



REPUBLIC OF KENYA



Social Transformation Through Access to Justice

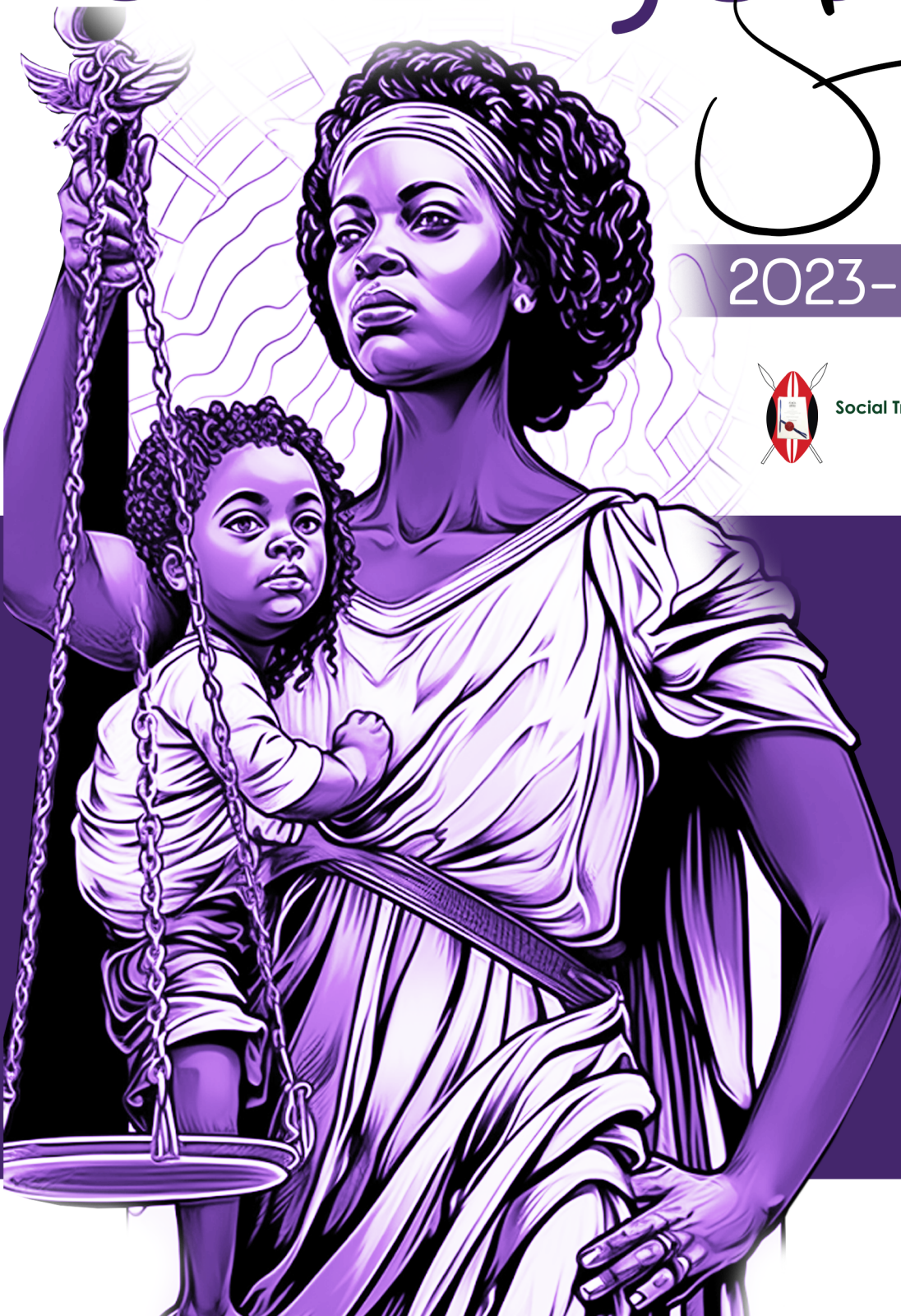
CHILD JUSTICE

Strategy

2023-2030



Social Transformation
through Access to Justice



A child-friendly
Judiciary that is
guided by the
paramountcy of
the best interests
of the child and
promotes the
right to survival
and development
of all children in
Kenya.



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Executive Summary:

23.8 million individuals were established as children, in the 2019 Population and Housing Census.¹ That is equivalent to 50% of the Kenyan population. Empirical evidence suggests that thousands of these children come into contact with the Juvenile Justice System (JJS) where they are categorised as either children in conflict with the law, victims of abuse, or children in need of care and protection. Various reports² indicate that justice for children is an elusive concept and that by the time a children's matter is finalised, the child will have endured different forms care and even violations by various handlers including within the Judiciary³. Some of the other challenges that children often go through while going through the justice system, including lack of legal representation, lack of information, inordinate delay in their cases, children being held at police stations for a long period of time at the request of the Judiciary, during trial amongst others.

This is confirmed by the Kenya National Bureau of Statistics, 2022 Economic survey which indicates that there are some 406 children serving a custodial sentence, while reported cases of violence against children have increased to 147,352.⁴ These statistics indicate that the justice institutions have to be cognizant of the plight of children and their welfare as they go through the treacherous journey of the "long arm" of the law.

This is against the backdrop that Children rights are recognized in Kenya primarily through the Constitution of Kenya and the recently enacted Children Act of 2022. The Constitution of Kenya 48 provides that Access to Justice is a fundamental right and Article 53 encapsulates the rights of children and mandates that the best interest of the child shall be of paramount consideration. Article 2 (6) of the Constitution of Kenya also makes the UN Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and the Welfare of the Child, laws of Kenya (ACRWC). Article 159 of the Constitution of Kenya further mandates that as the Judiciary executes its functions, it shall ensure that justice is available to all, irrespective of their status and that it shall not be delayed. In addition, the newly enacted Children Act 2022, provides extensive obligations for the various child justice institutions, including the Judiciary⁵, with the aim that justice for children in Kenya will not "only be done but manifestly seen to be done."⁶ The development of the Child Justice Strategy is therefore necessitated by the numerous gaps identified on access to justice for children.

In recognizing the key role of the Judiciary towards access to justice, this strategy will guide the Judiciary towards harmonising and synergizing the different approaches leading to access to justice for the children of Kenya.

Chapter 1 provides the background of the child justice strategy. It also outlines the child justice needs informed by desk review, court observation and key informant interviews undertaken during the development of the Child Justice strategy. This chapter also outlines the legislative and policy framework that the strategy is anchored on. It outlines the obligations of the Judiciary as set out in the Constitution, 2010 and the Children Act 2022.

Chapter 2 details the vision of the child justice strategy, the change theory and the guiding principles. It sets out the vision as "A child friendly Judiciary that is guided by the paramountcy of the best interests of the child and promotes the right to survival and development of all children in Kenya." This chapter also outlines the specific strategic objectives and the scope of the strategy. This chapter also provides for the scope of the strategy and recognizes other child justice strategies and in particular the NCAJ Justice for Children Strategy 2022 (draft).

Chapter 3 elaborates the child justice strategy by outlining the outcomes, outputs and proposed activities, as led by the Judiciary towards access to justice for children.

1 Republic of Kenya, Kenya National Bureau of Statistics, 2019 Kenya Population and Housing Census Volume III: Distribution of Population by Age, Sex and Administrative Units (November 2019), online: <<https://www.knbs.or.ke/?wpdmpromo=2019-kenya-population-and-housing-census-volume-iii-distribution-of-population-by-age-sex-and-administrative-units>> at 14

2 Reports such as the Status Report on Children in the Justice System, NCAJ Special Taskforce on Children Matters (2019) <https://jaslika.com/reports/2019/11/22/the-status-of-children-in-the-justice-system-in-kenya-vol-1>; An audit of the Criminal Justice System in Kenya, by NCAJ, LRF and RODI (2017)

3 An audit of the Criminal Justice System in Kenya, by NCAJ, LRF and RODI (2017)

4 Republic of Kenya, Kenya National Bureau of Statistics, 2022 Economic Survey, at 379, 389

5 Section 90, Children Act 2022

6 As described by Lord Hewart in *Rex v. Sussex Justices*, [1924] 1 KB 256

The strategy shifts focus from institutions to the beneficiary, that is the Child. In this regard, the strategy identifies 4 Strategic Areas of Focus: Rights of Children in conflict with the law; Protection of child victims and witnesses and children in need of care and protection; children who accompany their mothers or primary caregivers to prison and legal obligation of the Judiciary as a lead collaborator towards access to justice for children.

The main objectives of the strategy are therefore to work towards preventing children from coming into conflict with the law by scaling up diversion of children away from the formal justice system as provided in the Children Act and to emphasise on rehabilitation of children in conflict with the law as well as prioritising reintegration of children into a society that caters to their needs.

Secondly, the strategy also aims at enhancing protection of child victims, witnesses and children in need of care and protection, to ensure protection from abuse while in contact with the Judiciary and to reduce re-victimization. In this regard, the strategy enhances protection and participation of children through collaborating with the various justice agencies and enlightening the Judiciary on the needs of the child victims and the establishment of a specialised trauma informed court. This Strategy also takes cognizance of the need for enhanced safeguards of the child victims of emerging forms of abuse such as online child abuse and child trafficking amongst others.

Thirdly, the strategy in taking special recognition of children accompanying their incarcerated mothers or primary caregivers to prison, aims at enhancing their identification and protection. The strategy aims at ensuring that developing a register for children accompanying their mothers to prison and identifying a unique marker for the court records for pregnant incarcerated women. The Judicial officers are also expected to carry out periodic supervision visits, in line with the mandate set out in the Children Act.

Finally, the strategy in recognizing the obligation set out in the Children Act towards protecting and promoting the rights of the children sets out to strengthen the Judiciary, the judicial process and the decisions made are in the best interest of the child. As such, conduct continuous training on the judicial officers and judicial staff on the Children Act, establish the office of the registrar of the Children's court and increase the number of specialised children's courts.

Chapter 4 highlights the implementation and monitoring of the implementation of the child justice strategy as led by the Hon. Chief Justice, through the Judiciary and monitored by the directorate of planning and organisational performance (DPOP) within the Judiciary. It also recognizes the role of the Children and the NCAJ standing committee on the administration and access to justice for children towards the monitoring the implementation of the strategy.

Chapter 5 provides a summary of the implementation matrix, highlighting outcome indicators and lead actors of the Child justice strategy.



CHAPTER 1:

BACKGROUND, CURRENT SITUATION AND LEGAL UNDERPINNING

Introduction

The Judiciary plays a major role in protecting the rights and liberties of all by guaranteeing them justice. Our Kenyan national anthem depicts this perfectly by emphasising the importance of justice by its words “*justice be our shield and defender*” it is safe to say that this arm of the government is the guardian of the gates of justice in the society. Justice is especially meaningful and valuable to children, who are one of the most vulnerable people in a society. They are the promised future because the state of the children now will inevitably be the state of the adults in the future. When we preserve the innocence and protect children, we consequently preserve and protect the future generation.

The Judiciary in Kenya is established under Article 159-162 of the Constitution which also provides for the structure and system of the courts being the superior courts and the subordinate courts. The Constitution also leaves room for courts or tribunals to be formed under an Act of Parliament,⁷ whereby specialised courts are formed under. One such court of integral value to this strategy is the Children’s Court which falls under the Magistrates court established by the Children Act (2022).⁸ The jurisdiction of the Children’s Court includes to conduct civil proceedings on matters set out in the act, to hear any charge against a child other than the charge of murder, to hear a charge against any person accused of an offence under the act and to hear a charge in which a person is accused of an offence against a child or where the child is a victim or a complainant.⁹

The vision of the Judiciary as envisioned by the Honourable Chief Justice Martha Koome in *The Social Transformation through Access to Justice (STAJ) (2022-2032)*¹⁰ is “borne out of the reality that justice is cross-cutting; broad and multi-faceted and that it is a natural desire and legitimate expectation of every citizen to be treated justly”.¹¹ Among those with this expectation are children, more so those who at one point or the other interact with the law or are it as will be further elaborated on later. The STAJ further states that it is the role of the Judiciary to ensure that these children whose rights and interests have been habitually disregarded or minimised access the judicial system easily and efficiently to claim their rights and interest.¹² This strategy will reflect on the achievements of the Judiciary in ensuring access to justice for children, in addition to highlighting gaps in the access to justice for children with suitable recommendations for the same.

The State of Children in the Judicial System

According to a report by HILL, an organisation aimed at providing user-friendly justice solutions, 15% of legal problems people experience in Kenya have to do with family. 5% of legal problems are related to children and in the same report, women tend to experience more family problems than men and a majority of the problems are related to children.¹³ This proves that children on a day-to-day basis are the legal system and by extension the judicial system.

National Council on Administration of Justice report on “*Status report on children in the justice system in Kenya*”¹⁴ states that 60% of children’s matters handled by the Police and Judiciary are related to sexual offences where children are either the victims or the accused. A smaller percentage of offences by children are petty offences or offences such as stealing and assault. 20% of children’s cases handled by police have to do with children in need of care and protection. Surprisingly, 80% of the children in the Statutory Children’s Institutions under the Department of Children Services have never committed an offence and are therefore held illegally and not procedurally for

7 Article 169(1)(d), Constitution of Kenya (2010)

8 Section 90, Children Act (2022)

9 Section 91(1), Children Act (2022)

10 Hon. Justice Martha Koome, ‘Judiciary: Social Transformation Through Access to Justice’ (2021)

11 Ibid 11

12 Ibid 11

13 HiiL- User friendly justice, ‘Justice Needs and Satisfaction in Kenya’ (2017), 33

14 National Council on Administration of Justice (NCAJ), ‘Status report on children in the Justice System in Kenya’ (2019), xxvi

extensive periods of time, some growing into adulthood as they wait for the resolution of their cases.¹⁵ This completely violates the best interest of the child and their fundamental right not to be detained according to Article 53 of the Constitution.

The foregoing is a breakdown of the different categories of children who find themselves in the judicial system:

Children in contact with the law

A child in contact with the law is one who has for one reason, or the other, found themselves at the mercy of the judicial-legal system either through being a victim of a crime or by being a child in need of care and protection.

As aforementioned, 60% of children matters handled by police and Judiciary are related to sexual offences. A survey conducted by the Ministry of Labour and Social Protection “*Violence against children Survey report 2019*”¹⁶ stated that nearly half of 18–24-year-old females and half of the males experienced childhood violence in Kenya.¹⁷ Among the 15.6% who experienced sexual violence 62.6% of them experienced multiple incidents before the age of 18 years. Notably, two out of five of the females that experienced sexual abuse told someone about it.¹⁸ The remaining three out of five often get in contact with the law when the matter is reported to the police and the perpetrator is charged thus, they become witnesses.

Section 142 of the Children Act (2022) defines a child in need of protection as a child who lives in difficult circumstances and needs to be protected from all kinds of neglect, abuse and exploitation; this includes children living on or off the streets.

Section 144 of the Act further expounds broadly on the categories of children in need of protection to include; a child who is exposed to any form of violence¹⁹ and a child who is sexually abused or is likely to be exposed to sexual abuse and exploitation.²⁰ It further includes a child who is a victim of human trafficking,²¹ one who is displaced as a consequence of war, civil disturbance or natural disasters or is otherwise a refugee.²² This means that children in humanitarian situations and children who are refugees are also considered to be children in need of protection in Kenya, and as earlier mentioned, these children account for 20% of children cases handled by police.

Children as witnesses

These are children who are witnesses to a crime and in some instances are victims of the said crime, for instance in defilement cases the child is also considered a witness against the accused person.

Child witnesses are handled delicately and are protected from any intimidation and victimisation especially in the courtroom as they testify against the accused person. One way of protecting them is by concealing their identity as they testify by use of privacy screens, or for the case defilement matters by having court proceedings in chambers.

Children also find themselves at the centre of civil suits as witnesses, as parties to the suit or through custody and maintenance suits. For children in custody and maintenance matters, the parents or guardians are often the ones who instituted the cases, but the children are the subject of the suits. Custody suits are often centred around who should be in possession of the child, whereas maintenance suits are centred on the financial responsibility and general maintenance toward the upbringing of the child. There are two elements of custody that the court considers which are; legal custody (which is conferring to a person having lawful custody of a child, parental rights and responsibilities for a specific period of time) and actual custody (which means the physical possession, care and control over a child).²³ It is important to note that while making these orders the court has to consider the best

15 ibid

16 Republic of Kenya: Ministry of Labour and Social Protection, ‘Violence against Children Survey Report’ (2019).

17 Ibid 8

18 ibid

19 Children Act (2022), Section 144(q)

20 Children Act (2022), Section 144(u)

21 Children Act (2022), Section 144(o)

22 Children Act (2022), Section 144(x)

23 Section 2, Children Act (2022)



interest of the child. Evidently, during the hearing of custody or maintenance matters, the child is often caught up in the middle which can be quite frustrating and strenuous on the child's wellbeing.

For children as witnesses in civil suits, it is still unclear what the measure of competency is required for a child to testify in a civil suit. Civil proceedings tend to be quite technical even for adults and guidance from advocates is required, due to the technicalities of the court language and the proceedings. Thus, there is a need for an interpreter for the child or for the court throughout the proceedings especially during the examination in chief or cross examination. A policy framework is necessary to ensure that children are treated equally in civil suits across the board.

Finally, children can institute civil suits through an adult as a next friend, as provided for in Order 32 of the Civil Procedure Rule on 'Suits by or against minors and persons of unsound mind.' This however only happens where the cause of action directly affects the child and the prayers sought from the court directly relate to the child. Additionally, children also have the right to bring or to have a suit instituted on their behalf where their fundamental rights and freedoms under the Constitution have been infringed or violated.²⁴

Children in conflict with the law

The Children Act defines a child in conflict with the law as a person above the age of 12 but below the age of 18, who has been dealt with and punished according to the Act for an offence except the offence of murder. The same Act provides for a framework of how children in conflict with the law ought to be treated within the judicial system.

Children accompanying their mothers to prison.

These are children who are in the prison system by default, they are children below the age of four whose mothers have been convicted and serving prison terms, some of them are born in prison.²⁵

The *Kenya Prison Child Care Policy (2022)* reports that in 2022, about 225 children were living with their mothers in prison. This number comprised both children born to incarcerated mothers and those who accompanied their mothers on admission or who joined them during the trial. Admittedly, prisons are not appropriate places for early childhood development, even though the Kenya Prisons Service has made steps towards promoting their development and addressing challenges that have arisen over time. According to the policy, about 90% of the incarcerated women are single mothers and sole breadwinners for their households. They are often convicted for petty offences. It is also estimated that 39% of incarcerated mothers do not know the whereabouts of their children who are left behind during arrest. The foregoing paints a worrisome picture for these categories of children, as the negative effects of living in incarceration cannot be gainsaid.

24 Article 22, Constitution of Kenya (2010)

25 National Council on Administration of Justice (NCAJ), 'Status report on children in the Justice System in Kenya' (2019), xxvi, 28

Steps The Judiciary Has Taken to Ensure Children’s Access To Justice / Opportunities

As already established, the Judiciary’s mandate is to ensure access to justice for children. Some of the positive steps the Judiciary has taken to facilitate justice for children in the above situations include:

a. Specialised Children’s Courts

The Children Act establishes children’s courts and gives The Hon. Chief Justice the mandate to gazette designated children’s courts in various court stations in Kenya. The specialised courts hear and determine cases involving children in contact and in conflict with the law other than the charge of murder or cases where the child is charged with an adult.²⁶

Though Magistrates’ Courts nationwide have been gazetted to handle children matters, there are specific children’s courts gazetted and set aside for children matters in Nairobi, Milimani and Mombasa, Tononoka Children’s Courts whilst other courts such as in Madaraka and Nakuru have taken the initiative to provide child friendly environments where justice may be administered to children.²⁷

b. National Annual children Service Month and Service Week

The month of November has been assigned and specified as the National Annual Children Service Month. This has been the practice since 2019 when Hon. Emeritus Chief Justice David Maraga declared the National children’s service month be institutionalised by including it in the Judiciary calendar.²⁸

The aim of the service month is to fast track the hearing and determination of pending children’s cases across the country in order to clear the backlog.²⁹ This is achieved through inter alia court- annexed mediation, especially in custody and maintenance cases and plea bargaining to reduce the length of the proceedings. Alongside this, the service weeks also provide an opportunity to sensitise and inform the public about children matters, mediation, diversion and plea bargaining. The service month allows various stakeholders in children matters to interact with the community.

c. Collaboration with other child justice stakeholders

The Judiciary does not work independently in ensuring access to justice for children. There exists a chain link of various stakeholders who collaborate with the Judiciary to achieve its mandate. The collaborators include, the Office of the Director of Public prosecutions (ODPP), the police, children officers and probation officers. This collaboration can be illustrated or instance, where a child is in conflict with the law all these stakeholders are involved; the police in arresting, charging and arraigning the child in court together with conducting investigations, the prosecution counsel in prosecuting the charges, the children officer in ensuring the child’s welfare is safeguarded whilst facing the charge in a remand home, the court in hearing and determining the matter. These defined roles have enabled the Judiciary to work with ease in children matters at all levels.

Additionally, to strengthen coordination within the Judiciary on children matters, there exists a Standing Committee on the Administration of Justice for children, formerly known as the Taskforce on Children Matters. The Standing Committee is composed of members of the National Commission on the Administration of Justice (NCAJ) and its mandate is to address gaps regarding the administration of justice to children. On 22nd July 2022, new members to the committee were gazetted and their function is to among other things; formulate and review laws and policies relating to the efficient administration of justice for children, implement, monitor, evaluate and review strategies for the administration of justice for children matters, establish and promote inter-agency collaboration and corporation on efficient administration of justice and to promote social transformation through access to justice for children.³⁰

26 Ibid 9

27 ibid

28 ibid 50

29 ibid

30 Gazette notice number 8777 dated 22nd July 2022 at 5661



d. Children Court User Committees (CCUC)

Section 35 of the Judicial Service Act (2001) institutionalised the Court User Committee(CUC).³¹ CUC's on children involve forums that have provided an opportunity for all court participants and justice actors to come together to resolve challenges in accessing justice for children, improving court operations and coordinating responses in the administration of justice. The forums are established at different levels of the court system to ensure accountability and occurring once every three months or on a need basis.³²



31 The National Council of Administration of Justice (NCAJ) 'Court Users' Committee Guidelines' (2019), 1

32 *ibid* 9

What are the justice needs for children?

Key findings

In the course of developing this strategy, several essential requirements need to be catered for as children go through the justice system. These were established through research and interviews with child justice stakeholders and key informants.

The essential requirements which are highlighted below, apply to both children in conflict with the law and children in need of care and protection.

1. Children need and require speedy resolution of cases.

As earlier mentioned, one of the greatest challenges faced by children in the justice system is delayed and prolonged cases. There is an increasing number of case backlog within the Judiciary and the situation is deteriorating. Visits to various courts indicated that the children's court was still grappling with the increasing number of unresolved children matters despite having a children service month, and interactions with registries revealed children matters dating as far back as 2015.

One Children's Court Magistrate reiterated that the challenge of case backlog is ever increasing, regardless of November being assigned as a children service month to tackle this issue. Additionally, another reason for the case backlog was that notwithstanding children's court being assigned to entertain children matters, they still largely entertain other matters. This causes the courts to be overwhelmed, leaving little room for the court to give children matters the specialised focus they deserve.

Registry staff recommended that for speedy tracking of children cases there is need to include an "offence" column in the digital system to enable them to track the various cases and to also collect data on which case is more prevalent among children.

2. To be educated and informed of the Legal process and their rights.

Children in need of care and protection and those in contact with the law cases including their parents or guardians,, do not understand their rights and responsibilities nor do they understand the legal process.

The registry staff in the various courts expressed the lack of understanding of the court processes amongst the litigants. Majority of the litigants represent themselves in the matters and therefore have to navigate the court system alone. The registry staff shared several instances where litigants sought legal and procedural advice from them, which they do, but often have to refer them to Advocates. Many are not aware of the procedures involved after filing a case and assume that once they file a case it is now in the hands of the court. Registry staff have to advise them to serve the various parties and appear in court on the indicated date. There is also lack of awareness concerning the financial implication of filing a case in court, despite the fee waiver issued on filing children cases there are still other expenses such as service fee, advocates fee and in criminal matters monetary bail and bond among others. Many litigants are also not aware of how to address the court and how to ask the court for the reliefs they so desire.

Secondly, awareness of the child justice process and the justice process in general can also be achieved by having a vibrant customer service desk as the first point of contact for litigants in all court stations where litigants can be assisted as needed. The service desk should be able to guide litigants on directions to various court rooms and registry, what to expect in court, how to follow a cause list and more. To achieve effective e services, Paralegals can be engaged at these desks who educate the litigants on their rights and address any legal concerns..

Thirdly, information may be available on pamphlets, posters and other forms of printed media. These can be made available at the service desk and pinned at strategic points in the court such as court station notice boards, court rooms and registries, furthermore, can be handed to advocates for their clients.

Finally, the Judiciary can also provide case tracking services through the use of mobile phones which can be done



in collaboration with various mobile service networks in the country. This may be through the use of a USSD code where a litigant is able to check the status of their case, for instance they are able to check the upcoming date and whether it is a mention, hearing or judgement date.

The Judiciary ought to collaborate with various institutions to achieve the above recommendations, such as National Legal Aid Services (NLAS) and Law Society of Kenya (LSK).

3. Need for representation.

Many children in the justice system do not have legal representation, more so children in conflict with the law. Litigants in maintenance and custody matters often lack legal representation because it is costly, and many view it a luxury they cannot afford. Pro Bono Advocates are scarce and those that are available seldom take the cases seriously or act in the best interest of the child; some are also not conversant with legal processes involving children. As earlier mentioned, many litigants are unaware of the court procedures and there is already a negative perception of the court to the litigants therefore there is a great need for Advocates who will represent children. One Registry staff who was interviewed shed light on this reality stating that there is a shortage of Pro Bono Advocates and those who are available are not too keen on children matters. To address this issue, key informants suggested the need for a children Pro Bono fund within the Judiciary to incentivize advocates to take up children matters.

4. Competent and adequately prepared child justice stakeholders

Within the justice system, children depend on various stakeholders to advocate for them and their rights; they include; the Judicial officers, Registry staff, Police, Prosecutors, Children officers, Probation officers and Advocates. Visits to court registries showed that there were several irregularities as to how the registry handled children matters. First, the Registry did not have a designated physical child register; the physical registry was not up to date; some columns were left blank without any particulars. An entry from the previous week did not have the particulars on the charges preferred against the accused persons. There were also irregularities in the digital case tracking system as the Nairobi Children's Court Case Tracking system (CTS) as more detailed on children matters as compared to that of other courts.

Finally, the manner in which the children's matters were listed in the cause list should be revised. In some cases the children matters included the children's names which not only exposes the child but is a violation of the children's right to privacy since their names ought to be listed in initials and the case number should indicate that it is a children's case.

The judicial officers stated that in their tenure, training of magistrates on children matters has been infrequent. For a court to conduct proceedings that are child-focused and issue judgements that are child friendly they need to be thoroughly trained frequently and continuously. Capacity building initiatives of all stakeholders is paramount, not just within the Judiciary.

Child Protection Units are hardly ever in use, children are still being detained in holding cells with adults even though the CPU is equipped to hold the children. The justification for this practice is that there is no officer or social worker designated to care for the children in the CPU, therefore it is easier to keep them in the holding cells as they await repatriation or as they wait to be taken to court.

Judicial officers stated that they have had a challenge with the prosecutors who are unprepared for the cases. Some do not have the respective files therefore leading to multiple adjournments thus delaying justice; many do not carry out pre-trial preparation and only meet their witnesses on the hearing date.

5. Child-centred and child-focused Justice

Children should be the focus of any child justice system. Their best interest should be of paramount consideration, this can be achieved by ensuring that child friendly measures are put in place.

Such measures include having child friendly language during court proceedings and in judgements. As earlier mentioned, there is a preconceived notion about court and its processes by the litigants, and more so by the children. In order for this to change, there is a need to ensure that children understand court proceedings.



A child friendly court environment, especially the children’s court rooms is vital. It is as important to have a separate holding room within the court station where the children can be held as they await the hearing. This came as a recommendation by a Magistrate after observing that many children, especially those in conflict with the law are held together with the adults as they await trial. Furthermore, it was recommended the need to have children’s counsellors attached to the court, and for them to be present in all children matters in order to evaluate and assist the court in giving sufficient direction for the sake of the child’s emotional and mental wellbeing. This would be useful especially in sexual offences matters where proceedings can be traumatic for children as they testify and meet with their abuser sometimes for the first time since the violation. Similarly, in murder cases where the child is the accused, although a mental assessment is often carried out, it is not sufficient to determine the state of the child’s mind throughout the trial. An ideal criminal proceeding for a child should consist of a Judicial officer, Prosecutor, Children officer, Probation officer and a Counsellor to ensure all rounded safeguarding.

One Remand officer emphasised the need to have educational forums in remand homes, so that the children awaiting trial are made aware of their rights and are educated on court processes.

It was noted during a visit to one Children’s court, that Protection and Care (P&C) files were often filed separately from the main suit making courts handling the main suit unaware of the progress of the child. It is an important practice that the P&C file is filed together with the main suit to assist the court in its decision.

A child-friendly system, and one that elevates the best interest of the child has to be adaptable to the various situations of children who are in it. A child in Mandera has very different needs from the child in Nairobi therefore the justice system cannot handle their issues homogeneously

Other gaps in Access to justice for children:

Regional and international reports note that access to justice for children, though it is a fundamental human right as espoused within the international, regional and the national; Constitution of Kenya – Article 48, it remains elusive and needs concerted efforts to be achieved.

Some of the other gaps identified are shown in summary below as weakness and possible strengths that could address the said weaknesses.

Strengths	Weaknesses	Opportunities
Establishment of the Court User Committees and the Children Court User Committees ought to address the issue of coordination of children matters especially at the grassroots level	Lack of coordination between various child stakeholders.	Digitalisation and access to information and organisation supporting access to justice. Eg. Children Agenda Forum map- https://www.childrenagendaforum.org/
The Children Act provides two ways to deal with children in conflict with the law; diversion and the formal court process. The Law recommends that the Judicial officer may divert at any point. Using the bail and bond policy, the judicial officer may release the child on parental bond.	Unjust and unreasonable orders made by judicial officers: a. Unreasonable bail terms b. Preference of custodial orders over non-custodial order c. Remand without trial of children who are in need of care and protection	Development of regulations and rules to give effect to provisions of the Children Act 2022.



<p>The Office of The Hon. Chief Justice has encouraged courts to identify a day when matters of children ought to be heard.</p> <p>The National Service Month on Children Matters is an avenue to ensure matters of children are heard and determined.</p>	<p>Backlog of cases related to children leading to delayed justice</p>	<p>Institutionalise and budget for National Service Month on Children Matters</p>
<p>The Children Act demands that no children matter will be heard without legal representation, costs of which will be borne by the state.</p> <p>The Hon. Chief Justice has established a Pro-Bono Advocates Scheme for advocates who take up children matters</p>	<p>Inadequate or no representation for children in conflict with the law</p>	<p>Establishment of pro-bono advocates fund.</p>
<p>The recently launched NCAJ report on budgeting for children estimates the judicial funding gap of Ksh. 859,272,555 -1,002,2555,508 in a 3 year period. This is a useful tool for lobbying and advocacy for funding increments.</p>	<p>Underfunding of the Judiciary in children matters</p>	
<p>The Child Care and Protection Officers (CCPO) curriculum is a comprehensive curriculum that can be effected through the Kenya Judiciary Academy for purposes of training all judicial officer and judicial staff</p>	<p>Lack of trained personnel dealing with children</p>	<p>Kenya Judiciary Academy (KJA) to embed the CCPO curriculum;</p> <p>KJA to ensure all magistrates are trained on the Children Act 2022 during induction</p>
<p>The Juvenile Justice Information Management System, piloted in Makadara law courts provides an opportunity to streamline data on Children matters within the Judiciary</p>	<p>Lack of appropriate and adequate data and data management</p>	<p>The Juvenile Justice Management System and the Child Protection Information Management System provide an opportunity for harmonisation of data on children services.</p> <p>The data management system should take into consideration the indicators provided by UNODC https://www.unodc.org/pdf/criminal_justice/Manual_for_the_Measurement_of_Juvenile_Justice_Indicators.pdf</p>



Legislative and Policy framework

The Constitution of Kenya 2010

This Child Justice Strategy is anchored on the Constitution of Kenya which encapsulates the rights of the child. Article 53(f) gives the provision for the protection of the child. The Constitution establishes grounds for international treaties and policies to form part of the national law through Article 2 (5) and (6) and therefore gives effect to the following international, regional laws and principles which form a critical basis for this Strategy. They include:

Summary of International and Regional Laws and Policies

- The United Nations Convention on the Rights of the Child
- General Comment Number 13 and 24 to the United Nations Convention on the Rights of the Child
- The United Nations Guidelines for the Prevention of Juvenile Delinquency
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice
- The United Nations Rules for the Protection of Juveniles Deprived of their Liberty.
- The United Nations Standard Minimum Rules for Non-custodial Measures
- The United Nations Economic and Social Council Guidelines for Action on Children in the Criminal Justice System
- The United Nations Basic Principles on the use of Restorative Justice Programmes in Criminal Matters
- The United Nations Guidelines in Matters involving Child Victims and Witnesses of Crime
- The African Charter on the Rights and Welfare of the Child
- General Comments on Article 1, 30, and 27 of the African Charter on the Rights and Welfare of the Child
- Guidelines On Action for Children in The Justice System In Africa.

The Children Act 2022

The Children Act 2022, is revolutionary in its nature, in that it recognizes children's vulnerability regardless of their status. It delineates the right of all children to be protected from physical and psychological abuse. The Children Act (2022) gives effect to: Articles 27 (equality and freedom from discrimination), 47 (fair administrative action), 48 (access to justice), 49 (rights of arrested persons), 50 (fair hearing), 51 (rights of persons detained, held in custody or imprisoned) and 53 (rights of the child) and Article 2(5) & 2(6) of the Constitution of Kenya on matters relating to children. The Children Act creates an obligation to fulfil, protect and respect the rights of the child by extensively giving effect to the guiding principles of the Rights of the Child.

The Children Act(2022) is cognizant of the issues that the child in Kenya is vulnerable to and therefore takes a protectionist stance, by extensively defining what amounts to child abuse³³ and by providing a myriad of safeguards for all the children in Kenya under sections 5-29 of the Act.³⁴

The Act places an obligation on various persons to ensure protection measures of the child in need of care and protection. They include an authorised officer who should secure a court order for the care and protection of the child, for example, the health care practitioner who shall provide necessary treatment and should the practitioner find that a child is a victim of an offence, report such matter within 48 hours. According to section 147, the expenses

33 http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#sec_2

34 http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#part_II



of such treatment shall be defrayed out of public funds.

In regard to children in conflict with the law, the Act³⁵ gives effect to Article 53 of the Constitution; Article 37 and 40 of the UNCRC and Article 17 of the African Charter on the Rights and the welfare of the child by proposing to create a justice system that ensures preservation of public safety, and is cognizant of the rights and the welfare of the child who is in conflict with the law. A justice system that ensures:

- Children are treated in a specific manner
- Tenets of fair trial are observed.
- Increase in the Minimum age of criminal responsibility.
- Promotes rehabilitation and reintegration.
- Deprivation of liberty as a last resort

The Children Act raises the age of criminal responsibility from 8 years to 12 years, delineates the rights of a child offender and advances the use of diversion³⁶ in all offences save for capital offences.

The Children Act places a unique and expansive obligation to the courts towards protecting all children who come into contact with the law. The court is under obligation under Section 225, to ensure the welfare of the child towards a child's education and training, and also to ensure that the child has legal representation, this is particularly for children in conflict with the law. The Judiciary has a mandate under Section 134 to ensure that all children are protected through giving appropriate orders, including access, residence, wardship and protection order amongst others³⁷. The Judiciary has a mandate to visit all children institutions to assess the conditions and circumstances under which the children are committed. The Act prescribes that the environment of the court ought to meet the standards of a child friendly court.

To give effect to the implementation of the Children Act, The Hon. Chief Justice is mandated to make rules in respect of various sections, for example, the manner in which proceedings for children in conflict with the law, should be conducted. As provided under section 90 of the Act, The Hon. Chief Justice is also under obligation to designate children's courts in various counties and establish the office of the Registrar of Children Courts.³⁸

This therefore provides the basis for this Child Justice Strategy, which will provide strategic guidance for The Hon. Chief Justice as the Head of the Judiciary, the President of the Supreme Court and the Chairperson of NCAJ.

The Child Justice Strategy has been informed by the vision of the Judiciary Social Transformation through access to justice, NCAJ Justice for Children Strategy, NCAJ Strategic Plan 2020-2025, The Judiciary Strategic Plan 2019-2023, as well as other strategic plans of the justice agencies.

35 http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#part_XV

36 http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#sec_225

37 http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#part_XI

38 http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#part_VIII

CHAPTER 2:

VISION, PRINCIPLES AND STRATEGIC OUTCOMES

Vision

A child-friendly Judiciary is guided by the principle of the best interest of the child and promotes the right to survival and development of all children in Kenya.

This vision is aligned to the Constitution of Kenya and the Children Act, 2022. The Vision is also anchored on the Judiciary's vision of social transformation through access to justice, particularly through the first outcome of a strong institution that is accessible, efficient and protects the rights of all especially the vulnerable. This vision is also aligned with Sustainable Development Goal 16 which aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable, and inclusive institutions at all levels.

Change/Philosophical Theory:

In recognition of the plurality of the child justice system, to ensure law and order and focus on the pedagogy of children matters. The strategy applies multifaceted models of the child justice system, including the welfare, equitable and restorative justice models with an aim to ensure that the Office of The Hon. Chief Justice leads the Judiciary towards enhancing access to justice for all children. The features of the different models of justice ensure that needs of the children who encounter the justice system are addressed without compromising on their survival and development.

Guiding principles:

The implementation of this strategy by all the parties through the leadership of The Hon. Chief Justice will be guided by the following principles, which are not only espoused within the UN Convention on the Rights of the Child, but also provided within the Constitution of Kenya and the Children Act 2022.

Survival and Development

The right to life for every person is a general principle provided for under the Constitution of Kenya. The UNCRC provides further safeguards stating that the child's rights to life, survival and development must be protected "to the maximum extent possible" and understood holistically. Children and young people have a right to wholesome development from the time of birth to childhood and adulthood in an environment that allows them to grow and develop naturally and guarantees their welfare. The principle of development of the child requires that all necessary stakeholders in Kenya who can contribute towards this principle collaborate to protect the child's physical, mental, social, spiritual and educational welfare.

This principle is enshrined in Section 6 of the Children Act which provides that every child has a right to life, survival, wellbeing, protection and development to which it provides that the court shall not pass an offence of the death sentence for any offence committed by a child.³⁹

- **Dignity**

Every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected.

³⁹ http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#sec_6



- **Best interests of the Child**

In all actions relating to a child, the underpinning principle is that of the best interest of the child, which underlines all aspects considered by administrative and judicial institutions. In Kenya, the best interest principle is enshrined in Article 53 of the Constitution – and Section 8 of the Children Act. Both envisage that the best interest of the child is paramount and must always be taken into account. The Children Act requires that all authorities involved in decisions and actions affecting children ensure that the child’s best interests are given top priority.

“The best interest of the child” principle ensures that “in all actions concerning children [...] the best interest of the child shall be a primary consideration”.

This is a principle unique only to children being that children form a special part of vulnerable members of society as they are still evolving in every aspect of their lives. Any action that goes contrary to this principle is null and void.

- **Child participation**

The right to a fair hearing is codified in the Constitution of Kenya, 2010. This right is without discrimination to children who have a right to a fair hearing before any administrative or judicial proceedings. This implies that a child has a right to be heard either directly by participating in the proceedings and giving their views and concerns or indirectly through legal representation. Child participation focuses on advancing the right of the child to express his or her views freely.

The Children Act incorporates the principle of inclusion and participation and envisions that every child will have a forum to freely express concerns on any matters affecting them. When children are given an equal footing in the judicial process, the decisions and outcomes of the proceedings are inclusive and fair. This will ensure the experiences of the child are taken into account during the final determination of the proceedings and during mitigation.

Non-discrimination

Non-discrimination is an overriding general principle that underpins access to justice for the child and requires the child to be accorded equal opportunities before the law both at national and international levels. The principle of non-discrimination guarantees that the child, without exception, is protected from any form of bias and discrimination based on distinctions such as their skin colour, place of origin, home area, status, gender, family background, nationality, ethnicity, religion.

Discrimination is a form of child abuse that is punishable by law. The Children’s Act of Kenya recognizes that some children may need extra care and protection than others. The Act guarantees judicial intervention for children in need of care and protection. Courts in Kenya are granted the power to intervene and issue orders towards the welfare of a child in need of care and protection.

The Children’s Act of Kenya requires institutions to ensure that all structural causes that contribute to the unfair treatment and discrimination of a child to be addressed and measures taken to curb such vices.

- **Child Protection**

The principle of child protection lies at the core of the child justice system. Although it is important to protect the child from any form of adversarial or litigious systems, periodically a child finds themselves in contact or conflict with the law. Necessary steps should then be taken to adequately protect this child from any form of exploitation, abuse and violence in the child justice system. Stakeholders must take necessary measures to protect the child in conflict/contact with the law and give them the assistance they require to understand the justice process. The privacy of the child should also be protected by stakeholders during and after the child’s reintegration into society.



In Kenya, all actors in the justice system are prohibited from executing any form of unnecessary delay, corporal punishment, torture and any form of degrading treatment or possible capital punishment and life imprisonment. Additionally, there should be child justice monitors on the ground tracking the activities of the duty bearers. Child victims, witnesses and children in conflict with the law need to be free from any form of intimidation that may hamper their right to a free, fair and just process.

- **Transparency And Accountability**

Generally, transparency and accountability are principles that guide all public service institutions, and the child justice system is no exception. Stakeholder engagement is required to ensure that there is a strong relationship between the children and the professionals interacting with them. Open dialogue with the children must be enhanced to make the participation of a child a reality as well as ensure there is proper accountability and transparency. Measures should be taken to train, support and work with all the players to understand the child's rights in the justice system and allow the child to hold them accountable when their rights are violated or ignored.

Strategic Objectives And Scope

This Child Justice Strategy is aimed at addressing the rights, welfare and needs of children in contact with the legal justice system, specifically children in conflict with the law, child victims and witnesses, children in need of care and protection and children who accompany their mothers or primary caregivers to prison.

The objectives are:

- 1. To prevent children from coming into contact with the law** and in particular:
 - To scale up diversion of children away from the formal justice system as provided in the Children Act.
 - To emphasise rehabilitation of children in contact with the law.
 - To prioritise reintegration of children into a society that caters to their needs.
- 2. To protect children in contact with law from abuse while in contact with the Judiciary** and in particular:
 - To promote key strategies for reducing harmful effects of contact with the criminal justice system
- 3. To enhance identification and protection of children accompanying their mothers or primary caregivers to incarceration.**
- 4. To strengthen the Judiciary towards fulfilling the vision of the strategy and its collaboration with child justice actors.**

These strategic objectives will be achieved through policy formation, development of sustainable programs, and actions plans that are properly resourced and funded.



CHAPTER 3:

THE STRATEGY ELABORATED

Strategic Focus 1: Children in Conflict With The Law

Strategic Objective 1: To prevent children from coming into conflict with the law

Specialised focus will be given towards preventing children from coming into conflict with the law, especially through the court process. Attention to this will preserve the child's innocence and protect the child from being psychologically and socially assimilated with the criminal justice system which in turn reduces their chances of reoffending. As reports indicate, children who are introduced to the justice system have a higher chance of reoffending in the future and even as adults.

Outcome 1.1

Diversion and Child focused Alternative dispute resolution (ADR) and Alternative Justice Systems (AJS) rolled out and scaled up through the Judiciary.

Children in conflict with the law have been subjected to the formal justice process even where they have committed petty offences. The practice of Diversion, and child-focused ADR and AJS will ensure that children in conflict with the law are provided with an alternative avenue of addressing the offences they have committed away from the formal court process. This protects them from the technicalities of the trial process, minimises the chances of custodial sentences, ensures speedy resolution of cases and reduces case backlog in the courts.

The Children Act (2022) recognizes diversion as an alternative method of holding children accountable for their unlawful acts that cause harm to others specifically by first ensuring the child understands the gravity of their actions and then freely and voluntarily admitting to the offence and recognizing the harm caused to the victims or complainants. The Act further recognizes that diversion promotes rehabilitation of the child and their reintegration back into the family and the community. It encourages reconciliation between the child and the person affected by the harmful conduct of the child, and it minimises stigmatisation of the child and prevents adverse consequences likely to arise from their subjection to the criminal justice system.

The Constitution of Kenya also provides for Alternative Justice Systems and Alternative Dispute Resolution as guiding principles for the Judiciary in exercising their judicial authority and should also be used to prevent children from progressing through the criminal justice system. The utilisation of Diversion, ADR and AJS also ensures that detention of children either in remand or through custodial sentences is only used as a measure of last resort.

1.1.1 Diversion rules and Child-focused AJS and ADR guidelines developed in conjunction with the ODPP.

- Chief Justice to develop and gazette rules on diversion- included in the Children in conflict rules
- Sensitize Children Court Magistrates on early diversion of children using the Preliminary Inquiry.
- Develop guidelines on Diversion programs available for the children.
- Develop guidelines on management, coordination and follow-up of diversion programs to ensure quality control.
- Develop an electronic register within the Juvenile Justice Information Management System and the Court system to capture data and measure success of Diversion and its programs.
- Collaborate with the Department of Children Services, Community Structures, ODPP and Probation and After Care services to develop effective Diversion programs.



1.1.2 Child-focused and Child inclusive AJS and ADR rules and guidelines developed.

- Chief Justice to develop and gazette rules on child focused and child inclusive mediation.
- Establish Court-Annexed Mediators trained on children matters in every court station.
- Guidelines on Alternative Justice Systems for children matters developed and adopted.
- Disseminating child friendly materials (abridged version) of the AJS and ADR rules

Outcome 1.2

Judiciary led, family centred interventions and rehabilitation programs.

Research indicates that one of the main causes of children offending is the environment they grow up in, many children in conflict with the law come from homes where they have been neglected or abused⁴⁰, therefore, some children offend as a way of expressing their frustrations.

The National Prevention and Response Plan on Violence against Children in Kenya 2019-2023 and the Sector wide Strategy for Justice for Children (2022-2026), also contributes to this particular outcome and similarly the NCAJ Justice for Children Strategy recognizes that decisions and orders made by the Judiciary ought to ensure the strengthening of the family, together with parenting skills and knowledge. This will also enable the parents or guardians to participate in the rehabilitation of the child and ensure ease of reintegration back to the family unit.

1.2.1 Court ordered Family Counselling programs established.

- Develop Court ordered family counselling programs together with the Department of Children Services
- Develop court guidelines for family conferencing.
- Sensitise the children and the community on laws and policies on access to justice for children through organised community forums, online platforms, radio stations and television.

1.2.2 Collaboration enhanced between the Judiciary, Probation and Department of Children Services towards rehabilitation of children

- Develop follow-up mechanisms after determination of cases of children in conflict with the law.
- Progressively encourage comprehensive court determinations which include explicit consideration of probation officers reports towards the cases.

Outcome 1.3

The rule of detention as a last resort enforced.

Children in conflict with the law should only be detained as a last resort and for the shortest period of time, separate from adults and in conditions that take into account the child's sex and age. Detention of children can be seen as a form of structured violence against children⁴¹ and a deprivation of childhood.

The Status Report on Children in the Justice System in Kenya⁴² indicated that only about 92% of the children who were in the remand homes were in conflict with the law and furthermore, that little to no education or rehabilitation takes place in the pre-trial detention centres. This is despite the decision by the High Court requiring that the Ministry of Labour and Social Protection and the Ministry of Education⁴³ ensure that all children have access to education. It is the mandate of the court to commit the children in various institutions as pending the completion of a trial. Section 236 of the Children Act obligates the court to ensure the welfare of a child brought before it, in that there has been made proper provision for a child's maintenance, education and training⁴⁴.

40 Cashmore, J. (2011). The link between child maltreatment and adolescent offending: Systems neglect of adolescents. *Family Matters*, 89, 31-41.

41 [Manfred Nowak at "UN Global Study on Children Deprived of Liberty: Sub-regional Launch in Africa" - YouTube](#)

42 <https://jaslika.com/reports/2019/11/22/the-status-of-children-in-the-justice-system-in-kenya-vol-1>

43 *Erick Githua Kiarie v Attorney General & 2 Others* [2016] eKLR

44 http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#sec_236



1.3.1 Strengthen the use of alternatives to detention including, pre-trial detention for example parental custody, to a treatment program, or a school.

- Develop and adopt timelines for trial for children in pre-trial detention.
- Institutionalise prompt mechanisms for Magistrates concerning children in pretrial detention – including weekly reports from remand homes officers- connected to the JJIMS and CTS
- Conduct further research on alternatives to pre-trial detention.
- Develop bail and bond rules for children to ensure lenient bond terms and use of parental/ personal bonds for children
- Institutionalise the practice of using virtual hearings and mobile courts to make decisions about bail.
- Train Magistrates on their obligation to conduct preliminary inquiries for early determination of pretrial release and diversion.
- Office of The Hon. Chief Justice and NCAJ to spearhead advocacy for educational programs in pre-trial detention centres



Strategic Focus 2: Children in need of care and protection; victims of abuse and witnesses

Strategic Objective 2: To protect children in contact with law from abuse while in contact with the Judiciary.

Child victims and witnesses and children in need of care and protection are also referred to as vulnerable children. International laws and national laws establish the need to ensure all children have the right to protection and to a chance for harmonious development; Protection entails that every child has the right to life and survival and to be shielded from any form of hardship, abuse or neglect, including physical, psychological, mental and emotional abuse and neglect; while harmonious development ensures that every child has the right to a chance for friendly and peaceful development and to a standard of living adequate for physical, mental, spiritual, moral and social growth. In the case of a child who has been traumatised, every step should be taken to enable the child to enjoy healthy development.

Right to participation is just as important to ensure that children have the right to express their views, opinions and beliefs freely, in their own words, and to contribute especially to the decisions affecting their life, including those taken in any judicial processes and to have those views taken into consideration according to his or her abilities, age, intellectual maturity and evolving capacity.

Although Kenya has a wide array of policies and legislations, reports indicate that the situation of children in contact with the law are susceptible to abuse and revictimization especially when going through the justice process. Various forms of child abuse are occasioned by lack of children rescue centres, delayed cases, lack of legal representation, lack of psychosocial support and care and lack of follow-up at the end of their cases. A visit to one of the court stations revealed that the lives of child witnesses, and victims remain in danger following their testimonies in court.

Being cognizant that child participation and protection are not only guiding principles in the rights of children, and that they are substantive rights, creates an obligation on the state. One of the key aims of the strategy is therefore to identify causes that make children vulnerable to abuse, neglect or exploitation and ensure that the Judiciary and NCAJ addresses the root causes in the most effective way possible. Further, it is aimed at ensuring that child witnesses are protected from any risk of harm and that child victims receive legal and psychosocial support and rehabilitation and compensation.

The Office of The Hon. Chief Justice is committed to ensuring that these injustices meted on children who are already victims are addressed significantly through the Judiciary and the NCAJ.

Outcome 2.1: Child protection and participation Enhanced

2.1.1 Child friendly court processes enhanced, aimed at protecting the child from further revictimization.

- In collaboration with other justice actors, promote child-friendly reporting and ensure complaints mechanisms are available and accessible for children at a low threshold, thus preventing (further) violence before it happens.
- Develop bench cards to inform judicial officers on handling of cases for different categories of children, including language; writing child friendly judgements; having child friendly procedures.
- Establish and develop timelines for completion of children matters for children in contact with the law which is connected to the JJIMS and the Case Tracking system (CTS)
- Gazette *White* as the File colour for all children matters.
- Gazette Court Child practice directions.
- Develop rules on compensation and restitution as provided in the Victim Protection Act (2014).
- Institutionalise pre-trial for children's cases.
- Ensure that all court stations have a screen display explaining the rights of children, courts functions, and the various legal-judicial processes.
- Develop child sensitive virtual court guidelines.
- The Hon. Chief Justice to develop witness protection rules of court for children.
- The Hon. Chief Justice to develop practice directions on pre-recorded evidence.
- Establish witness protection boxes, pathways, and voice distortion kits for highly sensitive cases.



- Collaborate with the Ministry responsible for social protection and assistance to enhance identification and support for child victims of abuse and children vulnerable to abuse and neglect.
- Establish a fund for child victims and offenders and their families to enhance accessibility to the court.
- Continuous research on causes of violence against children can be mapped through JJIMS.

2.1.2 Establish Trauma informed court rooms for children’s victims of abuse:

- Conduct training for judicial officers and staff on psychological impact of trauma and abuse.
- Subject to section 90 of the Children Act, develop a trauma informed court protocol – these can be established together with the SGBV Courts.
- Collaborate with the Ministry of Health to develop a working MOU for provision of Psychosocial Support for Child Victims and witnesses.
- Collaborate with the Ministry of Health to develop a working MOU for provision of Psychosocial Support for Judicial officers working on children matters.
- Establish court-annexed psychosocial support and therapy to be initiated by the Judiciary.
- Develop rules, guidelines, and standard operating procedures to give effect to Part XI of the Children Act⁴⁵

Outcome 2.2 Access to justice for child victims of emerging forms (child online abuse, radicalisation, child trafficking, among others) of abuse is enhanced.

Some of the emerging forms of abuse as captured within the Children Act, 2022, that the child is susceptible to include, child online abuse, radicalisation, child trafficking and smuggling. The intervention mechanisms towards these forms of abuse are still being researched and discovered throughout the justice system. As the custodians of justice, the Judiciary aims at addressing some of the gaps raised in various reports⁴⁶ such as revictimization of children through recounting evidence, lack of legal representation and psychosocial support of child victims, confluence with persons who are illegal migrants, and capacity gaps on adjudicating on cases of online sexual abuse, child trafficking and smuggling amongst others. This outcome also contributes to the NCAJ Justice for Children Strategy which elaborates on the functions of other justice actors. As such the Office of The Hon. Chief Justice aims at:

2.2.1 Capacity of the Judiciary to deal with the serious and emerging crimes enhanced.

- Develop systems to enable case files where the children are under the witness protection agencies, are filed under the Office of the Registrar.
- Enhance privacy and confidentiality of the records in the Case Tracking System.
- Establish witness protection facilities in the court through providing witness protection boxes, holding rooms for protected witnesses, voice distortion facilities, safe passage for victims and witnesses and secure video link facilities.
- Conduct periodic training for all judicial officers on Online Child Sexual Abuse and Exploitation (OCSEA) and other emerging forms of crime.
- Conduct periodic training for all judicial officers on the varying aspects of Children on the Move susceptible to child trafficking and commercial sexual exploitation.

2.2.2 Integrated, multi-disciplinary response to serious and emerging forms of violence against children

- Judiciary to lead collaboration among the justice agencies to ensure expeditious delivery of justice
- Collaborate with specialised agencies the Anti-Human Trafficking and Child Protection Unit and the Witness Protection Agency to ensure child protection before, during and after trial.

⁴⁵ http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#part_XI

⁴⁶ [Disrupting Harm Report 2022](#)



Outcome 2.3

Children in need of care and protection are identified, protected, and reunified with their families

Children in need of care and protection as defined within the Children Act are children who live in difficult circumstances and who need to be protected from all kinds of neglect, abuse and exploitation,⁴⁷ including children living in the streets. One can infer from the definition and description of children in need of care and protection that they find themselves under this predicament as a result of root causes such as poverty, neglect, violence, exploitation and lack of parental care. The NCAJ Special Taskforce Report on *"The Status of Children in the Justice System in Kenya"* indicated that these cases take more than the statutory 6 months in court. This category of Children also makes up over 85 percent of the children in institutions which should host children in conflict with the law.

The Office of The Hon. Chief Justice is committed to put an end to this injustice and to ensure that these children are reunited safely with their families and have access to the safety nets provided within the Constitution of Kenya and the Children Act, to reduce their vulnerability.

2.3.1 Judiciary led interventions to identify vulnerable children and their families to link them with prevention and early intervention programs, established.

- Develop Standard operating procedures for identification of different levels of risk the children are susceptible to.
- Establish child friendly information and reporting desks in court
- Ensure court orders take into consideration social security measures under section 12 of the Children Act and Article 43 of the Constitution of Kenya
- NCAJ together with County governments to formulate guidelines to support identified children in need of care and protection.

2.3.2 Judicial interventions for the care and protection of the Children enforced.

- Conduct training for child justice actors on the application and implementation of Part XI and XII (Judicial intervention and Children in need of care and protection) of the Children Act.
- Develop IEC materials for the public on the responsibility of different actors on care and protection of children.
- Develop guidelines on Court supervision of children placed in alternative care, including charitable children's homes, foster families and child headed households.
- Collaborate with Counsellors, Psychologists and other experts during the determination of children in need of care and protection cases.
- Ensure active involvement of children officers and parents and guardians during the determination of the cases.
- Develop a schedule for periodic supervision of charitable children's institutions by the Judiciary.
- Expedite cases of children in need of care and protection within 3 to 6 months as stipulated in the Children Act.
- Pilot Court annexed psychosocial support and therapy.
- Develop guidelines for establishment of the Court annexed psychosocial support and therapy.
- Established court supervised classes on parental knowledge and skills, together with Department of Children Services and Probation and After Care Services.



Strategic Focus 3: Enforcing the Rights of Children accompanying their incarcerated mothers, fathers or sole caregivers.

Strategic Objective 3: To enhance identification and protection of children accompanying their mothers or primary caregivers to incarceration.

Section 30 (4) of the Prisons Act Cap 90, Laws of Kenya, provides for children below the age of four years to live with their mothers or caregivers in prison. The *Kenya Prison Child Care Policy (2022)* reports that in 2022, about 225 children were living with their mothers in prison. This number comprised both children born to incarcerated mothers and those who accompanied their mothers on admission or who joined them during the trial. Admittedly, prisons are not appropriate places for early childhood development, even though the Kenya Prisons Service has made steps towards promoting their development and addressing challenges that have arisen over time. According to the policy, about 90% of the incarcerated women are single mothers and sole breadwinners for their households, often convicted for petty offences. It is also estimated that 39% of incarcerated mothers do not know the whereabouts of their children who are left behind during arrest. These paint a worrisome picture for these children, as the negative effects of living in incarceration cannot be gainsaid.

Outcome 3.1

The rights of children accompanying incarcerated mothers or primary care givers enforced.

The African Committee of Experts on the Rights and the Welfare of the Child adopted a General Comment on the rights of children under this category by expounding on Article 30 of the African Charter. The Committee advised that Article 30 also applies to fathers and primary care givers and emphasises on an individualised, informed, and qualitative approach. In this regard, the state is expected to keep data relating to this category of children and handle the matters on a case-by-case basis.

The Judiciary is therefore expected to establish alternative measures to pretrial detention, providing alternative sentences to pregnant incarcerated women and mothers whilst applying the best interest of the child principle⁴⁸.

The Office of The Hon. Chief Justice, the Judiciary will embark towards enforcing the rights of these category of children through:

3.1.1: Children accompanying their mothers, or primary caregivers are identified, and their rights protected.

- Conduct sensitization for Judicial officers on the use of the Protection and Care form to record any child(ren) accompanying their mothers or primary caregivers during trial or to prison.
- Develop a register for children accompanying their mother or primary caregivers to prison to form part of the court records.
- Identify a unique marker for the court records for pregnant incarcerated women.
- Supervision of prisons and remand to ensure the welfare of children accompanying their mothers or primary caregivers to detention.
- Develop sentencing guidelines for primary caregivers in conflict with the law that ensure respect to law and order and take into consideration the best interest of the child.
- Consider developing alternatives to detention for mothers and primary caregivers such as the intensive supervision probation, community orders, curfews and electronic monitoring.⁴⁹

48 [GENERAL COMMENT NO. 1 \(ARTICLE 30 OF THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD\) ON: "CHILDREN OF INCARCERATED AND IMPRISONED PARENTS AND PRIMARY CAREGIVERS"](#) para 41-55

49 Macharia, A. (2021). *Rights of the Child, Mothers and Sentencing: The Case of Kenya* (1st ed.). Routledge. <https://doi.org/10.4324/9781003143291>

Strategic Focus 4: The Judiciary and Collaborators For Child Justice

Strategic Objective 4:

To Strengthen the Judiciary and its collaboration between child justice actors towards fulfilling the vision of the strategy.

Access to justice is a fundamental right and an important prerequisite for the protection of other rights; as well as a means to combat poverty and address inequalities⁵⁰. In order to ensure access to justice for children, the Judiciary and its environs must be accessible to children, their families and the community. Furthermore, the right to remedies which are at the heart of access to justice must be available to children. To facilitate the foregoing, the Children Act 2022, provides for child friendly courts both structurally and procedurally. The NCAJ Justice for Children Strategy (see Strategic Area 5), provides that these accessible child friendly courts can for the most part be achieved by ensuring an increase in the number of trained judicial officers on children matters, designating more children courts, improving case management practices to address backlog and delay and as per the Children Act and establishing the Office of Registrar Children Court (ORCC).

Outcome 4.1. A reliable, efficient, and accessible Judiciary that protects the rights of the child.

The Judiciary should be at the forefront of protecting the child's rights by being reliable, efficient and accessible. The competency of the judicial system ensures that decisions made are in the best interest of the child. The Judiciary ought to ensure that the court process is adaptable to the needs of the child. This is not only limited to the judicial officers but all judicial staff, including the court clerks and the registry staff.

In the foregoing parts of this strategy, one of the challenges identified (see gaps in Judiciary) is that all magistrates in Kenya are gazetted to handle children matters, of which majority have not received specialised training on handling children matters⁵¹. This has led to a backlog of cases, children being detained in the police stations for extended periods of time, lack of legal representation and the welfare of the child being neglected. Further, there are only two gazetted children's courts designated to solely hear children matters currently these are Nairobi, Milimani Children Court and Tononoka Children Court in Mombasa. Malindi, Nakuru and Thika Law Courts have specially designed child-friendly courtrooms. These courtrooms, though designed for children matters, are not solely designated for children matters only. Magistrates in those courts still have to handle other matters involving adults which often means the children's matters are not given a priority. Nevertheless, all the 542 magistrates who adjudicate over 127 courts in Kenya are all gazetted as children court Magistrates.

These challenges and gaps will be addressed through an assessment of all court stations to determine if their current infrastructure has the capacity to accommodate children's court and where the same is lacking one will be constructed. In line with the vision of the Judiciary (STAJ) all judicial officers will also receive training on handling children matters; Magistrates designated to children courts will receive continuous training on children rights, policies and practice and the Magistrates will be encouraged to fulfil the tenets of the Constitution and the Children Act regarding the welfare of the child appearing before them.

4.1.1 Knowledge for judicial officers and court staff on children's matters is enhanced.

- Kenya Judiciary Academy working closely with institutions of higher learning to develop a comprehensive curriculum on the Children Act 2022.
- Develop a module from the CCPO curriculum on Child friendly justice to be included in induction training for all Judicial officers by the Kenya Judiciary Academy.
- Adopt and implement a mandatory training policy for all judicial officers and staff handling children matters.
- Train all Children's judicial officers, court staff on Active Case Management, including sensitization on the negative impact that long delays have on children.

50 United Nations Children's Fund (UNICEF), The Regional Office for CEE/CIS, Children's Equitable Access to Justice, Central and Eastern Europe and Central Asia, UNICEF, Geneva, 2015) https://www.unicef.org/media/50996/file/Equitable_access_to_justice_for_children_in_Central_and_Eastern_Europe_and_Central_Asia_-_v2_1.pdf

51 NCAJ Report page 34



4.1.2 Accessible Child Friendly Courts and spaces established.

- Identify, rehabilitate and gazette child friendly courts across the country.
- Conduct continuous assessment of children’s court cases to identify jurisdictions with the highest case-load.
- Rehabilitate and paint all children courts to make them child-friendly with vibrant colours.
- Designate a separate holding facility within the court station specifically for children (boys, girls and intersex children) and ensure it is child friendly.
- Designate a waiting bay for children and their families and guardians.
- Give designated Children’s Court Magistrates unlimited jurisdiction to sit in any court station and institute Children’s Court Circuits / mobile courts in accordance with the Children Act(2022).
- Incorporate plans for expanding the number of specialised Children’s Courts into the Judiciary Infrastructure Master Plan and ensure a child-friendly courtroom design is incorporated into all future plans for court station construction and renovation.
- Develop a digital portal for jurisprudence developed from children’s cases.
- Adopt and strengthen the juvenile justice information management system.
- Establish a Children High Court Division

4.1.3 The Office of the Registrar of the Children’s Court Established

- Develop Policy paper, which includes the terms of reference, qualification, and functions of the Office of the Registrar of Children Court
- Advertise and Recruit for the Office of the Registrar of Children Courts
- Operationalize the Office of the Registrar of Children Courts by providing the human and financial resources.

4.1.4 The November Judicial Service Month for Children Matters is Institutionalised, Operationalized and regularised

- Judiciary to develop costed work plans towards Judicial Service Month for Children Matters celebrated annually in the month of November.
- Judiciary to lead the CUC in creating awareness amongst the community on the purpose of the service month, the rights of the child and child rights issues within the society.
- Identify, prioritise and finalise cases that have exceeded the stipulated timelines in the court.
- Document successes of the service month and share the report with the Office of the Registrar Children Court and the NCAJ.
- Collaborate with all justice actors to ensure success of the service month.

Outcome 4.2 Litigants awareness of the judicial process enhanced.

It is vital that litigants are educated on the court process. Key informants during the study pointed out that quite often, litigants are not aware of the court processes and surroundings, in addition to the lack of (or need of) legal representation. Legal representation which is a key facet of access to justice is one of the greatest hurdles to children in Kenya, despite the children Pro-Bono lawyers programs established by The Hon. Chief Justice. This outcome contributes to the NCAJ Justice for Children strategy and envisions the use of various avenues to ensure the right to information and legal representation is attained for litigants including children and their families.

4.2.1 Educate and inform litigants of their rights and the court process.

- Conduct regular court briefing sessions in advance of court sessions to educate litigants on their expectations during the court process.
- Establish a children service desk in each court station where inquiries can be made concerning children



matters.

- Engage paralegals to man children service desks and offer the services to the public and litigants.
- Develop and strategically position information and reading materials in form print media such as pamphlets, posters and other forms of print media at various points in the court stations.
- Develop a USSD code where litigants can request for information regarding their case such as the next court date.

4.2.3 Legal representation enhanced.

- Keep a register specifically for Advocates willing to take up Pro Bono children matters.
- Assign every matter of a child to a competent advocate, giving priority to children in conflict with the law.
- Collaborate with the National Legal Aid Service to ensure representation of all children and litigants in children matters.
- Institute a Judiciary reward system for Pro-Bono lawyers.
- Establish and Fund a Judiciary Pro-Bono lawyers fund for children to ensure all children in contact with the law are represented and their lawyers are well remunerated.
- Advocate through the NCAJ the establishment of the Public Defender's Office.

Outcome 4.3 Strengthened inter-agency collaboration, communication and coordination.

To enhance access to justice for children, the need for collaboration amongst the justice and social service actors including: the Police, the ODPP, the probation officers, children's officers, Advocates, local administration, and volunteer community social workers, cannot be gainsaid. These child justice agencies form the newest mechanism established under the NCAJ and that is the Children Court User Committee (CCUC). The CCUC mirrors the functions and membership of the Court User Committee (CUC) but is more specific to children matters. Children Court User Committees plays an important role in creating accountability for the stakeholders in the child justice system. The CCUC consists of representatives from all the stakeholders' offices, and meets at least quarterly to review the state of the children within the justice system. They also share ideas on how to make the system better and call every stakeholder to account.

Interagency collaboration, communication and coordination is therefore best achieved through the strengthening of the committees established by the Judiciary and the NCAJ.

4.3.1 Mended child justice chain link

- Multi-agency training between all the stakeholders hosted by Kenya Judiciary Academy.
- Hold multi-agency Conferences and Workshops including institutions of higher learning, to discuss child justice.
- Engage academic and research institutions to develop evidence-based interventions towards enhancing the rights of children in Kenya.
- Collaboration with *Watoto Wa Wakili* Clubs and other academic initiatives to promote the rights of the children and increase the number of lawyers interested in Child law.
- Strengthen the Standing Committee on the Administration and Access to Justice for children.
- Hold National Council on the Administration of Justice, meetings in different parts of Kenya to ensure that justice needs for every Kenyan child are identified and addressed.

4.3.2 Children Court User Committees (CCUC) established, operationalized and strengthened.

- Through the NCAJ, facilitate the adoption of the CCUC guidelines.
- Disseminate the CCUC to all the Chairpersons of the Court User Committees.
- Conduct training for Court user Committees to empower them to establish CCUC.
- Provide adequate funding for CCUC to fulfil its agenda.



Social Transformation Through Access to Justice Blueprint Priorities (Judiciary Vision)

A safe and secure formal or informal system that efficiently handles children in contact and those in conflict with the law.

a. Establishment of Child friendly Courts and Child Centred AJS

- Roll out Children's Courts in key urban areas.
- Develop virtual court practice directions for children's matters.
- Procure video conference facilities including remote witness boxes.
- Trauma informed court facilities/child friendly courts.
- Develop case management templates for children's court.
- Support Rapid Results Initiatives to review and conclude children cases.
- Development of a Diversion framework in line with the Children Act 2022.
- Support AJS Mechanisms to resolve children matters.

b. Establish child friendly justice system

- Develop an appropriate diversionary framework for children.
- Training and psycho-social support for judicial officers handling children matters.

c. Data management

- Embed the Juvenile Justice Information Management System (JJIMS) into the Case tracking system (CTS)



CHAPTER 4: IMPLEMENTATION FRAMEWORK

As a key element of the STAJ Blueprint, the implementation of the Child Justice Strategy shall be spearheaded by the Hon. Chief Justice. For effective implementation The Hon. Chief Justice will be supported by various technical persons in the Office of The Hon. Chief Justice, led by the Chief of Staff, the technical persons in support of this office including but not limited to the Program officers, the Child Justice Expert and the Officers responsible for Data Management.

The Hon. Chief Justice shall implement the strategy by providing directions to the Judiciary through policies, directives and rules of procedure. The Hon. Chief Justice and the Office of the Chief Registrar shall provide direction for the establishment of the Office of the Registrar of Children Courts. The Office of The Chief Justice shall also lead discussions and development of implementation plans with the Kenya Judiciary Academy to begin the process of the training and capacity building of the judicial officers and staff on the child friendly justice and the Children Act(2022).

The Hon. Chief Justice in her mandate as the Chairperson of the National Council on the Administration of Justice, shall encourage justice actors to collaborate with the Judiciary to support in the implementation of this Child Justice Strategy.

Following its adoption, it is envisioned that the Office of The Hon. Chief Justice together with the Director of Planning and Organisational Performance (DPOP) shall cost the work plan. The strategy shall be implemented between the year 2023 and 2030. The Office of The Hon. Chief Justice shall prepare annual work plans to implement the strategy.

The monitoring of the implementation of the Child Justice strategy shall be facilitated by the Office of Director of Planning and Organisational Performance. The NCAJ Standing Committee on the Administration of and Access to Justice for Children shall also facilitate the monitoring of strategy by the Children and other stakeholders during the annual Child Justice Summit.





CHAPTER 5: SUMMARY – CHILD JUSTICE STRATEGY

STRATEGIC FOCUS: CHILDREN IN CONFLICT WITH THE LAW

Indicators:

- Number of Children diverted from the justice system.
- Number of diversion programs developed together with partners.
- Percentage of Children Successfully attended the diversion programs.
- Percentage of cases finalized within the required time frame.
- Number Policy documents finalized and disseminated.
- Number of judicial officers trained.
- Number of children in remand homes and rehabilitation centers
- Number of families referred to family therapy or counselling.
- Number of cases referred to ADR and AJS.
- Number of Court decisions documenting experts reasoning as part of their rationale.
- Number of community sensitization forums

Strategic Objective	Outcome	Output	Activities	Lead Implementer
To prevent children coming into conflict with the law	1.1 Diversion and Child focused Alternative dispute resolution (ADR) and Alternative Justice Systems (AJS) rolled out and scaled up through the judiciary	1.1.1 Diversion rules and Child-focused AJS and ADR guidelines developed in conjunction with the ODPP	<ul style="list-style-type: none"> Chief Justice to develop and gazette rules on diversion to be included in Children in Conflict with the law Rules Sensitize Children Court magistrates on early diversion of children using the Preliminary Inquiry. Develop guidelines on diversion programs available for the children. Develop guidelines on management, coordination and follow-up of diversion programs to ensure quality control Develop electronic register within the Court system to capture data and measure success of diversion and its programs integrated with JJIMS Collaborate with Department of Children Services, Community Structures, ODPP and Probation and After Care services to develop effective diversion programs 	Hon. Chief Justice Office of the Chief Justice Registrar Rules Committee Judiciary DPOP ODPP NCAJ
		1.1.2 Child-focused and Child inclusive AJS and ADR rules and guidelines developed	<ul style="list-style-type: none"> Chief Justice to develop and gazette rules on child focused mediation. Establish court-annexed mediators trained on children matters in every court station Guidelines on Alternative justice systems for children matters developed and adopted Disseminating child friendly materials (abridged version) Sensitisation of all the actors in the child justice system 	OCJ Office of the Chief Registrar Rules Committee Judiciary DPOP
	1.3 The rule of detention as a last resort enforced	1.3.1 Strengthen the use of alternatives to detention including, pre-trial detention for example parental custody, to a treatment program, or a school.	<ul style="list-style-type: none"> Develop and adopt timelines for trial for children in pre-trial detention Institutionalize prompt mechanisms for magistrates concerning children in pre-trial detention – including weekly reports from remand homes officers- connected to the JJIMS and CTS Conduct further research on alternatives to pre-trial detention. Institutionalize the practice of using virtual hearings and mobile courts to make decisions about bail. Develop bail and bond rules for children to ensure lenient bond terms and use of parental bonds Train magistrates on their obligation to conduct Preliminary Inquiries for early determination of pre-trial release and diversion. Office of the Chief Justice to spearhead advocacy for educational programs in pre-trial detention centres. Ensure legal representation of children before plea taking 	OCJ Registrar Magistrates Courts Rules Committee Judiciary Kenya Judiciary Academy DPOP

	<p>1.2 Judiciary led, family centered interventions and rehabilitation programs</p>	<p>1.2.1 Court ordered Family Counselling programs established.</p>	<ul style="list-style-type: none"> • Develop Court ordered family counselling programs together with the Department of Children Services • Develop court rules and guidelines for family conferencing. • Sensitize the community on laws and policies addressing on access to justice for children through organized community forums, online platforms, radio stations and television. 	<p>OCJ Office of the Chief Registrar Registrar Courts Rules Committee Judiciary DPOP</p>
		<p>1.2.3 Collaboration enhanced between the judiciary, probation and department of children services towards rehabilitation of children</p>	<ul style="list-style-type: none"> • Develop follow-up mechanisms after determination of cases of children in conflict with the law. • Progressively encourage comprehensive court determinations which include explicit consideration of probation officers reports towards the cases. 	<p>Office of the Chief Justice Registrar Courts Rules Committee Judiciary DPOP Children Court User Committees</p>
<p>Strategic Focus 2: Children in need of care and protection; victims of abuse and witnesses</p>				
<p>Indicators</p>				
<p>Policies developed, gazette and disseminated.</p>				
<p>Establishment of trauma informed Court.</p>				
<p>Number of cases finalized in required timeframe per year</p>				
<p>Number of Children receiving support including counseling and legal representation</p>				
<p>Number of Children accessing the help and reporting desks within the judiciary</p>				
<p>Number of Judicial officers trained.</p>				
<p>Number of meetings held with specialized units</p>				
<p>Include the through care guideline's role of judiciary</p>				
<p>Number of children courts and magistrates established per year.</p>				
<p>Strategic Objective</p>	<p>Outcome</p>	<p>Output</p>	<p>Activities</p>	





<p>Strategic Objective: To protect children in contact with law from abuse while in contact with the judiciary</p>	<p>Outcome 2.1: Child protection and participation Enhanced.</p>	<p>2.1.1 Child friendly court processes enhanced, aimed at the protecting the child from further revictimization.</p>	<ul style="list-style-type: none"> In collaboration with other justice actors make child-friendly reporting and complaints mechanisms available and accessible for children at a low threshold, thus preventing (further) violence before it happens. Develop bench cards to inform judicial officers on handling of cases for different categories of children, including language; writing child friendly judgements; having child friendly procedures. Establish and develop timelines for completion of children matters for children in contact with the law which is connected to the JJIMS and the Case Tracking System (CTS) Gazette <i>White</i> as the File color for all matters concerning children matters Gazette Court Child practice directions Develop practice directions on pre-recorded evidence Develop rules on compensation and restitution as provided in the Victim Protection Act 2014 Institutionalize pre-trial for children's cases Ensure that all court stations have a screen explaining the rights of children, the courts functions, and processes. Develop child sensitive virtual court guidelines. Establish witness protection boxes, pathways, and voice distortion kits for highly sensitive cases. The Chief Justice to develop witness protection rules of court for children. Develop separate case registers for children's cases Collaborate with the Ministry responsible for social protection and assistance and KNCHR support child victims of abuse and children vulnerable to abuse and neglect. Continuous research on causes of violence against children can be mapped through JJIMS Establish a fund for child victims and offenders and their families to enhance accessibility to the court. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
	<p>2.1.2 Establish Trauma informed court rooms for children's victims of abuse:</p>	<ul style="list-style-type: none"> Conduct training for judicial officers on psychological impact of trauma and abuse Subject to section 90 of the Children Act, develop a trauma informed court protocol. Collaborate with Ministry of Health to develop a working MOU for provision of Psychosocial Support for Child Victims and witnesses. Collaborate with Ministry of Health to develop a working MOU for provision of Psychosocial Support for Judicial officers working on children matters Develop rules, guidelines, and standard operating procedures to give effect to PartXI of the Children Act⁵² 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>	

	<p>Outcome 2.2 Access to justice for child victims of emerging forms (child online abuse, radicalisation, child trafficking, among others) of abuse is enhanced</p>	<p>2.2.1 Capacity of the judiciary to deal with the serious and emerging crimes enhanced</p>	<ul style="list-style-type: none"> Develop systems to enable case files where the children are under the witness protection agencies, are filed under the office of the registrar. Enhance privacy and confidentiality in the records under the Case Tracking System Establish witness protection facilities in the courts, through providing, witness protection boxes, holding rooms for protected witnesses, voice distortion facilities, safe passage for victims and witnesses and secure video link facilities. Conduct periodic training for all judicial officers on Online Child Sexual Abuse and Exploitation (OCSEA) and other emerging forms of crime. Conduct periodic training for all judicial officers on the varying aspects of Children on the Move susceptible to child trafficking and commercial sexual exploitation. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
		<p>2.2.2 Integrated, multi-disciplinary response to serious and emerging forms of violence against children</p>	<ul style="list-style-type: none"> Judiciary to lead collaboration among the justice agencies to ensure expeditious delivery of justice Collaborate with specialized agencies the Anti-Human Trafficking and Child Protection Unit and the Witness protection agencies to ensure child protection before, during and after trial. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
	<p>Outcome 2.3 Children in need of care and protection are identified, protected and reunified with their families</p>	<p>2.3.1 Judiciary led interventions to identify vulnerable children and their families to link them with prevention and early intervention programs, established.</p>	<ul style="list-style-type: none"> Develop Standard operating procedures for identification of different levels of risk the children are susceptible to. Establish child friendly information and reporting desks in court Ensure court orders take into consideration social security measures under section 12 of the Children Act and Article 43 of the Constitution of Kenya NCAJ together with County governments to formulate guidelines to support identified children in need of care and protection. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
		<p>2.3.2 Judicial interventions for the care and protection of the Children enforced.</p>	<ul style="list-style-type: none"> Conduct training for child justice actors on the application and implementation of Part XI and XII (Judicial intervention and Children in need of care and protection) of the Children Act Develop IEC materials for the public on the responsibility of different actors on care and protection of children Develop guidelines on Court supervision of children placed in alternative care, including charitable children homes, foster families and child headed house-holds Collaborate with Counsellors, Psychologists and other experts during the determination of children in need of care and protection cases Pilot Court annexed psychosocial support and therapy Develop guidelines for establishment of the Court annexed psychosocial support and therapy Ensure active involvement of children officers and parents and guardians during the determination of the cases Develop a schedule for periodic supervision of charitable children institutions by the judiciary Expedite cases of children in need of care and protection within 3 months as stipulated in the law Establish court supervised classes on parental knowledge and skills, together with Department of Children Services and Probation and After Care Services. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>





Strategic Focus 3: Enforcing the Rights of Children accompanying their incarcerated mothers, fathers or sole caregivers	
<p>Indicators</p> <p>Policies developed, gazette and disseminated.</p> <p>Number of Children entered into the register for children accompanying their incarcerated mothers and primary caregivers</p> <p>Number of Protection and Care files opened in court.</p> <p>A unique marker for pregnant incarcerated women</p> <p>Number of institutional visits by the court</p> <p>Number of alternatives to detention implemented.</p>	
<p>Strategic Objective</p> <p><i>Strategic Objective: To enhance identification and protection of children accompanying their mothers or primary caregivers to incarceration.</i></p>	<p>Outcome</p> <p>Outcome 3.1 Children accompanying their mothers or primary caregivers are identified and their rights protected.</p>
<p>Output</p> <p>3.1.1: Children accompanying their mothers or fathers, or primary caregivers are identified, and their rights protected.</p>	<p>Activities</p> <ul style="list-style-type: none"> • Conduct sensitization for Judicial officers on the use of Protection and Care form to record children accompanying their mothers or primary care givers during trial or to prison. • Develop a register for children accompanying their mother or primary care givers to prison to form part of the court records. • Identify a unique marker for the court records for pregnant incarcerated women • Supervision of prisons and remand to ensure the welfare of children accompanying their mothers or primary caregivers to detention. • Develop sentencing guidelines for primary caregivers in conflict with the law that ensure respect to law and order and take into are in consideration of the best interest of the child. • Consider developing alternatives to detention for mothers and primary caregivers such as the intensive supervision probation, community orders or curfews and electronic monitoring.
	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC Magistrates</p>
<p>Strategic Focus: THE JUDICIARY AND COLLABORATORS FOR CHILD JUSTICE</p>	
<p>Indicators</p> <p>Policies developed and adopted.</p> <p>Operationalization of Office of the Registrar Of Children Courts.</p> <p>Modules and curriculum developed and utilized by the Kenya Judiciary Academy and LSK</p> <p>Number of Judicial Officers trained.</p> <p>Percentage of funds going to children matters.</p> <p>Number of child friendly court rooms available across the country.</p> <p>Number of children and litigants accessing information desks.</p> <p>Percentage of cases reduced during the service month.</p> <p>Number of initiatives between the judiciary and other collaborators.</p> <p>Number of inter-agency meetings</p> <p>Percentage of increase of funding towards CCUC</p>	

Strategic Objective	Outcome	Output	Activities	
To Strengthen the judiciary and its collaboration between child justice actors towards fulfilling the vision of the strategy.	Outcome 4.1. A reliable, efficient, and accessible Judiciary that protects the rights of the child	<p>4.1.1 Knowledge for judicial officers and court staff on children's matters is enhanced.</p> <p>4.1.2 Accessible Child Friendly Courts and spaces</p>	<ul style="list-style-type: none"> Kenya Judiciary Academy working closely with institutions of higher learning to develop a comprehensive curriculum on the Children Act 2022 Develop a module on Child friendly justice from the (CCPO) curriculum, to be included in induction training for all Judicial officers by the Kenya Judiciary Academy Adopt and implement a mandatory training policy for all judicial officers and staff handling children matters Train all Children's judicial officers , court staff on Active Case Management, including sensitization on the negative impact that long delays have on children. Identify, rehabilitate and gazette child friendly courts across the country Conduct continuous assessment of Children's court cases to identify jurisdictions with the highest case-loads. Rehabilitate and paint all children courts with vibrant colors to make them child-friendly. Designate a Separate holding facility within the court station specifically for children (boys, girls and intersex children) and ensuring it is child friendly. Designate a waiting bay for children and their families and guardians. Give designated Children's Court magistrates unlimited jurisdiction to sit in any court station and institute Children's Court Circuits / mobile courts in accordance with the Children Act, 2022 Incorporate plans for expanding the number of specialized Children's Courts into the Judiciary Infrastructure Master Plan and ensure child-friendly courtroom design is incorporated into all future plans for court station construction and renovation. Develop a digital portal for jurisprudence developed from children's cases. Adopt and strengthen the juvenile justice information management system. Establish a Children High Court Division 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC LSK</p> <p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
		<p>4.1.3 The Office of the Registrar of the Children's Court Established</p>	<ul style="list-style-type: none"> Develop Policy paper, which includes the terms of reference, qualification, and functions of the Office of the Registrar of Children Court Advertise and Recruit for the Office of the registrar of Children Courts Operationalize the Office of the registrar of Children Courts by providing the human and financial resources. 	<p>OCJ OCRJ Registrar, Magistrates Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
		<p>4.1.4 The November Judicial Service Month For Children Matters is Institutionalised, Operationalized and regularized</p>	<ul style="list-style-type: none"> Judiciary to develop costed workplans towards Judicial Service Month for Children Matters celebrated annually in the month of November. Judiciary to lead the CUC in creating awareness amongst the community on the purpose of the service month, the rights of the child and child rights issues within the society. Identify, prioritize and finalize cases that have exceeded the stipulated timelines in the court. Document successes of the service month and share the report with the office of the registrar children court and the NCAJ Collaborate with all justice actors to ensure success of the service month. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>



<p>Outcome 4.2 Litigants awareness of the judicial process enhanced</p>	<p>4.2.1 Educate and inform litigants of their rights and the court process.</p>	<ul style="list-style-type: none"> • Conduct regular court briefing sessions before the court sessions to educate litigants on their expectations during the court process. • Have a children service desk in each court station where inquiries can be made concerning children matters. • Engage paralegals to man these service desks and offer the services to the public and litigants. • Develop and strategically position reading materials in form print media such as pamphlets, posters and other forms of print media at various points in the court stations. • Develop a USSD code where litigants can request for information regarding their case such as the next court date 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
	<p>4.2.3 Legal representation enhanced.</p>	<ul style="list-style-type: none"> • Keep a register specifically for Advocates willing to take up Pro Bono children matters. • Assign every matter of a child to a competent advocate, giving priority to children in conflict with the law matters. • Collaborate with National Legal Aid Service to ensure representation of all children and litigants in children matters. • Institute a judiciary reward system for pro-bono lawyers. • Establish and Fund a judiciary pro-bono lawyers fund for children to ensure all children in contact with the law are represented and their lawyers are well remunerated. • Advocate through the NCAJ the establishment of the public defender's office. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
<p>Outcome 4.3 Strengthened inter-agency collaboration and communication and coordination</p>	<p>4.3.1 Mended child justice chain link</p>	<ul style="list-style-type: none"> • Multi-agency training between all the stakeholders hosted by Kenya Judiciary Academy • Hold multi-agency including institutions of higher learning, Conferences and Workshops to discuss child justice • Engage academic and research institutions to develop evidence-based interventions towards enhancing the rights of children in Kenya • Collaboration with Watoto Wa Wakili Clubs and other academic initiatives to promote the rights of the children and increase the number of lawyers interested in Child law • Strengthen the standing committee on the administration and access to justice for children • Hold National Council on the Administration of justice, meetings in different parts of Kenya to ensure that justice needs for every Kenyan child are identified and addressed. 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>



		<p>4.3.2 Children Court User Committees established and strengthened.</p>	<ul style="list-style-type: none"> • Through the NCAJ, facilitate the adoption of the CCUC guidelines • Disseminate the CCUC to all the Chairpersons of the Court User Committees • Conduct training for Court user Committees to empower them to establish CCUC. • Provide adequate funding for CCUC to fulfil its agenda 	<p>OCJ OCRJ Registrar Courts Judiciary Kenya Judiciary Academy DPOP DPAC</p>
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