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THE JUDICIAL SERVICE ACT, 2011

STATE OF THE JUDICIARY AND THE ADMINISTRATION OF JUSTICE ANNUAL REPORT 2020/2021

IN ACCORDANCE with the requirement under section 5 (2) (b) of the Judicial Service Act, 2011, the chief Justice of the Republic of Kenya, publishes the State of the Judiciary and the Administration of Justice Annual Report 2020–2021.

## FOREWORD FROM THE CHIEF JUSTICE

The State of the Judiciary and the Administration of Justice Report (SOJAR) is a constitutional and statutory imperative drawn from Article 159 of the Constitution which assigns judicial authority and its exercise. The principles outlined in the Constitution guide judicial operations to do justice to all irrespective of status, to administer justice without undue delay, to explore alternative forms of dispute resolution, to administer justice without undue regard to procedural technicalities and to protect the purpose and principles of the Constitution.

This 10th Edition of the State of the Judiciary and the Administration of Justice Report presents the outcomes of judicial operations during the 2020/2021 Financial Year, notably the pandemic period. It highlights technological and other innovations employed by the Judiciary to uphold the mandate bestowed by the Constitution to administer justice in every respect. This period was navigated under the stewardship of Hon. Chief Justice David Maraga, emeritus, whose leadership during a tough global period sustained judiciary transformation, especially the use of technology and ICT related interventions as a tool of access to justice. The pandemic altered the modalities of work throughout the world and forced us to rethink governance, the workplace, and approaches to leadership.

During this period, the Judiciary transitioned from the traditional face to face proceedings to online court processes supported by internet technology. This presented an opportunity to bring to fruition previous efforts to automate the Judiciary's processes and accelerated passage to virtual workspaces.

The pandemic placed exceptional strain upon the justice sector. However, as the report reveals, the Kenyan Judiciary and sector in general demonstrated admirable resilience and agility. Jointly, we reviewed bail and bond terms, prison decongestion measures, remand arrangements, registry access and other collaborative ventures that kept the sector afloat.

144,000 cases were heard through the virtual courts, 356,997 new cases were filed, 295, 837 cases were heard and determined. Notably, 1,359,768 cases were processed through the Case Tracking System (CTS). In some instances, the sector experienced a surge in workload while others reported a reduction in demand. Criminal cases rose while civil cases declined signalling the effect of the pandemic on our communities and the economy.

The ICT complement of the Judiciary continues to grow as demonstrated by the development of the Case Tracking System (CTS), Judiciary Finance Management Information System (JFMIS) and the Court Recording and Transcription System (CRTS) which are now being used to file cases, manage our fee collection, and provide transcription services thus ensuring that courts are digitised. We are committed to enhance our services by maximising the use of technology to support e-justice.

As we continue to discharge our mandate, we are also clear that the dispensation of justice ought to serve the wider societal objectives of ensuring that every person is given an opportunity to realise their full potential. This means that the avenues of accessing justice should be open to all citizens wherever they may be in the Republic of Kenya. The geographical spread of our courts continues to increase. We are committed to have a High Court in every County and a Magistrate's Court in every sub-County. The completion of 28 courts during this reporting period is testament to this commitment.

We also recognise that the doorways of justice should be expanded beyond the formal court systems. The Constitution guides that alternative forms of dispute resolution including reconciliation, mediation, arbitration, and traditional dispute resolution mechanisms ought to be promoted. The Judiciary has prioritised alternative forms of dispute resolution bearing in mind that most Kenyans may not be able to submit their disputes to the

formal court system for various reasons including challenges in accessing courts, cost of litigation and the complexities and rigidities of the formal justice system. So far, Kshs. 11.89 billion has been ploughed back into the economy through mediation.

I acknowledge that despite the difficulties experienced during this pandemic period, we have received immense support from our partners and stakeholders. The administration of justice involves many players. The coming years will undoubtedly require our continued collaboration to deliver our common mandate. The Judiciary remains committed to discharge its constitutional duty through dialogic and cooperative engagements to meet the justice needs of all Kenyans.

**HON. JUSTICE MARTHA K. KOOME, EBS**  
**Chief Justice and President,**  
**Supreme Court of Kenya.**

## CHAPTER 1—LEADERSHIP AND MANAGEMENT

### 1.1 Leadership and Management

The Constitution of Kenya frames the holistic common vision for the Judiciary. Judicial authority derives from the people and shall not be subject to the control or direction of any person or authority and must be exercised guided by the following principles: justice shall be done to all irrespective of status; justice shall not be delayed; alternative forms of dispute resolution shall be promoted; the Judiciary shall administer justice without undue regard to procedural technicalities; and the Judiciary shall protect and promote the purpose and principles of the Constitution. Towards achieving these constitutional principles, leadership in the institution shall adhere to the national values and principles of good governance contained under Article 10 as well as the values and principles of public service under Article 232.

The Constitution establishes three leadership offices in the Judiciary: the Chief Justice, who is the Head of the Judiciary; the Deputy Chief Justice, who is the Deputy Head of the Judiciary; and the Chief Registrar of the Judiciary, who is the chief administrator and accounting officer of the Judiciary.

Pursuant to the Constitution, the Court of Appeal (Organization and Administration) (No. 28 of 2015), the High Court (Organization and Administration) (No. 27 of 2015), the Environment and Land Court (No. 19 of 2011), and the Employment and Labour Relations Court (No. 20 of 2011), and a number of other leadership offices have been established within the Judiciary. These are the President of the Court of Appeal, the Principal Judge of the High Court, the Presiding Judge of the Environment and Land Court (ELC), and the Principal Judge of the Employment and Labour Relations Court (ELRC).

The Heads of the different courts, in consultation with the Chief Registrar, are each responsible for the administration of their respective Court and are accountable to the Chief Justice for the overall administration and management of their court. They also form part of the Judiciary Leadership Team which assists the Chief Justice and the Chief Registrar in the efficient administration of the Judiciary.

Leadership is further cascaded to individual court stations through Leadership and Management Teams (LMTs) and CUCs as well as various committees.

In carrying out their respective mandates, the courts and tribunals are facilitated by administrative services provided through the Office of the Chief Registrar, who is the chief administrator and accounting officer of the Judiciary. The Chief Registrar is responsible to the Chief Justice for the overall administration of the Judiciary and is assisted in this regard by the registrars and deputy registrars of the courts as well as the directors and heads of administrative units who are mandated with various responsibilities that support delivery of judicial services.

### 1.2 Judiciary Committees

The leadership of the Judiciary is assisted by various committees to oversee certain tasks and advise the leadership on specific sectors.

Arising from the reforms proposed in the Judiciary Blueprint, Sustaining Judiciary Transformation: A Service Delivery Agenda, (2017-2021) launched by Chief Justice Emeritus David Maraga, the retired Chief Justice expanded and renamed the former Judiciary Leadership Advisory Committee (JLAC) to the **Judiciary Leadership Team (JLT)** in January 2021. JLT comprises the following:

- (a) The Chief Justice as the Chairperson
- (b) Deputy Chief Justice as the Vice Chairperson
- (c) President of the Court of Appeal
- (d) Principal Judge of the High Court
- (e) Presiding Judge of the Environment & Land Court
- (f) Principal Judge of the Employment and Labour Relations Court
- (g) Chief Registrar of the Judiciary
- (h) Registrar, Magistrates' Courts
- (i) Any other person that the Chief Justice may co-opt

In addition to the JLT, the following Committees were established to ensure smooth and coordinated operations within the Judiciary.

**Judiciary Management Committee (JMC)** comprising the following:

- (a) Deputy Chief Justice as the Chairperson
- (b) Chief Registrar of the Judiciary
- (c) Chairpersons of the six standing committees
- (d) Secretaries of the six standing committees (ex-officio)
- (e) Any other person as may be appointed by the Chief Justice.

Six **standing committees** whose membership represent the breadth of personnel in both judicial and administrative functions in the Judiciary. These standing committees are:

1. Administration of Justice and Court Performance Committee (AJCPC)
2. Planning and Budget Implementation Committee (BIC)
3. Human Resource Management & Administration Committee (HRMAC)

4. ICT & Integrated Case Management Systems Committee (ICMS)
5. Buildings, Infrastructure & Facilities Development Committee (BIDC)
6. Public Affairs and Communication Committee (PAC)

Each committee is required to hold a meeting and prepare a report to the JMT at least once every quarter. The Standing Committees, in reporting to the Chief Justice through the JMT and JLT, provide the Hon. Chief Justice with a holistic, comprehensive, contextual and current status across the institution. They are designed to work within their mandate and not to displace or detract from specific statutory, regulatory and administrative committees such as those established by the Chief Registrar in the execution of the constitutional and statutory mandate of that office. They do however provide oversight, prevent overlap, enhance coordination and ensure that decision-making is well informed and that action areas are monitored and duly accomplished.

### 1.3 Awards and Recognitions

#### International Awards

##### Certificate of Commendation – United Nations Office in Nairobi

Hon. Justice Martha Koome, EBS was awarded the runner-up, United Nations Person of the Year Award (2020)

##### Jurist of the Year Award - The Center for International Human Rights

Hon. Justice Grace Mumbi Ngugi was honoured with the Fifth Annual Global Jurist of the Year Award on 18<sup>th</sup> Feb 2021. Justice Ngugi is a long-time advocate of human rights in Kenya and a leading architect of its emerging human rights jurisprudence.

#### National Honours

Over the years, Judges, Judicial Officers and Staff who offer exemplary service have received national honours conferred by His Excellency the President in terms of Article 132(4)(c) of the Constitution. Pursuant to the provisions of the National Honours Act, 2013, the Judiciary Honours Advisory Committee transmitted its nominees to the National Honours Secretariat for consideration. The following 18 persons were honoured:

##### Chief of the Order of the Burning Spear (CBS)

Hon. Mr. Justice William Ouko  
Hon. Mr. Justice Patrick Kiage

##### Elder of the Order of the Burning Spear (EBS)

Hon. Mr. Justice Ole Sankale Kantai  
Hon. Lady Justice Maureen Odero Akinyi  
Hon. Mr. Justice Kimaru Luka Kiplagat  
Hon. Lady Justice Aroni Abida Ali  
Hon. Lady Justice Muchemi Florence Nyaguthii  
Hon. Lady Justice (Rtd.) Sitati Ruth Nekoye  
Hon. Mr. Justice Karanja Joseph Raphael  
Hon. Mr. Justice Serгон Joseph Kiplagat

##### Moran of the Order of the Burning Spear (MBS)

Hon. Justice Angote Oscar Amugo  
Hon. Were Joseph Maloba

##### Order of the Grand Warrior of Kenya (OGW)

Hon. Andayi Francis Weche  
Hon. Kihara James Muriithi  
Mr. Kinuthia Benjamin James

##### Head of State Commendation (HSC) Civilian Division

Ms. Gacheri Harriet  
Mrs. Omari Irene Moraa  
Mr. Kanegeni Stephen Kariuki

### 1.4 Guiding Strategies and Plans

**The Sustaining Judiciary Transformation: A Service Delivery Agenda (2017-2021)** (SJT) blueprint has guided service delivery and the administration of justice in the Judiciary since it was launched by Hon. Chief Justice Emeritus David Maraga in January 2017. The thrust of the SJT was to build on the gains of the previous blueprint, the Judiciary Transformation Framework (2012-2016) (JTF) that was spearheaded by Hon. Chief Justice Emeritus Dr. Willy Mutunga, by accelerating service delivery using the initial structures and systems that were put in place during the JTF phase.

The **Judiciary Strategic Plan 2019-2023** guides institutional strategies and provides annual targets for implementation. The Strategic Plan carefully identified and evaluated the Judiciary's priorities, internal and external environment, as well as the risks and threats to the performance of its core mandate. An evaluation of the previous Strategic Plan revealed that the Judiciary had an overall success rate of 50 per cent on all the targets that had been set in 2014. The Strategic Plan identified eight areas of emphasis and targeted strategic activities for the Judiciary until 2023. These areas are:

- Enhancing access to justice
- Expeditious delivery of justice
- Growth of jurisprudence and knowledge management
- Improved governance and transformational leadership
- Improved human capital management and organisational performance
- Modernised registry operations for operational efficiency
- Enhanced public confidence and awareness and image of the Judiciary
- Resource mobilisation and utilisation and stakeholder engagement.

These core areas of focus have been cascaded down to the courts and delivery units in the Judiciary and implemented through the policies formulated and incorporated in the annual work plans.

### 1.5 Legal and Policy Framework

The Judiciary has embraced the use of empirical evidence to inform policy and administrative decisions for better carrying out of its mandate. During the period under review, a research paper titled 'Effect of COVID-19 Pandemic on Resolution of Cases in Courts' was undertaken and the final paper published and disseminated. The paper provided numerous policy actions and recommendations to guide increased resolution of cases and an access to justice, during and post COVID-19 pandemic period. The policy actions and recommendations are at diverse stages of implementation.

### 1.6 Impact of COVID-19 Pandemic on the Judiciary

After the first case of COVID-19 in Kenya was announced on 13<sup>th</sup> March, 2020, a special session of the NCAJ was called and the justice sector collectively decided to scale down operations for the safety of the public and personnel. The Judiciary took a number of measures to curb the spread of the virus. These include:

- All non-essential staff were directed to work from home or take leave.
- All staff above 58 years were also directed to work from home.
- Use of non-contact media to serve clients was prioritised. These included e-filing and enhanced use of virtual courts.

More importantly and in order to entrench and institutionalise adaptability in the event of such cases in future, the Judiciary commenced the development of a Business Continuity and Disaster Recovery Plan (BCDRP). The policy will guide the Judiciary on measures necessary to sustain operations during emergencies and pandemics such as COVID-19.

### 1.7 Leadership Transition

Upon the retirement of the Chief Justice Emeritus, Justice David K. Maraga on 12th January 2021, the Deputy Chief Justice, Hon. Lady Justice Philomena Mbete Mwilu, assumed the Office of Chief Justice in an acting capacity pending the recruitment and appointment of a new Chief Justice.

Established leadership and institutional structures within the institution ensured that the transition was seamless and that litigants and the public continued to access judicial services uninterrupted.

As an illustration of this continuity, Deputy Chief Justice, Hon. Lady Justice Philomena Mbete Mwilu presided over the admission of 428 lawyers to the Roll of Advocates during the period she served as Acting Chief Justice. She also opened sub-registries of the High Court and the Environment and Land Court at Kilgoris Law Courts on 21<sup>st</sup> January 2021, and launched the first Small Claims Courts (SCC) at Milimani Law Courts on 26th April 2021. The SCC in Milimani is the first court established under Section 4 (1) of the Small Claims Act 2016 as a subordinate court pursuant to Article 169 (1) (d) of the Constitution. These courts have significant potential to enhance access to justice as the statutory turn around for the cases filed is 60 days from the date of filing. The Nairobi SCC started its operations immediately. An Acting Registrar of the Court was appointed and an implementation committee chaired by the Hon Justice Alfred Mabeya, Presiding Judge, Commercial & Tax Division was also established.

The Acting Chief Justice also administered the oath of office to the Chairperson and member of the Teacher's Service Commission on 3<sup>rd</sup> May 2021, and members of the Selection Panel for Commissioners of the Independent Electoral and Boundaries Commission on 28<sup>th</sup> April 2021. The swearing in of 27 chairs and members of various tribunals facilitated the hearing and determination of 2,700 pending cases.

The Acting Chief Justice also attended the East Africa Community Chief Justices Forum (EACJF) and the inaugural Joint Conference of Chief Justices and the East African Judicial Education Committee, held from the 10<sup>th</sup> to 12<sup>th</sup> May 2021 in Kigali, Rwanda during which the Judiciary of Kenya took over as the chair of the regional forum.

#### 1.7.1 Recruitment of the Chief Justice

The vacancy of the Office of the Chief Justice was declared on January 18, 2021 vide notice No 386. On January 20, 2021, the Commission advertised in the local dailies the position of Chief Justice and Judge of the Supreme Court. The advertisement was further posted on the website and circulated to lawyers' professional Bodies. Upon closure of the application period which lasted for 21 days, the Commission received thirteen applications for the position of the Chief Justice and shortlisted ten candidates who met the minimum requirement for appointment of a Chief Justice. The recruitment process was broadcast by all media houses and also on the Judiciary's social media handles. Upon completion of the interview process the Commission nominated Lady Justice Martha Karambu Koome for the position of the Chief Justice on 27<sup>th</sup> April 2021. Upon receipt of the nominee's name, H.E the President of the Republic of Kenya transmitted it to Parliament who vetted and approved the nominee on 18<sup>th</sup> May 2021. Lady Justice Martha Karambu Koome was appointed by the President and sworn in as the 15<sup>th</sup> Chief Justice of the Republic of Kenya on 21st May, 2021.

#### 1.7.2 Recruitment of Supreme Court Judge

The position of Supreme Court Judge was advertised on January 20, 2021. Upon closure of the application period the JSC shortlisted nine candidates who met the minimum requirement for appointment and commenced the interview process. Hon. Justice William Ouko was nominated by JSC as Supreme Court Judge on 5th May, 2021 and subsequently appointed by the President to the Position on 19th March, 2021. The appointment ensured that the Supreme Court was fully constituted and operating at 100 per cent of its constitutional establishment. Hon Justice Ouko was replaced as President of the Court of Appeal by the Hon. Mr. Justice Daniel K. Musinga who took office on 11<sup>th</sup> June 2021.

## CHAPTER 2 ACCESS TO JUSTICE

### STRATEGIC INITIATIVES FOR ENHANCING ACCESS TO JUSTICE

#### 2.1 Introduction

The right of a citizen to access justice is guaranteed under Article 48 of the Constitution and the Judiciary undertook various initiatives, as provided under its mandate, to actualize this right. Primarily, access to justice is rendered through the exercise of judicial authority by courts. The authority, guaranteed under Article 159 of the Constitution, is exercised in a manner that underpins non-discrimination in service delivery, and which strives to minimize delay and procedural technicalities by courts while resolving disputes.

This Chapter, which has been organized into four sections, provides the milestones realized by the Judiciary on enhancement of access to justice. The first section highlights the strategic initiatives for enhancing access to justice while the second section provides the achievements on dispute resolution by courts as the core of access to justice. The third section provides progress on entrenchment of Alternative Dispute Resolution (ADR) mechanisms as envisaged in Article 159 (2) (c) of the Constitution. Lastly, the Chapter accentuates the strides made on improvement of the Judiciary infrastructure as a strategy for strengthening physical access to justice.

#### 2.2 Strategic Initiatives for Enhancing Access to Justice

The strategic initiatives for enhancing access to justice draws inspiration from the Judiciary policy documents namely, Sustaining Judiciary Transformation (SJT) (2017-2021) blueprint and the Strategic Plan (SP) (2019-2023). These initiatives include: operationalisation of Small Claims

Court: digitisation of judicial functions; recruitment and retention of adequate and quality workforce; establishment and construction of courts; undertaking of research to inform policy and administrative decisions; entrenchment of ADR mechanisms for expeditious resolution of disputes; and collaborative engagement with other players in the justice sector. The milestones realised in the FY 2020/21 for each of the strategic initiative are expounded in the following subsections.

**Institutionalisation of Small Claims Court:** A Small Claims Court (SCC) is a subordinate court with jurisdiction to determine cases that involve claims of small amounts of money through a process characterized by procedural simplicity, efficiency and expeditiousness in delivery of decisions. In Kenya, the SCC is established under Section 4 (1) of the SCC Act No. 2 of 2016 as a subordinate court in the structure of courts provided for under Article 169 (1) of the Constitution. In the conduct of its operations, the court is guided by provisions of Article 159 (2) that require that justice shall not be delayed. The SCC was operationalised on 26th April, 2021 vide gazette notice No. 3791, with the first station located at Milimani commercial court premises. At the end of the FY 2020/21, the court had five adjudicators, 14 staff and a Registrar in an acting capacity. To entrench the SCC and its strategic expansion, the Judiciary plans to devolve the court to other parts of the country.

The establishment and operationalisation of SCC has been earmarked as having a huge potential to entrench timeous resolution of disputes and consequent enhancement of access to justice. As per Section 12 (1) of the SCC Act No. 2 of 2016, the court has a jurisdiction to determine civil claims with a monetary value not exceeding KSh1,000,000 (One million). The jurisdiction further relates to: contracts for sale and supply of goods or services; contracts relating to money held or received; liability in tort and in respect of loss or damage caused to any property, or for delivery or recovery of movable property; compensation for personal injuries and set off; and counterclaim under any contract.

The Court is expected to contribute to the reduction of overall case backlog in mainstream courts. This is because the statutory lead time for resolution of disputes in SCC is pegged at a maximum of 60 days from the date of filing of a case. Further, the SCC is expected to reduce the cost and time for hearing and determination of commercial disputes and consequently support the ease of doing business in Kenya. This would be achieved through freeing-up of investment funds and other capital resources otherwise rendered inactive through court injunctions. The timely recirculation of these funds into the economy will bolster economic transactions by optimising limited resources thereby creating a favourable environment for economic growth.

In the FY 2020/21, a total of 1,023 cases were filed in the SCC. The high number of cases filed within a short period of time suggests increasing awareness of SCC services by both advocates and the public. Out of the total filed matters, 637 cases were resolved translating to a Case Clearance Rate (CCR) of 62 per cent. At the end of FY 2020/21, there were 386 matters that were pending before the court. The following activities were undertaken to support the operationalisation of the SCC:

- (a) Identification and documentation of registry processes and setting of standards for
- (b) effective case management.
- (c) Induction training for the adjudicators and staff covering rules and procedures among other training modules.
- (d) Extensive stakeholders' engagement on social media platforms, radio show and CUC meeting with the LSK Nairobi Chapter.
- (e) Submission of decisions to NCLR to enhance accessibility of judicial decisions to the public and legal practitioners.

**Entrenchment of Alternative Dispute Resolution Mechanisms:** Article 159 (2) of the Constitution requires the Judiciary to administer justice in such a manner that entails, inter alia, the use of Alternative Dispute Resolutions (ADR) mechanisms. To entrench ADR within the Judiciary and consequently enhance access to justice, Court Annexed Mediation (CAM) was instituted in the year 2016 as a strategic initiative.

In the FY 2020/21, diverse achievements were realized through CAM. A total of 767 matters were settled successfully. From the settled matters, KSh382 million was released back into the economy. This led to the cumulative value of matters with settlement agreements since inception of CAM to stand at KSh11.9 billion at the end of the FY 2020/21 up from at KSh11.5 billion

that was recorded at the end of the FY 2019/20. To enhance the capacity of CAM, Mediation Accreditation Committee (MAC) accredited 126 new mediators yielding a cumulative total of 829 mediators at the end of June 2021. The guidelines for virtual mediation were developed and mediators sensitized. Further, Judiciary initiated the development of the Strategic Plan for CAM.

**Collaborative Engagement with Other Players in the Justice Sector:** Article 6 (2) of the Constitution recognizes the need for collaboration and cooperation amongst state agencies in service delivery to the citizens. Further, Article 10 (2), underscores the relevance of good governance as a national value. The Judicial Service Act, 2011 establishes NCAJ to spearhead the inter-agency coordination in the justice sector institutions on service delivery. At the court level, the CUCs that mimic the NCAJ at national level reinforce the spirit of cooperation on expeditious service delivery at the grass-root level. In the FY 2020/21, two NCAJ council meetings were held. The meetings focused on enhancement of access to justice during the COVID-19 pandemic.

**Digitization of Judicial Functions:** The use of Information Communication Technology (ICT) to reinforce judicial functions is critical for enhancing efficiency of case processing and determination, and the overall access to justice. The key technological initiatives adopted and operationalised by the Judiciary were: e-filing, Court Recording and Transcription Services (CRTS), Case Tracking System (CTS), Enterprise Resource Planning (ERP), and continued provision of ICT hardware and Internet.

During the period under review, e-filing was commenced in all courts within Nairobi. A total of 8,314 accounts had been created on the e-filing portal at the end of the FY 2020/21. The accounts comprised 4,826 individual's accounts, 3,085 firm's accounts, 333 organization's accounts and 70 accounts for state organizations. Through the e-filing portal, 67,299 matters were filed including an additional 16,980 matters under certificate of urgency. A total of KSh939,975,091 comprising court fees, fines and deposits was collected using the portal. 1,359,297 cases had been captured into the CTS. Further, 26 court rooms were installed with the CRTS equipment, internet was upgraded from 1.326 Gigabytes per second (Gbps) to 4.215 Gbps, and an audit of ICT systems was undertaken to enhance robustness and security of the systems deployed in the Judiciary.

**Recruitment and Retention of Adequate and Quality Workforce:** Judges and Judicial Officers are charged with issuing of final judicial decisions in courts. They are assisted by Judicial staff who play the supportive and administrative functions. It therefore follows that, having and maintaining optimal quantity of Judges, Judicial Officers and Staff, is a fundamental ingredient for timely delivery and access to judicial services.

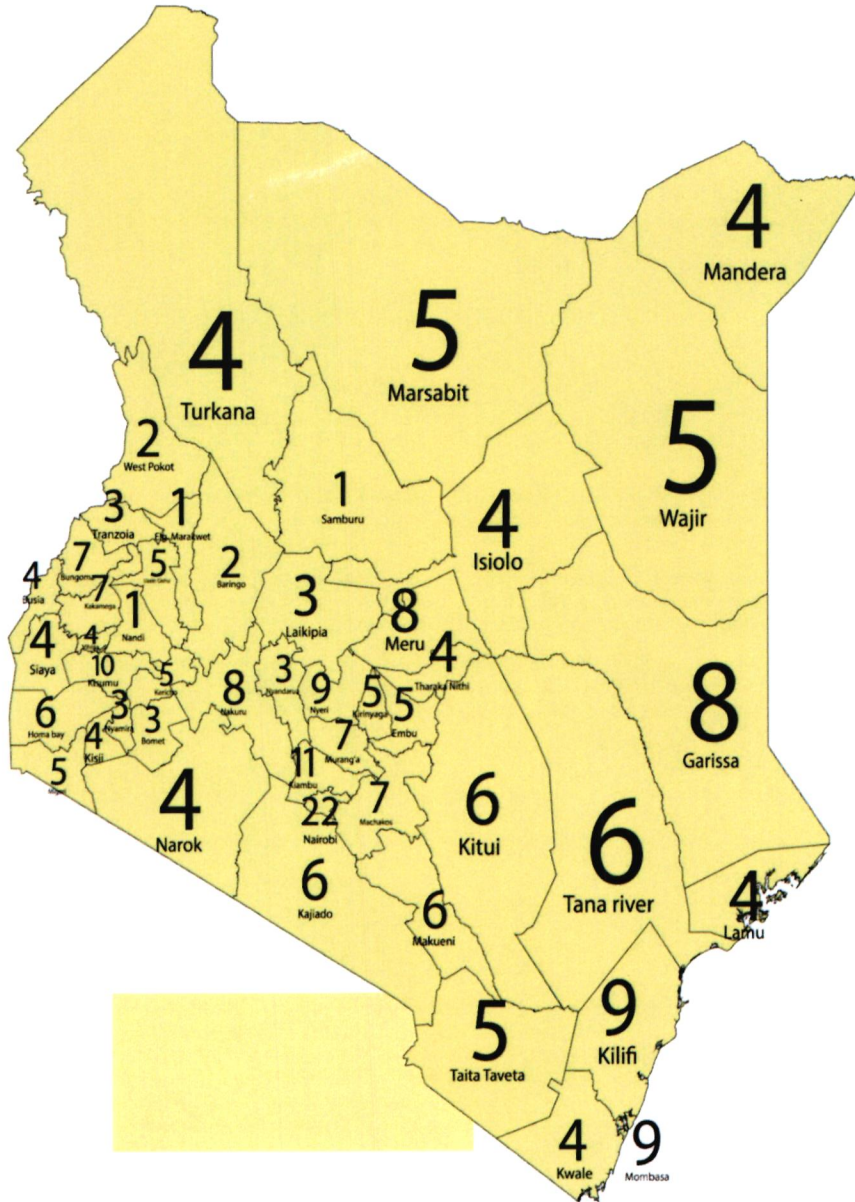
In the FY 2020/21, His Excellency Uhuru Kenyatta, the President of the Republic of Kenya appointed seven COA Judges, 18 ELC Judges and nine ELRC Judges bringing the total number of Judges to 20 in the COA, 21 in the ELRC and 51 in the ELC respectively. The total number of judges in the Supreme Court stood at seven. Further, 191 staff were recruited during the review period.

**Establishment and Construction of Courts:** The establishment of new courts and the consequent construction of new court buildings serves as an important access to justice initiative that aims at reducing the distance travelled by litigants, and the associated costs, when accessing courts. This also serves to decongest the existing courts enabling them to serve court users expeditiously. The construction and refurbishment of existing courts further supports the work environment for Judiciary employees.

During the review period, 24 courts were gazetted for establishment. This includes establishment of two High Court stations at Vihiga and Kwale and 22 Magistrates' Courts stations at: Ol-Kalou, Etago, Madiany, Zombe, Port Victoria, Borabu, Kendu Bay, Wamunyu, Malaba, Matiliku, Usigu, Kasarani, Masinga, Manga, Tinderet, Kenol, Rumuruti, Garbatulla, Kabiye, Marigat, Kikima and Kaptumo. Further, five sub-registries for the COA were established at Busia, Meru, Garissa, Kakamega and Kisii. Four High Court Sub-registries were established at Isiolo, Kapsabet, Eldama Ravine and Kilgoris. Additionally, three ELC sub-registries were established at Kilgoris, Isiolo and Vihiga while four ELRC sub-registries were established at Kitui, Kisii, Naivasha and Thika. In the Magistrates' Courts, six mobile Magistrates' Court stations were established at Nambale, Butula, Mutuati, Endau, Konoin and Sereolipi.

In the FY 2020/21 construction of 11 court projects was completed. The completed projects were six High court buildings at Nanyuki, Isiolo, Kakamega, Siaya, Kajiado, Nakuru. Further, four Magistrates' Courts buildings were completed at Oyugis, Iten, Shanzu and Kahawa. There was an overall improvement of seven per cent in completion of Judicial Performance Improvement Projects from an average of 77 per cent reported at the end of FY 2019/20, to 84 per cent at the end of the FY 2020/21. The completion rate of GOK projects grew by 5.6 per cent from 63.8 per cent that was realized at the end of FY 2019/20 to settle at 69.4 per cent.

**ACCESS TO JUSTICE: DISPUTE RESOLUTION THROUGH COURTS**



**2.3 Summary of Caseload Statistics for all Courts**

In this section, detailed statistical information on disputes resolution as a key aspect of access to justice is presented. Data on caseload is collected in courtrooms and registries using Daily Courts Returns Template (DCRT), an excel output that is either generated from the Case Tracking System (CTS), or directly populated by court assistants under the supervision of Judges and Judicial Officers. Upon collection, data is transmitted to the Research and Statistics Division (RSD) of the Directorate of Planning and Organizational Performance (DPOP) for analysis, inferences and reporting.

Caseload statistics presented in this section primarily cover filed, resolved and pending cases. The pending cases are further disaggregated into case backlog. Additionally, select court performance statistics are provided. A new distinct section for the Small Claims Court has been incorporated. Further, a new section on caseload statistics organized by counties has been provided

**2.3.1 Filed and Resolved Cases**

Filed cases (FC) are the cases registered or initiated in a court of law by diverse parties requiring their disputes to be resolved. They therefore depict the demand for court services. Once these cases are filed in courts, Judges and Judicial Officers are obligated to determine them. Their actions therefore yield Resolved Cases (RC), a reflection that justice has been delivered by courts, and therefore accessed by citizens. In the FY 2020/21, 356,997 cases were filed in all courts. These comprised 242,457 criminal cases and 114,540 civil cases. In the same period, 294,837 cases were resolved. Among the resolved cases, 207,255 were criminal in nature while 87,582 were civil cases. The filed cases in the Kenyan Judiciary over time is presented in Figure 2.1.

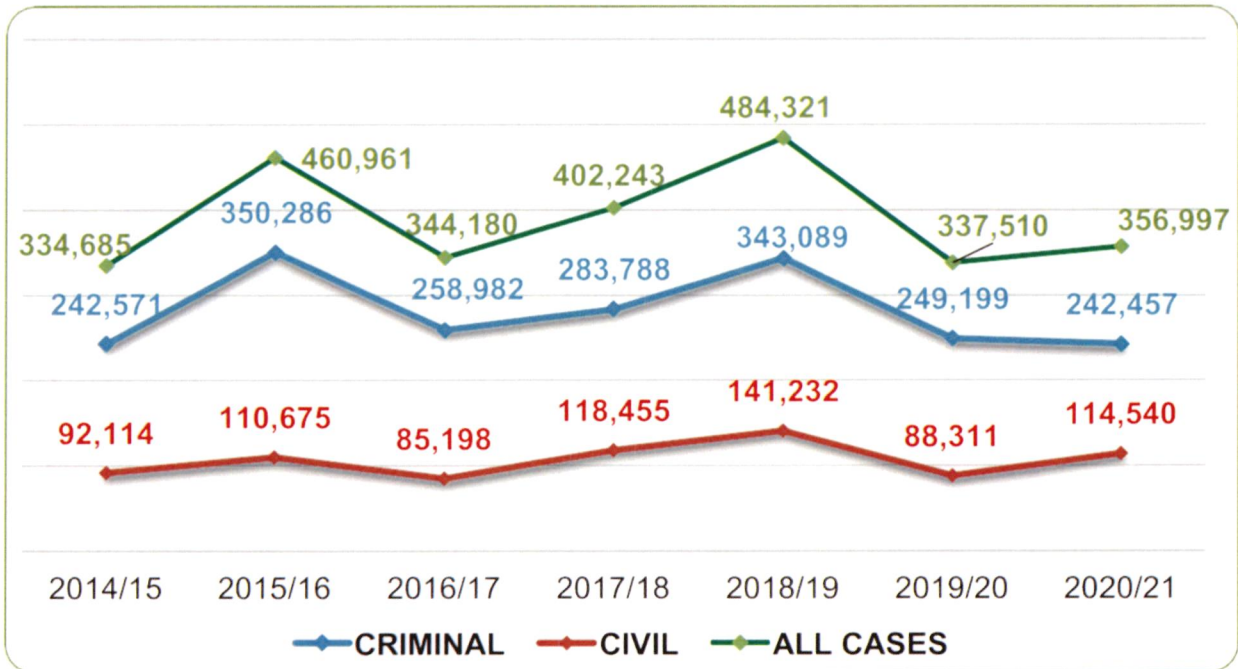


Figure 2.1: Trends of filed criminal and civil cases, All Courts

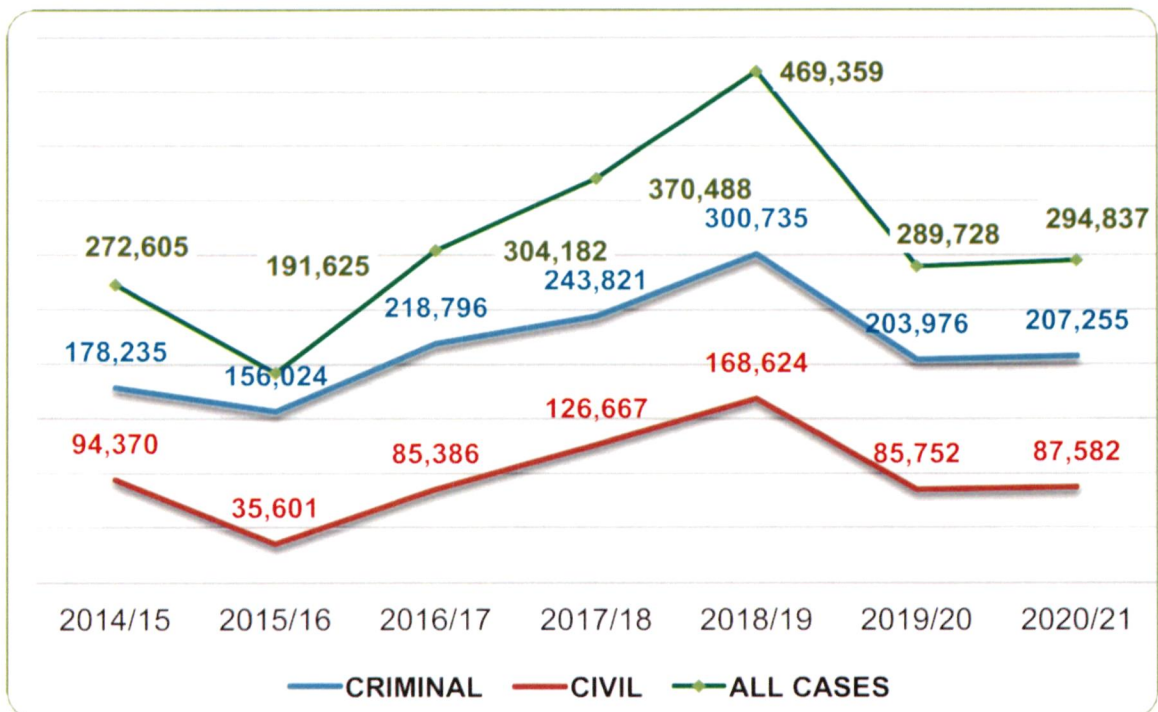


Figure 2.2: Trends of resolved criminal and civil cases, All Courts

The overall filed cases increased from 337,510 that were recorded in the previous period to 356,997 during the period under review. The trend of the resolved cases is shown in Figure 2.2. The bulk of the resolved cases over time are criminal in nature. From the FY 2015/16, there has been a general increase of the resolved cases. Nonetheless, there was a drop in the FY 2019/20, which was attributed to the adverse effects of COVID-19 pandemic. This was followed by a marginal increase in the FY 2020/21, an indication of slight recovery from the initial pandemic shock. Table 2.1 presents filed and resolved cases by court and case type during the period under review.

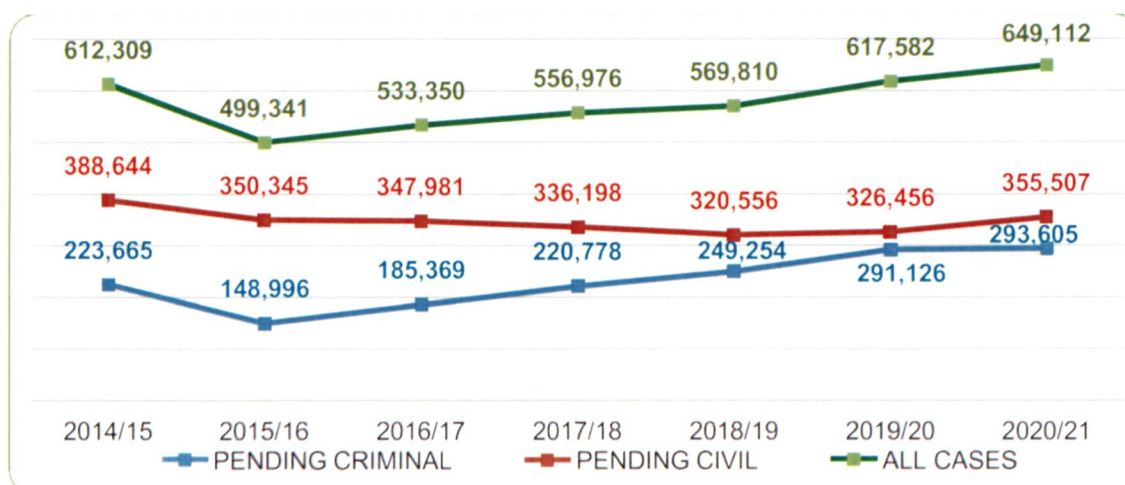
**Table 2.1: Criminal and Civil Cases Filed and Resolved, FY 2020/21**

Court Type	Filed cases FY 2020/21			Resolved cases FY 2020/21		
	CR	CC	ALL	CR	CC	ALL
Supreme Court	N/A	47	47	N/A	62	62
Court of Appeal	355	2,150	2,505	271	969	1,240
High Court	8,784	17,440	26,224	6,522	17,692	24,214
ELRC	N/A	2,918	2,918	N/A	2,434	2,434
ELC	N/A	4,856	4,856	N/A	5,748	5,748
Magistrates' Courts	233,318	77,152	310,470	200,462	52,810	253,272
Kadhis' Courts	N/A	8,954	8,954	N/A	7,230	7,230
Small Claims Court	N/A	1,023	1,023	N/A	637	637
All Courts	242,457	114,540	356,997	207,255	87,582	294,837

From Table 2.1, the highest number of filed and resolved cases were in the Magistrates' Courts totalling 310,470 and 253,272 cases respectively. Further, the least filed and resolved cases were recorded in the Supreme Court at 47 and 62 respectively. The filed and resolved criminal matters were more than the civil matters in courts that handle both criminal and civil cases.

### 2.3.2 Pending Cases

Ordinarily, not all cases are resolved at the end of a given period. The unresolved cases are referred to as pending cases. By the end of the FY 2020/21, there were 649,112 pending cases in the Judiciary comprising 293,605 criminal cases and 355,507 civil cases. Figure 2.3 illustrates the trend of pending cases over time by broad case type.



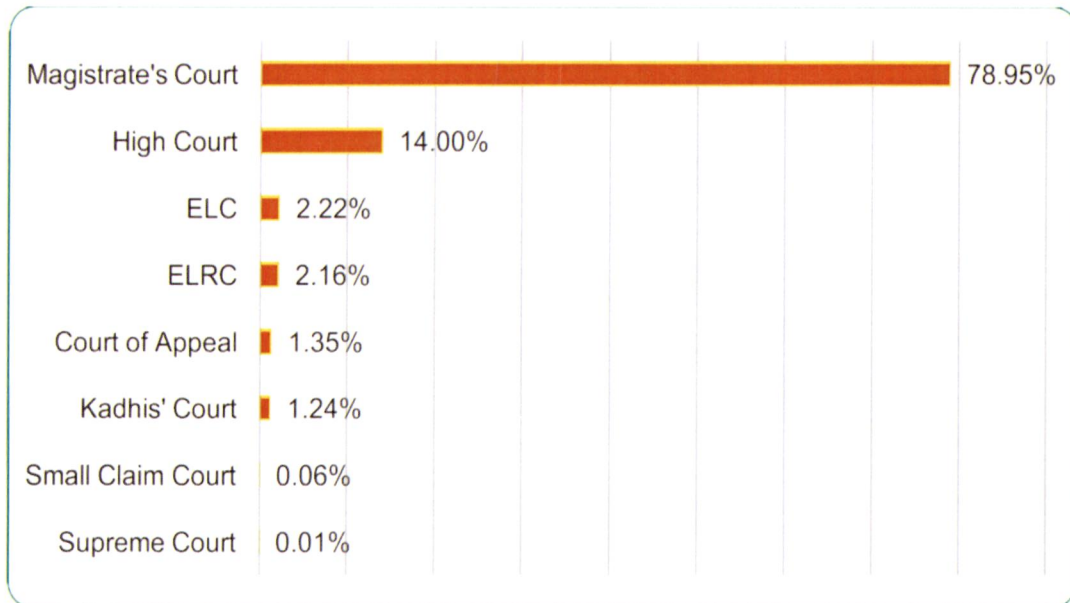
**Figure 2.3: Trends of Pending Criminal and Civil Cases, All Courts**

As depicted in Figure 2.3, the overall pending cases in the Judiciary has been rising over time. This growth has on average, revolved between five and ten per cent over time. While criminal cases have been on a gradual rise, civil cases steadily but mildly declined over time. Statistics on pending cases by court and case type are elaborated in Table 2.2.

**Table 2.2: Pending cases by Court and Case Type, FY 2019/20 & FY 2020/21**

Court Type	Pending cases, 30th June 2020			Pending cases, 30th June 2021			% change in pendency
	CR	CC	ALL	CR	CC	ALL	
Supreme Court	N/A	89	89	N/A	74	74	-17%
Court of Appeal	2,069	5,529	7,598	2,153	6,637	8,790	16%
High Court	22,458	66,957	89,415	24,307	66,594	90,901	2%
ELRC	N/A	12,907	12,907	N/A	14,040	14,040	9%
ELC	N/A	15,892	15,892	N/A	14,405	14,405	-9%
Magistrates' Courts	266,599	217,265	483,864	267,145	245,309	512,454	6%
Kadhis' Courts	N/A	7,817	7,817	N/A	8,062	8,062	3%
Small Claims Court	N/A	N/A	N/A	N/A	386	386	N/A
All Courts	291,126	326,456	617,582	293,605	355,507	649,112	5%

Table 2.2 shows that pending cases rose by five per cent from 617,582 cases at the end of FY 2019/20 to 649,112 cases at the end of FY 2020/21. The bulk of pending cases were in Magistrates' Courts at 512,454 cases, followed by High Court with 90,901 cases. The least pending cases were recorded at Supreme Court with 74 cases. The percentage distribution of pending cases by court type is presented in Figure 2.4.

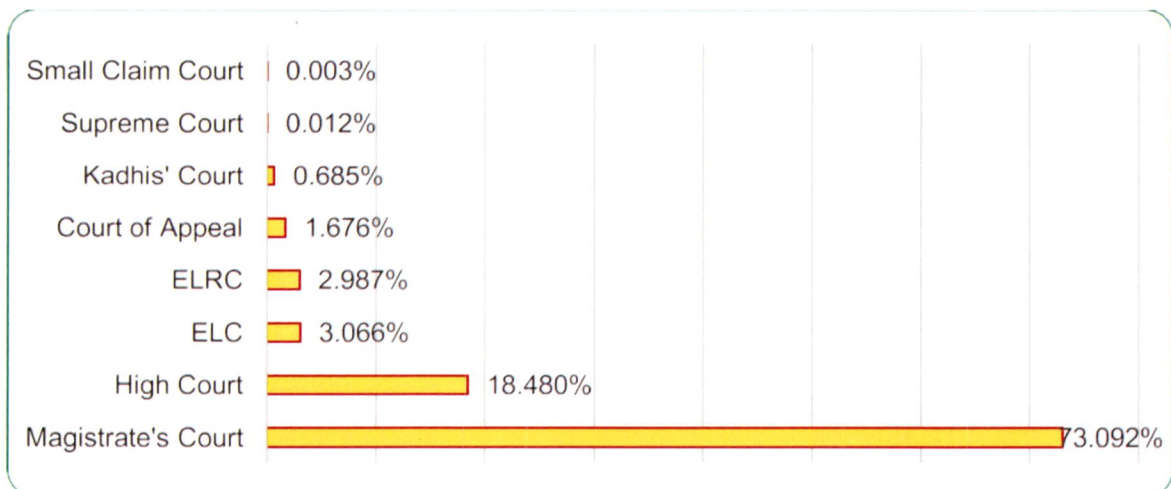


**Figure 2.4: Percentage Pending Cases by Court Type**

Figure 2.4 shows that the highest percentage of pending cases was in the Magistrates' Courts at 78.95 per cent followed by High Court at 14 per cent. The least pendency was in the Supreme Court at 0.01 per cent.

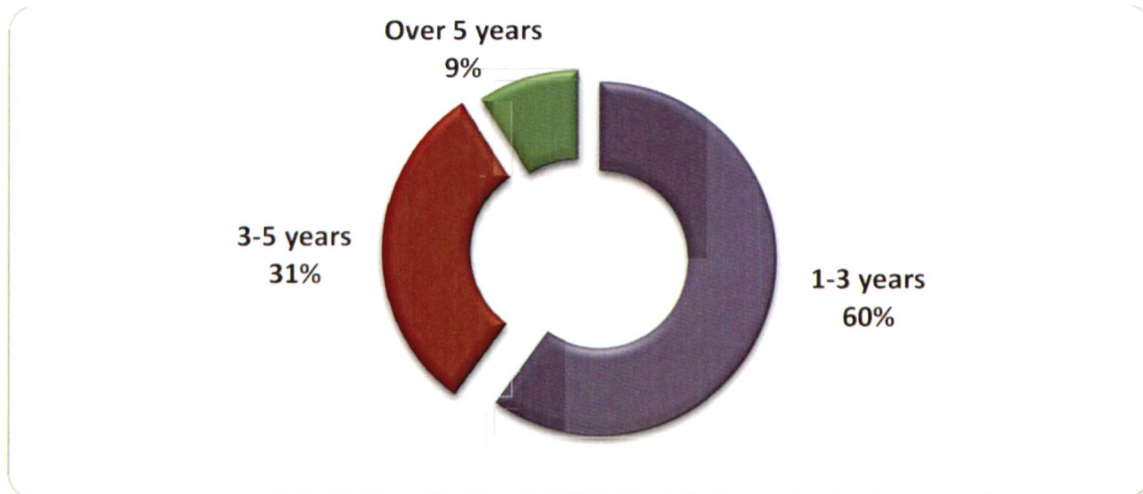
**2.3.3 Case Backlog**

Article 159 (2) (b) of the Constitution envisages that justice shall be rendered expeditiously. Delayed justice is manifested through accumulation of unresolved cases that surpasses the minimum set timeline for their conclusion. In the Kenyan Judiciary, the desirable timeline for determination of most case types is pegged at a maximum of 1 year from their date of filing. Consequently, any case that has surpassed 1 year from the date of filing is classified as backlog. At the end of the FY 2020/21, the case backlog in all courts stood at 375,671 cases. The percentage distribution of case backlog by court type is presented in Figure 2.5.



**Figure 2.5: Percentage distribution of case backlog by court type**

Out of the 375,671 cases, the highest proportion was in the Magistrates' Courts at 73 per cent followed by High Court at 18 per cent. The lowest case backlog was recorded in the Supreme Court and Small Claims Court at 0.012 and 0.003 per cent respectively. The percentage distribution of case backlog by age is shown in Figure 2.6.



**Figure 2.6: Percentage Case Backlog by Age**

Out of the total case backlog, 60 per cent was aged between 1 and 3 years (225,422 cases), 31 per cent (115,601 cases) between 3 and 5 years and 9 per cent above 5 years (34,648 cases). Table 2.3 gives trend of case backlog by type of court.

**Table 2.3: Trend on case backlog, FYs 2019/20 & 2020/21**

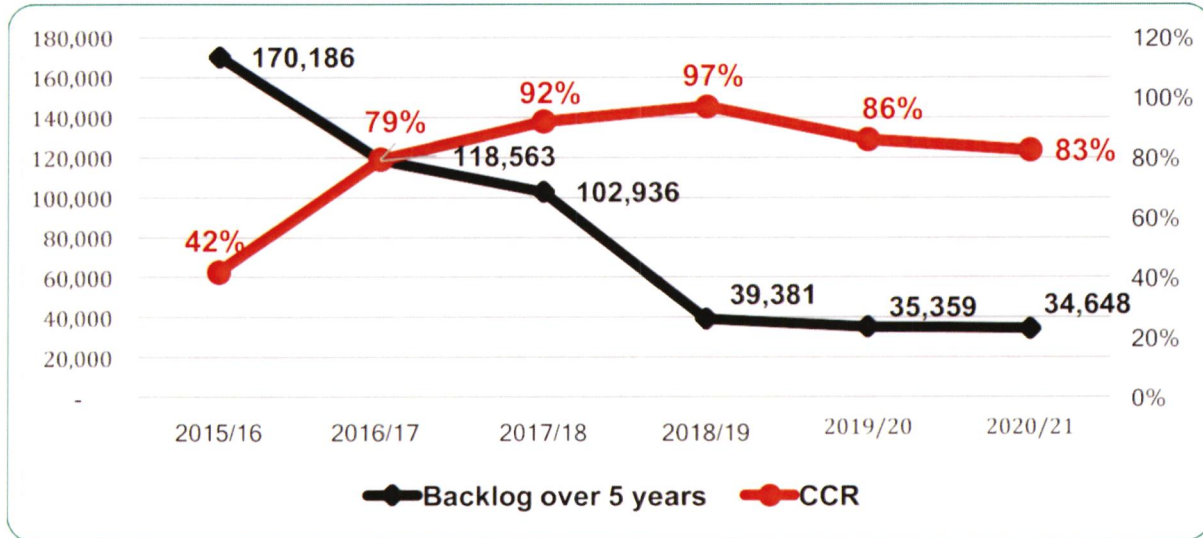
Court Type	Case backlog, 30 <sup>th</sup> June 2020	Case backlog by Age, 30 <sup>th</sup> June 2021				Change in backlog
		1-3 years	3-5 years	Over 5 years	Total	
Supreme Court	37	35	9	2	46	24%
Court of Appeal	4,982	3,675	2,449	171	6,295	26%
High Court	69,184	39,099	22,589	7,735	69,423	0%
ELRC	10,928	7,008	3,587	625	11,220	3%
ELC	13,630	4,736	3,706	3,075	11,517	-16%
Magistrates' Courts	259,519	168,577	82,967	23,040	274,584	6%
Kadhis' Courts	1,067	2,282	291	0	2,573	141%
Small Claims Court	0	10	3	0	13	N/A
<b>All Courts</b>	<b>359,347</b>	<b>225,422</b>	<b>115,601</b>	<b>34,648</b>	<b>375,671</b>	<b>5%</b>

The overall case backlog increased by 5 per cent. This is ascribed to the adverse effects of the pandemic which slowed down normal court business. The backlog increased for all courts except in the ELC which reduced its backlog by 16 per cent.

The Supreme Court had two cases of 5 years and above in comparison to the single case that was recorded at the end of previous period. This was occasioned by recusal of Judges that led to lack of quorum to finalize the cases in time. Although Table 2.3 shows the existence of case backlog in SCC of 13 cases despite the court having commenced its operation in April 2021, the number depicts that old cases from other courts were transferred to the SCC.

#### 2.3.4 SJT Implementation Status on Reduction of Case Backlog

At the onset of SJT in January 2017, there were 170,186 cases aged 5 years and above. These were the cases that the Judiciary set to clear. The progress made in clearing of these cases by the end June 2021 is illustrated in Figure 2.7.



**Figure 2.7: Reduction of case backlog aged 5 years and above under SJT**

From the 170,186 backlog cases that were above five years in age at the beginning of SJT period, only 34,648 cases remained at the end of the period under reference. This marked a reduction of 80 per cent. This is consistent with a generally rising CCR illustrated in the Figure 2.7. The details on reduction of case backlog above 5 years for each court are highlighted in Table 2.4.

**Table 2.4: SJT implementation status on case backlog reduction by court, 30th June 2021**

Court Type	SJT target on reduction of case backlog older than 5 years, 1st Jan. 2017	Resolved cases older than 5 years between 1st Jan. 2017 and 30 <sup>th</sup> June 2021	Case backlog older than 5 years, 30 <sup>th</sup> June 2021	% change in case backlog older than 5 years between 1st Jan. 2017 and 30 <sup>th</sup> June 2021
Supreme Court	0	0	2	200%
Court of Appeal	648	1,197	171	-74%
High Court	58,487	74,078	7,735	-87%
ELRC	771	3,537	625	-19%
ELC	4,146	12,671	3,075	-26%
Magistrates' Courts	106,134	125,535	23,040	-78%
Kadhis' Courts	0	0	0	0%
Small Claims Court	-	0	0	-
All Courts	170,186	217,018	34,648	-80%

## 2.4 Supreme Court

The Supreme Court has exclusive original jurisdiction to hear and determine matters relating to the election of the President, and appellate jurisdiction to hear and determine appeals from the COA. The court also gives advisory opinions upon filing of the requests.

### 2.4.1 Filed and Resolved Cases in the Supreme Court

In the FY 2020/21, 47 cases were filed in the Supreme Court while 62 were resolved. Figure

2.8 illustrates the nature of filed and resolved cases in the Supreme Court.

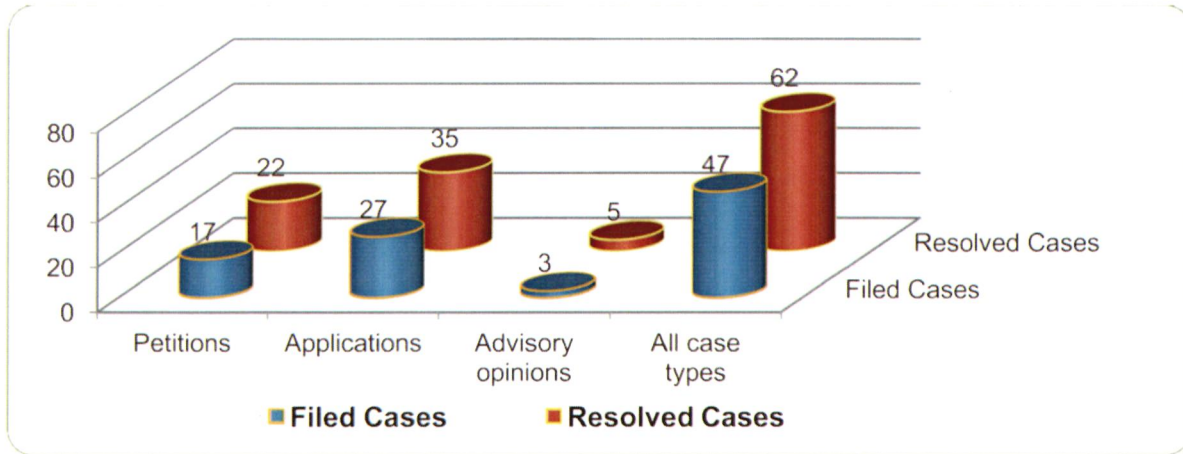


Figure 2.8: Filed and resolved cases in the Supreme Court by case type, FY 2020/21

Applications were the most filed and resolved cases followed by petitions. Advisory opinions were the least filed and resolved cases. The number of cases filed and resolved in the Supreme Court in the FY 2020/21 are detailed in Table 2.5.

Table 2.5: Filed and resolved cases in the Supreme Court by type, FY 2020/21

Month - Year	Filed Cases				Resolved Cases			
	Petitions	Applications	Advisory Opinions	All	Petitions	Applications	Advisory Opinions	All
Jul-2020	3	4	0	7	0	3	0	3
Aug-2020	3	5	0	8	5	2	2	9
Sep-2020	1	4	0	5	9	13	0	22
Oct-2020	1	3	0	4	1	2	0	3
Nov-2020	0	1	2	3	0	1	0	1
Dec-2020	3	2	1	6	3	2	0	5
Jan-2021	2	1	0	3	1	0	0	1
Feb-2021	2	3	0	5	0	0	0	0
Mar-2021	1	2	0	3	3	12	3	18
Apr-2021	0	1	0	1	0	0	0	0
May-2021	0	0	0	0				0
Jun-2021	1	1	0	2	0	0	0	0
Whole FY	17	27	3	47	22	35	5	62

2.4.2 Pending Cases in the Supreme Court

By the end of the FY 2020/21, there were 74 cases pending in the Supreme Court. The trend of pending cases in the Supreme Court is presented in Figure 2.9.

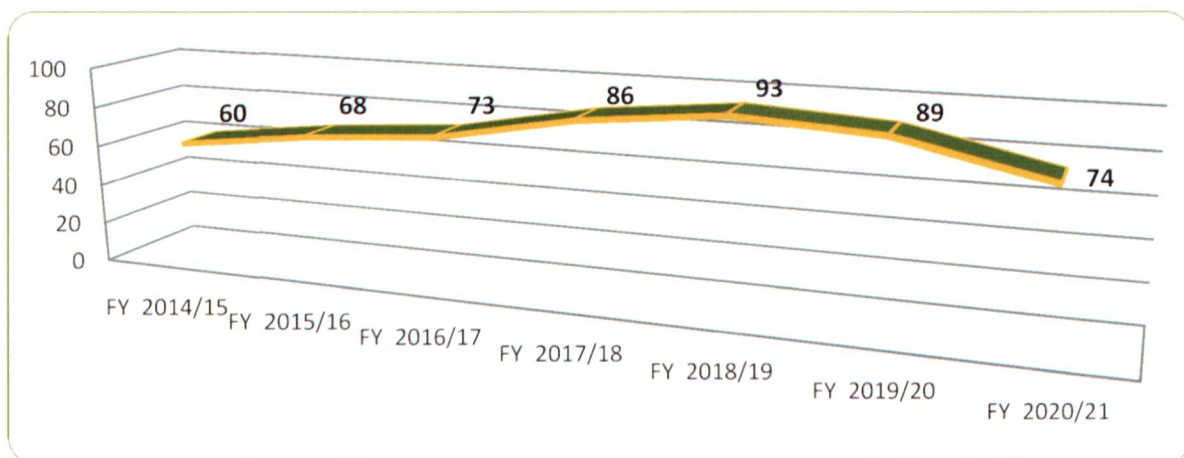


Figure 2.9: Trend of pending Cases, Supreme Court

From FY 2014/15, pending cases in the Supreme Court took an upward growth reaching a high of 93 cases in the FY 2018/19. This was followed by a decline to 89 cases in the FY 2019/20 and a further decline to 74 cases in 2020/21 FY. The types of pending cases over time in the Supreme Court are summarized in Table 2.6.

**Table 2.6: Pending cases by type in the Supreme Court**

Case Type	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Petitions	42	44	40	52	53	54	53
Applications	14	18	29	31	33	28	16
Advisory opinions	4	6	4	3	7	7	5
All case types	60	68	73	86	93	89	74

Petitions have comprised the most pending cases over time followed by applications. The advisory opinions have been the least pending cases over time.

### 2.4.3 Case Backlog in Supreme Court

Out of the 46 pending cases in the Supreme Court, 35 cases were backlog. The trend of case backlog in Supreme Court is elaborated in Table 2.7.

Table 2.7: Trend in case backlog by age, Supreme Court

Age category of case backlog	30th June 2020	30 <sup>th</sup> June 2021	Change in Backlog
1 – 3 Years	29	35	21%
3 – 5 Years	7	9	29%
Over 5 Years	1	2	100%
All Backlog	37	46	24%

The case backlog aged between 1 and 3 years was 35 cases, representing 21 per cent increase in comparison to the number that was recorded at the end of the previous period. The case backlog aged between 3 and 5 years was nine cases. This was a 29 per cent increase from seven cases that were recorded at the end of the previous period.

### 2.4.4 SJT Implementation Status on Reduction of Case Backlog in Supreme Court

At the onset of SJT period in January 2017, the Supreme Court had no cases aged 5 years and above. By the end of the review period, two cases were aged 5 years and above. This was attributed to lack of quorum to handle the two cases after some judges recused themselves. The cases were to be finalized in the FY 2021/22 after the court was fully constituted toward the end of the period under review.

## 2.5 Court of Appeal

The COA had four stations namely Kisumu, Mombasa, Nairobi and Nyeri during the period under review. However, Kisumu and Nyeri COA stations did not operate due to an insufficient number of Judges in the Court. Their matters were handled at Nairobi COA.

### 2.5.1 Filed and Resolved Cases in Court of Appeal

During the period under review, 2,505 cases were filed in the COA which comprised 355 criminal and 2,150 civil cases. This was a 4 per cent reduction from the 2,620 cases that were filed in the previous period. Over the same period, 1,240 cases, comprising 271 criminal and 969 civil cases were resolved. This was in comparison to 1,074 cases that were resolved in the previous period. The change over time of filed cases in COA is illustrated in Figure 2.9.



Figure 2.10: Trend in filed cases by type, COA

Figure 2.9 shows that the cases filed in COA have been increasing over time. However, the growth slowed down in the 2019/20 and 2020/21 FYs when the COVID-19 pandemic set in. The filed cases by broad case type for all COA stations for the FY 2020/21 are given in Table 2.8.

Table 2.8: Filed cases by type and COA station, FY 2020/21

Court of Appeal	Criminal Appeals	Criminal Applications	All Criminal Cases	Civil Appeals	Civil Applications	All Civil Cases	All Cases
Kisumu	122	13	135	224	192	416	551
Mombasa	14	0	14	111	101	212	226
Nairobi	101	2	103	702	546	1,248	1,351
Nyeri	99	4	103	150	124	274	377
All Courts	336	19	355	1,187	963	2,150	2,505

Appeal cases were more than the applications for both criminal and civil cases that were filed.

The trend of resolved cases in the COA is shown in Figure 2.11.

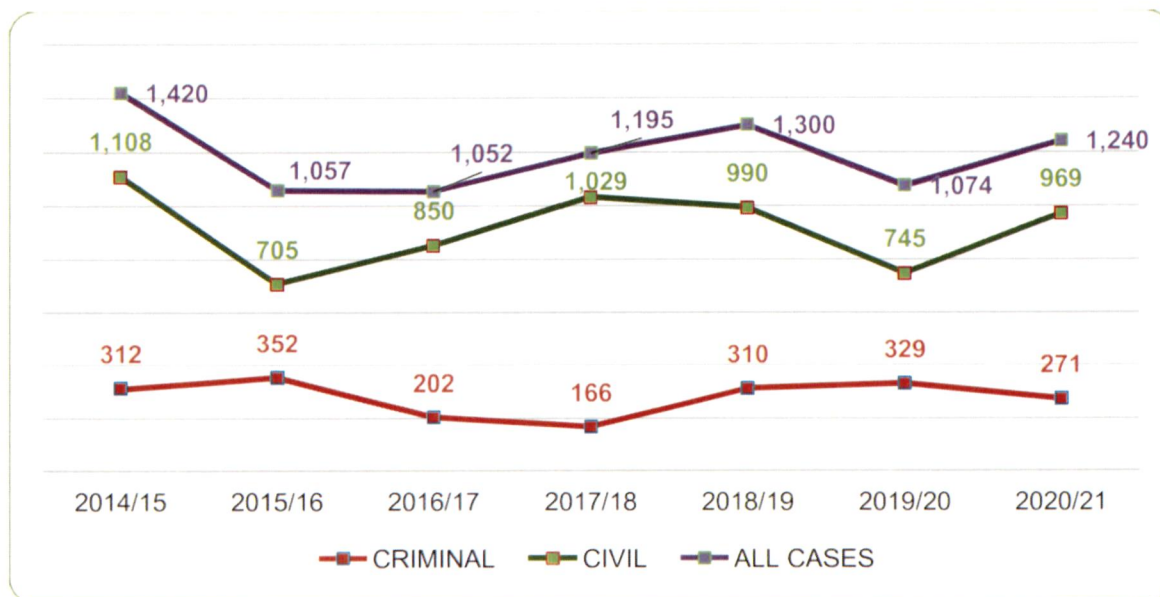


Figure 2.11: Trend in resolved cases by type, COA

Resolved cases increased between FY 2015/16 and 2018/19. This was followed by a reduction in the subsequent year due to adverse effects of the pandemic, followed by a slight increase to 1,240 cases in the FY 2020/21. Table 2.9 provides statistics on the type of cases that were resolved in the COA.

Table 2.9: Resolved cases by type and COA station, FY 2020/21

Court of Appeal	Criminal Appeals	Criminal Applications	All Criminal Cases	Civil Appeals	Civil Applications	All Civil Cases	All Cases
Kisumu	43	0	43	52	3	55	98
Mombasa	6	0	6	24	24	48	54
Nairobi	119	2	121	308	466	774	895
Nyeri	101	0	101	11	81	92	193
All courts	269	2	271	395	574	969	1,240

For both resolved criminal and civil cases, appeal cases were more than the applications. The COA had average time to disposition of 860 days from filing to conclusion of the cases. Specifically, Kisumu registered 1,169 days, Mombasa 679 days, Nyeri 1,127 days while Nairobi registered 663 days.

### 2.5.2 Pending Cases in Court of Appeal

At the end of the FY 2020/21, 8,790 cases comprising 2,153 criminal and 6,637 civil cases, were pending in the COA. The trend of pending cases over time in COA is presented in Figure 2.12.



Figure 2.12: Trend in pending cases by type, COA

From the FY 2014/15, the pending criminal and civil cases has been steadily increasing. The increase was less steep between the FY 2014/15 to 2016/17, before becoming relatively steeper up to the end of FY 2020/21. This is attributed to the continued decline in the number of judges in the court over time. Nonetheless, the COA has managed to avoid a huge increase of pending criminal cases as depicted by a flatter curve for criminal cases. Figure 2.13 gives the percentage distribution of pending cases by COA stations at the end of the period under review.

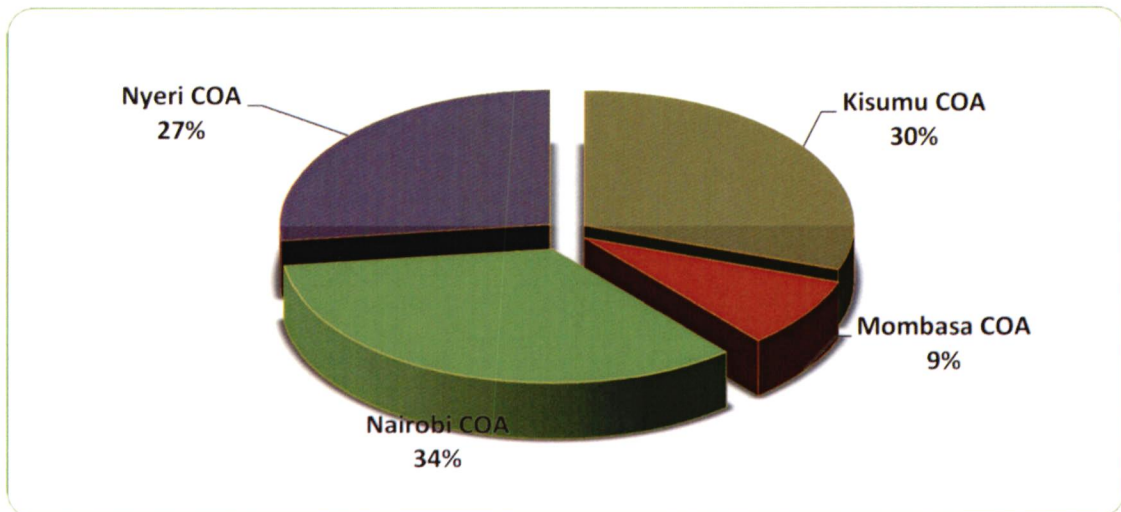


Figure 2.13: Percentage pending cases in COA

At the end of the FY 2020/21, Nairobi COA recorded the highest percentage of pending cases at 34 per cent, followed by Kisumu and Nyeri at 30 per cent and 27 per cent respectively. The least percentage of pending cases was recorded in Mombasa at 7 per cent. The pending cases by case type and COA station is shown in Table 2.10.

Table 2.10: Pending cases by type and COA station, 30th June 2021

Court of Appeal	Criminal Appeals	Criminal Applications	All Criminal Cases	Civil Appeals	Civil Applications	All Civil Cases	All Cases
Kisumu	1,290	84	1374	866	434	1300	2674
Mombasa	9	101	110	209	422	631	741
Nairobi	44	85	129	2150	731	2881	3010
Nyeri	531	9	540	1044	781	1825	2365
All Courts	1,874	279	2,153	4,269	2,368	6,637	8,790

A total of 1,874 criminal appeals and 4,269 civil appeals were pending in all COA stations. Further, 279 criminal applications and 2,368 civil applications remained unresolved at the end of June 2021. This pointed to quite a sizeable workload for the court at the beginning of the FY 2021/22.

## 2.5.3 Case backlog in Court of Appeal

Out of the 8,790 pending cases in the COA, 6,295 cases had surpassed the set timeline of resolution within 360 days from the date of filing and consequently classified as backlog. Figure 2.14 gives the percentage case backlog by age in the COA.

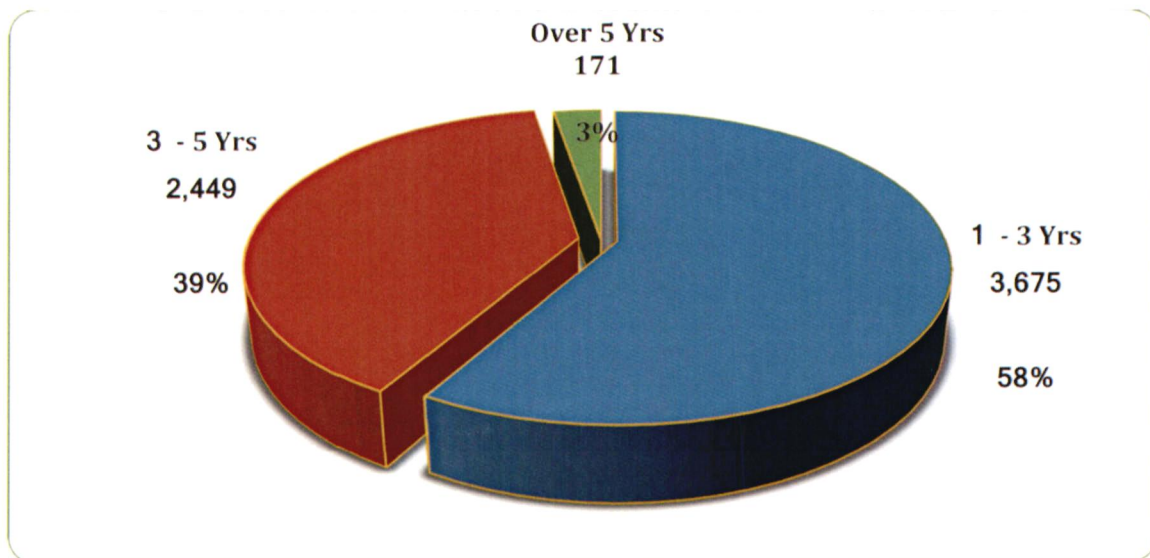


Figure 2.14: Case backlog by age in COA

The highest percentage of case backlog in the COA were cases aged 1-3 years at 58 per cent. The cases aged 3-5 years stood at 39 per cent while those aged above 5 years constituted 3 percent. The distribution of case backlog by age for the COA is highlighted in Table 2.11.

Table 2.11: Case backlog by age and COA station, 30th June 2021

Court of Appeal	Backlog, 30 <sup>th</sup> June 2020	Backlog, 30 <sup>th</sup> June, 2021			All Case Backlog
		All	1 - 3 years	3 - 5 years	
Kisumu	1,373	1,277	844	4	2,125
Mombasa	333	376	131	11	518
Nairobi	1,694	946	649	65	1,660
Nyeri	1,582	1,076	825	91	1,992
All Courts	4,982	3,675	2,449	171	6,295

The Kisumu COA station had the highest case backlog at 2,125 cases up from 1,373 cases that were recorded at the end of the previous period. The least backlog was recorded in Mombasa COA at 518 cases up from 333 cases that were recorded at the end of the previous period. The percentage distribution of case backlog in COA is summarized in Figure 2.15.

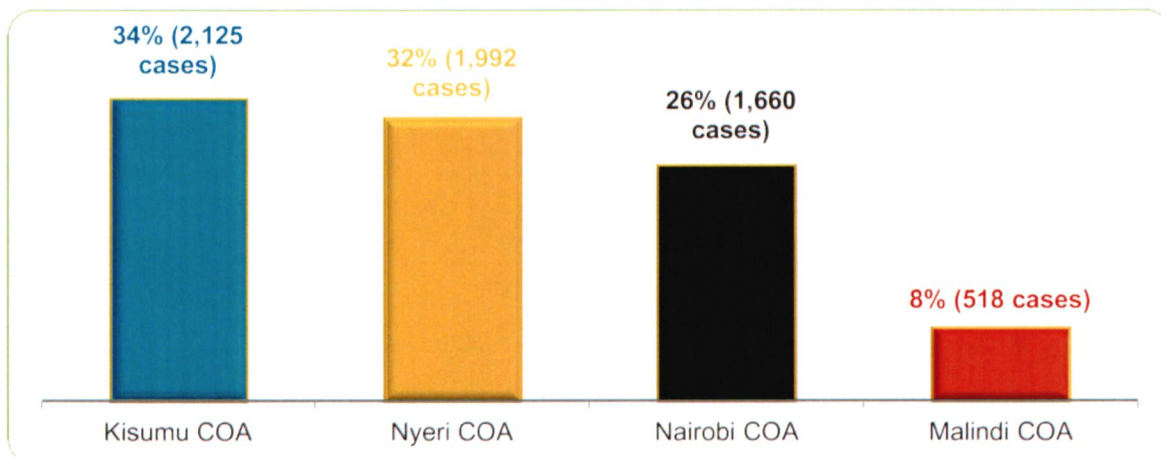


Figure 2.15: Percentage distribution of case backlog in COA stations, 30th June 2021

The highest case backlog at the end of the review period was in Kisumu COA which stood at 34 per cent. This was followed by Nyeri COA at 32 per cent while the least was eight per cent at Malindi COA.

2.5.4 SJT Implementation Status on Reduction of Case Backlog in COA

At the onset of SJT in January 2017, the COA had 648 cases aged five years and above. At the end of June 2021, only 171 cases remained unresolved marking a 74 per cent reduction. Information for each of the COA station is elaborated in Table 2.12.

Table 2.12: SJT Implementation status on reduction of case backlog in COA

Court of Appeal	SJT target on reduction of case backlog older than 5 years, 1st Jan 2017	Resolved backlog cases older than 5 years between 1st Jan 2017 and 30 <sup>th</sup> June, 2021	Case backlog older than 5 years, 30 <sup>th</sup> June, 2021
Kisumu	11	158	4
Malindi	12	47	11
Nairobi	619	824	65
Nyeri	6	168	91
All stations	648	1,197	171

From Table 2.12, the highest reduction was in the Nairobi COA at 89 per cent, followed by Kisumu at 64 per cent. Moreover, a total of 1,197 cases aged 5 years and above were cleared between January 2017 and June 2021. This was occasioned by resolution of cases that entered into the category of above 5 years during the SJT period.

2.6 High Court

During the period under review, there were 40 High Court Stations. However, the presentation in this report captures caseload statistics for Milimani High Court distinctly by the existing seven divisions and not as a single station.

2.6.1 Filed and Resolved Cases in High Court

A total of 26,224 cases were filed in High Court stations during the FY 2020/21 which included 8,784 criminal cases and 17,440 civil cases. In the same period, 24,214 cases were resolved. The resolved cases comprised 6,522 criminal cases and 17,692 civil cases. The disaggregation of the filed and resolved cases by case type is presented in Figures 2.16 & 2.17.

Filed Criminal Cases

Resolved Criminal Cases

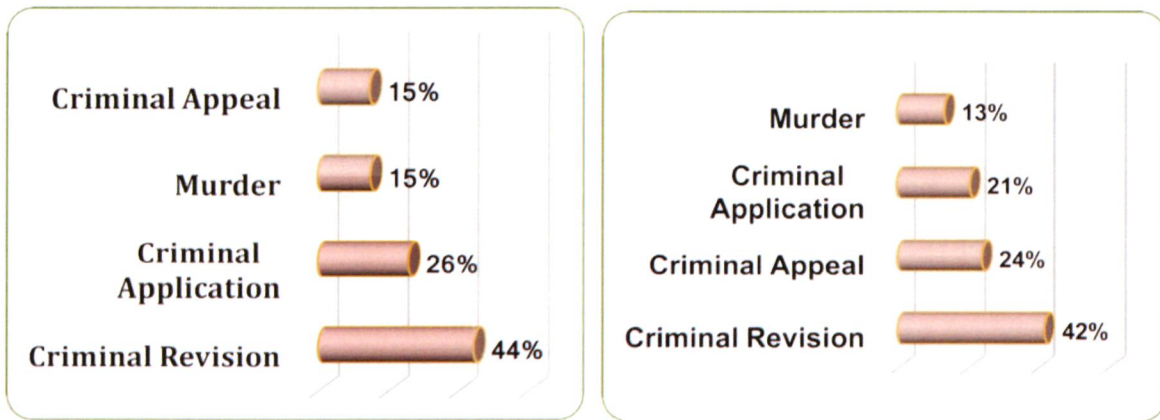


Figure 2.16: Distribution of filed and resolved criminal cases in High Court, FY 2020/21

Criminal revisions were the most filed cases at 45 per cent while murder cases were the least at 15 per cent. Regarding the resolved cases, criminal revisions were the highest at 42 per cent while the least were murder cases at 13 per cent.

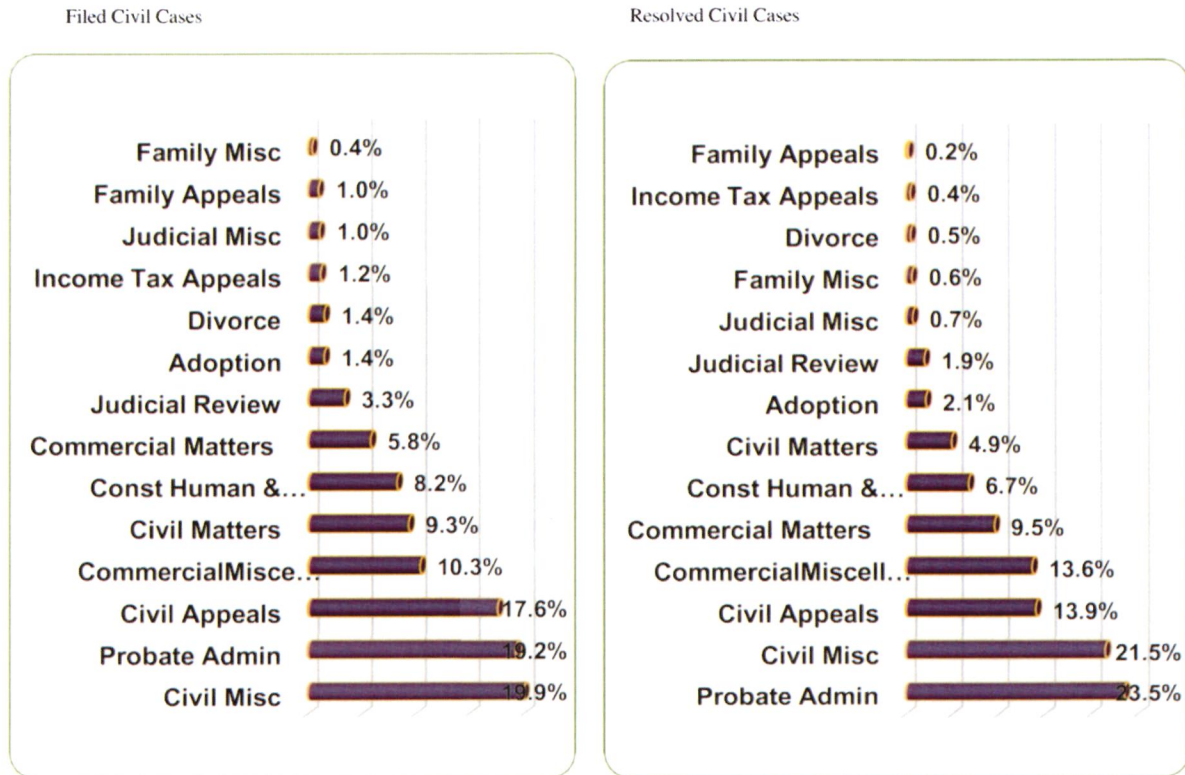


Figure 2.17: Distribution of filed and resolved civil cases in High Court, FY 2020/21

The highest proportion of filed civil cases at 19.9 per cent were ordinary civil matters followed by probate and administration cases at 19.2 per cent. The least filed cases were family miscellaneous cases at 0.4 per cent. Probate and administration cases were the highest resolved cases at 23.5 per cent while family appeals were the least at 0.2 per cent. The breakdown is as provided in Table 2.13.

Table 2.13: Filed and resolved cases by type in the High Court, FY 2020/21

High Court Station	Filed			Resolved		
	Criminal	Civil	All	Criminal	Civil	All
Bomet	97	74	171	30	39	69
Bungoma	329	231	560	141	184	325
Busia	154	286	440	78	214	292
Chuka	137	67	204	115	103	218
Eldoret	207	163	370	315	471	786
Embu	217	180	397	256	328	584
Garissa	128	64	192	127	27	154
Garsen	110	23	133	93	15	108
Homa Bay	190	176	366	189	400	589
Kabarnet	131	48	179	84	66	150
Kajiado	110	229	339	103	172	275
Kakamega	174	451	625	94	223	317
Kapenguria	76	16	92	47	12	59
Kericho	177	216	393	108	104	212
Kerugoya	161	146	307	188	179	367
Kiambu	507	771	1,278	219	501	720
Kisii	66	131	197	135	249	384
Kisumu	214	575	789	155	775	930
Kitale	587	254	841	298	116	414
Kitui	197	176	373	208	155	363
Lodwar	7	8	15	11	1	12
Machakos	363	610	973	222	735	957
Makueni	261	180	441	232	78	310
Malindi	278	362	640	174	260	434
Marsabit	31	88	119	20	9	29
Meru	501	356	857	493	583	1,076

High Court Station	Filed			Resolved		
	Criminal	Civil	All	Criminal	Civil	All
Migori	113	188	301	60	209	269
Milimani Anti-corr.Div.	0	62	62	9	66	75
Milimani Civil Div.	0	1,979	1,979	0	1,869	1,869
Milimani C. & Tax Div.	0	3,251	3,251	0	4,169	4,169
Milimani Const. Div.	0	454	454	0	407	407
Milimani Criminal Div.	918	0	918	397	0	397
Milimani Family Div.	0	2,621	2,621	0	1,556	1,556
Milimani Jud. Rev.Div.	0	342	342	0	276	276
Mombasa	221	836	1,057	136	883	1,019
Muranga	276	193	469	213	112	325
Naivasha	338	147	485	102	307	409
Nakuru	248	555	803	284	925	1,209
Nanyuki	83	49	132	54	37	91
Narok	176	52	228	211	75	286
Nyamira	93	113	206	90	136	226
Nyandarua	12	13	25	20	24	44
Nyeri	236	288	524	368	421	789
Siaya	255	153	408	308	139	447
Vihiga	131	191	322	18	38	56
Voi	274	72	346	117	44	161
All courts	8,784	17,440	26,224	6,522	17,692	24,214

The highest number of cases were filed at Milimani Commercial and Tax Division with 3,251 cases, followed by Milimani Family Division at 2,621 and Milimani Civil Division at 1,979 cases respectively. The least cases were filed at Lodwar with 15 cases. This was followed by Nyandarua at 25 and Milimani Anti-Corruption Division where 62 cases were filed respectively. Milimani Commercial and Tax Division had the highest number of resolved cases at 4,169 cases followed by Milimani Civil Division with 1,869 cases and Milimani Family Division with 1,556 cases. The filed and resolved cases by specific case types for all the High Court stations are detailed in the appendices.

#### 2.6.2 Pending Cases in the High Court

At the end of the FY 2020/21, a total of 90,901 cases were pending in the High Court. The cases comprised 24,307 criminal cases and 66,594 civil cases. This was an increase from the 22,458 criminal cases and a decline from 66,957 civil cases that were recorded at the end of the previous period. The trend of pending cases is shown in Figure 2.18.

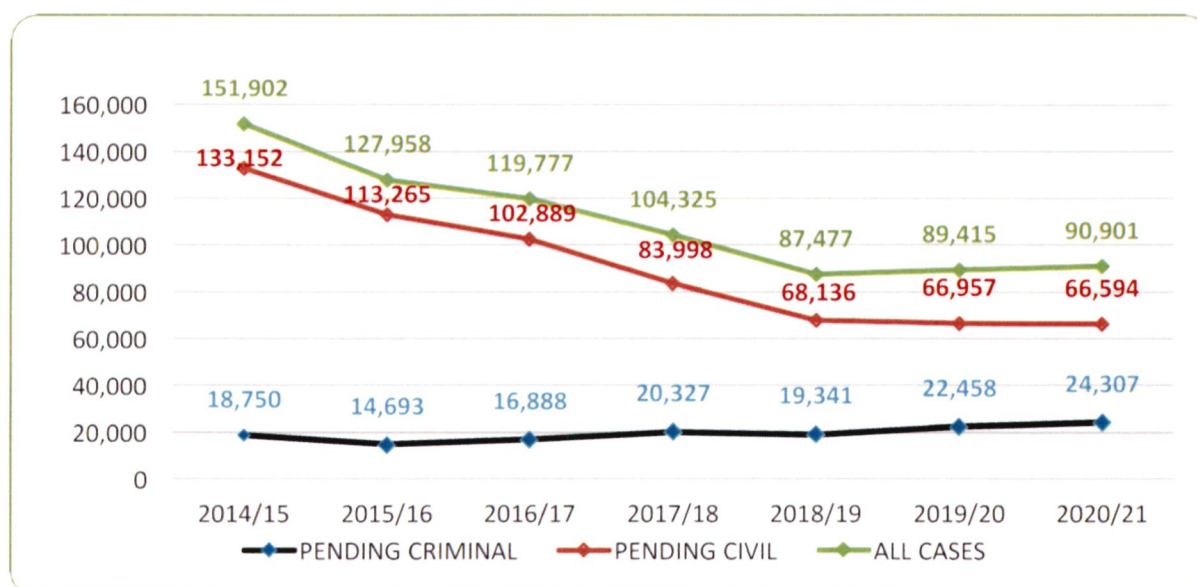


Figure 2.18: Trend of Pending Cases by Type in High Court

The overall pending cases in the High Court has been declining over time. The declining trend is also manifested in civil cases, an indication that there have been deliberate efforts targeting the reduction of civil matters that had predominantly over-accumulated in the court. However, there has been minimal changes in criminal cases minimal change. This implies that the Court has on average managed to react to the incoming demand for criminal matters by supplying an almost equivalent resolution rate. The percentage distribution of pending cases by type is shown in Figure 2.19.

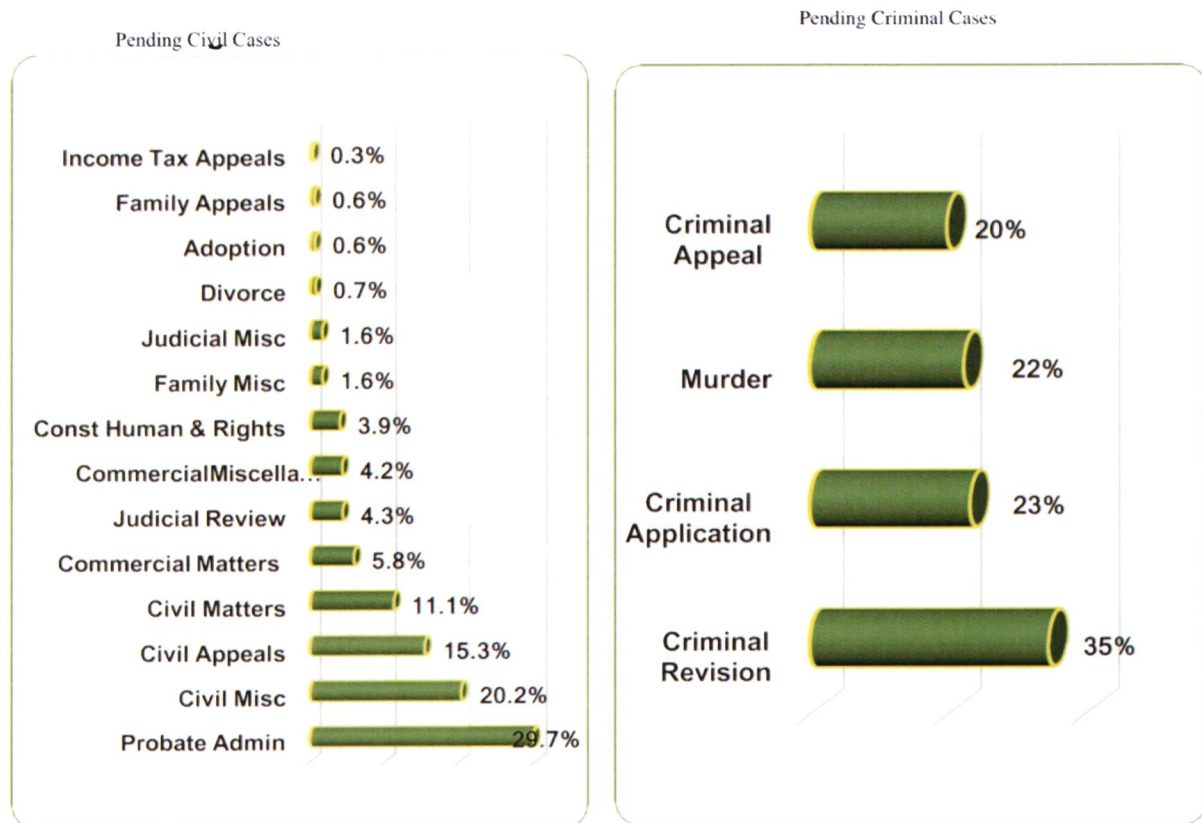


Figure 2.19: Percentage Distribution of Pending Cases in High Court

Criminal revisions constituted the highest pending criminal cases at 35 per cent, followed by criminal applications at 23 per cent. Criminal appeals were the least pending at 20 per cent. Probate and administration cases were the highest pending civil cases at 29.7 per cent followed by civil applications at 20.2 per cent. The pending cases by case type for the High Court at the end of FY 2020/21 are presented in Table 2.14.

Table 2.14: Pending Cases by Type in High Court, FY 2019/20 &amp; 2020/21

High Court Station	Pending June 2020			Pending June 2021		
	Criminal	Civil	All	Criminal	Civil	All
Bomet	243	361	604	310	396	706
Bungoma	590	2,312	2,902	778	2,359	3,137
Busia	106	2,017	2,123	182	2,089	2,271
Chuka	193	489	682	215	473	688
Eldoret	1,128	1,385	2,513	1,020	1,087	2,107
Embu	573	2,427	3,000	534	2,279	2,813
Garissa	449	220	669	450	257	707
Garsen	96	74	170	113	82	195
Homa Bay	294	663	957	299	479	778
Kabarnet	338	166	504	385	150	535
Kajiado	269	229	498	284	286	570
Kakamega	667	2,318	2,985	747	2,546	3,293
Kapenguria	114	31	145	143	37	180
Kericho	565	1,028	1,593	634	1,140	1,774
Kerugoya	301	2,128	2,429	282	2,111	2,393
Kiambu	1,262	1,199	2,461	1,550	1,469	3,019
Kisii	259	270	529	190	160	350
Kisumu	601	917	1,518	660	887	1,547
Kitale	1,773	1,030	2,803	2,062	1,168	3,230
Kitui	392	234	626	381	259	640
Lodwar	83	27	110	79	34	113
Machakos	1,021	2,335	3,356	1,162	2,210	3,372
Makueni	195	283	478	232	385	617
Malindi	421	743	1,164	525	847	1,372

High Court Station	Pending June 2020			Pending June 2021		
	Criminal	Civil	All	Criminal	Civil	All
Marsabit	14	8	22	29	87	116
Meru	1,549	2,928	4,477	1,557	2,701	4,258
Migori	191	467	658	244	446	690
Milimani Anti-corr. Div.	74	116	190	65	142	207
Milimani Civil Div.	0	6,867	6,867	0	6,985	6,985
Milimani C. & Tax Div.	0	7,497	7,497	0	6,579	6,579
Milimani Const. Div.	0	1,016	1,016	0	643	643
Milimani Criminal Div.	1,628	0	1,628	2,149	0	2,149
Milimani Family Div.	0	4,519	4,519	0	5,584	5,584
Milimani Jud. Rev. Div.	0	1,153	1,153	0	1,219	1,219
Mombasa	2,235	7,392	9,627	2,320	7,345	9,665
Muranga	1,327	2,644	3,971	1,390	2,725	4,115
Naivasha	172	469	641	408	315	723
Nakuru	821	5,723	6,544	817	5,353	6,170
Nanyuki	681	126	807	710	138	848
Narok	162	266	428	127	243	370
Nyamira	41	97	138	44	172	216
Nyandarua	200	230	430	192	231	423
Nyeri	660	2,183	2,843	528	2,054	2,582
Siaya	587	199	786	75	88	163
Vihiga	0	0	0	95	155	250
Voi	183	171	354	340	199	539
All courts	22,458	66,957	89,415	24,307	66,594	90,901

At the end of the FY 2020/21, the highest number of pending criminal cases were at Mombasa High Court with 2,320 cases, followed by Milimani Criminal Division with 2,149 and Kitale High Court with 2,062 cases respectively. Mombasa High Court had the highest number of pending civil cases at 7,345 followed by Milimani Civil Division at 6,985 and Milimani Commercial & Tax Division 6,579 cases respectively. Figure 2.20 highlights the cases that were pending in each High Court Station.

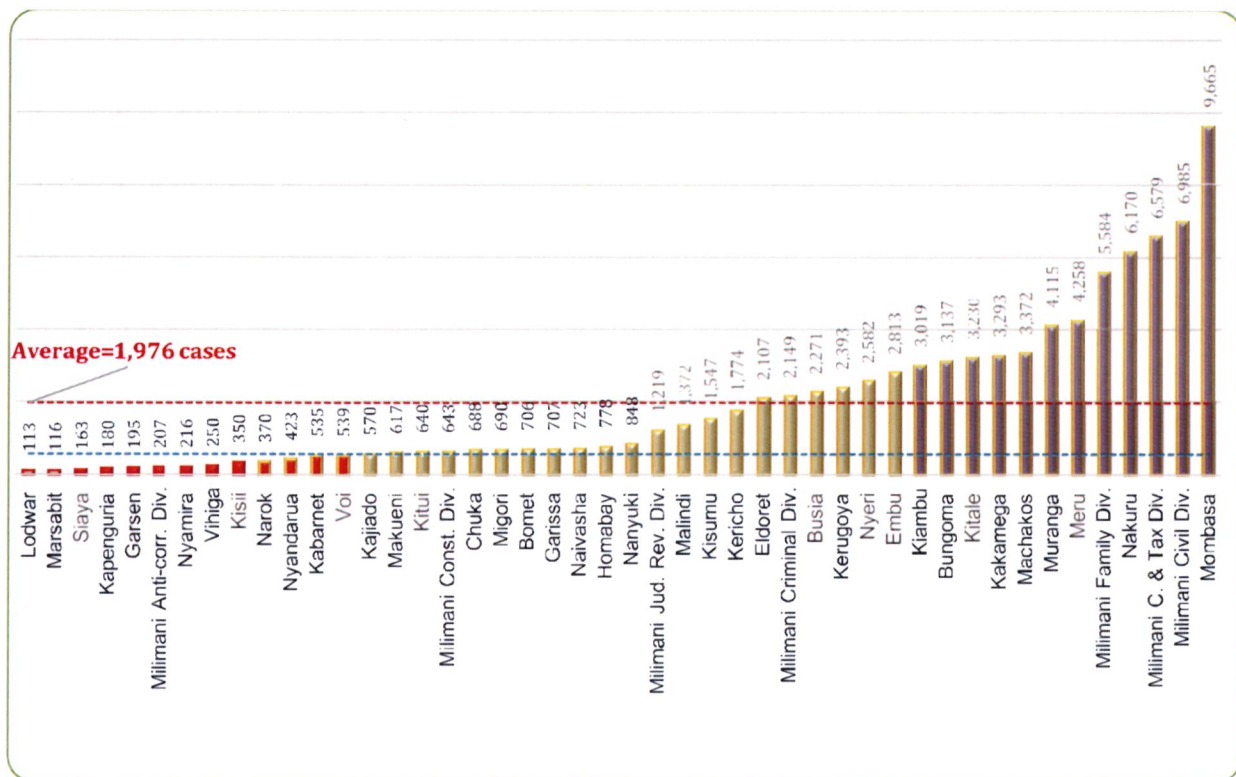


Figure 2.20: Pending Cases by High Court as at 30th June, 2021

Overall, Mombasa High Court had the highest pending cases with 9,665 cases while Lodwar had the least pending cases at 113 cases. The pending cases by specific case types for each High Court station are provided in the appendices.

## 2.6.3 Case Backlog in High Court

At the end of the FY 2020/21, 69,423 cases out of the 90,901 pending cases were backlog. The case backlog by age for the high court is illustrated in Figure 2.21.

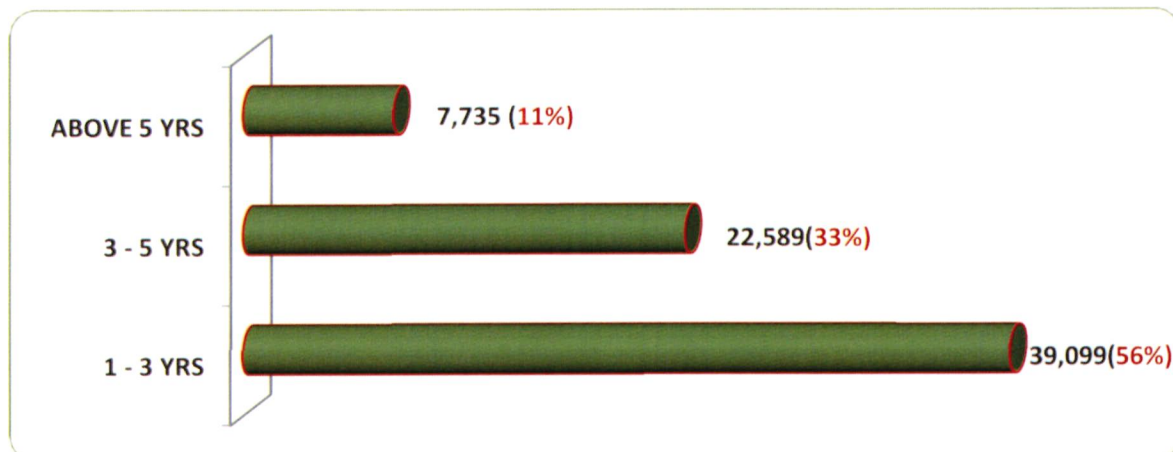


Figure 2.21: Case backlog in High Court

The highest percentage of backlog at 56 per cent was for cases aged between 1 and 3 years followed by Backlog cases aged 3-5 years at 33 per cent. There were 7,735 backlog cases aged 5 years and above translating to 11 per cent. The case backlog for each of the High Court station is detailed in Table 2.15.

Table 2.15: Case backlog by age in High Court

High Court Station	Backlog 1-3 years	Backlog 3-5 years	Backlog Over 5 years	All Backlog
Bomet	289	246	2	537
Bungoma	1,185	935	459	2,579
Busia	645	645	622	1,912
Chuka	432	39	14	485
Eldoret	989	698	167	1,854
Embu	1,352	1,069	63	2,484
Garissa	349	151	53	553
Garsen	41	16	6	63
Homa Bay	384	189	12	585
Kabarnet	216	142	0	358
Kajiado	225	5	3	233
Kakamega	931	784	954	2,669
Kapenguria	53	36	1	90
Kericho	716	453	214	1,383
Kerugoya	765	903	420	2,088
Kiambu	812	924	9	1,745
Kisii	246	19	31	296
Kisumu	631	155	502	1,288
Kitale	1,476	900	16	2,392
Kitui	173	140	14	327
Lodwar	66	33	0	99
Machakos	1,797	793	158	2,748
Makueni	130	64	0	194
Malindi	415	279	40	734
Marsabit	15	1	1	17
Meru	2,159	1,246	127	3,532
Migori	73	68	295	436
Milimani Anti-corr. Div.	92	55	0	147
Milimani Civil Div.	2,939	1,714	355	5,008
Milimani C. & Tax Di.	2,387	1,617	1,205	5,209
Milimani Const. Div	256	89	37	382
Milimani Criminal Div.	757	465	11	1,233
Milimani Family Div.	1,633	820	512	2,965
Milimani Jud. Rev. Div.	579	284	16	879
Mombasa	6,402	1,915	293	8,610
Murang'a	1,607	1,467	574	3,648
Naivasha	149	72	19	240
Nakuru	3,391	1,692	285	5,368
Nanyuki	407	298	13	718
Narok	91	50	3	144
Nyamira	139	13	1	153
Nyandarua	179	115	106	400

High Court Station	Backlog 1-3 years	Backlog 3-5 years	Backlog Over 5 years	All Backlog
Nyeri	1,237	938	28	2,203
Siaya	42	2	0	44
Vihiga	0	0	93	93
Voi	247	50	1	298
All courts	39,099	22,589	7,735	69,423

The Mombasa High Court had the highest case backlog with 8,610 cases followed by Nakuru with 5,368, and Milimani Commercial & Tax Division at 5,209. The least case backlog was recorded at Marsabit High Court with 17 Cases.

#### 2.6.4 SJT Implementation Status on Reduction of Case Backlog in High Court

The backlog aged 5 years and above at the beginning of the SJT period in January 2017 stood at 58,487 cases for the High Court. These are the cases that were targeted to be cleared by the end of the SJT period. By June 2021, the case backlog aged 5 years and above in all the High Court stations stood at 7,735 cases, a reduction of 87 per cent. Nonetheless, and owing to new cases entering the age category of 5 years and above, the High Court has resolved 74,078 cases aged 5 years and above since January 2017. The achievements are provided in Table 2.16.

Table 2.16: SJT implementation status on reduction of case backlog in High Court

High Court Station	Case backlog of over 5 years, January 2017	Case backlog of over 5 years, 30 <sup>th</sup> June, 2021	Resolved cases of over 5 years between January 2017 to June 2021
Bomet	2	2	6
Bungoma	1,664	459	1,243
Busia	728	622	373
Chuka	0	14	140
Eldoret	1,404	167	2,184
Embu	1,295	63	771
Garissa	109	53	164
Garsen	6	6	28
Homa Bay	345	12	248
Kabarnet	0	0	0
Kajiado	7	3	16
Kakamega	1,739	954	832
Kapenguria	1	1	2
Kericho	1,232	214	1,802
Kerugoya	355	420	459
Kiambu	0	9	4
Kisii	634	31	2,108
Kisumu	1,193	502	2,754
Kitale	1,381	16	1,983
Kitui	0	14	152
Lodwar	0	0	0
Machakos	5,480	158	3,774
Makueni	0	0	48
Malindi	160	40	455
Marsabit	0	1	1
Meru	2,415	127	4,313
Migori	304	295	142
Milimani Anti-corr. Div.	0	0	7
Milimani Civil Div.	9,071	355	6,657
Milimani C. & Tax Div.	2,747	1,205	4,882
Milimani Const. Div.	28	37	339
Milimani Criminal Div.	867	11	892
Milimani Family Div.	15,593	512	19,982
Milimani Jud. Rev. Div.	119	16	269
Mombasa	2,480	293	10,372
Muranga	161	574	500
Naivasha	0	19	44
Nakuru	3,631	285	4,165
Nanyuki	11	13	5
Narok	0	3	6
Nyamira	17	1	7
Nyandarua	0	106	3
Nyeri	3,307	28	1,894
Siaya	0	0	5
Vihiga	0	93	41
Voi	1	1	6
All courts	58,487	7,735	74,078

#### 2.7 Employment and Labour Relations Court

There were seven ELRC stations during the review period based in Nairobi, Kericho, Kisumu, Mombasa, Nakuru, Eldoret and Nyeri.

## 2.7.1 Filed and Resolved Cases in ELRC

In the FY 2020/21, 2,918 cases were filed in the ELRC. This was a 45 per cent increase from 2,015 cases that were registered in the FY 2019/20. Over the same period, the resolved cases were 2,434 cases down from 3,568 cases that were resolved in the FY 2019/20. Figure 2.22 shows the trend of filed and resolved cases in ELRC.

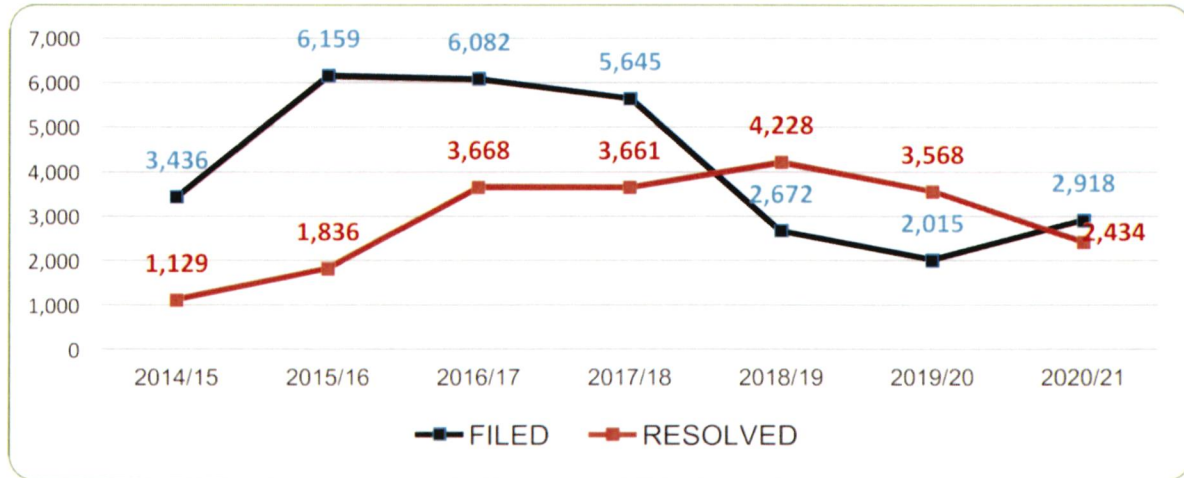


Figure 2.22: Trend of filed and resolved cases, ELRC

The filed cases rose from 3,436 in FY 2014/15 to 6,159 cases in FY 2015/16. This was followed by a decline leading to 2,672 cases in the FY 2018/19. Thereafter there was a gradual decline to 2,015 cases in FY 2019/20 followed by a rise to 2,918 in FY 2020/21. The trend of resolved cases declined gently rose between the FY 2014/15 up to the FY 2018/19. Thereafter, the number of resolved cases declined to 3,568 cases in 2019/20 and further to 2,434 in FY 2020/21, a decline attributed to the adverse effect of the pandemic. Detailed statistics on filed and resolved cases for the ELRC over time are provided in Table 2.17.

Table 2.17: Trends of filed and resolved cases in ELRC

Station	2016/17		2017/18		2018/19		2019/20		2020/21	
	FC	RC	FC	RC	FC	RC	FC	RC	FC	RC
Eldoret	-	-	-	-	-	-	29	122	30	82
Kericho	116	105	124	180	96	32	28	25	34	49
Kisumu	499	179	581	227	360	367	277	438	333	580
Mombasa	1,045	646	861	455	155	397	177	469	274	438
Nairobi	3,631	1,980	3,114	2,324	1,801	2,593	1,314	1,527	1,935	986
Nakuru	391	285	360	182	169	389	87	590	132	166
Nyeri	400	473	605	293	91	450	103	397	180	133
All ELRC stations	6,082	3,668	5,645	3,661	2,672	4,228	2,015	3,568	2,918	2,434

During the period under reference, Nairobi ELRC had the highest filed cases at 1,935, followed by Kisumu with 333 and Mombasa with 274 cases. Regarding the resolved cases, Nairobi was leading at 986 followed by Kisumu with 580 cases. The types of disputes that were handled by the court in the FY 2020/21 are illustrated in Figure 2.23.

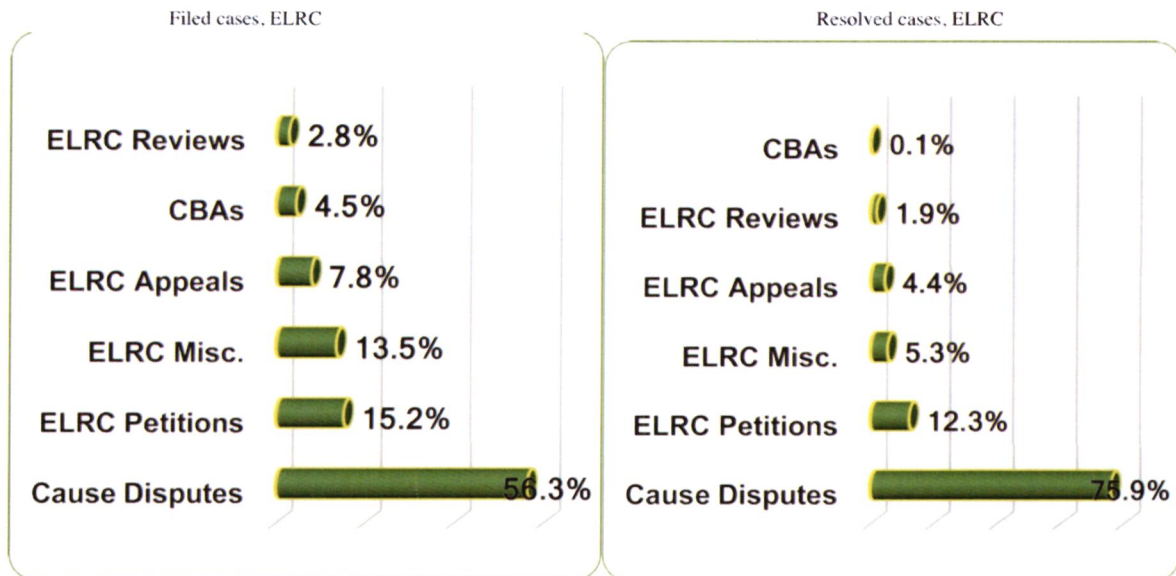


Figure 2.23: Percentage distribution of filed &amp; resolved cases in ELRC, FY 2020/21

In regard to the filed cases, cause disputes remained the bulk of cases at 56.3 per cent followed by petitions at 15.2 per cent. Majority of the resolved cases were cause disputes at 75.9 per cent followed by petitions at 12.3 per cent and miscellaneous application at 5.3 per cent respectively. Table 2.18 elucidates the types of cases that were filed in each of the ELRC station.

Table 2.18: Filed cases by type in ELRC, FY 2020/21

ELRC Station	CBAs	Cause Disputes	ELRC Petitions	ELRC Misc.	ELRC Appeals	ELRC Reviews	All filed cases
Eldoret	0	13	10	7	0	0	30
Kericho	0	14	11	8	0	1	34
Kisumu	0	123	94	66	31	19	333
Mombasa	0	143	14	50	61	6	274
Nairobi	130	1,177	249	217	118	44	1,935
Nakuru	0	67	29	24	5	7	132
Nyeri	0	105	36	22	12	5	180
All Courts	130	1,642	443	394	227	82	2,918

Cause disputes were the most filed cases at 1,672 followed by petitions at 443. The reviews were the least filed cases at 82. Table 2.19 elaborates the types of cases that were resolved in ELRC.

Table 2.19: Resolved cases by type in ELRC, FY 2020/21

ELRC Station	CBAs	Cause Disputes	ELRC Petitions	ELRC Misc.	ELRC Appeals	ELRC Reviews	All resolved cases
Eldoret	0	68	8	2	2	2	82
Kericho	0	35	10	3	1	0	49
Kisumu	0	365	95	41	56	23	580
Mombasa	0	373	10	31	23	1	438
Nairobi	2	783	144	25	17	15	986
Nakuru	0	139	11	8	7	1	166
Nyeri	1	85	21	20	1	5	133
All Courts	3	1,848	299	130	107	47	2,434

Most of the resolved cases were at Nairobi ELRC with 986 cases followed by Kisumu with 580 cases. Kericho had the least resolutions at 49 cases.

### 2.7.2 Pending Cases in ELRC

At the end of the FY 2020/21, there were 14,040 pending cases in ELRC. This signified an increase from the 12,907 cases that were pending at the end of the FY 2019/20. Over time, the pending cases in ELRC has not drastically changed as shown in Figure 2.24.

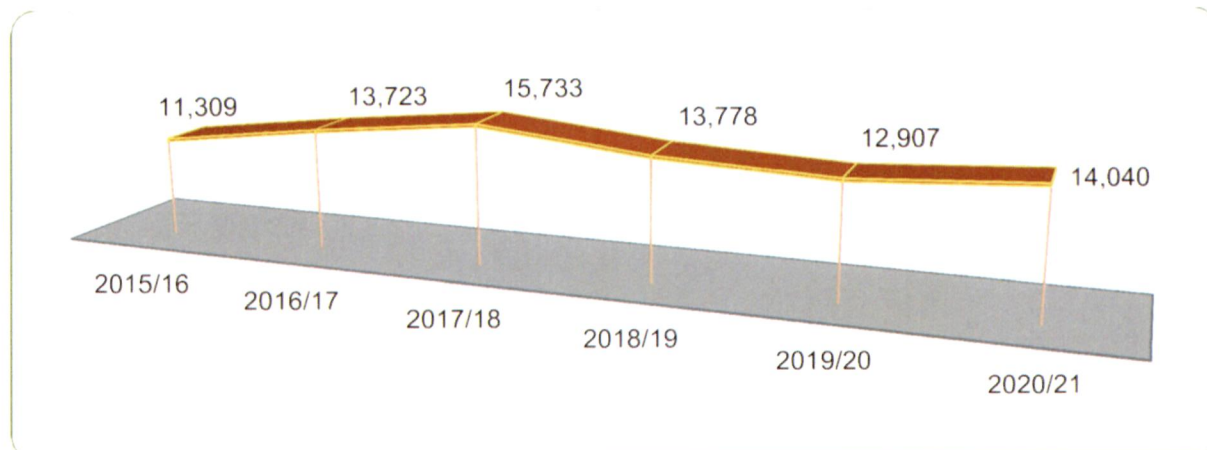


Figure 2.24: Trend of pending cases, ELRC

From the FY 2015/16, the pending cases in ELRC rose to 15,733 cases at the end of FY 2017/18. This was followed by a slight decline to 13,788 cases in FY 2018/19 and a further decline to 12,907 cases at the end of FY 2019/20. They settled at 14,040 cases in FY 2020/21. This is attributed to challenges of accessing courts that were posed by COVID-19 pandemic. The percentage distribution of pending cases by type is shown in Figure 2.25.

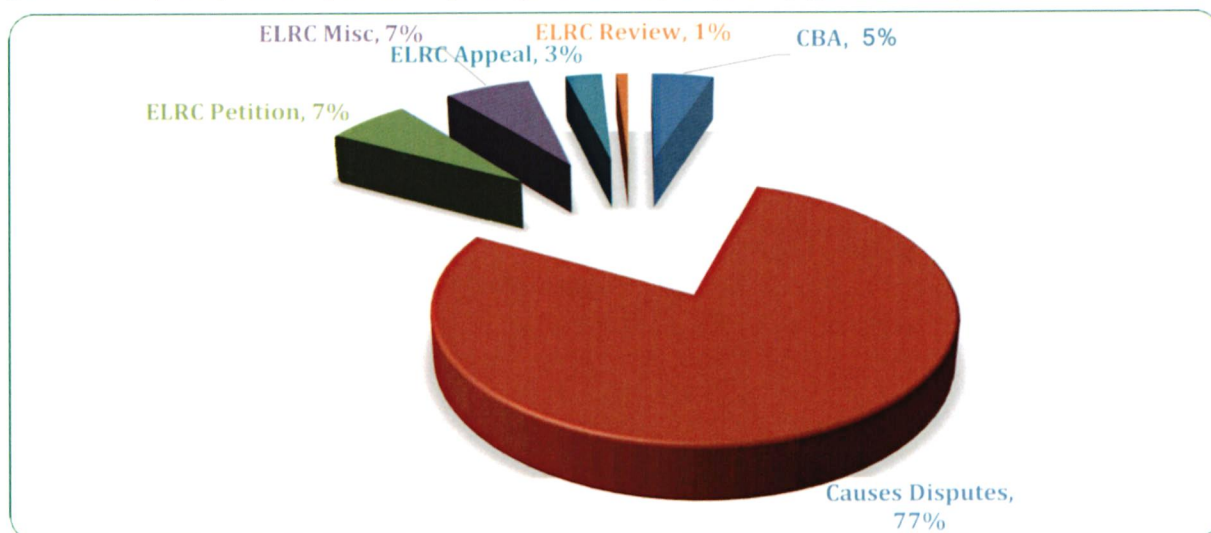


Figure 2.25: Distribution of pending cases by case type in ELRC

Figure 2.25 shows that majority of the pending cases were cause disputes at 77 per cent, followed by miscellaneous application at 7 per cent. The least pending cases were judicial review which stood at one per cent. The change over time of pending cases in the ELRC is elaborated in Table 2.20.

Table 2.20: Trend of pending cases in ELRC

ELRC Station	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Eldoret	-	-	0	103	698
Kericho	310	254	318	321	306
Kisumu	1,182	1,544	1,132	971	724
Mombasa	1,817	2,233	1,991	1,699	1,535
Nairobi	9,067	9,857	9,065	8,852	9,801
Nakuru	1,152	1,338	1,124	691	657
Nyeri	195	507	148	270	319
All	13,723	15,733	13,778	12,907	14,040

The highest number of pending cases were in Nairobi ELRC at 9,801 cases followed by Mombasa and Kisumu at 1,535 and 724 cases respectively. The specific types of pending cases for each of the ELRC station at the end of the period under review are detailed in Table 2.21.

Table 2.21: Pending cases by case type in ELRC, 30th June 2021

ELRC Station	CBAs	Cause Disputes	ELRC Petitions	ELRC Misc.	ELRC Appeals	ELRC Reviews	All cases
Eldoret	0	540	125	14	7	12	698
Kericho	0	278	11	11	2	4	306
Kisumu	0	513	95	73	28	15	724
Mombasa	3	1,259	29	154	76	14	1,535
Nairobi	676	7,631	584	599	238	73	9,801
Nakuru	1	534	29	54	29	10	657
Nyeri	1	228	40	29	18	3	319
All Courts	681	10,983	913	934	398	131	14,040

The station that closed the year with the highest number of pending cases was Nairobi at 9,801 followed by Mombasa with 1,535. Kericho had the least at 306 cases. Across most of the stations, 'cause disputes' were the bulk of the pending cases.

### 2.7.3 Case Backlog in ELRC

Out of the 14,040 cases that were pending in ELRC at the end of the review period, 11,220 cases were backlog. This was a 3 per cent increase from the 10,928 backlog cases that were recorded at the end of the previous financial year. The percentage distribution of case backlog by age in ELRC at the end of FY 2020/21 is illustrated in Figure 2.26.

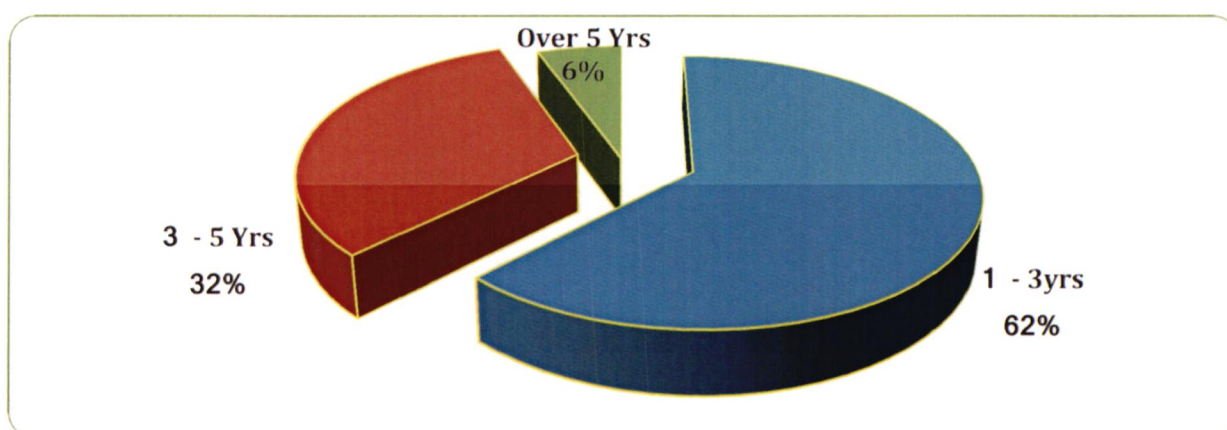


Figure 2.26: Percentage distribution of case backlog in ELRC

Figure 2.26 reveals that 62 per cent of case backlog was aged between 1 and 3 years while 32 per cent of the cases were aged between 3 and 5 years. The category with the least backlog was that of above 5 years at 6 per cent. The case backlog for each ELRC stations is illustrated in Table 2.22.

Table 2.22: Case backlog by age in ELRC

ELRC Station	1-3 years	3-5 years	Over 5 years	ALL
Eldoret	275	393	1	669
Kericho	190	101	3	294
Kisumu	223	82	87	392
Mombasa	713	444	90	1,247
Nairobi	5,140	2,349	379	7,868
Nakuru	269	200	59	528
Nyeri	198	18	6	222
All Courts	7,008	3,587	625	11,220

The highest backlog at the end of the review period was recorded at Nairobi ELRC with 7,868

cases followed by Mombasa with 1,247 and Eldoret with 669 cases respectively. Nyeri station had the least case backlog with 222 cases.

### 2.7.4 SJT Implementation Status on Reduction of Case Backlog in ELRC

At the beginning of the SJT period in January 2017, there were 771 cases in ELRC aged 5 years and above. The progress in clearing these cases by June 2021 is given in Table 2.23.

Table 2.23: SJT implementation status on reduction of case backlog in ELRC

ELRC Station	SJT target on reduction of cases older than 5 years, 1 <sup>st</sup> January, 2017	Resolved cases older than 5 years between 1 <sup>st</sup> January, 2017 and 30 <sup>th</sup> June, 2021	Case backlog older than 5 years as at 30 <sup>th</sup> June, 2021
Eldoret	0	54	1
Kericho	0	13	3
Kisumu	43	364	87
Mombasa	1	292	90
Nairobi	717	2,537	379
Nakuru	10	248	59

ELRC Station	SJT target on reduction of cases older than 5 years, 1 <sup>st</sup> January, 2017	Resolved cases older than 5 years between 1 <sup>st</sup> January, 2017 and 30 <sup>th</sup> June, 2021	Case backlog older than 5 years as at 30 <sup>th</sup> June, 2021
Nyeri	0	29	6
All Courts	771	3,537	625

Between January 2017 and the end of June 2021, ELRC managed to reduce case backlog aged 5 years and above by 19 per cent from the 771 cases to 625 cases. Though the court had not managed to clear all the cases as envisaged under SJT, the court resolved a total of 3,537 cases aged 5 years and above over the entire SJT period. The higher than target resolution of the cases is attributed to cases entering the age category of 5 years and above.

## 2.8 The Environment and Land Court (ELC)

### 2.8.1 Filed and Resolved Cases in Environment and Land Court

In the FY 2020/21, there were 26 ELC stations spread across the country. During this period, 4,856 were filed and 5,748 cases were resolved. This translated into a CCR of 118 per cent, the highest in comparison to all other courts. The trend of filed and resolved cases in ELC since the FY 2014/15 is as depicted in Figure 2.27.

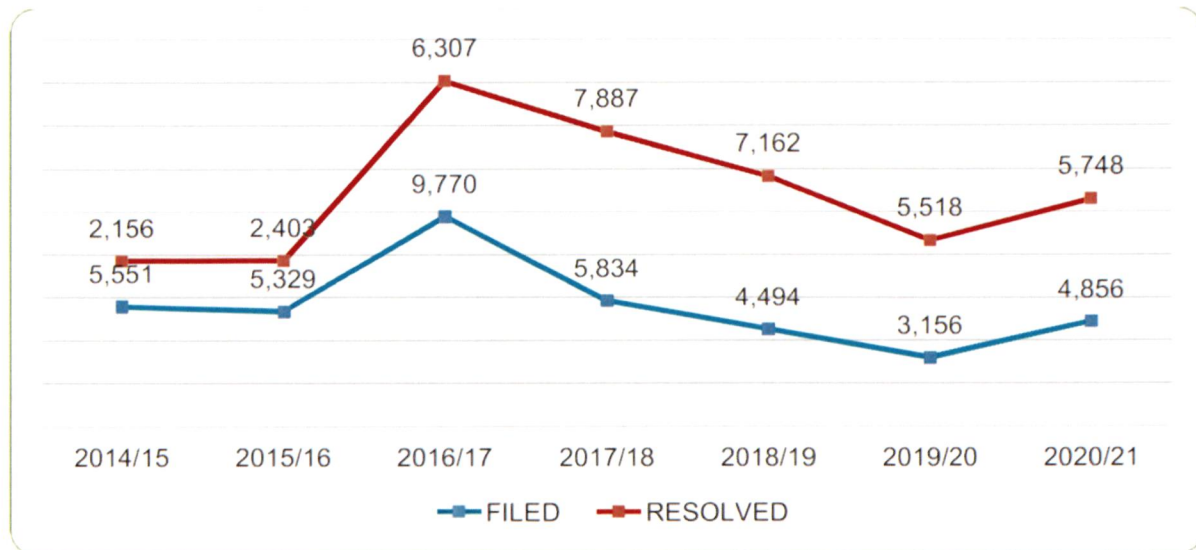


Figure 2.27: Trend of Filed and Resolved Cases in ELC

Figure 2.27 shows that both filed and resolved cases rose between the FYs 2015/16 and 2016/17. Thereafter, it took a downward trend up to the FY 2019/20. There was a rise in both filed and resolved cases between the FYs 2019/20 FY and 2020/21. Information on filing and resolution of cases in ELC stations since the FY 2015/16 as presented in the Table 2.24.

Table 2.24: Trends of Filed and Resolved Cases, ELC

ELC Station	FY 2015/16		FY 2016/17		FY 2017/18		FY 2018/19		FY 2019/20		FY 2020/21	
	FC	RC	FC	RC	FC	RC	FC	RC	FC	RC	FC	RC
Bungoma	112	144	263	436	107	195	111	83	70	135	70	163
Busia	144	14	267	209	140	65	85	195	63	104	134	167
Chuka	-	-	464	78	85	311	45	86	42	58	44	66
Eldoret	521	68	473	234	232	270	193	421	127	401	148	325
Embu	130	9	54	15	282	136	94	96	93	142	117	190
Garissa	-	-	62	32	68	24	27	31	12	12	28	25
Kajiado	-	-	201	18	88	177	112	317	124	192	236	158
Kakamega	262	10	117	16	294	600	221	444	172	341	111	251
Kericho	332	10	116	38	84	360	54	223	17	31	54	39
Kerugoya	875	217	308	190	125	154	60	38	44	117	75	42
Kisii	601	462	563	975	212	223	92	309	87	163	63	160
Kisumu	174	33	483	422	154	626	125	229	147	150	290	115
Kitale	193	98	388	307	89	175	118	129	48	80	107	95
Machakos	-	-	149	1,502	374	526	334	462	226	250	377	227
Makueni	-	-	327	2	92	167	52	96	59	155	66	67
Malindi	295	170	552	292	278	240	174	321	157	172	207	303
Meru	155	50	512	322	233	694	296	448	242	335	269	285
Migori	-	-	793	7	190	164	138	216	100	223	147	132
Milimani	1,437	141	936	428	991	963	806	1,811	441	1,497	1,043	1,519
Mombasa	408	250	445	474	494	521	467	387	338	156	432	371

ELC Station	FY 2015/16		FY 2016/17		FY 2017/18		FY 2018/19		FY 2019/20		FY 2020/21	
	FC	RC	FC	RC	FC	RC	FC	RC	FC	RC	FC	RC
Muranga	-	-	145	14	185	204	99	194	40	153	84	121
Nakuru	191	31	199	10	259	226	206	227	154	417	197	379
Narok	-	-	526	28	85	76	74	44	68	43	77	84
Nyandarua	-	-	418	22	107	59	68	157	20	39	25	58
Nyeri	329	129	318	220	163	587	99	108	103	26	105	66
Thika	-	-	691	16	423	144	344	90	162	126	350	340
All stations	6,159	1,836	9,770	6,307	5,834	7,887	4,494	7,162	3,156	5,518	4,856	5,748

\*\*\* ELC station was not operational

Suits were the most of the cases handled by the ELC followed by miscellaneous while appeals were the least. The breakdown of filed cases by case type in ELC stations is highlighted in Table 2.25.

Table 2.25: Filed cases in ELC by type, FY 2020/21

ELC Station	ELC matters	ELC Reviews	ELC Misc.	ELC Appeals	ELC Petitions	Total Filed cases
Bungoma	32	0	10	23	5	70
Busia	93	5	14	20	2	134
Chuka	15	7	12	8	2	44
Eldoret	96	7	21	16	8	148
Embu	74	7	15	18	3	117
Garissa	10	0	7	6	5	28
Kajiado	111	6	68	36	15	236
Kakamega	30	4	35	35	7	
Kericho	37	1	8	4	4	54
Kerugoya	35	7	15	13	5	75
Kisii	35	1	5	13	9	63
Kisumu	134	14	42	73	27	290
Kitale	72	0	21	9	5	107
Machakos	198	27	66	52	34	377
Makueni	36	7	9	7	7	66
Malindi	142	3	33	6	23	207
Meru	86	19	41	90	33	269
Migori	51	2	22	40	32	147
Milimani	583	43	274	81	62	1,043
Mombasa	277	8	85	31	31	432
Muranga	53	1	10	18	2	84
Nakuru	119	8	28	26	16	197
Narok	43	8	11	9	6	77
Nyandarua	13	2	4	4	2	25
Nyeri	41	3	18	37	6	105
Thika	173	9	57	84	27	350
All Courts	2,589	199	931	759	378	4,856

Milimani ELC had the highest filed cases at 1,043 followed by Murang'a with 432 cases. Details

on resolved cases for the ELC stations are provided in Table 2.26.

Table 2.26: Resolved cases in ELC by type, FY 2020/21

ELC Station	ELC matters	ELC Reviews	ELC Misc.	ELC Appeals	ELC Petitions	Total Cases
Bungoma	118	0	32	12	1	163
Busia	146	3	8	6	4	167
Chuka	29	3	16	15	3	66
Eldoret	242	12	38	13	20	325
Embu	141	9	15	15	10	190
Garissa	18	0	1	2	4	25
Kajiado	95	2	43	12	6	158
Kakamega	167	5	28	38	13	251
Kericho	30	1	5	2	1	39
Kerugoya	33	1	3	4	1	42
Kisii	114	5	17	17	7	160

<i>ELC Station</i>	<i>ELC matters</i>	<i>ELC Reviews</i>	<i>ELC Misc.</i>	<i>ELC Appeals</i>	<i>ELC Petitions</i>	<i>Total Cases</i>
Kisumu	72	3	19	16	5	115
Kitale	78	0	5	6	6	95
Machakos	142	15	24	35	11	227
Makueni	46	3	5	4	9	67
Malindi	220	7	32	12	32	303
Meru	93	33	44	92	23	285
Migori	98	3	15	12	4	132
Milimani	1,036	62	293	82	46	1,519
Mombasa	253	12	34	44	28	371
Murang'a	83	3	14	19	2	121
Nakuru	315	14	16	14	20	379
Narok	60	3	13	2	6	84
Nyandarua	22	2	5	23	6	58
Nyeri	34	4	15	10	3	66
Thika	239	7	40	36	18	340
All Courts	3,924	212	780	543	289	5,748

The highest number of resolutions was recorded at Milimani ELC with 1,519 resolved cases followed by Thika with 340 resolved cases.

### 2.8.2 Pending Cases in the ELC

At the end of the FY 2020/21, the pending cases in ELC stood at 14,405 cases. This was a decline by nine per cent from the 15,892 cases that were pending at the end of the previous year. The change in pendency of cases in the ELC over time is shown in Figure 2.28.

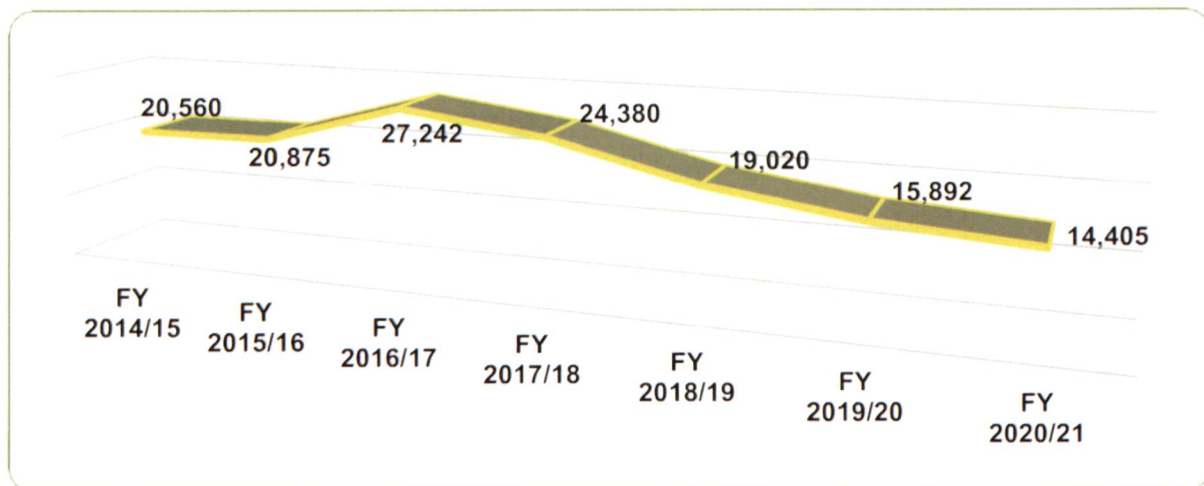


Figure 2.28: Trend of pending cases in ELC

After a period characterized by increasing pendency between FY 2014/15 and FY 2016/17, a gradual reduction followed culminating in 14,405 cases by the end of June 2021. The reduction attests to the court managing to reduce its load of cases by resolving more cases than the number that is filed annually. The percentage distribution of pending cases by type at the end of the period under review is illustrated in Figure 2.29.

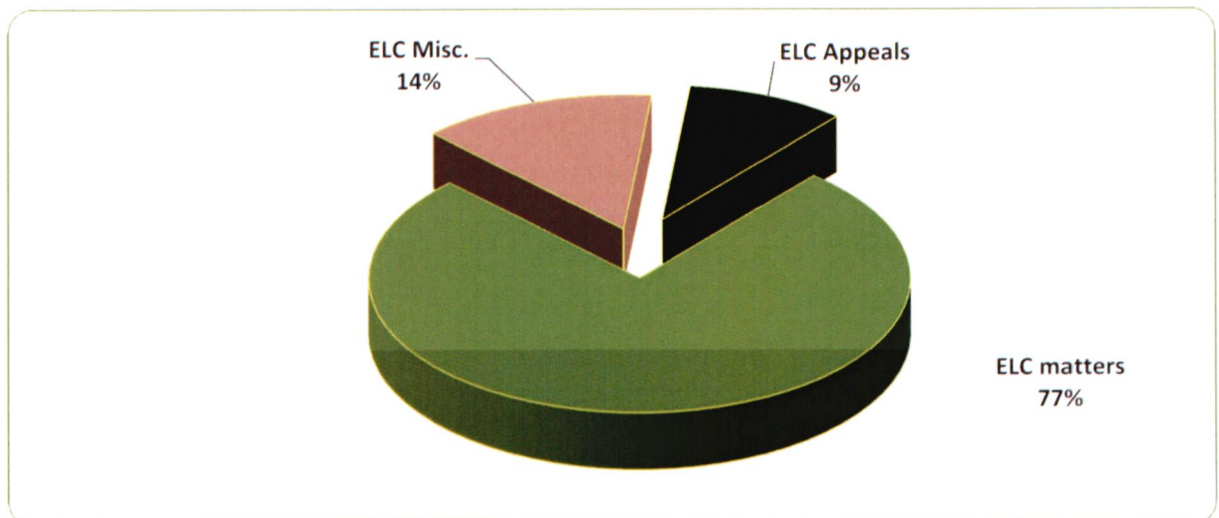


Figure 2.29: Percentage distribution of pending cases in ELC by type

The highest percentage of pending cases were the general ELC suits at 77 per cent followed by miscellaneous matters at 14 per cent. From Table 2.27, Mombasa had the most pending cases at 2,132 followed by Milimani with 1,370 and Eldoret with 1,129 cases. The breakdown of pending cases for each of the ELC station is presented in Table 2.27.

Table 2.27: Pending cases by type in ELC, 30th June 2021

ELC Station	ELC General Suits	ELC Misc.	ELC Appeals	All case types
Bungoma	58	68	68	194
Busia	308	12	20	340
Chuka	5	0	3	8
Eldoret	1,037	44	48	1,129
Embu	279	23	57	359
Garissa	33	19	14	66
Kajiado	199	29	27	255
Kakamega	123	25	27	175
Kericho	175	10	9	194
Kerugoya	591	116	168	875
Kisii	405	31	21	457
Kisumu	512	59	111	682
Kitale	610	21	5	636
Machakos	710	197	84	991
Makueni	37	8	11	56
Malindi	823	6	4	833
Meru	2	108	193	303
Migori	35	34	37	106
Milimani	801	494	75	1,370
Mombasa	1,538	488	106	2,132
Muranga	38	14	18	70
Nakuru	829	22	24	875
Narok	181	39	22	242
Nyandarua	190	2	3	195
Nyeri	634	68	77	779
Thika	882	75	126	1,083
All Courts	10,955	2,012	1,346	14,405

The least pending cases at the end of the review period were recorded at Chuka at eight and Makueni at 56 respectively. Figure 2.30 presents the pending cases by ELC station.

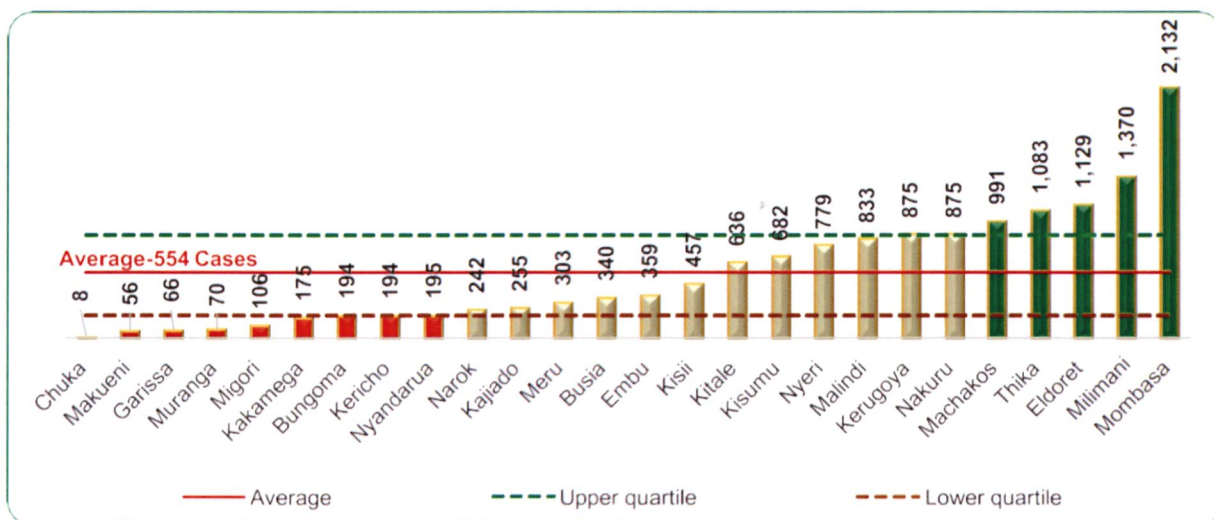


Figure 2.30: Distribution of Pending Case by Courts in ELC, 30th June 2021

The average pending cases by ELC station stood at 544 cases at the end of review period. The courts with highest pending cases and appearing above the upper quartile line were Machakos, Thika, Eldoret, Milimani and Mombasa. The courts with the least pendency, and appearing below the lower quartile line were Chuka, Makueni, Garissa, Murang'a, Migori, Kakamega, Bungoma, Kericho and Nyandarua ELC.

### 2.8.3 Case Backlog in ELC

The case backlog in ELC stood at 11,517 cases in FY 2020/21. The distribution of case backlog by age is shown in Figure 2.31.

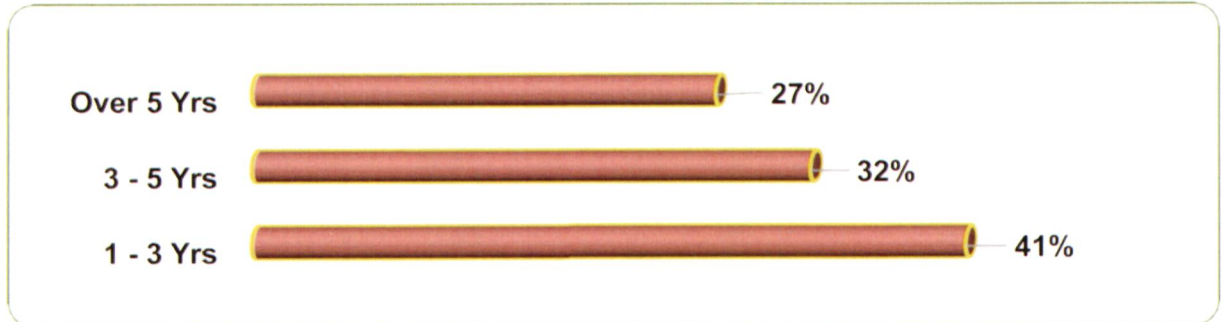


Figure 2.31: Distribution of case backlog by age in ELC

The highest chunk of case backlog in ELC was aged between 1 and 3 years at 41 per cent. Twenty-seven per cent of backlog cases were aged above five years. Detailed analysis of case backlog by ELC station is provided in Table 2.28.

Table 2.28: Case backlog by age in ELC, 30th June 2021

ELC Station	1-3 years	3-5 years	Over 5 years	All backlog
Bungoma	37	98	58	193
Busia	144	39	28	211
Chuka	4	2	0	6
Eldoret	369	306	307	982
Embu	128	97	18	243
Garissa	14	24	1	39
Kajiado	11	103	3	117
Kakamega	48	39	39	126
Kericho	83	54	8	145
Kerugoya	418	316	67	801
Kisii	134	78	226	438
Kisumu	145	75	173	393
Kitale	342	219	63	624
Machakos	344	195	76	615
Makueni	19	32	4	55
Malindi	397	152	79	628
Meru	16	50	58	124
Migori	49	21	8	78
Milimani	383	129	857	1,369
Mombasa	798	622	282	1,702
Muranga	18	35	17	70
Nakuru	24	292	408	724
Narok	88	72	7	167
Nyandarua	42	60	89	191
Nyeri	300	193	183	676
Thika	381	403	16	800
All Courts	4,736	3,706	3,075	11,517

At the end of the FY 2020/21, the highest case backlog was recorded at Mombasa with 1,702 cases followed by Milimani ELC with 1,369 cases. The least backlog was recorded at Chuka ELC station with six cases.

### 2.8.4 SJT Implementation Status on Reduction of Case Backlog in ELC

In January 2017, there were 4,146 cases aged five years and above in ELC. This number formed the target for reduction to zero cases during the SJT period. Table 2.29 gives the performance of ELC regarding the reduction of case backlog of 5 years and above between January 2017 and June 2021.

Table 2.29: SJT implementation status on reduction of case backlog in ELC

ELC Station	SJT target on reduction of cases older than 5 years, 1 <sup>st</sup> January, 2017	Resolved cases older than 5 years between 1 <sup>st</sup> January, 2017 and 30 <sup>th</sup> June, 2021	Case Backlog older than 5 years as at 30 <sup>th</sup> June, 2021
Bungoma	372	422	58
Busia	34	238	28
Chuka	0	246	0
Eldoret	611	809	307
Embu	11	248	18
Garissa	0	31	1
Kajiado	0	8	3

ELC Station	SJT target on reduction of cases older than 5 years, 1 <sup>st</sup> January, 2017	Resolved cases older than 5 years between 1 <sup>st</sup> January, 2017 and 30 <sup>th</sup> June, 2021	Case Backlog older than 5 years as at 30 <sup>th</sup> June, 2021
Kakamega	67	495	39
Kericho	199	288	8
Kerugoya	55	141	67
Kisii	150	659	226
Kisumu	144	484	173
Kitale	208	301	63
Machakos	0	1,374	76
Makueni	0	10	4
Malindi	158	461	79
Meru	145	1,218	58
Migori	0	108	8
Milimani	988	3,540	857
Mombasa	452	1,017	282
Muranga	0	0	17
Nakuru	547	455	408
Narok	0	0	7
Nyandarua	0	10	89
Nyeri	5	81	183
Thika	0	27	16
All Courts	4,146	12,671	3,075

By the end of June 2021, there were 3,075 backlog cases aged 5 years and above in the ELC. This marked a 26 per cent reduction in comparison to the baseline of 4,146 cases. Although these cases never reduced to zero as targeted, ELC resolved a total of 12,671 cases aged 5 years and above. This translated into 206 per cent performance in comparison to the baselinenumber.

2.9 Magistrates' Courts

2.9.1 Filed and Resolved Cases in Magistrates' Courts

There were 310,470 cases that were filed in 127 Magistrates' Courts stations spread across the country in the FY 2020/21. This was an increase from the 298,838 cases that were filed in the FY 2019/20. Over the same period, 253,272 cases were resolved yielding a case clearance rate of 82 per cent. The trend of filed cases in the Magistrates' Courts is illustrated in Figures 2.32.

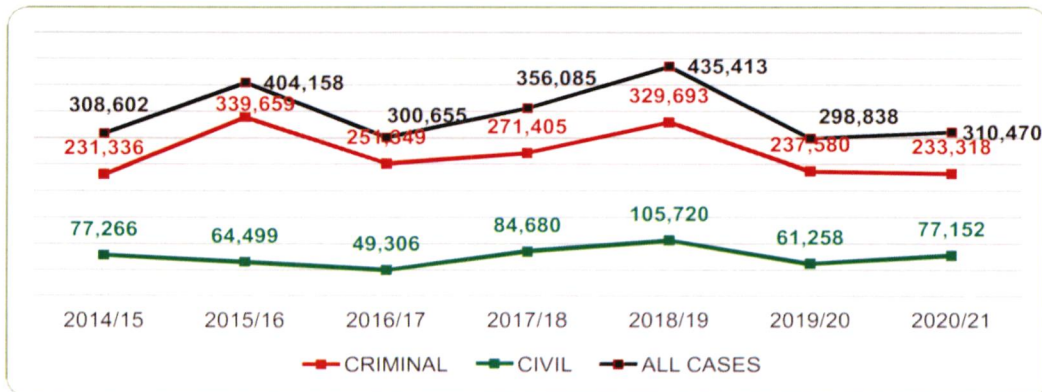


Figure 2.32: Trend of Filed Cases by Case Type, Magistrates' Courts

Filed cases increased by four per cent from 298,838 cases to 310,470 cases in comparison to the previous reporting period. Over time, filed criminal cases remained predominantly more than the civil cases. The curve for the criminal cases and that for the total cases are similar suggesting that the demand for justice in the Magistrates' Courts is mainly driven by criminal matters. Figure 2.33 shows the change over time for the cases resolved.

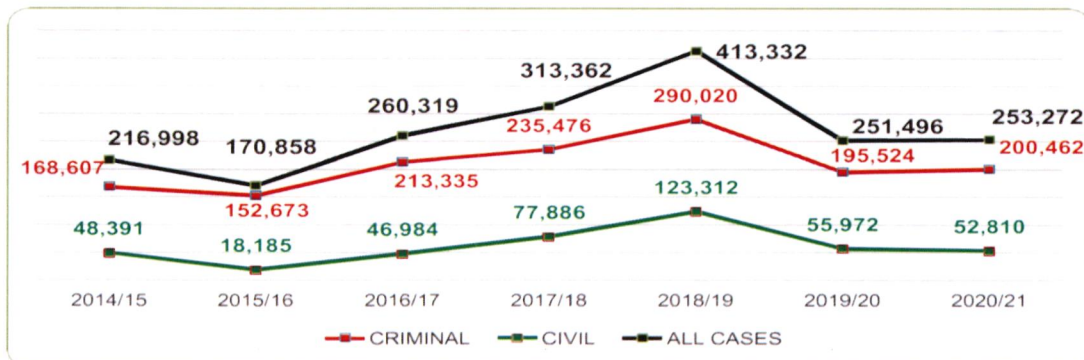


Figure 2.33: Trend of Resolved Cases by Case type, Magistrates' Courts

The resolved cases, both criminal and civil matters, rose steadily from the FY 2015/16 up to the FY 2018/19. This was followed by a drop in the FY 2019/20, attributed to the adverse effect of the COVID-19 pandemic. This was followed by a slight increase in the FY 2020/21. Figures 2.34 shows the percentage distribution of filed and resolved criminal cases in the Magistrates' Courts.

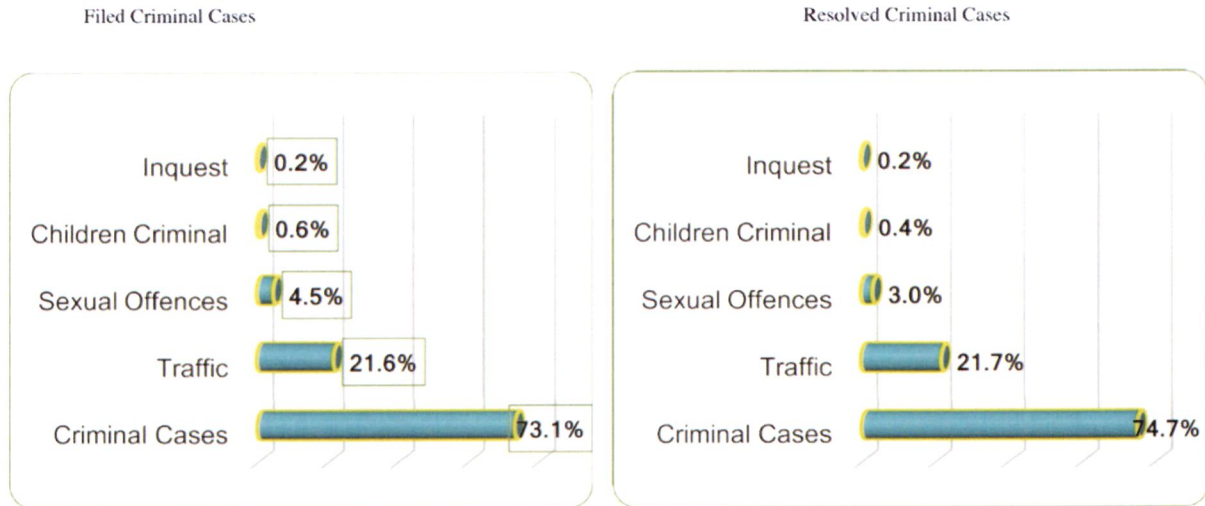


Figure 2.34: Percentage Filed & Resolved Criminal Cases in Magistrates' Courts, FY 2020/21

Figure 2.34 shows that the broad sub-classification of criminal matters had the highest share of both filed and resolved cases at 73.1 and 74.7 per cent respectively. Traffic cases accounted for 21.6 and 21.7 per cent respectively. Sexual offences accounted for 4.5 and 3 per cent of filed and resolved cases respectively. The percentage distribution of filed and resolved civil cases in the Magistrates' Courts is shown in Figure 2.35.

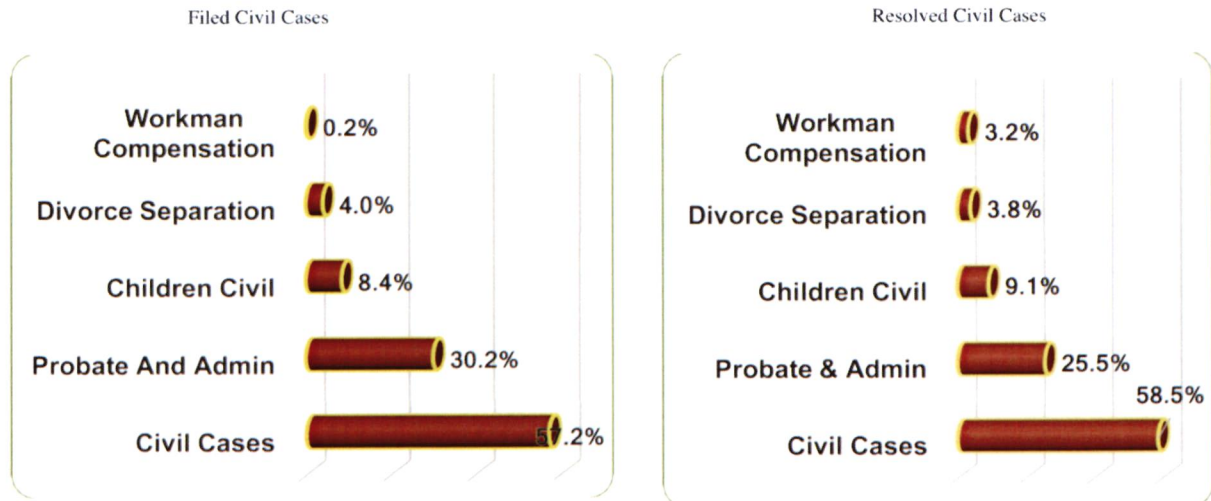


Figure 2.35: Percentage Filed & Resolved Civil Cases in Magistrates' Courts, FY 2020/21

The general civil cases had the highest proportion for filed and resolved cases at 57.2 and 58.5 per cent respectively. They were followed by probate and administration cases at 30.2 per cent for filed and 25.5 per cent for resolved cases. Detailed information regarding the filed and resolved cases for all the stations of the Magistrates' Courts are presented in the appendices.

2.9.2 Pending Cases in Magistrates' Courts

The number of pending cases in the Magistrates' Courts rose from 483,864 at the end of the FY 2019/20 to 512,454 cases at the end of the FY 2020/21. Out of these pending cases, the pending criminal cases stood at 267,145 while civil cases were 245,309 cases. Figure 2.36 illustrates the change of pending cases in Magistrates' Courts over time.



Figure 2.36: Trend of pending cases, Magistrates' Courts

From Figure 2.36, there has been a steady increase in pending criminal cases in Magistrates' Courts has steadily been rising since the FY 2015/16 to settle at 512,454 cases at the end FY 2020/21. From the FY 2017/18, the trend on pending criminal cases remained above that of civil cases signifying that the civil matters that had previously characterized the registries have been drastically reduced. The percentage distribution of pending criminal and civil matters are shown in Figure 2.37.

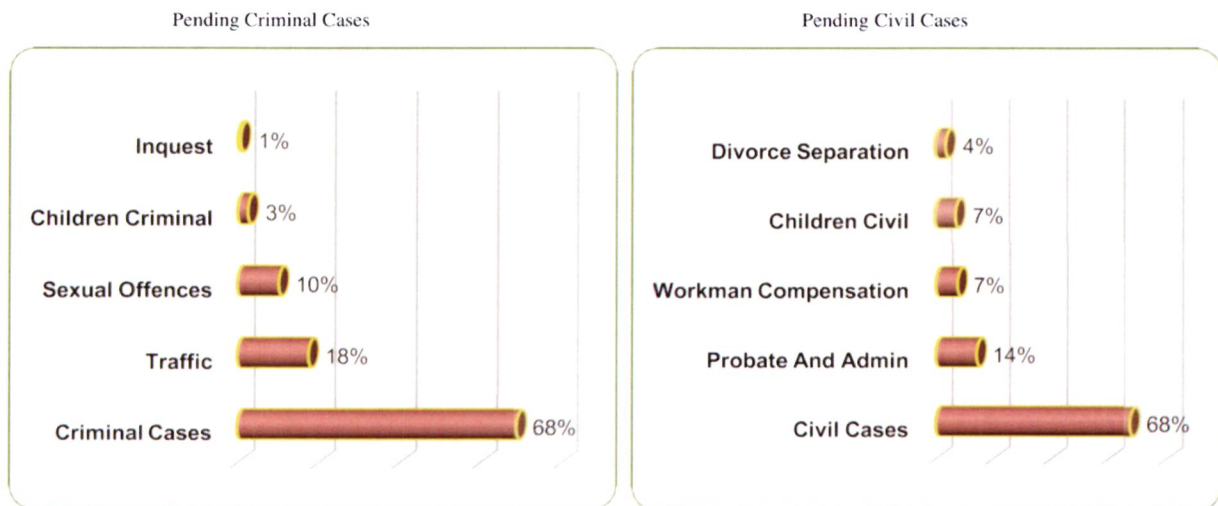


Figure 2.37: Distribution of Pending Cases by Type in Magistrates' Courts, 30th June 2021

The general criminal matters were the bulk of pending case at 69 per cent. The percentage pending sexual offences and children criminal matters stood at ten and three per cent respectively. The general civil matters comprised the majority of pending civil cases at 68 per cent. They were followed by probate and administration cases at 14 per cent. The least pending cases were divorce and separation at four per cent. The caseload statistics on pending criminal and civil cases for all Magistrates' Courts stations are provided in appendices.

2.9.3 Case Backlog in Magistrates' Courts

Out of the 512,454 cases that were pending cases in the Magistrates' Courts at the end of FY 2020/21 the backlog cases amounted to 274,584. This marked a six per cent increase from 259,519 backlog cases that were recorded at the end of the previous year. The distribution of case backlog in Magistrates' Courts by age is shown in Figure 2.38.

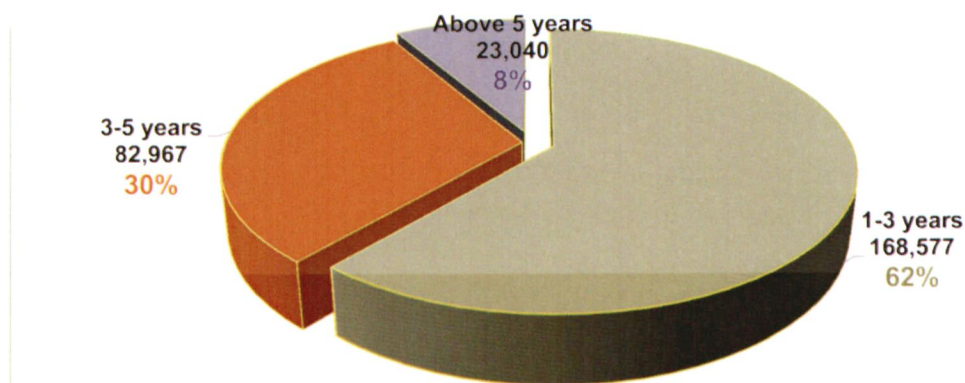


Figure 2.38: Distribution of case backlog by age in Magistrates' Courts, 30th June 2021

The case backlog aged between 1 and 3 years in Magistrates' Courts was 168,577 cases accounting for 62 per cent of the entire case backlog. A total 82,967 cases accounting for 30 per cent of case backlog was aged 3-5 years while 8 per cent (23,040 cases) was aged 5 years and above. The case backlog for each of the Magistrates' Courts station is provided in the Appendices.

#### 2.9.4 SJT Implementation Status on Reduction of Case Backlog, Magistrates' Courts

At the commencement of SJT period in January 2017 there were 106,134 cases aged 5 years and above in the Magistrates' Courts. By the end of FY 2020/21, these cases were 23,040 marking a 78 per cent reduction. The reduction of these cases to zero could not be realized owing to cases continuously entering into to the category of 5 years and above. The status on reduction for each of the Magistrates' Court station is provided in the Appendices.

#### 2.10 Kadhis' Courts

During the FY 2020/21, there were 47 Kadhis' Court stations. The jurisdiction of the Kadhis' Courts is limited to the determination of questions of Muslim law relating to personal status, marriage, divorce or inheritance.

##### 2.10.1 Filed and Resolved Cases in Kadhis' Courts

In the FY 2020/21, a total of 8,954 cases were filed in the Kadhis' Courts. This was an increase of 1,747 cases from the 7,207 cases that were filed in the previous year. A total of 7,230 cases were resolved in the FY 2020/21 rising from 5,261 cases that were resolved in the previous period. The trends of filed and resolved cases in Kadhis' Courts are illustrated in Figure 2.39.

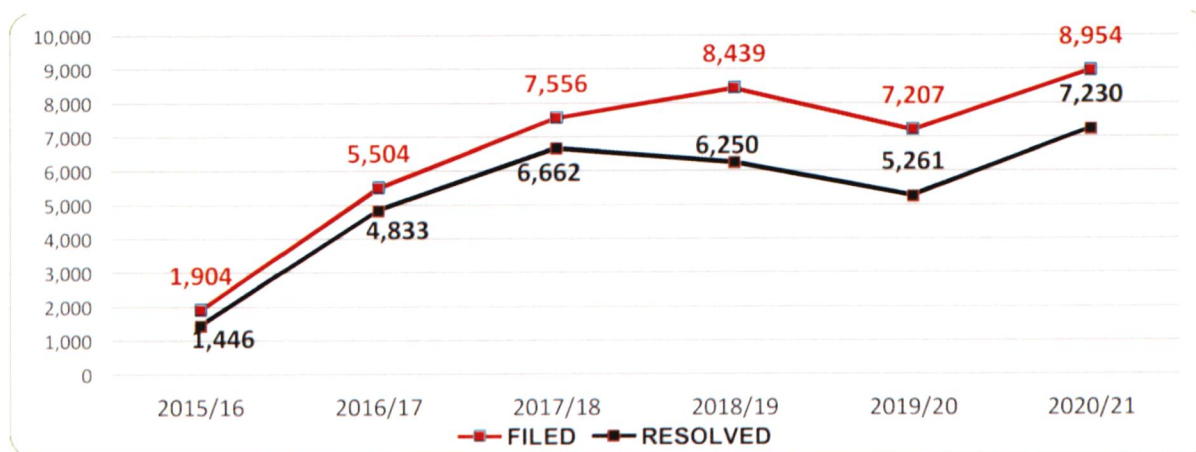


Figure 2.39: Trends of filed and Resolved cases, Kadhis' Courts

From the FY 2015/16, there has been a gradual rise of the matters handled by the Kadhis' Courts. Trends for the filed cases has remained above that for the resolved cases signifying a rise in the number of pending cases for the court. The specific types of cases filed in Kadhis' Courts is provided in Table 2.30.

Table 2.30: Filed cases in Kadhis' Courts, FY 2020/21

Kadhis' Courts Station	Divorce	Registration of Marriage	Matrimonial Cause	Misc Application	Registration of Divorce	Marriages	Succession	Other Matters	All Cases
Balambala	14	13	0	0	2	13	0	0	42
Bungoma	9	18	17	11	1	6	1	0	63
Bura/Fafi	4	13	9	0	1	20	0	1	48
Busia	2	17	7	2	1	0	0	0	29

<i>Kadhis' Courts Station</i>	<i>Divorce</i>	<i>Registration of Marriage</i>	<i>Matrimonial Cause</i>	<i>Misc Application</i>	<i>Registration of Divorce</i>	<i>Marriages</i>	<i>Succession</i>	<i>Other Matters</i>	<i>All Cases</i>
Bute	17	24	32	1	1	3	2	0	80
Dadaab	66	10	5	2	8	18	1	0	110
Eldas	16	18	0	2	3	2	0	0	41
Eldoret	9	5	21	20	3	2	4	0	64
Elwak	84	10	33	6	26	33	6	0	198
Garbatulla	18	10	26	15	1	0	8	0	78
Garissa	201	57	147	2	35	0	127	0	569
Garsen	32	14	26	3	9	11	2	0	97
Habaswein	18	14	7	2	0	3	0	0	44
Hola	30	2	10	17	7	6	10	0	82
Homa Bay	2	7	5	0	1	0	0	0	15
Ijara	33	30	1	0	18	11	0	0	93
Isiolo	51	126	52	53	33	0	30	0	345
Kajiado	8	2	19	1	6	0	18	0	54
Kakamega	4	12	2	2	2	1	2	0	25
Kakuma	80	120	24	25	32	0	2	0	283
Kericho	2	8	10	7	0	0	3	0	30
Kibera	4	2	0	6	1	1	15	0	29
Kilifi	13	17	68	76	10	4	61	0	249
Kisumu	11	21	0	9	3	0	11	0	55
Kitui	0	6	2	5	1	0	16	0	30
Kwale	4	51	4	11	0	0	402	0	472
Lamu	14	33	6	28	10	0	15	0	106
Machakos	7	81	0	5	6	83	5	0	187
Malindi	3	4	15	9	11	4	35	0	81
Mandera	55	12	30	25	5	5	58	0	190
Mariakani	9	30	0	2	6	157	19	0	223
Marsabit	26	6	20	1	0	0	18	0	71
Maua	0	0	0	0	0	0	0	0	0
Merti	11	20	105	40	8	6	7	0	197
Modogashe	25	2	4	0	1	8	0	0	40
Mombasa	296	422	253	379	180	513	492	0	2535
Moyale	52	22	56	25	13	0	41	0	209
Msambweni	16	8	18	1	1	0	58	0	102
Nairobi	256	89	255	255	40	0	149	0	1044
Nakuru	8	4	22	2	6	0	4	0	46
Nyeri	4	4	5	0	1	0	14	0	28
Takaba	32	20	14	3	21	50	3	0	143
Thika	1	1	0	0	2	2	3	0	9
Vihiga	0	0	0	0	0	0	0	0	0
Voi	15	8	40	2	6	0	13	0	84
Wajir	58	27	95	47	35	4	7	0	273
Witu	34	37	5	27	13	31	13	1	161

Details on resolved cases in Kadhis' Courts are provided in Table 2.31.

Table 2.31: Resolved cases in Kadhis' Courts, FY 2020/21

<i>Kadhis' Courts Station</i>	<i>Divorce</i>	<i>Registration of Marriage</i>	<i>Matrimonial Cause</i>	<i>Misc Application</i>	<i>Registration of Divorce</i>	<i>Marriages</i>	<i>Succession</i>	<i>Other Matters</i>	<i>All Cases</i>
Balambala	10	8	1	0	1	5	0	0	25
Bungoma	0	0	0	0	0	6	0	0	6
Bura/Fafi	5	13	1	0	1	20	0	0	40
Busia	2	17	2	1	1	0	0	0	23
Bute	15	24	33	1	1	3	5	0	82
Dadaab	60	4	3	0	3	12	0	0	82
Eldas	17	18	0	2	3	2	0	0	42
Eldoret	5	5	20	19	4	4	6	0	63
Elwak	77	12	35	6	24	30	5	0	189
Garbatulla	22	11	35	14	1	0	11	0	94
Garissa	279	52	219	5	21	0	94	0	670

<i>Kadhis' Courts Station</i>	<i>Divorce</i>	<i>Registration of Marriage</i>	<i>Matrimonial Cause</i>	<i>Misc Application</i>	<i>Registration of Divorce</i>	<i>Marriages</i>	<i>Succession</i>	<i>Other Matters</i>	<i>All Cases</i>
Garsen	32	14	32	1	7	9	3	0	98
Habaswein	19	17	16	1	10	2	0	0	65
Hola	39	2	20	15	3	1	18	0	98
Homa Bay	0	4	2	0	0	0	1	0	7
Ijara	18	30	1	0	18	11	0	0	78
Isiolo	58	129	51	54	41	0	39	0	372
Kajiado	2	1	11	1	2	0	5	0	22
Kakamega	3	12	3	5	2	1	3	0	29
Kakuma	44	95	14	15	25	0	0	0	193
Kericho	1	14	6	3	0	0	3	0	27
Kibera	5	2	1	2	1	1	11	0	23
Kilifi	13	7	42	58	8	4	65	0	197
Kisumu	8	19	0	9	3	0	11	0	50
Kitui	1	8	3	5	1	1	27	0	46
Kwale	9	48	1	3	0	0	382	0	443
Lamu	34	0	3	17	0	0	23	0	77
Machakos	4	36	0	0	6	90	10	0	146
Malindi	16	0	11	2	0	0	34	0	63
Mandera	55	11	29	26	4	4	55	0	184
Mariakani	9	15	0	1	4	121	12	0	162
Marsabit	26	1	16	1	0	0	11	0	55
Maua	2	0	0	0	2	1	4	0	9
Merti	15	21	117	37	6	4	6	0	206
Modogashe	23	0	4	2	0	6	0	0	35
Mombasa	275	164	7	200	31	304	436	0	1,417
Moyale	54	18	55	24	10	0	46	0	207
Msambweni	11	7	16	1	1	0	34	0	70
Nairobi	227	70	206	145	22	0	116	0	786
Nakuru	4	4	21	1	6	0	2	0	38
Nyeri	3	3	1	0	0	0	15	0	22
Takaba	37	20	16	3	18	43	3	0	140
Thika	1	0	0	0	0	0	1	0	2
Vihiga	0	0	0	0	0	0	0	0	0
Voi	18	3	42	2	6	0	15	0	86
Wajir	60	18	164	48	16	0	6	1	313
Witu	34	35	6	19	11	30	12	1	148
All courts	1,652	992	1,266	749	324	715	1,530	2	7,230

The Mombasa Kadhis' Courts station resolved a total of 1,417 cases which was the highest across the country. This was followed by Nairobi station where 786 cases were resolved.

#### 2.10.2 Pending Cases in Kadhis' Courts

By the end of the period under review, the pending cases in the Kadhis' Courts were 8,062. This was an increase by 245 cases in comparison to the 7,817 cases that were pending at the end of the 2019/20 FY. The growth of pending cases in Kadhis' Courts over time is shown in Figure 2.40.

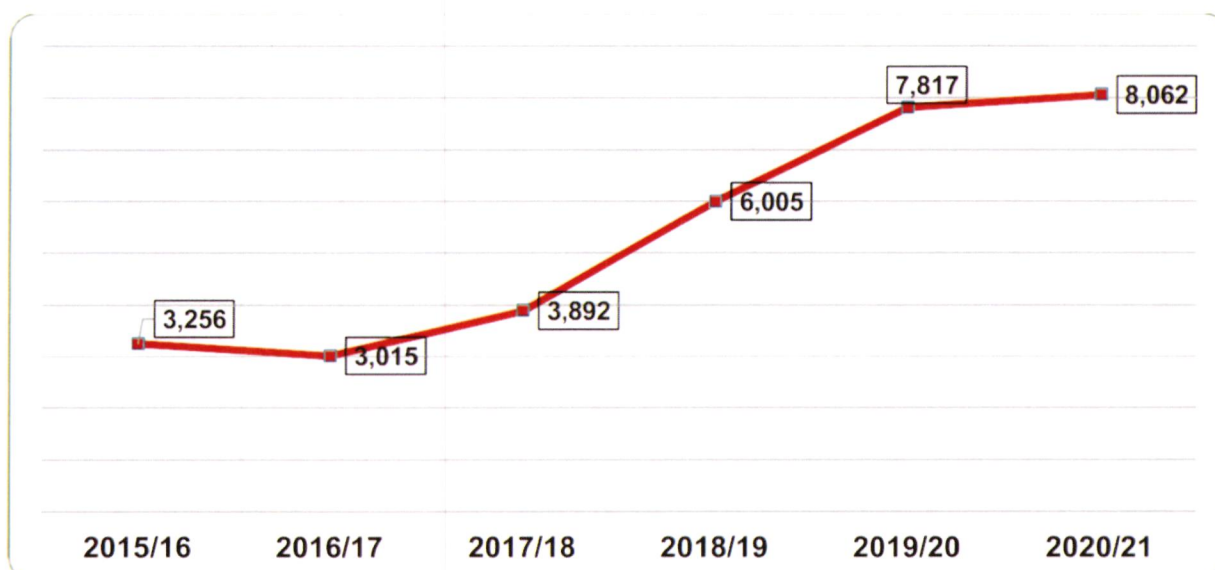


Figure 2.40: Trends of Filed and Resolved Cases, Kadhis' Courts

The specific information on pending cases over time for the Kadhis' Courts is provided in Table

2.32.

Table 2.32: Trend in pending cases, Kadhis' Courts

Kadhis' Courts Station	Pending cases 2013/14	Pending cases 2014/15	Pending cases 2015/16	Pending cases 2016/17	Pending cases 2017/18	Pending cases 2018/19	Pending cases 2019/20	Pending cases 2020/21
Balambala	-	-	-	4	5	24	37	6
Bungoma	28	25	38	3	14	33	53	0
Bura/Fafi							3	11
Busia	-	-	-	13	16	51	63	69
Bute	-	-	32	1	9	30	10	8
Dadaab	-	-	102	157	118	30	76	104
Eldas	-	-	-	32	50	43	44	43
Eldoret	-	-	55	5	6	15	3	3
Elwak	-	-	-	15	1	21	35	16
Garbatulla	-	-	-	14	31	109	108	10
Garissa	-	-	252	206	280	459	543	442
Garsen	31	40	67	73	111	135	163	26
Habaswein	-	-	23	57	33	52	76	17
Hola	28	50	54	33	7	7	30	14
Homa Bay	-	12	34	50	65	94	93	0
Ijara	-	-	20	28	26	33	33	32
Isiolo	29	29	138	54	33	64	61	34
Kajiado	8	8	5	15	16	38	47	79
Kakamega	-	0	32	127	98	140	150	146
Kakuma	-	-	26	11	25	29	59	149
Kericho	-	0	39	27	8	72	75	78
Kibera	22	26	23	10	18	31	40	46
Kilifi	-	-	55	102	28	74	58	110
Kisumu	-	7	5	9	34	143	154	27
Kitui	312	434	154	60	12	17	7	9
Kwale	79	90	120	34	40	143	91	120
Lamu	-	0	140	18	25	63	95	124
Machakos	3	10	14	7	33	51	63	104
Malindi	107	104	126	80	36	125	159	33
Mandera	68	73	117	110	122	147	162	44
Mariakani	-	-	15	3	37	151	159	6

Kadhis' Courts Station	Pending cases 2013/14	Pending cases 2014/15	Pending cases 2015/16	Pending cases 2016/17	Pending cases 2017/18	Pending cases 2018/19	Pending cases 2019/20	Pending cases 2020/21
Marsabit	121	121	96	21	78	93	114	130
Maua	-	-	-	2	7	3	4	5
Merti	-	-	-	3	37	85	101	22
Modogashe							64	6
Mombasa	1,246	1,106	894	1,081	1,271	1,357	1,948	3,066
Moyale	61	61	48	86	67	63	71	56
Msambweni	-	-	-	30	40	79	70	102
Nairobi	185	219	192	57	663	1,441	2,129	2,387
Nakuru	-	-	41	152	12	13	35	12
Nyeri	20	20	25	9	35	44	48	54
Takaba	-	-	-	13	9	90	152	9
Thika	6	7	8	18	29	46	21	28
Vihiga						43	0	0
Voi	6	12	51	5	5	3	12	6
Wajir	4	4	213	131	165	218	282	242
Witu				4	12	20	16	27
All courts	2,364	2,458	3,254	2,970	3,767	6,022	7,817	8,062

The highest number of pending cases at the end of the FY 2020/21 was recorded at Mombasa Kadhis' courts station with 3,066 pending cases. This was followed by Nairobi at 2,387 and Garissa with 442 pending cases respectively.

### 2.10.3 Case Backlog in Kadhis' Courts

At the end of the FY 2020/21, the case backlog in Kadhis' Courts stood at 2,573 cases. The casebacklog for each of the Kadhis' Courts station is detailed in Table 2.33.

Table 2.33: Case backlog in Kadhis' Courts, FY 2020/21

Kadhis' Courts Station	Backlog, 30 <sup>th</sup> June, 2020	1-3 years	3-5 years	over 5 years	All backlog, 30 <sup>th</sup> June, 2021
Balambala	3	0	0	0	0
Bungoma	5	0	0	0	0
Bura/Fafi	1	1	0	0	1
Busia	15	19	0	0	19
Bute	2	0	0	0	0
Dadaab	13	4	26	0	30
Eldas	29	37	0	0	37
Eldoret	0	0	0	0	0
Elwak	6	0	0	0	0
Garbatulla	20	1	0	0	1
Garissa	69	244	195	0	439
Garsen	0	0	0	0	0
Habaswein	20	5	0	0	5
Hola	6	12	1	0	13
Homa Bay	48	0	0	0	0
Ijara	7	5	0	0	5
Isiolo	25	30	3	0	33
Kajiado	5	21	0	0	21
Kakamega	72	78	0	0	78
Kakuma	7	89	0	0	89
Kericho	5	15	0	0	15
Kibera	6	13	3	0	16
Kilifi	9	97	6	0	103
Kisumu	33	21	0	0	21
Kitui	6	0	0	0	0
Kwale	24	90	0	0	90
Lamu	17	49	4	0	53
Machakos	13	100	3	0	103

Kadhis' Courts Station	Backlog, 30 <sup>th</sup> June, 2020	1-3 years	3-5 years	over 5 years	All backlog, 30 <sup>th</sup> June, 2021
Malindi	8	4	1	0	5
Mandera	94	13	1	0	14
Mariakani	2	6	0	0	6
Marsabit	31	62	1	0	63
Maua	0	0	0	0	0
Merti	12	0	0	0	0
Modogashe	4	2	0	0	2
Mombasa	184	673	11	0	684
Moyale	23	7	0	0	7
Msambweni	15	58	0	0	58
Nairobi	161	385	11	0	396
Nakuru	7	4	0	0	4
Nyeri	10	15	0	0	15
Takaba	9	0	0	0	0
Thika	6	8	0	0	8
Vihiga	0	0	0	0	0
Voi	0	1	0	0	1
Wajir	35	113	25	0	138
Witu	0	0	0	0	0
All courts	1,067	2,282	291	0	2,573

#### 2.10.4 SJT Implementation Status on Reduction of Case Backlog in Kadhis' Courts

At the beginning of the SJT period in January 2017, there was no case backlog aged 5 years and above in Kadhis' Courts. At the end of the review period, this status had been maintained.

#### 2.11 Small Claims Court

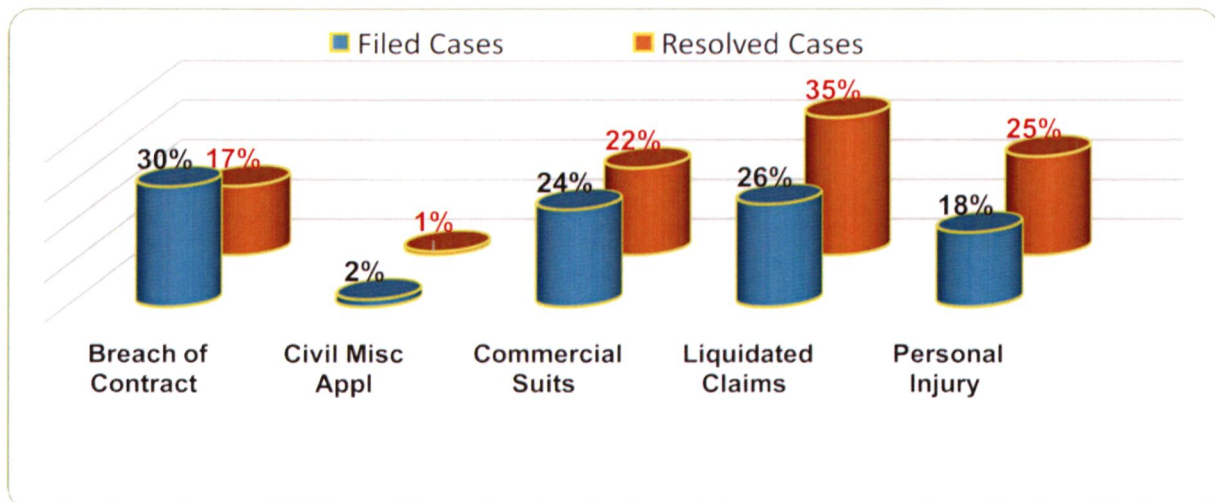
##### 2.11.1 Background on Small Claims Court

The Small Claims Court (SCC) is established as a subordinate court pursuant to Article 169 (1) (d) & (2) of the Constitution. SCC Act No. 2 of 2016 further spells out the jurisdiction and procedures of the SCC. The court began its operations in late April 2021, having a single station located at

##### 2.11.2 Filed and Resolved Cases in the Small Claims Court (April 2021-June 2021)

During the FY 2020/21, 1,023 cases were filed. Over the same period, 637 cases were resolved. The percentage distribution of the filed and resolved cases by type is illustrated in Figure 2.41.

Figure 2.41: Percentage Filed and Resolved Cases by Type in SCC, April 2021-June 2021



The breach of contract cases were the highest proportion of filed cases at 30 per cent followed by liquidated claims at 26 per cent. The least filed cases were civil miscellaneous applications at 2 per cent. Regarding the resolved cases, liquidated claims were the bulk at 35 per cent followed by personal injury cases at 25 per cent. The filed and resolved cases in the SCC are presented in Table 2.34.

Table 2.34: Filed and resolved cases in Small Claims Court, FY 2020/21

Case type	Filed cases	Resolved cases
Breach of Contract	307	111
Civil Misc. Applications	19	6
Commercial Suits	247	140
Liquidated Claims	261	221
Non-Liquidated Claims	0	0
Personal Injury	189	159
All Case Types	1,023	637

The breach of contract cases were the highest filed cases at 307 followed by liquidated claims at 261 cases. Of the total resolved cases, liquidated claims were the highest at 221 followed by personal injury cases at 159 cases. The time taken to resolve cases in the SCC was 53 days, a figure lower than the minimum statutory requirement of 60 days in line with the SCC Act No. 2 of 2016.

### 2.11.3 Pending Cases in Small Claims Court

The pending cases in the SCC stood at 386 cases at the end of the FY 2020/21. Most pending cases were breach of contracts at 51 per cent followed by commercial suits at 28 per cent. The percentage pending cases are summarized in Figure 2.42.

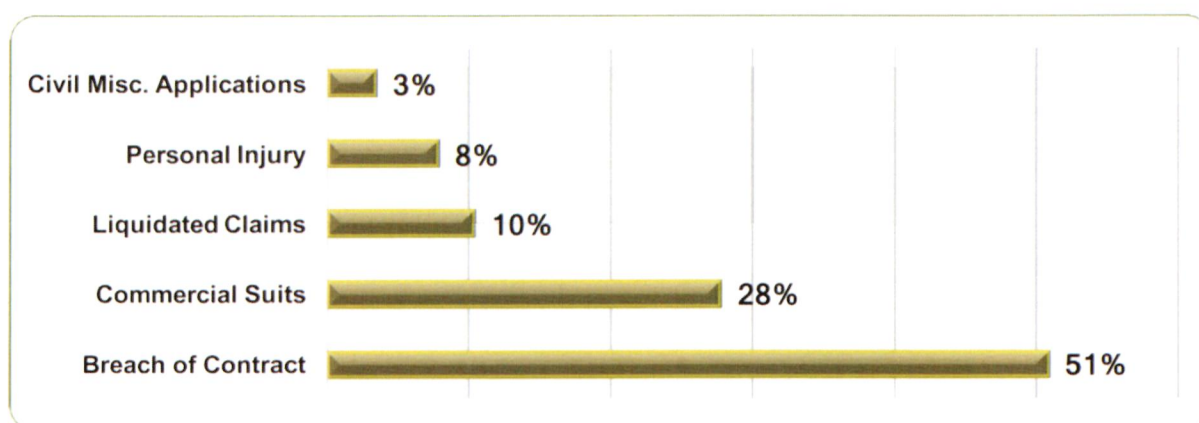


Figure 2.42: Percentage Pending Cases by Type in SCC, April 2021-June 2021

The specific number of pending cases by case type are highlighted in Table 2.35.

Table 2.35: Pending cases in Small Claims Court

Case type	Number of cases
Breach of Contract	196
Civil Misc. Applications	13
Commercial Suits	107
Liquidated Claims	40
Non-Liquidated Claims	0
Personal Injury	30
All Case Types	386

By the end of the review period, 196 breach of contract cases were pending followed by 107 commercial suits. There were no liquidated claims that were pending by the end of June 2021.

### 2.11.4 Case Backlog in Small Claims Court

At the end of the period under review, 13 of the pending cases in SCC were backlog. The percentage distribution of case backlog by age categories is demonstrated in Figure 2.43.

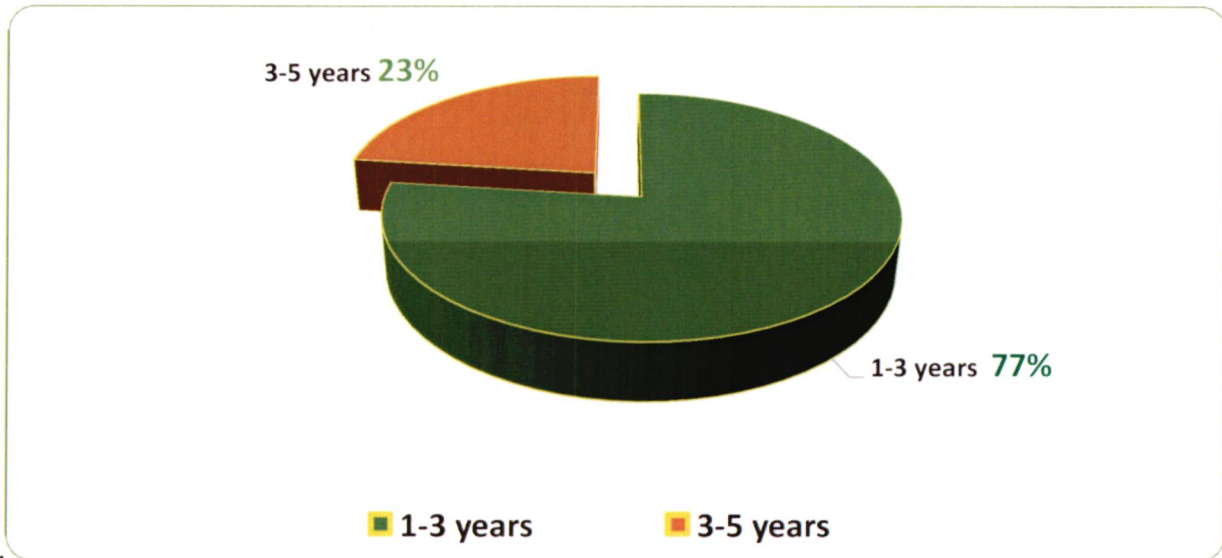


Figure 2.43: Percentage case backlog by age in SCC, April 2021-June 2021

The backlog cases aged between 1 and 3 years were 77 per cent while those aged between 3 and 5 years were 23 per cent. The number of backlog cases in SCC is provided in Table 2.36.

Age category	Number of cases
1-3 years	10
3-5 years	3
Over 5 years	0
All backlog	13

Though the SCC was established in April 2021, the case backlog of 13 cases was occasioned by transfer of old cases from other courts.

2.12 Tribunals

2.12.1 Filed and Resolved Cases in Tribunals

In the FY 2020/21, 5,335 cases were filed in Tribunals. Over the same period, 3,056 cases were resolved. The trend of filed and resolved cases in Tribunals for the last three years is illustrated in Figure 2.44.

Figure 2.44: Trends of filed and resolved cases in Tribunals, FY 2018/19-2020/21

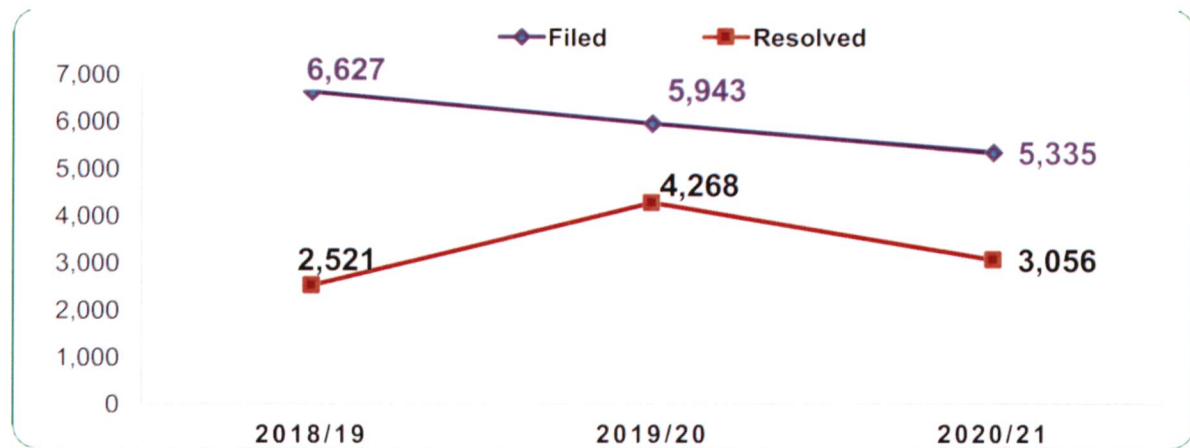


Figure 2.44 shows that the trend for the filed cases has remained above that of the resolved cases depicting that pending cases has been on a rise. Although, the resolved cases increased in FY 2019/20 to settle at 4,268 cases as compared to 2,521 in the previous year, there was a decrease in the subsequent period to 3,056, owing to the adverse effects of the COVID-19 pandemic. The details on filed and resolved cases is as presented in Table 2.37.

Table 2.37: Filed and resolved cases by tribunals, FY 2020/21

	Tribunal Name	Filed cases			Resolved cases		
		FY 2018-19	FY 2019-20	FY 2020/21	FY 2018/19	FY 2019/20	FY 2020/21
1.	Business Premises Rent Tribunal	2246	2,261	2,077	1,065	1627	1039
2.	Communication And Multimedia Appeals Tribunal	6	4	5	2	1	3
3.	Competition Tribunal	0	6	2	0	2	3
4.	Cooperatives Tribunal	1112	1149	631	570	1772	984
5.	Copyright Tribunal	1	0	0	0	1	0
6.	Education Appeals Tribunal	4	4	1	0	25	9
7.	Energy & Petroleum Tribunal	0	1	54	0	0	10
8.	HIV Aids Tribunal	28	28	20	0	28	27
9.	Industrial Property Tribunal	5	4	10	0	8	8
10.	Legal Education Appeals Tribunal	3	1	6	2	1	11
11.	Micro And Small Enterprises Tribunal	0	22	14	0	21	6
12.	National Civil Aviation Administrative Review Tribunal	3	10	9	1	9	4
13.	National Environment Tribunal	30	40	26	25	63	58
14.	Political Parties Disputes Tribunal	20	29	21	18	28	27
15.	Public Private Partnerships Petition Committee	2	0	2	2	0	1
16.	Rent Restrictions Tribunal	3052	2,306	2,397	810	593	779
17.	Sports Disputes Tribunal	66	47	32	22	53	51
18.	Standards Tribunal	10	5	4	4	2	3
19.	State Corporations Appeals Tribunal				0	0	0
20.	Transport Licensing Appeals Board	39	26	24	0	34	33
	<b>Total</b>	<b>6,627</b>	<b>5,943</b>	<b>5,335</b>	<b>2521</b>	<b>4268</b>	<b>3056</b>

The Rent Restrictions Tribunal registered the highest filed cases at 2,397 cases followed by Business Premises Rent Tribunal with 2,077 cases. Over the same period, Business Premises Rent Tribunal resolved most cases at 1,039 followed by Cooperatives Tribunal at 984.

#### 2.12.2 Pending Cases in Tribunals

The pending cases in Tribunals have been increasing over time. This is illustrated in Figure 2.45.

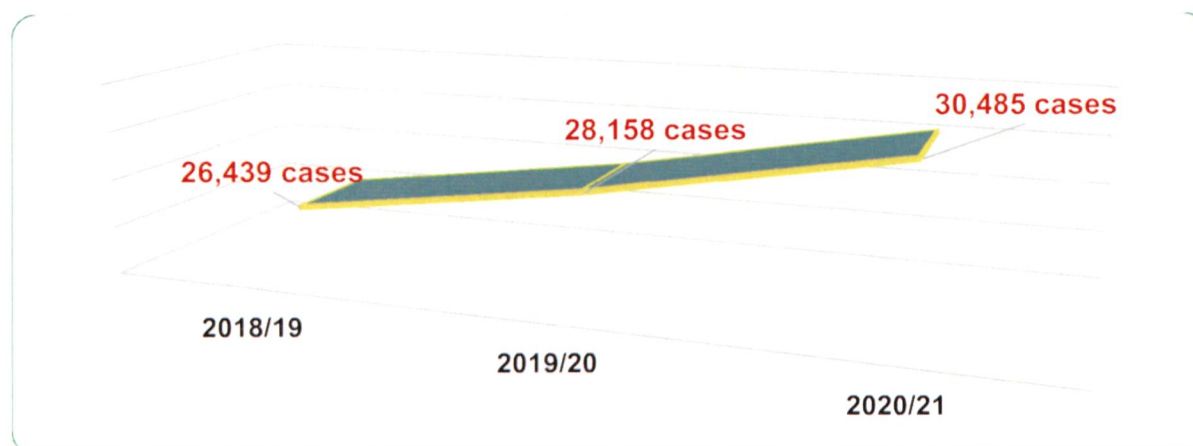


Figure 2.45: Trend on Pending cases in Tribunals

Figure 2.45 shows an increasing trend of pending cases over time from 26,349 cases at the end of the FY 2018/19 to 30,485 cases at the end of review period. The pending cases by tribunal are provided in Table 2.38.

Table 2.38: Pending cases by Tribunal Stations

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

At the end of the reporting period, the Rent Restrictions Tribunal (RRT) had the highest pending cases of 15,093 cases followed by Business Premises Rent Tribunal with 12,014 pending cases. The Cooperatives Tribunal had 3,133 pending cases.

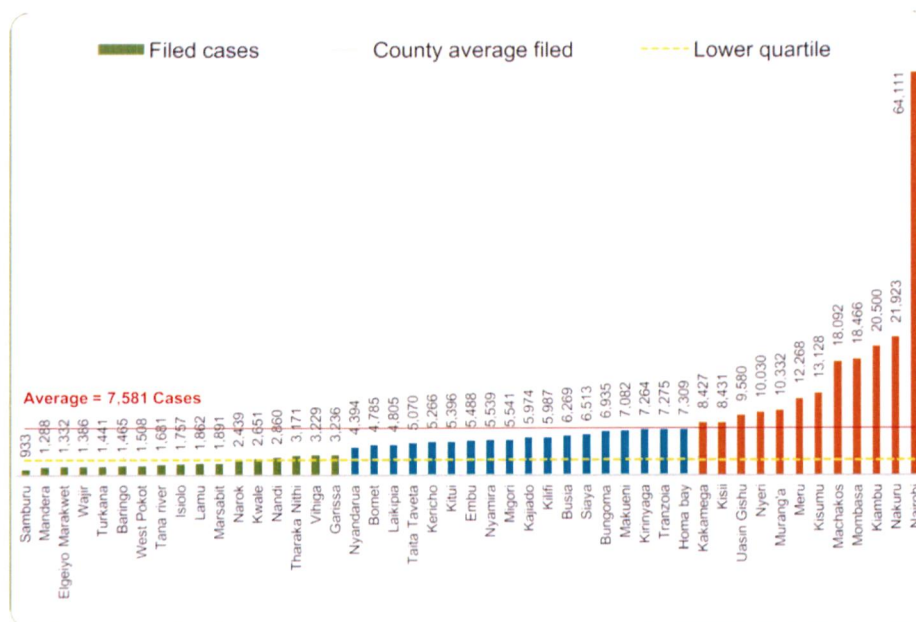
### 2.13 Caseload Statistics Organised by Counties

#### 2.13.1 Background on Caseload Reporting for Counties

Wide sharing of information by public institutions is a key tenet of the Kenyan Constitution as espoused under Article 35. In the previous reports, caseload information was only presented using an approach that laid emphasis on court types. Though this has been maintained as a keyway of presenting caseload information even among other jurisdictions, the Judiciary recognizes that further disaggregation of caseload information by counties, the Kenyan symbol of devolved units, is important in creating wide sharing and awareness of access to justice through courts. This subsection therefore presents caseload information covering filed, resolved and pending cases in all the 47 Counties in Kenya.

Though the structure of the Kenyan courts is not devolved, court stations are widely spread across the Kenyan territory with representation in each county. For instance, the caseload statistics for the Supreme Court, though placed under Nairobi County in this report, do not in any way depict that they originate from Nairobi County only. Also, caseload statistics for the COA, whose stations are located at Nairobi, Kisumu, Mombasa and Nyeri counties, do not indicate that the cases handled by these stations are only from those counties. They nonetheless generally depict the status of demand and supply of justice of the surrounding geographical regions. For courts with relatively high representation of stations across counties for instance the High Court and Magistrates' Courts, caseload information closely represents what emanated in the respective counties.

#### 2.13.2 Filed Cases by County



Among the 356,997 cases that were filed in the entire republic, 64,111 cases were filed in Nairobi County at the top followed by Nakuru County with 21,923 cases. The least cases were filed at Samburu County with 933 cases and Mandera with 1,288 cases. The distribution of filed cases in all the counties is illustrated in in Figures 2.46 and 2.47.

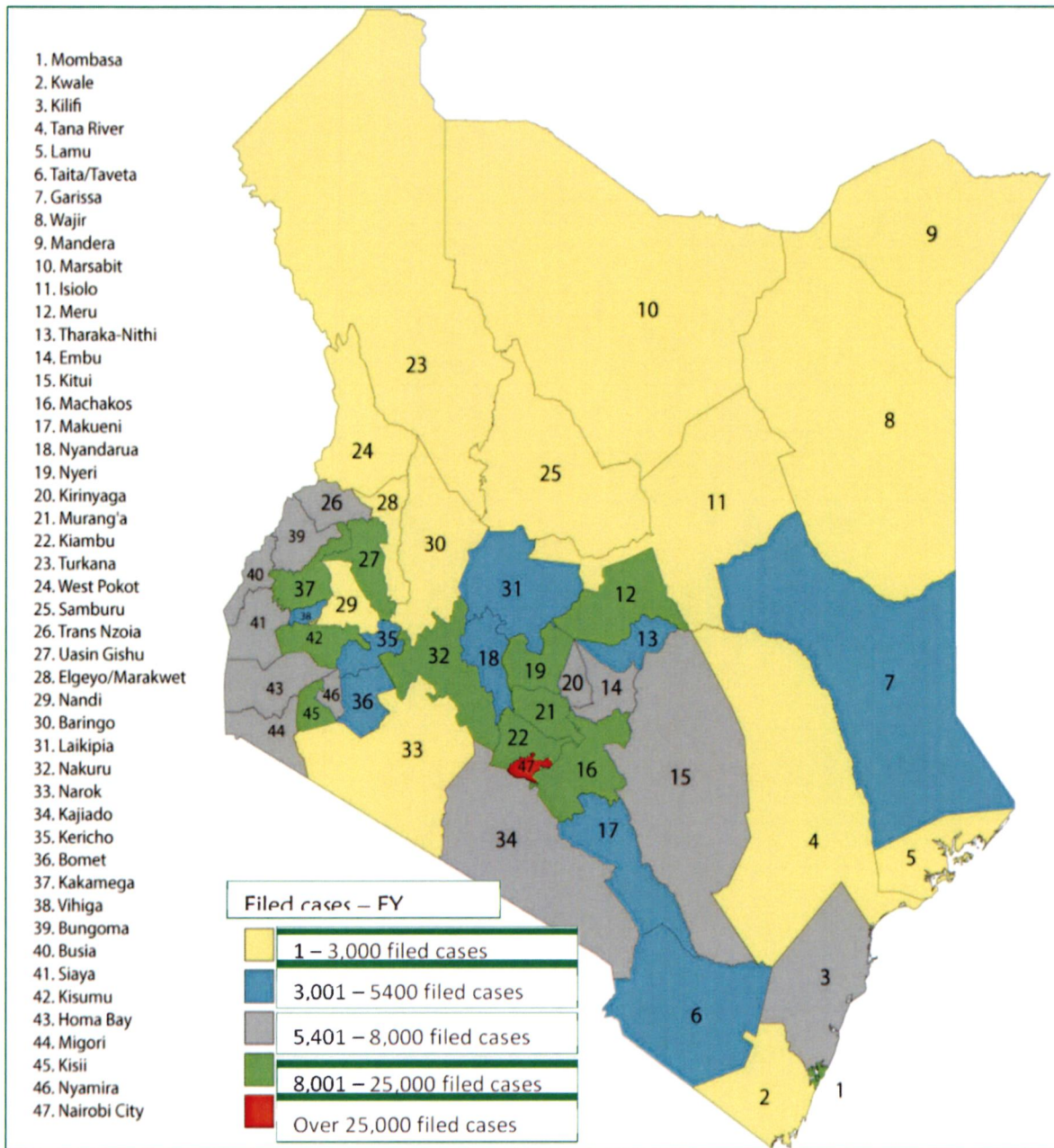


Figure 2.46: Map of filed cases across Kenyan counties, FY 2020/21

Figure 2.47 shows that a total of 35 counties were below the average of 7,596 filed cases. Other 12 counties were further below the lower quartile. Detailed statistics for the filed criminal and civil cases in each county and by court is provided in Table 2.39.

Table 2.39: Filed cases by County, Court and Case type, FY 2020/21

County	SC	COA -CR	COA -CC	COA All	HC -CR	HC -CC	HC-All	ELRC	ELC	MC-CR	MC-CC	MC-All	SCC	Kadhis	All CR	All CC	All Cases
Baringo	-	-	-	-	131	48	179	-	-	1,174	112	1,286	-	-	1,305	160	1,465
Bomet	-	-	-	-	97	74	171	-	-	4,107	507	4,614	-	-	4,204	581	4,785
Bungoma	-	-	-	-	329	231	560	-	70	4,532	1,710	6,242	-	63	4,861	2,074	6,935
Busia	-	-	-	-	154	286	440	-	134	4,423	1,243	5,666	-	29	4,577	1,692	6,269
Elgeyo Marakwet	-	-	-	-	-	-	-	-	-	1,115	217	1,332	-	-	1,115	217	1,332
Embu	-	-	-	-	217	180	397	-	117	3,836	1,138	4,974	-	-	4,053	1,435	5,488
Garissa	-	-	-	-	128	64	192	-	28	2,037	150	2,187	-	902	2,165	1,144	3,309
Homa Bay	-	-	-	-	190	176	366	-	-	4,909	2,019	6,928	-	15	5,099	2,210	7,309
Isiolo	-	-	-	-	-	-	-	-	-	968	169	1,137	-	620	968	789	1,757
Kajiado	-	-	-	-	110	229	339	-	236	3,855	1,490	5,345	-	54	3,965	2,009	5,974

County	SC	COA- CR	COA- CC	COA All	HC- CR	HC- CC	HC-All	ELRC	ELC	MC-CR	MC- CC	MC- All	SCC	Kadhis	All CR	All CC	All Cases
Kakamega	-	-	-	-	174	451	625		111	5,005	2,661	7,666	-	25	5,179	3,248	8,427
Kericho	-	-	-	-	177	216	393	34	54	4,183	572	4,755	-	30	4,360	906	5,266
Kiambu	-	-	-	-	507	771	1,278		350	12,996	5,867	18,863	-	9	13,503	6,997	20,500
Kilifi	-	-	-	-	278	362	640		207	2,916	1,894	4,810	-	330	3,194	2,793	5,987
Kirinyaga	-	-	-	-	161	146	307		75	4,990	1,892	6,882	-	-	5,151	2,113	7,264
Kisii	-	-	-	-	66	131	197		63	5,565	2,606	8,171	-	-	5,631	2,800	8,431
Kisumu	-	135	41	551	214	575	789	333	290	6,937	4,187	11,124	-	55	7,286	5,856	13,142
Kitui	-	-	6	-	197	176	373	-	-	3,517	1,476	4,993	-	30	3,714	1,682	5,396
Kwale	-	-	-	-	-	-	-	-	-	1,595	745	2,340	-	574	1,595	1,319	2,914
Laikipia	-	-	-	-	83	49	132	-	-	4,187	486	4,673	-	-	4,270	535	4,805
Lamu	-	-	-	-	-	-	-	-	-	1,680	99	1,779	-	106	1,680	205	1,885
Machakos	-	-	-	-	363	610	973		377	12,186	4,369	16,555	-	187	12,549	5,543	18,092
Makueni	-	-	-	-	261	180	441		66	5,003	1,572	6,575	-	-	5,264	1,818	7,082
Mandera	-	-	-	-	-	-	-	-	-	711	46	757	-	531	711	577	1,288
Marsabit	-	-	-	-	31	88	119	-	-	1,363	129	1,492	-	280	1,394	497	1,891
Meru	-	-	-	-	501	356	857	-	269	9,094	2,048	11,142	-	-	9,595	2,673	12,268
Migori	-	-	-	-	113	188	301	-	147	4,183	910	5,093	-	-	4,296	1,245	5,541
Mombasa	-	14	212	226	221	836	1,057	274	432	10,287	3,432	13,719	-	2,758	10,522	7,944	18,466
Murang'a	-	-	-	-	276	193	469		84	6,873	2,906	9,779	-	-	7,149	3,183	10,332
Nairobi	47	103	1,248	1,351	918	8,709	9,627	1,935	1,043	33,804	14,273	48,077	1,023	1,073	34,825	29,351	64,176
Nakuru	-	-	-	-	586	702	1,288	132	197	15,115	5,145	20,260	-	46	15,701	6,222	21,923
Nandi	-	-	-	-	-	-	-	-	-	2,162	698	2,860	-	-	2,162	698	2,860
Narok	-	-	-	-	176	52	228		77	1,652	482	2,134	-	-	1,828	611	2,439
Nyamira	-	-	-	-	93	113	206		-	4,438	895	5,333	-	-	4,531	1,008	5,539
Nyandarua	-	-	-	-	12	13	25	-	25	4,174	378	4,552	-	-	4,186	416	4,602
Nyeri	-	103	274	377	236	288	524	180	105	6,849	1,967	8,816	-	28	7,188	2,842	10,030
Samburu	-	-	-	-	-	-	-	-	-	834	99	933	-	-	834	99	933
Siaya	-	-	-	-	255	153	408	-	-	4,252	1,853	6,105	-	-	4,507	2,006	6,513
Taita Taveta	-	-	-	-	274	72	346		-	4,322	318	4,640	-	84	4,596	474	5,070
Tana River	-	-	-	-	110	23	133		-	1,113	95	1,208	-	340	1,223	458	1,681
Tharaka Nithi	-	-	-	-	137	67	204		44	2,282	641	2,923	-	-	2,419	752	3,171
Trans Nzoia	-	-	-	-	587	254	841		107	5,748	579	6,327	-	-	6,335	940	7,275
Turkana	-	-	-	-	7	8	15		-	1,122	62	1,184	-	283	1,129	353	1,482
Uasin Gishu	-	-	-	-	207	163	370	30	148	6,255	2,713	8,968	-	64	6,462	3,118	9,580
Vihiga	-	-	-	-	131	191	322		-	2,668	239	2,907	-	-	2,799	430	3,229
Wajir	-	-	-	-	-	-	-		-	939	9	948	-	438	939	447	1,386
West Pokot	-	-	-	-	76	16	92		-	1,362	54	1,416	-	-	1,438	70	1,508
Grand Total	47	355	2,150	2,505	8,784	17,440	26,224	2,918	4,856	233,318	77,152	310,470	1,023	8,954	242,457	114,540	356,997

## 2.13.3 Resolved Cases by County

During the review period, 294,837 cases were resolved in Kenya. Nairobi County had the highest share at 47,889 cases, followed by Kiambu with 17,037 cases. The least cases were resolved at Samburu County. The distribution of resolved cases by county is provided in Figure 2.48.

Figure 2.48: Distribution of resolved cases by county, FY 2020/21

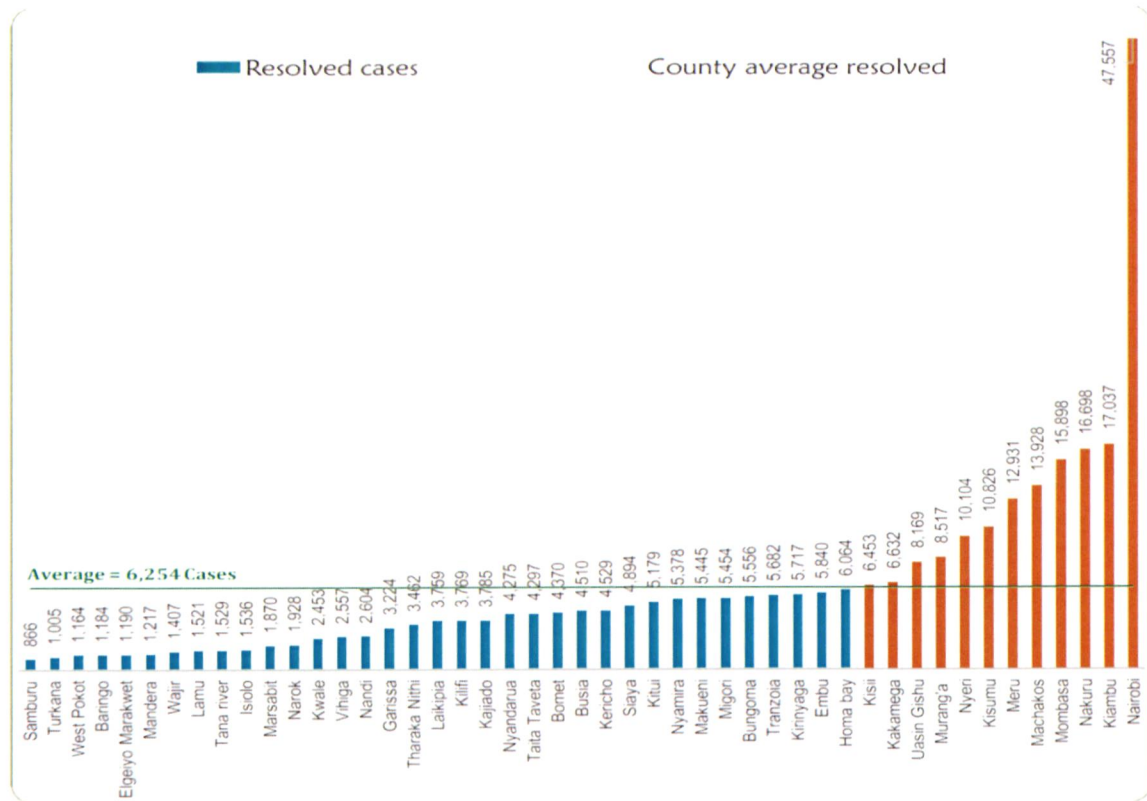


Figure 2.48 shows that 12 counties had above average resolution of cases with the average resolved cases being 6,254 cases. Details on resolved cases are provided in Table 2.40.

Table 2.40: Resolved cases by county, court and case type, FY 2020/21

County	SC	COA -CR	COA -CC	COA All	HC -CR	HC -CC	HC -All	ELR C	ELC	MC-CR	MC-CC	MC- All	SCC	Kadhis	All CR	All CC	All Cases
Baringo	-	-	-	-	84	66	150	-	-	978	56	1,034	-	-	1,062	122	1,184
Bomet	-	-	-	-	30	39	69	-	-	3,932	369	4,301	-	-	3,962	408	4,370
Bungoma	-	-	-	-	141	184	325	-	163	4,296	766	5,062	-	6	4,437	1,119	5,556
Busia	-	-	-	-	78	214	292	-	167	3,331	697	4,028	-	23	3,409	1,101	4,510
Elg. Marakwet	-	-	-	-	-	-	-	-	-	1,074	116	1,190	-	-	1,074	116	1,190
Embu	-	-	-	-	256	328	584	-	190	3,709	1,357	5,066	-	-	3,965	1,875	5,840
Garissa	-	-	-	-	127	27	154	-	25	2,077	61	2,138	-	930	2,204	1,043	3,247
Homa Bay	-	-	-	-	189	400	589	-	-	4,209	1,259	5,468	-	7	4,398	1,666	6,064
Isiolo	-	-	-	-	-	-	-	-	-	731	133	864	-	672	731	805	1,536
Kajiado	-	-	-	-	103	172	275	-	158	2,629	701	3,330	-	22	2,732	1,053	3,785
Kakamega	-	-	-	-	94	223	317	-	251	4,327	1,708	6,035	-	29	4,421	2,211	6,632
Kericho	-	-	-	-	108	104	212	49	39	3,862	340	4,202	-	27	3,970	559	4,529
Kiambu	-	-	-	-	219	501	720	-	340	11,777	4,198	15,975	-	2	11,996	5,041	17,037
Kilifi	-	-	-	-	174	260	434	-	303	1,888	884	2,772	-	260	2,062	1,707	3,769
Kirinyaga	-	-	-	-	188	179	367	-	42	4,107	1,201	5,308	-	-	4,295	1,422	5,717
Kisii	-	-	-	-	135	249	384	-	160	4,420	1,489	5,909	-	-	4,555	1,898	6,453
Kisumu	-	43	55	98	155	775	930	580	115	6,270	2,804	9,074	-	50	6,468	4,379	10,847
Kitui	-	-	-	-	208	155	363	-	-	3,481	1,289	4,770	-	46	3,689	1,490	5,179
Kwale	-	-	-	-	-	-	-	-	-	1,765	411	2,176	-	513	1,765	924	2,689
Laikipia	-	-	-	-	54	37	91	-	-	3,193	475	3,668	-	-	3,247	512	3,759
Lamu	-	-	-	-	-	-	-	-	-	1,400	75	1,475	-	77	1,400	152	1,552
Machakos	-	-	-	-	222	735	957	-	227	9,711	2,887	12,598	-	146	9,933	3,995	13,928
Makueni	-	-	-	-	232	78	310	-	67	4,287	781	5,068	-	-	4,519	926	5,445
Mandera	-	-	-	-	-	-	-	-	-	658	46	704	-	513	658	559	1,217
Marsabit	-	-	-	-	20	9	29	-	-	1,426	153	1,579	-	262	1,446	424	1,870
Meru	-	-	-	-	493	583	1,076	-	285	9,700	1,870	11,570	-	9	10,193	2,747	12,940
Migori	-	-	-	-	60	209	269	-	132	3,882	1,171	5,053	-	-	3,942	1,512	5,454
Mombasa	-	6	48	54	136	883	1,019	438	371	8,824	3,622	12,446	-	1,579	8,966	6,941	15,907
Murang'a	-	-	-	-	213	112	325	0	121	6,019	2,052	8,071	-	-	6,232	2,285	8,517

County	SC	COA -CR	COA -CC	COA All	HC- CR	HC- CC	HC- All	ELR C	ELC	MC-CR	MC- CC	MC- All	SCC	Kadhis	All CR	All CC	All Cas- es
Nairobi	62	121	774	895	406	8,343	8,749	986	1,519	26,042	8,190	34,232	637	809	26,569	21,320	47,889
Nakuru	-	-	-	-	386	1,232	1,618	166	379	11,657	2,840	14,497	-	38	12,043	4,655	16,698
Nandi	-	-	-	-	-	-	-	-	-	2,028	576	2,604	-	-	2,028	576	2,604
Narok	-	-	-	-	211	75	286	-	84	1,227	331	1,558	-	-	1,438	490	1,928
Nyamira	-	-	-	-	90	136	226	-	-	4,232	920	5,152	-	-	4,322	1,056	5,378
Nyandarua	-	-	-	-	20	24	44	-	58	4,025	329	4,354	-	-	4,045	411	4,456
Nyeri	-	101	92	193	368	421	789	133	66	7,214	1,687	8,901	-	22	7,683	2,421	10,104
Samburu	-	-	-	-	-	-	-	-	-	799	67	866	-	-	799	67	866
Siaya	-	-	-	-	308	139	447	-	-	3,543	904	4,447	-	-	3,851	1,043	4,894
Taita Taveta	-	-	-	-	117	44	161	-	-	3,537	513	4,050	-	86	3,654	643	4,297
Tana river	-	-	-	-	93	15	108	-	-	1,007	70	1,077	-	344	1,100	429	1,529
Tharaka Nithi	-	-	-	-	115	103	218	-	66	2,657	521	3,178	-	-	2,772	690	3,462
Tranzoia	-	-	-	-	298	116	414	-	95	4,412	761	5,173	-	-	4,710	972	5,682
Turkana	-	-	-	-	11	1	12	-	-	801	24	825	-	193	812	218	1,030
Uasin Gishu	-	-	-	-	315	471	786	82	325	5,177	1,736	6,913	-	63	5,492	2,677	8,169
Vihiga	-	-	-	-	18	38	56	-	-	2,219	282	2,501	-	-	2,237	320	2,557
Wajir	-	-	-	-	-	-	-	-	-	875	30	905	-	502	875	532	1,407
West Pokot	-	-	-	-	47	12	59	-	-	1,047	58	1,105	-	-	1,094	70	1,164
Grand	62	271	969	1,240	6,522	17,692	24,214	2,434	5,748	200,462	52,810	253,272	637	7,230	207,255	87,582	294,837

## 2.13.4 Pending Cases by County

At the end of the period under reference, a total of 649,112 cases remained unresolved in the entire country. Figure 2.49 shows the distribution of pending cases in Counties by the end of June 2021.



Figure 2.49: Distribution of pending cases by county, FY 2020/21

The county that had the highest number of pending cases was Nairobi with 140,061 cases followed by Mombasa with 74,664 and Nakuru with 59,022 cases. Statistics on the pending cases in each county, organized by court and case types is provided in Table 2.41.

Table 2.41: Pending Cases by County, Court and Case Type

County	SC	COA -CR	COA -CC	COA All	HC- CR	HC- CC	HC- All	ELRC	ELC	MC- CR	MC- CC	MC- All	SCC	Kadhis'	All CR	All CC	All Cas- es
Baringo	-	-	-	-	385	150	535	-	-	536	83	619	-	-	921	233	1,154
Bomet	-	-	-	-	310	396	706	-	-	2,011	1,188	3,199	-	-	2,321	1,584	3,905
Bungoma	-	-	-	-	778	2,359	3,137	-	194	5,571	3,524	9,095	-	-	6,349	6,077	12,426
Busia	-	-	-	-	182	2,089	2,271	-	340	6,455	2,278	8,733	-	69	6,637	4,776	11,413
Elgeyo Marakwet	-	-	-	-	-	-	-	-	-	433	170	603	-	-	433	170	603

County	SC	COA -CR	COA -CC	COA All	HC- CR	HC- CC	HC- All	ELRC	ELC	MC- CR	MC- CC	MC- All	SCC	Kadhis'	All CR	All CC	All Cas- es
Embu	-	-	-	-	534	2,279	2,813	-	359	3,607	1,794	5,401	-	-	4,141	4,432	8,573
Garissa	-	-	-	-	450	257	707	-	66	1,443	392	1,835	-	601	1,893	1,316	3,209
Homa Bay	-	-	-	-	299	479	778	-	-	5,089	2,512	7,601	-	-	5,388	2,991	8,379
Isiolo	-	-	-	-	-	-	-	-	-	1,694	168	1,862	-	66	1,694	234	1,928
Kajiado	-	-	-	-	284	286	570	-	255	5,765	3,418	9,183	-	79	6,049	4,038	10,087
Kakamega	-	-	-	-	747	2,546	3,293	-	175	6,405	8,482	14,887	-	146	7,152	11,349	18,501
Kericho	-	-	-	-	634	1,140	1,774	306	194	3,647	1,493	5,140	-	78	4,281	3,211	7,492
Kiambu	-	-	-	-	1,550	1,469	3,019	-	1,083	11,507	15,742	27,249	-	28	13,057	18,322	31,379
Kilifi	-	-	-	-	525	847	1,372	-	833	5,938	1,896	7,834	-	143	6,463	3,719	10,182
Kirinyaga	-	-	-	-	282	2,111	2,393	-	875	5,360	4,462	9,822	-	-	5,642	7,448	13,090
Kisii	-	-	-	-	190	160	350	-	457	6,754	6,509	13,263	-	-	6,944	7,126	14,070
Kisumu	-	1,374	1,300	2,674	660	887	1,547	724	682	13,725	9,211	22,936	-	27	15,759	12,831	28,590
Kitui	-	-	-	-	381	259	640	-	-	3,575	3,368	6,943	-	9	3,956	3,636	7,592
Kwale	-	-	-	-	-	-	-	-	-	2,202	2,658	4,860	-	222	2,202	2,880	5,082
Laikipia	-	-	-	-	710	138	848	-	-	5,930	4,256	10,186	-	-	6,640	4,394	11,034
Lamu	-	-	-	-	0	0	0	-	-	365	179	544	-	124	365	303	668
Machakos	-	-	-	-	1,162	2,210	3,372	-	991	9,570	8,634	18,204	-	104	10,732	11,939	22,671
Makueni	-	-	-	-	232	385	617	-	56	3,449	3,354	6,803	-	-	3,681	3,795	7,476
Mandera	-	-	-	-	-	-	-	-	-	290	37	327	-	69	290	106	396
Marsabit	-	-	-	-	29	87	116	-	-	854	58	912	-	186	883	331	1,214
Meru	-	-	-	-	1,557	2,701	4,258	-	303	8,537	5,735	14,272	-	5	10,094	8,744	18,838
Migori	-	-	-	-	244	446	690	-	106	2,331	3,540	5,871	-	-	2,575	4,092	6,667
Mombasa	-	110	631	741	2,320	7,345	9,665	1,535	2,132	26,359	31,160	57,519	-	3,072	28,789	45,875	74,664
Murang'a	-	-	-	-	1,390	2,725	4,115	-	70	9,316	7,115	16,431	-	-	10,706	9,910	20,616
Nairobi	74	129	2,881	3,010	2,214	21,152	23,366	9,801	1,370	36,066	62,850	98,916	386	2,433	38,409	100,947	139,356
Nakuru	-	-	-	-	1,225	5,668	6,893	657	875	24,638	25,947	50,585	-	12	25,863	33,159	59,022
Nandi	-	-	-	-	-	-	-	-	-	4,019	1,490	5,509	-	-	4,019	1,490	5,509
Narok	-	-	-	-	127	243	370	-	242	1,540	2,071	3,611	-	-	1,667	2,556	4,223
Nyamira	-	-	-	-	44	172	216	-	-	3,167	1,412	4,579	-	-	3,211	1,584	4,795
Nyandarua	-	-	-	-	192	231	423	-	195	689	229	918	-	-	881	655	1,536
Nyeri	-	540	1,825	2,365	528	2,054	2,582	319	779	3,300	4,945	8,245	-	54	4,368	9,976	14,344
Samburu	-	-	-	-	0	0	0	-	-	309	69	378	-	-	309	69	378
Siaya	-	-	-	-	75	88	163	-	-	2,867	2,669	5,536	-	-	2,942	2,757	5,699
Taita Taveta	-	-	-	-	340	199	539	-	-	2,431	934	3,365	-	6	2,771	1,139	3,910
Tana River	-	-	-	-	113	82	195	-	-	969	196	1,165	-	67	1,082	345	1,427
Tharaka Nithi	-	-	-	-	215	473	688	-	8	2,190	1,171	3,361	-	-	2,405	1,652	4,057
Trans Nzoia	-	-	-	-	2,062	1,168	3,230	-	636	7,877	991	8,868	-	-	9,939	2,795	12,734
Turkana	-	-	-	-	79	34	113	-	-	1,821	200	2,021	-	149	1,900	383	2,283
Uasin Gishu	-	-	-	-	1,020	1,087	2,107	698	1,129	10,297	5,030	15,327	-	3	11,317	7,947	19,264
Vihiga	-	-	-	-	95	155	250	-	-	3,192	1,394	4,586	-	-	3,287	1,549	4,836
Wajir	-	-	-	-	-	-	-	-	-	813	58	871	-	310	813	368	1,181
West Pokot	-	-	-	-	143	37	180	-	-	2,242	237	2,479	-	-	2,385	274	2,659
Grand Total	74	2,153	6,637	8,790	24,307	66,594	90,901	14,040	14,405	267,145	245,309	512,454	386	8,062	293,605	355,507	649,112

## ACCESS TO JUSTICE:

## INSTITUTIONALISATION OF ALTERNATIVE DISPUTES RESOLUTION MECHANISMS

## 2.14 Background on Institutionalisation of Alternative Forms of Dispute Resolution

The Constitution of Kenya under Article 159 (2) (c) promotes the use of alternative forms of dispute resolution by courts and tribunals in exercise of judicial authority. The mechanisms includes mediation, reconciliation, arbitration and the use of traditional methods. During the period under review, the Alternative Justice Systems (AJS) Baseline Policy and the AJS Framework Policy were finalized and launched. To oversee the implementation of the AJS Policy, the National Steering Committee was formed and mandated to cascade it to county level and develop guidelines.

To give effect to the Constitution dictates, and as a strategic initiative, the Judiciary also prioritized Court Annexed Mediation (CAM), a mechanism with a huge potential of enhancing access to justice. The following sub-sections provides details on access to justice through CAM for the FY 2020/21. The referral of matters to CAM, settling of matters through CAM, including their monetary value and efficacy has been covered. By the end of the FY 2020/21, CAM had been operationalised in 50 court stations across the High Court, ELRC, ELC and Magistrates' Courts. Out of the 50 court stations, 16 were High Court stations, 5 ELRC stations, 12 ELC stations and 17 Magistrates' Courts stations.

## 2.15 Caseload Statistics for Court Annexed Mediation

## 2.15.1 Matters Referred, Processed and Pending under Court Annexed Mediation

A total of 2,185 matters were referred to mediation by various courts during the period under review. This yielded a cumulative figure of 4,561 matters that were to be processed after consolidation with 2,376 matters that were pending at the end of the previous review period. Out of the 4,561 matters, 1,229 matters were processed successfully leaving a balance of 3,332 as pending by the end of FY 2020/21. Information on referral and processing of matters through CAM is provided in Table 2.42.

Table 2.42: Matters Referred, Processed and Pending under CAM, FY 2020/21

	Court name	Matters Pending, 30th June 2020	Matters referred, July 2020 to June 2021	Matters Processed, July 2020 to June 2021	Matters Pending, 30th June 2021
	<b>HIGH COURT</b>				
1	Eldoret HC	129	99	51	177
2	Embu HC	61	17	15	63
3	Garissa HC	23	8	1	30
4	Kakamega HC	270	209	145	334
5	Kerugoya HC	0	6	5	1
6	Kisii HC	10	12	12	10
7	Kisumu HC	89	122	43	168
8	Machakos HC non- settlement	54	29	11	72
9	Malindi HC	4	26	17	13
10	Milimani Civil Div	62	11	0	73
11	Milimani Commercial Div	166	110	39	237
12	Milimani Family Div	139	50	31	158
13	Mombasa HC	20	18	2	36
14	Nakuru HC	28	42	16	54
15	Nyamira HC	3	10	13	0
16	Nyeri HC	132	122	101	153
	All High Courts	1190	891	502	1,579
	<b>ELRC</b>				
1	Eldoret ELRC	16			16
2	Kisumu ELRC	13	34	0	47
3	Milimani ELRC	102	117	66	153
4	Mombasa ELRC	55	3	0	58
5	Nyeri ELRC	3	5	1	7
	All ELRC	189	159	67	281
	<b>ELC</b>				
1	Eldoret ELC	26			26
2	Embu ELC	12	21	10	23
3	Garissa ELC	0			0
4	Kakamega ELC	49	38	29	58
5	Kerugoya ELC	0	1	1	0
6	Kisii ELC	2	34	31	5
7	Kisumu ELC	80	27	8	99
8	Machakos ELC	26	8	2	32
9	Malindi ELC	3			3
10	Milimani ELC	54	62	15	101
11	Mombasa ELC	1	8	0	9
12	Nyeri ELC	58	11	1	68
	All ELC	311	210	97	424
	<b>Magistrates' Courts</b>				
1	Eldoret MC	42	78	44	76
2	Embu MC	26	35	30	31
3	Garissa MC	20			20
4	Kakamega MC	75	58	43	90
5	Kerugoya MC	0	10	3	7
6	Kisii MC	4	77	67	14
7	Kisumu MC	18	38	24	32
8	Machakos MC				
9	Malindi MC	4	56	45	15
10	Milimani Children's	103	190	110	183
11	Milimani Commercial	94	3	0	97
12	Mombasa MC	172	104	16	260
13	Nakuru MC	77	38	31	84
14	Nyamira MC	3	118	71	50
15	Nyeri MC	31	34	13	52
16	Siakago MC	0	29	11	18
17	Tononoka MC	17	57	55	19
	All Magistrates' Courts	686	925	563	1,048
	All Courts	2,376	2,185	1,229	3,332

The CAM achieved a 30 per cent processing rate in the matters that were dealt with. This was calculated through division of processed matters with the total matters (1,229) that were placed before the mediation process (4,561).

#### 2.15.2 Uptake of Court Annexed Mediation by Courts

The uptake of CAM, measured using the percentage of matters referred to mediation to total workload in a court, was below two per cent. This is illustrated in Figure 2.50.

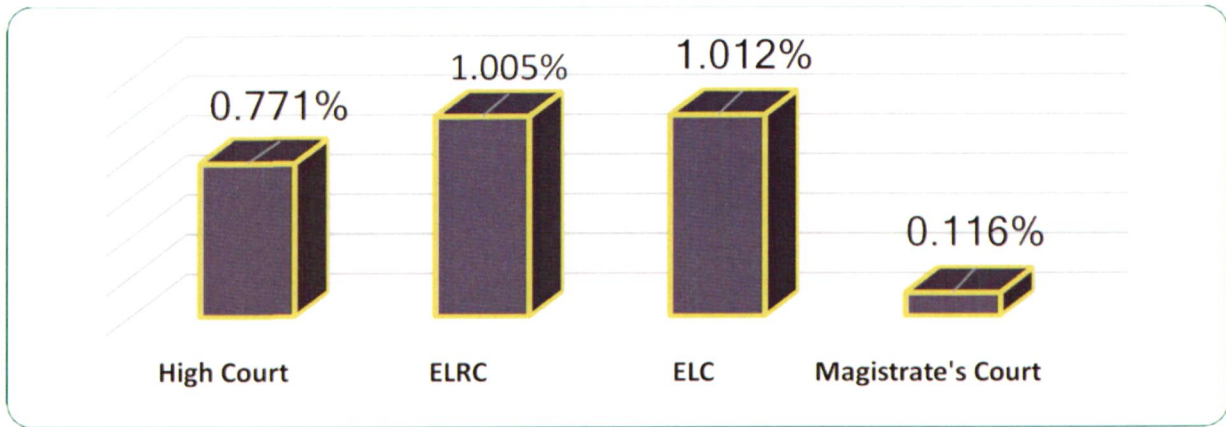


Figure 2.50: Percentage uptake of CAM matters by courts, FY 2020/21

The highest uptake of CAM was in ELC at 1.012 per cent followed by ELRC at 1.005 per cent. The least uptake was recorded in the Magistrates' Courts at 0.116 per cent.

2.15.3 Matters Settled through Court Annexed Mediation

Out of 1,229 matters that were processed through CAM, 767 matters had settlement agreements. This implied that 462 matters were not settled. Figure 2.51 shows the percentage distribution of matters with and without settlement agreements.

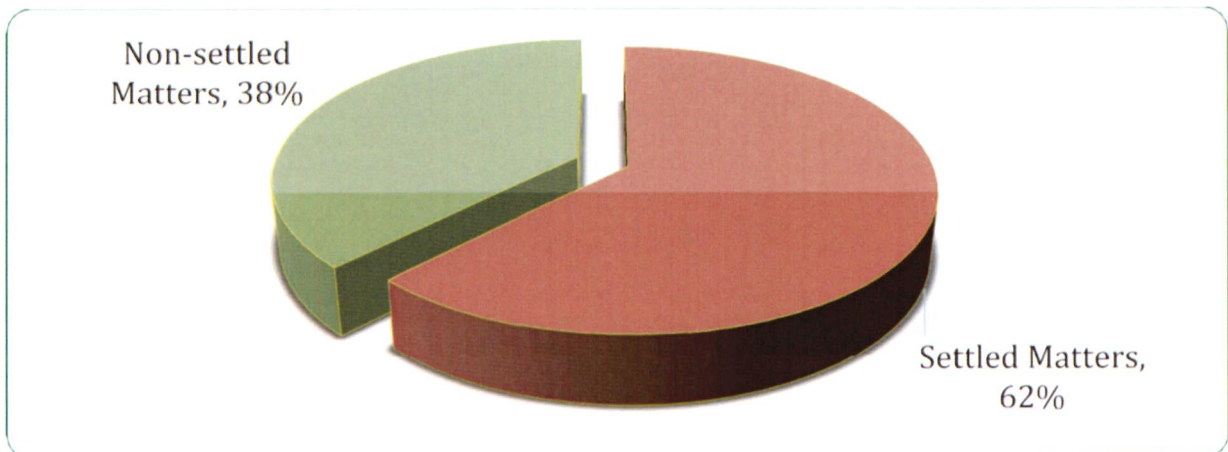


Figure 2.51: Distribution of settled and non-settled matters under CAM, FY 2020/21

The matters that had settlements stood at 62 per cent while those without stood at 38 per cent. The distribution of settlement and non-settlement of matters in different courts is demonstrated in Figure 2.52.

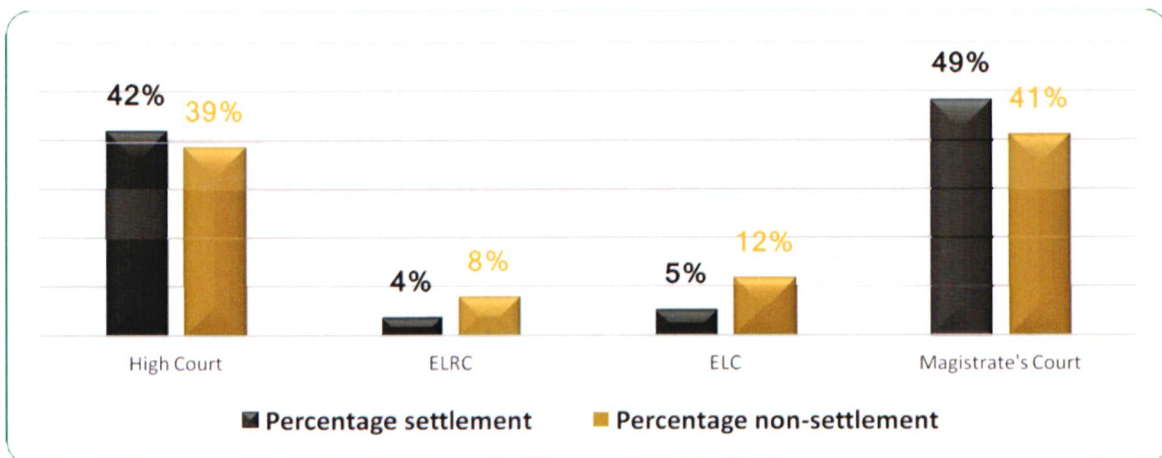
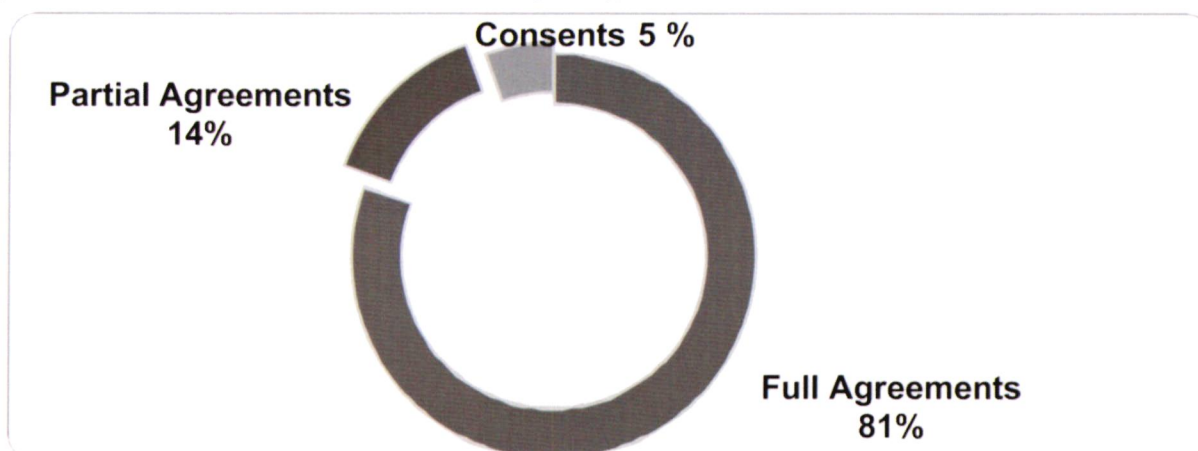


Figure 2.52: Distribution of Settled and Non-settled CAM matters by court type, FY 2020/21



The Magistrates' Courts had the highest proportion of settled matters at 49 per cent followed by the High Court at 42 per cent. The least proportion of settlement was in the ELRC at four per cent. A similar trend was observed for the non-settlements across various courts. The overall percentage distribution of matters with settlement agreements is shown in Figure 2.53.

Figure 2.53: Distribution of Settled Matters under CAM by Mode of Settlement, FY 2020/21

The matters that had full agreements were 81 per cent followed by partial agreements at 14 per cent and consents at five per cent. Table 2.43 provides a breakdown of cases with settlement agreements across courts.

Table 2.43: Matters settled through CAM by Mode of Settlement, FY 2020/21

	<i>Court name</i>	<i>Full agreements</i>	<i>Partial agreements</i>	<i>Consents</i>	<i>All settled matters</i>
	HIGH COURT				
1	Eldoret HC	22	4	0	26
2	Embu HC	4	1	0	5
3	Garissa HC	1	0	0	1
4	Kakamega HC	81	12	18	111
5	Kerugoya HC	4	0	0	4
6	Kisii HC	6	2	0	8
7	Kisumu HC	14	3	0	17
8	Machakos HC	6	0	0	6
9	Malindi HC	7	1	1	9
10	Milimani Civil Division	0	0	0	0
11	Milimani Commercial Div	9	3	0	12
12	Milimani Family Division	12	8	0	20
13	Mombasa HC	0	0	0	0
14	Nakuru HC	4	2	0	6
15	Nyamira HC	0	7	0	7
16	Nyeri HC	87	4	0	91
	All High Courts	257	47	19	323
	ELRC				
1	Eldoret ELRC				
2	Kisumu ELRC	0	0	0	0
3	Milimani ELRC	14	3	12	29
4	Mombasa ELRC	0	0	0	0
5	Nyeri ELRC	1	0	0	1
	All ELRC	15	3	12	30
	ELC				
1	Eldoret ELC				
2	Embu ELC	3	1	1	5
3	Garissa ELC				
4	Kakamega ELC	14	1	0	15
5	Kerugoya ELC	0	0	0	0
6	Kisii ELC	8	4	0	12
7	Kisumu ELC	3	0	0	3
8	Machakos ELC	0	0	0	0
9	Malindi ELC				
10	Milimani ELC	6	0	0	6
11	Mombasa ELC	0	0	0	0
12	Nyeri ELC	1	0	0	1
	All ELC	35	6	1	42
	Magistrates' Courts				

	<i>Court name</i>	<i>Full agreements</i>	<i>Partial agreements</i>	<i>Consents</i>	<i>All settled matters</i>
1	Eldoret MC	13	7	0	20
2	Embu MC	17	3	0	20
3	Garissa MC				
4	Kakamega MC	27	6	0	33
5	Kerugoya MC	1	0	0	1
6	Kisii MC	26	3	0	29
7	Kisumu MC	13	6	0	19
8	Machakos MC				
9	Malindi MC	23	8	1	32
10	Milimani Childrens	66	8	8	82
11	Milimani Commercial	0	0	0	0
12	Mombasa MC	9	3	0	12
13	Nakuru MC	17	0	1	18
14	Nyamira MC	50	6	0	56
15	Nyeri MC	13	0	0	13
16	Siakago MC	6	1	0	7
17	Tononoka MC	30	0	0	30
	All Magistrates' Courts	311	51	10	372
50	All Courts	618	107	42	767

Table 2.43 shows that 618 matters were fully settled, 107 matters were partially settled while 42 were concluded by way of consents. The fully settled matters marked a 33 per cent decrease from the 919 matters that were settled in the previous reporting period. The partially settled matters declined by 12 per cent in comparison to the 121 matters that finalized in the previous reporting period. The consents grew by 14 per cent from 37 in the FY 2019/20 to 42 in the FY 2020/21.

#### 2.15.4 Matters Not Settled through Court Annexed Mediation (CAM)

A total of 462 matters were not settled. This was occasioned by parties failing to reach an agreement, others failing to comply and the rest terminating the matters. The percentage breakdown of these reasons is presented in Figure 2.54.



Figure 2.54: Distribution of Non-settled Matters under CAM by Mode of Non-settlement, FY2020/21

Matters without agreements were at 58 per cent, followed by those that were terminated at 23 per cent. Table 2.44 shows the distribution of the non-settled matters for each of court station. Table 2.44: Categories of Non-settled Matters in CAM

	<i>Court name</i>	<i>No agreements</i>	<i>Non compliance</i>	<i>Terminated</i>	<i>All non-settled matters</i>
<b>HIGH COURT</b>					
1	Eldoret HC	18	2	5	25
2	Embu HC	9	0	1	10
3	Garissa HC	0	0	0	0
4	Kakamega HC	28	3	3	34
5	Kerugoya HC	1	0	0	1
6	Kisii HC	1	2	1	4
7	Kisumu HC	19	2	5	26
8	Machakos HC	0	0	5	5
9	Malindi HC	6	2	0	8
10	Milimani Civil Division	0	0	0	0
11	Milimani Commercial Division	14	5	8	27
12	Milimani Family Division	6	2	3	11
13	Mombasa HC	2	0	0	2
14	Nakuru HC	6	4	0	10
15	Nyamira HC	5	1	0	6
16	Nyeri HC	9	1	0	10
	All High Courts	124	24	31	179
	ELRC				

Court name	No agreements	Non compliance	Terminated	All non-settled matters
1 Eldoret ELRC	-	-	-	-
2 Kisumu ELRC	0	0	0	0
3 Milimani ELRC	25	6	6	37
4 Mombasa ELRC	0	0	0	0
5 Nyeri ELRC	0	0	0	0
All ELRC	25	6	6	37
ELC	-	-	-	-
1 Eldoret ELC	-	-	-	-
2 Embu ELC	2	1	2	5
3 Garissa ELC	-	-	-	-
4 Kakamega ELC	11	1	2	14
5 Kerugoya ELC	1	0	0	1
6 Kisii ELC	8	6	5	19
7 Kisumu ELC	5	0	0	5
8 Machakos ELC	0	0	2	2
9 Malindi ELC	-	-	-	-
10 Milimani ELC	3	6	0	9
11 Mombasa ELC	0	0	0	0
12 Nyeri ELC	0	0	0	0
All ELC	30	14	11	55
MAGISTRATE COURT				
1 Eldoret MC	5	2	17	24
2 Embu MC	4	2	4	10
3 Garissa MC	-	-	-	-
4 Kakamega MC	10	0	0	10
5 Kerugoya MC	1	1	0	2
6 Kisii MC	12	16	10	38
7 Kisumu MC	5	0	0	5
8 Machakos MC	-	-	-	-
9 Malindi MC	4	1	8	13
10 Milimani Childrens	19	3	6	28
11 Milimani Commercial	0	0	0	0
12 Mombasa MC	2	0	2	4
13 Nakuru MC	7	5	1	13
14 Nyamira MC	11	4	0	15
15 Nyeri MC	0	0	0	0
16 Siakago MC	4	0	0	4
17 Tononoka MC	6	8	11	25
All Magistrates' Courts	90	42	59	191
50 All Courts	269	86	107	462

Out of the 462 matters that were not settled through CAM, 269 had no agreements, representing a 58 percent decrease in comparison to the 646 matters that had no agreements in the previous period. In 86 matters, parties failed to comply with mediation rules, representing a decline by 221 of such matters in comparison with 307 that were recorded in the previous period. The matters that were terminated reduced from 160 that were recorded in the FY 2019/20 to 107 matters during the year under review.

#### 2.16. Monetary Value of Cases Handled Through Court Annexed Mediation

The monetary value of the cases that were referred to mediation in the FY 2020/21 was KSh7.1 billion. The value of the matters that were settled was KSh382 million down from KSh4.5 billion that was recorded in the FY 2019/20. The reduction was attributed to difficulties experienced in holding mediation sessions during the pandemic. The growth of the value of matters settled through CAM over time is shown in Figure 2.55.

The trend shows the monetary amount in billions Kenya shillings that has been released back to the economy over time. There has been a positive growth from KSh6.98 billion in FY 2018/19 to KSh11.51 billion in 2019/20 before a mild growth was witnessed in 2020/21 of KSh11.89 billion. The mild growth is attributed to the reduced settlements of matters during the pandemic. Detailed statistics on monetary value of matters handled under CAM are presented in Table 2.45.

Table 2.45: Monetary value of matters referred to mediation, FY 2020/21

Court name	Cumulative value of matters referred to mediation, 30th June 2020	Value of matters referred to mediation, FY2020/21	Cumulative value of matters referred to mediation as at 30th June 2021	Cumulative value of matters with settlement agreements, 30th June 2020	Value of matters with settlement agreements, FY 2020/21	Cumulative value of matters with settlement agreements, 30th June 2021
HIGH COURT						
1 Eldoret HC	1,685,114,162	434,090,000	2,119,204,162	719,317,282	24,700,000	744,017,282
2 Embu HC	747,867	3,100,000	3,847,867	40,167	2,100,000	2,140,167
3 Garissa HC	731,419	0	731,419	556,000	0	556,000
4 Kakamega HC	327,163,048	102,500,000	429,663,048	70,574,219	32,441,902	103,016,121
5 Kerugoya HC	0	26,000,000	26,000,000	0	4,000,000	4,000,000
6 Kisii HC	380,488	12,459,400	12,839,888	0	18,107,108	18,107,108
7 Kisumu HC	265,864,884	344,000,000	609,864,884	13,261,353	0	13,261,353

Court name	Cumulative value of matters referred to mediation, 30th June 2020	Value of matters referred to mediation, FY 2020/21	Cumulative value of matters referred to mediation as at 30th June 2021	Cumulative value of matters with settlement agreements, 30th June 2020	Value of matters with settlement agreements, FY 2020/21	Cumulative value of matters with settlement agreements, 30th June 2021
8 Machakos HC	187,309,123	158,300,000	345,609,123	66,879,006	0	66,879,006
9 Malindi HC	15,669,663	20,000,000	35,669,663	0	0	0
10 Milimani Civil Division	995,254,234	195,300,000	1,190,554,234	1,509,150	0	1,509,150
11 Milimani Commercial Division	24,347,675,688	1,367,000,000	25,714,675,688	3,531,243,120	216,530,836	3,747,773,956
12 Milimani Family Division	12,910,945,835	503,300,000	13,414,245,835	4,936,821,914	10,562,480	4,947,384,394
13 Mombasa HC	59,953,326	16,649,288	76,602,614	0	0	0
14 Nakuru HC	135,989,981	1,844,278	137,834,259	3,894,123	0	3,894,123
15 Nyamira HC	4,687,500	0	4,687,500	2,222,222	0	2,222,222
16 Nyeri HC	1,006,585,018	3,108,000,000	4,114,585,018	1,061,944,436	17,352,645	1,079,297,081
All High Courts	41,944,072,236	6,292,542,966	48,236,615,202	10,408,262,992	325,794,971	10,734,057,963
ELRC						
1 Eldoret ELRC						
2 Kisumu ELRC	74,093,492	0	74,093,492	0	0	0
3 Milimani ELRC	1,805,124,869	170,400,000	1,975,524,869	242,684,818	39,293,890	281,978,708
4 Mombasa ELRC	9,992,221	150,000	10,142,221	0	0	0
5 Nyeri ELRC	41,253,484	314,814	41,568,298	11,669,719	0	11,669,719
All ELRC	1,930,464,066	170,864,814	2,101,328,880	254,354,537	39,293,890	293,648,427
ELC						
1 Eldoret ELC						
2 Embu ELC	923,836	0	923,836	40,167	0	40,167
3 Garissa ELC						
4 Kakamega ELC	59,484,191	12,500,000	71,984,191	9,537,057	5,733,918	15,270,975
5 Kerugoya ELC	0	1,000,000	1,000,000	0	0	0
6 Kisii ELC	1,078,048	0	1,078,048	0	0	0
7 Kisumu ELC	58,838,950	0	58,838,950	2,340,239	0	2,340,239
8 Machakos ELC	51,671,482	0	51,671,482	0	0	0
9 Malindi ELC						
10 Milimani ELC	768,454,645	585,100,000	1,353,554,645	0	0	0
11 Mombasa ELC	26,645,923	0	26,645,923	0	0	0
12 Nyeri ELC	90,757,666	0	90,757,666	11,669,719	0	11,669,719
All ELC	1,057,854,741	598,600,000	1,656,454,741	23,587,182	5,733,918	29,321,100
MAGISTRATE COURT						
1 Eldoret MC	1,327,665,703	10,160,265	1,337,825,968	553,320,987	4,922,000	558,242,987
2 Embu MC	1,539,727	2,802,205	4,341,932	160,667	2,471,600	2,632,267
3 Garissa MC						
4 Kakamega MC	90,791,659	335,000	91,126,659	20,981,525	452,678	21,434,203
5 Kerugoya MC	0	4,000,000	4,000,000	0	1,000,000	1,000,000
6 Kisii MC	2,441,463	0	2,441,463	0	0	0
7 Kisumu MC	82,810,374	0	82,810,374	14,821,512	0	14,821,512
8 Machakos MC						
9 Malindi MC	33,750,044	445,078	34,195,122	0	0	0
10 Milimani Children's	66,264,697	0	66,264,697	8,833,262	0	8,833,262
11 Milimani Commercial	103,184,618	2,227,059	105,411,677	23,762,645	0	23,762,645
12 Mombasa MC	346,396,997	24,250,547	370,647,544	22,507,726	0	22,507,726
13 Nakuru MC	123,038,555	789,888	123,828,443	11,682,368	750,000	12,432,368
14 Nyamira MC	55,312,500	0	55,312,500	17,777,778	0	17,777,778
15 Nyeri MC	280,523,693	250,000	280,773,693	151,706,348	377,231	152,083,579
16 Siakago MC	0	4,000,000	4,000,000	0	1,000,000	1,000,000
17 Tononoka MC	0	0	0	0	0	0
All Magistrates' Courts	2,513,720,030	49,260,042	2,562,980,072	825,554,818	10,973,509	836,528,327
50 All Courts	47,446,111,073	7,111,267,822	54,557,378,895	11,511,759,529	381,796,288	11,893,555,817

The cumulative value of matters that has so far been referred to mediation stood at KSh54.6 billion at the end of the FY 2019/20. The cumulative value of matters with settlement agreements stood at KSh11.9 billion at the end of the FY 2020/21 up from KSh11.5 billion that was recorded at the end of the FY 2019/20.

### 2.17 Efficacy of Court Annexed Mediation

Determination and tracking of efficiency and performance of CAM is of paramount importance in continuously assessing whether CAM is realizing its envisaged goals or not. Some efficiency measures for CAM programme include, inter alia. Case Processing Rate (CPR), settlement rate (SR) and non-compliance rate (NPR). The CPR refers to the percentage of processed matters against the matters referred to CAM. The SR is the percentage of matters whose parties reached an agreement against the total processed matters. The NPR, which arises when parties fail to conform to mediation directions, refers to the percentage of non-compliance matters against the concluded matters. The efficiency of CAM is presented in Figure 2.56.

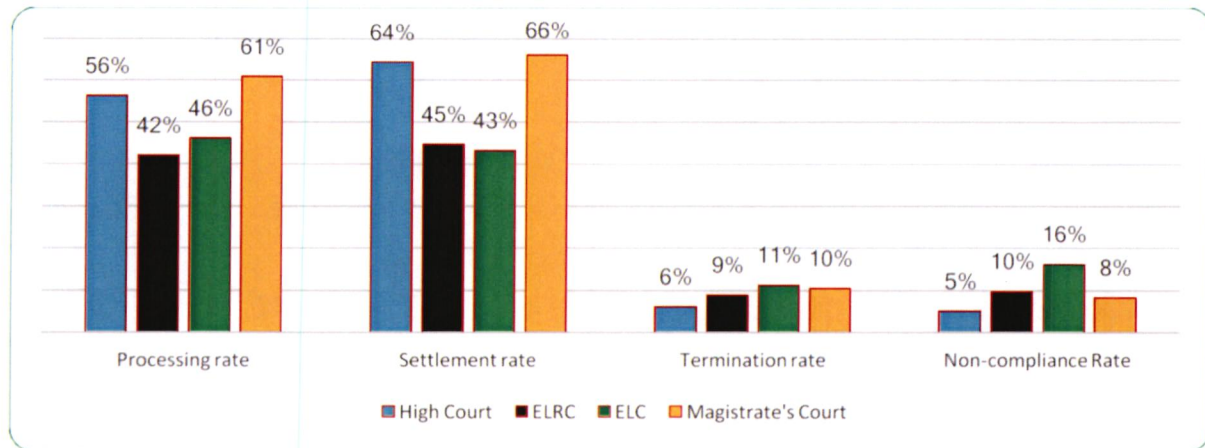


Figure 2.56: Efficiency of CAM across Courts, FY 2020/21

During the period under review, the highest processing and settlement rates were recorded in the Magistrates' Courts followed by the High Court. On termination and non-compliance rates, ELC had the highest at 11 and 16 per cent respectively followed by the Magistrates' Courts at 8 and 10 per cent respectively. Detailed statistics on efficiency of CAM are provided in Table 2.46.

Table 2.46: Efficacy of CAM, FY 2020/21

	Court name	Processing Rate	Settlement Rate	Non-Settlement Rate	Termination Rate	Non-Compliance Rate
	<b>HIGH COURT</b>					
1	Eldoret HC	52%	51%	49%	10%	4%
2	Embu HC	88%	33%	67%	7%	0%
3	Garissa HC	13%	100%	0%	0%	0%
4	Kakamega HC	69%	77%	23%	2%	2%
5	Kerugoya HC	83%	80%	20%	0%	0%
6	Kisii HC	100%	67%	33%	8%	18%
7	Kisumu HC	35%	40%	60%	12%	5%
8	Machakos HC	38%	55%	45%	45%	0%
9	Malindi HC	65%	53%	47%	0%	12%
10	Milimani Civil Division	0%				
11	Milimani Commercial Division	35%	31%	69%	21%	16%
12	Milimani Family Division	62%	65%	35%	10%	7%
13	Mombasa HC	11%	0%	100%	0%	0%
14	Nakuru HC	38%	38%	63%	0%	25%
15	Nyamira HC	130%	54%	46%	0%	8%
16	Nyeri HC	83%	90%	10%	0%	1%
	All High Courts	56%	64%	36%	6%	5%
	<b>ELRC</b>					
1	Eldoret ELRC					
2	Kisumu ELRC	0%				
3	Milimani ELRC	56%	44%	56%	9%	10%
4	Mombasa ELRC	0%				
5	Nyeri ELRC	20%	100%	0%	0%	0%
	All ELRC	42%	45%	55%	9%	10%
	<b>ELC</b>					
1	Eldoret ELC					
2	Embu ELC	48%	50%	50%	20%	13%
3	Garissa ELC					
4	Kakamega ELC	76%	52%	48%	7%	4%
5	Kerugoya ELC	100%	0%	100%	0%	0%
6	Kisii ELC	91%	39%	61%	16%	23%
7	Kisumu ELC	30%	38%	63%	0%	0%
8	Machakos ELC	25%	0%	100%	100%	
9	Malindi ELC					
10	Milimani ELC	24%	40%	60%	0%	40%
11	Mombasa ELC	0%				
12	Nyeri ELC	9%	100%	0%	0%	0%
	All ELC	46%	43%	57%	11%	16%
	<b>Magistrates' Courts</b>					
1	Eldoret MC	56%	45%	55%	39%	7%
2	Embu MC	86%	67%	33%	13%	8%
3	Garissa MC					
4	Kakamega MC	74%	77%	23%	0%	0%

5	Kerugoya MC	30%	33%	67%	0%	33%
6	Kisii MC	87%	43%	57%	15%	28%
7	Kisumu MC	63%	79%	21%	0%	0%
8	Machakos MC					
9	Malindi MC	80%	71%	29%	18%	3%
10	Milimani Childrens	58%	75%	25%	5%	3%
11	Milimani Commercial	0%				
12	Mombasa MC	15%	75%	25%	13%	0%
13	Nakuru MC	82%	58%	42%	3%	17%
14	Nyamira MC	60%	79%	21%	0%	6%
15	Nyeri MC	38%	100%	0%	0%	0%
16	Siakago MC	38%	64%	36%	0%	0%
17	Tononoka MC	96%	55%	45%	20%	18%
	All Magistrates' Courts	61%	66%	34%	10%	8%
50	All Courts	56%	62%	38%	9%	8%

The processing rate dropped from 62 per cent in FY 2019/20 to 56 per cent in the FY 2020/21. There was an increase on settlement rate from 49 per cent that was realized in the FY 2019/20 to 62 per cent that was achieved in the FY 2020/21. The termination rate stood at 9 per cent while the non-compliance rate was 8 per cent during the period under review.

#### 2.18 Challenges on Court Annexed Mediation and Plans for the Future

Various challenges slowed down the targeted and expected growth of CAM during the period under review. The number of matters handled reduced due to mitigation measures put in place by the Government to contain the COVID-19 pandemic. Further, there were insufficient resources to support additional roll out of mediation across the country. Notably, inadequate use of virtual platforms in mediation affected dispute resolution. To support CAM, the Judiciary will finalize the Mediation Action Plan (2021-2024) and enhance ICT platform for managing CAM cases.

#### ACCESS TO JUSTICE:

#### IMPROVEMENT OF JUDICIARY PHYSICAL INFRASTRUCTURE

##### 2.19 Development of Physical Infrastructure

The continued construction, installation and refurbishment of court infrastructure has always been part of the Judiciary's strategy for enhancing access to justice. The Judiciary physical infrastructure is primarily comprised of court and office buildings. However, other physical infrastructure like perimeter walls, waiting bays, ablution blocks, facilities like boreholes, as well as equipment's like generators and solar panels are essential in supporting court work. The development of Judiciary infrastructure attracts huge capital outlay with some projects covering several FYs before completion.

Construction of courts in new areas serves to reduce the distance travelled by litigants and thus enhance access to justice. When new courts are constructed within a pre-existing court precinct, the number of litigants that can be served at a single time increases. The refurbishment of court buildings also serves to enhance court space and conditions of court rooms and offices. Availing of generators for courts is important for enhancing access to justice through virtual platforms in absence of mainstream electric power.

##### 2.20 Achievements on Growth of Judiciary's Infrastructure

###### a) Summary on Completed Construction Projects

In the FY 2020/21, construction and renovation of 11 court buildings was completed. Detailed information is provided in Table 2.47.

Table 2.47: Infrastructural projects completed in the FY 2020/21

S/No	Project
1	Nanyuki Law Courts
2	Isiolo Law Courts
3	Kakamega Law Courts
4	Siaya Law Courts
5	Kajiado Law Courts
6	Nakuru Law Courts
7	Eldoret Law Courts (Renovations)
8	Oyugis Law Courts
9	Iten Law Courts
10	Shanzu Law Courts
11	Kahawa Law Courts

The completed projects were seven High Court buildings at Nanyuki, Isiolo, Kakamega, Siaya, Kajiado, Nakuru and Eldoret. Further, four Magistrates' Court buildings that were completed at Oyugis, Iten, Shanzu and Kahawa. In addition, office furniture was supplied to Muhoroni, Oyugis, Nyamira, Vihiga, Nyando, Kigumo, Molo, Chuka, Engineer, Makindu and Kibera law courts. The trend on completion rate over time for the construction projects is provided in Figure 2.57.

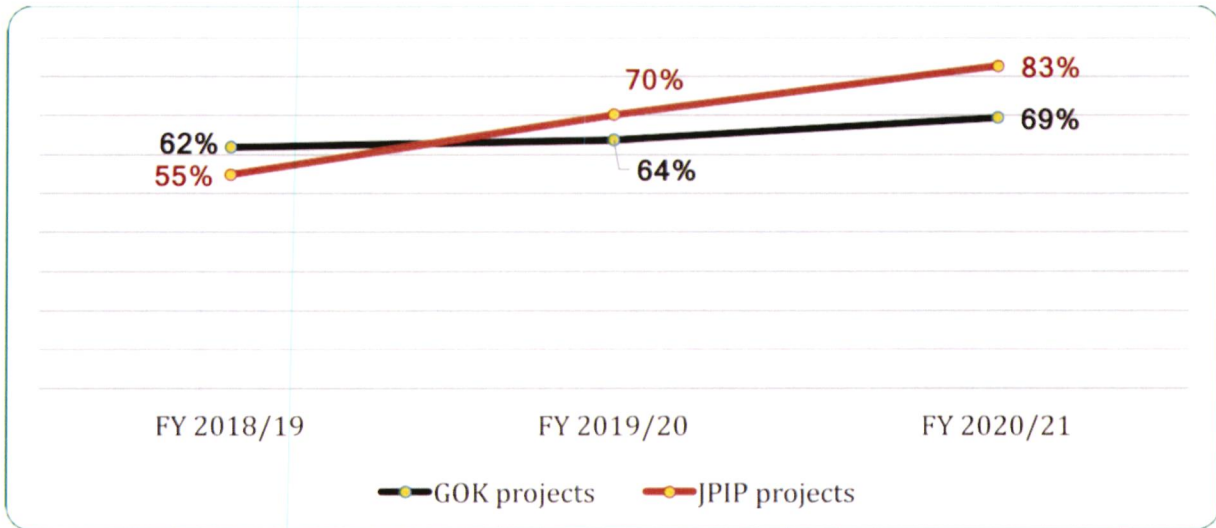


Figure 2.57: Project Completion status

At the end of the FY 2018/19 the completion rate for GOK projects at 62 per cent was higher than that of JPIP projects which stood at 55 per cent. However, in the succeeding years, the completion of GOK projects slowed down, a phenomenon attributed to budgetary cuts for the development expenditure, to settle at 69 per cent at the end of the FY 2020/21. The completion rate of JPIP projects increased rather rapidly in comparison to that of GOK projects to settle at 83 per cent at the end of the period under review. This reinforces the Judiciary viewpoint that with adequate and stable development funds, the propensity to timely completion of construction projects increases.

b) Ongoing Court Construction Projects Under JPIP

There was an overall growth by 7 per cent from the 77 per cent average completion status for JPIP projects that was reported in June 2020, to 84 per cent at the end of the FY 2020/21. Twelve court buildings funded by the World Bank through JPIP were undergoing construction or rehabilitation at the end of FY 2020/21. These projects were at Garissa, Voi, Kapenguria, Maralal, Kwale, Wajir, Ol-Kalou, Mombasa, Makueni, Kibera, Mukurweini and Kangema. The completion status for the ongoing projects under JPIP is presented in Figure 2.58.

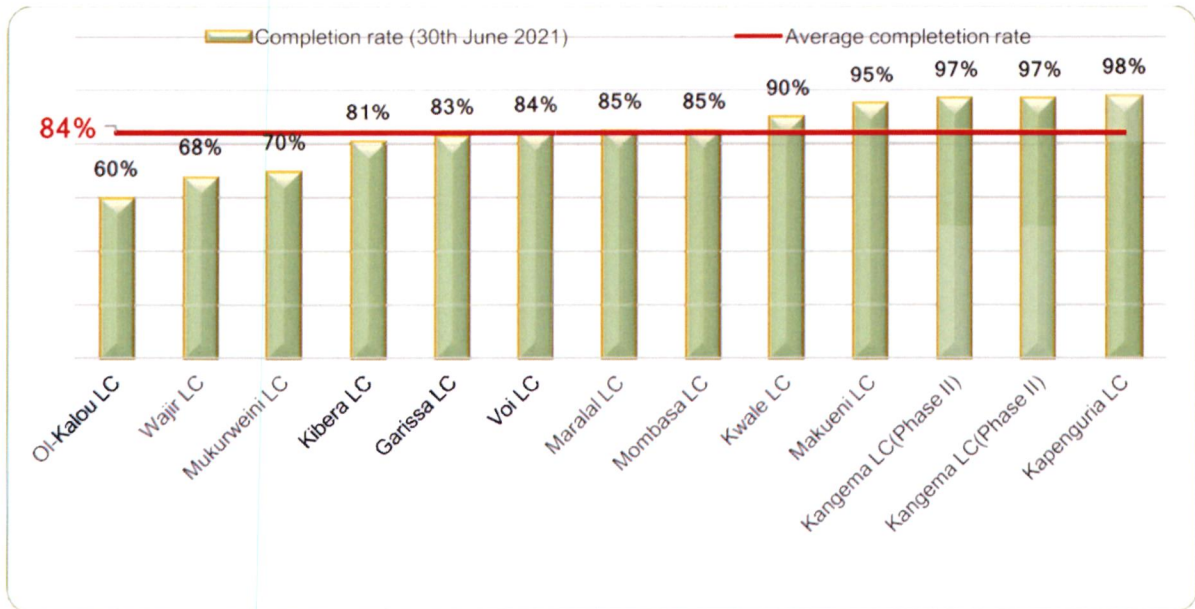


Figure 2.58: Project Completion Status, World Bank funded projects

Five court buildings namely Ol-kalou, Wajir, Mukurweini and Kibera were below the average completion rate of 84 per cent. Three courts namely Makueni, Kangema and Kapenguria were above 95 per cent completion rate. Detailed information on completion status of construction and rehabilitation projects through JPIP is provided in the Table 2.48.

Table 2.48: Project completion status of JPIP funded projects

Project	Renovations or New Building	Start Date	Completion rate (June 30, 2020)	Completion rate (June 30, 2021)
1. Garissa Law Courts	New	22-01-16	83%	83%
2. Kibera Law Courts	Rehabilitation	13-04-16	81%	81%
3. Voi Law Courts	New	29-03-17	81%	84%
4. Kapenguria Law Courts	New	21-03-17	75%	98%
5. Maralal Law Courts	New	23-03-17	69%	85%
6. Kwale Law Courts	New	05-06-17	75%	90%
7. Wajir Law Courts	New	27-09-17	45%	68%
8. Ol-Kalou Law Courts	New	18-09-17	42%	60%
9. Mukurweini Law Courts	New	19-09-17	60%	70%
10. Mombasa Law Courts	New	28-09-17	65%	85%
11. Makueni Law Courts	New	25-09-17	87%	95%
12. Kangema Law Courts (Phase II)	Rehabilitation	20-09-17	95%	97%
13. Kangema Law Courts (Phase II)	Rehabilitation	20-09-17	95%	97%
Average for Court Projects			73%	84%
14. Provision of Containers – Kisii, Hom Bay, Kitale, Meru, Kabarnet & Marsabit	Renovations	04-11-17	25%	45%
15. Registry shelving, Customer care and Data centre – Milimani Law Courts	Renovations	18-10-17	58%	97%
16. Registry shelving –Busia, Kisumu & Bomet	Renovations	18-10-17	58%	58%
17. Borehole drilling and Equipping works at Nakuru, Engineer and Molo		13-02-18	90%	90%
18. Borehole drilling and Equipping works at Vihiga, Nyando and Siaya		14-02-18	99%	99%
19. Borehole drilling and Equipping works at Muhoroni, Oyugis and Nyamira		12-03-18	97%	97%
20. Borehole drilling and Equipping works at Makindu, Kigumo, Chuka & Garissa		12-03-18	50%	75%
Average for other Projects			68%	80%
Grand Average for all Projects			77%	83%

## c) Ongoing Court Construction Projects under GOK

There was no construction project funded through GOK that was completed during the period under review. Nonetheless, 28 GOK budget funded projects were undergoing construction. The status on the completion of the projects funded by the Government of Kenya (GOK) as at June 30, 2021 was 69.4 per cent, representing a 5.6 per cent growth from 63.8 per cent that was recorded at the end of the previous period. Figure 2.59 gives the completion status of GOK projects.



Figure 2.59: Project Completion Status. GOK funded projects

Detailed information on completion rate of GOK funded projects is given in Table 2.49.

Table 2.49: Project completion status for GOK funded projects, 30<sup>th</sup> June 2021

	Project	Renovations or New building	Start Date	Completion rate (June 30, 2020)	Completion rate (June 30, 2021)
<b>On-Going</b>					
1	Homa Bay Law Courts	On-going	13-03-17	32%	32%
2	Kabarnet Law Courts	On-going	17-03-17	20%	35%
3	Marsabit Law Courts	On-going	17-03-17	35%	70%
4	Amagoro Law Courts	On-going	13-03-17	24%	48%
5	Githongo Law Courts	On-going	04-05-17	56%	67%
6	Kandara Law Courts	On-going	04-03-17	38%	38%
7	Machakos Law Courts	On-going	18-05-17	67%	92%
8	Marsabit Law Courts (Residence)	On-going	02-05-17	75%	75%
9	Mbita Law Courts	On-going	15-03-17	57%	57%
10	Habaswein Law Courts	On-going	28-09-17	10%	10%
11	Muranga Law Courts	Renovations	19-05-15	79%	80%
12	Mandera Law Courts	On-going	19-05-15	94%	94%
13	Narok Law Courts-Phase II	On-going	26-10-15	85%	90%
14	Butali Law Courts	On-going	09-03-15	83%	92%
15	Eldama Ravine Law Courts	On-going	04-02-15	85%	90%
16	Port Victoria Law Courts	On-going	12-02-15	93%	93%
17	Othaya Law Courts	On-going	15-01-13	90%	90%
18	Wanguru Law Courts	On-going	15-01-13	70%	70%
19	Marimanti Law Courts	On-going	15-01-13	80%	80%
20	Bomet Law Courts	On-going	15-01-13	98%	98%
21	Runyenjes Law Courts	On-going	23-01-13	92%	92%
22	Tawa Law Courts	On-going	23-01-13	96%	96%
23	Nyeri Court Of Appeal	Renovations	17-04-14	95%	99%
24	Karatina Law Courts	On-going	04-05-17	68%	68%
25	Makadara Law Courts	Renovations	23-07-17	60%	65%
26	Forodha House	Renovations	25-04-19	80%	94%
27	Lodwar Law Courts	On-going	30-09-13	15%	15%
28	Bomet Law Courts	On-going	05-10-13	10%	12%
	Overall growth			63.8%	69.4%

**d) Preliminary Tasks Undertaken Prior to Construction**

Before the commencement of actual construction works, a series of vital preliminary assignments are undertaken. During the period under review, a geotechnical survey of proposed new projects for the Court of Appeal complex, and that for Meru, Eldoret and Kisii High Courts was undertaken. The designs and tendering process for Meru and Eldoret projects was completed with construction works expected to begin in FY 2021/22. The procurement process for Kisii and the ultramodern Court of Appeal building were not completed and were expected to be finalized in FY 2021/22.

**e) Renovations Undertaken**

Diverse renovations were undertaken during the period under review. The Supreme Court building was renovated covering the CRJ's office lounge, three chambers for Supreme Court Judges, Supreme Court registry, library and the shelving of audit offices. Milimani Commercial Court building was renovated covering Small Claims Court and the ELRC customer care office. Forodha House was renovated with most of the floor spaces already handed over to the users. Further, tribunal premises in Crescent House and View-park Towers, JSC offices at Re-insurance Plaza and the new JTI offices at KCB Leadership Center in Karen were refurbished.

**f) Provision of Container Courtrooms, Registries & Chambers**

Container courtrooms were set up in Meru, Ngong, Webuye, Limuru, Wanguru, Eldoret, Kikuyu and Bomet law courts.

**g) Boreholes Drilling and Equipping**

Boreholes were drilled and commissioned in Nyando, Siaya, Vihiga, Tamu, Oyugis, Nyamira, Molo, Nakuru, Engineer, Makindu, Kigumo and Chuka.

**h) Acquisition of motor vehicles**

To ensure mobility of and effective discharge of court roles, the Judiciary acquired vehicles for stations and judges. During the year under review 39 vehicles were purchased for various users, which included 10 land cruiser hardtops to facilitate the movements in courts operating in difficult terrain and marginalized areas.

**2.21 Challenges Faced on Improvement of Judiciary Physical Infrastructure**

Diverse challenges slowed the progress of the court constructions, rehabilitations and refurbishments during the period under review. There was insufficient budget allocation for the development expenditure. The resource requirements for development for the FY 2020/2021 was KSh6.731 billion whereas the allocation was only KSh2.558 billion. Further, there was delayed release of exchequer to the Judiciary which hampered payments to the contractors. Additionally, COVID-19 pandemic restrictions affected movement of people and materials thereby slowing down construction works.

**CHAPTER 3—JURISPRUDENCE****3.0 Introduction**

The core mandate of the Judiciary is the dispensation of justice. In executing this mandate and in the discharge of judicial authority, as vested under Article 159 of the Constitution, Judges and Judicial Officers determine court cases and render rulings and judgments that go towards several goals.

They determine the rights of parties to a dispute, mete out sanctions against offenders, and promote and uphold the rule of law. Judicial pronouncements also play a critical role in the advancement of jurisprudence in any given jurisdiction.

The FY 2020/2021 Judges and Judicial Officers across all levels of courts deliver judgments and rulings that played a pivotal role in the advancement of jurisprudence in the country. Most of these judgments were delivered virtually in line with the measures that were put in place to minimize the impact of COVID-19 in the justice sector.

The Annual State of the Judiciary and Administration of Justice Report presents the opportunity for the Chief Justice to showcase the growth of jurisprudence in our courts. This chapter therefore contains highlights of select cases that were decided in the reporting period.

Due to the vast number of judgments from all courts, the chapter covers carefully selected judicial pronouncements that either restated the law, handled a novel area of law, clarified the rights of parties in areas where the law was not yet settled, or broke new legal ground. The cases are drawn from across all levels of courts and from diverse areas of law, ranging from succession disputes, criminal law, family law, civil and criminal procedure, commercial, employment and labour disputes, among others.

### 3.1 Jurisprudence from the Superior Courts

#### 3.1.1 Supreme Court

##### 3.1.1.1 Court Confirms the Right of Victims to Participate in Criminal Proceedings

Joseph Lendrix Waswa v Republic, Petition No. 23 of 2019 [2020] eKLR, September 4, 2020

#### **Brief Facts**

The appellant was charged with the offense of murder. After nine witnesses had testified for the prosecution, counsel for the father of the deceased (the victim) made an oral application for leave to actively participate in the proceedings. The trial court observed that the law had shifted the traditional parameters of a victim in a criminal case and therefore, a victim's counsel could no longer be considered a passive observer in criminal proceedings. However, the trial court noted that the role of counsel for the victim could not be active and parallel to that of the prosecutor.

Consequently, the trial court allowed the participation of the counsel watching brief limited to the following instances: on submitting at the close of the prosecution case whether or not there was a case to answer; final submissions should the accused be put on his defence; on points of law, should such arise in the course of trial; and upon application at any stage of the trial for consideration by the court.

Aggrieved by the trial court's ruling, the appellant lodged an appeal to the Court of Appeal. The Court of Appeal being satisfied that the impugned rights given by the trial court to the victim were in conformity with the Constitution of Kenya and the Victim Protection Act (No. 17 of 2014) (VPA), upheld the ruling of the trial court and dismissed the appeal in its entirety. Aggrieved by the decision of the Court of Appeal, the appellant filed an appeal to the Supreme Court.

#### **Issues**

- i. Whether an advocate acting for the victim could be permitted to actively participate in criminal proceedings to safeguard the victim's constitutional and statutory rights.
- ii. Whether allowing an advocate acting for the victim to actively participate in the criminal proceedings would violate the accused person's right to a fair trial by exposing them to double prosecution.
- iii. What were the guiding principles in determining whether a victim or his legal representative could participate in a trial and the manner and extent of the participation?
- iv. Whether a victim or his legal representative could prosecute crimes on behalf of the Director of Public Prosecutions (DPP).

#### **Held**

1. Although the adversarial criminal trial process was a contest between the State represented by the DPP, and the accused, usually represented by defence counsel, and the traditional role of victims in a trial often perceived to be that of a witness of the prosecution, that flowing from both the Constitution and the VPA and in particular section 9(2)(a) thereof, a victim too, had the right to participate in criminal proceedings.

2. Under Article 68(3) of the Rome Statute, victims before the International Criminal Court (ICC) were granted far-reaching rights. In light of the large degree of discretion accorded to the judges conducting the trial, the practice of the ICC had developed to allow victims to:

- a. Make an opening and closing statement;
- b. Attend and participate in hearings and status conferences through written submissions and oral argument;
- c. With leave of court, introduce evidence and challenge admissibility of evidence; and
- d. Question witnesses and/or the accused under the strict control of the court. Where there were a large number of victims admitted to participate in the proceedings, the court could limit the number of lawyers representing them.

3. The rights of victims did not undermine those of the accused or the public interest. The true interrelationship of the three was complementary. The participatory rights of the victim did not violate the fair trial rights of the accused.

4. The victim had no active role in the decision to prosecute, or the determination of the charge upon which the accused would finally be tried as that was the sole duty of the DPP. While the victim of a crime could participate at any stage of the proceedings as deemed appropriate by the trial court, a victim or his legal representative did not have the mandate to prosecute crimes on behalf of the DPP. The DPP had to, at all times retain control of, and supervision over the prosecution of the case. As such, the constitutional and Statutory power of the DPP to conduct the prosecution was not affected by the intervention of the victim in the process.

5. A victim could not and did not wear the hat of a secondary prosecutor. When victims presented their views and concerns in accordance with Section 9(2) (a) of the VPA, they were assisting the trial court to obtain a clear picture of what happened (to them) and how they suffered, which the trial court could decide to take into account.

6. The following guiding principles would assist the trial court when it was considering an application by a victim or his legal representative to participate in a trial and the manner and extent of the participation:-

- a. The applicant had to be a direct victim or such victim's legal representative in the case being tried by the court;

- b. The court should examine each case according to its special nature to determine if participation was appropriate, at the stage participation was applied for;
- c. The trial court had to be satisfied that granting the victim participatory rights did not occasion an undue delay in the proceedings;
- d. The victim's presentation should be strictly limited to the views and concerns of the victim in the matter where the participation is granted;
- e. Victim participation should not be prejudicial to or inconsistent with the rights of the accused;
- f. The trial court could allow the victim or his legal representative to pose questions to a witness who was giving evidence before the court that had not been posed by the prosecutor;
- g. The trial court had control over the right to ask questions and should ensure that neither the victim nor the accused were subjected to unsuitable treatment or questions that were irrelevant to the trial;
- h. The trial court should ensure that the victim or the victim's legal representative understood that prosecutorial duties remained solely with the DPP;
- i. While the victim's views and concerns could be persuasive; and in the public interest that they were acknowledged, those views and concerns were not to be equated with the public interest;
- j. The court could hold proceedings in camera where necessary to protect the privacy of the victim;
- k. While the court had a duty to consider the victim's views and concerns, the court had no obligation to follow the victim's preference of punishment.

The Court upheld the decision of the Court of Appeal and affirmed the right of victims to participate in criminal proceedings.

3.1.1.2 Court sets principles for de novo trials and the rights of parties in a case where an order for de novo hearing is made.

Hussein Khalid and 16 others v Attorney General & 2 others, Application No. 32 of 2019 [2020] eKLR, September 4, 2020

#### **Brief Facts**

The applicants had been arrested for participating in demonstrations outside Parliament's gates dubbed, 'occupy parliament'. They were detained and released on police bond and were required to report to the Chief Magistrate's Court. They requested for particulars to be availed before arraignment before the magistrate. They were each given a charge sheet containing three offences. The applicants contended that the charges lacked sufficient detail to enable them take plea. They therefore objected to plea taking and demanded that the same awaits supply of evidence and better particulars. The court however overruled the objection and ordered them to take plea. They filed a Constitutional appeal against the ruling. The High Court dismissed the appeal. They appealed to the Court of Appeal and their appeal was similarly dismissed on grounds that it was unmerited. Aggrieved by the Court of Appeal decision, the applicants filed an application for review before the Supreme Court.

The application for review was heard on July 10, 2018. Judgment was reserved for delivery on notice. On March 29, 2019, Hon. J.B Ojwang, SCJ, a member of the bench that had heard the appeal, was suspended. After Ojwang SCJ was suspended, the applicants sought for rehearing of the appeal de novo. Directions were taken on May 9, 2019 before Hon. Lenaola, SCJ. The parties entered into a consent for the matter to start de novo and for the appellants to file a supplementary record.

Hon. J.B Ojwang was later reinstated and was part of the bench that rendered the decision. The applicants faulted the Court for rendering its judgment after the return of Hon. J.B Ojwang without setting aside the consent orders for de novo hearing that the parties had recorded.

#### **Issues**

- i. Whether Section 200 of the Criminal Procedure Code (CPC) that sought to secure the rights of parties in a trial, once a judicial officer hearing a case ceased to exercise jurisdiction over the matter, applied to civil proceedings.
- ii. What principles applied during de novo trials?
- iii. Whether introducing new evidence after hearing was concluded was against the principles of de novo hearing.
- iv. Whether consent directions issued after the suspension of a judicial officer still applied when the judicial officer was reinstated.

#### **Held**

1. Under the de novo principle, once a judicial officer trying a matter ceased to exercise jurisdiction over a matter during pendency of trial, through transfer or other circumstances, his successor in jurisdiction gave the parties the right to elect how to proceed, that is, either to proceed from where the hearing had reached or start de novo. This ensured that the accused was not prejudiced by having a successor in jurisdiction, who never had the opportunity to appreciate the evidence of witnesses by observing their demeanour, credibility, emotions and such like factors, and deciding based on record, where such aspects of evidence could not be recorded in a detailed manner as required under Section 199 CPC..

2. De novo hearings should not be taken as an opportunity to fill in gaps noted during the hearing by bringing a new set of evidence for the repeat trial. A de novo hearing was a continuation of a trial and not a second trial.

3. Introduction of new evidence after hearing was concluded was against the principles of de novo hearing whether it was ordered in review or in revision jurisdiction of a court. It muted the trial continuation intention signalling a second trial.

4. Additional evidence could be tendered but in very exceptional circumstances. Unless hearing was concluded and judgment reserved, new evidence could be availed in the course of a criminal trial, as long as the defence was afforded time to defend their case.

5. Section 200 of the CPC sought to secure the rights of parties in a trial once a judicial officer hearing a case ceased to exercise jurisdiction over the matter. Even though it was a criminal law principle it had been applied across the board in most of the hearings in furtherance of the constitutional right of fair hearing.

6. The return of JB Ojwang, SCJ onto the bench, by operation of law under Section 200 CPC had the effect of voiding the consent of the parties. His return signalled restoration of the status existing prior to the consent entered by the parties, meaning that judgment would be delivered as earlier directed. The consent therefore crumbled and stood vacated by operation of law even without any further order vacating it.

7. No amount of consent by the parties could confer jurisdiction on a court of law nor could one divest a court of jurisdiction which it possessed under the law.

Application dismissed; no order as to costs.

3.1.3 The Environment and Land Court (ELC) does not have the jurisdiction to determine issues that could be determined by other tribunals even when some of the issues raised elements that were within the ELC's jurisdiction

Benson Ambuti Atega & 2 others v Kibos Distillers Limited & 5 others, Petition No. 3 of 2020 [2020] eKLR, August 4, 2020

#### **Brief facts**

The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> petitioners had filed a constitutional petition before the Environment and Land Court (ELC) in Kisumu in which they claimed that their rights to a clean and healthy environment had been infringed. At the ELC, the respondents filed a preliminary objection that challenged the jurisdiction of the Court on the premise that it had usurped the mandate of legislatively constituted bodies and conferred upon itself powers that it did not have.

The ELC held that it had the jurisdiction to hear and determine the petition, not by dint of powers conferred upon it by Article 162(2)(b) of the Constitution or Sections 4 and 13 of the Environment and Land Court Act, but by dint of the provisions of the Environmental Management and Coordination Act (EMCA), and more particularly, Sections 129(1) and 130 thereof. The court justified its usurpation of the mandate of the National Environmental Tribunal and the National Environmental Complaints Committee, by citing Articles 23, 42, 47, 69 & 70 of the Constitution.

Aggrieved by the decision of the ELC, the respondents appealed. The Court of Appeal held that the ELC contradicted itself by determining that some of the issues that were before it could properly be ventilated before the other legislatively mandated tribunals under EMCA, but chose to rather strangely arrogate upon itself the mandate to hear and determine those same issues. The Court of Appeal held that the ELC did not have the jurisdiction to hear and determine the Petition, not pursuant to constitutional conferment of jurisdiction, but that that Court did not have the mandate to determine issues that could have been adjudicated in other appropriate forums.

Aggrieved by the decision of the Court of Appeal, the petitioners appealed to the Supreme Court.

#### **Issue**

Whether the Environment and Land Court had the jurisdiction to determine issues which were not within its jurisdiction and which could have been effectively determined by another legislatively established tribunal where the matter was intertwined with matters within its jurisdiction.

#### **Held**

1. The ELC determined quite incorrectly that it had the power or jurisdiction to hear and determine the petition, which although raising issues that were clearly within its purview, were also intertwined with other issues which were rather obviously not within its jurisdiction, and which could have been effectively determined by another legislatively established tribunal, in this instance, two bodies; the National Environmental Tribunal and the National Environmental Complaints Committee.

2. The trial and the appellate Courts correctly determined that the petition was multifaceted, and presented issues in an omnibus manner. The point of divergence between the two superior Courts was where the trial Court then went further to determine that those multifaceted issues could be determined by the Court in the interests of justice. The ELC had failed to appreciate that there were properly constituted institutions that were mandated to hear and determine the issues, but instead chose to arrogate to itself the jurisdiction to hear and determine all the issues raised in the petition.

3. Judicial abstention, as with judicial restraint, was a doctrine not founded in constitutional or statutory provisions, but one that had been established through common law practice. It provided that a Court, though it could be vested with the requisite and sweeping jurisdiction to hear and determine certain issues as could be presented before it for adjudication, should nonetheless exercise restraint or refrain itself from making such determination, if there would be other appropriate legislatively mandated institutions and mechanism.

4. The more favourable relief that the superior court should have issued was to reserve the constitutional issues on the rights to a clean and healthy environment, pending the determination of the issue with regard to the issuance of environmental impact assessment licenses by the 4<sup>th</sup> respondent to the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents. The Court should have reserved the issues pending the outcome of the decision of the Tribunal.

Preliminary objections by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 6<sup>th</sup> respondents were upheld; the petition was struck out save that, noting the nature of the matter, the petitioners were at liberty to pursue their claims at the appropriate forum, taking guidance from the instant judgment and the judgment of the Court of Appeal; each party was to bear its own costs.

3.1.4 Where the landless occupy public land and establish homes thereon, they acquire not title to the land, but a protectable right to housing over the same.

Mitu-Bell Welfare Society v Kenya Airports Authority & 3 others; Initiative for Strategic Litigation in Africa (Amicus Curiae), Petition No. 3 of 2018 [2021] eKLR, January 11, 2021

#### **Brief facts**

This case revolved around the right to housing under Article 43 of the Constitution after the eviction and demolition of the homes of over 3,000 families residing in an informal settlement sited on public land, on grounds that their settlement lay on the flight path to Wilson Airport thus posing danger to the security of the public and air travellers.

#### **Issues**

- i. The extent of applicability of international law, including guidelines by UN bodies, in interpretation and application of socio-economic rights under the Constitution of Kenya.
- ii. The role of U.N Guidelines in the interpretation and clarification of the Bill of Rights.
- iii. The right to housing as guaranteed by Article 43 of the Constitution.

#### **Held**

1. The Court of Appeal took the position that the High Court could not reserve for itself any outstanding issues since it had become functus-officio after delivery of judgment. Structural interdicts were a suitable respite, that Article 23 (3) of the Constitution empowered the High Court to fashion appropriate reliefs, even of an interim nature, in specific cases so as to redress the violation of a fundamental right.

2. Articles 2(5) and 2(6) of the Constitution recognized international law as forming part of the laws of Kenya and that Kenya was bound by its obligations under customary international law and its undertakings under the Treaties and Conventions to which it was a party. A Court would apply international law in resolving disputes before it, as long as it was relevant and not in conflict with the Constitution, local Statutes, or a final judicial pronouncement.

3. That guidelines are not binding upon the States parties, and do not form part of the law of Kenya in the language and meaning of Article 2 (6) of the Constitution, unless they had ripened into a norm of customary international law as evidenced by widespread usage.

4. That where the landless occupy public land and establish homes thereon, they acquire not title to the land, but a protectable right to housing over the same. As a result, every individual had an interest, however indescribable, unrecognizable, or transient, in public land. The Court elucidated that the right to housing over public land crystallized by virtue of a long period of occupation by people who had established homes and raised families on the land derived from the principle of equitable access to land under Article 60 (1) (a) of the Constitution. The right to housing in its basic form (shelter) need not be predicated upon title to land.

3.1.5 Whether the overlapping roles that Section 11(3) (cc) and (h) of the Capital Markets Act which vested in the Capital Markets Authority the dual statutory mandate as the investigator and enforcer of capital markets infractions in Kenya constituted a violation of Articles 47(1) and 50(1) as read with Article 25(c) of the Constitution

Alnashir Popat & 7 others v Capital Markets Authority, Petition No. 9 of 2019 [2020] eKLR, Supreme Court, December 11, 2020

#### **Brief facts**

This was an appeal made under Article 163(4)(a) against a judgment of the Court of Appeal which overturned the decision of the High Court. The Court of Appeal decision had held that the respondent was not in breach of Article 47 of the Constitution, the provisions of the Fair Administrative Actions Act, or the rules of natural justice, and as such, it was not a judge in its own cause as the Capital Markets Authority Act expressly authorized it to perform dual and overlapping inquisitorial and enforcement functions.

#### **Issues**

- i. Whether the overlapping roles that Section 11(3) (cc) and (h) of the Capital Markets Act (CMA) which vested in the Capital Markets Authority the dual statutory mandate as the investigator and enforcer of capital markets infractions in Kenya constituted a violation of Articles 47(1) and 50(1) as read with Article 25(c) of the Constitution.
- ii. Whether those Sections which authorized overlapping roles should be declared unconstitutional.

#### **Held**

1. The Court did not find that the overlap per se was unconstitutional. It was noted that the rights to fair administrative action and fair hearing were universal and that even though the natural justice principle of *nemo iudex in causa sua* esse that provided that the overlapping mandate should ordinarily not be allowed was blurred when one presided in the adjudication of one's cause or in a process that one had an interest in; an important exception to the principle was raised where the overlap of functions was a creature of Statute and as long as the constitutionality of that Statute was not in issue.

2. The Court recognized that security commissions were created for a variety of reasons and to respond to various needs including overseeing the filing of prospectuses, regulating the trade in securities, registering persons and companies who traded in securities, carrying out investigations and enforcing the provisions of the Act; and would therefore have repeated dealings in both administrative or adjudicative capacities with the same parties. It was for that reason and to achieve the efficiency required in the operations of the securities markets that the legislatures allowed for an overlap of functions.

3. Consequently, it was held that for purposes of efficiency in the carrying out of the objective of the CMA, especially in the expeditious disposal of disputes arising in the operations of the capital markets, the functions set out in Section 11(3)(cc) and (h) could not be performed by separate bodies. In that light, the Court also found that Section 11(3)(cc) and (h) of the CMA was not unconstitutional.

#### **3.2 Court of Appeal**

3.2.1 The Exhibition of a Medical Scheme Beneficiary Form as Evidence in Court did not amount to wrongful invasion of the right to privacy

TOS vs Maseno University & 3 others, Civil Appeal No. 112 of 2016 [2020] eKLR, Court of Appeal at Kisumu, August 7, 2020

#### **Brief facts**

The appellant filed a petition at the trial court on behalf of two children, one who was his child and the other one who was under his guardianship. The children were beneficiaries of the 1<sup>st</sup> respondent's medical scheme, being dependants of the appellant's wife who was the 1<sup>st</sup> respondent's legal officer. In July 2014 the 4<sup>th</sup> respondent filed a suit against the 1<sup>st</sup> respondent (where the appellant was a director), and the Public Procurement Oversight Authority. The suit was about alleged interference with a procurement contract that had been awarded to the 4<sup>th</sup> respondent by the 1<sup>st</sup> respondent. Among the documents exhibited by the 4<sup>th</sup> respondent in that suit were papers containing names and photographs of the two children and the appellant's wife.

The appellant contended that the information was private medical record and was not open to the 4<sup>th</sup> respondent or the general public and that publication of the information was a violation of various provisions of the Constitution. The trial Court held that the consent of the appellant or his wife was not sought before the documents were exposed to third parties and that there was wrongful invasion of the children's right to privacy. However, the trial Court held that the appellant had failed to demonstrate how the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents were involved in the leakage of the information and proceeded to dismiss the petition with costs. Being aggrieved by the trial Court's decision, the appellant preferred the instant appeal.

#### **Issues**

- i. Whether the exhibition of a medical scheme beneficiary form in Court amounted to wrongful invasion of the contributors' right to privacy as well as that of the two beneficiaries.
- ii. Whether a medical scheme beneficiary form which revealed the relationship between the contributor and beneficiaries was a medical record.

#### **Held**

1. The right to privacy was not absolute; it could legitimately be limited by interests of others as well as public interest.
2. The material complained about by the appellant was not a medical record. What was exhibited was a medical scheme beneficiary form that revealed the relationship between the appellant and the 1<sup>st</sup> respondent's legal officer. Below the name of the appellant's wife were the names of their

two children, who were also named as beneficiaries of the 1<sup>st</sup> respondent's medical scheme, courtesy of their relationship with the appellant's wife, which was factually correct.

3. What Article 31(c) of the Constitution prohibited was unnecessary revelation of information relating to one's family or private affairs. Accurate and truthful documents that were filed by parties in Court for purposes of proving issues or questions in dispute in order to enable a Court reach a fair determination could not be said to amount to violation of Article 31(c).

4. The trial Court erred in finding that the exhibition of the medical scheme beneficiary form amounted to wrongful invasion of the appellant's right to privacy as well as that of the two minors.

Appeal dismissed.

3.2.2 The running of a bar by a Judicial Officer is not in itself evidence of gross misconduct and Conflict of Interest that would Warrant a Dismissal  
Judicial Service Commission v Joseph Riitho Ndururi, Civil Appeal No. 650 of 2019 [2021] eKLR, Court of Appeal at Nairobi, March 5, 2021

#### **Brief facts**

The respondent joined the Judiciary in 2004 and had risen to the rank of Principal Magistrate when he was terminated. Pursuant to section 23 of the Sixth Schedule to the Constitution, all judges and magistrates serving in the Judiciary at the time of the promulgation of the Constitution of Kenya 2010, were to undergo a vetting process to determine their suitability to continue serving in the Judiciary. The Vetting of Judges and Magistrates Act (Vetting Act) was passed into law to give effect to section 23 of the Sixth Schedule in accordance with the requirements of Article 262 of the Constitution. The respondent appeared before the Vetting Board established under the Act and he responded to allegations of gross misconduct. The Vetting Board found him unsuitable to continue serving in office.

The respondent applied for a review of the Vetting Board's decision on various grounds including lack of jurisdiction to hear the matters as the Board's jurisdiction lapsed on March 28, 2013, errors apparent on the face of the record and discovery of new and important matters after the making of the Vetting Board's determination. The Vetting Board allowed only one ground for review which was the discovery of new and important matters and dismissed the rest. On grounds that it lacked jurisdiction, the Vetting Board referred the matter to the Judicial Service Commission on June 29, 2016. The appellant received complaints against the respondent and restarted a disciplinary process under the Judicial Service Act.

While the disciplinary process was pending before the JSC, the Chief Justice placed the respondent on interdiction on August 21, 2017. After being given an opportunity to defend himself before the appellant's Human Resource Committee, the respondent was dismissed from service. The reason for his dismissal was that the respondent had improperly and grossly misconducted himself by running a bar against the principle of impropriety contrary to Articles 172 (1) (a) (iv) and 75 of the Constitution.

The respondent lodged a claim before the Employment and Labour Relations Court. He explained that the charges levelled against him (running a bar) were about events occurring on or about the year 2006, and that they were within the jurisdiction of the Vetting Board but not the JSC, as envisaged under the Constitution. He added that the appellant did not have the constitutional mandate to act retrospectively. Further, he stated that the disciplinary process which took 19 months violated his rights to fair administrative action and fair labour practices. He also said that he was not furnished with copies of the reports/ proceedings of the processes in breach of his right of access to information as provided for under Article 35 of the Constitution. Ultimately, the Court found that although there were valid reasons for the respondent's dismissal, it was not fair because no evidence was adduced to demonstrate any inherent conflict of interest in the respondent running a bar.

On various grounds, the appellant lodged an appeal against the decision and the respondent filed a cross-appeal. The cross-appeal was premised on various grounds including the respondent's contention that the trial Court should have granted the remedy of reinstatement which was the most appropriate remedy. The respondent also contended that the trial court failed to consider his allegations about violation of his constitutional rights and to compensate him for the violations.

#### **Issues**

- i. Whether the dismissal of a judicial officer from employment, on basis of allegations of gross misconduct and conflict of interest arising from running a bar was fair.
- ii. Whether regulation 23 of the Third Schedule of the Judicial Service Act was unconstitutional as it restricted a Judicial Officer's rights to the minutes, reports and recorded reasons for dismissal.
- iii. When would the remedy of reinstatement be appropriate in a claim of unfair dismissal from employment?

#### **Held**

1. The appellant had the burden of proving that the running of a bar by the respondent undermined the respondent's judicial office and the Judiciary as a whole. An allegation that the running of a bar amounted to impropriety was insufficient; evidence had to be adduced to prove the impropriety.

2. There was no iota of evidence, or even a suggestion that the respondent used to serve litigants or other persons of dubious character in that facility.

3. The appellant failed to demonstrate any impropriety or appearance of impropriety on the part of the respondent supervising the running of a bar which was exclusively patronised by other senior civil servants in the area. Additionally, any conflict of interest arising from running the bar was not demonstrated.

4. The allegation that regulation 23 of the Third Schedule of the Judicial Service Act ought to have been declared unconstitutional by the trial court required the respondent to enjoin the Attorney General and Parliament as parties. Furthermore, the respondent did not prove the alleged unconstitutionality to the satisfaction of the Court.

5. The respondent did not provide proof that would lay a basis for compensation for violation of constitutional rights. The trial Court did not err in not awarding the respondent damages for breach of his constitutional rights.

6. The trial Court did not address itself on the issue of reinstatement as prayed for by the respondent. It did not explain why reinstatement was not granted.

Appeal dismissed. Cross-appeal allowed in part.

3.2.3 Advocate hurling intemperate and demeaning words at the Court brought the Profession of Law and Administration of Justice to Disrepute

Alfred Mincha Ndubi v Standard Limited, Civil Application No. 74 of 2019 [2021] eKLR, Court of Appeal at Kisumu, March 19, 2021

#### **Brief facts**

The instant matter was an application for review of a ruling rendered by the instant Court on an application for injunction pending the determination of an intended appeal from the judgment of the High Court. The impugned ruling was delivered by two judges of the instant Court as the other judge had since retired. The ruling dismissed the applicant's application that had sought an injunction pending appeal. The applicant submitted that the decision occasioned a great mistrial of his application and a great miscarriage of justice as only one judge wrote the ruling, the other read it online and the third said nothing. He averred that had the two judges written their own rulings, the shortcomings/inadequacies of a single judge would have been filled. The applicant further stated that it was a cardinal principle that each ought to write their own separate ruling or judgment. According to the applicant, no ruling was delivered in the strict sense of the law as delivery online by Skype was a system completely foreign to Kenyan law.

#### **Issues**

- i. What was the form and content of concurring judgements?
- ii. Whether a judgement written by a single judge while the rest of the bench simply stated that they concurred with that decision amounted to a ground for review of that leading judgment.

#### **Held**

1. On the merits of the instant application, whereas it was true that under rule 32(3) of the Court of Appeal Rules the statutory command was that each judge should render his or her own separate decision as a matter of course, there was room for single-judgments of the Court to be given where the decision was unanimous and the presiding judge so directed. Where one judge delayed, died, or ceased to hold office or was unable to perform the function of his or her office because of infirmity of mind or body, the rule required that separate concurring judgments should be given by the remaining members of the Court.

2. The rules did not prescribe the form or content of the concurring judgments and it was not uncommon for a leading judgment to be written in which the other judge or judges concurred by separate judgments. The concurring judgments could be as brief as a single sentence or could be full-fledged judgments complete with analysis of the law and a citation of authorities, it all depended on the subject.

3. The claim that the concurring judge restated but failed to properly apply the principles for stay of execution was a mischievous and mendacious claim. It smacked of discourtesy to the learned judge and to the Court. The applicant and his counsel set out to deliberately besmirch the dignity of the court. If they thought there were errors of law committed, and there were none, the way to redress them was certainly not by an application for review. Counsel ought to always remember that they were officers of the court and that respect and etiquette were marks of noble professionalism.

Application disallowed with costs.

3.2.4 Equality of parties in marriage as envisaged in the Constitution does not translate to equal distribution of property upon divorce

EGM v BMM, Civil Application No. 231 of 2018 [2020] eKLR, Court of Appeal at Nairobi, November 20, 2020

#### **Brief facts**

The respondent BMM, filed an Originating Summons dated December 18, 2013 under Section 17 of the Married Women's Property Act 1882 of England (the repealed Act). This followed a divorce Petition filed by the appellant at the Chief Magistrate's Court being Petition No. 6 of 2013. She asserted that following their marriage, which was solemnized on 3rd August 2001, the couple had acquired matrimonial property through joint funds and efforts. Her contribution towards such acquisition was both direct and indirect.

The respondent accordingly sought for orders that the matrimonial properties, which were registered in the name of EGM, the appellant, be declared joint properties and be shared equally.

The learned Judge granted prayers in the Originating Summons noting that the principal basis for division of matrimonial property were the Constitution and the Matrimonial Property Act, 2013. He held, crucially, that the provisions of the Act contradicted Article 45 (3) of the Constitution. He then resolved that conflict by holding that the provision of the latter on equality of parties at the dissolution of a marriage must hold sway. On that basis, he ordered equal division of the property in dispute.

Disgruntled by the judgment, the appellant appealed to the Court of Appeal citing 12 grounds.

#### **Issue**

The sole issue for determination by the court was whether the learned judge erred by using Article 45 (3) of the Constitution as a basis for the distribution of the matrimonial property on a blanket 50:50 basis.

#### **Held**

1. Equality of spouses does not involve the re-distribution of property rights at the dissolution of marriage. The learned judge missed the mark on his interpretation of spousal equality as enshrined in that sub-Article 45(3) of the Constitution.

2. It was erroneous for the learned judge to assume and hold that the Constitution gives spouses an automatic 50% share of the matrimonial property simply by being married. The stated equality meant no more than that the Courts were to ensure that both parties at the dissolution of a marriage got their fair share of the property. This has to be in accordance with their respective contribution.

Appeal allowed. Judgment of the superior court set aside. The suit be remitted to be re-heard at the Family Division by a different Judge.

3.2.5. Impact of failure of the High Court to render a decision within 45 days as contemplated by Section 175(3) of the Public Procurement and Asset Disposal Act

Aprim Consultants v Parliamentary Service Commission & Another, Civil Appeal No. E039 of 2021 [2021] eKLR, Court of Appeal at Nairobi, March 3, 2021

#### **Brief facts**

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

Public Procurement Administrative Review Board (the Board) which reversed the termination and directed PSC to complete the procurement process to its logical conclusion.

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

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

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

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

#### **Issue**

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

#### **Held**

1. Although the reasons for the decision of the Court of Appeal were given outside the 45-day window mandated by Section 175(3) of the Act, the Court rendered its decision within this window and its decision was therefore valid. Rule 32(5) of the Court of Appeal Rules permit the Court to give its decision on an application or an appeal but reserve its reasons for a later date.

2. There are serious practical difficulties with meeting the timelines set by the Act such as the sheer numbers of such judicial review matters that get filed before the relevant division of the High Court; the limited number of judges to handle them; and numerous other matters. Besides, as public procurement is but one of the areas in administrative law that spawns judicial review applications, the wisdom of so short a timeline may be fairly questioned.

3. However, inconvenience or difficulty of compliance will never be an excuse for a court to go against the clear language of Parliament. The most a court can do is point out the difficulties created by such requirements and timelines and perhaps make proposals for reform, but as long as the law remains etched, in plain language, it is the province of the courts to interpret and give effect to its express language.

4. A perusal of section 175 of the Act reveals Parliament's unmistakable intention to constrict the time taken for the filing, hearing and determination of public procurement disputes in keeping with the Act's avowed intent and object of expeditious resolution of those disputes.

5. Parliament was thus fully engaged and intentional in setting the timelines in the Section. But it did not stop there. In one of the rare instances where all discretion is totally shut out, Parliament expressly enacted a consequence to follow default or failure to file or to decide within the prescribed times: the decision of the Board would crystallize and be vested with finality.

6. The High Court was under an express duty to make its determination within the time prescribed. During such time did its jurisdiction exist, but it was a time-bound jurisdiction that ran out and ceased by effluxion of time. The moment the 45 days ended, the jurisdiction also ended. Thus, any judgment returned outside time would be without jurisdiction and therefore a nullity, bereft of any force or effect in law.

7. The jurisdiction of the High Court in public procurement judicial review proceedings is expressly limited in terms of time and is not open to expansion by that court. To step out of time is to step out of jurisdiction and any act or decision outside jurisdiction is, by application of first principles, a nullity.

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

*Note:* The reasons for this decision was delivered on October 8, 2021.

### **3.3 High Court**

3.3.1 Sentence for woman who had suffered years of domestic abuse and gender-based violence and was found guilty of manslaughter after killing her husband in self defense

State v Truphena Ndonga Aswani, Criminal Case No. E011 of 2020 [2021] eKLR

High Court at Siaya, March 9, 2021

#### **Brief facts**

The accused was charged with the murder of her husband which occurred on 14<sup>th</sup> December, 2020 in Ugenya Sub County within Siaya County. On the material day, the deceased returned home late while intoxicated, had dinner then picked a quarrel with the accused over a title deed to land which had been given to the accused person by her father in-law, the deceased's father.

As he demanded for the title deed from the accused, the deceased picked a panga from their bedroom, and as he raised it to assault the accused, the accused held it and used it to inflict several cuts on the deceased. The deceased died from his injuries resulting in the arrest of the accused who confessed to the killing upon interrogation by the police.

On first arraignment, she denied the charge of murder before entering a plea agreement under whose terms the charge was reduced to manslaughter. She then pleaded guilty to manslaughter.

In mitigation, both in person and through her counsel, the accused shared details of many years of domestic violence and abuse at the hands of her deceased husband, a fact which was confirmed in the Probation Report.

#### **Issues**

i. Whether the defence of self defence is absolute and whether it was available to the accused.

- ii. What would be an appropriate sentence to an accused person who having suffered many years of domestic abuse and gender-based violence killed their spouse in self defense.

**Held:**

1. Self defence is an absolute defence where it is proved that the force used to kill the deceased in self defence is not excessive following imminent danger.
2. The facts coupled with the accused's mitigation established killing in self defence. However, the accused used excessive force in defending herself considering the extent of the injuries inflicted and the fact that the deceased was intoxicated.
3. The maximum sentence upon conviction for manslaughter is life imprisonment. However, sentencing is in the discretion of the trial court.
4. A sentence imposed on an accused person must be commensurate to the moral blameworthiness of the offender. The Court should look at the facts and the circumstances of the case in its entirety before settling for any given sentence.
5. The accused did not deserve to be punished harshly as she was a victim of torturous domestic and gender-based violence.
6. Applying sentencing principles and guidelines to the case, the accused deserved a non-custodial sentence to enable her be counselled to recover from the traumatic experience that she underwent prior to, during and after the unfortunate demise of her husband.

Accused convicted for manslaughter on her own plea of guilty, and sentenced to serve a non-custodial sentence of one day imprisonment, to last at the end of the day's Court session.

Court ordered further that the accused person be aided by the Court from the witness expenses vote with travelling expenses to reach a safe place of abode, other than her matrimonial home, assisted by the Probation Officer, who would also organize for counselling sessions to enable the accused person recover from the traumatic experience that she had with her late husband.

3.3.2 Whether murder suspects should be tried in the High Court in the first instance

Charles Henry Nyaoko v The Cabinet Secretary, Ministry of Interior and Co-Ordination of National Government & 4 Others Constitutional, Petition No. 7 of 2018 [2020] eKLR, High Court at Kisumu, November 27, 2020

**Brief facts**

The petitioner who had been charged with other persons with murder in the High Court in Kisumu filed a constitutional petition arguing that the trial of a murder suspect before the High Court as the court of first instance denies the accused person the right to one further step of appeal; is discriminatory and a breach of Article 25 and 27 of the Constitution as well as Article 7 of the Universal Declaration of Human Rights, and Article 3 of the African Charter on Human and Peoples' Rights; it gives preferential treatment to accused persons whose trials commence before the magistrates' court; elevates murder and treason to be more serious offences, yet they attract the same sentence of death as can be imposed by the magistrates' court; and, that it is not supported by any specific legal framework or policy.

The Attorney General opposed the petition, arguing, among others, that this issue had been heard and determined in Peter Kariuki Muibau & 11 others vs The Attorney General & Director of Public Prosecutions [2018] eKLR where the High Court held that the organisation of courts to hear different types of cases is necessary to ensure specialisation of court personnel at each level, and to ensure each Court understands the specific needs of the parties coming before it; that the right to fair trial does not necessarily mean all accused persons must enjoy the right to lodge two appeals; and that law makers had valid reasons for placing murder and treason in a different category from other criminal cases and this must have informed their decision to make provisions that their trials commence before the High Court.

The DPP also opposed the petition on the basis that it amounted to questioning the validity of the Constitution in as far as it gives the High Court unlimited original jurisdiction in both civil and criminal cases, and that the differentiation between murder and treason for purposes of their trial in the High Court as opposed to the lower courts was permissible.

**Issues**

- i. Whether the petition was res judicata.
- ii. Whether the initiation of murder trials at the High Court violates the Constitution or other statutes.
- iii. Whether the petitioner or class of persons convicted of murder have been discriminated or denied their right of protection by or equality before the law.

**Held**

1. The instant petition was not res judicata. The issues that were determined in the Muibau Case, though in rem, were not similar to the issues that were now before the Court. The petitioners in the former case had already been tried by the High Court, convicted and had exhausted their rights of appeal. In the instant petition, the petitioner had raised the question of jurisdiction of the High Court in limine unlike the former suit where the issue of jurisdiction of the High Court was an intellectual exercise.

2. There was nothing special to justify or require a criminal case to be tried before the High Court in only two case types, whilst all other criminal charges were tried before the magistrate's Courts.

3. Other than the statutory requirements under the Criminal Procedure Code (the majority of which had been repealed), it was apparent that the trial of murder charges before the High Court was a historical accident flowing from colonial times when there were segregated criminal and civil justice systems that catered respectively for the Europeans, Indians and Africans.

4. Given the geographical distribution of Magistrates Courts vis-à-vis High Courts and the total number of Magistrates vis-à-vis Judges in Kenya (447:82 at the time of judgment), initiating murder trials at the Magistrates' Courts would significantly lower the costs of the trial, reduce the distance to court and expedite delivery of justice.

5. The mere origination of the murder trial at the High Court was not unlawful because under Article 165, the High Court had original and appellate jurisdiction in both civil and criminal matters. Nevertheless, initiating a murder trial in the High Court compromised an essential element of the right to a fair trial and denied the convict a vital step in the appellate chain.

6. The initiation of murder trials at the High Court was not supported by any specific legal framework or policy or logic. A close reading of sections 3, 4 and 5 of the Criminal Procedure Code and the First Schedule left no doubt that the High Court was to try murder charges by default. The policy that informed the law was no longer sound, and it would be a misnomer to say that there was a specific legal framework or policy in place that deserved to be upheld by the court.

Petition partly allowed. The Honourable Attorney General, the Director of Public Prosecutions and the Kenya Law Reform Commission ordered, jointly and severally, within 18 months of the judgment, to take such steps as were necessary to align sections 3, 4 and 5 of the Criminal Procedure Code, and the subsidiary legislation, regulations and rules thereof to the Constitution, and in particular to Article 27, 48 and 50 thereof.

### 3.3.3 Constitutionality of the Building Bridges Initiative constitutional amendment process and the Constitution of Kenya Amendment Bill, 2020

David Ndi & Others v Attorney General & others, Petition No E282 of 2020 (Consolidated with Petition Nos 397 of 2020, E400 of 2020, E401 of 2020, E402 of 2020, E416 of 2020, E426 of 2020 and 2 of 2021) [2021] eKLR, May 13, 2021

#### Brief facts

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

In November 2019, the Taskforce came up with an interim report and on January 3, 2020, the President appointed the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce Report (the BBI Steering Committee) which comprised 14 members and two joint secretaries.

The Steering Committee was required to engage in consultations with different segments of the public in order to validate the taskforce Report and also to propose administrative, policy, statutory or constitutional changes that could be necessary for the implementation of the recommendations contained in the Taskforce Report, while considering contributions made during the validation exercise.

Published in October 2020, the report of the BBI Steering Committee contained, among other legislative proposals, a Bill to amend the Constitution of Kenya to implement the recommendations of the BBI process (the Constitution of Kenya Amendment Bill, 2020).

Some of the key proposals in the Bill were: establishing 70 new Constituencies thereby increasing the number of elected Members of the National Assembly from 290 to 360; establishing an office of Judiciary Ombudsman, to be appointed by the President and to be a member of the Judicial Service Commission; creating the position of a Prime Minister nominated by the President, with the approval of the National Assembly from among MPs from the majority party; increasing to 30 days the time that the Supreme Court would have to resolve presidential election disputes, up from 14; permitting the appointment of some Cabinet Ministers from among elected Members of the National Assembly; enhancing the qualifications for appointment of Judges of the Supreme Court and the Court of Appeal; and introducing a 10-year term limit for the Deputy Chief Justice.

Having christened the process 'an amendment by popular initiative', the promoters of the Bill collected signatures from registered voters who supported the initiative in accordance with Article 257(1). The signatures were submitted to the Independent Electoral and Boundaries Commission (IEBC) for verification. The Commission declared that the requisite number of voters had supported the initiative and submitted the Bill to County Assemblies. The Commission also confirmed that the Bill had been supported by a majority of County Assemblies as required by Article 257(7) and forwarded it to Parliament for approval.

Eight constitutional petitions were filed in court to challenge the Building Bridges Initiative and the resulting Constitution Amendment Bill and its associated popular initiative. The petitioners attacked the process and the Bill on numerous grounds, key among them being:

- a. That Parliament had no power to amend certain provisions of the Constitution as they formed part of the basic structure;
- b. That the amendment powers reposed in Article 256 and Article 257 of the Constitution of Kenya can only be used to amend the "ordinary provisions" of the Constitution and do not extend to the power to "destroy the Constitution nor does it include the power to establish a new form of government or enact a new Constitutional Order"
- c. The hurried and rushed launch of the signature collection prior to availing the said Bill to the public for them to study, internalize and understand in detail what issues were proposed to be amended was a clear attempt to subvert the people's free will to exercise their sovereign power since there was a likelihood of the public making uninformed choices over such an important exercise
- d. That the process of endorsement of the Amendment Bill and the collection of signatures thereof was being championed, campaigned for and pushed by the National and the County Governments as well as other State and public officers acting in their official capacities using public resources to finance, marshal and mobilize support for the said Amendment Bill
- e. That a popular initiative for the amendment of the Constitution of Kenya cannot be commenced by State actors, in particular, the President of the Republic of Kenya
- f. That a popular initiative in the amendment of the Constitution cannot be commenced and undertaken without a legal framework for the same
- g. That the creation of 70 constituencies by the promoters in the Amendment Bill was unconstitutional since the function of delimitation of the constituencies is vested in the IEBC
- h. That the amendment process which would culminate in a referendum was being undertaken without a nationwide voter registration exercise
- i. That Parliament had no power to act upon the Amendment Bill following the declaration of its unconstitutionality for want of enactment of the two thirds gender laws and the advisory opinion by the Chief Justice to the President for its dissolution
- j. That the IEBC lacked quorum to process the Constitution of Kenya Amendment Bill, and verification of signatures which are policy matters that it discharges under section 8 of the Independent Electoral and Boundaries Commission Act, 2011 (IEBC Act) and the Second Schedule to the Act.

#### Issues

- i. Whether the legal and judicial doctrines of the basic structure of a constitution, the doctrine and theory of unamendability of eternity clauses, the doctrine and theory of constitutional entrenchment clauses and unamendable constitutional provisions in a constitution are applicable in Kenya.
- ii. What provisions formed the basic structure of the Constitution of Kenya.
- iii. What were the implications of the basic structure doctrine in Kenya for the amendment powers provided under articles 255 to 257 of the Constitution?
- iv. Who could initiate constitutional amendments through a popular initiative as provided for under the Constitution?
- v. Whether the BBI Steering Committee's process of initiating amendments to the Constitution conformed with the applicable legal and constitutional requirements.

- vi. Whether the President and public officers who directed or authorized the use of public funds for the BBI constitutional amendment process could be ordered to refund the monies so used.
- vii. Whether there was an adequate legislative framework to guide the process of undertaking constitutional amendments through a popular initiative and whether, if such a framework was inadequate or lacking, it would render any constitutional amendment processes incurably defective.
- viii. Whether County Assemblies could amend a Constitutional Amendment Bill initiated via popular initiative.
- ix. Whether the creation of 70 constituencies by the promoters in the Amendment Bill was unconstitutional since the function of delimitation of the constituencies is vested in the IEBC.
- x. Whether Parliament had power to act upon the Amendment Bill following the declaration of its unconstitutionality for want of enactment of the two thirds gender laws and the advisory opinion by the Chief Justice to the President for its dissolution.
- xi. Whether a referendum to effect proposed amendments to the Constitution could be undertaken without the conduct of a nationwide voter registration process by the Independent Electoral and Boundaries Commission.
- xii. Whether a legal regulatory framework for the verification of signatures by the Independent Electoral and Boundaries Commission and other processes required under article 257(4) and 257(5) of the Constitution was necessary and in existence.
- xiii. Whether the IEBC had quorum to process the Amendment Bill.

#### Held

1. The text, structure, history and context of the Constitution of Kenya, 2010, all read and interpreted using the canon of interpretive principles decreed by the Constitution yielded the conclusion that the basic structure doctrine was applicable in Kenya. The basic structure doctrine protected certain fundamental aspects of the Kenyan Constitution from amendment through the use of either secondary constituent power or constituted power.

2. The essential features of the Constitution that formed the basic structure could only be altered or modified by the people using their primary constituent power. Primary constituent power was only exercisable after four sequential processes had been followed: -

- a) Civic education to equip people with sufficient information to meaningfully participate in the constitution-making or constitution-altering process;
- b) Public participation and collation of views in which the people generated ideas on the type of governance charter they wanted.
- c) Constituent assembly debate, consultations and public discourse to channel and shape the issues through representatives elected specifically for purposes of constitution-making or constitution- alteration; and
- d) Referendum to endorse or ratify the Draft Constitution or changes to the basic structure of the Constitution.

3. There were two ways in which a constitutional amendment could be initiated, either by parliamentary initiative or by popular initiative. Subject to the role of the primary constituent assembly, there was no other constitutionally permissible avenue available to any person to initiate a constitutional amendment except the prescribed ones.

4. The constitutional amendment bill was an initiative of the President. It could not be otherwise since the BBI Taskforce was set up courtesy of his initiative and the subsequent BBI Steering Committee was tasked with implementing the BBI Taskforce Report and the membership of the two entities remained the same.

5. Under the Constitution, the President was not a Member of Parliament and therefore he could not directly, purport to initiate a constitutional amendment pursuant to Article 256 of the Constitution. The President had no power under the Constitution, as President, to initiate changes to the Constitution under Article 256 of the Constitution since Parliament was the only State organ granted authority by or under the Constitution to consider and effect constitutional changes. The President, if he so desired, could however, through the Office of the Attorney General, use the parliamentary initiative to propose amendments to the Constitution.

6. Both a textual analysis of Kenya's Constitution and a historical exegesis of the clause on popular initiative made it clear that the power to amend the Constitution using the popular initiative route was reserved for the private citizen. Neither the President nor any State Organ was permitted under the Constitution to initiate constitutional amendments using the popular initiative option.

7. Allowing the President to initiate constitutional amendments through the popular initiative would have had the effect of granting him both the roles of promoter and referee. That was because Article 257 (5) of the Constitution provided that if a bill to amend the Constitution proposed an amendment of matter specified in Article 255 (1) of the Constitution, before assenting to the bill, the President had to request the IEBC to conduct, within 90 days, a national referendum for approval of the bill.

8. Article 257 (5) of the Constitution, arguably, gave power to the President to determine whether or not a referendum was to be held. In circumstances where the President, whether in his official or personal capacity, was the promoter of the amendment bill, his role in determining whether or not the bill was to be subjected to a referendum could amount to a muddled-up conflict of interest. The President could not be both a player and the umpire in the same match.

9. It could not be argued that the President was acting in his personal capacity and not as the Chief Executive of the Republic of Kenya given that the BBI Steering Committee was established via a Gazette Notice, an official publication of the Government of the Republic of Kenya and its report was addressed to the President in his official capacity.

10. Article 257 of the Constitution was reserved for situations where the promoters of a constitutional amendment bill did not have recourse to the route contemplated under Article 256. If the President intended to initiate a constitutional amendment, he could do so through Parliament.

11. A popular initiative to amend the Constitution, being a process of participatory democracy that empowered the ordinary citizenry to propose constitutional amendments independent of the lawmaking power of the governing body, could not be undertaken by the President or State Organs under any guise.

12. The BBI Taskforce which eventually morphed into the BBI Steering Committee was the President's and not the peoples' initiative. The bill to amend the Constitution was as a result of the proposals of this Committee. To the extent that the BBI Steering Committee was created to perpetuate what was clearly an unconstitutional purpose, it was an unlawful, and at any rate, an unconstitutional outfit.

13. A reading of the Constitution clearly showed that only Parliament could enact legislation. However, that did not mean that only Parliament could draft bills. Therefore, anybody including the BBI Steering Committee, if lawfully established, could draft bills.

14. What the President did through the BBI Steering Committee was a clear attempt to stretch his authority under Article 13 1(2) (c) of the Constitution to include power to initiate constitutional amendments. The President's role in promoting and enhancing national unity did not include initiating constitutional amendments through a popular initiative.

15. In order to carry out the referendum process as contemplated under the Constitution; it was necessary that legislation be enacted. The fact that the Constitution did not provide for the enactment of such legislation did not mean that the legislation was unnecessary. That legislation would deal with the manner in which County Assemblies would process a constitutional amendment bill, including the number of readings for the bill, the manner of conducting public participation, whether they could amend the bill before approving it and whether such a bill would be passed by a simple majority. It would also contain provisions on the correct procedure to be used by Parliament in approving the bill.

16. The absence of legislation to operationalize a constitutional provision would not render the provision inoperative or unenforceable. In the absence of enabling legislation for the conduct of a referendum, a referendum could be undertaken as long as constitutional expectations, values, principles and objects were met.

17. Depending on the proposed constitutional amendments, a multi-option referendum could be necessary. What the Constitution contemplated under Articles 255 to 257, was that each proposed constitutional amendment had to be presented as a separate question and considered on its own merit and not within the rubric of other amendments. Some proposed amendments could be agreeable to voters while the same voters could find that they did not agree with other proposed amendments.

18. The existing regulatory framework was not sufficient for the verification of signatures by the IEBC under Article 257(4) of the Constitution. To fill the gap, the IEBC developed Administrative Procedures approved on April 15, 2019. The Administrative Procedures were within the definition of statutory instruments provided under section 2 of the Statutory Instruments Act but they were not gazetted as required by section 22 of the Statutory Instruments Act. Therefore, the Administrative Procedures were invalid for lack of public participation as well as failure to comply with the provisions of the Statutory Instruments Act.

19. In carrying out the verification process, the IEBC did not comply with the Administrative Procedures. The IEBC published a list of persons who had appended their signature in support of the constitutional amendment bill online and gave the public five days to raise any issues they had with the list. The period allowed for that process would be two weeks if the IEBC had complied with the Administrative Procedures.

20. Holding a referendum without voter registration, updating the voters register, and carrying out voter education, would particularly disenfranchise citizens who had attained voting age but had not been given an opportunity to register as voters, thus violating their constitutional right to vote and make political choices.

Petition partly allowed.

NOTE: An appeal against this judgment was pending at the Court of Appeal at the end of the reporting period.

3.3.4 Female Genital Mutilation cannot be rendered lawful because the person on whom the act was performed consented to it

Tatu Kamau v Attorney General & 2 others; Equality Now & 9 Others (Interested Parties); Katiba Institute & Another (Amici Curiae), Constitutional Petition No. 244 of 2019 [2021] eKLR, High Court at Nairobi, March 17, 2021

#### **Brief facts**

The petitioner challenged the constitutionality of the Prohibition of Female Genital Mutilation Act (FGM Act) and the Anti-Female Genital Mutilation Board (Anti FGM Board) formed thereunder. She pleaded that sections 2, 5, 19, 20 and 21 of the impugned Act contravened Articles 19, 27, 32 and 44 of the Constitution of Kenya by limiting the women's choice and right to uphold and respect their culture, ethnic identity, religion, beliefs, and by discriminating between men and women.

The petitioner contended that section 19 (1) of the FGM Act expressly forbade a qualified medical practitioner from performing female circumcision, thereby denying adult women access to the highest attainable standard of health, including the right to healthcare. The petition sought, among others orders, a declaration that sections 5, 19, 20, 21 and 24 of the impugned Act were unconstitutional and thus invalid.

#### **Issues:**

- i. Whether female genital mutilation performed with the consent of the person on whom the act was done was legal.
- ii. What was the nature of public participation?
- iii. Whether a cultural practice could be deemed to be a national heritage
- iv. Whether the criminalizing of female genital mutilation and allowing male circumcision amounted to unreasonable discrimination
- v. Whether the prohibition of female genital mutilation on consenting adult women violated their right to human dignity

#### **Held:**

1. There were no hard and fast rules for public participation. The petitioner failed to discharge the evidential burden to demonstrate that there was inadequate or no public participation.

2. The petitioner was unable to demonstrate a clear nexus between FGM and her right to manifest her religion or belief. The court was unable to impeach the offences created by sections 19, 20 and 21 of the FGM Act and held that the Anti FGM Board was properly created and that its functions were in conformity with the Act and the Constitution.

3. The exception in section 19(3) of the impugned Act to a surgical operation on another person which was necessary for that other person's mental health had not been substantiated. Indeed, there was no evidence of a co-relation between circumcision of men or women and mental health. However, there was clear expert evidence that male circumcision had some health benefits including reduced rates of infection or reduced transmission of HIV.

4. The phrase 'harmful cultural practice' was not defined by Kenyan statutes. However, Articles 53 and 55 of the Constitution referred to harmful cultural practices in protection of children and the youth. Some harmful cultural practices were valued as traditional cultural heritage in some communities.

5. FGM was harmful to girls and women due to the removal of healthy genital parts. The FGM caused immediate, short term and long term physical and psychological adverse effects. The purposes of FGM were community culture-centered and not individual benefit centered.

6. A reading of section 19(6) of the impugned Act revealed that it was no defence to a charge under the section that the person on whom the act involving FGM was performed consented to that act, or that the person charged believed that the consent had been given. The implication of that was

that FGM could not be rendered lawful because the person on whom the act was performed consented to that act. No person could licence another to perform a crime.

7. Article 44(1) of the Constitution provided that every person had the right to participate in the culture of the person's choice. Freedom was therefore an underlying element of the exercise of one's right under the Bill of Rights, which included the right to participate in one's cultural life. From the evidence of the survivors and those who escaped the cut, they all confirmed the misinformation, deception and societal pressure they were subjected to, to undergo the cut.

8. Whereas the evidence adduced pointed to discrimination, the discrimination was not unreasonable. The evidence of the medical experts confirmed the grim reality of the challenges posed by female circumcision ranging from difficulty in consummating marriages to difficulty in child birth, and in certain instances, death of the victims.

9. The FGM Act did not violate the Constitution or women's right to dignity.

10. While the Constitution had a general underlying value of freedom, that value of freedom was subject to limitation which was reasonable and justifiable. Additionally, it had not inscribed the freedom to inflict harm on one's self in the exercise of those freedoms. That was why the Penal Code prescribed offences such as attempted suicide in section 226 and abortion and allied offences in sections 158 to 160.

Petition dismissed. The Attorney General ordered to forward proposals to the National Assembly to consider amendments to section 19 of the FGM Act with a view to prohibiting all harmful practices of FGM as set out in the judgment. Each party to bear its own costs.

### 3.3.5 Constitutionality of the indefinite closure of schools as part of measures to contain COVID-19

Joseph Enock Aura v Cabinet Secretary, Ministry of Education, Science & Technology & 3 Others; Teachers Service Commission & 6 Others (Interested Parties), Constitutional Petition No. 2189 of 2020 [2020] eKLR, High Court at Nairobi, November 19, 2020

#### Brief facts

The petition was brought in response to the Address to the Nation by the President on March 15, 2020 that directed the indefinite closure of schools among the measures for controlling the spread of COVID-19. The petitioner brought the petition on behalf of his children for compensation for the psychological suffering inflicted on them by the Government of Kenya's closure of in-person learning. The Petitioner argued that the closure of schools was a breach of their freedom from psychological torture and the right to human dignity. The petition was also brought on behalf of millions of such other school going children.

The petitioner also contended that the Executive through the Ministry of Education and the Ministry of Health had failed to provide the basis for the unilateral closure of schools without consultation with National and County Education Boards even after being probed by the petitioner. Those administrative actions were contended to be ultra vires the best interests of the child as constitutionally founded.

Lastly, the petition opposed the community-based learning adopted by the Ministry of Education as a remedial measure for arresting the effects of COVID-19 on education. The petitioners contended that the policy had no underpinning in law.

#### Issues

- i. Whether the closure of schools following a directive issued by the President in a 'State of the Nation Address' as part of the measures put in place to combat COVID-19 was unconstitutional.
- ii. Whether the closure of schools as part of the measures put in place to combat COVID-19 caused psychological harm to school children.
- iii. Whether enactments related to the COVID-19 pandemic met legal and constitutional thresholds with respect to the right to education of school children
- iv. Whether the Cabinet Secretary for Education, Science and Technology discharged its mandate under Article 53 (2) of the Constitution as read together with section 32 (2) of the Children's Act, in the face of the open-ended closure of schools over the COVID-19 pandemic and whether it was in 'the best interest of the child' to re-open schools.
- v. Whether the Attorney General was liable for his failure to advise the Executive to adhere to the relevant statutory requirements when closing schools due to the COVID-19 pandemic?
- vi. Whether the community-based learning program was legal?

#### Held:

1. Pursuant to the authority of the President under Article 131 of the Constitution and in exercise of Executive Authority, the President was entitled to address any issue of national concern as it arose as per Article 10 of the Constitution. The closure of schools following a directive issued by the President in the 'State of the Nation Address' did not violate the Constitution in any way.

2. The Petitioner pleaded, particularized, and proved that the closure of schools had caused psychological harm to school-enrolled children.

3. It was not the role of a Court to make determination of education plans for individual families or children to determine whether the government return to school plan was safe or effective. This was simply because the government had access to public health and educational expertise which was not available to the Court. The Courts were not in a position, without the expert evidence, to second guess the government's decision making.

4. In deciding what educational plan was appropriate for a child, the Court must consider what was in the best interest of a child. The Court in seeking guidance in determining the education plan in the best interest of the child should consider, amongst many others, the following:-

- a. The high risk of exposure to COVID-19 that a child would face if he/she was or was not in school;
- b. Whether the child or a family member was at increased risk from COVID-19 as a result of health conditions or any other risk factors;
- c. The risk the child faced to their mental health, social development, academic development or psychological well-being from learning online;
- d. Any proposed or planned measures to alleviate any of the risks noted above;
- e. The ability of the parent or parents with whom the child would be residing during school days to support online learning, including competing demands of the parent or parents' work, or caregiving responsibilities, or other demands.
- f. The health environment under which the child was exposed when out of the school.

5. The benefit of the petitioner's school going children and other school children attending school in-person out-weighed the risks of COVID-19 provided the respondents ensured that COVID-19 measures and safety protocols were put in place and fully complied with in each and every school by both the learners and the teachers.

6. There was a genuine prospect that the effects of the indefinite closure of schools would permanently alter the lives of children caught in the apex of the COVID-19 pandemic.

7. Children who dropped out of school would not only face a higher risk of child marriage, child labour, and teenage pregnancies, they would also see their lifetime earning potential precipitously fall. Children who experienced family breakdowns during the period of heightened stress risk would lose the sense of support and security on which children's wellbeing depended.

8. The best interest of any child was to be in school in-person as there was more control, guidance and provision of health safe measures in the school than leaving the children roaming in the villages or shanties or towns without observing any COVID-19 Health Protocols.

9. The Executive stepped beyond what the law and the Constitution permitted. They could therefore not seek refuge in illegality and hide under the twin doctrines of parliamentary privilege and separation of powers to escape judicial scrutiny.

10. The respondents did not rebut the petitioner's contention that the community Based Learning program was unilaterally commenced, that there were no consultations with stakeholders and that there were no provisions in the Basic Education Act to support the program. The project was ultra vires the Act and was therefore null and void for all purposes and intentions.

Petition allowed.

### 3.3.6. Whether local tribunals are subordinate courts under the Judiciary

Okiya Omtatah Okoiti v Judicial Service Commission & 2 others; Katiba Institute (Interested Party), Petition No. 197 of 2018 [2021] eKLR, High Court at Nairobi, March 11, 2021

#### Brief facts

The Petitioner lodged a case seeking a declaration that Tribunals established pursuant to Article 169(1) (d) of the Constitution of Kenya, 2010 are not part of the Executive machinery, nor are they independent adjudicatory bodies, but are subordinate courts which are an integral part of the Judiciary, and that the Judicial Service Commission is exclusively responsible for appointing and removing members of the tribunals established pursuant to Article 169(1)(d) of the Constitution of Kenya 2010, for establishing their rules of procedure and for doing anything incidental thereto to ensure their smooth operations as courts of law.

He argued that Tribunals in Kenya suffer lack of unanimity in many aspects and that although Tribunals fall under Article 169(1)(d) of the Constitution, many of them are under the direct control and regulation of the Executive which is an infringement on the principle of separation of powers as, in most cases, the Executive is a party to the disputes before such Tribunals.

The JSC took the position that local tribunals created under Article 169(1)(d) of the Constitution are indeed subordinate courts within the Judiciary by virtue of Articles 1(3)(c), 20(4) & (5) 24(3), 50(1), 159(1) & 2, 164(3)(b), 165, 169(1)(d), 171 and 172 of the Constitution. The Attorney General partly opposed the Petition but agreed with the Petitioner that under Article 169(1) (d) of the Constitution, local tribunals are classified as subordinate Courts. The AG also agreed that the local tribunals need to be transited to the Judiciary from the various Ministries and Government Departments. However, to attain this, the AG contended that an Act of Parliament pursuant to Article 162(2) of the Constitution is to be enacted. Parliament held the position that there is no mandatory requirement for Parliament to enact any specific or general law governing tribunals in Kenya. As such, the Amended Petition did not disclose any violation of the Constitution and ought to be dismissed.

#### Issues

- i. The nature of the local tribunals under Article 169(1)(d) of the Constitution.
- ii. Whether the appointment and removal of members of the local Tribunals under Article 169(1)(d) of the Constitution by the Executive violate the principle of separation of powers and violates the right to fair hearing under Article 50 of the Constitution.
- iii. Whether the local tribunals under Article 169(1)(d) of the Constitution should be transited to the Judiciary.

#### Held

1. The local Tribunals created under Article 169(1)(d) of the Constitution are subordinate Courts in Kenya. These local tribunals possess the following qualities: -

- a. They are Courts of law
- b. They are subordinate to the superior Courts
- c. They are not advisory in nature
- d. They are not administrative Tribunals
- e. They are not presided over by or include a Judge of the Superior Courts in their membership
- f. They are formed under an Act of Parliament.

2. The following tribunals do not qualify as local tribunals that are subordinate courts:

- a. The Tribunals formed under the Constitution
- b. All administrative and advisory tribunals
- c. All tribunals whose membership includes a Judge of the Superior Courts
- d. All other informal tribunals not formed under the Constitution or any Act of Parliament.

3. The appointment and removal of members of the local tribunals created under Article 169(1)(d) of the Constitution by the Executive violates the principle of separation of powers, contravenes the right to fair hearing under Article 50 of the Constitution and infringes on the independence of the Judiciary.

4. The local tribunals under Article 169(1)(d) of the Constitution must be transited to the Judiciary and the appointment and removal of their members be undertaken by the Judicial Service Commission.

5. Forthwith, any new appointment or removal of a member of any of the Tribunals under Article 169(1)(d) of the Constitution must be undertaken by the Judicial Service Commission.

Petition partly allowed. Parliament and the Attorney General directed to take proactive steps within their respective dockets towards propagating the Tribunals Bill with a view of transiting the local tribunals under Article 169(1)(d) of the Constitution to the Judiciary, and to file affidavits within 6 months of the judgment detailing the steps taken.

Note: An appeal against this decision was pending at the time of this report.

#### 3.4 Employment and Labour Relations Court

##### 3.4.1 Whether the salaries and allowances of Commissioners of Independent Commissions can be withheld in situations of illness

Shadrack Mutia Muiu v National Police Service Commission & 2 Others, Petition No. 115 of 2018 [2020] eKLR, Employment and Labour Relations Court at Nairobi, Muiu 2, 2020

#### **Brief facts**

The petitioner was appointed a Commissioner at the National Police Service Commission (NPSC) for a term of six years beginning in October 2012. While on a European benchmarking tour in February 2013, he fell ill and was hospitalized for a number of days. He then flew back to Kenya and was hospitalized for two weeks and put on medication. He did not report back to work until his tenure as a commissioner ended. His salary and allowances were withheld starting from March 2014.

The petitioner claimed that the withholding of his salary and allowances was discriminatory and a violation of his rights to fair labour practices. He sought various reliefs from the court including an order of mandamus to compel the respondents to pay him his unpaid salary which amounted to KSh. 35,145,000.

In opposing the petition, NPSC and the Attorney General admitted that as a result of his long absence and after seeking his doctor's comprehensive report in vain, the Commission resolved that the Petitioner be put on sick leave in accordance with the prevailing Government Rules and staff regulations as follows; from 1.7.2013 to 30.9.2013 the Petitioner be on full salary, from 1.10.2013 to 31.12.2013 on half salary and on 1.1.2014 to 30.6.2014 on nil salary.

An attempt was made to have the petitioner appear before a Medical Board convened by the Director of Medical Services. This attempt, however, failed because he could not be reached. In addition, in September 2015, a Petition was presented to the National Assembly on behalf of Juhudi Community seeking that the Assembly does recommend the Petitioner's removal on grounds of misconduct and incapacity to perform functions of office and it was granted. However, the President never appointed a tribunal in accordance with Article 251 (5) of the Constitution to investigate the matter, until the petitioner's term lapsed.

#### **Issues**

- i. Whether the Code of Regulations for Civil Servants and Section 30 of the Employment Act, which had provisions on how the pay of an employee on sick leave would be handled, were applicable to a member of an independent commission established under the Constitution.
- ii. What was the procedure applicable to the removal of a member of an independent commission from office under the Constitution?
- iii. Whether the Constitution contemplated the withholding of salary and allowances as a mode of dealing with an illness that affected the ability of a member of an independent commission to perform his duties.
- iv. What was the effect of failure to plead alleged violations of fundamental rights and freedoms with a reasonable degree of precision?

#### **Held**

1. The Code of Regulations for Civil Servants was applicable to Civil Servants who were defined as employees of the Public Service Commission of Kenya deployed in Ministries/Departments but not to independent commissions. The application of the code to the petitioner in order to stop the release of his salary and allowances was unlawful as it violated his right to protection from unfair disciplinary action as guaranteed by Article 236(b) of the Constitution.

2. The stoppage of the salary was done while the petitioner was still in office. This was contrary to Article 250(8) of the Constitution which protected his remuneration.

3. The petitioner's employment contract had a constitutional underpinning as the terms of his appointment, remuneration and removal were expressly provided for under Articles 250 and 251 of the Constitution. The Constitution provided for the removal from office of a sick commissioner under Article 251 of the Constitution but it did not contemplate the suspension of the remuneration of a commissioner.

4. The petitioner served his entire 6 years as the appointing authority waived the right to remove him from office on grounds of physical or mental incapacity to perform the functions of his office. Consequently, the stoppage of the petitioner's salary and allowances had no legal basis.

5. Section 30 of the Employment Act could not justify the stoppage of the petitioner's salary and benefits as his contract of service was firmly grounded on express provisions of the Constitution.

Petition allowed. An order of certiorari was issued to quash the 1<sup>st</sup> respondent's decision to withhold and/or stop the petitioner's salary and benefits. An order of mandamus was granted to compel the respondents to pay the petitioner KSh. 35,145,000 being the amount of his salary withheld from March 1, 2014 to October 2, 2018 when his term of office lapsed.

##### 3.4.2 Role of the Chief Justice vis-à-vis the Judicial Service Commission in the disciplinary process for Judicial Officers

Kenya Magistrates and Judges Association v Judicial Service Commission & 2 Others, Petition 150 of 2019 [2020] eKLR, Employment and Labour Relations Court at Nairobi, August 12, 2020

#### **Brief facts**

The petitioner sought a declaration that paragraphs 15, 16 and 17 of the Third Schedule to the Judicial Service Act were unconstitutional for delegating to the Chief Justice powers that were exclusively vested on the Judicial Service Commission in the Constitution. These provisions provided for delegation to the Chief Justice of the JSC's power to interdict, suspend and to issue a reprimand to Judicial Officers and staff. The petitioner also claimed that the provisions failed to set out the limited circumstances under which the Chief Justice could exercise this delegated power and the circumstances under which interdiction or suspension could be exercised and the validity period for interdiction for affected Judicial Officers.

The petitioner further averred that the provisions failed to prescribe the conduct or misbehaviour that qualified for interdiction or suspension of remuneration upon interdiction or suspension. Thus, the petitioner claimed that its members were susceptible to unfair and unjust treatment from the Chief Justice.

The petitioner contended that the impugned provisions of the schedule were inconsistent with the substantive Act and thus urged the court to find that they were void to the extent of their inconsistency.

#### Issues

- i. What was the distinctive role of the Chief Justice vis a vis the Judicial Service Commission regarding the disciplinary process of Judicial Officers?
- ii. Whether interdicting and suspending Judicial Officers was part of the Chief Justice's administrative functions.
- iii. Whether the suspension or interdiction of a judicial officer for an indefinite period on a reduced income amounted to inhuman or degrading treatment or punishment.

#### Held

1. The Chief Justice was the Chief Executive Officer of the Judiciary and therefore supervised the Judges, Judicial Officers and staff. He/She therefore exercised general direction and control over the Judiciary.

2. The Regulations were clear that the role of the Chief Justice was to establish if there was a prima facie case to warrant the reference of a disciplinary case to the JSC. The role of the Chief Justice thereafter was to interdict or suspend an officer and then refer the matter to JSC for hearing.

3. In the sense in which interdictions and suspensions were applied in paragraphs 16 and 17, they were not punishments but administrative functions intended to remove the employee from the workplace while proceedings that could lead to the dismissal of the officer were being taken. Since the assignment of duties was an administrative function of the Chief Justice, the removal of a judicial officer from performing those duties was also a function of the Chief Justice as part of the administrative duties.

4. Under paragraphs 16(1), 17(1) and (2) of the Regulations, the only role that the Chief Justice performed under those paragraphs was to remove the officer from exercising the powers of the office where proceedings had been commenced that could lead to the removal of the officer. There was separation of roles between the Chief Justice and JSC, the former being to remove from performing the functions of the office and the latter being to hear and determine the disciplinary case. There was no disciplinary role in paragraphs 16(1), 17(1) and (2).

5. Since during interdiction and suspension an employee was not remunerated as they were in limbo over whether or not they had a job, it would amount to inhuman treatment to subject them to the situation indefinitely.

6. Where an officer was placed on interdiction or suspension, the officer was prejudiced by reduction of income and removal from performing the functions of the office and in a way constituted punishment. It was therefore necessary to be specific on the duration of the suspension to create certainty so that there was accountability, and that interdiction or suspension were not imposed in a manner that inflicted punishment on the officer.

Petition partly allowed with no order for costs.

#### 3.4.3 Whether a State corporation can alter the statutory minimum requirements for appointment of a CEO as outlined in the Mwongozo Code

Republic v Communications Authority of Kenya Ex parte Information Communication Technology Association of Kenya (ICTAK), Judicial Review Application No. 21 of 2020 [2021] eKLR, Employment and Labour Relations Court at Nairobi, April 9, 2021

#### Brief facts

Following the lapse of the contract for the immediate past Director General of the respondent, the Communications Authority of Kenya Board advertised for the position in the local daily newspapers on May 22, 2020 specifying the qualifications, duties and conditions applicable for the position. The ex-parte applicant was unhappy with the advertisement, claiming that the advert introduced qualifications that were not contained in the law, that is, Mwongozo Code of Governance for State Corporations (Mwongozo), and that the alteration locked out its members and other members of the public who would otherwise be qualified to apply for the position and was, thus, discriminatory.

The ex-parte applicant further complained that the timeframe for closing of the advertisement was less than the 21 days provided by the law. The ex-parte applicant, through its advocates, wrote a letter to the respondent demanding the immediate revocation and/or cancellation and/or withdrawal of the vacancy notice.

In its response, the respondent contended that the Mwongozo only prescribed the minimum requirements for appointment of a Chief Executive Officer (CEO) and that Boards of State corporations had latitude to make additional requirements for the appointment of a CEO.

#### Issues

- I What were the specifications for appointment of Chief Executive Officers of State corporations?
- ii. Whether a State corporation had powers to alter the statutory minimum requirements for appointment of a state officer.
- iii. Whether the Public Service Human Resource and Policies Manual could supersede the provisions of Mwongozo.

#### Held

1. Since the Kenya Information and Communications Act did not set out the qualifications for the Director General of the respondent, the qualifications set out in the Mwongozo applied.

2. The respondent enhanced the requirements for the position of Director General thus locking out persons, including the ex-parte applicant's members who were qualified under the statutory requirements. The respondent had no such powers to alter the minimum requirements for appointment and therefore acted ultra vires.

3. By altering the requirements for the position of the Director General, the respondent also violated the provisions of Article 10(2)(b) of the Constitution which provided for observance of human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised. Persons who were qualified under Mwongozo were discriminated against by the enhancement of the minimum requirements which locked them out.

Notice of Motion allowed with costs.

### 3.5 Environment and Land Court

#### 3.5.1 Whether lands claimed to be ancestral lands dispossessed during colonial era would be returned to original native occupants or their descendants

Henry Wambega & 733 others v Attorney General & 9 Others, Constitutional Petition No. 2 of 2018 [2020] eKLR, Environment and Land Court at Mombasa, October 22, 2020

##### **Brief facts**

The petitioners claimed that they, or their forefathers, were the original inhabitants of various parcels of land measuring over 800 acres (suit lands) owned by the 2<sup>nd</sup> – 7<sup>th</sup> and 9<sup>th</sup> respondents and asserted a right to be settled therein. They claimed that they, or their forefathers, were violently evicted from the suit lands.

They pleaded that about the year 1960 to the year 1962, right through the year 1970, there were forced evictions of the occupants in the properties. It was averred that the evictions were forceful, violent, and with no basic regard to human rights, and that the property and crops of the occupants, including cash crops, mango and coconut trees, and houses, were utterly destroyed, with some community members being imprisoned in Malindi Prison.

They also pleaded that being descendants of the original occupiers of the suit lands, their right to property had crystallised through the doctrine of ancestral domain or alternatively, through an implied inter-generational trust. They stated that their problems stemmed from the issuance of titles to the then registered owners without due regard to their occupation. They thus sought, among others, a declaration that the suit lands were ancestral lands and that they were entitled to have the suit lands declared trust land by virtue of the history of that land.

The respondents opposed the petition with the National Land Commission (NLC) arguing that the issues raised in the petition were of the nature of historical land injustice hence the appropriate avenue for seeking redress was by lodging a claim of historical injustice with the NLC for admission and subsequent investigation.

##### **Issues**

- i. Whether the Environment and Land Court had jurisdiction to hear claims of historical land injustices.
- ii. What was the meaning and basis of the ancestral domain concept and whether it was applicable in Kenya.
- iii. Whether lands claimed to be ancestral lands dispossessed during colonial era would be returned to original native occupants or their descendants.
- iv. What were the solutions to historical land injustices in Kenya?

##### **Held**

1. The Environment and Land Court had jurisdiction to hear claims based on historical land injustices. However, just because a court was vested with jurisdiction did not mean that in all cases, it would proceed to exercise that jurisdiction, especially where there was another body that also had capacity to hear that dispute. Depending on the facts and circumstances surrounding the case, the court could defer jurisdiction to another body, or decline to take up the matter altogether.

2. In accordance with Article 67 (2) (e) of the Constitution and Section 15 of the National Land Commission Act, the NLC had wide jurisdiction on historical land injustices. When it came to the choice of filing a claim before the NLC or before the ELC, one needed to make an assessment of what task was required.

3. There was no evidence that any of the forefathers of the petitioners ever resided on the suit land. One could not tell with precision and finality, which forefather of which petitioner resided in which land, and what sort of occupation such person had. Some of the petitioners appeared to have roots in Kwale and not within the site of the disputed lands. There was a claim of dispossession, but absolutely no evidence of who was dispossessed, by whom, and when exactly that occurred.

4. The petitioners did not give the Court any generational tree to identify their ancestry and demonstrate that it was actually their forefathers who were occupying the suit lands. There was no evidence that any of the claims of torture occurred; neither was there any evidence of imprisonment. It was impossible to hold that any of the events that were claimed by the petitioners actually occurred.

5. The ancestral domain claim would mean that a generation had a historical right to own land that was previously in the hands of their forefathers. It had some support in some jurisdictions, especially those with a minority population that was marginalized owing to colonialism or occupation by foreigners. Australia for instance enacted the Native Title Act, 1993, so as to inter alia appreciate that Australia was not terra nullius at the advent of European occupation and to make amends to the native population that was dispossessed of land.

6. Land issues were complex and were unique to each country. It followed that each country enacted laws that suited its circumstances. We could not impose what had been held in one jurisdiction into the country for Kenya's circumstances could be different. Australia had a large population of European origin with the native Aboriginals and Torres Strait Islander people representing only 3.3% of the population. The situation in Kenya was radically different, with the native inhabitants being the overwhelming majority.

7. There was no backing in the Constitution or in any law that would entitle the petitioners to the lands that were privately held by the 2<sup>nd</sup> - 7<sup>th</sup> and 9<sup>th</sup> respondents, even assuming that the lands were originally settled by the forefathers of the petitioners. There was no law that said that a person had to be settled in land that was previously owned by his/her forefather, irrespective of whether that land was privately owned. There was power to recommend restitution or compensation, if deemed appropriate, when dealing with historical injustices, but that was not to be construed to mean that a person had a right to be settled in land that belonged to his/her forefather who was dispossessed from it.

8. There had not been a violation of the petitioners' constitutional rights or any violation of the international instruments that the petitioners had mentioned.

Petition dismissed with costs payable jointly and/or severally by the petitioners.

#### 3.5.2 Rules and guidelines governing sustainable harvesting of sand

John Muthui & 19 others v County Government of Kitui & 7 Others, ELC Petition No. E06 of 2020 [2020] eKLR, Environment and Land Court at Machakos, November 27, 2020

**Brief facts**

The petitioners filed an application seeking conservatory orders to restrain the respondents from licensing or allowing exploitation of resources, more particularly sand harvesting from a river known as Tiva River (the river) until hearing and determination of the petition. They brought the suit on their own behalf and on behalf of the residents of Kitui County and beyond, who in one way or the other depended on, used and derived benefits from the river. They argued that the 1<sup>st</sup> to 6<sup>th</sup> respondents had permitted, allowed, licensed and let the 7<sup>th</sup> and 8<sup>th</sup> respondents and other persons under the umbrella of the 8<sup>th</sup> respondent to harvest sand from the river without following the regulations laid down by the 4<sup>th</sup> respondent for such activities and that as a result, the environment in and around the river had been degraded causing the river to dry up and as a consequence, put the lives of the petitioners and those of their future generations into uncertainty.

In opposing, the 1<sup>st</sup> and 2<sup>nd</sup> respondents' averred, among others, that the petition and the application were brought prematurely before the Court; that the petition ought to have been filed in the National Environment Tribunal (NET); that the petitioners had no capacity to institute the suit; that the harvesting and excavation of sand from the river was controlled; that there were in place strict laws governing and regulating sustainable use of the said resource; and that the harvesting of sand by the 7<sup>th</sup> and 8<sup>th</sup> respondents was limited to internal use within the County Government of Kitui and local consumption only and that the Constitution allowed for sustainable exploitation of natural resource.

**Issues**

- i. Whether ELC had unlimited jurisdiction to resolve disputes relating to land and the environment.
- ii. Whether ELC had jurisdiction to resolve a dispute alleging infringement of the constitutional right to a clean and healthy environment.
- iii. What principles guided courts when resolving environmental disputes?
- iv. Which rules and guidelines governed sustainable sand harvesting?
- v. Whether failure to comply with the National Sand Harvesting Guidelines implied that sand harvesting was not being carried out in a sustainable manner.

**Held**

1. The petitioners were not appealing against the decision of the National Environment Management Authority (4<sup>th</sup> respondent) either in issuing a licence or otherwise in respect of the harvesting of sand from the river by the respondents. Also, in view of the prayers sought in the petition, which were confined to the alleged infringement of the petitioners' rights, NET did not have the requisite jurisdiction to deal with the petition. ELC had the jurisdiction to deal with the issues raised in the petition and the application.

2. In the absence of a Technical Sand Harvesting Committee (TSHC) as required under the Guidelines, and in the absence of any evidence to show compliance with all the Guidelines, or a law passed by the 3<sup>rd</sup> respondent to regulate sand harvesting, the court found that the harvesting of sand in the river was not, prima facie, being exploited and utilized in a sustainable manner, contrary to the provision of Article 69 (1) (a) of the Constitution. Although the respondents argued that the harvesting of the sand from the river was for the development of the county, and that the local community had immensely benefited from the said harvest, they ought to be aware that environmental considerations had to be at the center stage of all developments.

3. Although the respondents argued that they had been relying on an environmental impact assessment report (report) that was prepared by the 7<sup>th</sup> and 8<sup>th</sup> respondents, the report was never submitted to the 4<sup>th</sup> respondent for approval pursuant to the provisions of sections 58 of Environmental Management and Co-ordination Act (EMCA). According to the second schedule of EMCA, the report was supposed to be submitted to the 4<sup>th</sup> respondent for all activities involving sand harvesting, where after, a license was to be issued. The respondents had not complied with the law. Where the procedures for the protection of the environment were not followed, then an assumption would be drawn that the right to a clean and healthy environment was under threat.

4. The respondents had the responsibility of abiding by the Guidelines and EMCA, and enacting a law or regulations to ensure that there was sustainable exploitation of sand from the river.

5. The respondents had failed, prima facie, to comply with the laws and guidelines pertaining to harvesting of sand from the river. The 3<sup>rd</sup> respondent had also failed to pass laws and regulations which would criminalize the exploitation of sand from the river in an unsustainable manner. That being so, the petitioners had established a prima facie case with chances of success.

Application allowed.

3.5.3 Constitutionality of Section 9(2)(a) of the Land Control Board Act which had not been gazetted as repealed by the Attorney General

*African Cotton Industries Limited v Rural Development Services Limited*, ELC No. 25 of 2017 [2021] eKLR, Environment and Land Court at Muranga, February 10, 2021

**Brief facts**

The matter concerned a parcel of land (suit land) belonging to the defendant. The plaintiff claimed that it entered into an agreement of sale of the suit land with the defendant and paid 10 per cent of the purchase as deposit. Thereafter the defendant refused, neglected and/or failed to complete the sale of the suit land. Pleading, inter alia, constructive trust and breach of the right to property and agreement of sale, the plaintiff sought the Court to issue an order of specific performance, among other reliefs. On its part, the defendant denied the claim in its entirety and maintained that its director lacked the requisite mental capacity to bind the defendant to the agreement. It also invoked duress and absence of Land Control Board Consent as factors vitiating the agreement. The plaintiff sought a declaration that the Land Control Board Act had been repealed and therefore did not apply to the transaction. At the repeal of the land laws, the Land Control Board Act was not included in the gazette repealed Acts. The Court of Appeal in *Willy Kimutai Kitilit v Michael Kibet* (2018) eKLR had appreciated that the Act was still in existence. In *Basil Criticos v Attorney General and 8 others* (2013) eKLR the Court had directed the Attorney General to gazette the repeal of the Act. There was no evidence that that had been done. Therefore, to the extent that the Land Control Board Act had not been repealed, it meant that the Statute was still part of the laws of Kenya. The Court of Appeal had pronounced that some provisions of the Statute had been rendered irrelevant and opined that the Act ought to be read in conformity with the Constitution of Kenya.

**Issue**

- i. Whether section 9(2)(a) of the Land Control Board Act was unconstitutional.

**Held**

1. No evidence had been led to prove otherwise than that the Land Control Board Act was still in force. As such, section 9(2)(a) of the Land Control Board Act could not be declared unconstitutional.

Suit partly allowed; costs were payable by the defendant to the plaintiff on a higher scale for one counsel.

Notable Decisions from the Subordinate Courts

### 3.6 Magistrates Courts

#### 3.6.1 Rights of parties to remarry after the dissolution of their marriage under Islamic law.

In the matter of the Advisory Opinion of JIA, KMC 14 of 2020, Kadhis Court at Kisumu, September 8, 2020

#### **Brief facts**

The marriage of the applicant herein to his wife, DAE was dissolved by consent between the parties on 18<sup>th</sup> April 2019 before the Deputy Chief Kadhi Hon. Sukyan Hassan Omar of Kadhis Court at Upper Hill, Nairobi in Divorce Case No. 268 B of 2018. There were also other orders pertaining to the maintenance of the two issues of the marriage. The Deputy Chief Kadhi had ordered that the marriage be dissolved and the same be registered. The Applicant thereafter got in talking terms with his former wife, and agreed to come back together as husband and wife. The problem however was that the wife's walii (guardian) was adamant that the two could not remarry since, according to him, the court's order on the dissolution of marriage was absolute-what was known in fiqh parlance as baynunah kubra. The applicant then filed this application seeking the court's interpretation of the orders dissolving his marriage, and declaratory orders as to whether the law allowed them to remarry.

#### **Issues**

- i. Whether the parties' mutual consent to divorce was enough to end the marriage and the courts work was only to approve of their consent or whether their consent notwithstanding, the court was still going to dissolve the marriage based on its discretionary powers.
- ii. When judicial dissolution of marriage occurred, was it considered like revocable talaq or irrevocable talaq and if it was considered as irrevocable, was it a minor or a major irrevocability?
- ii. How did the dissolution affect re-marriage between the parties?

#### **Held**

1. There was a difference between Talaq (divorce) and Faskh (dissolution of marriage). Talaq pronouncement originated from the husband, and could be counted as one, or two and three. Faskh was from the Hakamain (Arbitrators) or the Kadhi (Judge) and could be numbered. When the Qur'an talked about major irrevocability, it said so with reference to the three Talaqs and not with reference to Khul' or Faskh.
2. Raj'ah (return to the marital fold) was in two ways: that which followed talaq and that which followed faskh. Raj'ah in the first and second talaq should be within the stipulated eddah period, or else the divorce became that of minor irrevocability. Raj'ah in Khul' or faskh did not happen until a new marriage contract, with a new mahr was entered into.
3. Whilst quoting Ibn Qayyim al Jawziyya, the court noted that: spouses had no right to drop the legal requirement for raj'ah; that the husband had no right to pronounce an irrevocable divorce; and in the same way, the spouses had no right to dissolve their marriage by mutual consent without payment of consideration. The court held that for this particular case, there was no dissolution of marriage by mutual consent since no consideration was paid.
4. It was the court which dissolved the marriage herein owing to the facts presented by the parties before it, the Kadhi exercised his discretion judiciously, and mutual consent to divorce was not the primary fact considered in dissolving the marriage.
5. The court quoted the Kuwaiti Fiqh Encyclopedia and Fatawa of ibn Bāz where it was stated thus: dissolution of marriage for reasons of constant disputing between spouses is regarded as equivalent to irrevocable talaq according to majority of jurists; and that if a judge dissolves the contract of marriage for reasons such as lack of maintenance or for other reasons calling for dissolution, then the dissolution would be regarded as a minor irrevocable dissolution (baynunah sughraa), and the wife could return to the husband and the husband could return to the wife through a new marriage contract and a new mahr even if it is within her eddah period.
6. The Qur'an, in the ordinary revocable divorces prioritized the return of husbands as against a new marriage by other men to their divorced wives during the eddah period.
7. The dissolution of the marriage herein was a judicial dissolution and valid as a minor irrevocable dissolution (baynunah sughraa). This meant that the two were free to enter into a new marriage contract with a new mahr agreement between them.

### 3.7 Tribunals

#### 3.7.1 Consent in HIV testing and damages for conducting HIV test and disclosing results to 3<sup>rd</sup> parties without informed consent

R.A.O Vs Mediheal Group of Hospitals & 2 Others, HAT Nbi Cause No. 030 of 2019, HIV & AIDS Tribunal at Nairobi, November 27, 2020

#### **Brief facts**

The Claimant was employed by the Mediheal Group of Hospitals (the 1<sup>st</sup> Respondent) to work in the restaurant at the Mediheal Hospital Eastleigh (2<sup>nd</sup> Respondent). She fell ill and was admitted at the 2<sup>nd</sup> Respondent's facility on or about 25<sup>th</sup> May 2019. Upon admission to the hospital, a blood sample was drawn from her for tests, but she was not informed what tests were to be conducted. She was merely informed that further investigations would be required, and she presumed that she had malaria. The 3<sup>rd</sup> Respondent, a doctor at the hospital, conducted a series of tests on the sample.

The Claimant alleged that the hospital conducted a HIV test without her consent, and that no pre-test nor post-test counselling was done. She claimed further that the 3<sup>rd</sup> Respondent disclosed the results of the tests to her in the presence of other patients who were with her in the ward. She testified that the 3<sup>rd</sup> Respondent came into the ward with a nurse aid following closely behind, walked over to the window and loudly declared that the claimant ought to be on antiretroviral treatment. There were other patients in the ward who overheard the comment.

The Claimant also testified that the 3<sup>rd</sup> respondent went on to inform other parties of the claimant's status, including her supervisor, which resulted in the claimant being reassigned to laundry duty. Further, word got round about the claimant's status and her colleagues found out soon thereafter.

Further evidence showed that following her test results, the management directed that other staff be tested for HIV, allegedly for purposes of confirming whether the Claimant had a fake Food Handling Certificate or whether hers was an isolated incident. As a result of the actions by the respondents, the Claimant suffered physically, emotionally and psychologically.

The respondents denied that the 3<sup>rd</sup> Respondent conducted tests on the Claimant including the HIV test without her knowledge or consent. They argued that the Claimant had consented by appending her signature on the admission/consent form. However, the Consent Form produced in evidence did not specifically indicate consent to HIV testing. They further stated that the Claimant's damages, if any, were caused or contributed to

by her negligence or by others that the respondents had no control over. They denied any liability for breach of the provisions of the HIV and AIDS Prevention and Control Act (HAPCA).

The Respondents also filed a counterclaim for KSh33,067 in hospital bills which reportedly remained unpaid as at the time of the suit as well as damages for bad publicity.

#### Issues

- i. Whether the 3<sup>rd</sup> Respondent obtained the prior informed consent of the Claimant before testing her for HIV
- ii. Whether the Respondents conducted the mandatory pre and post HIV test counselling therapy
- iii. Whether the Respondents disclosed the Claimant's HIV results to a third party
- iv. What remedies the Claimant was entitled to
- v. What remedies the Respondents were entitled to in their counterclaim.

#### Held

1. Following the decision in CNM –vs- Karen Hospital Ltd, HAT No. 008 of 2015 where informed consent was defined as “consent given with the full knowledge of the risks involved, probable consequences and the range of alternatives available,” the Tribunal noted that there was a big difference between consent and informed consent, and that a person who had given consent to HIV testing would nevertheless sue on the ground that he did not give informed consent.

2. The Respondents did not obtain informed consent from the Claimant prior to conducting an HIV test on her.

3. Section 17 (1) of HAPCA which provided that every testing centre should provide pre-test and post-test counselling to a person undergoing an HIV test and any other person likely to be affected by the results of such test was couched in mandatory terms.

4. There was no proof that pre-test and post-test counselling was done on the claimant.

5. There was wrongful and unlawful disclosure of the claimant's status without her consent, contrary to the provisions of the Act.

6. The jurisdiction of the Tribunal under Section 26 of HAPCA was, primarily, to hear and determine complaints arising out of the breach of the provisions of the Act. The Tribunal had no jurisdiction to entertain the counterclaim and could only advise the respondents to seek redress in a court of competent jurisdiction.

Judgement entered in favor of the claimant against the Respondents jointly and severally in the sum of KSh900,000 broken down as follows:

- a. Conducting an HIV test on the Claimant without her informed consent – KSh250,000
- b. Failure to conduct the mandatory pre-test and post-test counselling therapy on the Claimant - KSh250,000
- c. Disclosure of the Claimant's HIV status to 3rd parties without her consent – KSh250,000
- d. The emotional and psychological distress as a result of the stigma – KSh150,000
- e. The respondents' counterclaim was dismissed.

NB. The Claimant lodged an appeal at the High Court challenging the quantum of damages. In a decision delivered on 24<sup>th</sup> June 2021, the High Court (Civil Appeal No. E377 of 2020) increased the damages to KSh. 2 million broken down as follows:

- a. Conducting an HIV test on the Claimant without her informed consent – KSh400,000
- b. Failure to conduct the mandatory pre-test and post-test counselling therapy on the Claimant - KSh250,000
- c. Disclosure of the Claimant's HIV status to 3rd parties without her consent – KSh500,000
- d. The emotional and psychological distress as a result of the stigma brought about by a, b and c – KSh850,000

3.7.2 Jurisdiction of the Legal Education Appeals Tribunal to grant a stay of proceedings awaiting the outcome of an intended appeal on a decision that did not arise from the tribunal

John Kibegwa & 6 Others v. KSL & CLE, LEAT Consolidated Appeals 8, 9, 10, 11, 12, 13, 14 And 15 All of 2021, Legal Education Appeals Tribunal at Nairobi, June 16, 2021

#### Brief facts

John Kibegwa and others (the Appellants) had approached the Legal Education Appeals Tribunal with different appeals against decisions of the Kenya School of Law and the Council of Legal Education regarding their admission to KSL. While their appeals were pending, KSL (the Applicant) lodged before the Tribunal an Application under Certificate of Urgency praying for a stay of the Tribunal's proceedings pending the hearing and determination of an appeal that KSL intended to lodge before the Court of Appeal to challenge the decision of the High Court in Consolidated Petitions No's 7, 8, 13, 20 and 21 of 2020. KSL had already filed Civil Applications No's E417 of 2020 and E002 of 2021 where the Court of Appeal had issued a stay against the High Court decision pending the determination of the intended appeal. The issues to be determined by the Court of Appeal in the intended Appeal were similar in nature to the appeals presented before the Tribunal.

KSL argued that if the proceedings had not been stayed and the appeals before the Tribunal succeeded, the School would be obliged to admit students in a similar category as those affected by the stay granted by the Court of Appeal, which would occasion an injustice and unfair treatment. The School also argued that there would be a peril of embarrassment of contradicting determinations between the Tribunal and the Court of Appeal.

#### Issues for Determination

- i. Whether the Tribunal had jurisdiction to grant the stay.

#### Held

1. Based on its establishing juridical regime, the Tribunal lacked jurisdiction to grant stay of proceedings awaiting a determination of an intended appeal which did not arise from its order or decree.

2. The Tribunal's jurisdiction on matters of stay was only anticipated in instances when an appeal had been lodged against its decision to the High Court under section 38 (2) of the Legal Education Act, no. 27 of 2012.

3. The appellants were not parties to the appeal in the Court of Appeal and it would be a clear breach of their right to be heard which was well postulated in Article 50 of the Constitution of Kenya to have them be bound by an order of the Court of Appeal of which they were not parties to and had no control over the proceedings thereto.

Application dismissed. Appeal to proceed before the Tribunal.

### 3.7.3 Procedure for lodging appeals against decisions of the Managing Director of KIPI, and whether business methods are patentable

John Kamonjo Mwaura v. Kenya Industrial Property Institute & Another, IPT Appeal No. 21 Of 2018, In The Industrial Property Tribunal at Nairobi, July 1, 2020

#### Brief facts

The appellant challenged the final decision of the examiner at KIPI, the 1<sup>st</sup> Respondent, who rejected his application for grant of a patent in respect of an invention titled "A system and a computer-implemented method for short-term advanced – credit - finance assurance: for providing short – term advance credit financing; and for managing and controlling: lending, accounts and transactions spending thereupon."

The system would enable mobile operators to automatically lend or advance to a subscriber some credit to enable him or her to continue talking on phone upon the latter's exhaustion of his or her prepaid credit.

Following the initial rejection of the patent application as disclosing non-patentable subject matter, the examiner then invited the appellant to submit observations and where applicable to amend the application within 60 days of the invitation.

Consequently, the appellant made adjustments and made responses to the initial report then forwarded the same to the 2<sup>nd</sup> respondent. This amended report contained arguments and counter arguments to the reasons given by the examiner for the initial rejection of his patent application. The applicant maintained that the application for grant of patent was merited and he requested for setting aside of the initial rejection and that his application be reconsidered based on the amended claims.

The examiner was not persuaded by the appellant's contentions and after conducting a substantive examination based on the amended claims and the appellant's comments and submissions issued a final substantive report rejecting the patent application principally on the ground of non-patentability of subject matter and additionally for lack of inventive step and ambiguity of the amended patent claims.

The appellant was dissatisfied with the final rejection of his patent application and upon notification instituted an appeal against the whole decision.

When the matter came up before the Tribunal for hearing of the applications for joinder by the two interested parties, the appellant was advised that the appeal that he had filed before the Tribunal did not accord with the provisions of the Industrial Property Act and the Industrial Property Tribunal Rules 2002 relating to institution of appeals from a decision of the Managing Director rejecting an application for grant of a patent, in particular Section 47 and Rule 5(3) (e).

The Appellant filed it as a petition describing himself as a petitioner and lodged a notice of appeal in form IPT 2 under section 71 IPA, Rules 5 (3) (b) Industrial Property Tribunal Rules 2002. He also filed a plaint simultaneously with the notice of appeal and declined to amend his documents as directed contending that he had brought the appeal in the right frame provided in the Civil Procedure Act and Rules.

#### Issues

- i. Whether the appellant followed the right procedure in instituting the appeal before the Tribunal.
- ii. Whether the Appellant's application for grant of patent disclosed a business method which was not a proper subject of protection as an invention under Section (21) (3) (b) and whether the examiner was right to reject the appellant's patent application on that basis.
- iii. Whether the Appellant's amendments were ambiguous and went beyond proper material for inclusion in amendments of claims in accordance with the law.

#### Held

1. Procedures were very critical as they ensured the orderly conduct of legal proceedings and were therefore an indispensable component in ensuring that the wheels of justice ran smoothly. Therefore, they were not to be disregarded or ignored and any party who deliberately failed to play by the established rules of procedure did a disservice to the efficient administration of justice.

2. The procedure adopted by the appellant in instituting the appeal was improper. The appeal herein was against the decision of the Managing Director under Section 47 of the Act. As such, it was improper for the Appellant to institute it by way of a Petition and Notice of Appeal in Form IPT 2 which was only to be used to institute an appeal under Section 71 of the Act in terms of Rule 5 (3) (b) of the Rules.

3. The Industrial Property Tribunal was a creation of the Industrial Property Act and thus its proceedings were governed by provisions in the IP Act and the IPT Rules 2002. Since there was no incorporation of the Civil Procedure Act or Rules by reference in either the IP Act or the IPT Rules, it was improper and inappropriate to invoke the Civil Procedure Act or Rules in appeal proceedings before the Tribunal.

4. Section 21(3)(b) expressly excluded schemes, rules or methods for doing business from patenting. The Appellant's application for grant of patent disclosed a business method which was not a proper subject of protection as an invention under Section (21) (3) (b).

5. There was no technical feature in working the system that was attributable to the appellant since the telecommunication platform to be used to operate the appellant's method was that of the mobile operator.

6. Even where an international patent application was made under the Patent Cooperation Treaty, the national office of any designated country had the final say on whether to refuse or grant registration on the basis of that country's national patent laws, the only rider being the observance of the principle of national treatment.

7. The appellant's patent application consisted of non-patentable subject matter. Upon its own independent examination of both the claims and the amended patent claims, the Tribunal was satisfied that they did not disclose any inventive step as contemplated by section 24 of the Act as they were anticipated by prior art in both Kenya and abroad.

8. Both the initial claims and the amended claims could have benefited from a professional touch, for drafting of patent claims certainly required technical expertise. The ambiguity was not only in the explanations to the amendments as contended by the appellants but also in the claims amendments replacement sheets.

9. The need for conciseness and clarity of patent claims could not be over emphasized as such demarcated the monopoly to be protected by patent and warns 3<sup>rd</sup> parties of the area beyond which they could not venture. The appeal would be dismissed for those additional reasons as well.

Appeal dismissed.

### 3.8 Sections of the Law Declared Unconstitutional during the FY 2020/2021

The Courts' through their judicial pronouncements evaluate the constitutionality, propriety, effectiveness and utility of statutory legislation as well as government administrative actions. The table below enumerates the sections of the law that were found to be unconstitutional during the FY 2020/21.

S/NO.	Case Citation	Section of the Law declared Unconstitutional	Article of the Constitution contravened	Reason for Declaration	Date of decision
1	Senate of the Republic of Kenya & 4 others v. The Speaker of the National Assembly & Another, The Attorney General & 7 others (Interested Parties), Petition No. 284 and 353 of 2019 (consolidate) (2020) eKLR	Kenya Medical Supplies Authority Act- Amendments to Section 4 by the Health Laws (Amendment) Act, No. of 5 of 2019	Article 110(3)	The impugned amendments to the Act were carried out by the National Assembly without reference to the Senate as was required under Article 10(3) of the Constitution	October 29, 2020
2	Cyprian Andama v Director of Public Prosecutions & 2 others; Article 19 East Africa (Interested Party) Petition No. 3 of 2019 [2021] eKLR	Penal Code-Section 66	Articles 33, 35 and 50(2)(a)	The Section unjustifiably suppressed freedom of expression, denied citizens the right to receive and impart information, and it denied the accused person the right to a fair trial.	May 13, 2021
3	Steve Isaac Kawai & 2 others v Council of Legal Education & 2 others Petition 393 of 2018 [2021] eKLR	Advocates Act- Section 12(a)	Article 127	The Section was discriminatory in as much as it failed to include citizens of South Sudan as persons who could qualify for admission to the Roll of Advocates	May 20, 2021

## CHAPTER 4—ACCOUNTABILITY IN THE JUDICIARY

### 4.0 Introduction

The Judiciary is not only accountable to the public for its activities and outputs but has also put in place internal accountability mechanisms that provide clear parameters for service delivery for all employees. There are laid down sanctions for those who fail to adhere to set expectations as well as rewards for those who excel. These accountability mechanisms are done through various platforms including the following:

**Ombudsman Office "Sikio la mahakama (the listening ear of the Judiciary)":** The office, headed by the Deputy Chief Justice as the Ombudsman and is an accelerated grievance handling office that receives and resolves complaints from the public

**Audit and Risk Management Directorate :** It carries out internal auditing services to provide objective assurance on management of risks in Judiciary's operations. The Directorate was established in the Judiciary in 2013 and its capacity continues to be enhanced.

**Performance Management and Measurement System:** This system primarily focuses on performance of courts and administrative units through a process that entails target setting, performance monitoring, performance evaluation, performance reporting and administration of rewards. The key tool used is Performance Management and Measurement understandings (PMMU).

**State of the Judiciary and Administration of Justice Report (SOJAR):** This is a statutory report provided for under section 5(2) (b) of the Judicial Service Act.

**Financial Reporting and Compliance;** the PFM Act Section 68 (2) (k) requires that the accounting officer prepares annual financial statements within three months after the end of the financial year and submit them to the Controller of Budget and the Auditor-General for audit.

**Public Hearings in Budget Preparation process:** Judiciary offers members of the public and actors in the justice chain an opportunity to contribute to the budget making process. The inputs consequently enrich the Judiciary's budget proposal in line with its service delivery plans.

#### 4.1 Office of the Judiciary Ombudsman

As the unit in the Chief Justice's office tasked with ensuring that administrative justice is enforced in the institution, the office put in place structures and mechanisms during the COVID-19 pandemic period to facilitate effective complaint handling mechanisms and other services.

The Judiciary Ombudsman receives and processes complaints and compliments from members of the public on the institution and its employees. For all complaints against judges and personnel from the public, an in-depth investigation is conducted. If culpable, the employee is subsequently subjected to disciplinary action in accordance with established processes.

Despite the operating challenges that were brought about by the restrictions due to the COVID-19 pandemic, the office recorded an increase in the total number of complaints lodged. While court operations were frequently scaled down, and remote working encouraged to curb further spread, the office put in place mechanisms to ensure the services it provided to members of the public continued, while observing the Ministry of Health guidelines. During the period, strategic mechanisms such as drop-off boxes and online complaint forms were put in place to encourage members of the public to continue filing any grievances.

Virtual platforms were used to hold and maintain stakeholder engagements and excerpts were also published in the local newspapers and in the institutions media pages thus ensuring that the office continued to play its part in the fight against corruption.

Complaints were promptly addressed and members of the public encouraged to contact the office via the various additional contact platforms that had been introduced.

## 4.1.1 Public Complaints Resolution and Referral Mechanism

In the period FY 2020/21 a total of 1,829 complaints were received. By the end of the reporting period, 1,596 complaints, or 87 per cent of those received, had been processed and were in various stages within the complaints resolution process. Out of these, 201 were marked as "qualified closures" with the possibility of the complaint being raised again as it had not been fully resolved and was subject to an ongoing judicial process; 208 complaints were lodged multiple times and were hence merged. As at the close of the reporting period, 13 per cent of the total complaints were new and pending.

The total number of complaints received by the office increased by 17 per cent as compared to the previous year. This is shown in table 4.1 below.

Table 4.1: OJO Data on Complaint Processing

STATE	FY 2019/2020	FY 2020/2021
Closed Successfully	914	947
Closed Unsuccessfully	2	2
Qualified Closures	131	201
Merged	68	208
New	171	233
Open	281	238
<b>Total</b>	<b>1,567</b>	<b>1,829</b>

Table 4.2: Comparative Chart of Prevalent Complaints

SERVICES	FY 2019/2020	FY 2020/2021	Change	% Change
Slow Service	335	520	185	55%
Missing File	230	203	-27	-12%
Cash Bail Refunds	45	32	-13	-29%
Poor Service	515	638	123	24%
Referral cases to Stakeholders	109	104	-5	-5%
Employee Integrity	104	161	57	55%
Delayed Rulings/Judgements	56	31	-25	-45%
Date allocation	57	43	-14	-25%
Delayed Orders	108	88	-20	-19%
Cannibalised files	8	7	-1	-13%
Loss of Exhibits	0	2	2	100%

Table 4.2. is comparative data of the prevalent complaints handled in the last two financial years.

## Poor Service

Complaints lodged and recorded under this category related to the quality of service received. There has been a continuous increase in this category over the past financial years with the reporting period recording a further increase by 185 complaints. While this increase is attributed to the office continuously sensitizing members of the public on the avenues available to them to register their dissatisfaction while being attended to in various courts, it is also an indication that members of public were not pleased with the quality of services they received from the courts. As a result, the office will make every effort to use strategic and timely methods to assess the areas of concern and make the necessary recommendations to improve its services.

## Slow Service

The number of complaints received in this category increased by 55 per cent. This is due to the low adoption of IT systems implemented during the reporting period. Continuous training and sensitization for members of the public on how to use the new technology will be maintained to help avoid unnecessary delays.

## Cash Bail Refunds

This category of complaints decreased from 45 per cent to 32 per cent in the previous reporting period. This reduction is attributed to the automation of the process as well as sensitization of the employees involved in the process.

## Missing Files

From the previous reporting period, this category saw a decrease of 27 (12%) complaints. To further reduce this category to its bare minimum, stricter and more stringent measures will be implemented.

## Employee Integrity

In the FY 2019/20, the office received 165 employee integrity-related complaints, while 145 cases were received in the FY 2020/21. The complaints handling manual is nearing completion, and the office will continue to take prompt and decisive action to address any unethical and/or corrupt behavior among its employees in accordance with the existing guidelines.

The prevailing complaints processed during the reporting period are graphically represented in figure 4.1

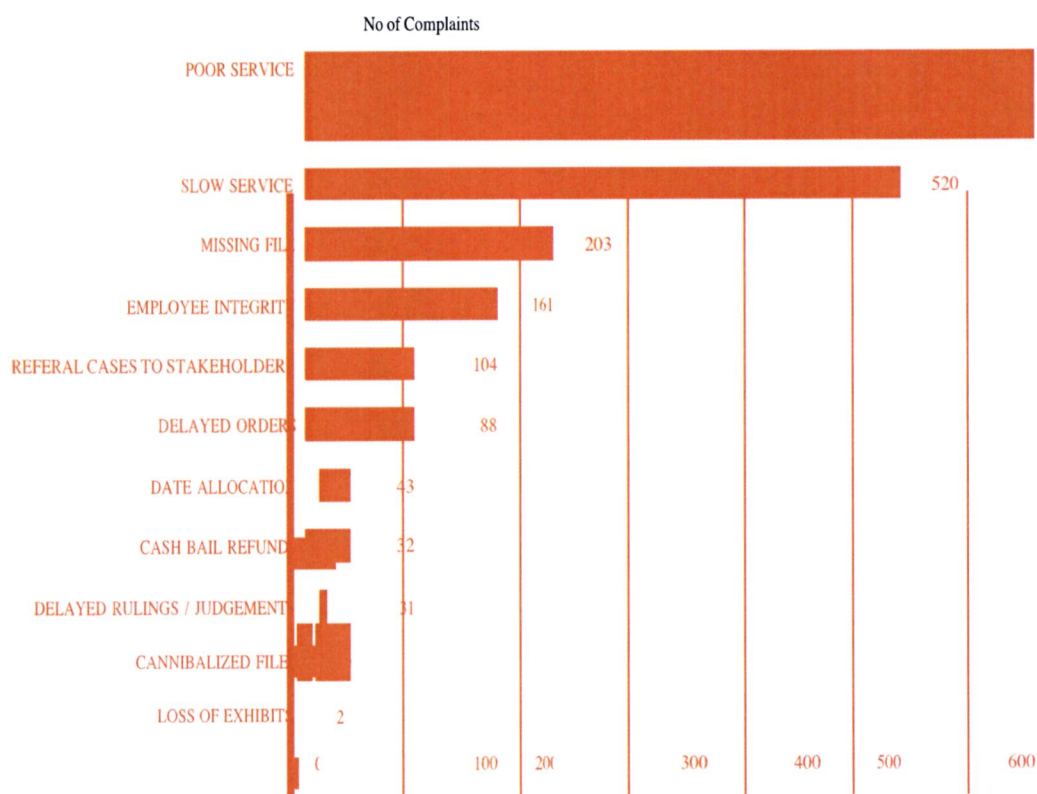


Figure 4.1: Number of Complaints per service processed

The Tables 4.3 and 4.4 show the various categories of complaints received and processed by the office over the past four years

Table 4.3: Complaints trends -FY 2017/2018 to FY 2020/2021

SERVICES	2017/2018	2018/2019	2019/2020	2020/2021
Slow Service	265	440	335	520
Missing File	182	330	230	203
Poor Service	243	385	515	638
Referral cases to Stakeholders	88	129	109	104
Employee Integrity	95	115	104	161
Delayed Rulings/Judgements	80	63	56	31
Date Allocation	7	137	57	43
Delayed Orders	95	112	108	88
Cash Bail Refunds	13	65	45	32
Files	11	14	8	7
Loss of Exhibits	0	9	0	2

Table 4.4: Complaint trends from 2017/2018 to FY 2020/2021 in Percentage

SERVICES	2017/2018	2018/2019	2019/2020	2020/2021
Slow Service	25%	25%	21%	28%
Missing File	17%	18%	15%	11%
Poor Service	23%	22%	33%	35%
Referral Cases to Stakeholders	8%	7%	7%	6%
Employee Integrity	9%	6%	7%	9%
Delayed Rulings/Judgements	7%	4%	4%	2%
Date allocation	1%	8%	4%	2%
Delayed Orders	9%	6%	7%	5%
Cash Bail Refunds	1%	4%	3%	2%
Files	1%	1%	1%	0%
Loss of Exhibits	0%	1%	0%	0%

Figures 4.4 and 4.5 graphically depict each service in the table on complaint trends over the last four years.

Employee integrity related complaints have increased over the past two years and the institution shall continue to ensure that any employee found culpable of any maladministration is disciplined accordingly.

The categories of services in the Table 4.7 exhibits a continued decline in the complaints received in all the categories. This is attributed to the various ICT platforms along with the stringent performance measurement mechanisms put in place to ensure efficiency in the delivery of services.

#### 4.2 Outreach and Partnerships

In its quest to sensitise and educate members of public on the complaints redress mechanism available to them, two outreach activities were conducted during the reporting period. The first was a public clinic at the Kilgoris Law Courts which coincided with the official opening of the High Court sub-registry at the court. The second was an open day at the Garissa Law Courts undertaken in collaboration with the various stakeholders.

These outreach exercises provide the institution with an opportunity to educate and sensitise members of the public from the region on the various court procedures. Through these outreaches, we both minimise complaints that are lodged by clients who do not understand the procedures of the court and also provide an avenue for those with genuine concerns a mechanism for the redress of those complaints. In addition, it helps to demystify the Institution in the eyes of "Mwananchi".

To strengthen the institution's complaint processing, Judiciary employees in the 87 Court stations visited were educated on whistleblowing, the consequences of engaging in maladministration and corrupt practices, and the reporting mechanism available to them as employees.

##### 4.2.1. Monitoring and Compliance with Practice Directions

The disruptions caused by the pandemic notwithstanding, spot-checks were conducted in 87 Magistrates court and 13 High Court stations aimed at monitoring compliance with practice directions, memos and circulars issued from time to time and adherence to their respective service charters. This number was a slight increase from the previous year when the office conducted 70 spot-checks. The office relied on data compiled to map out courts that had not been visited for compliance check over a period of time. Court stations that needed immediate fact finding visits based on complaints received were also attended to. During the court visits, the office continued to discuss areas of difficulty in service delivery with the employees and provided them with an opportunity to file complaints. Station liaison officers were re-trained on the complaint handling mechanisms to ensure timely and accurate reporting.

#### 4.3 Audit and Risk Management

Audit and Risk Management are primarily meant to ensure that the institution is employing its various resources as it should and in a manner that gives the institution value for money. It also enables the institution to consider, in advance, the potential risks and take mitigating action to combat the risks. The institution has continued to:

1. Review and appraise the efficiency and effectiveness, adequacy and application of systems of internal controls to mitigate risks and recommend remedial actions;
2. Assess the reliability of management information utilized in decision making;
3. Review compliance with existing laws, regulations, policies, plans and procedures, accounting pronouncements and contractual obligations;
4. Review controls for safeguarding the assets of the Judiciary and provide an independent view of proposed plans, systems, guidelines and transactions and recommending an appropriate action.

During the reporting period, the audit of the Case Management System, Registry Management System and JFMIS was conducted, and the draft institutions Internal Audit Policies and Procedures Manual was developed.

A total of 24 internal audits were undertaken in Kiambu, Sirisia, Mutomo, Taveta, Voi, Marsabit, Mukurweini, Nyamira, Keroka, Maralal, Kabarnet, Iten and Gichugu law courts. The audits covered registry management, accountable documents, revenue management, deposits management, procurement, expenditure management, cash books and bank reconciliation statements, general management, status of delinking from the sub county treasuries, and implementation of Covid-19 pandemic prevention and control measures.

Audits of ICT governance and security, payroll management and pending bills of Judiciary, JSC, JTI, Transport Management, Expenditure Management at the Tribunals, Imprest Management at the Judiciary Headquarters, Expenditure Management at the Judiciary Headquarters and Procurement Management at the Judiciary Headquarters were also undertaken.

To ensure that the recommendations made in the various internal audit reports were implemented, follow-up monitoring exercises were carried out in 18 Courts, tribunals and units. They include Kikuyu, Limuru, Milimani Commercial, Ruiru, Nairobi COA/Supreme, Business Premises Rent Tribunal, National Civil Aviation Tribunal, Garissa, Kwale, Mariakani, Shanzu, Kithimani, Mwingi, Kyuso, HIV Tribunal and JSC/JTI.

Similarly, monitoring the implementation of the external audit reports and previous Public Accounts Committee Report recommendations was carried out.

**4.4 Organisational Performance** To enhance access to justice, Judiciary institutionalised performance management and measurement as a strategy for ensuring judicial services are rendered in a timely manner, and in line with the approved standards and progressive targets. This is an accountability measure that the Judiciary has put in place with an overarching aim of speeding up access to justice in courts and is spearheaded by the Administration of Justice and Performance Management Committee (AJPMC). This Committee comprises judges, magistrates, registrars and staff. The PMMUs targets are cascaded to individual employees through the use of Performance Appraisal Systems (PAS).

##### 4.4.1. Performance of Courts and Administrative Units

In the FY 2020/21, 283 implementing units comprising courts, directorates, offices of registrars, tribunals and semi-autonomous Judiciary agencies set performance targets and consequently signed PMMUs. The exercise was conducted concurrently with the evaluation of performance for the FY 2019/20 where a total of 279 implementing units were evaluated. From the evaluation, Judiciary

achieved an overall average performance of 89.81 per cent. This marked a decline of 2.54 per cent from the performance of 92.35 per cent that was achieved in the FY 2018/19. The performance results were attained against the backdrop of the COVID-19 outbreak which affected normal operations of courts.

In relation to access to justice through courts, the overall performance of the Supreme Court was

88.42 per cent, Court of Appeal 81.95 per cent, High Court 78.20 per cent, Employment and Labour Relation Court 94.08 per cent, Environment and Land Court 84.54 per cent, Magistrates' Courts 90.69 per cent, Kadhis' Court 97.52 per cent, and Tribunals 90.56 per cent. In supporting courts to enhance access to justice, the Administrative Units performance was 97.73 per cent. As indicated, PMMUs are cascaded to individual employees.

##### 4.4.2. Performance Statistics for the Judiciary

Key performance indicators for Kenyan courts include Case Clearance Rate (CCR), productivity and time to disposition. The CCR refers to the rate of resolution of cases. A court with a CCR greater than 100 per cent shows that it was able to reduce its pending cases during the period under consideration. A CCR which is less than 100 per cent depicts rising pendency of cases for the court.

Productivity on the other hand refers to average resolved cases by judges and/or judicial officers in a court and time to disposition shows the time from filing of case to its conclusion.

Table 4.5 gives the performance of courts during period under review.

Table 4.5: Select performance statistics by court type, FY 2020/21

Court Type	CCR (%)			Average Time to Disposition (Days)			Productivity
	CR	CC	All Cases	CR	CC	All Cases	
Supreme Court	-	132	132	-	292	292	52
Court of Appeal	76	45	50	1,142	788	866	248
High Court	74	101	92	455	1,143	893	299
ELRC	-	83	83	-	967	967	203
ELC	-	118	118	-	1,195	1,195	169
Magistrates' Courts	86	68	82	194	608	289	581
Kadhis' Courts	-	81	81	-	59	59	136
Small Claims Court	-	62	62	-	53	53	159
All Courts	85	76	83	597	638	577	N/A

Note: - The court does not handle criminal matters

The overall CCR for the Judiciary was 83 per cent. This yielded increasing pendency of cases in the Judiciary as elaborated in the access to justice section. For the broad case types, namely criminal and civil cases, the CCR was 85 and 76 per cent respectively. The Supreme Court and ELC achieved a CCR of above 100 per cent. This led to a reduction of the pending cases. The lowest CCR was in COA at 50 per cent. This was attributed to inadequate judges and the adverse effects of the COVID-19 pandemic.

On average, cases in ELC took the longest time to resolve at 1,195 days. The least time to disposition was recorded in Small Claims Court at 53 days followed by Kadhis court at 59 Days. The average time to disposition for the Supreme Court was 292 days. Detailed information on time to disposition for the court stations is provided in the appendix 8.

On productivity, the highest productivity among the superior courts was recorded in the High court at 299 cases per judge. In the subordinate courts, the highest productivity was recorded in the Magistrates' courts at 581 cases per magistrate.

#### 4.5 Performance Appraisal System

Performance Appraisal System (PAS) is the tool used for enhancing individual and institutional accountability and entrench performance measurement. The tool seeks to measure the individual employee's contribution. The evaluation outcome informs various human resource processes including career advancement and development and forms a permanent record of the employee.

In the review period, 3,684 staff were appraised of whom 1,780 were male while 1,904 were female. In terms of individual staff performance, 16 staff were rated in the outstanding category, 158 staff in the excellent category, 466 staff translating in the very good category, the majority of staff at 2,995 staff were rated in the good category translating, 48 staff fair category whereas only one staff was rated in the poor category. Table 4.6 provides a breakdown of scores from the appraised staff.

Table 4.6: PAS Rating from all Staff

S.No	Rating	No. of Staff	Average Score	Percentage (%)
1	Outstanding	16	126	0.4
2	Excellent	158	105.8	4.3
3	Very Good	466	100.3	12.7
4	Good	2,995	93.5	81.3
5	Fair	48	69.1	1.3
6	Poor	1	46.6	0.03
Total		3,684		100

Through the PAS process, the Judiciary has been able to identify training gaps and needs for the Judiciary Staff. The most sought training being supervisory and records management.

Staff exhibited a fair conduct as demonstrated by a mean score of 12.7 out of the maximum rating 20.

This was lower compared to the previous year's 18 out of 20.

#### 4.5.1 Disciplinary Control

The JSC exercised its mandate of disciplinary control on Judges, Judicial officers and staff. Disciplinary control is processed as per the provisions of the Chapter Six of the Constitution on

Leadership and Integrity, Articles 10 and 232; the Judicial Service Act, 2011, Employment Act, 2007, Fair Administrative Action Act (No.4 of 2015); Leadership and Integrity Act, 2012; Public Officer Ethics Act, 2003; Anti-corruption and Economic Crimes Act, 2003; Labour Relations Act, 2007 and any other relevant legislation in force.

##### 4.5.1.1 Complaints /Petitions against Judges

One of the Commission's key functions under Article 168 of the Constitution is to receive and consider petitions lodged against Judges. In the FY 2020/21, the JSC received and processed 103 petitions against Judges. Eighty-seven (87) complaints were concluded, while 31 were pending during the reporting period as indicated in Table 4.8:

Table 4.7 Summary of Complaints Examined by JSC FY 2020/21

NO.	DETAILS	NUMBER
1.	Complaints pending as at 30 <sup>th</sup> June 2020	15
2.	Complaints received during the year	103
3.	Total no. of complaints	118
4.	Complaints concluded	87
5.	Complaints pending to date	31

4.5.1.2. Disciplinary Matters against Judicial Officers and Judicial Staff in JSG 3 and Above In the FY 2020/21, the JSC received a total of six cases against Judicial Officers and Judicial Staff in JSG 3 and above while fourteen were pending matters from the previous year. Out of these, twelve cases were concluded, which include the review case. This represents 57 per cent of the total cases. Nine cases were pending as at the end of the reporting period as shown in the Table 4.9.

Out of the twelve cases heard and concluded, three Judicial Officers were absolved, three were reinstated, three were warned, two contracts were terminated, while one review was disallowed.

The disciplinary matters facing Judicial Officers included; Absenteeism, corruption/Bribery, Financial malpractices, poor work performance, unprofessional conduct and, arrest and confinement.

Table 4.8: Disciplinary Matters against Judicial Officers and Judiciary Staff in JSG 3 and above

PARTICULARS	NO OF COMPLAINTS
Disciplinary cases pending as at 30 <sup>th</sup> June, 2020	14
New Disciplinary cases received	6
Appeals/Reviews received	1
Total Disciplinary Cases	21
Total disciplinary cases concluded in FY2020/21	12
Disciplinary cases pending as at 30 <sup>th</sup> June, 2021	9

#### 4.5.1.3. Disciplinary Matters against Judiciary Staff JSG 4 to 11

The JSC has delegated its disciplinary powers to the Chief Registrar of the Judiciary through the Human Resource Management Advisory Committee (HRMAC). The HRMAC is mandated to handle disciplinary matters for Judicial Staff in Judiciary Staff Grade JSG 4 to JSG 11.

In the review period, the Judiciary received 39 new cases while 108 cases were brought forward from the FY 2019/20. A total of 103 cases were finalized by the HRMAC, out of which 74 cases were from the backlog, while 29 were new cases. This represents 70 per cent of the total cases. A total of 44 cases were pending as at the close of the year.

Table 4.9: Disciplinary Matters against Judiciary Staff in JSG 4 to JSG 11

PARTICULARS	NO OF COMPLAINTS
Disciplinary cases pending as at 30 <sup>th</sup> June, 2020	108
New Disciplinary cases received	39
Total Disciplinary cases	147
Total discipline concluded in FY/2020/2021	103
Discipline cases pending as at 30 <sup>th</sup> June, 2021	44

The disciplinary matters facing Judicial Officers and staff included; absenteeism, corruption/bribery, financial malpractices, poor work performance, unprofessional conduct and, arrest and confinement.

## CHAPTER 5—ORGANIZATIONAL DEVELOPMENT AND SUSTAINABILITY

### 5.1 Human Resources

#### 5.1.1 Introduction

The COVID-19 pandemic created disruptions, uncertainties and complexities in work places. This has forced organisations to quickly innovate and implement sustainable strategies to continue offering services. Accordingly, to manage human resources sustainably, the Judiciary embraced technology and deepened its people-centred strategies in the delivery of services.

The initiatives included flexibility in working methods, strengthening internal efficiency, talent acquisition and innovative changes based on individual court's assessment and needs for smooth operation of activities. The human resource management strategies implemented were geared towards increasing employees' well-being, productivity, motivation, health and safety at the workplace.

Key achievements during the year included, filling of vacancies in critical offices and cadres, operationalisation of the Judiciary psychosocial support unit, finalisation of the implementation of the key aspects of the organisational review report recommendations, development and approval of Human Resource Policies for effective management and organisational development. Performance management and assessment were also conducted to enhance institutional and individual accountability.

#### 5.1.2 Optimising Staffing Levels

As at the beginning of the FY 2020/21, the Judiciary had a total of 5,277 employees out of an approved optimal establishment of 9,417. There were 174 Judges (3%), 535 Magistrates and Kadhis (10%), 181 Law Clerks and Legal Researchers (3%) and 4,387 Judiciary Staff (84%). Total employee variance was 4,140 representing a 44 per cent deficit. Consequently, the Judiciary is operating at 56 per cent of its optimum staffing levels as indicated in Table 5.1.

To address the staffing challenges and ensure service delivery, the Judiciary conducted various human capital development activities during the year under review. These included recruitments, transfers, deployments, promotions and capacity building programmes.

Table 5.1 Judiciary Staffing Levels in the FY 2020/21

NO.	Description	Approved Establish-Ment	Current InPost	Variance (Under-Establishment)	% Under- Establishment
1.	Judges	348	174	174	50%
2.	Judiciary Officers	1,200	535	665	55%
3.	Law Clerks and Legal Researchers	650	181	469	72%
4.	Judiciary Staff	7,219	4,387	2,832	40%
	Total	9,417	5,277	4,140	44%

The breakdown of the Judges, Judiciary Officers and Staff per gender is as indicated in Table 5.2.

Table 5.2. List of Judges, Judicial Officers and Staff by Gender in FY 2020/21

No	Designation	Gender		Total
		Male	Female	
1.	Supreme Court	4	3	7
2.	Court of Appeal	10	10	20
3.	High Court	34	41	75
4.	ELC	21	30	51
5.	ELRC	11	10	21
6.	Chief Magistrate	42	33	75
7.	Senior Principal Magistrate	50	23	73
8.	Principal Magistrate	67	72	139
9.	Senior Resident Magistrate	41	67	108
10.	Resident Magistrate	26	62	88
11.	Chief Kadhi	1	0	1
12.	Senior Principal Kadhi	9	0	9
13.	Principal Kadhi	17	0	17
14.	Senior Resident Kadhi	25	0	25
15.	Judicial staff	2,281	2,106	4,387
Total		3,088	2,870	5,277

List of Judges and Judicial Officers is attached as Appendix 17.

### 5.1.3 Promotions

#### 5.1.3.1 Promotions of Judicial Officers

Promotional suitability interviews for Judicial Officers were conducted by the JSC to promote efficiency, enhance morale and productivity of Judicial Officers. The Commission interviewed 216 Magistrates and Kadhis in various cadres. On 10<sup>th</sup> December 2020, the Commission promoted 180 Magistrates and Kadhis as indicated in Table 5.3:

Table 5.3: Promotions of Judicial Officers

S/NO	CADRE	ESTABLISHMENT	GAP	NO. OF INTERVIEWED	NUMBER PROMOTED
1.	Senior Principal Magistrates to Chief Magistrate		22	40	22
2.	Principal Magistrates to Senior Principal Magistrates		93	33	27
3.	Senior Resident Magistrate to Principal Magistrate		153	89	80
4.	Resident Magistrate-Senior Resident Magistrate		213	4	4
5.	Principal Kadhi to Senior Principal Kadhi		8	8	8
6.	Senior Resident Kadhi to Principal Kadhi	Common Establishment		19	16
7.	Resident Kadhi to Senior Resident Kadhi	Common Establishment		21	21
8.	Principal Deputy Registrar / Asst. Registrar – Senior Principal Deputy Registrar	Common Establishment		2	2
	Total		489	216	180

#### 5.1.3.2 Recruitment of Judiciary Staff

The Judiciary Organisational Review Report (2018) identified 2,832 vacancies relating to various cadres of Judicial Staff for filling to enable the Judiciary operate optimally. In the year under review, 624 of the vacant positions were advertised. 191 positions were filled while 433 positions were in the various stages of recruitment as at the end reporting period as indicated in Tables 5.4.

Table 5.4: Judiciary Staff recruited within the FY 2020/21

S/NO.	POSITIONS	GENDER	NO. APPOINTED	REPORTING DATE	TERMS OF EMPLOYMENT
1.	Deputy Director Building Services	Male	1	January, 2021	Contractual
2.	Assistant Director Civil/Structural Engineering	Female	1	January, 2021	Permanent
3.	Assistant Director Architectural Services	Male	1	January, 2021	Permanent
4.	Assistant Director, Quantity Surveying	Male	1	February, 2021	Permanent
5.	Law Clerks	Female	9	January, 2021	Contractual
6.	Senior Legal Researchers	Female - 22 Male - 6	28	January, 2021	Contractual
7.	Legal Expert/Advisor	Male	1	April, 2021	Contractual
8.	Legal Counsel	Male	1	April, 2021	Contractual
9.	Legal Researchers	Male - 29 Female - 111	140	January, 2021	Contractual
10.	Office Assistant	Male - 4 Female - 2	6	June, 2021	Contractual
11.	Driver/Aide	Male	1	June, 2021	Contractual
12.	Personal Assistant	Male	1	June, 2021	Contractual

The total number of men recruited out of the 191 positions was 46 (24.1%) whereas women were 145 (75.1%)

#### 5.1.3.3 Positions Advertised pending filling

They were 97 Positions advertised and will be processed in the FY 2021/22 as indicated in Table 5.5

Table 5.5: Positions Advertised pending filling as at 30.6.2021

S/NO.	POSITION	JSG	NO.	DATE ADVERTISED
1.	Resident Magistrates	RM	50	28 <sup>th</sup> January, 2021
2.	Resident Kadhi	RK	15	28 <sup>th</sup> January, 2021
3.	Legal Counsel (Hon. CRJ's Office)	3	1	28 <sup>th</sup> January, 2021
4.	Senior Legal Officer (Hon. CRJ's Office)	4	1	28 <sup>th</sup> January, 2021
5.	Senior Office Administrative Assistants(Secretarial Staff)	7	30	28 <sup>th</sup> January, 2021
<b>Total</b>			<b>97</b>	

## 5.1.3.4 Recruitment of Court Administrators and Accountants

The following 336 positions were advertised internally and interviews carried out in October and November, 2020 as indicated in Table 5.6.

Table 5.6: Recruitment of Court Administrators and Accounts Assistants FY 2020/21

NO.	POSITIONS	JOB GRADE	VACANCIES	APPLICANTS	SHORTLISTED	NO. INTERVIEWED
1.	Senior Court Administrators	JSG 4	10	125	30	30
2.	Court Administrator I	JSG 5	62	317	110	103
3.	Court Administrator II	JSG 6	95	703	480	441
4.	Senior Accounts Assistants	JSG 7	25	183	159	133
5.	Accounts Assistants	JSG 7	144	239	173	137
<b>TOTAL</b>			<b>336</b>	<b>1567</b>	<b>952</b>	<b>844</b>

## 5.1.4 Separation of Employees

During the year under review, 177 employees exited from the Judiciary of which 86 exited upon the attainment of retirement age. Another 62 were separated after conclusion of the disciplinary proceedings which were pending from the previous years. Two staff exited upon expiry of their contracts while 14 employees resigned and 13 deaths were recorded.

## 5.1.5 Transfers and Deployments

To improve service delivery, promote employee development and address staffing needs occasioned by exits, the Judiciary conducts transfer as per the Transfer Guidelines for Staff and Transfer Policy for Judges and Judicial officers. During the year under review 468 staff were transferred compared to 573 transfers in the previous financial year.

## 5.1.6 Organisational Review and Employee Satisfaction

To improve organisational effectiveness and increase employee motivation the Judiciary implemented various reform strategies. These included review of the Judiciary organizational structure as well as undertaking a salary survey to inform salary reviews for Judiciary staff among others.

## 5.1.6.1 Implementation of the Judiciary Organisational Review Report:

The Judiciary conducted the Organisational Review in 2018 and has been implementing the recommendation of the review. Key milestones attained during the review period include:

1. Development and implementation of staff mapping exercise to ensure equitable distribution, deployment and engagement of staff.
2. Development and updating of staff skills inventory to inform career growth, deployments, appointments and address training needs.
3. Conducted a salary survey to inform review of salaries for Judiciary staff.
4. Developed and implemented career guidelines for Judiciary staff.
5. Development and implementation of the Gender Mainstreaming Policy; Sexual Harassment Policy; Record Management Policy; Judiciary Medical Insurance Policy; and Affirmative Action and Diversity Policy

## 5.1.7 Employee Wellness

To ensure a healthy, motivated and inspired team, the Judiciary continued to implement various wellness and benefits programmes for Judges, Judicial Officers and staff. A medical scheme for all categories of the Judiciary employees and their dependants is in place. Group life cover is also in place. Other benefits include car grant for the Judges, car loan and mortgage scheme.

In the wake of the COVID-19 pandemic, the Judiciary established a Psychosocial Unit to support its employees. Thirty-two stations and 1,000 employees benefited from the support. In Nairobi, 850 employees were vaccinated against COVID-19. The Judiciary engaged a team of experienced psychologists under the Judiciary Medical Cover to provide professional counselling. The 173 individual cases of distress that were received by the Psychological Support Desk were attended to by the Unit's professional team. Judiciary's Psychosocial Support Desk and attended to by the professional team.

## 5.2 Training and Capacity Building in the Judiciary

## 5.2.1 Introduction

The Institutionalisation of Judicial Training is a crucial component of consolidating Judicial independence and improving access to Justice. This was the driving force behind the establishment of the Judiciary Training Institute (JTI) in 2008, to provide judicial education and training for Judges, Judicial Officers and Staff. The need for judicial training was further accentuated in the 2010 Constitution. It established JSC as a constitutional commission under Article 171 and enunciated a key function of the Commission as the preparation and implementation of programmes for the

continuing education and training of judges and other judicial officers. With the promulgation of the current Constitution in 2010, this function of the JSC was ceded to the JTI. The institute organises relevant training programmes that address the knowledge, attitudes and skills gaps for staff at both individual and group levels.

The centrality of capacity building for a judicial institution cannot be overemphasised. Not only does capacity building enhance morale, it also contributes to the overall performance in the Judiciary by increasing the quality and efficiency of the workforce.

## 5.2.2 Training of Judges and Judicial Officers

A summary of the training programmes conducted for Judges and Judicial officers during the period under review is given hereunder. The training schedule follows an institutionalized Judiciary Training Master Calendar that is prepared annually, taking into account the needs and training gaps in the Institution. Table 6.1 highlights the trainings that were undertaken for judges and judicial officers.

Table 5.7: Summary of training sessions for Judges and Judicial Officers, FY 2020/21

TRAINING PROGRAMMES FOR JUDGES		
1	Human Rights, Biodiversity and Gender Mainstreaming	VIRTUAL
2	Protection & Enforcement of Intellectual Property & Related Forms of Illicit Trade	VIRTUAL
3	Cyber Crime & Electronic Evidence	VIRTUAL
4	Training For Judges on Emerging Issues in Commercial Law	VIRTUAL
5	Training For Magistrates on Active Case Management (Session 1)	VIRTUAL
6	Anti-corruption, Money Laundering & Asset Recovery	VIRTUAL
7	Counter Terrorism	PHYSICAL
8	EDR Debrief for Supreme Court	PHYSICAL
9	Refugee Law	VIRTUAL
11	Induction of the Newly Appointed Court of Appeal Judges	PHYSICAL
TRAINING PROGRAMMES FOR JUDICIAL OFFICERS		
1	Human Trafficking	PHYSICAL
2	Administration of Gender justice for Kadhis and Annual Kadhis Retreat	PHYSICAL
3	Human Trafficking	PHYSICAL
4	Protection & Enforcement of Intellectual Property & Related Forms of Illicit Trade	VIRTUAL
5	Cyber Crime & Electronic Evidence	VIRTUAL
6	Emerging Issues in Commercial Law	VIRTUAL
7	10 <sup>th</sup> Annual Judicial Dialogue on Environment and Wildlife crime	VIRTUAL
8	Active Case Management	VIRTUAL
9	Counter Terrorism for Magistrates	PHYSICAL
10	Human Trafficking	PHYSICAL
11	Environment & Land Adjudication: Unpacking the Law & Practice	PHYSICAL
12	Induction for the Small Claims Court	PHYSICAL
13	Second Annual Tribunals Symposium	PHYSICAL

A total of 11 and 13 capacity building forums for Judges and Judicial officers respectively were held during the period under review. The key highlight for some of the trainings listed in Table 5.7 are explained in subsections below.

#### 5.23 Training on Human Rights, Biodiversity and Gender Mainstreaming for environment and Land Court Judges

Kenya has ratified the Convention on Biological Diversity (CBD) that calls for the conservation, sustainable use and equitable sharing of benefits from the use of biodiversity. The CBD has prioritised the need for State parties to mainstream biodiversity into national plans, programs and policies to support economic and human development that is environmentally sustainable. Kenya is bound by obligations of the Convention on Biodiversity and has integrated biodiversity considerations in its legal and institutional framework including the Constitution and other statutes.

Despite such recognition, there has been limited progress with enforcement of laws as well as gaps in adoption of innovative approaches for mainstreaming biodiversity in the legal and policy framework. It is against this background that the training was conceptualised. Capacity building focused on the concept of biodiversity, legal and regulatory framework governing biodiversity, emerging jurisprudence on biodiversity protection, mainstreaming human rights and biodiversity in Kenya, the role of Judiciary as well as women's land rights and biodiversity conservation.

#### 5.24 Training on Protection & Enforcement of Intellectual Property & Related Forms of Illicit Trade for Judges and Magistrates

Illicit trade poses a serious socio-economic challenge globally, regionally and to Kenya. It undermines the concept of a free and open market, which is fundamental to improving competitiveness, increasing investment, creating jobs and improving the economic situation of a country. Further, illicit trade undermines industries, poses health risks to consumers, sabotages tourism, stunts innovation and breeds lawlessness. Despite there being a legislative framework, illicit trade continues to plague the country and is often regarded as a petty crime.

Consequently, training was held for judges and magistrates to enhance their knowledge on intellectual property rights in Kenya, its enforcement and the role of the courts in curbing illicit trade. The training covered, inter alia, copyrights and related rights, trademarks and well known marks, intellectual property enforcement, intellectual property dispute resolution, counterfeiting and interlinkages with other forms of illicit trade. It was further enriched by the dialogue and experience sharing between key players in the industry. The stakeholders represented were Anti-Counterfeit Authority (ACA), Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS), the Poisons Board, Kenya Copyright Board, Kenya Association of Manufacturers (KAM) and the ODPP. The multinational intellectual property owners were also represented so as to share practical examples and challenges that are faced by intellectual property right owners. Kenya's most popular artists shared their experiences with regard to the state of intellectual property protection in Kenya. The training coincided with the launch of the training manual on combating illicit trade and practitioner's manual.

#### 5.25 Training on Cyber Crime and Electronic Evidence for Judges and Magistrates

Kenya is seen as a pace setter in implementation of ICT. However the robust information technology infrastructure in place has also become an attractive market for cybercriminals, making this a very pertinent issue in Kenya. As the country embraces digital technologies, cybersecurity concerns and challenges have become mainstream, and so have cyber related crimes that present new challenges to judges and magistrates.

To mitigate the dangers of cybercrime, training of judges and magistrates was undertaken with an aim of equipping them with knowledge to adjudicate cases of cybercrime and those involving electronic evidence. The key sessions of the training were; digital hygiene; sources of digital and electronic evidence, the collection, analysis, preservation, admissibility and place of digital and electronic evidence, the role of the court and emerging jurisprudence, challenges of prosecuting cyber crimes in Kenya, and data protection and regulation.

## 5.2.6 Training on Emerging Issues in Commercial Law for Judges, Magistrates and Legal Researchers

The training was organised within the context of new legislation and emerging trends in commercial transactions particularly within the light of technology. The diverse training sessions targeted judges, magistrates and legal researchers and were held under the theme Improving Service Delivery in the Commercial Court; Facilitating Ease of Doing Business in Kenya and a Service Delivery Agenda. Emerging issues were tackled on insolvency and debt restructuring under the enacted Insolvency Act (No.18 of 2015). The training also covered arbitration practice and procedures in Kenya including emerging jurisprudence and developments, emerging issues in banking regulation (including digital lending), tax law and in particular, the Tax Law Amendment Act 2020. Further, the training encompassed the issue of injunctions in commercial disputes and case management when handling commercial disputes.

## 5.2.7 Training for Judges on Anti-corruption, Money Laundering and Asset Recovery

The Judiciary continues to hear and determine disputes on corruption practices and embezzlement of public funds. While significant progress is being made on the determination of corruption cases, studies indicate that there's still much scope for international cooperation due to the cross-border nature of corruption cases and the use of advanced technology in corruption deals. This requires that Judges and Magistrates are up to par with the developments hence the need for the training sessions.

The training was facilitated by experts from Asset Recovery Authority, IFMIS Directorate, Public Procurement Regulatory Board and the Office of the Director Public Prosecutions. Different thematic areas were covered including transnational organised crime as well as the domestic, regional and international legal framework around corruption cases, adjudication of cases involving digital and electronic evidence in corruption. One of the areas where there is likelihood of corruption is public procurement and hence the Judges interacted with the Public Procurement Regulatory Authority. There were also discussions around asset tracing and the asset recovery process.

## 5.2.8 Election Dispute Resolution (EDR) Debrief for Supreme Court

The objective of the Election Dispute Resolution (EDR) debrief was to provide judges of the Supreme Court with an opportunity to introspect on their experiences during the process of the election dispute resolution. It also provided an opportunity to make recommendations for legislative, policy and administrative change in the next election cycle. The Court got to reflect on support from the Judiciary Committee on Elections and how this may be enhanced in future. The dialogue was also joined by relevant stakeholders to discuss presidential petitions and emerging electoral law jurisprudence in Africa and electoral technology law. The judges reflected on the jurisprudence from the Court of Appeal and engaged with the Bar on their experience in litigating election petitions before the Supreme Court.

## 5.2.9 Training on Refugee Law for Judges

The Refugees Act (No. 13 of 2006) provides for refugee status determination process. Also establishes the Department of Refugee Affairs (DRA), whose responsibilities include receiving and processing applications for refugee status. An appeal from the department lies to an Appeal Board. The Board is chaired by an experienced legal professional, and draws its membership from persons with knowledge of or experience in matters relating to immigration, refugee law, and foreign affairs. Since the enactment of the Refugees Act (No. 13 of 2006) in 2006, there has never been an appeal from the Board to the Court. The first appeal was preferred from the Refugee Appeals Board to the High Court during the period under review.

In light of this development a sensitisation training for Judges of the Judicial Review division and judges from the Constitution and Human Rights Division was held where experts and resource persons from the Supreme Court, the High Court and the UNHCR were present. The judges were taken through the concept of and legal framework for refugee protection in Kenya as well as the asylum system including access, registration and documentation.

## 5.2.10 Induction of the Newly Appointed Court of Appeal Judges

Following the gazette and appointment of seven new Judges to the Court of Appeal in June 2020, an induction session was organised for the court. The induction presented an opportunity for the newly appointed judges to engage with senior Advocates, present and retired judges of the Court and the Supreme Court on issues and subjects intended to prepare them for service at the Court of Appeal.

The judges were taken through the history, structure and administration of the Court of Appeal, the Court's Rules, and strategic direction. In order to sharpen their judicial skills in readiness for service in the new court, there were reminders on the principals of judgment writing, efficient working in a multi-member bench, case management strategies and automation skills that would be applied while at the Court. Discussions around landmark decisions and emerging jurisprudence from the Supreme Court and the Court of Appeal was undertaken to bring the judges up to par with the developments. The importance of judicial wellness was covered highlighting the issues of emotional intelligence, collegiality, communication, and the code of ethics for Court of Appeal Judges.

## 5.2.11 Training on Human Trafficking for Magistrates

Kenya has experienced incidents of forced labour and sex trafficking and aspires to fully meet the Trafficking Victims Protection Act's (TVPA) minimum standards. Consequently, the training sought to elicit candid discussion amongst magistrates and other stakeholders on various topical issues around human trafficking, drawing from best practice and prosecutorial experience in other jurisdictions. Experts in the subject engaged with participants on the concept of trafficking in persons, the legal framework governing human trafficking, admissibility and the place of electronic evidence in these cases as well as investigations and evidence gathering of the transnational crime.

## 5.2.12 Training on the Administration of Gender Justice for Kadhis

Kadhis courts are established under article 170 of the Constitution and have jurisdiction to hear and determine questions of Islamic law relating to personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi's courts. During the period under review, a retreat and training session for Kadhis, on the administration of gender justice was conducted.

The training covered legal frameworks and foundational principles on equality and gender justice, challenges of access to justice in the context of equality and non-discrimination, gender sensitivity, gender blindness and inclusion, the justice chain and attrition, barriers, pathways for navigation in personal law and justice needs of vulnerable groups. Emerging legal issues and jurisprudence in matrimonial property and the Marriage Act (No.4 of 2014) as well as children matters were also discussed to guide Kadhis on the developments from superior courts. The interventions were also enriched by the feedback from Judges of the High Court on common grounds of appeal from Kadhis' courts.

## 5.2.13 Tenth Annual Judicial Dialogue on Environment and Wildlife Crime

The Annual Judicial Dialogues on environmental and wildlife crime have for the past 10 years served to bring together players and stakeholders in the environmental and wildlife crime sector. The objective of the dialogues is to provide a platform through which stakeholders and players in the sector can discuss developments, challenges and solutions to issues specific to wildlife and environmental crime.

A dialogue with representation from various government agencies was held virtually under the theme 'emerging issues and trends in adjudicating wildlife and environment crimes'. The main focus of the dialogue was the consideration of wildlife crime as a transnational organized crime, and fighting wildlife organized crime under the Proceeds of Crime and Anti-Money Laundering Act (No.9 of 2009) and the East African Customs Act. Further, the role of various players under mutual legal assistance arrangements was discussed.

## 5.2.14 Environment and Land Adjudication: Unpacking the Law and Practice

The Jurisdiction of Magistrates to hear and determine environmental cases was conferred in the year 2015 when the Environment and Land Court Act (No. 19 of 2011) was amended to allow the Chief Justice 'by notice in the Gazette, to appoint certain magistrates to preside over cases involving environment and land matters of any area of the country'. Subsequently in the case of Law Society of Kenya Nairobi Branch v Malindi Law Society & 6 Others Nairobi Civil Appeal No. 287 of 2016, the Court of Appeal held that the Magistrates Court can hear and determine environmental matters as a court of first instance limited by its pecuniary jurisdiction.

It is against this background that the training session was conceptualised to build capacity amongst the participants on adjudication of environment and land matters. The training accorded the participants a chance to interact with Judges of the ELC and discuss emerging areas, practical issues and challenges in the adjudication of environmental and wildlife crimes. Other key issues that were covered during the training were environmental impact assessments (EIA), zoning & SIEA compliance, interlocutory applications in environment and land matters, the rights of an innocent purchaser for value without notice as well as emerging issues in eviction matters.

#### 5.2.15 Induction for the Small Claims Court

Following the operationalisation of the Small Claims Court, an induction session was held to equip the staff and prepare them for their roles in the Court. Amongst the areas of induction were the organisation and administration of the Court and the role of adjudicators and the Registrar as well as understanding the legislative framework of the Court. Due to the unique set up of the Court, the induction session also focused on management in small claims cases as well as ADR and mediation in small claims matters. To bring the first adjudicators at par with the current jurisprudence, the

participants held discussions around emerging Jurisprudence in small claims matters and also around the execution process as provided by Order 22 (Execution of Decrees & Orders) of the Civil

Procedure Rules 2010. As an impetus to align the Small Claims Court with the processes within the judiciary, there were discussions around aligning the Court with the Judiciary Strategic Plan and other processes.

#### 5.2.16 The Second Annual Tribunals Symposium

The Symposium brought together various members of the Tribunal held under the theme 'Towards Efficient and Innovative Tribunals: A Service Delivery Agenda'. The Symposium brought together members of Tribunals that had transitioned to the Judiciary and those that were yet to transition. This was in recognition of the need to standardize the services that Tribunals were offering and enhance their capacity towards effective and efficient service delivery.

The key training modules covered were; best practices around decision making in multi member settings, leveraging on technology for efficiency in service delivery, security practices and cyber-crime, judgment writing, court conduct and etiquette. The comparative dialogue with tribunal members from the UK was given as an insight into the workings of the Tribunal system in other countries. The status reports by each Tribunal was well appreciated as it helped the various Tribunals to appreciate the milestones and innovations that had been made and to learn from each other.

#### 5.2.17 Training of Judiciary Staff

##### 5.2.17.1 Training programmes

The Judiciary continues to support Judiciary Staff to undertake continuous development programmes to equip them with the requisite skills and competencies. There were six trainings undertaken for Judiciary Staff however six staff trainings could not be undertaken due to budgetary limitations. The training undertaken for Judiciary staff are highlighted in Table 5.8

Table 5.8: Training programmes undertaken for staff, FY 2020/21

	TRAINING PROGRAMMES	MODE OF DELIVERY
1	Training on emerging issues in commercial law	VIRTUAL
2	JTI Staff Training	PHYSICAL
3	Induction for Supreme Court law clerks	PHYSICAL
4	Induction for Court of Appeal senior legal researchers	PHYSICAL
5	JTI staff training	PHYSICAL
6	JTI SP and PMMU Retreat	PHYSICAL
	TOTALS	

#### 5.2.17.2 Pupillage and Industrial Attachments

In addition to training its employees, the Judiciary plays a key role in building capacity and providing mentorship opportunities for deserving Kenyans who get the chance of understanding the working and operations of the Judiciary. During the period under review, the Judiciary provided attachment and pupillage opportunities to 1,365 students. Out of these, seven students were offered pupillage, 129 Industrial attachments and 1,229 law students were offered judicial attachments in various courts. The trend of pupillage and attachments is illustrated in Table 6.32

Table 5.9: Pupillage and industrial attachments, FY 2015/17-2020/21

Category	2015/17	2017/18	2018/19	2019/20	2020/21
Clinical attachments	2,306	3,089	2,290	1,507	1,229
Pupillage	87	152	71	55	7
Other attachments	493	390	289	341	129
Total					

5.2.17.3 Strategies to Enhance Judicial Training In order to enhance training of judges, judicial officers and staff within the Judiciary, several strategies and initiatives were undertaken during the period under review. The objectives of these strategies was to make capacity building more flexible and accessible during the COVID-19 pandemic period and further ensure that it was aligned to the needs of the various cadres of employees.

#### 5.2.17.4 Development of a Curriculum for Judicial Training at JTI

Pursuant to the provisions of Article 172(1) (d) of the Constitution and further to a comprehensive needs assessment carried out in the FY 2019/2020, JTI began the process of preparing a curriculum for Judicial Training. The curriculum is a listing of the training and professional development programmes that should be available to all judges and magistrates, drawing from the training gaps and priorities brought out in the needs assessment. It seeks to ensure that judges and judicial officers have the capacity to effectively carry out their duties and responsibilities. It further seeks to ensure that there is a balance in terms of training programmes related to substantive law, judicial management, decision making, social context, information and ICT, and judicial wellness programmes. A draft was developed during the period under review and was expected to be finalized in the next reporting period.

#### 5.2.17.5 Impact Assessment of Judicial Trainings

During the period under review, an impact assessment study of judicial training was conducted. The study sought to assess and evaluate the extent to which training programmes were efficacious in the delivery of outputs and outcomes intended for the proper and efficient functioning of the judiciary as envisioned under the Constitution of Kenya 2010 and the Judicial Service Act 2011 (No.1 of 2011). Further, the study sought to evaluate the extent to which individual Judges, Magistrates, other Judicial Officers and staff are trained at the JTI so as to guide any corrective actions by diagnosing the strength and weaknesses of training programmes.

## 5.2.17.6 Development of an E-Learning System and Website

During the financial year 2020/2021, JTI developed an eLearning platform, online [jti.go.ke](http://jti.go.ke) which is integrated to video conferencing with its full implementation expected to commence in the financial year 2021-2022. The e-learning system is expected to automate processes at JTI and ensure efficiency and effectiveness in managing training programmes. It is expected to offer access to a broad array of content and interactive self-paced learning tools and create a repository of all training and research. This will address the challenges of manual operations associated with mismanagement of information.

## 5.3 Information Communication and Technology

## 5.3.1 Introduction

The rapid development and use of technology in courts for the past two decades has opened up new frontiers of service delivery. The availability of stable and fast internet connectivity, web services, on-line access to legislation and case law, use of electronic filing, and electronic exchange of legal documents are some of the developments that have compelled judicial administrations around the world to rethink their mode of operations in delivering their mandate. The Kenyan Judiciary through its strategic Blueprint policy documents prioritises technological development as a key focal area to support court work. The Sustaining Judiciary Transformation (SJT): A Service Delivery Agenda (2017-2021), the Strategic Plan (2019-2023), and the ICT Master Plan outlines a roadmap for digital transformation of court processes with a view of enhancing delivery of justice. The Digital Strategy has emphasized adoption of ICT solutions that are citizen-focused, convenient and accessible.

This review period was characterized by the COVID-19 pandemic which necessitated a significant increase in the use of technology especially on virtual courts to support unhindered delivery of justice. The key systems and tools include: virtual courts, video conferencing, e-filing, case tracking and e-receipts systems.

## 5.3.2 Virtual Courts

In the wake of the COVID-19 pandemic, the Judiciary sought ways to keep courts operational despite their intermittent closures. The Judiciary used video conferencing to support virtual court sessions. Other tools that were used include the Microsoft TEAMS, Cisco Webex, Zoom and Go-to-Meeting. The tools allowed court users to join in a court session virtually. Accused persons who were in prison were not required to be present in courts for the mention of their cases but attended court sessions through virtual links.

Since the commencement of virtual courts, nearly 170 court stations and Tribunals countrywide had embraced holding hearings through video and audio conferencing by the end of June 2021. Judges and Judicial Officers handled approximately 144,000 cases through the virtual platform and delivered over 31,000 judgements and rulings through Microsoft Teams and Go-To-Meeting video conferencing applications.

## 5.3.3 E-filing rollout for Nairobi Courts

The e-filing system is a system designed by the Judiciary that allows court users to electronically file and submit documents to the court through an internet portal. In April 2020, the Chief Justice Hon. David K. Maraga issued a directive requiring all Nairobi County courts to use an e-filing system beginning July 1, 2021. Through Bar benches, Court User Committees, and court meetings, stakeholders such as Judges, registry staff, advocates, and the general public were able to participate in the further improvement of the system.

The e-filing system fundamentally changed the way litigants engage with the court as it reduced the need for physical access to the courts. The system has many features including e-Case registration, automated fees assessment, e-Service facilitation, e-Payment and modalities for communication with parties. To use the system, court users were required to create an account, request for their cases to be linked to their accounts or file a case. All documents submitted to the portal were then automatically assessed and the user allowed to make payments remotely.

A total of 8,314 accounts had been created on the portal at the end of the reporting period, comprising 4,826 individual accounts, 3,085 law firms, 333 organisations, and 70 State organizations. Using these accounts, 67,299 cases were submitted, 16,980 certificates of urgency were filed, 1,800 orders were created, and KSh939, 975,091 was collected in court fees, fines, and deposits using these accounts. A total of 3,097,090 papers were submitted using the system.

## 5.3.4 Case Tracking System

The Case Tracking System (CTS) was developed by the Judiciary and has been in use since 2017. The CTS is the internal interface to the e-filing system and allows the Judges, Judicial Officers and registry staff to access the system. It was deployed for all the court stations in three phases. The first phase was completed in the FY 2016/17, the second phase in 2018/19, and the third phase, which covered all courts, in the FY 2020/21. Almost 90 per cent of all active cases had been captured in CTS by the end of the period under review. The implementation of CTS also involved its linking to Judiciary Financial Management Information System hence creating a seamless process where e-receipting and generation of orders were operationalized.

The CTS has revolutionised the way court registries operate. The Judges and Judicial officers use the system to access documents filed by litigants through the e-filing system. They are then able to review files and give directions on cases. This has enhanced efficiency since they can work on documents remotely. The litigants are able to instantly access the orders and other court generated documents. The system is also integrated with Short Messaging Service (SMS) communications portal which instantly alerts parties when their file is updated.

The system also allows for the creation of court reports, particularly basic caseload statistics. It also generates caseload returns using the Daily Court Return Template (DCRT) used in further data analysis. At the end of the reporting period, the CTS had received 1,359,297 cases.



Growth of cases captured in CTS during the FY 2020/21.

The Figure above shows that a total of 656,023 cases had been captured in CTS at the beginning of the FY. This grew over the review period to settle at 1,358,297 cases. The details of the cases for each court is provided in Table 1.

Table 5.10: Capturing of cases in CTS by Court, FY 2020/21

Court	July. 2020	Sept. 2020	Dec. 2020	March. 2021	June. 2021
Supreme Court	323	336	351	365	395
Court of Appeal	7,547	9,242	10,017	11,231	12,210
High Court	153,442	163,984	185,624	196,125	207,252
ELC	36,827	39,181	42,780	44,549	46,292
ELRC	20,195	21,911	22,546	24,380	25,254
Magistrates' Courts	427,064	496,289	713,813	867,193	1,013,500
Kadhis' Courts	3,672	8,489	12,649	14,812	16,832
Tribunals	6,953	19,272	23,065	29,500	36,562
All Courts	656,023	758,704	1,010,845	1,188,155	1,358,297

In all the courts, there has been tremendous growth and use of CTS. The details of the cases captured in CTS for specific stations is provided in the appendices.

#### 5.3.5 Judiciary Financial Management Information System

The Judiciary Financial Management Information System (JFMIS) is a financial management system deployed in courts for management of court revenue, which includes fees and fines, court deposits and expenditure. The system is in use in all court stations. During FY 2020/21, JFMIS was integrated with the CTS which fully automated all the processes from court fees assessment and e-receipting across all stations in the Judiciary. The JFMIS has enabled the generation of digital receipts, thereby eliminating the need for manual receipt books and manual processes. Revenue leaks have been reduced because a digital trail is kept of all transactions. In addition, the system generates financial reports, allowing for timely financial reporting.

#### 5.3.6 Court Recording and Transcription System

The Court Recording and Transcription System (CRTS) is designed to automate the courtrooms through digital recording of proceedings and provision of transcription services. The CRTS allows Judges and Judicial Officers to avoid writing all court proceedings as they are recorded automatically.

This allows ample time to concentrate on the proceedings in court including making observations rather than focusing on recording the court proceedings. Transcribers are then given access to the recording in order to provide transcripts. The system provides an electronic version of proceedings that accurately reflects what happened in Court, making it easier for Judicial Officers to write rulings and judgments.

During the reporting period, various courts and courtrooms were installed with the CRTS equipment. These included the Supreme Court and five Court of Appeal court rooms in Nairobi, Mombasa, Kisumu, Nyeri and Malindi. Other courts where the equipment were installed were: Kisumu ELRC, Nairobi ELRC, Nairobi ACEC Court at Milimani High Courts, Kisii High Court, Mombasa High Court, Nakuru High Court, Naivasha High Court, Embu High Court, Bungoma High Court, Busia High Court, three courtrooms of Milimani Anticorruption Court, Milimani Chief Magistrate Court no. 6, Makadara Law Court and Kibera Law Court. Transcripts are prepared within 48 hours of a request from a Judge or Judicial Officer. So far 4,193 hours has been transcribed, generating 25,445 transcripts.

The Judiciary has set-up a transcription unit to provide transcription services using recordings done under the CRTS. The Judiciary has partnered with the Ministry of ICT, Youth and Innovation through the Ajira programme to provide transcription services. It has also greatly improved the quality and accuracy of the proceedings which are then used as records of appeal. The system has reduced the turnaround time in the generation of transcripts for court proceedings compared to the previous manual records.

#### 5.3.7 Digitisation of Court Recordings

The Judiciary launched the e-filing systems which enabled court users to file all court documents electronically through the e-filing portal. The service was available in all courts in Nairobi County with plans to launch in other counties. Although the court users were submitting their documents electronically it was realised that for active cases, the bulk of the court documents were in physical files in the court registries. This affected the use of the e-filing portal because Judicial Officers needed access to the information filed electronically as well as physical files at the registry.

Consequently, the Judiciary embarked on data entry and scanning services through expanding the scope of the Ajira digital Project. This project was implemented by the Kenya Private Sector Alliance (KEPSA) with funding from Mastercard Foundation. The goal of the data entry and scanning was to accurately and completely capture approximately 135,130 cases to CTS; to accurately and completely digitise approximately 280,600 court files, which will involve scanning, indexing, paginating/tagging the files, and uploading into CTS. The project has so far scanned 122,044 files comprising 4,878,491 images.

#### 5.3.8 Enterprise Resource Planning System

The administrative functions of the Judiciary are being automated through an Enterprise Resource Planning (ERP) system. During the reporting period, the Judiciary re-initiated the process of acquiring an ERP system. A concept note was prepared and presented to the Management for review and approval. The concept note contained the business case and benchmarking report having visited a number of similar institutions including the Kenya Revenue Authority, Kenya Power and Lighting Company, Kenya Ports Authority, The University of Nairobi, Cooperative Bank of Kenya, Kenya Commercial Bank, Safaricom PLC and National Social Security Fund.

#### 5.3.9 ICT Infrastructure Development

Provision of internet services in courts is essential for smooth operation of virtual courts, e-receipting, e-filing and case tracking system. The Judiciary acquired cloud services from two service providers to host the various systems including the e-filing and CTS. A total of nine servers with capacity of 208GB RAM, 96 Cores processing power and 37 TB Storage capacity were procured. The systems hosted on the cloud servers include E-mail service, CTS, JFMIS, e-filing, notifications and their respective databases. The Judiciary plans to replace the cloud servers with the new revamped data centers.

During the reporting period, a number of court stations had Local Area Network (LAN) installations completed. These included Engineer, Molo, Makindu, Kitui, Chuka, Kigumo, Vihiga, Muhoroni, Nanyuki, Maralal, Kwale, Kajiado, Narok and Kahawa Law Courts.

During the reporting period, the Judiciary contracted a new internet service provider, which resulted in more stations being connected and the bandwidth being increased from 1.326 Gbps under the previous contract to 4.215 Gbps under the new contract. The previous contract covered 129 stations, while the new contract covers 162 stations. The 15 large stations also had a secondary/back up internet link. The contract also included additional installation of WiFi in 22 court stations. A total of 129 sites had been migrated and connected to the new service provider.

#### 5.3.10 Other ICT Initiatives for the FY 2020/21

- An ICT security consultant was engaged to carry out a comprehensive examination and assessment of the security of all deployed systems. The purpose was to ensure that systems deployed are secure and robust to support the core business. The Judiciary has a comprehensive understanding on the security status of its ICT systems.
- A training curriculum on the automation within the Judiciary was developed. The training curriculum proposed course targeting Judges, Judicial Officers, staff, advocates and other court users. A number of Standard Operating Procedures and user manuals have been developed and shared widely with all stakeholders. The Judiciary collaborated with LSK, ODPP and EACC to ensure that external stakeholders were trained on the use of the new systems especially e-filing and the virtual courts. The engagements were done through virtual meetings and webinars.

- c) The Judiciary began the procurement of 298 backup UPSs and AVS for a total cost of KSh24.7million. This was done to mitigate the frequent and extended downtimes of CTS, the e-filing system, and the JFMIS. Modems and data bundles were also provided to courts at a cost of KSh7.4million.
- d) The Judiciary initiated the establishment of three Data Centers, which will be designated as the Primary Data Center, Secondary Data Center, and Backup Data Center. The Data Center Services are critical for hosting the equipment and services required for the Judiciary's operation.

#### 5.3.11 Collaborations on ICT Ventures

The Judiciary collaborated with a number of other Government agencies and partners in delivery of the automation vision. The Judiciary signed an MoU with the Ministry of ICT, Innovation and Youth Affairs to collaborate in facilitating transcription of court proceedings, installation of structured cabling in court stations, connecting National Optic Fibre Backbone (NOFBI) to courts and data back-up. The Judiciary is also collaborating with the Communications Authority to improve structured cabling in selected courthouses, funded at KSh250 million grant by the Universal Service Fund.

The Judiciary also worked with a number of development partners to support the automation. These include the IDLO through the Commercial Justice Sector Reform project which provided support through court recording equipment, computers, technical book camps and training of various stakeholders. The World Bank, through the JPIP project provided support to court recording, provision of computers and the roll-out of the CTS in 64 court stations.

#### 5.3.12 Digitisation Strategy; Challenges experienced

The e-filing system experienced frequent downtimes because the infrastructure was still being developed causing user frustration due to delayed support and response to queries. The JFMIS faced challenges in court operations due to the fact that all matters had to be registered online and payment made before issuance of receipts. Any break in the processing chain meant that court users were frustrated and that court operations were sometimes halted. Lack of funds hampered the recruitment of transcribers to facilitate digital recordings.

It is therefore proposed that a call Center be operationalised by the Judiciary so that services may be delivered by a single point of contact for all inquiries and customer service can be streamlined. The Judiciary should train all internal stakeholders on how to get the most out of the current ICT infrastructure.

## CHAPTER SIX—RESOURCE MOBILISATION AND UTILIZATION

### 6.0 Introduction

This Chapter presents the financial allocation, expenditure, revenue and deposits. Chapter covers the resource requirements for the Judiciary versus its allocation, approved budget estimates versus actual expenditure analysis, and expenditure analysis versus the allocation. The chapter further presents information on court revenue and deposits; automation of court revenue; expenditure and deposit processes; operationalization of the Judiciary Fund; financial challenges and recommendations for the improvement of financial allocation for the Judiciary.

#### 6.1 Budget Preparation Process in the Judiciary

The Judiciary's budget process is anchored in Article 173 (3) of the Constitution which requires the CRJ as the accounting officer 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; the Judicial Service Act, 2011; the 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.

During the period under review, the Judiciary continued to prioritise expeditious dispensation of justice programme with two broad sub-programmes, namely, access to justice; and general administration, planning and support services. Drawing from these two sub-programmes, the delivery units in the Judiciary prioritised specific initiatives primarily drawn from the Sustaining Judiciary Transformation (SJT) (2017-2021), and the Key Result Areas (KRAs) of the Judiciary Strategic Plan (2019-2023).

The resource requirements were prepared by consolidating funding requests from all courts, tribunals, registrars of the various courts, directorates and other independent spending units in the Judiciary. The proposed budget for the Judiciary was further subjected to public hearings. The Judiciary's Medium Term Expenditure Framework (MTEF) budget proposal was uploaded on the Judiciary's website for the stakeholders and the general public to give feedback. The stakeholders and the public were engaged through the public hearings which were held in regions as follows: in Coast region in Mombasa; Rift Valley region in Nakuru; Mt. Kenya Region in Nyeri; in Nyanza and Western region in Kisumu and Nairobi region.

Among the Key issues raised during these public hearings were on the need to increase quality and timely service delivery to all citizens in all parts of the country (including the marginalized and persons with disabilities) and, where possible to facilitate citizen through increased pro bono services. It was noted that all these would require additional funding.

The feedback received helped to improve the final budget proposal for the Judiciary before it was submitted to Parliament for consideration.

#### 6.2 Judiciary Budget Requirements versus Allocation FY 2018/19- 2020/21

A comparison of the resource requirements and resource allocation for the Judiciary is presented in Table 6.1.

Table 6.1: Resource Requirements versus Allocation

FINANCIAL YEAR		RECURRENT	DEVELOPMENT KSH. M	OVERALL
2018/19	Requirements	22,378	8,790	31,168
	Allocation	13,086	3,203	16,289
	Funding Gap (%)	42%	64%	48%
2019/20	Requirements	16,991	6,295	23,286
	Allocation	13,797	3,166	16,963
	Funding Gap (%)	19%	50%	27%
2020/21	Requirements	30,684	6,731	37,415
	Allocation	14,575	2,558	17,133
	Funding Gap (%)	52%	62%	54%

Resource requirements for the Judiciary have not been met for the past fiscal years as evidenced by Table 6.1. The table shows that the overall budget deficit increased from 27 per cent to 54 per cent from FY 2019/20 to FY 2020/21. Specifically, recurrent budget deficit increased from 19 per cent to 52 per cent while the development budget deficit increased from 50 per cent to 62 per cent from FY 2019/20 to FY 2020/21 respectively. Figure 6.1 is an illustration of the resource requirements versus the allocation for the past three financial years.

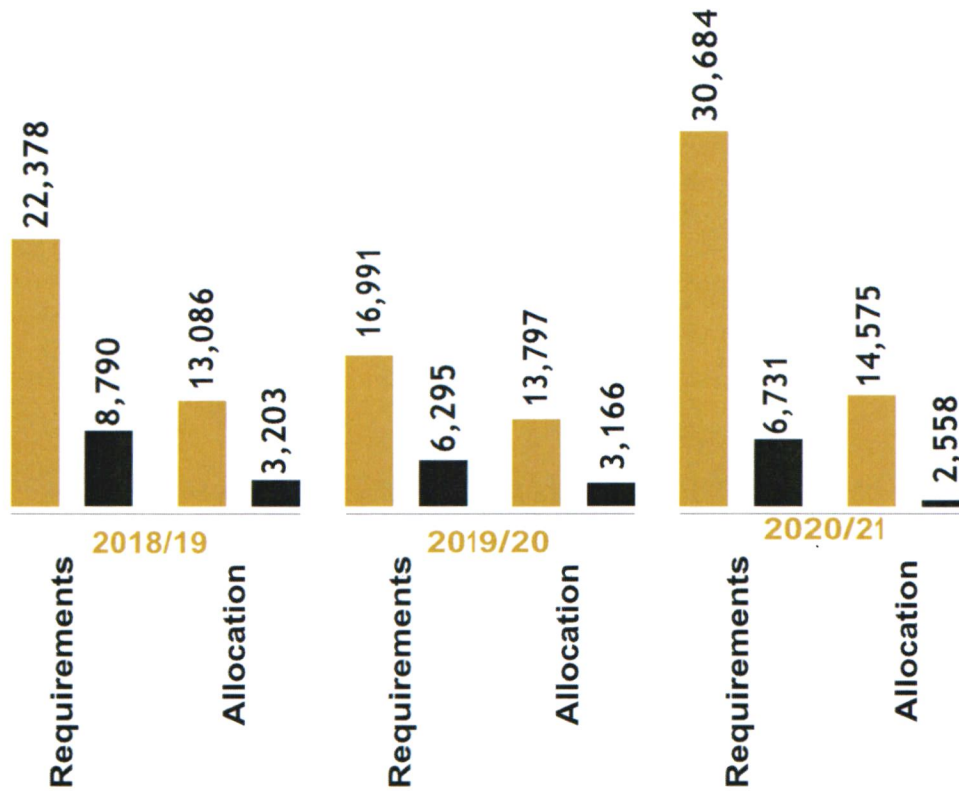


Figure 6.1: Resource Requirements versus Allocation

During the year under review, the Judiciary continued to allocate finances in line with the JSC approved criteria. The non-discretionary budget items such as personnel emoluments (PE) and contractual obligations such as security and cleaning services, leased printers, internet services, medical cover, insurances and utilities among others were prioritized and ring-fenced. The remaining funds under the Operations and Maintenance (O&M) were shared among all the spending units at the headquarters, courts and tribunals.

At the court level, three parameters were used in sharing resources: 50 per cent weight was allocated to case load, 30 per cent to the number of Judicial Officers and 20 per cent to the number of Judicial Staff. Allocation of the budget for the FY 2020/21 per the court levels is as presented in Table 6.2.

Table 6.2: Budget Allocation for Court Stations FY2020/21

1.	Supreme Court	47.94
2.	Court of Appeal	92.68
3.	High Court	280.32
4.	Employment and Labour Relations Court	27.31
5.	Environment and Land Court	27.09
6.	Magistrates Courts	744.95
7.	Tribunals	347.47

Allocation of the budget for all the court levels and Tribunals is as presented in Figure 6.2.

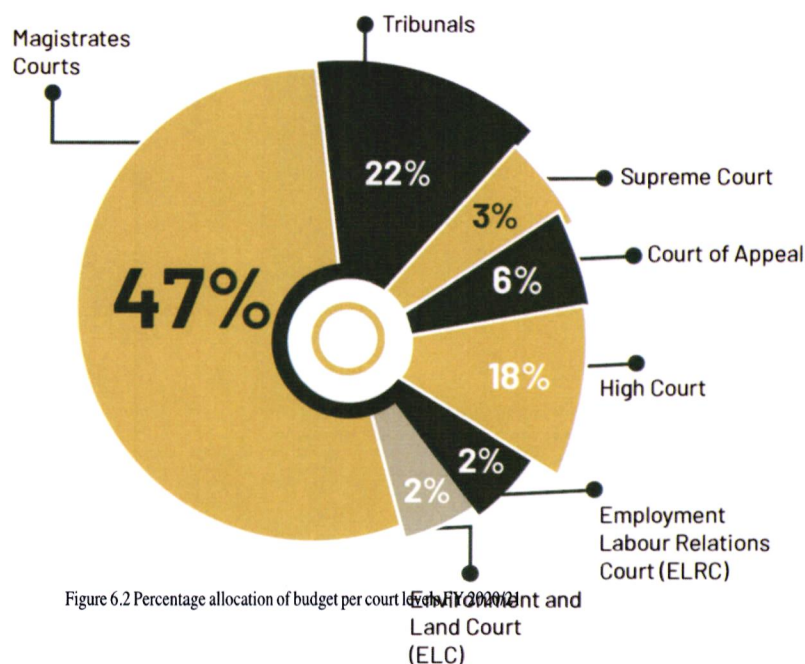


Figure 6.2 Percentage allocation of budget per court in FY 2020/21

Figure 6.2 shows that Magistrates' Courts received the highest budget at 47 per cent, followed by the Tribunals at 22 per cent and then the High Court at 18 per cent. The allocation for the Magistrates Courts was high because it included the maintenance of all buildings, payment of utilities (water and electricity), cleaning and security services. The allocation for Tribunals was high because it included sitting allowances for all tribunal chairpersons and members.

#### 63 Approved Budget Estimates (FY 2018/19 – FY 2020/21)

The budget allocation for the Judiciary in FY 2018/19 was KSh16.095 billion which increased by 5 per cent to KSh16.963 billion in FY 2019/20 and rose by 1 per cent to KSh17.133 billion in FY 2020/21.

The recurrent budget of KSh14.575 billion was financed entirely by the exchequer.

#### 64 Budget Expenditure Analysis

The overall absorption rate was at 94.3 per cent in FY 2018/19, which reduced slightly to 93.9 per cent in FY 2019/20 and then dropped slightly to 92.8 per cent in FY 2020/21. The reduction in the absorption rate can be attributed to the COVID-19 pandemic which negatively impacted the implementation of activities such as workshops, retreats and trainings.

Figure 6.3 is a presentation of the overall budget absorption rate which is further broken down into the absorption rates for both recurrent and development budgets.

**6.4.1 Analysis of Recurrent Expenditure** Presentation of the recurrent expenditure is usually done under the following economic classifications based on the different areas of spending, namely, compensation for employees; transfers; Appropriation in Aid (AIA); and Operations and Maintenance (O&M). Table 6.3 presents a breakdown of the approved budgetary allocation versus actual expenditure for the past three financial years.

Table 6.3: Analysis of Recurrent Budget the Judiciary (KSh M)

Economic Classification	Approved Budget Versus Actual Expenditure (KSh Million)					
	2018/19		2019/20		2020/21	
	Approved	Actual	Approved	Actual	Approved	Actual
Compensation to Employees	7,600	7,600	8,190	8,183	9,402	9,393
Transfers	593	580	-	-	-	-
Other Recurrent	4,893	4,663	5,607	5,351	5,173	5,021
AIA	-	-	-	-	-	-
<b>Total</b>	<b>13,086</b>	<b>12,843</b>	<b>13,797</b>	<b>13,534</b>	<b>14,575</b>	<b>14,414</b>

The Table 6.3 shows that recurrent budget allocation increased by 5 per cent in FY 2019/20 and by 6 per cent in FY 2020/21. The share of compensation to employees over the total recurrent budget increased from 59.2 per cent in FY 2019/20 to 64.5 per cent in FY 2020/21 which is attributed to the reclassification of Employer's Contribution to pension under PE economic classification. The share of other recurrent budget declined from 40.6 per cent in FY 2019/20 to 35.5 per cent in FY 2020/21.

#### 6.4.2 Analysis of Development Expenditure

Classification of development expenditure is done as per the source of funding namely: Government of Kenya (GOK); Loans, Grants, and Appropriations in Aid (AIA). An analysis of approved versus actual development expenditure is presented in Table 6.4.

Table 6.4: Analysis of Development Approved Budget vs Actual Expenditure (KSh M)

Economic	Approved	Actual	Approved Budget 2018/19	Actual Expenditure	Approved Budget 2019/20	Actual Expenditure	Classification Budget 2020/21
GOK	147	130	971	651	292		281
Loans	2,998	2,331	2,195	1,748	2,266		1,202
Grants	58	52	-	-	-		-
Local AIA	-	-	-	-	-		-
Totals	3,203	2,513	3,166	2,399	2,558		1,483

The Judiciary's development budget reduced by 1.2 per cent from KSh3.2 billion in FY 2018/19 to KSh3.16 billion in FY 2019/20 then decreased by 19.2 per cent in FY 2020/21 to KSh2.558 billion. The absorption has been on a general decline from 79 per cent in FY 2018/19 to 76 per cent in FY 2019/20 and 58 per cent in FY 2020/21.

#### 6.4.3 Analysis of Programme Expenditure

The mandate of the Judiciary is captured under the "Dispensation of Justice" programme. This programme comprises two sub-programmes namely: Access to Justice; and General Administration Planning and Support Services. The Access to Justice sub-programme was allocated a larger share of resources as it is the core mandate of the Judiciary. Expenditure analysis for the two sub-programmes is provided in Table 6.5.

Table 6.5: Analysis of Programme Expenditure

Sub- Programme.	Approved Budget Versus Expenditure (KSh Million)					
	Approved	2018/19 Expenditure	Approved	2019/20 Expenditure	Approved	2020/21 Expenditure
1: Access to Justice	12,363	11,503	12,824	11,873	13,960	12,804
Sub- Programme.2: General Administration and Support Services	3,926	3,853	4,139	4,060	3,173	3,093
Total	16,289	15,356	16,963	15,933	17,133	15,897

Table 6.5 shows that budget allocation for the 'Access to Justice' sub-programme increased from KSh12.82 billion in FY 2019/20 to KSh13.96 billion in FY 2020/21. The approved budget for the 'General Administration Planning and Support Services' sub-programme decreased from KSh4.12 billion in the FY 2019/20 to KSh3.17 billion. This means that the overall budget for the Judiciary increased slightly by one per cent from KSh16.96 billion to KSh17.13 billion in the fiscal year under review. The allocation of these additional resources was undertaken in line with the core mandate of the Judiciary whereby the overall allocation of the access to justice sub-programme increased from 76 per cent in the FY 2019/20 to 81 per cent in the FY 2020/21.

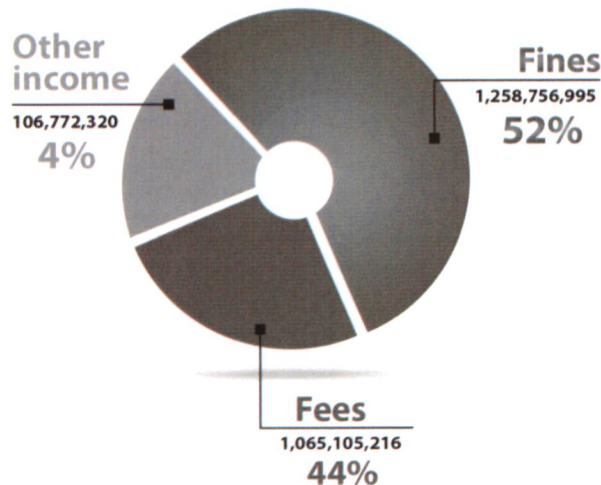
#### 6.5 Court Revenue

The Judiciary is an appointed Receiver of Revenue (ROR) by the National Treasury with the power to collect revenue related to its core mandate on behalf of the Government of Kenya. The funds collected by Judiciary are transferred to the exchequer through the Central Bank of Kenya.

Court revenue consists of fines and forfeitures fees for filing cases and for use of goods and services provided by Judiciary; and revenue from government property. Court fines are imposed by the court and they also precipitate from forfeiture of legal deposits such as those from failure of individuals who paid court deposits to adhere to court directives on bond terms, or by the request of the accused to have part or whole of their legal deposits treated as fine.

Court fees are levied and payable by the participant in the court proceedings and after affidavits may include: application fees, cost of orders, service fees and fees related to exhibits, affidavits and copies among other services. Revenue from government property mainly consists of rent from government buildings and interest income on deposits among other sources.

Figure 6.4 illustrates revenue collected during the reporting period from the three sources in the Judiciary.



In the FY 2020/21, fines contributed 52 per cent (KSh. 1.26 billion) of the court revenue. Fees collected amounted to 44 per cent (KSh. 1.07 billion) while other income from interest on court deposits and rent from property was 4 per cent (KSh. 0.11 billion) of the total revenue

## 6.5.1 Revenue Trends

There was however improvement in revenue collection in FY 2020/21 where KSh2.43 billion was collected. This is illustrated in Table 6.6:

Table 6.6: Revenue collections over the last three financial years

	FY 2018/19	FY 2019/20	FY 2020/21	Change from 2018/19-2019/20		Change from 2019/20-2020/21	
	KSh'000	KSh'000	KSh'000	KSh'000	%	KSh'000	%
Fines	1,638,577	1,263,813	1,258,757	(374,764)	-23%	-5,056	0%
Fees	1,055,227	932,073	1,065,105	(123,153)	-12%	133,032	14%
Other Income	0	75,318	106,772	75,318	>100%	31,454	42%
Total	2,693,804	2,271,204	2,430,635	(422,599)	-16%	159,430	7%

Total revenue collection increased by seven per cent from FY 2019/20 to FY 2020/21. This improvement was attributed to increase in cases filed from 337,510 in FY 2019/20 to 356,997 in FY 2020/21 and commensurate increase in resolved cases from 289,728 in FY 2019/20 to 294,837 in FY 2020/21. In addition, revenue collection was automated and e-receipting adopted in all court stations.

Figure 6.5 shows that there was a decline in total revenue from FY 2018/19 to FY 2019/20 followed by marginal growth in FY 2020/21.

## 6.5.2 Comparison of Revenue Collected against Target

Section 75 (2) of the PFM Act, 2012 stipulates that a receiver of national Government revenue is responsible to the Cabinet Secretary for its collection. Such revenue shall be separately accounted for in accordance with Articles 206 (1) and 209 (1), (2) and (4) of the Constitution. The Cabinet Secretary responsible for Finance through a Circular sets revenue projections at the beginning of each financial year to be collected by the Ministries, Departments and Agencies (MDAs) who are designated collectors of national Government revenue.

Table 6.7: Revenue Collections over the last three financial years

FY	KSh'000'	%	KSh'000'	%	KSh'000'	%
2018/19	4,548,208	56%	2,693,804	30%	-1,854,404	59%
2019/20	2,990,857	-34%	2,195,886	-18%	-794,971	73%
2020/21	1,811,796	-39%	2,430,635	11%	618,839	134%

The target set by the National Treasury reduced by 60 per cent, from KSh4.54 billion in FY 2018/19 to KSh1.81 billion in the FY 2020/21. The higher revenue realisation in FY 2020/21 was attributed to interest on court deposits that was not previously earned. Figure 6.6 is an illustration of the set revenue target against the actual revenue collection.

Figure 6.6: Revenue Targets against Actuals Analysis for FY 2018/19- FY 2020/21

Revenue estimates have been higher than the actual revenue collections over the previous two financial years. Revenue collected is dependent on cases filed and matters resolved in a given period. Table 6.8 presents revenue collected by all courts over the past three years.

Table 6.8: Revenue collected by all courts FY 2018/19 - FY 2020/21

S/	Court Station No	2020-2021	Fines 2019-2020	2018-2019	2020-2021	Fees 2019-2020	2018-2019
		KSh	KSh	KSh	KSh	KSh	K Sh
1	Baricho	4,721,467	3,428,342	9,712,679	3,184,307	2,356,883	3,487,397
2	Bomet	9,893,228	9,658,536	17,753,467	3,279,676	2,347,171	2,714,610
3	Bondo	7,293,451	3,872,871	6,515,645	4,348,176	2,861,118	3,091,406
4	Bungoma	8,166,610	10,521,009	11,327,833	11,011,589	10,247,917	12,521,287
5	Busia	17,672,724	11,964,164	9,595,756	11,033,204	7,649,987	7,509,176
6	Butali	1,430,699	1,663,854	2,807,984	3,178,874	1,163,629	2,014,970
7	Butere	2,532,326	2,726,191	4,626,032	2,625,491	1,729,923	1,970,580
8	Court of Appeal	-	-	2,400,000	13,452,068	22,983,146	19,294,496
9	Chuka	12,029,074	11,754,438	16,734,366	5,974,590	4,612,472	5,694,437
10	Dadaab Law Courts	190,000	-	-	37,665	-	-
11	Eldama Ravine	12,480,552	8,340,087	12,750,512	1,969,647	1,901,922	2,579,874
12	Eldoret	25,866,397	18,010,308	29,376,223	32,646,382	25,818,011	26,936,759
13	Embu	6,830,811	9,346,334	10,860,419	8,216,170	8,161,280	9,604,948
14	Engineer	14,821,833	6,316,375	6,695,920	4,268,150	2,748,248	2,405,542
15	Garissa - Magistrate	12,585,613	10,782,129	16,054,115	4,737,958	2,606,691	2,591,501
	Garissa - Balambala Kadhi	-	-	-	58,075	67,450	40,325
	Garissa - Dadaab Kadhi	-	-	-	152,000	160,935	161,150
	Garissa - Ijara Kadhi	-	-	-	124,330	169,635	302,015
	Garissa - Modogashe Kadhis	-	-	-	54,995	148,028	-
	Garissa - Bura/ Fafi Kadhi Court	-	-	-	51,450	37,200	-
16	Garsen	3,016,309	1,928,850	746,670	1,365,325	1,333,180	1,201,220
17	Gatundu	14,566,859	8,162,906	11,175,329	7,185,079	4,135,687	5,660,407
18	Gichugu	4,819,135	3,769,249	6,159,473	2,167,779	1,087,535	1,479,739
19	Githongo	4,189,726	3,518,760	6,392,297	2,035,422	1,244,150	1,603,181
20	Githunguri	5,786,467	3,023,182	6,822,731	2,719,248	2,686,150	3,443,186
21	Hamisi	3,383,148	2,671,996	2,094,087	822,667	753,677	907,872

22	Hola	2,216,598	1,136,018	982,619	633,783	517,722	420,437
23	Homa Bay	7,767,707	4,838,163	6,784,463	4,839,660	4,363,514	3,624,936
24	Isiolo - Magistrate Court	12,738,008	8,169,755	11,284,272	2,490,756	1,912,205	1,796,590
	Isiolo - Garbatullah Kadhi	-	-	-	110,465	85,315	-
	Isiolo - Merti Kadhi Court	-	-	-	282,525	113,475	-
25	Iten	5,248,642	9,896,974	9,455,602	1,942,649	1,129,764	1,196,056
26	JKIA	3,789,210	4,974,774	8,280,102	158,285	176,222	135,635
27	Kabarnet	2,916,584	2,309,976	3,982,112	1,280,505	1,026,499	1,325,253
28	Kajiado	5,511,835	14,713,081	22,064,179	12,766,769	8,802,482	11,343,121
29	Kahawa	100,000	-	-	4,490	-	-
30	Kakamega	6,367,548	7,853,128	9,784,537	10,429,153	9,808,549	11,777,871
31	Kakuma	1,350,028	881,855	1,218,481	221,565	108,735	49,306
32	Kaloleni	1,567,538	884,619	1,591,428	2,503,210	2,290,667	1,146,640
33	Kandara	11,236,015	8,727,584	7,463,815	5,699,245	3,928,157	3,542,882
34	Kangema	5,819,522	3,474,990	6,764,880	1,563,906	1,530,052	1,576,288
35	Kangundo	12,064,864	6,190,392	10,905,244	5,565,301	4,959,835	4,643,821
36	Kapenguria	7,125,333	5,466,102	6,906,382	1,693,562	1,196,408	1,088,919
37	Kapsabet	7,099,684	15,563,593	29,069,936	4,888,060	3,984,772	3,363,341
38	Karatina	5,747,649	3,844,769	6,374,549	3,811,224	2,283,745	3,047,853
39	Kehancha	6,243,448	2,420,162	5,335,801	739,933	726,416	581,560
40	Kericho	12,344,424	14,235,127	26,384,455	8,544,796	7,445,187	9,435,023
41	Keroka	8,734,151	2,499,929	3,457,400	2,524,373	813,298	1,353,969
42	Kerugoya	3,852,387	2,925,898	5,778,846	8,119,691	6,700,114	7,609,913
43	Kiambu	34,311,121	13,569,843	22,598,134	16,504,353	13,496,892	13,686,578
44	Kibera	50,779,939	47,009,226	58,192,779	695,285	901,869	770,393
45	Kigumo	4,812,017	5,765,939	12,395,997	4,507,903	3,209,563	4,164,010
46	Kikuyu	7,248,446	6,477,472	8,121,538	8,933,058	7,911,704	8,220,926
47	Kilgoris	6,470,283	6,241,580	7,058,463	1,660,042	1,240,775	1,814,842
48	Kilifi	4,136,158	4,661,178	4,534,892	8,369,178	6,708,410	5,505,769
49	Kilungu	15,461,892	12,842,022	25,075,174	4,747,675	4,069,748	4,659,906
50	Kimilili	2,045,674	5,225,502	6,440,780	2,783,402	1,863,804	1,975,375
51	Kisii	6,321,498	8,360,095	22,517,686	15,661,583	13,962,043	18,077,507
52	Kisumu	14,851,711	6,931,835	13,378,392	27,963,810	22,195,475	25,157,161
53	Kitale	19,598,314	17,043,659	31,840,157	9,740,072	10,292,817	11,719,850
54	Kithimani	5,548,683	6,127,468	9,813,662	3,562,136	3,273,170	4,054,954
55	Kitui	7,582,253	7,538,568	11,253,417	7,934,319	6,076,548	6,780,262
56	Kwale	4,583,639	8,385,910	18,927,057	5,994,497	4,861,012	6,775,298
57	Kyuso	915,773	1,163,700	3,546,794	426,427	489,273	541,950
58	Lamu - Magistrate Court	5,104,510	2,131,316	2,804,962	779,195	938,257	531,469
	Lamu - Faza Kadhi Court	-	-	-	-	-	-
59	Limuru	9,236,190	7,181,059	11,965,206	10,448,965	6,463,580	7,759,018
60	Lodwar	3,263,603	2,199,557	2,538,517	676,672	547,370	355,880
61	Loitokitok	1,544,717	3,494,881	5,813,828	966,263	597,231	1,302,367
62	Machakos	18,133,979	10,693,070	20,190,595	24,398,678	19,096,858	24,312,704
63	Makadara	75,920,529	198,281,119	98,743,809	209,117	443,556	719,355
64	Makindu	16,620,241	13,113,940	25,193,119	6,827,180	6,366,468	7,184,257
65	Makueni	6,781,775	4,287,643	7,747,842	5,943,332	5,505,950	5,886,405
66	Malindi	6,354,588	5,311,979	6,690,523	14,153,857	12,601,059	14,928,864
67	Mandera - Magistrate Court	6,839,339	4,042,800	4,745,041	562,108	476,413	1,840,295
	Mandera - Elwak Kadhi Court	-	-	-	334,250	315,350	-
	Mandera - Tabaka Kadhi Court	-	-	-	14,350	128,790	-

68	Maralal	3,239,055	1,912,610	1,859,761	593,752	482,496	560,691
69	Mariakani	8,040,611	8,593,476	19,002,488	4,389,799	3,870,664	4,614,694
70	Marimanti	2,168,541	1,728,606	1,795,720	1,567,615	714,249	714,076
71	Marsabit	2,753,396	2,810,497	1,698,048	981,494	915,985	1,385,191
72	Maseno	6,203,131	4,349,223	5,397,390	2,590,655	2,225,435	1,877,100
73	Maua	9,368,462	7,936,819	11,122,768	5,956,019	4,199,661	5,245,683
74	Mavoko	30,417,086	29,274,491	45,877,569	15,226,423	15,868,437	14,231,473
75	Mbita	3,730,548	3,332,052	4,878,645	1,184,846	892,270	973,044
76	Meru	7,958,572	10,771,755	18,474,682	14,200,267	11,926,361	15,326,689
77	Migori	6,439,184	2,953,736	5,120,340	6,838,836	5,774,184	7,330,828
78	Milimani Commercial Court	-	80,000	40,000	202,186,594	201,825,611	229,491,369
79	Milimani ELRC	-	700,000	-	9,343,546	7,765,873	9,750,153
80	Milimani Law Court	130,098,423	194,481,201	222,492,337	90,136,115	87,758,158	125,446,918
81	Molo	19,358,247	9,929,906	10,316,620	6,723,758	4,923,037	4,669,381
82	Mombasa	39,269,979	27,673,872	48,857,932	67,507,598	56,080,462	73,701,060
83	Moyale	5,212,879	6,877,224	7,476,817	607,728	457,969	482,255
84	Mpeketoni - Magistrate	763,202	230,710	616,489	474,991	373,270	381,055
	Mpeketoni - Witu Kadhis Court	-	-	-	198,055	58,375	-
85	Msambweni	3,722,830	3,473,743	-	1,932,926	1,091,929	-
86	Mukurwe-ini	2,576,564	1,242,335	2,965,844	903,294	973,068	1,073,150
87	Mumias	2,895,779	4,397,010	5,790,251	2,868,868	2,378,998	3,106,680
88	Murang'a	6,899,915	5,289,345	8,319,035	12,746,176	8,773,337	9,220,921
89	Mutomo	2,676,706	1,771,368	2,095,873	785,349	791,743	914,562
90	Mwingi	11,378,278	8,467,220	4,237,660	3,502,705	1,946,872	3,667,575
91	Naivasha	11,360,898	19,285,976	37,676,681	17,110,070	14,884,835	16,449,620
92	Nakuru	29,984,296	28,465,791	31,962,271	33,628,982	25,193,979	29,538,342
93	Nanyuki	13,799,503	7,683,103	18,026,635	5,499,102	4,311,911	5,699,849
94	Narok	8,888,119	8,381,964	12,603,914	6,669,794	5,826,793	8,390,815
95	Ndhiwa	1,414,999	1,905,667	1,059,270	1,383,807	952,974	1,408,504
96	Ngong	13,400,486	8,503,210	20,421,361	6,908,574	5,396,217	6,512,253
97	Nkubu	6,080,205	8,788,271	9,616,765	3,608,927	2,861,429	3,071,507
98	Nyahururu	11,085,197	11,654,502	12,122,751	9,936,316	7,584,882	8,904,550
99	Nyamira	12,967,640	7,770,633	9,594,104	4,452,859	3,723,246	3,253,048
100	Nyando	3,213,349	1,743,307	3,008,021	4,074,964	2,664,002	1,925,987
101	Nyeri	14,539,750	13,409,763	15,125,872	15,914,862	13,868,235	16,929,210
102	Ogembo	4,856,223	6,260,149	13,208,956	4,195,546	3,579,927	4,306,861
103	Othaya	1,783,164	1,487,256	1,930,943	1,825,352	1,039,946	1,461,458
104	Oyugis	6,419,774	5,158,839	6,643,043	5,525,770	4,197,770	3,662,242
105	Rongo	3,692,345	1,881,808	3,533,889	2,499,333	2,656,040	2,793,610
106	Ruiru	27,105,099	15,064,813	2,459,759	12,325,531	7,752,198	1,485,483
107	Runyenjes	13,299,903	3,541,496	7,078,776	2,191,605	2,202,379	1,783,185
108	Shanzu	13,253,928	12,206,759	23,760,774	51,445	93,550	86,585
109	Siakago	4,976,405	4,046,336	2,926,018	3,549,304	2,829,639	2,564,637
110	Siaya	4,845,904	3,964,009	5,343,010	4,651,393	3,613,018	3,841,016
111	Sirisia	1,829,193	3,118,006	4,893,854	993,347	740,637	1,083,413
112	Sotik	5,348,504	4,915,827	6,201,140	2,461,316	1,601,085	2,296,548
113	Tamu	1,897,079	1,162,392	1,513,239	1,287,416	902,995	821,479
114	Taveta	5,706,744	12,125,086	9,777,249	836,824	807,950	358,827
115	Tawa	1,289,420	941,232	2,047,296	1,870,247	1,648,998	2,001,471
116	Thika	40,094,273	24,429,258	55,567,925	21,421,155	17,302,915	24,009,108
117	Tigania	5,200,465	6,400,182	14,609,458	3,681,983	2,135,679	2,166,228
118	Tononoka	60,000	7,000	-	967,681	646,962	-
119	Tribunals	-	-	-	17,177,162	23,366,595	-
120	Ukwala	5,139,844	3,543,700	4,099,274	1,724,725	1,743,579	1,607,349
121	Vihiga	3,114,579	2,477,665	5,793,465	3,932,044	3,123,825	2,850,754
122	Voi	10,702,282	7,126,052	10,372,870	5,856,421	4,849,568	5,534,252
	Wajir - Magistrate	7,281,501	8,701,205	10,108,316	1,604,431	748,965	1,303,038

	Court						
123	Wajir - Eldas Kadhis Court	-	-	-	27,975	13,855	-
	Wajir - Bute Kadhis Court	-	-	-	89,420	76,020	-
	Wajir - Habaswein Kadhis Court	-	-	-	52,300	87,975	-
124	Wang'uru	6,115,895	4,396,947	10,306,817	3,811,361	3,160,160	2,918,828
125	Webuye	5,358,793	5,637,157	8,362,815	2,463,814	2,259,991	2,339,947
126	Winam	6,858,879	5,398,782	6,438,412	2,216,124	1,934,291	2,176,355
127	Wundanyi	4,036,493	3,403,805	5,346,970	866,601	670,850	524,823

The top 10 collectors of fines for FY 2020/21 were Milimani, Makadara, Kibera, Thika, Mombasa, Kiambu, Mavoko, Nakuru, Ruiru and Eldoret Law Courts while top 10 collectors of fees were: Milimani Commercial, Milimani Law, Mombasa, Nakuru, Eldoret, Kisumu, Machakos, Thika, Tribunals and Naivasha Law Courts.

#### 66 Court Deposits

Court deposits are payments of funds or property to the court as a precautionary measure. Deposits are refunded at the conclusion of legal proceedings. Cash bail, bond (security), land title, log book, fixed deposit certificate, travel documents, and pay slips are all examples of deposits.

Deposits management has improved in the past three financial years. Since the delinking of the management of financial matters from the Sub-County Treasuries, there has been greater efficiency, effectiveness, transparency and accountability in collection, refund and accounting for court deposits in the period under review. In order to finalize the delinking from Sub-County Treasuries, reconciliation of deposits were carried out in the majority of courts during this period to establish the correct deposits liability.

In deposit collection and accounting, the Judiciary employs the Case Tracking System (CTS) and the Judiciary Financial Management Information System (JFMIS), while payments and refunds are processed through the KCB QuickPay (Q-pay) electronic payments system.

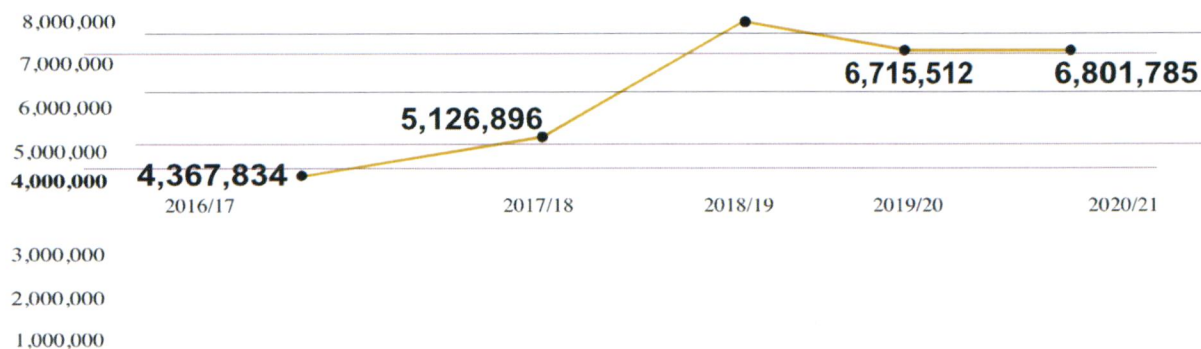


Figure 6.7: Trends in amounts of deposits held by the Judiciary from FY 2016/17 – 2020/21

The court deposits held by the Judiciary have progressively increased from KSh4.37 billion in FY 2016/17 to KSh6.8 billion in FY 2020/21.

Table 6.9 details the funds held as cash bails in each court station as at the end of the FY 2020-2021 and the percentage change in this amount as compared to the FY 2019/2020.

Table 6.9: Court Deposits held by court stations and end of FY 2020/21

No	Station Name	FY 2019/20 KShs	FY 2020/21 KShs	Change KShs	%age
1.	Baricho	12,436,912	14,940,775	2,503,863	17%
2.	Bomet	17,195,854	19,370,265	2,174,411	11%
3.	Bondo	2,967,321	3,481,321	514,000	15%
4.	Bungoma	26,672,811	24,683,325	(1,989,487)	-8%
5.	Busia	16,873,176	26,813,416	9,940,240	37%
6.	Butali	7,683,138	9,476,632	1,793,494	19%
7.	Butere	3,073,810	2,367,309	(706,501)	-30%
8.	Chuka	17,046,151	18,212,494	1,166,343	6%
9.	Dadaab	-	195,000	195,000	-
10.	Eldama Ravine	19,546,105	17,814,657	(1,731,448)	-10%
11.	Eldoret	92,132,719	119,254,991	27,122,273	23%
12.	Embu	33,678,307	29,313,675	(4,364,632)	-15%
13.	Engineer	11,807,112	12,939,512	1,132,400	9%
14.	Garissa	19,822,559	21,007,841	1,185,282	6%
15.	Garsen	3,819,641	2,810,335	(1,009,306)	-36%
16.	Gatundu	17,065,433	19,508,993	2,443,560	13%
17.	Gichugu	6,095,508	9,701,308	3,605,800	37%
18.	Githongo	3,423,529	4,305,290	881,760	20%
20.	Hamisi	2,740,878	3,536,010	795,132	22%
21.	Hola	1,135,060	1,755,985	620,925	35%
22.	Homa Bay	13,272,391	13,168,391	(104,000)	-1%
23.	Isiolo	22,649,745	22,441,089	(208,657)	-1%

24	Iten	4,842,624	4,357,624	(485,000)	-11%
25	JKIA	10,628,400	15,926,400	5,298,000	33%
26	Kabarnet	3,089,669	3,640,585	550,916	15%
27	Kahawa	-	1,885,000	1,885,000	-
28	Kajiado	161,990,014	170,731,500	8,741,486	5%
29	Kakamega	27,198,258	28,933,776	1,735,518	6%
30	Kakuma	1,743,000	2,288,000	545,000	24%
31	Kaloleni	3,165,457	4,706,737	1,541,280	33%
32	Kandara	17,861,441	19,049,797	1,188,356	6%
33	Kangema	7,448,334	8,147,554	699,220	9%
34	Kangundo	12,120,726	18,968,086	6,847,360	36%
35	Kapenguria	4,707,915	6,435,693	1,727,778	27%
36	Kapsabet	18,106,395	23,360,030	5,253,634	22%
37	Karatina	10,555,311	10,198,811	(356,500)	-3%
38	Kehancha	3,708,664	5,087,916	1,379,252	27%
39	Kericho	42,098,207	41,458,737	(639,469)	-2%
41	Kerugoya	17,066,792	22,644,180	5,577,388	25%
42	Kiambu	146,543,683	172,155,010	25,611,327	15%
44	Kigumo	22,269,967	26,890,286	4,620,319	17%
45	Kikuyu	42,413,150	49,236,487	6,823,337	14%
46	Kilgoris	9,369,306	11,622,306	2,253,000	19%
47	Kilifi	25,781,127	30,092,401	4,311,274	14%
48	Kilungu	3,036,602	2,907,752	(128,850)	-4%
49	Kimilili	7,155,120	6,956,738	(198,382)	-3%
50	Kisii	29,659,340	34,654,242	4,994,902	14%
51	Kisumu	51,202,199	72,100,335	20,898,136	29%
52	Kitale	24,872,975	37,162,994	12,290,020	33%
53	Kithimani	16,315,631	18,769,326	2,453,694	13%
54	Kitui	36,732,634	39,045,768	2,313,134	6%
55	Kwale	26,765,321	28,560,419	1,795,098	6%
56	Kyuso	1,340,400	1,293,500	(46,900)	-4%
57	Lamu	10,352,173	11,626,020	1,273,847	11%
58	Limuru	31,548,906	32,524,316	975,410	3%
59	Lodwar	5,369,368	7,097,868	1,728,500	24%
60	Loitokitok	912,500	1,384,500	472,000	34%
61	Machakos	79,180,206	85,610,004	6,429,798	8%
62	Makadara	370,877,821	398,486,733	27,608,912	7%
64	Makueni	15,605,738	14,648,265	(957,473)	-7%
65	Malindi	91,304,951	88,089,875	(3,215,076)	-4%
66	Mandera	2,257,275	1,303,775	(953,500)	-73%
67	Mararal	2,885,732	3,143,201	257,469	8%
68	Mariakani	21,252,175	26,096,818	4,844,643	19%
69	Marimanti	2,455,000	2,992,000	537,000	18%
70	Marsabit	22,202,119	20,706,894	(1,495,225)	-7%
71	Maseno	6,002,039	7,057,184	1,055,146	15%
72	Maua	32,350,165	28,684,867	(3,665,298)	-13%
73	Mavoko	68,189,764	84,757,320	16,567,556	20%
74	Mbita	3,251,444	3,413,275	161,831	5%
75	Meru	46,502,831	55,852,489	9,349,658	17%
76	Migori	13,035,686	16,271,210	3,235,524	20%
77	Milimani Law Court	2,329,131,409	2,090,289,472	(238,841,938)	-11%
78	Milimani Commercial Court	215,484,697	218,412,931	2,928,234	1%
79	Molo	48,021,663	57,570,414	9,548,751	17%
80	Mombasa	303,736,584	330,143,120	26,406,536	8%
81	Mutomo	5,186,639	1,560,384	(3,626,255)	-232%
82	Moyale	3,709,890	4,027,890	318,000	8%
83	Mpeketoni	1,122,000	1,524,000	402,000	26%
85	Mukurweini	1,966,999	1,806,525	(160,474)	-9%
86	Mumias	8,378,724	7,679,073	(699,651)	-9%
88	Mwingi	11,139,344	19,340,198	8,200,854	42%
89	Naivasha	105,833,505	103,333,982	(2,499,523)	-2%
90	Nakuru	226,929,620	249,677,028	22,747,408	9%
91	Nanyuki	29,335,929	34,206,171	4,870,242	14%
92	Narok	24,758,502	35,758,017	10,999,514	31%
93	Ndhiwa	1,393,500	1,699,944	306,444	18%
94	Ngong	37,129,858	47,377,202	10,247,344	22%
95	Nkubu	8,119,551	8,675,207	555,656	6%
96	Nyahururu	37,680,018	42,897,086	5,217,068	12%
97	Nyamira	17,044,996	14,004,171	(3,040,825)	-22%
98	Nyando	3,548,628	3,392,628	(156,000)	-5%
99	Nyeri	58,834,522	61,390,152	2,555,630	4%
100	Ogembo	15,136,485	23,928,823	8,792,338	37%
101	Othaya	2,159,445	1,612,437	(547,008)	-34%
102	Oyugis	3,629,200	4,882,700	1,253,500	26%
103	Rongo	3,504,846	4,446,105	941,260	21%
104	Ruiru	9,708,000	13,081,813	3,373,813	26%
106	Shanzu	95,991,736	111,408,236	15,416,500	14%
107	Siakago	12,356,540	14,093,440	1,736,900	12%

108.	Siaya	12,661,526	14,785,261	2,123,735	14%
109.	Sirisia	2,845,379	4,770,249	1,924,870	40%
110.	Sotik	4,817,105	6,469,605	1,652,500	26%
111.	Tamu	1,095,500	1,464,500	369,000	25%
112.	Taveta	2,159,045	1,856,045	(303,000)	-16%
113.	Tawa	3,738,772	4,323,773	585,001	14%
114.	Thika	128,092,455	120,426,451	(7,666,004)	-6%
115.	Tigania	10,549,969	10,939,769	389,800	4%
116.	Tononoka	398,000	618,000	220,000	36%
117.	Tribunals	40,366,926	39,804,781	(562,145)	-1%
118.	Ukwala	2,453,268	3,367,190	913,923	27%
119.	Vihiga	6,029,378	6,015,242	(14,136)	0%
120.	Voi	15,682,563	12,118,505	(3,564,059)	-29%
121.	Wajir	3,343,540	3,544,000	200,460	6%
122.	Wang'uru	7,679,152	5,720,497	(1,958,655)	-34%
123.	Webuye	10,966,648	12,477,185	1,510,537	12%
124.	Winam	14,637,156	13,977,366	(659,790)	-5%
125.	Wundanyi	2,588,740	1,939,682	(649,058)	-33%
126.	Supreme Court /Court of Appeal/HQs	585,984,121	533,606,921	(52,377,200)	-10%

Table 6.9 shows that the outstanding deposits during FY 2020/21 increased marginally by one per cent from KSh6.72 billion in FY 2019/20 to KSh6.80 billion in FY 2020/21.

#### 6.7 Monetary Value of Cases Handled Through Court Annexed Mediation

The value of the matters that were settled through Court Annexed Mediation (CAM) was KSh382million. The growth in value of matters referred to CAM over time is illustrated in Figure 6.8.

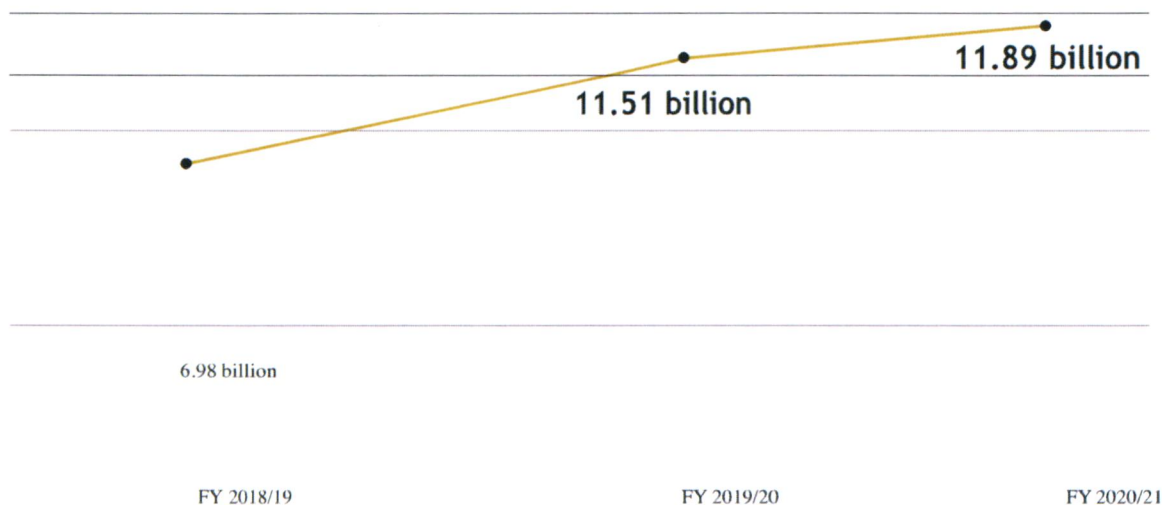


Figure 6.8: Trend of monetary value of matters settled through mediation

The monetary amount that has been released back to the economy has shown a positive trajectory from KSh6.98 billion in FY 2018/19 to KSh11.51 billion in FY 2019/20 to KSh11.89 billion in FY 2020/21. The mild growth during the period under review is attributed to the reduced settlement of matters through the mainstream court process during the COVID-19 pandemic. Detailed statistics on monetary value of matters handled under CAM are presented in Table 6.10.

Table 6.10: Monetary value of matters referred to mediation, FY 2020/21

No.	Court name	Cumulative value of matters referred to mediation as at 30th June 2020	Value of matters referred to mediation, FY2020/21	Cumulative value of matters referred to mediation as at 30th June 2021	Cumulative value of matters with settlement agreements as at 30th June 2020	Value of matters with settlement agreements, FY 2020/21	Cumulative value of matters with settlement agreements as at 30th June 2021
HIGH COURT							
1	Eldoret	1,685,114,162	434,090,000	2,119,204,162	719,317,282	24,700,000	744,017,282
2	Embu	747,867	3,100,000	3,847,867	40,167	2,100,000	2,140,167
3	Garissa	731,419	-	731,419	556,000	-	556,000
4	Kakamega	327,163,048	102,500,000	429,663,048	70,574,219	32,441,902	103,016,121
5	Kerugoya	-	26,000,000	26,000,000	-	4,000,000	4,000,000
6	Kisii	380,488	12,459,400	12,839,888	-	18,107,108	18,107,108
7	Kisumu	265,864,884	344,000,000	609,864,884	13,261,353	-	13,261,353
8	Machakos	187,309,123	158,300,000	345,609,123	66,879,006	-	66,879,006
9	Malindi	15,669,663	20,000,000	35,669,663	-	-	-
10	Milimani Civil Division	995,254,234	195,300,000	1,190,554,234	1,509,150	-	1,509,150

11	Milimani Commercial Division	24,347,675,688	1,367,000,000	25,714,675,688	3,531,243,120	216,530,836	3,747,773,956
12	Milimani Family Division	12,910,945,835	503,300,000	13,414,245,835	4,936,821,914	10,562,480	4,947,384,394
13	Mombasa	59,953,326	16,649,288	76,602,614	-	-	-
14	Nakuru	135,989,981	1,844,278	137,834,259	3,894,123	-	3,894,123
15	Nyamira	4,687,500	-	4,687,500	2,222,222	-	2,222,222
16	Nyeri	1,006,585,018	3,108,000,000	4,114,585,018	1,061,944,436	17,352,645	1,079,297,081
	Total High Courts	41,944,072,236	6,292,542,966	48,236,615,202	10,408,262,992	325,794,971	10,734,057,963
1	Eldoret	-	-	-	-	-	-
2	Kisumu	74,093,492	-	74,093,492	-	-	-
3	Milimani	1,805,124,869	170,400,000	1,975,524,869	242,684,818	39,293,890	281,978,708
4	Mombasa	9,992,221	150,000	10,142,221	-	-	-
5	Nyeri	41,253,484	314,814	41,568,298	11,669,719	-	11,669,719
	Total ELC	1,930,464,066	170,864,814	2,101,328,880	254,354,537	39,293,890	293,648,427
							ELC
1	Eldoret	-	-	-	-	-	-
2	Embu	923,836	-	923,836	40,167	-	40,167
3	Garissa	-	-	-	-	-	-
4	Kakamega	59,484,191	12,500,000	71,984,191	9,537,057	5,733,918	15,270,975
5	Kerugoya	-	1,000,000	1,000,000	-	-	-
6	Kisii	1,078,048	-	1,078,048	-	-	-
7	Kisumu	58,838,950	-	58,838,950	2,340,239	-	2,340,239
8	Machakos	51,671,482	-	51,671,482	-	-	-
9	Malindi	-	-	-	-	-	-
10	Milimani	768,454,645	585,100,000	1,353,554,645	-	-	-
11	Mombasa	26,645,923	-	26,645,923	-	-	-
12	Nyeri	90,757,666	-	90,757,666	11,669,719	-	11,669,719
	Total ELC	1,057,854,741	598,600,000	1,656,454,741	23,587,182	5,733,918	29,321,100
							MAGISTRATE'S COURTS
1	Eldoret	1,327,665,703	10,160,265	1,337,825,968	553,320,987	4,922,000	558,242,987
2	Embu	1,539,727	2,802,205	4,341,932	160,667	2,471,600	2,632,267
3	Garissa	-	-	-	-	-	-
4	Kakamega	90,791,659	335,000	91,126,659	20,981,525	452,678	21,434,203
5	Kerugoya	-	4,000,000	4,000,000	-	1,000,000	1,000,000
6	Kisii	2,441,463	-	2,441,463	-	-	-
7	Kisumu	82,810,374	-	82,810,374	14,821,512	-	14,821,512
8	Machakos	-	-	-	-	-	-
9	Malindi	33,750,044	445,078	34,195,122	-	-	-
10	Milimani Children's	66,264,697	-	66,264,697	8,833,262	-	8,833,262
11	Milimani Commercial	103,184,618	2,227,059	105,411,677	23,762,645	-	23,762,645
12	Mombasa MC	346,396,997	24,250,547	370,647,544	22,507,726	-	22,507,726
13	Nakuru MC	123,038,555	789,888	123,828,443	11,682,368	750,000	12,432,368
14	Nyamira MC	55,312,500	-	55,312,500	17,777,778	-	17,777,778
15	Nyeri MC	280,523,693	250,000	280,773,693	151,706,348	377,231	152,083,579
16	Siakago MC	-	4,000,000	4,000,000	-	1,000,000	1,000,000
17	Tononoka MC	-	-	-	-	-	-
	Total Magistrate's Courts	2,513,720,030	49,260,042	2,562,980,072	825,554,818	10,973,509	836,528,327
	Grand Total All Courts	47,446,111,073	7,111,267,822	54,557,378,895	11,511,759,529	381,796,288	11,893,555,817

The total cumulative value of matters referred to mediation stood at KSh54.6 billion at the end of FY 2020/21, up from KSh47.4 billion at the end of FY 2019/20. The value of matters that were referred to mediation in the FY 2020/21 was KSh7.1 billion down from KSh13.5 billion for the matters referred to CAM in the previous period. The cumulative value of matters with settlement agreements stood at KSh11.9 billion at the end of the FY 2020/21 up from KSh11.5 billion that was recorded at the end of the FY 2019/20.

#### 6.8 Management of pending Bills

The Judiciary has continued to apply prudent measures to ensure minimal accumulation of pending bills and in each financial year prioritises the payment of pending bills as a first charge unless there is a limited budget. Table 6.11 shows the level of pending bills held at the end of the last two financial years.

Table 6.11: Pending bills at close of financial years

Description	FY 2019/20	FY 2020/21	Change KShs	
	Kshs	Kshs		%
Development Pending Bills	76,730,898	332,483,560	255,752,662	330%
Recurrent Pending Bills	711,933,892	206,940,266.67	(504,993,625)	(71%)
Recurrent & Development	788,664,790	539,423,826	(249,240,964)	(32%)
Court Awards & Arbitration	-	1,138,713,450	1,138,713,450	>100%
Total	788,664,790	1,678,137,276	889,472,486	>100%

The pending bills under the development budget increased by KSh255.8 million from KSh76.7 million in FY 2019/20 to KSh332.4 million. This was mainly due to budget cuts on the development budget that affected the implementation of ICT infrastructure projects.

In addition, liabilities arose from court and tribunal arbitration awards to suppliers due to delayed payments for development projects. These could not be settled due to limited budgetary allocation thus leading to pending bills.

The recurrent pending bills reduced from KSh711.9 million in FY 2019/20 to KSh206.9 million in FY 2020/21 being a reduction of KSh505 million. This reduction was achieved through stringent measures to ensure suppliers were paid on time. However, budget cuts in the recurrent budget resulted in pending bills at the end of the financial year.

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#### Automation of Revenue, Expenditure and Deposits Management

The Judiciary uses the JFMIS as the operational system for accounting in all the court stations. The system has undergone continued improvement and links with CTS at court registries thus providing convergence of information that ensures seamless collections, e-receipting and accounting for revenue, deposits and court expenditure. The JFMIS further provides compatible information for loading court station financial information into IFMIS. This ensures all Judiciary financial information is centrally collated for reporting and use by management.

The automation of registry and accounting processes has reduced instances of misappropriation of revenue, deposits and expenditure.

#### 6.10 The Judiciary Fund

Article 173 of the Constitution establishes the Judiciary Fund. It requires the Judiciary's estimates of expenditure approved by the National Assembly become a direct charge to the Consolidated Fund and that the funds be paid directly into the Judiciary Fund. The enactment of the Judiciary Fund Act 2016 and its regulations in 2019 laid the ground for operationalisation of the Fund. There have been ongoing engagements between the Judiciary, the National Treasury, the Ministry of ICT, Controller of Budget, and the Central Bank of Kenya to operationalise the Judiciary Fund.

#### 6.11 Challenges Insufficient Funding

The Judiciary has been underfunded over the years; where its allocation has consistently been less than half of the resource requirements. This budget shortfall has affected administration of justice in key areas such as construction of courts, facilitation of benches to hear cases, and the operationalisation of the Small Claims Courts, and full implementation of the Court Annexed Mediation and Alternative Justice Systems in all courts. Additionally, service weeks, pro bono services, mobile courts and circuits have been scaled down in order to fit within the limited resources. The Judiciary is also unable to recruit adequate number of judges, judicial officers and staff that are required to effectively handle the workload since the current staffing levels fall below the optimal number as per the Judiciary establishment.

#### 6.12 Recommendations

To sustain and build on the successes that have already been achieved, the Judiciary recommends the following measures be undertaken during the coming MTEF period: increase resource allocation to Judiciary to facilitate the recruitment of the required human resources at all levels; expand and complete court infrastructure in all the counties for the High Court and courts of equal status; support digitisation of court processes and automation of registry operations; facilitate court programmes such as mobile courts, ADR, AJS and the roll out of the Small Claims Courts into the counties including recruitment and facilitation of Adjudicators.

### CHAPTER 7 — AGENCY COLLABORATION IN THE JUSTICE SECTOR

#### 70 Introduction

The justice sector comprises several institutions and agencies that must work together in a highly coordinated manner so as to ensure that they execute their mandate and provide efficient and quality service delivery. In the criminal justice sector, offenders are apprehended by police in the upstream and then taken to court downstream where the prosecutors prosecute cases and advocates play the representation function. In some instances, offenders are put on probation bringing into the play the Probation Department while children officers are involved where there are children in conflict with the law. Upon conviction, offenders are then taken to prison for custody.

This scenario articulates the inter-institutional linkages and demonstrates the need for the agencies to team up for effective administration of justice.

#### 71 The National Council on Administration of Justice

NCAJ is mandated to coordinate the administration of justice and reforms in the justice sector in an efficient, effective, and consultative manner. This is done through the formulation of policies as well as the implementation and evaluation of various strategies aimed at proper administration of justice.

During the period under review, the Council deliberated on key issues and programmes aimed at enhancing the expeditious delivery of Justice, and on emerging challenges to the administration of justice. Among these was the COVID-19 pandemic which emerged in the third quarter of FY 2019/20 and continued to adversely affect service delivery during the reporting period. The NCAJ became an important platform for inter-agency collaboration on justice sector responses to the pandemic.

The Council held two meetings to address the impact of the pandemic on the dispensation of justice and appointed an ad hoc committee with representatives from all justice sector institutions to monitor the situation. The NCAJ sub-committee on the administration of justice to monitor the administrative and contingency management plan to mitigate covid-19 in Kenya's justice sector chaired by Hon. Justice William Ouko held three meetings during the reporting period to review and advise the Council on the policy directions that were issued by the Council on containing the pandemic. At court level, the Court Users Committees (CUCs) also organised several meetings to deliberate on localised strategies for ensuring continuity in service delivery while observing the health and safety of all court users.

#### 72 Reports from NCAJ Committees

Through the Secretariat, the NCAJ also coordinated activities aimed at fostering partnerships among different agencies through the various thematic Technical and Special Working Committees. The work of some of these committees is presented below.

#### 721 National Steering Committee on Implementation of Alternative Justice Systems Policy (NaSCI-AJS)

Article 159 of the Constitution requires the Judiciary to promote traditional dispute resolution mechanisms among other alternative forms of dispute resolution. Pursuant to this directive, Chief Justice (Rtd) Dr. Willy Mutunga appointed the Taskforce on Alternative Justice Systems (AJS Taskforce) to develop recommendations and measures to be taken in order to mainstream alternative justice systems in the administration of justice while ensuring respect for human rights, especially the rights of women, youth and people living with disabilities.

The Taskforce concluded its work during the reporting period, coming up with the Alternative Justice Systems Baseline Policy and the AJS Framework Policy. The Hon. Chief Justice David Maraga launched both policies on 27th August 2020, a date that was deliberately chosen to coincide with the 10th anniversary of the Constitution of Kenya, 2010.

The two policy documents are crucial in Unbundling the meaning of Article 159 (2) (c) of the Constitution of Kenya. They have offered clarity on the duties of the Judiciary and other stakeholders with respect to AJS mechanisms towards advancing the requirements of the Constitution. This way, the AJS Policy makes a significant contribution to the current strategic commitment of the Judiciary to advance its transformation.

The launch of these policies marked the beginning of mainstreaming AJS. Following this launch, the Chief Justice appointed a committee to oversee the implementation of the AJS Policy. The National Steering Committee on Implementation was mandated to cascade the AJS policy at the county levels with the aid of County Action Plans; enhance the role of CUCs in coordinating and linking AJS initiatives at the county levels; accelerate socialisation of the various AJS mechanisms in the country with the human rights minimum core content as defined by the Constitution of Kenya; and develop guidelines and monitoring mechanisms that shall enhance the work of the various AJS initiatives and their innovative models in the counties.

As part of this mandate the Committee undertook the following during the reporting period:

- Developed an operational plan based on the concentric model of outreach and development of the AJS County Action Plans.
- Distributed 1,000 copies of the policy with the support of PLEAD through UNODC to raise awareness on the existence of the AJS Policy.
- Conducted a sensitisation session for members of the Lands Committee in Turkana County in partnership with the County Government of Turkana, the National Land Commission and Pamoja Trust. Kituo Cha Sheria conducted a similar awareness session for actors involved in AJS in Trans Nzoia County.
- Developed a detailed training curriculum on AJS that shall be used in training judicial officers as well as AJS champions who work mainly with non-State actors. The training aims to model AJS and promote the use of AJS models at the County level.
- In partnership with the Food and Agriculture Organization (FAO), the County Government of Kajiado and the National Land Commission, the Committee has developed an AJS model that is aimed at resolving 2,740 land cases that have been pending for over five years. The Committee together with Justice actors in Kajiado, established 10 AJS panels in Kajiado South (Irkisonko), Kajiado Central (Matapato), Kajiado Central (Ildamat), Kajiado Central (Purko 1), Kajiado Central (Dalalekutuk), Kajiado West (Purko 2 Mosiro), Kajiado West (Keekonyokie), Kajiado West (Iloodokilani), Kajiado East (Ilkaputei), Kajiado North (Cosmopolitan).

#### 722 Special Working Group on Anti-Illicit Trade

The Committee was established and mandated to develop an Enforcement Manual to Combat Illicit Trade in Kenya which will be a quick one-point-of-reference for organised officers on matters of illicit trade. During the review period, sensitisation forums were conducted across the country where 400 enforcement officers were trained about illicit trade.

The Committee developed the 2nd Enforcement Manual, to serve as a quick reference point on matters of illicit trade including protection and enforcement of intellectual property rights. It is intended as an aid for law enforcement agencies, including those involved in the prosecution of crimes related to illicit trade and the enforcement of the laws against offenders. The manual is also a useful resource for investigators, courts and the general public. It aims to create awareness of the problem and the existing mechanisms for reporting and handling cases when they occur. The retired Hon. Chief Justice David Maraga launched the manuals which was then followed by a series of virtual training for judges and magistrates on various forms of illicit trade in Kenya.

#### 723 National Committee on Criminal Justice Reforms

The National Committee on Criminal Justice Reforms (NCCJR) was established in June 2017 as a multi-agency initiative to spearhead comprehensive review and reform of Kenya's entire criminal justice system and to oversee the full implementation of the findings and recommendations of the "Audit Report on Criminal Justice System in Kenya." During the period under review, the Committee:

- Conducted extensive stakeholder engagements to identify the legal, institutional, administrative and financial barriers that impede the efficient functioning of the criminal justice system.
- Reviewed Kenya's penal laws and prepared draft Bills with proposed amendments to the Criminal Procedure Code and the Penal Code.
- Developed publications and other resource material intended for use and creation of awareness for practitioners within the criminal justice system to narrow the gap between law and practice and ensure compliance with human rights and the rule of law. The resource materials included: 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; Fair Trial Guide and Checklist; Report on the Status of Persons with Mental Illness in the Criminal Justice System; Report on the Status of Intersex Persons in the Criminal Justice System; and Baseline Survey on State Regulated Offences.

- Held strategic engagement with the Cabinet Secretary, Ministry of Defence, and the legal team from Kenya Defence Forces (KDF) with the view to deepening the Committee's understanding and appreciation of KDF operations and the Court Martial process. Flowing from this engagement, the Committee is now working on validation of the Court Martial Rules of Procedure and Appeals Rules.
- Engaged with representatives from the Kenya Police Service Reforms Office and experts and further engaged with police officers and prosecutors drawn from Nakuru, Isiolo, Marsabit, Meru, Samburu, Kitui, Mwingi, Kwale, Mombasa, Kilifi, Lamu and Tana River. The focus was on the findings of the Audit Report and on the criminal justice reform initiative. The key areas of deliberation included: pre-trial processes (investigation, evidence, arrest, detention, arraignment, 24hr rule); petty & State regulated offences; emerging issues: gender mainstreaming, GBV, intersex, children and mental health; victim and witness handling; police excesses and interagency collaboration.
- Engaged representatives from the Witness Protection Agency (WPA) and the Victim Protection Board (VPB) on handling and protection of victims and witnesses, and the review of laws and policies related to them. The discussions also covered the need to fast-track the development of the Victims' Rights Charter and facilitate civic education to actors in the criminal justice sector when handling vulnerable victims of crime. Further, the prominence of embracing the virtual platform and harnessing the use of technology to expedite the hearing of cases was deliberated.

#### 724 Special Working Committee on Traffic

The Ministry of Transport, Infrastructure Housing, Urban Development and Public Works established the Taskforce on Minor Traffic Offences Instant Fines System in 2016 and mandated it to: Propose appropriate reforms to the legal, policy and institutional framework for the development and operationalisation of a minor traffic offences instant fines system; Consider and propose appropriate mechanisms for the payment of instant fines for minor traffic offences; and undertake public participation for the proposed statutory instrument.

The Task Force was subsequently absorbed into NCAJ as a Special Working Committee on Traffic with the objective of streamlining the handling of traffic matters towards enhancing road safety, eradicating corruption and corrupt practices and ensuring expediency, certainty and convenience of road traffic offenders and other road users.

#### 725 Special Task Force on Children Matters

The NCAJ Special Taskforce on Children Matters was mandated to address gaps in the administration of justice with regard to children, focusing on legislation, policy, procedural and practice directions reforms, compilation of data, monitoring of infrastructure and co-ordination of all the actors. The Taskforce achieved the following during FY 2020/21:

1. Published resource materials aimed at streamlining the administration of justice for children. These are: Curriculum for Child Protection Officers; Diversion Toolkit, Child Protection Units Standard Operating Procedures; the Children Court Practice Directions; and Policy on Mandatory Continuous Professional

## Development Programme.

2. Sensitised 5 CUCs from Western Kenya on the Status Report on Children in the Justice System in Kenya in collaboration with the CUC Working Group.
4. Provided input in the Disrupting Harm Report which was done by UNICEF Innocenti. The Disrupting Harm project was established to generate high-quality evidence on technology-facilitated sexual exploitation and abuse of children. It is a 14-country research project conducted in partnership with ECPAT International and INTERPOL, funded by the Global Partnership to End Violence against Children. The report highlights the recommendations to ensure online child protection. It also sets out actions to be executed by the child justice sector to protect children who are vulnerable to online child sexual abuse and exploitation.
6. Trained 30 prosecutors from various regions in the country on handling children cases using plea bargaining and diversion. The training also covered categories of children, introduction to the P&C form, child trafficking cases, psychology of children and developmental stages.
8. Involved in costing of the Children Bill which was undertaken by consultants who were engaged by UNICEF to document budgeting practices in child justice agencies.
9. Donated 14 laptops, 1,120 litres of hand sanitizer and 840 bars of soap to the Directorate of Children Services courtesy of the EU funded PLEAD Project.
10. Held a consultative forum with the Zimbabwe Judicial Service Commission on lessons learnt and the best way of handling children during the pandemic.
11. Participated in the development of the National Plan of Action on Child Online Protection.

## 726 Special Working Group on (Court Users Committees)

The Court Users Committees CUCs are institutionalised in Section 35 of the Judicial Service Act (No. 1 of 2011) under the NCAJ of Justice. The CUCs bring together justice actors and users of the justice system at the station level to enhance public participation, stakeholder engagement, develop public understanding of court operations and promote effective justice sector partnerships. They work towards a coordinated, efficient, effective and consultative approach in the administration of justice at each station. There are 127 CUCs at the Magistracy and 42 County CUCs already established. The following achievements were realised during the period under review:-

1. Three new CUCs were established and operationalised during the reporting period. These are Kahawa Law Courts, Sports Disputes Tribunal and HIV & Aids Tribunal. The Special Working Group (SWG) inducted the members of these CUCs on the mandate, procedures and operations of CUCs. The induction also covered the mandate of NCAJ, CUC trends in the last 10 years, CUC guidelines and the reporting requirements for the quarterly meetings.
2. The SWG conducted a sampling survey within various CUCs to determine the ICT needs of justice agencies. With regard to up-scaling of court operations, court users lauded the COVID-19 management measures that were put in place as well as the increased utilization of online services by a majority of the justice sector actors. However, various challenges were noted in the use and uptake of ICT and as such most court users preferred to hold physical meetings as opposed to virtual ones. This is partly due to insufficiency of ICT equipment and limited internet accessibility. Some of the other challenges related to ICT were: limited availability of ICT equipment resulting in employees utilizing their personal equipment and even airtime; disparity in availability of ICT resources between agencies; and unstable internet connections. Going forward, NCAJ plans to undertake a comprehensive needs assessment on ICT status covering available hardware, software, systems, training needs, integration of systems, among other issues. There is need to enhance funding for coordinated growth of ICT uptake and skills development so as to ensure better interoperability.
4. The membership of the CUC Special Working Group was revamped and reconstituted to include representation from all justice agencies. The terms of reference and mandate of the working group were drafted and the induction for new members conducted.
5. The Standard Operating Guidelines on Sexual and Gender Based Violence (GBV) Case Management were developed which focus on prevention and response to sexual gender-based violence management within the justice sector especially in times of crisis. The Guidelines were necessitated by the reported increase in SGBV cases across the country.
6. Jointly with the National Legal Aid Service, the working group championed the sensitisation on the National Legal Aid Act 2016 (No. 6 of 2016) and the Legal Aid Regulations 2020. The NLA Service was co-opted into various CUCs. Further, the forum allowed the CUCs to address the challenges faced with provision of legal aid services for the indigent. The forums were held in various CUCs in Nairobi, Mandera, Wajir, Lamu, Isiolo, Kisumu, Garsen, Mombasa, Eldoret, Marsabit, Nakuru and Garissa. The National Legal Aid Service also committed to open offices in the respective counties. Fifteen percent of CUCs conducted trainings for members of the public on various topics including on AJS, sexual offences and gender based violence and the Children's Act 2001 (No. 8 of 2001). Twenty three percent of the CUCs requested to have training on various topics targeted at various justice actors.

The SWG conducted spot checks aimed at assessing and consolidating best practices and emerging policy concerns for tabling to the NCAJ. The checks were done in Bomet, Tumu, Hamisi, Winam, Machakos and Kerugoya, Kandara and Gatundu Law Court CUC.

## 7261 Reports from CUC

## Quarterly Meetings by CUCs in FY 2020/21

The CUCs are required to conduct a minimum of four quarterly meetings each year. Eighty six percent of the CUCs met this requirement as demonstrated below.

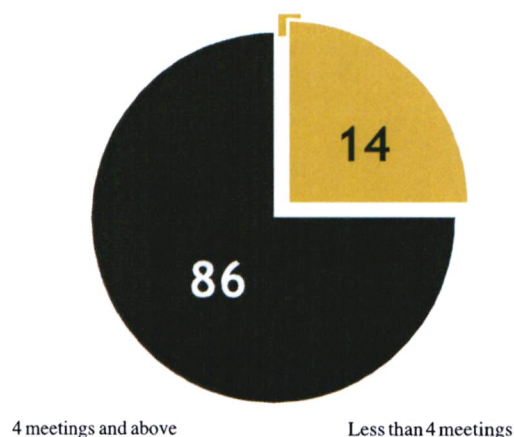


Figure 7.1: Percentage of CUCs that held the required minimum of 4 CUC meetings

During the period under review, a total of 536 CUC meetings were held across courts. The details on the number of meetings per court are given on Table 1.

Table 7.1: Number of CUC meetings held, FY 2020/21

Law Court	No. of CUC Meetings held	Law Court	NO. of CUC Meetings held
Baricho	4	Makindu	4
Bomet	4	Makueni	4
Bondo	4	Malindi	4
Bungoma	2	Mandera	5
Busia	7	Mararal	4
Butali	4	Mariakani	4
Butere	15	Marimanti	4
Chuka	5	Marsabit	4
City Court	2	Maseno	4
Daadab	5	Maua	6
Eldama Ravine	4	Mavoko	5
Eldoret	5	Mbita	4
Embu	3	Meru	4
Engineer	4	Migori	4
Garissa	5	Mil.Anti-Corruption	2
Garsen	6	Mil. Commercial	4
Gatundu	5	Mil.Children's	4
Gichugu	4	Milimani	4
Githongo	5	Molo	4
Githunguri	4	Mombasa	4
Hamisi	4	Moyale	4
Hola	4	Mpeketoni	5
Homa-Bay	4	Msambweni	4
Isiolo	5	Mukurwe-ini	5
Iten	4	Mumias	5
JKIA	3	Murang'a	5
Kabarnet	4	Mutomo	4
Kahawa	4	Mwingi	4
Kajiado	3	Naivasha	2
Kakamega		Nakuru	4
Kakuma	4	Nanyuki	4
Kaloleni	4	Narok	5
Kandara	4	Ndhiwa	4
Kangema	2	Ngong	4
Kangundo	4	Nkubu	4
Kapenguria	4	Nyahururu	4
Kapsabet	20	Nyamira	4
Karatina	4	Nyando	3
Kehancha	4	Nyeri	9
Kericho	6	Ogembo	3
Keroka	5	Othaya	4
Kerugoya	5	Oyugis	5
Kiambu	4	Rongo	4
Kibera	4	Ruiru	4
Kigumo	1	Runyenjes	4
Kikuyu	3	Shanzu	6
Kilgoris		Siakago	4
Kilifi	3	Siaya	4
Kilungu	4	Sirisia	4
Kimilili	4	Sotik	3
Kisii	4	Tamu	4
Kisumu		Taveta	4
Kitale	4	Tawa	4
Kithimani	4	Thika	6
Kitui	3	Tigania	3
Gichugu	4	Milimani	4
Kwale	4	Tononoka	4
Kyuso	4	Ukwala	2
Lamu	8	Vihiga	4
Limuru	3	Voi	4

Lodwar	4	Wajir	6
Loitoktok	4	Wang'uru	4
Machakos	1	Webuye	4
Makadara	5	Winam	4
		Wundanyi	4
TOTAL			536

## 7262 Achievements by Court User Committees

The CUCs help ensure a coordinated, efficient, effective and consultative approach in the administration of justice, providing an avenue to address matters in the administration of justice while enhancing public participation and stakeholder engagement. Below are some of the key milestones that were realised by various CUCs during the period.

- Improved relationship between court users and stakeholders.
- Better coordination of stakeholders leading to expeditious delivery of justice.
- Coordinated approach of handling clients during the COVID-19 pandemic.
- Reduction of prison and remand population following coordinated plea-bargain, reduced sentences and reduced bond/bail terms.
  - Enhanced maintenance, rehabilitation and construction of infrastructure for the justice sector institutions.
  - Training on a multi-sectoral approach to addressing SGBV.
  - Participation in diverse celebrations for instance Day of the African Child on 16<sup>th</sup> June, 2021.
  - Inter-institutional sharing of work equipment like laptops, modems, printing materials among other materials.
  - Lobbying of funds and land for construction of justice sector agencies offices at grassroots level.
  - Holding of Service Weeks.
  - Holding of community dialogue forums for instance with boda boda leaders and legal awareness on drug and sexual offences in schools.
  - Coordinated destruction of dangerous exhibits especially illicit alcohol and drugs.
  - Coordinated training of personnel in the justice sector.
  - Reduced growth of case backlog in courts due to joint backlog clearance efforts.
  - Holding of team building exercise with representation from various agencies.
  - Improved administration of justice through minimised adjournment of cases.
  - Improved knowledge of the court processes among stakeholders and the public.
  - Improved court attendance by the relevant parties.
  - Increased uptake of IT in proceedings and virtual hearings.
  - Improved understanding of children and family laws.
  - Streamlining of transport of remandees to and from prison.
  - Streamlining of refund of police cash bail to suspects before plea taking.
  - Creating awareness within local communities on access to justice systems.
  - Facilitation of COVID-19 vaccination of CUC Members
  - Coordinated fumigation of justice sector offices at the grassroots.
  - Timely preparation of reports with cross cutting importance for instance probations and children's officers' reports, expert reports, P3 forms among others.
  - Training of village elders and nyumba kumi officials on diverse issues on the administration of justice.
  - Offering of pro bono services to indigent inmates and to the aged.

## 7263 Challenges experienced by Court Users Committees

In undertaking their mandate, CUCs encountered diverse challenges that affected their optimal performance. Some notable challenges include, inter alia;

- Insufficient funding for CUC activities e.g targeted trainings.
- Inadequate women prisons.
- Inadequate holding area for children who are in conflict with the law.
- Unsuccessful virtual court sessions due to unreliable internet and frequent power outages.
- Inadequate staffing across all justice sector institutions.
- High rate of sexual offence victims' failure to attend court and the possibility of coercion and intimidation prompting cases to collapse.
- Logistical transport challenges from the prisons department to produce remandees on a daily basis.

- Little knowledge of ADR among some Advocates.
- Police incurring expenses to take exhibits to Government Chemists.
- Presence of many brokers who take advantage of citizens.
- Incidents of laxity among investigating officers to bond prosecution witnesses to attend court.
- Sexual offence cases take long to conclude because victims or witnesses disappear after reporting of the offence.
- Long distance of travel to access justice chain actors' offices in some areas.
- Inadequate provision of PPEs for COVID-19 protection.
- Inadequate vehicles in some of the areas hampering their execution of their mandate.
- Different stakeholders have different ways of operation creating bottlenecks in coordination.
- Incidents of late registration of pleas and sneaking in files to the prosecutor when court is in session.
- Incidents of delay in dispatch of police files and warrants of arrest from ODP to police stations.
- Congestion in prison.
- Mismatch between number of judicial officers and prosecutors.
- Inadequate ICT equipment.
- Need for additional training on presentation of evidence for police officers.

7264 Recommendations by CUCs on Efficient Administration of Justice

Provision of reliable internet across all institutions.

- Provision of reliable power supply to justice sector institutions including backup generators.
- Hold more open days to sensitise the general public on diverse offences, evidence sharing and related issues.
- A coordinated approach for promotion of AJS mechanisms but in a coordinated way.
- Enhanced training and capacity building on AJS for community elders.
- Increased public sensitization on Engagement with the public to help them understand ADR avenues of dispute resolution.
- Coordinated closure of offices due to COVID-19 pandemic to avoid inconvenience.
- Increased resource mobilization, especially targeting donors and reach out to development partners to finance the challenged institutions.
- More funds should be allocated for efficient service delivery and other activities of CUCs.
- More sensitisation should be done with regard to the CUC's activities and roles to ensure wider support and cooperation by relevant stakeholders.
- Allocate funds to equip prisons with ICT equipment for purposes of enabling the virtual Court operations.
- Hold training and capacity building of elders on AJS.
- Develop additional policy directions from NCAJ.
- Enhance human resource capacity of justice sector institutions.
- Embedding and deepening technology use amongst CUC members to embrace technology.

73 Reports from NCAJ Agencies

731 Commission on Administrative Justice

The Commission on Administrative Justice (CAJ) is established under Article 59(4) of the Constitution and the Commission on Administrative Justice Act, 2011 (No. 23 of 2011). The Commission investigates any conduct in State affairs or any act or omission in public administration within Government. The Commission also handles complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct.

During the period under review, the Commission;

- Handled 10,678 complaints related to delay in service delivery, abuse of power, unresponsive official conduct, unfair treatment, oppressive official conduct, discourtesy and inefficiency. Among these complaints, 35 were commenced by the Commission on its own motion.
- Undertook five investigations relating to abuse of power, unfair treatment, oppressive conduct and unresponsive conduct. Among the investigations, two were commenced on the Commission's own motion and three arose from complaints lodged.
- Ensured that public institutions continue to proactively disclose information on their websites for ease of access by members of the public and reactively disclose upon request.
- Guided National Government institutions and County Governments to establish Committees for implementation of access to information.
- Ensured conferment of delegated powers of Information Access Officers (IAO) to a total of 46 County Officers in 46 County Governments.
- Received over 369 applications for review of decisions on access to information made by public entities. A total of 332 applications representing 90 per cent were successfully resolved, whereby the concerned entities provided the requested information.

- Developed the 'Access to Information in Kenya: A Journalists Handbook' to aid in public education and guide journalists and citizens in general on proactive disclosure of information.
- Through partnership with the Kenya School of Government, the Commission developed and launched an 'Access to Information Curriculum' targeting senior public officers involved in implementation of access to information, which will equip them with essential knowledge, skills and competences to enhance their effectiveness.
- Trained 80 public institutions and 1,652 public officers drawn from different sectors in public service. Technical support was offered to 5 public institutions on strengthening of complaints handling and access to information infrastructure i.e. Complaints & Access to Information Policies, and Citizen Service Delivery Charters. The Commission also engaged nine County Governments on various aspects touching on administrative justice and access to information, aimed at boosting their capacities.
- Sensitised over 500,000 people on complaints handling and access to information by using mainstream media, social media platforms and by visiting Makueni, Taita-Taveta, Nandi, Nyandarua, Mombasa, Garissa and Wajir Counties.
- Issued and published an advisory opinion on the administrative issues surrounding the handling of the COVID-19 pandemic in the country.
- Participated in a number of public interest litigation cases either as respondents or interested parties.

### 732 Community Service Orders Committee

The National Community Service Orders (CSO) Committee is established to co-ordinate, direct and supervise the work of community service officers. The committee is further mandated to improve the national policy on Community Service Orders. During the period under review, Hon. Lady Justice Cecilia Githua was appointed the Chairperson and Hon Ocharo Momanyi as a member of the National CSO Committee.

The key achievements for the Committee during the period under review are;

- Commenced a prison decongestion exercise in June 2021 targeting 6,000 inmates to be finalised in 2021/22FY.
- Prepared and presented to courts a total of 22,514 social inquiries report as detailed in table 7.2 below;

Table 7.2: Distribution of CSO Reports

	MALE	FEMALE	TOTAL
Adult	18,941	3,088	22,029
Juvenile	433	52	485
TOTAL	19,374	3,140	22,514

Following the submission of the social inquiry reports, 13,173 convicts were placed under CSO as provided for in the CSO Act as summarised below. The breakdown by gender and age category is provided in Table 7.3

Table 7.3: Supervision of CSO

	MALE	FEMALE	TOTAL
Adult	10,500	2,435	12,935
Juvenile	221	17	238
TOTAL	10,721	2,452	13,173

### 733 Council for Legal Education

The Council for Legal Education (CLE) is established under the Legal Education Act 2012 (No. 27 of 2012), with the primary purpose of promoting legal education and training through maintenance of the highest possible standards in legal education, licensing legal education providers, administration of the Bar Examination, and the recognition of foreign legal qualifications for enrollment to the Bar in Kenya.

The Council licensed 18 Legal Education Providers and administered Bar examinations to a total of 3,851 candidates. Table 3 provides the details on exam outcomes.

Table 7.4: Overall Performance in the Advocates Training Programme Examination June 2021

	No. of Candidates		PASS
	No.	%	%
Regular/1 <sup>st</sup> Sitting	1851	758	40.95
Resit	2000	762	38.10

### 734 Directorate of Children's Services

The Directorate of Children's Services is mandated to establish, promote, co-ordinate and supervise services and facilities designed to advance the wellbeing of children and their families. The Directorate manages 30 statutory children's institutions which cater for the needs of various categories of children in need of rehabilitation, care and protection. The institutions comprise fourteen Children Remand Homes, nine Rehabilitation Schools, two Reception, Classification and Placement Centres and 5 Children Rescue Centres.

In FY 2020/21, the Directorate achieved the following towards the administration of justice and services to children.

- The Children Bill was approved by the Cabinet and submitted to the National Assembly.
- Piloting of care reform programme for orphaned and abandoned children in Kisumu, Kiambu, Kilifi, Nyamira and Murang'a Counties.
- A total of 207 officers were employed at the level of Children Officer II and Children Assistant to strengthen service delivery to children and their families.
- A total of 413 Children Officers at Headquarters, County offices, Sub-County offices and Statutory Children's Institutions were trained on Bail and Bond, Plea bargaining, Diversion and Active Case Management through a programme supported by the US Government.
- A comprehensive assessment of organisational ICT capacities of Children organisations in all 47 Counties DCS offices was done. There was ICT Capacity strengthening through purchase of computers and printers for children points of service done in 30 counties with support from UNICEF/SOSCV/USAID partners.
- The process of developing guidelines for missing children in Kenya commenced in the 2020/2021FY.
- Child Protection Volunteers were trained on child protection in collaboration with Child Justice Agencies.

- Handled 172,630 children's cases. 87,629 of these were boys while 85,001 were girls. The 10 most handled cases are illustrated in Table 7.5

Table 7.5: Children cases handled in 2020/2021, 10 highest case categories

S/N	CASE CATEGORY	BOYS	GIRLS	TOTAL
1.	Neglect	55825	56937	112762
2.	Custody	11577	11442	23019
3.	Abandonment	2498	2733	5231
4.	Defilement	2929	440	3369
5.	Orphan-hood	1466	1387	2853
6.	Parental child abduction	1197	1132	2329
7.	Physical abuse/violence	1063	1055	2118
8.	Child truancy	828	811	1639
9.	Missing child/lost and found	694	559	1253
10.	Child pregnancy	1125	0	1125
	Total	79202	76496	155698

The breakdown per county is provided in Table 7.6

Table 7.6: Children cases handled in FY 2020/2021 by County

COUNTY	BOYS	GIRLS	TOTAL
1. Nairobi	8253	8231	16484
2. Meru	4292	4215	8507
3. Nakuru	4000	3761	7761
4. Kiambu	3793	3744	7537
5. Kisumu	3747	3578	7325
6. Bungoma	3544	3743	7287
7. Siaya	3784	3400	7184
8. Kisii	3544	3201	6745
9. Kakamega	3286	3322	6608
10. Machakos	3339	3107	6446
11. Trans Nzoia	2731	3109	5840
12. Migori	3050	2730	5780
13. Murang'a	2844	2654	5498
14. Busia	2686	2395	5081
15. Homa Bay	2448	2427	4875
16. Mombasa	2239	2224	4463
COUNTY	BOYS	GIRLS	TOTAL
17. Makueni	2243	2127	4370
18. Kilifi	2009	1718	3727
19. Baringo	1758	1740	3498
20. Laikipia	1624	1440	3064
21. West Pokot	1378	1642	3020
22. Uasin Gishu	1492	1509	3001
23. Bomet	1502	1495	2997
24. Nyeri	1491	1383	2874
25. Mandera	1177	1479	2656
26. Kajiado	1327	1175	2502
27. Vihiga	1177	1117	2294
28. Kirinyaga	1134	1077	2211
29. Tharaka - Nithi	1157	1022	2179
30. Turkana	1053	1075	2128
31. Nyamira	947	915	1862
32. Kericho	942	916	1858
33. Kitui	949	873	1822
34. Elgeyo/Marakwet	647	698	1345
35. Taita Taveta	677	576	1253
36. Embu	631	579	1210
37. Kwale	629	502	1131
38. Lamu	536	595	1131
39. Garissa	562	544	1106
40. Nandi	537	547	1084
41. Narok	595	453	1048
42. Nyandarua	467	495	962
43. Tana River	438	444	882
44. Samburu	257	318	575

45. Marsabit	265	292	557
46. Isiolo	255	218	473
47. Wajir	193	196	389
Grand Total	87629	85001	172630

## 735 Directorate of Criminal Investigations (DCI)

The DCI is established under section 28 of the National Police Service (NPS) Act (No. 11 of 2011) as the lead investigative agency of all criminal matters. The key achievements for the Directorate during the period under review include;

- Launched 'Fichua Kwa DCI' which is an encrypted telephone platform for reporting of crime.
- Launched the 'DCI Magazine' to inform and sensitise the public on matters of law and create confidence and trust between the DCI and the public.
- Created Criminal Research and Intelligence Bureau to back-up investigators through crime research and intelligence in real time.
- Established the Anti-Terrorism Tactical Response Team and Counter Terrorism Centre of Excellence with an aim of combating terrorism and associated crimes.
- Investigated fraud involving housing and land leading to recovery of KSh14 billion.
- Partnered with the Asset Recovery Agency (ARA) to recover proceeds of crime totaling to KSh1,283 million.
- Partnered with the KRA Investigation Unit to investigate cases with a revenue implication of KSh1,093,655,268.

## 736 Ethics and Anti-Corruption Commission

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Commission Act (No. 22 of 2011) with a mandate to combat and prevent corruption and economic crimes.

The EACC enhanced administration of justice through investigations and enforcement tasks as enumerated below.

Table 7.7: Achievements on investigations and enforcement

PARTICULARS	ACHIEVEMENT
No. of reports received and processed	4,894
No. of reports taken up by the Commission	2,025
Completed investigations	211
No. of investigation reports submitted to DPP	104
No. of cases taken to court for prosecution	70
Finalized prosecution cases with conviction	23
Value of illegally acquired and unexplained assets traced	KShs 13.01099 Bbillion
Proactive investigations (approximate averted loss)	KShs 6.022 Billion
Value of illegally acquired assets: land/immovable property and cash	KShs 16.,36 Billions
Applications for preservation of assets made	19
No. of recovery suits filed during the period	76
Value of assets preserved	KSh501.,83 Million
No. of cases filed against the Commission	75

The Commission promoted ethics and integrity through enforcement of Chapter Six of the Constitution. The specific achievements are provided in Table 7.8

Table 7.8: Achievements on promotion of ethics and integrity

PARTICULARS	ACHIEVEMENTS
Ethics cases supported in court	26 on-going cases supported
Signing and commitment to the leadership and integrity codes by state officers	Facilitated 42 State officers to sign and commit to codes
Development of codes of conduct and ethics for public officers	Facilitated 22 public entities to develop their codes of conduct and ethics
Monitor compliance with Chapter 6 of the constitution, LIA and POEA	Conducted an online assessment on 22 Responsible Commissions in the National Government and 3 Responsible Commissions at Nairobi City County
Technical support to public entities on the implementation of Leadership and integrity laws	<ul style="list-style-type: none"> <li>• Undertook 25 capacity building forums reaching 1979 officers</li> <li>• Held 3 capacity building forums with County Public Service Boards on implementation of Chapter 6 of the Constitution and related integrity laws</li> <li>• Facilitated 12 forums facilitated reaching 337 County Assemblies Committee of Powers and Privileges and County Assembly Service Boards</li> <li>• Finalized 4 guidelines</li> <li>• Guidelines for compliance with the legal requirements on DIALS</li> <li>• Guidelines on frequently asked questions on DIALS</li> <li>• Guidelines on Registrable interests</li> <li>• Guidelines for public entities on Chapter Six of the Constitution and other integrity legislation</li> </ul>
Cautions to public officers on violation of Leadership and Integrity laws	• Issued 194 cautions to various state and public officers
Notices to public officers on violation of Leadership and integrity laws	• Issued 24 public officers issued with notices
Compliance notices to responsible Commissions that did not submit returns for the 2019 Declaration year	• Issued 26 compliance notices (7 County Public Service Boards, 7 County Assembly Service Boards and 12 responsible commissions in the National Government)

	<ul style="list-style-type: none"> <li>• Issued reminder Notice to County Public Service Boards of Vihiga and Kirinyaga</li> </ul>
Development and gazetting of administrative procedures on Declaration of Income, Assets and liabilities (DIALs)	<ul style="list-style-type: none"> <li>• Facilitated 46 Responsible Commissions to gazette their procedures (14 in National Government, 7 CPSBs, 14 CASBs and 11 CAPPC)</li> </ul>
Advisories pursuant to Chapter Six of the Constitution	<ul style="list-style-type: none"> <li>• Issued 117 advisories to various individuals and public entities</li> </ul>
Audit on compliance with the law on Declaration of Income, Assets and Liabilities (DIALs) during the 2019 Declaration year	<ul style="list-style-type: none"> <li>• 1 status report developed</li> </ul>
Integrity verification and clearance for appointment and election to Public Office	<ul style="list-style-type: none"> <li>• Received and processed 8,049 integrity verification requests (4,501 from National Government, 3,454 from County Governments and 94 from private organizations)</li> </ul>
Approval of bank accounts held outside the Country Kenya by State and Public Officers	<ul style="list-style-type: none"> <li>• Processed 322 bank applications</li> </ul>
Compliance notices to public officers serving in foreign missions currently operating unapproved bank accounts or who have not submitted annual bank statements	<ul style="list-style-type: none"> <li>• 191 notices issued to public officers who did not seek approval from EACC to operate bank account outside the country</li> </ul>

#### a. Corruption Prevention

##### 1. Systems Review

The Commission undertook systems reviews in various organisations and finalised 11 examination reports. The purpose for systems reviews is to identify systemic weaknesses in functional areas and to advise the organisations on methods of sealing the loopholes and promoting ethical culture in the workplace. The systems reviews undertaken during the period are:

- i. State Department of Technical and Vocational Education and Training - The review of system, policies, procedures and practices of the Department intended to identify loopholes in disbursement of funds, operational and guidance manuals, nominees' composition and internal audit function;
- ii. Ministry of Transport, Infrastructure, Housing Urban Development National Hygiene Programme
- iii. Kenyatta National Hospital - The review targeted the areas of procurement requisitions, NHIF Losses, Staff Deployments, un-surrendered imprests, Disaster Recovery and Business Continuity and Public Participation Framework.
- iv. The State Department of Housing and Urban Development - Affordable Housing Programme;
- v. National Youth Service - the review targeted all the functional areas of the school.
- vi. Agricultural Settlement Fund Trustee.

##### 2. Corruption Risk Assessments

The Commission finalised four Reports on Corruption Risk Assessments (CRAs) conducted in Nyamira and Nandi County Assembly.

##### 3. Advisory Services

The Commission provides advisory services towards enhancing anti-corruption in the public and private sectors. The following advisory activities were undertaken-

- Advisories to 45 MDAs on Prevention of Corruption and Bribery under the Bribery Act, 2016
- Advisories under the Public Service Performance Contracting Framework to oversee the implementation of corruption prevention indicators in the Performance Contracts MDAs signed with the National Government. During the reporting period/
- The Commission analysed a total of 877 quarterly reports submitted by MDAs under the Corruption Prevention criteria in the Performance Contract.

##### 4. Corruption Prevention Guidelines

The Commission developed three Corruption Prevention Guidelines. Two guidelines were developed in the functional areas of Project Management and Supply Chain Management, and are ready for discussion and dissemination.

#### b. Public Education and Awareness

The Commission conducted robust media programmes where 58 print media articles were published and 26 electronic media programmes reaching approximately 40,055,000 people. It disseminated 42,000 IEC materials both in soft and hard copies.

Under the targeted networks and community professionals, the Commission reached out to a total of 44 networks and a total of 501,907 participants drawn from Human Rights network, Community Based Anti-Corruption Monitors among others.

A total of 60 members of various civil society organisations were sensitised by the Commission such as Kwale Civil Society Organisations, members of Community Based Anti-Corruption Monitors (CBAM) drawn from Kisii and First Action Summit organisation in Mombasa.

The Commission conducted general sensitisation workshops in MDAs and County Governments. Members of the public and community-based groups were also reached through integrity sensitisations. The Commission conducted a total of 91 general sensitisation sessions targeting a total of 4,320 participants drawn from various public sector institutions.

#### c. Review of the Legal and Policy Framework in the Fight against Corruption

The Commission participated in the review and development of the legal framework in the fight against corruption and enforcement of integrity and ethics. The major achievements in this area include-

##### 1. Development of Proposed New Anti-Corruption Laws

The Commission spearheaded the multi-stakeholder to develop the proposed Conflict of Interest Bill, 2020 which seeks to consolidate and strengthen the legal, policy and administrative framework for management of conflict of interest in Kenya as a strategy in the fight against corruption. The Commission also made extensive contributions to the ongoing development of a law on conducting lifestyle audits, which is spearheaded by the Senate, namely the Lifestyle Audit Bill, 2021.

##### 2. Development of the Regulatory Framework under the Bribery Act, 2016

The Bribery Act 2016, (No 47 of 2016) was enacted through a multi-stakeholder approach which was driven by the private sector in consultation with the Executive and relevant government agencies. It contains elaborate provisions for suppression and combating of bribery, both in public and private sectors, replacing the provisions on bribery previously contained in the Anti-Corruption and Economic Crimes Act.

### 3. Amendment of the Ethics and Anti-Corruption Commission Act

Through the Statute Law (Miscellaneous Amendments) Act, 2020 (Act No. 20 of 11th December, 2020), the Ethics and Anti-Corruption Commission Act was amended at section 11(1)(j) to give the Commission power to institute proceedings for recovery of property or proceeds of corruption located outside Kenya. Previously, the Act was silent on this aspect, hence the proposal by the Commission for this amendment.

### 4. Seized Assets Management Policy and Guidelines

One of the principal mandates of the Commission under section 11 of the Ethics and Anti-Corruption Commission Act (No. 22 of 2011) is to institute court proceedings for the recovery and protection of public property, or for the freeze or confiscation of proceeds of corruption or related to corruption. Section 51 of Anti-Corruption and Economic Crimes Act, 2003.

#### 737 FIDA Kenya

In exercise of its mandate, FIDA-Kenya undertook the following in support of the administration of justice;

- Attended to 6,510 women seeking legal assistance. Out of these 2,507 were new clients. A total of 494 cases were taken and filed in court while others were handled through other interventions.
- Referred 215 matters to pro bono advocates where 26 matters were concluded.
- Provided training to 341 clients and filed 300 cases in court, some matters being for clients who were making a come-back to follow up on their cases. Forty-five clients successfully completed their cases through self-representation.
- Developed an informal justice systems strategy manual and further held five trainings for elders on the current provisions of the Constitution and Alternative Dispute Resolution.
- Organised psychosocial support to women who suffered mental and emotional trauma due to the infringement of their rights whether physically, economically or emotionally. A total of 712 clients were given counselling services of which 492 were new clients. A total of 64 couple therapy sessions were held with 37 being successful.
- Set-up virtual justice centers in Lang'ata, Thika, Nyeri and Kisii prisons where the inmates are offered self-representation training, group therapy as well as attend virtual courts.

#### 738 Independent Electoral and Boundaries Commission

Following the launch of the post-election report, the Independent Electoral and Boundaries Commission (IEBC) rolled out the next cycle to the 2022 General Election which is to be conducted in the within its constitutional mandate.

As a necessity, the Commission needs to have a robust legal framework, structures, systems and resources to effectively deliver on its mandate. The electoral cycle approach imposes an obligation upon the Commission to shift from treating elections as an event and embrace a long term strategy in electoral process management.

The Commission achieved the following in the FY 2019/2020:

- 1 Developed and submitted to Parliament the Electoral Law Reform Report; The IEBC Experience
- 2 Finalized draft proposals of the electoral laws and regulations to address the challenges witnessed in 2017.
- 3 Engagement with the Political Parties Disputes Tribunal (PPDT) and the Judicial Committee on Elections (JCE) towards establishing a workable Electoral Dispute Resolution (EDR) framework.
- 4 Finalized the electoral para-legal programmes/curriculum on electoral processes and dispute resolution.
- 5 Development of an effective interface framework for early engagement with the National Police; ODPP, PPDT; Judiciary; Ethics and Anti-Corruption Commission (EACC); Office of the Attorney General and the Council of Governors.
- 6 Review of existing electoral laws the Commission submitted the following draft Bills to Parliament Draft Referendum Bill, 2020; Draft IEBC (Amendment) Bill, 2020; Draft Election Campaign Financing (Amendment) Bill, 2020, and Draft Election Campaign Financing Regulations, 2020. Additionally, the Commission finalised and forwarded to Parliament a report titled, "Report on Electoral Law Reform in Kenya: The IEBC Experience," which contains a raft of proposals for consideration.
- 7 Submission of the comprehensive matrix of proposals to JLAC on the electoral reform agenda which also included amendment bills to Parliament for validation and enactment.
- 8 Facilitation of public participation on electoral laws.

#### 739 Independent Policing Oversight Authority

The Independent Policing Oversight Authority (IPOA) is established to provide civilian oversight over the work of the Police. In the FY 2020/21, the authority received 2,881 complaints which were processed through the internal Complaints Intake Committee.

The trend of complaints is shown in Figure 7.2

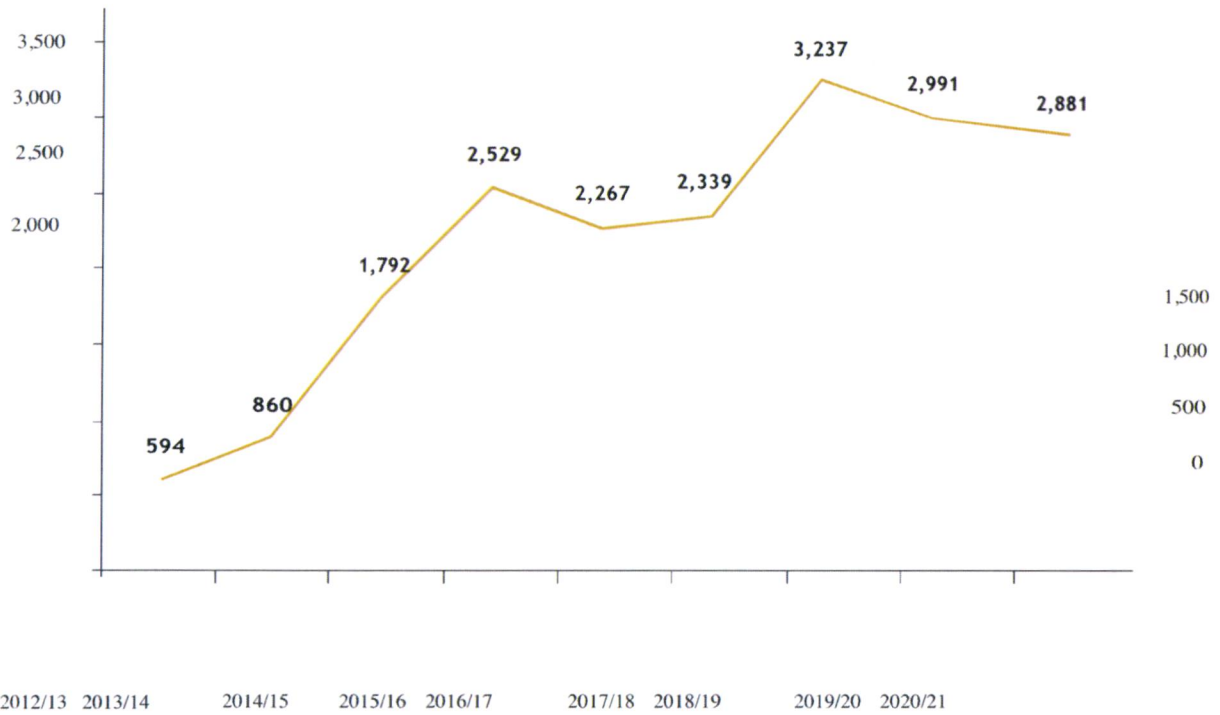


Figure 7.2: Complaints received and processed

The Authority conducted a total of 727 investigations. Out of which 148 investigation case files were forwarded to the ODPP for further processing. The trend of investigation is illustrated in Figure 4.

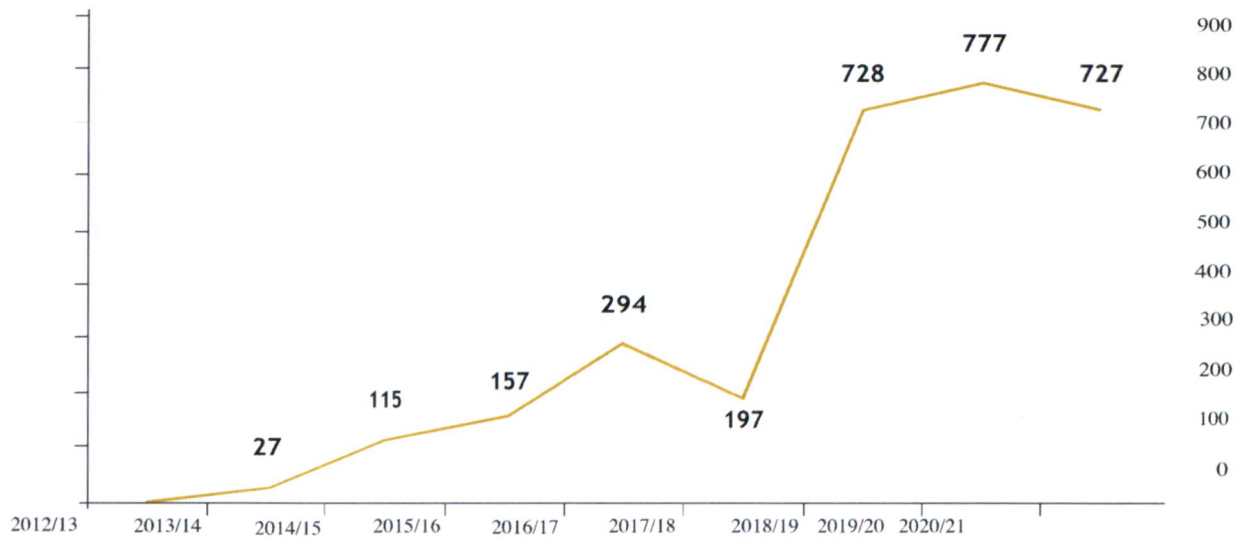


Figure 7.3: Investigations completed since inception

The Authority monitored 67 policing operations, which included 4 monitoring provision of security during by-elections, 8 security operations, 28 public order management operations, 10 CIC referral 4on Beats and Patrols operations, 11 on traffic management and 2 on police recruitment.

73.10 Kenya Association of Manufacturers

The Kenya Association of Manufacturers (KAM) is the representative organisation for manufacturing value-add industries in Kenya, comprising more than 1,000 members across 16 sectors. The Association promotes trade and investment at national, county, and international levels; upholds standards, encourages the formulation, enactment and administration of sound policies that facilitate a competitive business environment and promote the reduction of the cost of doing business.

During the period under review, KAM launched the Guidebook on Company and Corporate Insolvency Law to support Judges and Magistrates to expeditiously review the relevant legal provisions in the laws as they settle commercial cases.

73.11 Kenya Human Rights Commission

The Kenya Human Rights Commission (KHRC) is a Non-Governmental Organisation (NGO) with the mandate of enhancing human rights centred governance. The Commission:

- Championed the recognition of 1,670 Shona's and 1,300 Rwandese people as Kenyan citizens.
- Filed a case in pursuit of compensation by 5,000 victims of the Solai Dam tragedy.
- As part of the Civic Space Protection Platform led the process of developing a compilation of laws related to protection of civic space/ civil and political rights in Kenya.
- Engaged in a comprehensive human rights monitoring process that culminated in the publication of a report titled 'Wanton Impunity and Exclusion.'

73I2 Kenya Magistrates and Judges Association

During the period under review the Kenya Magistrates and Judges Association (KMJA) undertook the activities highlighted in Table 7.9

Table 7.9: Kenya Magistrates & Judges Association Activities/Training

NO.	TITLE
1	Child online protection and influence management
2	Sensitisation of Chairpersons of CUC on SGBVi
3	Electronic Fraud Prevention
4	Sensitisation of Judicial Officers on Indigenous Peoples' Property Rights and Conservation Standards
5	Sensitisation/ Discussions on the State of Juvenile Justice in Kenya and Debriefing for Judicial Officers
6	Digital Forensics for Legal Professionals I: Digital Evidence
7	Digital Forensics for Legal Professionals II: Digital Forensics Process
8	Sensitisation of the Eldoret CUC on Sexual Minority Rights
9	Development of messages and Communication materials on crime scene management
10	Digital Forensics for Legal Professionals III: Expert Witnesses in Court
11	Sensitisation of the Kajiado CUC on Sexual Minority Rights
12	Sensitisation on the Rights of the Sexual Minorities for the Nairobi Region
13	Adjudicating Cases of Transnational Corruption in Kenya
14	The Big Debate for the elections of representative to the JSC
15	KMJA AGM and Elections of the representative to the JSC and Vice President of KMJA
16	General aspects and legal perspective of digital forensics, cybercrimes and emerging technologies, threats, trends and tools of cyber-crime
17	Consultative Forum on Transnational Corruption and Cyber-security
18	Civil Society Farewell Luncheon for the Retired Chief Justice David Maraga
19	Sensitisation on COVID-19 Vaccination roll out
20	Sensitisation of the Kisumu CUC on Sexual Minority Rights
21	Child Online Protection and Influence Management II – Child Welfare Tips
22	Electronic Frauds Resolved
23	Equality and Non-Discrimination Workshop on Sexual Minority Rights
24	The National Dialogue on Elections in Kenya
25	Sensitisation on 5G Networks
26	Sensitised select Chairpersons of Court Users Committees on Sexual and Gender Based Violence on challenges within the courts in the attainment of justice for SGBV victims.
27	Through partnership with the Legal Resources Foundation Trust (LRF), held a sensitisation workshop for Magistrates on improving juvenile justice.
28	Sensitised Judicial Officers on Indigenous Peoples' Property Rights and Conservation Standards.
29	With the Independent Medico-Legal Unit (IMLU), designed to improve access to justice with special focus on access to justice for victims of torture, collection of evidence at crime scenes, evidential standards required for successful prosecutions using information collected from crime scenes; and for reference materials for investigators at crime scenes.
30	Sensitisation on 5G Networks

In collaboration with the KHRC, and the Minority Rights Group International, is implementing a project whose objectives are to guarantee the respect of indigenous peoples' rights to land and their role in conservation and prevention of climate change.

73I3 Kenya Law Reform Commission

The Kenya Law Reform Commission (KLRC) has a statutory role of reviewing the laws of Kenya to ensure that they are modernised, relevant and harmonised with the Constitution. During the period under review, the Commission achieved the following:

Table 7.10: List of Draft Legislation, Policies and other Documents that KLRC has worked on in the FY 2020/2021

BILLS DEVELOPED OR REVIEWED	STATUS
A. BILLS DEVELOPED OR REVIEWED	
Constitution	
Develop Constitution of Kenya (Amendment) Bill, 2020	Completed*
Electoral Laws	
Elections (Amendment) Bill, 2020	Completed
Political Parties (Amendment) Bill, 2020	Completed
Political Parties Primaries Bill, 2020	Completed
Campaign Financing (Amendment) Bill, 2020	Completed

Devolution Laws	
Reviewed the County Governments Act	Completed
Reviewed the Intergovernmental Relations Act	Completed
Public Finance Laws	
Public Finance Management (Amendment) Bill, 2020	Ongoing
Restorative Justice Fund Bill, 2020	Ongoing
Urban Development Fund Bill, 2020	Ongoing
Constitutional Commissions Laws	
Anti-Corruption and Economic Crimes Commission Bill, 2020	Ongoing
Ethics and Integrity Commission Bill, 2020	Ongoing
Independent Electoral and Boundaries Commission (Amendment) Bill, 2020	Ongoing
Technical Assistance to Ministries, Departments and Agencies	
Kenya Film Bill, 2020	Completed
Huduma Bill, 2020	Completed
Conflict of Interest Bill, 2020	Completed
Anti-Doping (Amendment) Bill, 2020	Completed
Review of the legislative and regulatory instruments establishing State Corporations	Ongoing
Review of the financial laws in partnership with the Capital Markets Authority (CMA)	Ongoing
Review of the Nuclear Regulatory Act, No. 29 of 2019	Ongoing
Technical Assistance to Ministries, Departments and Agencies	
Framework to merge the Kenya Industrial Property Institute (KIPI), Anti-Counterfeit Agency (ACA) and Kenya Copyright Board (KECOBO)	Ongoing
Review of the Kenya Plant Health Inspectorate Service Act, No. 54 of 2012	Ongoing
Review of the Agriculture Development Corporation Act, Cap. 444	Ongoing
Review of the Interpretation and General Provisions Act, Cap. 2	Ongoing
Review of the laws relating to the Power of Mercy	Ongoing
Review of the Persons Deprived of Liberty Act, No. 23 of 2014	Ongoing
Review of the Wildlife Conservation and Management Act, No. 47 of 2013	Ongoing
A. SUBSIDIARY LEGISLATION DEVELOPED OR REVIEWED	STATUS
Referendum Regulations, 2020	Completed
Huduma Regulations, 2020	Completed
County Governments Regulations, 2020	Completed
Intergovernmental Relations Regulations, 2020	Completed
Anti-Doping Rules, 2020	Completed
Kenya Institute of Curriculum Development Regulations, 2020	Ongoing
Kenya Civil Aviation Authority Regulations, 2020	Ongoing
Salaries and Remuneration Commission (Remuneration of State and Public Officers) Regulations, 2020	Ongoing
B. COUNTY BILLS DEVELOPED OR REVIEWED	STATUS
Baringo County Pre-Primary Meals and Nutrition Bill, 2021	Completed
Baringo County Disaster Management Bill, 2020	Completed
Nairobi City Development Bill, 2020	Completed
Wajir County Persons with Disabilities Bill, 2020	Completed
C. COUNTY SUBSIDIARY LEGISLATION DEVELOPED OR REVIEWED	STATUS
Public Finance Management (Kakamega County Health Facilities Improvement Fund) Regulations, 2020	Completed
D. LEGAL AUDITS	STATUS
Kenya School of Government Legal Audit	Completed
E. POLICIES REVIEWED (NATIONAL)	STATUS
National Correctional Services Policy, 2020	Completed
Kenya Film Policy	Completed
Anti-Doping Policy	Completed
Kenya Institute of Curriculum Development Policy	Ongoing
National Relief Management Policy	Ongoing
Building Code, 2020	Ongoing
F. GUIDELINES DEVELOPED OR REVIEWED	STATUS
Implementation Framework on the Audit of the National and County Legislation	Ongoing
G. POLICIES REVIEWED (COUNTY)	STATUS

Kitui County Donkey Policy	Completed
H. RESEARCH	STATUS
Researched on Access to Justice in Magistrates' Courts	Completed
Researched on the legal and institutional framework of County Partnerships in Kenya	Completed
Developed the World Bank Ease of doing Business Report	Completed
Researched on the legal and institutional framework of County Partnerships in Kenya	Completed
Reviewed the Protocol on Publication of County Legislation	Completed
Identified and researched on obsolete laws	Ongoing
I. PUBLIC EDUCATION ON LAW REFORM	STATUS
Disseminated the Guide to the Legislative Process in Kenya in seven counties	Completed
Sensitized the seven county governments on the county model laws	Completed

\*'Completed' refers to draft legislation or policy finalised by KLRC and submitted either to the Attorney-General, an instructing MDAs or a County Government.

#### 7314 Kenya National Commission on Human Rights

The Kenya National Commission on Human Rights (KNCHR) is an independent National Human Rights Institution created under Article 59 of the Constitution of Kenya 2010 and established through the Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011). It is the State's lead agency in the promotion and protection of human rights.

The key achievements of the Commission were;

- Seventy-eight (78) investigations on alleged violation of various categories of rights were conducted and reports with findings and recommendations prepared.
- Processed 23 complaints on alleged violation of human rights during the enforcement of dusk to dawn curfew in the pandemic period.
- Attended to 21 PIL cases on human rights violations within the reporting period. The KNCHR was joined in two new petitions and made an application to be joined as an interested party in One (1) new PIL case. The KNCHR was able to conduct 18 Court trial observations.
- Provided 150 victims of SGBV with psychosocial support and empowerment through individual counselling sessions and training on economic activities suitable for their locations.
- Supported 24 CUCs on the thematic areas of petty offences and SGBV case management. The CUCs were introduced to Human Rights Based Approach (HRBA) as an approach to development that adopts human rights standards and principles in development.
- Reviewed and issued 23 advisories to various House Committees in the Senate and the National Assembly to seek compliance with Human Rights Standards.
- Prepared and submitted its statutory report on the Prevention of Torture Act in line with the law and the additional mandate assigned by this law.
- Conducted institutional audits, compliance finalisation and the launch of nationwide survey on Human Rights for the Vulnerable Groups during the COVID 19 period.
- Further, KNCHR conducted a nationwide research-based study on how COVID-19 had impacted the enjoyment of rights for various vulnerable groups in Kenya. The groups identified included; children, women, youth, the elderly, Persons With Disabilities (PWDs), detainees, intersex persons, orphans & vulnerable children.

#### 7315 Kenya Prisons Service

The Kenya Prisons Service (KPS) is established and governed by the Prisons Act (Cap 90) and Borstal Institutions Act (Cap 92). It contributes to public safety and security by ensuring there is safe custody of all persons who are lawfully committed to prison facilities, as well as facilitating the rehabilitation of custodial sentenced offenders for community reintegration. The number of inmates in prisons is provided in Table 7.11.

Table 7.11: Total number of inmates FY 2020/21

CATEGORY	FY 2020/2021		TOTAL
	MALE	FEMALE	
Convicted	26,917	1,438	28,355
In remand	20,052	1,215	21,267
Borstal Institution	211	19	230
Youth Corrective Training Centre	32		32
Children			216
TOTAL POPULATION	47,212	2,672	50,100

During the year under review, the KPS undertook various activities namely:-

- Carried out an exercise where Resident Judges issued revisionary orders that placed petty offenders on community service with a view of easing overcrowding in prison facilities.
- Trained 135 prison officers and 280 inmates as paralegal officers. The trainings were done in Machakos, Kiambu, Thika, Naivasha, Kisii, Eldoret and Siaya among others.
- KPS through the help of ICRC and the Red Cross Society enabled the setting up of quarantine facilities in 46 stations such as Nairobi Remand, Kakamega Main and Women, Shimo Max/Women/Shimo B.I/Malindi/Nyeri Max/Lodwar Main among others.
- Gazetted new women prisons including Kapsabet, Kapenguria, Isiolo and Siaya Women Prisons.
- Trained 20,000 inmates on vocational training Programmes while 4,000 of them completed their trade tests.
- The Kenya Prisons Service (Legal Unit) in liaison with other stakeholders such as Kituo Cha Sheria, Christian Lawyers among others rendered pro bono services to prisoners who cannot hire private advocates to represent them in court. This was done in Machakos, Thika, Shimo La Tewa, and Lang'ata Women Prisons Kamiti Remand for Youthful offenders among other institutions.

## 7316 Legal Resources Foundation

Legal Resources Foundation Trust (LRF) promotes access to justice among vulnerable, indigent and marginalised groups, with a view to establish legal inclusivity. LRF employs the paralegal approach to deliver its programmes across the country. Paralegals are stationed in different communities including prisons.

The foundation undertook key activities during the FY 2020/21

- LRF is partnering with the Judiciary through the NCAJ's Task Force on Children Matters to develop a friendly handbook for use by actors that work with children under the Juvenile Justice System (JJS) to promote child safeguarding and protection.
- LRF hosted a global webinar titled; Justice In The Eye Of The Child in partnership with the NCAJ and the Institute of Child Psychology – Canada. The webinar delved on Child Therapy as a therapeutic jurisprudence intervention. This webinar attracted over 500 virtual participants.
- Supported the Nakuru Children Court CUC on the application of child therapy as an innovation to promote juvenile justice system in Nakuru.
- Trained 42 elders Chiefs and Assistant Chiefs drawn from Starehe and Lang'ata sub-counties in Nairobi on AJS policy. Further, LRF facilitated a sensitisation session on the AJS policy for Nairobi City Court and Kibera CUCs in March and June 2021 respectively.
- Established virtual court infrastructure (computers, projectors, internet) in Isiolo, Kitui and Kericho prisons to mitigate effects of COVID-19 on access to justice.
- Trained 56 elders drawn from far flung areas in Kyuso and Mutomo, Kitui County, who are now equipped to resolve minor disputes.
- Introduced a prison AJS model in Isiolo Prison that uses elders in resolving disputes between complainants and accused persons already detained in prison.
- Did a documentary on the Alternative Justice System Policy.
- Conducted a training for 26 Magistrates who handle children matters as well as supported Child Focused Court Users Committees (CCUC) meetings in Nakuru to help address children's issues.
- Supported the process of setting up an independent Special Nairobi City CUCs hence delinking itself from the Milimani CUC.
- Trained 25 Medical Officers in Kitui County on their role as expert witnesses and how to develop informative forensic reports that are critical in dispensing justice for SGBV. Conducted radio talk shows on legal framework supporting children, diversion policy guidelines, medical-legal management of SGBV, legal aid and alternative care to children by children officers, ODPP, NLAS, RVLS, medical experts and paralegals.
- Conducted training for 300 Prison Officers from eight Penal Institutions in Nairobi and Mombasa Counties on countering violent extremism and reduction of radicalisation in penal institutions.
- Created awareness to 4,823 prisoners on manifestation of violent extremism in Kenya, signs of radicalisation, and importantly, the manner in which a prisoner can navigate through the criminal justice system.
- Facilitated the development of an Integrated Prisoners' Management Manual.
- Trained 630 new paralegals in all the 47 Counties.
- Trained a total 120 county law enforcement officers from Meru and Kisii Counties on human rights and due process.
- LRF trained Nairobi County law enforcement officers and Nairobi City Court CUC Members on plea bargaining, the use of ADR and the Legal Aid Act 2016 to sort out State regulated offences with regards to non-compliance with licensing requirements.
- Provided legal aid assistance to over 5,000 pre-trial inmates.
- Conducted online/virtual training for men, women and girls' champions for the three communities (Kitui, Mai mahiu, and Narasha community) on matters of land and environmental rights.

## 7317 National Crime Research Centre

During the review period, the Council:

- a. Conducted an Assessment of the Impact of COVID-19 on Crime and Security Management in Kenya. The Assessment established that breach of curfew and movement restrictions (17%); Gender Based Violence (13%); engaging in riots (10%); murder (11%); Al Shabaab terror related attacks (10%); stealing (10%); child defilement (6%) as the leading crime committed during the COVID-19 pandemic in Kenya.
- b. Conducted a study on "Protecting the Family in the Time of COVID-19 Pandemic: Addressing the Escalating Cases of GBV, Girl Child Disempowerment and Violation of Children's Rights in Kenya".
- c. Conducted the National State of Crime and its Prevention in Kenya Conference 2021. The NSCPK Conference, 2021 was co-convened by the National Crime Research Centre (NCRC), RE-IN-VENT-Kenya and other Governance, Justice and Law and Order Sector (GJLOS) agencies. The conference was attended by 84 delegates physically while about 100 followed virtually. The objective of the conference was to discuss and give the way forward on the state of crime in Kenya and crime prevention initiatives under the following thematic areas: home-based crimes and family violence in the context of COVID-19; Governance and leadership in the context of Government fight against corruption; election crimes and offenses; and countering violent extremism and terrorism.
- d. Conducted a study on "Status of Child Protection in Charitable Children's Institutions in Kenya". This study was conducted in 24 counties in Kenya. The objective of the study was to establish the status of child care and protection system in charitable children's institutions in Kenya. The main factors contributing to placement of children in Charitable Children's Institutions (CCIs) as reported by the social workers were orphanhood, abandonment, neglect, parental irresponsibility, and hunger/lack of food at home. Similarly, CCI managers reported abandonment, orphan-hood, neglect, absentee mothers/parents (hunger, and sexual abuse), as the main factors contributing to the placement of children in CCIs. The predominant crimes and offenses against children at the CCIs as reported by children respondents were physical abuse. Most of the social workers and CCI managers reported defilement. Drug abuse, stealing and affray, were the main offenses committed by children in these facilities. The study recommended that the CCIs management build strong internal systems that guarantee and strengthen protection of the rights of children.
- e. A Study on the "Prevalence and the Patterns of the Land Related Crimes in Kenya"

This survey was conducted in 33 counties in Kenya. The sample respondents were 2,608 members of the public. The objective of this study was to explore the prevalence and patterns of land-related crimes in Kenya. The study findings indicated that the most prevalent land related crimes were double or multiple allocation of land; interfering with land boundaries; land possession by two or more people; trespass; and land fraud/exploitation. Furthermore, majority of the respondents had either been victims or witnessed land-related crimes in their locality. The culture of corruption, high cost of processing land documents, lack of awareness on land rights, delay of land ownership matters in courts and lack of transparency in land related matters emerged as the leading challenges in handling land-related crimes. The study recommended that the Ministry of Lands and Physical Planning expedite the process of digitisation of land registry, issuance of title deeds to all

demarcated lands and roll out mechanisms to weed out cartels and their networks within the ministry; adopt multi-agency/sector collaboration of land stakeholders in addressing land-related challenges.

f. A Study on "Factors Shaping Police Performance in Kenya"

This study was conducted in 18 counties in Kenya. The objective of the survey was to establish factors influencing police performance in Kenya. For gazetted officers these factors included competitive remuneration ; both availability of resources and equipment and conducive working environment ; adequate training and fair promotion (. The study recommended that the National Police Service Commission (NPSC) put in place competitive remuneration to the police officers as a motivation strategy; enhanced budgetary allocation to the National Police Service (NPS) to modernise infrastructure, office space and full automation of the NPS Services; and NPSC and NPS to review the policies that addresses placement (command and control), deployment, re- recruitment and promotion for police officers across the ranks.

7318 National Council on Law Reporting

The National Council for Law Reporting (Kenya Law) is mandated with the preparation and publication of the reports known as the Kenya Law Reports, which shall contain judgments, rulings and opinions of the superior courts of record.

During the FY 2020/2021 Kenya Law has made significant advances in tracking Kenya's jurisprudence and disseminating public legal information.

The key accomplishments included;

- 1 Publication of 1,500 copies of service issues
- 2 publication of eight law reports and specialised law reports
- 3 472 statutes out of 504 were revised and updated, making a 93.5 per cent revision status. Another 32 statutes were still in the process of revision.
- 4 Five volumes of the Laws of Kenya were published among, the Grey book, which consists of fifteen (15) of the most frequently used Acts of Parliament.
- 5 Online Publication of the Laws of Kenya
- 6 Kenya Law tracks law reform issues emerging from case law and legislation and in addition, contributes to legal and administrative reforms by tracking and reporting judicial opinions containing pertinent pronouncements on legal and administrative reforms.

This publications facilitated judicial officers, legal practitioners and members of the public to understand and advance their rights and obligations. These freely accessible data also facilitated government institutions and officers to review, implement and enforce laws and regulations.

7319 National Police Service

The National Police Service (NPS) is a creation of the Constitution of Kenya 2010. Its mandate and functions are spelt out in the National Police Service Act 2011 and the National Police Service Commission Act 2011. To effectively perform its mandate, it is divided broadly into The Kenya Police Service, The Administrative Police Service and The Directorate Criminal Investigation.

Activities Undertaken

On 29 July 2020, the NPS launched the first mandatory e-learning training for police officers in Kenya. The training, supported by UNODC through the Programme for Legal Empowerment and Aid Delivery in Kenya seeks to address the unique challenges that police officers face in enforcing law and order during the COVID-19 pandemic and comprises seven e-learning modules that police officers can complete at their own pace on a computer, tablet or smart phone.

Among the topics covered are the use of force, human rights approaches to crowd control, handling of SGBV violence cases, bail and bond, and how to deal with special interest groups such as persons with disabilities and children in conflict with the law. As at 21st July 2021, 32,534 police officers had enrolled in the course, with 16,498 having completed and received the online generated certificates of these 4,189 female officers enrolled, of whom 1,741 completed the course.

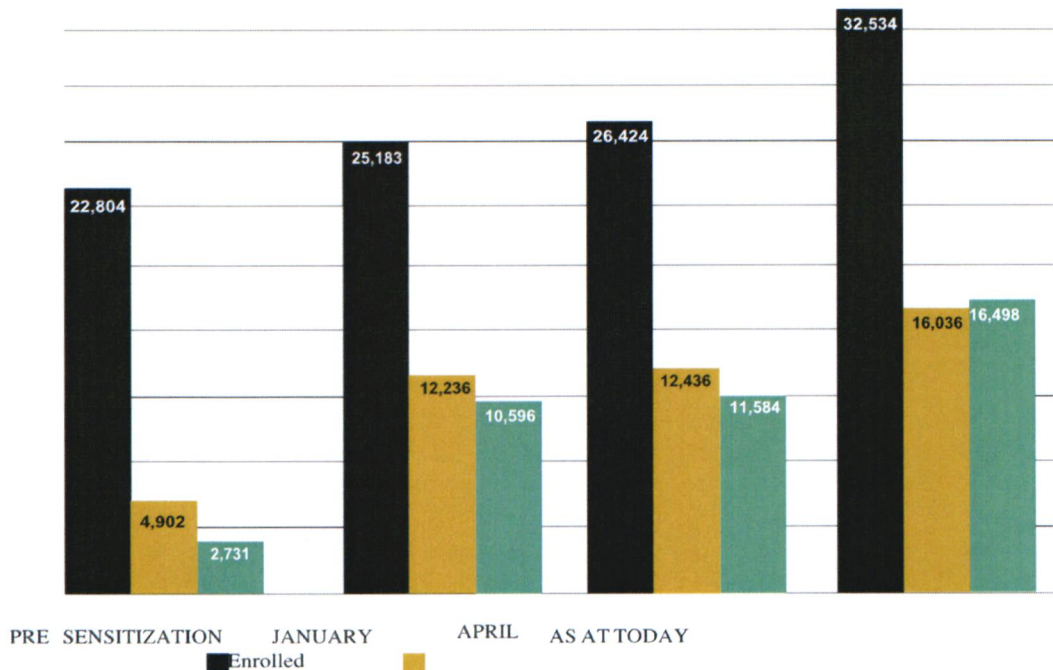


Figure 7.4: Statistics on learners

Figure 7.4 Statistics on Learners

- Apprehension of 64,215 offenders.
- Operationalisation of Administrative Police Posts into Police stations.

Table 7.12: Comparative Crime Figures

OFFENCE	2019/2020	2020/2021	DIF.	% DIFF
a) Murder	1,870	2,074	204	11
b) Manslaughter	86	82	-4	-5
c) Infanticide	49	53	4	8
d) Procuring Abortion	41	28	-13	-32
e) Concealing Birth	76	54	-22	-29
f) Suicide	503	621	118	23
g) Causing Death by Dangerous Driving	341	376	35	10
Sub - Total	2966	3288	322	11
a) Rape	972	1004	32	3
b) Defilement	6,305	7,464	1,159	18
c) Incest	333	342	9	3
Un-natural offences sodomy	79	72	-7	-9
OFFENCE	2019/2020	2020/2021	DIF.	% DIFF
e) Bestiality	21	11	-10	-48
f) Indecent assault	270	302	32	12
g) Abduction	65	65	0	0
h) Bigamy	31	101	70	226
Sub - Total	8,076	9,361	1,285	16
a) Assault	15,643	15,759	116	1
b) Creating Disturbance	5,784	5,104	-680	-12
c) Affray	689	896	207	30
Sub - Total	22,116	21,759	-357	-2
a) Robbery	642	575	-67	-10
b) Robbery with Violence	1944	1666	-278	-14
c) Carjacking	44	29	-15	-34
d) Robbed of Motor/vehicle	21	14	-7	-33
e) Cattle Rustling	19	24	5	26
A) House Breaking	2366	1948	-418	-18
B) Burglary	1417	1136	-281	-20
C) Other Breaking	1565	1303	-262	-17
Stock theft	1728	1739	11	1
a) Handling stolen property	430	417	-13	-3
b) Stealing from Person	681	524	-157	-23
c) Stealing by Tenants/lodgers	53	40	-13	-25
d) Stealing from a building	269	275	6	2
e) General Stealing	9,992	8,490	-1,502	-15
a) Stealing by Directors	101	235	134	133
b) Stealing by Agents	173	137	-36	-21
c) Stealing by employee/servant	1463	1335	-128	-9
a) Theft of M/V	330	330	0	0
b) Theft from M/V	145	112	-33	-23
c) Theft of M/V parts	146	165	19	13
c) Theft of MotorCycle	445	612	167	38
a) Possession	5755	3798	-1957	-34
b) Handling	126	81	-45	-36
c) Trafficking	912	639	-273	-30
d) Cultivating	166	169	3	2
e) Usage	59	51	-8	-14
a) Taking vehicle without lawful authority	131	70	-61	-47
b) Driving under influence of alcohol	164	41	-123	-75
a) Malicious damage	3,158	3,338	180	6
b) Arson	478	620	142	30
c) Other criminal damage	68	77	9	13
d) Negligent acts	208	259	51	25
a) Obtaining by false pretences	3,334	3,150	-184	-6
b) Currency forgery	133	108	-25	-19
c) False accounting	19	24	5	26
d) Other fraud/forgery offences	595	539	-56	-9
a) Soliciting for Bribe	42	75	33	79

b) Accepting Bribe	6	8	2	33
c) Accepting free gifts	1	7	6	0
d) Demanding by false pretence	12	10	-2	-17
e) Other Corruption Offences	39	42	3	8
a) Soliciting for Bribe	9	1	-8	-89
b) Accepting Bribe	2	1	-1	-50
c) Accepting Free Gifts	0	2	2	>100
d) Demanding by false pretence	5	7	2	40
e) Other Criminal Offences	69	49	-20	-29
a) Bag Snatching	3	10	7	0
b) Other offences Against tourists	7	1	-6	-86
c) Other Offences Involving Tourists	20	22	2	10
Other penal code offences	7,559	7,780	221	3

Table 7.13: Types of Offences

1 Homicide	2966	3288	322	11
2 Offences against morality	8076	9361	1285	16
3 Other offences against persons	22116	21759	-357	-2
4 Robbery	2670	2308	-362	-14
5 Breakings	5348	4387	-961	-18
6 Theft of stock	1728	1739	11	1
7 Stealing	11425	9746	-1679	-15
8 Theft by servant	1,737	1,707	-30	-2
9 Vehicle and other thefts	1,066	1,219	153	14
10 Dangerous drugs	7018	4,738	-2,280	-32
11 Traffic offences	295	111	-184	-62
12 Criminal damage	3,912	4,294	382	10
13 Economic crimes	4,081	3,821	-260	-6
14 Corruption	100	142	42	42
15 Offences involving police officers	85	60	-25	-29
16 Offences involving tourist	30	33	3	10
17 Other penal code offences	7559	7780	221	3

## 7320 National Transport and Safety Authority

The National Transport and Safety Authority (NTSA) was established through an Act of Parliament; Act of 2012 Number 33 with harmonise the operations of the key road transport departments and help in effectively managing the road transport sub-sector and minimising loss of lives through road crashes.

During the period under review, NTSA undertook diverse activities that support administration of justice as follows;

- Undertook Look out! #TuvukeSalama which is a Road Safety campaign done together with Vivio Energy that is aimed at promoting a safe environment around schools. The campaign reached 100 schools within 7 counties; in Nairobi, Mombasa, Nakuru, Kericho, Embu, Kisumu, and Nyeri, which received reflective STOP signs to assist children in safely crossing the roads.
- The NTSA Teams in various parts of the country sensitised road users, calling upon them to join the global movement for low speeds in liveable cities worldwide.

## 7321 Office of the Director of Public Prosecutions

The strategic focus of the ODPP for the year under review was guided by the ODPP Excellence Charter: Our Strategic Commitments 2020 - 2023. The Excellence Charter outlines the ODPP vision, mission, strategic commitments and activities identified to help the ODPP realize its mandate and serve its diverse stakeholders better.

This Excellence Charter identifies 6 strategic commitments namely independence & integrity; lifelong learning; reshaping prosecutions; leadership; organizational effectiveness; and inter-agency networks. The overall aim is to transform the ODPP into a 21st century prosecution service which is more responsive to the needs of Mwananchi.

Despite the myriad of challenges faced by the Office as a result of COVID-19, the Office achieved the following:

- 1 Developed and reviewed a number of in-house policy documents and strategies geared towards enhancing accountability, transparency and consistency in the Office operations. These include the Office of Change Management, Risk Management Strategy, Stakeholder Engagement Strategy, ODPP Screening Guidelines, Branding Guidelines, Document Tracking Manual
- 2 The Office inducted 49 new Prosecution Counsel and Research Officers.
- 3 The ODPP in partnership with UNODC/PLEAD acquired a boat, MV ADIL to facilitate access to justice for the people of Lamu.
- 4 Integrated the ODPP Uadilifu case intake system with the Judiciary system;
- 5 Installed servers in readiness of digitization of all ODPP records and rolled out the Uadilifu CMS;

## 7322 Power of Mercy Advisory Committee

The Power of Mercy Advisory Committee is a constitutional committee established pursuant to Article 133 of the Constitution whose core mandate is to advise the President on the exercise of the power of mercy. During the period under review the committee;

- Received a total of 62 petitions from convicted offenders across correctional facilities in the country.
- 202 petitions were procedurally reviewed by the Committee out of which 148 were recommended for interview and further consideration.
- Conducted virtual hearings and interviews with 132 petitioners in 26 correctional facilities and made necessary recommendations.
- Commissioned a research survey titled 'Follow up Study on Pardoned Offenders in Kenya'. This was comprehensive research on convicted offenders who

received Executive clemency after promulgation of the Constitution of Kenya 2010.

- Monitored the persons released and interacted with nineteen ex-offenders released under the Power of Mercy from various parts of the country, ten ex-offenders in Eastern and Central regions, and 9 in Coast region.

#### 7323 Probation and Aftercare Services

Probation and Aftercare Service (PAS) is mandated to manage community corrections. The service implements three main programmes namely Probation, CSO and After Care as provided for in the Probation of Offenders Act Cap (64) and the Community Service Orders Act Cap (93). To support the administration of justice, the service received referrals and provided a total of 50,351 social inquiry reports to the wide justice sector.

Table 7.14: Nature of social inquiry reports and gender distribution

Nature of referral/ Social Inquiry Report	Gender				Total
	Male		Female		
	Adults	Juvenile	Adult	Juvenile	
Probation social inquiry report	15366	1211	3429	182	20188
CSO Social inquiry Report	18941	433	3088	52	22514
Bail information	5481	380	497	12	6370
Alternative Dispute Resolution	153	4	48	1	206
Victim Impact	384	2	39	5	430
Resentencing	276	-	8	-	284
Aftercare	25	133	0	5	163
Power of Mercy	115	-	9	-	124
Plea-bargaining	45	0	1	0	46
Diversion	8	9	1	2	20
Care and protection	-	4	-	2	6
<b>Total</b>	<b>40794</b>	<b>2176</b>	<b>7120</b>	<b>261</b>	<b>50351</b>

As a result of the social inquiry report submitted to the wider justice sector, 24,166 offenders were placed on non-custodial supervision orders. This included 10,799 probation orders, 13,173 CSO orders and 194 released on the Aftercare Programme. A total of 6,154 accused persons were recommended and admitted to bail/bond terms as shown below.

Table 7.15: Placement on Supervision Orders and Recommended Bail/Bonds

Type Of Placement	Gender				Total
	Male		Female		
	Adult	Juveniles	Adult	Juveniles	
Probation Order	8580	1007	1046	166	10799
Community service order	10500	221	2435	17	13173
After Care	28	142	19	5	194
<b>Total</b>	<b>19108</b>	<b>1370</b>	<b>3500</b>	<b>188</b>	<b>24166</b>
Bail/Bond recommended and admitted	5281	380	479	12	6154

A total of 433 needy offenders serving non-custodial orders were empowered in various ways as shown in Table 3.

Table 7.16: Type and beneficiaries of empowerment programmes

Type of Empowerment	Male	Female	Total
School fees	190	52	242
Working Tools	12	11	23
Vocational Training	113	55	168
<b>Total</b>	<b>315</b>	<b>118</b>	<b>433</b>

300 probation officers were recruited and deployed to field stations while 157 probation officers were promoted to higher ranks.

Diverse training for staff were undertaken as follows;

Table 7.17: Areas of Trainings

AREA OF TRAINING	NUMBER TRAINED	PARTNER SUPPORT
Counselling awareness for middle level managers	22	Amani Counselling Centre
Research methodologies for Kenya correctional services	12	RWI
Leadership Training on Human rights	40	RWI
Kenya Probation Risk Assessment for Violent Extremism Tool (KP-RAVET) as a measure in the prevention and countering of violent extremism	26	Plead Project
Refresher course for Drivers	9	GOK
Prevention and countering violent extremism	60	Plead Project
Management of Community Probation Volunteer programme	33	Plead Project

Received 12 vehicles, 28 laptops, 1 tablet, and 30 desktop computer monitors which were allocated to stations and officers working in the 12 focal counties.

Undertook a Children Art Competition on the theme of 'Probation: A New Beginning' under the four sub themes of Change, Lessons Learnt, Future, and COVID-19, which they described in a brief write-up. Through the competition, the children provided feedback on their experience as they navigated the justice system.

## 7324 State Law Office and Department of Justice

The Honourable Attorney General is the Government's principal legal advisor, responsible for representing the National Government in court or any other legal proceedings to which the National Government is a party (other than criminal proceedings) and for performing any other functions conferred to the Office by an Act of Parliament or by the President. The key achievements for the FY2020/21 included;

- Finalised and launched the Victim Protection Board Strategic Plan 2018/19-2022/23.
- Developed and forwarded to Parliament after public and stakeholders participation, the Victim Protection (General) Regulations, 2021.
- Developed and forwarded to Parliament after public and stakeholders participation, the Victim Protection (Trust Fund) Regulations, 2021.
- Prepared and forwarded to the legislative drafting department, the Victim Protection (Amendment) Bill, 2020.
- Prepared and forwarded to the legislative drafting, the Victim Protection Act priority amendments.
- Developed the Victim Rights Charter as per Section 32(2)(d) and the Board Charter that is intended to guide the conduct of the Board.
- The approval by Cabinet of the National Action Plan on Business and Human Rights in February 2021. This is a comprehensive policy document that seeks to provide protection to all Kenyans from human rights violations by businesses, whether public or privately owned. The policy also provides guidance to businesses on their duty to respect human rights.
- Developed the Conflict of Interest Bill that aims at providing a framework for management of conflict of interest in collaboration with EACC and other stakeholders.
- Launched the National Ethics and Anti-Corruption Policy which seeks to reduce prevalence of corruption and unethical practices by among others, synergising efforts of all stakeholders involved in the fight against corruption.
- The Nairobi Centre for International Arbitration (NCIA) administered thirteen (13) disputes with a value of over Kshs. 13 Billion (USD 130 Million).
- The NCIA together with a network of China-Africa Joint Arbitration Centres' (CAJAC) developed and adopted a Constitution and Rules for arbitration of disputes of Sino-African origin within the five member Centres. The Centre developed and shared a panel of arbitrators, mediators and neutrals for panel-listing to the shared CAJAC Panel.
- The NCIA Centre developed and published the Nairobi Centre for International Arbitration (Virtual Hearings) Rules, 2020
- Negotiated Mutual Legal Assistance (MLA), Extradition and Transfer of Sentenced Persons Treaties with several Countries.
- Finalised the model treaty on MLA, Extradition and Transfer of Sentenced Persons in consultation with the various competent authorities.
- Commenced the drafting of Transfer of Sentenced Persons Regulations.
- Received and processed a number of incoming and outgoing MLA, Extradition and Transfer of Sentenced Persons requests.

## 7325 Witness Protection Agency

The Witness Protection Agency (WPA) provides special protection, on behalf of the State, to witnesses who are facing potential risk or intimidation due to their co-operation with law enforcement agencies. The WPA provides the framework and procedures for giving special protection to witnesses to ensure effective and efficient administration of justice in the country. During the period under review, WPA undertook the following;

- Held National Coordination Mechanism Consultative Forum
- Protected 80 witnesses under the WPP and 161 related persons. Further, four cases involving witnesses who are protected were concluded and judgment passed.
- Received 118 new applications into the WPP compared to 192 during the 2019 - 2020 period. This decline is attributed to the effects of COVID-19 pandemic, which led to scaled down operations in the justice system.
- Undertook sensitisation activities of The World Day Against Human Trafficking 2020.
- Held the National Coordination Mechanism on migration quarterly consultation forum between 18th–28th August 2020.
- Presented recourse available for whistleblower protection under the Witness Protection system.
- Held validation workshop on the guidelines on management of petty offenders, arrest and conditions on pre-trial detention.
- Held Victim Protection Board public participation programme on the Victim Protection (General) Regulations, 2020 in Kisumu, Bomet and Kisii.

## 7326 The CRADLE

The Children's Foundation is a non-partisan, non-profit making and Non-Governmental Organisation committed to the protection, promotion and enhancement of the rights of the child through advocacy, legal representation, and law reform. The CRADLE works to realise a just society for children. The CRADLE undertook the following activities during the period under review to enhance access to justice for children;

- Supported 400 clients on self-representation through training, drafting pleadings and ICT support.
- Trained 40 lawyers on child rights
- Referred 120 cases to pro bono lawyers.
- Trained 60 paralegals on handling children during emergencies and pandemics.
- Took up 503 new cases and supported 672 previous cases. This involved direct legal representation, legal advice, diversion, pre-trial briefing etc.
- Offered psychosocial support through individual and group therapy to 413 children both in conflict with the law and child survivors of rape,
- Undertook training for 60 practitioners in the months of November 2020 and April 2021. The webinar series were conducted every Thursday within those months.
- Offered a Massive Open Online Courses (MOOCs) on Child Rights in Kenya with support from two academic institutions,
- Launched an online platform for children to enhance advocacy and awareness on their rights of the child benefiting 3,000 children so far.

## APPENDICES

Appendix 1: Filed Civil Cases by Case Type in High Court, FY 2020/21

High Court Station	Adoption	Civil Appeals	Civil Misc	Civil Matters	Commercial Matters	Commercial Miscellaneous	Const Human & Rights	Divorce	Family Appeals	Family Misc	Income Tax Appeals	Judicial Misc	Judicial Review	Probate Admin	All civil cases
Bomet	1	12	12	11	1	1	0	0	0	0	0	0	1	35	74
Bungoma	1	56	73	59	12	0	0	0	1	0	0	3	6	20	231
Busia	0	36	100	107	0	0	10	0	0	0	0	3	9	21	286
Chuka	0	19	15	21	0	0	0	0	0	0	0	2	4	6	67
Eldoret	4	14	37	22	1	0	34	7	1	5	0	4	8	26	163
Embu	9	34	56	9	0	0	50	0	0	0	0	4	7	11	180
Garissa	0	8	12	7	0	0	14	0	0	0	0	4	6	13	64
Garsen	0	3	1	1	7	0	2	0	0	0	0	3	3	3	23
Homa Bay	1	70	43	50	0	0	0	0	0	0	0	0	1	11	176
Kabarnet	0	15	5	3	0	0	1	0	0	3	0	1	3	17	48
Kajiado	3	42	52	34	1	0	18	0	0	0	0	0	6	73	229
Kakamega	4	59	153	160	3	3	27	0	12	0	0	0	6	24	451
Kapenguria	0	3	0	0	0	0	1	0	0	1	0	2	4	5	16
Kericho	1	28	50	39	1	0	9	0	0	0	0	2	3	83	216
Kerugoya	7	46	43	7	0	0	11	3	0	0	0	4	13	12	146
Kiambu	16	206	307	32	6	0	37	25	0	0	0	0	9	133	771
Kisii	6	51	31	6	0	0	24	0	0	0	0	1	8	4	131
Kisumu	8	134	225	17	12	0	107	10	8	0	0	6	14	34	575
Kitale	0	57	33	29	0	0	11	0	0	29	0	0	17	78	254
Kitui	4	52	85	11	0	1	8	0	0	0	0	1	4	10	176
Lodwar	0	0	7	1	0	0	0	0	0	0	0	0	0	0	8
Machakos	10	168	239	32	0	0	61	1	0	6	0	13	20	60	610
Makueni	1	64	71	7	0	0	14	3	3	0	0	2	5	10	180
Malindi	1	91	118	49	1	0	53	7	0	1	0	1	9	31	362
Marsabit	1	17	15	27	0	0	21	1	0	0	0	0	0	6	88
Meru	4	141	102	26	0	0	47	0	0	0	0	0	4	32	356
Migori	0	51	50	54	0	0	16	0	0	0	0	0	2	15	188
Mil. Anti-corr. Div.	0	0	47	6	0	0	9	0	0	0	0	0	0	0	62
Mil. Civil Div.	0	710	777	492	0	0	0	0	0	0	0	0	0	0	1,979
Mil. Comm. Div.	0	314	0	0	939	1,797	0	0	0	0	201	0	0	0	3,251
Mil. Const. Div.	0	0	0	0	0	0	454	0	0	0	0	0	0	0	454
Mil. Crim. Div.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mi. Family Div.	135	0	0	0	0	0	6	130	97	0	0	0	0	2,253	2,621
Mil. Jud. Rev. Div.	0	0	0	0	0	0	0	0	0	0	0	94	248	0	342
Mombasa	4	109	191	127	16	0	274	3	7	10	0	6	81	8	836
Muranga	1	47	69	14	0	0	11	3	6	0	0	8	11	23	193
Naivasha	1	50	50	8	0	0	4	5	2	3	0	1	7	16	147
Nakuru	14	95	201	34	1	3	40	26	9	1	0	0	23	108	555
Nanyuki	1	8	24	3	0	0	7	1	0	0	0	2	1	2	49
Narok	2	13	5	9	0	0	10	2	0	0	0	0	2	9	52
Nyamira	2	66	17	19	0	0	0	0	0	0	0	1	2	6	113
Nyandarua	2	0	3	4	0	0	3	0	0	0	0	0	0	1	13
Nyeri	6	50	96	9	0	0	25	24	21	3	1	9	21	23	288
Siaya	0	36	39	48	2	0	1	0	0	0	0	4	7	16	153
Vihiga	1	48	8	12	0	0	11	0	0	0	0	0	2	109	191
Voi	0	39	12	13	0	0	0	0	0	0	0	0	4	4	72
All courts	251	3,062	3,474	1,619	1,003	1,805	1,431	251	167	62	202	181	581	3,351	17,440

Appendix 2: Resolved civil cases by case type in High Court, FY 2020/21

High Court Station	Adoption	Civil Appeals	Civil Misc	Civil Matters	Commercial Matters	Commercial Miscellaneous	Const Human & Rights	Divorce	Family Appeals	Family Misc	Income Tax Appeals	Judicial Misc	Judicial Review	Probate Admin	All civil cases
Bomet	1	0	5	3	0	0	1	0	0	1	0	0	0	28	39
Bungoma	2	53	75	6	1	0	13	0	0	0	0	0	0	34	184
Busia	0	27	97	3	0	0	0	0	1	7	0	0	7	72	214

Chuka	0	37	9	12	0	0	2	0	0	0	0	1	2	40	103
Eldoret	11	104	60	23	3	1	34	2	0	0	0	1	8	224	471
Embu	8	108	27	11	0	0	78	0	0	0	0	2	4	90	328
Garissa	0	8	0	7	0	0	5	0	0	0	0	0	0	7	27
Garsen	0	1	3	1	0	0	7	0	0	1	0	0	0	2	15
Homa Bay	2	45	73	11	0	0	26	0	0	2	0	0	4	237	400
Kabarnet	1	9	38	1	0	0	2	0	0	4	0	1	1	9	66
Kajiado	4	33	28	24	0	0	7	0	0	0	0	0	0	76	172
Kakamega	5	34	38	5	0	0	4	0	2	5	0	0	7	123	223
Kapenguria	0	3	0	0	0	0	1	0	0	1	0	0	0	7	12
Kericho	1	24	22	7	1	0	2	0	0	0	0	1	2	44	104
Kerugoya	15	84	23	8	0	0	23	0	0	0	0	1	4	21	179
Kiambu	26	89	177	7	1	0	17	7	0	0	0	0	4	173	501
Kisii	2	81	61	18	0	0	36	0	0	0	0	2	7	42	249
Kisumu	5	122	358	39	79	0	46	0	0	0	0	3	8	115	775
Kitale	0	3	17	14	0	0	7	0	0	5	0	0	1	69	116
Kitui	7	38	74	4	0	0	20	0	0	0	0	1	4	7	155
Lodwar	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Machakos	13	160	279	41	1	0	57	1	0	6	0	8	3	166	735
Makueni	0	18	43	1	0	0	3	0	0	0	0	1	2	10	78
Malindi	1	76	70	33	3	0	38	4	0	0	0	0	8	27	260
Marsabit	0	2	1	1	0	0	3	0	0	0	0	0	1	1	9
Meru	6	144	138	39	0	0	61	0	0	0	0	0	9	186	583
Migori	0	116	28	32	0	0	3	0	0	0	0	0	2	28	209
Mil. Anti-corr. Div.	0	16	30	6	0	0	14	0	0	0	0	0	0	0	66
Mil. Civil Div.	0	306	1,274	285	0	0	4	0	0	0	0	0	0	0	1,869
Mil. C. & Tax Div.	0	117	0	0	1,579	2,397	0	0	0	0	76	0	0	0	4,169
Mil. Const. Div.	0	0	0	0	0	0	407	0	0	0	0	0	0	0	407
Mil. Criminal Div.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mi. Family Div.	208	0	0	0	0	0	2	21	13	19	0	0	0	1,293	1,556
Mil. Jud. Rev. Div.	0	2	0	0	0	0	0	0	0	0	0	91	183	0	276
Mombasa	18	67	80	82	10	0	162	31	18	44	0	3	20	348	883
Muranga	1	36	20	2	0	0	0	0	0	0	0	0	0	53	112
Naivasha	5	95	151	13	0	0	9	7	0	6	0	0	6	15	307
Nakuru	16	198	271	66	0	0	24	9	4	0	0	0	27	310	925
Nanyuki	1	1	21	2	0	0	9	1	0	1	0	0	0	1	37
Narok	0	42	2	13	0	0	2	0	0	0	0	0	1	15	75
Nyamira	2	36	74	2	0	0	9	0	0	3	0	1	3	6	136
Nyandarua	3	4	2	4	0	0	0	0	0	0	0	0	0	11	24
Nyeri	6	69	64	29	0	0	17	2	1	1	3	3	12	214	421
Siaya	1	45	49	6	1	0	17	0	0	3	0	2	2	13	139
Vihiga	0	2	0	0	0	0	0	0	0	0	0	0	0	36	38
Voi	0	13	14	1	0	0	13	0	0	0	0	0	1	2	44
All courts	371	2,468	3,796	862	1,679	2,398	1,186	85	39	109	79	122	343	4,155	17,692

Appendix 3: Filed and Resolved Criminal Cases by Case Type in High Court, FY 2020/21

High Court Station	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All	
Bomet	21		25	13	38	97	3	10	12	5	30
Bungoma	58		52	99	120	329	44	21	25	51	141
Busia	26		51	20	57	154	38	21	17	2	78
Chuka	14		28	18	77	137	7	33	22	53	115
Eldoret	60		54	19	74	207	100	30	103	82	315
Embu	35		34	24	124	217	15	33	67	141	256
Garissa	3		20	18	87	128	4	33	37	53	127
Garsen	10		17	18	65	110	4	19	15	55	93
Homa Bay	50		43	31	66	190	27	53	38	71	189
Kabarnet	33		31	29	38	131	13	9	36	26	84
Kajiado	18		36	18	38	110	3	23	25	52	103
Kakamega	50		51	23	50	174	11	44	17	22	94
Kapenguria	18		18	3	37	76	14	20	7	6	47
Kericho	30		39	11	97	177	33	35	37	3	108
Kerugoya	31		6	5	119	161	16	1	17	154	188
Kiambu	60		75	93	279	507	26	32	50	111	219
Kisii	30		13	13	10	66	28	18	53	36	135
Kisumu	30		62	33	89	214	29	42	48	36	155
Kitale	59		206	54	268	587	17	58	22	201	298

Kitui	41	45	18	93	197	21	53	44	90	208
Lodwar	6	0	0	1	7	3	1	6	1	11
Machakos	40	91	65	167	363	31	64	80	47	222
Makueni	23	54	63	121	261	37	46	77	72	232
Malindi	63	54	57	104	278	35	14	60	65	174
Marsabit	19	6	2	4	31	5	5	8	2	20
Meru	73	92	109	227	501	74	91	92	236	493
Migori	16	25	27	45	113	14	8	14	24	60
Mil. Anti-corr. Div.	0	0	0	0	0	0	0	0	9	9
Mil. Civil Div.	0	0	0	0	0	0	0	0	0	0
Mil. C. & Tax Div.	0	0	0	0	0	0	0	0	0	0
Mil. Const. Div.	0	0	0	0	0	0	0	0	0	0
Mil. Criminal Div.	90	344	104	380	918	36	134	71	156	397
Mi. Family Div.	0	0	0	0	0	0	0	0	0	0
Mil. Jud. Rev. Div.	0	0	0	0	0	0	0	0	0	0
Mombasa	42	108	40	31	221	27	36	58	15	136
Muranga	39	29	19	189	276	8	6	30	169	213
Naivasha	27	228	23	60	338	7	31	42	22	102
Nakuru	46	63	18	121	248	36	100	80	68	284
Nanyuki	12	27	34	10	83	4	14	24	12	54
Narok	6	19	20	131	176	4	47	33	127	211
Nyamira	20	5	23	45	93	21	3	24	42	90
Nyandarua	5	4	0	3	12	3	2	11	4	20
Nyeri	20	43	23	150	236	25	25	83	235	368
Siaya	26	73	26	130	255	41	100	66	101	308
Vihiga	60	0	56	15	131	2	0	1	15	18
Voi	1	96	20	157	274	2	29	18	68	117
All courts	1,311	2,267	1,289	3,917	8,784	868	1,344	1,570	2,740	6,522

Appendix 4: Pending Civil Cases by Case Type in High Court, 30<sup>th</sup> June 2021

High Court Station	Adoption	Civil Appeals	Civil Misc	Civil Matters	Commercial Matters	Commercial Miscellaneous	Const. Human & Rights	Divorce	Family Appeals	Family Misc	Income Tax Appeals	Judicial Misc	Judicial Review	Probate Admin	All civil cases
Bomet	2	35	89	28	1	1	10	0	0	5	0	0	2	223	396
Bungoma	4	492	516	235	21	0	40	1	2	3	0	11	20	1,014	2,359
Busia	0	57	643	172	1	1	17	2	4	10	0	5	50	1,127	2,089
Chuka	0	10	46	41	0	1	8	1	2	47	0	1	173	143	473
Eldoret	3	89	494	159	1	1	47	32	2	30	0	9	31	189	1,087
Embu	5	90	247	27	0	0	57	6	0	282	0	4	7	1,554	2,279
Garissa	0	7	36	93	0	0	33	1	0	0	0	4	7	76	257
Garsen	1	23	6	10	7	0	1	0	0	2	0	4	5	23	82
Homa Bay	5	34	22	40	1	0	20	0	1	1	0	3	18	334	479
Kabarnet	1	20	44	8	1	0	0	0	0	6	0	0	13	57	150
Kajiado	2	60	26	76	12	1	22	3	1	24	0	11	27	21	286
Kakamega	5	275	810	202	4	3	123	17	15	22	0	0	9	1,061	2,546
Kapenguria	0	4	4	4	0	0	3	0	0	3	0	7	11	1	37
Kericho	16	44	136	116	119	0	68	0	0	0	0	12	16	613	1,140
Kerugoya	3	40	110	101	1	2	5	7	2	12	0	4	22	1,802	2,111
Kiambu	29	386	564	128	47	4	115	29	0	8	1	0	40	118	1,469
Kisii	8	66	51	4	2	0	2	0	0	0	0	0	3	24	160
Kisumu	22	129	85	188	23	0	199	11	9	1	0	20	78	122	887
Kitale	10	365	282	59	6	1	10	2	2	45	0	0	59	327	1,168
Kitui	1	130	60	18	5	11	2	0	0	0	0	0	2	30	259
Lodwar	0	2	9	1	0	0	2	2	1	0	0	1	2	14	34
Machakos	66	466	660	148	6	2	90	4	0	1	0	31	144	592	2,210
Makueni	1	82	135	24	5	0	19	3	7	4	0	1	4	100	385
Malindi	2	128	283	120	1	18	90	13	0	12	3	8	24	145	847
Marsabit	1	15	19	27	0	0	18	1	0	0	0	0	0	6	87
Meru	3	244	302	1,262	2	3	1	13	1	59	0	17	508	286	2,701
Migori	2	38	81	33	1	31	23	0	0	4	0	1	55	177	446
Mil. Anti-corr. Div.	0	15	30	3	0	0	23	0	0	0	0	71	0	0	142
Mil. Civil Div.	0	2,635	2,128	2,218	0	0	4	0	0	0	0	0	0	0	6,985
Mil. C. & Tax Div.	0	200	30	3	3,420	2,732	7	0	0	0	187	0	0	0	6,579
Mil. Const. Div.	0	0	0	0	0	0	643	0	0	0	0	0	0	0	643
Mil. Criminal Div.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mi. Family Div.	103	3	0	436	1	0	5	136	186	251	0	2	0	4,461	5,584
Mil. Jud. Rev. Div.	0	0	1	91	59	0	73	0	0	0	0	33	962	0	1,219
Mombasa	7	2,156	2,841	100	41	5	520	78	72	124	16	733	227	425	7,345

Muranga	38	581	558	124	2	0	148	8	18	40	0	21	56	1,131	2,725
Naivasha	1	110	104	10	0	0	2	2	2	6	0	2	4	72	315
Nakuru	21	710	1,001	734	6	4	22	26	9	41	2	4	237	2,536	5,353
Nanyuki	2	39	20	10	0	2	12	3	3	0	1	4	4	38	138
Narok	4	10	101	22	5	0	26	2	0	4	0	4	7	58	243
Nyamira	0	39	46	23	11	0	20	0	0	3	0	1	0	29	172
Nyandarua	5	50	99	33	2	0	21	0	0	10	0	1	4	6	231
Nyeri	24	209	685	232	1	1	51	43	38	9	2	15	27	717	2,054
Siaya	0	31	39	7	0	0	2	0	0	2	0	1	2	4	88
Vihiga	1	48	8	12	0	0	11	0	0	0	0	0	2	73	155
Voi	1	48	5	25	56	1	2	0	0	0	0	1	8	52	199
All courts	399	10,215	13,456	7,407	3,871	2,825	2,617	446	377	1,071	212	1,047	2,870	19,781	66,594

Appendix 5: Pending Criminal Cases by Case Type in High Court, 30<sup>th</sup> June 2021

High Court Station	Murder	Criminal Application	Criminal Appeal	Criminal Revision	All CR cases
Bomet	106	56	36	112	310
Bungoma	147	170	265	196	778
Busia	57	34	24	67	182
Chuka	66	44	28	77	215
Eldoret	470	193	220	137	1,020
Embu	167	88	70	209	534
Garissa	62	148	62	178	450
Garsen	30	25	41	17	113
Homa Bay	172	2	7	118	299
Kabarnet	164	103	13	105	385
Kajiado	55	48	4	177	284
Kakamega	372	107	183	85	747
Kapenguria	32	22	14	75	143
Kericho	172	85	80	297	634
Kerugoya	67	17	4	194	282
Kiambu	220	380	182	768	1,550
Kisii	62	89	22	17	190
Kisumu	115	136	92	317	660
Kitale	196	577	308	981	2,062
Kitui	136	8	130	107	381
Lodwar	31	33	11	4	79
Machakos	203	356	137	466	1,162
Makueni	19	20	4	189	232
Malindi	72	130	4	319	525
Marsabit	24	1	2	2	29
Meru	410	334	374	439	1,557
Migori	21	105	19	99	244
Mil. Anti-corr. Div.	3	46	2	14	65
Mil. Civil Div.	0	0	0	0	0
Mil. C. & Tax Div.	0	0	0	0	0
Mil. Const. Div.	0	0	0	0	0
Mil. Criminal Div.	309	739	345	756	2,149
Mi. Family Div.	0	0	0	0	0
Mil. Jud. Rev. Div.	0	0	0	0	0
Mombasa	352	544	813	611	2,320
Muranga	323	162	596	309	1,390
Naivasha	64	214	19	111	408
Nakuru	342	16	267	192	817
Nanyuki	74	140	186	310	710
Narok	20	76	3	28	127
Nyamira	26	5	6	7	44
Nyandarua	86	63	18	25	192
Nyeri	72	205	157	94	528
Siaya	30	7	27	11	75

Vihiga	48	0	47	0	95
Voi	23	114	15	188	340
All courts	5,420	5,642	4,837	8,408	24,307

Appendix 6: Average Time to Disposition in High Court, FY 2020/21

High Court Station	Average time to ( disposition-CR (Days)	Average time to disposition-CC (Days)	Average time to disposition-ALL (days)
Bomet	536	804	706
Bungoma	536	1,458	1,059
Busia	346	2,140	1,683
Chuka	187	769	501
Eldoret	864	2,055	1,577
Embu	321	1,664	1,034
Garissa	365	567	401
Garsen	248	461	279
Homa Bay	369	1,499	1,138
Kabarnet	398	304	356
Kajiado	252	538	434
Kakamega	644	2,777	2,286
Kapenguria	337	942	458
Kericho	790	1,839	1,411
Kerugoya	358	1,442	965
Kiambu	420	491	470
Kisii	345	1,234	928
Kisumu	429	1,616	1,417
Kitale	185	2,230	754
Kitui	437	486	458
Lodwar	621	212	584
Machakos	585	1,492	1,284
Makueni	379	429	391
Malindi	473	753	643
Marsabit	192	164	164
Meru	319	1,668	1,093
Migori	233	693	590
Mil. Anti-corr. Div.		355	355
Mil. Civil Div.		1,715	1,715
Mil. C. & Tax Div.		1,931	1,931
Mil. Const. Div		937	937
Mil. Criminal Div.	642		642
Mi. Family Div.		1,373	1,373
Mil. Jud. Rev. Div.		702	702
Mombasa	851	1,624	1,505
Muranga	266	1,739	774
Naiivasha	648	1,035	930
Nakuru	709	1,932	1,662
Nanyuki	547	522	537
Narok	258	1,036	467
Nyamira	138	286	227
Nyandarua	731	685	705
Nyeri	420	2,573	1,606
Siaya	261	338	287
Vihiga	1,419	1,400	1,402
Voi	149	542	256
All Courts	455	1,143	893

Appendix 7: Average Time to Disposition in ELRC, FY 2020/21

ELRC Station	Average time to disposition
Eldoret	988
Kericho	573
Kisumu	1,102
Mombasa	1,158
Nairobi	1,221
Nakuru	1,262
Nyeri	468
All Courts	967

Appendix 8: Average Time to Disposition in ELC, FY 2020/21

ELC Station	Average time to disposition
Bungoma	1,704
Busia	1,690
Chuka	306
Eldoret	1,582
Embu	1,963
Garissa	1,052
Kajiado	989
Kakamega	1,105
Kericho	1,255
Kerugoya	1,314
Kisii	1,698
Kisumu	748
Kitale	1,531
Machakos	964
Makueni	945
Malindi	1,567
Meru	662
Migori	961
Milimani	1,711
Mombasa	1,398
Muranga	845
Nakuru	1,393
Narok	1,313
Nyandarua	788
Nyeri	736
Thika	843
All Courts	1,195

Appendix 9: Filed, Resolved and Pending Cases in Magistrates' Courts, FY 2020/21

Court Station	Pending Cases June 2020			Filed Cases			Resolved Cases			Pending Cases June 2021		
	Criminal	Civil	All	Criminal	Civil	All	Criminal	Civil	All	Criminal	Civil	All
Baricho	1,560	1,114	2,674	1,368	317	1,685	1,112	305	1,417	1,816	1,126	2,942
Bomet	1,366	578	1,944	2,111	222	2,333	2,161	229	2,390	1,316	571	1,887
Bondo	609	456	1,065	1,877	694	2,571	1,754	586	2,340	732	590	1,322
Bungoma	942	1,151	2,093	1,990	1,207	3,197	1,764	433	2,197	1,168	1,925	3,093
Busia	5,363	1,732	7,095	4,423	1,243	5,666	3,331	697	4,028	6,455	2,278	8,733
Butali	1,221	890	2,111	834	500	1,334	444	221	665	1,611	1,169	2,780
Butere	876	1,080	1,956	771	459	1,230	753	619	1,372	894	1,144	2,038
Chuka	1,698	915	2,613	1,139	527	1,666	1,585	447	2,032	1,252	995	2,247
Dadaab	N/A	N/A	N/A	52	3	55	19	3	22	77	0	77
Eldama Ravine	706	195	901	2,077	210	2,287	1,620	126	1,746	1,163	279	1,442
Eldoret	9,219	4,053	13,272	6,255	2,713	8,968	5,177	1,736	6,913	10,297	5,030	15,327
Embu	2,244	510	2,754	1,922	573	2,495	1,941	553	2,494	2,225	530	2,755
Engineer	540	158	698	4,174	378	4,552	4,025	329	4,354	689	229	918
Garissa	1,439	303	1,742	1,985	147	2,132	2,058	58	2,116	1,366	392	1,758
Garsen	473	122	595	367	61	428	279	18	297	561	165	726

Gatundu	944	939	1,883	1,674	1,040	2,714	1,547	589	2,136	1,073	1,390	2,463
Gichugu	600	454	1,054	1,280	250	1,530	1,131	219	1,350	749	485	1,234
Githongo	1,083	152	1,235	630	205	835	1,098	157	1,255	615	200	815
Githunguri	708	411	1,119	955	322	1,277	861	488	1,349	802	565	1,367
Hamisi	1,068	70	1,138	942	140	1,082	868	42	910	1,142	168	1,310
Hola	390	33	423	746	34	780	728	52	780	408	31	439
Homa Bay	1,428	969	2,397	2,032	619	2,651	1,761	677	2,438	1,699	911	2,610
Isiolo	1,457	132	1,589	968	169	1,137	731	133	864	1,694	168	1,862
Iten	392	67	459	1,115	217	1,332	1,074	116	1,190	433	170	603
JKIA	144	0	144	179	0	179	183	0	183	140	0	140
Kabarnet	340	21	361	1,174	112	1,286	978	56	1,034	536	83	619
Kahawa	0	0	0	47	0	47	29	0	29	18	0	18
Kajiado	2,287	2,296	4,583	1,475	719	2,194	1,102	281	1,383	2,660	2,734	5,394
Kakamega	2,382	4,778	7,160	2,328	1,353	3,681	2,052	498	2,550	2,658	5,633	8,291
Kakuma	333	65	398	360	0	360	226	1	227	467	64	531
Kaloleni	239	367	606	463	420	883	451	627	1,078	251	540	791
Kandara	1,700	1,040	2,740	2,290	764	3,054	2,207	705	2,912	1,783	1,099	2,882
Kangema	550	339	889	1,038	171	1,209	989	183	1,172	599	327	926
Kangundo	1,418	227	1,645	2,718	671	3,389	2,297	381	2,678	1,839	517	2,356
Kapenguria	1,927	241	2,168	1,362	54	1,416	1,047	58	1,105	2,242	237	2,479
Kapsabet	3,885	1,368	5,253	2,162	698	2,860	2,028	576	2,604	4,019	1,490	5,509
Karatina	1,177	1,186	2,363	981	527	1,508	913	326	1,239	1,245	1,387	2,632
Kehancha	524	245	769	1,892	247	2,139	1,880	190	2,070	536	302	838
Kericho	3,326	1,261	4,587	4,183	572	4,755	3,862	340	4,202	3,647	1,493	5,140
Keroka	986	279	1,265	1,957	412	2,369	1,779	166	1,945	1,164	525	1,689
Kerugoya	1,103	1,512	2,615	1,102	856	1,958	921	554	1,475	1,284	1,814	3,098
Kiambu	1,013	988	2,001	3,209	1,521	4,730	2,848	836	3,684	1,374	1,673	3,047
Kibera	12,764	0	12,764	6,152	0	6,152	5,105	0	5,105	13,811	0	13,811
Kigumo	3,372	457	3,829	1,724	631	2,355	1,155	288	1,443	3,941	800	4,741
Kikuyu	2,804	2,421	5,225	1,349	1,004	2,353	863	453	1,316	3,290	2,972	6,262
Kilgoris	461	178	639	705	47	752	590	114	704	576	167	743
Kilifi	1,707	452	2,159	1,534	1,066	2,600	976	467	1,443	2,265	1,055	3,320
Kilungu	736	467	1,203	1,976	495	2,471	1,760	243	2,003	952	719	1,671
Kimilili	1,751	617	2,368	989	392	1,381	1,014	171	1,185	1,726	838	2,564
Kisii	3,368	3,797	7,165	3,170	2,045	5,215	2,571	1,147	3,718	3,967	4,695	8,662
Kisumu	6,756	4,211	10,967	1,712	2,290	4,002	1,320	1,078	2,398	7,148	5,423	12,571
Kitale	6,541	1,173	7,714	5,748	579	6,327	4,412	761	5,173	7,877	991	8,868
Kithimani	1,661	261	1,922	1,715	233	1,948	1,201	174	1,375	2,175	324	2,499
Kitui	1,432	2,392	3,844	1,690	1,040	2,730	1,726	800	2,526	1,416	2,632	4,048
Kwale	1,997	2,068	4,065	962	410	1,372	1,159	263	1,422	1,800	2,287	4,087
Kyuso	90	70	160	263	51	314	248	65	313	105	56	161
Lamu	580	38	618	715	43	758	573	27	600	137	85	222
Limuru	961	2,092	3,053	1,808	1,038	2,846	1,695	430	2,125	1,074	2,700	3,774
Lodwar	1,167	85	1,252	762	62	824	575	23	598	1,354	136	1,490
Loitoktok	104	111	215	363	140	503	330	104	434	137	149	286
Machakos	2,450	2,821	5,271	4,998	1,721	6,719	4,193	1,320	5,513	3,255	3,222	6,477
Makadara	10,694	0	10,694	9,174	0	9,174	6,254	0	6,254	13,616	0	13,616
Makindu	840	1,576	2,416	1,989	514	2,503	1,610	228	1,838	1,219	1,862	3,081
Makueni	509	406	915	448	456	904	454	198	652	503	664	1,167
Malindi	3,203	430	3,633	1,382	828	2,210	912	417	1,329	3,673	841	4,514
Mandera	237	37	274	711	46	757	658	46	704	290	37	327
Maralal	274	37	311	834	99	933	799	67	866	309	69	378
Mariakani	848	931	1,779	1,536	446	1,982	877	309	1,186	1,507	1,092	2,599
Marimanti	867	136	1,003	1,143	114	1,257	1,072	74	1,146	938	176	1,114
Marsabit	804	21	825	724	92	816	744	88	832	784	31	815
Maseno	1,238	392	1,630	1,256	428	1,684	1,148	251	1,399	1,346	569	1,915
Maua	4,119	378	4,497	2,469	390	2,859	2,676	409	3,085	3,912	359	4,271
Mavoko	1,566	3,839	5,405	2,755	1,744	4,499	2,020	1,012	3,032	2,301	4,571	6,872
Mbita	869	70	939	1,235	188	1,423	1,147	165	1,312	957	105	1,062
Meru	1,715	4,327	6,042	2,861	717	3,578	2,774	763	3,537	1,802	4,281	6,083
Migori	1,170	2,597	3,767	1,558	372	1,930	1,329	674	2,003	1,399	2,295	3,694
Mil. Anti corrup- tion	168	0	168	66	0	66	21	0	21	213	0	213

Mil. Childrens	1,310	7,503	8,813	33	1,885	1,918	30	1,664	1,694	1,313	7,724	9,037
Mil. Commercial	0	48,510	48,510	0	11,324	11,324	0	5,135	5,135	0	54,743	54,743
Milimani CM	33,089	0	33,089	15,376	0	15,376	12,184	0	12,184	5,537	0	5,537
Molo	3,386	956	4,342	3,648	617	4,265	3,027	457	3,484	4,007	1,116	5,123
Mombasa	19,549	28,546	48,095	5,736	2,056	7,792	4,694	1,810	6,504	20,591	28,792	49,383
Moyale	113	55	168	639	37	676	682	65	747	70	27	97
Mpeketoni	90	68	158	965	56	1,021	827	48	875	228	94	322
Msambweni	375	184	559	633	335	968	606	148	754	402	371	773
Mukurwe-ini	210	730	940	1,117	199	1,316	1,131	138	1,269	196	795	991
Mumias	1,248	557	1,805	1,072	349	1,421	1,078	370	1,448	1,242	536	1,778
Murang'a	2,840	4,425	7,265	1,821	1,340	3,161	1,668	876	2,544	2,993	4,889	7,882
Mutomo	661	64	725	609	96	705	642	152	794	634	166	800
Mwingi	1,330	497	1,827	955	289	1,244	865	272	1,137	1,420	514	1,934
Nairobi City	444	159	603	170	249	419	316	596	912	298	196	494
Naivasha	4,147	3,259	7,406	2,969	1,317	4,286	2,359	1,285	3,644	4,757	3,291	8,048
Nakuru	12,941	19,232	32,173	6,421	3,001	9,422	4,651	972	5,623	14,711	21,261	35,972
Nanyuki	2,175	1,654	3,829	1,929	371	2,300	1,960	245	2,205	2,144	1,780	3,924
Narok	1,115	1,920	3,035	1,652	482	2,134	1,227	331	1,558	1,540	2,071	3,611
Ndhiwa	659	428	1,087	495	328	823	345	128	473	809	628	1,437
Ngong'	2,148	220	2,368	2,017	631	2,648	1,197	316	1,513	2,968	535	3,503
Nkubu	778	311	1,089	1,005	380	1,385	1,165	331	1,496	618	360	978
Nyahururu	2,761	2,495	5,256	2,258	115	2,373	1,233	230	1,463	3,786	2,476	6,262
Nyamira	1,514	896	2,410	1,776	436	2,212	1,863	640	2,503	1,427	720	2,147
Nyando	2,293	2,572	4,865	1,777	918	2,695	1,640	853	2,493	2,430	2,637	5,067
Nyeri	1,711	2,579	4,290	3,654	1,188	4,842	4,042	1,077	5,119	1,323	2,690	4,013
Ogembo	2,241	1,595	3,836	2,395	561	2,956	1,849	342	2,191	2,787	1,814	4,601
Othaya	565	164	729	1,097	53	1,150	1,128	146	1,274	536	73	609
Oyugis	1,433	273	1,706	1,147	884	2,031	956	289	1,245	1,624	868	2,492
Rongo	336	959	1,295	733	291	1,024	673	307	980	396	943	1,339
Ruiru	433	163	596	2,607	815	3,422	1,920	795	2,715	1,120	187	1,307
Runyenjes	815	174	989	731	158	889	669	349	1,018	877	129	1,006
Shanzu	4,038	0	4,038	2,478	0	2,478	2,730	0	2,730	3,786	0	3,786
Siakago	1,460	504	1,964	1,183	407	1,590	1,099	455	1,554	505	1,135	1,640
Siaya	954	1,126	2,080	1,390	825	2,215	1,168	225	1,393	1,176	1,726	2,902
Sirisia	963	206	1,169	733	66	799	561	23	584	1,135	249	1,384
Sotik	470	472	942	1,996	285	2,281	1,771	140	1,911	695	617	1,312
Tamu	359	64	423	551	138	689	602	208	810	310	112	422
Taveta	512	101	613	717	80	797	622	62	684	607	119	726
Tawa	648	114	762	590	107	697	463	112	575	775	109	884
Thika	3,856	6,902	10,758	4,001	942	4,943	3,963	1,402	5,365	3,894	6,442	10,336
Tigania	1,448	389	1,837	2,129	356	2,485	1,987	210	2,197	1,590	535	2,125
Tononoka	222	362	584	74	510	584	72	876	948	224	736	960
Ukwala	595	112	707	985	334	1,319	621	93	714	959	353	1,312
Vihiga	1,675	1,367	3,042	1,726	99	1,825	1,351	240	1,591	2,050	1,226	3,276
Voi	825	889	1,714	2,193	120	2,313	1,551	343	1,894	1,467	702	2,169
Wajir	749	57	806	939	9	948	875	30	905	813	58	871
Wang'uru	1,214	691	1,905	1,240	469	1,709	943	123	1,066	1,511	1,037	2,548
Webuye	1,679	604	2,283	820	45	865	957	139	1,096	1,542	512	2,054
Winam	2,410	471	2,881	1,641	413	2,054	1,560	414	1,974	2,491	470	2,961
Wundanyi	309	101	410	1,412	118	1,530	1,364	108	1,472	357	113	470
All Courts	266,599	217,265	483,864	233,318	77,152	310,470	200,462	52,810	253,272	267,145	245,309	512,454

Appendix 10: Filed Criminal and Civil cases in Magistrates' Courts, FY 2020/21

Court Station	CRIMINAL CASES						CIVIL CASES					
	Crim-inal Cases	Sexual Offenc-es	In-quest	Child-ren Crimi-nal	Traffic	All Crim-inal Cases	Civil Cases	Pro-bate And Admin	Divorce Separation	Workman Compensa-tion	Child-ren Civil	All Civil Cases
Baricho	1,086	60	7	0	215	1,368	151	156	1	0	9	317
Bomet	1,834	76	4	2	195	2,111	108	69	10	0	35	222
Bondo	1,557	100	2	1	217	1,877	125	526	10	4	29	694
Bungoma	1,713	95	5	9	168	1,990	894	269	15	0	29	1,207
Busia	3,492	191	10	2	728	4,423	575	619	17	0	32	1,243
Butali	678	41	7	1	107	834	321	165	2	1	11	500
Butere	624	78	3	14	52	771	94	318	4	1	42	459

Chuka	860	82	7	0	190	1,139	208	273	20	1	25	527
Dadaab	43	8	0	0	1	52	0	0	0	0	3	3
Eldama Ravine	1,670	66	1	8	332	2,077	76	100	5	1	28	210
Eldoret	4,543	355	32	4	1,321	6,255	1,953	451	138	0	171	2,713
Embu	1,593	58	4	0	267	1,922	218	216	33	0	106	573
Engineer	3,847	124	6	19	178	4,174	144	201	8	3	22	378
Garissa	1,303	47	6	0	629	1,985	67	0	1	0	79	147
Garsen	269	25	3	6	64	367	51	2	2	0	6	61
Gatundu	1,424	48	0	5	197	1,674	404	573	30	0	33	1,040
Gichugu	1,126	33	12	1	108	1,280	69	152	6	0	23	250
Githongo	525	30	0	26	49	630	40	119	11	0	35	205
Githunguri	742	50	0	5	158	955	122	171	13	0	16	322
Hamisi	845	60	6	1	30	942	47	83	0	0	10	140
Hola	654	38	1	10	43	746	18	5	0	2	9	34
Homa Bay	1,330	68	13	0	621	2,032	238	346	17	0	18	619
Isiolo	809	28	1	3	127	968	138	12	6	0	13	169
Iten	941	36	5	1	132	1,115	107	75	7	0	28	217
JKIA	171	3	0	0	5	179	0	0	0	0	0	0
Kabarnet	1,006	50	2	8	108	1,174	54	41	1	0	16	112
Kahawa	47	0	0	0	0	47	0	0	0	0	0	0
Kajiado	888	73	4	0	510	1,475	491	162	32	0	34	719
Kakamega	1,688	177	6	0	457	2,328	539	749	25	0	40	1,353
Kakuma	262	45	3	0	50	360	0	0	0	0	0	0
Kaloleni	343	52	0	3	65	463	355	63	2	0	0	420
Kandara	1,730	128	3	9	420	2,290	299	439	8	2	16	764
Kangema	855	61	2	1	119	1,038	47	104	6	0	14	171
Kangundo	2,273	99	5	1	340	2,718	274	357	19	1	20	671
Kapenguria	1,114	73	9	31	135	1,362	24	9	1	1	19	54
Kapsabet	1,837	250	5	3	67	2,162	158	486	27	0	27	698
Karatina	693	47	3	6	232	981	129	361	13	0	24	527
Kehancha	1,419	79	0	60	334	1,892	161	77	7	1	1	247
Kericho	3,685	140	4	4	350	4,183	259	263	33	0	17	572
Keroka	1,392	59	2	2	502	1,957	299	64	12	0	37	412
Kerugoya	971	43	5	4	79	1,102	196	608	24	0	28	856
Kiambu	2,608	66	4	23	508	3,209	839	590	56	0	36	1,521
Kibera	2,126	227	2	1	3,796	6,152	0	0	0	0	0	0
Kigumo	1,469	122	4	16	113	1,724	345	238	6	2	40	631
Kikuyu	945	61	7	0	336	1,349	471	384	37	0	112	1,004
Kilgoris	617	31	2	19	36	705	31	10	1	0	5	47
Kilifi	1,053	145	8	7	321	1,534	659	337	28	0	42	1,066
Kilungu	1,001	88	6	5	876	1,976	341	97	5	0	52	495
Kimilili	807	76	3	12	91	989	237	119	10	4	22	392
Kisii	2,720	145	1	3	301	3,170	1,162	723	65	2	93	2,045
Kisumu	1,207	45	2	27	431	1,712	1,175	939	97	0	79	2,290
Kitale	4,664	422	15	68	579	5,748	313	114	14	2	136	579
Kithimani	1,342	85	2	8	278	1,715	107	75	0	0	51	233
Kitui	1,125	82	4	1	478	1,690	430	535	44	0	31	1,040
Kwale	549	107	1	49	256	962	259	73	10	4	64	410
Kyuso	183	27	0	3	50	263	18	14	8	0	11	51
Lamu	586	44	0	23	62	715	27	5	0	0	11	43
Limuru	921	49	9	6	823	1,808	596	295	29	35	83	1,038
Lodwar	632	86	3	2	39	762	15	3	1	0	43	62
Loitoktok	239	26	1	50	47	363	44	34	2	0	60	140
Machakos	4,455	222	1	20	300	4,998	1,164	460	26	0	71	1,721
Makadara	6,053	363	3	11	2,744	9,174	0	0	0	0	0	0
Makindu	1,088	154	1	5	741	1,989	386	96	6	0	26	514
Makueni	354	35	3	0	56	448	199	228	9	1	19	456
Malindi	1,033	100	2	20	227	1,382	552	231	12	0	33	828
Mandera	519	38	3	1	150	711	33	1	0	0	12	46
Maralal	635	21	2	5	171	834	39	13	5	0	42	99
Mariakani	909	130	0	7	490	1,536	362	35	9	1	39	446
Marimanti	1,005	40	0	10	88	1,143	42	35	3	0	34	114
Marsabit	601	37	1	0	85	724	48	13	1	0	30	92
Maseno	941	85	3	3	224	1,256	256	154	4	3	11	428
Maua	2,056	161	0	51	201	2,469	174	147	9	0	60	390

Mavoko	1,565	73	17	1	1,099	2,755	1,554	113	42	0	35	1,744
Mbita	1,059	60	6	0	110	1,235	67	106	8	0	7	188
Meru	2,080	63	15	40	663	2,861	383	238	37	0	59	717
Migori	1,310	112	12	1	123	1,558	110	212	36	1	13	372
Mil. Anticorruption	66	0	0	0	0	66	0	0	0	0	0	0
Mil. Childrens	4	12	0	17	0	33	155	0	0	0	1,730	1,885
Mil. Commercial	0	0	0	0	0	0	9,989	86	1,202	37	10	11,324
Milimani CM	8,182	40	13	0	7,141	15,376	0	0	0	0	0	0
Molo	2,586	159	0	16	887	3,648	352	133	12	0	120	617
Mombasa	3,469	197	13	0	2,057	5,736	1,777	205	73	1	0	2,056
Moyale	473	27	2	1	136	639	10	1	0	0	26	37
Mpeketoni	837	55	0	11	62	965	11	38	1	0	6	56
Msambweni	446	88	0	8	91	633	261	23	1	0	50	335
Mukurwe-ini	996	23	4	1	93	1,117	42	152	2	0	3	199
Mumias	836	53	4	30	149	1,072	164	154	8	2	21	349
Murang'a	1,447	45	19	1	309	1,821	361	942	18	2	17	1,340
Mutomo	508	16	0	1	84	609	55	31	0	1	9	96
Mwingi	772	72	2	0	109	955	154	117	10	0	8	289
Nairobi City	152	3	0	0	15	170	244	2	0	0	3	249
Naivasha	1,800	98	14	29	1,028	2,969	785	364	27	1	140	1,317
Nakuru	4,160	252	17	153	1,839	6,421	1,859	777	142	0	223	3,001
Nanyuki	1,589	64	15	7	254	1,929	176	131	10	0	54	371
Narok	1,030	120	2	2	498	1,652	200	107	6	0	169	482
Ndhiwa	351	36	1	0	107	495	99	203	16	4	6	328
Ngong'	1,209	102	8	5	693	2,017	422	83	27	1	98	631
Nkubu	583	53	3	9	357	1,005	137	192	11	0	40	380
Nyahururu	1,719	136	3	15	385	2,258	62	17	1	0	35	115
Nyamira	1,363	100	14	3	296	1,776	279	123	16	0	18	436
Nyando	1,391	84	6	9	287	1,777	323	538	16	1	40	918
Nyeri	3,035	99	10	93	417	3,654	571	528	29	1	59	1,188
Ogembo	2,063	163	4	8	157	2,395	394	108	22	0	37	561
Othaya	1,009	19	0	0	69	1,097	18	28	3	0	4	53
Oyugis	873	77	1	1	195	1,147	304	553	12	2	13	884
Rongo	631	37	4	2	59	733	130	132	12	1	16	291
Ruiru	1,819	49	1	1	737	2,607	569	86	86	4	70	815
Runyenjes	518	24	1	10	178	731	54	92	4	0	8	158
Shanzu	1,373	164	2	5	934	2,478	0	0	0	0	0	0
Siakago	1,005	77	1	7	93	1,183	150	234	6	0	17	407
Siaya	1,202	72	0	0	116	1,390	226	580	6	0	13	825
Sirisia	650	51	0	6	26	733	45	9	1	2	9	66
Sotik	1,721	99	4	7	165	1,996	115	128	6	3	33	285
Tamu	405	45	0	24	77	551	58	60	3	1	16	138
Taveta	593	43	1	46	34	717	34	8	0	0	38	80
Tawa	474	57	0	1	58	590	79	21	2	0	5	107
Thika	2,792	128	19	1	1,061	4,001	555	214	49	0	124	942
Tigania	1,815	84	3	3	224	2,129	141	162	7	0	46	356
Tononoka	10	26	0	38	0	74	187	0	0	0	323	510
Ukwala	835	31	3	2	114	985	117	202	2	1	12	334
Vihiga	1,411	91	1	8	215	1,726	66	15	1	0	17	99
Voi	1,710	63	2	7	411	2,193	77	8	10	0	25	120
Wajir	659	21	1	0	258	939	3	2	0	0	4	9
Wang'uru	920	36	8	6	270	1,240	206	169	18	2	74	469
Webuye	378	25	3	15	399	820	36	3	0	0	6	45
Winam	1,213	104	5	10	309	1,641	166	108	12	2	125	413
Wundanyi	1,164	64	0	5	179	1,412	40	44	6	0	28	118
All Stations	170,586	10,388	545	1,372	50,427	233,318	44,149	23,264	3,082	142	6,515	77,152

Appendix 11: Resolved Criminal and Civil cases in Magistrates' Courts, FY 2020/21

Court Station	CRIMINAL CASES						CIVIL CASES					
	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All	Civil Cases	Probate & Admin	Divorce Separation	Workman Compensation	Children Civil	All
Baricho	928	24	1	0	159	1,112	131	172	2	0	0	305
Bomet	1,866	79	5	2	209	2,161	122	34	3	0	70	229

Bondo	1,474	82	1	0	197	1,754	190	327	13	15	41	586
Bungoma	1,520	89	5	5	145	1,764	328	75	13	9	8	433
Busia	2,698	113	6	1	513	3,331	427	256	8	0	6	697
Butali	357	9	0	1	77	444	87	43	2	84	5	221
Butere	637	61	2	9	44	753	101	350	9	120	39	619
Chuka	1,384	37	0	0	164	1,585	143	222	22	2	58	447
Dadaab	14	4	0	0	1	19	0	0	0	0	3	3
Eldama Ravine	1,329	40	0	2	249	1,620	38	76	3	0	9	126
Eldoret	3,778	144	17	1	1,237	5,177	1,321	280	79	0	56	1,736
Embu	1,655	31	0	0	255	1,941	211	247	18	0	77	553
Engineer	3,752	80	4	21	168	4,025	114	152	12	12	39	329
Garissa	1,350	44	0	0	664	2,058	37	0	0	0	21	58
Garsen	210	16	0	3	50	279	6	0	0	0	12	18
Gatundu	1,324	47	2	4	170	1,547	269	271	16	16	17	589
Gichugu	1,015	18	5	1	92	1,131	62	136	8	0	13	219
Githongo	1,006	35	0	22	35	1,098	39	91	1	0	26	157
Githunguri	689	27	1	0	144	861	111	357	7	2	11	488
Hamisi	815	22	0	3	28	868	13	24	1	0	4	42
Hola	659	31	0	5	33	728	39	3	2	0	8	52
Homa Bay	1,152	75	15	0	519	1,761	281	366	19	0	11	677
Isiolo	613	12	3	2	101	731	98	7	7	0	21	133
Iten	901	38	0	0	135	1,074	67	20	1	1	27	116
JKIA	175	2	0	0	6	183	0	0	0	0	0	0
Kabarnet	877	24	1	3	73	978	22	17	5	1	11	56
Kahawa	29	0	0	0	0	29	0	0	0	0	0	0
Kajiado	613	23	0	1	465	1,102	172	76	13	0	20	281
Kakamega	1,525	77	1	0	449	2,052	255	215	10	0	18	498
Kakuma	171	20	0	0	35	226	0	0	0	0	1	1
Kaloleni	348	36	0	3	64	451	365	45	1	215	1	627
Kandara	1,710	90	1	12	394	2,207	293	280	5	101	26	705
Kangema	819	55	2	2	111	989	52	119	1	0	11	183
Kangundo	1,954	34	0	2	307	2,297	171	187	9	3	11	381
Kapenguria	874	29	4	16	124	1,047	38	14	1	0	5	58
Kapsabet	1,825	140	5	1	57	2,028	220	319	10	0	27	576
Karatina	634	32	8	4	235	913	103	190	9	2	22	326
Kehancha	1,417	80	0	58	325	1,880	127	51	9	0	3	190
Kericho	3,456	72	3	2	329	3,862	216	105	14	0	5	340
Keroka	1,315	29	0	1	434	1,779	117	17	5	0	27	166
Kerugoya	828	13	4	6	70	921	139	391	7	0	17	554
Kiambu	2,298	27	1	20	502	2,848	435	290	48	14	49	836
Kibera	1,669	81	3	0	3,352	5,105	0	0	0	0	0	0
Kigumo	982	59	2	12	100	1,155	106	141	0	0	41	288
Kikuyu	572	4	0	0	287	863	190	219	23	0	21	453
Kilgoris	516	30	0	8	36	590	95	15	3	0	1	114
Kilifi	674	43	6	0	253	976	363	84	11	4	5	467
Kilungu	826	62	6	3	863	1,760	203	20	5	1	14	243
Kimilili	803	98	6	9	98	1,014	89	56	7	2	17	171
Kisii	2,261	65	5	0	240	2,571	792	278	43	3	31	1,147
Kisumu	977	22	2	11	308	1,320	590	405	40	0	43	1,078
Kitale	3,593	294	2	36	487	4,412	567	88	17	13	76	761
Kithimani	888	61	7	2	243	1,201	119	49	2	0	4	174
Kitui	1,197	99	4	1	425	1,726	526	204	31	0	39	800
Kwale	849	49	1	18	242	1,159	175	14	3	43	28	263
Kyuso	177	23	1	1	46	248	36	10	7	0	12	65
Lamu	484	26	2	5	56	573	19	0	0	0	8	27
Limuru	874	43	2	1	775	1,695	189	174	11	2	54	430
Lodwar	512	38	1	0	24	575	6	9	1	2	5	23
Loitoktok	263	24	0	13	30	330	50	37	4	1	12	104
Machakos	3,839	58	0	4	292	4,193	1,075	191	22	5	27	1,320
Makadara	4,370	187	19	14	1,664	6,254	0	0	0	0	0	0
Makindu	854	64	2	2	688	1,610	201	23	2	0	2	228
Makueni	322	69	1	0	62	454	97	92	6	0	3	198
Malindi	653	33	3	4	219	912	281	54	9	2	71	417
Mandera	491	21	0	0	146	658	37	0	0	0	9	46
Maralal	620	17	0	5	157	799	37	3	5	0	22	67

Mariakani	504	38	3	4	328	877	221	1	1	67	19	309
Marimanti	929	51	1	17	74	1,072	35	18	4	0	17	74
Marsabit	619	37	0	3	85	744	56	1	5	0	26	88
Maseno	862	61	2	6	217	1,148	124	109	2	0	16	251
Maua	2,272	129	1	84	190	2,676	218	141	3	0	47	409
Mavoko	1,117	30	2	0	871	2,020	939	17	22	2	32	1,012
Mbita	983	44	0	0	120	1,147	74	68	16	0	7	165
Meru	2,033	54	2	36	649	2,774	411	225	64	0	63	763
Migori	1,130	82	0	2	115	1,329	547	95	26	0	6	674
Mil. Anticorruption	21	0	0	0	0	21	0	0	0	0	0	0
Mil. Childrens	14	1	0	15	0	30	152	0	0	0	1,512	1,664
Mil. Commercial	0	0	0	0	0	0	4,146	4	663	282	40	5,135
Milimani CM	6,534	23	15	0	5,612	12,184	0	0	0	0	0	0
Molo	2,176	80	0	7	764	3,027	343	55	14	0	45	457
Mombasa	2,787	108	9	0	1,790	4,694	1,552	99	85	74	0	1,810
Moyale	516	27	3	1	135	682	28	0	0	0	37	65
Mpeketoni	734	27	0	10	56	827	19	12	1	1	15	48
Msambweni	462	40	0	2	102	606	94	3	2	0	49	148
Mukurwe-ini	1,012	23	3	0	93	1,131	24	106	1	0	7	138
Mumias	881	48	3	9	137	1,078	126	216	2	15	11	370
Murang'a	1,331	25	3	2	307	1,668	272	588	12	0	4	876
Mutomo	538	17	3	1	83	642	134	2	5	0	11	152
Mwingi	718	36	0	0	111	865	159	90	17	0	6	272
Nairobi City	302	0	1	0	13	316	595	0	0	0	1	596
Naivasha	1,374	40	6	14	925	2,359	600	201	8	446	30	1,285
Nakuru	2,827	85	16	18	1,705	4,651	619	280	32	0	41	972
Nanyuki	1,681	47	5	2	225	1,960	82	91	19	1	52	245
Narok	768	21	0	7	431	1,227	174	29	3	7	118	331
Ndhiwa	247	15	0	0	83	345	40	79	3	2	4	128
Ngong'	712	31	2	0	452	1,197	130	56	25	1	104	316
Nkubu	790	54	3	6	312	1,165	150	150	5	1	25	331
Nyahururu	951	54	1	4	223	1,233	84	116	4	0	26	230
Nyamira	1,456	89	18	1	299	1,863	535	48	13	0	44	640
Nyando	1,279	58	1	6	296	1,640	408	384	11	20	30	853
Nyeri	3,506	55	11	64	406	4,042	561	434	28	0	54	1,077
Ogembo	1,624	88	0	7	130	1,849	309	17	3	0	13	342
Othaya	1,042	14	3	1	68	1,128	29	109	2	1	5	146
Oyugis	734	34	0	2	186	956	100	181	4	0	4	289
Rongo	592	24	3	2	52	673	198	80	15	0	14	307
Ruiru	1,336	14	5	0	565	1,920	611	29	83	7	65	795
Runyenjes	477	21	0	11	160	669	105	223	3	1	17	349
Shanzu	1,773	52	1	2	902	2,730	0	0	0	0	0	0
Siakago	897	66	3	3	130	1,099	190	241	9	1	14	455
Siaya	1,019	36	0	3	110	1,168	99	113	4	0	9	225
Sirisia	499	24	0	9	29	561	11	7	1	0	4	23
Sotik	1,568	38	0	4	161	1,771	92	21	6	0	21	140
Tamu	449	53	4	26	70	602	114	47	4	32	11	208
Taveta	538	36	0	20	28	622	32	2	1	0	27	62
Tawa	398	18	0	0	47	463	98	11	1	0	2	112
Thika	2,813	126	7	1	1,016	3,963	981	240	61	0	120	1,402
Tigania	1,718	67	2	3	197	1,987	102	73	7	0	28	210
Tononoka	25	25	0	22	0	72	558	0	0	0	318	876
Ukwala	534	22	0	0	65	621	44	35	1	0	13	93
Vihiga	1,126	33	2	8	182	1,351	118	103	10	0	9	240
Voi	1,180	28	6	0	337	1,551	282	21	19	13	8	343
Wajir	613	21	2	0	239	875	10	2	0	0	18	30
Wang'uru	710	10	0	0	223	943	35	62	3	0	23	123
Webuye	529	21	4	3	400	957	87	23	6	2	21	139
Winam	1,186	75	0	5	294	1,560	211	66	8	16	113	414

Wundanyi	1,130	56	1	3	174	1,364	36	42	5	2	23	108
All Stations	149,836	6,043	329	818	43,436	200,462	30,907	13,457	1,997	1,669	4,780	52,810

Appendix 12: Pending Criminal and Civil cases in Magistrates' Courts, 30<sup>th</sup> June 2021

Court Station	Criminal Cases	Sexual Offences	Inquest	Children Criminal	Traffic	All Criminal Cases	Civil Cases	Probate And Admin	Divorce Separation	Workman Compensation	Children Civil	All Civil Cases
Baricho	1,061	201	7	38	509	1,816	1,015	33	2	3	73	1,126
Bomet	1,049	188	3	3	73	1,316	312	172	8	4	75	571
Bondo	562	125	1	1	43	732	166	411	2	0	11	590
Bungoma	846	243	31	18	30	1,168	1,161	685	17	25	37	1,925
Busia	4,935	660	85	105	670	6,455	522	1,670	9	21	56	2,278
Butali	1,311	205	14	9	72	1,611	470	386	3	233	77	1,169
Butere	644	150	4	66	30	894	575	400	1	112	56	1,144
Chuka	572	224	10	28	418	1,252	837	101	30	2	25	995
Dadaab	63	13	1	0	0	77	0	0	0	0	0	0
Eldama Ravine	785	108	3	36	231	1,163	72	144	5	17	41	279
Eldoret	7,053	1,425	57	72	1,690	10,297	3,895	700	64	61	310	5,030
Embu	1,576	215	12	53	369	2,225	320	1	28	6	175	530
Engineer	518	77	3	12	79	689	71	142	5	6	5	229
Garissa	959	152	6	19	230	1,366	184	0	2	1	205	392
Garsen	411	79	3	16	52	561	154	4	3	0	4	165
Gatundu	860	93	1	20	99	1,073	848	441	17	64	20	1,390
Gichugu	595	46	8	19	81	749	355	104	2	2	22	485
Githongo	354	156	2	11	92	615	109	49	13	2	27	200
Githunguri	591	161	8	11	31	802	336	160	7	18	44	565
Hamisi	956	132	10	5	39	1,142	37	105	2	1	23	168
Hola	299	61	4	22	22	408	8	4	4	2	13	31
Homa Bay	1,138	177	20	14	350	1,699	343	405	4	2	157	911
Isiolo	1,449	109	7	11	118	1,694	152	6	3	4	3	168
Iten	369	19	7	14	24	433	82	75	8	1	4	170
JKIA	131	2	1	0	6	140	0	0	0	0	0	0
Kabarnet	388	88	1	15	44	536	37	30	3	1	12	83
Kahawa	18	0	0	0	0	18	0	0	0	0	0	0
Kajiado	1,992	164	19	78	407	2,660	1,937	126	25	629	17	2,734
Kakamega	1,868	466	10	110	204	2,658	2,257	3,194	63	1	118	5,633
Kakuma	400	30	3	2	32	467	43	15	0	0	6	64
Kaloleni	163	33	1	15	39	251	277	71	2	190	0	540
Kandara	1,302	241	3	47	190	1,783	426	581	6	82	4	1,099
Kangema	459	88	3	3	46	599	47	244	7	1	28	327
Kangundo	1,512	221	12	19	75	1,839	269	198	23	1	26	517
Kapenguria	1,863	193	17	95	74	2,242	178	1	1	5	52	237
Kapsabet	2,929	950	28	61	51	4,019	964	298	36	161	31	1,490
Karatina	948	109	16	16	156	1,245	823	420	6	117	21	1,387
Kehancha	379	117	1	7	32	536	173	119	2	1	7	302
Kericho	2,704	413	22	106	402	3,647	1,003	376	64	19	31	1,493
Keroka	781	179	17	26	161	1,164	341	144	8	6	26	525
Kerugoya	1,029	72	21	4	158	1,284	1,245	525	22	2	20	1,814
Kiambu	1,126	209	4	26	9	1,374	1,178	456	22	6	11	1,673
Kibera	6,789	632	31	29	6,330	13,811	0	0	0	0	0	0
Kigumo	2,839	376	69	12	645	3,941	552	227	6	5	10	800
Kikuyu	2,412	263	20	89	506	3,290	1,960	569	80	126	237	2,972
Kilgoris	465	85	2	20	4	576	27	20	1	4	115	167
Kilifi	1,424	575	27	47	192	2,265	617	339	32	2	65	1,055
Kilungu	610	173	3	46	120	952	457	186	3	11	62	719
Kimilili	1,490	173	5	32	26	1,726	379	380	23	3	53	838
Kisii	3,162	416	19	301	69	3,967	3,236	1,186	88	27	158	4,695
Kisumu	3,832	165	16	114	3,021	7,148	3,809	912	77	136	489	5,423
Kitale	6,375	900	35	110	457	7,877	192	164	99	40	496	991
Kithimani	1,770	242	7	35	121	2,175	179	83	2	3	57	324
Kitui	1,122	167	11	1	115	1,416	1,362	1,160	62	1	47	2,632
Kwale	1,035	446	1	91	227	1,800	1,808	314	24	36	105	2,287
Kyuso	74	7	2	8	14	105	30	21	1	0	4	56
Lamu	106	24	0	1	6	137	52	4	0	0	29	85
Limuru	734	100	19	29	192	1,074	1,608	704	56	175	157	2,700

Lodwar	959	282	9	45	59	1,354	9	5	1	1	120	136
Loitoktok	50	26	5	37	19	137	50	46	0	1	52	149
Machakos	2,229	422	9	141	454	3,255	2,216	750	67	122	67	3,222
Makadara	10,627	987	1	112	1,889	13,616	0	0	0	0	0	0
Makindu	986	142	6	5	80	1,219	1,473	213	25	111	40	1,862
Makueni	351	84	19	13	36	503	318	292	17	4	33	664
Malindi	2,503	494	56	46	574	3,673	388	320	9	12	112	841
Mandera	175	93	3	3	16	290	27	2	1	0	7	37
Maralal	222	15	2	18	52	309	29	12	0	0	28	69
Mariakani	937	234	1	18	317	1,507	934	89	8	12	49	1,092
Marimanti	737	99	0	42	60	938	37	40	4	1	94	176
Marsabit	630	82	1	4	67	784	3	22	1	0	5	31
Maseno	951	239	11	16	129	1,346	355	165	3	33	13	569
Maua	3,046	350	6	144	366	3,912	62	115	29	10	143	359
Mavoko	1,512	154	56	28	551	2,301	2,443	240	28	1,845	15	4,571
Mbita	727	117	13	4	96	957	56	39	6	1	3	105
Meru	1,363	90	23	114	212	1,802	2,481	369	49	578	804	4,281
Migori	1,042	236	13	20	88	1,399	1,739	471	45	2	38	2,295
Mil. Anticorruption	179	0	0	34	0	213	0	0	0	0	0	0
Mil. Childrens	480	33	0	800	0	1,313	451	0	2	41	7,230	7,724
Mil. Commercial	0	0	0	0	0	0	43,716	84	6,201	4,720	22	54,743
Milimani CM	4,091	69	55	0	1,322	5,537	0	0	0	0	0	0
Molo	2,610	497	60	47	793	4,007	795	235	0	3	83	1,116
Mombasa	11,245	663	98	31	8,554	20,591	22,665	676	299	5,150	2	28,792
Moyale	49	17	2	0	2	70	20	3	0	0	4	27
Mpeketoni	159	60	0	1	8	228	43	40	2	1	8	94
Msambweni	173	201	0	26	2	402	317	27	3	2	22	371
Mukurwe-ini	118	42	3	10	23	196	173	617	3	0	2	795
Mumias	922	137	1	99	83	1,242	75	425	8	0	28	536
Murang'a	2,379	114	37	54	409	2,993	3,155	1,583	19	4	128	4,889
Mutomo	519	78	3	6	28	634	73	81	5	6	1	166
Mwingi	1,002	242	8	5	163	1,420	327	176	0	2	9	514
Nairobi City	219	13	5	23	38	298	192	2	0	0	2	196
Naivasha	2,485	394	30	299	1,549	4,757	1,778	407	67	917	122	3,291
Nakuru	9,593	972	85	378	3,683	14,711	16,485	1,243	337	1,513	1,683	21,261
Nanyuki	1,659	263	24	73	125	2,144	1,562	118	38	16	46	1,780
Narok	947	411	36	42	104	1,540	1,554	303	39	82	93	2,071
Ndhiwa	562	183	7	4	53	809	314	267	25	13	9	628
Ngong	2,231	366	9	108	254	2,968	415	69	16	0	35	535
Nkubu	412	74	6	27	99	618	180	83	20	8	69	360
Nyahururu	2,458	384	61	513	370	3,786	2,084	48	37	46	261	2,476
Nyamira	1,068	206	31	7	115	1,427	498	178	19	11	14	720
Nyando	1,450	343	6	96	535	2,430	1,929	344	16	304	44	2,637
Nyeri	801	191	17	168	146	1,323	1,466	918	82	13	211	2,690
Ogembo	2,266	411	4	8	98	2,787	1,364	278	51	5	116	1,814
Othaya	456	17	1	35	27	536	57	9	2	1	4	73
Oyugis	1,244	154	11	14	201	1,624	278	553	22	5	10	868
Rongo	271	97	5	1	22	396	811	125	1	3	3	943
Ruiru	715	119	1	1	284	1,120	49	74	25	2	37	187
Runyenjes	684	70	1	5	117	877	51	68	5	0	5	129
Shanzu	2,477	584	12	60	653	3,786	0	0	0	0	0	0
Siakago	390	69	19	1	26	505	514	453	14	124	30	1,135
Siaya	1,001	123	5	2	45	1,176	812	863	3	34	14	1,726
Sirisia	909	182	7	15	22	1,135	160	64	4	4	17	249
Sotik	460	153	8	4	70	695	298	137	4	10	168	617
Tamu	224	54	1	22	9	310	37	46	1	22	6	112
Taveta	465	70	12	39	21	607	88	6	6	0	19	119
Tawa	496	172	6	4	97	775	83	17	4	0	5	109
Thika	2,659	158	16	2	1,059	3,894	5,345	874	19	118	86	6,442

Tigania	1,369	70	5	54	92	1,590	385	100	0	0	50	535
Tononoka	33	17	0	174	0	224	370	0	0	0	366	736
Ukwala	785	93	5	16	60	959	127	168	2	1	55	353
Vihiga	1,436	241	5	32	336	2,050	953	142	3	15	113	1,226
Voi	1,224	121	9	22	91	1,467	621	8	1	9	63	702
Wajir	656	56	3	12	86	813	43	3	0	1	11	58
Wang'uru	1,052	167	11	123	158	1,511	523	261	23	8	222	1,037
Webuye	1,118	124	46	44	210	1,542	452	17	1	27	15	512
Winam	1,841	307	17	260	66	2,491	247	137	5	9	72	470
Wundanyi	219	67	3	27	41	357	44	5	3	1	60	113
All Stations	184,495	27,133	1,784	6,836	46,897	267,145	166,089	34,790	8,813	18,362	17,255	245,309

Appendix 13: Case Backlog in Magistrates' Courts by age, 30<sup>th</sup> June 2021

Court Station	1-3 years	3-5 years	Over 5 years	All backlog
Baricho	1,316	73	4	1,393
Bomet	608	10	6	624
Bondo	442	17	5	464
Bungoma	1,035	47	275	1,357
Busia	1,763	1,243	62	3,068
Butali	921	526	1	1,448
Butere	629	150	35	814
Chuka	1,013	81	8	1,102
Dadaab	33	4	0	37
Eldama Ravine	469	17	0	486
Eldoret	4,813	375	1,467	6,655
Embu	634	47	329	1,010
Engineer	167	134	11	312
Garissa	1,092	15	10	1,117
Garsen	359	24	2	385
Gatundu	133	168	14	315
Gichugu	520	15	12	547
Githongo	305	5	25	335
Githunguri	356	10	48	414
Hamisi	681	90	5	776
Hola	153	21	3	177
Homa Bay	332	263	10	605
Isiolo	703	22	2	727
Iten	136	126	14	276
JKIA	51	7	2	60
Kabarnet	137	17	3	157
Kahawa	0	0	0	0
Kajiado	1,710	1,202	291	3,203
Kakamega	2,017	1,766	829	4,612
Kakuma	237	11	0	248
Kaloleni	67	3	4	74
Kandara	603	50	15	668
Kangema	45	14	9	68
Kangundo	432	31	2	465
Kapenguria	1,188	33	1	1,222
Kapsabet	1,362	1,073	227	2,662
Karatina	624	304	198	1,126
Kehancha	345	27	1	373
Kericho	2,672	107	194	2,973
Keroka	40	5	12	57
Kerugoya	934	201	9	1,144
Kiambu	489	114	41	644
Kibera	8,531	16	102	8,649
Kigumo	1,279	1,101	10	2,390
Kikuyu	2,233	1,630	49	3,912
Kilgoris	22	51	11	84
Kilifi	635	111	49	795
Kilungu	427	54	2	483
Kimilili	720	422	45	1,187
Kisii	1,829	1,459	161	3,449
Kisumu	4,760	3,732	79	8,571
Kitale	2,127	395	34	2,556
Kithimani	645	8	141	794
Kitui	1,139	294	486	1,919
Kwale	1,419	1,120	177	2,716
Kyuso	58	24	5	87
Lamu	64	8	1	73
Limuru	1,008	285	32	1,325
Lodwar	500	159	8	667
Loitoktok	116	10	0	126

Machakos	875	8	79	962
Makadara	4,034	285	124	4,443
Makindu	629	192	46	867
Makueni	204	134	2	340
Malindi	1,178	988	141	2,307
Mandera	40	2	2	44
Maralal	70	0	1	71
Mariakani	484	128	7	619
Marimanti	338	8	7	353
Marsabit	267	2	5	274
Maseno	676	31	22	729
Maua	1,759	135	74	1,968
Mavoko	2,245	79	153	2,477
Mbita	481	57	1	539
Meru	1,101	1,786	105	2,992
Migori	1,615	347	121	2,083
Mil. Anticorruption	101	45	2	148
Mil. Childrens	4,005	2,707	408	7,120
Mil. Commercial	20,859	17,083	5,478	43,420
Milimani CM	1,925	883	287	3,095
Molo	1,376	436	490	2,302
Mombasa	21,646	14,055	5,891	41,592
Moyale	2	1	0	3
Mpeketoni	41	16	0	57
Msambweni	161	0	3	164
Mukurwe-ini	140	16	1	157
Mumias	203	251	13	467
Murang'a	2,492	2,099	131	4,722
Mutomo	243	13	63	319
Mwingi	329	315	114	758
Nairobi City	303	9	179	491
Naivasha	2,538	1,076	152	3,766
Nakuru	14,004	10,740	1,810	26,554
Nanyuki	2,385	160	1	2,546
Narok	1,020	277	187	1,484
Ndhiwa	446	168	1	615
Ngong'	571	279	7	857
Nkubu	183	27	12	222
Nyahururu	2,312	1,420	158	3,890
Nyamira	379	59	38	476
Nyando	1,565	1,177	88	2,830
Nyeri	542	160	3	705
Ogembo	1,100	418	130	1,648
Othaya	168	11	5	184
Oyugis	219	242	3	464
Rongo	314	38	8	360
Ruiru	75	0	0	75
Runyenjes	154	15	8	177
Shanzu	1,180	430	21	1,631
Siakago	486	122	46	654
Siaya	327	84	278	689
Sirisia	320	266	0	586
Sotik	247	66	6	319
Tamu	218	8	0	226
Taveta	198	29	16	243
Tawa	306	46	1	353
Thika	2,887	2,303	206	5,396
Tigania	663	245	127	1,035
Tononoka	267	102	8	377
Ukwala	86	2	8	96
Vihiga	859	609	84	1,552
Voi	743	60	9	812
Wajir	359	2	3	364
Wang'uru	525	264	51	840
Webuye	795	391	7	1,193
Winam	943	202	23	1,168
Wundanyi	293	31	7	331
All Stations	168,577	82,967	23,040	274,584

Appendix 14: SJT Implementation Status on Case Backlog Reduction in Magistrates' Courts, 30<sup>th</sup> June 2021

Court Station	SJT target on reduction of case backlog older than 5 years, 1st Jan 2017	Case backlog older than 5 years, 30th June 2021	Resolved cases older than 5 years between 1st Jan 2017 and June 2021	% change in case backlog older than 5 years (1st Jan 2017 and 30th June 2021)
Baricho	24	4	145	-83%
Bomet	52	6	143	-88%
Bondo	10	5	70	-50%
Bungoma	709	275	3,974	-61%

Busia	152	62	1,072	-59%
Butali	83	1	135	-99%
Butere	17	35	195	106%
Chuka	499	8	349	-98%
Dadaab	N/A	0	0	N/A
Eldama Ravine	101	0	163	-100%
Eldoret	848	1,467	1,517	73%
Embu	776	329	1,805	-58%
Engineer	6	11	138	83%
Garissa	34	10	481	-71%
Garsen	1	2	6	100%
Gatundu	174	14	685	-92%
Gichugu	16	12	146	-25%
Githongo	4	25	54	525%
Githunguri	215	48	401	-78%
Hamisi	21	5	53	-76%
Hola	12	3	50	-75%
Homa Bay	27	10	85	-63%
Isiolo	41	2	100	-95%
Iten	903	14	3,133	-98%
JKIA	0	2	8	200%
Kabarnet	37	3	88	-92%
Kahawa		0	-	0%
Kajiado	1,007	291	947	-71%
Kakamega	351	829	521	136%
Kakuma	0	0	4	0%
Kaloleni	57	4	315	-93%
Kandara	153	15	69	-90%
Kangema	48	9	122	-81%
Kangundo	40	2	142	-95%
Kapenguria	20	1	133	-95%
Kapsabet	442	227	387	-49%
Karatina	323	198	180	-39%
Kehancha	52	1	115	-98%
Kericho	745	194	1,446	-74%
Keroka	114	12	361	-89%
Kerugoya	67	9	519	-87%
Kiambu	1,074	41	1,865	-96%
Kibera	320	102	835	-68%
Kigumo	205	10	669	-95%
Kikuyu	315	49	457	-84%
Kilgoris	36	11	258	-69%
Kilifi	729	49	1,867	-93%
Kilungu	2	2	48	0%
Kimilili	169	45	236	-73%
Kisii	351	161	2,029	-54%
Kisumu	347	79	750	-77%
Kitale	664	34	1,635	-95%
Kithimani	33	141	267	327%
Kitui	2,360	486	952	-79%
Kwale	345	177	361	-49%
Kyuso	33	5	41	-85%
Lamu	9	1	45	-89%
Limuru	61	32	858	-48%
Lodwar	17	8	16	-53%
Loitoktok	0	0	6	0%
Machakos	2,659	79	3,600	-97%
Makadara	1,061	124	1,811	-88%
Makindu	637	46	930	-93%
Makueni	157	2	261	-99%
Malindi	418	141	3,488	-66%
Mandera	5	2	4	-60%
Maralal	6	1	15	-83%
Mariakani	34	7	146	-79%
Marimanti	7	7	30	0%
Marsabit	2	5	11	150%

Maseno	322	22	945	-93%
Maua	871	74	1,409	-92%
Mavoko	22	153	197	595%
Mbita	7	1	201	-86%
Meru	4,023	105	4,659	-97%
Migori	39	121	929	210%
Mil. Anticorruption	34	2	125	-94%
Mil. Childrens	5,702	408	4,515	-93%
Mil. Commercial	19,836	5,478	16,915	-72%
Milimani CM	389	287	1,459	-26%
Molo	738	490	892	-34%
Mombasa	21,855	5,891	17,559	-73%
Moyale	9	0	32	-100%
Mpeketoni	1	0	1	-100%
Msambweni	0	3	3	300%
Mukurwe-ini	8	1	28	-88%
Mumias	261	13	826	-95%
Murang'a	849	131	1,811	-85%
Mutomo	41	63	149	54%
Mwingi	434	114	573	-74%
Nairobi City	314	179	641	-43%
Naivasha	1,638	152	1,760	-91%
Nakuru	17,950	1,810	5,930	-90%
Nanyuki	311	1	554	-100%
Narok	473	187	389	-60%
Ndhiwa	10	1	13	-90%
Ngong'	74	7	9	-91%
Nkubu	244	12	251	-95%
Nyahururu	1,400	158	600	-89%
Nyamira	145	38	787	-74%
Nyando	1,187	88	513	-93%
Nyeri	452	3	2,156	-99%
Ogembo	501	130	761	-74%
Othaya	4	5	56	25%
Oyugis	60	3	224	-95%
Rongo	41	8	125	-80%
Ruiru	0	0	2	0%
Runyenjes	9	8	144	-11%
Shanzu	20	21	732	5%
Siakago	491	46	1,021	-91%
Siaya	116	278	1,231	140%
Sirisia	7	0	1,068	-100%
Sotik	192	6	617	-97%
Tamu	12	0	25	-100%
Taveta	17	16	86	-6%
Tawa	10	1	36	-90%
Thika	3,022	206	2,916	-93%
Tigania	484	127	473	-74%
Tononoka	89	8	2,673	-91%
Ukwala	10	8	80	-20%
Vihiga	369	84	897	-77%
Voi	177	9	227	-95%
Wajir	2	3	97	50%
Wang'uru	53	51	190	-4%
Webuye	237	7	281	-97%
Winam	326	23	963	-93%
Wundanyi	9	7	31	-22%
All Stations	106,134	23,040	125,535	-78%

Appendix 15: Average Time to Disposition in Magistrates' Courts, FY 2020/21

Court Station	Average Time to Disposition (Days)			Traffic
	Overall	Criminal	Civil	
Baricho	241	118	814	98
Bomet	192	135	504	63
Bondo	208	85	512	13
Bungoma	398	93	736	25

Busia	265	136	951	34
Butali	372	208	679	81
Butere	557	180	884	43
Chuka	306	269	394	88
Dadaab	195	197	2	0
Eldama Ravine	118	80	484	56
Eldoret	254	219	396	44
Embu	346	165	840	140
Engineer	128	82	530	60
Garissa	141	199	136	25
Garsen	161	170	353	39
Gatundu	264	89	666	56
Gichugu	239	136	687	87
Githongo	179	171	198	64
Githunguri	508	167	1,028	76
Hamisi	90	73	320	13
Hola	184	139	358	109
Homa Bay	264	109	681	8
Isiolo	294	197	606	63
Iten	122	88	285	48
JKIA	261	333	6	51
Kabarnet	129	71	934	18
Kahawa	10	3	0	
Kajiado	288	225	607	48
Kakamega	364	263	806	72
Kakuma	139	164	53	54
Kaloleni	441	184	647	8
Kandara	296	187	637	87
Kangema	235	138	663	45
Kangundo	129	76	442	11
Kapenguria	129	117	253	35
Kapsabet	487	299	990	160
Karatina	386	195	760	308
Kehancha	85	71	307	32
Kericho	169	134	529	65
Keroka	159	117	621	20
Kerugoya	529	173	1,001	164
Kiambu	340	259	519	145
Kibera	250	444	0	152
Kigumo	268	178	580	283
Kikuyu	265	149	511	50
Kilgoris	315	155	834	106
Kilifi	368	240	672	120
Kilungu	92	64	460	6
Kimilili	323	252	630	206
Kisii	444	195	885	97
Kisumu	352	208	486	55
Kitale	275	161	816	103
Kithimani	270	206	843	66
Kitui	658	477	1,135	51
Kwale	324	378	473	78
Kyuso	335	280	606	20
Lamu	121	111	294	54
Limuru	342	268	777	136
Lodwar	237	229	523	32
Loitokitok	218	152	420	31
Machakos	257	87	813	78
Makadara	311	506	49	138
Makindu	317	358	915	46
Makueni	323	161	643	112
Malindi	378	335	559	71
Mandera	77	86	147	6
Maralal	84	73	270	5
Mariakani	416	355	748	105
Marimanti	117	96	461	68

Marsabit	166	133	343	72
Maseno	266	188	637	30
Maua	444	380	743	123
Mavoko	174	102	447	24
Mbita	170	90	418	31
Meru	331	157	785	59
Migori	474	105	965	27
Mil. Anticorruption	1,238	1,267	0	-
Mil. Childrens	578	321	582	-
Mil. Commercial	945	-	945	-
Milimani CM	116	405	55	94
Molo	239	95	606	28
Mombasa	398	276	896	70
Moyale	97	89	216	5
Mpeketoni	75	50	261	16
Msambweni	117	119	172	22
Mukurwe-ini	137	81	475	78
Mumias	1,164	197	5,874	42
Murang'a	541	191	1,115	189
Mutomo	613	131	1,419	216
Mwingi	407	218	849	117
Nairobi City	367	978	238	1,245
Naivasha	456	144	1,071	66
Nakuru	210	155	604	22
Nanyuki	229	156	560	53
Narok	253	163	639	76
Ndhiwa	260	211	524	4
Ngong'	210	186	376	177
Nkubu	288	231	489	16
Nyahururu	262	223	664	57
Nyamira	390	232	786	83
Nyando	410	194	767	169
Nyeri	313	117	749	77
Ogembo	279	145	717	9
Othaya	146	70	508	81
Oyugis	197	92	558	30
Rongo	290	117	573	20
Ruiru	174	94	285	52
Runyenjes	364	165	740	88
Shanzu	143	302	0	57
Siakago	507	301	702	741
Siaya	192	112	465	42
Sirisia	94	90	152	66
Sotik	113	62	625	46
Tamu	269	115	637	36
Taveta	222	122	556	74
Tawa	226	170	488	39
Thika	541	374	1,008	179
Tigania	237	218	479	71
Tononoka	403	330	434	-
Ukwala	121	49	415	30
Vihiga	272	148	931	91
Voi	306	207	773	117
Wajir	55	65	127	6
Wang'uru	142	105	438	26
Webuye	353	416	990	102
Winam	286	232	593	46
Wundanyi	74	51	356	7
All Stations	289	194	608	84

## Appendix 16: Average Time to Disposition in Kadhis' Courts, FY 2020/21

Balambala	1
Bungoma	1
Bura/Fafi	1
Busia	9
Bute	3
Dadaab	320
Eldas	1
Eldoret	1
Elwak	26
Garbatulla	52
Garissa	683
Garsen	31
Habaswein	111
Hola	83
Homa Bay	6
Ijara	1
Isiolo	1
Kajiado	1
Kakamega	9
Kakuma	2
Kericho	3
Kibera	220
Kilifi	11
Kisumu	9
Kitui	9
Kwale	20
Lamu	119
Machakos	1
Malindi	213
Mandera	69
Mariakani	1
Marsabit	157
Maua	
Merti	18
Modogashe	78
Mombasa	15
Moyale	41
Msambweni	21
Nairobi	8
Nakuru	1
Nyeri	179
Takaba	1
Thika	67
Vihiga	
Voi	19
Wajir	23
Witu	36
All Stations	59

LIST OF JUDGES, REGISTRARS, MAGISTRATES AND KADHISAS AT 30<sup>th</sup> JUNE, 2021

NAME	STATION/TITLE
<b>SUPREME COURT JUDGES</b>	
Hon. Lady Justice Martha K. Koome	Chief Justice and President of the Supreme Court
Hon. Lady Justice Philomena Mwilu	Deputy Chief Justice and Vice President
Hon. Justice Mohamed K. Ibrahim	Judge of the Supreme Court
Hon. Justice (Dr.) Smokin Wanjala	Judge of the Supreme Court
Hon. Lady Justice Njoki Ndungu	Judge of the Supreme Court
Hon. Justice Isaac Lenaola	Judge of the Supreme Court
Hon. Justice William Ouko	Judge of the Supreme Court
<b>COURT OF APPEAL JUDGES</b>	
Hon. Justice Daniel K. Musinga	President, Court of Appeal
Hon. Lady Justice Roselyn Nambuye	Nairobi
Hon. Lady Justice Wanjiru Karanja	Nairobi
Hon. Lady Justice Hannah Okwengu	Nairobi
Hon. Justice Mohamed Warsame	Nairobi
Hon. Justice Asike Makhandia	Nairobi
Hon. Lady Justice Agnes K. Murgor	Nairobi
Hon. Lady Justice Fatuma Sichale	Nairobi
Hon. Lady Justice Jamila Mohammed	Nairobi
Hon. Justice Sankale Ole Kantai	Nairobi
Hon. Justice Msagha Mbogholi	Nairobi
Hon. Lady Justice Hellen Omondi	Nairobi

Hon. Justice Imanata Laibuta	Nairobi
Hon. Justice Kathurima M'noti	Judiciary Training Institute
Hon. Justice Patrick Kiage	Kisumu
Hon. Lady Justice Mumbi Ngugi	Kisumu
Hon. Justice Francis Tuiyott	Kisumu
Hon. Justice Gatembu Kairu	Mombasa
Hon. Lady Justice Jessie Lesiit	Mombasa
Hon. Lady Justice Pauline Nyamweya	Mombasa
<b>HIGH COURT JUDGES</b>	
Hon. Justice Hatari Peter George Waweru	Nanyuki
Hon. Justice Joseph Serгон	Civil Division
Hon. Lady Justice Roselyne P.V. Wendoh	Migori
Hon. Justice George Matatia Abaleka Dulu	Makueni
Hon. Lady Justice Mary Kasango	Kiambu
Hon. Justice Fredrick Andago Ochieng	Kisumu
Hon. Justice Luka Kiprotich Kimaru	Kitale
Hon. Justice Joseph R. Karanja	Busia
Hon. Justice Aggrey O. Muchelule	Family Division
Hon. Lady Justice Florence N. Muchemi	Nyeri
Hon. Lady Justice Maureen Akinyi Odero	Family Division
Hon. Lady Justice Abida. Ali-Aroni	Garissa
Hon. Justice Said Juma Chitembwe	Civil Division
Hon. Justice Joel Mwaura Ngugi	Nakuru
Hon. Justice Edward Muthoga Muriithi	Meru
Hon. Justice Kanyi Kimondo	Murang'a
Hon. Justice David Amilcar S. Majanja	Commercial Division
Hon. Lady Justice Cecilia Wathaiya Githua	Criminal Division
Hon. Lady Justice Beatrice Nthiori Thurairira	Civil Division
Hon. Justice Weldon K. Korir	Kapenguria/Kabarnet
Lady Justice Grace Nzioka	Criminal Division
Hon. Lady Justice Christine W. Meoli	Civil Division
Hon. Lady Justice Hedwig Imbosa Ong'udi	Constitution & Human Rights
Hon. Lady Justice Stella Ngali Mutuku	Kajiado
Hon. Justice James Wakiaga	Murang'a
Hon. Lady Justice Rose Edwina Atieno Ougo	Kisii
Hon. Justice Eric Kennedy O. Ogola	Eldoret
Hon. Justice George Vincent Odunga	Machakos
Hon. Justice Hilary Kiplagat Chemitei	Nakuru
Hon. Justice James Aaron Makau	Constitution & Human Rights
Hon. Lady Justice Roselyne Korir	Bomet
Hon. Justice Richard Mururu Mwongo	Kerugoya
Hon. Justice Alfred Mabeya	Presiding Judge- Commercial Division
Hon. Lady Justice Lydia Awino Achode	Principal Judge Family Division
Hon. Lady Justice Abigail Mshila	Commercial Division
Hon. Justice William Musya	Kakamega
Hon. Lady Justice Jacqueline N. Kamau	Kisumu
Hon. Justice Ngaah Jairus	Judicial Review
Hon. Justice Francis Muthuku Gikonyo	Narok
Hon. Justice Martin Muya Mati	
Hon. Lady Justice Esther Nyambura Maina	Anti-corruption
Hon. Lady Justice Lilian Nambwire Mutende	Criminal Division
Hon. Lady Justice Grace Wangui Ngenye	Naivasha
Hon. Justice Justus Momanyi Bwonwonga	Criminal Division
Hon. Lady Justice Roselyne M. Ekirapa Aburili	Siaya
Hon. Justice Enoch Chacha Mwitia	Commercial Division
Hon. Justice Robert Kipkoech Limo	Kitui
Hon. Justice Charles Kariuki Mutungi	Nyahururu
Hon. Justice Anthony Charo Murima	Judicial Review
Hon. Lady Justice Janet Nzilani Mulwa	Civil Division
Hon. Lady Justice Farah Amin	Kakamega
Hon. Lady Justice Margaret Muigai	Machakos
Hon. Justice Stephen Riechi	Bungoma
Hon. Justice Olga Sewe	Mombasa
Hon. Lady Justice Wilfrida Osodo	Commercial Division
Hon. Justice Patrick Otieno	Meru
Hon. Justice Anthony Ndung'u	Judicial Review
Hon. Lady Justice Mugure Thande	Family Division
Hon. Lady Justice Margaret Mwangi	Mombasa
Hon. Justice Stephen Githinji	Malindi
Hon. Lady Justice Dorah O. Chepkwony	Criminal
Hon. Lady Justice Asenath Ongeru	Kericho
Hon. Justice Kiarie Waweru Kiarie	Homa Bay
Hon. Lady Justice Lucy Njuguna	Embu
Hon. Justice John Mativo	Mombasa
Hon. Justice Reuben Nyakundi	Eldoret
Hon. Mr. Justice Onyiego John Nyabuto	Mombasa

Hon. Lady Justice Cherere Thripsisa Wanjiku Wamae	Meru
Hon. Mr. Justice Ogola Daniel Ogembo	Criminal Division
Hon. Lady Justice Gitari Lucy Waruguru	Chuka
Hon. Lady Justice Rachel C. B Ngetich	Nakuru
Hon. Mr. Justice Kemei David Kipyegomen	Bungoma
Hon. Lady Justice Anne Adwera Colleta Apondi	Mombasa
Hon. Lady Justice Matheka Teresia Mumbua	Nakuru
Hon. Mr. Justice Nyaga Jesse Njagi	Marsabit
Hon. Lady Justice Antonina Kossy Bor	Nanyuki
Hon. Lady Justice Onyango Jane Muyoti	Kisii
Hon. Lady Justice Ochieng Christine E. Atieno	Machakos
Hon. Mr. Justice Eboso Benard Mweresa	Thika
Hon. Lady Justice Odeny Millicent Akinyi	Malindi
Hon. Lady Justice Mbugua Lucy	Milimani
Hon. Lady Justice Matheka Nelly Awori	Mombasa
Hon. Mr. Justice Angima Yuvinalis Maronga	Nyahururu
Hon. Mr. Justice Yano Charles Kimutai	Chuka
Hon. Mr. Justice Kullow Mohamed Noor	Migori
Hon. Mr. Justice Olola James Otieno	Nyeri
Hon. Lady Justice Mary Clausina Oundo	Kericho
Hon. Mr. Justice Njoroge Francis Mwangi	Nakuru
Hon. Lady Justice Kemei Kimutai Grace	Thika
Hon. Lady Justice Komingoi Loice Chepkemoi	Milimani
Hon. Mr. Justice Ohungo Dalmas Omondi	Kakamega
Hon. Mr. Justice Cheronno Enock Chirchir	Kerugoya/Garissa
Hon. Mr. Justice Ongondo George Martin Atunga	Homa Bay
Hon. Mr. Justice Mbogo Charles Gitonga	Narok
Hon. Lady Justice Anne Abongo Omollo	Busia
Hon. Justice Oscar A. Angote	Milimani
Hon. Justice John M. Mutungi	Nakuru
Hon. Justice Boaz Nathan Olao	Bungoma
Hon. Justice Antony Oteng'o Ombwayo	Kisumu
Hon. Justice Antony Kimani Kaniaru	Embu
Hon. Lady Justice Lucy Nyambura Gacheru	Murang'a
Hon. Justice Peter Muchoki Njoroge	Isiolo
Hon. Justice Stephen Muriigi Kibunja	Eldoret
Hon. Justice Samson Odhiambo Okong'o	Milimani
Hon. Justice Munyao Sila	Mombasa
Hon. Lady Justice Mary Muthoni Gitumbi	JTI
Hon. Justice Elijah Ogoti Obaga	Eldoret
Hon. Lady Justice Lucy Waihaka	Facing Tribunal
Hon. Justice Mboya Ogutu Joseph	Milimani
Hon. Justice Naikuni Lucas Leperes	Mombasa
Hon. Justice Mwanyale Michalel Ngolo	Kapsabet
Hon. Lady Justice Addraya Edda Dena	Kwale
Hon. Lady Justice Kimani Lilian Gathoni	Kitui
Hon. Justice Kamau Joseph M. Cherere	Nyamira
Hon. Justice Wabwoto Karoph Edward	Milimani
Hon. Lady Justice Koross Anne Yatic Kipingor	Siaya
Hon. Justice Gicheru Maxwel Ndwiga	Kajiado
Hon. Lady Justice Mogeni Ann J. Akhalemesi	Milimani
Hon. Justice Ongarora Fred Nyagaka	Bomet
Hon. Justice Christopher Kyania Nzili	Meru
Hon. Justice David Mwangi	Milimani
Hon. Lady Justice Lynette Achieng	Nakuru
Hon. Justice Washe Emmanuel Mutwana	Kilgoris
Hon. Lady Justice Nakuri Annet	Machakos
Hon. Lady Justice Muriigi Theresa Wairimu	Makueni
Hon. Lady Justice Asati Esther	Vihiga
Hon. Justice Mathews Nderi Nduma	Nairobi
Hon. Lady Justice Maureen Onyango	Nairobi
Hon. Justice Nzioki Makau	Nairobi
Hon. Justice D.K. Njagi Marete	Nyeri
Hon. Lady Justice Monica Mbaru	Nairobi
Hon. Lady Justice Linnnet Ndolo	Nairobi
Hon. Justice James Rika	Nairobi
Hon. Justice Onesmus Makau	Kericho
Hon. Justice Byram Ongaya	Mombasa
Hon. Justice Radido Stephen Okiyo	Kisumu
Hon. Lady Justice Hellen Seruya Wasilwa	Nakuru
Hon. Justice Abuodha Jorum.	Eldoret
Hon. Justice Jacob K. Gakeri	Nairobi
Hon. Lady Justice Stella C. Rutto	Nairobi
Hon. Lady Justice Justice Jemima W. Keli	Bungoma
Hon. Justice Ocharo Kebira	Nairobi
Hon. Lady Justice Agnes M.N. Kitiku	Mombasa
Hon. Justice Bernard O.M Matanga	Malindi

Hon. Lady Justice Christine N. Baari	Kisumu
Hon. Justice David N. Nderitu	Nakuru
Hon. Lady Justice Ann N. Mwaure	Nairobi
<b>REGISTRARS, MAGISTRATES AND KADHIS</b>	
<b>OFFICE OF REGISTRAR SUPREME COURT</b>	
Hon. Esther Nyaiyaki	Registrar
Hon. Daniel Ole Keiwua	Chief Magistrate (DR)
<b>OFFICE OF REGISTRAR COURT OF APPEAL</b>	
Hon. Moses K. Serem	Registrar
Hon. Lorraine Dinna Ogombe	Principal Magistrate (DR – Nairobi)
<b>OFFICE OF REGISTRAR HIGH COURT</b>	
Hon. Judith Omange	Registrar
Hon. Hannah Njeri Ndung'u	Chief Magistrate
Hon. Jane Kemunto Ocharo	Principal Magistrate (DR)
<b>OFFICE OF PRINCIPAL JUDGE</b>	
Hon. Georgina Nasaak Opakasi	Senior Resident Magistrate
<b>OFFICE OF REGISTRAR EMPLOYMENT &amp; LABOUR RELATIONS COURT</b>	
Hon. Kennedy L. Kandet	Registrar
Hon. Daisy Chebet Mutai	Senior Resident Magistrate (DR)
Hon. Noelle Muthu Kyany'a	Resident Magistrate (DR)
<b>OFFICE OF REGISTRAR ENVIRONMENT &amp; LAND COURT</b>	
Hon. Rose Nyanunga Makungu	Ag. Registrar
<b>OFFICE OF REGISTRAR MAGISTRATES COURT</b>	
Hon. Peter Mutua Mulwa	Registrar
Hon. Caroline Njeri Kabucho	Senior Principal Deputy Registrar
Hon. Caroline Cheptoo Kemei	Principal Magistrate
Hon. Muktar Billow Salat	Principal Kadhi
<b>OFFICE OF REGISTRAR TRIBUNALS</b>	
Hon. Anne Asuga	Ag. Registrar
<b>OFFICE OF REGISTRAR SMALL CLAIMS COURT</b>	
Hon. Stella Waigwe Kanyiri	Ag. Registrar
<b>OFFICE OF REGISTRAR JUDICIAL SERVICE COMMISSION</b>	
Hon. Winfrida Mokaya	Registrar
Hon. Bernard O. Ochieng	Senior Principal Magistrate (DR)
<b>OFFICE OF THE CHIEF JUSTICE</b>	
Hon. Fredrick Momanyi	Senior Principal Deputy Registrar
Hon. Moses Wanyonyi Wanjala	SRM & Registrar – MAC (judicial duties at Thika Court)
<b>OFFICE OF THE JUDICIARY OMBUDSMAN</b>	
Hon. Herbert Inonda Mwendwa	Senior Resident Magistrate
<b>OFFICE OF THE CHIEF REGISTRAR JUDICIARY</b>	
Hon. Joseph Were	Senior Principal Magistrate
Hon. Sharon Muteitsi Mwayuli	Senior Resident Magistrate
<b>COMMUNITY SERVICE ORDERS CO-ORDINATOR</b>	
Hon. Ocharo Momanyi	Principal Magistrate
<b>JUDICIARY TRAINING INSTITUTE</b>	
Hon. Alice Wambui Macharia (Dr.)	Principal Magistrate
Hon. Catherine Wanjugu Mburu	Senior Resident Magistrate
Hon. Priscah Wamucii Nyotah	Resident Magistrate
<b>MILIMANI LAW COURTS</b>	
<b>High Court Division Deputy Registrars</b>	
Hon. Jacob ole Kipury	Chief Magistrate - Criminal Appeals
Hon. Rose A.A. Otieno	Senior Principal Magistrate - Criminal Div.
Hon. Elizabeth Chepkoech Tanui	Senior Principal Magistrate – DR Automation
Hon. Angela Njeri Thuku	Senior Principal Magistrate - JR, Const. & HR
Hon. Caroline J. Kendagor	Principal Magistrate – DR Mediation
Hon. Isabela Nekesa Barasa	Principal Magistrate - ELC
Hon. Sammy Aswani Opande	Principal Magistrate - Comm. & Tax Div.
Hon. Rosaline Adhiambo Aganyo	Principal Magistrate - Criminal Div.
Hon. Christine Asuna Okello	Senior Resident Magistrate - JR, Const. & HR
Hon. Linda Akosa Mumassabba	Senior Resident Magistrate - Civil Div.
Hon. Claire Nanjala Wanyama	Senior Resident Magistrate - Comm. & Tax Div.
Hon. Pauline Wangari Mbulika	Senior Resident Magistrate - Family Div.
Hon. Jane Wambui Kamau	Senior Resident Magistrate - Criminal Div.
Hon. Janette Wandia Nyamu	Senior Resident Magistrate - Family Div.
Hon. Lydia Wambui Mbacho	Resident Magistrate - Civil Div.

Hon. Diana Awino Orago	Resident Magistrate - ELC
Hon. Alice Mukami Wachira	Resident Magistrate - Criminal Div.
Hon. Maureen Munyiri Munyolo	Resident Magistrate - Family Div.
Hon. Stephany Wambui Githogori	Resident Magistrate - Tax Div.
Chief Magistrate's Court	
Hon. Francis Andayi	Chief Magistrate
Hon. Martha W. Mutuku	Chief Magistrate
Hon. Kenneth Kipkurui Cheruiyot	Senior Principal Magistrate
Hon. Bernard Ochoi	Senior Principal Magistrate
Hon. David Munyao Ndungi	Principal Magistrate
Hon. Zainab Abdul Rahaman	Senior Resident Magistrate
Hon. Carolyne Muthoni Njagi	Senior Resident Magistrate
Hon. Sinkiyian Nkini Tobiko	Senior Resident Magistrate
Anti-Corruption Court	
Hon. Douglas Nyambane Ogoti	Chief Magistrate
Hon. Lawrence N. Mugambi	Chief Magistrate
Hon. Elizabeth Nyarangi Juma	Chief Magistrate
Hon. Felix Kombo	Chief Magistrate
Hon. Thomas Nzyoki Thyaka	Chief Magistrate
Hon. Victor Wakumile Ndururu	Senior Principal Magistrate
Hon. Eunice Kagure Nyutu	Senior Principal Magistrate
Hon. Peter Oduor Ooko	Senior Principal Magistrate
Traffic Court	
Hon. Esther Kimilu	Senior Principal Magistrate
Hon. Martha Anyona Nanzushi	Principal Magistrate
Children's Court	
Hon. Gerhard Gitonga Muchege	Principal Magistrate
Hon. Mary Anjao Otindo	Principal Magistrate
Hon. Hellen Malikia Siika	Senior Resident Magistrate
Hon. Robert Ondieki Mbogo	Resident Magistrate
Hon. Festus Terer	Resident Magistrate
Hon. Maureen Wanjiru Kibe	Resident Magistrate
CITY COUNTY COURT	
Hon. Roselyne Oganyo	Chief Magistrate
Hon. Mary Wanja Njagi	Senior Principal Magistrate
Hon. James Omburah	Senior Principal Magistrate
Hon. Selina Nelima Muchungi	Senior Resident Magistrate
CO-OPERATIVE TRIBUNAL	
Hon. Beatrice Muthoni Kimemia	Chief Magistrate – Chairperson
BUSINESS PREMISES RENT TRIBUNAL	
Hon. AbdulQadir Lorot	Chief Magistrate – Chairman
MILIMANI COMMERCIAL COURTS	
Hon. Liza Lynne W. Gicheha	Chief Magistrate
Hon. Mildred Obura	Chief Magistrate
Hon. David Mburu Wanjohi	Senior Principal Magistrate
Hon. Edgar Matsigulu Kangoni	Principal Magistrate
Hon. Agnes Ndunge Makau	Principal Magistrate
Hon. Betty Chepkemei Koech	Principal Magistrate
Hon. Esther Nasimiyu Wanjala	Principal Magistrate
Hon. David Mbeja Obonyo	Principal Magistrate
Hon. Peter Omuyele Mukholi	Principal Magistrate
Hon. Dennis Mungai Kivuti	Principal Magistrate
Hon. Lilian Tsuma Lewa	Principal Magistrate
Hon. Margaret Wanjeri Murage	Senior Resident Magistrate
Hon. Agneta A. Ndege Ogonda	Senior Resident Magistrate
Hon. Damacline Bosibori Nyakundi	Resident Magistrate
NAIROBI SMALL CLAIMS COURT	
Hon. Susan Gakii Gitonga	Resident Magistrate/Adjudicator
Hon. Brenda Jaluha Ofisi	Resident Magistrate/Adjudicator
Hon. Judith Patience A. Omollo	Resident Magistrate/Adjudicator
KADHIS' COURT - UPPERHILL	
Hon. Sukyan Omar Hassan	Senior Principal Kadhi
Hon. Ishaq Abduljabar Hussein	Principal Kadhi
Hon. Karanja Thulkif Waweru	Kadhi I (SRK)
MAKADARA LAW COURTS	
Hon. Emily Ominde	Chief Magistrate
Hon. Heston N. Nyaga	Chief Magistrate
Hon. Angelo Kithinji Rwito	Chief Magistrate
Hon. Ase Meresia Opondo	Principal Magistrate
Hon. Stephen S. Wadida Jalang'o	Principal Magistrate
Hon. Eva Kanyiri Kaimenyi	Principal Magistrate
Hon. Jacqueline C. Kibosia	Principal Magistrate

Hon. Eunice Cherotich Kimaiyo	Principal Magistrate
Hon. Lewis Kamanga Gatheru	Senior Resident Magistrate
Hon. Mercy Achieng Ombima	Resident Magistrate
<b>KIBERA LAW COURTS</b>	
Hon. Joyce Mkambe Gandani	Chief Magistrate
Hon. Esther Boke	Senior Principal Magistrate
Hon. Philip Mutua	Senior Principal Magistrate
Hon. Monica Nyarango Nyakundi	Principal Magistrate
Hon. Derrick Khaemba Kuto	Principal Magistrate
Hon. Renee Musimbi Kitagwa	Senior Resident Magistrate
Hon. Charles Mwaniki Kamau	Senior Resident Magistrate
Hon. William Tulel Lopokoiyit	Resident Magistrate
<b>JKIA LAW COURTS</b>	
Hon. Lucas O. Onyina	Chief Magistrate
Hon. Christine Mukami Njagi	Senior Resident Magistrate
<b>KISUMU LAW COURTS</b>	
Hon. Peter N. Gesora	Chief Magistrate
Hon. Robinson Ondieki	Senior Principal Magistrate
Hon. Joane N. Wambilyanga	Senior Principal Magistrate (DR CoA)
Hon. Kemunto Winfrida Onkunya	Senior Resident Magistrate
Hon. Stella Nekesa Telewa	Senior Resident Magistrate
Hon. Martha Awidhi Agutu	Senior Resident Magistrate
Hon. Maureen Iberia Shimenga	Senior Resident Magistrate
Hon. Beryl Anyango Omollo	Resident Magistrate
Hon. Lina Akoth	Resident Magistrate
Hon. Kunyuk John Tito	Principal Kadhi
<b>WINAM LAW COURTS</b>	
Hon. Hezron Moibi Nyaberi	Chief Magistrate
Hon. Fatuma Mwanza Rashid	Principal Magistrate
Hon. Jocelyne Rino Kimetto	Senior Resident Magistrate
<b>MASENO LAW COURTS</b>	
Hon. Christopher Yalwala	Senior Principal Magistrate
Hon. Chrispine Noel Choka Oruo	Senior Resident Magistrate
<b>SIAYA LAW COURTS</b>	
Hon. James Ongondo	Senior Principal Magistrate
Hon. Lester Simiyu	Principal Magistrate
Hon. Margaret Muthoni Mwangi	Resident Magistrate
<b>BONDO LAW COURTS</b>	
Hon. John Paul Nandi	Principal Magistrate
Hon. Stella Wanjiru Mathenge	Resident Magistrate
<b>UKWALA LAW COURTS</b>	
Hon. Calestous Sindani Nambafu	Principal Magistrate
Hon. Christabel Irene Agutu	Senior Resident Magistrate
<b>NYANDO LAW COURTS</b>	
Hon. Samson O. Temu	Senior Principal Magistrate
Hon. Kipngeno Reuben S. aka Sang	Principal Magistrate
<b>TAMU LAW COURTS</b>	
Hon. Purity Chepkorir Koskey	Principal Magistrate
Hon. Everlyne Makungu Onzere	Principal Magistrate
<b>Homa Bay LAW COURTS</b>	
Hon. Thomas Obutu Atanga	Senior Principal Magistrate
Hon. Ruth B. Nabwire Maloba	Principal Magistrate
Hon. Tom Mark Olando	Principal Magistrate (DR HC)
Hon. Joy Shiundu Wesonga	Principal Magistrate
Hon. Opacha Jamal Omodoi	Kadhi I (SRK)
<b>MBITA LAW COURTS</b>	
Hon. Nicodemus N. Moseti	Senior Resident Magistrate
Hon. Japheth Cheruiyot Bii	Senior Resident Magistrate
<b>NDHIWA LAW COURTS</b>	

Hon. Mary Ashisero Akala	Principal Magistrate
MIGORI LAW COURTS	
Hon. Dickson Odhiambo Onyango	Chief Magistrate
Hon. Johnstone Munguti	Senior Principal Magistrate
Hon. Moses Oyoko Obiero	Senior Principal Magistrate
Hon. Peter Nyagaka Areri	Principal Magistrate
Hon. Hellen Chepwogen Maritim	Resident Magistrate
RONGO LAW COURTS	
Hon. Raymond Kibet Langat	Senior Resident Magistrate
OYUGIS LAW COURTS	
Hon. Bernard Obae Omwansa	Senior Principal Magistrate
Hon. Celesa Asis Okore	Principal Magistrate
KISII LAW COURTS	
Hon. Nathan Shiundu Lutta	Chief Magistrate
Hon. Ezekiel Angaga Obina	Principal Magistrate
Hon. Stephen Onjoro Khachuenu	Principal Magistrate
Hon. Paul Kipkemoi Mutai	Senior Resident Magistrate
Hon. Dorcas Onam Mac'andere	Resident Magistrate
NYAMIRA LAW COURTS	
Hon. Margaret Wambani Onditi	Chief Magistrate
Hon. Maureen Cherono Nyigei	Principal Magistrate
Hon. Cyprian Waswa Wafula	Resident Magistrate
OGEMBO LAW COURTS	
Hon. Dennis Mikoyan	Chief Magistrate
Hon. Gloriam Nasimiyu Barasah	Resident Magistrate
KEROKA LAW COURTS	
Hon. Bethwel Kimutai Matata	Principal Magistrate
Hon. Simon Kaigongi Arome	Senior Resident Magistrate
KEHANCHA LAW COURTS	
Hon. Linus Nyakundi Mesa	Principal Magistrate
Hon. Anne Karimi Njeru	Resident Magistrate
KAKAMEGA LAW COURTS	
Hon. Bildad Ochieng	Chief Magistrate
Hon. Dolphina Atieno Alego	Senior Principal Magistrate
Hon. Hazel Wandere Musisi	Senior Principal Magistrate
Hon. Joseph Riitho Ndururi	Principal Magistrate
Hon. Malesi Eric Kidali	Principal Magistrate
Hon. Josephine Nyatuga Maragita	Senior Resident Magistrate
Hon. Noelyne Akee Reuben	Resident Magistrate
Hon. Sabastiany D.O. Ratori	Senior Principal Kadhi
MUMIAS LAW COURTS	
Hon. Teresia A. Odera	Chief Magistrate
Hon. Willy Kipkoech Cheruiyot	Senior Resident Magistrate
Hon. Marcella Amondi Onyango	Resident Magistrate
BUTERE LAW COURTS	
Hon. Felix Makoyo Omweri	Principal Magistrate
Hon. Gladys Achieng Ollimo	Resident Magistrate
BUTALI LAW COURTS	
Hon. Joseph N. Nyakundi	Senior Principal Magistrate
Hon. Carolyne Naliaka Njalale	Senior Resident Magistrate
VIHIGA LAW COURTS	
Hon. Samson Ongeru Omwenga	Senior Principal Magistrate
Hon. Rose Mugeni Ndombi	Senior Resident Magistrate
Hon. Mary Makena Gituma	Resident Magistrate

Hon. Zaharani M. Omar	Kadhi I (SRK)
HAMISI LAW COURTS	
Hon. Melanie Celestine A. Awino	Principal Magistrate
BUNGOMA LAW COURTS	
Hon. John G. King'ori	Chief Magistrate
Hon. Charles Soi Mutai	Senior Principal Magistrate
Hon. Stephen O. Mogute	Principal Magistrate
Hon. Elias Ngugi Mwenda	Principal Magistrate
Hon. Gabriel Peter Omondi	Principal Magistrate
Hon. Angeline Achieng A. Odawo	Senior Resident Magistrate
Hon. Sheikh Shaban Issa Muhammed	Principal Kadhi
WEBUYE LAW COURTS	
Hon. Mildred Munyekenye	Senior Principal Magistrate
Hon. Nancy Nang'uni Barasa	Principal Magistrate
KIMILILI LAW COURTS	
Hon. Gladys Adhiambo	Principal Magistrate
Hon. Dennis Onyango Ogal	Senior Resident Magistrate
SIRISIA LAW COURTS	
Hon. Caroline M. Watimmah	Senior Resident Magistrate
BUSIA LAW COURTS	
Hon. Lucy Ambasi	Chief Magistrate
Hon. Patrick Olengo	Senior Principal Magistrate
Hon. Phoebe Yiswa Kulecho	Senior Resident Magistrate
Hon. Tina Awino Madowo	Resident Magistrate
Hon. Rachel Njoki Ng'ang'a	Resident Magistrate
Hon. Nyaboga Idris Nyamagosa	Kadhi I (SRK)
NAKURU LAW COURTS	
Hon. Josephat Burudi Kalo	Chief Magistrate
Hon. Elizabeth Katiwa Usui	Chief Magistrate
Hon. Lilian Arika	Chief Magistrate
Hon. Faith Karimi Munyi	Principal Magistrate
Hon. Isaac Karasi Orange	Principal Magistrate
Hon. Yvonne Khatambi Inyama	Principal Magistrate
Hon. Rose Ombata	Senior Resident Magistrate
Hon. Byson Benjamin Limo	Senior Resident Magistrate
Hon. Kelly Eunice Aoma	Senior Resident Magistrate
Hon. Daisy J. Mosse	Senior Resident Magistrate
Hon. Nancy M. Makau	Senior Resident Magistrate
Hon. Margaret Kathina Kyalo	Resident Magistrate
Hon. Juma Khamisi Tsanuo	Principal Kadhi
NAIVASHA LAW COURTS	
Hon. Kennedy Bidali	Chief Magistrate
Hon. Joseph Musembi Karanja	Senior Principal Magistrate
Hon. Lyna Sarapai	Principal Magistrate
Hon. Esther Wangare Mburu	Senior Resident Magistrate
Hon. Yusuf Mukhula Barasa	Senior Resident Magistrate
Hon. Martin Njeru Mutua	Resident Magistrate
MOLO LAW COURTS	
Hon. Elena Gathoni Nderitu	Chief Magistrate
Hon. Samuel Wahome	Chief Magistrate
Hon. Rhoda Yator	Principal Magistrate
Hon. Alice Wairimu Mukenga	Senior Resident Magistrate
Hon. Emmanuel Soita Siundu	Resident Magistrate
ELDORET LAW COURTS	
Hon. Linus Pogh'on Kassin	Chief Magistrate
Hon. Richard O. Odenyo	Senior Principal Magistrate
Hon. Sylvia Rajula Wewa	Senior Principal Magistrate

Hon. Naomi Wairimu	Senior Principal Magistrate
Hon. Grace Nasike Sitati	Senior Resident Magistrate (DR HC)
Hon. Barnabas Kibet Kiptoo	Senior Resident Magistrate
Hon. Christine Achieng Menya	Senior Resident Magistrate
Hon. Emily Chemeli Kigen	Senior Resident Magistrate
Hon. Diana Wikunza Milimu	Resident Magistrate
Hon. Rosemary Kemunto Onkoba	Resident Magistrate
Hon. Isaack Hassan Mohamed Noor	Principal Kadhi
<b>KAPSABET LAW COURTS</b>	
Hon. Jacinta Atieno Orwa	Senior Principal Magistrate
Hon. Duke Atuti Ocharo	Principal Magistrate
Hon. Bonface Wangai Wachira	Resident Magistrate
<b>KITALE LAW COURTS</b>	
Hon. Julius K. Ng'arng'ar	Chief Magistrate
Hon. Mary Immaculate Gwaro	Senior Principal Magistrate
Hon. Cheronoh M. Kesse	Principal Magistrate
Hon. Virginia Wambui Karanja	Principal Magistrate
Hon. Symphie Nekesa Makila	Principal Magistrate
Hon. Duncan Kiptoo Mtai	Senior Resident Magistrate
Hon. Mary Nyang'ara Osoro	Resident Magistrate
<b>KERICHO LAW COURTS</b>	
Hon. Samuel Mokua	Chief Magistrate
Hon. Solomon Kipkirui Ngetich	Principal Magistrate
Hon. Bernard Kipyegon Rugut	Principal Magistrate
Hon. Geoffrey Ontita Kimang'a	Senior Resident Magistrate
Hon. Elizabeth Wairimu Karani	Resident Magistrate
Hon. Aziza Ajwang	Resident Magistrate
Hon. Ally Wayu Bakari	Kadhi I (SRK)
<b>SOTIK LAW COURTS</b>	
Hon. Evans W. Muleka	Principal Magistrate
Hon. Jackson Obuya Omwange	Senior Resident Magistrate
<b>BOMET LAW COURTS</b>	
Hon. Lilian Nafula Kiniale	Principal Magistrate
Hon. Kibelion Kipkurui	Principal Magistrate
Hon. Jeal Praxades Atieno Aduke	Resident Magistrate
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Hon. Charles Ariba Kutwa	Senior Principal Magistrate
Hon. Caroline R. T. Ateya	Senior Resident Magistrate
<b>KABARNET LAW COURTS</b>	
Hon. Paul Biwott	Senior Principal Magistrate
Hon. Nerolyne Miraho Idagwa	Senior Resident Magistrate
Hon. Viannah Ong'oli Amboko	Resident Magistrate
<b>ELDAMA-RAVINE LAW COURTS</b>	
Hon. Richard Kipkemoi Koech	Senior Principal Magistrate
Hon. Alice Chemosop Towett	Senior Resident Magistrate
<b>NAROK LAW COURTS</b>	
Hon. George Njenga Wakahiu	Chief Magistrate
Hon. Adelaide Namabihi Sisenda	Resident Magistrate
<b>KILGORIS LAW COURTS</b>	
Hon. Robert M. Oanda	Senior Principal Magistrate
Hon. Wilson Kipchumba Kitur	Senior Resident Magistrate
<b>KAJIADO LAW COURTS</b>	
Hon. Susan M. Shitubi	Chief Magistrate
Hon. Irene Marcia Kahuya	Principal Magistrate
Hon. Becky Mulemia Cheloti	Senior Resident Magistrate
Hon. Edwin Mulochi	Resident Magistrate

Hon. Kutwaa Mohammed Abdalla	Senior Principal Kadhi
LOITOKTOK LAW COURTS	
Hon. Judicaster Nthambi Nthuku	Principal Magistrate
Hon. Caroline Wambui Ndumia	Resident Magistrate
NGONG LAW COURTS	
Hon. Pamela Achieng	Senior Principal Magistrate
Hon. Irene Ruguru Ngotho	Principal Magistrate
KAPENGURIA LAW COURTS	
Hon. Samuel Kiprotich Mutai	Senior Principal Magistrate
Hon. Margaret Nafula Makokha	Principal Magistrate
Hon. Godfrey Geno Okwengu Lui	Resident Magistrate
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Hon. Charity Cheruto Kipkorir	Principal Magistrate
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Hon. Monicah Njoki Kivuti	Senior Resident Magistrate
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Hon. Rose Akoth Ongira	Resident Magistrate

<b>MACHAKOS LAW COURTS</b>	
Hon. Alfred Gethi Kibiru	Chief Magistrate
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Hon. Carolyne Ocharo	Senior Principal Magistrate
Hon. Anne Wanjiku Nyoike	Principal Magistrate
Hon. Charles Nchore Ondieki	Principal Magistrate
Hon. Jerop Brenda Bartoo	Senior Resident Magistrate
Hon. Nelly Chelagat K. Keni	Resident Magistrate
Hon. Eric Analo Musambai	Resident Magistrate
Hon. Khamis Ramadhani	Principal Kadhi
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Hon. Bernard Kasavuli	Principal Magistrate
Hon. Hellen Onkwani	Principal Magistrate
Hon. Rose Wahu Gitau	Resident Magistrate
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Hon. Gilbert Omuyaku Shikwe	Principal Magistrate
Hon. Eva Wanjiku Wambugu	Senior Resident Magistrate
<b>KANGUNDO LAW COURTS</b>	
Hon. Desderias Orimba	Senior Principal Magistrate
Hon. Martha Akoth Opanga	Senior Resident Magistrate
<b>TAWA LAW COURTS</b>	
Hon. Martin Kinyua Mutegi	Principal Magistrate
Hon. Lawrence Kyasya Mwendwa	Principal Magistrate
<b>MAKUENI LAW COURTS</b>	
Hon. James N. Mwaniki	Chief Magistrate
Hon. George Rachei Sagero	Senior Resident Magistrate
Hon. Joan Atieno Otieno	Resident Magistrate
<b>KILUNGU LAW COURTS</b>	
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Hon. Collins Ombija Apiyo	Resident Magistrate

Hon. Adan Ibrahim Tullu	Principal Kadhi
<b>ISIOLO LAW COURTS</b>	
Hon. Samuel M. Mungai	Chief Magistrate
Hon. Evanson Ngigi	Principal Magistrate
Hon. Athman Abduhalim Hussein	Senior Principal Kadhi
Hon. Galgalo Adan	Principal Kadhi – Garbatulla
Hon. Mustafa Guyo Shunu	Kadhi I (SRK) – Merti
<b>MOYALE LAW COURTS</b>	
Hon. Edward Kiprono Too	Principal Magistrate
Hon. Simon Kimani Mburu	Principal Magistrate
Hon. Ali Dida Wako	Principal Kadhi
<b>MOMBASA LAW COURTS</b>	
Hon. Evans K. Makori	Chief Magistrate
Hon. Ameyo Edna Asachi Nyaloti	Chief Magistrate
Hon. Francis N. Kyambia	Chief Magistrate
Hon. Charles Ngure Ndegwa	Senior Principal Magistrate
Hon. Alberty Saitabau Lesootia	Principal Magistrate (DR ELRC)
Hon. Maureen Lambisia Nabibya	Principal Magistrate
Hon. Martin Osano Achoka Rabera	Principal Magistrate
Hon. Vincent Okello Adet	Principal Magistrate
Hon. Ritah Mukungu Amwayi	Senior Resident Magistrate
Hon. Gideon Kiage Oenga	Senior Resident Magistrate
Hon. Christine Atieno Ogweni	Resident Magistrate
Hon. Erastus Maina Muchoki	Resident Magistrate
Hon. Joshua Muchera Nyakiri	Resident Magistrate
<b>KADHIS' COURT MOMBASA</b>	
Hon. Al Muhdhar A. Hussein	Chief Kadhi
Hon. Juma A. Abdalla	Senior Principal Kadhi
Hon. Habib Salim Vumbi	Principal Kadhi
<b>TONONOKA CHILDREN'S COURT</b>	
Hon. Viola Jepkorir Yator	Principal Magistrate
Hon. Lucy Khahendi Sindani	Senior Resident Magistrate
<b>SHANZU LAW COURTS</b>	
Hon. Florence Wangari Macharia	Chief Magistrate
Hon. Yusuf Abdalla Shikanda	Principal Magistrate
Hon. David Ochieng Odhiambo	Resident Magistrate
<b>MALINDI LAW COURTS</b>	
Hon. Julie Oseko (Dr.)	Chief Magistrate
Hon. William Chepseba	Chief Magistrate
Hon. Dorothy Ivy N.N. Wasike	Senior Resident Magistrate
Hon. Olga Juma Kanaiza Onalo	Resident Magistrate
Hon. Talib B. Mohammed	Senior Principal Kadhi
<b>GARSEN LAW COURTS</b>	
Hon. Paul K. Rotich	Senior Principal Magistrate
Hon. Eugene Melville Kadima	Senior Resident Magistrate
Hon. Mursal Mohamed Sizi	Kadhi I (SRK)
<b>KALOLENI LAW COURTS</b>	
Hon. Leah Njambi Waigera	Principal Magistrate
Hon. Mary Wanjiru Njuguna	Resident Magistrate
<b>KILIFI LAW COURTS</b>	
Hon. Justus Mulei Kituku	Senior Principal Magistrate
Hon. Daniel Sitati Sifuma	Resident Magistrate
Hon. Mwambele M. Suleiman	Kadhi I (SRK)
<b>VOI LAW COURTS</b>	
Hon. Dorcas Wangechi Maiteri	Principal Magistrate
Hon. Cecilia Karimi Kithinji	Principal Magistrate
Hon. Fredrick Mayaka Nyakundi	Senior Resident Magistrate
Hon. Abdullahi Mohammed	Senior Principal Kadhi
<b>MARIAKANI LAW COURTS</b>	
Hon. Stephen Kalai Ngii	Principal Magistrate
Hon. Nelly Chepchirchir	Senior Resident Magistrate
Hon. Omar Khamis Swaleh	Kadhi I (SRK)
<b>WUNDANYI LAW COURTS</b>	
Hon. Emily Moraa Nyakundi	Resident Magistrate
<b>TAVETA LAW COURTS</b>	

Hon. Benson Sikuku Khapoya	Principal Magistrate
Hon. Louser Adisa Chembeni	Resident Magistrate
<b>KWALE LAW COURTS</b>	
Hon. Joe Mktu Omido	Senior Principal Magistrate
Hon. Patrick Wambugu Mwangi	Principal Magistrate
Hon. Christine Kemuma Auka	Resident Magistrate
Hon. Mwaito Salim Juma	Principal Kadhi
Hon. Wendo Shaban Wendo	Kadhi I (SRK)
<b>MSAMBWENI LAW COURTS</b>	
Hon. Sandra Achieng Ogot	Senior Resident Magistrate
Hon. Mohamed Garama Randu	Kadhi I (SRK)
<b>LAMU LAW COURTS</b>	
Hon. Allan Temba Sitati	Principal Magistrate
Hon. Martin Maina Wachira	Principal Magistrate
Hon. Swaleh Mohamed Ali	Principal Kadhi
<b>MPEKETONI LAW COURTS</b>	
Hon. Robert G. Mundia	Principal Magistrate
Hon. Eugene Pascal Nabwana	Resident Magistrate
Hon. Gavava Awadh Mohamed	Kadhi I (SRK) – Witu
<b>HOLA LAW COURTS</b>	
Hon. Peter Aloyce Ndege	Principal Magistrate
Hon. Benson Ngigi Kabanga	Resident Magistrate
Hon. Salim Mwidadi Abdullah	Principal Kadhi
<b>GARISSA LAW COURTS</b>	
Hon. Cosmas M. Maundu	Chief Magistrate
Hon. Timothy Ole Tanchu	Senior Resident Magistrate
Hon. Dennis Waweru Mbuteti	Resident Magistrate
Hon. Sheikh M. Hassan	Senior Principal Kadhi
Hon. Dogo Sheikh Dabasoo	Kadhi I (SRK)
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<b>DAADAB LAW COURTS</b>	
Hon. James Jesse Masiga	Principal Magistrate
Hon. Fahad Ismael Mohamed	Kadhi I (SRK)
<b>WAJIR LAW COURTS</b>	
Hon. Amos Kiprop Makoross	Principal Magistrate
Hon. Vincent Mugendi Nyaga	Senior Resident Magistrate
Hon. Abdi Osman Sheikh	Kadhi I (SRK)
Hon. Dadacha Ali Ibrahim	Kadhi I (SRK) – Bute
Hon. Wehliye Mohamed Sheikh	Kadhi I (SRK) – Eldas
<b>HABASWEIN KADHIS COURT</b>	
Hon. Malampu Abdilatif Silau	Principal Kadhi
<b>MANDERA LAW COURTS</b>	
Hon. Peter Wabomba Wasike	Senior Resident Magistrate
Hon. Mukabi Kimani	Senior Resident Magistrate
Hon. Sambul M. Muhiyidin	Kadhi I (SRK)
Hon. Hussein Mohamed Hassan	Kadhi I (SRK) – Elwak
Hon. Ahmed Issack Maalim	Kadhi I (SRK) – Takaba

Dated the 15th November, 2021.

MARTHA K. KOOME,  
Chief Justice and President of the Supreme Court.



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