

ICJ KENYA 2018 CRIMINAL JUSTICE CONFERENCE

**THEME: MULTI SECTORAL APPROACH TO CRIMINAL JUSTICE
REFORMS: ISSUES AND OPTIONS FOR KENYA**

Venue: Hilton Hotel, Nairobi

LADY JUSTICE GRACE NGENYE, THE CHAIR NATIONAL
COMMITTEE ON CRIMINAL JUSTICE REFORMS.

THE SECRETARY PUBLIC PROSECUTIONS M/S DORCAS ODUOR

THE REPRESENTATIVE OF THE CHAIR, ICJ –KENYA CHAPTER

INVITED GUESTS

LADIES AND GENTLEMEN

It is my singular pleasure and honour to join you today for the ICJ-Kenya 2018 criminal justice Conference. On behalf of the Honourable Chief Justice and the entire Judiciary I congratulate the ICJ-Kenya Chapter for the initiatives in the criminal justice sector that are the building blocks to this important conference.

The Judiciary is a committed and ready partner in the activities of the ICJ-Kenya that are aimed at reforms in the criminal justice sector. As you all know, the Judiciary has been, and still is, undergoing fundamental reforms and transformation in order to

enable us play our primary role (which is to enable access to justice) in a more effective and efficient way.

Major judicial reforms commenced with the passing of the current Constitution in August 2010. Soon after, the Judiciary under the leadership of former Chief Justice Dr. Willy Mutunga, launched the Judiciary Transformation Framework (JTF), which led the judicial reforms from 2012 to 2016. Under the JTF, reforms were focused on restoring the Judiciary to its rightful constitutional and political place and forge a new relationship with the public whom it exists to serve. The JTF was premised on four key pillars:

- i. People focused delivery of service;
- ii. Transformative leadership, organization culture and professional, motivated staff;
- iii. Adequate financial resources and to expand physical infrastructure; and
- iv. Harnessing technology as an enabler for justice.

The JTF has recorded success in expanded court infrastructure, additional human and financial resources to expedite delivery of justice. We have seen a more than 50% reduction of case backlog, and a Judiciary that is receptive and responsive to engagements from the public.

Building on the first phase under the JTF, the Honourable Chief

Justice David Maraga launched a new strategic blueprint for the Judiciary called **Sustaining Judiciary Transformation: A Service Delivery Agenda 2017 – 2021 (SJT)** on the 26th January 2016. The strategic blueprint provides for a new focus shifting from institutional building and capacity enhancement to enhancing service delivery.

The SJT blue print contains the judiciary's promise of a new deal for Kenyan people focused on enhancing service delivery through targeted improvement of work methods and a dynamic corporate culture that emphasizes integrity and reimagined ethical and integrity systems. At the same time, it emphasizes measurable performance standards. Under the blue print, strategic emphasis is placed on the following five pillars:

- a) Enhanced Access to Justice
- b) Clearance of case backlog
- c) Integrity and Corruption
- d) ICT- Judiciary Digital strategy
- e) Institutional Leadership and Government

The criminal justice sector is one of the core areas of focus for judicial reform. Among the objectives of criminal justice reforms is the enhancement of efficiency and effectiveness in the criminal justice system. This entails: ensuring the speedy resolution and disposal of criminal cases in court, ensuring that the rights of the accused are upheld during the entire justice process, providing

infrastructure to support the criminal justice process, among other objectives.

The Judiciary keeps track of the progress of judicial reforms, which includes monitoring of the progress in the criminal justice system, in order to ensure certainty in the movement towards the desired objectives. The Annual **State of the Judiciary and the Administration of Justice Report** provides an annual update of the reforms, not just in the judiciary but sector-wide information covering all institutions in the justice sector. In 2016-2017, for instance, it was reported that 344, 180 cases were filed before courts, and a bulk of the cases (258, 982) were criminal cases. Most of these cases were filed at the magistrates' courts, meaning that criminal sector reforms must be targeted at the level of the lower courts where the cases are dealt with and disposed.

As a result, the Judiciary has taken a number of specific initiatives aimed at enhancing access to justice in the criminal sector. The main measures include enhancing collaboration and cooperation among state agencies in the criminal justice system, mainly under the National Council for the Administration of Justice (NCAJ), and formation of specific committees on specific issues. These include the Bail and Bond Implementation Committee, NCAJ Special Taskforce on Children Matters, NCAJ Court Users Committees Taskforce, NCAJ Working Group on Traffic cases, and the NCAJ Criminal Justice Reform Committee, among other structures that are anchored within the Judiciary.

More specifically, on 15th May 2015, the National Council on Administration of Justice (NCAJ) commissioned an Audit on the criminal justice system in Kenya in fulfillment of its mandate to ensure a coordinated, efficient, effective and consultative approach in the administration of justice and reform of the justice system. The Audit revealed that the criminal justice system in Kenya is largely skewed against the poor and hence structural, administrative, institutional and legislative reforms needed to be undertaken to align it with the Constitution of Kenya, 2010.

I am informed that ICJ Kenya has also conducted a research titled the, **“Law and Policy on the Petty Offenses and Practices affecting Populations at the National level as well as those in Kisumu, Mombasa and Nairobi Counties.”** The research revealed that the national and county legislations are preoccupied with petty offences whose continued enforcement violates the rights and liberties of the people of Kenya. The main recommendation arising from the research is that there is an urgent need to decriminalise and reclassify petty offences in Kenya

Subsequent to the ICJ Kenya National Conference on Decriminalization and Re-classification of Petty Offences held in Nairobi in March 2017, and further to the research findings from the audit of the criminal justice system in Kenya, previously done by LRF/RODI, the Chief Justice of the Republic of Kenya committed to set up a committee to steer the criminal justice reforms process

in Kenya and the review of penal laws including laws that criminalize petty offences.

On 15th January, 2018 the Honourable Chief Justice launched the National Committee on Criminal Justice Reforms (NCCJR) which will ensure an efficient, effective and consultative approach in the administration of justice and the reform of the justice system. The 34-member committee was mandated to spearhead comprehensive reforms in the criminal justice system in Kenya and develop recommendations for efficient and effective administration of criminal justice in Kenya.

As the committee embarks on its work, it is clear that the criminal justice system is still grappling with challenges that hinder the realization of effective service delivery. These challenges inhibit the realization of rights and liberties that are entrenched in our progressive constitution. There is need to humanize the laws especially in the form of creating enforceable safeguards – which are consistent with the constitution- against infringement of the rights and liberties of the populace.

This conference, that is focused on criminal justice reforms and is hosted by the ICJ-Kenya offers one of the many important platforms for multi stakeholders drawn from various agencies to engage on the criminal justice reform agenda and formulate recommendations that will be useful in steering the reform agenda towards the desired goals of an effective and efficient criminal justice system.

The Judiciary remains a committed partner in the enhancement of access to justice in the criminal sector and indeed the entire justice sector. Through the general and specific channels of cooperation, the Judiciary will continue to work with all stakeholders to ensure that efficiency and effectiveness is achieved in the criminal justice sector. Efficiency and effectiveness is not merely a desired goal for the criminal justice sector but a constitutional imperative that binds the Judiciary, and indeed all other state institutions with a constitutional mandate that touches on the delivery of criminal justice in the country.

It is now my pleasure to declare this conference officially open.

I thank you all and wish you fruitful deliberations.



Hon. Lady Justice Lydia Achode

Principal Judge, High Court of Kenya.

