

M.P.C.

**Report of the  
Committee to Inquire  
into  
Terms and Conditions of Service  
of the Judiciary  
1991-1992**

**Chairman: E. C. Kotut, E.B.S.**

*Presented to  
His Excellency  
Hon. Daniel T. arap Moi, C.G.H., M.P.,  
President and Commander-in-Chief of the Armed Forces  
of the Republic of Kenya*

*August, 1992*

Mrs G.

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**COMMITTEE TO INQUIRE INTO TERMS AND CONDITIONS OF  
SERVICE OF THE JUDICIARY**

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*25th August, 1992*

His Excellency Hon. Daniel T. arap Moi, C.G.H., M.P.,  
President and Commander-in-Chief of the Armed Forces  
of the Republic of Kenya,  
State House,  
NAIROBI.

Your Excellency,

You appointed us to inquire into ways and means of establishing a structure of salaries, conditions of service and related benefits for the Judiciary, separately from the Civil Service.

In carrying out this task, we reviewed the important role of the Judiciary, the challenges it faces and its contribution to the administration of justice in Kenya. We also reviewed the present state of the Judiciary in terms of structure, organization, resources and its capacity to meet these challenges. Consequently, we have recommended appropriate adjustments in these areas to enhance that capacity. We have further recommended a structure of salaries and other terms and conditions of service which we consider appropriate. We have also recommended that para-legal staff should be absorbed into the Judicial Department and be employed by the Judicial Service Commission.

In our work, we have been highly motivated by Your Excellency's desire for the enhancement of the capacity of the Judiciary to deliver justice to the public in a fair impartial and responsible manner which would engender public confidence in the Judiciary.

We take the greatest pleasure in submitting this Report to your Excellency and in doing so, we wish humbly, to express our sincere

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gratitude for the honour and trust that Your Excellency has placed on us and to express our loyalty and highest esteem.

We are Your Excellency's most Obedient Servants,

Eric C. Kotut, E.B.S.  
Chairman.



Members:

Hon. Justice J. R. O. Masime



Ben Mwangi



Tom Owuor



Frank Joseph Addly

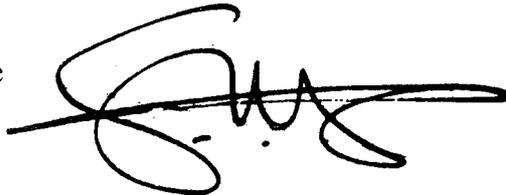


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Secretary:

Titus J. K. Gateere



M/S C

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Mr K.

our work,



and Mrs. Rose Kiro  
for their efficient and diligent  
secretarial assistance that they  
and rendered to us in the discharge of  
duties of this report.  
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## CHAPTER I—INTRODUCTION

### Terms of Reference

1. The Committee to Inquire into Terms and Conditions of Service of the Judiciary was appointed by His Excellency the President on the 6th September, 1991, with the following terms of reference:

Accepting the principle of financial independence for the Judiciary, to inquire into ways and means of establishing a structure of salaries, conditions of service and related benefits separately from the Civil Service.

The Chairman and the Joint Secretaries were appointed on the 8th November, 1991.

### Interpretation of Terms of Reference

2. Before the Committee embarked on its task it held an inaugural meeting with the Honourable the Chief Justice and benefited from his advice as regards the interpretation of the terms of reference. In this respect the Committee categorized the personnel of the Judiciary as comprising two distinct entities as follows:

(a) The Judicial Officers, i.e. the professionals who are qualified in law and are empowered to make judicial decisions. They include the Chief Justice, Justices of Appeal, Justices of the High Court, all levels of Magistrates and Kadhis. The Committee recognized that this category includes all officers employed by the Judicial Service Commission and a small group of lay magistrates.

(b) The Para-Legal Officers referred to in Section 69(3)(e) of the Constitution, who provide support to judicial officers.

3. The Committee interpreted its primary task as that of formulating a new salary structure for the Judiciary separately from the Civil Service.

4. The Committee also interpreted "Conditions of service and related benefits . . ." to include—

(a) the other benefits to which an employee of the Judiciary should be entitled;

(b) the working conditions and environment including the physical structure of the courts, the office furniture, equipment and other consumables as well as the work processes.

### **Method of Inquiry**

5. Invitations to submit memoranda were sent to judicial officers, legal academicians, members of the legal profession and other members of the public. The response was excellent.
6. The Committee then placed advertisements in the daily Press, requesting members of the public to submit written memoranda.
7. After receipt of memoranda, some of the authors were invited to make verbal submissions and to clarify issues raised in their memoranda. Persons who wished to make verbal submissions were also accorded the opportunity. The names of those who submitted memoranda and those interviewed appear in Appendix VI, VII and VIII of this Report.

### **Review of Past Reports**

8. The Committee also studied the following reports of past commissions of inquiry and review committees:
  - (a) Flemming Commission Report, 1960.
  - (b) Pratt Commission Report, 1963.
  - (c) Miller-Craig Commission Report, 1967.
  - (d) Ndegwa Commission Report, 1971.
  - (e) Waruhiu Committee Report, 1979/80.
  - (f) Ramtu Committee Report, 1985.
  - (g) Mbithi Committee Report, 1990/91.

The first four commission reports treated the Judiciary as part of the Civil Service, as did the Ramtu and Mbithi Committee Reports.

### **\*The Waruhiu Committee Report, 1979/80**

#### ***The Judiciary***

9. (a) The Waruhiu Committee Report devoted Chapter XII to the Judiciary, and it recommended, at paragraph 277, that the independence of the Judiciary should be maintained and that the Judiciary should not be treated as an appendix of the Office of the Attorney-General. The Government accepted this recommendation in Sessional Paper No. 10 of 1980 and the need to maintain an independent judiciary as stipulated in the Constitution. However, the Government

did not consider that official linkage of the Judicial Department to the Attorney-General's Chambers, solely for the purpose of representation in Parliament, compromised the independence of the Judiciary.

#### *Permanent and Pensionable Terms of Service*

- (b) The Waruhiu Committee Report recommended that judges and magistrates be on permanent and pensionable terms of service as a means of enhancing security of tenure. The Government accepted and implemented this recommendation so that now all magistrates serve on such terms except those who have been re-engaged on contract terms following retirement. However, employment of judges on similar terms of service has not been fully implemented as currently, seven out of 36 judges serve on contract.

#### *Recruitment of Local Lawyers*

- (c) At paragraph 283 the Waruhiu Committee Report recommended that all efforts should be made to train and recruit local lawyers to fill positions of judges and magistrates since Kenya cannot continue to depend on expatriates indefinitely. The Government accepted this recommendation and training of lawyers is being implemented successfully.
- (d) The Waruhiu Committee Report recommended further that a training programme for clerical staff, executive officers and court interpreters currently employed by the Public Service Commission (P.S.C.) but deployed in the Judiciary should be developed and implemented. On completion of such training these officers should be appointed by the Judicial Service Commission. The Government accepted the recommendation but has not yet implemented it.

#### **\* The Ramtu Committee Report, 1985**

10. (a) The Ramtu Committee Report addressed the Judiciary in Chapter IX. It recommended that the salary structure and salary increases recommended for the Civil Service should be applicable to the Judiciary. The Government accepted and implemented this recommendation. In addition, the salaries of judicial officers were harmonized with those of the legal officers in the State Law Office with effect from 1st July, 1990.

(b) The Ramtu Committee Report recommended that the upward review of allowances for civil servants be adopted for the Judiciary. The recommendation was accepted and fully implemented by the Government.

\* **The Mbithi Committee Report, 1990-91**

11. The Mbithi Committee Report addressed the Judiciary in Chapter XI. The salary recommendations contained in the Mbithi Committee Report were accepted by the Government and are being implemented over a period of three consecutive financial years with effect from 1st July, 1991. As regards other terms and conditions of service, the Government is in the process of studying the recommendations. The Committee outlines below the recommendations made in the Mbithi Committee Report on the Judiciary:
  - (a) That the Kenya School of Law should carry out training programmes for para-legal staff in the Judiciary in order to equip them with knowledge, skills and attitudes for meaningful support to the professionals serving in the department.
  - (b) That the system of record keeping in the courts should be streamlined by making use of modern technology.
  - (c) That there should be a more intensive decentralization in the Judiciary to ensure availability of judicial officers at the provincial, district and lowest possible levels.
  - (d) That the Kenya School of Law should organize specialization courses in agricultural and land law, public and commercial law, credit and finance law, maritime law, international law, patent law, among others, for judicial officers.
  - (e) That the Kenya School of Law should be strengthened to enable it to offer specialized professional legal training and also offer courses to para-legal personnel.
12. The Committee regarded the task before it as one primarily touching on public policy. Consequently, the Committee decided to visit the provinces. The provincial administration was requested to organize written and oral submissions from as wide a cross-section of people as possible. During the visits, the Committee had opportunity to inspect the courts with regard to the state of the physical facilities, accommodation for court

rooms, chambers, registries, stores, prosecution offices, court cells, housing and the availability of furniture, stores and supplies. The following itinerary was followed:

- (a) Rift Valley Province, Nakuru, 20th January, 1992.
- (b) Nyanza Province, Kisumu, 21st January, 1992.
- (c) Western Province, Kakamega, 22nd and 23rd January, 1992.
- (d) Central Province, Nyeri, 27th January, 1992.
- (e) Eastern Province, Embu, 28th January, 1992.
- (f) North-Eastern Province, Garissa, 30th January, 1992.
- (g) Coast Province, Mombasa, Kilifi and Malindi, 5th-7th February, 1992.
- (h) Nairobi Province, Nairobi, 12th February, 1992.

The names of those who submitted memoranda and those who made verbal submissions in the provinces are included in Appendices VI, VII and VIII of this Report.

## CHAPTER II—THE ROLE AND CHALLENGES OF THE JUDICIARY: 1990's AND BEYOND

13. The terms of reference of the Committee state that the Government has accepted the principle of financial independence for the Judiciary and decided to seek ways and means of securing it by establishing a structure of salaries, conditions of service and related benefits separately from the Civil Service. Consequently the Committee sees its task as narrowed to finding ways and means of establishing such structure of salaries and conditions of service and benefits as will enhance the Judiciary's capacity to administer justice.

### Separation of Powers and the Rule of Law

14. The principle of the independence of the Judiciary flows from the concept of the separation of powers. The Judiciary is under the Constitution independent from the Legislature, which enacts laws and the Executive which administers them. The Judiciary interprets the law and acts as an impartial and fair adjudicatory authority in disputes between individuals, between individuals and the state, in alleged breaches of the law and in numerous other matters. Provisions for appeal to superior courts within the Judiciary provide the necessary checks and balances.
15. The scope of matters over which adjudication is required is vast. For example, while Section 60 of the Constitution gives the High Court unlimited original jurisdiction in civil and criminal matters, Section 84 thereof gives power to that court to enforce the wide range of fundamental rights and freedoms of the citizen. The latter jurisdiction vests in the court power to enforce provisions for securing the right to life, personal liberty, freedom of conscience, expression, assembly, association and protection from slavery, forced labour, inhuman treatment, discrimination, deprivation of property and arbitrary arrest. The Judiciary has other jurisdictions conferred by other written laws. The result is that there are complex, sensitive and vitally important responsibilities vested in the Judiciary.
16. There is, therefore, a great need to develop and sustain the capacity and competence of the Judiciary to shoulder and discharge its onerous responsibilities in the administration of justice. The basic essential features required of the Judiciary include—

- (a) independence in making judicial decisions;
  - (b) accessibility to all citizens equally;
  - (c) fairness and impartiality in hearing disputes referred to it;
  - (d) correct and dispassionate interpretation of the law;
  - (e) appreciation of and regard to public policy and the people and society to which it is applied; and,
  - (f) balance in assessment and award of legal remedies.
17. The Committee received numerous representations on the importance of maintaining the independence of the Judiciary. It was submitted that in its day to day operations the Judiciary should be seen to be free from external influence from any quarter. It was further submitted that litigants expect to be treated impartially in court without distinction and that the Judiciary must be seen to be an independent and impartial adjudicating authority.

#### **Financial Independence of the Judiciary**

18. The most significant manifestation of the independence of the Judiciary in the Common Law jurisdictions is the manner in which salaries of judges are secured. For example in the United Kingdom, since 1700, judicial salaries are not voted annually like those of most Crown Servants, but are permanently charged upon the Consolidated Fund. The rationale of this is that excluding annual parliamentary approval of judges' salaries creates, among the judges, a sense of financial independence so that the discharge of their judicial function would not be conditioned on the pleasure of parliament.
19. The salaries of judges and holders of other constitutional offices are by Section 104 (2) of the Constitution, charged upon the Consolidated Fund. The actual levels of these salaries are prescribed by the Constitutional Offices Remuneration Act (Cap. 423). Such salaries and allowances cannot be altered to the disadvantage of judges. It is therefore clear that the principle of financial independence is guaranteed in Kenya. The Committee's task is thus to reinforce the principle by separating Judicial salaries from those of the Civil Service.
20. Financial independence of the Judiciary from legislative and administrative control is, however, not alone sufficient to enhance the competence and capacity of the Judiciary to administer justice. The Judiciary should have a structure of

salaries, conditions of service and related benefits which would free its members from anxiety as to the adequacy of remuneration in relation to society's high expectation of honour, ability, high standard of competence and performance, and integrity. For its part society must, if it expects the Judiciary to perform to the stated standards, be prepared to make the investment necessary to produce the desired results.

21. The Committee notes that the Constitution secures the position of judges so that they may not be removed except for inability to perform the function of office or for misbehaviour, and that such removal must be in accordance with the Constitution. Further, the age of retirement of judges is fixed at 74 years unlike that of the Civil Service which is fixed at 55 years. The position of judge is thus a lifetime career and to that extent unique. The work of a judge is highly technical and requires a high level of training and involves many restrictions. Moreover, there is great demand from the private sector for professionals of the calibre of judges. The Committee also notes that the professional officers in the Judiciary are few in number and that the Judiciary as a department is a net revenue earner. The Committee is therefore of the view that in determining the salary levels of the Judiciary, these factors must be taken into account.
22. Opinions were expressed to the Committee to the effect that the Judiciary has done a commendable job in solving disputes, and that this has been done without fear or favour. The Committee notes that law and order are essential to social and economic development as they provide the enabling environment. The Committee further notes that Kenya has had commendable development and the Judiciary, by upholding the rule of law, has contributed to this process.

#### **Challenges Facing the Judiciary**

23. The Mbithi Committee Report, 1991, highlighted the challenges that face the Public Service in the 1990s and beyond. These include the need to create an enabling environment, the management of population growth, the promotion of science and technology, managing the environment, managing implementation of public projects and activities and managing expectations. That Report acknowledged that the Kenyan public is now more literate, educated and has a great degree of awareness; that it has become more enlightened and that this trend will continue in the future. This gives rise to high

expectations and to an increasing demand for accountability from the Public Service. The Committee concurs with these observations and considers that they apply with equal force to the Judiciary. The Committee is of the view that the Judiciary will in the future face even more serious challenges than hitherto. It will be under intense scrutiny by litigants and other parties interested in its decisions and from the public at large.

24. The Committee considers that it is essential for the Judicial Service Commission to exercise diligence to meet the following specific challenges—

(a) maintenance of its independence;

(b) continuance of making decisions with impartiality as it is enjoined to do by Section 77(9) of the Constitution;

✓ (c) the need to improve the methods of recording court proceedings with a view to expediting the process;

(d) the need to develop judicial precedent;

(e) the need to ensure acquisition from and exchange of case materials with other common law jurisdictions;

(f) decentralizing the system of administration of justice to ensure that the Judiciary takes justice to the people;

✓ (g) the need to improve the image of the Judiciary and the confidence of the public in it; and

✓ (h) the enhancement of the rule of law.

25. The challenges facing the Judiciary will be addressed effectively only if judicial officers are of the right calibre, professional preparedness and have positive attitudes. In particular they must have the following attributes:

(a) Sound training in law and exposure to its practice.

(b) High degree of integrity and professional ethics.

(c) Independence of mind and grounding in logic.

(d) Loyalty to the Constitution, and the law of the land.

(e) Commitment to the rule of law.

26. Having regard to the expectations and challenges outlined in the two preceding paragraphs, the Committee **recommends** that the Judicial Service Commission should formulate principles and procedures for the maintenance of standards of conduct by

judicial officers. The Judicial Service Commission, in this regard, should formulate a code of conduct for guidance of judicial officers. This will be in addition to existing control mechanisms which include appeals from judicial decisions, disciplinary procedures for misbehaviour or inability to perform (Section 62 of the Constitution) and disciplinary procedures under the J.S.C. Regulations for other judicial staff.

## CHAPTER III—HISTORICAL DEVELOPMENT OF THE JUDICIARY

### Introduction

27. The history of the modern Kenyan Judiciary can be traced to the East African Order in Council, 1897 and the Crown Regulations made thereunder which established the beginnings of a legal system based on a tripartite division of subordinate courts: Native, Muslim and those staffed by Administrative Officers and Magistrates. A dual system of superior courts was also established, one court for Europeans and the other for Africans. This system lasted, in effect, for only five years but it is important because it forms the basis of the subsequent development of the Kenyan Judiciary.
28. In Kenya, the colonial authorities faced a problem in developing a legal system embracing the whole country in a society where different races lived. They wished to apply the indigenous tribal systems of justice to the "natives" while the incoming settlers insisted that they were entitled to the English legal system. Muslims, at the Coast, also demanded to be judged under the Islamic system of justice.
29. The conflict between these different approaches and attempts to reconcile them throughout the colonial era greatly influenced the development of administration of justice in Kenya and, as we shall see, may have led to some of the problems being experienced today. This is especially evident in the fact that the use of the indigenous systems of justice for "natives" relied heavily upon the administration, with administrative officers supervising the legal process. In many cases, they actually made decisions, especially in criminal cases.

### Developments before Independence

30. The colonial authorities did, from the beginning of their rule, recognize the necessity of maintaining the existing dispute settlement organs. Hence, from the earliest period of colonial rule in Kenya, village elders, headmen and chiefs were empowered to continue to settle disputes. Gradually, these traditional organs of dispute settlement developed into tribunals and were officially recognized with the promulgation, in 1907, of the Courts Ordinance. This law set up a system of "Native tribunals" which were intended to serve each of the ethnic groups in Kenya. The then Chief Native Commissioner was authorized to set up, control and administer the tribunals. In

practice, these tribunals were largely set up at the divisional level of each district. In total, several hundred were established. The law also authorized the Governor to appoint a Liwali at the Coast to adjudicate over matters between members of the Muslim community.

31. Appeals from these tribunals lay to a Native Appeals Tribunal and then to the District Officer and/or the District Commissioner and, finally, to the Provincial Commissioner. In the rare case of any further appeal, such appeal lay to the then Supreme Court. In due course, the Native Tribunals Ordinance, 1930, reduced the number of elders sitting on a tribunal and a literate member was required to record the proceedings. By 1950 it was considered that the Native Tribunal had evolved sufficiently for it to be converted into a court somewhat similar to that for the non-Africans. So, in 1950, the African Courts Ordinance abolished the tribunals and replaced them with a system of African courts.
32. Appeals from the African courts lay to an African Appeal Court and further appeal was to an Appeals Magistrate or a First Class/Resident Magistrate and, finally, to the Court of Review presided over by a senior advocate sitting with the African Courts Officer, a senior member of the African Appeals Court and a representative of the Chief Native Commissioner. The administration of the African Court system was by the African Courts Officer at headquarters assisted by a Provincial African Courts Officer and a Registrar of African Courts at the district.
33. In dispensing justice under the applied English and Indian laws where non-Africans were concerned, the administration of justice was entrusted to expatriate Judges and Magistrates. Appeals lay from the Subordinate Courts to the Supreme Court. The system was under the Chief Justice and was administered by the Registrar of the Supreme Court. The courts were restricted to the main urban centres at Nairobi, Mombasa and Kisumu. Other centres were served by judges and magistrates going on periodic circuits.
34. Muslim courts were also distinguished from the Native Tribunals in that they were classified as Subordinate Courts. As such, appeals from them lay directly to the Supreme Court and they were, at all times, subject to the supervisory jurisdiction of that court. The head of the Muslim courts was the Chief Kadhi.

## The Post Independence Period

35. This segregated system of administration of justice prevailed, on a significant scale, until the early sixties. It was not until 1962 that the whole system of African courts was transferred from the Administration to the Judiciary and became the responsibility of that branch of government. Furthermore, it was not until 1963, in the Independence Constitution that the beginnings of a truly independent and impartial judiciary were provided. Not only was a Supreme Court established with unlimited original criminal and civil jurisdiction over all persons, regardless of race, but also the judges of the court were to be appointed on the advice of an independent Judicial Service Commission (J.S.C.).
36. The J.S.C. consisted of the Chief Justice, two Puisne Judges and two members of the Public Service Commission. In addition to its function in relation to judges of the Supreme Court, it also had vested in it the power to appoint, discipline and remove all judicial and magisterial personnel. It is perhaps worthwhile to note that, even at this late stage in Kenya's judicial history, there still existed administrative officers performing magisterial duties.
37. The Independence Constitution provided for the establishment of a Court of Appeal for Kenya and the Kadhis' courts. Upon Kenya attaining Republican status in 1964, the Supreme Court was renamed the High Court and has remained so to this date.
38. A Court of Appeal, as we know it today, was first established in Kenya in 1950. It was then known as the Court of Appeal for East Africa as it was a regional international court which, *inter alia*, exercised jurisdiction in cases from Kenya. The court was administered independently of the Judiciary in Kenya although it was accommodated in the main Law Courts building in Nairobi. When the East African Community collapsed, in 1977, Kenya set up its own Court of Appeal by amending the Constitutional provision relating to appeals.
39. The last major reform of the Judiciary was in 1967 with the passage of three interrelated Acts i.e., the Judicature Act (Cap. 8), the Magistrates' Courts Act (Cap. 10) and the Kadhis' Courts Act (Cap. 11). These Acts were intended to streamline, once and for all, the process of administration of justice in Kenya. It was appreciated that various problems did exist as a result of the segregated approach that had influenced the development of the Judiciary throughout the colonial period.

40. The most significant of those Acts was the Magistrates' Courts Act. This Act created the Magistrates' courts as we know them today. It, however, remained silent on one crucial aspect, that is, the question of the continued involvement of the Provincial Administration in the judicial function. The result of this was that the first group of District Magistrates, appointed by the Judicial Service Commission, included many District Commissioners and District Officers, some of whom still serve as magistrates today. The Act did, however, finally create a unified system of administration of justice in Kenya. It also reduced the large number of courts under the African Courts system to 90 and each court was staffed by up to four magistrates sitting individually. Above the District Magistrates were the professionally qualified Resident and Senior Resident Magistrates. Appeals lay to the High Court and then on to the Court of Appeal for East Africa.
41. Simultaneously with the commencement of the Magistrates' Courts Act, the Kadhis' Courts Act was put into effect. Section 3 of the latter Act empowered the President to prescribe the number of Kadhis, not exceeding twelve, to sit in the eight Kadhis' courts established by Section 4 of the Act.

#### *Legal Education and Expansion of the Judiciary*

42. The segregated system of administration of justice meant that there was only a handful of judges and magistrates in the non-African system. As at independence, there were only the Chief Justice, seven Judges of the High Court and about 40 Resident Magistrates in the country. The unification of the Judiciary set the pace for its expansion and, in response, the training of lawyers commenced at a brisk pace particularly given that, as at independence in 1963, there were only six African lawyers in private practice. In 1961 the University of East Africa started the Faculty of Law in the University College, Dar es Salaam. Two years later, in 1963, the Kenya Government set up the Kenya School of Law from which the first 13 advocates graduated in 1968. Then, in 1970, the new University of Nairobi set up the Faculty of Law. This soon led to the change of the role of the Kenya School of Law from that of training law students into lawyers to a post graduate institution for preparing lawyers for admission to the Roll of Advocates.
43. The Committee notes that, today, there are over 2,500 advocates on the Roll out of whom more than 1,200 hold

practising certificates. Of those with practising certificates over 500 have seven years and over of post admission experience, the current minimum legal requirement for appointment to the High Court bench.



## CHAPTER IV—THE STATE OF THE JUDICIARY IN KENYA

### Organization and Structure

44. As discussed in Chapter III, the Kenyan Judiciary developed as an integral part of the colonial administration. Today, the exercise of judicial function in Kenya is entrusted to an independent Judiciary created under Chapter IV of the Constitution. The Judicature Act, the Magistrates' Courts Act and the Kadhis Courts' Act are enabling legislation which provide for the day to day running of the Kenyan court system.
45. The Constitution creates the Court of Appeal and the High Court. It also provides for the establishment of such other courts as Parliament may, by law, prescribe. Such other courts include the Magistrates' and Kadhis' Courts. The Court of Appeal is the highest court in this hierarchy. Its jurisdiction is however, limited to appeals from the High Court. The judges of the Court of Appeal currently comprise the Chief Justice and six other Judges of Appeal out of a possible eight prescribed by law.
46. The High Court ranks immediately below the Court of Appeal in the judicial hierarchy and is described in the Constitution as a superior court of record having unlimited original jurisdiction in all civil and criminal matters. This, in effect, means that the High Court has power to hear and determine any case of whatever magnitude or nature. In practice, however, the High Court does not hear all cases. Instead, cases are filed in either the High Court or the relevant magistrate's court depending on the magnitude or seriousness of the case.
47. The establishment of the Court of Appeal for East Africa, its administration modalities and the setting up of Kenya's Court of Appeal have been mentioned in paragraph 38 of this Report. The Court of Appeal, as so established, fell into the administrative structure of the High Court with the Registrar of the High Court as its accounting officer.
48. The Committee received representations that there is need to establish an additional superior court. It was argued that, whereas in the case of litigation commenced in subordinate courts there are two chances of appeal, i.e., to the High Court and then to the Court of Appeal, there is only one possible appeal in matters commenced in the High Court. Before independence, two appeals were possible in matters started in

## KENYA

the High Court, i.e., to the Court of Appeal and to the Judicial Committee of the Privy Council.

49. The historical fact that the Court of Appeal for East Africa was not a Kenyan Court at independence caused the framers of the Kenya Constitution to limit jurisdiction over matters of constitutional interpretation to the High Court of Kenya. Consequently, the Court of Appeal, in principle, has declined to hear appeals on constitutional matters. In theory it is possible for the court to hear such appeals where they are presented in the form of declaratory suits concerning conflicting or inconsistent decisions of the High Court; then a full bench of five judges of the court has to be constituted. In practice, however, it has not been possible to do so either because of shortage of judges or because there have not been suitable cases. The Court of Appeal has, therefore, appeared subordinated to the High Court as regards constitutional matters. The Committee received numerous submissions that, for these reasons, an additional court, to be known as the Supreme Court, should be established.
50. The Committee also received representations that it is now time that separate divisions should be created in the High Court to facilitate specialization in particular areas of litigation such as commercial, family, criminal law and succession.
51. The High Court is made up of the Chief Justice and not less than 11 other judges (known as "puisne judges"). Currently the maximum number of judges for the High Court prescribed by Parliament is 30 out of which there are 29 presently serving. The Constitution does, however, provide that both the Court of Appeal and the High Court shall be duly constituted notwithstanding a vacancy in the office of a judge of that court.
52. The Committee has received representations that the limitation by statute of the number of judges of the Court of Appeal and the High Court should be removed, leaving it to the Judicial Service Commission to determine how many judges are required, depending on the volume of work. The Committee learned that there is an enormous backlog of cases in both courts. Some civil cases take upwards of seven years to complete. It was submitted that, on average, a criminal case in the High Court takes more than one year to complete.
53. The Committee recognizes that these problems are partly attributable to the relative unavailability of judges to hear the

cases. It is clear, however, that making judges available without providing the necessary support facilities will not solve the problems. The Committee has, nevertheless, considered the issue and has made its recommendations in Chapter V of the Report.

54. The term "puisne" in reference to judges of the High Court has been criticized in a number of submissions to the Committee. In addition to the difficulty in pronunciation, it was said to be an outdated term which has been dropped even in England, from where it was adopted. It was suggested that the term be dropped and replaced with the phrase "Judge of the High Court" or "High Court Judge".
55. Judges of the Court of Appeal and of the High Court are appointed by the President acting on the advice of the Judicial Service Commission. Those qualified must either be or have been judges of an equivalent court in some part of the Commonwealth or be advocates of the High Court of Kenya with not less than seven years' standing.
56. The Committee received numerous representations on the question of qualifications of those to be appointed judges. It was submitted that appointment to judgeship, especially from the magistracy, did not appear to be based on any systematic criteria. It was said that the present minimum qualifications for judges are too low and that, for example, the period of seven years experience as an Advocate of the High Court is too short. The Committee noted that, in the current scheme of service for magistrates, it should take a minimum of 15 years for a newly recruited District Magistrate II to ascend to the top post of Chief Magistrate. It was represented that this should form the basis for the minimum number of years of experience required before one could be appointed a judge.
57. Many views on the question of expatriates qualifying to be appointed judges in Kenya were expressed. It was felt that the administration of justice, being such a fundamental aspect of national sovereignty, it should largely be entrusted to Kenyans. The Committee noted earlier that out of 36 judges currently serving, only seven are on contract terms, and, out of these only three are on overseas salary supplementation. Further, the seven judges on contract only six are non Kenyans. In view of these facts the issue of contract and expatriate judges appears to be transitory.

58. The Chief Justice is the official head of the Judiciary and is appointed by the President. Other judges rank in seniority according to the priority of their appointments but all judges of the Court of Appeal are senior to their counterparts in the High Court. The Constitution provides that the Chief Justice is the head of both the Court of Appeal and the High Court. This enables the Chief Justice to sit both in the High Court and the Court of Appeal and this can create conflicts in the operation of the two courts.
59. It was suggested that the Chief Justice should only sit in the highest court in the land. It was also submitted that the Court of Appeal should be administered separately from the High Court in order that it may appear to litigants to be distinct from that court. This could be done by putting the senior-most Judge of Appeal in charge of the court and having a separate Registrar as the Accounting Officer of the Court. The current position is that the Registrar of the High Court also serves as registrar of the Court of Appeal. The Committee finds merit in these suggestions and makes relative recommendations in Chapter V.

#### **Security of Tenure**

60. The tenure of office of judges is safeguarded by the Constitution which provides that a judge may be removed from office only for inability to perform the functions of his office or for misbehaviour. The inability to perform the functions of office may arise either from infirmity of body or mind or from any other cause. Under such circumstances the President is required to appoint a tribunal of judges to make an appropriate recommendation. The retirement age for judges is currently set at 74 years. It was proposed that provision be made to allow judges to opt for early retirement with full benefits, an issue discussed later in Chapter IX.

#### **Magistrates**

61. The Resident Magistrate's Court, is created by the Magistrates Courts Act and is duly constituted when held by a Chief Magistrate, a Senior Principal Magistrate, a Principal Magistrate, a Senior Resident Magistrate or a Resident Magistrate and has jurisdiction throughout Kenya. Below it are the District Magistrates' Courts which are divided into first, second and third classes in that order of seniority. The professional magistracy, which at independence was almost entirely non-African, is now over 250 strong and is fully Kenyan African.

The lay magistracy has been reduced from over 200 to less than 30. The retirement age for magistrates is currently set at 55 years. Views were expressed that this limit should be increased with an option for early retirement.

62. Suggestions were also made regarding the territorial and hierarchical jurisdiction of the Resident Magistrates Court and a call made for harmonization of the two jurisdictions. The court of the resident magistrate was so called originally because the magistrate was resident in a particular station. Today resident magistrates, irrespective of their court station, have territorial jurisdiction all over Kenya. Consequently, the title "resident" magistrate has lost its factual meaning and what is more relevant is the hierarchical jurisdiction over disputes.

#### Court Stations

63. There is, currently, a total of 90 court stations spread all over the country. All the provincial headquarters, except Embu and Garissa, have a High Court. In addition, four district headquarters i.e. Meru, Machakos, Eldoret and Kisii each have a High Court. Thirty-eight districts, including those with High Courts, have magistrates' courts. The rest of the courts are either at sub-district Headquarters or at divisional headquarters or at urban centres. At present out of the 216 administrative divisions in the country, only 44 have courts.
64. The new High Court stations at the district headquarters operate in facilities designed for magistrates and no resident judge has been posted to Embu because of lack of suitable accommodation for the court and the Judge. In Garissa and Malindi even the Magistrates' Courts require reconstruction. The Committee learned that plots have been or could be found for putting up High Court buildings at the new stations and in Kisumu, Embu and of a new Magistrates' Court at Malindi. It was pointed out to the Committee that, as regards the subordinate courts, litigants frequently have to travel long distances to reach the nearest court. This is particularly so in Eastern and North-Eastern provinces. The Committee noted that Wajir and Mandera do not have resident magistrates and are served by the Senior Resident Magistrate based in Garissa. He, once a month, is expected to travel over 400 km. and 800 km. respectively, to serve these stations. It was suggested that, to avoid this inconvenience to the public and the magistrate, consideration should be given to establishing magistrates' courts

at Wajir and Mandera and at every divisional headquarters where the volume of litigation justifies it.

65. The Committee was informed that, to relieve the congestion in the main Law Courts building in Nairobi and the suburban courts at Kibera and Makadara, 40 additional courts are required. The Committee also found out that some stations with courts do not have the requisite number of magistrates and, where they do, court rooms and chambers are unavailable or inadequate.

#### **Kadhis' Courts**

66. The Kadhis' Courts Act establishes eight Kadhis' courts. Of the eight courts: three have jurisdictions in Kwale, Mombasa, Kilifi and Lamu districts; one has jurisdiction in Nyanza, Western and Rift Valley provinces; one covers Wajir and Mandera districts; one covers Nairobi, Central and Eastern provinces, excluding Marsabit and Isiolo; one covers Marsabit and Isiolo; and another covers Garissa and Tana River districts. Such Kadhis' courts have jurisdiction to determine questions of Muslim law relating to personal status, marriage, divorce and succession in proceedings in which all the parties profess the Muslim religion and without prejudice to the jurisdiction of the High Court or subordinate courts in such matters in proceedings before them. The number of Kadhis has been prescribed as 8 in addition to the Chief Kadhi but there are only 7 in office. There were complaints that Kadhis are too few having regard to the amount of work that they have to undertake. In addition, the geographical jurisdiction prescribed by law was said to aggravate this state of affairs.
67. The Committee was told that the Kadhis' courts lack the necessary support facilities to function effectively. For example, Kadhis' courts do not keep records of proceedings, and they have insufficient accommodation in which to hear cases. It was claimed that, apart from appointing a Kadhi to preside over a particular court with a small office and basic furniture, the Judiciary provides little else. In addition to these problems, there were complaints that there is no age limit for one to be appointed a Kadhi nor any minimum educational requirement. The Committee found merit in these submissions and makes recommendations in Chapters V and VII.

## **Jurisdiction**

68. The Committee learned that certain anomalies exist in regard to the jurisdiction vested in magistrates by various Acts. It was said, for example, that even though magistrates are restricted to hearing those civil cases within their pecuniary jurisdiction, no such restriction exists in matters of probate and administration. Further, while Resident Magistrates have jurisdiction to hear cases of capital robbery with violence, they do not have jurisdiction to hear murder cases.

## **Tribunals**

69. Representations were made to the Committee concerning the Tribunals which deal with disputes between landlords and tenants of business premises and residential accommodation. The Business Premises Rent Tribunal is set up by the Minister for Commerce under the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act (Cap. 301) and the Rent Restriction Tribunal is set up by the Minister for Lands and Housing under the Rent Restriction Act (Cap. 296). Submissions were received that these Tribunals should be decentralized to the provinces to enable them to carry out their functions more effectively.

## **The Judicial Service Commission (J.S.C.)**

70. Responsibility for the recruitment, appointment, promotion and discipline of the Registrar, Magistrates and Kadhis is vested in the Judicial Service Commission. The Commission is established by Section 68 of the Constitution and its members comprise the Chief Justice as Chairman, the Attorney-General, a Judge of the Court of Appeal, a Judge of the High Court and the Chairman of the Public Service Commission. In addition to its role with regard to Judicial officers, the Commission advises the President on the appointment of judges, other than the Chief Justice, and also with regard to the appointment of a tribunal should the question of the removal of a judge arise. It was represented to the Committee that some form of public scrutiny should accompany the appointment of judicial officers especially at the higher levels.
71. The Committee noted that there are inadequate arrangements made for the career development of magistrates and that the first scheme of service to be established commenced only in July 1990. No adequate arrangements appear to have been formulated for the induction of magistrates or their further training,

locally or overseas. The Committee was informed that there are judicial officers with over 15 years service who have not undertaken any training beyond their basic qualifications. Representations were made that there are weaknesses in the procedures adopted by the Judicial Service Commission in appraising the performance of judicial officers and that the promotion procedures appear not to be based on any set criteria of merit.

72. Inquiries revealed that the Judicial Service Commission, though required by the Service Commissions Act (Cap. 185) to have a public officer appointed by the Public Service Commission as Secretary, does not have such an officer and that the personal secretary to the Chief Justice doubles up as Secretary to the Commission. It was also observed that the Commission does not have a Secretariat with the necessary personnel to carry out its functions. This has obviously affected the operations and effectiveness of the Commission and our recommendations in this respect appear elsewhere in this Report.

#### Working Environment

73. The Committee observed that the working environment of the Judiciary, as a whole, is unsatisfactory. The physical facilities accommodating the Judiciary throughout the country are largely inadequate and many are in a dilapidated state, with the result that there is extreme congestion in law courts. Even though the Constitution provides that cases be held in public except with the agreement of the parties, many cases are held in chambers due to inadequate court rooms.
74. The Committee further learned that the majority of judges and other judicial officers have no room for individual secretarial and other support staff; there are inadequate sanitary facilities and no provision is made for common rooms. The judges and magistrates have to jostle through crowds of litigants and other members of the public to get to their chambers and courts. Needless to say, this has grave consequences for their security and status. The necessary furnishings and stores are either lacking, borrowed or inadequate.
75. The Committee was told that the housing situation was just as bad. Only a few judges and even fewer magistrates are accommodated in institutional housing. The majority of magistrates are left to look for their own accommodation. The result is that most judicial officers, especially at the lower levels, are

forced to reside in rented accommodation which may not be in locations commensurate with their status and which may, again, have grave consequences for their security. The Committee views the issue of housing as vital and addresses it in paragraphs 144 and 145 of this Report.

76. Much concern was expressed to the Committee by judges and magistrates about their security. We were informed that only judges have some security at their homes in the form of administration policemen. Those who have official transport are also provided with police drivers. Magistrates have no form of security whatsoever. In addition, neither judges nor magistrates have facilities to allow for the filtering of visitors to their chambers which open directly into court corridors.

### **Transport**

77. In addition to the problems already mentioned, many judicial officers, especially magistrates, have neither official nor personal transport. The Judiciary has, as a matter of policy, tried to provide official transport to all judges for official duties. Quite often such transport, as is available, is either unserviceable or not maintained due to lack of funds. The Committee considers that all judges, because of their status and the nature of their work should be provided with official transport.
78. In some cases, magistrates on circuit have to travel to different courts and, even then, no official transport is provided. The Committee was informed that in such situations they have to endeavour to obtain transport from sources such as the Police or Prisons officers or are compelled to use public transport. The Committee finds this situation unsatisfactory and makes recommendations in Chapter IX.

### **Recording of Proceedings**

79. The Committee also learned that all court proceedings are recorded in long hand by judicial officers and considers that it is now time that the Judiciary did away with this outdated method of recording proceedings. The Committee agrees and makes its recommendations in paragraph 96 of this Report. The Committee also observed that there exists no definite arrangement for law reporting. The Kenya Law Reports were last published in 1980. These reports are basic tools of judicial officers and assist in dissemination of judicial decisions.

80. Related to the above problems is the question of court libraries. Many court stations have no library and in the case of the few that have, the libraries are grossly inadequate and poorly stocked. The Committee observed that most court libraries do not have even the basic law reports or textbooks and for those that have them, the editions are outdated. In addition, legal journals and periodicals, which are crucial if judicial officers are to keep up with developments in the law, are either non-existent or outdated.

81. The Committee notes that, despite the unsatisfactory state of the facilities, the Judiciary has performed well over the years. If this performance is to be maintained and improved, these problems should be addressed in order to enable the Judiciary face the challenges of the future. These issues are further addressed in the remaining part of this Report.

## CHAPTER V—FUTURE STRUCTURE OF THE JUDICIARY

### Introduction

82. In the preceding Chapter, the Committee has highlighted the state of the Judiciary and the administration of justice in Kenya. Major operational issues have been identified and it is now appropriate to consider what changes are necessary to ensure that the Judiciary continues to discharge its responsibilities efficiently and effectively.

### The Role of the Judicial Service Commission (J.S.C.)

83. In Chapter IV the role and operations of the Judicial Service Commission were analyzed and representations received by the Committee set out. The absorption of the para-legal staff into the Judiciary, which this Committee **recommends** in paragraph 102, will increase the burden on the Judicial Service Commission. Consequently, the Committee **recommends** that the J.S.C. be expanded by two additional members representing the public interest, to be appointed by the President. It is envisaged that the Secretariat will maintain records of performance by judicial officers, make recommendations regarding promotion and discipline, investigate complaints and report thereon to a disciplinary sub-commission which we **recommend** should be established by the J.S.C. under its regulations. It is further **recommended** that the sub-commission should be a standing one and should hold regular meetings. We therefore **recommend** that a Secretary be appointed, as required by the Service Commissions Act (Cap. 185) and that once appointed he should establish a Secretariat with appropriate resources and personnel. Having regard to the expected responsibilities of the Secretariat, it is **recommended** that the person to be appointed as Secretary should be a senior public officer of the level of the Registrar.

### Organization and Structure

84. On the organization and structure of the Judiciary, the Committee received submissions suggesting structural changes in the superior courts in three respects. First, it was suggested that a new court, to be called The Supreme Court, should be created as the highest court in the land. Secondly, it was suggested that the Court of Appeal should, like its predecessor, the Court of Appeal for East Africa, be a separate court, with its own accounting officer and not administered by the Registrar of the High Court. Finally, representations were made that

specialized divisions should be created in the High Court to deal with different categories of litigation such as commercial, admiralty, family and succession and criminal matters.

85. The Committee observes that under the Constitution the Chief Justice is a member of both the High Court and the Court of Appeal. This raises the potential for conflict since the Chief Justice would be unable to sit on appeal in respect of a decision he made in the High Court. This position has arisen because of the fact that previously the Court of Appeal was a regional court and the Constitution limited jurisdiction over constitutional matters to the High Court. In view of the importance of constitutional cases, it was then vital that the Chief Justice should sit in the High Court. Since the establishment of the Kenyan Court of Appeal as a national court, steps have not been taken to give jurisdiction over constitutional matters to the Court. The Committee is of the view that the Court of Appeal being the highest court in the land should have jurisdiction over constitutional matters and that the Chief Justice should hear cases only in the Court of Appeal.

#### The Supreme Court

86. In matters beginning in the High Court, currently there is only one right of appeal i.e., to the Court of Appeal. Previously, such matters were appealable to the Judicial Committee of the Privy Council. It was for this reason that a suggestion was made that a second chance of appeal should be accorded to litigants by establishing a second Court of Appeal to be called the Supreme Court. The Supreme Court, once established, would deal with constitutional cases in addition to appeals on matters of law. In this connection the Committee considers that the establishment of a Supreme Court is desirable. However, the Judiciary is short of judges and the immediate priority must be to improve the capacity of both the High Court and the Court of Appeal to dispose of cases. The recommendations that the Committee is making in respect of salaries and other conditions of service should contribute towards the improvement of this situation and facilitate the establishment of the Supreme Court. Accordingly, the Committee **recommends** that a Supreme Court consisting of seven judges including the Chief Justice should be established once the number of judges proposed in this Report is recruited.

### **The Court of Appeal**

87. The Court of Appeal, apart from sitting in Nairobi, goes on circuit to the provinces and is already very busy. If our recommendation that constitutional cases be appealable to the Court of Appeal is accepted and implemented, the court will be even busier. We note that since its creation, the full establishment of eight judges has not been recruited and urge that this should be done pending the expansion recommended herebelow.

### **The High Court**

88. On the question of the creation of divisions in the High Court to facilitate specialization in particular areas of litigation, the Committee notes that, in jurisdictions where there are such divisions, many judges are required. In Kenya, the increase in the statutory number of judges has been slow, and, starting with an establishment of 10 judges of the High Court at independence, only another 20 have been added in nearly 30 years. Ten out of the 29 judges sit in out-stations and have to deal with all cases filed there. In Nairobi, where the rest of the judges sit, they have to handle all types of cases. The Committee is of the opinion that in view of the present small number of judges, and the number of stations to be served, it may not yet be practical to create the suggested divisions in the High Court. It is anticipated that when the composition of the court stabilizes and the number of judges increases, expertise in particular areas will be acquired and then specialization will evolve and the need for creation of divisions may emerge.

### **Judges**

89. In view of the proposals which this Committee makes for the improvement of the salary and other conditions of service, it is expected that the Judiciary should be able to attract suitable persons for appointment as judges. The Committee therefore **recommends** that the number of judges prescribed under the Judicature Act (Cap. 8) should be increased substantially for both the High Court and the Court of Appeal in order to cope with the increased volume of cases. The Committee **recommends** an additional twenty judges in the High Court and an additional seven judges in the Court of Appeal. As regards the reference to judges of the High Court as "Puisne Judges", the Committee concurs that the term is outdated and misplaced. We therefore, **recommend** its removal and replacement with the title "Judge of the High Court."

1. In the structure we have recommended, the Chief Justice, sitting in the Court of Appeal, or later in the Supreme Court, will remain the head of the Judiciary as a whole, and his membership of the High Court will be ex-officio only and he will not hear cases in that court.
1. Regarding judicial functions of these courts the Committee **recommends** that there be two Registrars: one for the High Court, and other for the Court of Appeal. The Registrar of each court shall be answerable to the Chief Justice for the judicial operation of that court. Eventually, when the Supreme Court is established, a Registrar for it should be appointed.
2. With regard to qualifications of those to be appointed judges, it was suggested that the period of experience required as an advocate or magistrate before appointment should be increased. It was also represented that this period should be similar for both advocates and magistrates. The Committee considers these views to have merit. With regard to the question of experience, we consider that it is only fair to all concerned that judges appointed from the magistracy should be so appointed after they have served the minimum number of years that it takes a newly appointed professional District Magistrate to climb to the post of Chief Magistrate, a period noted by the Committee to be about 15 years. We therefore **recommend** that the minimum period of experience either as an advocate or as a magistrate required for appointment as a judge be increased to 15 years. In view of the large number of qualified advocates and magistrates now available, the Committee does not anticipate any difficulty in this respect.

#### District Courts

3. With the phasing out of lay magistrates, most courts previously held by District Magistrates are now held by professionally qualified magistrates who are Resident Magistrates. Consequently, the magistrates who preside over these courts have jurisdiction throughout Kenya. Accordingly, it is necessary to extend the jurisdiction of the District Magistrate's Court to include the whole of Kenya. The consequence of this will be that there will be no need to retain the Resident Magistrate's Court and we **recommend** its abolition. We further **recommend** that changes be effected to the nomenclature of magistrates as follows:

Magistrate II.

Magistrate I.

Senior Magistrate.  
Principal Magistrate.  
Senior Principal Magistrate.  
Chief Magistrate.

### **Working Environment**

94. The Committee has carefully considered the issue of number and state of court buildings and necessary operating facilities as highlighted in paragraphs 65, 73 and 74, **recommends** that funding be secured for the construction of court buildings at all the new High Court stations as well as Embu and Kisumu. It is noted that suitable plots have been identified and reserved for the purpose at Kisii, Kisumu, Kakamega, Eldoret, Nyeri, Meru, Embu, Machakos and Malindi. As regards Nairobi where many additional courts are required, the Committee **recommends** that the adjoining land currently utilized as car park should be made available to the Judiciary for the construction of additional court buildings. In the meantime, as an interim solution, the old Jogoo House should be made available to the Judiciary to be used as court buildings. We also **recommend** that the Judiciary should undertake an assessment of the volume of litigation and situation of courts relative to population centres to determine the need and siting of new courts at further administrative centres. Where judicial officers are unavailable, efforts should be made to recruit and post them as necessary. We further **recommend** that the entire structure and organization of the Kadhis' courts be examined with a view to addressing the problems highlighted in paragraph 67 of this Report.
95. The Committee also **recommends** that urgent inspection of courts be undertaken, to assess the need for repair, rehabilitation and maintenance and that finances be made available for this purpose. In this regard, the Committee emphasizes that the design of accommodation for courts, chambers and associated facilities, and the necessary furniture and fittings should reflect the solemnity, serenity, status and image of administration of justice. Thereafter there should be periodic and continuous effort to maintain the courts in a reasonable state of repair.
96. With regard to the recording of proceedings, the Committee considers that it will be desirable to adopt modern systems of recording of evidence including the use of parlatyping and audio/visual equipment. The Committee believes that the introduction of these systems will greatly contribute to speed

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95. The Committee also **recommends** that urgent inspection of courts be undertaken, to assess the need for repair, rehabilitation and maintenance and that finances be made available for this purpose. In this regard, the Committee emphasizes that the design of accommodation for courts, chambers and associated facilities, and the necessary furniture and fittings should reflect the solemnity, serenity, status and image of administration of justice. Thereafter there should be periodic and continuous effort to maintain the courts in a reasonable state of repair.
96. With regard to the recording of proceedings, the Committee considers that it will be desirable to adopt modern systems for recording of evidence including the use of parlantyping and audio/visual equipment. The Committee believes that the introduction of these systems will greatly contribute to speed

up the court processes and may reduce the time taken to hear cases by as much as 60 per cent. We therefore **recommend** progressive introduction of these systems beginning with the parlantyping services at the High Court, Nairobi and gradually extending it to other courts. There is also need to update existing equipment by introducing modern equipment such as word processors, personal computers and electronic typewriters.

### **Libraries and Law Reporting**

97. The Committee has noted at paragraph 80 the inadequacy of library facilities in the Judiciary. We therefore **recommend** that, in implementing the recommendations concerning courts and associated facilities, provision should be made for libraries at all High Courts and courts manned by senior magistrates and above. Such libraries should be stocked with the necessary textbooks, law reports and journals and should include, as a minimum, a complete set of the Laws of Kenya and subsidiary legislation. Subscriptions should be made for continued acquisition and updating of such materials. Necessary equipment for the management of information should be installed in the libraries to facilitate efficient storage, retrieval and dissemination of the information.
98. The Committee also **recommends** that, as a matter of urgency, an editorial board comprised of representatives of the Judiciary, the State Law Office, the Faculties of Law in the Universities and the legal profession be established to facilitate law reporting on a permanent basis. This would enable the dissemination of current judicial decisions, help to maintain uniformity of judicial decisions and enhance the application of the doctrine of judicial precedent. Ultimately, this will encourage development of the law in Kenya.

### **Budgeting and Forward Planning**

99. As discussed in Chapter IV, the Judiciary does not appear to have adequate capacity for budgeting and forward planning to anticipate necessary expansion and development. This appears to be because the professional magistrates, who double up as administrators in the courts, are not qualified to carry out these administrative tasks. The Committee considers that there is urgent need to have in the Judiciary, administrative officers, who have expertise in budgeting and forward planning. This issue is discussed in depth in the following Chapter.

## **Tribunals**

100. As stated in paragraph 69 of this Report, the Committee received representations concerning the tribunals. The Committee has noted that these tribunals do not at present come within the Judiciary because the legislation creating them provides for their control by the relevant ministries. Despite this, in practice the Judiciary has seconded judicial officers to preside over them. Since they are not part of the Judiciary, their conduct of business tends to lack the orderly nature of judicial proceedings, particularly as regards the speed with which they dispose of cases and the formalities that they apply. However, in the mind of the public they perform functions of a judicial nature as their decisions are appealable to the High Court. For these reasons, the recommendations which we make for the improvement of the capacity and competence of the Judiciary to administer justice should apply equally to these tribunals. We therefore recommend—

- (a) that all presiding officers of these tribunals should be appointed by the Judicial Service Commission (J.S.C.);
- (b) that non-professional members of these tribunals should be appointed from among persons of high integrity who are experienced in and knowledgeable about the interests that they represent in the tribunals;
- (c) that the para-legal staff appointed to serve in the tribunals should be equally conversant with the operations of the tribunals; and
- (d) that to enable greater accessibility of the tribunals to the litigants they should be decentralized.

If as a consequence of these recommendations the operations of these tribunals are streamlined, and their efficiency improved, they will make a significant contribution to the administration of justice.

## CHAPTER VI—THE ROLE OF PARA-LEGAL STAFF

### Introduction

101. As explained in Chapter I, the para-legal staff comprises all employees who support judicial officers in their work. They include the Accounts Controller, the Chief Personnel Officer and their staff, the Executive Officers, the Secretarial Staff, the Court Clerks, the Process Servers and others who currently number 2,234 as compared with 337 judicial officers. Their support to the judicial officers is crucial and without them the latter would not be able to function effectively.

### Schemes of Service

102. The para-legal staff are appointed by the Public Service Commission (P.S.C.) and deployed in the Judiciary. Their terms and conditions of service are administered by the Directorate of Personnel Management (D.P.M.) in accordance with the various schemes of service applicable to comparable staff in the Civil Service. It was represented to the Committee that, whereas the work performed by the para-legal staff in the Judiciary requires specialization, their career progression criteria are general and require civil service experience, which puts them at a disadvantage. Moreover, there are no training programmes specific to the requirements of such para-legal staff. The Committee noted this as a source of demotivation to the staff and recommends that all para-legal staff be absorbed by the Judiciary and be employees of the Judicial Service Commission (J.S.C.).

### The Registrar

103. The Registrar is the head of administration in the Judiciary and also the Accounting Officer to the Judicial Department. He is appointed from amongst the professional magistrates and in the High Court, Nairobi, he is assisted by the Senior Principal Deputy Registrar and the Principal Deputy Registrar. However, in out-stations the Registrar is assisted by the senior-most magistrates.
104. It was represented to the Committee that magistrates are so busy hearing cases and writing judgements that they have no time to carry out administrative duties effectively. As a result, these administrative duties, which include budget preparation, procurement of basic stationery, co-ordinating and updating libraries and official transport, maintaining physical facilities, are not discharged effectively. The Committee was also

informed that these officers lack the knowledge and skills required for the discharge of these duties. The Committee noted that in the past, the Judiciary had court administrators specifically for that purpose. Elsewhere in this Report, we have recommended a structural re-organization of the courts, which if implemented, will result in an even heavier administrative burden. We have already suggested the appointment of Registrars for each of the courts and we anticipate that they will be fully occupied in judicial matters. Consequently, we **recommend** the establishment of a post of a Chief Court Administrator the holder of which will be the accounting officer for the entire Judiciary. It is further **recommended** that appropriate subordinate posts be created the occupants of which will work under him but alongside the Registrars and their deputies. It is also **recommended** that the Chief Court Administrator should be responsible to the Chief Justice in matters of administration and that he should be well versed in financial and general management.

#### **Executive Officers**

105. The Executive Officers comprise a general civil service cadre which is responsible for ensuring the smooth running of office services in such areas as procurement of stationery, telephone services, transport, cleanliness of offices and co-ordination of messenger services. The Committee noted that these officers, especially those working in the out-stations are, in addition to the above duties, expected to prepare estimates and attend District Development Committee (D.D.C.) meetings. The Committee further noted that these officers do not seem to have adequate knowledge and skills to enable them to perform these additional duties effectively. For example, they are not able to represent their department effectively in fora where they are dealing with more senior officers. The Committee is of the view that the poor state of the courts, the lack of basic support facilities and inputs, especially in the out-stations, may be partly attributed to these inadequacies. We have, in the previous paragraph, recommended the appointment of administrative officers to perform these high level duties. In the meantime, the Committee considers that the role of executive officers in rendering office management support is still crucial and that these officers should continue serving in the Judiciary.

106. The secretarial staff include personal secretaries, shorthand/ audio typists and copy typists. These secretarial staff are vital in the dispensation of justice in that, in addition to their general duties, they have to type court proceedings and judgements. The Committee received representations that secretarial staff encounter difficulties with legal terminology in the course of their work because they have no special training. It was further represented that there is need to involve secretaries in the verbatim recording of court proceedings either in shorthand or by use of modern recording equipment. The Committee finds merit in these submissions and notes that the secretarial staff will require specialized training in order to carry out these duties effectively. We therefore, recommend that suitable training programmes for secretarial staff in the Judiciary be designed and an appropriate scheme of service be developed for them. It is also recommended that in future, the Judiciary should only employ secretaries whose initial training includes aspects of legal secretarial duties.

#### **Court Clerks**

107. These are clerical staff working in the Judiciary. They include court interpreters, registry clerks, accounts clerks and personnel clerks. Accounts and personnel clerks are deployed in general duties such as collection of revenue and appropriation in aid, together with the processing of personnel matters. These tasks and the maintenance of a proper and effective filing system are crucial in the Judiciary.

#### **Court Interpreters**

108. At present, court clerks attend to judges and magistrates in court and chambers, handle case files for judges and magistrates and, at times, are required to interpret the vernacular of litigants into English and vice versa. The Committee notes the vital need for accuracy in interpretation. There is therefore an urgent need to recruit and train court interpreters and designate them officially as such, and the Committee **recommends** accordingly.

#### **Process Servers**

109. Process Servers have the responsibility of serving court process. There is need for them to have basic understanding of the rules relating to service of process and drafting returns of service and supporting affidavits. Recommendations on a scheme of service and training courses for the process servers are made in the next chapter.

110. It was further represented that process servers do not have official transport and have to depend on public transport at their cost which is subsequently reimbursed. We noted that this system causes delay in serving process, more so since the abolition of the extra service fees that used to be charged on every process served. At times the process server has no money to meet transport costs and has to walk long distances. We therefore, **recommend** that motor-cycles and bicycles be provided to process servers to facilitate their work.

#### **Security Personnel**

111. As indicated in paragraph 76 of this Report, the security of judges in their residences, is provided by the Administration Police. However, there is no arrangement for security for magistrates in their homes. The Committee observed that magistrates, like judges, perform judicial functions which sometimes result in punishment of offenders or dissatisfaction of litigants. They are therefore at risk. The Committee therefore **recommends** that the J.S.C. makes arrangements for the provision of security for judicial officers both in their homes and in chambers.

#### **Other Support Staff**

112. Other support staff in the Judiciary comprise personnel officers, accountants, supplies officers, librarians, archivists, artisans, drivers, messengers and cleaners. The Committee **recommends** that their appointments and schemes of service be administered by the J.S.C.

## CHAPTER VII—RECRUITMENT AND DEVELOPMENT OF JUDICIARY PERSONNEL

### Introduction

113. In Chapter IV of this Report, the Committee discussed the role of the Judicial Service Commission (J.S.C.), with regard to its responsibility and authority for recruiting, appointing, promoting and disciplining the personnel of the Judiciary, other than the judges. The Committee further noted that the magistrates now enjoy a scheme of service which was established and implemented in July 1990 and which applies also to the legal officers in the Attorney-General's Chambers. The scheme of service is administered separately, but uniformly by the Chief Justice and the Solicitor-General, respectively.

### Schemes of Service

114. The Committee noted that the current scheme of service for the magistracy has five promotional points after the entry point and that promotion from one grade to the other requires a minimum of three years experience, among other criteria. Representations made to the Committee expressed satisfaction with the scheme of service, provided the minimum promotional requirements are strictly adhered to. The Committee concurs with these observations and recommends that a new scheme of service for professional magistrates should be created under the new terms and conditions of service recommended in this Report. The Committee received strong representations from the Attorney-General to the effect that acceptance and implementation of these recommendations would have repercussions for the Staff of the State Law Office and that salary scales of legal officers would have to be reviewed in view of the close similarity between judicial officers and professional personnel of the State Law Office. However, our terms of reference require us to consider only the terms and conditions of service of the Judiciary as separate from the Civil Service. Consequently, we are unable to deal, in this Report, with the issues raised by the Attorney-General. Nevertheless, we recognize that the State Law Office requires to be strengthened through additional recruitment of qualified personnel of high calibre and that to be able to do so, attractive terms of service will need to be offered within the existing framework of the Civil Service. The Committee therefore suggests that the Attorney-General should seek ways and means of offering such terms as will attract and retain suitable personnel in his department.

115. The Committee noted that the criteria for appointment of judges of the High Court or the Court of Appeal, respectively, are not conditional upon having served in the magistracy for the former, or in the High Court for the latter. We noted that, whereas the Constitution defines how judges are to be appointed, the main source of such appointments has been the magistracy. In this regard therefore, the Committee **recommends** that where appointments to judgeship are from the magistracy, those considered should have advanced to the top levels in the scheme of service. The Committee is also of the view that the High Court and the Court of Appeal, which provide levels to which the lower bench and the practising bar ultimately aspire, should continue to be the main sources of such appointments. Moreover, the Committee concurs with the representations to the effect that judges should continue to be appointed from the two sources, since each source offers a distinct comparative advantage derived from past exposure and experience in civil and criminal litigation, respectively. With regard to the establishment of a scheme of service for judges, the Committee does not consider that there is need for one, since each position of judgeship is, in effect, a terminal position.
116. The Committee received representations that currently, there is no scheme of service for the Kadhis and that there is need to establish one. As discussed in the preceding Chapters IV and V, there is need to spread the geographical dispersion of the Kadhis' Courts, with a view to making them more accessible to litigants. Further, the Committee was requested to recommend the expansion of the Kadhis' Courts in terms of provision of staff and resources, an issue that has been discussed earlier. As to the establishment of a scheme of service for the Kadhis, the Committee is of the view that the career of a Kadhi is not amenable to this, having regard to the factors which, within the Muslim community qualify one for appointment to this position. The Committee therefore **recommends** that the Kadhis' Courts should be decentralized taking account of the density of Muslim population and volume of litigation. In addition necessary accommodation and resources should be provided.

#### **Entry Requirements**

117. The scheme of service for magistrates provides that first appointees be qualified with a law degree and be advocates of the High Court of Kenya. This Committee endorses these requirements. In addition, the Committee is of the strong view

that the integrity of those to be recruited into the magistracy is crucial to the image of the Judiciary, for it is at this level that most members of the public interact with the Judiciary. The Committee envisages that a vetting procedure will be developed by the J.S.C. to ensure that those who join the Judiciary at this level have the proper credentials in terms of behaviour, attitudes and demeanour. The Committee envisages that the Judicial Service Commission Secretariat will formulate human resource management and development policies and, generally, administer personnel functions including recruitment, promotion and discipline.

### Training and Development

118. The Committee noted that the state of training and development in the Judiciary is inadequate. It was further noted that there were judicial officers with over 15 years service who have not been accorded any training beyond their basic qualifications. Judicial officers therefore, do not know what training opportunities are or would be available and who can benefit from such opportunities. This has generated an impression that the Judiciary does not attach importance to further training.
119. The Committee views training as crucial to the effectiveness of the Judiciary. In view of the rapid increase in litigation and the increasing awareness by the population of their rights, as discussed earlier in this Report, it is imperative that the Judiciary keeps pace with the aspirations and expectations of the public. We therefore **recommend** that on-the-job training programmes in relevant areas, such as sentencing, rehabilitation of offenders, damages and insurance and family law be designed and implemented. Training opportunities, even at postgraduate level should be offered both locally and overseas. In addition, seminars, workshops, conferences and symposia should be encouraged.
120. Of particular importance, in the view of the Committee, is the induction process, especially for newly recruited magistrates. We are of the opinion that proper induction forms a vital launching pad in the future performance and attitudes of judicial officers. The Committee noted that, currently, the process of inducting the newly recruited magistrates is not satisfactory and **recommends** that the process should be extended to at least one year and should involve both theoretical and practical work. This should entail an attachment, preferably to a judge, to serve as a legal assistant and

provide an exposure to the court processes. Such attachments would also provide an answer to the representations made of the need for legal assistants for judges. It is the view of the Committee that the training programmes referred to above should be incorporated in the scheme of service for the magistracy.

121. For the judges, it is **recommended** that training should include both formal and exposure programmes. The latter should include attachments to other jurisdictions and release for sabbaticals as recommended in Chapter IX of this Report. In addition, courses on relevant subjects such as insurance, assessment of damages, company and commercial matters and sentencing, should be provided.
122. Representations were also made to the Committee that training programmes should be designed for the para-legal staff to enable them to cope more effectively with the demands of their jobs as support for the Judiciary. The Committee accepts these representations and **recommends** that relevant training programmes be designed for such staff, and be related to the various schemes of service recommended earlier in this Chapter. In this connection, the Judiciary may find it worthwhile to cultivate relations with other jurisdictions in the Commonwealth to facilitate exchange of personnel, materials and ideas through seminars, workshops and conferences.
123. Finally, the Committee has noted that, currently, post-graduate training of legal and judicial officers is conducted by the Kenya School of Law. This should continue until such time as the Judiciary considers it appropriate to establish a judicial college.

## CHAPTER VIII—PROPOSED SALARY STRUCTURE FOR THE JUDICIARY

124. Government recurrent revenue, which includes direct and indirect taxation and other income, increased by 177 per cent from K£1,389.6 million in 1986/87 to K£2,457.3 million in 1990/91. The Judiciary, like many other Government departments, generates finances through its various functions. It generates revenue mainly from fines and forfeitures and appropriations in aid (A-in-A) from filing, adjournment and other fees. The difference between total A-in-A and applied A-in-A, is also paid to the Treasury as revenue. Table VIII-1 below, shows trends in revenue and A-in-A in the Judicial Department for the period 1984/85 to 1990/91. Revenue increased from K£3.0 million in 1984/85 to K£4.5 million in 1990/91, while total A-in-A increased from K£1.9 million to K£3.7 million over the same period.
125. The Committee noted that the original estimate of A-in-A for 1991/92 was K£3.3 million. However, as can be seen in Table VIII-1, actual A-in-A for the first 7 months of the fiscal year amounted to almost K£2.2 million. If this trend continues over the remainder of the fiscal year it can be estimated that the total to be collected in the year will be K£3.7 million against an original estimate of K£3.3 million. This revised figure gives an estimated excess A-in-A of K£413,830. For the first seven months the actual excess, based on the original estimates, was K£241,401.

Table VIII-1: Judicial Department Trends in Revenue 1984/85 to 1990/91 (K£000's)

	1984/85	1986/87	1988/89	1990/91	July 1991 to February 1992	Estimates January to June 1992
Recurrent Revenue (fines and forfeitures)	3,006.6	3,788.1	4,546.6	4,570.4	—	—
Total A-in-A*	1,938.1	2,504.8	2,954.1	3,687.8	2,166.4	1,547.4
Applied A-in-A	1,279.0	2,014.3	2,700.0	3,520.0	—	—
Excess A-in-A†	659.1	490.5	254.1	167.8	—	—
Excess A-in-A as % of Total A-in-A	34.0	19.6	8.6	4.5	—	—

Source: The Appropriation Account, Other Public Accounts and Accounts of the Fund.

\* Judicial services.

† Payable separately to the Exchequer.

126. Representations were received that the Government should allow the Judiciary to spend the excess A-in-A to finance stationery and other expendables and the provision of services. The Committee agrees with this view but, as can be seen in Table VIII-1 above, excess A-in-A, as a percentage of total A-in-A, has been going down, possibly because the Government has consistently raised the target ceilings.
127. In the Judiciary, recurrent expenditure comprises wages, salaries and allowances, stationery and other miscellaneous expenses. Development expenditure allocations are applied in meeting the cost of new courts and residential houses, expansion of existing buildings and other related expenditure. Table VIII-2, below shows trends in total receipts and total expenditure of the Judiciary for the periods 1982/83 to 1990/91. Total receipts increased consistently, from K£4,321,338 in 1982/83 to K£8,258,147 in 1990/91 whereas total expenditure increased from K£3,049,656 to K£5,983,586 over the same period. The surplus increased from K£1,271,682 in 1982/83 to K£2,274,561 in 1990/91. The Judiciary has, however, been a net revenue earner throughout the period under review. Total expenditure averaged 67 per cent of total receipts over that period.

Table VIII-2: Judicial Department Revenue and Expenditure, 1982/83 to 1990/91 (K£000's)

	1982/83	1984/85	1986/87	1988/89	1990/91
Recurrent Revenue (fines and forfeitures)	2,650.7	3,006.6	3,788.1	4,546.6	4,570.4
Appropriation in Aid (fees)	1,670.6	1,938.1	2,504.8	2,954.1	3,687.8
TOTAL RECEIPTS*	4,321.3	4,944.7	6,292.9	7,500.7	8,258.1
Recurrent Expenditure	2,339.3	2,691.9	3,765.2	4,562.6	5,445.5
Development Expenditure	710.4	458.3	408.4	524.2	538.1
TOTAL EXPENDITURE†	3,049.7	3,150.2	4,173.6	5,086.8	5,983.6
SURPLUS‡	1,271.7	1,794.5	2,119.3	2,413.8	2,274.6

Source: The Appropriation Account, other Public Accounts and Accounts of the Fund.

\* Includes Recurrent Revenue + Appropriation in Aid.

† Includes Recurrent Expenditure + Development Expenditure.

‡ Total Receipts less Total Expenditure.

3. The Committee observed and received representations that development expenditure in the Judiciary has been grossly inadequate since independence. This is evident in Table VIII-2 which shows that it amounts to less than K£1 million annually over the last nine financial years. The Committee notes that, as a result of this, the physical facilities accommodating the Judiciary are inadequate and in a poor state. Recommendations in this respect have been made in Chapter V of this Report.
9. The Committee notes that the current establishment of the Judiciary is as follows: Judges 39; Registrars, Magistrates and Kadhis 298; Para-Legal Staff 2,234. This means that the total number of Judiciary staff is 2,571. As noted in Chapter I, the Judiciary has, until now, been regarded as part of the Civil Service for purposes of remuneration. The Committee notes that low salaries and unfavourable terms and conditions of service may affect motivation and commitment. The Committee also observed and received representations that lack of complementary resources, such as transport and equipment, is a major factor affecting productivity in the Judiciary. The Committee considers that, in order to improve productivity in the Judiciary, there is an urgent need to increase, substantially, salaries and allowances and to provide complementary resources.
30. The Committee's terms of reference enjoined it to inquire into ways and means of establishing a structure of salaries, conditions of service and related benefits separately from the Civil Service. The overwhelming evidence received supported the establishment of a structure of salaries and conditions of service separately from the Civil Service. Earlier, in Chapter II, the role of the Judiciary and the critical responsibility placed on it by the nation were discussed. The basic essential features required of it were also set out and finally the constraints placed on the judicial officers in the performance of their duties were spelt out. Accordingly the Committee **recommends** that a new salary structure be established for the Judiciary as shown in Table VIII-3:

TABLE VIII-3: PROPOSED SALARY STRUCTURE FOR THE JUDICIARY

(a) JUDGES

**Judge of the High Court**

K£13,917×834-17,253×1,035-21,393×1,281-26,517×1,590-28,107 p.a.

**Judge of Court of Appeal**

K£17,253×1,035-21,393×1,281-26,517×1,590-32,877×2,001-36,879 p.a.

**Chief Justice**

K£20,358×1,035-21,393×1,281-26,517×1,590-32,877×2,001-42,882 p.a.

(b) REGISTRAR, MAGISTRATES AND KADHIS

**Kadhi II**

K£4,311×261-5,094×306-6,624×399-7,422 p.a.

**Kadhi I**

**Magistrate II**

K£5,094×306-6,624×399-8,619×516-9,135 p.a.

**Magistrate I**

**Deputy Registrar**

K£6,012×308-6,624×399-8,619×516-10,683 p.a.

**Senior Magistrate**

**Senior Deputy Registrar**

K£7,422×399-8,619×516-11,199×672-11,871 p.a.

**Principal Magistrate**

**Principal Deputy Registrar**

K£8,220×399-8,619×516-11,199×672-13,215 p.a.

**Chief Kadhi**

**Senior Principal Magistrate**

K£9,651×516-11,199×672-14,559×873-15,432 p.a.

**Chief Magistrate**

K£10,683×516-11,199×672-14,559×873-17,178 p.a.

**Registrar**

K£12,543×672-14,559×873-18,924×1,134-20,058 p.a.

(c) PARA-LEGAL STAFF

**Support Staff**

K£1,074×63-1,389×84-1,809×108-2,241 p.a.

**Copy Typist**

**Telephone Operator**

**Archives Assistant**

**Artisan**

K£1,263×63-1,389×84-1,809×108-2,349×141-2,631 p.a.

**Clerical Officer**  
**Process Server**  
**Driver**

K£1,641×84-1,809×108-2,349×141-3,054×183-3,420 p.a.

**Process Server I**  
**Shorthand Typist/Senior Copy Typist**  
**Librarian Assistant**  
**Assistant Archivist Server**

K£1,917×108-2,349×141-3,054×183-3,786 p.a.

**Senior Process Server**  
**Shorthand Typist I**  
**Senior Clerical Officer (ADM)**  
**Senior Clerical Officer (ACC)**  
**Senior Telephone Operator**

K£2,451×141-3,054×183-3,969×237-4,917 p.a.

**Accountant III**  
**Personnel Officer III**  
**Supplies Officer III**  
**Accounts Assistant**  
**Personnel Assistant**  
**Supplies Assistant**  
**Executive Assistant**  
**Senior Assistant Librarian**  
**Librarian III**  
**Personal Secretary II**

K£3,054×183-3,969×237-5,154×309-6,081 p.a.

**Accountant II**  
**Personnel Officer II**  
**Personal Secretary I**  
**Executive Officer II**

K£3,624×183-3,969×237-5,154×309-6,390 p.a.

**Accountant I**  
**Executive Officer I**  
**Senior Personal Secretary**  
**Supplies Officer I**

K£4,206×237-5,154×309-6,699×402-7,503 p.a.

**Court Administrator**  
**Senior Personnel Officer**  
**Senior Accountant**  
**Senior Executive Officer**

K£5,079×309-6,699×402-8,709 p.a.

**Senior Court Administrator**  
**Chief Accountant**  
**Chief Personnel Officer**

K£6,231×309-6,699×402-8,709×522×10,275 p.a.

**Principal Court Administrator  
Accounts Controller**

K£6,699×402-8,709×522-10,797 p.a.

**Chief Court Administrator**

K£12,543×672-14,559×873-18,924×1,134-20,058 p.a.

131. The above salary structure has been designed having regard to the responsibilities and factors peculiar to the three main job categories in the Judiciary, namely, judges, the Registrar, magistrates and kadhis and the para-legal. A summary of these factors follows.

**Judges**

132. The Committee received representations that the post of judge, being the highest and the most prestigious position among the institutions for administration of justice, should not be viewed as a mere promotion from the magistracy. Rather, it should be seen as recognition and reward for professional excellence. Prospective candidates for this position should be far above others in considerations such as maturity, experience and integrity. Aspirants to this position must see it as the apex of their professional career. The terms and conditions enjoyed by a judge should therefore reflect this recognition and should guarantee that the incumbent should never have any reason for regret. The Committee fully endorses these representations.
133. The Committee also notes that the professional training of lawyers necessarily requires that in considering the remuneration levels for judges, the logical point of reference should be the levels of compensation for top legal practitioners in the private sector. Comparison must therefore be made with incomes of lawyers in the leading law firms because the presumption must be that for a person to have earned the distinction of being elevated to the post of judge, he must have been worthy of a partnership in a successful firm. The Committee's inquiries revealed that the earnings of a partner in such a law firm is at least K£50,000 per year.
134. The Committee further **recommends** that the annual salary incremental points for judges be fixed at fifteen and that the annual incremental factor be 6 per cent as in the tables below. It is further **recommended** that, in the new salary structure, each judge should convert to a salary point in relation to the prevailing salaries as indicated in Tables VIII-4 to 6 and Appendix 4.

**TABLE VIII-4: RECOMMENDED SALARY SCALE FOR JUDGE OF HIGH COURT**

Recommended Scale  
K£ per annum

13,917×834  
14,751  
15,585  
16,419  
17,253×1,035  
18,288  
19,323  
20,358  
21,393×1,281  
22,674  
23,955  
25,236  
26,517×1,590  
28,107

**TABLE VIII-5: RECOMMENDED SALARY SCALE FOR JUDGE OF APPEAL**

Recommended Scale  
K£ per annum

17,253×1,035  
18,288  
19,323  
20,358  
21,393×1,281  
22,674  
23,955  
25,236  
26,517×1,590  
28,107  
29,677  
31,287  
32,877×2,001  
34,878  
36,879

**TABLE VIII-6: RECOMMENDED SALARY SCALE FOR CHIEF JUSTICE**

Recommended Scale  
K£ per annum

20,358×1,035

21,393×1,281

22,674

23,955

25,236

26,517×1,590

28,107

29,697

31,287

32,877×2,001

34,878

36,879

38,880

40,881

42,882

**Registrar, Magistrates and Kadhis**

135. The Committee received representations that currently the Judiciary is unable to attract and recruit the best brains from the bar and the private sector to the Magistracy. This is because the remuneration levels in the Judiciary are not competitive. The Committee concurred with these representations and considered that the remuneration for the Registrar, Magistrates and Kadhis should be set at levels that will not only attract and retain the best brains but also motivate them.

136. The Committee is of the view that while the salaries of the Registrar and magistrates should also be enhanced, different considerations from those of judges should apply. We noted that the Registrar is not a judge. In the past, this position has been treated at par with that of a judge, but we felt that this should not be so. Moreover, we observed that, in the past, legal officers who have held the position of Registrar have ultimately been appointed judges. The Committee's view was that the elevation of a Registrar to a judge should in future be meaningful in terms of remuneration.

137. With regard to the Magistrates, the Committee, recognized that their scheme of service provides a career ladder which has promotional opportunities. Consequently, there should be no stagnation. Magistrates also have a chance of being appointed judges. Taking all these factors into consideration, the Committee recommended the new salary scales for the Registrar,

Magistrates and Kadhis as shown in Table VIII-7.

It is further recommended that for this group, the annual incremental factor be fixed at 6 per cent.

**TABLE VIII-7: RECOMMENDED SALARY SCALES FOR THE REGISTRAR,  
MAGISTRATES AND KADHIS**

**KADHI II**

Recommended Scale  
K£ per annum

4,311×261  
4,572  
4,833  
5,094×306  
5,400  
5,706  
6,012  
6,318  
6,624  
7,023  
7,422

**MAGISTRATE II**

**KADHI I**

Recommended Scale  
K£ per annum

5,094×306  
5,400  
5,706  
6,012  
6,318  
6,624×399  
7,023  
7,422  
7,821  
8,220  
8,619×516  
9,135

**MAGISTRATE I**

**DEPUTY REGISTRAR**

Recommended Scale  
Kf per annum

6,012×308  
6,318  
6,624×399  
7,023  
7,422  
7,821  
8,220  
8,619×516  
9,135  
9,651  
10,167  
10,683

**SENIOR MAGISTRATE**

**SENIOR DEPUTY REGISTRAR**

Recommended Scale  
Kf per annum

7,422×399  
7,821  
8,220  
8,619×516  
9,135  
9,651  
10,167  
10,683  
11,199×672  
11,871

**PRINCIPAL MAGISTRATE**

**PRINCIPAL DEPUTY REGISTRAR**

Recommended Scale  
Kf per annum

8,220×399  
8,619×516  
9,135  
9,651  
10,167  
10,683  
11,199×672  
11,871  
12,543  
13,215

**SENIOR PRINCIPAL MAGISTRATE**

**CHIEF KADHI**

Recommended Scale

K£ per annum

9,651×516

10,167

10,683

11,199×672

11,871

12,543

13,215

13,887

14,559×873

15,432

**CHIEF MAGISTRATE**

Recommended Scale

K£ per annum

10,683×516

11,199×672

11,871

12,543

13,215

13,887

14,559×873

15,432

16,305

17,178

**REGISTRAR**

Recommended Scale

K£ per annum

12,543×672

13,215

13,887

14,559×873

15,432

16,305

17,178

18,051

18,924×1,134

20,058

### Para-Legal Staff

138. The Committee **recommended** that the para-legal staff should be placed on the salary scales shown on the above salary structure and in the Table VIII-8 below. It is further **recommended** that for the para-legal staff, the annual incremental factor should be fixed at 6 per cent.

**TABLE VIII-8: RECOMMENDED SALARY SCALES FOR THE PARA-LEGAL STAFF**

#### SUPPORT STAFF

Recommended Scale

K£ per annum

1,074×63

1,137

1,200

1,263

1,326

1,389×84

1,473

1,557

1,641

1,725

1,809×108

1,917

2,025

2,133

2,241

#### COPY TYPIST

TELEPHONE OPERATOR

ARCHIVES ASSISTANT

ARTISANS

Recommended Scale

K£ per annum

1,263×63

1,326

1,389×84

1,473

1,557

1,641

1,725

1,809×108

1,917

2,025

2,133

2,241

2,349×141

2,490

2,631

CLERICAL OFFICER  
PROCESS SERVER  
DRIVER

Recommended Scale  
K£ per annum

1,641×84

1,725

1,809×108

1,917

2,025

2,133

2,241

2,349×141

2,490

2,631

2,772

2,913

3,054×183

3,237

3,420

PROCESS SERVER I  
SHORTHAND TYPIST/SENIOR COPY TYPIST  
LIBRARIAN ASSISTANT  
ASSISTANT ARCHIVIST SERVER

Recommended Scale  
K£ per annum

1,917×108

2,025

2,133

2,241

2,349×141

2,490

2,631

2,772

2,913

3,054×183

3,237

3,420

3,603

3,786

SENIOR PROCESS SERVER  
SHORTHAND TYPIST I  
SENIOR CLERICAL OFFICER (ADM)  
SENIOR CLERICAL OFFICER (ACC)  
SENIOR TELEPHONE OPERATOR

Recommended Scale

K£ per annum

2,490×141

2,631

2,772

2,913

3,054×183

3,237

3,420

3,603

3,786

3,969×237

4,206

4,443

4,680

4,917

ACCOUNTANT III  
PERSONNEL OFFICER III  
SUPPLIES OFFICER III  
ACCOUNTS ASSISTANT  
PERSONNEL ASSISTANT  
SUPPLIES ASSISTANT  
EXECUTIVE ASSISTANT  
SENIOR ASSISTANT LIBRARIAN  
LIBRARIAN III  
PERSONAL SECRETARY II

Recommended Scale

K£ per annum

3,054×183

3,237

3,420

3,603

3,786

3,969×237

4,206

4,443

4,680

4,917

5,154×309

5,463

5,772

6,081

ACCOUNTANT II  
PERSONNEL OFFICER II  
PERSONAL SECRETARY I  
EXECUTIVE OFFICER II

Recommended Scale  
K£ per annum

3,624×183  
3,786  
3,969×237  
4,206  
4,443  
4,680  
4,917  
5,154×309  
5,463  
5,772  
6,081  
6,390

ACCOUNTANT I  
PERSONNEL OFFICER I  
EXECUTIVE OFFICER I  
SENIOR PERSONAL SECRETARY  
SUPPLIES OFFICER I

Recommended Scale  
K£ per annum

4,206×237  
4,443  
4,680  
4,917  
5,154×309  
5,463  
5,772  
6,081  
6,390  
6,699×402  
7,101  
7,503

**COURT ADMINISTRATOR**  
**SENIOR PERSONNEL OFFICER**  
**SENIOR ACCOUNTANT**  
**SENIOR EXECUTIVE OFFICER**

Recommended Scale  
K£ per annum

5,079×309  
5,463  
5,772  
6,081  
6,390  
6,699×402  
7,101  
7,503  
7,905  
8,307  
8,709

**SENIOR COURT ADMINISTRATOR**  
**CHIEF ACCOUNTANT**  
**CHIEF PERSONNEL OFFICER**

Recommended Scale  
K£ per annum

6,231×309  
6,699×402  
7,101  
7,503  
7,905  
8,307  
8,709×522  
9,231  
9,753  
10,275

**PRINCIPAL COURT ADMINISTRATOR  
ACCOUNTS CONTROLLER**

Recommended Scale

K£ per annum

6,699×402

7,101

7,503

7,905

8,307

8,709×522

9,231

9,753

10,275

10,797

**CHIEF COURT ADMINISTRATOR**

Recommended Scale

K£ per annum

12,543×672

13,215

13,887

14,559×873

15,432

16,305

17,178

18,051

18,924×1,134

20,058

## New Posts and Job Titles

139. In accordance with our terms of reference the Committee **recommends** the establishment of new posts where necessary and a review of job titles and grades in recognition of the separation of the Judiciary from the Civil Service.

### Registrar, Magistrates and Kadhis

140. The Committee has already recommended that the two positions of Judge and Registrar should not be at par. Instead we **recommend** that the Registrar be regraded with magistrates and Kadhis and be placed at the top of this group. In view of the proposed creation of an administrative cadre in the Judiciary, it is expected that the Judicial Service Commission will review and streamline the grading and structure for deputy registrars. Table VIII-9, below, shows the recommended job grading and classification for the Registrar, Magistrates and Kadhis.

Table VIII-9: Present and Recommended Job Titles and Recommended Job Grades for Kadhis, Magistrates and Registrar

Present Job Title	Recommended Job Title	Recommended Job Grade
District Magistrate III Kadhi II	To be phased out Kadhi II	— M1
District Magistrate II Kadhi I	Magistrate II Kadhi I	M2
District Magistrate I Resident Magistrate Deputy Registrar	Magistrate I — Deputy Registrar	M3/R1
Senior Resident Magistrate Chief Kadhi Senior Deputy Registrar	Senior Magistrate — Senior Deputy Registrar	M4/R2
Principal Magistrate Principal Deputy Registrar Senior Principal Magistrate	Principal Magistrate Principal Deputy Registrar Senior Principal Magistrate Chief Kadhi	M5/R3 M6
Chief Magistrate	Chief Magistrate	M7
Registrar	Registrar	R4

## Para-Legal Staff

1. The Committee has recommended the creation of additional posts of Chief Court Administrator and his staff to deal with administrative functions. The Committee has further recommended that a scheme of service be developed for these staff to provide for four job grades of: Court Administrator, Senior Court Administrator, Principal Court Administrator and Chief Court Administrator, respectively. In addition the Committee recommends the job grades and titles for para-legal staff as shown in Table VIII-10.

Table VIII-10: Present and Recommended Job Titles and Job Grades for Para-Legal Staff

Present Job Title	Recommended Job Title	Recommended Job Grade
Subordinate Staff	Support Staff	PLS1
Copy Typist Telephone Operator Archivist Assistant Artisan	Copy Typist Telephone Operator Archivist Assistant Artisan	PLS2
Clerical Officer Process Server Driver	Clerical Officer Process Server Driver	PLS3
Process Server I Shorthand Typist II Senior Copy Typist Librarian Assistant Assistant Archivist Server	Process Server I Shorthand Typist II Senior Copy Typist Librarian Assistant Assistant Archivist Server	PLS4
Senior Process Server Shorthand Typist I Senior Clerical Officer (ADM) Senior Clerical Officer (ACC) Senior Telephone Operator	Senior Process Server Shorthand Typist I Senior Clerical Officer (ADM) Senior Clerical Officer (ACC) Senior Telephone Operator	PLS5
Accountant III Personnel Officer III Supplies Officer III Accounts Assistant Personnel Assistant Executive Assistant Senior Librarian Assistant Librarian III Personal Secretary II	Accountant III Personnel Officer III Supplies Officer III Accounts Assistant Personnel Assistant Executive Assistant Senior Librarian Assistant Librarian III Personal Secretary II	PLS6

**Table VIII-10: Present and Recommended Job Titles and Job Grades for Para-Legal Staff**  
 —(Contd.)

Present Job Title	Recommended Job Title	Recommended Job Grade
Accountant II Personnel Officer II Personal Secretary I Executive Officer II Supplies Officer II	Accountant II Personnel Officer II Personal Secretary I Executive Officer II Supplies Officer II	PLS7
Accountant I Personnel Officer I Executive Officer Senior Personal Secretary Supplies Officer I	Accountant I Personnel Officer I Executive Officer I Senior Personal Secretary Supplies Officer I	PLS8
— Senior Personnel Officer Senior Accountant Senior Executive Officer Senior Supplies Officer	Court Administrator Senior Personnel Officer Senior Accountant Senior Executive Officer Senior Supplies Officer	PLS9
— Chief Accountant Chief Personnel Officer	Senior Court Admin. Chief Accountant Chief Personnel Officer Principal Court Admin.	PLS10
Accounts Controller	Accounts Controller	PLS11
—	Chief Court Administrator	PLS12

## CHAPTER IX—OTHER TERMS AND CONDITIONS OF SERVICE

### Introduction

142. Other terms and conditions of service, which include allowances, advances and other entitlements, constitute an important part of the remuneration package. They boost the working morale of the employees and contribute to increased productivity. Allowances may be classified under two main categories namely reimbursable and remunerative allowances. Reimbursable allowances constitute a refund of expenditure incurred in the course of official duty, e.g. accommodation, entertainment and subsistence. Remunerative allowances such as acting, security, hardship and special duty allowances, on the other hand, constitute additional income. Advances are a form of temporary financial assistance granted by an employer to an employee in specified circumstances under specified conditions and repayable within a limited period of time.
143. Representations made to the Committee indicated that the allowances currently paid to judicial officers are inadequate and need to be revised. It was also submitted that in the recent past, some allowances and benefits which used to be paid to the Judiciary and the Civil Service have been withdrawn.

### Housing

144. The Government provides accommodation to its employees in three different ways. Some are housed in Government owned quarters, others in Government-leased houses, and the rest are either paid house allowance or owner-occupier house allowance. Representations made to the Committee highlighted the inadequacy of Government-owned houses especially in the out-stations. At the same time, there are few institutional houses for the Judiciary with the consequence that judicial officers are forced to rent private accommodation. The Committee also observed that because house allowance levels have not kept pace with the escalation of rents, judicial officers often have to rent houses in areas that are not in keeping with their status. The representations received suggested that the Judiciary should build or lease institutional houses as a matter of priority. This Committee observed the state of housing for the Judiciary and fully endorses these sentiments. It is, therefore, **recommended** that the Judiciary should have its own institutional housing in all stations, and in sufficient number to house Judicial officers.

145. The Committee reviewed the owner-occupier house allowance and found that the present levels are low and make it difficult for the officers to service their housing loans. It was submitted that, although the Judicial officers are subject to regular transfers especially during the early stages of their career, they eventually need to own houses. The capital ceilings currently set for housing loans are low in relation to market prices for houses. The Committee concurs with these submissions and **recommends** that the level of owner occupier house allowance should be revised as shown in Table IX-1 below. This may involve adjusting the owner-occupier house allowance multiplier factor in relation to current market ceilings on mortgages. A similar revision should be effected in respect of the levels of house allowance as shown in Table IX-2 below:

Table IX-1: Monthly Owner Occupier House Allowance

Job Category/ Grade	Capital Ceiling		Maximum House Allowance	
	Present K£	Recommended K£	Present KShs.	Recommended KShs.
<b>A. PARA-LEGAL STAFF</b>				
PLS1 and 2 ..	5,187	10,840	1,300	2,720
PLS3 and 4 ..	6,968	14,565	1,745	3,650
PLS5 and 6 ..	10,218	21,355	2,555	5,340
PLS7 and 8 ..	14,720	30,765	3,680	7,690
PLS9 and 10 ..	18,900	39,500	4,914	10,270
PLS11 ..	23,940	50,050	5,985	12,500
PLS12 ..	34,375	71,850	8,595	18,000
<b>B. REGISTRAR, MAGISTRATES AND KADHIS</b>				
M1 and M2 ..	14,720	30,765	3,680	7,690
M3 and M4/ R1 and R2 ..	18,900	39,500	4,914	10,270
M5 and M6/R3	23,940	50,050	5,985	12,500
M7 .. ..	28,600	59,700	7,150	14,950
R4 .. ..	34,375	71,850	8,595	18,000
<b>C. JUDGES</b>				
J1-J3 ..	34,375	71,850	8,595	18,000

Table IX-2: Monthly House Allowance for Privately Rented Accommodation (KShs.)

Job Category/Grade	Current Maximum	Recommended Maximum
<b>PARA-LEGAL STAFF</b>		
PLS1 and 2 .. .. .	700	2,000
PLS3 and 4 .. .. .	925	2,500
PLS5 .. .. .	1,235	3,400
PLS6 and 7 .. .. .	1,715	4,700
PLS8 .. .. .	2,035	5,600
PLS9 and 10 .. .. .	2,515	6,900
PLS11 .. .. .	3,010	8,300
PLS12 .. .. .	4,350	12,000
<b>B. REGISTRAR, MAGISTRATES AND KADHIS</b>		
M1 and M2' .. .. .	2,035	5,600
M3 and M4/R1 and R2 .. .. .	2,515	6,900
M5 and M6/R3 .. .. .	3,010	8,300
M7 .. .. .	3,950	10,800
M4 .. .. .	4,350	12,000
<b>C. JUDGES</b>		
J1-J3 .. .. .	4,350	12,000

### Medical Scheme

The Committee received representations with regard to the current arrangement pertaining to medical benefits in the Judiciary. We learned that with effect from 1st May, 1989 refund of out-patient medical treatment expenses was discontinued for all Civil Servants including the Judiciary. It was further learned that for in-patient treatment, the National Hospital Insurance Fund (N.H.I.F.) meets part of the bed expenses up to a maximum of KShs. 450 per day. The rest of the costs are refunded in accordance with the seniority of the claimant and vary between KShs. 150 and KShs. 200 per day. It was submitted to the Committee that these amounts are low and do not reflect the high cost of medical treatment. Further, it was submitted that the work of judicial officers makes them vulnerable to health problems, and this is a source of anxiety to them.

147. The Committee noted these observations and considers that lack of assurance of prospective medical care can truly cause anxiety to judicial officers. The Committee **recommends** that the Judicial Service Commission should devise a scheme which will pay directly medical expenses for staff and their immediate families and up to four dependant children below the age of 23 years. The Judicial Service Commission should identify specific hospitals at which judicial staff would obtain medical treatment and should make appropriate arrangements.
148. It was also submitted to the Committee that, when the Judiciary is separated from the Civil Service, it will be necessary for the Judicial Service Commission to take out a Group Accident Insurance Cover for its staff as is currently the case in the Civil Service. The Committee concurs with this view and **recommends** that a new cover should be taken out for the staff of the Judiciary.

### Responsibility Allowance

#### *Judges*

149. The Committee noted that responsibility allowance is paid to certain professional cadres in the Civil Service to nominally compensate them for their added responsibilities. For judicial officers, this entails not only working outside official hours but also not being able to engage in other activities that may generate additional income. As noted earlier, judicial officers are disadvantaged in this latter context. The Committee considers that responsibility allowance for Judges should be generous to indicate society's appreciation of the responsibility that the job entails. We are further of the view that this allowance should be reviewed regularly. It is, therefore, **recommended** that the responsibility allowance currently paid to the Judges should be increased as follows:

Table IX-3: Current and Recommended Monthly Responsibility Allowance for Judges

Job Title	Current Rate (KShs.)	Recommended Rate (KShs.)
Chief Justice .. .. .	2,500	10,000
Judge of Appeal .. . . .	2,100	9,500
Judge of the High Court .. . . .	1,400	8,000

### **Registrar, Chief Court Administrator, Magistrates and Kadhis**

It was represented to the Committee that the responsibility allowance for the Registrar and Magistrates be reviewed. Further, the Committee was urged to consider payment of responsibility allowance to Kadhis. The Committee finds merit in these representations and **recommends** that the responsibility allowance for Registrar, Chief Court Administrator and Magistrates be increased at the levels shown in Table IX-4, and the same be extended to the Kadhis.

Table IX-4: Current and Recommended Monthly Responsibility Allowance for the Registrar, Chief Court Administrator, Magistrates and Kadhis

Job Title	Current Rate (KShs.)	Recommended Rate (KShs.)
Registrar/Chief Court Administrator .. .. .	2,000	2,900
Chief Magistrate .. .. .	2,000	2,900
Senior Principal Magistrate .. .. .	2,000	2,900
Chief Kadhi .. .. .	—	2,900
Principal Magistrate .. .. .	1,500	2,175
Senior Magistrate .. .. .	1,500	2,175
Magistrate I .. .. .	1,500	2,175
Magistrate II .. .. .	1,000	1,450
Other Kadhis .. .. .	—	1,450

### **Entertainment Allowance**

#### **Judges**

150. Owing to the nature of their work, judges are often called upon to provide hospitality and entertainment. Representations were made to the Committee that judges must of necessity patronize only respectable places. The Committee notes that the present rate of entertainment allowance is inadequate and therefore **recommends** that it should be increased as shown in Table IX-5 below:

Table IX-5: Current and Recommended Monthly Entertainment Allowance for Judges

Job Title	Current Rates Rates (KShs.)	Recommended Rates (KShs.)
Chief Justice .. .. .	2,000	5,000
Judge of Appeal .. .. .	1,400	4,500
Judge of High Court .. .. .	975	3,500

The Committee also **recommends** that the department should pay membership fees to two private members' clubs of the Judges' choice, to enable them to maintain the lifestyle appropriate to their status. Thereafter, the department should pay the annual subscriptions.

*Registrar, Chief Court Administrator, Magistrates and Chief Kadhi*

It was further represented that the Registrar, the Senior Magistrates and the Chief Kadhi should also be paid entertainment allowances. While the Registrar has, in the past, been drawing this allowance, it was represented that it should be enhanced. We fully endorse these representations and recommend that the entertainment allowance for the Registrar be enhanced while the Chief Court Administrator, senior magistrates and the Chief Kadhi should draw entertainment allowance as shown hereunder:

Table IX-6: Current and Recommended Monthly Entertainment Allowance for Registrar, Chief Court Administrator, Senior Magistrates and Chief Kadhi

Job Title	Current Rate (KShs.)	Recommended Rate (KShs.)
Registrar/Chief Court Administrator .. .. .	750	1,500
Chief Magistrate .. .. .	—	1,200
Senior Principal Magistrate .. .. .	—	1,000
Principal Magistrate .. .. .	—	1,000
Chief Kadhi .. .. .	—	1,000

## Official Entertainment

The Committee noted that currently no voted provision is made for official entertainment in the Judiciary. The Committee **recommends** the creation of an item in the vote for official entertainment to be utilized at the discretion of the Chief Justice.

## Official Transport

151. The Committee has noted in paragraph 77, that currently all Judges are entitled to official transport. However, the Committee further noted that there is lack of standardization of official cars allocated to the Judges. The result is that some Judges do not have suitable transport. The Committee, therefore, **recommends** that appropriate staff cars be provided to all the Judges.
152. It was further submitted to the Committee that there is need to provide official transport to the senior magistrates especially those who are in charge of stations. These magistrates are likely to be in charge of large court stations which have supervisory responsibility over lower satellite courts. It is, therefore, **recommended** that official staff cars be provided to the Chief, Senior Principal and Principal Magistrates for official duties. The Committee further considers the position of the Chief Kadhi an important one. To enable him to exercise his supervisory responsibility and to reflect the image of his position as the religious head of the Muslim community, the Committee **recommends** that official transport should be provided for the Chief Kadhi.
153. The Committee noted that in many instances the magistrates at lower levels are required to travel to court stations other than their own to hear cases. In such circumstances these magistrates face problems of transport if their stations do not have vehicles. Further, the Committee learnt that such courts experience problems in transportation of stationery, stores and even exhibits. The Committee considers that it is important that all court stations be self sufficient in transport and, therefore, **recommends** that transport should be made available in all court stations.

## Transport Allowance

154. The Committee has further noted that judges are paid transport allowance. It was represented that the current rates are low and should be reviewed. The Committee concurs with these

representations and **recommends** that transport allowance be paid to judges as shown in Table IX-7 below:

**Table IX-7: Current and Recommended Monthly Transport Allowance for the Judges**

Job Title	Current Rate KShs.	Recommended Rate KShs.
Chief Justice	3,500	5,000
Judge of Appeal	2,800	4,000
Judge of High Court	2,600	3,500

155. Presently transport allowance is paid only to judges. Representations were made that other categories of judicial officers should also benefit from this allowance. The Committee concurs with these representations and **recommends** that transport allowance be paid to the Registrar, Chief Court Administrator, Magistrates and Kadhis, as shown in Table IX-8 below:

**Table IX-8: Recommended Monthly Transport Allowance for the Registrar, Chief Court Administrator, Magistrates and Kadhis**

Job Title	Current Rate KShs.	Recommended Rate KShs.
Registrar/Chief Court Administrator	2,000	2,900
Chief Magistrate	—	2,000
Senior Principal Magistrate	—	1,750
Chief Kadhi	—	1,750
Principal Magistrate	—	1,750
All Other Magistrates and Kadhis	—	1,000

#### **Accommodation Allowance**

156. When a judicial officer is travelling on duty and has to stay overnight away from his usual duty station, he is reimbursed hotel expenses on production of hotel bills or accommodation allowance at certain maxima of a fixed daily rate. It was represented to the Committee that this procedure is cumbersome and that the current fixed rate of accommodation allowance is too low. The Committee therefore **recommends** that hotel accommodation expenses for Judicial officers should be paid by the Judicial Department directly.

## Transfer Allowance

157. The Committee has noted that currently judicial officers who are transferred are entitled to one month's basic salary as transfer allowance and **recommends** that this allowance should continue to be paid to all employees of the Judiciary.

## Annual Leave

158. The Committee notes that, currently judges are entitled to 42 working days annual leave, magistrates and kadhis to 30 working days annual leave whereas para-legal staff are entitled to between 21 and 30 working days annual leave, depending on their seniority. It was represented to the Committee that the difference in leave entitlement between judges and magistrates should be narrowed. The Committee, however, does not consider that any change should be made.

## Leave Allowance

159. The Committee noted that currently an officer who takes more than half of his annual leave entitlement is required to produce a letter from the provincial administration, certifying that he spent his leave at home before he can be refunded transport expenses. The Committee notes that this requirement limits personnel, especially the Judges, from spending leave at a place of their choice and defeats the policy of domestic tourism. Further, it was represented to the Committee that the present procedure of claiming transport expenses incurred while travelling on leave is cumbersome. The Committee concurs with these submissions and **recommends** that officers working in the Judiciary be entitled to leave allowance once a year at a fixed rate as shown in Table IX-9 below:

Table IX-9: Recommended Annual Leave Allowance  
for the Judiciary Staff

Job Title	Recommended Allowance KShs.
Chief Justice	12,000
Judge of Appeal	11,000
Judge of High Court	10,000
Registrar/Chief Court Administrator	6,000
Chief Magistrate	5,000
Senior Principal Magistrate	4,000
Principal Magistrate	4,000

**Table IX-9: Recommended Annual Leave Allowance  
for the Judiciary Staff (Contd.)**

Job Title	Recommended Allowance KShs.
Chief Kadhi	4,000
Senior Magistrate	3,000
All Other Magistrates and Kadhis	2,000
Para-legal Staff:	
PLS 9-12	2,000
PLS 5-8	1,500
PLS 4 and below	1,000

#### Robe Allowance

160. It was represented to the Committee that there is need to pay judges robe allowance. It is noted that the price of robes and wigs has gone up and that judges require a substantial amount of money for their initial purchase. The Committee, therefore, **recommends** that robes and wigs be purchased for all judges and thereafter they be paid a maintenance and replacement allowance of KShs. 5,000 per year.

#### Sabbatical Leave

161. As noted in paragraph 121 of this Report, judges may be granted sabbatical leave which can be spent outside the country. It was further represented that this would facilitate attachment to other jurisdictions and afford an opportunity for rest and reflection. The Committee finds merit in these views and **recommends** that judges be eligible for sabbatical leave once every five years as may be arranged by the Judicial Service Commission.

#### Advances for Purchase of Motor Vehicles

162. The Committee noted that, currently, arrangements exist whereby the Government guarantees, through a bank, advances for the purchase of motor vehicles by public servants. These arrangements should continue. Representations were made to the Committee that judges need to own personal vehicles which are commensurate with their status. It was further submitted that the current prices of such vehicles are high and the present loan entitlements are not sufficient to meet the cost. The Committee concurs with these views and **recommends:**

(a) That the loan ceiling should be three times a judge's annual basic salary, subject to the following maxima, whichever is the less, as indicated in Table IX-10 below:

**Table IX-10: Present and Recommended Loan Ceilings for Purchase of Motor Vehicles by Judges**

Job Title	Present KShs.	Recommended KShs.
Chief Justice	200,000	500,000
Judge of Appeal	200,000	450,000
Judge of High Court	200,000	400,000

(b) That the loan ceilings for the purchase of motor vehicles for the Registrar, Magistrates and Kadhis should also be three times their basic annual salary, subject to the maxima indicated in Table IX-11 below:

**Table IX-11: Present and Recommended Loan Ceilings for Purchase of Motor Vehicles by the Registrar, Magistrates and Kadhis**

Job Title	Present KShs.	Recommended KShs.
Registrar and Chief Magistrates	200,000	350,000
Chief Kadhi, Senior Principal and Principal Magistrate	175,000	300,000
Other Magistrates and Kadhis	150,000	250,000

(c) That the loan ceilings for the purchase of motor vehicles for the Para-Legal Staff be three times their annual basic salary subject to the following maxima whichever is the less, as indicated in Table IX-12 below:

**Table IX-12: Present and Recommended Loan Ceilings for Purchase of Motor Vehicles by Para-Legal Staff**

Job Title	Present KShs.	Recommended KShs.
PLS 10-12	200,000	350,000
PLS 7-9	175,000	300,000
PLS 5-6	150,000	250,000
PLS 4 and below	75,000	150,000

163. The Committee received submissions that the current loan repayment period is too short relative to the loan amount, and results in pecuniary hardship to judicial officers. The Committee concurs with these views, especially in the light of the significantly higher loan ceilings we have recommended in the previous paragraphs. Moreover, we envisage that most of the judicial staff will purchase new vehicles whose economic life will be relatively long. We therefore, **recommend** that the maximum motor vehicle loan repayment period be extended from 84 to 96 months.

#### Retirement

164. The Committee has noted in paragraphs 60 and 61, that currently judges retire at 74 years while magistrates retire at 55 years. We received representations that the current arrangements whereby judges retire at 74 years are satisfactory. However, further representations were received suggesting that judges be allowed to opt for early retirement. The Committee has considered these representations and **recommends** that compulsory retirement age for judges be reduced to 65 years, but that they be allowed optional retirement at the age of 60 years. The Judicial Service Commission may in appropriate cases recommend the appointment of retired judges on contract.

165. With respect to the Registrar, Magistrates, Kadhis and the Para-Legal Staff the Committee considers that there is no need to change the retirement age.

## CHAPTER X—IMPLEMENTATION

166. The Committee wishes to draw attention to the fact that adoption of its recommendations would entail amendments to existing legislation as follows:

(a) *The Constitution*

- ✓ (i) Sections 60(2) and 64(2) relating to the number of judges and membership of the Chief Justice in the High Court and the Court of Appeal. ✓
- ✓ (ii) Section 61(3) regarding the qualifications for appointment as a judge. ✓
- ✓ (iii) Section 68(1) regarding the appointment of two additional members to represent the public interest in the Judicial Service Commission. ✓
- ✓ (iv) Section 69(3) regarding the appointment of the Chief Court Administrator. ✓

(b) *The Judicature Act (Cap. 8):*

- (i) Section 7(1) and (2) relating to the number of judges in the High Court and the Court of Appeal. ✓
- ✓ (ii) Section 9 regarding the retirement age of judges. ✓

(c) *The Magistrates' Courts Act (Cap. 10):*

- (i) Repeal of Part II relating to the Resident Magistrate's Court. ✓
- (ii) Amendment of Part III relating to the District Magistrate's Court to expand jurisdiction. ✓

(d) *The Kadhis' Courts Act (Cap. 11) Sections 3 and 4 regarding the number of Kadhis and the number of Kadhis' courts.*

(e) *The Rent Restriction Act (Cap. 296) Section 4(2) and (3) relating to the transfer from the Minister to the Judicial Service Commission of the power of appointment of chairman of the tribunal.*

(f) *The Landlord and Tenant (Shops, Hotels and Catering Establishments) Act (Cap. 301) Section II(1) relating to the transfer from the Minister to the Judicial Service Commission of the power of appointment of chairman of the tribunal.*

- (g) The Constitutional Offices Remuneration Act (Cap. 423) Section 2(1) relating to the salaries of judges.

167. Finally, the Committee **recommends:**

- (a) That the recommended salaries for all the Judiciary staff should be implemented with effect from 1st July, 1992.
- (b) That the other terms and conditions of service recommended should also be implemented from 1st July, 1992.

## CHAPTER XI—SUMMARY OF RECOMMENDATIONS

### Paragraphs

#### CHAPTER II—THE ROLE AND CHALLENGES OF THE JUDICIARY

26. That the Judicial Service Commission should formulate principles and procedures for the maintenance of professional standards by judicial officers and should establish a code of conduct for the guidance of judicial officers.

#### CHAPTER V—FUTURE STRUCTURE OF THE JUDICIARY

83. That the Judicial Service Commission should be expanded by the appointment by the President of two additional members to represent the public interest.

That a senior public officer should be appointed as Secretary to the Judicial Service Commission as required by the Service Commissions Act (Cap. 185).

86. That a Supreme Court, consisting of seven judges including the Chief Justice should be established once the number of Judges recommended in this Report is recruited.

89. That the law should be amended to provide for an additional 20 judges of the High Court and 7 judges of Appeal.

That the title "Puisne judge" should be replaced by the title "Judge of the High Court".

90. That the Chief Justice, sitting in the Court of Appeal and, later, in the Supreme Court will remain the head of the Judiciary as a whole and his membership of the High Court be ex-officio only and he should not hear cases in that court.

91. That there should be two separate Registrars, one for the High Court, the other for the Court of Appeal, and, eventually a third one for the Supreme Court.

92. That the minimum period of experience either as an advocate or as a magistrate required for appointment as a judge should be increased to 15 years.

93. That changes should be effected to the nomenclature of magistrates as follows:

Magistrate II.  
Magistrate I.  
Senior Magistrate.  
Principal Magistrate.

Senior Principal Magistrate.  
Chief Magistrate.

That the Resident Magistrate's Court should be abolished and jurisdiction now exercised by it be vested in the District Court.

94. That funding should be secured for the construction of court buildings at all the new High Court stations as well as Embu and Kisumu.

That the land adjoining the main Law Courts building in Nairobi currently used as a car park should be made available to the Judiciary for expansion of the Law Court buildings as soon as possible.

That the Judiciary should undertake an assessment of the volume of litigation and situation of courts relative to population centres to determine the need and siting of new courts at further administrative centres.

That the entire structure and organization of the Kadhis' courts should be examined.

95. That urgent inspection of all courts should be undertaken, to assess the need for repair, rehabilitation and maintenance and finances be made available for this purpose as a matter of urgency.
96. The courts should adopt modern systems for recording of evidence commencing with parlantyping in the High Court.
97. That provision should be made for well stocked libraries at all High Courts and courts manned by senior magistrates and above.
98. That as a matter of urgency, an editorial board comprised of representatives of the Judiciary, the State Law Office, the Faculties of Law in the universities and the legal profession should be established to facilitate law reporting on a permanent basis.
100. That all presiding officers of the Rent Restriction and the Business Premises Tribunals should be appointed by the Judicial Service Commission.

That non-professional members of these tribunals should be appointed from among persons of high integrity who are experienced and knowledgeable.

That the para-legal staff appointed to serve in these tribunals should be persons who are conversant with the operations thereof.

That these tribunals should be decentralized.

#### CHAPTER VI—THE ROLE OF PARA-LEGAL STAFF

102. That all para-legal staff should be absorbed by the Judiciary and be employees of the Judicial Service Commission. ✓

104. That a post of Chief Court Administrator should be established, the holder of which will be the accounting officer for the entire Judiciary.

That appropriate subordinate posts should be created, the occupants of which will work under the Chief Court Administrator but alongside the Registrars.

That the Chief Court Administrator should be responsible to the Chief Justice.

106. That suitable training programmes for secretarial staff in the Judiciary should be devised.

That in future, the Judiciary should only employ secretaries whose initial training includes aspects of legal secretarial duties.

108. That a cadre to be officially designated as court interpreters should be recruited and trained.

110. That motor-cycles and bicycles should be provided to process servers to facilitate their work.

111. That the Judicial Service Commission should provide security for judicial officers both in their homes and in chambers.

112. That appointments and schemes of service of other para-legal staff in the Judiciary should be administered by the J.S.C. ✓

#### CHAPTER VII—RECRUITMENT AND DEVELOPMENT OF JUDICIARY PERSONNEL

114. That a new scheme of service for professional magistrates should be devised under the new terms and conditions of service recommended in this Report. ✓

116. That Kadhis' courts should be decentralized.

119. That on-the-job training programmes should be devised for judicial officers.

120. That the induction process for newly recruited magistrates should be extended to at least one year.
121. That the training for judges should include both formal and exposure programmes.
122. That relevant training programmes should be designed for para-legal staff, and be related to the various schemes of service recommended in this Report.

#### CHAPTER VIII—PROPOSED SALARY STRUCTURE

- ✓ 130. That a new salary structure should be established in the Judiciary as shown in Table VIII-3.
- ✓ 134. That the annual salary incremental points for judges should be fifteen and that the annual incremental factor should be 6 per cent.
- ✓ 138. That the annual incremental factor for the para-legal staff should be fixed at 6 per cent.
- ✓ 140. That the new posts, job titles and job grades for the Registrar, Magistrates and Kadhis should be as shown in Table VIII-9.
- ✓ 141. That a scheme of service should be developed for the Court Administrator cadre to include four job grades.
- ✓ That for the para-legal staff, the job titles and job grades should be as in Table VIII-10.

#### CHAPTER IX—OTHER TERMS AND CONDITIONS OF SERVICE

- ✓ 144. That the Judiciary should have its own institutional housing in all stations, and in sufficient numbers to house judicial officers. ✓
145. That the level of owner occupier house allowance should be revised as shown in Table IX-1. ✓  
That the level of house allowance also should be revised as shown in Table IX-2. ✓
- ✓ 147. That the Judicial Service Commission should devise a medical scheme for staff and their families and arrange with specific hospitals to provide treatment. ✓
- ✓ 148. That a new group accident insurance cover should be taken out for the staff of the Judiciary. ✓
149. That the responsibility allowance currently paid to judges should be increased as shown in Table IX-3. ✓

That the responsibility allowance for the Registrar, Chief Court Administrator, Magistrates and Kadhis should be increased as shown in Table IX-4. ✓

150. That the entertainment allowance paid to judges should be increased as shown in Table IX-5. ✓

That the entertainment allowance paid to the Registrar should be enhanced while the Chief Court Administrator, Senior Magistrates and the Chief Kadhi should be paid this allowance as shown in Table IX-6. ✓

That an item should be created in the vote for official entertainment to be utilized at the discretion of the Chief Justice. ✓

151. That appropriate official transport should be provided to all judges. ✓

152. That official transport should be provided to the Chief, Senior Principal and Principal Magistrates and the Chief Kadhi. ✓

153. That transport facilities should be made available in all court stations. ✓

154. That transport allowance should be paid to judges as shown in Table IX-7. ✓

155. That transport allowance should be paid to the Registrar, Chief Court Administrator, Magistrates and Kadhis as shown in Table IX-8. ✓

156. That hotel accommodation expenses for judicial officers should be paid by the Judicial Department directly. ✓

158. That transfer allowance should be paid to all employees of the Judiciary. ✓

159. That employees of the Judiciary should be entitled to leave allowance once a year at a fixed rate as shown in Table IX-9. ✓

160. That robes and wigs should be purchased for all judges and thereafter they be paid a maintenance and replacement allowance annually. ✓

161. That judges should be eligible for sabbatical leave once every five years. ✓

162. That the loan ceilings for purchase of motor vehicles by judges should be as shown in Table IX-10, and Tables IX-11 and IX-12 for the other staff. ✓

- ✓ 163. That the maximum motor vehicle loan repayment period should be extended from 84 to 96 months.
164. That the compulsory retirement age for judges should be reduced from 74 years to 65 years, but that they be allowed optional retirement at the age of 60 years.

**CHAPTER X—IMPLEMENTATION**

- ✓ 167. That the proposed salaries and other terms and conditions of service should be implemented with effect from 1st July, 1992.

APPENDIX I

ATTEN OF RECOMMENDED SALARY SCALES FOR THE JUDGES (J1-J3)  
IN K£ P.A.

3,917×834		
4,751		
5,585		
5,419	<b>J2</b>	
7,253×1,035	17,253×1,035	
8,288	18,288	
9,323	19,323	<b>J3</b>
10,358	20,358	20,358×1,035
11,393×1,281	21,393×1,281	21,393×1,281
12,674	22,674	22,674
13,955	23,955	23,955
15,236	25,236	25,236
16,517×1,590	26,517×1,590	26,517×1,590
18,197	28,107	28,107
	29,697	29,697
	31,287	31,287
	32,877×2,001	32,877×2,001
	34,878	34,878
	36,879	36,879
		38,880
		40,881
		42,882

APPENDIX II

PATTERN OF RECOMMENDED SALARY SCALES FOR THE REGISTRAR, MAGISTRATES AND KADHIS IN K£ P.A.

<b>M1</b>					
4,311×261					
4,572					
4,833	<b>M2</b>				
5,094×306	5,094×306				
5,400	5,400				
5,706	5,706	<b>R1 and M3</b>			
6,012	6,012	6,012×306			
6,318	6,318	6,318			
6,624×399	6,624×399	6,624×399			
7,023	7,023	7,023	<b>R2 and M4</b>		
7,422	7,422	7,422	7,422×399		
	7,821	7,821	7,821	<b>R3 and M5</b>	
	8,220	8,220	8,220	8,220×399	
	8,619×516	8,619×516	8,619×516	8,619×516	
	9,135	9,135	9,135	9,135	
		9,651	9,651	9,651	
		10,167	10,167	10,167	<b>M7</b>
		10,683	10,683	10,683×516	
		11,199×672	11,199×672	11,199×672	
		11,871	11,871	11,871	<b>R4</b>
		12,543	12,543	12,543	12,543×672
		13,215	13,215	13,215	13,215
			13,887	13,887	13,887
			14,559×873	14,559×873	14,559×873
			15,432	15,432	15,432
				16,305	16,305
				17,178	17,178
				18,051	18,051
				18,924×1,134	18,924×1,134
				20,058	20,058

APPENDIX III

OF RECOMMENDED SALARY SCALES FOR THE PARA-LEGAL STAFF OF THE  
JUDICIARY IN K£ P.A.

<b>PLS3</b>									
1,641×84									
1,725									
1,809×108	<b>PLS4</b>								
1,917	1,917×108								
2,025	2,025								
2,133	2,133								
2,241	2,241								
2,349×141	2,349×141	<b>PLS5</b>							
2,490	2,490	2,490×141							
2,631	2,631	2,631							
2,772	2,772	2,772							
2,913	2,913	2,913	<b>PLS6</b>						
3,054×183	3,054×183	3,054×183	3,054×183						
3,237	3,237	3,237	3,237						
3,420	3,420	3,420	3,420	<b>PLS7</b>					
3,603	3,603	3,603	3,603	3,603×183					
3,786	3,786	3,786	3,786	3,786					
	3,969×237	3,969×237	3,969×237	<b>PLS8</b>					
	4,206	4,206	4,206	4,206×237					
	4,443	4,443	4,443	4,443					
	4,680	4,680	4,680	4,680					
	4,917	4,917	4,917	4,917	<b>PLS9</b>				
		5,154×309	5,154×309	5,154×309	5,154×309				
		5,463	5,463	5,463	5,463				
		5,772	5,772	5,772	5,772				
		6,081	6,081	6,081	6,081	<b>PLS10</b>			
		6,390	6,390	6,390	6,390	6,390×309	<b>PLS11</b>		
			6,699×402	6,699×402	6,699×402	6,699×402	6,699×402		
			7,101	7,101	7,101	7,101	7,101		
			7,503	7,503	7,503	7,503	7,503		
				7,905	7,905	7,905	7,905		
				8,307	8,307	8,307	8,307		
				8,709	8,709	8,709×522	8,709×522		
					9,231	9,231	9,231		
					9,753	9,753	9,753		
					10,275	10,275	10,275		
							10,797		
								<b>PLS12</b>	
								12,543×672	
								13,215	
								13,887	
								14,559×873	
								15,432	
								16,305	
								17,178	
								18,051	
								18,924×1,134	
								20,054	

**RECOMMENDED SALARY SCALES AND CONVERSION TABLES FOR THE JUDICIARY**

**(a) JUDGES**

**CONVERSION TABLE No. 1**

**JUDGE OF HIGH COURT (J1)**

Present Salary Scale: K£8,628×261–8,889×291–10,053 p.a.

Recommended Salary Scale: K£13,917×834–17,253×1,035–21,393×1,281–26,517×1,590–28,107 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
8,628×261	13,917×834
8,889×291	14,751
9,180	15,585
9,471	16,419
9,762	17,253×1,035
10,053	18,288
—	19,323
—	20,358
—	21,393×1,281
—	22,674
—	23,955
—	25,236
—	26,517×1,590
—	28,107

**CONVERSION TABLE No. 2**

**JUDGE OF APPEAL**

Present Salary Scale: K£9,471×291–10,053×327–11,361 p.a.

Recommended Salary Scale: K£17,253×1,035–21,393×1,281–26,517×1,590–32,877×2,001–36,879 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
9,471×291	17,253×1,035
9,762	18,288
10,053×327	19,323
10,380	20,358
10,707	21,393×1,281
11,034	22,674
11,361	23,955
—	25,236
—	26,517×1,590
—	28,107
—	29,677
—	31,287
—	32,877×2,001
—	34,878
—	36,879

CONVERSION TABLE No. 3

CHIEF JUSTICE (J3)

Present Salary Scale: Kf11,361×327–11,688×363–13,140 p.a.

Recommended Salary Scale: Kf20,358×1,035–21,393×1,281–26,517×1,590–32,877×2,001–42,882 p.a.

Present Salary Kf per annum	Recommended Salary Kf per annum
11,361×327	20,358×1,035
11,688×363	21,393×1,281
12,051	22,674
12,414	23,955
12,777	25,236
13,140	26,517×1,590
—	28,107
—	29,697
—	31,287
—	32,877×2,001
—	34,878
—	36,879
—	38,880
—	40,881
—	42,882

(b) THE REGISTRAR, MAGISTRATES AND KADHIS

CONVERSION TABLE No. 1

KADHI II (M1)

Present Salary Scale: Kf2,973×102–3,279×120–3,879×144–4,167 p.a.

Recommended Salary Scale: Kf4,311×261–5,094×306–6,624×399–7,422 p.a.

Present Salary Kf per annum	Recommended Salary Kf per annum
2,973×102	4,311×261
3,075	4,572
3,177	4,833
3,279×120	5,094×306
3,399	5,400
3,519	5,706
3,639	6,012
3,759	6,318
3,879×144	6,624
4,023	7,023
4,167	7,422

CONVERSION TABLE No. 2

**MAGISTRATE II (M2)**  
**KADHI I (M2)**

Present Salary Scale: K£3,519×120–3,879×144–4,599×171–4,941 p.a.  
Recommended Salary Scale: K£5,094×306–6,624×399–8,619×516–9,135 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
3,519×120	5,094×306
3,639	5,400
3,759	5,706
3,879×144	6,012
4,023	6,318
4,167	6,624×399
4,311	7,023
4,455	7,422
4,599×171	7,821
4,770	8,220
4,941	8,619×516
—	9,135

CONVERSION TABLE No. 3

**MAGISTRATE I (M3)**  
**DEPUTY REGISTRAR (R1)**

Present Salary Scale: K£4,167×144–4,599×171–5,454×198–5,652 p.a.  
Recommended Salary Scale: K£6,012×308–6,624×399–8,619×516–10,683 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
4,167×144	6,012×308
4,311	6,318
4,455	6,624×399
4,599×171	7,023
4,770	7,422
4,941	7,821
5,112	8,220
5,283	8,619×516
5,454×198	9,135
5,652	9,651
—	10,167
—	10,683

CONVERSION TABLE No. 4

SENIOR DEPUTY REGISTRAR (R2)  
SENIOR MAGISTRATE (M4)

Present Salary Scale: K£5,112×171–5,454×198–6,444×228–6,900 p.a.

Recommended Salary Scale: K£7,422×399–8,619×516–11,199×672–11,871 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
5,112×171	7,422×399
5,283	7,821
5,454×198	8,220
5,652	8,619×516
5,850	9,135
6,048	9,651
6,248	10,167
6,444×228	10,683
6,672	11,199×672
6,900	11,871

CONVERSION TABLE No. 5

PRINCIPAL DEPUTY REGISTRAR (R3)  
PRINCIPAL MAGISTRATE (M5)

Present Salary Scale: K£5,652×198–6,444×228–7,584 p.a.

Recommended Salary Scale: K£8,220×399–8,619×516–11,199×672–13,215 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
5,652×198	8,220×399
5,850	8,619×516
6,048	9,135
6,248	9,651
6,444×228	10,167
6,672	10,683
6,900	11,199×672
7,128	11,871
7,358	12,543
7,584	13,215

CONVERSION TABLE No. 6

CHIEF KADHI (M6)

SENIOR PRINCIPAL MAGISTRATE (M6)

Present Salary Scale: Kf6,672×228-7,584×261-8,106 p.a.

Recommended Salary Scale: Kf9,651×516-11,199×672-14,559×873-15,432

Present Salary Kf per annum	Recommended Salary Kf per annum
6,672×228	9,651×516
6,900	10,167
7,128	10,683
7,356	11,199×672
7,584×261	11,871
7,845	12,543
8,106	13,215
—	13,887
—	14,559×873
—	15,432

CONVERSION TABLE No. 7

CHIEF MAGISTRATE (M7)

Present Salary Scale: Kf7,584×261-8,889 p.a.

Recommended Salary Scale: Kf10,683×516-11,199×672-14,559×873-17,178 p.a.

Present Salary Kf per annum	Recommended Salary Kf per annum
7,584×261	10,683×516
7,845	11,199×672
8,106	11,871
8,367	12,543
8,628	13,215
8,889	13,887
—	14,559×873
—	15,432
—	16,305
—	17,178

CONVERSION TABLE No. 8

REGISTRAR (R4)

Present Salary Scale: K£8,628×261–8,889×291–10,053 p.a.

Recommended Salary Scale: K£12,543×672–14,559×873–18,924×1,134–20,058 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
8,628×261	12,543×672
8,889×291	13,215
9,180	13,887
9,471	14,559×873
9,762	15,432
10,053	16,305
—	17,178
—	18,051
—	18,924×1,134
—	20,058

(c) THE PARA-LEGAL STAFF

CONVERSION TABLE No. 1

SUPPORT STAFF (PLS1)

Present Salary Scale: K£882×33–1,014×39–1,209×42–1,335 p.a.

Recommended Salary Scale: K£1,074×63–1,389×84–1,809×108–2,241 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
882×33	1,074×63
915	1,137
948	1,200
981	1,263
1,014×39	1,326
1,053	1,389×84
1,092	1,473
1,131	1,557
1,170	1,641
1,209×42	1,725
1,251	1,809×108
1,293	1,917
1,335	2,025
—	2,133
—	2,241

CONVERSION TABLE No. 2

**COPY TYPIST  
TELEPHONE OPERATOR  
ARCHIVES ASSISTANT  
ARTISANS  
(PLS2)**

Present Salary Scale: K£1,053×39-1,209×42-1,419×48-1,563 p.a.

Recommended Salary Scale: K£1,263×63-1,389×84-1,809×108-2,349×141-2,631 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
1,053×39	1,263×63
1,092	1,326
1,131	1,389×84
1,170	1,473
1,209×42	1,557
1,251	1,641
1,293	1,725
1,335	1,809×108
1,377	1,917
1,419×48	2,025
1,467	2,133
1,515	2,241
1,563	2,349×141
---	2,490
---	2,631

CONVERSION TABLE No. 3

**CLERICAL OFFICER  
PROCESS SERVER  
DRIVER (PLS3)**

Present Salary Scale: K£1,335×42-1,419×48-1,659×57-1,887 p.a.

Recommended Salary Scale: K£1,641×84-1,809×108-2,349×141-3,054×183-3,420 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
1,335×42	1,641×84
1,377	1,725
1,419×48	1,809×108
1,467	1,917
1,515	2,025
1,563	2,133
1,611	2,241
1,659×57	2,349×141
1,716	2,490
1,773	2,631
1,830	2,772
1,887	2,913
---	3,054×183
---	3,237
---	3,420

CONVERSION TABLE No. 4

**PROCESS SERVER I  
SHORTHAND TYPIST/SENIOR COPY TYPIST  
LIBRARIAN ASSISTANT/ASSISTANT ARCHIVIST SERVER  
(PLS 4)**

Present Salary Scale : Kf1,563×48—1,659×57—1,944×66—2,142×81—2,223 p.a  
Recommended Salary Scale : Kf1,917×108—2,349×141—3,054×183—3,786 p.a.

Present Salary Kf per annum	Recommended Salary Kf per annum
1,563×48	1,917×108
1,611	2,025
1,659×57	2,133
1,716	2,241
1,773	2,349×141
1,830	2,490
1,887	2,631
1,944×66	2,772
2,010	2,913
2,076	3,054×183
2,142×81	3,237
2,223	3,420
—	3,603
—	3,786

CONVERSION TABLE No. 5

**SENIOR PROCESS SERVER  
SHORTHAND TYPIST I  
SENIOR CLERICAL OFFICER (ADM)  
SENIOR CLERICAL OFFICER (ACC)  
SENIOR TELEPHONE OPERATOR  
(PLS 5)**

Present Salary Scale : Kf2,010×66—2,142×81—2,304×93—2,769×102—3,177 p.a.  
Recommended Salary Scale : Kf2,490×141—3,054×183—3,969×237—4,917 p.a.

Present Salary Kf per annum	Recommended Salary Kf per annum
2,010×66	2,490×141
2,076	2,631
2,142×81	2,772
2,223	2,913
2,304×93	3,054×183
2,397	3,237
2,490	3,420
2,583	3,603
2,676	3,786
2,769×102	3,969×237
2,871	4,206
2,973	4,443
3,075	4,680
3,177	4,917

CONVERSION TABLE No. 6

ACCOUNTANT III  
 PERSONNEL OFFICER III  
 SUPPLIES OFFICER III  
 ACCOUNTS ASSISTANT  
 PERSONNEL ASSISTANT  
 SUPPLIES ASSISTANT  
 EXECUTIVE ASSISTANT  
 SENIOR ASSISTANT LIBRARIAN  
 LIBRARIAN III  
 PERSONAL SECRETARY II  
 (PLS 6)

Present Salary Scale : K£2,490×93–2,769×102–3,279×120–3,519 p.a.  
 Recommended Salary Scale : K£3,054×183–3,969×237–5,154×309–6,081 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
2,490×93	3,054×183
2,583	3,237
2,676	3,420
2,769×102	3,603
2,871	3,786
2,973	3,969×237
3,075	4,206
3,177	4,443
3,279×120	4,680
3,399	4,917
3,519	5,154×309
—	5,463
—	5,772
—	6,081

CONVERSION TABLE No. 7

ACCOUNTANT II  
 PERSONNEL OFFICER II  
 PERSONAL SECRETARY I  
 EXECUTIVE OFFICER II  
 (PLS 7)

Present Salary Scale: K£2,973×102-3,279×120-3,879×144-4,167 p.a.  
 Recommended Salary Scale: K£3,624×183-3,969×237-5,154×309-6,390 p.a

Present Salary K£ per annum	Recommended Salary K£ per annum
2,973×102	3,624×183
3,075	3,786
3,177	3,969×237
3,279×120	4,206
3,399	4,443
3,519	4,680
3,639	4,917
3,759	5,154×309
3,879×144	5,463
4,023	5,772
4,167	6,081
—	6,390

CONVERSION TABLE No. 8

ACCOUNTANT I  
 PERSONNEL OFFICER I  
 EXECUTIVE OFFICER I  
 SENIOR PERSONAL SECRETARY  
 SUPPLIES OFFICER I  
 (PLS 8)

Present Salary Scale: K£3,519×120-3,879×144-4,599×171-4,941 p.a.  
 Recommended Salary Scale: K£4,206×237-5,154×309-6,699×402-7,503 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
3,519×120	4,206×237
3,639	4,443
3,759	4,680
3,879×144	4,917
4,023	5,154×309
4,167	5,463
4,311	5,772
4,455	6,081
4,599×171	6,390
4,770	6,699×402
4,941	7,101
—	7,503

CONVERSION TABLE No. 9

**COURT ADMINISTRATOR  
SENIOR PERSONNEL OFFICER  
SENIOR ACCOUNTANT  
SENIOR EXECUTIVE OFFICER  
(PLS 9)**

Present Salary Scale: K£4,167×144–4,599×171–5,454×198–5,652 p.a.  
Recommended Salary Scale: K£5,079×309–6,699×402–8,709 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
4,167×144	5,079×309
4,311	5,463
4,455	5,772
4,599×171	6,081
4,770	6,390
4,941	6,699×402
5,112	7,101
5,283	7,503
5,454×198	7,905
5,652	8,307
—	8,709

CONVERSION TABLE No. 10

**SENIOR COURT ADMINISTRATOR  
CHIEF ACCOUNTANT  
CHIEF PERSONNEL OFFICER  
(PLS 10)**

Present Salary Scale: K£5,112×171–5,454×198–6,444×228–6,900 p.a.  
Recommended Salary Scale: K£6,231×309–6,699×402–8,709×522–10,275 p.a.

Present Salary K£ per annum	Recommended Salary K£ per annum
5,112×171	6,231×309
5,283	6,699×402
5,454×198	7,101
5,652	7,503
5,850	7,905
6,048	8,307
6,246	8,709×522
6,444×228	9,231
6,672	9,753
6,900	10,275

Mr. F. M. M. Karimba, District Environment Officer, Isiolo.  
Mr. S. M. Wambua, Provincial Water Engineer, Eastern Province.  
Mr. J. S. Z. Mwai, Provincial Director of Social Services, Eastern.  
Mr. A. K. Mbugua, Provincial Technical Training Officer, Eastern.  
Dr. F. M. Kimani, Acting Provincial Medical Officer, Eastern.  
Mr. Timothy K. Muruarithi, D/P.A.E., Eastern Province.  
Mr. Josephat M. Muhuri, County Council, Embu.  
Mr. Lewis G. W. Mugo, Councillor, Embu.  
Mr. S. M. Mwangi, District Probation Officer, Embu.  
Mr. F. M. Appollos, Senior Probation Officer, Embu.  
Mr. C. O. Okello, District Employment Officer, Embu.  
Mr. Juliano M. Joseph, Chairman, County Council, Embu.  
Mr. S. P. Njiru, Provincial Weights & Measures Officer, Eastern.  
Mr. John G. R. Chege, Provincial Commissioner's Office, Embu.  
Mr. W. Ng'ang'a Waweru, Administrative Officer I, Eastern Province.  
Mr. M. K. Gichuki, Provincial Occupation Health and Safety Officer, Embu.  
Mr. Joe Kathungu, Advocate, Embu.  
Mr. P. W. Yogor, Provincial I.C.D.C. Officer, Embu.  
Mrs. Grace J. Mutinda, Regional Co-ordinator FLEP of N.C.C.K., Eastern Province.  
Mr. Peter Kiilu, Provincial Commissioner, Nyanza Province.  
Mr. Muga Apondi, Senior Resident Magistrate, Kisii.  
Mrs. Olga Sewe, Senior Resident Magistrate, Kisumu.  
Mr. A. L. Ndiga, Resident Magistrate, Siaya.  
Mr. Joseph S. O. Kwengu, District Magistrate I, Ukwala.  
Mr. J. E. Njeri, Provincial Police Officer, Nyanza Province.  
Mr. Mathew Lang'at, Provincial Probation Officer, Kisumu.  
Mr. P. N. Kweyu, D.P.O. for D.C., Kisumu.  
Mr. David C. Amdany, A. II., Kisumu.  
Mr. Roberts Gumba Onywera, Advocate, Kisumu.  
Mr. N. R. O. Ombija, Advocate, Kisumu.  
Mr. C. B. G. Ouma, Advocate, Kisumu.  
Mrs. Rosemary Atieno Okumu, Advocate, Kisumu.