



NATIONAL CRIME RESEARCH CENTRE
Fighting Crime through Research



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

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ABBREVIATIONS AND ACRONYMS

CRTS	Court Recording and Transcription Services
CTS	Case Tracking System
CUC	Court Users Committees
EACC	Ethics and Anti-Corruption Commission
GST	General Systems Theory
ICT	Information, Communication and Technology
JSC	Judicial Service Commission
JTF	Judiciary Transformation Framework
KPS	Kenya Prisons Service
NCRC	National Crime Research Centre
NPS	National Police Service
ODPP	Office of the Director of Public Prosecution
SDGs	Sustainable Development Goals
SJT	Sustaining the Judiciary Transformation
SOJAR	State of the Judiciary and Administration of Justice
UN	United Nations
UNODC	United Nation Office on Drugs and Crime

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.
Criminal justice	The idea of getting what one deserves, fairness, moral righteousness and equality before the criminal laws.
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 a fundamental statutory tenet. Primarily it entails the fairness to the parties involved; justness of results delivered; speed with which cases are processed; and responsiveness of the system to those who use it including accused persons and victims of crime. It is critical in the promotion and protection of the rule of law and an essential element in the enjoyment of fundamental human rights and freedoms. It therefore promotes security, peace, harmony and prosperity in the society. In Kenya, access to criminal justice is enshrined in Article 48 of the Constitution. It obliges the state to ensure that there is access to justice for all persons whether a victim or a suspect of a crime and or offence.

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 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 on the topic. The study was conducted in 20 Counties in Kenya. The selection of the twenty counties was based on the high prevalence 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 study had a target sample of 2402, however 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. Key informants were drawn from state and non-state actors across the twenty counties. Both primary and secondary data were utilized in this study. The primary data was analyzed quantitatively using Statistical Package for Social Sciences.

Key Findings

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 National Police Service (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%), and conviction of the accused (46.2%), effective investigation (39.2%) and expeditious dispensation of the criminal case (18.2%).

Public perceptions and experiences on the effectiveness of the criminal justice actors in facilitating access to justice

The findings of the study showed that most members of the public said that they are satisfied with National Government Administrative Office (64.7%), Department of Children Services (60.2%), Kenya Prisons Services (55.4%) and the Judiciary (49.2%). Most respondents also indicated that they are not satisfied with National Police Service (64.2%) and the Ethics and Anti-Corruption Commission (46.8%). Equally, most of the members of the public said that they were not sure on their satisfaction level on Victim Protection Board (66.5%), Government Chemist (60.9%), Witness Protection Agency (60.7%), Office of the Attorney General (56.6%) and Office of the Director of Public Prosecution (45.5%).

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 shoddy investigations (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%).

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%).

Key Policy Recommendations

- i. The Judiciary to introduce petty crimes courts across the country
- ii. The Judiciary to institutionalize compensation orders in their sentencing regime
- iii. The Courts and defense counsels to graduate/phase payment of legal fees over some reasonable time depending on the assessed economic ability of the represented victim or accused.
- iv. The Judiciary to enhance free legal representation services to the vulnerable members of the society

- v. The National Police Service, Office of the Director of Public Prosecution and the Judiciary to enhance use of Alternative Dispute Resolution Mechanism
- vi. National Council on the Administration of Justice to prioritize and enhance public awareness on the roles of various actors/agencies in facilitating access to criminal justice
- vii. The National Council on the Administration of Justice to enhance the Court Users Committees
- viii. Strengthen the role of the National Government Administrative Officers in the Criminal Justice System
- ix. All criminal justice agencies/ actors to make corruption prevention a standing agenda in their operations
 - x. National Police Service Commission to fortify the implementation of the ongoing police reforms
 - xi. Heightened capacity building of officers in the criminal investigation
 - xii. Strengthen the Ethics and Anti-Corruption Commission
 - xiii. The Ethics and Anti-Corruption Commission to revolutionize corruption reporting mechanisms in all criminal justice institutions for prompt and anonymous reporting of corruption occurrences
- xiv. National Assembly to allot adequate financial resources to the criminal justice agencies and players
- xv. Strengthen the Witness Protection Agency and the Victim Protection Board

CHAPTER ONE: INTRODUCTION

1.1. Background of the study

Access to criminal justice is a fundamental statutory tenet. Primarily it entails the fairness to the parties involved; justness of results delivered; speed with which cases are processed; and responsiveness of the system to those who use it including accused persons and victims of crime (Bowd, 2009). According to Conford (2016), it refers to a concept of allowing laws and rights to be claimed by parties involved and applied, as well as to give each party prerogative of having their claims sought and their rights granted on equal terms. As such, access to criminal justice is critical in the promotion and protection of the rule of law and an essential element in the enjoyment of fundamental human rights and freedoms. It therefore promotes security, peace, harmony and prosperity in the society.

Access to criminal justice is enshrined in Article 48 of the Kenyan Constitution. The Constitution obliges the state to ensure that there is access to justice for all persons whether a victim or a suspect of a crime and or offence. However, studies have shown that there is limited understanding of this provision by the people seeking criminal justice services. For instance, Aburili (2017) found that most Kenyans are ill informed on what entails access to criminal justice and the process thereof. Similar, Aburili sentiments were echoed by Baraza and Kimani (n.d). They further pointed out that the existing legal and policy frameworks on access to criminal justice are complexity and hard for most people to understand.

Access to criminal justice is a process that involves a number of players/actors. These include: the National Police Service (NPS); Office of the Director of Public Prosecution (ODPP); Judiciary; Kenya Prisons Service (KPS); and Probation and After Care Service (PACS). Other actors that are critical in enhancing access to criminal justice include: the Government Chemist; state councils; advocates/counselors; Witness Protection Agency (WPA); witnesses; and victims (Aburili, 2017). They play a critical role in enhancing access to criminal justice that collectively leads to maintenance of the rule of law and socioeconomic prosperity (Beqiraj & McNamara, 2014; Marang'a, Kimalu & Ochieng, 2021); observance of human rights thus human dignity (Falavigna, Ippoliti, Manello, & Ramello, 2015); and democratic participation, inclusivity and accountability by government agencies (Kroll, Warchold & Pradhan, 2019).

Reports indicate that access to criminal justice in Kenya has been compounded by numerous challenges. These comprise: high court fees; geographical location; complexity of rules and procedure; use of complex terminology; inadequate staff; lack of financial autonomy, lack of effective remedies, a backlog of cases which results to delayed justice, inadequate awareness on ADR and traditional dispute resolution mechanisms (Ojwang, 2007). Other studies show that Kenya lacked a national comprehensive policy to address and improve matters relating to access to justice Kameri and Migai (2011). Further, Kariuki (2018) pointed out that there is inadequate awareness on the provisions of Articles on matters of access to justice. Finally, while there is a multisector approach that is Court Users Committee (CUC), aimed at

creating synergies in enhancing access to criminal justice (Aburili, 2017), it is not well coordinated and inadequately funded

1.1.1 Global Perspective

The issue of access to criminal justice has turned out to be a fundamental topic in the contemporary public policy debates and academic research. According to Mc Quire and Mac Donald (2007), there is lack of knowledge of the law by the citizenry which undermines access to justice. There are limited efforts to ensure that members of public get legal education/literacy, accessibility of laws to citizens in terms of language and form and cheap, simple, affordable and understandable legal procedures.

Reports in the United States of America showed that a number of agencies are responsible for access to criminal justice. According to Wellford (1997), the police, prosecution, the courts, witness protection authority and the prisons are essential players in facilitating access to criminal justice. He pointed out that these agencies must be directed by the ultimate truism that justice must not only be done but must be seen to be done to all. However, the challenge is that, this principle is frequently said than tangible in a particular criminal matter. In other jurisdictions like the United Kingdom, the investigative process is solely in the hands of the police department mainly because they receive and register crime reports, however they are at the same time responsible for prosecution of suspects, which raises criticism on the efficiency of the dual role (Hetherington, 1989).

A survey by World Justice Project (2011) showed that access to criminal justice is a serious issue globally. Former United States of America (USA) President Jimmy Carter noted that approximately 99% of our counsels/lawyers serve 10% of the American population. He further noted that USA supplies only about one lawyer for every 1,400 poor or near-poor persons in the USA (Rhode, 2004). Past studies indicated that in the USA, 80% of the legal needs of the poor and 66.33% of the legal needs of middle income Americans are not realized. As such, Millions of Americans lack any access to the criminal justice, let alone equal access (Rhode, 2004; Rhode & Packel, 2011).

There are many obstacles in accessing justice. For example, some people cannot get access to criminal justice due to physical and mental disability or socio-cultural and linguistic differences. However, the primary and most common hindrance is still cost. Martin (2012) studied the major difficulties for access to criminal justice and pointed out three major issues that is cost, delay, and complexity. He pointed out cost as the major impediment to access to criminal justice. Access to criminal justice has been a matter of discussion since the early 20th century. Most of the studies, unequal access to criminal justice is regarded a social problem confronted by lower status groups, especially the poor (Sandefur, 2009). These findings were echoed by (Rhode, 2004) who noted that legal services are too costly to afford especially by the less fortunate and marginalized in a society. Thus need to provide them with legal aid. Research showed that USA has only one legal aid lawyer for every 4,300 persons below the poverty line, compared with a ratio of one lawyer for every 380 Americans in the population generally.

Existing literature show that there are three primary solutions to improve access to criminal justice. First, access to legal representative. This result is primarily achieved in the form of legal aid. Secondly, access to judges or a magistrate. This solution is primarily achieved in terms of improved processes and procedures. Finally, access to legal information. This solution has taken many different forms including information on the processes, jurisdiction and financial costs involved. The cost efficiency of each of these three different solutions has been compared in the literature (Martin, 2012; Rhode, 2004; Rhode & Packel, 2011). Therefore adequate financial resources to all actors is a key in facilitating access to criminal justice.

Christensen & Szmer (2012) identified various factors that influence efficiency of US courts among them, quality of law schools from where Judges studied, vacancies for Judges in courts, number of Judges in each court and geographical area of jurisdiction of each court. In a study on Judges and courts performance in Israel, Beenstock and Haitovsky (2004) found that Judges' productivity is directly proportionate with caseload per Judge. They noted that with the employment of new Judges in a court, the productivity of senior Judges' decreases but it cannot be argued that employment of new Judges' results to high court productivity. Further, they pointed out that court efficiency concerning number of cases determined is therefore independent of the size of the bench. Conversely, quality of verdict increases if Judges work under less pressure. In a similar study, Castro (2009) studied the factors affecting courts' efficiency in Brazil. These included: outputs per Judge is directly proportionate with the caseload of each Judge and inversely proportionate with the number of Judges per courtroom. Case determination time increases with size of the court and court ineffectiveness linearly decreases with increase in court infrastructure. Finally, Chemin (2009) examined the impact of a speedy determination of cases on economic growth. He established that a weak and slow Judiciary negatively affects people and institutions and eventually the economic prosperity of a country. Most of the studies in this area are inclined towards Judiciary. There is need therefore to have a broader perspective to this area and identify factors that enhance access to criminal justice in Kenya.

1.1.2 African Perspective

Access to criminal justice is impeded by a number of challenges. According to Bowd (2009) factors that undermine access to criminal justice include poverty, lack of access to information and illiteracy. Obutte (2016) studied Corruption, Administration of Justice and the Judiciary in Nigeria. He argued that the Judiciary is a key pillar of a democratic process and good governance, however it can be tainted by corruption, which negatively affects the development of the country. Obutte's finding agrees with that of United Nations Office on Drugs and Crime (UNODC, 2006) that noted that there is corruption in Nigeria's judicial system and manifests through bribing judicial officers and staff, lawyers, and police officers in order to influence the judgments. In Ghana for instance, accessibility of judicial services was threatened by unaffordability of services, lack of responsiveness (African Union, 2019), perceived corruption and dwindling trust in the justice sector (Judicial Digest, 2017). Further, according to Judicial Digest (2018), 40% of Ghanaians indicated that most judicial officers

are corrupt. In a study on case backlog and the right to due process in Uganda, Kaweesa (2012) argues that case backlog in the Judiciary is a major challenge and attributed it to among other factors the winding structural set up of the formal criminal justice system. He found out that on average it takes seven years for a criminal matter to move from the High Court, through the Court of Appeal to the Supreme Court. However, this period does not take into consideration matters that may have originated from Magistrates Courts to the Higher Courts. He noted that the parties involved suffered from high cost of litigations and fatigue.

Bowd (2009) did a comparative analysis of access to criminal justice in Africa between Sierra Leone, Tanzania and Zambia. He noted that access to criminal justice ought to be equal; that the underprivileged should not be excluded based on scarcity and that there should be equity in provision of justice. Bowd pointed out that the level of access to criminal justice in a state is crucial in underpinning the roots of democracy and the development growth of a country.

On factors that enhance access to criminal justice, Obutte (2016) noted that assurance for promoting efficiency and efficacy in administration of criminal justice pivots on deterrence of corruption, compared to weak processes that encourages judicial malpractices. He concluded that the Judiciary needs to work towards punishing abuse of discretionary powers by judicial officers and administrators; gazetting penalties prescribed for acts of commissions and omissions by judicial officers and administrators; and collaborating with state and non-state actors in expanding access to criminal justice to ensure that redress mechanisms in the administration of justice is not compromised. The Ghanaian Judiciary have made efforts to enhance judicial services through reducing processing time; effective monitoring of cases; and the Anticorruption Action Plan for the judicial sector aimed at promoting integrity, transparency, accountability, and responsiveness to corruption complaints (Judicial Digest, 2018).

1.1.3 Kenyan Perspective

In Kenya, access to criminal justice is provided for in Articles 47, 48, 159 and 232 of the 2010 Constitution. For instance, Article 47 provides that any administrative action should be expeditious, efficient, lawful, and reasonable and procedurally fair (GoK, 2010; Marang'a, Kimalu, and Ochieng, 2021). Further, 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”. Study by Aburili (2017) showed that there are limitations on understanding the concept of access to criminal justice among the members of public. She recommends deliberate efforts be put in place to promote the understanding on access to criminal justice in Kenya.

Access to criminal justice is a process that involves a number of players with well-defined duties and responsibilities in managing offenders. The key players are: the NPS-they play a critical role as the point of entry of any criminal matter to the criminal justice system. They receive and record complaints and or statements from the victims and witnesses, arrest suspects/ accused persons and investigate criminal matters); the Judiciary (it is principally

charged with the administration of justice in a fair, timely, accountable and accessible manner and uphold the rule of law); ODPP institute and undertake prosecution of criminal matters; the KPS and the PACS ensure rehabilitation, reformation and reintegration of offenders (Baraza and Kimani, n.d). Aburili (2017) reinforced these findings and pointed out that the criminal justice system in Kenya comprises several interdependent sub-systems/players responsible for enforcement laws. She pointed out that these agencies are considered to be that place of refuge for the vulnerable and the marginalized in the advancement and fortification of rights, and on criminal matters. It is hence projected that these actors are accessible to the members of public when necessary and access not just in the legal and hypothetical sense, but also in the results that flow from the decisions they make that give it meaning. These institutions must also create an enabling environment for citizens to have faith in the criminal justice system (Aburili, 2017). Therefore, these actors need to work closely if access to criminal justice is to be realized by all person.

Reports showed that members of the public experience a number of challenges in their efforts to access criminal justice. Some of them include corruption, high costs in accessing justice, protracted legal procedures leading to delays in accessing justice and in some cases ignorance of the law (Laibuda, 2012). Further, Kodiaga (2021) found out that 47% of Kenyans who had contact with the Judiciary were unable to pay the required fees while 65% complained of long delays in determining their cases. The later finding concurs with SOJAR (2020), that pointed out that 249,199 criminal cases were filed in all courts across the country in the financial year 2019/2020. During the same period, the courts determined 203,976 criminal cases. The report further showed that by 30th June 2020, the criminal case back log in the Judiciary stood at 291,126. These therefore signifies that members of public experience experienced challenges while accessing criminal justice services.

A number of factors enhance access to criminal justice in Kenya. key factors identified by Mwanzia and Kanina (2009) were adequate workforce of judicial officers and staff, full automation of judicial service, availability of physical infrastructure, judicial organizational structure, court's rules and procedures. Other factors include: a strong working relationship and cooperation between the Judiciary and other government agencies including the NPS and ODPP; and highly qualified workforce (Wangui, 2017). On workforce, the Judiciary had a capacity of 5,263 by 30th June 2021 against an approved staff capacity of 9,323. This point to a staff deficit of 43.5% (4060) that negatively affect accessibility of judicial services (Judiciary of Kenya, 2020). In addition, Kandet (2018) noted that Judiciary experienced budgetary constraints and limited goodwill from key stakeholders. Other factors as pointed out by Judiciary (2020 & 2021) were leveraging technology for productivity and all aspects of service delivery thus automating court processes from case registration and determination, electronic filing, Court Recording and Transcription Solutions and the provision of Internet services in court stations across the country. Finally, Aburili (2017) identified accountability by the criminal justice actors as a key driver in the realization of access to criminal justice in Kenya.

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 two-thirds (65%) of Kenyans who had contact with the courts complained of long delays in resolving their cases, while (57%) of them could not obtain legal counsel with (47%) being unable to pay the requisite fees. 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).

Based on the foregoing, an empirical investigation to establish the perceptions and experiences of the members of the public on the access to criminal justice in Kenya with an aim of recommending cogent policy interventions towards mitigating them is necessary. This is the thrust of this study.

1.3. Objectives as per 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 knowledge levels of members of the public on 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 important based on the following reasons. Firstly, this study may prove critical to the NCRC in formulation of evidence based policy interventions that need to be employed by criminal justice system agencies in enhancing management of crime.

Secondly, access to criminal justice is a fundamental human right. As provided for in the 2010 Constitution, the state has an obligation to ensure access to justice for all persons and, if any fee is required; it should be reasonable and should not impede access to criminal justice. Therefore, this study was very critical in assessing the public's perceptions and experiences with regards to the extent to which this constitutional tenet is being fulfilled with an aim of suggesting policy interventions towards enhancing it.

Thirdly, the government has made efforts to enhance access to criminal justice. However, there are concerns that these efforts are not commensurate with public's perceptions and experience on access to criminal justice in Kenya.

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:

1. The respondents of the study are knowledgeable on the subject of access to criminal justice and they were 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 47 counties in Kenya.

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 & 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, ODPP, 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 always bring all stakeholders on board.

CHAPTER TWO: METHODOLOGY OF THE STUDY

2.1 Introduction

This chapter looks at the research design, sampling of counties and respondents, methods and tools of data collection and management, data analysis and ethical considerations.

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 approaches on the topic. This ensured data triangulation as the weaknesses and strengths of each approach was combined to provide valid data.

2.3 Sampling of Counties and Respondents

2.3.1 Sampling of counties

The study was conducted in 20 Counties in Kenya. The Kenya National Bureau of Statistics' (KNBS) Economic Survey, 2021 captures the total crimes reported to the Police Command Centres in each county. It was assumed that those counties with the highest crimes reported had the highest number of people seeking for criminal justice. Consequently, the 20 counties leading in the number of crimes reported were purposively selected for this study.

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%)
	1212 (51.7%)	1160 (48.3%)

Key informants for the study were the senior officials selected purposively from criminal justice system agencies and other relevant stakeholders in the CUCs. A total of three (3) key informant interviews per county were conducted.

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 sample respondents. Additionally, a key informant guide was used to collect data from the key informants. Pens and field notebooks were utilized in recording primary data from the sample respondents and 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. This included soliciting secondary data pertinent to this inquiry based on the objectives 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 then were 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 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 the Kenyans are below 35 years. On marital status, Majority of the respondents (68.5%) were married implying that they were family members with familial responsibilities such as providing 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.

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/pupil	2.9
	Unemployed	8.2
	Retiree	1.9
	Volunteer	.5
	Intern	0.0
	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 System in Kenya in the last three years. 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.

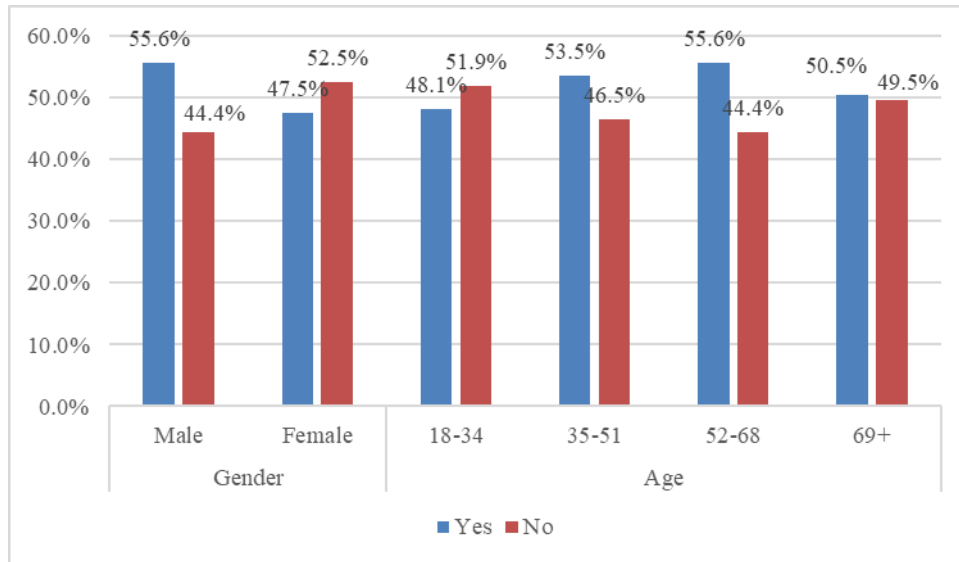


Figure 1: If the respondents interacted with the criminal justice systems 3 years preceding the survey

The finding that most of the members of the public have interacted with the criminal justice system may imply that the sample respondents were knowledgeable on current status of the sector based on their direct experiences. Those without direct experiences with the criminal justice system provided perceptual information based on the experiences of their

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 percent were witnesses with 17.0% being defendants as presented in Figure 2.

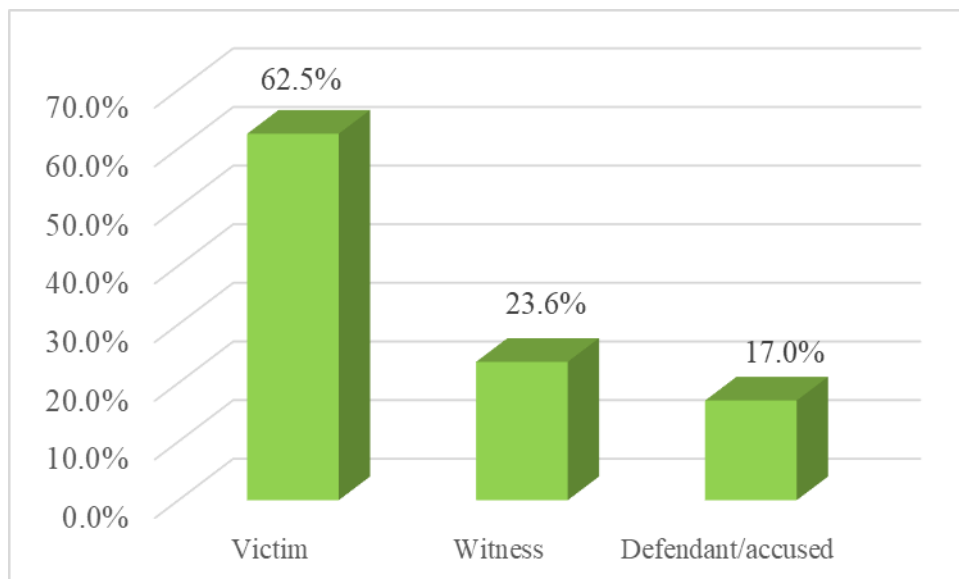


Figure 2: Capacity of the respondent's interaction with the criminal justice system

The finding in Figure 2 that majority of those who had contact with the criminal justice were victims of crime may be a pointer that most victims of crime are not the youth.

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 (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	93.7
National Government Administration Officers	77.7
Judiciary	51.5
Members of Public	28.0
Advocates/Counsels including FIDA	16.5
Office of the Director of Public Prosecution	13.5
Kenya Prisons Service	13.0
Department of Children Services	11.8
Victims	10.6
Accused Persons/suspects/offenders	7.6
Ethics and Anti-Corruption Commission	7.6
Witnesses (if different from victims)	7.1
Medical Doctors	6.1
State Counsels	4.8
Probation and After-Care Services	4.2
Non-Governmental Organizations and Faith Based Organizations	3.3
Government Chemist	2.1
Independent Police Oversight Authority	2.1
Kenya National Commission on Human Rights	1.9
Witness Protection Agency	1.8
Victim Protection Board	1.0
Politicians	0.6
County Governments	0.2

The above findings reveal that the significant members of the public are aware of the key players facilitating access to criminal justice in Kenya. This finding resonates well with the early finding where 5 out of 10 respondents said they have interacted with the criminal justice system with 6 out of 10 of them being victims. This finding implies that the respondents were knowledgeable enough to the subject of access to criminal justice in Kenya.

3.3.3 Public perceptions on what access to criminal justice entails

Most respondents indicated that access to justice entails arrest of the accused (72.0%) and 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

A further analysis on what constitutes access to criminal justice based on gender and level of education was done. Majority of the respondents indicated that access to criminal justice must entail the arrest of the accused (69.8% males and 74.2% females; 78% with no education, 73.1% with primary level education, 71.1% secondary level education, 69.5% middle level college education, 75.4% graduate level education and 50.0% adult literacy education).

Fair hearing was equally mentioned by most of the respondents (58.8% males and 54.0% females; 52.6% primary level education, 57.1% secondary level education, 61.4% middle level college education, 59.9% graduate education, 77.8% post-graduate level education and 50.0% adult literacy education).

Most respondents (50.5% without education, 50.4% middle level college education and 55.6% post graduate education) indicated that access to criminal justice entails the conviction of the accused. Compensation of the victim was cited by most respondents with middle level college education (52.1%), graduate level education (52.4%) and adult literacy level education (50.0%). This information is captured in Table 3.4.

These findings generally reveal that there are no significant differences in the sample respondents' understanding of what constitutes access to criminal justice based on gender or education.

Table 3. 4: Public perception on what access to criminal justice entails based on gender and level of education

Public perception on what access to criminal justice entails	Gender (% of cases)		Highest level of education attained (% of cases)						
	Male	Female	None	Primary	Secondary	Middle level college	Graduate	Post Graduate	Adult Literacy Education
Arrest of the accused	69.8	74.2	78.8	73.1	71.1	69.5	75.4	44.4	50.0
Fair hearing	58.8	54.0	47.5	52.6	57.1	61.4	59.9	77.8	50.0
Conviction of the accused	45.9	46.6	50.5	45.1	45.8	50.4	42.2	55.6	0.0
Compensation of the victim	44.8	49.6	49.5	45.8	45.0	52.1	52.4	22.2	50.0
Effective investigation	41.4	36.9	28.3	35.8	40.1	43.7	42.2	55.6	50.0
Expeditious dispensation of the case	20.1	16.3	10.1	14.5	20.8	20.9	16.6	44.4	0.0
Timely arraignment/production of accused in court	15.9	11.9	8.1	11.3	14.3	16.5	18.7	22.2	0.0
Easy access to required information by victim/complainant or accused	10.5	8.4	3.0	8.2	8.6	12.8	13.9	22.2	0.0
Legal representation of the victim/complainant or accused/suspect/offender	8.9	8	6.1	8.1	7.2	11.8	11.2	0.0	0.0
Protection of witnesses/suspects and victims/complainants	7.2	6.2	7.1	6.4	6.2	9.6	10.2	0.0	0.0
Accessibility of reasonable bail/bond terms by accused	6.4	7.9	3.0	5.6	5.2	10.6	11.8	11.1	50.0
Easy physical access to criminal justice institutions by victims or accused	5.7	4.3	6.1	4.3	4.4	6.6	7.0	0.0	0.0
Visitation of accused/suspect/offender while in police or prison custody	2.9	3.4	1.0	2.5	2.6	5.2	5.9	0.0	0.0
Rehabilitation of offenders	1.3	1.8	0.0	1.3	1.2	2.5	2.7	11.1	0.0
Provision of victim support services	0.2	0.3	0.0	0.4	0.2	0.2	0.0	0.0	0.0

The above findings show that according to most members of public, the foremost ingredients of dispensing justice ought to comprise arrest of the accused, fair hearing, compensation of the victim, and conviction of the accused. This finding implies that most Kenyans understand what access to criminal justice entails. Indeed, a judge in Embu had this to say with regards to access to criminal justice:

“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 county-based analysis of the public perception on what constitutes access to criminal justice (Table 3.5) shows that there were no significant differences on the public perceptions on what access to criminal justice entails across the sampled counties.

Table 3. 5: Public perceptions on what access to criminal justice entails

County	Public perceptions on what access to criminal justice entails (% of cases)														
	Arrest of the accused	Fair hearing	Legal representation of the victim/complainant or accused/suspect/offender	Conviction of the accused	Expeditious dispensation of the case	Timely arraignment/production of accused in court	Effective investigation	Protection of witnesses/suspects and victims/complainants	Compensation of the victim	Visitation of accused/suspect/offender while in police or prison custody	Easy physical access to criminal justice institutions by victims or accused	Easy access to required information by victim/complainant or accused	Accessibility of reasonable bail/bond terms by accused	Rehabilitation of offenders	Provision of victim support services
Bungoma	51.0	63.7	2.9	25.5	23.5	10.8	34.3	2.9	17.6	1.0	2.0	15.7	0.0	0.0	0.0
Busia	53.1	42.2	6.2	25.0	18.8	7.8	23.4	0.0	17.2	0.0	6.2	9.4	3.1	0.0	0.0
Embu	94.8	62.3	5.2	70.1	35.1	22.1	50.6	5.2	61.0	0.0	5.2	6.5	1.3	1.3	0.0
Homa Bay	60.9	52.9	17.2	55.2	14.9	12.6	36.8	9.2	33.3	14.9	14.9	39.1	17.2	1.1	0.0
Kiambu	72.4	40.7	3.7	31.8	17.8	17.3	21.0	3.3	50.9	1.4	3.7	12.6	3.7	1.9	0.0
Kilifi	66.7	50.0	3.3	47.8	5.6	1.1	27.8	3.3	57.8	0.0	4.4	3.3	0.0	0.0	0.0
Kirinyaga	68.5	75.3	8.2	46.6	11.0	13.7	58.9	11.0	54.8	2.7	1.4	8.2	5.5	11.0	0.0
Kisii	55.0	66.7	13.2	31.0	27.1	31.0	30.2	14.0	51.2	11.6	18.6	21.7	20.9	0.0	0.0
Kisumu	71.8	45.5	10.0	42.7	13.6	18.2	39.1	5.5	52.7	9.1	8.2	11.8	24.5	0.0	0.0

Kitui	77.9	44.2	9.3	65.1	26.7	9.3	51.2	2.3	74.4	0.0	3.5	7.0	2.3	0.0	1.2
Machakos	83.2	48.3	4.9	49.0	23.8	8.4	40.6	4.9	44.8	2.1	7.7	10.5	11.2	0.7	0.7
Meru	91.9	81.4	15.7	74.8	31.9	22.9	49.0	9.0	57.6	1.9	0.5	3.8	8.1	0.5	0.5
Mombasa	79.3	45.9	9.0	49.5	1.8	8.1	25.2	1.8	54.1	1.8	0.9	0.9	0.9	0.0	0.0
Muranga	69.6	59.8	2.9	21.6	14.7	9.8	34.3	8.8	28.4	2.0	3.9	3.9	3.9	2.0	1.0
Nairobi	78.5	51.0	4.9	52.8	20.1	13.9	44.1	6.6	50.0	2.4	3.1	7.6	3.1	3.1	0.3
Nakuru	72.2	68.2	14.8	49.4	12.5	10.2	44.3	10.2	44.9	5.7	6.8	4.0	8.0	0.0	0.0
Nyandarua	65.7	53.7	4.5	28.4	3.0	17.9	65.7	10.4	49.3	1.5	0.0	3.0	3.0	7.5	0.0
Nyeri	66.7	68.0	12.0	44.0	12.0	17.3	52.0	21.3	38.7	1.3	2.7	14.7	9.3	2.7	1.3
Trans Nzoia	42.6	60.3	1.5	25.0	22.1	1.5	33.8	1.5	25.0	0.0	4.4	10.3	0.0	0.0	0.0
Uasin Gishu	66.3	43.9	16.3	53.1	8.2	8.2	34.7	12.2	48.0	1.0	4.1	3.1	3.1	3.1	0.0

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 actor/agencies facilitating access to criminal justice in Kenya. Most members of the public said that they are satisfied with National Government Administrative Office (64.7%), Department of Children Services (60.2%), Kenya Prisons Service (55.4%) and the Judiciary (49.2%). Most respondents also indicated that they are not satisfied with National Police Service (64.2%) and the Ethics and Anti-Corruption Commission (46.8%). Equally, most of the members of the public said that they were not sure on their satisfaction level on Victim Protection Board (66.5%), Government Chemist (60.9%), Witness Protection Agency (60.7%), Office of the Attorney General (56.6%) and Office of the Director of Public Prosecution (45.5%) as captured in Table 3.6.

Table 3. 6: 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
	Total	100.0
Probation and After-Care Services	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

The above findings reveal that most of the members of the public are not satisfied with the National Police Service and the Ethics and Anti-Corruption Commission in facilitating access to justice in Kenya. Table 3.7 indicates the reasons given as to why members of the public were not satisfied with the key agencies in facilitating access to criminal justice in Kenya. Appendix 4 provides detailed reasons why members of the public were not satisfied with agencies facilitating access to criminal justice.

Table 3. 7: Reasons why members of the public were not satisfied with the key agencies in facilitating access to criminal justice in Kenya

Reason for non-satisfaction with key agencies in facilitating access to criminal justice	Responses (% of cases)			
	NPS	ODPP	Judiciary	EACC
They are corrupt/demand for or receive bribes	84.1	71.2	65.7	83.9
They conduct shoddy investigations	8.7	-	-	5.8
Premature release of suspects/accused/offenders	0.8	-	-	1.1
Inadequate human resources/personnel	0.3	1.0	1.0	0.8
They delay in executing their mandates	12.9	19.7	30.2	5.9
Mishandling of criminal justice clients	5.7	-	-	-

Reason for non-satisfaction with key agencies in facilitating access to criminal justice	Responses (% of cases)			
	NPS	ODPP	Judiciary	EACC
They are not available at the local level/inaccessible	0.4	3.7	0.4	2.0
There is no communication on progress of criminal matters	0.4	0.5	0.5	0.7
Lack of independence/external and internal interference	0.3	1.7	1.3	4.7
Loss of criminal case files	0.1	3.2	2.3	-
Inadequate skills/incompetency in dealing with criminal justice matters	0.6	2.0	-	0.7
Inadequate collaboration with other stakeholders	0.6	0.7	0.4	0.5
Inadequate infrastructural resources	1.3	0.2	0.1	-
Complex litigation process	-	0.7	0.8	-
Evidence tampering	-	1.0	-	-
Unreasonable bond and bail terms	-	-	1.0	-
High service fees/charges	-	-	2.8	-
Limited legal representation	-	-	0.4	-

On the effectiveness of the police, a religious leader in Machakos County had this to say:

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

A civil society leader also noted that:

“The Ethics and Anti-Corruption Commission is not effective in addressing corruption in this country. They only target the small “fishes” as opposed to the big “fishes” (Key Informant Interview, Nairobi County).

The results further show that most of the respondents were not sure if the Victim Protection Board, Government Chemist, Witness Protection Agency, Office of the Attorney General, Office of the Director of Public Prosecution are effective in facilitating access to criminal justice. This indicates that most members of the public either do not know the roles of these agencies in facilitating access to criminal justice or they have not had contact with them.

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 shoddy investigations (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 3.8.

Table 3. 8: Challenges experienced in accessing Criminal Justice

Corruption in the criminal justice sector	79.6
Delay in processing criminal matters including unreasonable adjournment of cases	47.8
Shoddy investigations	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
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 3.7, 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. In addition, an audit of the criminal justice system of Kenya identified numerous malpractices which points out to corruption in the sector. Consequently, there is need for all the criminal justice agencies to

put anti-corruption efforts as a standing agenda in their operations. Table 3.9 provides a county-based analysis of the challenges faced in the access to criminal justice in Kenya.

Table 3. 9: Challenges experienced in the access to criminal justice per County

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

	Kilifi	Kirinyaga	Kisii	Kisumu	Kitui	Machakos	Meru	Mombasa	Muranga
	0.0	5.5	0.0	0.9	1.2	2.8	3.3	8.1	1.0
	0.0	0.0	0.0	0.0	0.0	0.0	1.4	0.9	2.0
	2.2	0.0	0.0	0.0	1.2	0.7	1.4	0.0	2.9
	0.0	11.0	1.6	2.8	1.2	2.1	1.9	1.8	7.8
	0.0	4.1	0.0	0.0	0.0	0.0	0.0	0.0	1.0
	0.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	0.0	0.0	0.0	0.0	0.0	0.0	0.5	0.0	1.0
	1.1	1.4	0.0	0.9	0.0	0.0	0.5	0.9	2.9
	4.4	1.4	11.7	17.4	3.5	6.3	13.8	1.8	3.9
	23.1	43.8	45.3	36.7	39.5	36.6	46.7	15.3	37.3
	5.5	4.1	11.7	10.1	2.3	3.5	2.9	0.9	18.6
	12.1	2.7	8.6	3.7	12.8	12.7	3.3	7.2	13.7
	27.5	8.2	20.3	17.4	19.8	12.0	19.5	18.0	19.6
	84.6	97.3	69.5	71.6	77.9	68.3	84.8	73.0	77.5
	50.5	75.3	50.0	45.9	36.0	36.6	55.2	42.3	48.0
	22.0	6.8	12.5	9.2	16.3	6.3	2.9	11.7	6.9
	2.2	12.3	9.4	2.8	7.0	8.5	3.3	0.0	8.8
	2.2	19.2	25.8	21.1	15.1	12.7	29.0	1.8	26.5
	31.9	28.8	48.4	31.2	14.0	14.1	47.1	23.4	28.4
	1.1	1.4	20.3	12.8	3.5	4.9	2.9	0.0	1.0
	0.0	5.5	10.2	2.8	3.5	6.3	3.3	0.0	1.0
	0.0	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.0
	9.9	11.0	39.8	29.4	24.4	28.9	18.6	11.7	15.7
	26.4	13.7	32.0	31.2	2.3	4.9	15.2	33.3	5.9
	30.8	31.5	28.1	11.9	18.6	19.7	27.1	25.2	8.8
	9.9	35.6	19.5	19.3	12.8	5.6	21.0	24.3	7.8

	Nairobi	Nakuru	Nyandarua	Nyeri	Trans Nzoia	Uasin Gishu
2.1	9.1	11.9	9.3	2.9	10.3	
0.3	0.0	0.0	1.3	1.4	0.0	
1.0	0.0	3.0	0.0	0.0	0.0	
3.5	0.6	3.0	22.7	12.9	0.0	
0.3	0.0	1.5	0.0	0.0	0.0	
0.7	0.0	0.0	0.0	0.0	0.0	
0.3	0.0	0.0	0.0	0.0	0.0	
0.3	0.0	1.5	1.3	0.0	0.0	
2.8	0.6	0.0	1.3	0.0	4.1	
6.6	1.1	3.0	4.0	0.0	5.2	
41.3	45.5	47.8	48.0	17.1	14.4	
4.5	4.0	0.0	4.0	2.9	5.2	
6.6	6.2	3.0	1.3	1.4	4.1	
12.9	15.3	16.4	10.7	7.1	5.2	
89.2	77.8	88.1	88.0	92.9	81.4	
45.1	59.7	62.7	65.3	40.0	40.2	
4.9	9.7	9.0	4.0	8.6	6.2	
7.3	4.5	1.5	4.0	0.0	1.0	
15.0	22.7	14.9	14.7	7.1	24.7	
24.5	23.9	25.4	16.0	17.1	15.5	
6.3	8.0	3.0	4.0	10.0	9.3	
2.4	9.1	3.0	9.3	0.0	1.0	
0.0	0.0	0.0	0.0	0.0	0.0	
21.3	34.7	16.4	14.7	7.1	20.6	
15.7	10.2	6.0	9.3	0.0	5.2	
24.8	26.1	19.4	17.3	4.3	15.5	
14.7	17.6	20.9	22.7	0.0	22.7	

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 3.10.

Table 3. 10: 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

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

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 3.11.

Table 3. 11: 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
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

CHAPTER FOUR: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.1 Introduction

This study sought to establish 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, and challenges experienced by members of the public in accessing criminal justice.

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 National Police Service (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%), and conviction of the accused (46.2%), effective investigation (39.2%) and expeditious dispensation of the criminal case (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 are satisfied with National Government Administrative Office (64.7%), Department of Children Services (60.2%), Kenya Prisons Services (55.4%) and the Judiciary (49.2%). Most respondents also indicated that they are not satisfied with National Police Service (64.2%) and the Ethics and Anti-Corruption Commission (46.8%). Equally, most of the members of the public said that they were not sure on their satisfaction level on Victim Protection Board (66.5%), Government Chemist (60.9%), Witness Protection Agency (60.7%), Office of the Attorney General (56.6%) and Office of the Director of Public Prosecution (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 shoddy investigations (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%), 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%).

4.3 Conclusion

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

1. Most members of the public do not know what access to criminal justice entail including the roles of relevant actors and or players in facilitating access to criminal justice in Kenya.
2. A significant proportion of members of the public are not satisfied with the performance of the National Police Service and the Ethics and Anti-Corruption Commission 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 - Judiciary

i. Increase the number of petty crimes courts 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 introduces petty crimes courts that would adjudicate petty crimes.

ii. Institutionalize compensation orders in their sentencing regime

On what constitutes access to criminal justice, compensation to the victim was reported by about 5 out of 10 sample respondents (47.2%). 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 damages caused and legal fees spent.

iii. 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 challenges in accessing criminal justice. This study therefore recommends graduated/phased payment of legal fees over some reasonable time depending on the assessed economic ability of the represented victim or accused.

iv. 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 representative 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 - National Council on the Administration of Justice

i. Enhance the utilization of Alternative Dispute Resolution Mechanisms

Delays in the processing of criminal matters were identified among the key challenges members of the public are facing. This calls for an appraisal of all the actors/agencies to ascertain the inherent gaps occasioning the delays with a view to addressing them.

ii. 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 some of the key actors/players in the criminal justice sector 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.

iii. 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.

iv. 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 integrated in the process of criminal justice at the crime entry, processing and disposal level.

v. 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 agencies - National Police Service Commission and National Police Service

i. 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.

ii. Heightened 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. Further, the study revealed that effective investigation of criminal matters is a key component access to criminal justice as pointed out by approximately 4 out of 10 respondents. Finally, a significant number of respondents (3 out of 10) mentioned shoddy investigations as a challenge faced in accessing criminal justice. There is need therefore to enhance capacity of the investigation officers.

Lead Agency-the Ethics and Anti-Corruption Commission

i. Strengthen the Ethics and Anti-Corruption Commission

It was established in the study that the key challenge in the fight against corruption in Kenya is corruption. The study also indicated that a significant proportion of the members of the public (5 out of 10) are not satisfied with the performance of the Ethics and Anti-Corruption Commission in the fight against corruption. This indicates the need to strengthen the performance of this institution.

Lead Agency - National Assembly

Allot adequate financial resources to the criminal justice agencies and players

Delay in processing criminal matters and inadequate funding for legal aids services were identified by the respondents as a major challenges members of public face while accessing criminal justice. Adequate funding will support employment of additional personnel, automation of criminal justice services, enhanced remuneration, establishment of more office spaces and stations to the criminal justice agencies among others thus improved services.

Lead Agency - Office of the Attorney General and Department of Justice

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.

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)	

S/No.	Understanding of access to criminal justice	Tick all that apply
	When there is:	
13.	accessibility of reasonable bail/bond terms by the accused (suspect/offender)	
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.	Shoddy investigations	
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.

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.

Appendix 3: Reasons for not satisfied with criminal justice agencies in facilitating access to criminal justice

	NPS	ODPP	Judiciary	PACS	KPS	DCS	IPOA	Attorney General	WPA	VPB	EACC	Government Chemist	NGAO
They are corrupt/demand for or receive bribes	84.1	71.2	65.7	58.3	27.2	63.9	39.1	57.3	10.2	16.8	83.9	60.9	89.1
They delay in executing their mandates	12.9	19.7	30.2	2.4	2.8	8.7	11.8	8.2	-	1.4	6.3	12.9	5.5
They conduct shoddy investigations	8.7	-	-	-	-	-	-	-	-	-	5.8	-	-
Mishandling of criminal justice clients	5.7	-	-	-	-	-	-	-	-	-	-	-	-
Inadequate infrastructural resources	1.3	0.2	0.1	1.8	10.8	3.2	0.3	1.8	0.6	0.5		5.3	0.5
Lack of commitment to serve criminal justice clients	0.9	-	-	-	-	-	-	-	-	-	-	-	-
Premature release of suspects/accused/offenders	0.8	-	-	1.2	1.9	-	-	-	-	-	1.1	-	-
Inadequate skills/incompetency in dealing with criminal justice matters	0.6	2.0	-	2.4	-	1.4	3.1	2.7	1.2	0.9	0.7	1.3	2.9
Inadequate collaboration among criminal justice agencies	0.6	0.7	0.4	0.6	0.6	0.4	1.4	1.8	0.6	-	0.5		1.0
They are not available at the local level/inaccessible	0.4	3.7	0.4	4.8	-	9.7	8.7	21.8	9.3	13.6	2.0	7.6	1.3
There is no communication on progress of criminal matters	0.4	0.5	0.5	1.2	0.6	0.4	1.0	0.9	-	-	0.7	0.9	0.7
Inadequate human resources/personnel	0.3	1.0	1.6	1.2	1.2	1.4	1.4	-	0.3	0.5	0.8	1.8	1.3
Lack of independence/external and internal interference	0.3	1.7	1.3	-	-	0.4	1.4	9.1	0.3	-	4.7	1.8	1.8
Loss of criminal case files	0.1	3.2	2.3	-	-	-	0.3	-	-	-	-	-	-
They tamper with evidence	-	1.0	-	-	-	-	-	-	-	-	-	9.3	-
Complex litigation process	-	0.7	0.8	-	-	-	-	-	-	-	-	-	-
They give unfair judgement	-	-	8.2	-	-	-	-	-	-	-	-	-	-
High court charges/fees	-	-	2.8	-	-	-	-	-	-	-	-	-	-
They give unreasonable bond	-	-	1.	-	-	-	-	-	-	-	-	-	-

and bail terms			0										
Difficult in availing legal representation	-	-	0.4	-	-	-	-	-	-	-	0.1	-	-
Inadequate rehabilitation of offenders	-	-	-	26.8	21.3	-	-	-	-	-	-	-	-
Nepotism/favoritism/discrimination	-	-	-	6.0	-	-	-	-	-	-	-		0.2
They abuse rights of offenders/prisoners'/ children in conflict with the law	-	-	-	1.2	38.3	13.3	-	-	-	-	-	2.7	0.8
Expensive/costly criminal justice services	-	-	-	-	-	0.4	-	-	-	-	0.3	-	-
Inadequate protection of witnesses	-	-	-	-	-	-	-	-	78.8	-	-	-	-
Lack of facilitation of witnesses	-	-	-	-	-	-	-	-	1.2	0.5	-	-	-
Inadequate protection of victims	-	-	-	-	-	-	-	-	-	68.2	-	-	-