THE JUVENILE JUSTICE IN KENYA: GROWTH, SYSTEM AND STRUCTURES

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I. INTRODUCTION

Every jurisdiction in the world is grappling with the problem of juvenile delinquency. The arrangements which are employed to address the problem depend either on the pre-existing structures or have been variedly modified and influenced by public policy or research. Such arrangements may also lean on other social-cultural support systems that weld with the structural arrangements and acclaimed practices. However, these arrangements have a universal appreciation that a child must not be handled as an adult offender, much as age and social orientation of children are variedly defined by statutes and conventions. In spite of age definition and variance across jurisdictions, the principle of the 'Best Interest of the Child' has had much influence in addressing juvenile justice matters since the Convention on the Right of the Child[1] was promulgated universally.

Delinquency is a deviant phenomenon that may manifest any time before maturity and sometimes may extend into adulthood. The physiological and emotional difficulties or pressures may lead a child to engage disproportionately in anti-social conduct including crime. This can result in the child being processed through the juvenile justice system. Extreme errant behaviours that require State intervention may be processed through the juvenile justice system while children in difficult circumstances may need protection and care by the State or Non-State welfare agencies or both.

This write up employs a historical and contextual approach to demonstrate the origin of present day perspectives of juvenile justice in Kenya and the current structures and processes in place. Certain key variables are discussed including the emergence of juvenile correction in Kenya, the socio-cultural context of the colonial era in which justice for children is located, legislative influence and the institutions and structures that existed and how this has evolved over time. The salient features characteristic of juvenile justice system in Kenya including the responsible agencies, trends and the challenges being experienced especially with emerging complex criminal behaviour of the youth are explored.

II. UNDERSTANDING THE JUVENILE SYSTEM

The juvenile justice system can be defined as the formal responsive arrangement by government to process and deal with a child in conflict with the law in accordance with the prescribed set of laws while taking cognizance of the child's rights and best interest. Juvenile justice, like in the adult process, presumes a systematic organic arrangement of government agencies that dependent upon each other yet operating distinctly but having a shared objective of addressing delinquency or prevention of crime. However, children who are adjudged to be in difficult circumstances or in need of care and protection may also be processed through the same avenue and have their needs met or rights protected. Various agencies have a role to play in the juvenile justice system including the Police, Prosecution, Probation, Child Welfare Agency, Corrections or Prisons and the Courts. These agencies are robustly independent in operation yet remain symbiotic organs and are expected to function in the best interest of the child.

Before examining the juvenile justice system in Kenya, it would be fitting to discuss what a 'system' is. By definition, and in the context of organisation, a system is an organised purposeful structure that consists of interconnected and inter-reliant elements or components that interact and influence one another yet aiming at a common goal. In the criminal justice perspective, this is conceived as the organised

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[1] UN Convention on the Right of the Child 1989.

state agencies charged with the responsibilities of maintaining law and order and exercising social control over those who violate set laws through arrest, prosecution, trial and adjudication, and punishment or correction. In simple terms, juvenile justice is a formal way that is part of a wider approach to dealing with criminal behaviour in children in accordance with the prescribed set of laws.

In the foregoing context, it is imperative to gauge the extent to which juvenile justice in Kenya would be said to have fully evolved over time into a system. There are, of course, trajectory points to note which were greatly influenced by Kenya's historical past.

III. THE EMERGENCE OF PENAL LEGACY IN KENYA

The imperial British introduced the English common law into her colonies as a means of promoting common lawful behaviour among widely diverse people, (Kercher 1981)[2]. It is right to say that there were veracious forms of transgression by the indigenous African before the colonial era but how they addressed such transgressions varied from one society to another. Although severe punishment was one way to address deviancy, such was not applicable to juveniles. There were also very good practices not oriented to punishment including reconciliation, restitution, compensation by the individual or community, social exclusion and public ridicule, religious sanctions including curse, etc. (James S. Read, 1966[3] cited in Kercher 1981). On the other hand, there were also harsh penalties including corporal punishment and death if the offence so demanded. These were the various types of social control that exist before the advent of colonialism.

The colonial era later introduced a dual system of justice comprising of courts that practiced purely English common law and the African Courts which were abridged versions practicing both English and traditional justice systems guided by English ordinances. It is worth pointing out that this arrangement was used to process perceived juvenile delinquents. The eventual evolution into the current unitary justice system was greatly influenced by the indigenous clamour for independence in the 1950's (Ibid).

The treatment of the delinquent child during the colonial times was based on the transplanted English common law and culture with its institutional features which brought about formal structures including the police, courts and prisons. Legal definitions and penalties were prescribed to certain acts which were perceived as wrong by the colonial establishment. Before then, the traditional structures and setups were organised in a way that facilitated communal 'ownership' and supervision of the delinquent child. The supervision of the child was not confined to the nuclear family but was a task of every member of the community. To that extent, the doctrine of *parens patriae* was at play. If the common role of disciplining the errant child was a communal responsibility, then the colonial period disrupted this setup as this function was taken over by regimented structures and institutions of corrections.

A. The Emergence of Penal Institutions for Young Offenders

The growth of perceived juvenile delinquency made it necessary for the colonial government to come up with penal legislation which was strong on institutionalisation. The juvenile corrective institutions were conceived as measures to divert children from punitive adult prisons. With increased urbanisation, many children came to the towns either because their communities had been disrupted by colonial resettlement programmes or by sheer town attraction. According to Kercher (19981)[4], this effort was meant to

- Reduce the likelihood of contamination of relatively inexperienced offenders by more hardcore criminals
- Prevent the hardening of attitudes against society and authority resulting from embittered experience in punitive institutions
- Avoid labelling of the young offender as a criminal by the society and as such encouraging image building
- Provide special programmes for resocialisation with the goal of nipping the errand behaviour in

[2] Leonard C. Kercher, *The Kenyan Penal System, Past Present and Prospect*, University Press of America, Inc.
[3] James Read 1966, some Legal problems in East Africa, *East African law Journal*, (special First Anniversary Issue) Vo. 2, no. 1.
[4] Ibid.

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The juvenile correctional institutions were based on the English models modified for the African setting. These institutions which included the Approved Schools, Borstal Institutions and Youth Corrective Centres admitted young offenders falling below 19 years. On the other hand, there were other alternative measures available to the courts which comprised corporal punishment, discharge, compensation or payment of cost by the juvenile offender or parent/guardian or committal care of fit persons or society (Ibid). Probation orders were introduced through an ordinance in mid-1943 for both adults and juveniles.

1. The Establishment of Approved Schools

The first Approved School was established in Kenya in 1934 and the second in 1937 further to the English Act of 1933 (Kercher 1981) although reformatory schools were in existence by 1909. Approved schools were established by the state as special residential schools for the care and protection of children in need including delinquents. This means that in situations, 'normal' children were mixed with those adjudged delinquent. This also points out that the State, then, perceived children in conflict with the law as needing welfare support which was thought to be the driving force behind their migration to the towns where they were rounded up and charged with vagrancy.

The Approved Schools which initially were under the Prisons Service were moved to the Probation Service in 1955 after the latter had moved from Prisons. Of the five Approved Schools established then, all were for boys and provided vocational training and formal education, (Kenya Prison's Service Annual Report 1960). The Schools provided both vocational training and formal academic education. The Children and Young Persons Act Cap 141 of 1969 brought out a distinct categorisation of which schools admitted children of what age. However, it prescribed that children had to be detained in these facilities until they attained 18 years of age.

2. From Approved Schools to Rehabilitation Schools

The Children's Act 0f 2001 made a significant policy change on these reformatory schools starting with renaming them as Rehabilitation Schools. The reinvented schools provide accommodation, protection and are for young children. The schools are empowered to receive, maintain, train and rehabilitate children in conflict with the law as well as those requiring care and protection. At present, there are 9 rehabilitations schools

Table 1. Juvenile Population Categorisation for Three Financial Years

Rehabilitation School	**2013/2014**			**2014/2015**			**2015/2016**		
	P/C*	CR**	TOTAL	P/C	CR	TOTAL	P/C	CR	TOTAL
OTHAYA	153	21	**174**	84	19	**135**	84	19	**103**
LIKONI	162	2	**164**	95	4	**99**	95	4	**99**
KERICHO	119	21	**140**	88	4	**92**	88	4	**92**
KABETE	113	58	**171**	48	12	**60**	48	12	**60**
WAMUMU	10	167	**177**	10	109	**119**	10	109	**119**
DAGORETTI	172	5	**177**	89	3	**92**	108	3	**111**
KIRIGITI	140	18	**158**	162	7	**169**	162	7	**169**
KISUMU	30	-	**30**	50	10	**60**	50	50	**60**
KAKAMEGA	151	22	**173**	90	2	**92**	90	2	**92**
TOTALS	**937**	**314**	**1251**	**716**	**170**	**886**	**735**	**210**	**945**

**Protection and Care, **Criminal Cases*

B. Establishment of Juvenile Remand Homes

The juvenile remand homes were set up just at the same time as the other reformatory schools. By 1960 there were 6 remand homes all near the major towns. The homes were built as places for temporary reception, safe custody and for keeping vagrant children. Any government official could bring in children including chiefs, police and locals with reasons for admission, mostly being vagrants, without a court order.

Presently, there are 14 Children Remand Homes in Kenya accommodating both children in conflict with the law and those in need of care and protection. Committing to and release from these facilities can only be through the court. The remand homes are run by the Department of Children Services which is responsible for the child welfare.

C. Establishment of Borstal Institutions

The Borstal Institution was crafted as a penal facility for juvenile offenders found guilty of offences thought to be of serious nature. Borstal institutions were first established in England in 1908 to cater for the 16 to 21-year-old juvenile adult category who by virtue of their criminal habits or association with such characters, were deemed to merit institutionalisation for purposes of reformation and repression of crime Garland (1995) cited in Newburn (2002). The first such facility was constructed in Kenya in 1963 to admit boys aged between 15 and 17 years after criminal adjudication by the courts. Unlike the Approved School which admitted boys until they attained the age of adulthood or unless there were alternative measures that could ensure care and control of the child, admission to a Borstal Institution was, and still is, up to three years. The boys admitted to Borstal Institutions had a limited chance of being released before two years were over and also had to be placed under the supervision of a probation officer for one year upon release, (Kenya Prison Service Annual Report 1960).

1. Borstal Institutions at Present

At present, the Borstal Schools are run by the Kenya Prison Service. There are three such facilities with the third having been opened in 2016 for girls. The facilities offer vocational training academic education and agricultural instruction. The staff at the school comprise both uniformed and civilian officers. No member of staff is allowed to be armed while in the facility.

Whereas the Borstal infrastructure remains relatively the same, the training and inclusion of other 'soft' programmes have been introduced. The element of assessment to precede classification has been introduced although the infrastructure may not allow for physical risk classification as would have been desired subsequent to the assessment. There has been an introduction of individualised case management unlike before where no specific personal engagement was evident. Some of the prison officers who run the institution have university training in social sciences and have acquired skills in counselling.

There is a comprehensive aftercare programme run by both the Kenya Prison Service and the Probation and Aftercare Service. Post-penal supervision is accorded to each offender by probation officers for a period determined by the Board of Licence that releases the youthful offenders mostly after they have spent a certain period in the institutions. The release licence authorises the probation officer to supervise the offenders for the purposes of reintegration and resettlement. Such release cannot be accorded an inmate unless a pre-release environment adjustment report has been filed by the Probation Service. As of July 2016 there were 339 inmates at Shilo La Tewa Borstal Institution and 384 inmates at Shikusa Borstal Institution.

Table 2. Borstal Institutions and Offence Type

PENAL CODE CATEGORY	OFFENCE	2013	%	2014	%	2015	%		%
I	Offences against Order & administration of lawful authority	28	**5.1%**	24	**5.0%**	22	**6.75%**	74	**5.46%**
III	Offences injurious to the public in general	34	**6.2%**	33	**6.85%**	53	**16.26%**	120	**8.85%**
III	Offences against the person	88	**16.1%**	70	**14.5%**	27	**8.28%**	185	**13.64%**
IV	Offences relating to property	382	**69.7%**	321	**66.6%**	212	**65.03%**	915	**67.48%**
V	Forgery, conning, counter-feiting	1	**0.18%**	1	**0.21%**	2	**0.61%**	4	**0.29%**
VI	Attempts and conspiracy to commit crimes	1	**0.18%**	1	**0.21%**	1	**0.31%**	3	**0.22%**
VII	Offences under narcotic Acts	14	**2.55%**	30	**6.22%**	6	**1.84%**	50	**3.69%**
VIII	Others	0	**0**	2	**0.41%**	3	**0.92%**	5	**0.37%**
		548		**482**		**326**		**1356**	

Source: Kenya Prison Service, 2016

The two Borstal Institutions for boys in Kenya have a holding capacity of 600 inmates but are currently overpopulated by 123 inmates. The programmes which are run in the institutions include:

- Formal Education
- Vocational training (Mainly Carpentry & Tailoring)
- Agriculture
- Counselling
- Life skills training

Although accredited treatment programmes that are in vogue and meant to treat specific offence types are yet to be introduced, the authorities at the facility have embarked on a capacity-building project to introduce sex-offence and drug-and-substance-abuse treatment programmes. Already the concept of assessment of risk and needs to inform classification and treatment is well grounded.

The new Borstal Institution for girls has operated for less than three months and has had admission of 6 inmates.

D. Youth Corrective Training Centre

The Youth Corrective Training Centre was established in 1962 to cater for boys who were deemed to be unruly and needing 'short-sharp-shock' treatment. It was thought to fit those who were considered to be defiant to authority and could not be supervised under probation and yet did not warrant long-term confinement like the Borstal Institution. The Centre was meant for the rough undisciplined youth who needed to be detached from the family and kept in such a facility as a deterrent and corrective measure.

The Youth Corrective Training Centre (YCTC) is established under the Prisons Act. There is only one YCTC at Kamiti for boys and none for girls. Children and youth admitted to the centre must be aged between 17-21 years for a duration of four months. This institution provides an environment that facilitates short-term institutional supervision.

The institution is meant for first time offenders who may require close regimented supervision and their admission to the institutions is through the court and the advice of a probation officer. Due to the relative short time that the boys stay in this facility, there is no vocational training other than some farming, rigorous outdoor chores and hobbies.

One of the challenges with this arrangement is that there is no follow up or aftercare for purposes of reintegration upon discharge. Its efficacy has also been questioned in the wake of similar arrangements assisting in the Borstal Institution capturing almost the same age bracket.

IV. THE JUVENILE JUSTICE PROCESS

The delivery of Juvenile Justice in Kenya is anchored on existing relevant legislation among them being the Criminal Procedure Code, the Penal Code and other statutes which specifically touch on children. This legislation is implemented by various agencies including the Police, Courts, Probation, Department of Children's Services, Prisons and the Office of the Public Prosecution. While juvenile justice has undergone tremendous changes since the enactment of the current Children's Act in 2001, there is still demand for greater efficacy in the way of improving services by the magistrates, probation officers, children officers, prison officers and police officers, all who influence the plight of children in the justice process.

Children are often arrested for committing offences and processed in similar ways as adult offenders. This is with regard to the application of the Evidence Act or the Criminal Procedure Code which are the main laws applicable in criminal trials. The Police or any authorised officer may apprehend a child for due processing. The police conduct the investigation and decide whether there is sufficient evidence to charge the juvenile if thought culpable. The law expects the police to have a separate holding facility for children in their custody. Despite limited rooms at the many police stations, the police must make arrangements to have children, boys and girls separated from each other and from adults. The police only have 23 child protection units which are child friendly.

Since 2013, the prosecution services, whether for adult or juvenile cases, was transferred from the police to the Office of the Director of Public Persecution. This means that all children are prosecuted by state lawyers working under the Office of the Director of Public Prosecution (ODPP).

Table 3: Children Arrested in Years 2013, 2014 and 2015

COUNTY		NUMBER OF CHILDREN ARRESTED			TOTAL
		2013	2014	2015	
1	EASTERN REGION	301	288	309	**898**
2	CENTRAL REGION	183	269	250	**702**
3	WESTERN REGION	117	182	209	**508**
4	NAIROBI REGION	139	70	62	**271**
5	RIFT VALLEY REGION	334	346	427	**1107**
6	COAST REGION	170	221	167	**558**
7	NYANZA REGION	324	350	334	**1008**
8	NORTH EASTERN	22	26	47	**95**
	TOTAL	**1,590**	**1,752**	**1,805**	**5,147**

Source: *National Police Service 2016*

A. Juvenile Justice Model

The Kenyan Juvenile System does not strictly adhere to a distinct Juvenile Justice model. While the

Kenya Criminal Justice System is adversarial, the juvenile justice system is not strictly adversarial. It appears to be a mix of the models that embrace both the justice and welfare models. It is a combination of the welfare approach and the justice model and driven by the principle of the best interests of the child much as the trial process is accusatorial. This is evident in the various provisions in the Children Act No. 8 of 2001 which spells out specific procedures for handling children who come into contact with the law. For example, the procedures in court and all the other agencies in the criminal justice system are to be conducted in an informal manner and the court sitting arrangement is one that is child friendly, and safeguards on the welfare of the child are taken into consideration at every stage of the proceedings. International standards necessary to ensure the best interests of the child are emphasised.

Children Courts are manned by magistrates all who are professional lawyers. Every magistrate presiding over a children's court must be gazetted by the Chief Justice.

According to the Children Act 2001, the Children's Court shall sit in a different building or room, or at different times, from those in which sittings of courts other than Children's Courts are held, and no person shall be present at any sitting of a Children's Court except –

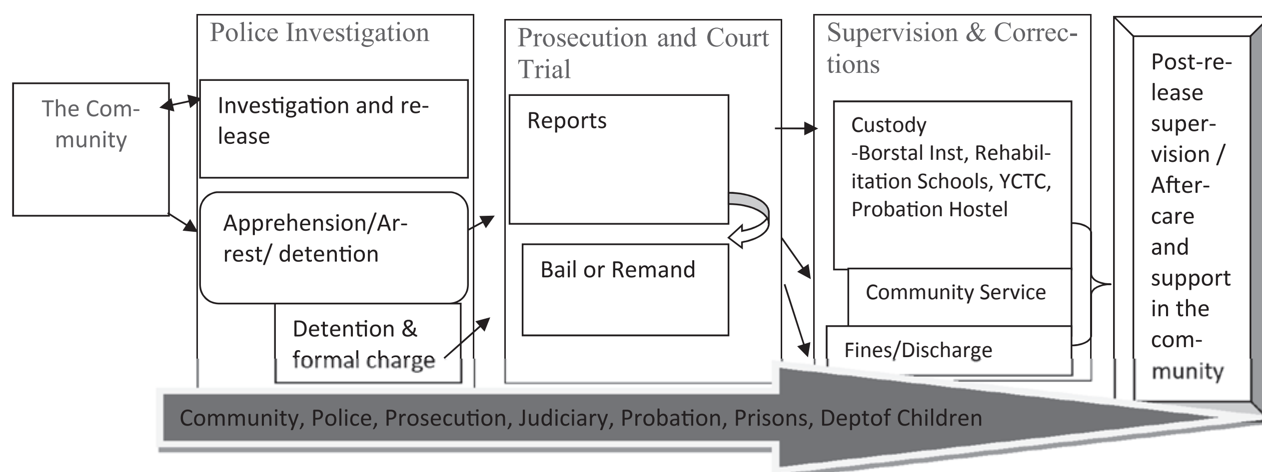
(a) Members and officers of the court;
(b) Parties to the case before the court, their advocates and witnesses and other persons directly concerned in the case;
(c) Parents or guardians of any child brought before the court;
(d) *bona fide* registered representatives of newspapers or news agencies;
(e) Such other persons as the court may specially authorise to be present.

The probation officer's role in juvenile matters is crucial. Whereas children officers mostly handle cases of child protection including custody and care in remand and rehabilitation schools, probation officers' role is in assisting the court with regard to decision making in cases of child offenders and their supervision and rehabilitation in the community. These decisions relate to bail decisions and procedures related to disposition subsequent to trial and judgment. It is the role of a probation officer to help the court determine the most appropriate disposal method including deciding on institutional confinement, committal to correctional institutions or supervision in the community. No child can be ordered to imprisonment, death or sent to a rehabilitation school if he or she is below ten years or subjected to corporal punishment.

A children's court can make the following orders in relation to a child offender:

- discharging the offender under section 35 (1) of the Penal Code;
- discharging the offender on his entering into a recognisance, with or without sureties;
- making a probation order against the offender under the provisions of the Probation of Offenders Act;
- committing the offender to the care of a fit person, whether a relative or not, or a charitable children's institution willing to undertake his care;
- if the offender is above ten years and under fifteen years of age, by ordering him to be sent to a rehabilitation school suitable to his needs and attainments
- ordering the offender to pay a fine, compensation or costs, or any or all of them
- in the case of a child who has attained the age of sixteen years, dealing with him in accordance with any Act which provides for the establishment and regulation of Borstal institutions
- placing the offender under the care of a qualified counselor
- ordering him to be placed in an educational institution or a vocational training programme
- ordering him to be placed in a probation hostel under provisions of the Probation of Offenders Act making a community service order

Whereas the Probation and Aftercare Service is mandated to handle cases of children in conflict with the law through advisory reports to court and other penal release organs, the Children's Department superintends all matters pertaining to child protection policy



V. CONSTITUTIONAL PROVISIONS RELATING TO CHILDREN

For the first time in Kenya, the Bill of Rights in the Constitution (2010) incorporates child rights and child justice issues as a special category. Article 21 (3) obligates State organs and all public officers to address the needs of vulnerable groups in society including children and this is buttressed further in 21(4).

The Constitution provides for certain rights that cannot be derogated. These include the right to freedom from torture and cruel, inhumane or degrading punishment or treatment; freedom from slavery or servitude, the right to a fair trial and the right to an order of *habeas corpus*. These are rights that are core to the juvenile justice system.

Access to justice is guaranteed under Article 48 and further Article 49, 50 and 51 are most instructive in relation to the criminal justice process as they make provisions for due process rights. The provisions seek to ensure expeditious, dignified and fair process of justice. Some of the core rights worth mentioning include:

- the right to be informed promptly of reasons for arrest;
- the right to remain silent;
- the right to counsel of one's choice;
- the right against self-incrimination;
- the right to expeditious trial and particularly that a person arrested shall be arraigned in court within 24 hours of arrest;
- the right to be released on bail unless there are compelling reasons against the same and that persons charged with offences punishable by fine only on imprisonment for up to 6 months must not be remanded in custody

Article 50 guarantees the right to a fair hearing. It protects the right of the presumption of innocence until proven guilty; the right to adequate defence; the right to a public and fair trial; the right to counsel of one's choice and to have an advocate assigned to the accused person by the State and at the State expense, if substantial injustice would otherwise result, and to be informed of this right promptly.

Of significance are Articles 50(7), (8) and (9), which provide for intermediaries for the complainant or the accused to communicate with the court and for the exclusion of the press or other members of the public where the exclusion is necessary, in a free and democratic society, to protect witnesses or vulnerable persons, morality, public order or national security. This last provision is very important to child offenders, child victims and witnesses of crime. It provides the framework for a more comprehensive legislation that will give better protection for children in the justice system and that acknowledges that children may require special assistance to enable them to testify. This provision is already provided for under the Sexual Offences Act and also under the Children's Act.

A. Constitutional Rights Relating to Children in the Justice System

Other than the rights stipulated in the Constitution as indicated above, the Constitution in Article 52 provides for special protection for children. It provides, under Article 53 (1), the right to free and compulsory basic education, basic nutrition, shelter and health care, to be protected from abuse, neglect, all form of violence, inhumane treatment or punishment, and hazardous or exploitative labour, not to be detained, except as a measure of last resort and when detained, to be held; (i) for the shortest appropriate period of time and, (ii) separate from adults in conditions that take account of the child's sex and age. Article 53 (2), states that a child's best interests are of paramount importance in every matter concerning the child. The principle of participation is also entrenched in the Constitution. Thus, the Constitution, over and above the general provisions make very progressive provisions in relation to children in the justice system that takes into account the special circumstances of children. It will be observed that when these rights are not realised or given to the child, there are chances that the children could engage in criminality.

B. Legislation on Children and Juvenile Justice

The enactment of the Children's Act 2001 had similar circumstances as what Sims and Preston (2006)[5] outline on the establishment of the juvenile court in America in the early years. Other than the need to domesticate International Conventions on the Right of the Child[6] that Kenya had ratified in 1990, it was as much a product of the child saving movement as it was a matter of response to urban and social happenings of that time. These factors included increased attraction of children to urban centres, gross neglect of children resulting in many fending for themselves and in the process getting into contact with the law and dissatisfaction with rights protection and treatment measures in the juvenile correctional facilities.

The Children Act 2001 is the embodiment of child rights, protection and welfare legislation. The powers granted to various bodies entrusted with securing these rights and for provision of welfare services and correctional services are enshrined therein. Part XIII of the Act specifically deals with processing of children in the children court and the roles of both the probation officer with regard to provision of social inquiry reports. Although the regulations under the Act stipulate that children charged with misdemeanours should be tried within a period of three months and those charged with felonies should be triad within 6 months, this is not adhered to.

VI. COORDINATION OF THE JUVENILE JUSTICE SYSTEM

As noted, responsibility to dispense justice is dispersed among various institutions working interdependently to deliver the constitutional promise. The traditional components of Kenya's justice system have been the Law Enforcement, (Police), Prosecution (the Office of the Director of Public Prosecutions), the Courts (The Judiciary) and Corrections (the Prison and Probation Services). Traditionally, these pillars of the Justice Sector have developed and pursued their own mandates, priorities, goals and strategies, usually working in competition against each other for resources and public space, and with scant regard for coordination and partnership in spite of having a shared goal of justice delivery and crime reduction.

In order to address this challenge, the government established the National Council on the Administration of Justice (NCAJ) through an amendment of the Judicial Service Act 2011. The NCAJ is established as a high-level unincorporated body concerned with policy formulation, policy review and policy implementation throughout the justice chain. Its functions are to to ensure a co-ordinated, efficient, effective and consultative approach in the administration of justice and reform of the justice system. Specifically, its functions are geared towards:

(a) Formulating policies relating to the administration of justice;
(b) Implementing, monitoring, evaluating and reviewing strategies for the administration of justice;
(c) Facilitating the establishment of court user committees at the county level;
(d) Mobilising resources for purposes of the efficient administration of justice.
(e) Liaising with the Council of the National Crime Research Centre in carrying out its mandate;
(f) Reviewing and implementing the reports of the Court users' committees; and
(g) Overseeing the operations of any other body engaged in administration of justice.

[5] Sims, Barbara. And Preston, Pamela, Handbook of Juvenile Justice, Practice and Theory, Tailor and Francis Group.
[6] UN General Assembly Resolution 44/25 of 20. November 1989.

The NCAJ has representation from 14 key agencies in the justice sector. The coordination of juvenile justice falls under the purview of this organ which is replicated at every court station through a Court Users Committees chaired by respective heads of the judiciary at both the High Court and the lower courts.

The other organs meant for the coordinating juvenile justice services include the National Council of Children's Services established under the Children's Act, the Probation Case Committee established under the Probation of Offenders Act, the Community Service Orders Committee and the Area Children Advisory committees at the local levels

VII. CONCLUSION

The genesis of treatment of errant juveniles has been in Kenya for over nine decades and was influenced by both the country's historical past as well as pragmatic policies brought about at independence and later at the turn of the century and more recently with the making of a new constitution in 2010 which has encapsulated issues of rights and welfare of children. The handling of child offenders in the Kenyan Justice System is still largely adversarial in spite of the provision related to access to justice especially with regard to right to legal counsel. There is need for more welfare-oriented approaches to be infused with due process models which focus more on what the law demands as opposed to what may be in the best interest of the child. This has been compounded by the system change where all prosecutions are now being handled by lawyers/state counsels whereas legal representation for children is largely weak in spite of it being a legal requirement.

The volume of children entering the justice system is rising and this may be a pointer to increasing general population or challenges related to juvenile justice polices which are weak on diversion and other alternatives to the due process of law. Although the country has retained the English models of reformatory schools, there is need to hasten the introduction of evidence-based treatment methods that encompass assessment to inform classification and intervention based on identified problem areas by skilled personnel, the present good work notwithstanding. There is plenty of room for a majority of the cases currently being committed to correctional institutions to be supervised in the community while on probation orders or community service orders unless adjudged as high risk. There is receptiveness towards juveniles which is good social capital that should be invested in.