

United Nations Country Team - Kenya
Universal Periodic Review Report - 2nd Cycle January 2015

I. Background and framework

A. Scope of international obligations

1. Kenya is a State party to seven international human rights instruments¹ and not to nine others.²

B. Constitutional and legislative framework

2. Kenya adopted a new constitution in August 2010 with a strong Bill of Rights. It also promulgated within designated timeframe under Schedule V of the constitution legislations for the implementation of the Constitution. Despite these successes, some of these legislations constrain human rights and may not have had optimal public participation as required by the constitution.³

C. Institutional and human rights infrastructure and policy measures

3. As contemplated in the Constitution, Kenya established several constitutional commissions and oversight offices with mandates relating to the promotion and protection of human rights. They include the Kenya National Commission on Human Rights, The National Gender and Equality Commission, The Commission on Administrative Justice, The National Cohesion and Integration Commission and the National Land Commission. The implementation of the mandates of these commissions is amongst other things challenged by lack of programmatic funds and staff capacity. The human rights policy framework of Kenya was similarly consolidated in 2013 with the approval of a National Human Rights Action Plan by Cabinet. The implementation of the plan is awaiting parliamentary adoption.

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

4. Since 2010, Kenya has submitted reports to and been reviewed by the Committee on CEDAW, the Human Rights Committee, Committee on CERD and Committee on CAT. However, it is in default of its 2nd to 5th reporting deadline to CESCRC due 2013, its 3rd, 4th and 5th reporting deadline to CRC due in 2012, and its 1st reporting deadline to CRPD due in 2012.

B. Cooperation with special procedures

5. In 2011, Kenya accepted the request for country visit of the Special Rapporteur on Internally Displaced Persons and in 2012 the request of the Special Rapporteur on Access to Safe Drinking

¹ ICERD, ICESCR, ICCPR, CEDAW, CAT, CRC, OP-CRC-AC, CRPD. Kenya has also entered reservation to Article 10 (2) of the International Covenant on Economic, Social and Cultural Rights. This reservation has been overtaken by events with the passing of the Employment Act which in section 29 allows for maternity leave with full pay.

² ICRMW, OP-ICESCR4, ICCPR-OP1, ICCPR-OP2, OP-CEDAW, OP-CAT, OP-CRPD and Convention on Statelessness

³ The Marriage Act has a section that allows for polygamous marriages; The Kenya Information and Communications (Amendment) Act 2013 and the Media Council Act 2013 restricts press freedom and imposes a self-regulatory mechanism with and a government-controlled tribunal.

Water and Sanitation. Kenya is yet to accept requests from the Rapporteur on Torture and Enforced Disappearances, the Rapporteur on Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence and the Rapporteur on Independence of Judges and Lawyers. Kenya is also yet to provide a standing invitation to all UN Special Rapporteurs.

C. Cooperation with the Office of the High Commissioner for Human Rights

6. Prior to 2012, OHCHR collaborated effectively with the Ministry of Justice, National Cohesion and Constitutional Affairs and after 2012 has worked collaboratively with the Department of Justice in the Office of the Attorney General.

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

A. Equality and Non-Discrimination

7. The Constitution of Kenya guarantees equality and non-discrimination and provides for affirmative action to address gender equality. It enjoins government to take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.⁴ These have resulted in an unprecedented 25% increase in women's representation in legislative, judicial and executive arms of government. Nevertheless, the implementation of the constitutional provision of the two-third gender rule has suffered setbacks and has not met the 30% constitutional threshold due to absence of a policy and legislative framework.

8. Pursuant to Article 59 of the constitution, the National Gender Equality Commission (NGEC) was established in 2011 to support the promotion of gender equality and empowerment of women. The NGEC amongst other things developed the National Gender and Development Policy. However, the restructuring of line Ministries in 2013 led to the relegation of the then Ministry of Gender, Children and Social Development to a Gender Directorate under the present Ministry of Devolution and Planning.

9. There are various policies, legal, institutional and other frameworks in place to safeguard the sexual, reproductive and health rights of vulnerable groups. Kenya is also developing the National Gender Based Violence Policy. The existing sexual, reproductive and health frameworks have some gaps. In addition, the Post Care Rape Form developed by the Ministry of Health in addition to Police P3 Form for the purposes of monitoring progress on sexual and gender based violence and to strengthen forensic evidence have not been well disseminated by the MOH and effectively used by the police.

10. On women's and children's rights, positive developments include the enactment of the Prohibition of Female Genital Mutilation (FGM) Act (2011) and ongoing review of the FGM Policy. A national FGM Board was also established in December 2013 together with a special unit under the Office of the Director of Public Prosecution (ODPP) to fast-track the prosecution of FGM offences was set up in April 2014. Also, a Committee of 18 Prosecution Counsels has

⁴ Section 27 (8) Constitution of Kenya 2010

been constituted to support 21 counties with high FGM prevalence.⁵ While the Anti-FGM Board has not been fully operational, the implementation of FGM Act is equally challenged by prevailing cultural norms and traditional practices. On protection of people living with HIV, there is a HIV tribunal that promotes access to justice and HIV and AIDS Control Act.

B. Right to Life, Liberty and Security of Person

11. The right to life, liberty and security of the person are expressly guaranteed by the constitution of Kenya 2010. However, the enjoyments of these rights continue to be curtailed by the existing security risks and threats of violent armed conflicts within Kenya and in the Great Lakes and the Horn of Africa region. Armed criminal gangs and militia have fueled insecurity in both urban and rural locations often resulting in wanton loss of life and destruction of property. In some cases, extra judicial executions of alleged perpetrators of crime have impacted on the right to life. Terrorists' attacks in the recent past have caused loss of life and destruction of property. The real or perceived fear that war against terror could reverse gains in the protection of civil liberty at the expense of securing the country.

12. Violent conflicts in the northern regions of Kenya continue to curtail the protection of the right to life and security of the person. Inter-communal and inter-clan resources based conflicts, land disputes, politically instigated administrative boundary conflicts, and coupled with the presence of illicit small arms and light weapons (SALW) pose a great challenge to the right to life, liberty and security of the person.

13. However, the Government has initiated interventions aimed at addressing security risks and protecting the right to life and property. These include: the security sector reforms which have resulted to the creation of independent offices of the Kenya Police Service and the Police oversight and accountability institutions; employment of additional police officers to improve the police to population ratios; equipping police with critical equipment and incentives (housing, pay rise and insurance) in order to boost morale and improve efficiency; investment in local peace building and conflict management processes amongst communities including community security, peace and cohesion committees; civic awareness and education amongst the youth to counter crime and terrorist radicalizations as well as improving access to economic opportunities for vulnerable youth through government tenders and employment among others.

14. The Witness Protection (Amendment) Act 2010 has been enacted and the Witness Protection Agency (WPA) established. However, the WPA is challenged by lack of resources. Also, while there are ongoing efforts to enact the Prevention of Torture Bill, torture and extrajudicial killings by state security agents have been reported in the media particularly in the Coast region.

15. Although there is a moratorium on death penalty in Kenya, little progress has been made towards abolishing the death penalty in Kenya.

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

16. Significant progress has been made in implementing proposals made by the National Taskforce on Police Reforms. There has been slow progress in the adoption of two important

⁵ The Counties are Garissa, Taita Taveta, Nairobi, Kajiado, and Malindi

pending legislations for improved accountability of the police. (The National Coroner Bill and National Security Policy)

17. Progress has been made in terms of judicial reform. Underpinned by Chapter 10 of the Constitution, Kenya has developed a comprehensive 5-Year Judiciary Transformation Framework (2012-2016) which outlines policy, legal and institutional measures towards a reformed judiciary. Although the judiciary of Kenya is experiencing budget cuts, it has recruited judicial officers in an effort to make justice more accessible and embarked on vetting process that has strengthened public confidence and.

18. The implementation of the recommendations of the National Taskforce on Penal Reforms is ongoing. Progress has also been made towards improving the rights of persons deprived of their liberty and adherence by the prison authority to the minimum rules for the treatment of prisoners. However, there is need for increased national budgetary allocation to correctional institutions and the larger prisons reforms.

19. The Truth Justice and Reconciliation Commission (TJRC), established in 2008 completed its assignment and handed its final report to the President in 2013. The report was subsequently submitted to Parliament for consideration. The report has not been debated in parliament and the recommendations of the Commission are yet to be implemented.

20. In the fight against corruption, Kenya has instituted policy, legislative and institutional measures. It has passed the Ethics and Anti-Corruption Act 2011 and established the Ethics and Anti-Corruption Commission. It has also established an Anti-Corruption Division within the High Court. Despite these commendable efforts, corruption in public offices has been reported in national media.

21. Kenya has taken steps to cooperate with the International Criminal Court (ICC) including the appearance of the President and Deputy President at the ICC. However, the ICC Chief Prosecutor has made allegations of non-cooperation and witness interference against Kenya. Efforts are also ongoing in Kenya to establish an international crime division within the High Court.

22. On promotion and protection of child rights, a National Children Policy has been instituted. There are efforts also to consolidate juvenile justice approach through coordination between the Judiciary, Prisons, Police and Probation. However the enactment of the Children Act (amendment) Bill is pending.

D. Right to privacy, marriage and family life

23. Kenya has made considerable progress in the passage of gender related legislation including the Marriage Act, 2014 and the Matrimonial Property Act 2013. The positive element of Marriage Act is that irrespective of culture and religion the Act pegs the minimum age of marriage at 18 years.⁶ However, the Family Protection Bill and the Equal Opportunities Bill are still pending.

⁶ Section 4 of the Marriage Act, 2014

E. Freedom of movement

24. The Constitution provides for the right to free movement and guarantees freedom to all to enter, remain and reside anywhere in the country.⁷ Freedom of movement of urban refugees has been significantly restricted by a relocation directive in December 2012 and an encampment order issued in March 2014.

F. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

25. The National Cohesion and Integration Commission (NCIC) was established to strengthen national cohesion and integration. Kenya has also created local mechanisms such as District Peace Committees to redress inter-communal intolerance. While Article 33 of the Constitution provides for freedom of expression, there is an upsurge of hate speech, religious intolerance, negative ethnicity and stereotyping reported in national media.

26. On the right of access to information, even though the Constitution provides for it, the right of access to information, the Freedom of Information Bill has not yet been enacted to operationalize Article 35 of the Constitution. The Kenya Information Communication (Amendment) Act (KICA Act) 2013 creates a Communication and Multimedia Appeals Tribunal, which falls under the state-controlled Communication Authority. The Tribunal will have power to impose hefty fines on media houses and journalists, recommend de-registration of journalists and make any order on freedom of expression. Regarding safety of journalists, there is no specific law in place, although the Media Council of Kenya, established by the Media Council Act, 2013, to promote and safeguard media freedoms in the country is working on a protocol. Several initiatives, including the establishment of, a safety fund, trauma counseling, training on safety, and promoting dialogue between media and security institutions, have been promoted.

G. Right to work and to just and favorable conditions of work

27. While the constitution provides for protection of children from exploitative labor,⁸ elimination of child labor is also reinforced in the draft Child Labor Policy. The Basic Education Act 2013 also prohibits employment of children of school going age.⁹ To reinforce and operationalization these frameworks, the Government has institutionalized Child Labor Committees at the County level. Minimal government resource allocation has however slowed down the implementation of these legal frameworks and structural reforms.

28. Kenya has shown commitment in promoting decent work agenda in the work place. The Employment Act and the Decent Work Country Programme (DWCP-2013-2016) jointly prepared by government, employers and workers prioritizes the creation of decent jobs especially among the youth, social protection, elimination of child labour and enhancing social dialogue. The decent work agenda is designed to protect the rights of workers and maintain industrial harmony. It reaffirms commitment to the elimination of child labour. Opportunities to obtain work permits for the refugees legally residing in Kenya remain very challenging.

⁷ Article 39 Constitution of Kenya 2012

⁸ Article 53(1)(d) Constitution of Kenya 2012

⁹ Section 38, Basic Education Act 2013

H. Right to social security and to an adequate standard of living

29. Kenya has strengthened the fight against poverty through its cooperation with international development partners reflected in the adoption of the UNDAF 2014-17 and other international bilateral agreements. It is also currently implementing the National Social Protection Policy 2011 targeting vulnerable groups as well as the equitable distribution of resources to Country governments. However these social protection measures are yet to bridge social inequality gaps.

30. Kenya has initiated a number of anti-poverty programmes targeting women, youths and other vulnerable groups. For example, the Uwezo fund which provides interest free loans as start -up capital for micro and small enterprises has been established. The Uwezo Board has also been constituted and fund regulations put in place. The Uwezo initiative has been further reinforced by government policy on allocating 30% of government procurement contracts to the youth, women or people with disabilities. The Uwezo and other initiatives have been challenged by transparency and lack of evidence based transformative impact of these programmes on the intended beneficiaries.

31. On the other hand, the Social Protection Fund (SPF) has been set up to address drought and food crises through access to credit and cash transfer on flexible terms for poor and vulnerable households with older citizens above 65 years of age.

320. Access to water in Kenya has increased with the enactment of the Water Act 2012. The WHO/UNICEF Joint Monitoring Programme (JMP) for water supply and sanitation for 2010 also indicates improved national coverage at 61%. About 27.1% of the population, equivalent to 10.6 million residents, gets water from streams, lakes, ponds without proper treatment, which are categorized as “unimproved drinking water sources” (JMP). Disparities of access exist between urban and rural populations. Current water losses in urban water supply systems are estimated at 40% (National Water Master Plan 2030). With the projected three and half fold increase in domestic water demand from 2010 to 2030, there is need for improved integrated water resource management.

33. Kenya has put in place efforts to significantly reduce the number of populations chronically in need of food aid assistance in arid and semi-arid regions. It has established the National Drought Management Authority, developed the Medium Term Plan (2013 – 2017) on Drought Risk Management and Ending Drought Emergencies and the National Climate Change Action Plan (2013 -2017). However, statistics from the last four bi-annual food security assessments (2012-2013) show that on average, 1.9 million Kenyans are chronically have been in need of immediate food assistance aid and 65% of that population is women and children. The national budgetary allocation for agriculture however remains significantly low at 4.2% compared to the 10% threshold of CADeP, though the national development target for agriculture on the water sector in the Vision 2030 envisions the utilization of a million hectares of currently uncultivated land, and new cultivation of up to 1.2 million hectares of newly-opened lands.

I. Right to health

34. The Constitution enshrines the right to the highest attainable standard of health, which includes the right to health care services including reproductive health care, The Kenya Health

Policy Framework 2013 – 2030 promotes equity in the distribution of health services and interventions. It focuses on the ten top risk factors to health and also caters for displaced persons and refugees, at-risk and hard to reach populations including those living in informal settlements.

35. Kenya is developing the Health Bill 2014 and Maternal, Newborn & Child Health Bill. These Bills will regulate health care services and health care service providers and also establish a unified health system encompassing public and private sectors. They also seek to coordinate the inter-relationship between national and county health systems. Furthermore, Kenya instituted free maternity services financing that is expected to support improvements in access, infrastructure, and quality of care. Kenya is currently working on the Health Sector Gender and Equality Policy (2014-2020); and plans to update the National Reproductive Health Policy.

36. In 2012 the Government re-launched a family planning campaign to enhance uptake of family planning. However, more needs to be done however towards strengthening health systems and capacity building of health service providers.¹⁰ Despite implementing the recommendations of the Commission on Information and Accountability for Women’s and Children’s Health (CoIA), and other global initiatives towards accelerating survival of women, new-borns and children, inadequate progress by the country in reducing preventable deaths of women, new-borns and under-fives has been noted. Implementation and scale-up of interventions identified by the draft Child Health Policy, School Health Policy, National Reproductive Health Strategy, National eMTCT Strategy, draft National Social Accountability guidelines and other existing strategies is critical. High level political championship of the HIV response and male engagement in the realization of the objectives of the National eMTCT Strategy is required at all levels. Government funding to health remains low at approximately 5% of the national budget. Significant to note is that a major proportion of total health expenditure is still borne by households; with most of this being direct out-of-pocket spending.

J. Right to education

37. Progress has been recorded since 2010. At the normative level, the 2010 Constitution sets out the framework for right to education. The Basic Education Act, 2013 also emphasizes on access, standards and quality of education. Other legislative and policy instruments have been developed to address education issues in Kenya including promotion of gender equality in education.¹¹ Amidst this progress, a lot more needs to be done in respect to enhancing the right to education of marginalized communities including refugees living in the arid and semi-arid regions, learners living with HIV, as well as a large proportion of urban poor, living in informal settlements, in particular, in Nairobi.

38. The 2013 Economic Survey indicates that pre-primary enrollment increased from 1.7m to 2.4m between 2009 and 2011. However, pre - primary education funding has not received the attention it deserves. UNESCO’s 2013/14 Global Monitoring Right on Education for All (GMR) shows that while Kenya has made significant progress in achieving gender parity in primary

¹⁰ The policy seeks to embed in Kenya’s public health policies and programmes the understanding of gender as a significant determinant of health. The policy recognizes that economic, social and cultural barriers affect the ability of both women and men to reach and maintain optimal health.

¹¹ These include; the Gender in Education Policy; Affirmative Action Policy; and Sessional Paper No. 14 of 2012 and Child Friendly Schools Strategy

education and near parity at the secondary level, it does not mean that universal access to primary education has been achieved. The Government's school meals programme for pre-primary and primary school children, currently being implemented in the arid and semi-arid lands to increase enrolment, attendance of gender disparities. Enrolment to secondary education is also low for both boys (63%) and girls (57%). Similarly, while women's literacy rate has significantly increased as a result of positive government policies, gender disparity remains a challenge, as 33% of women in Kenya still lack basic literacy skills, compared with 22% of men. The same situation holds for tertiary education, particularly with respect to enrollment in Science, Technology Engineering and Mathematics (STEM), with few women, compared to men, opting for degree programmes in those fields.

K. Cultural rights

39. The Constitution¹² promotes positive culture practices and provides that no one shall be forced to undertake cultural practices against their will. This has been reinforced by legislations that prohibit FGM and other cultural practices such as early marriage and widow inheritance.

L. Persons with disabilities

40. The Constitution provides for protection of the rights of persons with disability and also provides for affirmative action in elective and appointive positions.¹³

41. In the education sector, the Basic Education Act, 2013 provides for establishment of learning institutions to cater for the needs of children with special needs. Through this Act, the government commits itself to ensure that every educational institution offering special needs education has appropriate personnel, infrastructure, learning materials and equipment both at national and county level. The government has also set aside cash transfer fund to address the needs of people living with albinism. However, limited resources compromise the quality of education offered to this vulnerable group.

M. Minorities and Indigenous Peoples

42. The Constitution recognizes the rights of minority and marginalized groups and has provided a framework for affirmative action to address issues affecting them. This includes the enactment of the Elections Act which allows minorities such as the Nubians and Ogieks to vote. However there are still undocumented cases of Nubians who are yet to be registered. The Government has also set up a task force to develop a framework for implementing the decision of the African Commission on the Endorois community.

43. The Constitution provides for a devolved system of government aimed at addressing self-governance at the grass root level by devolving decision making and service delivery to the people. This system coupled with constitutional clauses on affirmative action, national values and principles of governance provides for public participation at all levels of governance thus allowing minorities to take part in decision making especially at the county level.

44. In terms of addressing land rights of minority and marginalized communities, Kenya has adopted the National Land Policy and established two institutions; the National Land Commission

¹² Articles 11, 44 and 53(1) (d), of the Constitution

¹³ A judge of the High court and a Cabinet Secretary have since been appointed as a result of this provision.

and the Land and Environment Division of the High Court. Although the Constitution provides for registration of community lands, land ownership for minorities remains a challenge as the Communal Land Bill is yet to be enacted.

45. The National Gender and Equality Commission has been established, whose mandate includes advising the Government on the development and implementation of affirmative action policies and programmes and enhancing participation and inclusion of the minority and marginalized communities including the stateless communities.

46. The Government has nominated a member to the United Nations Permanent Forum for Indigenous Issues (UNPFII) of the United Nations Economic and Social Council to address the plight of indigenous peoples and particularly documentation of indigenous knowledge, practices and human rights of the vulnerable, marginalized, minority and indigenous communities.

47. The Ministry of Education is in the process of aligning the draft education policy and education bill to develop a coherent education strategy and implementation plan to address the needs of marginalized groups.

N. Migrants Refugees and Asylum Seekers

48. The Government of Kenya in line with national and international law has continued to generously provide asylum to hundreds of thousands of refugees with registered refugees exceeding half a million in 2014. Noting the unprecedented threats posed by terrorism, there has been strong call amongst the populace for all legitimate efforts, to safeguard the national security and safety of all people within Kenya. In doing this, the Government should strictly adhere to the principle of non-refoulement as the cornerstone of refugee protection and disregard any action or measure that lead to the profiling of refugees as terrorists or criminals.

49. A tripartite agreement governing the voluntary return of Somali asylum seekers and refugees was concluded between the Government of Kenya, the Government of the Federal Republic of Somalia and the UNHCHR in November 2013. While the implementation of the agreement is on-going, it appears that the Government of Somalia has denounced the agreement.

50. The Government of Kenya has maintained its encampment policy for refugees. Registration and documentation of asylum seekers and refugees in urban areas has been suspended since December 2012 which has led to thousands of asylum seekers and refugees being unregistered or undocumented. While Kenya Gazette Notice (2014) provides that refugee camps are the designated areas for refugees to reside, there is need for the exemption of certain categories of asylum seekers and refugees from relocation to the camps due to their individual protection risks and specific needs.

51. The prohibition of human trafficking in Kenya was achieved with the enactment of the Trafficking in Persons Act (2010). However, implementation of the act to support victims of trafficking remains a gap, as well as addressing issues of smuggled migrants who are not specifically codified in the act. The rights of Kenyan migrants, refugees and asylum seekers to return has also received positive support from the Government. Although there are laws in Kenya that seeks to protect the rights of migrant workers and their families, as demonstrated by the

Employment Act of 2007, Kenya is yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

O. Internally displaced Persons

52. Kenya has made strong progress in facilitating the return and resettlement of IDPs. Most of the IDPs following the 2007-2008 post-election violence have since been returned to their homes through operation *rudi nyumbani*. There has also been resettlement of several families on land purchased by the Government in the Rift Valley. However, there is need for the Government to address compensation issues surrounding integrated IDPs and identify long-lasting solutions for the affected populations.

53. Communal violence and displacements have emerged as a result of inter-communal and/or resource-based conflicts/ environmental conservation initiatives. The Government with support from national and international partners provided humanitarian assistance, deployed security forces and commissioned disarmament exercises in the affected areas.

54. The United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons visited Kenya in 2011 and 2014 and made recommendations part of which has already been implemented. In 2012, Kenya adopted the IDP policy and enacted the Internally Displaced Persons Act, which extensively incorporates the provisions of relevant international and regional instruments. However, Kenya has not ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

55. The Kenya Evictions and Resettlement Bill 2012 needs to be enacted. It aims to prevent, protect and provide redress against forceful evictions.

P. Right to development and environmental issues

56. The Constitution provides for the establishment of an equalization fund which is to be used by the national government to provide basic services including water, roads, health to marginalized areas to the extent necessary to bring the quality of those services in those areas to the levels enjoyed by the rest of the nation. Kenya has enacted several legislations and established institutions to implement the devolution process.¹⁴ It has also adopted the Second Medium Term Plan (2013-2017) as part of the implementation of its Vision 2030, UNDAF 2014-2018 and in the nation-wide County Integrated Development Plans.

57. With the emergent extractive resource sectors in Kenya, the Government has endeavored to seek ways of ensuring that natural wealth is distributed within the host communities. Relevant bills, such as the Mining Bill (2014) and the Energy Bill (2013) are in parliament to ensure equitable distribution of the country's natural wealth and resources. Deliberations on the bills

¹⁴ These include The Division of Revenue Act (2013), Inter-Governmental Relations Act (2012), National Government Coordination Act (2013), Public Finance Management Act (2010), Transition County Allocation of Revenue Act (2013), Transition to Devolved Government Act (2012), Transition County Appropriation Act (2013), Urban Areas and Cities Act (2011), Basic Education Act (2013) and Constituency Development Fund Act (2013). Commission on Revenue Allocation, Salary and Remuneration Commission and the Constitution for the Implementation of the Constitution Commission

present a great and timely opportunity to define the operations and regulations of these important sectors.

58. Kenya has intensified measures to create employment opportunities for women and youth in urban and rural areas. The measures undertaken include setting up several funds to provide financial resources. These funds include; the Youth Enterprise Development Fund, Uwezo Fund, the Women Enterprise Fund and the “Kazi Kwa Vijana” Programme. In addition the President has directed that 30% of all national and county Government tenders be awarded to women and youth across the country.

Q. Human rights and counter-terrorism

59. Kenya has suffered the misfortune of terror attacks perpetrated by terrorist groups affiliated to Al Qaida and Al Shabaab. This has resulted in loss of lives, property and economic decline in the tourism sector. The gradual radicalization of disenfranchised and unemployed youth and the continued fragility of neighbouring countries harbouring terrorists, may further compound the insecurity caused by terrorism. However, Kenya has made commendable efforts in the fight against terrorism especially through its enactment of the Prevention of Terrorism Act (2012) and the establishment of the Anti-Terrorism Police Unit. The Proceeds of Crime and Anti-Money Laundering Act No. 9 of 2009 has also been enacted and elaborated institutional and regulatory framework established to deal with money laundering and crime which threaten national and global security in the form of transnational crimes and terrorism.

60. As part of its anti-terrorism measure, Kenya has rolled out of the “*Operation Usalama Watch*” which has been characterized by a series of massive swoops in Nairobi and other major towns seeking out illegal immigrants and terrorists. The Government has simultaneously launched an online website through which the public will be able to report suspected or potential terror threats. Operation ‘*Usalama Watch*’ was criticized heavily for its negation of human rights and its dramatic physical and psychological impact on those affected by the arrests, detentions and subsequent removals from Nairobi and other places including separation of infants and children from their parents.

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