	John Ogendo	Kisumu
	Christal Owino Wandego	Kisumu
	Michael Onyango	Homabay
	Samuel Warume	Nyamira
	Patrick Onkundi	Nyando
	Gordon Okoth	Ogembo
	Tom Maurice Otieno	Oyugis
	Christopher Gwako	Rongo
	Godfrey Kulubi	Maseno
	Violet Bulali	Siaya
	Judith Achieng Ohito	Migori
	Nelson Kibiwot Kenei	Tamu
	Dorothy Nyabonyi	Ukwala
	Dennis Osoro	Ndhiwa
	Stephen Shira Suleiman	Winam
	Nancy Simiyu	Bungoma

	Jophter Enchor Jakait	Bungoma
	George Odhiambo	Busia
	Brenda Wafula	Busia
	Naomi Kadesa	Butere
	Malkia Elizabeth Ouma	Kimilili
	Ronald Langat	Hamisi
	David Muriuki	Kakamega
	Recho Ademba	Kakamega
	Elizabeth Lang'o	Sirisia
	Mark Owaga	Vihiga
	Jane Nanzush	Mumias
	James Kibiti	Webuye
	James Mwangi	JSC
	Ismael Emoleit	Supreme Court
	Anne Rita Murungi	Supreme Court
	Gaudentia Imbundu	Hc. Civil Division
	Pauline Magesha	H.c Criminal Division

	Carolyne Kajuju	H.c Land & Environment Div
	John Njeru Wachira	H.c Constitutional Review & Human Rights Div
	Lilian Maina	H.c Family Division
	Irene Makori	H.c Commercial & Admiralty
	Jane Sekulu	Industiral Court
	Faith Wangeci	Children's Court
	Christine Kanyangi	Makadara Law Courts
	Nancy Chai Mupha	Kibera
	Haggai Luchesi	Kibera
	Emmily Masawa	Milimani Commercial
	Millicent Atieno Awino	City Court
	Salome Nyawira Gichangi	Nyeri
	Edwin Kibuchi	Nyeri
	Charity Nderi	Othaya
	Lydia Wangui Mukunga	Karatina

	Stephen Kanegeni	Mukurweini
	Anne Purity Wambugu	Murang'a
	Lucy Wambui Ngigi	Kangema
	Mbugua Kimochu	Kigumo
	Rose Kanoga	Thika
	Dominic Ayoto	Gatundu
	Margaret Kimotho	Kandara
	John Njoroge Gichuru	Kiambu
	Joan Wawira Ndwiga	Githunguri
	John Karuri	Kikuyu
	Nancy Mburu	Limuru
	Eric Gachomo	Kerugoya
	John K. Gichia	Baricho
	Margaret Gaitho	Gichugu
	Lucy Riungu	Wang'uru
	Tambul Kimursoi	Finance Directorate

	Duncan Odima	ICT Directorate
	Mohammed Fugicha	Hr & Admin Directorate
	Lady Justice Martha Koome	Nyeri
	Paul Rotich	Nairobi
	Mary Anne Murage	Nairobi
	Lucy Gitari	Kisumu
	Susan Shitubi	Kakamega
	Reuben Nyakundi	Nairobi
	Tito Gesora	Kandara
	Samuel Mokua	Eldoret
	Onesmus Nzomo	JTI
	Emily Kimani	
	Kiarie Wa Kiarie	Nairobi
	Caroline Opuka	Nairobi
	Sango Maewa	Nairobi
	Abdirahiman M. Hassan	
	James Ndiege	Kikuyu

	Justice Richard Mwongo	Nairobi
	Justice Grace Ngenye	Nairobi
	Justice Christine Meoli	Malindi
	Justice George Kimondo	Nairobi
	Justice Luka Kimaru	Nairobi
	Justice Stella Mutuku	Nairobi
	Justice Mbogholi Msagha	Nairobi
	Justice H. P. G. Waweru	Nairobi
	Justice Mumbi Ngugi	Nairobi
	Justice Ruth Sitati	Kisii
	Justice Mathews Nduma	Nairobi
	Justice Boaz Olao	Kerugoya
	Justice Lucy Nyambura Gacheru	Nakuru
	Mary Njoki	Nairobi

CHAPTER 9

9.1: Contracts entered into during the financial year 2012-2013

CONTRACT NO.	DETAILS	VALUE OF CONTRACT
JUD/CON/01/2012 - 2013	Provision of Medical Insurance Cover for Members of The Judiciary Between the Judiciary and CIC General Insurance Company	Ksh587,142,780.00
JUD/CON/02/2012 - 2013	Proposed completion works to Kisumu Law Courts W.P. ITEM D26NY/KSM-1101-JOB NO.7304C between the Judiciary and Bomco Building Contractors Limited	Ksh334,486,000.00
JUD/CON/03/2012 - 2013	Provision of Group Personal Accident Insurance Cover Between The Judiciary and Chartis Kenya Insurance Company Limited	Kshs. 21,509,652.00
JUD/CON/06/2012 - 2013	Photocopying, Printing & Scanning Equipment between Judiciary and Express Automation Limited	Ksh5.80, Ksh1.60, Ksh1.16, Ksh1.00, Ksh1.86,Ksh1.40 per page according to the number of pages and the type of machine
JUD/CON/07/2012 - 2013	Photocopying, Printing & Scanning equipment leasing between the Judiciary and Office Technologies Limited	Ksh7.80, Ksh6.50, Ksh6.0,1.40 per page according to the number of pages and the type of machine
JUD/CON/08/2012 - 2013	Photocopying, Printing & Scanning Equipment Leasing between Judiciary and MFI Managed Document Solutions	Ksh1.40 per page
JUD/CON/09/2012 - 2013	Proposed Prefabricated Court buildings at Bomet between the Judiciary and Economic Housing Group Limited	Ksh81,000,000.00

JUD/CON/10/2012 - 2013	Proposed Prefabricated Court Buildings at Othaya, Marimanti and Wang'uru between The Judiciary and Economic Housing Group Limited	Ksh 244,993,740.00
JUD/CON/11/2012 - 2013	Proposed Prefabricated Court buildings at Tawa, Mavoko and Garsen between the Judiciary and Timsales Limited	Ksh299,877,654.40
JUD/CON/13/2012 - 2013	Proposed office fit outs at the Mayfair Insurance Centre for the Judicial Service Commission (JSC) between the Judiciary and Design Corporate Limited	Ksh21,598,516.00
JUD/CON/14/2012 - 2013	Improvement of LANs in Kikuyu and Kibera High Court Buildings between the Judiciary and Attain Enterprises Limited	Ksh73,366,228.00
JUD/CON/15/2012 - 2013	Improvement of LANs in Machakos, Kericho and Kitale High Court Buildings between the Judiciary and Interpay Ltd	Ksh89,970,834
JUD/CON/16/2012 - 2013	Improvement of LANs in Embu, Kisii and Nakuru High Court Buildings between Judiciary and Datawise Technologies (E.A.) Ltd	Ksh98,613,155
JUD/CON.17/2012 - 2013	Improvement of LANs in Nyeri and Meru High Court Buildings between the Judiciary and Novel Technologies Ltd	Ksh72,115,024
JUD/CON/18/2012 - 2013	Improvement of LANs in Kisumu, Kakamega and Garissa High Court Building between the Judiciary and M/s Pluton ICT	Ksh146,895,870

JUD/CON/19/2012 - 2013	Improvement of LANs in JTI and Eldoret High Court buildings between the Judiciary and Streamlan Limited	Ksh77,569,930
JUD/CON/20/2012 - 2013	Improvement of LANs in Bungoma, Makadara and Milimani Commercial High Court buildings between the Judiciary and Technology Source Point Limited	Ksh113,109,512.00
JUD/CON/21/2012 - 2013	Supply and Delivery of a Boat between the Judiciary and Specialized Fibreglass Limited	Ksh 8,188,268.80.00
JUD/CON/22/2012 - 2013	Supply Installation and Commissioning of a Containerized Data Centre between The Judiciary and Dimension Data Solutions Limited	Ksh233,738,148.96
JUD/CON/23/2012 - 2013	Provision of Comprehensive Cleaning Services Between The Judiciary and Jepco Cleaning Services Ltd	Ksh6,941,844.00
JUD/CON/24/2012 - 2013	Provision of Comprehensive Cleaning Services between the Judiciary and Kleansley Hygiene Plus Limited	Ksh27,620,554.80
JUD/CON/25/2012 - 2013	Provision of Comprehensive Cleaning Services between the Judiciary and Robu Cleaning Services Limited	Ksh11,243,316.00
JUD/CON/26/2012 - 2013	Provision of Comprehensive Cleaning between the Judiciary and Victoria Cleaning Services	Ksh13,041,792.00

JUD/CON/27/2012 - 2013	Framework Contract for the Supply and Delivery of Photocopy Paper A4 Between Judiciary and M/s Brandmax Enterprises	Kshs. 299 per ream
JUD/CON/28/2012 - 2013	Improvement of LANs in Malindi High Court building between the Judiciary and MFI Consulting &Technology Limited	Ksh23,864,347.95
JUD/CON/29/2012 - 2013	Provision of Group Life Assurance Scheme for Judges of the Judiciary between the Judiciary and CIC Life Assurance Limited	Ksh8,200,341
JUD/CON/30/2012 - 2013	Proposed Ramps and Press Centre at Milimani High Court between the Judiciary and Tulsi Construction Ltd	Ksh7,983,470.00
	Agreement between the Judiciary and JKUAT Enterprises Limited Consultant for the Provision of Consultancy Services - Design contract Management & construction Supervision for the proposed prefabricated court buildings for the Judiciary	10% of the total cost of works
	Agreement between the Judiciary and JKUAT Enterprises Limited Consultant for the Provision of Consultancy Services - Contract Management & Supervision Of The Completion Works to Narok Law Courts	8.75% of the total cost of works

	Agreement between the Judiciary and JKUAT Enterprises Limited Consultant for the Provision of Consultancy Services – Contract Management & Supervision of the Completion Works to Kisumu Law Courts	10% of the total cost of works
JUD/CON/31/2012 - 2013	Consultancy Services for the Re-Engineering of the Case Management System for the Automation of Election Petitions between The Judiciary of Kenya and M/s Dew CIS Solutions Ltd.	Kshs. 19,010,000.00
JUD/CON/32/2012 - 2013	Framework contract for the supply and delivery of personal computers	Personal computers-79,000.00 per unit Tablet computers-54,000.00 per unit
JUD/CON/33/2012 - 2013	Framework contract for the supply and delivery of laptop computers between M/s Technovy Systems Limited	Ksh72,000.00 per unit
JUD/CON/34/2012 - 2013	Provision of Security Services between the Judiciary and Riley Services Limited	Ksh127500.00 per unit
JUD/CON/40/2012 - 2013	Proposed High Court at Turkana – Main Works between Judiciary and Landmark Holdings Ltd	Ksh814,886,141
JUD/CON/41/2012 - 2013	Proposed High Court at Kapsowar – Main Works between Judiciary and Landmark Holdings Ltd	Ksh691,356,056.00

LIST OF COURT STATIONS, AS OF 30th JUNE 2013

REGION	COUNTY	COURT
Nairobi	Nairobi	Supreme Court
		Court Of Appeal
		Milimani Law Courts
		City Court
		Milimani Commercial Courts
		Makadara Law Courts
		Kibera Law Courts Nairobi Kadhis Court
Nyanza Central	Kisumu	Kisumu Law Courts
		Kisumu Kadhi Courts
		Winam Law Courts
		Kisumu High Courts
		Maseno Law Courts
		Nyando Law Courts
		Tamu Law Courts
	Siaya	Siaya Law Courts
		Bondo Law Courts
		Ukwala Law Courts
	Homa – Bay	Homa-Bay Law Courts

		Oyugis Law Courts
		Ndhiwa Law Courts
South Nyanza	Migori	Migori Law Courts
		Rongo Law Courts
		Kehancha Law Courts

	Kisii	Kisii Law Courts
		Kisii High Courts
		Keroka Law Courts
		Ogembo Law Courts
	Nyamira	Nyamira Law Courts
		Kilgoris Courts
Kakamega	Kakamega	Kakamega Law Courts
		Kakamega High Courts
		Mumias Law Courts
		Butere Law Courts
		Butali Law Courts
	Vihiga	Vihiga Law Courts
		Hamisi Law Courts
Bungoma	Bungoma	Bungoma Law Courts
		Bungoma High Courts
		Bungoma Kadhi Courts

		Webuye Law Courts
		Kimilili Law Courts
		Sirisia Law Courts
	Busia	Busia Law Courts
		Busia High Courts
Central Rift	Nakuru	Nakuru Law Courts
		Nakuru High Courts
		Nakuru Kadhi Courts
		Molo Law Courts
		Eldama-Ravine Law Courts
		Naivasha Law Courts
	Baringo	Kabarnet Law Courts
	Samburu	Maralal Law Courts
	Laikipia	Nanyuki Law Courts
		Nyahururu Law Courts
South Rift	Kericho	Kericho Law Courts
		Kericho High Courts
	Bomet	Sotik Law Courts
		Bomet Law Courts
	Narok	Narok Law Courts Kilgoris Law Courts

	Kajiado	Kajiado Law Courts
North Rift	Turkana	Lodwar Law Courts
		Kakuma Law Courts
	West Pokot	Kapenguria Law Courts
	Uasin Gishu	Eldoret Law Courts
		Eldoret High Courts
		Eldoret Kadhi Courts
	Nandi	Kapsabet Law Courts
	Trans Nzoia	Kitale Law Courts
		Kitale High Courts
	Elgeyo Marakwet	Iten Law Courts
Nyeri	Nyeri	Nyeri Law Courts
		Nyeri High Courts
		Nyeri Kadhi Courts
		Othaya Law Courts
		Karatina Law Courts
		Mukurweini Law Courts
	Kirinyaga	Kerugoya Law Courts
		Baricho Law Courts
		Gichugu Law Courts
		Wang'uru Law Courts

Nyandarua	Muranga	Engineer Law Reports Murang'a Law Courts
		Kangema Law Courts
		Kigumo Law Courts
		Kandara Law Courts
Thika	Kiambu	Thika Law Courts
		Gatundu Law Courts
		Kiambu Law Courts
		Githunguri Law Courts
		Kikuyu Law Courts
		Limuru Law Courts
Central Eastern	Embu	Embu Law Courts
		Embu High Courts
		Runyenjes Law Courts
		Siakago Law Courts
	Meru	Meru Law Courts
		Meru High Courts
		Nkubu Law Courts
		Maua Law Courts
		Tigania Law Courts
	Tharaka - Nithi	Chuka Law Courts

		Marimanti Law Courts
Lower Eastern	Machakos	Machakos Law Courts
		Machakos High Courts
		Kithimani Law Courts
		Kangundo Law Courts Mavoko Law Courts
	Makueni	Tawa Law Courts
		Makueni Law Courts
		Kilungu Law Courts
		Makindu Law Courts
	Kitui	Kitui Law Courts
		Mutomo Law Courts
		Mwingi Law Courts
		Kyuso Law Courts
Upper Eastern	Marsabit	Marsabit Law Courts Moyale Law Courts /Moyale Kadhi
		Marsabit Kadhi Courts
	Isiolo	Isiolo Law Courts
		Isiolo Kadhi Courts
Wajir / Mandera	Wajir	Wajir Law Courts
		Wajir Kadhi Courts

	Mandera	Mandera Law Courts
Garissa	Garissa	Garissa Law Courts
		Garissa Kadhi Courts
South West Coast	Mombasa	Mombasa Law Courts
		Mombasa High Courts
		Mombasa Kadhi Courts Shanzu Law Courts
	Taita Taveta County	Voi Law Courts
		Wundanyi Law Courts
		Taveta Law Courts
	Kwale	Kwale Law Courts
		Kwale Kadhi Courts
North Coast	Kilifi	Malindi Law Courts
		Malindi High Courts
		Malindi Kadhi Courts
		Mariakani Law Courts
		Kaloleni Law Courts
		Kilifi Law Courts
		Garsen Law Courts
	Tana River	Hola Law Courts
		Hola Kadhi Courts

		Lamu Law Courts
	Lamu	Lamu Kadhi Courts

LIST OF JUDGES, 30TH JUNE 2013

CHIEF JUSTICE

Name	Station
Hon. Justice Dr. Willy M. Mutunga	Nairobi (Chief Justice)

DEPUTY CHIEF JUSTICE

Hon. Lady Justice Kalpana Rawal	Nairobi (Deputy Chief Justice)

SUPREME COURT JUDGES

	Hon. Justice Philip K. Tunoi	Nairobi
	Hon. Prof. Justice Jackton Boma Ojwang	Nairobi
	Hon. Justice Mohammed K. Ibrahim	Nairobi
	Hon. Justice Smokin Wanjala	Nairobi
	Hon. Lady Justice Susanna Njoki Ndungu	Nairobi

COURT OF APPEAL JUDGES:-

Hon. Mr. Justice Paul. Kihara Kariuki	Nairobi (President, Court of Appeal)

	Hon. Justice E. M. Githinji	Nairobi
	Hon. Justice Philip NyamuWaki	Nairobi
	Hon. Justice John Walter Onyango Otieno	Kisumu
	Hon. Justice Alnashir Ramazanali Magan Visram	Nyeri
	Hon. Lady Justice Roselyne Nambuye	Nairobi
	Hon. Lady Justice Wanjiru Karanja	Nairobi
	Hon. Lady Justice Martha Karambu Koome	Nyeri
	Hon. Lady Justice Hannah Magondi Okwengu	Malindi
	Hon. Justice David Kenani Maraga	Nairobi

	Hon. Justice John Wycliffe Mwera	Nairobi
	Hon. Justice Mohamed Abdulahi Warsame	Nairobi
	Hon. Justice George B. M. Kariuki	Nairobi
	Hon. Justice Patrick Omwenga Kiage	Nairobi
	Hon. Justice Stephen Gatembu Kairu	Nairobi
	Hon. Justice Kathurima M'Inoti	Nairobi
	Hon. Lady Justice Philomena M. Mwilu	Nairobi
	Hon. Lady Justice Agnes K. Murgor	Nairobi
	Hon. Justice Milton S. A. Makhandia	Malindi
	Hon. Justice William Ouko	Nairobi
	Hon. Justice Daniel Kiio Musinga	Nairobi
	Hon. Lady Justice Fatuma Sichale	Malindi
	Hon. Lady Justice Jamila Mohammed	Nairobi
	Hon. Justice Prof. James Otieno Odek	Nyeri
	Hon. Justice Festus Azangalala	Kisumu
	Hon. Justice Sankale Ole Kantai	Kisumu

HIGH COURT JUDGES

	Name	Station
	Hon. Justice Richard M. Mwongo	Nairobi (Principal Jugde, High Court)
	Hon. Justice A. Mbogholi Msagha	Nairobi (Criminal)

	Hon. Lady Justice Mary A. Ang'awa	Nairobi
	Hon. Justice Hatari Peter George Waweru	Nairobi (Civil)
	Hon. Justice David Onyancha	Nairobi
	Hon. Justice Nicholas Randa Owano Ombija	Nairobi (Criminal)
	Hon. Justice Muga Apondi	Meru
	Hon. Lady Justice Jessie Wanjiku Lesiit	Meru
	Hon. Justice Joseph Kiplagat Sergon	Nyeri
	Hon. Lady Justice Joyce N. Khaminwa	Nairobi
	Hon. Lady Justice Roseline P.V. Wendo	Nakuru
	Mr. Justice George Matatia Abaleka Dulu	Machakos
	Hon. Lady Justice Mary Muhanji Kasango	Mombasa
	Hon. Justice Isack Lenaola	Nairobi (Constitutional)
	Hon. Justice Fredrick Andago Ochieng	Eldoret
	Hon. Justice Luka Kiprotich Kimaru	Nairobi
	Hon. Lady Justice Ruth Nekoye Sitati	Kisii
	Hon. Justice Joseph R. Karanja	Kitale
	Hon. Lady Justice Jeanne Wanjiku Gacheche	Kericho
	Hon. Lady Justice Hellen A. Omondi	Nakuru
	Hon. Mr. Justice Aggrey Otsyula Muchelule	Kisumu
	Hon. Lady Justice Florence Nyaguthii Muchemi	Nairobi (Criminal)
	Hon. Lady Justice Maureen Akinyi Odero	Mombasa
	Hon. Lady Justice Abida Ali - Aroni	Kisumu

	Hon. Justice Said Juma Chitembwe	Kakamega
	Hon. Justice. Prof. Joel Mwaura Ngugi	Director JTI/Head of JTF
	Hon. Lady Justice Grace Mumbi Ngugi	Nairobi (Constitutional)
	Hon. Justice Joseph Mbalu Mutava	Kericho
	Hon. Justice Edward Muthoga Muriithi	Kisii
	Hon. Lady Justice Pauline Nyamweya	Nairobi (Land &Env.)
	Hon. Justice George Kanyi Kimondo	Nairobi (Commercial)
	Hon. Justice David Amilcar Shikomera Majanja	Nairobi (Constitutional)
	Hon. Lady Justice Cecilia Wathaiya Githua	Kerugoya
	Hon. Lady Justice Beatrice Nthiori Thuranira Jaden	Machakos
	Hon. Justice Weldon Kipyegon Korir	Nairobi (Judicial Review)
	Hon. Lady Justice Grace Lidembu Nzioka	Mombasa
	Hon. Lady Justice Christine Wanjiku Meoli	Malindi
	Hon. Lady Justice Hedwig Imbosa Ong'udi	Embu
	Hon. Lady Justice Stella Ngali Mutuku	Garissa
	Hon. Justice James Wakiaga	Nyeri
	Hon. Lady Justice Rose Edwina Atieno Ougo	Nairobi (Civil.)
	Hon. Mr. Justice Erick Kennedy Okumu Ogola	Nairobi (Commercial)
	Hon. Justice George Vincent Odunga	Nairobi (Judicial Review)
	Hon. Justice Jonathan Bowen Havelock	Nairobi (Commercial)
	Hon. Justice Hilary Kiplagat Chemitei	Kisumu
	Hon. Justice James Aaron Makau	Meru

	Hon. Justice Francis Tuiyot	Busia
	Hon. Lady Justice Roseline Cherotich Lagat Korir	Nairobi (Criminal)
	Hon. Justice Alfred Mabeya	Nairobi (Commercial)
	Hon. Lady Justice Lydia Awino Achode	Nairobi (Criminal)
	Hon. Lady Justice Abigail Mshila	Nakuru
	Hon. Justice William Musyoka Muasya	Nairobi (Family)
	Hon. Lady Justice Nancy Jacqueline Njuhi Kamau	Nairobi (Commercial)
	Hon. Justice Ngaah Jairus	Murang'a
	Hon. Justice Francis Muthuku Gikonyo	Bungoma
	Hon. Justice Martin Mati Muya	Mombasa
	Hon. Lady Justice Esther Nyambura Maina	Homa-Bay
	Hon. Lady Justice Lilian Nabwire Mutende	Machakos
	Hon. Lady Justice Grace Wangui Ngenye`	Eldoret

INDUSTRIAL COURT JUDGES

	Hon. Justice Mathews Nderi Nduma	Nairobi (Principal Judge, Industrial Court)
	Hon. Lady Justice Monica Wanjiru Mbaru	Nairobi
	Hon. Justice Marete Njagi	Nairobi
	Hon. Lady Justice Maureen Atieno Onyango	Nairobi
	Hon. Justice Jorum Nelson Abuodha	Nyeri

	Hon. Lady Justice Hellen Seruya Wasilwa	Kisumu
	Hon. Justice Stephen Okiyo Radido	Mombasa
	Hon. Justice James Rika	Nairobi
	Hon. Lady Justice Linnet Ndolo Ngume	Nairobi
	Hon. Justice Onesmus Ndumbuthi Makau	Mombasa
	Hon. Justice Byram Ongaya	Nakuru
	Hon. Justice Nzioki WaMakau	Nairobi

LAND AND ENVIRONMENT COURT JUDGES

	Hon. Lady Justice Anne A. Omollo	Bungoma
	Hon. Justice Oscar Amugo Angote	Malindi
	Hon. Justice John M. Mutungi	Nairobi (Milimani)
	Hon. Justice Nathan Boaz Olao	Kerugoya
	Hon. Justice Antony Oteng'o Ombwayo	Nyeri
	Hon. Justice Antony Kimani Kaniaru	Kisumu
	Hon. Lady Justice Lucy Nyambura Gacheru	Nairobi(Milimani)
	Hon. Lady Justice Lucy Njoki Waithaka	Nakuru
	Hon. Justice Peter Muchoki Njoroge	Meru
	Hon. Justice Stephen Murigi Kibunja	Busia
	Hon. Justice Samuel Ndungu Mukunya	Mombasa
	Hon. Justice Samson Odhiambo Okong'o	Kisii
	Hon. Justice Munyao Silas	Eldoret

	Hon. Lady Justice Mary Muthoni Gitumbi	Nairobi
	Hon. Justice Elijah Ogoti Obaga	Kitale

CHIEF REGISTRAR OF THE JUDICIARY

Name	Station
Mrs Gladys Boss Shollei	Nairobi

DEPUTY CHIEF REGISTRAR OF THE JUDICIARY

Name	Station
Mr. Francis Kakai Kissinger	Nairobi

LIST OF MAGISTRATES/ NAIROBI PROVINCE

REGISTRAR - SUPREME COURT

Esther Nyaiyaki

DEPUTY REGISTRARS – SUPREME COURT

Hon. Lucy Njora - Principal Magistrate
Anne Asugah

REGISTRAR – COURT OF APPEAL

Hon. Moses K. Serem - Senior Principal Magistrate

DEPUTY REGISTRAR – COURT OF APPEAL

Hon. Paul K. Rotich - Principal Magistrate

REGISTRAR – HIGH COURT

Hon. Judith Ragot - Senior Principal Magistrate

REGISTRAR MAGISTRATES' COURTS

Hon. Peter M. Mulwa	-	Senior Principal Magistrate

ASSISTANT REGISTRARS – MAGISTRATES' COURTS

Hon. Kennedy L. Kandet	-	Principal Magistrate
Hon. Caroline Kabucho	-	Principal Magistrate
Hon. Barbara Ojoo	-	Ag. Senior Principal Magistrate

DEPUTY REGISTRAR/OMBUDSPERSON - CHIEF JUSTICE CHAMBERS

Hon. Kennedy Bidali	-	Senior Principal Magistrate
Hon. Daisy Jepkemboi Mosse	-	Resident Magistrate

REGISTRAR JUDICIAL SERVICE COMMISSION

Hon. Wilfrida Mokaya	-	Senior Principal Magistrate

AG. REGISTRAR JUDICIAL SERVICE COMMISSION

Hon. John Tamar	-	Ag. Principal Magistrate

COMMUNITY SERVICE ORDERS

Hon. Lawrence N. Mugambi	-	Senior Principal Magistrate

JUDICIARY TRAINING INSTITUTE

Hon. Julie Oseko	-	Senior Principal Magistrate

JUDICIARY TRANSFORMATION SECRETARIAT

Hon. Angela Njeri Thuku	-	Senior Resident Magistrate

MILIMANI LAW COURTS

Hon. Jacob ole Kipury	-	Chief Magistrate - DR HC CA
Hon. Reuben Nyakundi	-	Chief Magistrate – DR HC COM & ADM – Dismissals
Hon. Kiarie Waweru Kiarie	-	Chief Magistrate- Court 1
Hon. Antony Ndungu	-	Chief Magistrate – DR HC Civil
Hon. Asenath Ongeri	-	Chief Magistrate – DR Const. & Judicial Rev
Hon. Evans Makori	-	Magistrate – DR Ag. Chief Land & Env Div
Hon. Lucy Mutai	-	Ag. Chief Magistrate – DR HC Family Div
Hon. Dominica Nyambu	-	Senior Principal Magistrate – DR HC COM & ADM
Hon. Doreen Mulekyo	-	Ag. Chief Magistrate/ Anti Corrupt Court
Hon. Dolphine Okundi	-	Ag. Chief Magistrate/Anti Corrupt. Court
Hon. Lucy Mbugua	-	Senior Principal Magistrate
Hon. Enock Cherono	-	Senior Principal Magistrate i/c Traffic to report on 17th June, 2013
Hon. Alex Ithuku	-	Ag. Senior Principal Magistrate –DR HC Criminal
Hon. Peter Ndwiga	-	Ag. Senior Principal Magistrate

Hon. Elena Gathoni Nderitu	-	Ag. Senior Principal Magistrate
Hon. Carolyne Ocharo	-	Principal Magistrate – Children Ct I/C
Hon. Joseph Karanja	-	Principal Magistrate
Hon. Ase Meresia Opondo	-	Ag. Principal Magistrate
Hon. Anthony K. Mwicigi	-	Ag. Principal Magistrate – Children Ct
Hon. Derrick Khaemba Kuto	-	Ag. Senior Resident Magistrate - Children Ct
Hon. Faith K. Munyi	-	Ag. Principal Magistrate
Hon. Kiema Maxwell Katiwa	-	Resident Magistrate – medical leave
Hon. Agande Savai Eddah	-	Resident Magistrate
Hon. Gilbert Omuyaku Shikwe	-	Resident Magistrate
Hon. Ziporah Wawira Gichana	-	Resident Magistrate – Children Ct
Hon. Eunice Cherotich Kimaiyo	-	Resident Magistrate – Land & Env. Division
Hon. Fatuma Mwanza Rashid	-	Resident Magistrate – Civil Division
Hon. Jane Kemunto Ocharo	-	Resident Magistrate – Civil Division
Hon. Isabela Nekesa Barasa	-	Resident Magistrate - Family Division

CITY COURT

Hon. Theresa Murigi	-	Senior Principal Magistrate
Hon. Omido Joe Mkutu	-	Ag. Principal Magistrate
Hon. Karumbu Margaret Wangare	-	Resident Magistrate
Hon. Muchege Gerald Gitonga	-	Resident Magistrate

MILIMANI COMMERCIAL COURT

Hon. Mary Anne Murage	-	Chief Magistrate
Hon. Roselyne Oganyo	-	Senior Principal Magistrate
Hon. Charles Obulutsa	-	Ag. Chief Magistrate
Hon. Francis Andayi	-	Senior Principal Magistrate
Hon. Mary G. Chepseba	-	Senior Principal Magistrate
Hon. Abdulgadir Ramadhani	-	Ag. Senior Principal Magistrate
Hon. Stella Atambo	-	Principal Magistrate
Hon. Daniel Ole Keiwa	-	Principal Magistrate
Hon. Victor Ndururu	-	Principal Magistrate
Hon. Lilian Arika	-	Ag. Senior Principal Magistrate
Hon. Timothy Nchoe Sironka	-	Ag. Senior Resident Magistrate
Hon. Charity Cheruto Kipkorir	-	Resident Magistrate
Hon. Leah Wandia Kabaria	-	Resident Magistrate
Hon. Moses Wanyonyi Wanjala	-	Resident Magistrate
Hon. Irene Wangui Gichobi	-	Resident Magistrate
Hon. Sheikh A. Omar	-	Senior Kadhi

MAKADARA LAW COURTS

Hon. Timothy O. Okello	-	Senior Principal Magistrate
Hon. Rose A. A. Otieno	-	Senior Principal Magistrate
Hon. Eunice Kagure Nyutu	-	Ag. Principal Magistrate
Hon. Nyongesa E. Nafula	-	Ag. Senior Resident Magistrate
Hon. Linda Chebichii Kosgei	-	Resident Magistrate
Hon. Macharia Wambui Alice	-	Resident Magistrate
Hon. William Otieno Oketch	-	Resident Magistrate

KIBERA LAW COURTS

Hon. Emily Ominde	-	Chief Magistrate
Hon. Judith Wanjala	-	Chief Magistrate
Hon. Daniel Ochenja	-	Ag. Chief Magistrate
Hon. Elizabeth Nyarangi Juma	-	Ag. Senior Principal Magistrate
Hon. Lucas O. Onyina	-	Ag. Senior Principal Magistrate
Hon. Letizia M. Wachira	-	Principal Magistrate
Hon. Mwangi Anges Wahito	-	Ag. Senior Resident Magistrate
Hon. Opande Sammy Aswani	-	Ag. Senior Resident Magistrate
Hon. Tom Mark Olando	-	Resident Magistrate
Hon. Ondiek Charles Nchore	-	Resident Magistrate
Hon. Ishaq Abduljabar Hussein	-	Kadhi II

NYANZA PROVINCE:

KISUMU LAW COURTS

Hon. Lucy Gitari	-	Chief Magistrate
Hon. Samuel Atonga	-	Ag. Senior Principal Magistrate
Hon. Shinyanda Phylis Lusuah	-	Ag. Principal Magistrate
Hon. Obina Ezekiel Angaga	-	Ag. Principal Magistrate
Hon. Thomas Obutu Atanga	-	Principal Magistrate
Hon. Adika Harrison Musa Sajide	-	Ag. Senior Resident Magistrate
Hon. Jared Owino Sala	-	Resident Magistrate
Hon. Sukyan Omar	-	Principal Kadhi

WINAM LAW COURTS

Hon. Calestous Sindani Nambafu	-	Ag. Principal Magistrate
Hon. Waigera Leah Njambi	-	Ag. Senior Resident Magistrate

MASENO LAW COURTS

Hon. Rwito Angelo Kithinji	-	Ag. Senior Principal Magistrate
Hon. Ongondo James Ongondo	-	Ag. Principal Magistrate
Hon. Millicent Chepkurui Nyigei	-	Resident Magistrate

SIAYA LAW COURTS

Hon. Bernard Ochoi	-	Ag. Senior Principal Magistrate
Hon. Sani Jared Nyangena	-	Ag. Senior Resident Magistrate
Hon. Simon Kimani Mburu	-	Resident Magistrate

BONDO LAW COURTS

Hon. Philip Mutua	-	Principal Magistrate
Hon. Makokha Margaret Nafula	-	Ag. Senior Resident Magistrate
Hon. Kipyegon Bernard Rugut	-	Resident Magistrate

UKWALA LAW COURTS

Hon. Robert M. Oanda	-	Ag. Principal Magistrate

NYANDO LAW COURTS

Hon. Dorah Chepkwony	-	Senior Principal Magistrate
Hon. Matata Kimutai Bethwel	-	Ag. Senior Resident Magistrate
Hon. Paul Matanda Wechuli	-	Resident Magistrate

TAMU LAW COURTS

Hon. Kutwa Ariba Charles	-	Ag. Principal Magistrate
Hon. Maureen Cherono Nyigei	-	Resident Magistrate

HOMA-BAY LAW COURTS

Hon. Patricia Gichohi	-	Chief Magistrate
Hon. Samson Ongeri Omwenga	-	Ag. Principal Magistrate
Hon. Mayova Paul Mutia	-	Ag. Senior Resident Magistrate
Hon. Nelly Wangechi Kariuki	-	Resident Magistrate

NDHIWA LAW COURTS

Hon. Omwansa Obae Bernard	-	Ag. Principal Magistrate
Hon. Nelly Chepchirchir	-	Resident Magistrate

MIGORI LAW COURTS

Hon. David Kemei	-	Senior Principal Magistrate
Hon. Edwin Nyaga Muriuki	-	Ag. Principal Magistrate
Hon. Kulecho Yiswa Phoebe	-	Resident Magistrate
Hon. Adan Ibrahim Tullu	-	Kadhi II

RONGO LAW COURTS

Hon. Joseph N. Nyakundi	-	Ag. Senior Principal Magistrate
Hon. Koskey Purity Chepkorir	-	Ag. Senior Resident Magistrate

OYUGIS LAW COURTS

Hon. G.M.A. Ong'ondo	-	Ag. Chief Magistrate
Hon. Wesonga Joy Shiundu	-	Ag. Senior Resident Magistrate
Hon. Makila Symphie Nekesa	-	Resident Magistrate
Hon. Lawrence Kyasya Mwendwa	-	Resident Magistrate

KISII LAW COURTS

Hon. Anne C. Onginjo	-	Chief Magistrate
Hon. Samuel Kibet	-	Principal Magistrate
Hon. Gilbert K. Too	-	Senior Resident Magistrate
Hon. Ruth B. Nabwire Maloba	-	Ag. Principal Magistrate
Hon. Lucy Chebet Kaittany	-	Ag. Senior Resident Magistrate
Hon. Vincent Mugendi Nyaga	-	Resident Magistrate

NYAMIRA LAW COURTS

Hon. John N. Muniu	-	Ag. Chief Magistrate
Hon. Nicholas N. Njagi	-	Principal Magistrate
Hon. Joseph Were	-	Senior Resident Magistrate (study leave)
Hon. Nobert Obunde Okumu	-	Resident Magistrate

OGEMBO LAW COURTS

Hon. Daniel Ogola Ogembo	-	Ag. Chief Magistrate
Hon. Naomi Wairimu	-	Ag. Principal Magistrate
Hon. Caroline Rose Tabuche Ateya	-	Resident Magistrate

KEROKA LAW COURTS

Hon. James Macharia Muriuki	-	Ag. Principal Magistrate
Hon. Kimeto Joselyn Rino	-	Resident Magistrate

KEHANCHA LAW COURTS

Hon. Peter Ndege	-	Ag. Principal Magistrate
Hon. Charles Mwaniki Kamau	-	Ag. Senior Resident Magistrate

WESTERN PROVINCE:

KAKAMEGA LAW COURTS

Hon. Susan M. Shitubi	-	Chief Magistrate
Hon. Mary Immaculate Gwaro	-	Principal Magistrate
Hon. Pamela Achieng	-	Ag. Principal Magistrate
Hon. Kendagor Jepyegen Caroline	-	Ag. Senior Resident Magistrate
Hon. Felix Makoyo Omweri	-	Resident Magistrate
Hon. Dennis Onyango Ogal	-	Resident Magistrate
Hon. Mursal Mohamed Sizi	-	Kadhi II

MUMIAS LAW COURTS

Hon. Lily M. Nafula	-	Senior Principal Magistrate
Hon. Hazel Wandere	-	Principal Magistrate
Hon. Nasike G. Sitati	-	Resident Magistrate

BUTERE LAW COURTS

Hon. Olwande Everlyne S.A.	-	Ag. Senior Principal Magistrate
Hon. Kiniale Lilian Nafula	-	Ag. Senior Resident Magistrate

BUTALI LAW COURTS

Hon. Maureen Lambisia Nabibya	-	Ag. Senior Resident Magistrate
Hon. Peter Bunde Miser	-	Resident Magistrate

VIHIGA LAW COURTS

Hon. Grace Mmasi	-	Ag. Senior Principal Magistrate
Hon. Benson N. Ireri	-	Ag. Principal Magistrate
Hon. Mwangi Susan Njeri	-	Ag. Senior Resident Magistrate

HAMISI LAW COURTS

Hon. Julius K. Ng'arng'ar	-	Senior Principal Magistrate
Hon. Muleka W.Evans	-	Ag. Senior Resident Magistrate

BUNGOMA LAW COURTS

Hon. Rachel Ngetich	-	Ag. Chief Magistrate
Hon. Margaret Wambani Onditi	-	Senior Principal Magistrate
Hon. Benjamin A. Mitullah	-	Principal Magistrate
Hon. Peter Nyagaka Areri	-	Ag. Principal Magistrate

Hon. Martha Awidhi Agutu	-	Resident Magistrate
Hon. Sebastian G.O. Ratori	-	Kadhi I

WEBUYE LAW COURTS

Hon. Esther Kimilu	-	Ag. Principal Magistrate (to report on 16th June)
Hon. Abuya Nabwire Stella	-	Ag. Principal Magistrate

KIMILILI LAW COURTS

Hon. George Rachemi Sagero	-	Ag. Principal Magistrate
Hon. Nanzushi Anyona Martha	-	Ag. Senior Resident Magistrate

SIRISIA LAW COURTS

Hon. Christopher L. Yalwala	-	Ag. Principal Magistrate (temporary upto August, 2013 from BUNGOMA)
Hon. Nyagol Judith Achieng	-	Resident Magistrate

BUSIA LAW COURTS

Hon. Tripsisa Wamae	-	Chief Magistrate
Hon. Innocent Toyo Maisiba	-	Ag. Principal Magistrate
Hon. Mildred Munyekenye	-	Senior Resident Magistrate
Hon. Josephine Nyatuga Maragia	-	Resident Magistrate
Hon. Christabel Irene Agutu	-	Resident Magistrate

RIFT VALLEY PROVINCE:

NAKURU LAW COURTS

Hon. Samuel M. Mungai	-	Chief Magistrate
Hon. Loise C. Komingoi	-	Senior Principal Magistrate
Hon. Felix Kombo	-	Ag. Senior Principal Magistrate
Hon. James N. Mwaniki	-	Principal Magistrate
Hon. Nthuku Judicaster Nthambi	-	Ag. Senior Resident Magistrate
Hon. Aganyo Rosaline Adhiambo	-	Resident Magistrate
Hon. Amwayi Ritah Mukungu	-	Resident Magistrate
Hon. Mary Anjao Otindo	-	Resident Magistrate
Hon. Victoria Achieng Ochanda	-	Resident Magistrate
Hon. Talib B. Mohammed	-	Kadhi I

NAIVASHA LAW COURTS

Hon. Stephen M. Githinji	-	Chief Magistrate
Hon. Esther Boke	-	Principal Magistrate
Hon. Selina Nelima Muchungi	-	Resident Magistrate
Hon. Electer Akoth Riany	-	Resident Magistrate

ENGINEER COURT

Hon. Mutegi Martin Kinyua	-	Ag. Senior Resident Magistrate

MOLO LAW COURTS

Hon. Heston N. Nyaga	-	Senior Principal Magistrate
Hon. Towett Chemosop Alice	-	Ag. Senior Resident Magistrate
Hon. Hannah Wamuyu Wanderi	-	Resident Magistrate

ELDORET LAW COURTS

Hon. Charles C. Mbogo	-	Chief Magistrate
Hon. Samuel M. Mokua	-	Senior Principal Magistrate
Hon. Dolphina A. A. Kayila	-	Principal Magistrate
Hon. Francis N. Kyambia	-	Principal Magistrate
Hon. Elizabeth Chepkoech Tanui	-	Ag. Principal Magistrate (DR)
Hon. Mary Wanja Njagi	-	Senior Resident Magistrate
Hon. Bernard Kasavuli	-	Ag. Senior Resident Magistrate
Hon. Caroline Mutenyo Watimmah	-	Resident Magistrate
Hon. Bartoo Jerop Brenda	-	Resident Magistrate
Hon. Zaharani Omar	-	Kadhi I

KAPSABET LAW COURT COURTS

Hon. Beatrice M. Mosiria	-	Principal Magistrate
Hon. Adhiambo Gladys	-	Ag. Senior Resident Magistrate
Hon. Limo Byson Benjamin	-	Resident Magistrate

KITALE LAW COURTS

Hon. Maxwell Gicheru	-	Chief Magistrate
Hon. Julius Makut Nangea	-	Senior Principal Magistrate
Hon. Jacinta Atieno Orwa	-	Ag. Principal Magistrate
Hon. Solomon K. Ngetich	-	Ag. Senior Resident Magistrate
Hon. Kirugumi Grace Wangui	-	Resident Magistrate
Hon. Peter Wabomba Wasike	-	Resident Magistrate
Hon. Habib Salim Vumbi	-	Kadhi II

KERICHO LAW COURTS

Hon. Patrick Wandera	-	Chief Magistrate - Study leave
Hon. Samuel Soita	-	Ag. Chief Magistrate
Hon. Wilson Kaberia	-	Ag. Senior Principal Magistrate
Hon. Joseph Ndururi	-	Principal Magistrate
Hon. Maureen Iberia Shimenga	-	Resident Magistrate

SOTIK LAW COURTS

Hon. Mathias Okuche	-	Ag. Principal Magistrate
Hon. Kasam Juliet Atema	-	Ag. Senior Resident Magistrate
Hon. Nancy Nang'uni Barasa	-	Resident Magistrate

BOMET LAW COURTS

Hon. Jacinta Dibondo Kwena	-	Senior Principal Magistrate
Hon. Karanja Virginia	-	Ag. Senior Resident Magistrate

ITEN LAW COURTS

Hon. Ndombi Mugeni Rose	-	Ag. Senior Resident Magistrate
Hon. Nicodemus Nyamwega Moseti	-	Resident Magistrate

KABARNET LAW COURTS

Hon. Samson. O. Temu	-	Ag. Principal Magistrate
Hon. Bett Evanson	-	Ag. Senior Resident Magistrate

ELDAMA-RAVINE LAW COURTS

Hon. Margaret A. Kasera	-	Ag. Senior Principal Magistrate
Hon. Ochieng' Melanie Celestine Awino	-	Ag. Senior Resident Magistrate
Hon. Jackson Obuya Omwange	-	Resident Magistrate

NAROK LAW COURTS

Hon. Ms. Celesa Asis Okore	-	Ag. Principal Magistrate
Hon. Temba A. Sitati	-	Ag. Senior Resident Magistrate
Hon. Zainab Abdul Rahaman	-	Resident Magistrate

KILGORIS LAW COURTS

Hon. Bernard O. Ochieng	-	Ag. Senior Principal Magistrate
Hon. Mokoross Amos Kiprop	-	Ag. Senior Resident Magistrate
Hon. Monica Nasiche Munyendo	-	Resident Magistrate

KAJIADO LAW COURTS

Hon. Patrick Olengo Adol	-	Principal Magistrate
Hon. Akala Mary Ashisero	-	Ag. Senior Resident Magistrate
Hon. Evans Ayiema Mbicha	-	Resident Magistrate
Hon. Kunyuk John Tito	-	Kadhi II

KAPENGURIA LAW COURTS

Hon. Ronaldine Mocho Washika	-	Ag. Principal Magistrate
Hon. Martin Maina Wachira	-	Resident Magistrate

MARALAL LAW COURTS

Hon. Charles N. Ndegwa	-	Ag. Senior Principal Magistrate
Hon. Khapoya Benson Sikuku	-	Ag. Senior Resident Magistrate

LODWAR LAW COURTS

Hon. Edwin K. Mwaita	-	Principal Magistrate
Hon. Harrison Barasa Omwima	-	Ag. Principal Magistrate
Hon. Khamis Ramadhani	-	Kadhi II

KAKUMA LAW COURTS

Hon. Edwin Wasike Nyongesa	-	Resident Magistrate

NANYUKI LAW COURTS

Hon. Jesse Njagi Nyaga	-	Chief Magistrate
Hon. Theresa Bosibori Nyangena	-	Ag. Principal Magistrate
Hon. Kiptoon Vincent Kibichi	-	Ag. Senior Resident Magistrate

NYAHURURU LAW COURTS

Hon. Mr. William Chepseba	-	Ag. Chief Magistrate
Hon. Denis Mikoyan	-	Ag. Senior Principal Magistrate
Hon. Peter Omuyele Muholi	-	Resident Magistrate

CENTRAL PROVINCE:

NYERI LAW COURTS

Hon. Wilbrodha Juma	-	Chief Magistrate
Hon. Clarence Otieno	-	Ag. Principal Magistrate
Hon. Joane N. Wambilyanga	-	Senior Resident Magistrate
Hon. Mulongo Christine Wekesa	-	Ag. Senior Resident Magistrate
Hon. John Ochoe Aringo	-	Resident Magistrate
Hon. Vincent Obondi Nyakundi	-	Resident Magistrate
Hon. Kutwaa Mohammed Abdalla	-	Kadhi I

OTHAYA LAW COURTS

Hon. Macharia Florence Wangari	-	Principal Magistrate
Hon. Reymond Kibet Langat	-	Resident Magistrate

KARATINA LAW COURTS

Hon. Daniel M. Ngalu	-	Ag. Principal Magistrate
Hon. Onkwani Hellen	-	Ag. Senior Resident Magistrate

MUKURWEINI LAW COURTS

Hon. Wendy K. Micheni	-	Senior Principal Magistrate
Hon. Murage Margaret Wanjeri	-	Ag. Senior Resident Magistrate

MURANG'A LAW COURTS

Hon. Bildad Ochieng	-	Ag. Chief Magistrate
Hon. Thomas Nzyoki	-	Ag. Senior Principal Magistrate
Hon. Kituyi Brenda Naswa	-	Ag. Principal Magistrate
Hon. Mukhwana Jackline Wekesa	-	Ag. Senior Resident Magistrate
Hon. James Jesse Masiga	-	Resident Magistrate
Hon. Malampu Abdilatif Silau	-	Kadhi II

KANGEMA LAW COURTS

Hon. Jared O. Magori	-	Principal Magistrate
Hon. Anne Wanjiku Nyoike	-	Ag. Senior Resident Magistrate

KIGUMO LAW COURTS

Hon. Desderias Orimba	-	Ag. Senior Principal Magistrate
Hon. Khaemba Bryan Mandila	-	Ag. Senior Resident Magistrate
Hon. Christine Asuna Okello	-	Resident Magistrate

THIKA LAW COURTS

Hon. Stephen Mbungi	-	Ag. Chief Magistrate
Hon. Martha W. Mutuku	-	Ag. Senior Principal Magistrate
Hon. Walter Onchuru	-	Ag. Principal Magistrate
Hon. Stella Nekesa Telewa	-	Resident Magistrate
Hon. Agneta Atieno Ndege Ogonda	-	Resident Magistrate
Hon. Malampu Adbilatif Silau	-	Kadhi II

GATUNDU LAW COURTS

Hon. Anne Ruguru Ireri Maina	-	Ag. Principal Magistrate (upto May, 2013)
Hon. Kinyanjui Manuela Wanjiru	-	Ag. Senior Resident Magistrate
Hon. David Munyao Ndugi	-	Resident Magistrate

KANDARA LAW COURTS

Hon. Peter Nditika	-	Ag. Senior Principal Magistrate
Hon. Gesora Tito Maoga	-	Principal Magistrate
Hon. Kithinji Cecilia Karimi	-	Ag. Senior Resident Magistrate

KIAMBU LAW COURTS

Hon. John Onyiego	-	Ag. Chief Magistrate
Hon. Charity Mutai	-	Principal Magistrate
Hon. Arome Simon Kaigongi	-	Resident Magistrate
Hon. Lorraine Dinna Ogombe	-	Resident Magistrate

GITHUNGURI LAW COURTS

Hon. Benson Musyoki Nzakyo	-	Ag. Principal Magistrate
Hon. Ngumi Wangeci	-	Ag. Senior Resident Magistrate
Hon. Eric Otieno Wambo	-	Resident Magistrate

KIKUYU LAW COURTS

Hon. Anne Mwangi	-	Ag. Senior Principal Magistrate
Hon. Elvis Michieka	-	Ag. Principal Magistrate

LIMURU LAW COURTS

Hon. Godfrey Oduor	-	Senior Principal Magistrate
Hon. Timothy Ole Tanchu	-	Senior Resident Magistrate

KERUGOYA LAW COURTS

Hon. Joel K. Ng'eno	-	Chief Magistrate
Hon. Teresia Ngugi	-	Senior Principal Magistrate
Hon. Susan N. Ndegwa	-	Principal Magistrate
Hon. Cheruiyot Kenneth Kipkurui	-	Ag. Principal Magistrate

BARICHO LAW COURTS

Hon. Evans Hezekiah Keago	-	Principal Magistrate
Hon. Jalang'o Stephen Samuel Wadida	-	Ag. Senior Resident Magistrate

GICHUGU LAW COURTS

Hon. Mwangi Thomas Muraguri	-	Principal Magistrate
Hon. Mogire Onkoba	-	Ag. Senior Resident Magistrate

WANG'URU LAW COURTS

Hon. Teresia M. Mwangi	-	Principal Magistrate
Hon. Stephen Kalai Ngii	-	Resident Magistrate

EASTERN PROVINCE:

EMBU LAW COURTS

Hon. Margaret Wachira	-	Chief Magistrate
Hon. Paul Biwott	-	Senior Principal Magistrate

Hon. Robinson O. Oigara	-	Ag. Senior Principal Magistrate
Hon. Ocharo Duke Atuti	-	Ag. Principal Magistrate

RUNYENJES LAW COURTS

Hon. Moses Oyoko Obiero	-	Ag. Principal Magistrate
Hon. Nandi John Paul	-	Ag. Senior Resident Magistrate

SIAKAGO LAW COURTS

Hon. Mutiso Gerald Muuo	-	Ag. Principal Magistrate
Hon. Makau Agnes Ndunge	-	Ag. Senior Resident Magistrate

MERU LAW COURTS

Hon. Rosemary Kimingi	-	Chief Magistrate
Hon. Dickson Odhiambo Onyango	-	Ag. Senior Principal Magistrate
Hon. Mburu David Wanjohi	-	Ag. Principal Magistrate
Hon. Mwinzi Shadrack Mwendwa	-	Ag. Senior Resident Magistrate – study leave
Hon. Eva Wanjiku Wambugu	-	Resident Magistrate
Hon. Mercy Nasimiyu Wanyama	-	Resident Magistrate

CHUKA LAW COURTS

Hon. Simon R. Rotich	-	Ag. Chief Magistrate
Hon. Carolyne Kenda Obara	-	Senior Resident Magistrate

MARIMANTI LAW COURTS

Hon. Peter N. Kiama	-	Principal Magistrate
Hon. Fredrick Mayaka Nyakundi	-	Resident Magistrate

NKUBU LAW COURTS

Hon. Caroline Kerage	-	Ag. Principal Magistrate
Hon. Mayamba Charles Alberto Obonyo	-	Ag. Senior Resident Magistrate

MAUA LAW COURTS

Hon. John G. King'ori	-	Chief Magistrate
Hon. Maundu Mutungwa	-	Senior Principal Magistrate
Hon. Sarapai Lyna Nafuna	-	Ag. Senior Resident Magistrate – study leave
Hon. John Waweru Wang'ang'a	-	Resident Magistrate
Hon. Caroline Kemei	-	Resident Magistrate

TIGANIA LAW COURTS

Hon. Josephat W. Gichimu	-	Ag. Principal Magistrate
Hon. Maiteri D. Wangeci	-	Ag. Senior Resident Magistrate

MACHAKOS LAW COURTS

Hon. Peter N. Gesora	-	Senior Principal Magistrate
Hon. Makungu Rose Nyanunga	-	Ag. Senior Principal Magistrate (DR)
Hon. Mwangi K. Mwangi	-	Ag. Senior Principal Magistrate
Hon. Too Edward Kiprono	-	Ag. Senior Resident Magistrate
Hon. Simiyu Lester	-	Ag. Senior Resident Magistrate
Hon. Miriam Mugure Peter	-	Resident Magistrate
Hon. Angeline Achieng Ann Odawo	-	Resident Magistrate
Hon. Mwaito Salim Juma	-	Kadhi II

MAVOKO LAW COURTS

Hon. Teresia A. Odera	-	Principal Magistrate
Hon. Peter Oduor Ooko	-	Ag. Principal Magistrate
Hon. Linda Akosa Mumassabba	-	Resident Magistrate

KITHIMANI LAW COURTS

Hon. Davis G. Karani	-	Principal Magistrate
Hon. Opanga Martha Akoth	-	Ag. Senior Resident Magistrate

KANGUNDO COURT

Hon. Monica Nyarango	-	Ag. Senior Principal Magistrate
Hon. Kahuya Irene Marcia	-	Ag. Senior Resident Magistrate
Hon. Japheth Cheruiyot Bii	-	Resident Magistrate

TAWA LAW COURTS

Hon. Cheruiyot Willy Kipkoech	-	Ag. Senior Resident Magistrate
Hon. Hosea Mwangi Nganga	-	Resident Magistrate

MAKUENI LAW COURTS

Hon. Richard Kipkemoi Koech	-	Ag. Principal Magistrate
Hon. Yator Rhoda	-	Ag. Senior Resident Magistrate

KILUNGU LAW COURTS

Hon. Nyakweba Henry Nyabuto	-	Principal Magistrate

MAKINDU LAW COURTS

Hon. Michael Kizito	-	Principal Magistrate
Hon. Mwangi Patrick Wambugu	-	Ag. Senior Resident Magistrate
Hon. Elizabeth Murugi Muiru	-	Resident Magistrate

KITUI LAW COURTS

Hon. Alfred G. Kibiru	-	Senior Principal Magistrate
Hon. Kimemia Beatrice Muthoni	-	Principal Magistrate
Hon. Lesootia Alberty Satabau	-	Ag. Senior Resident Magistrate
Hon. Ali Dida Wako	-	Kadhi II

MUTOMO LAW COURTS

Hon. Mutai Samuel Kiprotich	-	Ag. Principal Magistrate
Hon. Sandra Achieng Ogot	-	Resident Magistrate

MWINGI LAW COURTS

Hon. Hezron Nyaberi Moibi	-	Ag. Senior Principal Magistrate
Hon. Awino V. Otieno	-	Ag. Senior Resident Magistrate

KYUSO LAW COURTS

Hon. Ben Mararo	-	Principal Magistrate
Hon. Erick Musyoka Mutunga	-	Resident Magistrate

MARSABIT LAW COURTS

Hon. Stephen O. Mogute	-	Ag. Senior Principal Magistrate(interdiction)
Hon. Boaz Maura Ombewa	-	Ag. Principal Magistrate
Hon. Robert Gitau Mundia	-	Resident Magistrate – Temporary from Isiolo
Hon. Munene Andrew Githinji	-	Ag. Senior Resident Magistrate(interdiction)
Hon. Abdi Osman Sheikh	-	Kadhi II

ISIOLO LAW COURTS

Hon. Joan Irura	-	Ag. Principal Magistrate
Hon. Juma Khamisi Tsanuo	-	Kadhi I

MOYALE LAW COURTS

Hon. Sogomo Gathogo	-	Senior Resident Magistrate
Hon. Adet Vincent Okello	-	Ag. Senior Resident Magistrate
Hon. Abdullahi Mohammed	-	Kadhi I

COAST PROVINCE:

MOMBASA LAW COURTS

Hon. Stephen Riechi	-	Chief Magistrate
Hon. Joyce Mkambe Gadani	-	Senior Principal Magistrate
Hon. Richard O. Odenyo	-	Senior Principal Magistrate
Hon. Samuel Kimunya Gacheru	-	Principal Magistrate

Hon. James Omburah	-	Senior Resident Magistrate
Ekhubi Ben Mark	-	Ag. Senior Resident Magistrate (Ag. DR

CIVIL, COMMERCIAL & ADMIRALTY & FAMILY DIVISION

Hon. Betty Chepkemei Koech	-	Ag. Senior Resident Magistrate
Hon. Irene Ruguru Ngotho	-	Ag. Senior Resident Magistrate (Ag.DR Const. Judicial Review & Land Div & HCCR Div)
Hon. Kitagwa Musimbi Renee	-	Resident Magistrate
Hon. Everlyne Makungu Onzere	-	Resident Magistrate
Hon. Vicky Adhiambo Kachuodho	-	Resident Magistrate
Hon. Lilian Tsuma Lewa	-	Resident Magistrate
Hon. Dorothy I.N.N. Wekesa	-	Resident Magistrate
Hon. Geoffrey Ontita Kimang'a	-	Resident Magistrate
Hon. AL Muhdhar A. Hussein	-	Chief Kadhi
Hon. Athman Abduhalim Hussein	-	Senior Kadhi
Hon. Salim Mwidadi Abdullah	-	Kadhi II

MALINDI LAW COURTS

Hon. Liz Lynne W. Gicheha	-	Senior Principal Magistrate
Hon. Nathan Lutta	-	Ag. Senior Principal Magistrate
Hon. Shikanda Yusuf Abdalla	-	Ag. Senior Resident Magistrate
Hon. Caroline Muthoni Njage	-	Resident Magistrate
Hon. Salim S. Mohammed	-	Kadhi I

GARSEN LAW COURTS

Hon. Justus Mulei Kituku	-	Ag. Principal Magistrate
Hon. Rashid Kokonya Otundo	-	Kadhi II

KALOLENI LAW COURTS

Hon. Sylvia R. Wewa	-	Principal Magistrate

KILIFI LAW COURTS

Hon. Mildred Obura	-	Principal Magistrate
Hon. Dennis Abraham Kinaro	-	Senior Resident Magistrate
Hon. Kangoni Edgar Matsigulu	-	Ag. Senior Resident Magistrate
Hon. Swaleh Mohamed Ali	-	Kadhi II

VOI LAW COURTS

Hon. Samuel Wahome	-	Senior Principal Magistrate
Hon. Linus Nyakundi Mesa	-	Ag. Principal Magistrate
Hon. Eugene Melville Kadima	-	Resident Magistrate
Hon. Abdilaziz Maalim Mohamed	-	Kadhii II

MARIAKANI COURT

Hon. Douglas Machage	-	Principal Magistrate
Hon. Lewis Kamanga Gatheru	-	Resident Magistrate

WUNDANYI LAW COURTS

Hon. Orenge Isaac Karasi	-	Ag. Principal Magistrate
Hon. Chesang P. Maisy	-	Ag. Senior Resident Magistrate

SHANZU LAW COURTS

Hon. Abraham Karugia Gachie	-	Resident Magistrate

TAVETA LAW COURTS

Hon. Robinson K. Ondieki	-	Principal Magistrate
Hon. Kitur Wilson Kipchumba	-	Resident Magistrate

KWALE LAW COURTS

Hon. Elizabeth Katiwa Usui	-	Ag. Senior Principal Magistrate
Hon. Abdurahaman Ondieki	-	Senior Resident Magistrate
Hon. Bedzenga Said Khamis	-	Kadhi I

LAMU LAW COURTS

Hon. Johnstone Munguti	-	Ag. Senior Principal Magistrate
Hon. Ireri David Muchangi	-	Ag. Senior Resident Magistrate
Hon. Hamisi M. Mshali	-	Kadhi I
Hon. Sheikh Shaban Issa Muhammed	-	Kadhi II

HOLA LAW COURTS

Hon. Matutu D. Kiprono	-	Ag. Senior Resident Magistrate
Hon. Sheikh M.Hassan	-	Kadhi I

NORTH-EASTERN PROVINCE:

GARISSA LAW COURTS

Hon. Hannah Njeri Ndungu	-	Chief Magistrate
Hon. Bernard N. Ndeda	-	Ag. Senior Principal Magistrate
Hon. Viola Jepkorir Yator	-	Resident Magistrate
Hon. Juma A. Abdalla	-	Kadhi I
Hon. Mvudi Masoud Makange	-	Kadhi II (Daadab)

WAJIR LAW COURTS

Hon. Linus Pogh'on Kassan	-	Principal Magistrate
Hon. Muktar Billow Salat	-	Kadhi II (Habaswein)
Hon. Abdullahi Abdiwahab Mursal	-	Kadhi II

MANDERA LAW COURTS

Hon. Charles Soi Mutai	-	Ag. Senior Principal Magistrate
Hon. Galgalo Adan	-	Kadhi II

MAGISTRATES	-	408
KADHI	-	35

Notes

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Tel: (020) 2221221 **Email:** info@judiciary.go.ke,

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