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REPORT

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BY:

OF

CLEAR AT
THE TABLE:

Majority Whip,
Hon. F. Wangwe, MP.
Gertrude Chebet.

THE AUDITOR-GENERAL

ON

THE JUDICIARY

**FOR THE YEAR ENDED
30 JUNE, 2021**



REPUBLIC OF KENYA

THE JUDICIARY



THE JUDICIARY

REPORTS AND AUDITED FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDED

30 JUNE 2021

Prepared in accordance with the Cash Basis of Accounting Method under the
International Public Sector Accounting Standards (IPSAS)

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THE JUDICIARY
REPORTS AND FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2021

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KEY ENTITY INFORMATION AND MANAGEMENT

(a) Background information

Article 1 of the Constitution provides that sovereign authority belongs to the people of Kenya, which they have delegated to the various State organs including the Judiciary. Therefore, being an independent custodian of justice, as established under Article 159 of the Constitution, the Judiciary draws its authority from the people of Kenya and exercises it through Courts and Tribunals. It is mandated to administer justice and promote the rule of law.

The Judiciary discharges this mandate by developing jurisprudence and providing independent, accessible, fair and responsive fora for dispute resolution. Through interpretation of the Constitution, the Judiciary promotes the rule of law by shaping public policy and ensuring access to justice.

Judiciary Vision, Mission and Core Values

Vision

To be an independent institution of excellence in the delivery of justice to all.

Mission

To dispense justice in a fair, timely, accountable and accessible manner, uphold the rule of law, advance indigenous jurisprudence, protect and promote the Constitution.

Core Values

- i. Professionalism: We will exhibit the highest levels of competence, efficiency and excellence in executing our tasks.
- ii. Integrity: We will uphold the highest ideals of honesty, openness and veracity in service delivery.
- iii. Diligence: We shall be committed, dedicated and selfless to our duty
- iv. Transparency and Accountability: We shall be open to public scrutiny, exercise good governance and take responsibility for our actions.
- v. Humility: We shall be modest in exercising powers given to us by the Constitution

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(b) Key Management

The Judiciary's day-to-day management is under the following key organs:

- Judicial Service Commission (JSC);
- Office of Chief Justice and President of the Supreme Court, and
- Office of Chief Registrar of the Judiciary

(c) Fiduciary Management

The key management personnel who held office during and up to the date of these Financial Statements and who had direct fiduciary responsibility were:

No	Designation	Name
1.	Hon. Chief Justice and President of the Supreme Court and Chair of: Judicial Service Commission; National Council of Law Reporting; National Council on Administration of Justice;	Hon. Mr. Justice David Kenani Maraga, EGH (<i>Retired 12th January, 2021</i>) Hon. Lady Justice Martha Karambu Koome, EBS (<i>Appointed 21st May, 2021</i>)
2.	Chief Registrar of the Judiciary	Hon. Anne A. Amadi, CBS
3.	Director Finance	CPA. Susan Oyatsi
4.	Accounts Controller	CPA. Wycliffe Wanga
5.	Director ICT	Mr. Stephen Ikileng
6.	Director, Supply Chain Management	Mr. Jeremiah Nthusi
7.	Director, Human Resources & Administration	Dr. Elizabeth Kalei
8.	Director Planning & Organisation Performance	Dr. Paul Kimalu
9.	Director Audit and Risk Management	CPA Ronald Wanyama
10.	Deputy Director Public Affairs & Communication	Ms. Catherine Wambui
11.	Deputy Director, Building Services Unit	Arch. Maxwell Suero
12.	Registrar, Supreme Court	Hon. Esther Nyaiyaki
13.	Registrar, Court of Appeal	Hon. Moses Serem
14.	Registrar, High Court	Hon Judith Omange
15.	Registrar, Employment & Labour Relations Court	Hon. Kennedy Kandet
16.	Registrar, Environment and Land Court	Hon. Rose Makungu
17.	Registrar, Magistrate Court	Hon. Peter Mulwa
18.	Registrar, Tribunals	Hon. Anne Asugah

(d) Fiduciary Oversight Arrangements

Section 14 of Part III of the Judicial Service Act provides for delegation of functions of the Commission to committees. The purpose for establishment of committees is to create structures for articulating goals and strategic plans, define a particular function in detail, and pool specialized expertise and knowledge in a given subject.

(i) JSC Finance, Planning and Administration Committee

The JSC Finance, Planning and Administration Committee assists the Commission in fulfilling its responsibilities in monitoring and overseeing the Judiciary's financial affairs with respect to the financing plans, financing requirements and policies.

The Committee evaluates specific financial proposals, plans, strategies, transactions and other initiatives. During the year under review, the Commission held meetings in which annual work plans and procurement plans for the Judiciary were interrogated and approved among other functions.

(ii) JSC Audit, Governance and Risk Management Committee

Section 73(5) of the Public Finance Management Act, 2012 provides that every national Government public entity shall establish an audit committee whose composition and functions shall be as prescribed by the regulation. Judicial Service Commission has established an Audit Committee that assist the Commission in fulfilling its oversight responsibilities by reviewing, identifying, assessing, monitoring and managing risks ensuring good governance.

The committee monitors the effectiveness of the internal control systems and regularly receives reports from internal and external auditors. The audit committee oversees the implementation of such recommendations from both external and internal auditors.

(iii) Judiciary Committees

There are various committees within the Judiciary where members are drawn from various departments and units who have a wide range of skills and experience. On appointment each committee member is provided with comprehensive terms of reference for the tasks to be undertaken.

The following are some of the committees that were in place during the reporting period;

- Management Committee,
- Integrated Court Management System Committee,
- Budget Implementation Committee,
- Infrastructure Projects Committee,
- Human Resources & Administration Committee,
- Information, Communication & Technology (ICT) Committee
- Asset Management Committee,

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(e) Headquarter

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City Square 00200,
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KENYA.

(h) Principal Legal Adviser

The Attorney General,
State Law Office,
Harambee Avenue,
P.O Box 40112 - 00200,
Nairobi,
KENYA

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STATEMENT BY THE CHIEF REGISTRAR OF THE JUDICIARY.

Article 161 (2) (c) of the Constitution designates the Chief Registrar of the Judiciary as the chief administrator and accounting officer of the Judiciary. Section 2(1)(c) of the Public Finance Management Act, 2012 (PFM Act) also designates the Chief Registrar of the Judiciary as the accounting officer.

Section 81 (2) (f) of the PFM Act, 2012 requires that, at the end of each financial year, the Accounting officer shall prepare financial statements of the National Government entity in accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board (PSASB) that includes a statement of the national government entity's performance against predetermined objectives. It's against this backdrop that the Chief Registrar of the Judiciary makes the following report.

2.1 Budget Estimates Review

Operations of the Judiciary are primarily financed from the Consolidated Fund as appropriated by the National Assembly.

The Judiciary's budget process is anchored on Article 173 (3) of the Constitution which requires the Chief Registrar of the Judiciary (CRJ) to prepare estimates of expenditure each financial year. The budgeting process including the budget format and specific timelines to be adhered to are provided for in the Public Finance Management (PFM) Act, 2012, Judicial Service Act, 2011, Judiciary Fund Act, 2016 and the Judiciary Fund Regulations, 2019. The process is consultative and participatory as required in Article 201 of the Constitution and Section 37(5) (a) of the PFM Act, 2012.

The Judiciary strategic focus is executed under two broad sub-programmes namely; Access to justice and, General Administration, Planning and Support Services.

Budget and Expenditure Analysis (2019/20 - 2020/21)

The Judiciary budget allocations in FY 2019/20 was KSh16.963 billion and rose by 1% to KSh17,133 billion in FY 2020/21. The absorption rate was 97% in 2019/20 but reduced to 93% in FY 2020/21 due to the effects of covid-19 pandemic.

Analysis of Recurrent Expenditure

The recurrent budget allocation increased by 5% in FY 2019/20 and by 6% in FY 2020/21. The share of compensation to employees over the total recurrent budget increased from 59% in FY 2019/20 to 64% in FY 2020/21 which is attributed to the review of staff remuneration and recruitment. The operations and maintenance budget declined from 41% in FY 2019/20 to 36% in FY 2020/21 due to reduced court activity. Breakdown of the recurrent expenditure by economic classification is shown in Table 1.1.

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Table 1.1: Analysis of Recurrent Expenditure

Analysis by Category of Expenditure: Recurrent (KSh Million)							
Sub-Sector Name: Judiciary							
Vote & Vote Details	Economic Classification	Approved Budget			Actual Expenditure		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
1261	Gross	13,086	13,797	14,575	12,856	13,885	14,377
	AIA	-					
	NET	13,086	13,797	14,575	12,856	13,885	14,377
	Compensation to Employees	7,600	8,162	9,402	7,600	8,162	9,398
	Transfers	593	-	-	542	-	
	Other Recurrent						
	Insurance	1,055	1,243	1,292	1,055	1,238	1,291
	Utilities	114	130	140	123	122	131
	Rent	19	86	76	22	71	69
	Others	3,704	4,175	3,665	3,515	4,292	3,489
Totals		13,086	13,797	14,575	12,856	13,885	14,377

There were no transfers in the year because all tribunals and NCAJ were classified as spending units under the Judiciary in FY 2019/20.

Analysis of Development Expenditure

The Judiciary's development budget constituted Government of Kenya (GoK) and World Bank Funding. The development budget increased by 5% from KSh 3.009 billion in FY 2018/19 to KSh 3.166 billion in FY2019/20 then decreased by 19% in FY 2020/21 to Ksh 2.558 billion. The absorption rate attained under the development vote has been on a general decline from 81% in FY 2018/19, 79% in FY 2019/20 and 65% in FY 2020/21. There were no grants in the FY 2019/20 and analysis of the development expenditure by category is provided in Table 1.2

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Table 1.2: Analysis by Category of Expenditure: Development (KSh Million)

Analysis of by Category of Expenditure: Development (KSh M)							
Sub-Sector Name: Judiciary							
Vote & Vote Details	Economic Classification	Approved Budget			Actual Expenditure		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
1261	Gross	3,009	3,166	2,558	2,444	2,499	1,656
	GOK	151	971	292	124	796	294
	Loans	2,799	2,195	2,266	2,271	1,703	1,362
	Grants	59	-	-	49	-	-
	Local AIA	-	-	-	-	-	-
Totals		3,009	3,166	2,558	2,444	2,499	1,656

Acquisition of Non-Financial Assets constituted the highest proportion of the Capital Expenditure for the period 2018/19 to 2020/21.

Figure 1 shows the trend of budget absorption rate.

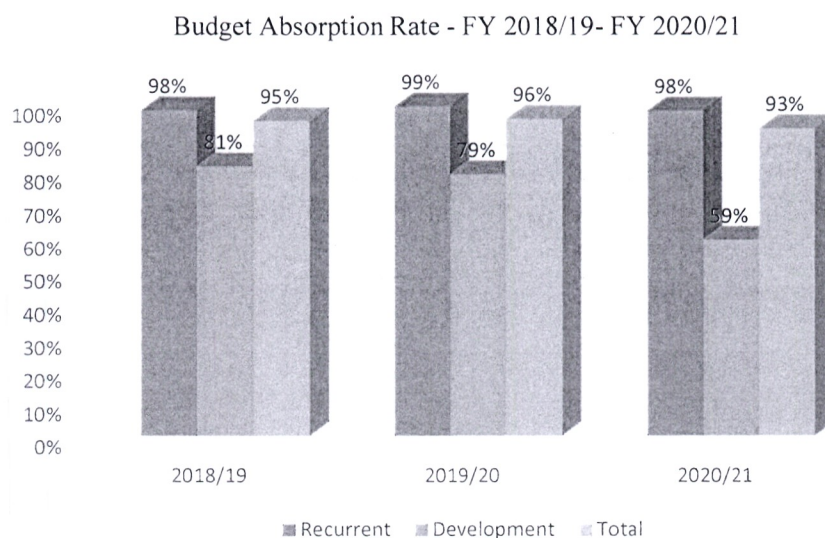


Figure 1: Trends in Budget Absorption

The overall absorption rate rose marginally from 95% in FY 2018/19 to 96% in FY 2019/20, followed by a decline to 93% in FY 2020/21. This could be attributed to the adverse effects of the pandemic which affected implementation of programmes, especially the development projects.

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Analysis of Programme Expenditure

Judiciary programme is Dispensation of Justice and has two sub-programmes: Access to Justice; and General Administration, Planning and Support services. The sub-program on Access to Justice which covers the core mandate of the Judiciary received a larger share of budget at 70% in the last three years. This is shown in Table 1.3.

Table 1.3: Analysis of Programme Expenditure (Amount in KSh Million)

Analysis of Programme Expenditure (Amount in Ksh Million)						
	Approved Budget			Actual Expenditure		
	2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
Programme: Dispensation of Justice	16,095	16,963	17,133	15,302	16,214	15,883
Sub-Prog. I: Access to Justice	11,266	11,874	11,993	10,711	11,350	11,118
Sub-Prog. II: Administration and Support Services	4,828	5,089	5,140	4,591	4,864	4,765
Total Programme	16,095	16,963	17,133	15,302	16,214	15,883

Performance Against Predetermined Objectives

Strategic Focus

The Judiciary strategic focus has been defined in order to respond to the emerging issues and priority areas identified under the national development policy agenda, the Sustaining Judiciary Transformation (SJT): A Service Delivery Agenda, 2017-2021, Strategic Plan 2019-2023 and other policy documents as well as the environmental scan. The key objectives also known as Key Strategic Areas (KRAs) are:

1. Enhanced Access to Justice
2. Expeditious Delivery of Justice
3. Growth of Jurisprudence and Knowledge Management
4. Improved Governance and Transformative Leadership
5. Improved Human Capital Management and Organizational Development
6. Modernized Registry Operations for Operational Efficiency
7. Enhanced Public Confidence, Awareness and Image of Judiciary
8. Resource Mobilization, Utilization and Stakeholder Engagement

ICT as an enabler

Information Communication Technology solutions are the backbone onto which implementation of the Plan is anchored. In this regard, automation of key court and administrative functions, through the Integrated Court Management System (ICMS), has

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been infused into each KRA. The court functions continue to be automated through the implementation of a Case Management System (CMS) in registries and courtrooms. Plans are already underway to automate the administrative functions by an Enterprise Resource Planning (ERP) System.

The ERP system will automate all administrative operations of the Judiciary by interconnecting all technical departments. It is envisaged that the ERP system will provide process automation of administrative functionalities such as planning, budgeting, finance, accounts, procurement, human resources, performance management, communications, information management and library services among others.

Progress in Attainment of Strategic Objectives

The following were the key achievements in realising the Strategic Objectives;

- ✓ In the year under review, **356,997** cases (**242,457** criminal cases and **114,540** Civil Cases) matters were filed in courts across the country and **294,837** cases (207,255 criminal cases and 87,582 civil cases) were resolved hence a Case Clearance Rate (CCR) of 83%.
- ✓ Case Clearance Rate in all tribunals under the Judiciary stood at 57%. In the period under review **5,335** matters were filed, and **3,056** matters were resolved.
- ✓ The Supreme Court developed and implemented an online customer complaint and feedback mechanism. In partnership with the National Council for Law Reporting, the Court published the Supreme Court Case Digest 2015 edition to be disseminated to all Judicial Officers. The Supreme Court translated the following to Kiswahili; Steps to Filing Cases at the Supreme Court, Supreme Court Fees and Costs. The Court also reviewed and published the Supreme Court Rules to address gaps in case management and the conduct of proceedings.
- ✓ The Judiciary admitted one thousand, three hundred and four (1304) new Advocates to the Roll Advocates.
- ✓ The Judiciary continued to implemented the Sexual Offenders Register by designing and disseminating the Register to all Magistrates' Courts. A total of 2449 registered sexual offenders excluding minors were recorded.
- ✓ The Judiciary operationalized the **Small Claims Courts** to reduce backlog of cases by having disputes resolved through simple, inexpensive and expeditious procedures. During the review period, 1840 cases were filed out of which 885 cases were heard and concluded hence Cases Clearance Rate of 48%.
- ✓ The Judiciary acquired 326 legal publications to assist Judicial Officers in legal research for informed decisions.
- ✓ ELC bench book was developed for the Judges, Magistrates and Quasi-Judicial officers to standardize legal procedures and administrative issues.
- ✓ In a bid to enhance access to justice, the Judiciary established the following courts stations:

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- Five sub-registries of Court of Appeal at Busia, Meru, Garissa, Kakamega and Kisii in February, 2021
- ELC sub-registries established at Kilgoris, Isiolo and Vihiga
- ELRC sub-registries established at Kitui, Kisii, Naivasha and Thika
- ✓ A total of 22 magistrates' courts were gazetted for establishment as full-fledged Courts in Ol-Kalou, Etago, Madiany, Zombe, Port Victoria, Borabu, Kendu Bay, Wamunyu, Malaba, Matiliku, Usigu, Kasarani, Masinga, Manga, Tinderet, Kenol, Rumuruti, Garbatulla, Kabiyet, Marigat, Kikima and Kaptumo (Kobujoi).
- ✓ Case clearance was improved by undertaking the following initiatives:
 - The human resource capacity of the court of appeal was enhanced with the appointment of 7 judges on 3rd June, 2021
 - Special Sessions and RRs to clear case backlog were held in March 2021 in Nyeri, Kisumu and Mombasa. Most of the planned circuits were put on hold due to the Covid-19 pandemic
 - Stakeholders' engagement on the Court's Case Management Practice Directions were held in Kisumu, Eldoret, Nyeri, Nakuru and Nairobi in the months of February and March 2021.
 - The CoA Rules 2020, Criminal Appeals and Applications Practice Directions, Strategic Plan and Registry Manual were launched in May 2021.
 - Two (2) High Court stations established at Vihiga and Kwale vide G/No. 10178 with supervisory jurisdiction over Vihiga and Hamisi Magistrates' court and at Kwale vide G/No. 6943 with supervisory jurisdiction over Kwale and Msambweni Magistrates' court with effect from 15th September, 2020 respectively.
 - Four (4) High Court Sub-registries established at Isiolo and Kapsabet with effect from 15th September 2020, and at Eldama-Ravine and Kilgoris with effect from 16th November 2020.
 - Employment and Labour Relations Courts (ELRC) undertook 28 circuit courts in Bungoma, Malindi, Meru, Kericho and Machakos.
 - ELC conducted circuit courts in Nyeri and Garissa leading to 118% case clearance of backlog.
 - Tribunals embraced virtual sittings to administer justice to mitigate the challenges occasioned by the COVID-19 pandemic. Four (4) Tribunals namely BPRT, RRT, Co-operative and MSET conducted 32 circuit courts in Mombasa, Kisumu, Nakuru, Kisii, Kakamega, Eldoret, Meru, Embu, Nyeri, Garissa, and Lamu through which 1169 cases were heard and determined.
- ✓ Physical access to courts was improved through construction and rehabilitation of courts. These included:

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- Completion of High Court building with facilities for Court of Appeal in Nakuru, 4 High Court buildings in Kakamega, Nanyuki, Garissa and Siaya. Construction of High Courts at Meru and Eldoret High Courts was initiated during the review period with project sites handed over to contractors.
 - Rehabilitation of court facilities: Rehabilitation of Mombasa Court of Appeal building was completed. Removal and replacement of the roof for Busia High Court was completed. Asbestos roofs for buildings at Kerugoya, Kaloleni, Maralal, Isiolo, Kikuyu, Nanyuki, Maua, Kwale, Winam, Kapsabet and Ukwala Magistrates' courts were removed and replaced. Refurbishment of buildings at Mariakani and Kericho Law Courts was completed.
 - Construction of public ablution blocks at Kwale, Ngong, Kithimani, Mwingi, Kangundo, Webuye, Baricho, Mariakani law courts were conducted. Construction of boundary wall at Kimilili Law Courts and chain-link fencing at Taita Taveta Law Courts was completed.
- ✓ The Judiciary registered tremendous success in the implementation of Court Annexed Mediation (CAM). CAM has contributed to enhanced access to justice, reduced case backlog and offered a faster and user-friendly resolution of disputes that takes care of the parties' post dispute relationship. During the year under review, CAM was implemented in Kapsabet, Kitale, Kerugoya and Siakago Courts. 2185 matters were referred to mediation; 1229 matters were concluded with an average settlement rate of 62%. Approximately **Kes. 382 Million** has been released back to the economy through the settled matters. A total of 829 mediators had been accredited by the end of the FY 2020-21 up from 703 that were recorded at the end of the previous period.
- ✓ As a response to the challenges posed by the Covid-19 pandemic, the Judiciary introduced online mediation to facilitate resolution of disputes between parties. This was reinforced by introduction of virtual mediation dispute guidelines. During the period, 446 matters were processed via online mediation
- ✓ Institutional capacity for timely delivery of justice in tribunals was enhanced, through the following initiatives;
- Appointment and swearing in of newly appointed chairpersons and members of Sports Disputes Tribunal (SDT), Communication and Multimedia Appeals Tribunal (CAMAT), Business Premises Rent Tribunal (BPRT) Cooperative Tribunal (CT), National Civil Aviation Administrative Review Tribunal (NCAART), Energy and Petroleum Tribunal (EPT) and Public Private Partnerships Petition Committee (PPPPC)
 - The 2nd Annual Tribunals' Symposium was conducted. Tribunals inducted 24 newly appointed members drawn from 8 tribunals and a mediation training program for all tribunal members was conducted. In addition, various tailor-made training and

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capacity building programs for staff were organized for enhanced individual and team performance.

- Tribunals established partnership with LSK Nairobi branch council and held webinars to educate and disseminate information on the jurisdiction of various tribunals. In addition, Education Appeals Tribunal (EAT), Transport Licensing Appeals Board (TLAB), NCAART, Standards Tribunal and SDT conducted sensitizations in various regions targeting stakeholders and the general public
- ✓ Public education campaigns on social media and mainstream media were held on various topics including e-filing, automation, mediation and other alternative dispute resolution mechanisms.
- ✓ ELC held various engagements with the stakeholders in Nairobi, Mombasa, Kisumu, Thika, Eldoret, Kajiado, Embu and Migori which went a long way in enhancing the image of the institution.
- ✓ All Courts and Tribunals adopted virtual hearing of proceedings where permanent links were shared with the litigants. Virtual hearing solutions adopted by the Judiciary included Zoom, Ms. Teams and Go-to Meeting. The Judiciary procured Video Conferencing Systems to enable proceedings to continue irrespective of the locations of the parties. In addition, the implementation of Court Recording and Transcription System (CRTS) in selected courts helped hasten production of transcripts as requested by litigants.
- ✓ Digitization of active court files in three counties namely; Nairobi, Mombasa and Kisumu in collaboration with Ministry of ICT. Further, the implementation of e-Filing System in all Courts and Tribunals within Nairobi County aided the court users to file their pleadings remotely.
- ✓ Procurement of more than 2,300 ICT equipment, connectivity to the internet for 177 court stations and tribunals was undertaken to facilitate virtual courts for improved efficiency
- ✓ Tribunals made tremendous progress in **adoption and leveraging use of technology** through introduction and scaling up of the Judicial Financial Management Information System, e-filing and the Case Tracking System in all (19) Tribunals, enhancing access to justice and financial management. As a result, revenue collection from Tribunals rose from Ksh. 2M to Ksh. 6M compared to a similar period in the last year.
- ✓ General administration was strengthened through development of the Supreme Court Strategic Plan, Court of Appeal Strategic Plan, ELRC Strategic Plan and HIV/AIDS Tribunal Strategic Plan. Seven (7) tribunals namely; MSET, CAMAT, HAT, BPRT, RRT, EAT, and Copyright Tribunal developed service charters.
- ✓ Various interventions to **ensure transparency, accountability, integrity and enhance organizational performance** were undertaken as follows:

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- 285 implementing units comprising courts, tribunals, registries, directorates and administrative units were put on performance contracting framework.
- The Office of the Judiciary Ombudsman (OJO) cumulatively received and processed 1829 complaints. Out of these, 1596 cases were processed and closed successfully representing 87% clearance rate. To ensure compliance with policies, procedures, directions and practices issued by Judiciary management from time to time, the office visited 87 court stations to monitor adherence.
- ✓ The annual Heads of Station forum under the theme “*Performance Improvement through Enhanced Ethics and Discipline*” was held to inculcate best practices and enhance cohesion in leadership and management.
- ✓ The Organization Review Report (2018) was operationalised. The Judiciary collated staff skills inventory and conducted staff mapping exercise to align with the re-engineered organization structure. A salary survey was also conducted which will inform remuneration decisions to attract and retain competent and motivated staff.
- ✓ To boost staffing complement for efficient delivery of justice, Judiciary conducted recruitment of hundred and ninety-one (191) staff while another one hundred and eighty (180) were promoted. To enhance staff skills and competence for better performance, 15% of staff underwent various capacity building exercises to strengthen the Judiciary’s talent pool
- ✓ During the period, Judiciary recorded a total of thirty-nine (39) disciplinary cases, out of which twenty-nine (29) were timeously concluded.
- ✓ The Gender Mainstreaming, Record Management, Judiciary Medical Insurance and Affirmative Action and Diversity policies were developed to enhance consistency, accountability, efficiency and clarity.
- ✓ The Judiciary introduced a psychosocial support section which reached out to some of the members of staff directly affected by Covid-19. A team of experienced psychologists was engaged through the Judiciary Medical Cover to provide medical care and professional individual and group counselling services to manage anxiety, fear, stigma and trauma.
- ✓ The Judiciary outsourced Comprehensive Cleaning Services for fifty-nine (59) High Court stations, Magistrates courts and eight (8) tribunals contracted Security Services for one hundred and forty-four (144) Court Stations. To enhance court operations, the Judiciary procured 29 vehicles for courts that had none and facilitated **Mobile Courts**.
- ✓ During the year, Judiciary successfully completed the procurement and renewal of eleven (11) major contracts,
- ✓ The Judiciary also put in place various cost-reduction strategies including extensive market surveys and due diligence for tenders, use of framework contracts to contain costs

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for Hospitality contracts, Motor vehicles, GOS, Events Management, Lease of printers, Standardization of ICT equipment and adoption of ICT Authority consolidated procurement contracts.

- ✓ The Judiciary continued to implement an Automated Asset Management System across all implementing units.
- ✓ The Judiciary also developed a Procurement and Asset Disposal Manual for standardization of procurement and disposal processes.
- ✓ To ensure a collaborative and coordinated way of addressing issues on access to justice and effective delivery of justice, and to improve the general operations of the courts, NCAJ working committees namely Court Users Committee (CUC) Working Group Committee, Traffic Reforms Working Group, Anti-Illicit Working Committee, the National Committee on Criminal Justice Reforms and the Anti-Corruption Working Group were reconstituted.
- ✓ NCAJ also developed, revised and launched various policies and guidelines aimed at harmonising and updating various legislations to ensure a co-ordinated approach to delivery of justice. Comprehensive review of Kenya's penal laws was undertaken and Draft Amendment Bills to the Criminal Procedure Code and the Penal Code was developed. The Amendment Bills seek to address gaps identified in the law and align both statutes with provisions of the Constitution of Kenya. Other policy guidelines that were developed include Curriculum for Child Protection Officers, Diversion Regulations for Children Matters, Guidelines for Child Protection Units Standard Operating Procedures, Policy on Mandatory Continuous Professional Development program, revision of the training curricula on children, policies on re-integration of children accompanying imprisoned mothers, Guidelines for children with special needs, The National Policy on Criminal Justice in Kenya; Law and Practice Guidelines on Arrest and Conditions of Pre-trial Detention; Law and Practice Guidelines on the Management of the Petty Offenders; Status of Persons with Mental Illness in the Criminal Justice System; Status of Intersex Persons in the Criminal Justice System; and the Baseline Survey on State Regulated Offences. The various committees also developed IEC materials for various justice sector actors.
- ✓ NCAJ conducted sensitization sessions and engaged and trained various justice sector actors. More than 12,000 police officers were trained on crowd management, brutality, human rights issues, sexual and gender-based violence (SGBV) and an e-learning portal was developed. The NCAJ Covid-19 response included the provision PPEs aimed at protecting frontline officers and the public as well as various equipment to assist with hearing of matters virtually.
- ✓ Improvements in financial management and controls were achieved through the following initiatives:

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- All spending units prepared their annual work plans and linked them to the Strategic Plan.
- Following an engagement with all the stakeholders, to wit the National Treasury, Central Bank of Kenya, Controller of Budget and the Judiciary, mechanisms were put in place and systems are being aligned to operationalise the Judiciary Fund effective 1st July, 2022.
- The JSC Risk & Audit Committee has been actively involved in the compliance & governance audits which has greatly improved systems and governance. A total of Fifty-three (53) internal audit assignments were carried out and audit recommendations to streamline processes implemented hence strong internal controls, efficiency, integrity, reduced risk and improved compliance with regulations, policies and procedures.

Implementing Challenges

The institution was affected in the execution of its mandate by inadequate budgetary allocation and funding. This led to cessation of some mobile courts, stalling of the full roll out of the ICT infrastructure, slowing down of the recruitment of judges and judicial officers and staff. This was to address case back log and improve service delivery. Further, insufficient allocation for Pro-Bono and mediators' payments occasioned accumulation of pending bills and complaints from court users, who in turn decline to take up matters in court. Establishment of court of appeal courts in Eldoret and Kisii could not commence during the financial year 2020/2021 due to budgetary constraints.

The Covid-19 pandemic brought the activities of the Judiciary almost to a halt in the last quarter of financial year. Funds had to be reallocated from critical areas and also there were operations scale down in line with Ministry of Health guidelines to fight the pandemic.

RECOMMENDATIONS

To sustain and build on the successes that have already been attained, the Judiciary recommends the following measures be undertaken;

- i. Increase resource allocation to Judiciary to facilitate the recruitment of the required human resources at all levels, expansion and completion of court infrastructure into all the counties for the High Court and courts of equal status, support digitisation of court processes and automation of registry operations; court programmes such as mobile courts, Alternative Dispute Resolution (ADR), Alternative Justice System (AJS) and the roll out of the of Small Claims Courts into the counties including recruitment and facilitation of adjudicators.
- ii. Ring-fence the Judiciary budgetary allocation at the internationally recommended ratio of 2.5% of the National Budget.
- iii. A legal framework to govern the use of ADR in courts to be expedited.

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- iv. Fast track the enactment of the Tribunals Bill into law, incorporating the declarations by the High Court in regard to tribunals to provide a legal framework for transitioning and management of the Tribunals.
- v. Requests for exchequer releases should be responded to promptly and predictably to enable the Judiciary implement the approved cash flow plan as provided for in the PFM Regulations, 2015 sec. 44(2).
- vi. Operationalisation of the Judiciary Fund to improve on financial autonomy as envisaged in the Article 173 of Constitution.
- vii. The payment of pauper brief fees should be borne by the National Legal Aid Service.
- viii. Other agencies dealing with witnesses attending cases in court should be funded to meet part of their cost/expenses.
- ix. Continued partnerships with stakeholders will be strengthened especially for provision of court premises and land for construction.

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Table 1.4: Performance Matrix

Programme	Strategic Objective	Indicator	Performance				Challenge/Status
			Planned Target		Achieved Target		
			2019/20	2020/21	2019/20	2020/21	
Dispensation of Justice	Increased access to courts through construction of new court buildings	No. of new Court of Appeal constructions initiated	2	2	0	0	Budget cuts
		No. of new High Courts construction initiated	3	2	0	2 ¹	Achieved
		No. of new Magistrates' courts construction initiated	0	8	0	0	Budget cuts
	Increased access to courts through completion of ongoing courts	Ongoing Court of Appeal completed	1	1	0	0	Budget cuts
		No. of Ongoing High Courts completed (GOK)	15	8	3	0	
		Ongoing High Court completed (JPJP)	11	9	2	6	Poor performance by contractors
		No. of Ongoing Magistrates' courts completed	1	13	4	0	Budget cuts
		No. of Ongoing Magistrates' courts completed (JPJP)	16	8	8	1 ²	Poor performance by contractors
		No. of Courts of Appeal rehabilitated/ Refurbished	3	1	2	1 ³	Achieved
		No. of High courts rehabilitated	8	3	15	1	Budget cuts
Improved timeliness in delivery of service through rehabilitation of court buildings	No. of Magistrates' courts rehabilitated	25	13	13	11		
	No. of Tribunal Offices rehabilitated	1	4	3	1	Tribunals were relocated to Forodha House	

¹ Meru and Eldoret

² Isiolo Magistrate Court

³ Mombasa CoA

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Programme	Strategic Objective	Indicator	Performance				Challenge/Status
			Planned Target		Achieved Target		
			2019/20	2020/21	2019/20	2020/21	
Alternative reliable power supply installed	Increased access to courts through establishment of additional courts	No. of stations with solar system	0	34	0	0	Lack of funding
		No. of new Court of Appeal stations established	0	1	0	0	Delayed gazettelement of judges
Increased access to justice through establishment of new Sub registries	Expeditious delivery of Justice	No. of new High Courts Stations established	2	4	0	2	Budget cuts
		No. of ELRC stations established	2	7	0	0	Delayed gazettelement of judges
		No. of ELC established	10	9	0	0	Delayed gazettelement of judges
		No. of new Magistrates' courts established	3	15	2	22	Achieved
		No. of CoA sub-registries established	0	3	0	5 ⁴	Achieved
Expeditious delivery of Justice	Expeditious delivery of Justice	No. of new HC sub-registries established	1	1	1	4	Achieved
		No. of new ELRC sub-registries established	3	3	0	4	Achieved
		No. of ELC sub-registries established	2	2	0	3	Achieved
Expeditious delivery of Justice	Expeditious delivery of Justice	No. of Court of Appeal stations circuits conducted	4	4	4	4	Achieved
		No. of High Courts station circuits held	12	7	12	7	Achieved
		No. of ELC stations circuits held	2	3	2	3	Achieved

⁴ Busia, Meru, Garissa, Kakamega and Kisii were gazetted as CoA sub registries in February 2021

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Programme	Strategic Objective	Indicator	Performance				Challenge/Status
			Planned Target		Achieved Target		
			2019/20	2020/21	2019/20	2020/21	
		No. of ELRC stations held	4	4	4	4	Fully Achieved
		No. of Tribunals held	3	3	3	3	Fully Achieved
	Magistrates' Courts established	No. of new mobile courts established	6	4	6	0	Budget cuts and Covid 19 Pandemic slowdown
	Reviewed Election petition rules	No. of Reviewed election petition rules	0	0	0	1 ⁵	Fully Achieved
	Reviewed registry manual	No. of Reviewed registry manual	0	0	0	1	COA developed its manual
	Manual on handling <i>pro se</i> litigants developed	<i>pro se</i> manual developed	0	1	0	0	Budget cuts and Covid 19 pandemic
	Mediation registries established	No. of mediation registries established	30	24	14	5	Budget cuts and Covid 19 pandemic
	Capacity building for accredited mediators	No. of mediators trained	-	150	-	164	Fully Achieved
	Revised court fees	Revised court fees schedule	1	1	0	1	Fully Achieved
	Judges, Magistrates and Kadhis recruited	No. of COA Judges recruited	11	0	11	7	Fully Achieved
		No. of HC Judges recruited	50	50	0	0	Process ongoing
		No. of ELC Judges recruited	20	10	20	18	Fully Achieved
		No. of ELRC Judges recruited	10	0	10	10	Fully Achieved
		No. of magistrates recruited	140	100	0	0	Process ongoing
		No. of Kadhis recruited	0	15	0	0	Process ongoing
	Timeliness delivery of justice	No. of courtrooms with Transcription solution	32	157	6	26	Budget cuts
	Operationalized small claims court	No. of designated small claims courts	-	5	-	1	Process ongoing

⁵ Supreme Court revised PEP rules

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Programme	Strategic Objective	Indicator	Performance				Challenge/Status
			Planned Target	Achieved Target			
			2019/20	2020/21	2019/20	2020/21	
	Strengthened technical capacity of NCAJ to engage stakeholders	Reconstituted taskforces and standing committees	4	4	1	5	Fully Achieved
	Published court decisions	NCAJ M&E framework	-	1	-	0	Draft
	Colloquiums for Judges and JOs held	% of court decisions published	-	100%	-	100%	
	Justice Sector forums for experts and stakeholders organised	No. of Colloquiums held	2	2	2	0	Not held due to Covid-19 pandemic
	Regional and International Exchange visits held	No. of forums organised	2	2	0	2	Fully Achieved
		No. of expert speaker fora held	2	2	0	2	Fully Achieved
		No. of visits to other jurisdictions	1	1	3	1	Fully Achieved
		No. of visits from other jurisdictions	1	1	1	1	Fully Achieved
		No. of exchange programmes	1	1	1	1	Fully Achieved
		No. of libraries established in court stations	7	5	0	0	Budget cuts
		No. of libraries equipped	4	5	22	18	
		Information resource materials provided	3	3	2	2	Budget cuts
		Improved documentation in the Judiciary	0	1	0	0	Process ongoing
	Strengthened research in the Judiciary	0	1	0	0	In progress	
	Established partnership with learning and research institutions	2	2	0	2	Achieved	
	Corruption mapping report implemented	1	1	1	1	Achieved	

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Programme	Strategic Objective	Indicator	Performance				Challenge/Status
			Planned Target		Achieved Target		
			2019/20	2020/21	2019/20	2020/21	
	Whistle blowing policy finalised	Whistle blowing policy in place	-	1	-	0	In progress
	Trained liaison officers in all court stations	% of stations with trained liaison officers	100%	100%	23%	100%	Achieved
	Sensitized public on complaints reporting and processing	No. of public awareness clinics held	26	26	23	2	Covid-19 pandemic
	Complaints Handling Manual developed	Complaints Handling Manual	0	1	0	0	In progress
	Complaints Handling Manual implemented	Quarterly reports	-	4	-	-	Manual awaiting approval
	Supportive engagements with investigative agencies	No. of engagements with investigative agencies	2	2	5	3	Achieved
	All courts and implementing units sensitised on the SP	% of courts and implementing units sensitised	100%	100%	0	100%	Achieved
	Strategy documents developed	No. of strategy documents	4	3	2	4	Achieved
	All staff sensitized on PAS	% of staff sensitised	100%	100%	100%	90%	Covid 19 pandemic
	Judiciary performance indicators reviewed	Report	1	1	1	1	Achieved
	Annual target setting and evaluation conducted for all implementing units	% of implementing units under PMMU	100%	100%	100%	100%	Achieved
	Research on topical issues on court administration to inform policy undertaken	No. of research reports	2	2	1	1	Covid-19 Pandemic
	Data management policy developed	Policy document	1	1	0	0	In Progress

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Programme	Strategic Objective	Indicator	Performance			Challenge/Status
			Planned Target	Achieved Target		
			2019/20	2020/21	2020/21	
ISO-QMS in all courts and administrative units Judiciary leadership and management strengthened Published JLAC, LMT and other leadership and management Guidelines Conclusion of pending disciplinary cases Compliance with the requirements on national values, gender and diversity Establish optimal staffing levels Decentralization of administrative functions Skills and Competences of judicial staff established	No. progress reports	2	2	0	0	Budget cuts
	Annual reports on the implementation of rewards and sanctions scheme	1	1	1	0	In progress
	Published JLAC, LMT and other leadership and management Guidelines	-	1	-	1	Achieved
	% of pending disciplinary cases reviewed and concluded	70%	80%	60%	69%	Covid 19 pandemic
	Judiciary Disability Policy Document	-	1	-	0	In Progress
	Judiciary Sexual harassment Policy Document	-	1	-	0	
	Report on mainstreaming national values	1	1	0	1	Achieved
	Number of Staff recruited (including for tribunals)	560	560	87	191	Budget cuts
	Report on staff rationalization across courts Directorates and Tribunals	-	1	-	1	Achieved
	Report on decentralization of administrative functions reviewed	-	1	-	1	Achieved
Report on implementation of decentralized administrative functions	-	1	-	1	Achieved	
Skills and Competences of judicial staff established	-	1	-	1	Achieved	

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Programme	Strategic Objective	Indicator	Performance				Challenge/Status
			Planned Target		Achieved Target		
			2019/20	2020/21	2019/20	2020/21	
	Training conducted for all judicial staff	% of Judicial staff trained annually	20%	20%	5%	15%	Covid 19 pandemic
	Pupillage guidelines approved	Guidelines	-	1	-	0	In Progress
	Health and safety guidelines developed	Approved guidelines	-	1	-	0	Insufficient funds
	Occupational Health and safety programmes implemented in all courts	% of courts	-	100%	-	0	
	Courts with wellness centres operationalised	No. of courts with wellness centres	-	20	-	0	Insufficient funding
	Facilities management guidelines developed	Report	-	1	-	0	Insufficient funding
	Facilities management guidelines implemented	Report	-	1	-	0	
	Infrastructure master plan implemented	Report	-	1	-	1	Achieved
	Fleet management system introduced	Fleet management system in place	-	1	-	0	Budget cuts
	Updated motor vehicle, tools and equipment inventory	Updated inventory	1	1	1	1	Achieved
	Courts and offices adequately furnished and equipped	% Courts and offices adequately furnished and equipped	50%	60%	50%	60%	Achieved
	Adequate number of vehicles procured	Number of vehicles procured	22	38	23	39	Achieved
	Disaster management Policy document developed	Approved Policy document	-	1	-	0	In Progress

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Programme	Strategic Objective	Indicator	Performance				Challenge/Status
			Planned Target		Achieved Target		
			2019/20	2020/21	2019/20	2020/21	
	ICT systems hosted in cloud server	No of ICT systems hosted in cloud server	0	10	5	6	Budget cuts
	Stations connected to NOFBI	No. of stations connected to NOFBI	25	21	0	9	
	Court stations with WAN	No. of court stations with WAN	25	21	12	0	
	Disaster recovery policy developed	Disaster recovery policy	0	1	0	0	
	Disaster recovery sites established	No. of Disaster recovery sites	0	1	1	0	
	Primary and Secondary Data centres upgraded	Primary and Secondary Data centres upgraded	0	1	0	1	
	Judiciary Records Management policy formulated	Judiciary Records Management policy	1	1	0	1	Achieved
	Court and tribunal registry manuals developed/reviewed	No. of registry manuals	0	2	0	3	Achieved
	Case Tracking System enhanced to integrate new modules	e-Assessment, module	0	1	1	1	Achieved
		e-Payment module	0	1	1	1	Achieved
		e-Filing module	0	1	1	1	Achieved
		SMS & Email Notification module in place	0	1	1	1	Achieved
	Judiciary Fund Operationalised	Implementation of Fund regulations report	1	1	1	0	Process ongoing
	Audit Policies and Procedures Manual developed	Approved Policies and Procedures Manual	1	0	0	1	Achieved
	Internal Audit System in Developed	Internal Audit System in place	1	1	0	0	Non-responsive bids

CORPORATE SOCIAL RESPONSIBILITY STATEMENT/SUSTAINABILITY REPORTING

The Judiciary exists to dispense justice in a fair, timely, accountable and accessible manner, uphold the rule of law, advance indigenous jurisprudence, protect and promote the Constitution.

This is borne out of the reality that justice is blind to the social status of its citizens. It is an ordinary desire, the legitimate hope of every citizen is to be treated fairly.

i. Sustainability Strategy and Profile

The Judiciary's strategy documents are inspired by the principles of the Constitution of Kenya, 2010 that captured the aspirations of every citizen vis-à-vis access to justice and the protection of basic human rights. The devolution principle is evidenced by the Judiciary's desire to establish a court in every sub-county so as to bring court services closer to every citizen.

Further, the Judiciary has supported social transformation agenda through judicial pronouncements that promote the bill of rights.

ii. Environmental performance

As part of its internal processes, the Judiciary has mandated the performance of environmental impact assessments before the commencement of all major construction projects. As such all projects are subjected to the National Environment Management Agency requirements.

iii. Employee Welfare

All recruitment of staff was based on the Judicial Service Commission policy on recruitment that deliberately focused on merit, gender equality and ethnic balance. Gender balance and equality in all ranks, including senior management, has been achieved.

In addition, a psychosocial support section was established to support members of staff affected directly affected by Covid-19.

The Judiciary has endeavoured to provide group medical and personal accident insurance cover to all its employees.

iv. Market Place Practices

As guided by the Public Procurement and Asset Disposal Act, 2015 the Judiciary has adhered to open market mechanisms in the procurement of works, goods and services. In addition, to promote vulnerable groups the Judiciary is guided by Access to Government Procurement Opportunities (AGPO) and reserves at least 30% of its tenders to Youth, Women and People with Disabilities.

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STATEMENT OF JUDICIARY MANAGEMENT RESPONSIBILITIES

Section 81 (1) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, the accounting officer for a National Government Entity shall prepare financial statements in respect of that entity. Section 81 (3) requires the financial statements so prepared to be in a form that complies with relevant accounting standards as prescribed by the Public Sector Accounting Standards Board of Kenya from time to time.

The Accounting Officer in charge of the Judiciary is responsible for the preparation and presentation of the Judiciary's financial statements, which give a true and fair view of the state of affairs of the Judiciary for and as at the end of the year ended on 30th June 2020. This responsibility includes:

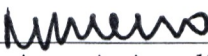
- (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period;
- (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity;
- (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud;
- (iv) safeguarding the assets of the Judiciary;
- (v) selecting and applying appropriate accounting policies; and
- (vi) making accounting estimates that are reasonable in the circumstances.

The Accounting Officer in charge of the Judiciary accepts responsibility for the Judiciary's financial statements, which have been prepared on the cash basis method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS). The Accounting Officer is of the opinion that the Judiciary's financial statements give a true and fair view of the state of Judiciary's transactions during the year ended 30th June 2020, and of the Judiciary's financial position as at that date. The Accounting Officer in charge of Judiciary further confirms the completeness of the accounting records maintained for the Judiciary, which have been relied upon in the preparation of the Judiciary's financial statements as well as the adequacy of the systems of internal financial control.

The Accounting Officer in charge of the Judiciary confirms that the Judiciary has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the Judiciary's funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further the Accounting Officer confirms that the Judiciary's financial statements have been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

Approval of the financial statements

The Judiciary's financial statements were approved and signed by the Accounting Officer on September 2021.



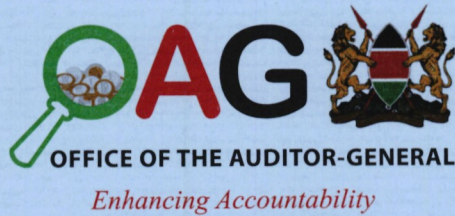
Hon Anne A. Amadi, CBS
Chief Registrar of the Judiciary



CPA Wycliffe Wanga - ICPAK No: 3209
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REPORT OF THE AUDITOR-GENERAL ON THE JUDICIARY FOR THE YEAR ENDED 30 JUNE, 2021

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of The Judiciary set out on pages 28 to 70, which comprise the statement of assets and liabilities as at

30 June, 2021, the statement of receipts and payments, statement of cash flows and the summary statements of appropriation - recurrent and development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of The Judiciary as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Bank Balances

1.1. Bank Reconciliation Statements for General Deposits

As disclosed in Note 7 to the financial statements, the statement of assets and liabilities as at 30 June, 2021 reflects cash and cash equivalents balance of Kshs.7,118,597,106. The balance includes general deposits held in the Central Bank of Kenya and various commercial banks of Kshs.580,994,217 and Kshs.6,268,178,077, respectively totalling to Kshs.6,849,172,294. In addition, the bank reconciliation statements for the general deposits reflects long outstanding items which include payments in the bank statements not yet recorded in cash book totalling Kshs.87,051,557 and receipts in the cash books not yet reflected in bank statements totalling Kshs.303,074,682.

No explanation was provided for delay in recording the payments in the cash books and the receipts in the bank statements.

1.2. Loss of Cash Deposits

The bank reconciliation statements for the month of June, 2021 for the bank accounts for Embu, Nakuru and Malindi Court Stations reflects losses amounting to Kshs.2,682,152, Kshs.84,588,258 and Kshs.1,455,800, respectively which occurred in the previous years. However, the nature of the loss, recovery strategies and court proceedings on the matter were not disclosed.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.7,118,597,106 could not be confirmed.

2. Account Receivables

2.1. Un-Analyzed Long Outstanding District Suspense and Clearance Accounts

The statement of assets and liabilities reflects an accounts receivables balance of Kshs.41,694,742 which, as disclosed in Note 8 to the financial statements, includes an amount of Kshs.26,306,566 relating to long outstanding district suspense and clearance

accounts. Detailed analyses in respect of the long outstanding district suspense and clearance accounts' balances and explanation for failure to clear them were not provided.

In the circumstances, the accuracy, completeness and validity of the balance of Kshs.26,306,566 as at 30 June, 2021 could not be confirmed.

2.2. Recoverability of Imprests Issued to Non-Employees

Included in the accounts receivables balance of Kshs.41,694,742 are outstanding government imprests totalling to Kshs.14,481,010. The government imprest includes imprests amounting to Kshs.3,108,300 which were issued to non-staff members seconded from Other Government Agencies with some dating back to the financial year 2015/2016. Management did not explain why the long outstanding imprests have not been recovered to date.

In the circumstances, the recoverability of the long outstanding imprests of Kshs.3,108,300 could not be confirmed.

3. Unconfirmed Accounts Payables

As disclosed in Note 9 to the financial statements, the statement of assets and liabilities reflects an accounts payables balance of Kshs.6,849,172,293. The balance includes general deposits for various Court stations amounting to Kshs.6,268,178,076 out of which an amount of Kshs.348,091,889 relates to deposits for fifty eight (58) Court stations held by the former District Treasuries that have not been paid to The National Treasury. Although the Judiciary had written to the Principal Secretary for The National Treasury vide letter Ref. CRJ/14 of 29 December, 2021 to confirm the liability, The National Treasury has not acknowledged the same to date.

In the circumstances, the accuracy and validity of the general deposits-stations balance of Kshs.6,268,178,076 could not be confirmed.

4. Foreign Travel Charged to Domestic Travel and Subsistence

As disclosed in Note 4 to the financial statements, the expenditure of Kshs.4,256,695,803 on use of goods and services includes amounts of Kshs.819,227,252 and Kshs.15,976,877 relating to domestic travel and subsistence and foreign travel and subsistence, respectively. The foreign travel and subsistence amount includes an expenditure of Kshs.3,093,755 relating to domestic travel and subsistence allowance which was wrongly charged to foreign travel and subsistence item without approval. This is contrary to Regulation 54(1) of the Public Finance Management (National Government) Regulations, 2015 which states that, except as provided for in the Act and the Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

In the circumstances, the accuracy and fair presentation of the domestic travel and subsistence expenditure of Kshs.819,227,252 and foreign travel and subsistence expenditure of Kshs.15,976,877 could not be confirmed. Further, the Management was in breach of the law.

5. Unsupported Contingent Liabilities

As disclosed in Note 14.3 to the financial statements under contingent liabilities, an amount of Kshs.1,138,713,450 was awarded in arbitration to the contractors. However, records provided for audit supported awards totalling Kshs.1,024,122,367, leaving an amount of Kshs.114,591,083 unsupported.

In the circumstances, the accuracy of the contingent liabilities balance of Kshs.1,138,713,450 as at 30 June, 2021 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of The Judiciary Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Pending Bills

Note 14 to the financial statements on other important matters reflects pending accounts payable/bills totalling Kshs.1,678,137,276 as at 30 June, 2021 which were not settled during the financial year 2020/2021 but were instead carried forward to 2021/2022 financial year. Further, the pending bills of Kshs.1,678,137,276 includes an amount of Kshs.49,551,197 which relates to 2019/2020 and earlier years. Failure to settle bills in the year to which they relate distorts the financial statements for the year and also affects the budgetary provisions for the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Judiciary Mortgage Scheme Fund

As disclosed in Note 6 to the financial statements, the statement of receipts and payments as at reflects an expenditure of Kshs.350,000,000 under other expenses which relates to housing loans to the staff. However, The Judiciary did not prepare and submit for audit the financial statements for the Housing Fund to the Auditor- General. This is contrary to Regulation 18(1) of the Judicial Service (Judiciary Mortgage Scheme Fund) Regulations, 2012 which requires the statement of accounts relating to the Fund to be prepared, signed and transmitted to the Auditor-General in respect of the financial year.

The Management was in breach of the law.

2. Delayed Completion of Construction of Thirty (30) Courts

As disclosed in Annex 2 to the financial statements and as previously reported, the historical cost of assets of Kshs.29,722,377,272 as at 30 June, 2021 includes costs incurred on construction works of thirty-nine (39) Law Courts spread across the Country. Construction works for thirty (30) of the law courts were awarded in the financial year 2013/2014 but have taken long to complete due to among other reasons budget constraints, resulting in delays in payment to the contractors and litigations.

Consequently, the value for money on the delayed construction works may not be realized.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing The Judiciary's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate The Judiciary or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing The Judiciary's financial reporting process, reviewing the effectiveness of how the Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in

an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with The Judiciary's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on The Judiciary's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause The Judiciary to cease to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of The Judiciary to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.


CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

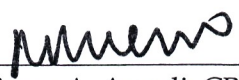
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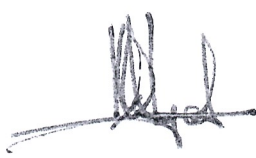
THE JUDICIARY
 REPORTS AND FINANCIAL STATEMENTS
 FOR THE YEAR ENDED 30 JUNE 2021

STATEMENT OF RECEIPTS AND PAYMENTS FOR THE YEAR ENDED 30 JUNE 2021.

	Note	2020-2021 KShs	2019-2020 KShs
RECEIPTS			
Exchequer releases	1	14,847,378,582	14,436,767,825
Other receipts - Direct Payments	2	1,159,516,540	1,888,098,130
		16,006,895,122	16,324,865,955
PAYMENTS			
Compensation of Employees	3	9,393,247,822	9,155,358,282
Use of goods and services	4	4,256,695,803	3,793,176,500
Acquisition of Assets	5	1,897,069,906	2,456,368,155
Other Expenses	6	350,000,000	707,388,806
TOTAL PAYMENTS		15,897,013,531	16,112,291,743
SURPLUS/DEFICIT		109,881,591	212,574,212

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The Judiciary financial statements were approved on September, 2021 and signed by:

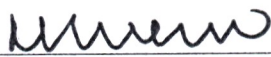

 Hon. Anne A. Amadi, CBS
 Chief Registrar of the Judiciary



 CPA Wycliffe Wanga - ICPAK No: 3209
 Accounts Controller

STATEMENT OF ASSETS AND LIABILITIES AS AT 30 JUNE 2021

	Note	2020-2021 KShs	2019-2020 KShs
FINANCIAL ASSETS			
Cash and Cash Equivalents			
Bank Balances	7	7,118,597,106	6,910,868,419
Accounts Receivables - Outstanding Imprest and Clearance Accounts	8	41,694,742	309,756,847
TOTAL FINANCIAL ASSETS		7,160,191,848	7,220,625,266
LESS: FINANCIAL LIABILITIES			
Accounts Payables - Deposits	9	6,849,172,293	6,715,511,637
NET FINANCIAL ASSETS		311,119,555	505,113,629
REPRESENTED BY			
Fund balance b/fwd.	10	505,113,628	292,539,416
Prior Year Adjustment	11	(303,875,664)	-
Surplus/Deficit for the year		109,881,591	212,574,212
NET FINANCIAL POSITION		311,119,555	505,113,629

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The Judiciary financial statements were approved onSeptember 2021 and signed by:


 Hon. Anne A. Amadi, CBS
 Chief Registrar of the Judiciary

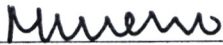

 CPA Wycliffe Wanga - ICPAK No: 3209
 Accounts Controller


THE JUDICIARY
 REPORTS AND FINANCIAL STATEMENTS
 FOR THE YEAR ENDED 30 JUNE 2021

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2021.

	Note	2020-2021 KShs	2019-2020 KShs
Receipts for operating income			
Transfers from National Treasury	1	14,847,378,582	14,436,767,825
Other Receipts	2	<u>1,159,516,540</u>	<u>1,888,098,131</u>
		16,006,895,122	16,324,865,956
Payments for operating expenses			
Compensation of Employees	3	9,393,247,822	9,155,358,282
Use of goods and services	4	4,256,695,803	3,793,176,500
Other Expenses	6	<u>350,000,000</u>	<u>707,388,807</u>
		13,999,943,625	(13,655,923,589)
Adjusted for:			
Changes in receivables	11	268,062,105	(44,629,273)
Changes in payables	12	133,660,655	(694,626,502)
Adjustment during the year	13	<u>(303,875,664)</u>	<u>-</u>
		97,847,096	(739,255,775)
Net cash flow from operating activities		2,104,798,593	1,929,686,592
Acquisition of Assets	5	<u>(1,897,069,906)</u>	<u>(2,456,368,155)</u>
NET INCREASE IN CASH AND CASH EQUIVALENT		207,728,687	(526,681,563)
Cash and cash equivalent at beginning of the year		<u>6,910,868,419</u>	<u>7,437,549,982</u>
Cash and cash equivalent at end of the year		<u>7,118,597,106</u>	<u>6,910,868,419</u>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The Judiciary financial statements were approved on September 2021 and signed by:


 Hon. Anne A. Amadi, CBS
 Chief Registrar of the Judiciary


 CPA Wycliffe Wanga - ICPAK No: 3209
 Accounts Controller

THE JUDICIARY
REPORTS AND FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2021

SUMMARY STATEMENT OF APPROPRIATION: RECURRENT AND DEVELOPMENT COMBINED

Receipt/Expense Item	Original Budget	Adjustment	Final Budget	Actual on Comparable Basis	Budget Utilization Difference	% of Utilization
	a	B	c=b+a	d	e=c-d	f=d/c %
RECEIPTS	KShs	KShs	KShs	KShs	KShs	KShs
Exchequer releases	17,215,178,582	-	17,215,178,582	15,850,899,926	1,364,278,656	92%
Other receipts	-	1,106,393,000	1,106,393,000	155,995,196	950,397,804	14%
PAYMENTS	17,215,178,582	1,106,393,000	18,321,571,582	16,006,895,122	2,314,676,460	87%
Compensation of Employees	9,401,942,303	-	9,401,942,303	9,393,247,822	8,694,481	100%
Use of goods and services	4,448,685,475	(61,100,000)	4,387,585,475	4,256,695,803	130,889,672	97%
Acquisition of Assets	3,075,650,804	(81,818,000)	2,993,832,804	1,897,069,906	1,096,762,898	63% ⁶
Other Expenses	350,000,000	-	350,000,000	350,000,000	-	100%
Grand Total	17,276,278,582	(142,918,000)	17,133,360,582	15,897,013,531	1,236,347,051	93%

The Judiciary financial statements were approved on September 2021 and signed by:



Hon. Anne A. Amadi, CBS
Chief Registrar of the Judiciary



CPA Wycliffe Wanga – ICPAK No: 3209
Accounts Controller


⁶ The low absorption at 63% was due to delay in presentation of certificates by project contractors.

THE JUDICIARY
REPORTS AND FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2021

SUMMARY STATEMENT OF APPROPRIATION: RECURRENT

Receipt/Expense Item	Original Budget		Adjustment		Final Budget		Actual on Comparable Basis		Budget Utilization Difference		% of Utilization	
	a	KShs	b	KShs	c=b+a	KShs	D	KShs	E=c-d	KShs	f=d/c %	KShs
RECEIPTS												
Exchequer releases	14,575,278,582		-		14,575,278,582		14,575,278,582		-		100%	
Other Receipts	-		-		-		-		-		-	
PAYMENTS												
	14,575,278,582		-		14,575,278,582		14,575,278,582		-		100%	
Compensation of Employees	9,401,942,303		-		9,401,942,303		9,393,247,822		8,694,480		100%	
Use of goods and services	4,387,585,475		-		4,387,585,475		4,243,628,802		143,956,673		97%	
Acquisition of Assets	435,750,804		-		435,750,804		427,359,801		8,391,003		98%	
Other expenses	350,000,000		-		350,000,000		350,000,000		-		100%	
Grand Total	14,575,278,582		-		14,575,278,582		14,414,236,426		161,042,157		99%	

The Judiciary financial statements were approved on September 2021 and signed by:


Hon. Anne A. Amadi, CBS
Chief Registrar of the Judiciary



CPA Wycliffe Wanga - ICPAK No: 3209
Accounts Controller

THE JUDICIARY
REPORTS AND FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2021

SUMMARY STATEMENT OF APPROPRIATION: DEVELOPMENT

Receipt/Expense Item	Original Budget		Adjustment		Final Budget		Actual on Comparable Basis		Budget Utilization Difference		% of Utilization	
	a	KShs	b	KShs	c=b+a	KShs	d	KShs	e=c-d	KShs	f=d/c %	KShs
RECEIPTS												
Exchequer releases - GoK	1,733,510,000		-		1,733,510,000		272,100,000		1,461,410,000			
Exchequer releases (JPIP)	906,390,000		-		906,390,000		1,003,521,344		(97,131,344)			
Other receipts - JPIP (AIA)	-		1,106,393,000		1,106,393,000		155,995,196		951,845,502			
	2,639,900,000		1,106,393,000		3,746,293,000		1,431,616,540		2,314,676,460			
PAYMENTS												
Use of goods and services	61,100,000		(61,100,000)		-		13,067,000		(13,067,000)		%	
Acquisition of Assets -GoK	1,733,510,000		(1,441,410,000)		292,100,000		268,042,666		24,057,334		92%	
Acquisition of Assets - JPIP	906,390,000		253,199,000		1,159,589,000		1,047,119,942		112,469,058		90%	
Acquisition of Assets - JPIP (AIA)	-		1,106,393,000		1,106,393,000		154,547,498		951,845,502		14%	
Grand Total	2,701,000,000		(142,918,000)		2,558,082,000		1,482,777,106		1,075,304,894		58%	

The Judiciary financial statements were approved on September 2021 and signed by:



Hon. Anne A. Amadi, CBS
Chief Registrar of the Judiciary



CPA Wycliffe Wanga - ICPAK No: 3209
Accounts Controller

THE JUDICIARY
 REPORTS AND FINANCIAL STATEMENTS
 FOR THE YEAR ENDED 30 JUNE 2021

BUDGET EXECUTION BY PROGRAMMES AND SUB-PROGRAMMES

Programme/Sub-programme	Original Budget 2020-2021 KShs	Adjustment 2020-2021 KShs	Final Budget 2020-2021 KShs	Actual on Comparable Basis 2020-2021 KShs	Budget Utilisation Difference 2020-2021 KShs
Programme 1: Dispensation of Justice					
Justice	13,960,645,136		13,960,645,136	12,804,293,691	1,156,351,445
Sub-programme 1: Access to					
Sub-programme 2: Administration and Support Services	3,172,715,446		3,172,715,446	3,092,719,840	79,995,606
Grand Total	17,133,360,582		17,133,360,582	15,897,013,531	1,236,347,051

SIGNIFICANT ACCOUNTING POLICIES

The principle accounting policies adopted in the preparation of these financial statements are set out below:

1. Statement of compliance and basis of preparation

The financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS) with particular emphasis on Cash Basis Financial Reporting under the Cash Basis of Accounting and applicable government legislations and regulations. The financial statements comply with and conform to the form of presentation prescribed by the Public Sector Accounting Standards Board of Kenya.

The financial statements are presented in Kenya Shillings, which is the functional and reporting currency of the Judiciary. The accounting policies adopted have been consistently applied to all the years presented.

The financial statements have been prepared on the cash basis following the Government's standard chart of accounts.

2. Reporting Entity

The financial statements are for the Judiciary. The financial statements encompass the reporting entity as specified under section 81 of the PFM Act 2012 and also comprise of the following development project implemented by the entity:

i) Judicial Performance Improvement Project

3. Reporting Currency

The financial statements are presented in Kenya Shillings (KShs), which is the functional and reporting currency of the Government and all values are rounded to the nearest Kenya Shilling.

4. Significant Accounting Policies

The accounting policies set out in this section have been consistently applied by the Entity for all the years presented.

a) Recognition of Receipts

The Judiciary recognises all receipts from the various sources when the event occurs and the related cash has actually been received.

• Transfers from the Exchequer

Transfers from the exchequer are recognized in the books of accounts when cash is received. Cash is considered as received when payment instruction is issued to the bank and notified to the Judiciary.

a) Recognition of Receipts (Continued)

• **External Assistance**

External assistance is received through grants and loans from multilateral and bilateral development partners.

Grants and loans shall be recognized in the books of accounts when cash is received. Cash is considered as received when a payment advice is received by the Judiciary.

In case of grant/loan in kind, such grants are recorded upon receipt of the grant item and upon determination of the value. The date of the transaction is the value date indicated on the payment advice. A similar recognition criteria is applied for loans received in the form of a direct payment.

During the year ended 30th June 2020, there were no instances of non-compliance with terms and conditions which have resulted in cancellation of external assistance loans.

b) Recognition of payments

The Entity recognises all payments when the event occurs and the related cash has actually been paid out by the Judiciary.

• **Compensation of Employees**

Salaries and wages, allowances, statutory contribution for employees are recognized in the period when the compensation is paid.

• **Use of Goods and Services**

Goods and services are recognized as payments in the period when the goods/services are paid for. Such expenses, if not paid during the period where goods/services are consumed, shall be disclosed as pending bills.

• **Interest on Borrowing**

Borrowing costs that include interest are recognized as payment in the period in which they are paid for.

• **Repayment of Borrowing (Principal Amount)**

The repayment of principal amount of borrowing is recognized as payment in the period in which the repayment is made.

b) Recognition of payments (Continued)

- **Acquisition of Fixed Assets**

The payment on acquisition of property plant and equipment items is not capitalized. The cost of acquisition and proceeds from disposal of these items are treated as payments and receipts items respectively. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration and the fair value of the asset can be reliably established, a contra transaction is recorded as receipt and as a payment.

A fixed asset register is maintained by the Judiciary and a summary provided for purposes of consolidation. This summary is disclosed as an annexure to the financial statements.

5. In-kind contributions

In-kind contributions are donations that are made to the Judiciary in the form of actual goods and/or services rather than in money or cash terms. These donations may include vehicles, equipment or personnel services. Where the financial value received for in-kind contributions can be reliably determined, the Judiciary includes such value in the statement of receipts and payments both as revenue and as an expense in equal and opposite amounts; otherwise, the contribution is not recorded.

6. Third Party Payments

Included in the receipts and payments, are payments made on its behalf to third parties in form of loans and grants. These payments do not constitute cash receipts and payments and are disclosed in the payment to third parties in the statement of receipts and payments as proceeds from foreign borrowings.

7. Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year.

- **Restriction on Cash**

Restricted cash represents amounts that are limited/restricted from being used to settle a liability for at least twelve months after the reporting period. This cash is limited for direct use as required by stipulation.

Amounts maintained in deposit bank accounts are restricted for use in refunding third party deposits.

There were no other restrictions on cash during the year

8. Accounts Receivable

For the purposes of these financial statements, imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year is treated as receivables. This is in recognition of the government practice where the imprest payments are recognized as expenditure when fully accounted for by the imprest or AIE holders. This is an enhancement to the cash accounting policy. Other accounts receivables are disclosed in the financial statements.

9. Accounts Payable

For the purposes of these financial statements, deposits and retentions held on behalf of third parties has been recognized as accounts payables. This is in recognition of the government practice of retaining a portion of contracted services and works pending fulfilment of obligations by the contractor and to hold deposits on behalf of third parties. This is an enhancement to the cash accounting policy adopted by National Government Ministries and agencies. Other liabilities including pending bills are disclosed in the financial statements.

10. Pending Bills

Pending bills consist of unpaid liabilities at the end of the financial year arising from contracted goods or services during the year or in past years. As pending bills do not involve the payment of cash in the reporting period, they recorded as 'memorandum' or 'off-balance' items to provide a sense of the overall net cash position of the Entity at the end of the year. When the pending bills are finally settled, such payments are included in the Statement of Receipts and Payments in the year in which the payments are made.

11. Budget

The budget is developed on a comparable accounting basis (cash basis except for imprest and deposits, which are accounted for on a cash basis), the same accounts classification basis, and for the same period as the financial statements. The original budget was approved by Parliament on June 2019 for the period 1st July 2019 to 30th June 2020 as required by Law and there were two supplementary adjustments to the original budget during the year.

A comparison of the actual performance against the comparable budget for the financial year under review has been included in the financial statements.

Government Development Projects are budgeted for under the MDAs but receive budgeted funds as transfers and account for them separately. These transfers are recognised as inter-entity transfers.

12. Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

13. Subsequent events

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended 30th June 2020

14. Errors

Material prior period errors shall be corrected retrospectively in the first set of financial statements authorized for issue after their discovery by: (i). restating the comparative amounts for prior period(s) presented in which the error occurred; or (ii). If the error occurred before the earliest prior period presented, restating the opening balances of assets, liabilities and net assets/equity for the earliest prior period presented.

15. Contingent Liabilities

Section 148 (9) of the PFM Act regulations 2015 requires the Accounting officer of a National Government entity to report on the payments made, or losses incurred, by the National Government entity to meet contingent liabilities as a result of loans during the financial year.

A contingent liability is:

- a) A possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- b) A present obligation that arises from past events but is not recognised because:
 - i) It is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or
 - ii) The amount of the obligation cannot be measured with sufficient reliability.

Some of contingent liabilities may arise from: litigation in progress, guarantees, indemnities. Letters of comfort/ support, insurance, Public Private Partnerships, The Judiciary does not recognize a contingent liability but discloses details of any contingencies in the notes to the financial statements unless the possibility of an outflow of resources embodying economic benefits or service potential is remote. *Note 14.3* and Annex 6 of this financial statement is a register of the contingent liabilities in the year.

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NOTES TO THE FINANCIAL STATEMENTS

1) EXCHEQUER RELEASES

Description and reference of the transfer	2020-2021	2019-2020
	KShs	KShs
Total Exchequer Releases for quarter 1	4,130,858,176	2,959,055,394
Total Exchequer Releases for quarter 2	3,026,463,919	4,455,167,849
Total Exchequer Releases for quarter 3	3,691,932,006	4,355,767,042
Total Exchequer Releases for quarter 4	<u>3,998,124,481</u>	<u>2,666,777,540</u>
Total	<u>14,847,378,582</u>	<u>14,436,767,825</u>

2) PROCEEDS FROM FOREIGN BORROWINGS (JPIP)

Total Exchequer Releases for quarter 1	220,075,449	270,833,980
Total Exchequer Releases for quarter 2	262,631,267	-
Total Exchequer Releases for quarter 3	319,981,128	372,727,448
Total Exchequer Releases for quarter 4	200,833,501	106,490,000
Miscellaneous Receipts	1,447,698	16,343,336
Direct Payments	<u>154,547,497</u>	<u>1,121,703,366</u>
	<u>1,159,516,540</u>	<u>1,888,098,130</u>

3) COMPENSATION OF EMPLOYEES

Basic salaries of permanent employees	3,473,337,564	3,350,172,968
Basic wages of temporary employees	160,043,389	147,289,726
Personal allowances paid as part of salary	4,567,633,618	4,626,347,813
Personal allowances paid as reimbursements	-	38,462,831
Employer contribution to Compulsory national Social Security Schemes	<u>1,192,233,251</u>	<u>993,084,944</u>
Total	<u>9,393,247,822</u>	<u>9,155,358,282</u>

Social security benefits relate to Judiciary contribution towards staff retirement under the defined contribution scheme and defined benefit schemes. The contributions are made to Sanlam Kenya Limited and Zamara Actuaries, Administrators & Consultants Limited who are the fund managers and administrators respectively

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4) USE OF GOODS AND SERVICES

	2020-2021	2019-2020
	KShs	KShs
Utilities, supplies and services	133,999,526	121,686,490
Communication, supplies and services	276,143,173	167,466,402
Domestic travel and subsistence	819,227,252	693,555,154
Foreign travel and subsistence	15,976,877	50,524,994
Printing, advertising and information supplies & services	42,266,796	43,138,934
Rentals of produced assets	70,675,556	65,319,411
Training expenses	14,302,629	60,064,757
Hospitality supplies and services	374,031,517	277,831,082
Insurance costs	1,291,000,617	1,238,325,268
Specialized materials and services	57,439,128	24,730,998
Office and general supplies and services	257,094,432	225,422,919
Fuel Oil and Lubricants	111,316,745	122,972,101
Other operating expenses	545,785,504	462,562,817
Routine maintenance - vehicles and other transport equipment	160,176,664	161,764,363
Routine maintenance - other assets	<u>87,259,386</u>	<u>77,810,810</u>
Total	<u>4,256,695,803</u>	<u>3,793,176,500</u>

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5) ACQUISITION OF ASSETS

Non-Financial Assets	2020-2021	2019-2020
	KShs	KShs
Construction of Buildings	220,875,184	377,536,065
Refurbishment of Buildings	17,902,911	171,088,902
Purchase of Vehicles and Other Transport Equipment	368,586,800	217,633,800
Purchase of Office Furniture and General Equipment	58,773,000	64,664,066
Purchase of Specialized Plant, Equipment and Machinery	29,264,571	97,367,540
Research, Feasibility studies, project preparation and design	-	8,538,140
Domestic Lending and On-lending - JPIP	1,201,667,440	1,519,539,642
Total	1,897,069,906	2,456,368,155

6) OTHER EXPENSES

Purchase of goods and services - JPIP		206,839,856
Housing Loans to public servants	350,000,000	485,547,750
Car loans to public servants		15,001,200
Ford Foundation Expenses	-	-
	350,000,000	707,388,807

7) BANK ACCOUNTS

Name of Bank, Account No. & currency	Type		
Central Bank of Kenya: 1000181915 - KES	Recurrent	161,177,110	31,211,627
Central Bank of Kenya: 1000182048 - KES	Development	13,022	11,336,659
Central Bank of Kenya: 1000182342 - KES	Deposits	580,994,217	585,984,121
Central Bank of Kenya: 1000187441 - KES	JPIP	108,234,680	152,808,496
Various Commercial Banks		6,268,178,077	6,129,527,516
Total		7,118,597,106	6,910,868,419

8) ACCOUNTS RECEIVABLE

Government Imprests	14,481,010	54,182,936
Government Imprests - JPIP	399,170	6,348,058
Salary advances	507,996	979,769
District suspense & Clearance accounts	26,306,566	248,246,084
Total	41,694,742	309,756,847

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9) ACCOUNTS PAYABLE

		2020-2021	2019-2020
		KShs	KShs
General Deposits - HQs		580,994,217	585,984,121
General Deposits - Stations		6,268,178,076	6,129,527,516
Total		6,849,172,293	6,715,511,637

10) BALANCES BROUGHT FORWARD

Bank Accounts	9	6,910,868,419	7,437,549,982
Accounts Receivable	10	309,756,847	265,127,574
Accounts Payable	11	(6,715,511,638)	(7,410,138,140)
Total		505,113,628	292,539,416

11) (INCREASE)/DECREASE IN RECEIVABLES

Receivables as at 1 st July (a)		309,756,847	265,127,574
Receivables as at 30 th June (b)		(41,694,742)	309,756,847
(Increase)/Decrease in Receivables (b-a)		268,062,105	(44,629,273)

12) INCREASE/(DECREASE) IN PAYABLES

Payables as at 1 st July (a)		6,715,511,638	7,410,138,140
Payables as at 30 th June (b)		6,849,172,293	6,715,511,638
Increase/(Decrease) in Payables (b-a)		(133,660,655)	694,626,502

13) ADJUSTMENTS DURING THE YEAR

Bank Account		9,431,520	-
Accounts Receivables		46,198,060	-
Clearance Accounts		248,246,084	-
Total		303,875,664	-

14) OTHER IMPORTANT DISCLOSURES

14.1 (a) PENDING ACCOUNTS PAYABLE (See Annex 1a for detailed listing)

	Balance b/f FY 2019/2020	Additions for the period	Paid during the year	Balance c/f FY 2020/2021
Description	Kshs	Kshs	Kshs	Kshs
Construction of buildings	76,730,898	332,483,560	76,730,898	332,483,560
Construction of Civil Works	-	-	-	-
Supply of goods	153,983,925	136,328,603	153,983,925	136,328,603
Supply of services	<u>537,864,009</u>	<u>28,548,730</u>	<u>537,864,009</u>	<u>25,548,730</u>
Total	<u>768,578,833</u>	<u>497,360,892</u>	<u>768,578,833</u>	<u>497,360,893</u>

14.2 (b) PENDING STAFF PAYABLES (See Annex 1b for detailed listing)

Staff Payables	<u>20,085,958</u>	<u>42,062,934</u>	<u>20,085,958</u>	<u>42,062,934</u>
Court & Arbitration Awards	-	-	-	<u>1,138,713,450</u>
TOTAL	<u>788,664,790</u>	<u>1,678,137,276</u>	<u>788,664,790</u>	<u>1,678,137,277</u>

14.3 CONTINGENT LIABILITIES

	2020-2021	2019-2020
	KShs	KShs
Court & Arbitration Awards	<u>1,138,713,450</u>	<u>822,204,900</u>
Total	<u>1,138,713,450</u>	<u>822,204,900</u>

The Judiciary entered into contractor with various contractors for construction of court buildings which were initially supervised by the Ministry of works. Due to budget constraints, the projects were not completed per contract period and also there were delays in payment of contractor. The Judiciary has requested the National Treasury for budget allocation to pay the awards granted by the Court.

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PROGRESS ON THE FOLLOW UP OF AUDITOR RECOMMENDATIONS

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor. We have nominated focal persons to resolve the various issues as shown below with the associated time frame within which we expect the issues to be resolved.

FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
1	Unauthorized reallocation of Funds	The variance of KShs 1,071,679 on Purchase of Office Furniture and General Equipment as a result of posting error for court station data where some items for court refurbishments were posted under purchase of office furniture and general equipment due to their nature. However both category of expenses fall within the same vote and programme. The over expenditure in social security was as a result of the National Treasury reversal of an initial allocation of KShs 773,945,212 per Annexure 1a which was revised down to Kshs 619,156,170 per Annexure 1b after a commitment of KShs 93,768,778 had been made. However, the overall under expenditure of KShs 112,548,580 was realized in Compensation of employees of KShs 36,839,581 and in use of goods of KShs 75,708,999.	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
2.0	Cash and cash Equivalent	The Judiciary vote 1261 has one programme of Dispensation of Justice and two sub-programmes; Sub-programme 1: Access to Justice and Sub-programme 2: Administration and Support Services. Therefore Judiciary was not in violation of Section 43(2)(b) of the public Finance Management Act 2012.			
2.1	Deposit cash balance- Unsupported adjustments.	Previously the court station deposits were managed by the Sub-County treasuries. Upon de-linking the judiciary embarked on a reconciliation exercised to ensure that records handed over were complete and accurate. Upon review it was noted reconciliation issues that required adjustments in order to agree the deposit records of cashbook, General Deposit Ledger and the Judiciary Financial Management Information System (JFMIS) records to reflect the correct balances for deposit liability. The adjustment for Nakuru Law Courts amounting to KShs 81,241,223 were depositors receipts recorded	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
		in the GDL and JFMIS but not captured in the cashbook. To agree the records an adjustment was made in the cashbook. Attached list marked annexure 2a is list supporting the adjustment made. KShs 236,982 adjustment was made in Homa-Bay Law Courts cashbook. These were deposit receipts in the GDL and JFMIS not included in the cashbook. Attached marked annexure 2b is the list of depositors supporting the adjustment. Therefore the account balances for the said stations were properly stated and accurate.			
2.2	Deposit cash balance- Unconfirmed Bank Balance	The copies of the missing cashbooks, bank certificates and bank reconciliations for five (5) court stations totaling KShs 150,409,360 summarized below are attached marked Annexure 3 .	HAU/FO	Not Resolved	
2.3	Deposit cash balance- Unexplained loss of cash deposits	The loss for Molo Law Courts is KShs. 34,074,235.50 and not KShs 73,380,753 as noted in the draft audit report. The documented loss as at 30 June 2020 was KShs 34,219,651 per attached bank reconciliation marked Annexure 4a mitigated by bank balance of KShs 145,415.50 per list marked Annexure 4b . These	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
		<p>were deposit funds inappropriately accounted for at Molo Law Courts and attributed to three staff collectively. Disciplinary action was taken against staff who were involved. In addition, recovery process through Asset Recovery Agency (ARA) and the Director of Criminal Investigations (DCI) has been instituted.</p> <p>The losses for Embu and Malindi partly relates to staff not able to properly account for deposits and are currently facing disciplinary committee. Also Embu, Malindi and Nakuru have variances relating to cash balances not transferred from the sub-county treasuries upon de-linking. A joint reconciliation between the Judiciary and the National treasury is ongoing that will recommend the way forward regarding the unremitted cash balances.</p>			
3	Accounts payable	<p>The KShs 323,031,494 is the difference between the court stations cashbook balances of KShs 6,129,527,516.98 and stations JFMIS deposit balances of KShs 6,452,559,010.68. The reconciliation done so far indicate and amount of KShs 272,522,508.66, from the sub county</p>	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
4	Account Receivables-Unreconciled Suspense Account	<p>treasuries at the time of de-linking is yet to transferred to Judiciary. Once received, the cash balances will increase thereby reducing the variance between the accounts payable and the cash balances. The reconciliation exercise will also endeavour clear any reconciliation effects in the various bank reconciliations for the 124 court stations amounting to Kshs 50,508,985.37. The attached Annexure 5 shows a list of the cash balances not transferred from the sub-county treasuries amounting to KShs 272,522,508.66. The Judiciary continues to hold sufficient bank balances to ensure it meets all financial obligations when they fall due.</p> <p>The unreconciled suspense accounts are AIEs issued to court stations fully accounted for, however, the revision of budget in FY 2018/2019 the surrenders could not be cleared from the system due to budget insufficiency and thus remain outstanding. The KShs 185,330,822 is the balance of AIEs that were issued to the stations and accounted for but could not be cleared in IFMIS for prior years while KShs 62,915,262 related to AIEs that were</p>	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
5	Outstanding HIV/AIDS Tribunal Rent	<p>issued to the stations and accounted for but could not be cleared in IFMIS in the period under review. Attached marked Annexure 6 shows the total balances amounting to KShs 248,246,084.</p> <p>Prior to transitioning to the Judiciary, in the 2015/2016 financial year, the HIV/AIDS tribunal was under the ministry of health and there existed a lease agreement executed between the Chief Executive Officer (CEO) of the Tribunal and National Hospital Insurance Fund (NHIF). Upon transitioning to the Judiciary, it was noted that the lease had been improperly executed between the Judiciary and lessor the NHIF. The lease ought to have been between the Chief Registrar of the Judiciary and NHIF. This had to be regularized by preparing a new lease between the Judiciary and NHIF. The unpaid rent for HIV/AIDS Tribunals was as a result of unsigned lease agreement by NHIF management. The matter is being pursued to have the lease signed to facilitate the payment of rent including arrears as per attached correspondences and copy of the lease marked</p>	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
6	Contractors- Interest and penalty Claims on Outstanding Payments	<p>Annex 7(a). We also attach Annex 7(b) being an analysis of KShs 20,055,377.20 being the rent arrears based on the new lease and not KShs 20,200,395.28.</p> <p>The contractors through arbitration were awarded a total of KShs 822,204,899.60. Only an amount Of KShs 18,809,796 has been settled due to budgetary constraints. The Judiciary has however engaged the National Treasury to consider facilitating the payments of the awards to contractors. The Judiciary through the Directorate of the Building Services continues to ensure improved project management.</p>	HAU/FO	Not Resolved	
	Failure to Withhold Performance Bonds	<p>It is true that the Judiciary had stopped some of the construction projects due to failure to adhere to contract terms. The contractors were slow in their execution and failed to keep current the performance bond. Despite requests to the contractors to submit extended performance bonds, they breached section 57.1 (f) of the general conditions of the contract. In addition there were many prompts and warnings to complete the works, however the</p>	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
		<p>contractors demonstrated inability to perform. The Judiciary had thus no option but to terminate the contracts due failure by the contractors to comply with general conditions of the contracts.</p> <p>The termination of the contracts was done in line with Clause 58(1) of the General Conditions of contract on termination that states that "If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as specified in the PCC. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer".</p> <p>The Judiciary therefore followed Section 142. (1)(2) of the Public Procurement and Asset Disposal Act</p>			

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
8		2015 and the general terms of contract when terminating the contracts.			
8.1	Stalled projects Turkana high court-Waste of Public Funds	It's true the Judiciary awarded Land Mark Holdings Limited, the tender for the construction of the High Court in Lodwar at a cost of KShs 814,504,141 . Construction of Lodwar commenced but was stopped following the directive of the parliamentary Accounts Committee (PAC) which queried the cost of the project. The contractor filed for arbitral proceedings and on 11th March 2019, the Arbitrator made the award. The already paid amount of KShs 101,294,765 was based on certified works while the KShs 290,645,722.99 was awarded through arbitration. The Judiciary has engage the National Treasury to facilitate the payment of the arbitral award. Further, based on the Attorney Generals Advise, all the projects whose contract period had expired were not renewed and are being reviewed and repackaged for fresh tendering.	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
8.2.	Stalled Projects	The Judiciary has experienced budgetary Constraints affecting the development vote for several year. As a result project implementation has slowed down. However through the directorate of building services the Judiciary continues to use the limited resources to implement various projects that are at different stages.	HAU/FO	Not Resolved	
9	Failure to Prioritize Budgeted projects	The Judiciary prepares an annual procurement plan as required by Section 53(2) of the Public Procurement and Asset Disposal Act. The plan is approved by the Accounting Officer and uploaded in IFMIS before the beginning of each financial year hence any procurement adheres to the procurement plan for that financial year. Budgeting of the construction projects is guided by the National Treasury Circular No. 17/2015 dated 14 th September 2015 which requires that a project committee of an MDA prioritizes projects to be implemented and budgeted for in each financial year. Each year the Judiciary has adhered to the guidelines set out in that circular in budgeting of projects.	HAU/FO	Not Resolved	

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
		<p>The delay in payment of certified certificates and completion of the construction projects has been caused largely by the continued reduction of Judiciary Development budget each year. The budgets cuts make the contractors to suffer huge financial loss and the government having to pay penalties and/or interests on delayed payments to certified certificates. The Judiciary makes payments to contractors based on certified works and report on inspection and acceptance committee issued. This is largely based on contractor's ability to implement works and have them certified which is dependent on contractors' capacity and ability to execute the works. The contractors who are fast in completing their works and having them certified will be paid ahead of the slow ones who may be having capacity issues. Therefore contractors are paid based on their work done and certificate presented for payments and no priority is given to some contractors over others.</p>			

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
		<p>It's true that in the year 2013, Judiciary received a total of USD 120 Million or Kshs. 10 billion from the World Bank for purposes of Judiciary Performance Improvement Project (JPIP). The financing Agreement for loan allocated US\$ 50.0 million or Kshs. 5 billion on Component 3: Court Infrastructure for the six-year project period. The project was to 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, prioritized from the indicative lists and in accordance with the agreed criteria.</p> <p>During project implementation need to increase allocation to component 3 was realized. The financing agreement was amended and more funds allocated to component 3 and more court stations earmarked for court constructions. Because of the fixed implementation period of the project all construction contracts are to be implemented within the project period hence</p>			

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FY 2019/2020					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
		the need to procure the contract as other contracts were on-going. Therefore, the Judiciary has continued to adhere to Regulation 56(2)(b) of the Public Finance Management Act Regulation 2015 in the budget of projects over the years.			

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FY 2018/2019					
Reference No. on the external audit Report	Issue Observations from Auditor	Management comments	Focal person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe:
1	Inaccurate cash and bank balances				
1.1	Unsupported Third-Party Deposits	<p>The Judiciary maintains banks accounts for each court for the third party deposits. Cash books and bank reconciliations are now prepared at the court stations.</p> <p>The court books of Accounts used to be maintained by the sub County Treasuries, however, the courts are now delinked and the primary Books are maintained at the courts.</p> <p>The differences noted in the cashbooks arising from audit findings are timing differences which are reconciling items in the cashbooks, some of which are historic in nature since de-linking from the district treasuries. However, books of accounts have been reviewed to ascertain and correct these accounting errors.</p>	HAU	Awaiting PAC Resolution	
1.2	Unreconciled Receipts and Payments	<p>Payments in Bank statement not yet recorded in the cashbook</p> <p>a) Recurrent account no. 1000182915 - Kshs 62,025,258.90.</p>	HAU	Awaiting PAC Resolution	
1.3	Long Outstanding Items in Bank Reconciliation Statements	Included in this amount of KShs 62,025,258.90 was KShs 44,161,404 being May 2019 net salaries	HAU	Awaiting PAC Resolution	

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FY 2018/2019					
Reference No. on the external audit Report	Issue Observations from Auditor	Management comments	Focal person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe:
		<p>payable through cooperative bank which had not been posted in the cash book but has since been posted in the cashbook. The balance of the payments has been updated in the cashbook and cleared from the reconciliation.</p> <p>b) Development account no.1000182048 - KShs. 2,141,680.85 This related to payment to a contractor in the month of July 2017. The cashbook has since been updated upon retrieval of the supporting document.</p> <p>c) Deposit account no.1000182342 KShs. 62,833,086.00.</p> <p>This related to fraudulent activities in September 2013 in the deposit bank account. The case No. 1457 of 2013 is now and prosecution proved the case of fraud and suspects found guilty. The amount shall be recovered from the recipient Banks.</p>			
2.	Unsupported Expenditure on use of goods and services	The support documents have since been retrieved and are available for confirmation.	HAU	Awaiting PAC Resolution	

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FY 2018/2019					
Reference No. on the external audit Report	Issue Observations from Auditor	Management comments	Focal person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe:
3.	Unsupported Pending Bills	<p>The Judiciary received a total exchequer of KShs 15,202,608,422 against a budget of Kshs 16,095,496,725 leading to unfunded budget of KShs 892,888,309. Had the Judiciary been fully funded the deficit of Kshs 808,335,731 would be minimal.</p> <p>In compliance with the financial reporting template, the pending bills were disclosed. A detailed schedules of pending bills were also annexed to the financial statements.</p> <p>They pending bills in question arose from contract entered into in prior financial years and they had not been paid at the close of the year. These bills have subsequently been paid.</p> <p>The financial statement reflects a figure of KShs 7,410,138,140 that comprises the current year deposits of KShs 2,283,242,005.40 and balance brought forward of Kshs 5,126,896,134.36. and the amount is supported by outstanding listing.</p> <p>Hence the figure of Kshs 12,537,034,274.36 is an error.</p>	HAU	Awaiting PAC Resolution	
4.	Accounts Payable - Deposits		HAU	Awaiting PAC Resolution	

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Reference No. on the external audit Report	Issue Observations from Auditor	Management comments	Focal person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe:
		<p>ii) The amount held in respect of third parties was KShs 7,410,138,139.75 listed as outstanding and the listing are reconciliation differences. These differences have been reconciled and being verified by National Treasury since the Sub County Treasuries used to maintain books of accounts before delinking.</p> <p>The differences noted in the cashbooks arising from audit findings are timing differences which are reconciling items in the cashbooks, some of which are historic in nature since de-linking from the district treasuries. However, books of accounts have been reviewed to ascertain and correct these accounting errors.</p> <p>The project status report reflects a gross amount of Kshs 1,564,268,273.75 certified as work done much of which has been settled. As at the 30th June 2019 it is only Kshs 424,640,460 that had not been paid as disclosed in the Financial Statements as pending bills.</p> <p>The inadequate budget allocation for the development vote and periodic revision of the</p>			
5.	Delayed Completion of Thirty-Nine Courts		HAU	Awaiting PAC Resolution	

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FY 2018/2019					
Reference No. on the external audit Report	Issue Observations from Auditor	Management comments	Focal person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe:
		budget during the year has exposed the Judiciary to financial risk in the project management. The interest and penalties that arise on the delayed payments is a risk the government has to bear given the contractual obligation provided for in the contracts. Judiciary however, from time to time engages the contractors not to invoke the interest and penalty clause in the contract.			
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES					
1.	Management of Tribunals	Issue No (i). Although the Constitution provides for the transition of Tribunals to the Judiciary, the trigger for the transfer is not clear. There is no existing policy or legislative framework to guide the transition. Each tribunal exists on its own as established by an Act of Parliament. Each tribunal has its own rules of procedure, different appointment criteria and different terms and conditions of service. The Judiciary in partnership with the Law Reform Commission has drafted a Tribunals Bill (attached as annex Judic009) to provide for a governance framework of tribunals in order to harmonize the operations of tribunals. The Draft Tribunals Bill 2019 has been submitted to the Attorney General for tabling before cabinet. The 20	JSC	Awaiting PAC Resolution	

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FY 2018/2019					
Reference No. on the external audit Report	Issue Observations from Auditor	Management comments	Focal person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe:
		<p>tribunals under the Judiciary are those that the National Treasury has transferred operational budgets to the Judiciary. The Judiciary has no role in the transfer of the tribunals to the Judiciary.</p> <p>Issue No (ii). Once a tribunal is transitioned, the staff who were in the tribunal remain in the Tribunal to ensure transfer of knowledge and smooth transition process. The Judiciary is in the process of implementing the organizational review and the issue of staffing for tribunals is one of the issues to be addressed by the organizational review. The Judiciary has also consistently deployed judiciary staff to tribunals to ensure succession management and knowledge transfer.</p> <p>Issue No (iii) the transition process is a long one and requires a lot of consultation. Some tribunals were operationalized for the first time while under the Judiciary and so they had no space. These tribunals are run from the Tribunal's Secretariat. Some tribunals are still housed by their parent ministries, which are spread across country and occupy space, which they share with other</p>			

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FY 2018/2019

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe:
2.	Irregular Acting Appointments	<p>government units. The Judiciary has made a proposal for the acquisition of office space to allow the provision of centralized judicial services and enhance access to justice for all through easier physical access.</p> <p>The Judicial Service Commission (JSC) advertised for positions of Directors, Heads of units and registrars in the month of February 2019. The Interviews for various positions were held and appointments for the Director Audit and Risk Management and Director for planning and organizational performance made.</p> <p>During transition of Tribunals to Judiciary from various Ministries, their budgets was classified as Transfers to Semi-Autonomous Government Agencies. Therefore, all items for the activities of the tribunals were to be charged under one-line item. The staff who undertook those activities although they were drawn from Judiciary, the activities were tribunal related. In the FY 2019/2020 the budget has been itemized and the expenditure is being charged to each tribunal's budget.</p>	JSC	Awaiting PAC Resolution	
3.	Unapproved Reallocations		HAU/CFO	Awaiting PAC Resolution	

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FY 2018/2019

Reference No. on the external audit Report	Issue Observations from Auditor	Management comments	Focal person to resolve the issue (<i>Name and designation</i>)	Status: (<i>Resolved Not Resolved</i>)	Timeframe:
		Section 43(3) of the PFM act, and Section 48(1) provide for the accounting officer to reallocate funds within a program. Judiciary's budget is classified under one program which is Dispensation of Justice.			

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FY 2017/2018					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
1	Lack of Fixed Asset Register	At the time of audit the Judiciary had not finalized the preparation of the Asset Register. The Asset Register was later finalized within the year and was available for audit review. A summary of the Fixed Asset Register in the prescribed format was attached for perusal by the Committee.	HAU/CFO	Not Resolved	
2	Unrecognized and Uncertified Contractors Expenditure	Construction projects funded by the Government of Kenya at the tune of Kshs. 3,491,859,987 which were at different stages of completion. Out of these, five (5) projects (Iten Law Court, Supreme Court building Renovations, Nkubu Law Court, Hamisi Law Court and Kaloleni Law court) have since been completed and copies of their certificates of completion were attached for perusal by the Committee and the remaining thirty-four (34) are ongoing. The Judiciary project status report at the time reflected that certified works done were valued at Kshs 1,587,836,185.95 of which only Kshs 246,404,929.00 had not been paid as at the close of the Financial Year 2017/18 due budget cuts. This was disclosed in the Financial	HAU/CFO	Not Resolved	

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FY 2017/2018					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
3	Unsupported Tribunals Expenditure	<p>Statements as pending bills. An updated Judiciary projects' status list was attached indicating the certified works, total amount paid and the status of the projects.</p> <p>Kshs 876,890,288 was categorized as transfers to other Government entities. Out of this amount, Kshs. 374,709,078 was transferred to state agencies which are governed by Boards and prepare independent financial statements.</p> <p>The balance of Kshs. 502,181,210 relates to expenditures for 19 tribunals which could not be transferred as they are not managed by Boards of Directors and do not prepare their own financial statements. This approved budget was erroneously categorized as "Transfers to Other Government Entities" by the National Treasury when they transferred the tribunals' budget to the Judiciary during the FY 2015/16. The budget was thus spent from the Judiciary's Headquarters. Therefore, the expenditures incurred by the tribunals were a proper charge on the public funds.</p>	HAU/CFO	Resolved	

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FY 2017/2018					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
4	Pending Bills	<p>The Judiciary engaged the National Treasury to regularize this anomaly. Attached is the CRJ's letter to National Treasury which was attached for perusal by the Committee. With effect from FY 2019/20 the Tribunal's budget has since been categorized as Operation & Maintenance (O&M) similar to other courts in the Judiciary. The payment vouchers of all these expenditures by the tribunals were available for audit Review.</p> <p>Total approved budget for Judiciary in FY 2017/18 was Kshs. 14,651,893,728. However, the total expenditure was Kshs. 13,800,043,861 leaving an unutilized amount of Kshs. 851,849,867 which is more than the realized pending bill of Kshs. 613,798,064 by Kshs. 238,051,803. Therefore, had the full exchequer been received, all the bills would have been paid up and no deficit would have arisen.</p> <p>The main reason why the pending bills were not paid was that the National Treasury through circulars Ref No ES 1/03 and ES 1/07/02 'A' (34) on austerity measures required all MDAs to reduce their recurrent budget items by up to 75%</p>	HAU/CFO	Resolved	


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		FY 2017/2018			
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
		<p>which affected the Judiciary's budget. These austerity measures led to –</p> <p>i. The Judiciary's Budget allocation being reduced from 17.1 Billion to 14.6 Billion in the FY 2017/2018, being 15% reduction hence most ongoing projects could not be paid.</p> <p>ii. The Judiciary's Development Budget for the FY 2017/2018 was reduced by Kshs 124 Million from Kshs 340 Million to Kshs 216 Million.</p> <p>The pending bills listed in our Financial Statements have since been cleared as a first charge in the FY 2018/19. All the pending bills were supported by the relevant documents i.e. contracts, invoices, certified certificates and payment vouchers and have been availed for audit review.</p>			
6	<p>Budget and Budgetary Control</p> <p>1. Receipts</p>	<p>The reason for the shortfall is non-release of exchequer and conversion of JPIP loan from revenue to AIA allowing the development partner to pay suppliers/contractors directly hence reducing the amount that would have been received as exchequer from the donor.</p>	HAU/CFO	Resolved	

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FY 2017/2018					
Reference No. on the external audit Report	Issue/Observation from Auditor	Management Comments	Focal person to resolve the issue	Status: (Resolved/Not Resolved)	Time frame
7	2. Payments	The Accounting Officer submitted that it was true that there was an under expenditure of Kshs. 851,849,868 in the FY. This is attributed to lack of exchequer.	HAU/CFO	Resolved	


 Hon. Anne A. Amadi, CBS
 Chief Registrar of the Judiciary


 CPA Wycliffe Wanga - ICPAK No: 3209
 Accounts Controller

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ANNEX 2 - SUMMARY OF FIXED ASSET REGISTER

Asset class	Historical Cost b/fwd. (Kshs) 2019/2020	Additions during the year (Kshs)	Disposals during the year (Kshs)	Transfers in/(out) during the year	Historical Cost c/fwd. (Kshs) 2020/2021
	KShs	KShs	KShs	KShs	KShs
Land	7,297,599,999	-	-	-	7,297,599,999
Buildings and structures	14,798,133,819	1,440,445,535	-	-	16,238,579,354
Transport equipment	3,333,433,987	368,586,800	-	-	3,702,020,787
Office equipment, furniture and fittings	490,487,363	58,773,001	-	-	549,260,364
ICT Equipment	390,927,032	29,264,571	-	-	420,191,603
Machinery and Equipment	1,514,725,165	-	-	-	1,514,725,165
Biological assets	-	-	-	-	-
Infrastructure Assets- Roads, Rails	-	-	-	-	-
Heritage and cultural assets	-	-	-	-	-
Intangible assets	-	-	-	-	-
Work in Progress	-	-	-	-	-
Total	27,825,307,366	1,897,069,907	=	=	29,722,377,272

ANNEX 3 - LIST OF PROJECTS IMPLEMENTED BY THE JUDICIARY

Project Name	Judicial Performance Improvement Project (JPIP)
Principal activity of the project	The strategic goals of the project as follows: (i) To improve the performance of the judiciary to enable it provide services in a more effective, efficient and accountable (ii) To support and achieve the priority areas of the Judiciary Transformation (iii) To contribute to Kenya's vision 2030 development strategy for transforming Kenya into a middle income country
Accounting Officer	Anne. A Amadi, CBS
Project consolidated in these financial statements(yes/no)	Yes

ANNEX 4 - LIST OF STATE CORPORATIONS AND SEMI-AUTONOMOUS GOVERNMENT AGENCIES UNDER THE JUDICIARY.

Ref	SC/SAGA
1.	HIV & AIDS Tribunal
2.	Political Parties Dispute Tribunal
3.	National Council for Administration of Justice

ANNEX 5- REPORTS GENERATED FROM IFMIS

The following financial Reports Generated from IFMIS should be generated and attached as appendices to these financial statements.

- i. GOK IFMIS Comparison Trial Balance
- ii. FO30 (Bank reconciliations) for all bank accounts
- iii. GOK IFMIS Receipts and Payments Statement
- iv. GOK IFMIS Statement of Financial Position
- v. GOK IFMIS Statement of Cash Flows
- vi. GOK IFMIS Notes to the Financial Statements
- vii. GOK IFMIS Statement of Budget Execution
- viii. GOK IFMIS Statement of Deposits
- ix. GOK IFMIS Budget Execution by Programme and Economic Classification
- x. GOK IFMIS Budget Execution by Heads and Programmes
- xi. GOK IFMIS Budget Execution by Programmes and Sub-programmes

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