



Human Rights Council
Working Group on the Universal Periodic Review
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Kenya

Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.¹ It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with human rights mechanisms

2. In 2022, the Committee against Torture stated that Kenya should consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and encouraged Kenya to make the declarations under articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²

3. In 2021, the Human Rights Committee stated that Kenya should expedite the process of ratifying the first Optional Protocol to the International Covenant on Civil and Political Rights, which established an individual complaint mechanism.³

4. The United Nations country team stated that Kenya should consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.⁴

5. The United Nations country team recalled that at the commemoration of the seventy-fifth anniversary of the Universal Declaration of Human Rights, Kenya had pledged to adopt a human rights policy. It stated that Kenya should consider adopting the policy by 2025.⁵



6. The United Nations country team stated that there had been several requests for country visits from special procedure mandate holders, but that there had been no commitment from Kenya to grant those requests.⁶

7. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged Kenya to ratify the Convention against Discrimination in Education.⁷

8. The International Labour Organization (ILO) stated that Kenya was currently studying the prospect of ratifying the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), with its support.⁸

III. National human rights framework

1. Constitutional and legislative framework

9. The Human Rights Committee welcomed the efforts made by Kenya to harmonize domestic legal provisions with the International Covenant on Civil and Political Rights and other international standards. It stated that Kenya should continue to evaluate and revise domestic legal provisions, including the Constitution of Kenya, to ensure harmonization with the rights guaranteed in the Covenant, and ensure the full and meaningful participation of stakeholders in that process.⁹

10. The United Nations country team stated that in 2024, the National Assembly had tabled the Assembly and Demonstration Bill, 2024, which contained provisions that were not in line with human rights standards.¹⁰

2. Institutional infrastructure and policy measures

11. The Committee against Torture noted that Kenya National Commission on Human Rights had been granted A status in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) since 2005. It stated that Kenya should take the necessary measures to ensure the Commission's functional independence by guaranteeing it an adequate budget that allowed it to recruit staff, set up regional offices and fulfil the mandate entrusted to it; clarify in its legislation that the Commission's remit included the right to monitor and inspect detention facilities run by the military; and take all necessary measures to ensure effective implementation of the Commission's recommendations.¹¹

12. The United Nations country team stated that Kenya should expedite the establishment of the Office of the Coroner-General, under the National Coroners Service Act (2017), and the Victim Protection Trust Fund, under the Victim Protection Act (2014).¹²

IV. Promotion and protection of human rights

A. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

13. The United Nations country team stated that the implementation of article 27 of the Constitution, which guaranteed the right to equality and expressly prohibited discrimination, had remained a challenge.¹³

14. The Human Rights Committee expressed concern about the lack of comprehensive anti-discrimination legislation, and stated that Kenya should adopt legislation prohibiting discrimination, including multiple, direct and indirect discrimination, in all spheres, in both the public and the private sectors, on all the grounds prohibited under the International Covenant on Civil and Political Rights, including sex, sexual orientation, gender identity,

religion, disability, albinism, socioeconomic status, HIV/AIDS status, and ethnic and political affiliation.¹⁴

15. The United Nations country team stated that the Marriage Act provided for the equal rights of both spouses during marriage and at its dissolution, but that those provisions did not apply to Muslim women, placing them at a disadvantage.¹⁵

16. The United Nations country team stated that the Law of Succession Act provided that widows relinquished their inheritance rights upon remarriage, but that those provisions did not apply to widowers who remarried.¹⁶

2. Right to life, liberty and security of person, and freedom from torture

17. The United Nations country team stated that Kenya had been a de facto abolitionist State since 1987, and that in 2023, all death sentences had been commuted to life imprisonment.¹⁷

18. The Committee against Torture noted the steps taken by Kenya to implement the judgment in the case of *Francis Karioko Muruatetu and another v. Republic of Kenya and five others*, in which the Supreme Court had held the mandatory use of the death penalty for murder, under section 204 of the Penal Code, to be unconstitutional. It stated that Kenya should expedite the process of amending section 204 of the Penal Code and resentencing eligible death row inmates in accordance with that ruling; consider extending the prohibition of the mandatory use of the death penalty to apply to all crimes; and consider reviewing its policy with a view to abolishing the death penalty in law or taking affirmative steps to formalize the moratorium on the death penalty.¹⁸

19. In a communication, dated 1 October 2024, in connection with peaceful protests that had been held against the proposed finance bill in 2024, several special procedure mandate holders expressed to Kenya serious concern at the alleged abductions, enforced disappearance, detention and excessive use of force against activists, lawyers, medical professionals and human rights defenders, notably in apparent retribution for exercising their human rights, including to freedom of expression, peaceful assembly and association.¹⁹ The United Nations country team stated that there had been an unprecedented number of cases of extrajudicial killings and enforced disappearance emanating from protests.²⁰

20. The Committee against Torture expressed concern about allegations of extrajudicial killings, enforced disappearance and excessive use of force by law enforcement officers. It stated that Kenya should ensure that prompt, impartial and effective investigations were undertaken into all such allegations and that the alleged perpetrators were prosecuted and the victims adequately compensated; and revise the legal framework to ensure that all forms of enforced disappearance were clearly defined in criminal law with associated penalties that were proportionate to the severity of the offence.²¹

21. The same Committee reiterated its concern about reports of cases of lynching, in particular of older women accused of witchcraft, and about allegations that those cases had not been effectively investigated, prosecuted and punished.²²

22. The same Committee stated that Kenya should amend the Prevention of Torture Act (2017) to ensure that the definition of torture was fully in line with article 1 of the Convention against Torture and that penalties for acts of ill-treatment reflected the grave nature of those crimes in accordance with article 4 (2) of the Convention; and ensure that the principle of absolute prohibition of torture was incorporated into legislation and ensure its strict application, in accordance with article 2 (2) of the Convention.²³

23. The same Committee expressed concern about reports of overcrowding in some prisons, limited access to quality healthcare and lack of trained and qualified prison staff. Kenya should intensify its efforts to bring conditions of detention in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).²⁴

3. Human rights and counter-terrorism

24. The same Committee expressed concern about reports of arbitrary arrest and detention, extortion, forcible relocation, refoulement, extrajudicial killings, torture, sexual and gender-based violence and enforced disappearance perpetrated by State officials, in particular by members of the police anti-terrorist unit, in the context of counter-terrorism operations. It stated that Kenya should ensure that the measures taken to combat terrorism were in conformity with the Convention against Torture and strictly necessary in the light of the situation and the requirements of the principle of proportionality; and review the definition of terrorism in the Prevention of Terrorism Act (2012) to ensure that it was in line with international standards.²⁵

4. Administration of justice, including impunity, and the rule of law

25. While noting existing constitutional and legislative provisions regulating police custody, the same Committee expressed concern that, in practice, the implementation of fundamental safeguards was subject to numerous shortcomings. It urged Kenya to ensure that all fundamental legal safeguards against torture were guaranteed in practice for all detained persons from the outset of their deprivation of liberty, including the right to be assisted by a lawyer, the right to be brought before a judge without delay and the right to challenge the legality of their detention at any stage of the proceedings.²⁶

26. The same Committee expressed concern about the high number of detainees awaiting trial, who were often being held for long periods in detention. It stated that Kenya should ensure that the regulations governing pretrial detention were scrupulously respected and that such detention was resorted to only in exceptional circumstances and for limited periods and in accordance with the law, taking into account the principles of necessity and proportionality; ensure systematic oversight of the lawfulness of pretrial detention; and increase judicial capacity to reduce the backlog of cases.²⁷

27. The same Committee stated that, in view of the numerous complaints of torture and ill-treatment by State officials, especially by police officers, and the reports that the police oversight mechanisms remained ineffective, it was concerned about the lack of accountability, which contributed to an environment of impunity. It stated that Kenya should finalize and roll out the reference guide and charge sheets developed by the Office of the Director of Public Prosecutions and take the necessary measures to widely disseminate the Prevention of Torture Act and to familiarize judges and prosecutors with it, so as to help ensure its effective enforcement; and ensure that all allegations of torture or ill-treatment by police officers, members of the military or National Intelligence Service personnel were promptly, effectively and impartially investigated and duly prosecuted as torture or other cruel, inhuman or degrading treatment or punishment, and that perpetrators were punished appropriately.²⁸

28. The Human Rights Committee stated that Kenya should step up efforts to provide access to remedies for victims of post-election violence in 2017, including accelerating the process of operationalizing the Victim Protection Trust Fund; and take concrete steps ahead of the 2022 elections to address impunity for violence that occurred in 2017, including the prosecution and punishment of all perpetrators, in particular police and security officers, and systemic reform to all relevant law enforcement agencies.²⁹

29. In response to the same Committee's observations, Kenya stated that in 2017 the penalties for persons found to have breached the relevant code of conduct during the period of campaigning had been enhanced. The strict enforcement of the code during the 2022 elections, together with other measures, had led to peaceful elections.³⁰

5. Fundamental freedoms and the right to participate in public and political life

30. In relation to freedom of expression, the Human Rights Committee expressed concern about the lack of harmonization of legal standards, including sections 132, 181 and 194 of the Penal Code, the Computer Misuse and Cybercrimes Act (2018), the Prevention of Terrorism Act, the Kenya Information and Communications (Amendment) Act (2013) and the Security Laws (Amendment) Act (2014), with articles 33 and 34 of the Constitution and articles 19 and 20 of the International Covenant on Civil and Political Rights. It also

expressed concern that national legal provisions had been used to limit online expression, repress lesbian, gay, bisexual, transgender and intersex individuals, and quell criticism of the Government, including among human rights defenders, journalists and civil society organizations. It stated that Kenya should harmonize all legal standards relating to freedom of expression, including online expression, with the provisions of the Covenant and the Constitution; and ensure that any restrictions on the exercise of freedom of expression, including online expression, complied with the strict requirements of article 19 (3) of the Covenant.³¹

31. The same Committee expressed concern about reports that the requirements in the Public Order Act (1950) to notify the police of all assemblies were being used in practice to deny authorization for peaceful assemblies. It stated that Kenya should bring all laws and practice governing peaceful assembly into full conformity with the Covenant.³²

32. The same Committee also expressed concern about reports of the excessive use of force to disperse protests and of the arbitrary detention and arrest of human rights defenders for exercising their right to peaceful assembly. It stated that the use of force by law enforcement officials during peaceful assemblies should be brought into line with the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.³³

33. UNESCO encouraged Kenya to consider benefiting from the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity as a means of strengthening the protection of journalists and the relevant domestic legal framework.³⁴

34. The Human Rights Committee expressed concern about the low representation of women in both the National Assembly and Senate and about reports of violence and harassment against women seeking elective office. It stated that Kenya should intensify efforts to implement constitutional provisions requiring not more than two thirds of elective and appointive positions to be held by persons of the same gender; and strengthen measures to address and prevent violence and harassment against women seeking elective office.³⁵

35. The United Nations country team stated that while electoral reforms had been made, continued efforts were required to address the remaining challenges, particularly in relation to the representation of marginalized groups.³⁶

6. Prohibition of all forms of slavery, including trafficking in persons

36. The United Nations country team stated that Kenya was a source, transit, and destination country for trafficking in persons, and that a trend of migration and trafficking from Kenya to the Middle East had been observed.³⁷

37. ILO stated that Kenya had been encouraged to strengthen protection mechanisms, particularly through enhanced monitoring of employment agencies and the development of safe recruitment processes, in the light of concerns about its nationals, particularly women, being coerced into exploitative conditions abroad. It also noted concerns about the trafficking of children for domestic labour.³⁸

38. The Human Rights Committee expressed concern about inadequate implementation of the Counter-Trafficking in Persons Act (2010), the low rate of convictions for trafficking in persons, reports of persons with albinism being trafficked for the use of their body parts, and Kenyan nationals being coerced by employment agencies to work under exploitative conditions abroad. It stated that Kenya should intensify efforts to fully implement the Counter-Trafficking in Persons Act; continue efforts to train State officials on countering trafficking in persons and expand training to all relevant State officials, including judges, prosecutors, law enforcement officers and immigration agents, and to lawyers; introduce targeted measures to protect persons with albinism from trafficking; and strengthen efforts to screen and monitor the activities of employment agencies and to protect Kenyan nationals working abroad.³⁹

7. Right to work and to just and favourable conditions of work

39. The United Nations country team stated that in 2022, a national task force had been established to address improvement of the terms and conditions of service and other reforms for members of the National Police Service and the Kenya Prisons Service.⁴⁰

40. ILO noted concerns about the significant number of children involved in child labour, including hazardous work.⁴¹

8. Right to an adequate standard of living

41. The Human Rights Committee expressed concern about forced, and sometimes violent, evictions, including among Indigenous populations in forest areas. It also expressed concern that such evictions had been undertaken without full regard for due process requirements, such as adequate notice and prior and meaningful consultation with those affected, and that there had been insufficient access to justice and remedies. It stated that Kenya should ensure that all evictions were carried out in accordance with national and international standards.⁴² In response to the Committee's concerns, Kenya stated that the Constitution contained a bill of rights, which had significant implications in terms of the right to adequate housing and other economic, social and cultural rights. In addition, sections 152B-152I of the Land Laws (Amendment) Act (2016) prescribed procedures for the humane eviction of unlawful occupiers from public, private and community lands, and the Nairobi City County Evictions, Resettlement and Demolitions Control Bill (2020) sought to make it illegal to carry out evictions on weekends and during the rainy season.⁴³

42. The United Nations country team stated that overcrowding and congestion in informal settlements and lack of basic services, such as water, sanitation, energy and solid waste management systems, and inadequate housing continued to exacerbate urban poverty, inequality and impairment of human development. Rapid urban growth rates had led to a crisis in the provision of adequate housing and related infrastructure services. An affordable housing programme was being implemented and the Affordable Housing Act, 2024, had been enacted, with a view to increasing the supply of new housing.⁴⁴

43. In a communication, dated 16 March 2022, the Special Rapporteur on the human rights to safe drinking water and sanitation brought to the attention of Kenya information that he had received concerning the legislative and policy framework on the prohibition of the disconnection of water for those who were incapable of paying for water services, in particular in the context of the coronavirus disease (COVID-19) pandemic. He stated that the disconnection of water services because of failure to pay due to lack of means constituted a violation of the human rights to safe drinking water and to sanitation, and that in order to prohibit such disconnection, it was imperative that the human rights to safe drinking water and sanitation were explicitly recognized in the legal framework. While the human right to water was explicitly recognized in the Water Act, the human right to sanitation was not, despite the fact that they were two distinct rights. The absence of recognition of the human right to sanitation led to a gap in the national legal framework.⁴⁵

9. Right to health

44. The United Nations country team stated that despite a reduction in maternal mortality rates, there was a pressing need for improved maternal health services, particularly access to emergency obstetric care. Adolescent pregnancy rates necessitated targeted interventions, such as tackling early marriage, enhancing access to comprehensive sexuality education and offering youth-friendly sexual and reproductive health services.⁴⁶

45. The Committee against Torture observed with concern that the restrictive and unclear legal framework on abortion led women to seek unsafe and illegal abortions. It stated that Kenya should review its constitutional and legislative framework to ensure clear and harmonized provisions, policies and guidelines to govern access to safe and legal abortion.⁴⁷

46. The same Committee expressed concern about information that it had received on forced medical treatments, physical and chemical restraints and the isolation faced by persons with disabilities in psychiatric hospitals. It stated that Kenya should provide support to persons with disabilities, including information in accessible formats, in order to enable them

to give free and informed consent in relation to medical treatment and scientific experimentation; train healthcare professionals on the rights of persons with disabilities, specifically on the right to free and informed consent; ensure that instruments of restraint and force could only be used in accordance with the law and under appropriate supervision and for the shortest time necessary, and that their use was limited to that which was strictly necessary and proportionate; and ensure that psychiatric hospitals were adequately monitored and that effective safeguards were in place to prevent any ill-treatment of persons in such facilities.⁴⁸

47. The same Committee expressed concern about the persistence of forced and coerced sterilization of HIV-positive women and women with disabilities. It stated that Kenya should strengthen its efforts to investigate allegations of involuntary sterilization or other harmful practices in connection with the reproductive health and rights of HIV-positive women and women with disabilities, identify and punish those involved in such practices and provide adequate remedies for the victims.⁴⁹

48. The United Nations country team noted that the HIV response in Kenya was aligned with the global commitment to end HIV as a public health threat by 2030, and that the strategic direction for the national HIV response was provided by the Kenya AIDS Strategic Framework (2020/21–2024/25). Kenya had strong laws and policies intended to uphold the rights of persons living with HIV and of key and vulnerable populations. However, implementation and enforcement of the legal framework remained weak or inconsistent and was impeded by barriers to access to justice. Punitive laws that discriminated against key populations and that criminalized, among other things, HIV exposure and transmission undermined trust in health services and created barriers to access to such services.⁵⁰

10. Right to education

49. The Human Rights Committee expressed concern about incidences of children being expelled from school on the basis of actual or suspected sexual orientation and/or gender identity, and stated that Kenya should take immediate action to address such expulsion.⁵¹

50. UNESCO referred to a recommendation, supported by Kenya during the previous review, to ensure equal access to education through the full integration of refugees and asylum-seekers into national education policies. UNESCO stated that the ratification of the Global Convention on the Recognition of Qualifications concerning Higher Education would further support the implementation of that recommendation and encouraged Kenya to ratify that Convention.⁵²

11. Cultural rights

51. UNESCO encouraged Kenya, as a State party to the Convention for the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), to fully implement the relevant provisions that promoted access to and participation in cultural heritage and creative expressions and, as such, were conducive to implementing the right to take part in cultural life, as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights.⁵³

12. Development, the environment, and business and human rights

52. The Human Rights Committee stated that Kenya should strengthen its efforts, including through international cooperation and effective implementation of legislation and preventive measures, to combat corruption and promote good governance, transparency and accountability. It should also take concrete measures to place proportionate limits on the access of State officials implicit in corruption to public office in accordance with international standards.⁵⁴

53. The United Nations country team stated that Kenya had developed guidelines for designing and implementing interventions for livelihood restoration and rehabilitation among communities adversely affected by climate change and variability-induced disasters.⁵⁵

54. The Human Rights Committee welcomed the measures taken to adapt and mitigate the effects of climate change, and constitutional provisions mandating public participation in environmental management. It expressed concern, however, about reports that such provisions had not been consistently implemented to ensure the effective, meaningful and informed participation of the population, including Indigenous Peoples, in projects that affected sustainable development and resilience to climate change. It stated that Kenya should expand its efforts to develop resilience to climate change through adaptation and mitigation measures, and that all projects that affected sustainable development and resilience to climate change should be developed with the meaningful and informed participation of the affected population, including Indigenous Peoples.⁵⁶

55. The United Nations country team stated that Kenya had made strides in integrating the Guiding Principles on Business and Human Rights at the domestic level, and that in 2022, a national policy and action plan on business and human rights had been adopted.⁵⁷

B. Rights of specific persons or groups

1. Women

56. The Committee against Torture expressed concern about high levels of domestic violence and the persistence of sexual violence, including rape, in the private and public spheres, weaknesses in the legal and institutional response, including poor enforcement of the Protection against Domestic Violence Act (2015), and a failure to criminalize marital rape. It stated that Kenya should ensure that all cases of gender-based violence were thoroughly investigated, that alleged perpetrators were prosecuted and, if found guilty, punished appropriately, and that the victims or their families received redress, including adequate compensation; and ensure the strict enforcement of the Protection against Domestic Violence Act, including through the allocation of adequate human and financial resources.⁵⁸

57. The Human Rights Committee stated that Kenya should strengthen its institutional and legal frameworks to address domestic violence, including the criminalization of marital rape.⁵⁹ In response, Kenya stated that various measures had been taken since the Committee's review, including the development of a rapid reference guide on the prosecution of sexual and gender-based violence cases, the creation of a sexual and gender-based violence court in Shanzu, along the coast of Kenya, and the establishment of a committee under the National Council on the Administration of Justice to review laws on sexual and gender-based violence.⁶⁰

58. The Committee against Torture expressed concern that the practice of female genital mutilation continued to be common in some communities. It stated that Kenya should ensure that the Prohibition of Female Genital Mutilation Act (2011) was widely known and implemented, and take measures to eradicate female genital mutilation, including through cross-border cooperation and increased awareness-raising among religious and traditional leaders and the general public about the criminal nature of the procedure and its adverse effect on the human rights and health of women.⁶¹

59. The Human Rights Committee expressed concern about female genital mutilation and the reported increase in such cases during the COVID-19 pandemic. It stated that Kenya should expand its efforts to prevent and address female genital mutilation.⁶² In response, Kenya stated that it had intensified its efforts to eradicate female genital mutilation within its borders, including through the declarations against female genital mutilation and heightened collaborative approaches towards the implementation of programmes against female genital mutilation, the operationalization of county steering committees against female genital mutilation in 22 counties, and the development of county-costed action plans. In addition, Kenya had adopted a declaration and an action plan to address cross-border female genital mutilation, together with other countries in the region.⁶³

60. The same Committee expressed concern about reports of other harmful traditional practices, including wife inheritance, ritual cleansing and child marriage. It stated that Kenya should take concrete steps to eradicate such practices.⁶⁴

2. Children

61. In response to observations from the same Committee, Kenya stated that the Children Act (2022) had provided increased safeguards for at-risk children and had enhanced county governments' responsibilities and structures for child protection. The National Care Reform Strategy for Children in Kenya, launched in 2022, focused on the promotion of alternative family-based care for children at risk of being institutionalized. A national action plan to tackle online child sexual exploitation and abuse had been developed.⁶⁵

62. The United Nations country team stated that child marriage persisted, particularly affecting girls from marginalized communities. Kenya had a strong legal framework to address child marriage, but challenges had persisted in the effective enforcement of the relevant legislation.⁶⁶

3. Persons with disabilities

63. The United Nations country team stated that, although discrimination on the basis of disability was prohibited under article 27 of the Constitution and under the Persons with Disabilities Act (2003), the Children Act, the Basic Education Act (2013) and the Employment Act (2007), persons with disabilities continued to suffer various forms of violations and discrimination. Women and girls with disabilities were often denied the right to make decisions for themselves about their reproductive and sexual health, which increased their risk of sexual violence, unplanned pregnancy and sexually transmitted infections. The Protection against Domestic Violence Act did not make specific reference to violence against women with disabilities.⁶⁷

4. Indigenous Peoples and minorities

64. The Human Rights Committee stated that Kenya should enact dedicated legislation to expand specific protection for Indigenous Peoples; step up safeguards against forced evictions of Indigenous Peoples and ensure the consistent and effective application of the principle of free, informed and prior consent before any developmental or other activities took place on lands traditionally used, occupied or owned by Indigenous communities; and intensify implementation of the Community Land Act (2016), including by allocating adequate funding to facilitate the required processes, so as to ensure that Indigenous Peoples could obtain official recognition and registration of their land.⁶⁸

65. In a communication, dated 23 November 2023, several special procedure mandate holders brought to the attention of Kenya information received about the alleged forced eviction and displacement of at least 1,000 members of the Ogiek Indigenous People in Sasimwani, Mau Forest. The special procedure mandate holders noted that the evictions had been in direct contravention of rulings by the African Court of Human and Peoples' Rights recognizing the Mau Forest as the ancestral lands of the Ogiek and finding that the expulsion of the Ogiek from the Mau Forest against their will and with no consultation violated their human rights. They also expressed their grave concern about the destruction of the Ogiek's homes, property, livestock, schools and places of worship, and about the failure of Kenya to guarantee the property rights of the Ogiek through land delimitation, demarcation and titling and to end the forced evictions, to protect and fulfil their right to adequate housing in a comprehensive manner.⁶⁹

5. Lesbian, gay, bisexual, transgender and intersex persons

66. The Committee against Torture welcomed the adoption of the Registration of Persons (Amendment) Act of 2019, which provided for the legal recognition of intersex persons. It was, however, concerned about the criminalization of same-sex relations, under sections 162 and 165 of the Penal Code; reports of lesbian, gay, bisexual, transgender and intersex persons experiencing harassment, discrimination and violence and facing barriers to access to justice; and cases of non-urgent, irreversible surgical procedures, undertaken without full, free and informed consent, infanticide and abandonment among intersex children. It stated that Kenya should amend all relevant laws to decriminalize consensual sexual relations between adults of the same sex; intensify its efforts to eradicate all forms of discrimination, harassment and violence on the basis of sexual orientation and gender identity and provide access to justice

and remedies for victims; and strengthen measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who were not yet capable of giving their full, free and informed consent, except in cases where such interventions were absolutely necessary for medical reasons.⁷⁰

67. The Human Rights Committee stated that Kenya should intensify its efforts to eradicate all forms of discrimination, harassment and violence on the basis of sexual orientation and gender identity and provide access to justice and remedies for victims.⁷¹

6. Migrants, refugees and asylum-seekers

68. The United Nations country team, stating that Kenya was a transit point for irregular migration, noted the lack of a defined policy on migrant detention and of dedicated holding facilities.⁷²

69. The Committee against Torture expressed concern about the provisions of section 19 (2) of the Refugees Act (2021), which allowed for broad exceptions to the principle of non-refoulement on the basis of public morality. It was particularly concerned that lesbian, gay, bisexual, transgender and intersex refugees and asylum-seekers could be subjected to refoulement on the de facto basis of their sexual orientation and gender identity. It stated that Kenya should strictly uphold the principle of non-refoulement in both law and practice, and amend the Refugees Act.⁷³

7. Internally displaced persons

70. The United Nations country team noted the displacement of hundreds of thousands of people, primarily driven by the prolonged drought between 2020 and 2023 and the flooding in May 2024.⁷⁴

71. The Human Rights Committee expressed concern about the slow progress in finding durable solutions for internally displaced persons. It stated that Kenya should intensify its efforts to expedite durable solutions for internally displaced persons in accordance with relevant international standards, and operationalize the National Consultative Coordination Committee for Internally Displaced Persons as a matter of priority.⁷⁵

Notes

¹ [A/HRC/44/9](#), [A/HRC/44/9/Add.1](#) and [A/HRC/45/2](#).

² [CAT/C/KEN/CO/3](#), paras. 22 (b) and 50. See also United Nations country team submission for the universal periodic review of Kenya, p. 1.

³ [CCPR/C/KEN/CO/4](#), para. 5 (d).

⁴ United Nations country team submission, p. 1.

⁵ *Ibid.*, p. 1.

⁶ *Ibid.*, p. 2.

⁷ UNESCO submission for the universal periodic review of Kenya, para. 14.

⁸ ILO submission for the universal periodic review of Kenya, p. 1.

⁹ [CCPR/C/KEN/CO/4](#), paras. 4 and 5 (a) and (b).

¹⁰ United Nations country team submission, p. 7.

¹¹ [CAT/C/KEN/CO/3](#), paras. 13 and 14. See also United Nations country team submission, p. 1.

¹² United Nations country team submission, p. 3.

¹³ *Ibid.*, p. 4.

¹⁴ [CCPR/C/KEN/CO/4](#), paras. 10 and 11 (a).

¹⁵ United Nations country team submission, p. 2.

¹⁶ *Ibid.*, p. 2.

¹⁷ *Ibid.*, p. 3.

¹⁸ [CAT/C/KEN/CO/3](#), paras. 33 and 34 (a) and (b). See also [CCPR/C/KEN/CO/4](#), paras. 22 and 23.

¹⁹ See communication KEN 4/2024, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29360>.

²⁰ United Nations country team submission, p. 3.

²¹ [CAT/C/KEN/CO/3](#), paras. 11 and 12 (a) and (b). See also [CCPR/C/KEN/CO/4](#), paras. 24 and 25 (a).

²² [CAT/C/KEN/CO/3](#), para. 35. See also [CAT/C/KEN/CO/2](#) and [CAT/C/KEN/CO/2/Corr.1](#), para. 17.

²³ [CAT/C/KEN/CO/3](#), para. 8 (a) and (b).

- ²⁴ Ibid., paras. 17 and 18. See also [CCPR/C/KEN/CO/4](#), paras. 30 and 31.
- ²⁵ [CAT/C/KEN/CO/3](#), paras. 27 and 28 (a) and (b). See also [CCPR/C/KEN/CO/4](#), paras. 16, 17, 32 and 33.
- ²⁶ [CAT/C/KEN/CO/3](#), paras. 9 and 10 (b), (h) and (i).
- ²⁷ Ibid., paras. 15 and 16 (a)–(c).
- ²⁸ Ibid., paras. 29 and 30 (a) and (b). See also [CCPR/C/KEN/CO/4](#), paras. 28 and 29.
- ²⁹ [CCPR/C/KEN/CO/4](#), para. 9 (b) and (c). See also United Nations country team submission, p. 8.
- ³⁰ [CCPR/C/KEN/FCO/4](#), paras. 28–33.
- ³¹ [CCPR/C/KEN/CO/4](#), paras. 42 and 43. See also UNESCO submission, para. 15.
- ³² [CCPR/C/KEN/CO/4](#), paras. 44 and 45.
- ³³ Ibid., paras. 44 and 45.
- ³⁴ UNESCO submission, para. 17.
- ³⁵ [CCPR/C/KEN/CO/4](#), paras. 14 and 15.
- ³⁶ United Nations country team submission, p. 8.
- ³⁷ Ibid., p. 4.
- ³⁸ ILO submission, pp. 2 and 3.
- ³⁹ [CCPR/C/KEN/CO/4](#), paras. 34 and 35.
- ⁴⁰ United Nations country team submission, p. 4.
- ⁴¹ ILO submission, p. 3.
- ⁴² [CCPR/C/KEN/CO/4](#), paras. 40 and 41.
- ⁴³ [CCPR/C/KEN/FCO/4](#), paras. 25–27.
- ⁴⁴ United Nations country team submission, pp. 9 and 10.
- ⁴⁵ See communication KEN 1/2022, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27014>.
- ⁴⁶ United Nations country team submission, p. 10.
- ⁴⁷ [CAT/C/KEN/CO/3](#), paras. 41 and 42. See also [CCPR/C/KEN/CO/4](#), paras. 20 and 21; and United Nations country team submission, para. 11.
- ⁴⁸ [CAT/C/KEN/CO/3](#), paras. 31 and 32.
- ⁴⁹ Ibid., paras. 37 (e) and 38 (f).
- ⁵⁰ United Nations country team submission, pp. 11 and 12.
- ⁵¹ [CCPR/C/KEN/CO/4](#), paras. 12 (d) and 13 (d).
- ⁵² UNESCO submission, paras. 6 and 14. See also [A/HRC/44/9](#), para. 142. 211 (Canada).
- ⁵³ UNESCO submission, para. 18.
- ⁵⁴ [CCPR/C/KEN/CO/4](#), para. 7. See also United Nations country team submission, p. 5.
- ⁵⁵ United Nations country team submission, p. 10.
- ⁵⁶ [CCPR/C/KEN/CO/4](#), paras. 26 and 27.
- ⁵⁷ United Nations country team submission, p. 16.
- ⁵⁸ [CAT/C/KEN/CO/3](#), paras. 37 (a) and (b) and 38 (a) and (b).
- ⁵⁹ [CCPR/C/KEN/CO/4](#), para. 19 (d). See also United Nations country team submission, p. 6.
- ⁶⁰ [CCPR/C/KEN/FCO/4](#), para. 19.
- ⁶¹ [CAT/C/KEN/CO/3](#), paras. 39 and 40. See also United Nations country team submission, p. 13.
- ⁶² [CCPR/C/KEN/CO/4](#), paras. 18 (a) and 19 (a).
- ⁶³ [CCPR/C/KEN/FCO/4](#), paras. 6–9.
- ⁶⁴ [CCPR/C/KEN/CO/4](#), paras. 18 (b) and 19 (b).
- ⁶⁵ [CCPR/C/KEN/FCO/4](#), paras. 12–14.
- ⁶⁶ United Nations country team submission, pp. 12 and 13.
- ⁶⁷ Ibid., pp. 13 and 14.
- ⁶⁸ [CCPR/C/KEN/CO/4](#), para. 51 (a)–(c).
- ⁶⁹ See communication KEN 4/2023, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28613>.
- ⁷⁰ [CAT/C/KEN/CO/3](#), paras. 43 and 44. See also [CCPR/C/KEN/CO/4](#), paras. 12 and 13; and United Nations country team submission, pp. 2 and 3.
- ⁷¹ [CCPR/C/KEN/CO/4](#), para. 13 (c).
- ⁷² United Nations country team submission, p. 14.
- ⁷³ [CAT/C/KEN/CO/3](#), paras. 25 and 26 (a) and (b). See also [CCPR/C/KEN/CO/4](#), paras. 36 (b) and 37 (b); and United Nations country team submission, p. 15.
- ⁷⁴ United Nations country team submission, p. 15.
- ⁷⁵ [CCPR/C/KEN/CO/4](#), paras. 38 and 39.