

THE JUDICIARY BUDGET: **A GUIDE FOR THE CITIZEN** FY 2023/24





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INTRODUCTION

The Judiciary discharges its mandate to administer justice and promote rule of law through the courts and Tribunals as provided for in Article 159 of the Constitution. The mandate is executed by developing jurisprudence and providing independent, accessible, fair and responsive fora for dispute resolution. Through interpretation of the Constitution, the Judiciary promotes the rule of law by shaping public policy and ensuring access to justice.

The operations of the Judiciary are primarily financed from the Consolidated Fund as appropriated by the National Assembly. The budget process is anchored on Article 173 (3) of the Constitution of Kenya, which requires the Chief Registrar of the Judiciary to prepare estimates of expenditure for the Judiciary each financial year. The Public Finance Management (PFM) Act, 2012, the PFM Regulations, 2015, the Judicial Service Act, 2011, the Judiciary Fund Act (JFA), 2016, the Judiciary Fund Regulations 2019, and the circular on operationalisation of the Judiciary Fund provide guidelines on the budgeting process and specific timelines for submission of the estimates to the Judicial Service Commission (JSC) and the National Assembly.

The Judiciary's budget is prepared through a consultative and participatory process as stipulated in Article 201 of the Constitution and Section 37 (5) (a) of the PFM Act. This process commenced with the issuance of the Chief Registrar guidelines on the preparation of the FY 2023/24 - 2025/26 Medium Term budget. The budget is prepared in the context of the current operations taking into consideration review of the past performance and the planned outputs in the medium term. Also outlines the institution priorities as contained in the Judiciary's Vision on Social Transformation through Access to Justice (STAJ) and KRAs drawn from the Strategic Plan (SP) 2019-2023. The Vision aims to put in place a people centred justice system that is accessible efficient, timely and cost effective.

The STAJ is predicated on the following five principles:

- . Accessibility and efficiency
- . Transparency and accountability
- . Inclusiveness and shared leadership
- . Cooperative dialogue
- . Social justice

BUDGET PREPARATION

Guiding Legislation

The Constitution of Kenya, 2010: Article 173(3) requires the Chief Registrar of the Judiciary to prepare and submit estimates of the Judiciary's expenditure each year to the National Assembly for approval.

Public Finance Management (PFM) Act, 2012: Section 37 (4) (a) requires the Chief Registrar to submit budget estimates including the proposed appropriations, to the National Assembly to be made no later than 30th April in each financial year. A copy of the tabled estimates to be provided to the National Treasury; Section 37 (5) (b) requires that the Chief Registrar of the Judiciary may make and publish rules to be complied with by those who may wish to participate in the process.

Judicial Service Act, 2011: Section 29 (1) requires the CRJ to prepare budget estimates and present them to the JSC for review prior to forwarding them to the National Assembly.

Judiciary Fund Regulations, 2019: Section 6 (1) At least three months before the commencement of each financial year, the Chief Registrar shall prepare estimates of all income and expenditure required for the purposes of the Act for the following year and shall present such estimates to the Commission for review; Section 6 (2) The Chief Registrar shall, upon review by the Commission, submit the estimates to the National Assembly for approval and provide a copy to the National Treasury and the Chief Justice. Section 6 (3) upon the approval of the estimates by the National Assembly, the expenditure of the Judiciary shall be a charge on the Consolidated Fund and the funds shall be paid from the Consolidated Fund directly into the Fund.

Circular on the Operationalization of the Judiciary Fund: Section 5 (a) requires the Chief Registrar of Judiciary to prepare estimates of all income and expenditure required for the purposes of the fund for the following year, at least three months before the commencement of each Financial Year for approval by the National Assembly.

The Chief Registrar Circular on "Guidelines for Preparation of the 2023/24 and the Medium Term Budget": This circular marked the beginning of the budget process for the Judiciary. It provides a schedule for preparation of the budget indicating key timelines, priority policy areas and issues to be taken into consideration including public participation and the format in which budget information and documents shall be submitted.

Public Participation

Article 201 (a) of the Constitution requires openness and accountability, including public participation in financial matters.

Public Finance Management (PFM) Act, 2012: Section 37 (5) (a) requires that the Chief Registrar of the Judiciary shall ensure that members of the public are given an opportunity to participate in the budget preparation process.

The Judiciary's Annual Budget is prepared through a very consultative and participatory process and adopts a programme-based budget approach that consolidates resource requirements from all the Courts, Tribunals and other Spending Units.



Participants take part in public hearings on the Judiciary and JSC budget proposals for the Financial Year 2022 - 2023

FINANCIAL AND NON-FINANCIAL ACCOUNTABILITY

Financial Reporting and Compliance:

- The PFM Act Section 68 (2)(k) requires that the Chief Registrar prepares annual financial statements for each financial year within three months after the end of the financial year, and submit them to the Controller of Budget and the Auditor-General for audit and copy the National Treasury.
- Regulation 11 of the Judiciary Fund Regulations 2019, requires the Chief Registrar to prepare and submit quarterly budgetary expenditure reports for the Fund to the Judicial Service Commission and the Controller of Budget and submit copies of the reports to the National Treasury.

Judiciary Fund Monitoring and Evaluation Framework:

- The Circular on Operationalisation of the Judiciary Fund established the Judiciary Fund Management Committee to oversee budget implementation and advise the Chief Registrar of Judiciary on performance of the Judiciary Fund. The Committee ensures that Monitoring and Evaluation (M&E) is entrenched in the management of the Fund. The Committee also prepares and tables progress reports to the Chief Registrar of Judiciary.

State of the Judiciary and the Administration of Justice Report (SOJAR):

- A statutory report provided for under section 5(2)(b) of the Judicial Service Act; An annual accountability report to the public on all activities, achievements and challenges faced by the Judiciary in carrying out the reform agenda in pursuit of its constitutional mandate; Report is submitted to Parliament.

Performance Management and Measurement Understanding (PMMU) Framework:

- The Framework guides in the measurement of performance in the Judiciary based on internationally accepted Judicial Performance Indicators; Currently, all Courts, Tribunals and other spending units sign annual PMMUs which are evaluated, ranked and the performance report is published and publicized.

Achievements in the FY 2021/22

- **Operationalization of the Judiciary Fund:** The Judiciary Fund became operationalized with effect from 1st July 2022 vide the National Treasury Circular dated 24th May 2022. The current Government Administration has committed to support the operationalization of the Fund, through upscaling the budget allocation to ensure financial autonomy for the Judiciary as envisaged in the Constitution.

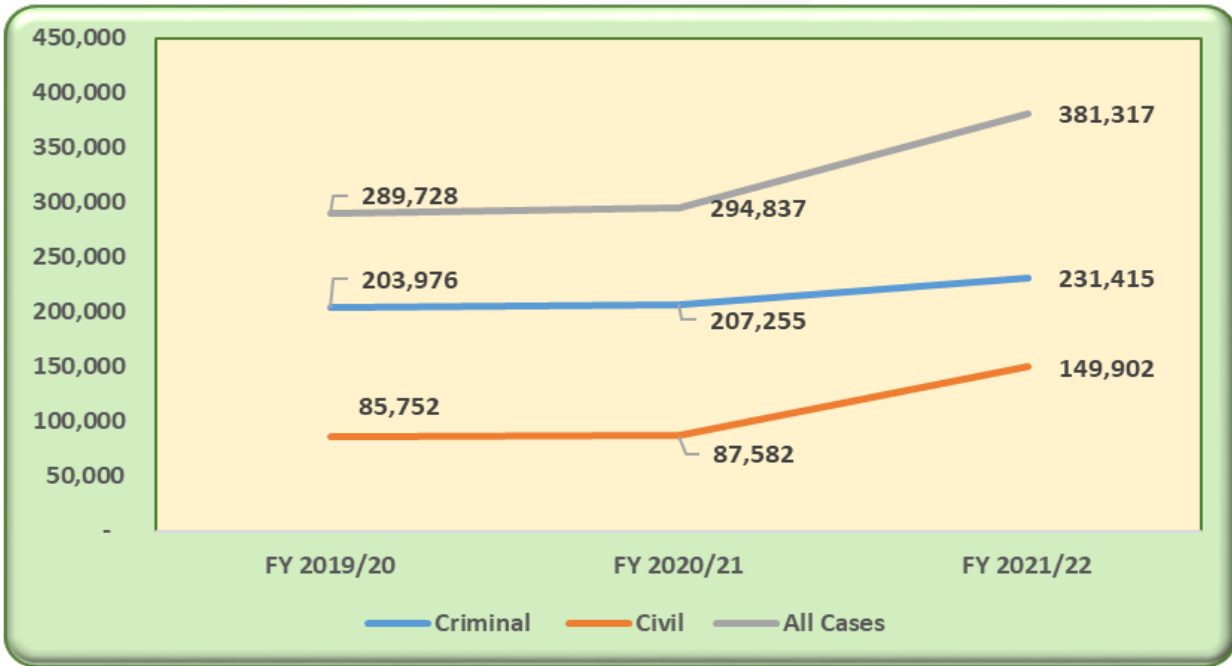


The Chief Registrar of the Judiciary, Anne Amadi, receives instruments operationalizing the Judiciary Fund from Michael Rundu Eganza, Director - Banking and Payment Services at the Central Bank of Kenya.

Resolved Cases:

A total of 381,317 cases were resolved in the FY 2021/22 comprising of 231,415 criminal cases and 149,902 civil cases. This was a 29% improvement on resolved cases from the FY 2020/21 where there was a total of 294,837 cases comprising of 207,255 criminal cases and 87,582 civil cases. The trends in resolved cases from FY 2019/20 - 2021/22 is shown in Figure 1.

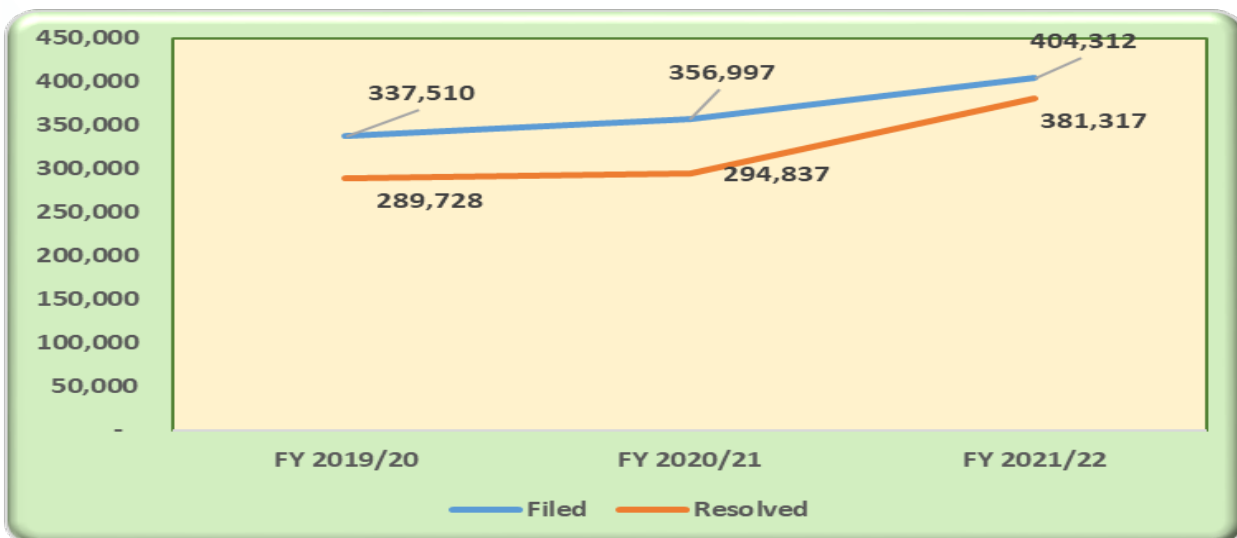
Figure 1: Resolved cases from FY 2019/20 - FY 2021/22



Case Clearance Rate:

The Case Clearance Rate (CCR) improved from 83 per cent in FY 2020/21 to 94 per cent in FY 2021/22. The CCR from the FY 2019/20 - FY 2021/22 is as presented in figure 2.

Figure 2: Case Clearance Rate from FY 2019/20 - 2021/22



2,736 Cases completed on circuits

COURT OF APPEAL

1

COURT WHERE CIRCUIT HELD

- MERU • NYERI • NAKURU • ELDORET • MALINDI • KAKAMEGA

TOTAL NUMBER OF CIRCUITS 13
NUMBER OF MATTERS CONCLUDED 395



RENT RESTRICTION TRIBUNAL

5

COURT WHERE CIRCUIT HELD

- KISUMU • ELDORET • NAKURU • MOMBASA • LAMU • NYERI • EMBU • GARISSA

TOTAL NUMBER OF CIRCUITS 14
NUMBER OF MATTERS CONCLUDED 1271

EMPLOYMENT AND LABOUR RELATIONS COURT

2

COURT WHERE CIRCUIT HELD

- MACHAKOS • MERU • KITALE

TOTAL NUMBER OF CIRCUITS 14
NUMBER OF MATTERS CONCLUDED 88

JUDICIARY COURT CIRCUITS

COOPERATIVE TRIBUNAL

6

COURT WHERE CIRCUIT HELD

- MOMBASA, NAKURU, ELDORET, KISUMU, NYERI, KAKAMEGA, MERU, EMBU

TOTAL NUMBER OF CIRCUITS 12
NUMBER OF MATTERS CONCLUDED 92

BUSINESS PREMISES TRIBUNAL

4

COURT WHERE CIRCUIT HELD

- MOMBASA, KISII, KISUMU, NYERI, MERU EMBU, KAKAMEGA, NAKURU

TOTAL NUMBER OF CIRCUITS 10
NUMBER OF MATTERS CONCLUDED 852

SPORTS TRIBUNAL

7

COURT WHERE CIRCUIT HELD

- ELDORET

TOTAL NUMBER OF CIRCUITS 1
NUMBER OF MATTERS CONCLUDED 4

ENVIRONMENT AND LAND COURT

3

COURT WHERE CIRCUIT HELD

- GARISSA • CHUKA

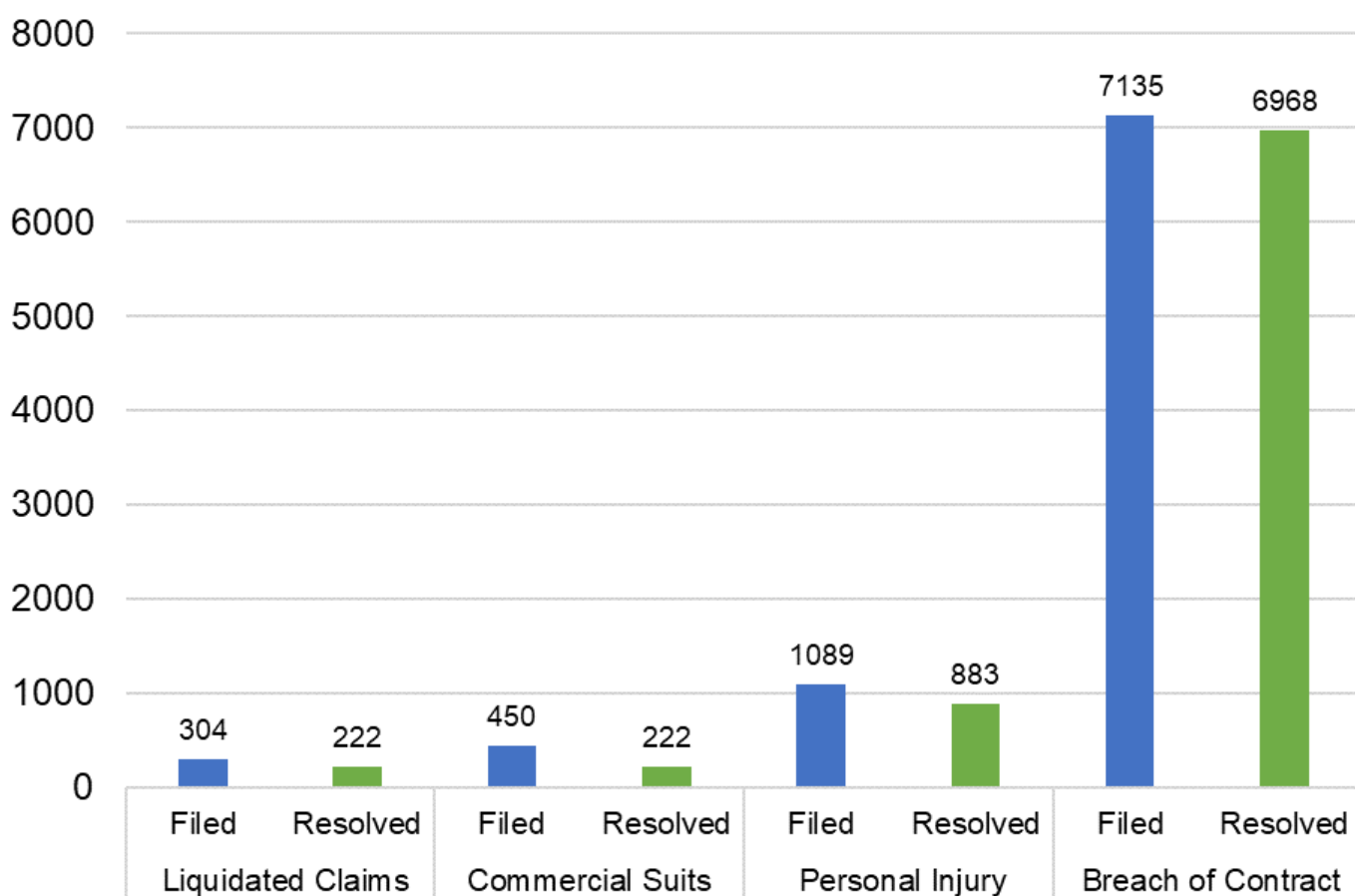
TOTAL NUMBER OF CIRCUITS 13
NUMBER OF MATTERS CONCLUDED 34



Backlog reduced

Operationalization of Small Claims Court:

- Eleven (11) Small Claims Courts (SCC) were operationalized in FY 2020/21 at Machakos, Meru, Kisumu, Mombasa, Eldoret, Kajiado, Kakamega, Naivasha, Nakuru, Nyeri and Thika in addition to Milimani. The SCC handle matters valued up to KShs.1 M which are categorized as breach of contract, commercial suits, liquidated claims or personal injury.
- Twenty-four (24) Resident Magistrates were appointed as Adjudicators to operationalize the courts.
- Milimani Small Claims Court registered a total of 12,459 matters and concluded over 8,308 matters with a value of KShs 1.1 Billion within a span of 14 months.
- Breach of contract cases constituted the largest portion of both filed (79%) and resolved cases (84%) in the SCC as shown in Figure 2:



Court Annexed Mediation:

- Court Annexed Mediation Registries were operationalized in 12 Courts namely; Bomet, Chuka, Kapsabet, Kericho, Kerugoya, Kiambu, Kitale, Meru, Naivasha, Nanyuki, Ngong and Siaya.
- A total of 2,419 matters were referred for mediation out of which 51.4% were settled; with a value of KShs 2.7 billion released to the economy as shown in figure 3.
- To support mediation, the Judiciary accredited 243 new mediators, bringing the total to 1072.

CAM in Monetary Value

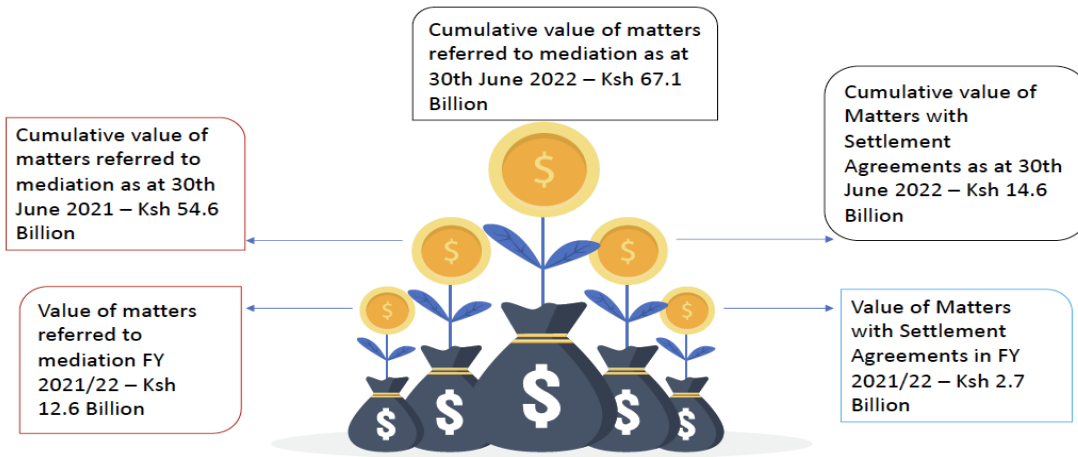


Figure 3: Court Annexed Mediation in Monetary Value

Alternative Justice Systems:

- The Judiciary has launched three AJS suites and models in Kajiado, Isiolo and Nakuru. Additionally, ten AJS mechanisms panels were launched in Kajiado County. The Kajiado model currently focuses on land related matters out of which sixty-one have been resolved successfully. These are cases that had been pending with the National Land Commission for a long time.



The Chief Justice and Judge Joel Ngugi with elders during the launch of AJS at Kajiado Law Courts



The National steering Committee on Implementation of Alternative Justice System (NaSCI-AJS) in conjunction with Thogoto Elders and KJA held an AJS awareness session for elders

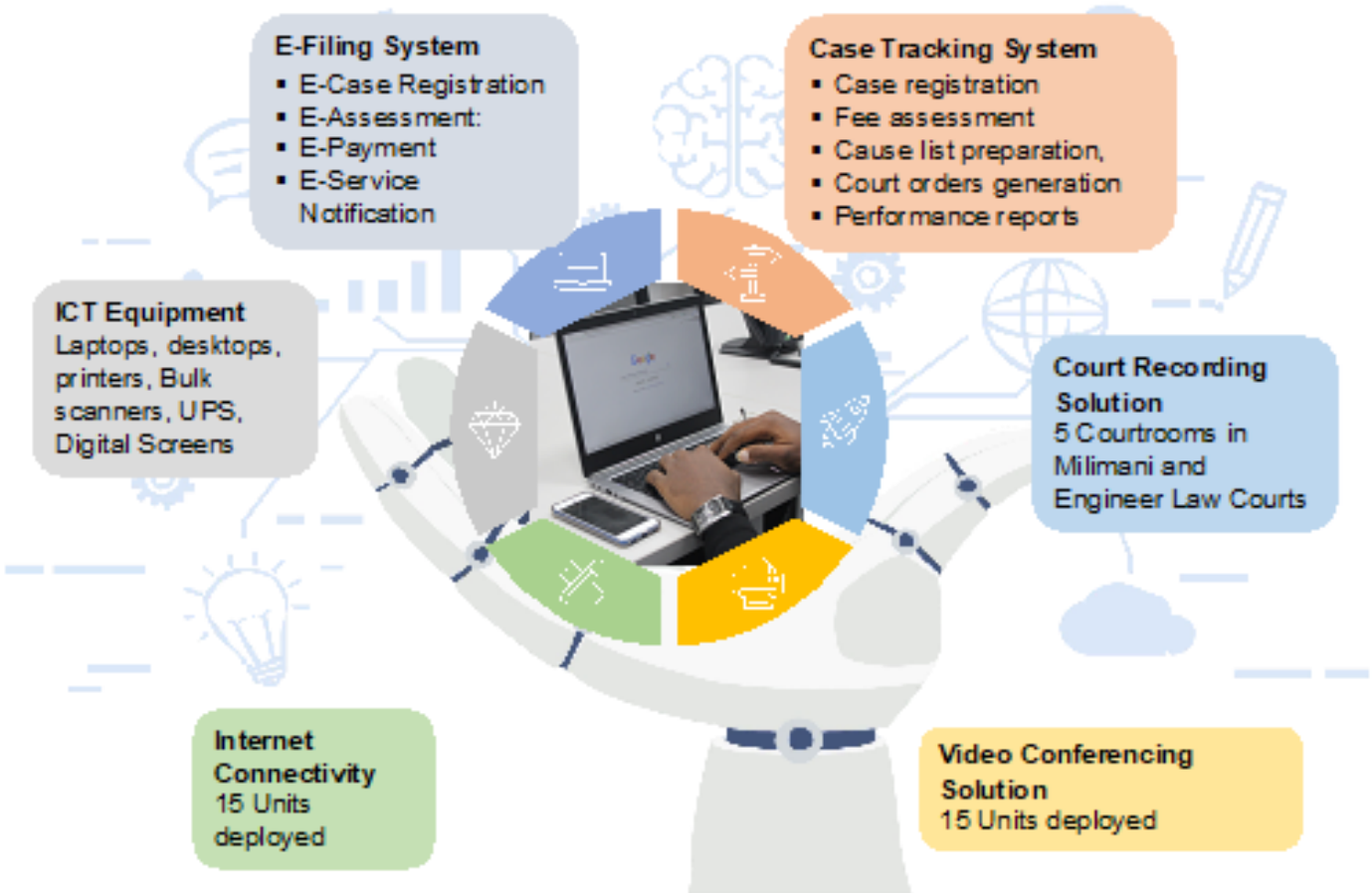
Establishment of Courts and registries:

- **Supreme Court:** two (2) sub-registries were established and operationalised at Mombasa and Kisumu;
- **Court of Appeal:** five (5) sub-registries were operationalised in Busia, Kakamega, Meru, Garissa and Kisii.
- **High Court:** four (4) sub-registries at Isiolo, Kapsabet, Eldama Ravine and Kilgoris.
 - **ELRC:** upgraded the Bungoma and Malindi sub-registries to fully fledged court stations while
 - **ELC:** eleven (11) new courts were operationalised in Homa Bay, Isiolo, Iten, Kapsabet, Kilgoris, Kitui, Kwale, Nanyuki, Nyamira, Siaya and Vihiga.
 - **Magistrate mobile courts:** Five (5) were established at Kalobeyei, Magadi, MaghariniMarigat, and Waldena.
 - **Tribunals:** the PPDT successfully established sub-registries in eight (8) Regions, which is Eldoret, Kakamega, Kisumu, Machakos, Meru, Mombasa, Nakuru and Nyeri.

Leveraging Technology for Productivity:

- Use of ICT initiatives was adopted towards enhancing efficiency, effectiveness and timeliness in service delivery.
- The Judiciary continued to invest in provision of internet services for all courts and tribunals.
- A total of 1,500 Microsoft Teams licenses were procured to facilitate the Virtual court hearings thus enabling litigants to attend to court proceedings without the need of attending in person.
- 31 video conferencing kits were procured and 38 courtrooms equipped with Court Recording and Transcription Solutions (CRTS) to facilitate virtual and remote hearing of cases.
- Three (3) secure and reliable data centers were operationalized.

Leveraging technology for Productivity



Construction of courts

- Eight (8) high courts were practically completed during the review period and are currently in use. These were Kapenguria, Kwale, Makueni, Maralal, Ol'Kalou, Garissa, Machakos and Mombasa high Courts.
- During the same period, three (3) magistrates' court buildings were constructed and completed in Kangema, Kibera and Butali.
- Another eleven (11) courts were ongoing at various stages of completion including: Mandera, Marsabit, Githongo, Embu, Kabarnet, Kandara, Amagoro, Eldama ravine, Port Victoria, Homabay and Mbita Law Courts.



Completed ELC Twin Court in Machakos Law Courts



The newly constructed Olkalou Court

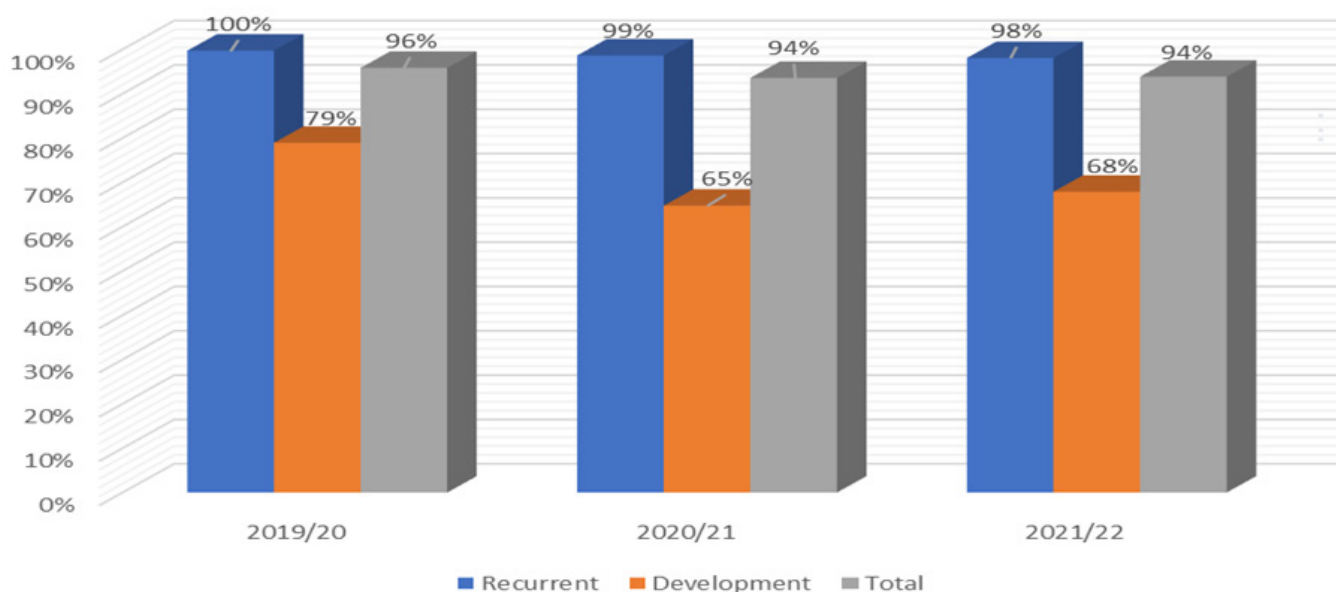


Butali Law Court

EXPENDITURE TRENDS

The overall absorption rate dropped marginally from 96% in FY 2019/20 to 94% in FY 2020/21, and FY 2021/22 respectively. The absorption for recurrent budget has averaged at 99% for the period under review. While development has been at an average of 71%, this is attributed to the adverse effects of the pandemic and poor performance by some contractors which affected implementation of programmes, especially the development projects.

Budget Absorption Rates-2019/20-2021/22



Resource Allocation FY 2023/24

Table 1: Resource Requirements versus Indicative Ceilings for FY 2023/24

Economic Classification	Approved Budget (Kshs. M)	Resource Requirements (Kshs. Million)	Indicative Ceilings (Kshs. Million)	Deficit (Kshs. Million)
	2022/23	2023/24	2023/24	2023/24
A: RECURRENT				
Gross	19,097	35,814	21,597	14,217
A-I-A	0	0	0	0
Net	19,097	35,814	21,597	14,217
B: DEVELOPMENT				
Gross	1,900	7,360	2,200	5,160
GOK	1,900	7,360	2,200	5,160
TOTAL Vote 1261	20,997	43,174	23,797	19,377

The Judiciary has a resource gap of **Kshs. 19 Billion** which translates to **45%** of the total resource requirement for the FY 2023/24. The Recurrent and Development Votes are under provided by **38%** and **73%**, respectively.

Given this resource gap, there is need to ensure that Judiciary's budget is enhanced for it to operate optimally and deliver services effectively to the citizens.

PRIORITY AREAS OF FUNDING IN FY 2023/24

Enhancing Delivery of Justice

- Continuous roll-out of Small Claims Courts including recruitment and facilitation of adjudicators
- Court Annexed Mediation: Payment of Mediators, Creation of Registries to facilitate roll-out of the programme across the country
- Service Weeks for Backlog Reduction as a rapid results initiative targeting to resolve all the cases aged 5 or more years.
- Entrenchment of Alternative Dispute Resolution (ADR) initiatives such as arbitration and traditional justice systems.
- Operationalisation of Judiciary Services in Huduma centres.

Court Operations

- Leveraging Technology on Justice Delivery: Adoption of Information Communication Technology (ICT) which is focused on digitisation of court processes, support functions and automation of registry operation.
- Fast tracking of Anti-Corruption Cases: Provision of file folders, stationery, court registers, furniture and equipment.
- Fast tracking of resolution of children matters through service weeks
- Operationalization of Sexual and Gender Based Courts
- Improving Access to justice
- Opening of new Magistrate courts stations at the constituency level
- Establishment of Mobile Courts in marginalized and far-flung areas
- Facilitation of Judges and Magistrates – purchase of motor vehicles and recruitment of additional court staff.
- Human Resource capital: Recruitment of Judges, Judicial Officers, Tribunal members and Staff; Implementation of the Judiciary organisation review report which is expected to enhance efficiency and effectiveness of service delivery. This will entail recruitment of Judicial staff to run the expanded Judiciary administrative structure and wide network of courts
- Construction of the Kenya Judicial Academy to strengthen capacity

Court infrastructure

- Completion of construction of ongoing Court constructions
- Renovations and refurbishment of existing courts
- Provision of generators, power backups and fittings for court stations.

PARTNERSHIP WITH STAKEHOLDERS

The Judiciary collaborates with various stakeholders who impact its service delivery. These include:

Parliament:

Parliament, consisting of the National Assembly and Senate, is responsible for the enactment of legislation, determining allocation of revenue between levels of government, and appropriation of the annual budgets. It also provides oversight on national and county revenue and its expenditure as well as on governance.



Hon. Justice Martha Koome, Chief Justice of the Republic of Kenya held robust discussions with the speaker of the National Assembly Speaker Justin Muturi and Members of the Public Accounts Committee, Justice and Legal Affairs Committee and the Budget and Appropriations Committee to discuss the Judiciary's financial capacity to deliver

The National Treasury:

Section 11 (1) of the Public Finance Management Act, 2012 establishes the National Treasury in line with the provisions of Article 225 of the Constitution. The National Treasury provides the fiscal framework to guide resource mobilisation and allocation; administers the consolidated fund; manages the Integrated Financial Management Information System (IFMIS); commits donor financing on behalf of the Government. The National Treasury also provides guidelines on preparation and implementation of the budget, administers remuneration for Judges from the Consolidated Fund Services, issues exchequer and approves reallocations of capital projects under the Judiciary Fund.

The Controller of Budget:

The Office of the Controller of Budget is established under Article 228 of the Constitution with the mandate of overseeing implementation of the National budget by authorizing withdrawals from the Consolidated Fund through approval of exchequer requests. The COB authorizes withdrawal of funds from the Consolidated Fund to the Judiciary Fund Account (JFA) and from the JFA to the Judiciary Operational accounts.

Central Bank of Kenya:

The Central Bank of Kenya is a public institution established under Article 231 of the Constitution of Kenya, 2010. The Bank is responsible for formulating monetary policy to achieve and maintain price stability and issuing currency. The Central Bank promotes financial stability through regulation, supervision and licensing of financial institutions under its mandate. The Bank also provides oversight of payment, clearing and settlement systems. CBK is the banker for, adviser to, and fiscal agent of the Government. CBK also provides Internet Banking (IB) platform that is linked to IFMIs for facilitating payments under Judiciary Fund.

Kenya Revenue Authority:

The Kenya Revenue Authority was established by an Act of Parliament, Chapter 469 of the laws of Kenya, which became effective on 1st July 1995. KRA is charged with the assessment, collection and accounting of all revenues that are due to the government of Kenya. In addition i-Tax is linked with IFMIs to facilitate collection and remitting of the collected taxes to the consolidated fund and the Chief Registrar is designated as a collector of Revenue.

The Auditor-General:

The Office of the Auditor-General is established under Article 229 of the Constitution with the mandate to confirm whether public resources have been applied lawfully and effectively through routine audits and preparation of annual reports which are submitted to Parliament. In line with Judiciary Fund Regulation 32 (2), the Auditor General audits the Financial Statements annually and files a report with the National Assembly.

The Judicial Service Commission:

The mandate of the Judicial Service Commission (JSC) as stipulated in Article 172 of the Constitution is to promote and facilitate the independence and accountability of the Judiciary, the efficient, effective and transparent administration of justice. The JSC is responsible for reviewing the Judiciary budget estimates as provided for under Section 29 Judicial Service Act, 2011. The Chief Registrar of Judiciary submits quarterly reports to the JSC, on the Judiciary fund implementation including reallocations.

The National Executive:

The National Executive of the Republic of Kenya comprises the President, the Deputy President and the rest of the Cabinet. The President assents into law all the legislative Bills.

The Attorney General:

The Attorney General is the principal legal adviser to the Government and represents the Judiciary in court on civil matters. The office through the National Legal Aid Service facilitates legal aid services to indigent, marginalized and vulnerable persons.

The Public:

The Judiciary derives its authority from the people of Kenya who are the main stakeholders of the Judiciary. Under Article 201 of the Constitution and section 37 (5) of the PFM Act, the Judiciary is required to ensure public participation in financial matters.

Development Partners:

Development Partners support the Judiciary with technical and financial assistance in carrying out its programmes.

County Governments:

County governments partner with the Judiciary in various programmes and projects such as providing land for construction and facilities for use as court premises.

The Ethics and Anti-Corruption Commission:

The Ethics and Anti-Corruption Commission (EACC) is a public body established under the EACC Act, 2011. Its mandate is to promote integrity and combat corruption through law enforcement, prevention and education. The EACC investigates and recommends for prosecution on matters of economic crime.

The Director of Public Prosecutions:

The mandate of the office of the Director of Public Prosecutions is derived from Article 157 of the Constitution. They prosecute all criminal matters in courts.

National Police Service:

The broad mandate of the National Police Service (NPS) as outlined in the National Police Service Act, 2011 is to maintain law and order and provide security. They second their officers to the Judiciary Police Unit (JPU).

Kenya Prisons Service:

The Kenya Prisons Service (KPS) derives its mandate from the Prisons Act, 1963, the Borstal Institutions Act, 1963 and the Public Service Commission Act, 2012. The KPS receives offenders once they are charged in court to facilitate responsive administration of justice.

Law Society of Kenya:

The Law Society of Kenya (LSK) is established under the Law Society of Kenya Act, 2014. Its mandate is to advise and assist members of the legal profession, the government and the larger public in all matters relating to the administration of justice.

Witness Protection Agency:

The Witness Protection Agency (WPA) is a body corporate established under the Witness Protection Act, 2008. The Agency provides special protection on behalf of the State to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with prosecution and other law enforcement agencies.

Probation and Aftercare services:

Probation and Aftercare Services play a key role in enforcing the community service orders issued by courts for the rehabilitation of offenders and their re-integration back to the community. They also prepare pre-bail and pre-sentencing reports.

Children Services Department:

Children Services Department support the work of the Judiciary by providing support to Children in conflict and/or in contact with the law. They make recommendations to the courts on matters related to children rights.

Civil Society Organizations:

Civil Society Organizations (CSOs) are non-governmental and non-profit making organizations in Kenya. They litigate on matters of public interest and special interest groups.

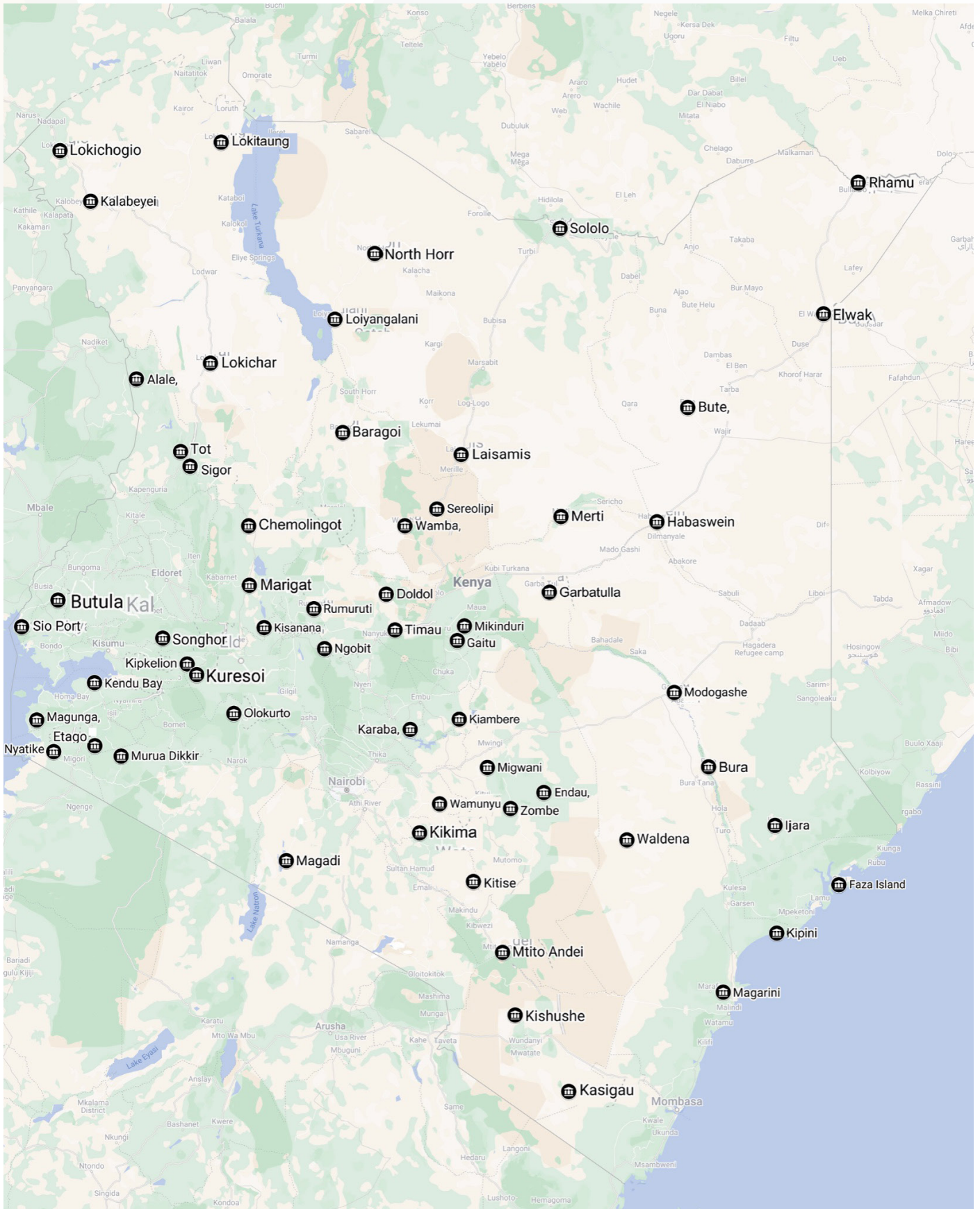
Media:

The Judiciary is accountable to the people of Kenya who are entitled to receive information on its operations. As such, the media is an invaluable partner in disseminating information. It provides coverage of public interest cases and creates awareness on the decisions of the courts.



Hon. Justice Martha Koome in 'The Situation Room' at Spice FM during an interview where she spelt out achievements made during her first year in office.

Distribution of Mobile Courts during FY 2021/22



Vision

- An independent institution of excellence in the delivery of justice to all.

Mission Statement

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

Mandate

- The core mandate of the Judiciary is resolution of disputes.

Strategic goals/Objectives

- The overriding goal for the Judiciary is to provide equitable access to and expeditious delivery of justice. The Judiciary's objectives and strategies are in line with the overall goals outlined in the constitution and the national development blueprint Kenya Vision 2030 and its Medium Term Plans as well as the Big Four Agenda.

