



NATIONAL CRIME RESEARCH CENTRE
Fighting Crime through Research



PUBLIC PERCEPTIONS AND EXPERIENCES ON THE ACCESS TO CRIMINAL JUSTICE IN KENYA



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NATIONAL CRIME RESEARCH CENTRE



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FOREWORD

Access to criminal justice is a basic principle of the rule of law. In the absence of it, people are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable. Indeed, Article 48 of the Constitution of Kenya now recognizes access to criminal justice as a fundamental human right available to all citizens.

The Government has made appreciable efforts towards facilitating access to criminal justice in the country through a number of policy, institutional and legislative initiatives and/or reforms. These initiatives and/or reforms are geared towards empowering people to seek criminal justice and securing the mechanisms to deliver it. Nevertheless, concerns abound that many Kenyans face many challenges – including, delays in completion of cases, inability to afford legal fees, corruption, among others – in accessing criminal justice. Consequently, there is need to establish the veracity of these claims.

This study sought to examine public perceptions and experiences in the access to criminal justice in Kenya. The findings of the study revealed that slightly more than half of the respondents had had contact with the criminal justice system three years prior to the survey. It also emerged from the findings that most Kenyans are satisfied with the performance of the National Government Administration Office, Department of Children Services and Kenya Prison Services in facilitating access to criminal justice in Kenya. Conversely, most respondents were not satisfied with the performance of the National Police Service and the Ethics and Anti-Corruption Commission (EACC) on the same. The foremost challenge impeding access to criminal justice highlighted was corruption. This was distantly followed by delays in the processing and completion of cases and investigation gaps.

The Constitution anticipates a criminal justice system that is not only accessible, affordable, and comprehensible to the ordinary citizens; but also that dispenses justice fairly, speedily and without discrimination, fear, or favor. Evidently, this study has established very critical issues which shall go a long way in assisting the stakeholders in the criminal justice sector to institute cogent policy and programming interventions towards the realization of this constitutional dictum.

I call upon, therefore, all the stakeholders in the criminal justice sector to take cognizance of and utilize the findings and recommendations of this study in enhancing their services.



HON. JUSTIN B. N. MUTURI, E.G.H
ATTORNEY GENERAL/CHAIRMAN OF THE GOVERNING COUNCIL
NATIONAL CRIME RESEARCH CENTRE

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It is my hope that the findings and recommendations arising from this study shall be instrumental in informing policies and programmes in Kenya's criminal justice sector.



MR. VINCENT ODHIAMBO OPONDO
Ag. DIRECTOR/CEO
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ABBREVIATIONS AND ACRONYMS

CUC	Court Users Committees
DCS	Department of Children Services
EACC	Ethics and Anti-Corruption Commission
GST	General Systems Theory
KPS	Kenya Prisons Service
LSK	Law Society of Kenya
NCAJ	National Council on the Administration of Justice
NCRC	National Crime Research Centre
NGAO	National Government Administration Office
NLAS	National Legal Aid Services
NPS	National Police Service
OAG	Office of the Attorney General
ODPP	Office of the Director of Public Prosecution
PACS	Probation and Aftercare Service
SPSS	Statistical Package for Social Sciences
UNDP	United Nations Development Programme
VPB	Victim Protection Board
WPA	Witness Protection Agency

OPERATIONAL DEFINITION OF TERMS

Access to Criminal Justice	Referred to the act of allowing criminal laws and rights to be claimed and applied by victims and accused persons by giving them a right of having their claims processed and their rights granted on equal terms
Challenges experienced by members of the public in accessing criminal justice	These were difficulties faced by consumers of the criminal justice services in the process of accessing/seeking criminal justice.
Effectiveness of the criminal justice actors	This referred to the degree to which the criminal justice actors were successful in ensuring access to justice.
Factors that enhance access to criminal justice	These were legal, policy, administrative and institutional measures that needed to be put in place to improve on access to criminal justice.

EXECUTIVE SUMMARY

Access to criminal justice is critical in the promotion and protection of the rule of law and an essential element in the enjoyment of the fundamental human rights and freedoms. It entails the degree to which the parties involved are accorded fairness; justness of results delivered; speed with which cases are processed; and responsiveness of the system to those who need it – the accused and victims of crime. Indeed, Article 48 of the Constitution of Kenya obliges the Government to ensure that there is access to criminal justice by all persons.

This study sought to establish the perceptions and experiences of the members of the public on the access to criminal justice in Kenya. The specific objectives of the study were to: assess the knowledge levels of members of the public on access to criminal justice in Kenya; establish public perceptions and experiences on the effectiveness of the criminal justice actors in facilitating access to justice in Kenya; identify challenges experienced by members of the public in accessing criminal justice in Kenya; and identify factors that enhance access to criminal justice in Kenya.

A mixed research design was employed in this study. The design was appropriate because it presented an opportunity to fuse both quantitative and qualitative approaches. This allowed data triangulation to take place hence improving the internal validity of the study. Field data collection was conducted in 20 counties in Kenya. The selection of the twenty counties was based on the high incidence of crimes as indicated by the Kenya National Bureau of Statistics Economic Survey, 2021; thus an assumption that those counties had the highest number of people seeking for criminal justice. The target sample size for this study was 2402, but only 2372 sample respondents were interviewed translating to a response rate of 98.8%. Probability proposal to size (PPS) sampling was used to distribute the 2372 respondents to the selected study sites. The sampling unit for the sample respondents was the household. Three (3) key informants were targeted in each of the sampled counties and they were drawn from both the State and non-State actors across the country. Quantitative data was analyzed descriptively using the Statistical Package for Social Sciences while content analysis was used to analyze qualitative data.

Key Findings

4.2.1 Knowledge levels of members of the public on access to criminal justice

The study established that slightly more than a half of the respondents had contact with the criminal justice system in the past three years out of which majority were the victims of crime. The key criminal justice actors/players identified by the most respondents were National Police Service (NPS), National Government Administration Office (NGAO) and the Judiciary. On what constitutes access to criminal justice, most respondents mentioned arrest of the accused, fair hearing, compensation of the victim, conviction of the accused, effective investigation and quick completion of the criminal cases.

4.2.2 Respondents' perceptions and experiences on the effectiveness of the criminal justice actors in facilitating access to justice

Most members of the public said that they were satisfied with NGAO, Department of Children Services (DCS), Kenya Prisons Services (KPS) and the Judiciary. Conversely, they were not satisfied with NPS and the Ethics and Anti-corruption Commission (EACC). Equally, most of the members of the public said that they were not sure on their satisfaction level on Victim Protection Board (VPB), Government Chemist, Witness Protection Agency (WPA), Office of the Attorney General (OAG) and Office of the Director of Public Prosecution (ODPP).

4.2.3 Challenges experienced by members of the public in accessing criminal justice

The main challenge faced by the members of the public in accessing criminal justice in Kenya was corruption. Other significant challenges mentioned included delays in the processing and completion of criminal matters; investigation gaps; high cost of legal representation services; illiteracy and lack of legal know-how among the general public, witnesses, or the accused; limited financial resources among witnesses, victims/complainants, or the accused; inadequate funding for legal aid services, witness and victim interference, and bureaucracies in the criminal justice agencies.

4.2.4 Factors that Enhance Access to Criminal Justice in Kenya

Towards enhancing access to criminal justice in Kenya, the respondents made a raft of suggestions. The most prominent suggestion made was fostering integrity and accountability among the criminal justice actors/players. Other key suggestions made were adequate financial resources to both victims, witnesses, and the accused/suspects/offenders to meet the costs involved in access to criminal justice; and adequate personnel within agencies involved in the access to criminal justice. Also, they proposed adequate financial resources to agencies involved in the access to criminal justice, adequate physical facilities/structures within agencies involved in the access to criminal justice, effective legal and policy frameworks.

Key Policy Recommendations

Lead Agency - National Council on the Administration of Justice

1. Prioritize and enhance public awareness on the roles of various actors/agencies in facilitating access to criminal justice

This study established that most members of the public do not know Victim Protection Board, Government Chemist, Witness Protection Agency, Office of the Attorney General, and Office of the Director of Public Prosecution including their roles in facilitating access to criminal justice. This calls for enhanced public sensitization about the mandates and/ or roles of these key players.

2. Enhance the capacity of Court Users Committees

It was established in this study that delays in case processing hampers access to the criminal justice. To address this challenge, it is imperative to enhance the CUC as a way of promoting synergy among the criminal justice actors/stakeholders. This will significantly reduce the cumbersome bureaucratic processes.

3. Strengthen the role of the National Government Administrative Officers in the Criminal Justice System

The findings of this study showed that most members of the public perceive the National Government Administration Officers (NGAO) as key players in the criminal justice system. Furthermore, majority of the members of the public (6 out of 10) are satisfied with the performance of the NGAO in facilitating access to criminal justice in Kenya. Therefore, there is need to have their role enhanced and integrated in the criminal justice framework.

4. All criminal justice agencies/ actors to make corruption prevention a standing agenda in their operations

This study identified corruption as the foremost challenge facing members of the public in the access to criminal justice. Consequently, addressing corruption in the Criminal Justice System should not be a preserve of one actor/ agency but a standing agenda by all stakeholders.

Lead Agency - Judiciary

5. Institutionalize compensation orders in their sentencing regime

On what constitutes access to criminal justice, compensation to the victim was reported by 5 out of 10 sample respondents. There is need, therefore, for the Judiciary to institutionalize compensation orders in their sentencing regimes. The convicts or their kin should compensate the victims for the damages caused and legal fees spent.

6. Increase the number of petty crimes courts and the application of Alternative Dispute resolution mechanism for petty crimes across the country

Delay in processing criminal matters by the responsible agencies including unreasonable adjournment of cases in court was cited by 47.6% of the sample respondents. It is recommended that the Judiciary increases the number of petty crime courts and enhance the adoption of the application of Alternative Dispute resolution mechanism for petty crimes across the country. This will help in reducing the case-backlog challenge in the Judiciary.

Lead Agencies – Judiciary and Office of the Attorney General

7. Enhance free legal representation services to the vulnerable members of the society

The findings of this study showed that one of the challenges faced by the members of the public entailed high cost of legal representation. Consequently, there is need to strengthen the pro-bono legal representation services especially to the vulnerable groups such as the poor, women and people living with disabilities. In particular, the National Legal Aid Services (NLAS) need to be strengthened.

Lead Agency - Office of the Attorney General**8. Strengthen the Witness Protection Agency and the Victim Protection Board**

The study revealed that witness and victim interference is among the key challenges faced in the access to criminal justice in Kenya. This therefore calls for the strengthening the duty bearer agencies responsible for the witness and victim protection services.

Lead Agencies – Law Society of Kenya (LSK)**9. Introduce a graduated/phased payment of legal fees over some reasonable time depending on the assessed economic ability of the represented victim or accused**

The high cost of legal representation was prominently mentioned as one of the key challenges faced in the access of criminal justice in Kenya. To mitigate this challenge, the study recommends a graduated/phased payment of legal fees over some reasonable time depending on the assessed economic ability of the victim or accused.

Lead agencies - National Police Service Commission and National Police Service**10. Fortify the implementation of the ongoing police reforms**

Based on the study findings, it is clear that majority of the members of the public (9 out of 10), recognize the role of the police in facilitating access to criminal justice. Nonetheless, most of them (6 out of 10) are not satisfied with the performance of this institution in facilitating access to criminal justice in Kenya. This calls for the strengthening of the ongoing police reforms so as to transform this institution to the expectations of the public.

11. Heighten the capacity building of officers in the criminal investigation

This study pointed out that majority of the respondents (64.2%) were not satisfied with the performance of NPS. For instance, a significant number of the sampled respondents (3 out of 10) mentioned investigation gaps as a challenge faced in accessing criminal justice. There is need, therefore, to enhance the capacity of the investigation officers.

Lead Agency- Ethics and Anti-Corruption Commission (EACC)**12. Enhanced fight against corruption**

It was established in the study that the key challenge in the access to criminal justice in Kenya was corruption. The study also indicated that most members of the public (5 out of 10) were not satisfied with the performance of the EACC in the fight against corruption. This indicates the need to enhance performance of this institution in fighting corruption.

Lead Agency - National Assembly**13. Allot enhanced financial resources to the criminal justice agencies and players**

Delays in the processing of criminal matters and inadequate funding for legal aid services were identified by the respondents as some of the key challenges members of public face while accessing criminal justice. Therefore, enhanced funding will be critical in putting in place appropriate systems and structures for improving service delivery.

CHAPTER ONE: INTRODUCTION

1.1. Background of the Study

1.1.1 Global perspective

Access to criminal justice is widely understood as the ability of people to uphold their rights and seek redress for their grievances. The UNDP (2005), for instance, defines it as “the ability of people to seek and obtain a remedy through formal or informal institutions of (criminal) justice, and in conformity with human rights standards” (p.5). For the World Justice Project (2013), it is “the ability of all people to seek and obtain effective remedies through accessible, affordable, impartial, efficient, effective and culturally competent institutions of (criminal) justice” (p.27). The European Union for Fundamental Rights (n.d) breaks down the right of access to criminal justice into the right to: a fair and public hearing by an independent and impartial court; receive legal advice, be represented and defended during a case; legal aid if a victim/defendant cannot represent him/herself in court and cannot pay for a lawyer; have a case decided within a reasonable time and obtain an adequate remedy.

The centrality of access to criminal justice is highlighted in the Sustainable Development Goal 16 which recognizes it as a precursor of the rule of law and a critical cog in the realization of sustainable development and inclusive growth. In addition, the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and the African Charter on Human and People’s Rights now recognize access to criminal justice as a fundamental human right. These instruments establish standards by which States party to them should ensure compliance.

Nevertheless and in spite of the above international legal instruments, people’s ability to use legal channels to resolve their criminal disputes is often impeded by obstacles across the globe. Indeed, the World Justice Project (2019) estimate that there are approximately 1.5 billion people who cannot obtain criminal justice globally. Furthermore, the findings of the World Justice Project General survey targeting 101 countries established that fewer than 1 in 3 people (29.0%) were knowledgeable on legal matters; and 1 in 6 (16.0%) of the sampled respondents could not afford the required legal fees to address their grievances (World Justice Project, 2019a). In India, the key impediments to access to criminal justice include the high cost of legal services, corruption and long delays in the conclusion of cases (Liu, 2016). The high costs for legal services – including opportunity cost, was equally mapped out as the leading factor impeding access to criminal justice in the United States (Page and Scott-Clayton, 2016).

1.1.2 African perspective

In a bid to enhance access to criminal justice, many African countries have initiated and implemented several policy, legislative and institutional reforms. For example, most African countries now guarantee operational independence of a majority of the criminal justice agencies. They have equally domesticated the international legal and policy instruments guaranteeing access to criminal justice to all. In addition, countries such as Kenya, Rwanda, Ghana and Botswana have introduced e-courts/e-justice in a bid to foster transparency and address the case backlog (Finucan, Sierra and Rajesh, 2018).

The above reforms and initiatives notwithstanding, access to criminal justice still appears to be elusive for many Africans. Illustratively, the Afrobarometer survey conducted in 36 African countries revealed that majority of the people in the continent do not seek legal redress for their legal grievances. The most commonly cited reasons were high court costs (18.0%), expensive lawyers (17.0%), and expectations of unfair treatment (14.0%) and lack of trust in the courts (13%). For those who had contact with the criminal justice system majority reported of long delays (60.0%) and difficulties in getting help (54.0%). This was followed by lack of knowledge on legal procedures (47.0%), lack of legal representation (42.0%), inability to pay for legal costs (38.0%) and corruption (30.0) (Logan, 2017). Similarly, Obutte (2016) and Kaweesa (2012) mapped out corruption and long delays as the key obstacles in the access to criminal justice in Nigeria and Uganda respectively. The other challenges to access to criminal justice in Africa include ignorance, illiteracy and poverty (Bowd, 2009).

Comparatively, there are discrepancies on the extent to which access to criminal justice is realized in the African continent. For example, an independent study by Logan (2017) established that on average, criminal justice systems in Southern Africa provided high quality and wider access to justice as compared to their Western Africa counterparts. Post-conflict countries such as Liberia and Sierra Leone were equally found to be facing much greater challenges in providing access to criminal justice to their citizens compared to the other African countries that have enjoyed greater internal stability.

1.1.3 Kenyan perspective

In Kenya, access to criminal justice is a constitutional prerogative available to all citizens. For instance, Article 48 of the Constitution of Kenya 2010 provides that: “the State shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice”.

In facilitating access to criminal justice in Kenya, several players are involved. Some of the key actors include the National Police Service who play a critical role as the point of entry of any criminal matter to the criminal justice system; the Office of Director of Public Prosecutions who institutes and undertakes prosecution of criminal matters; the Judiciary who adjudicates on the criminal cases; and the correctional services who ensure the rehabilitation, reformation and reintegration of offenders.

Towards enhancing access to criminal justice in Kenya, a lot of reforms/initiatives have been embraced so as bolster the efficacy and efficiency of the above and other criminal justice actors. Some of these reforms include increased resource allocation, digitalization of services, establishment of the Court Users' Committees (CUC) to discuss and address the challenges faced by the court users, continuous training of personnel, among others.

Although there has been considerable improvement on the extent of access to criminal justice in the country in the recent past as a consequence of the reforms instituted in this sector, Kenyans continue to face a number of challenges in their pursuit for justice. Indeed, according to the Afrobarometer survey, more than a third (35.0%) of Kenyans complained of corruption in the Judiciary with 7 out of 10 of them (or 68.0%) indicating that corruption is very prevalent in the National Police Service (University of Nairobi and Katiba Institute, 2020). In addition, only 1 in 50 Kenyans with problems requiring justice (or 2.0%) had their issues settled in court/tribunal. The Afrobarometer survey further established that the key problems Kenyans face in their quest for justice in courts were: long delays in handling or resolving a case (50.0%); inability to obtain legal counsel/advise (40.0%); lack of knowledge on legal issues/processes (33.0%); failure of the judge or magistrate to listen to their side of the story (32.0%); and inability to pay costs and fees (28.0%). This finding agrees with Kodiaga and Kamau (2021) who found out that almost two-thirds (65.0%) of Kenyans who had contact with the courts complained of long delays in resolving their cases while 57.0% and 47.0% of them could not obtain legal counsel and afford to pay the requisite fees respectively. Furthermore, an audit of the Judiciary by the National Council on the Administration of Justice (NCAJ) established that the backlog of cases was among the key challenges facing the judiciary thereby signaling long delays in the pursuit of criminal justice in Kenya (NCAJ, 2016)

1.2 Statement of the Problem

Article 48 of the Constitution of Kenya, 2010 requires the Government to ensure access to criminal justice for all persons. The Constitution further calls for a criminal justice system that is not only accessible, affordable, and comprehensible to the ordinary citizens; but also that dispenses justice fairly, speedily and without discrimination, fear, or favor.

In furtherance of the above constitutional imperatives, the Government of Kenya has implemented a raft of measures geared towards enhancing access to criminal justice. These interventions have bordered legal, policy, institutional and administrative reforms. In addition, there has been increased budgetary allocations to some of the criminal justice agencies.

Nevertheless and in spite of the laudable measures put in place by the Government, concerns still abound that many Kenyans face challenges in accessing criminal justice. Illustratively, NCAJ (2016) revealed that the "Kenya's criminal justice system is largely skewed against the poor" (p. xxiv); with more poor people being arrested, charged and sent to prison as compared to the well to do. Furthermore, Kodiaga and Kamau (2021) established that almost

two-thirds (65.0%) of Kenyans who had contact with the courts complained of long delays in resolving their cases while 57.0% and 47.0% of them could not obtain legal counsel and afford to pay the requisite fees respectively. In addition, 7 out of 10 members of public in a recent study on “*Public Perceptions and Experiences on the Loss of Criminal Cases in Law Courts by the Government of Kenya*” mapped out corruption as the main challenge bedeviling the criminal justice sector leading to the miscarriage of justice (NCRC, 2021). Whereas these perspectives may partially indicate the extent of access to criminal justice in Kenya, the need to undertake an in-depth investigation specifically geared towards establishing the perceptions and experiences of the members of the public on the access to criminal justice in Kenya for evidence-based policy interventions cannot be gainsaid. This is the main thrust of this study.

1.3. Objectives of the Study

The main objective of the study was to establish the perceptions and experiences of the members of the public on the access to criminal justice in Kenya. The study was guided by the following specific objectives:

- i. To assess the understanding of the members of the public about access to criminal justice in Kenya;
- ii. To establish public perceptions and experiences on the effectiveness of the criminal justice actors in facilitating access to justice in Kenya;
- iii. To identify challenges experienced by members of the public in accessing criminal justice in Kenya;
- iv. To identify factors enhancing access to criminal justice in Kenya.

1.4 Justification of the Study

This study is justified by a number of reasons. Firstly, Article 48 of the Constitution of Kenya, 2010 requires the Government to ensure access to criminal justice for all persons. Therefore, any study geared towards assisting the Government in instituting cogent policy measures necessary for the realization of this imperative is well-justified.

Secondly, Section 5(a) of the National Crime Research Centre (NCRC) Act, 1997 requires the Centre to “carry out coordinated research into, and evaluate the impact of, programmes pursued by the agencies responsible for the administration of criminal justice”. Consequently, this study was conducted in consonance with this statutory requirement.

Thirdly, although some isolated studies have illuminated on various aspects of access to criminal justice in Kenya – for example, NCRC (2021), Kodiaga and Kamau (2021) and NCAJ (2016), there is need for a comprehensive survey on this subject to inform policy interventions in the sector.

Lastly, this study will add to the existing literature about access to criminal justice in Kenya. This will as well form an empirical foundation upon which further studies on this subject will be carried out.

1.5. Assumptions of the Study

Access to criminal justice is one of the pillars of the rule of law and democracy. The study made the following assumptions; that:

1. The respondents of the study are knowledgeable on the subject of access to criminal justice in Kenya; and are free and willing to report their own experiences and perspectives without any fear or prejudice.
2. There is goodwill from all the stakeholders in the Criminal Justice System in ensuring access to criminal justice to all.
3. The findings and recommendations of this study will be positively received by all the criminal justice actors.

1.6. Scope of the Study

The conceptual scope of this study was on the knowledge levels of members of the public on access to criminal justice, effectiveness of the criminal justice actors in facilitating access to justice, challenges experienced by members of the public in accessing criminal justice, and factors that enhance access to Criminal Justice in Kenya. The sampled respondents were persons aged 18 years and above. The geographical scope of this study was the 20 counties in Kenya with the highest incidence of crime incidences reported based on the Kenya National Bureau of Statistics' (KNBS) Economic Survey, 2021. The data collection exercise for this study was conducted in the months of May and June 2022.

1.7 Theoretical Framework

This study was hinged on the General Systems Theory (GST). GST was proposed by Ludwig von Bertalanffy in 1968. The theory attempts to explain how related components at different levels interact with one another in forming a system – including the interaction of these various units at different levels and the interrelationships among the units (Adams, Hester, Bradley, Meyers and Keating, 2014).

The concept of the “open” systems espoused by GST is of particular relevance to this study. The theory argues that open systems interacts with the environment around them allowing “inputs” and “outputs” to enter the system or some parts of it (Dubrovsky, 2004).

In this theorization, the criminal justice of Kenya is a system. It consists of multiple layers of encompassing sub-systems – namely, the investigative agencies, prosecution, the judiciary and correctional services, each of which can be described in terms of input, processing, and output. Each subsystem takes criminal cases as input, does something to them or for them or with them (processing), and sends them as output to the next subsystem unit or back to the external environment. Therefore, the quality and level of output of each sub-system considerably affects the delivery of the entire system.

Based on the foregoing, any malady in one of the agencies or actors with a mandate in facilitating access to criminal justice significantly impedes the effectiveness of the rest of the

actors/agencies. The policy implication of this theory is that interventions geared towards improving access to criminal justice must not always be only specific to only specific actors/agencies but also outward looking as to bring all stakeholders on board.

CHAPTER TWO: METHODOLOGY OF THE STUDY

2.1 Introduction

This chapter covers the research design; sampling of counties and respondents; methods and tools of data collection and management; and data analysis. It also highlights the ethical considerations which were taken into the account during the implementation of this study.

2.2 Research Design

This study employed a mixed research design. The design was appropriate because it presented an opportunity to fuse both quantitative and qualitative to realize the study objectives. This ensured data triangulation as the weaknesses and strengths of each approach were combined to provide comparisons. This enhanced the internal validity of the study.

2.3 Sampling of Counties and Respondents

2.3.1 Sampling of counties

The study was conducted in 20 counties in Kenya with the highest crime incidences reported based on KNBS' Economic Survey, 2021. These counties were purposively selected with the assumption that they constituted a high number of people with criminal justice needs as compared to the rest of the counties owing to the high incidence of crimes reported.

2.3.2 Sampling of the respondents

The population of the study (hereinafter referred to as the respondents) entailed adults drawn from members of the public. Key informants also were utilized in this study.

The sampling unit for the members of the public was the household. The target sample size for the members of the public was determined using the Solvins formula:

$$n = N / (1 + Ne^2)$$

Where:

n: Target sample size

N: total number of households in the 20 study counties (6756503)

e: margin of error (0.0204)

Applying the above formula, n=2402

Despite the target sample of 2402, the study managed to interview 2372 sample respondents translating to a response rate of 98.8%. Proportionate sampling was used to distribute the 2372 households to the selected sub-counties and locations. Each of the 2372 households was

reached to provide one adult member of public (who is the household head, spouse or most aged offspring/child of the household) as a sample respondent. To ensure gender sensitivity, efforts were made to reach out to male and female sample respondents. Ultimately, the study interviewed 1212 (51.7%) males and 1160 (48.3%) females. The households in the selected locations were selected randomly. Table 2.1 provides the distribution of the sample respondents per the study counties.

Table 2. 1: Distribution of the sample respondents per the study county

County	Gender	
	Male	Female
Bungoma	52 (51.7%)	50(48.3%)
Busia	37 (57.8%)	27(42.2%)
Embu	31 (40.6%)	46 (59.4%)
Homa Bay	46 (52.9%)	41 (47.1%)
Kiambu	95 (44.9%)	118 (55.1%)
Kilifi	39 (42.9%)	52 (57.1%)
Kirinyaga	26 (35.6%)	47 (64.4%)
Kisii	70 (54.3%)	59 (45.7%)
Kisumu	55 (50.0%)	55 (50.0%)
Kitui	49 (57.0%)	37 (43.0%)
Machakos	83 (58.0%)	60 (42.0%)
Meru	97 (46.5%)	113 (53.5%)
Mombasa	44 (39.6%)	67 (60.4%)
Muranga	52 (51.0%)	50 (49.0%)
Nairobi	155 (53.8%)	133 (46.2%)
Nakuru	114 (64.8%)	62 (35.2%)
Nyandarua	29 (43.3%)	38 (56.7%)
Nyeri	40 (53.3%)	35 (46.7%)
Trans Nzoia	46 (65.7%)	24 (34.3%)
Uasin Gishu	52 (53.1%)	46 (46.9%)
Total	1212 (51.7%)	1160 (48.3%)

The key informants for the study were the senior officials selected purposively from criminal justice system agencies and other relevant stakeholders in the CUCs. Based on the positions this category of respondents hold, it was assumed that they hold critical information which would be of interest to this study. Consequently, due to budgetary constraints, an arbitrary number of three (3) key informants were targeted for interviews.

2.4 Methods and Tools of Data Collection

2.4.1 Methods of data collection

This study mainly utilized primary data. This data was collected from the sample respondents and the key informants through face-to-face interviews.

2.4.2 Tools of data collection

An interview schedule comprising of both closed and open-ended questions was used to collect data from the sampled respondents. Additionally, a key informant guide was used to collect data from the key informants.

2.5 Data Collection and Management

The National Crime Research Centre (NCRC) worked closely with the relevant criminal justice agencies in its effort to realize the objective of the study. In addition, NCRC sought for authority for the study and consent from key institutions and their staff to participate in the study. Competent research assistants were identified and trained before the actual data collection exercise. They were then allocated study sites and provided with requisite resources for the field work and data collection exercise.

2.6 Methods of Data Analysis

This study used both quantitative and qualitative data analysis methods. Quantitative data was analyzed by way of descriptive statistics using the Statistical Package for Social Scientists (SPSS) and Microsoft Excel. The analyzed data was presented using graphs, frequencies, percentages and tables. Correspondingly, qualitative data was analyzed through interpretation of responses given by key informants. All information from the analyzed data was then presented thematically in narrations guided by the research objectives.

2.7 Ethical Considerations

The following ethical considerations were adhered to while conducting this study: -

- i. Authority to collect data was sought from relevant institutions before the actual commencement of the exercise.
- ii. Consent of the respondents was sought before the commencement of the interviews.
- iii. The language used when conducting the interviews was respectful.
- iv. Confidentiality of the respondents' identity and information was safeguarded.
- v. During data collection process, respect for diversity in regard to socio-cultural, economic and political views was upheld.

CHAPTER THREE: RESULTS AND DISCUSSIONS

3.1 Introduction

This chapter presents the results of the study. Specifically, the following sections are covered: socio-demographic characteristics of the members of the public, knowledge levels of members of the public on access to criminal justice, the effectiveness of the criminal justice actors in facilitating access to justice, and challenges experienced by members of the public in accessing criminal justice.

3.2 Socio-Demographic Characteristics of the Members of the Public

A total of 2073 members of the public (sample respondents) were interviewed; out of which 51.7 percent were male and 48.3 percent female.

Most of the respondents (39.6%) were aged between 18-34 which resonates well with the Kenya Population and Housing Census, 2019 whereby it was established that majority of Kenyans are aged below 35. On marital status, majority of the respondents (68.5%) were married implying that they were family members with familial responsibilities such as the provision of basic needs.

On education, a significant majority (95.8%) of the sample respondents had some form of education/literacy. This shows that the respondents were knowledgeable enough to respond to the survey questions.

The main occupation of most of the respondents was business (47.3%). This shows that most of the respondents were engaged in some income generating activity. This information is summarized in Table 3.1.

Table 3. 1: Socio-demographic characteristics of sample respondents

Variable	Category	%
Gender	Male	51.7
	Female	48.3
	Total	100.0
Age Category	18-34	39.6
	35-51	38.4
	52-68	17.6
	69+	4.4
	Total	100
Marital Status	Single/Never Married	20.7
	Married	68.8
	Divorced	2.0
	Separated	3.8
	Widowed	4.8
	Total	100.0
Highest Level of Education	None	4.2

Variable	Category	%
Attained	Primary	29.6
	Secondary	40.8
	Middle level	16.7
	Graduate	8.1
	Post Graduate	0.4
	Adult Education	0.1
	Total	100.0
Main Occupation	Public sector-permanent	3.6
	Public sector-Temporary	1.6
	Private sector-permanent	3.5
	Private sector-temporary	15.1
	Business	47.3
	Subsistence farming	8.9
	Housewife	6.3
	Student	2.9
	Unemployed	8.2
	Retiree	1.9
	Volunteer	0.5
	Total	100.0

3.3 Knowledge Levels of Members of the Public on Access to Criminal Justice

3.3.1 Interaction with the criminal justice system

Members of the public were asked if they have ever interacted with the criminal justice sector of Kenya in the last three years. More than half of the respondents (51.8%) indicated yes while 48.2% said no.

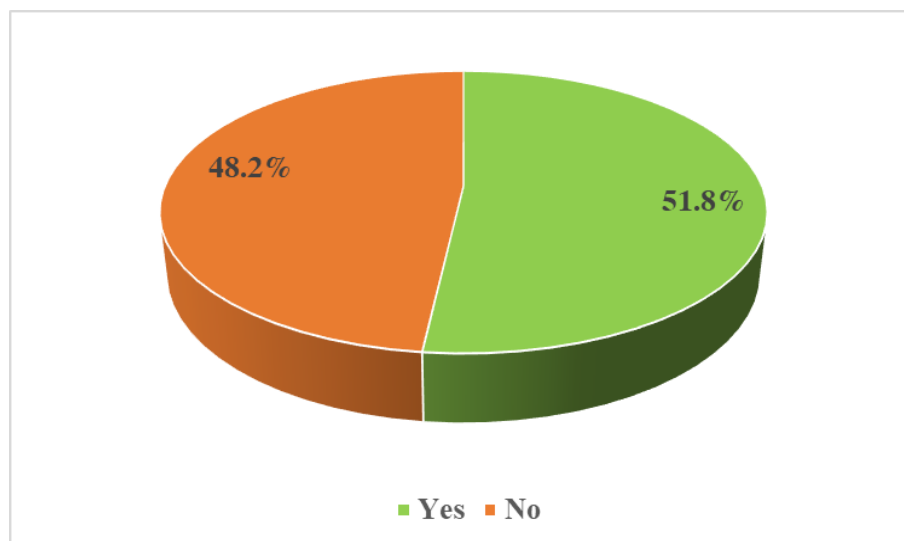


Figure 1 – Percentage interaction of the sample respondents with the criminal justice system of Kenya

The finding that more than half of the sampled respondents had contact with the criminal justice system is indicative that most Kenyans had criminal justice needs. In addition, it

implies that most sample respondents were knowledgeable on the current status of the sector based on their direct experiences.

In terms of the disaggregation based on gender and age, majority of the males (55.6%) had contact with the system as compared to females (47.5%) with less youths (48.1%) interacting with the system as compared to the rest of the age-categories (Figure 2).

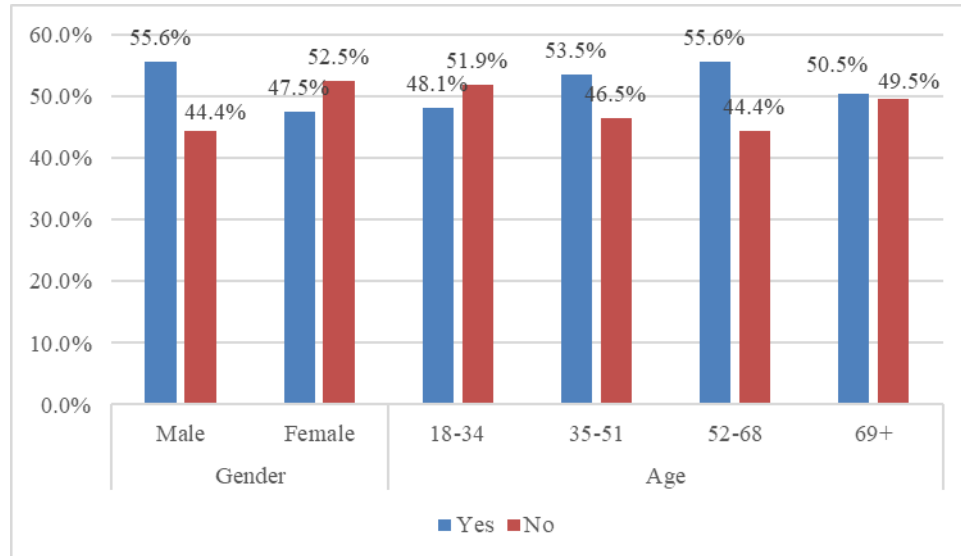


Figure 2 – Percentage interaction of the sample respondents with the criminal justice system of Kenya based on gender and age

The study further established that most of those who had contact with the criminal justice system in the past 3 years were the victims of crime (62.5%) while 23.6% were witnesses with 17.0% being defendants as presented in Figure 3.

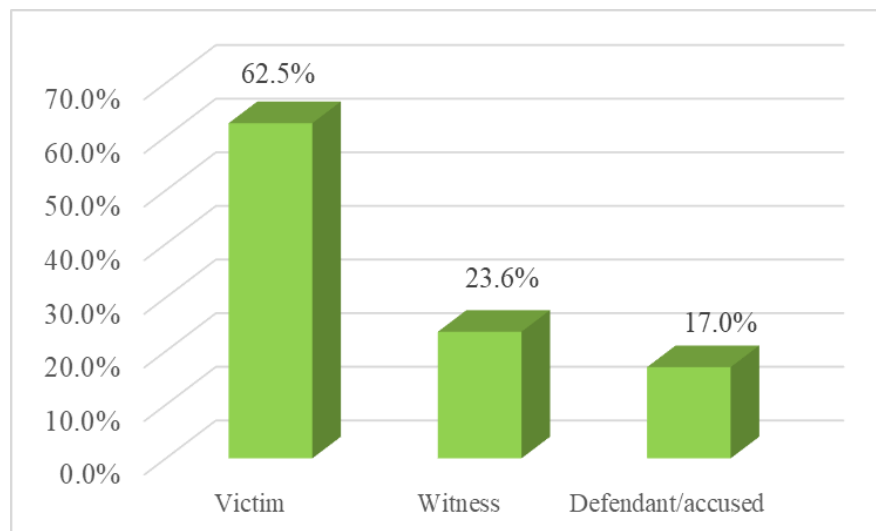


Figure 3 – Capacity of the respondent's interaction with the criminal justice system

Evidently, based on the above findings, slightly more males have criminal justice needs as compared to females. This is also the case with those aged above 34 as opposed to those aged

18-34. The finding that majority of those who had contact with the criminal justice were victims of crime may be a pointer that slightly more males and those aged above 34 constitute the victim of crime category. The finding that slightly more males as opposed to females constitute the victims of crime category disagrees with the National Crime Mapping Survey of 2020 where women were mapped as the main victims of victim (NCRC, 2020). Consequently, this finding may be a pointer that majority of the women do not report crimes. There is, therefore, need for the duty bearer agencies and relevant stakeholders to undertake continuous public sensitization targeting women on the need to report crimes.

3.3.2 Public's perceptions on who are the key players/actors in facilitating access to criminal justice in Kenya

This study sought to ascertain the public's perception on who are the key players/actors in facilitating access to criminal justice in Kenya. Majority of the respondents (93.7%) identified the National Police Service (93.7%), National Government Administrative Officers (NGAO) (77.7%) and the Judiciary (51.5%) as captured in Table 3.2.

Table 3. 2: Public perceptions on who are the key players/actors in facilitating access to criminal justice in Kenya

Public's perceptions on who are the key players/actors in facilitating access to criminal justice in Kenya	% of cases
National Police Service (NPS)	93.7
National Government Administration Officers (NGAO)	77.7
Judiciary	51.5
Members of Public	28.0
Advocates	16.5
Office of the Director of Public Prosecution (ODPP)	13.5
Kenya Prisons Service (KPS)	13.0
Department of Children Services (DCS)	11.8
Victims	10.6
Accused Persons/suspects/offenders	7.6
Ethics and Anti-Corruption Commission (EACC)	7.6
Witnesses (if different from victims)	7.1
Medical Doctors	6.1
State Counsels	4.8
Probation and Aftercare Services (PAS)	4.2
Non-Governmental Organizations (NGOs) and Faith Based Organizations (FBOs)	3.3
Government Chemist	2.1
Independent Police Oversight Authority (IPOA)	2.1
Kenya National Commission on Human Rights (KNCHR)	1.9
Witness Protection Agency (WPA)	1.8
Victim Protection Board (VPB)	1.0
Politicians	0.6
County Governments	0.2

The above findings revealing that the key players in the access to criminal justice in Kenya are the police, NGAO and the judiciary are not surprising. Indeed, the police and NGAO constitute the first line of contact with those with criminal justice needs. They are the ones who receive complaints and/or initiate entry into the criminal justice system through arrests – with the courts adjudicating on the criminal complaints raised, and as a result, their interaction with those seeking justice is more pronounced as compared to the rest of the actors. As a consequence, there is an ardent need to strengthen these institutions to make them more effective and efficient in addressing the criminal justice needs of Kenyans. Furthermore, members of the public should be sensitized more about the other criminal justice actors.

3.3.3 Public perceptions on what access to criminal justice entails

A significant majority of the sampled respondents indicated that access to justice entails arrest of the accused (72.0%) and with slightly more than a half mentioning fair hearing (56.4%). A significant proportion of the members of the public also noted that it entails compensation of the victim (47.1%), conviction of the accused (46.2%), effective investigation (39.2%) and expeditious dispensation of the criminal case (18.2%) as summarized in Table 3.3.

Table 3. 3: Public perception on what access to criminal justice entails

What access to criminal justice entails	% of cases
Arrest of the accused	72.0
Fair hearing	56.4
Compensation of the victim	47.1
Conviction of the accused	46.2
Effective investigation	39.2
Expeditious dispensation of the criminal case	18.2
Timely arraignment/production of accused in court	14.0
Easy access to required information by victim/complainant or accused	9.5
Legal representation of the victim/complainant or accused/suspect/offender	8.5
Protection of witnesses/suspects and victims/complainants	7.1
Accessibility of reasonable bail/bond terms by accused	6.7
Easy physical access to criminal justice institutions by victims or accused	5.0
Visitation of accused/suspect/offender while in police or prison custody	3.2
Rehabilitation of offenders	1.6
Provision of victim support services	0.3

From the above findings, the key element of access to criminal justice are the arrest of the accused and a fair hearing. Indeed, this is in agreement with the World Justice Project (2013) who defines access to criminal justice as “the ability of all people to seek and obtain effective remedies through accessible, affordable, impartial, efficient, effective and culturally competent institutions of (criminal) justice”. In any case, there is no criminal matter which can be justly decided in the criminal justice system without the arrest of the accused and according a fair hearing to both the accused and the victim. This, thus, shows that most

Kenyans understand what access to criminal justice entails. Indeed, on what constitutes access to criminal justice, a judge in Embu had this to say:

“Access to justice entails speedy trial of the criminal cases right from the point of arrest, hearing and sentencing of the convicted offender. There are three levels of access to criminal justice. First, there is the fair trial level of accused person with acquittal for the innocent and conviction, punishment/rehabilitation/treatment of offenders, as appropriate. Second there is reparations for the victims of crime and victim impact assessment for appropriate sentence. Finally, the society dealing with crime by detection, prosecution and punishment of crime through community service, probation and deterrence” (Key Informant Interview, Embu County).

A National Police Service (NPS) official in Busia County also observed that:

“Access to criminal justice means the ability of the victim of a crime to get redress. It is also the proximity of people to the criminal justice agencies” (Key Informant Interview, Busia County).

3.4 Effectiveness of the Criminal Justice Actors/Agencies in Facilitating Access to Justice

Members of the public were asked to rate their satisfaction level on the actors/agencies facilitating access to criminal justice in Kenya. Most members of the public said that they were satisfied with NGAO (64.7%), DCS (60.2%), KPS (55.4%) and the Judiciary (49.2%). Most respondents also indicated that they were not satisfied with NPS (64.2%) and EACC (46.8%). Equally, most of the members of the public said that they were not sure on their satisfaction level on VPB (66.5%), Government Chemist (60.9%), WPA (60.7%), OAG (56.6%) and ODPP (45.5%) as captured in Table 3.4.

Table 3. 4: Satisfaction level of the members of the public on the performance of the criminal justice actors/agencies in facilitating access to justice

Actor/ Agency	Satisfaction level	Percentage
National Government Administrative Office	Satisfied	64.7
	Not satisfied	30.1
	Not sure	5.2
	Total	100.0
Department of Children Services	Satisfied	60.2
	Not satisfied	16.2
	Not Sure	23.6
	Total	100.0
Kenya Prisons Service	Satisfied	55.4
	Not satisfied	17.3
	Not Sure	27.4

Actor/ Agency	Satisfaction level	Percentage
	Total	100.0
Probation and Aftercare Service	Satisfied	49.9
	Not satisfied	10.9
	Not Sure	39.2
	Total	100.0
Judiciary	Satisfied	49.2
	Not satisfied	37.4
	Not Sure	13.4
	Total	100.0
National Police Service	Satisfied	32.6
	Not satisfied	64.2
	Not Sure	3.3
	Total	100.0
Ethics and Anti-Corruption Commission	Satisfied	28.8
	Not satisfied	46.8
	Not sure	24.4
	Total	100.0
Independent Police Oversight Authority	Satisfied	37.3
	Not satisfied	17.4
	Not sure	45.3
	Total	100.0
Victim Protection Board	Satisfied	22.4
	Not satisfied	11.2
	Not sure	66.5
	Total	100.0
Government Chemist	Satisfied	27.0
	Not satisfied	12.1
	Not sure	60.9
	Total	100.0
Witness Protection Agency	Satisfied	22.2
	Not satisfied	17.2
	Not sure	60.7
Office of the Attorney General	Satisfied	34.8
	Not satisfied	8.7
	Not Sure	56.6
	Total	100.0
Office of the Director of Public Prosecution	Satisfied	33.9
	Not satisfied	20.5
	Not Sure	45.5
	Total	100.0

Among others, the key functions of NGAO officers with regards to access to criminal justice include the coordination of security management in their respective areas of jurisdiction; facilitating conflict management, peace building and public sensitization through *barazas*. The findings actually show that most members of the public (6 out of 10) are satisfied with the work of these officers. This finding agrees with NCRC (2021a) where most of the respondents rated the performance of chiefs as good.

DCS is mandated to safeguard the rights of all children in Kenya through effective implementation of relevant policies. The fact that 6 out of 10 sampled respondents feel satisfied with their work implies they are effective in facilitating access to criminal justice for children whose rights have been abused. However, a Magistrate in Nairobi noted that:

In so far as the Department of Children Services is doing a commendable job, in some instances they do not present their reports on time. The main reason given is always shortage of personnel (Key Informant Interview, Nairobi City County).

There is need, therefore, to address the personnel challenges at the DCS in a bid to enhance their effectiveness in facilitating access to criminal justice for children.

The role of KPS is to contain offenders and suspects in humane and safe conditions in order to facilitate responsive administration of justice, rehabilitation, social integration and community protection. Among the sampled respondents, 6 out of 10 said that they are satisfied by the performance of this institution in facilitating access to criminal justice. In support of this finding, an officer from the ODPP in Nairobi however indicated that:

The Kenya Prisons Service has so far done a good job. However, the main problem prisons face is limited space leading to congestion in prisons. The government should find a way of addressing this challenge (Key Informant Interview, Nairobi City County).

PACS has a role of promoting and enhancing the administration of criminal justice, community safety and public protection through provision of social inquiry reports, supervision, rehabilitation and reintegration of non-custodial offenders, victim support and crime prevention. The findings revealed that about a half of the respondents were satisfied with the performance of this agency. This shows that they are doing relatively well in facilitating access to criminal justice. Indeed, in reference to PACS, a Magistrate in Mombasa also observed that:

“They have been very supportive. For example, we have so many people arrested and we usually use probation reports to give persons reasonable bail/bond terms. They also do a good job in supervising those serving community service orders (Key Informant Interview, Mombasa County).

Nonetheless, about 4 in every 10 respondents were “not sure” about the performance of PACS in facilitating access to criminal justice in the country. This calls for enhanced public sensitization to inform the public about the work undertaken by the agency.

The Judiciary of Kenya seeks to administer criminal justice in a fair, timely, accountable and accessible manner, uphold the rule of law, advance indigenous jurisprudence and protect the constitution. About 5 out of 10 respondents indicated that they were satisfied with the performance of the Judiciary with 4 out of 10 of them saying that they were dissatisfied. Most of those who said that they were not satisfied highlighted corruption (65.7%) and delays in the completion of cases (30.2%). In consonance with this finding, a Magistrate in Nairobi had this to say:

“As the Judiciary, we have done the best we can. However, there are delays in the courts. This delay is occasioned by several factors – some beyond our control. For example, if the prosecution requests for more time to bring witnesses to court or for the police to conclude their investigations, what can you do? For the interest of justice, you can allow them and this oftentimes leads to delays” (Key Informant Interview, Nairobi City County).

A senior EACC official in Bungoma had this to say:

“There is a lot of corruption in the Judiciary. Clerks are usually the middlemen. This problem cuts across in many courts including Bungoma” (Key Informant Interview, Bungoma County).

The above finding agrees with the University of Nairobi and Katiba Institute (2020) where corruption and delay in the completion of cases were mapped as the key factors impeding access to criminal justice in the Judiciary. There is need, thus, for the Judiciary – in conjunction with to other relevant stakeholders, address these issues.

NPS is the point of entry of most criminal cases to the criminal justice system. They arrest suspects, conduct investigations and prefer charges. The findings reveal that most respondents (6 out of 10) were not satisfied with the performance of this agency in the facilitation of criminal justice. 8 out of 10 of those who said that they were not satisfied highlighted corruption as the reason for their dissatisfaction. Regarding the performance of the police, a Magistrate had this to say:

“This is where the problem is. They are the ones who bring witnesses. When they fail to bring witnesses, the case cannot progress. Equally, if they fail to do proper investigations, a case is likely to fail. Another issue is that they are the ones who keep the files. And in most cases, the link between the prosecution and the police is not good. Consequently, you get the prosecutor saying: ‘I have not received the file from the police’. Obviously, this leads to a miscarriage of justice.” (Key Informant Interview, Kiambu County).

A religious leader in Machakos County had this too to say on the performance of the police:

“The National Police Service is not very effective in their work. They lack values of honesty and transparency contained in the Holy Quran” (Key Informant Interview, Machakos County).

EACC is mandated to facilitate access to criminal justice by enforcing integrity laws and preventing corruption. Regrettably, 5 out of 10 respondents were not satisfied with the performance of the Commission. Furthermore, 2 out of 10 of them were not sure about its performance. Among those who said that they were not satisfied, 5 out of 10 indicated that *“they are corrupt/demand for or receive bribes”* and 3 out of 10 said that *“they do not perform their mandate as expected”*. Consequently, there is need to strengthen the Commission so that its performance can match the expectations of many Kenyans.

For IPOA, VPB, Government Chemist, WPA, OAG and ODPP, most of the respondents indicated that they were not sure about their performance in facilitating access to criminal justice in the country. This basically implies that most members of the public are not aware about them or their respective mandates. There is, therefore, need to conduct enhanced public sensitizations about these agencies including their specific mandates.

3.5 Challenges Experienced in Accessing Criminal Justice in Kenya

The main challenges faced by the members of the public in accessing criminal justice in Kenya is corruption (79.6%) and delay in processing criminal matters by the responsible agencies including unreasonable adjournment of cases in court (47.8%). Other significant challenges included investigation gaps (35.9%), high cost of legal representation services (20.8%), illiteracy and lack of legal know-how among the general public, witnesses, or the accused (20.1%), limited financial resources among witnesses, victims/complainants, or the accused (17.5%), inadequate funding for legal aid services (15.7%), witness and victim interference (15.5%), and bureaucracy in criminal justice agencies (15.2%) as captured in Table 3.5.

Table 3. 5: Challenges experienced in accessing Criminal Justice

Challenges experienced in accessing Criminal Justice ice	% of cases
Corruption in the criminal justice sector	79.6
Delay in processing criminal matters including unreasonable adjournment of cases	47.8
Investigation gaps	35.9
Illiteracy and lack of legal know-how among the general public, witnesses, or the accused	28.3
Complex criminal litigation procedures	22.1
High cost of legal representation services	20.8
Limited financial resources among witnesses, victims/complainants, or the accused	17.9
Inadequate funding for legal aid services	15.9

Challenges experienced in accessing Criminal Justice ice	% of cases
Witness and victim interference	15.8
High court charges/fees	14.2
Long distances/farness of the criminal justice service providers	9.0
Inadequate personnel in the criminal justice sector	6.7
Loss of court files	6.5
Communication barriers	6.1
Limited financial resources within criminal justice agencies	5.3
Inadequate infrastructural resources	5.2
Lack of automatic right to counsel in common legal circumstances	3.9
Laxity among the criminal justice agencies/unprofessionalism	3.9
Victimization including sexual harassment of the accused and victims	3.5
Fear of reporting criminal matters	1.4
Lack of cooperation by the relevant actors including witnesses/victims	1.0
Lack of independence of the criminal justice agencies	0.4
Premature release of suspects/accused	0.4
Unreasonable bond and bail terms	0.4
Lack of confidentiality of information	0.2
Inadequate rehabilitation of offenders	0.1
Loss and/or damage of exhibits	0.0
Lack of information on legal rights, services, and procedures	0.0

Based on the findings in Table 3.5, corruption is the leading challenge experienced in the access to criminal justice in Kenya. This finding agrees with NCRC (2021) where 7 out of 10 members of the public observed that corruption is the foremost reason occasioning the loss of criminal cases in Kenyan law courts by the Government of Kenya. Consequently, there is need for all the criminal justice agencies to put anti-corruption efforts as a standing agenda in their operations. Table 3.6 provides a county-based analysis of the challenges faced in the access to criminal justice in Kenya.

Table 3. 6: Challenges experienced in the access to criminal justice per County

County	Challenges experienced in the access to criminal justice (% of cases)				
Inadequate funding for legal aid	Bungoma	Busia	Embu	Homa Bay	Kiambu
High cost of legal representation	2.9	7.8	23.7	31.0	8.1
High court charges/fees	6.9	14.1	17.1	32.2	16.7
Complex criminal litigation	1.0	7.8	21.1	26.4	9.0
Loss and/or damage of exhibits	18.6	18.8	26.3	29.9	21.4
Lack of automatic right to counsel in common legal circumstances	0.0	0.0	0.0	0.0	0.0
Loss of court files	2.9	3.1	2.6	6.9	2.4
Illiteracy and lack of legal know-how or the accused	9.8	6.2	2.6	23.0	2.4
Limited financial resources among witnesses, victims/complainants, or the accused	22.5	9.4	50.0	47.1	29.0
Limited financial resources within criminal justice agencies	7.8	1.6	23.7	19.5	24.8
Long distances/farness of the criminal justice service providers	3.9	1.6	5.3	12.6	5.2
Delay in processing criminal matters including unreasonable adjournment of cases	13.7	9.4	17.1	13.8	7.1
Corruption in the criminal justice	33.3	39.1	51.3	46.0	42.4
Witness and victim interference	70.6	76.6	81.6	58.6	80.5
Inadequate personnel in the criminal justice sector	9.8	10.9	17.1	26.4	17.6
Inadequate infrastructural resources	2.0	3.1	9.2	17.2	4.3
Investigations gaps	2.0	4.7	3.9	10.3	3.8
Communication barriers	23.5	26.6	44.7	39.1	26.7
Fear of reporting criminal matters	3.9	0.0	3.9	12.6	4.8
Lack of independence of the criminal justice agencies	0.0	3.1	5.3	2.3	1.4
Inadequate rehabilitation of offenders	0.0	1.6	0.0	4.6	0.0
Lack of confidentiality of information	0.0	0.0	0.0	1.1	0.0
Premature release of suspects/accused	0.0	1.6	0.0	1.1	0.5
Laxity among the criminal justice agencies/unprofessionalism	8.8	10.9	1.3	1.1	1.9
Lack of cooperation by the relevant actors including witnesses/victims	3.9	1.6	3.9	0.0	0.5
Unreasonable bond and bail terms	0.0	0.0	0.0	0.0	0.0
Victimization including sexual harassment of the accused and victims	2.9	0.0	1.3	2.3	0.5

County	Challenges experienced in the access to criminal justice (% of cases)				
Inadequate funding for legal aid	Kilifi	Kirinyaga	Kisii	Kisumu	Kitui
High cost of legal representation	9.9	35.6	19.5	19.3	12.8
High court charges/fees	30.8	31.5	28.1	11.9	18.6
Complex criminal litigation	26.4	13.7	32.0	31.2	2.3
Loss and/or damage of exhibits	9.9	11.0	39.8	29.4	24.4
Lack of automatic right to counsel in common legal circumstances	0.0	0.0	0.8	0.0	0.0
Loss of court files	0.0	5.5	10.2	2.8	3.5
Illiteracy and lack of legal know-how or the accused	1.1	1.4	20.3	12.8	3.5
Limited financial resources among witnesses, victims/complainants, or the accused	31.9	28.8	48.4	31.2	14.0
Limited financial resources within criminal justice agencies	2.2	19.2	25.8	21.1	15.1
Long distances/farness of the criminal justice service providers	2.2	12.3	9.4	2.8	7.0
Delay in processing criminal matters including unreasonable adjournment of cases	22.0	6.8	12.5	9.2	16.3
Corruption in the criminal justice	50.5	75.3	50.0	45.9	36.0
Witness and victim interference	84.6	97.3	69.5	71.6	77.9
Inadequate personnel in the criminal justice sector	27.5	8.2	20.3	17.4	19.8
Inadequate infrastructural resources	12.1	2.7	8.6	3.7	12.8
Investigations gaps	5.5	4.1	11.7	10.1	2.3
Communication barriers	23.1	43.8	45.3	36.7	39.5
Fear of reporting criminal matters	4.4	1.4	11.7	17.4	3.5
Lack of independence of the criminal justice agencies	1.1	1.4	0.0	0.9	0.0
Inadequate rehabilitation of offenders	0.0	0.0	0.0	0.0	0.0
Lack of confidentiality of information	0.0	0.0	0.0	0.0	0.0
Premature release of suspects/accused	0.0	4.1	0.0	0.0	0.0
Laxity among the criminal justice agencies/unprofessionalism	0.0	11.0	1.6	2.8	1.2
Lack of cooperation by the relevant actors including witnesses/victims	2.2	0.0	0.0	0.0	1.2
Unreasonable bond and bail terms	0.0	0.0	0.0	0.0	0.0
Victimization including sexual harassment of the accused and victims	0.0	5.5	0.0	0.9	1.2
					2.8

County	Challenges experienced in the access to criminal justice (% of cases)				
	Meru	Mombasa	Muranga	Nairobi City	Nakuru
Inadequate funding for legal aid	21.0	24.3	7.8	14.7	17.6
High cost of legal representation	27.1	25.2	8.8	24.8	26.1
High court charges/fees	15.2	33.3	5.9	15.7	10.2
Complex criminal litigation	18.6	11.7	15.7	21.3	34.7
Loss and/or damage of exhibits	0.0	0.0	0.0	0.0	0.0
Lack of automatic right to counsel in common legal circumstances	3.3	0.0	1.0	2.4	9.1
Loss of court files	2.9	0.0	1.0	6.3	8.0
Illiteracy and lack of legal know-how or the accused	47.1	23.4	28.4	24.5	23.9
Limited financial resources among witnesses, victims/complainants, or the accused	29.0	1.8	26.5	15.0	22.7
Limited financial resources within criminal justice agencies	3.3	0.0	8.8	7.3	4.5
Long distances/farness of the criminal justice service providers	2.9	11.7	6.9	4.9	9.7
Delay in processing criminal matters including unreasonable adjournment of cases	55.2	42.3	48.0	45.1	59.7
Corruption in the criminal justice	84.8	73.0	77.5	89.2	77.8
Witness and victim interference	19.5	18.0	19.6	12.9	15.3
Inadequate personnel in the criminal justice sector	3.3	7.2	13.7	6.6	6.2
Inadequate infrastructural resources	2.9	0.9	18.6	4.5	4.0
Investigations gaps	46.7	15.3	37.3	41.3	45.5
Communication barriers	13.8	1.8	3.9	6.6	1.1
Fear of reporting criminal matters	0.5	0.9	2.9	2.8	0.6
Lack of independence of the criminal justice agencies	0.5	0.0	1.0	0.3	0.0
Inadequate rehabilitation of offenders	0.0	0.0	0.0	0.3	0.0
Lack of confidentiality of information	1.0	0.0	1.0	0.7	0.0
Premature release of suspects/accused	0.0	0.0	1.0	0.3	0.0
Laxity among the criminal justice agencies/unprofessionalism	1.9	1.8	7.8	3.5	0.6
Lack of cooperation by the relevant actors including witnesses/victims	1.4	0.0	2.9	1.0	0.0
Unreasonable bond and bail terms	1.4	0.9	2.0	0.3	0.0
Victimization including sexual harassment of the accused and victims	3.3	8.1	1.0	2.1	9.1

County	Challenges experienced in the access to criminal justice (% of cases)			
Inadequate funding for legal aid	Nyandarua	Nyeri	Trans Nzoia	Uasin Gishu
High cost of legal representation	20.9	22.7	0.0	22.7
High court charges/fees	19.4	17.3	4.3	15.5
Complex criminal litigation	6.0	9.3	0.0	5.2
Loss and/or damage of exhibits	16.4	14.7	7.1	20.6
Lack of automatic right to counsel in common legal circumstances	0.0	0.0	0.0	0.0
Loss of court files	3.0	9.3	0.0	1.0
Illiteracy and lack of legal know-how or the accused	3.0	4.0	10.0	9.3
Limited financial resources among witnesses, victims/complainants, or the accused	25.4	16.0	17.1	15.5
Limited financial resources within criminal justice agencies	14.9	14.7	7.1	24.7
Long distances/farness of the criminal justice service providers	1.5	4.0	0.0	1.0
Delay in processing criminal matters including unreasonable adjournment of cases	9.0	4.0	8.6	6.2
Corruption in the criminal justice	62.7	65.3	40.0	40.2
Witness and victim interference	88.1	88.0	92.9	81.4
Inadequate personnel in the criminal justice sector	16.4	10.7	7.1	5.2
Inadequate infrastructural resources	3.0	1.3	1.4	4.1
Investigations gaps	0.0	4.0	2.9	5.2
Communication barriers	47.8	48.0	17.1	14.4
Fear of reporting criminal matters	3.0	4.0	0.0	5.2
Lack of independence of the criminal justice agencies	0.0	1.3	0.0	4.1
Inadequate rehabilitation of offenders	1.5	1.3	0.0	0.0
Lack of confidentiality of information	0.0	0.0	0.0	0.0
Premature release of suspects/accused	0.0	0.0	0.0	0.0
Laxity among the criminal justice agencies/unprofessionalism	1.5	0.0	0.0	0.0
Lack of cooperation by the relevant actors including witnesses/victims	3.0	22.7	12.9	0.0
Unreasonable bond and bail terms	0.0	0.0	0.0	0.0
Victimization including sexual harassment of the accused and victims	0.0	1.3	1.4	0.0
	11.9	9.3	2.9	10.3

From the foregoing, corruption is the leading challenge faced by most respondents in the access to criminal justice in Kenya in all the 20 sampled counties. Most respondents in 8 out of 20 sampled counties also identified delays in the processing of the criminal cases as a factor impeding access to criminal justice in Kenya. Ignorance was mapped as the prominent impediment to the access to criminal justice by most respondents in Embu County.

On the challenges faced in the access to criminal justice, an official from the Office of Director of Public Prosecutions had this to say:

“Some of the challenges include in-accessibility of far flanked areas which necessitate delays in justice, delays in forensic analysis to support criminal cases, lack of information to vulnerable groups, political interference and corruption” (Key Informant Interview, Kiambu County).

The above finding that corruption and delays in processing criminal matters including unreasonable adjournment of cases is the main challenge affecting members of the public concurs with NCRC (2018) findings on corruption in the public service; and NCRC (2021) where corruption and delays in the completion of cases were highlighted as the key contributing factors for the loss of criminal cases in the favor of the defendants thereby leading to the miscarriage of justice.

Towards solving the challenges faced in the access to criminal justice, the members of public suggested a raft of remedial measures. The main remedial measure suggested was Enhanced fight against corruption in the criminal justice sector (78.2%). Enhanced awareness of the legal process (37.0%), improved investigations (34.8%), and the provision of affordable legal services (27.8%) were among the other key suggestions mooted as indicated in Table 3.7.

Table 3. 7: Respondent’s suggestions towards ameliorating the challenges experienced in accessing Criminal Justice in Kenya

Respondent’s suggestions towards ameliorating the address challenges experienced in accessing criminal justice	% of cases
Enhanced fight against corruption in the criminal justice sector	78.2
Enhanced awareness of the legal process	37.0
Improved investigations	34.8
Provision of affordable legal services	27.8
Enhanced legal aid services to the suspects and the victims	18.1
Increased number of criminal justice service points/stations	15.8
Enhanced capacity building of the officers in the criminal justice sector	15.3
Improved funding for legal aid services	15.2
Enhanced witness protection services	14.9
Comprehensive automation of criminal justice services	13.8
Boost access to legal representation	12.5
Enhanced victim protection services	11.0
Review relevant laws and policy frameworks	10.8
Enhance facilitation of the witnesses and victims of crimes	10.0

Respondent's suggestions towards ameliorating the address challenges experienced in accessing criminal justice	% of cases
Improved infrastructure	9.5
Expedite dispensation of criminal matters	5.5
Ensure reasonable bail and bond terms	4.7
Enhanced collaboration between the criminal justice actors	1.0
Enhanced Alternative Dispute Resolution Mechanisms	0.9
Enhanced oversight of criminal justice agencies	0.7
Enhance confidentiality of information	0.6
Employ more personnel	0.6
Enhanced independence of the criminal justice agencies	0.3
Adequate rehabilitation of offenders	0.1

The above findings reveal that in order to enhance access to criminal justice, most respondents emphasized the need to fight against corruption in the criminal justice sector. This finding resonates well with the early finding which mapped out corruption as the key impediment in the access to criminal justice in Kenya. Towards this, the EACC should improvise ways of curbing corruption in the criminal justice sector. There is further a need by the criminal justice agencies to put in place measures aimed at mitigating corruption.

3.6 Factors that Enhance Access to Criminal Justice in Kenya

Towards enhancing access to criminal justice in Kenya, the respondents made a raft of suggestions. The most prominent suggestion made was fostering integrity and accountability among the criminal justice actors/players (68.4%). Other key suggestions made were adequate financial resources to both victims, witnesses, and the accused/suspects/offenders to meet the costs involved in access to criminal justice (34.1%), adequate personnel within agencies involved in the access to criminal justice (22.0%), adequate financial resources to agencies involved in the access to criminal justice (21.0%), adequate physical facilities/structures within agencies involved in the access to criminal justice (17.7%), effective legal and policy frameworks (15.2%) among others as captured in Table 3.8.

Table 3. 8: Factors that enhance access to criminal justice in Kenya

Factors that enhance access to criminal justice in Kenya	% of cases
Fostering integrity and accountability of the criminal justice actors/players	68.4
Adequate financial resources to both victims, witnesses, and the accused/suspects/offenders to meet the costs involved in access to criminal justice	34.1
Adequate personnel within agencies involved in the access to criminal justice	22.0
Adequate financial resources to agencies involved in the access to criminal justice	21.0
Adequate physical facilities/structures within agencies involved in the access to criminal justice	17.9
Adequate and/or relevant skills and competencies of criminal justice players	17.1
Effective legal and policy frameworks	15.2

Factors that enhance access to criminal justice in Kenya	% of cases
Enhanced victim and witness protection services	14.1
Adequate technology-based equipment and/or services within agencies involved in the access to criminal justice	10.2
Adequate transportation facilities within agencies involved in the access to criminal justice	9.7
Enhanced awareness on legal processes and procedures	2.8
Transfer/reshuffle of criminal justice personnel	1.1
Enhanced oversight of criminal justice agencies	1.0
Enhanced collaboration between different criminal justice actors	0.6
Enhanced reward system	0.5
Set timelines for determination of criminal matters	0.5
Enhanced Alternative Dispute Resolution Mechanisms	0.5
Continuous capacity building of criminal justice actors	0.3
Decentralization of criminal justice services	0.3

Fostering integrity and accountability of the criminal justice actors/players was mapped as the main factor that can enhance access to criminal justice in Kenya. This finding resonates well with earlier findings which showed that corruption was the main reason why most respondents were not satisfied by a number of criminal justice agencies and the foremost challenge in the access to criminal justice in all the sampled counties.

CHAPTER FOUR: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.1 Introduction

This section covers the summary of key findings based on the study objectives; that is, the knowledge levels of members of the public on access to criminal justice, members of the public's perceptions and experiences on the effectiveness of the criminal justice actors in facilitating access to justice, the challenges experienced by members of the public in accessing criminal justice. It also entails the conclusion and recommendations of the study.

4.2 Summary of Key Findings

4.2.1 Knowledge levels of members of the public on access to criminal justice

The study established that most of the respondents (51.2%) had contact with the criminal justice system in the past three years out of which majority were victims of crime (62.5%). The key criminal justice actors/players identified by most respondents were NPS (93.7%), NGAO (77.7%) and the Judiciary (51.5%). On what constitutes access to criminal justice, most respondents mentioned arrest of the accused (72.0%), fair hearing (56.4%), compensation of the victim (47.1%), conviction of the accused (46.2%), effective investigation (39.2%) and quick completion of the criminal cases (18.2%).

4.2.2 Respondents' perceptions and experiences on the effectiveness of the criminal justice actors in facilitating access to justice

Most members of the public said that they were satisfied with NGAO (64.7%), DCS (60.2%), KPS (55.4%) and the Judiciary (49.2%). Conversely, they were not satisfied with NPS (64.2%) and the EACC (46.8%). Equally, most of the members of the public said that they were not sure on their satisfaction level on VPB (66.5%), Government Chemist (60.9%), WPA (60.7%), OAG (56.6%) and ODPP (45.5%).

4.2.3 Challenges experienced by members of the public in accessing criminal justice

The main challenges faced by the members of the public in accessing criminal justice in Kenya is corruption (79.3%) and delay in processing criminal matters by the responsible agencies including unreasonable adjournment of cases in court (47.6%). Other significant challenges included investigation gaps (35.9%), high cost of legal representation services (20.8%), illiteracy and lack of legal know-how among the general public, witnesses, or the accused (20.1%), limited financial resources among witnesses, victims/complainants, or the accused (17.5%), inadequate funding for legal aid services (15.7%), witness and victim interference (15.5%), and bureaucracy in criminal justice agencies (15.2%).

4.2.4 Factors that enhance access to criminal justice in Kenya

Towards enhancing access to criminal justice in Kenya, the respondents made a raft of suggestions. The most prominent suggestion made was fostering integrity and accountability

among the criminal justice actors/players (68.4%). Other key suggestions made were adequate financial resources to both victims, witnesses, and the accused/suspects/offenders to meet the costs involved in access to criminal justice (34.1%) and adequate personnel within agencies involved in the access to criminal justice (22.0%). Also, they proposed adequate financial resources to agencies involved in the access to criminal justice (21.0%), adequate physical facilities/structures within agencies involved in the access to criminal justice (17.7%), effective legal and policy frameworks (15.2%).

4.3 Conclusion

The main thrust of this inquiry was to establish the perceptions and experiences of the members of the public on the access to criminal justice in Kenya. It covered 20 counties in Kenya.

Based on the key findings of this study, it can be concluded that:

1. Most members of the public know what access to criminal justice entails. However, a significant proportion of them do not know some of the relevant actors and/or players in facilitating access to criminal justice in Kenya – including their roles/mandates.
2. A significant proportion of members of the public are not satisfied with the performance of the NPS and the EACC in facilitating access to criminal justice in Kenya.
3. The main challenges faced by the members of the public in accessing criminal justice in Kenya is corruption and delay in processing criminal matters by the responsible agencies.

4.4 Recommendations

Arising from the findings and conclusions of this study, the following recommendations are made:

4.4.1 Policy Recommendations

Lead Agency - National Council on the Administration of Justice

1. Prioritize and enhance public awareness on the roles of various actors/agencies in facilitating access to criminal justice

This study established that most members of the public do not know Victim Protection Board, Government Chemist, Witness Protection Agency, Office of the Attorney General, and Office of the Director of Public Prosecution including their roles in facilitating access to criminal justice. This calls for enhanced public sensitization about the mandates and/ or roles of these key players.

2. Enhance the capacity of Court Users Committees

It was established in this study that delays in case processing hampers access to the criminal justice. To address this challenge, it is imperative to enhance the CUC as a

way of promoting synergy among the criminal justice actors/stakeholders. This will significantly reduce the cumbersome bureaucratic processes.

3. Strengthen the role of the National Government Administrative Officers in the Criminal Justice System

The findings of this study showed that most members of the public perceive the National Government Administration Officers (NGAO) as key players in the criminal justice system. Furthermore, majority of the members of the public (6 out of 10) are satisfied with the performance of the NGAO in facilitating access to criminal justice in Kenya. Therefore, there is need to have their role enhanced and integrated in the criminal justice framework.

4. All criminal justice agencies/ actors to make corruption prevention a standing agenda in their operations

This study identified corruption as the foremost challenge facing members of the public in the access to criminal justice. Consequently, addressing corruption in the Criminal Justice System should not be a preserve of one actor/ agency but a standing agenda by all stakeholders.

Lead Agency - Judiciary

5. Institutionalize compensation orders in their sentencing regime

On what constitutes access to criminal justice, compensation to the victim was reported by 5 out of 10 sample respondents. There is need, therefore, for the Judiciary to institutionalize compensation orders in their sentencing regimes. The convicts or their kin should compensate the victims for the damages caused and legal fees spent.

6. Increase the number of petty crimes courts and the application of Alternative Dispute resolution mechanism for petty crimes across the country

Delay in processing criminal matters by the responsible agencies including unreasonable adjournment of cases in court was cited by 47.6% of the sample respondents. It is recommended that the Judiciary increases the number of petty crime courts and enhance the adoption of the application of Alternative Dispute resolution mechanism for petty crimes across the country. This will help in reducing the case-backlog challenge in the Judiciary.

Lead Agencies – Judiciary and Office of the Attorney General

7. Enhance free legal representation services to the vulnerable members of the society

The findings of this study showed that one of the challenges faced by the members of the public entailed high cost of legal representation. Consequently, there is need to strengthen the pro-bono legal representation services especially to the vulnerable groups such as the poor, women and people living with disabilities. In particular, the National Legal Aid Services (NLAS) need to be strengthened.

Lead Agency - Office of the Attorney General

8. Strengthen the Witness Protection Agency and the Victim Protection Board

The study revealed that witness and victim interference is among the key challenges faced in the access to criminal justice in Kenya. This therefore calls for the

strengthening the duty bearer agencies responsible for the witness and victim protection services.

Lead Agencies – Law Society of Kenya (LSK)

9. Introduce a graduated/phased payment of legal fees over some reasonable time depending on the assessed economic ability of the represented victim or accused

The high cost of legal representation was prominently mentioned as one of the key challenges faced in the access of criminal justice in Kenya. To mitigate this challenge, the study recommends a graduated/phased payment of legal fees over some reasonable time depending on the assessed economic ability of the victim or accused.

Lead agencies - National Police Service Commission and National Police Service

10. Fortify the implementation of the ongoing police reforms

Based on the study findings, it is clear that majority of the members of the public (9 out of 10), recognize the role of the police in facilitating access to criminal justice. Nonetheless, most of them (6 out of 10) are not satisfied with the performance of this institution in facilitating access to criminal justice in Kenya. This calls for the strengthening of the ongoing police reforms so as to transform this institution to the expectations of the public.

11. Heighten the capacity building of officers in the criminal investigation

This study pointed out that majority of the respondents (64.2%) were not satisfied with the performance of NPS. For instance, a significant number of the sampled respondents (3 out of 10) mentioned investigation gaps as a challenge faced in accessing criminal justice. There is need, therefore, to enhance the capacity of the investigation officers.

Lead Agency- Ethics and Anti-Corruption Commission (EACC)

12. Enhanced fight against corruption

It was established in the study that the key challenge in the access to criminal justice in Kenya was corruption. The study also indicated that most members of the public (5 out of 10) were not satisfied with the performance of the EACC in the fight against corruption. This indicates the need to enhance performance of this institution in fighting corruption.

Lead Agency - National Assembly

13. Allot enhanced financial resources to the criminal justice agencies and players

Delays in the processing of criminal matters and inadequate funding for legal aid services were identified by the respondents as some of the key challenges members of public face while accessing criminal justice. Therefore, enhanced funding will be critical in putting in place appropriate systems and structures for improving service delivery.

4.4.2 Recommendations for Further Research

The study covered twenty counties and therefore recommends the rolling out of this study to the remaining twenty seven counties in order to give a national outlook of the concept of access to criminal justice in Kenya.

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APPENDICES

Appendix 1: Interview Schedule for Members of the Public



A STUDY ON PUBLIC PERCEPTIONS AND EXPERIENCES ON ACCESS TO CRIMINAL JUSTICE IN KENYA

County: _____

Sub County: _____

Constituency: _____

Ward: _____

Date of Interview: _____

Time of Interview: _____

INTRODUCTION

My name is..... from National Crime Research Centre (NCRC), which is currently conducting “**A Study on Public Perceptions and Experiences on Access to Criminal Justice in Kenya**”. The study aims at assessing the knowledge levels of members of the public on access to criminal justice; examining the satisfaction levels on the frontrunner agencies in enabling access to criminal justice; and finally, identifying challenges faced in accessing criminal justice and the possible solutions. Your participation in the study is highly valued and the information collected will assist in informing relevant Government policies and programmes. Your participation in the study is voluntary and all information you give will be treated with the utmost confidentiality.

Thank you in advance.

Signature of interviewer: _____

☐ **Respondent agrees to be interviewed**

☐ **Respondent does not agree to be interviewed** —————→ **end**

SECTION A: SOCIO-DEMOGRAPHIC INFORMATION

1. Gender:

1. Male
2. Female

2. Age category of respondents in years:

1. 18-34
2. 35-51
3. 52-68
4. 69+

3. Marital Status:

1. Single/Never Married
2. Married
3. Divorced
4. Separated
5. Widowed

4. Highest Level of Education attained:

1. None
2. Primary
3. Secondary
4. Middle level
5. Graduate
6. Post Graduate
7. Adult Education

5. What is your main occupation?

1. Public Sector –Permanent

2. Public Sector -Temporary (Casual/Contract)
3. Private Sector–Permanent
4. Private Sector -Temporary (Casual/Contract)
5. Business
6. Subsistence farming
7. Other (including Housewife, student/pupil, unemployed, retiree, volunteer, intern) –Specify _____

Section B: Public knowledge on access to criminal justice

6. (a) Have you or any member of your household interacted with the criminal justice system in Kenya in the last 3 years?

Yes []

No []

(b) If yes in Q6 (a) above, in which capacity? **Tick all that apply**

1) Defendant/accused ();

2) Victim ();

3) Witness ();

4) Others (specify)_____

7. Based on your understanding, when would you say that one (whether as the victim/complainant or accused (suspect/offender) has accessed criminal justice upon commission of a crime? **(Do not read out the answers)**

S/No.	Understanding of access to criminal justice	Tick all that apply
	When there is:	
1.	Arrest of the accused (suspect/offender)	
2.	Fair hearing	
3.	Legal representation of the victim/complainant or accused (suspect/offender)	
4.	Conviction of the accused	
5.	Expeditious dispensation of the case	
6.	Timely arraignment/production of the accused in court	
7.	Effective investigations	
8.	Protection of the witnesses/suspects and the victims/complainants	
9.	Compensation to the victim	
10.	Visitation of accused (suspect/offender) while in police and/or prison custody	
11.	Easy physical access to the criminal justice institutions by the victim/complainant or accused/suspect/offender	
12.	Easy access to required information by the victim/complainant or accused (suspect/offender)	
13.	accessibility of reasonable bail/bond terms by the accused (suspect/offender)	

S/No.	Understanding of access to criminal justice	Tick all that apply
	When there is:	
14.	Others (please specify)	

8. According to you, who are the key players/actors involved in access to criminal justice in Kenya? (**Do not read out the players/actors**)

S/No.	Key players/actors involved in access to criminal justice	Tick all that apply
1.	National Police Service (NPS) including the Directorate of Criminal Investigation (DCI)	
2.	Office of the Director of Public Prosecutions (ODPP)	
3.	Judiciary	
4.	Probation and After-Care Services (PACS)	
5.	Kenya Prisons Service (KPS)	
6.	Department of Children Services (DCS)	
7.	Members of the public	
8.	Victims	
9.	Witnesses (if different from the victims)	
10.	Accused persons (suspects and/or offenders)	
11.	State counsels	
12.	Advocates/Counsels	
13.	Witness Protection Agency (WPA)	
14.	Victim Protection Board	
15.	Ethics and Anti-Corruption Commission (EACC)	
16.	Medical Doctors	
17.	Government Chemist	
18.	National Government Administrative Officers (NGAO)	
19.	Others (specify)	

Section C: Satisfaction levels on the performance of frontrunner agencies in enabling access to criminal justice

9. Generally, how satisfied are you with the performance of the following agencies in enabling access to criminal justice? (**Read out the names of the agencies**)

S/No.	Players/actors	Tick only one option			If not satisfied, give reasons
		Satisfied	Not satisfied	Not sure	
1.	National Police Service (NPS)				
2.	Office of the Director of Public Prosecutions (ODPP)				
3.	Judiciary				
4.	Probation and After-Care Services				
5.	Kenya Prisons Service				
6.	Department of Children Services				
7.	Independent Policing Oversight Authority				
8.	Office of the Attorney General				
9.	Witness Protection Agency				
10.	Victim Protection Agency				

S/No.	Players/actors	Tick only one option			If not satisfied, give reasons
		Satisfied	Not satisfied	Not sure	
11.	Ethics and Anti-Corruption Commission				
12.	Government Chemist				
13.	National Government Administrative Office (NGAO) – that is County Commissioner and line officers				

Section D: Challenges faced in accessing criminal justice and the possible solutions

10. (a) Based on your knowledge and/or experience, what are the challenges faced in accessing criminal justice in Kenya? **(Do not read out the challenges)**

S/No	Challenges faced in accessing criminal justice	Tick all that apply
1.	Inadequate funding for legal aid services	
2.	High cost of legal representation services	
3.	High court charges/fees	
4.	Bureaucracy in criminal justice agencies	
5.	Complex criminal litigation procedures	
6.	Loss and/or damage of exhibits	
7.	Lack of automatic right to counsel in common legal circumstances	
8.	Lack of information on legal rights, services, and procedures	
9.	Loss of court files	
10.	Illiteracy and lack of legal know-how among the general public, witnesses, victim/complainant, or the accused (suspect and/or offender)	
11.	Limited financial resources among witnesses, victims/complainants, or the accused (suspects and/or offenders)	

S/No	Challenges faced in accessing criminal justice	Tick all that apply
12.	Limited financial resources within criminal justice agencies	
13.	Long distances/farness of the criminal justice service providers	
14.	Delays in processing criminal matters (including unreasonable adjournment of cases)	
15.	Corruption in the criminal justice sector	
16.	Witness interference	
17.	Inadequate personnel in the criminal justice sector	
18.	Inadequate infrastructural resources	
19.	Investigation gaps	
20.	Evidence tampering	
21.	Communication barriers	
22.	Others (specify)	

(b) What would you propose be done to address the challenges faced in accessing criminal justice? **(Do not read out the proposals on how to address the challenges)**

S/No.	Proposals on how to address challenges faced by members of the public in accessing criminal justice	Tick all that apply
1.	Enhanced awareness of the legal process	
2.	Enhanced legal aid services to the suspects and the victims	
3.	Enhanced witness protection services	
4.	Enhanced victim protection services	
5.	Improved investigations	
6.	Improved infrastructure	
7.	Improved funding for legal aid services	
8.	Provision of affordable legal services	
9.	Boost access to legal representation	
10.	Enhance facilitation of the witnesses and victims of crimes	

S/No.	Proposals on how to address challenges faced by members of the public in accessing criminal justice	Tick all that apply
11.	Enhanced automation of criminal justice services	
12.	Enhanced fight against corruption in the criminal justice sector	
13.	Review relevant laws and policy frameworks	
14.	Enhanced capacity building of the officers in the criminal justice sector	
15.	Automatic right to counsel in common legal circumstances	
16.	Increased number of criminal justice service points/stations	
17.	Ensure reasonable bail and bond terms	
18.	Others (specify)	

11. Based on your knowledge and or experiences, what can enhance access to criminal justice in Kenya? **(Do not read out the factors that enhance access to Criminal Justice)**

S/No.	Factors that enhance access to Criminal Justice	Tick all that apply
1.	Adequate financial resources to both victims, witnesses, and the accused (suspects and/or offenders) to meet the costs involved in access to criminal justice	
2.	Adequate financial resources to agencies involved in the access to criminal justice	
3.	Adequate personnel within agencies involved in the access to criminal justice	
4.	Adequate and/or relevant skills and competencies of criminal justice players	
5.	Adequate transportation facilities within agencies involved in the access to criminal justice	
6.	Adequate technology-based equipment and/or services within agencies involved in the access to criminal justice	
7.	Adequate physical facilities/structures within agencies involved in the access to criminal justice (including office rooms, courtrooms and accommodation facilities for victims, witnesses, and the accused (suspects and/or offenders))	
8.	Enhanced victim and witness protection services	
9.	Integrity of the criminal justice actors/players	
10.	Effective legal and policy frameworks	
11.	Others (Specify)	

12. Please give any other relevant comments:

Thank you so much for your time and cooperation.

Appendix 2: Key Informant Guide



A STUDY ON PUBLIC PERCEPTIONS AND EXPERIENCES ON ACCESS TO CRIMINAL JUSTICE IN KENYA

County: _____

Sub County: _____

Constituency: _____

Ward: _____

Date of Interview: _____

Time of Interview: _____

INTRODUCTION

My name is..... from National Crime Research Centre (NCRC), which is currently conducting **“A Study on Public Perceptions and Experiences on Access to Criminal Justice in Kenya”**. The study aims at assessing the knowledge levels of members of the public on access to criminal justice; examining the satisfaction levels on the frontrunner agencies in enabling access to criminal justice; and finally, identifying challenges faced in accessing criminal justice and the possible solutions.

Your participation in the study is highly valued and the information collected will assist in informing relevant Government policies and programmes. Your participation in the study is voluntary and all information you give will be treated with the utmost confidentiality.

Thank you in advance.

Key informant Questions on Access to Criminal Justice in Kenya

1. In your understanding, what constitutes access to criminal justice?
2. Based on your knowledge and/or experience, would you generally say that there is satisfactory access to criminal justice in Kenya? Please explain.
3. Explain on the effectiveness of different players in enabling access to criminal justice in Kenya.
4. What are the challenges faced in accessing criminal justice in Kenya?
5. Based on your knowledge and/or experience, what is necessary to enhance access to criminal justice in Kenya?

Thank you so much for your time and cooperation.

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