



JUDICIAL SERVICE COMMISSION

REPORT

TO THE LAW SOCIETY OF KENYA

**ON STRATEGIC ACHIEVEMENTS
OF THE JUDICIAL SERVICE
COMMISSION**

**FOR THE YEAR
2023**



PRESENTED TO



LAW SOCIETY OF KENYA

By The LSK Representatives to JSC

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OUR MISSION



To facilitate an independent and accountable Judiciary that is competent, efficient, effective, and transparent in the administration of justice through capacity development and strategic partnerships.



OUR VISION

A Commission of Excellence in promoting an independent, transparent, and accountable Judiciary.

CORE VALUES



ACRONYMS AND ABBREVIATIONS

CUC's	Court Users Committees
ELC	Environment and Lands Court
ELRC	Employment and Labour Relations Court
ERP	Enterprise Resource Planning
FY	Financial Year
HRMAC	Human Resource Management Advisory Committee
ICT	Information Communication Technology
IFCE	International Framework for Court Excellence
JSC	Judicial Service Commission
JLAC	Justice and Legal Affairs Committee
KJA	Kenya Judiciary Academy
LSK	Law Society of Kenya
PAS	Performance Appraisal System
PMMU	Performance Management and Measurement Understandings
SCC	Small Claims Court
SRC	Salaries and Remuneration Commission
STAJ	Social Transformation through Access of Justice

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DEFINITION OF TERMS

Commission The Judicial Service Commission

Society Law Society of Kenya

EXECUTIVE SUMMARY

This report is purposed to apprise the Law Society of Kenya (LSK) on the achievements by the Judicial Service Commission (JSC) in the implementation of its strategic activities and fulfillment of its oversight role on the Judiciary.

The Judicial Service Commission (JSC) is an independent Commission established under Article 171 of the Constitution, whose mandate as stipulated in Article 172 of the Constitution is to promote and facilitate the Judiciary's independence, accountability and the efficient, effective, and transparent administration of justice.

The report is structured in alignment with the five outcomes of the Judicial Service Commission Strategic Plan 2022-2027.

The key milestones achieved by the Commission in the year under review, include;



Processing and concluding 77 petitions against Judges, and 27 disciplinary matters against Judicial officers and staff. This is aimed at strengthening integrity, transparency and accountability.



The Commission recruited one hundred and forty-six (146) Judicial Officers, 23 tribunal members and four hundred and thirty-three (433) Judicial Staff. Out of these appointments, 101 were Advocates from different practice sectors. The enhanced numbers are meant to address the staffing gap in various cadres with a view of improving case clearance rate and service delivery.



To strengthen organizational performance and accountability within the Judiciary, the Commission developed and approved four(4) policies on performance management framework;



In-line with the Commissions mandate of advising the national government on administration of Justice, the Commission made submissions to the Dialogue National Committee on legal reforms required for accelerated access to justice among others.

The report has also spelt out the challenges faced by the Commission in fulfilment of its mandate such as: Limited funds, delayed exchequer remittances, pending cases and backlogs, delays in approving legislative amendments and lack of structured and proactive engagements between JSC and LSK.

It is recommended that the Law Society of Kenya:

- a) Take up its advocacy role by actively engaging the National Assembly on increased budgetary allocation for JSC and the Judiciary to facilitate programmes on access to justice.
- b) Takes its rightful position in advocating for the promotion and protection of the independence of the Judiciary.
- c) Works together with JSC to develop a structured framework to guide meaningful engagement.
- d) To be responsive in providing feedback and information requested by the JSC in exercise of its mandate for example during recruitment and promotion of Judges, Judicial officers and staff.
- e) Actively participate in fora such as bar-bench committees, Court Users Committees (CUC's) with the view of supporting the Judiciary's efforts in addressing case backlog and clearance of pending cases.
- f) Encourage advocates to take up pauper briefs to enhance access to justice.
- g) Enhance accountability by reviewing and providing feedback to JSC and Judiciary publications such as; JSC Annual Report and State of the Judiciary and Administration of Justice (SOJAR) report.

INTRODUCTION

The Judicial Service Commission (the Commission) is an independent constitutional Commission established under Article 171 (1) of the Constitution. The mandate of the Commission under Article 172 (1) of the Constitution is to promote and facilitate the independence and the accountability of the Judiciary and the efficient, effective, and transparent administration of justice.

The composition of the Commission is set out under Article 171 (2) of the Constitution and includes Two (2) members, one male and one female, elected as representatives of the Law Society of Kenya. During the year under review, the Law Society of Kenya (the LSK) was represented by the Hon. Commissioner Macharia Njeru and Hon. Commissioner Ms. Jacqueline Ingutiah.

The Law Society of Kenya is established under the Law Society of Kenya Act (CAP 18) with a broad mandate which includes protecting and assisting the public in all matters touching ,auxiliary or incidental to the law; to assist the government and the Courts in all matters affecting legislation and the administration and the practice of the law in Kenya ;and to represent ,protect and assist members of the legal profession in Kenya in respect of conditions of practice, among others.

The respective mandates as highlighted create a symbiotic relationship between the two institutions in matters touching on the administration of justice and as such the need to foster and promote collaboration and partnership in that respect.one such way is through accountability reports.

This report is commissioned as an accountability and feedback mechanism to apprise the Law Society of Kenya on the strategic milestones achieved by the Commission in the discharge of its mandate. The report further explores emerging areas of cooperation between the two institutions.

The report is developed alongside the statutory Annual Reports and the State of the Judiciary and the Administration of Justice Report required under Sections 38 and 5 (2) (b) of the Judicial Service Act respectively and which can be accessed through the Commission's and the Judiciary's websites. The JSC 2022-2023 report can be accessed through this link <https://www.jsc.go.ke/wp-content/uploads/2024/02/JSC-ANNUAL-REPORT-FY-2022-23.pdf>

In the reporting period, the Commission undertook various strategic activities geared towards fulfilling its mandate and achieving various milestones in the implementation of the Five (5) strategic outcomes/results set out in the Commission's Strategic Plan 2022-2027. The achievements are highlighted in the report.

This report is one of the tools that JSC has employed to inform the Society of the strategic milestones of the Commission in ensuring that justice is delivered in an effective and efficient manner and explore emerging areas of cooperation between the Commission and the Society.





“We successfully developed a comprehensive Strategic Plan, laying out a roadmap for the Commission’s future endeavours. Through concerted efforts, we achieved an impressive 86.25% implementation rate of the Plan.”

Statement from LSK Male Representative

I extend my sincere gratitude to the Members of LSK for the unwavering support accorded to the commission in fulfillment of its mandate. Your commitment and dedication have been instrumental in our endeavors to uphold the integrity and effectiveness of the Judiciary in Kenya.

I am delighted to report the remarkable achievements of the Commission over the past year. First, As the vice chair of the Commission and chairperson of the Strategic Plan Oversight Committee, it brings me immense joy to announce that we have effectively crafted a comprehensive JSC Strategic Plan 2022-2027, delineating a clear path for the Commission’s forthcoming endeavors.

Further, we have significantly enhanced the institutional capacity of both the Judicial Service Commission and the Judiciary. This has been achieved through strategically increasing staffing levels. Towards this end the Commission recruited Directors Complaints and Investigations, Director Legal services, Deputy Director Public Affairs and Communications and Senior Monitoring and Evaluation officer which is aimed at strengthening the Secretariat to adequately support the Commission in the performance of its mandate.

Additionally, I am pleased to report the operationalization of the Judiciary fund, a crucial step towards ensuring efficient and financial autonomy within the Judiciary thus enhancing independence and improved service delivery. As the chair of the Audit, Governance, and Risk Management Committee, we have implemented robust structures aimed at guaranteeing accountability for the resources allocated to both the Judiciary and the Commission.

These accomplishments would not have been possible without the collective effort and support of our members. Your continued dedication to the cause of justice is truly commendable, and I am honoured to serve as your representative to the JSC.

As we look towards the future, let us remain steadfast in our commitment to advancing the cause of justice and upholding the rule of law in Kenya. Together, we can continue to make significant strides towards a more just and equitable society.

Hon. Commissioner Macharia Njeru

LSK Male Representative to the Judicial Service Commission



“The Commission has approved increased budgetary allocation for critical areas including; Pro bono services, Superior Courts to improve registry operations and case clearance rate, operationalization of the Small Claims Court and establishment of more Sexual and Gender Based Courts.”

Statement from LSK Female Representative

May I begin by thanking members of the Law Society of Kenya for giving me this opportunity to serve as your female representative to the Judicial Service Commission.

I have the pleasure of presenting to you these accountability report on the strategic achievements of the Commission for the year 2023. This Report is in line with the Commission's commitment to ensure transparency and accountability to the members of the society who play a critical role in the administration of Justice.

During the year under review, the Commission Developed the Annual Training Master Calendar for the Kenya Judiciary Academy which ensured proper planning and predictability of the trainings for the Judges and Judicial Officers that in turn minimized interruptions of court operations.

On promoting and facilitating the independence of the judiciary the Commission lobbied for increased budgetary allocation for the Commission and Judiciary. This increase has supported the efficiency and effectiveness of the judiciary by appointing one hundred and forty-six (146) Judicial Officers, 23 tribunal members and four hundred and thirty-three (433) Judicial Staff. Out of these appointments, 101 were Advocates.

I wish also to report that the Commission has approved increased budgetary allocation as compared to the previous financial year in critical areas including; Pro bono services, Superior Courts to improve registry operations and case clearance rate in superior courts, operationalization of Small Claims Court, establishment of more Sexual and Gender Based Courts and ICT hence rolled out e-filing among other areas.

I want to take this opportunity to thank all the members of the Law society of Kenya for the support you rendered to us in the year. The milestones reported here would have remained a mirage without your invaluable input.

In you, we shall continue to derive the inspiration for keeping the momentum of improving administration of Justice.

Hon. Commissioner Jacqueline Ingutiah
LSK Female Representative to Judicial Service Commission

STRATEGIC ACHIEVEMENTS OF THE JSC IN 2023

A.

EFFICIENT, ACCOUNTABLE, TRANSPARENT, AND TRANSFORMATIVE ADMINISTRATION OF JUSTICE

This outcome entails interventions that are geared towards the efficiency and accountability in the administration of justice. In the reporting period the Commission focused on Strengthening organizational performance within the Judiciary, advising the National Government on Administration of Justice and enhancing accountability and management of petitions, complaints, and disciplinary cases. The exercised these functions by reviewing reports from Heads of Courts, Judiciary Directorates, JSC Secretariat and Kenya Judiciary Academy (KJA) on performance and provided strategic directions in various areas with key highlights outlined below;

01. Strengthened organizational performance within the Judiciary

The Commission in fulfillment of its mandate of promoting accountability in the Judiciary and efficient, effective, and transparent administration of justice has institutionalised the Performance Management and Measurement Understandings (PMMU) and Performance Appraisal System (PAS) to strengthen organisational Performance.

The performance frameworks are based on parameters adopted from International Framework for Court Excellence (IFCE) which includes: Access to Justice, Expeditious Disposal of Cases, Court File Integrity, Trial and Delivery Date Certainty, Case Clearance Rate, Case Backlog, Reduction in Remand Custody Period, Court User Satisfaction, Work Environment, and Employee Satisfaction and Productivity.

In the year under review, the Judiciary recorded the highest performance score of 93.71 per cent, an improvement from 89.03 per cent in the previous year. The performance resulted to a total of 381,745 cases resolved out of which 231,341 were criminal and 150,404 civil cases. The following chart provides details of cases filed, resolved by type and court as at 30th June, 2022.

	Filed Cases			Resolved Cases		
	Criminal Cases	Civil Cases	ALL	Criminal Cases	Civil Cases	ALL
Supreme Court	N/A	41	41	N/A	63	63
Court of Appeal	489	2,360	2,849	224	1,101	1,325
High Court	10,528	19,312	29,840	8,645	25,753	34,398
ELRC	N/A	3,518	3,518	N/A	5,662	5,662
ELC	N/A	6,427	6,427	N/A	8,284	8,284
Magistrates' Courts	245,199	91,748	336,947	222,472	86,010	308,482
Kadhis' Courts	N/A	9,017	9,017	N/A	6,540	6,540
Small Claims Court	N/A	8,729	8,729	N/A	8,484	8,484
Tribunals	N/A	5,814	5,814	N/A	8,507	8,507
All Courts	256,216	146,966	403,182	231,341	150,404	381,745



As at 30th June 2022, case backlog over **3 years** was **133,775** cases translating to a reduction of **11 per cent from 150,897** as at June 2021. Generally, all courts reduced case backlog of over 3 years which is quite remarkable, and efforts should be made to ensure further reductions are achieved in subsequent years. Given this performance the Backlog in 2023 stood at **335,685** cases. This implies a decline of **7 per cent** as compared to the previous year. Cases aged between **1-3 years** constituted 60 per cent of the total case backlog while the remaining cases were over 3 years old.

The court with the highest percentage in case backlog reduction was Supreme Court, followed by High Court at 22 per cent and 18 per cent respectively. During the same period, there was an increase in case backlog by ELC and Small Claims Court.

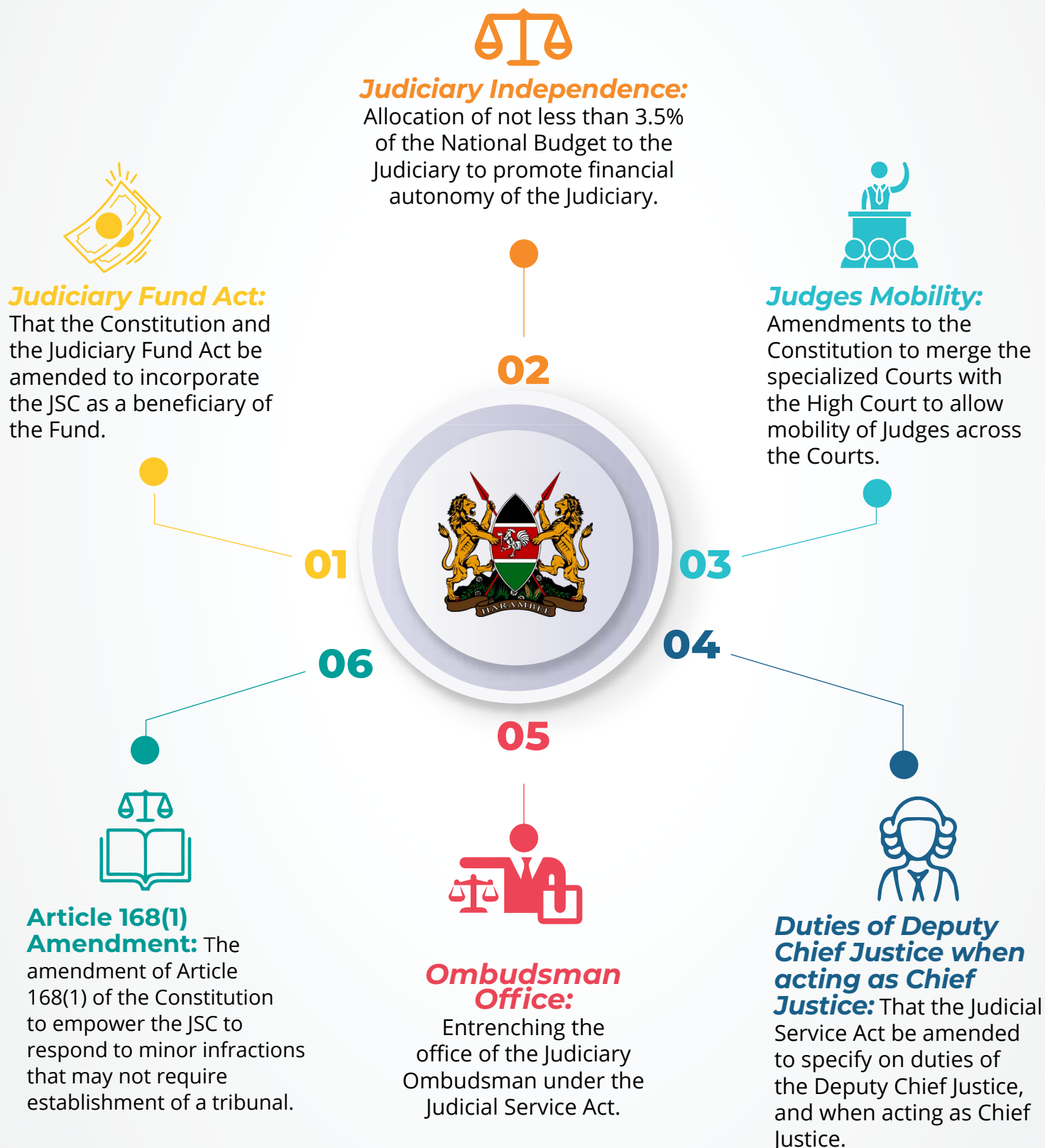
To enhance the existing performance systems; the Commission approved the following performance management framework and policies as presented in Table 1 below;

Table 1. Policies on performance Management framework

POLICY	OBJECTIVE
a) Judges and Judicial officers' performance appraisal framework	The Framework provides a basis for judges and judicial officers to maximize their potential for excellence through self-improvement without jeopardizing judicial integrity and independence. The framework gives judges and judicial officers necessary feedback needed to improve their own performance and that of the courts. The framework is linked to recruitment, placement, training and development and career progression within the Judiciary.
b) Incentive Policy for the Judiciary	The Policy seeks to reward exemplary performance, address under- performance, and motivate judges, judicial officers and staff to continuously work towards enhancing productivity.
c) Data Policy for the Judiciary	The purpose of the Policy is to enhance the management and governance of Judiciary data in a professional manner that satisfactorily supports data-informed decision-making for expeditious delivery of justice.
d) Caseload Data Policy Guidelines for the Judiciary-	The Guidelines provides criteria for collection, use and application of caseload statistics in the Judiciary. The guidelines apply to Judiciary employees whose job responsibilities include data collection/capture, analyzing, and archiving, safeguarding, retrieving, or use of caseload data.

02. Advising the National Government on Administration of Justice.

Pursuant to Article 172(1)(e) of advising the National Government on Administration of Justice the Commission made a representation to the National Dialogue Committee. Key among the submissions included the following:



The Commission also engaged Committees of the National Assembly namely: Justice and Legal Affairs Committee (JLAC) and the Committee on Delegated Legislation on matters touching on effective and efficient administration of justice such as:

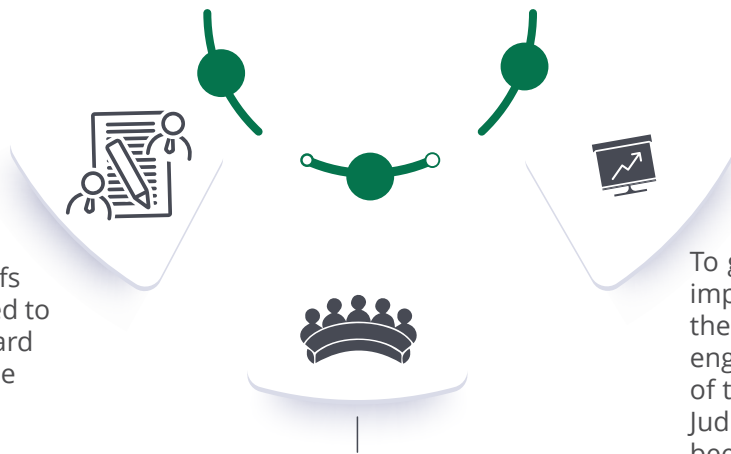


a) **Enhancing funding for Judiciary and JSC,**



b) **Fast tracking of pending Bills before the House including the Tribunals Bills and increasing the number of Court of Appeal Judges from 30 to 70**

The Commission through media briefs issued advisory need to protect and safeguard independence of the Judiciary.



To give effect to the constitutional imperative, the cabinet approved the Tribunals Bill, the Commission engaged the Executive with a view of transitioning all Tribunals to the Judiciary. So far, 23 Tribunals have been transitioned to the Judiciary and in the year 2023 the Capital Markets Tribunal was transitioned to the Judiciary.

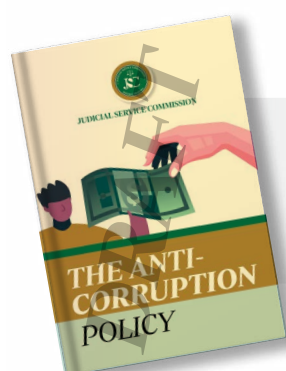
Through the National Council on Administration of Justice, the Commission engaged in dialogue on how to counter challenges on administration of justice though:- establishment of Courts, construction of rescue Centers for Children, safe houses, decongestion of prisons, enhancement of the budget for the justice sector to ensure all players are well resourced.



03. Enhance accountability and management of petitions, complaints, and disciplinary cases

The Commission is committed to strengthen integrity in the Judiciary and the Commission, and to eradicate corruption, the JSC disseminated and sensitized Judiciary employees on the Judicial Service Code of Conduct and Ethics Regulation, 2020.

In the year under review, the Commission developed the following draft anti-corruption policies;



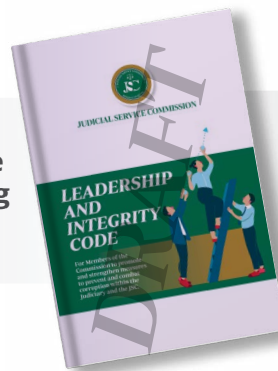
01.

The Anti-Corruption Policy



02.

Whistle Blowing Policy



03.

Leadership and Integrity Code for Members of the Commission to promote and strengthen measures to prevent and combat corruption within the Judiciary and the JSC.

To improve the process of handling Petitions against Judges and complaints against Judicial Officers, the Commission developed the draft Judicial Service (Processing of Petitions and Complaints Procedures) Regulations, 2023 with the support from the Kenya Law Reform Commission and thereafter subjected the same to stakeholder participation.

On 7th December 2023, LSK members were invited to share their input, a total of 183 members attended the webinar.

The Commission has set up a Directorate of Complaints and Investigations and Directorate of Legal Services and hired Directors to strengthen the Commission's complaints management systems.



The Commission handled the following petitions and disciplinary cases;

a) Petitions against judges

Under Article 168(2) and (4) of the Constitution, the Commission is empowered to consider Petitions for the removal of a Judge from office either acting on its own motion or on the petition of any person.

Out of 118 petitions, the Commission processed and concluded 77 which were petitions.

Table 2: Petitions against Judges, FY 2022/23

S/No	Details	FY 2022/2023	FY 2021/2022
1.	Petitions brought forward	75	7
2.	Petitions received during the year	43	143
3.	Total Petitions	118	150
4.	Petitions concluded.	77	75
5.	Petitions Carried Forward.	41	75

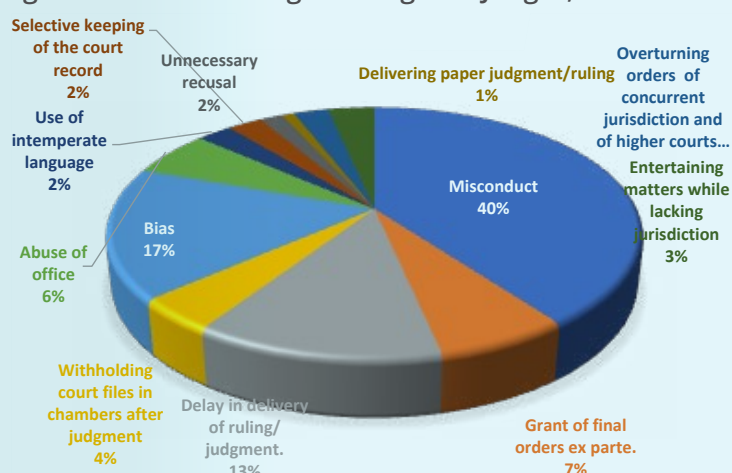
Nature of Petitions

The nature of the petitions against judges were on various grounds including; claims on misconduct, delay in delivery of judgment/ ruling, bias, conflict of interest, lacking jurisdiction among others. The breakdown of the nature of the petitions against judges is presented in Table 3 and Figure 1.

Table 3: Nature of Petitions against Judges, FY 2022/2023

S/ No	Nature of Disciplinary Cases	No. of Cases
1.	Misconduct/ misbehaviour	47
2.	Grant of mandatory /final orders ex parte and at the interlocutory stage.	8
3.	Delay in delivery of ruling/ judgment.	15
4.	Withholding/retaining court files in chambers after judgment/ruling.	5
5.	Bias/malice/partiality/unjust/impropriety/ineptitude	20
6.	Abuse of office/soliciting for bribe/ corruption/compromise	7
7.	Use of intemperate language & hostility towards litigants	3
8.	Selective keeping of the court record	3
9.	Unnecessary recusal	2
10.	Delivering paper judgment/ruling	1
11.	Overturning orders of judges of concurrent jurisdiction and of higher courts	3
12.	Entertaining matters while lacking jurisdiction	4
	Total	118

Figure 1 : Nature of Allegations against Judges, FY 2022/2023



Disciplinary Cases against Judicial Officers, FY 2022/23

Under Article 172 (1) (c) of the Constitution, the JSC is mandated to receive complaints against, investigate and remove from office or otherwise discipline registrars, magistrates' other judicial officers and staff of the judiciary. This function has been delegated to the Chief Justice by legislation.

Out of the 12 disciplinary cases against judicial officers registered during the year, five were finalized and seven were pending at the close of FY 2022/23. Four of the pending complaints were awaiting the concerned judicial officers' response while three were before the JSC. Table 4 indicate the outcomes of the five concluded disciplinary cases against judicial officers.

Table 4 : Disciplinary Outcomes for Judicial Officers, FY 2022/23

S/No	Decision	No. of cases
1.	Reinstatement to service	4
2.	Reprimand	1
3.	Appeals/reviews disallowed	-

Disciplinary Cases against Judicial Staff, FY 2022/23

There were 44 disciplinary cases against judicial staff which were received during the reporting period. A total of 20 cases were finalized by the HRMC representing 45 per cent of the total cases while 24 cases representing 55 per cent were pending as at the close of the year. The disaggregation of this data on gender basis indicates that out of the 44 cases, 71 per cent were against men while 30 per cent were against women.

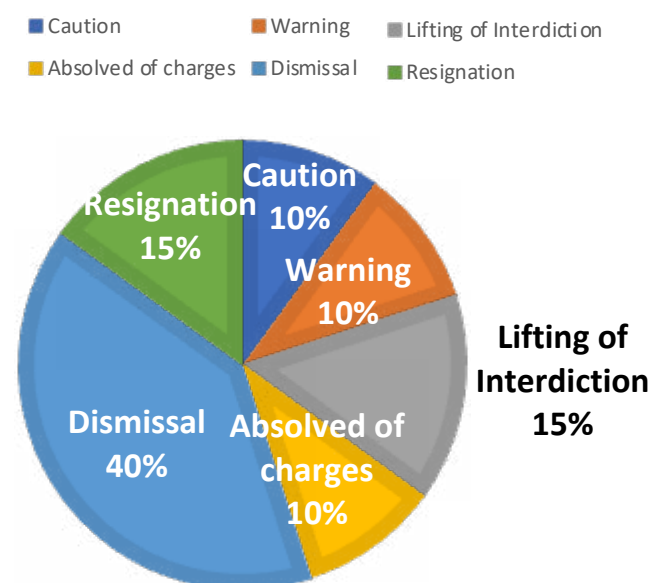
Nature of Offences in Disciplinary Cases against Judicial Staff, FY 2022/23

During the period under review, the most prevalent charges/offences amongst judicial staff was absenteeism and desertion of duty representing 38.6 per cent. Forgery of documents and fraud was second with 15.9 per cent followed by financial malpractice, soliciting and receiving of bribes at 9.1 per cent each as shown in Table. 5 and figure 2.

Table 5: Nature of Offences in Disciplinary Cases against Judicial Staff, FY 2022/23

S/No	Nature of Offences	Number of Staff	Percentage
1	Absence/Desertion of duty	17	39%
2	Forgery of Documents/ Fraud	7	16%
3	Financial Malpractices	4	9%
4	Soliciting and receiving of Bribes	4	9%
5	Involvement in loss of file/Exhibits/Improper handling of Exhibits	2	4.5%
6	Insubordination/Failure to adhere to instructions	2	4.5%
7	Sexual Harassment	2	4.5%
8	Intoxication	2	4.5%
9	Abuse of Office	2	4.5%
10	Gross Misconduct	1	2%
11	Arrest and Confinement	1	2%
Total	44	100	

Figure 2 : Nature of Offences in Disciplinary Cases against Judicial Staff, FY 2022/23



Disciplinary Matters Registered Per Cadre for Judicial Staff, FY 2022/23

The court assistants constituted the majority of staff facing disciplinary process at 59 per cent followed by office assistants at 14 per cent. Accountants and court administrators each stood at 5 per cent as presented in Table 6 below.

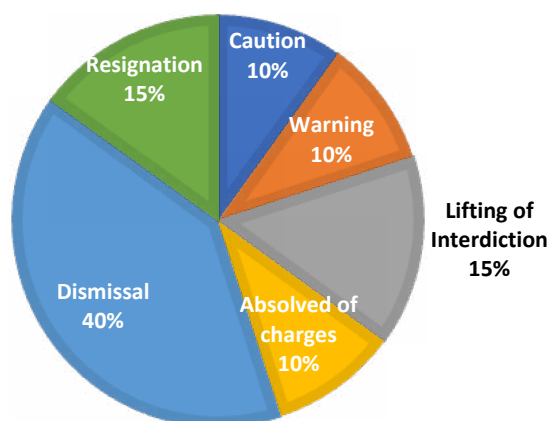
Table 6: Disciplinary Matters per Cadre for Judicial Staff, FY 2022/23

S/No	Cadre	Number	Percentage
1	Court Assistants	26	59%
2	Office Assistants	6	14%
3	Drivers	1	2%
4	Accountants	2	5%
5	Human Resource Officers/ Assistants	1	2%
6	Supply Chain Management Assistants	1	2%
7	Court Administrators	2	5%
8	Security Guards	1	2%
9	Assistant Director - Finance	1	2%
10	Assistant Director- Building Services	1	2%
11	ICT Officers/Assistants	1	2%
12	Office Administrators	1	2%
Total	44	100	



Figure 3 : Disciplinary Outcomes for Judicial Staff, FY 2022/2023

■ Caution ■ Warning ■ Lifting of Interdiction
■ Absolved of charges ■ Dismissal ■ Resignation



Disciplinary Outcomes for Judicial Staff, FY 2022/23

HRMC finalized 20 disciplinary cases, and with the concurrence of the JSC, dismissed eight staff, lifted interdiction for three staff and issued cautions and warnings respectively to two staff each. Three judicial staff opted to resign from their positions pursuant to disciplinary processes that had been commenced against them. The outcomes of the HRMAC disciplinary processes are summarized in Table 7 and figure 3 below.

Table 7: Disciplinary Outcomes for Judicial Staff, FY 2022/2023

S/No.	Disciplinary Outcome	No. of Staff
1.	Caution	2
2.	Warning	2
3.	Lifting of Interdiction	3
4.	Absolved of charges	2
5.	Dismissal	8
6.	Resignation	3
Total		20

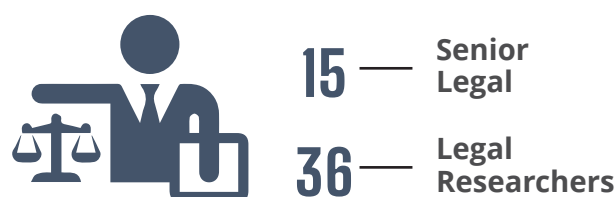
B. MOTIVATED, PROFESSIONAL, DYNAMIC, RESPONSIVE JUDGES, MAGISTRATES, REGISTRARS, JUDICIAL OFFICERS, AND JUDICIAL STAFF

01. Increase number of Judges, Judicial Officers, and Judicial staff to Optimal staff levels

Attracting and retaining highly talented human resource has been one of the major priorities for the Judicial Service Commission. During the year under review, the Commission strategically focused on filling key job positions needed for the accelerated dispensation of justice.

Appointments in the Judiciary

During the year under review, the Commission made several appointments to address staffing needs for effective service delivery. The following is a summary of the appointments :



a) Judicial Officers

Table 8 below presents the Judicial officers recruited by the Commission in the year under review.

Table 8: Judicial officers recruited by the Commission, FY 2022/23

	Number	Particulars
01. 	1	Chief Kadhi
02. 	1	High Court Registrar
03. 	1	Registrar Magistrate Court
04. 	70	Resident Magistrates
05. 	17	Assistant Deputy Registrars

b) Legal researchers

The Commission recruited 15 Senior Legal Researcher out of which 5 were advocates and 10 legal researchers. In addition, the Commission recruited 36 Legal Researchers who were all advocates.

c) Judicial Staff

The Commission appointed through competitive processes the following officers as presented in table 9;

Table 9: Judicial staff recruited by the Commission, FY 2022/23

S/No	Particulars	Number
1.	Director Finance	1
2.	Director Accounts	1
3.	Director Human Resource	1
4.	Director ICT	1
5.	Deputy Director ICT Systems Engineering	1
6.	Deputy Director ICT Operations	1
7.	Deputy Director Building Services	1
8.	Account Assistants	70
9.	ICT officers	49
10.	Court Assistants	251
11.	Process Servers	100

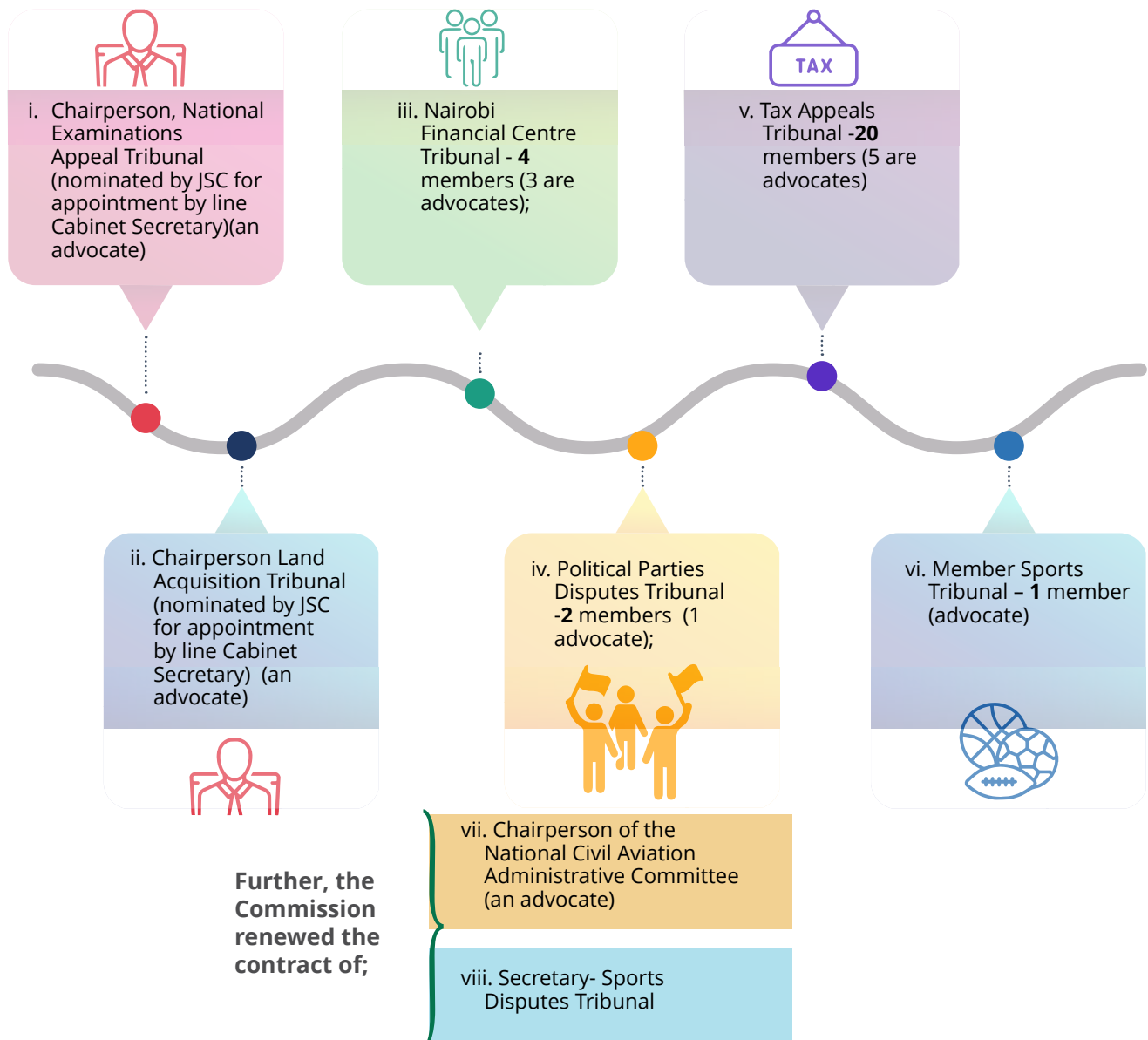


Recruitment of Judges and Chief Registrar of the Judiciary

On 13th October 2023, the Commission advertised 20 positions of High Court Judges and the position of Chief Registrar of the Judiciary. The applications are being reviewed for completeness after which interviews will be conducted in the 3rd and 4th quarter of 2023/2024 Financial year.

Appointment in Tribunal

To support the resolution of disputes in specific areas of law through specialized quasi-judicial bodies the Commission recruited the following;



02. Improved Terms of conditions for Judges, Judicial Officers, and Staff

The Commission is alive to the fact that the greatest asset of any institution is its human capital hence to ensure retention and improve morale of judiciary staff, the Commission deployed the under listed strategies and policies:

Review of terms for Judges and Judicial Officers. Towards this end the Commission engaged the Salaries and Remuneration Commission (SRC) on the conditions of service and salaries for Judges and Magistrates leading to the review of their remuneration under the SRC's Third Remuneration and Benefits Review Cycle for State and Public Officers for the period 2023/2024.

01

Review of establishment and grading structures for the Commission and the Judiciary. This will help in improving efficiency and creating opportunity for growth for the serving officers hence addressing succession challenges.

02

Approved enhancement of the contract period for senior management staff from three (3) years to five (5) years renewable to ensure retention of highly skilled senior officers. This will provide ample time, for the staff to develop and implement transformation strategies in the organisation thus improving productivity.

03

Creation of common cadre establishment-. Under the common cadre, officers with satisfactory performance will automatically be promoted to the next cadre after serving three years, this will address stagnation challenges at the entry level and improve staff morale.

04

Promotions The Commission recognizes that employee promotion is not only a way to add more responsibilities to the employee but is a major form of boosting motivation and morale. This increase in motivation leads to better productivity and performance of the employee. In the period under review the JSC interviewed a total of one hundred and sixty (160) as presented in the table below.

05

Table 11: Analysis of Judicial officers promoted

S/No.	Position	Eligible Judicial Officers	Total Appointments
1.	Senior Principal Magistrate	55	51
2.	Senior Principal Kadhi	1	1
3.	Principal Magistrate	101	90
4.	Principal Kadhi	3	3

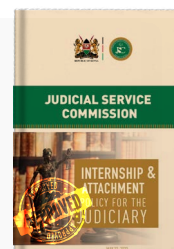
03. Human Resource Policy Development.

The Commission approved the following policies related to human resources.



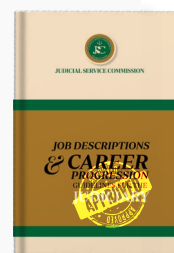
01 *Internship and Attachment policy*

The policy has established a mechanism for managing an effective and efficient internship and attachment programme. This is in fulfilment of role of the JSC & Judiciary in ensuring that the youth especially those with relevant qualifications are offered opportunities to enable them gain practical work experience.



02 *Job Descriptions and Career Progression Guidelines for the Judiciary*

The Policy helps in the recruitment, retention, development, training, and promotion of staff to ensure they meet the set standards. It is a basic career management tool that has been developed to accommodate all the Judicial Staff cadres to ensure consistency in the way careers are managed.



03 *Pupillage Policy*

In addition, the JSC recognises the importance of pupillage programme in career preparation which helps young legal professionals gain experience in a real work environment in matters judicial. The JSC has reviewed a Pupillage Policy which outlines the various provisions and requirements of the programme, selection procedures and roles and responsibilities of various stakeholders in the programme and is set to be approved and operationalised in 2024.



3. Strengthened capacity of Kenya Judiciary Academy to undertake professional development programmes for Judges, Judicial Officers, and Judicial Staff

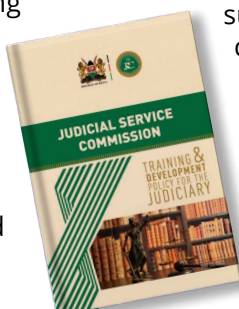
Pursuant to Article 172(d) of the Constitution Judges, Judicial Officers and Staff are trained continuously to ensure that they are trained in new and emerging areas of their profession and ensure that they are competent to handle their work. The Commission approved the training master calendar for Academy for the year 2023/2024 and gave policy directions on best practises to be implemented. The Academy has enhanced use of technology in training and has deliberately positioned itself as a centre of excellence, and Kenya as a hub for regional dialogue.

Cognisant of the fact that the Training Calendar is an area of interest to the Society, the Commission took into account the feedback received from stakeholders including the Law Society of Kenya. The trainings were deliberately made to start on Thursday to Saturday and as practically as possible, be conducted

within the regions, and that Judicial Officers and Judges attend a maximum of two (2) trainings in a training calendar to minimize disruption of the Court diaries. Further, Judges and Judicial Officers are given adequate time to choose preferred training and inform litigants in advance.

The Commission approved

i. Training and Development policy-The objective of the policy is to provide the Judiciary with a framework for a holistic and proactive approach to training and development, which supports employees and meets the changing demands of the Judiciary where continuous learning and development is supported and encouraged. The Policy seeks to ensure that trainings are conducted in a manner that does not disrupt the court operations.



C. FINANCIALLY INDEPENDENT AND SUSTAINABLE JUDICIARY AND JUDICIAL SERVICE COMMISSION

The Commission promoted and facilitated the independence of the Judiciary through operationalization of the Judiciary Fund, monitoring implementation of budget and lobbying for increased budgetary allocation for the Judiciary and JSC.

01. Judiciary and JSC budget review and approvals

The Commission has robustly lobbied the National Assembly for enhanced budgetary allocation for JSC and Judiciary from Kshs. 618,000,000 in FY 2021/2022 to Kshs. 887,000,000 in FY 2022/2023 and Kshs. 17, 336, 000,000 in FY 2021/2022 to Kshs. 21,132,000,000 FY 2022/2023 respectively. The Commission reviewed, approved and monitored budget implementation to ensure that they are aligned with the strategic objectives and priorities of the two institutions.

a) Judiciary

The Commission approved increased budgetary allocation from the previous financial year in critical areas including;



Supreme Court	Court of Appeal	High Court	ELC
Kshs. 49,882,500	Kshs. 99,512,562	Kshs. 86,916,383	Kshs. 86,916,383
Increased budgetary allocation to the Supreme Court of Kenya from Kshs. 41,294, 121 in the FY 2021/2022 to Kshs. 49,882,500 in FY 2022/2023. This enabled strengthening the operations of the Supreme Court in Nairobi and the sub-registries in Kisumu and Mombasa. Cases filed in the Court were 75 and total pending cases were 32. The Supreme Court has a backlog of 5 cases.	Increased budgetary allocation to the Court of Appeal from 75,564,685 to Kshs. 99,512,562 in the FY 2022/2023 which supported court operations; the operationalization of new Court of Appeal stations in Nakuru and Eldoret and the establishment of a sub-registry in Kisii. Out of the 3,566 appeals and applications filed, the court resolved 2,510 cases.	Increased budgetary allocation to the High Court from Kshs. 81,909, 000 in FY 2021/2022 to Kshs. 86,916,383 in FY 2022/2023. In addition to funding court operations, the funding supported the operationalization of three new High Courts in Kibera, Thika and Nyandarua and four sub-registries in Mandera, Mararal, Iten and Lamu. Across the country, there are now 45 High Courts and 7 High Court sub-registries. New cases filed were under the reporting period was 36,476 and 41,347 cases were resolved. The Case Clearance Rate (CCR) for civil cases were at 145% and criminal cases was at 63%.	Allocation of Kshs. 38, 382, 489 to the Environment and Land Court (ELC) in FY 2022/2023 from zero allocation in FY 2021/2023. The allocation enabled the operationalisation of 2 new ELC Stations in Voi and Naivasha and setting up of three ELC sub-registries in Kabarent, Lodwar and Lamu. The court is currently established in 37 court stations across the country. A total of 6,585 new cases were filed, while 9,612 cases concluded hence the Case Clearance Rate (CCR) of the court was at 146%

ELRC

Kshs. 48,067,187

Increased budgetary allocation to the ELRC from Kshs. 13,041,532 in FY 2021/2022 to Kshs. 48,067,187 in FY 2022/2023. The amount enabled the court function and helped in the operationalization of Kakamega ELRC and setting up of 10 sub-registries in Garissa, Kisii, Kitale, Kitui, Machakos, Meru, Naivasha, Siaya, Thika, and Voi. Due to the number of cases Bungoma, Kericho and Malindi are served by visiting judges. 3,776 cases were filed at the ELRC and 5,936 matters concluded giving a case clearance rate of 157%.

Magistrates' Courts

Kshs. 182,963

Increased budgetary allocation to Magistrates Courts from Kshs. 125, 515, 296 in FY 2021/2022 to Kshs. 182, 963, 203 in FY 2022/2023 has supported the management of the Magistrates Courts, Kadhis Court ,Small Claims Court and Sexual and Gender Based Violence Courts. In addition the funding supported in;

- a) Operationalization 3 Magistrates' Courts in Port Victoria, Etago and Malaba and facilitation of 56 mobile courts across the country. This brings the total number of Magistrates' Court stations in the country to 137. During the period 326,855 cases were filed (238,160 criminal cases and 88,695 civil cases) and 320,143 cases resolved during the same period. The courts resolved 320,143 cases (221,468 criminal cases and 98,675 civil cases). In the Kadhis Courts, 11,852 cases were filed and 11,526 were resolved. The total number of Kadhi's courts across the country is at 47.
- b) Operationalization of 25 new Small Claims Courts (SCC) in Embu, Nanyuki, Kerugoya, Chuka, Kericho, Kitale, Lamu, Siaya, Kisii, Narok, Malindi, Kitui, Ruiru, Makindu, Murang'a, Busia, Taita Taveta, Malaba, Mander, Moyale, Loitokitok, Migori, Dadaab, Wajir, Kakuma and Meru; and strengthening the SCC operations in general. Initially, the number of SCCs were at 12 and the new courts have brought the total number in the country to 37. Total number of cases filed in all the SCC were 61, 269 and 50, 666 cases were resolved.
- c) Operationalization 12 new Sexual and Gender Based Violence Court in Shanzu, Siaya, Kisumu, Kibera, Makadara, Meru, Nakuru, Kiambu, Machakos, Kisii, Kitale and Kakamega.

Budgetary allocation for mediation

Kshs. 66,000,000

Increased budgetary allocation for mediation from Kshs. 50,000,000 in FY 2021/2022 to Kshs 66,000,000 in FY 2022/2023. The same supported the strengthening of mediation operations and roll out of mediation in 12 registries namely; Narok, Makueni, Nyahururu, Kenol, Kangundo, Vihiga, Busia, Muranga, Bungoma, Migori, Thika and Gatundu. The total number of mediation registries across the country is now at 55. During the period under review, 5,008 disputes were settled successfully through mediation. The total value of settled matters was Kshs. 34,691,601.



- a) Increased allocation of Tribunals budget from 455, 709, 752 M in 2021/22 FY to 470, 879, 254 M in 2022/23 FY. In addition to supporting the existing Tribunal operations, the funds enabled the on-boarding of Water Tribunal, Land Acquisition Tribunal, Financial Centre Tribunal and Capital Markets Tribunal to the Judiciary. A total of 8,190 new cases were filed and 9,373 cases were resolved.



- b) Allocation of ICT budget from 390,000,000 to Kshs 500,000,000 this enabled among others the rolling out of e-filing system in Mombasa, Kisumu, Homabay and Siaya; increased number of courts with effective internet connectivity and purchase of ICT equipment.



- c) Increment of Pro bono lawyers' fees from Kshs. 25,000,000 in the last FY2021/22 to Kshs. 74, 500,000 in FY 2022/23/. As at december 2023 Ksh. 64,530,890 had been processed and paid out to probono advocates.



- d) Allocation of funds towards construction of stalled court buildings, refurbishment of court stations and purchase of alternative power sources.

In addition, the Commission approved greening the Judiciary projects such as use of solar energy that has resulted to 19 court stations connected to solar energy. The Commission also directed the development of courts architectural designs prototype to among others, incorporate green design.



Judicial Service Commission

The Commission approved JSC budget with the following key priorities;



Pursuant to the provisions of the Public Procurement and Asset Disposal Act and to enhance accountability and transparency the Commission approved the following plans:

01.



Proposed Judiciary Procurement and Disposal plans for the FY 2023/24.

02.

Proposed Judicial Service Commission Procurement and Disposal plans for the FY 2023/24.

03.

Proposed Kenya Judiciary Academy Procurement and Disposal plans for the FY 2023/24.



In addition, in an effort to ensure sustainable funding the Commission developed the draft Resource Mobilization Policy.

In compliance with Article 254(1) of the Constitution and Section 38 of the Judicial Service Commission Act, 2011, financial statements FY 2022/2023 for the Judiciary and the Commission were prepared and submitted to the National Assembly and the Office of the Auditor General.

01. Improved stakeholder engagement

The Commission has deployed strategic engagements as one of the mechanisms to entrench public participation by involving the people in decision-making as a dictate of the Constitution. The strategic engagement in the period under review was conducted across the stakeholder spectrum, both within the institution and externally.

To this end, the Commission developed Information, Education and Communication (IEC) materials to sensitize the public and other stakeholders on its mandate and achievements which include; How to lodge a Petition/complaint; JSC at a glance.

In addition, during the period under review the Commission engaged the following stakeholders;

Head of Courts meeting- the Commission held a consultative meeting with the President of the Court of Appeal, Principal Judge of the High Court, Principal Judge of the Employment & Labour Relations Court (ELRC), Presiding Judge Environment & Land Court (ELC) and the Registrars of various courts. The engagement focused on areas of collaboration and intervention to improve the administration of justice.

Head of Stations Forum- The 10th Head of Stations forum was held from 19th to 24th March 2023 in Nanyuki. During the forum, Members of the Commission engaged with the Heads of Stations on governance and administration of Courts.

Constitutional Commissions and Independent Offices forum-

the Commission participated in the Constitutional Commissions and Independent Offices forum whose main objective as to buttress tripartite configuration of Government and enhance transparency and the rule of law, while observing the principles of good governance.

Public Participation on Budget making-

Article 201 (a) of the Constitution requires the Commission to abide by the principle of openness and accountability including public participation in all financial matters. During the period under the review, the Commission organized four public participation forums in Kisumu, Eldoret, Mombasa and Nairobi with a view to seeking input on the proposed Judiciary and Commission budgets for the Financial Year 2023/2024 to 2025/2026.

Recruitment of Registrar, High Court, and Registrar Magistrates Courts-

Stakeholders drawn from the Law Society of Kenya, Kenya Magistrates and Judges Association, Kenya Judges Welfare Association and the Principal Judge, High Court attended the meeting with the Commission and shared their insights on the selection process. The engagement was held on 31st May 2023.



Court Visits- the Commission conducted the 7th phase of Court Visits from 18th September to 6th October, 2023 in Central, Eastern, Coast, Western, Rift valley and Nyanza regions. Commission visited a total of 50 stations across 30 counties. The purpose of the Court visits was to evaluate the effectiveness and efficiency in delivery of justice within the Courts and to engage various key stakeholders such as employees of the Judiciary, Advocates, Court Users Committee and Governors to obtain feedback on administration of justice in the courts.

The Commission disseminated copies of the Judicial Service Code of Conduct and Ethics to all Judges, judicial officers and staff and emphasized the need to internalize the Code and be guided by the same in the execution of their duties.

Engagement with the National Assembly-

The Commission organized a consultative forum with the National Assembly Justice and Legal Affairs Committee during the period under review. The purpose of the meeting was to explore areas of collaboration and cooperation between the two arms of government in providing access to justice for all as enshrined in the Constitution.

02. Improve the image of the Commission

The Commission has developed draft Communication Strategy whose objective is to enhance effective communication and improve the image of the Commission.

01

Improved Governance Structure

The Commissioners undertook a series of corporate governance training aimed at fostering accountability, responsiveness and improved relationship with its stakeholders. The Commission has embarked on reviewing its Charter and other governance documents.



02

Increased JSC staff capacity

The Commission having identified key staff needs and to improve efficiency and effectiveness, the following officers were recruited; Director Legal Services; Director Complaints Management and Investigations; Deputy Director, Public Affairs and Corporate Communications; Deputy Director, ICT and Senior Monitoring and Evaluation Officer.



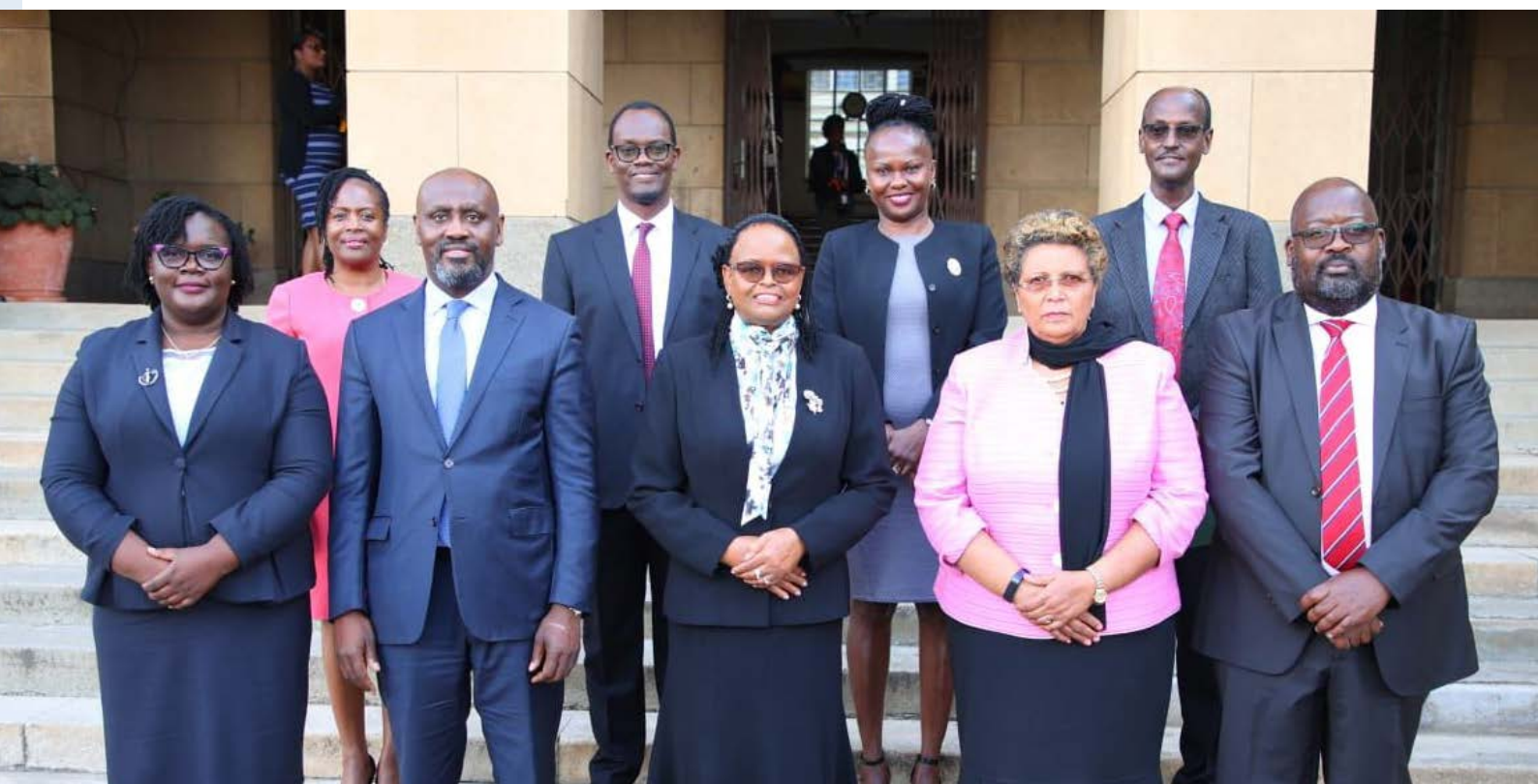
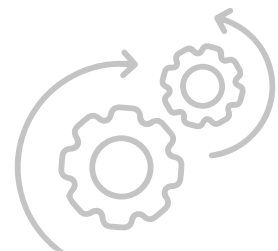
03

Automation of JSC Services

To leverage on technology in line with the Kenya Vision 2030, the Commission developed an Enterprise Resource Planning (ERP) through which all the services of the Commission are to be integrated.

The implementation of the ERP will transition the Commission processes into a paper-less institution and promote the Commission's effectiveness and efficiency.

In addition, the Commission has developed the draft ICT Policy and Master Plans.



CHALLENGES

In discharging its mandate the Commission has not been without institutional and operational challenges including but not limited to:

- a) **Limited funds** to implement JSC and Judiciary programmes and projects for example out of resource requirement of Kshs. 1,480,000,00 for JSC and Kshs 36,440,000,000 Judiciary in FY 2022/2023, the approved allocation was 887,000,000 and 21,132,000,000 respectively. This translates to 41% and 43% funding deficit for JSC and Judiciary respectively. The key programmes affected by under funding include:
 - Investigation and complaints management meant to strengthening the complaints management systems
 - Training programmes and construction of KJA
 - Stalling of Courts projects which are meant to enhance access to Justice
- b) **Delayed exchequer remittances** has affected service delivery and relationship with contractors especially for development projects; pro bono lawyers' bills, mediators' fees and court station overheads.
- c) The number of **pending cases and backlog** continue to affect effective administration of justice.
- d) **Delays in approving legislative amendments** such as the Tribunal Bill
- e) **Lack of structured and proactive engagement** between LSK and JSC. The JSC representatives are required to submit a short report for publication in the LSK annual report. There is need for more structured engagement.



RECOMMENDATIONS

In recognition of the role of JSC and Advocates in the administration of Justice as provided by the Judicial Service Act and the Advocates Act respectively, JSC recommends as follows to LSK;

1. In exercising its mandate to promote the rule of law assisting the Government and the courts in all matters affecting legislation and the administration and practice of the law in Kenya; the LSK should actively engage National Assembly and call for increase in allocation of resources to JSC and Judiciary and support the Commission's call for financial independence.
2. Identify effective ways of engaging the Commission in a meaningful and structured manner that will foster close collaboration.
3. To provide prompt information when requested by JSC especially during recruitment and promotion exercises.
4. Engage courts through fora such as bar-bench and support Judiciary efforts in addressing case backlog and clearance of pending cases.
5. Encourage advocates to take up pauper briefs to enhance access to justice.
6. To enhance accountability, review and provide feedback to JSC and Judiciary publications such as JSC Annual Reports and Judiciary's State of the Judiciary and Administration of Justice (SOJAR) report. They are available on JSC and Judiciary website.

CONCLUSION

The Commission wishes to reiterate its commitment in undertaking its constitutional mandate in line with its mission of excellence in promoting an independent, transparent, and accountable Judiciary; and calls upon the Society to robustly engage with the Commission.

REFERENCES

- i. Performance Management and Measurement Understanding Evaluation Report 2021/2022-7th Cycle of Performance Management Implementation
- ii. State of Judiciary and the Administration of Justice Annual Report 2022/23
- iii. Judicial Service Commission Annual Report for the FY 2022/23





PICTORIAL



His Excellency President William Ruto and Deputy President Rigathi Gachagua pose for a photo with Members of the Commission at State House, Nairobi,



FCPA George Mokua, Chairperson (c) and CPA Edwin Makori CEO (far left), ICPAK pose for a photo with Members, Secretary and Registrar of the JSC during a training workshop.



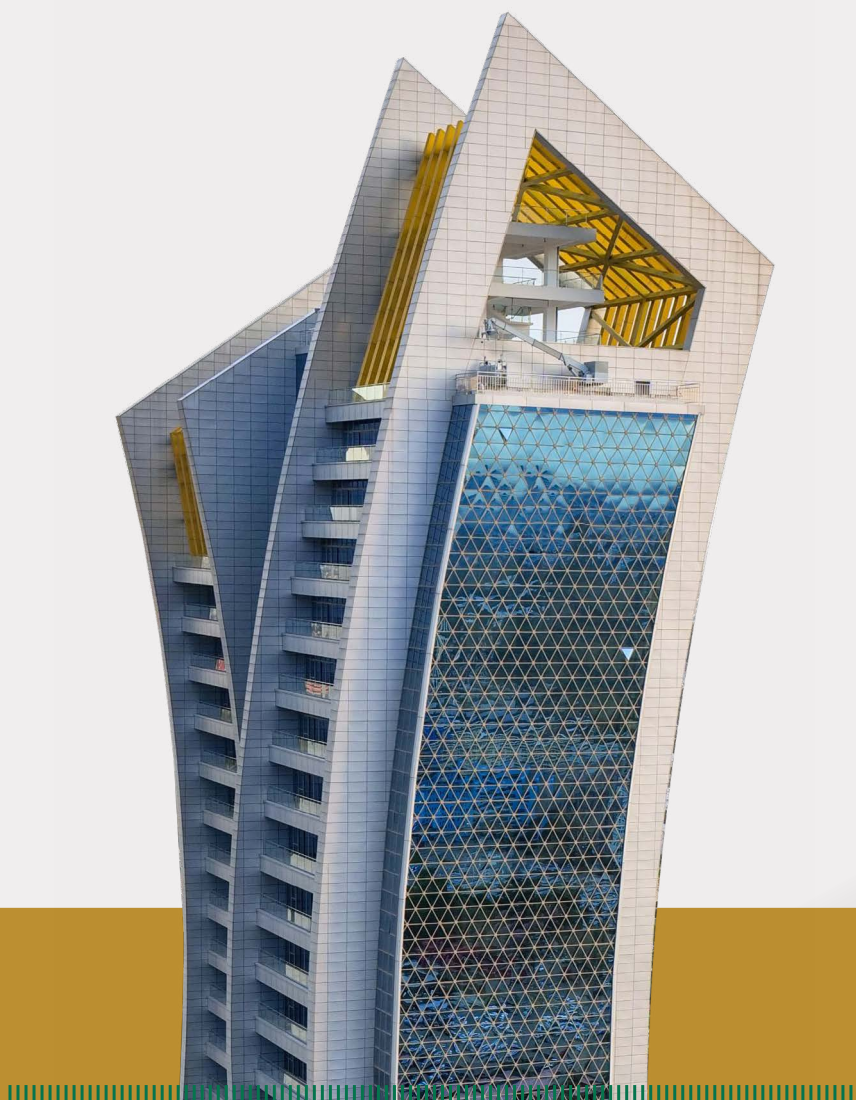
Chief Justice and Chairperson JSC, the Hon Justice Martha Koome (center, front row) and JLAC chairperson Hon. George Murugara (second from left, front row) pose for a group photo with the Honorable commissioners of the Judicial Service Commission and Honorable member of the Justice and Legal Affairs Committee.



Hon. Justice Martha Koome, EGH (5th from right) and Salaries and Remuneration Commission Chairperson, Ms. Lynn Mengich (4th from Left), pose for a group photo with the Honourable Commissioners of the Judicial Service Commission and Salaries and Remuneration Commission on 24th January 2023



Deputy Chief Justice and Vice President of the Supreme Court Hon. Lady Justice Philomena M. Mwilu, MGH and Honourable Members of the Commission pose for a photo with the other participants during the 10th Head of Stations Forum in Nanyuki.



JUDICIAL SERVICE COMMISSION

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