

I. Executive summary

This report covers the period 2010-2014, Kenya having undergone the first cycle of UPR review in 2010. The report illustrates the development and assessment of the recommendations that the state accepted during the first review; it also assesses the progress made by the state in the protection, fulfilment and respect of human rights in Kenya. During this period, a new constitution was promulgated which formed a basis for far reaching institutional reforms including the judiciary, electoral process, security sector amongst others. The constitution also sets out two tiers of government; the national and county governments and elections were subsequently held on 4th of March 2013. Kenya Stakeholders Coalition on the Universal Periodic review (KSC-UPR) has been consistently monitoring the implementation of the recommendations that the state accepted; from the first report, it is apparent that the state has made some considerable progress in some areas whereas it has lagged behind in others.

II. Methodology

This report was prepared by National and grass root organisations working on the promotion and protection of human rights in Kenya and which under the umbrella, KSC-UPR comprise,¹ The coalition was facilitated and coordinated by KNCHR which undertook a broad consultative process drawing from the periodic assessment reports prepared by the coalition, including the state mid-term report to the Human Rights Council. The stakeholders were clustered into thematic clusters; Children Rights, women Rights, disability Right , youth, sexual Minorities, Civil, Political Rights and Gender Minorities based on each stakeholders area of interest. The information gathered by each cluster was collated and validated by KSC-UPR.

III. Normative framework

Since the promulgation of the Constitution in 2010, Kenya has transformed from a dualist into a monist State. Article 2 (6) of the Constitution, provides that all treaties ratified by Kenya shall form part of the laws of Kenya. Article 21 (4) of the Constitution specifically requires that the State enacts and implements legislation to fulfill its international obligations in respect of human rights and fundamental freedoms. Thus, while ratified treaties are part of Kenyan law, the need for implementing legislation to achieve the aims of those treaties is acknowledged and for practical purposes required; to this end the

state has also put in place legislative framework for domestication of international treaties².

Kenya has however not ratified most optional protocols therefore limiting the avenues for redress for its citizens.³

IV. PROGRESS MADE IN REALIZATION OF RIGHTS

A. Civil Political rights

Access to Justice

Judicial Reforms

1. There is significant progress in the enhancement of public confidence in the judiciary⁴ attributed to the ongoing reforms including the vetting of judicial officers, which is yet to be completed.⁵ The rule of law, however, has been under threat as the executive and legislature have consistently disobeyed court orders.⁶ The removal of the Chief Registrar for alleged abuse of office sparked protests from within the executive and legislature,⁷ which resulted in a stalemate. During the last financial year⁸, budgetary allocation to the Judiciary increased from Kshs. 15.4 billion to 16.1 billion. This, however, is below the estimated amount of 24.1 billion requested by the Judiciary.⁹ The Legal Aid and the Small Claims Court Bill which are intended to promote representation and expediency are yet to be enacted.¹⁰

2. Recommendations: i) Enact Equal Opportunities Bill 2007, Legal Aid Bill and Small Claims Court Bill ii) increase budgetary allocation to the Judiciary to ensure the realisation of the Judiciary Transformation Framework iii) The Executive and Legislature should respect the independence of the Judiciary iv) promote Alternative Dispute Resolution to enhance access to justice at the lower levels of the society v) develop an Administration of Justice Policy which will address principles of access to justice and public interest education v) take measures to address corruption within judicial system.

Electoral Reforms

3. There have been significant developments with regard to electoral reforms including the requirement of a six month timeline to finalise all electoral disputes. This can be attributed to the establishment of the Judiciary Working Committee on Electoral Preparation, which advised, managed and developed administrative measures for the efficient management of disputes. There have, however been concerns with regard to the amendment of electoral laws which have weaken electoral democracy.¹¹ There have been concerns that the Independent and Boundaries Electoral Commission is not credible in conducting elections¹²; thereby eroding public confidence in the institution.

4. Recommendations: i) The Independent Electoral and Boundaries Commission (IEBC) should build its capacity to conduct credible elections. ii) Ensure a transparent electoral process by continuously undertaking the voter registration and procuring electoral materials in time.

Transitional Justice

5. The Truth Justice Reconciliation Commission (TJRC) completed its report and handed it to the President on 21st May 2013. The report, however, has not been implemented despite the clear framework for implementation. There are also concerns that the land chapter of the report was edited without the consensus of all commissioners and as a result the land chapter was not signed by all commissioners¹³ but instead authored a dissenting chapter.

6. Recommendations: i) publicise the TJRC report and implement all the recommendations ii) make public the dissenting Land Chapter.ii) Put in place an implementation framework

Post-Election Violence

7. Though the trials of suspected high-level perpetrators are ongoing,¹⁴ low and medium-level perpetrators have not been prosecuted thereby entrenching the culture of impunity. The International Crimes Division of the High Court that was anticipated to try the low-level perpetrators has not been set up despite the state indicating that it was and/or is willing to set it up. Some of the victims of the Post election violence are yet to be compensated

8. Recommendations: i) The State should take measures to investigate and prosecute the low-level perpetrators ii) set up the international Crimes Division of the High Court.iii) Compensate all victims of Post Election Violence. iv) Strengthen the National Cohesion and Integration Commission.

Freedom of Information and Expression

9. The State committed to the Open Government Partnership (OGP)¹⁵ process. The government, however, has not reported on the implementation of the country action plan where two key outputs were the enactment of the Access to Information Bill 2013 and Data Protection Bill 2013 by November 2012. Both Bills are yet to be tabled in Parliament.

The State continues to enforce laws contrary to international and regional freedom of information standards,¹⁶ secrecy and other laws without revising them despite the adoption of the Constitution which requires that all legislation at variance with the Constitution be reviewed.¹⁷

Whereas press freedom in Kenya is relatively free there continues to be tensions between the government and media manifested in the form of threats, attacks and harassment to journalists which has curtailed media freedoms.¹⁸ Two controversial media laws were passed by Parliament and assented to by the

President in January 2014.¹⁹ These laws have been enjoined from being operationalised pending a court case²⁰ challenging provisions in both laws as being unconstitutional.

10. Recommendations: (i) review all laws in line with international standards on freedom of expression and information including enacting the Access to Information Bill, 2012 and the Data Protection Bill, 2012. (ii) Invite the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. (iii) Develop a legal framework that protects the freedoms guaranteed in the Constitution but is responsive to the ever emerging challenges related to ICT.

Torture

11. The Constitution²¹ has made torture a non-derogable right. Despite this, the same still persists and is being perpetrated by State officials. Between September, 2013 and February, 2014, 57 cases of torture were documented of which the National Police Service was responsible for 42 the cases.²² National police service Act²³ prohibits torture by police officers; however, there have been neither investigations nor prosecution for perpetrators of torture.

12. Recommendations: (i) enact the Prevention of Torture Bill; (ii) ratify the Optional Protocol to the Convention against Torture and other cruel inhuman and degrading punishment. (iii) Implement all concluding observations made by Committee against Torture²⁴

Counter Terrorism

13. In 2012, the government enacted the Prevention of Terrorism Act allowing for “the limitation of the freedom of *security of a person* to the extent of allowing investigations.” In practice this has been exploited to torture suspects under the guise of investigative necessity. In April the government conducted a security operation dubbed ‘operation usalama watch’ in the Eastleigh and south c sections of Nairobi areas largely inhabited by ethnic Somali community. An estimated 4,000 people were arrested and held incommunicado at the Kasarani Stadium under deplorable conditions.

14.Recommendation; (i) respect the rights of persons suspected of acts of terrorism (ii) stop ethnic and religious profiling in counter terrorism measures(iii) strengthen its intelligence gathering to inform appropriate security operations.

Protection of Human Rights Defenders

15. HRDs continue to experience intimidation, threats, harassment, attacks, arbitrary arrest and detention, malicious prosecution, death threats and sometimes killing. Recently, a former BBC journalist, Ms. Lucy Hannan, a long term resident of Kenya was declared *persona non grata* in December 2013 for alleged acts of subversion; the killing of Hassan Guyo, the director of a human rights NGO who was allegedly shot on 7th August, 2013 by members of the Kenya Defence Forces in Moyale in Marsabit County; the

arrest of HRDs who were charged with the offence of rioting after proclamation which attracts the punishment of life imprisonment.²⁵

16. Recommendations: (i) ensure the effective protection of human rights defenders against harassment or persecution. (ii) Put in place policies to implement the provisions of the UN Declaration on Human Rights Defenders (iii) extend an invitation to the Special Rappaporteur on HRDs.

Death Penalty

17. The state has acknowledged that the death penalty had not been applied since 1987. The *de facto* moratorium on the death penalty and the President's initiative to commute 4,000 death sentences in 2009, However, 1600 have been committed to death row raising concerns about the states willingness to abolish the death penalty.

There have been legal uncertainties following the various High Court judgments²⁶ on the application of mandatory death sentence for capital offences. The state, in its mid-term report in 2012, recommended the ratification of the 2nd Optional Protocol to the International Covenant on Civil and Political Rights, which aims at abolishing the death penalty.

18. Recommendations ;(i) ratify the 2nd Optional Protocol to the International Covenant on Civil and Political Rights

B. Economic and Social Rights

Water & Sanitation

19. The Constitution²⁷ recognises the right to water and sanitation. Despite this provision, access to safe water and sanitation is wanting²⁸ and few Kenyans access piped water.²⁹ The government is in the process of reviewing the legal framework on water to align the sector with constitutional provisions on access to water and sanitation.³⁰ The reduction of budgetary allocations³¹ by the government and the lumping of water as part of the budget earmarked for environment, water, irrigation and housing is a threat to the progressive realization of the right to water and sanitation.

20. Recommendations: (i) distinguish the amount allocated for water and sanitation from the estimate for environment, water, irrigation and housing in order to enhance it as a priority. (ii) Adopt the draft National Water Policy and enact the Water Bill, 2014.

Right to Housing

21. The right to housing is guaranteed under the Constitution³² but despite this, more than 34% of Kenya's total population lives in urban areas and of this, more than 71% are confined in informal settlements. Though the state adopted a national housing policy in which it promised to progressively realize the right to housing for all of its citizens. However, the government has failed to provide accessible and affordable housing to millions. There is a weak, outdated institutional framework to

facilitate housing development for low-income people and a lack of appropriate legal framework and guidelines for informal settlement activities. Statistical data and other information relevant for planning and decision making purposes are not available.

22. Recommendations: (i) revise the National Housing Policy and the Draft Housing Bill to, make reasonable provisions, within its available resources, to ensure adequate access to housing especially for the most vulnerable and marginalized groups

Right to Education

23. The state has made positive steps in the realization of the right to education which is anchored in the constitution. Though the state ought to be commended for sustaining the free primary education and free day secondary education the sector is facing numerous challenges including; insufficient allocation of funds³³ increase in student teacher ratio, insufficient budgetary allocation of funds to special need education, low transition rate of girls from primary school to secondary school³⁴. Poor remuneration of teachers and university lecturers has had a negative effect on the quality of education since most of the time the teachers and Lecturers are engaged in industrial action. The high cost of university education is likely to lock out many students from accessing education.

24. Recommendations: (i) address gender and regional disparities in access to Education (ii) implement the policy on alternative provision of basic education and training for children in urban slums and other informal settlements. (iv) Reduce the student teacher ratio in public schools and ensure that the quality of education (iv) increase budgetary allocation for free primary education and free day secondary education, special needs education.

Right to Health

25. Since 2013, the State has been in the process of devolving the provision of health services as stipulated in the Constitution³⁵ and the entire health sector to the County governments. However, the process has been rushed thereby compromising the provision of health services to the citizens. Further, the County governments have limited capacity to manage the provision of healthcare services hence, health services have remained inaccessible, unaffordable and of low quality. Unsafe abortion is still a leading cause of maternal mortality and morbidity³⁶.

26. Recommendations: Increase Budgetary allocations to the health sector (ii) implement the various recommendations and concluding observations of various treaty bodies relating to the rights to health³⁷(iii) guarantee the enjoyment of free maternal services by mothers in Public hospitals by enacting enabling legislation

C. Group Rights

Women's Rights

27. Since the last review the state has made substantial progress³⁸ in the protection of the right of women; however, in practice the state has not respected the constitutional Provision in respect to public appointments³⁹. Though the state has put in place measures to ensure that women achieve socio-economic empowerment, women have raised concerns as to the accessibility⁴⁰. Access to reproductive health rights is still a challenge⁴¹ despite the states directive⁴² that women can access these services free of charge. Though the constitution⁴³ has put in place measures to address the inequality between men and women in the political sphere, women are yet to enjoy⁴⁴ the stature in the political process.

28. Recommendations ;(i) respect and implement the two third gender rule in appointment and elective posts including participation of women in Political Parties. (ii) Ensure women have access to sexual and reproductive health rights. (iii) Streamline the economic funds meant for empowerment of women to ensure greater participation and access to the funds by women.

Refugee Rights

29. Since the Kenya Defence Forces entered Somalia in October 2011, the registration of refugees and asylum seekers in both urban and camp centres has been discontinuous. More recently, the government has attempted to enforce encampment⁴⁵ and in so doing, has induced *refoulement* in contravention of the signing of a Tripartite Agreement between UNHCR, the Kenya government and the government of Somalia in November 2013. In addition to the inability to access services as a result of non-registration and punitive measures against undocumented persons, recent terror attacks have compounded the already precarious protection environment of refugees with cases of harassment, extortion and discrimination being documented by Human Rights Watch.⁴⁶

Refugee children

30. Women and children comprise the largest population⁴⁷ of refugees in Kenya. They are notably susceptible to sexual violence, human trafficking, as well as maternal and reproductive health difficulties.⁴⁸. Refugee children experience specific protection needs including inadequate number of case workers;⁴⁹ foster parents; weak referral pathways among agencies; lack of education services; lack of satellite field officers; inadequate logistical support to enable efficient and effective case management; lack of recognition of tracing as a right for unaccompanied minors and separated children as provided by law⁵⁰ which exacerbates their existing protection challenges.

31. Recommendations: (i) hold accountable all security officers found culpable of perpetrating human rights abuses against refugees. (ii) Uphold commitments under the Tripartite Agreement to guarantee the voluntary repatriation of Somali refugees in safety and in dignity. (iii) Explore all durable solutions including local integration in order to appropriately respond to the protracted nature of refugees in Kenya.

Internally Displaced Persons (IDPs)

32. The government enacted the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2013 which came into force in January 2014. The Act, however, is yet to be operationalised and in the absence of measures to constitute the National Consultative Coordination Committee (NCCC) intended to oversee the implementation of the Act, the government is flouting its national obligations by resettling IDPs without regard to due process as elaborated in the Act.

33. Recommendations: (i) constitute the NCCC in order to guide implementation of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act. (ii) Enact the Evictions and Resettlement Bill.

Youth Rights

34. Young people⁵¹ are experiencing challenges with finding decent and sustainable employment. The education system has not been responsive to the evolving needs of the job market, thereby leading to high unemployment of the youth.⁵² Though the representation in Parliament and County Assemblies was a major milestone, the Government has not been keen on ensuring youth are represented in appointive positions.⁵³

35. Recommendations: (i) Develop and operationalize all Youth related Policies including Youth employment policy, National Action Plan, National Loans Guarantee programme among others to ensure that they are responsive and adaptive to the evolving challenges facing the youth

Persons with Disabilities (PWDs)

36. There have been positive steps towards realization of rights of persons with Disabilities. The promulgation of the Constitution safeguarded the rights for persons with disabilities such as protection from discrimination, opportunities for political participation⁵⁴, to be respected and treated with dignity, access to education, healthcare services and transport equally with others in the society.⁵⁵ The state has put in place a cash transfer⁵⁶. With regard to employment and economic opportunities, the procurement law was reviewed from 10% to 30% of all public procurements to be reserved for PWDs⁵⁷. Despite these milestones, there are areas of concern that the state need to commit to reform. PWDs continue to experience difficulties in accessing education, healthcare services and accessibility specifically physical access, transport and information. In addition, statistics and data on PWDs pose another challenge since there is no consistency on data provided on total number of PWDs. Finally, the state need to initiate

process of implementing Article 12 of the CRPD as this has adversely affected access to justice especially for persons with intellectual disability, ownership of property, right to health care specifically reproductive health and operation of bank accounts.⁵⁸

37. Recommendations: (i) fast track and adopt the Draft National Action plan on accessibility. (ii) The State should develop a comprehensive medical insurance policy and law to cover PWD (iii) fast track enactment of Persons with Disabilities Amendment Bill 2014 as well as finalization of the Draft National Disability Policy 2014.⁵⁹ (vi) Sign and ratify the option protocol on CRPD.

Sexual Orientation

38. Despite the elaborate provisions in the Constitution⁶⁰ that prohibit discrimination, sexual minorities continue to face discrimination and persecution on the basis of their sexual orientation and the criminalisation⁶¹ of same sex activity.

39. Recommendations: i) Align all laws to the constitution

Child Rights

40. The state has made some progress on child rights since the last review, however; Critical legislations have not been enacted⁶², the concerns still remain that there is need to raise the age for criminal responsibility from eight to twelve years. Despite the enactment of the Counter Trafficking in Persons Act in 2012, Law enforcement agencies are still not well versed with the provisions of the law, despite an existing legal framework;⁶³ harmful cultural practises remain rampant in various regions of the country.⁶⁴ Though the state has ratified the convention on the rights of the child it has not acceded to the 2nd and 3rd optional protocols to the CRC which would have provided greater protection to children.

41. Recommendation: ratify 2nd and 3rd Optional Protocol to the CRC (ii) enact the Child Justice Bill and the Children Act (Amendment) Bill. (iii) Develop a national plan of action on counter trafficking (iv) fully implement the Prohibition of FGM Act

Gender Minorities

42. The effort made by the state in developing National guidelines for the management of gender identity disorder is acknowledged. The state has also been effecting changes of names in passport but has been demanding for proof of full medical transition for transgender people to effect changes of names and gender marks in their identity cards. **Recommendations,** (i) finalize the development of National Guidelines for management of Gender Identity Disorders in consultation with the transgender community (ii) put in place measures to stop discriminatory practices and negative attitudes towards transgender /transsexual people in Kenya.

Rights of Indigenous Groups and Minorities

43. Most of the recommendations made in the previous reporting cycle have not been implemented by the State. For instance; it has not fully committed to implement the recommendations of African Commission on Human and People's Rights (ACHPR) on the Endorois Community Land case⁶⁵ and in relation to the Ogiek Community Land case⁶⁶.

With the discovery of natural resources in Kenya¹ the rights of indigenous people have not been respected given that most natural resources are located in areas where the indigenous communities live.

In the recent past there have been increase in insecurity intertwined with cattle rustling which has been attributed to conflict over land boundaries and due to cultural practices, this has caused displacement of communities. Disarmament exercises that have been conducted by the state have resulted in human rights violations.

44.Recommendations: (i)ratify ILO convention 169 to promote and protect the rights of the indigenous people ii) put in place a legislative framework that will give effect to the UN guiding principles on Business and human rights

Older Persons

45. The state is commended for adopting the National Social Protection Policy 2012 and enacting the Social Assistance Act 2012. Older persons in Kenya however continue to face numerous challenges in enjoying their rights which include social protection and access to medical services amongst others. They also experience abuse in the form of killing⁶⁷ through lynching, shooting, battering and rape.⁶⁸ There has been a significant allocation of funds to older persons from KES 1 billion (2012/13) to KES 3.2 billion (2013/14) but the number of older persons accessing these services are few.

46. Recommendations: i) fully implement the Social Protection Policy and the Social Assistance Act. ii) Enhance access to social Protection Programmes by older persons (iii) subsidize the cost of common commodities and services for older persons

ANNEX 1

END NOTES

¹ The Kenya National Commission on Human Rights (KNCHR), The Kenyan Section of the International Commission of Jurists (ICJ Kenya), East African Center for Human Rights (EACHRights), National Coalition of Human Rights Defenders, ARTICLE 19, Independent Medico-Legal Unit (IMLU), Transgender Education and Advocacy, CRADLE – The Children’s Foundation, Federation of Women Lawyers (FIDA-Kenya), Centre for Minority Rights Development (CEMIRIDE), Protection International, Family Health International (FHI), Transgender Education Advocacy (TEA), Youth Agenda (YAA), Pastoralist Development Network of Kenya (PDNK), Gay, Lesbian coalition of Kenya (GLACK), National Gay and Lesbian Human Rights Commission, Women Caucus, CRECO, APDK, ESP among others.

² The Treaty Making and Ratification Act available at www.kenyalaw.org

³ Such as the Second Optional Protocol to the abolition of the death penalty

⁴ ICJ Kenya’s public perception and opinion survey of the judiciary released on the 3rd October 2012 and available at www.icj-kenya.org.

⁵ “Judges vetting team hits snag” published in the Daily Nation on March 15, 2014 accessed at <http://mobile.nation.co.ke/news/Judges-vetting-team-hits-snag/-/1950946/2245782/-/format/xhtml/-/ye16qpz/-/index.html> on 23/5/14.

⁶ with for instance, parliament discussing the impeachment of governor Martin Wambora in spite of a court order explicitly prohibiting it. <http://mobile.nation.co.ke/news/Court-suspends-Senate-decision-to-impeach-Wambora/-/1950946/2315528/-/format/xhtml/-/1031log/-/index.html> accessed on May 27, 2014.

⁷ Particularly over which body was competent to review the decision to remove her; http://www.standardmedia.co.ke/mobile/?articleID=2000098447&story_title=shollei-now-to-move-to-court-of-appeal&pageNo=1 accessed on May 27, 2014.

⁸ 201/2014 Financial year

⁹ GOK 2013/2014 budget statement, available at <http://www.parliament.go.ke/plone/national-assembly/news/budget-statement-for-the-fianancial-fiscal-year-2013-2014-1st-July-2013-30th-June>

¹⁰ Article 48 Constitution of Kenya

¹¹ Late amendments to the Elections Act made the pre-election timelines too short and very difficult for political parties and the IEBC to attain the high standards demanded of them by the Constitution for the nomination and vetting of candidates. Also, some candidates who won their High Court bid to be on the ballot were still excluded,

European Union, Election Observation Mission to Kenya, General Elections 2013 Final Report

¹² http://www.africog.org/sites/default/files/Election_Day_2013_and_its_Aftermath.pdf

¹³ Commissioners; Gertrude Chawatama, Prof. Ronald Slye and Amb. Berhanu Dinka authored a dissent to the Land Chapter

¹⁴ *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* and *The Prosecutor v. Uhuru Muigai Kenyatta*

¹⁵ A government and civil society commitment to promote transparency and accountability in government

¹⁶ Defamation remains a criminal offence in Kenya even after sections of the Penal Code were repealed. Journalists continue to be charged with sedition or seditious libel and exorbitant amounts continue to be awarded by the courts. The Penal Code also offers special protection to the President, Cabinet Secretaries and Parliamentary officials an

¹⁷ These include the Official Secrets Act, 1968 which gags public officers from speaking about government matters and the Public Officers Ethics Act, 2003 which fails to make adequate provisions for access to information regarding wealth declaration.

¹⁸ Parliament and the media went head to head in June 2013 when a directive was issued by the National Assembly Clerk that ordered journalists to leave the parliamentary media centre. Journalists are now only allowed access to the press gallery to report on Parliamentary proceedings. Efforts by media stakeholders for the re-opening of the parliamentary media centre continue.

¹⁹ The Media Bill 2013 and the Kenya Information and Communications (Amendment) Act, 2013

²⁰ http://www.standardmedia.co.ke/m/story.php?articleID=2000103635&story_title=Win-for-media-as-court-blocks-CS-Matiangi accessed on May 26, 2014.

²¹ Article 25 of the Constitution of Kenya

²² According to Independent Medico Legal Unit (IMLU). See www.imlu.org

²³ Section 95 National Police Service Act, 2011 makes it unlawful for a police officer to subject a person to torture, cruel and inhuman treatment.

²⁴ *Concluding observations of the Committee against Torture-CAT/C/KEN/CO/1 CAT 2009 and CAT/C/KEN/2 CAT 2013*

²⁵ Four activists were arrested in February, 2014 for participating in a demonstration. Source: <http://www.standardmedia.co.ke/sports/article/2000104931/state-of-the-nation-protestors-charged#/> accessed on May 26, 2014.

²⁶ *Mutiso v Republic, Court of Appeal Mombasa, Criminal Appeal No.17 of 2008.*

²⁷ Article 43(1) (d)

²⁸ Joint monitoring programme by WHO and UNICEF in 2012 indicated that access to safe water in Kenya was 59% while access to improved sanitation was 32%.

²⁹ Estimates by World Bank put nationally piped water coverage at between 42% and 59%, which leaves millions of citizens without easily accessible water.

³⁰ A call for memoranda on the Water Bill, 2014 was published for submission to the Clerk of the National Assembly by May 7, 2014.

³¹ The sector experienced a reduction in budgets from KES 38.6 billion in 2010/2011 to KES 28.8 billion in 2011/2012.

³² Article 43(1)(b) guarantees the right to accessible and adequate housing and a reasonable standard of sanitation

³³ www.ieakenya.or.ke/publications/doc.../277-budget-guide-2013-

³⁴ *ibid*

³⁵ Schedule 4 of the Constitution of Kenya

³⁶ *Incidence and Complications of Unsafe Abortion in Kenya: Key Findings of a National Study* (Nairobi, Kenya: African Population and Health Research Center, Ministry of Health, Kenya, Ipas, and Guttmacher Institute 2013)

³⁷ State should consider implementing the recommendations made by the committee on the rights of the child and those by CEDAW the concluding observation are contained in the following documents; [CRC/C/15/ADD.160 \(CRC, 2001\)](#), [CEDAW/C/KEN/CO/7 \(CEDAW, 2011\)](#), [CEDAW/C/KEN/CO/6 \(CEDAW, 2007\)](#)

³⁸ Marriage Act, Matrimonial Property Act, have all been enacted into law, While the Protection from Domestic Violence Bill is at an advance stage of enactment; Also see Article 27(8) and 81(b) of the Constitution of Kenya

³⁹ See www.awcfs.org/.../publications/.../Kenyan-woman?...Kenyan-woman

⁴⁰ www.sciedu.ca/journal/index.php/ijba/article/download/873/

⁴¹ www.knchr.org/Portals/0/Reports/Reproductive_health_report.pdf

⁴² <http://www.knchr.org/Portals/0/EcosocReports/Implementing%20Free%20Maternal%20Health%20Care%20in%20Kenya.pdf>

⁴³ Article 27(8) and 81(b), Constitution of Kenya

⁴⁴ International Parliamentary Union(IPU), Situation as of 30 September 2012 <http://www.ipu.org/wmn-e/world.htm>

⁴⁵ Through a press release published in December 2013 and subsequently in March 2014 despite a ruling in *Kituo cha Sheria Vs Attorney General Petition No 19 of 2013* which declared encampment to be un constitutional.

⁴⁶ **“You are all terrorists: Kenyan police abuse refugees in Nairobi”** Human Rights Watch, March 2013.

⁴⁷ According to UNHCR Nairobi, Population Statistics by Country of Origin, Sex and Age Group, as at 11th Feb 2014, there are a total of 149,387 registered refugee children and children seeking refugee status. In Dadaab refugee camp there is an estimated 72,561⁴⁷ while in Kakuma there is an estimated number of 76,826⁴⁷ and Nairobi 16,207

⁴⁸ **The Moved and the Shaken: How Forced Relocation Affects the Lives of Urban Refugee Women and Girls’** Heshima Kenya, 2013

⁴⁹ Pediatric counselors and social workers

⁵⁰ The Refugee Act, 2006 Section 23 and Section 6(3) of the Children Act, 2001

⁵¹ The youth (persons of between 18 to 35 years) are an integral part of the Kenyan society constituting 35.4% of the 78.3% total percentage of Kenya’s population of young people below 35 years (Youth Fact Book, IEA 2010)

⁵² Young people between 15 – 16 join the labour market with an unemployment rate of above 20%, unemployment for people aged about 20 is 35%, for people aged 25 is 25% and for people aged 35 is 15% which are considered high for a country with large informal and traditional sectors. Kenya’s Youth Employment Challenge, UNDP Discussion Paper, January 2013

⁵³ The Constitution provides for opportunities for youth to participate and be represented in political sphere. For instance, all County Assemblies have at least 4 youth nominated to the Assembly from marginalized groups. Adding to the elected, at least 441 members of county assemblies are youth. Further, the youth celebrates of having the highest representation in history. This includes three elected senators, eight nominated senators, eight women representatives, 22 Elected Members of National Assembly and 5 Nominated Members of National Assembly.

⁵⁴ Following the March 4th 2013 election, persons with disabilities were both elected and nominated in various political positions as follows: 12 members to National Assembly and Senate and 72 members of County Assemblies

⁵⁵ Article 7, 20 (5) (b), 21, 27 (4), 28,43, 54, 97 (1),98 (1) and 177(1) (c)

⁵⁶ programme launched in 2011 which targets individuals with severe disabilities and for the past three years government has increased budget allocation which has seen increase in number of beneficiaries from 14700 to 29400 households

⁵⁷ all public offices are required to employ persons with disabilities in compliance with the 5% percent constitutional threshold and Public Service Commission Code of Practice on Disability Mainstreaming

⁵⁸ There still exist laws that undermine right to legal capacity. These include the Mental Health Act, The Civil Procedure Act and Civil Procedure Rules, Children’s Act, Constitution of Kenya 2010, Evidence Act, Sexual Offences Act and the Marriage Act 2014.

⁵⁹ Briefing paper on legal capacity for PWDs in Kenya provides status information on right to legal capacity as well as recommendations on how to ensure PWDs enjoy their right to legal capacity. The Briefing Paper is available on <http://www.knchr.org/Portals/0/GroupRightsReports/Briefing%20Paper%20on%20Legal%20Capacity-Disability%20Rights.pdf>

⁶⁰ Article 27 of the Constitution of Kenya, 2010

⁶¹ Section 162, 163 and 165 of the Penal Code (Cap. 63) of the Laws of Kenya available on www.kenyalaw.org

⁶² Child Justice Bill and children Act(Amendment)Bill

⁶³ Children Act, 2001and the Prohibition of Female Genitale Mutilation Act, 2011.

⁶⁴ A recent survey shows approximately 4,300 girls in West Pokot are circumcised annually and 2,400 others forcefully married at tender ages.

⁶⁵ Communication 276/2003.The African Commission recommended that the Respondent State:
(a) Recognize rights of ownership to the Endorois and Restitute Endorois ancestral land. (b) Ensure that the Endorois community has unrestricted access to Lake Bogoria and surrounding sites for religious and cultural rights and for grazing their cattle. (c) Pay adequate compensation to the community for all the loss suffered. (d) Pay royalties to the Endorois from existing economic activities and ensure that they benefit from employment possibilities within the reserve. (e) Grant registration to the Endorois Welfare Committee. (f) Engage in dialogue with the Complainants for the effective implementation of these recommendations. (g) Report on the implementation of these recommendations within three months from the date of notification.

⁶⁶ Application No. 006/2012. The provisional measures are as follows: 1) The Respondent (State) immediately reinstates the restrictions it had imposed on land transactions in the Mau Forest Complex and refrains from any act or thing that would or might irreparably prejudice the main application before the Court until the final determination of the said application; 2) The Respondent reports to the Court within a period of fifteen (15) days from the date of receipt hereof, on the measures taken to implement this Order.

⁶⁷ Over 250 cases of lynching and killing of older persons has been documented in Kilifi region alone since 2008

⁶⁸ especially in the areas of Kirinyaga, Naivasha, Nyamira, Kisii, Kilifi