

**KENYA CSO'S 2ND CYCLE UNIVERSAL PERIODIC REVIEW
MID-TERM REPORT**

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EXECUTIVE SUMMARY

Lastly, the Steering Committee and entire membership of the Kenya CSO Coalition on the UPR wishes to recognize the painstaking work done by all the members of the Coalition in researching for the information and filling the data collection tools and matrices. Had it not been for these organizations, the much needed information for the input in this Mid-Term Report would not have been available. Special thanks to the members of the Steering Committee who gave their time in seeing the process to the end. And in particular, AMREF, KHRC, LWF, Pendekezo Letu and UPR Info Africa for providing the funds to support meetings at different stages of the process, and also the printing and publishing of this report. Finally, we wish to acknowledge Ms. Enricah Dulo, Advocate and Gilbert Onyango, Regional Director, UPR Info Africa for the work they did in finalising the report.

Kenya CSO Coalition on the UPR

SUMMARY ANALYSIS OF LEVEL OF IMPLEMENTATION

Total Recommendations received by Kenya				253							
Number of Accepted Recommendations				192				76%			
Level of Implementation per thematic cluster											
	Legal and Institutional Reform		Civil and Political Rights		Economic, Social and Cultural Rights		Group Rights		Total		
	Number of Indicators	Percentage	Number of Indicators	Percentage	Number of Indicators	Percentage	Number of Indicators	Percentage	Number of Indicators	Percentage	
Fully Implemented	14	32%	09	20%	22	22%	13	34%	58	26%	
Ongoing or Partially implemented	15	34%	23	52%	28	28%	06	16%	72	32%	
Not Implemented	15	34%	12	27%	28	28%	10	26%	65	29%	
No Information	00	00%	00	00%	21	21%	09	24%	30	13%	
Total indicators	44		44		99		38		225		

ACRONYMS AND ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
AfriCog	-	African Centre for Open Governance
AJS	-	Alternative Justice System
ANC	-	Ante Natal Care
ARP	-	Alternative Rites of Passage
ART	-	Anti Retroviral Treatment
ASAL	-	Arid and Semi-Arid Lands
ASP	-	Assembly of States Parties
ATJ	-	Access to Justice
CAJ	-	Commision on Administrative Justice
CDC	-	Centre for Disease Control
CEDAW	-	Convention on the Elimination of all Forms of Discrimination Against Women
CHVs	-	Community Health Volunteers
CRC	-	Convention on the Rights of the Child
CSOs	-	Civil Society Organizations
CUCs	-	Court Users Committees
DoJ	-	Department of Justice
EACC	-	Ethics and Anti-Corruption Commission
ECOSOC/ESCR	-	Economic, Social and Cultural Rights
ERAN	-	Edmund Rice Advocacy Network
ESQA	-	Education Standards Quality Assurance
ESQAC	-	Education Standards and Quality Assurance Council
FGM	-	Female Genital Mutilation
FIDA Kenya	-	Federation of Women Lawyers, Kenya
GDP	-	Gross Domestic Production
HELB	-	Higher Education Loans Board
HIV	-	Human Immuno Virus
HRBA	-	Human Rights Based Approach
ICESCR	-	International Covenant on Economic, Social and Cultural Rights
ICJ Kenya	-	International Commission of Jurists, Kenya Chapter
IDLO	-	International Development Law Organization
IDP	-	Internally Displaced Person
IEBC	-	Independent Electoral and Boundaries Commission
IJM	-	International Justice Mission
IMLU	-	Independent Medico-Legal Unit
IPOA	-	Independent Policing Oversight Authority
JTF	-	Judiciary Transitional Framework
KDHS	-	Kenya Demographic and Health Survey
KELIN	-	Kenya Ethical and Legal Issues Network
KENSUP	-	Kenya Slum Upgrading Programme

KHRC	-	Kenya Human Rights Commission
KNCHR	-	Kenya National Commission for Human Rights
LRF	-	Legal Resources Foundation
LSK	-	Law Society of Kenya
MAC	-	Mediation Accreditation Committee
MDA	-	Ministry, Department and Agency
MoFA	-	Ministry of Foreign Affairs
NCAJ	-	National Council on the Administration of Justice
NCCJR	-	National Committee on Criminal Justice Reforms
NGEC	-	National Gender and Equality Commission
NHRIs	-	National Human Rights Institutions
NPAP	-	National Policy and Action Plan on Human Rights
NPS	-	National Police Service
ODPP	-	Office of the Director of Public Prosecutions
OHCHR	-	Office of the High Commission for Human Rights
OVCs	-	Orphaned and Vulnerable Children
PADV	-	Protection Against Domestic Violence
PEPFAR	-	President's Emergency Plan for AIDS Relief
PEV	-	Post Election Violence
PNC	-	Post Natal Care
PWDs	-	Persons with Disabilities
SGBV	-	Sexual and Gender Based Violence
TB	-	Tuberculosis
TDRM	-	Traditional Dispute Redress Mechanisms
TI	-	Transparency International
TWG	-	Technical Working Group
UHC	-	Universal Health Care
UN	-	United Nations
UNCAT	-	United Nations Committee Against Torture
UNCRC	-	United Nations Committee on the Rights of the Child
UNDP	-	United Nations Development Programme
USAID	-	United States Agency for International Development
WFP	-	World Food Programme

I. INTRODUCTION

In 2006 the United Nations General Assembly near unanimously adopted Resolution 60/251, to establish a Human Rights Council (replacing the Human Rights Commission) with the responsibility for promoting universal respect for the protection of all human rights and fundamental freedoms for all. One of the key mandates of the Council is to undertake a Universal Periodic Review (UPR), on the fulfillment of each States' human rights obligations and commitments. The UPR is therefore a unique Human Rights mechanism where each of the 194 UN Members States are peer-reviewed and examined on their entire human rights record every five years regardless of its size or political influence, under the same rules and supervision. States are required to respond not only to all recommendations made by its peers, but also to provide data on the implementation of recommendations it has previously Accepted, including voluntary commitments. It remains a co-operative process that requires the full participation of the State under Review. It complements the work of all UN treaty bodies. The UPR is a very important process for advancing the realization of human rights nationally, regionally and globally. It is worth noting that the UPR is a process and not an event whose main objective is to improve the human rights situation in the country based on the recommendations that the government accepted.

Kenya's human rights record was reviewed for the second time on 22nd January 2015 when Kenya received 253 recommendations. The outcome document of the review, the Working Group report, was formally adopted before the UN Human Rights Council (HRC) on 25th June 2015. After the Adoption of the working group report, the implementation phase begun. To this end, the Government of Kenya developed a comprehensive UPR Implementation Matrix that was launched on 3rd June, 2016. Thereafter, the Government of Kenya together with other UPR stakeholders were expected to implement the said recommendations.

In between the UPR Cycles, it is good practice for States to submit Mid Term Reports to the UN HRC to bring out the progress they are making towards the implementation of the recommendations and the challenges they are facing and the solutions they have put in place to overcome those challenges. The Government of Kenya submitted its Mid Term Report to the HRC in July, 2018 while CSOs have also just finalised their own report.

The 3rd Cycle UPR review is scheduled for January, 2020. The deadline for CSOs to submit their reports to the UN Human Rights Council will be June, 2019 while that for the Government of Kenya will be November, 2019.

Even though one may argue that this Mid Term Report may be long overdue but the UPR is a process and not an event. For this reason, this document that has been developed by CSOs will be used to - 1/ Spur and improve the level of implementation of the 2nd Cycle UPR recommendations by bringing the said recommendation to the attention of the relevant MDAs of the Government of Kenya charged with the responsibility of implementing them as indeed the recommendations were made before the last General Elections held in August, 2017. This

will be done through constructive dialogue as opposed to naming and shaming each other over the non-implementation or veracity of the information. 2/ The report will also serve as a baseline for the 3rd Cycle not only for CSOs but in particular, for the Government of Kenya.

II. METHODOLOGY

This report was prepared through a collaborative effort of various Civil Society Organizations and stakeholders under the guidance of the Steering Committee of the Kenya CSO Coalition on the UPR whose members include AMREF; HakiJamii; Independent Medico Legal Unit (IMLU); International Commission of Jurists, Kenya Chapter (ICJ Kenya Chapter); Kenya Human Rights Commission (KHRC); Lutheran World Federation (LWF/WS); Pendekezo Letu; Women Empowerment Link (WEL) under the coordination of Kenya National Commission on Human Rights (KNCHR) and with technical assistance from Office of the High Commissioner for Human Rights (OHCHR); and UPR Info Africa.

The report has outlined the thematic areas upon which Kenya was reviewed at the last UPR in 2015 and thereafter clustered by the Government of Kenya into 4 major clusters namely Legal and Institutional Reforms; Civil and Political Rights; Economic, Social and Cultural Rights; and Group Rights under the Government of Kenya Universal Periodic Review Implementation Matrix 2015-2019 that was developed and launched in 2016. For ease of implementation and monitoring, the Government of Kenya clustered together similar recommendations that required similar action. As a result of this, instead of working on the total **XXX** number of recommendations, the same were reduced into

At the initial meetings, the members developed data collection tools which were subsequently shared with members. The team met in several meetings that were held between October, 2017 and October, 2018 to collect, collate and consolidate the information. The information was then verified and authenticated by the Steering Committee.

Each of the recommendations that were assessed were done through the indicators as contained in the said Government of Kenya Implementation Matrix. Most of the reports and reference documents were as much as possible from Government of Kenya and reputable International Organisations. The feedback clustered the thematic areas into the following categories and sub categories:

- ✓ *Recommendations (from the review process)*
 - ✓ *Indicator(s)*
 - ✓ *Specific Action by Government*
 - ✓ *Status of Implementation*
 - ✓ *Complementary action by other Stakeholders*

III. THEMATIC MID-TERM ASSESSMENT REPORTS

A. LEGAL AND INSTITUTIONAL REFORMS

1. Ratification of international instruments

1.1 Recommendation: Ratify international human rights instruments to which the State is not yet a party. *Recommendation Nos. 142.1; 142.2; ESCR Rec 16; CRC Rec 77*

1.1.1 Specific Action by Government: Enhance institutional and legal framework to ensure timely ratification of international Instruments.

Indicator	Status of Implementation by Government
Establishment of a fully functional Office of the Registrar of Treaties.	<ul style="list-style-type: none"> • The office though established is not fully functional. • There is established an Office of the Registrar of Treaties, which is operational and under the Ministry of Foreign Affairs. • However, there is need for the Office of the Registrar of Treaties to be resourced and further, for the office to reach out to other stakeholders. • The office is yet to undertake its functions such as monitoring implementation of treaties and informing state departments on their obligations. • The office is yet to establish a national reporting mechanism which is to reach out to stakeholders for purposes of reporting and follow up on implementation of treaty obligations.
Fully Implemented Ratification of Treaties Act.	<ul style="list-style-type: none"> • The Treaty Making and Ratification Act, 2012 is now an Act of Parliament. • Whereas the MoFA launched a Treaties database in June, 2017 under the Office of the Registrar of Treaties, there is failure on the part of the Registrar of Treaties to maintain records, monitor implementation of treaties, inform State Departments to observe and uphold obligations. • There is need for greater co-ordination between the Office of the Registrar of Treaties, the Ministry of Foreign Affairs, and the Office of the Attorney General and Department of Justice and other relevant State Departments. • There is currently a proposed amendment to the Treaty Making and Ratification Act, 2012 vide the Treaty Making and Ratification Amendment Bill, 2018 to align its provisions to the current constitution. Key proposals include the inclusion of Senate in the ratification process.
Ratify Optional Protocol (No. 2) of the UNCRC.	<ul style="list-style-type: none"> • Kenya signed the Optional Protocol (No. 2) of the UNCRC in 2000 but has not yet ratified it. There is no legitimate reason why Kenya has still not ratified the same.
Withdrawal of reservation on paragraph 2 of Article 10 of the ICESCR.	<ul style="list-style-type: none"> • The reservation on paragraph 2 of Article 10 of the ICESCR which requires the State to make provision for paid maternity leave has not been withdrawn. • However, the State has made significant legislative and administrative progress as provided under Section 29(1) of the Employment Act that provides for 3 months paid maternity leave for female employees. • In addition, the State has also made provision for 2 weeks paid paternity leave under Section 29(8) of the same Act. • Further, Article 27(4) of the Constitution prohibits discrimination under any ground including pregnancy. In light of the progress made so far, there is no reason for State to

	sustain the reservation.	
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2. Compliance with Treaty body reporting obligations and co-operation with U.N. Human Rights Special Procedures

2.1 Recommendation: Submit due reports to the UN Treaty Bodies. *Recommendation Nos. 142.34 142.36*

2.1.1 Specific Action by Government: Timely submission of reports to UN Treaty Bodies.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
ICCPR State party report is finalized and submitted to the Human Rights Committee.	<ul style="list-style-type: none"> The 4th ICCPR State party report was due in July, 2015 is yet to be submitted. The Department of Justice is seriously under-resourced. The Government has drastically reduced funding for human rights related programmes. The Government needs to improve the quality and coordination of data collection for the reporting across the relevant State Departments and Agencies. There is need for the Government to work closely with CSOs for implementation of recommendations as issued. 	OHCHR and KNCHR have supported the State in the drafting of the ICCPR 4th State party report. CSOs also participated and contributed to the development of the State report.	
Finalized and submitted report to the CEDAW committee.	<ul style="list-style-type: none"> Kenya's report to the CEDAW was due 1st February, 2015 but was submitted in March, 2016. The report was considered on 2nd November, 2017 and published on 6th November, 2017. The Concluding Observations were given by the Committee in January 2018. 		
Finalized 3rd Periodic Report on UNCAT to the Committee against Torture.	<ul style="list-style-type: none"> The 3rd Report to the Committee against Torture was due on 31st May, 2017 has been submitted as of 3rd August 2018. 	OHCHR and KNCHR have supported the State in the drafting of the CAT State party report. CSOs also participated and contributed to the development of the State report.	

2.2 Recommendation: Extend a standing invitation to various Human Rights Council mandate holders. *Recommendation Nos. 142.35; 142.37; 142.38; 142.39*

2.2.1 Specific Action by Government: Timely processing of the request from the Special Rapporteur on Protection of the Right to Freedom of Opinion and Expression within 60 days.

Indicator	Status of Implementation	
Time taken to process the request from the Special Rapporteur.	<ul style="list-style-type: none"> The Special Rapporteur on Protection of the Right to Freedom of Opinion and Expression sent a request and there has been no response from the Government. There has been persistent and continuous infringement of the right to freedom of 	

	opinion and expression by State agents since the last review.	
Report of the special Rapporteur considered and implemented.	<ul style="list-style-type: none"> • The Special Rapporteur on Protection of the Right to Freedom of Opinion and Expression sent a request and there has been no response from the Government. • There has been persistent and continuous infringement of the right to freedom of opinion and expression by State agents since the last review. 	

2.2.2 Specific Action by Government: Timely processing of the request from the Special Rapporteur on Independence of Judges and Lawyers within 60 days.

Indicator	Status of Implementation by Government	
Time taken to process the request from the Special Rapporteur.	There is a request from the Special Rapporteur on Independence of Judges and Lawyers but there has been no response from the State.	
Report of the special Rapporteur considered and implemented.	There is a request from the Special Rapporteur on Independence of Judges and Lawyers but there has been no response from the State.	

2.2.3 Specific Action by Government: Timely processing of the request from the Special Rapporteur on Extrajudicial killings within 60 days.

Indicator	Status of Implementation by Government	
Time taken to process the request from the Special Rapporteur.	Special Rapporteur on Extrajudicial Killings sent a request for a visit to Kenya but there has been no response by the government.	
Report of the special Rapporteur considered and implemented.	Special Rapporteur on Extrajudicial Killings sent a request for a visit to Kenya but there has been no response by the government.	

3. National Policy and Action Plan on Human Rights including Human Rights Indicators

1.1 Recommendation: Operationalisation of the National Policy and Action Plan on Human Rights. *Recommendation Nos. 142.6; 142.9; 142.13; 142.14; 142.15; 142.22; 142.23; 142.25*

3.1.1 Specific Action by Government: Adopt the National Policy and Action Plan on Human Rights (NPAP).

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
NPAP adopted by the National Assembly.	The National Policy and Action Plan on Human Rights was adopted on 2 nd December, 2015.		
Number of MDAs (Ministry Departments and Agencies) and County Governments targeted and reached for dissemination of NPAP.	<ul style="list-style-type: none"> • There was dissemination on 4th October, 2016, but there has been no further dissemination after that to publicize, mainstream and align the Policy and Action Plan in Devolved units and MDAs at the national level. • The Government needs to provide resources to establish and support the Human Rights Units and Focal Points across all MDAs. 	It was launched in 4 th October, 2016 but no further dissemination has occurred after the launch date.	

3.1.2 Specific Action by Government: Update the National Policy and Action Plan on Human Rights.

Indicator	Status of Implementation by Government	
National Policy and Action Plan on Human Rights updated.	The National Policy and Action Plan on Human Rights has been updated to conform to provisions of the Constitution of Kenya, 2010. The Action Plan was launched on 4 th October, 2016.	
National Policy and Action Plan on Human Rights officially launched.	The National Policy and Action Plan on Human Rights has been updated to conform to provisions of the Constitution of Kenya, 2010. The Action Plan was launched on 4 th October, 2016.	

3.1.3 Specific Action by Government: Implement the National Policy and Action Plan on Human Rights.

Indicator	Status of Implementation by Government	
Number of MDAs that incorporate and implement the National Policy and Action Plan.	<ul style="list-style-type: none"> The government has not fully implemented the National Policy and Action Plan on Human Rights. There is need for funding and enhanced dissemination that would cascade the Policy and Action Plan to more institutions at both levels of government. 	
Number of laws, policies and administrative measures taken by national and county governments to implement the NPAP.	<ul style="list-style-type: none"> The Government has enacted several laws including the National Coroners Act (2017), The Prevention of Torture Act (2017), Legal Aid Act (2016). The Government has also established other task forces including the Court Administered Mediation process, the Alternative Justice Systems Task force, and NCCJR Committee, among others. Some of the task forces have been experiencing challenges due to diminished funding that has limited their effective operation. 	

3.1.4 Specific Action by Government: Monitor implementation of NPAP

Indicator	Status of Implementation by Government	
Percentage increase in budgetary allocation to and prioritization by KNCHR, CAJ and NGEC to monitor the implementation of the National Policy and Action Plan on Human Rights.	<p>There has been a drastic reduction in the budgetary allocation to the various Constitutional Commissions that are among other things, responsible for the implementation of the NPAP.</p> <p>KNCHR: 2016/17 - KShs. 0.43 Billion 2017/18 - KShs. 0.39 Billion</p> <p>CAJ: 2016/17 - KShs. 0.5 Billion 2017/18 - KShs. 0.4 Billion</p> <p>NGEC: 2016/17 - KShs. 0.42 Billion 2016/17 - KShs. 0.45 Billion</p> <p>The budget allocation to KNCHR for the year 2018/19 is not adequate to carry out programmatic work.</p>	

3.2 Recommendation: Strengthen human rights capacity for the effective implementation of the National Policy and Action Plan on Human Rights. *Recommendation Nos. 142.8; 142.9; 142.24*

3.2.1 Specific Action by Government: Undertake capacity assessment of national and county government.

Indicator	Status of Implementation by Government	
Capacity	No capacity assessment has been undertaken. The Government needs to prioritize the same to	

assessment undertaken.	determine the gaps and training needs around the NPAP and develop a training curriculum that addresses the needs. The Government has failed to allocate funds to carry out capacity assessment.
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3.2.2 Specific Action by Government: Train national and county governments on NPAP and HRBA principles.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of trainings carried out.	<ul style="list-style-type: none"> In 2015/16 KNCHR trained 1,201 public officers on HRBA. In 2017, KNCHR trained 600 police officers on the freedom of assembly and association. KNCHR developed a training manual on HRBA to governance and development 2015. HRBA component is infused in all public education trainings of KNHCR on a continuous basis. KNCHR has also developed a curriculum on HRBA and inculcated it into the Kenya School of Government curriculum for all government officials. The funding and staffing of the Department of Justice and KNCHR has been reducing over the years thereby affecting its capacity to train. 	<ul style="list-style-type: none"> Amnesty International, UNDP and LRF have programmes/projects that involve training and monitoring of national and county officials on HRBA. Article 19, KNCHR, IPOA and OHCHR have developed a handbook on policing assemblies. A joint publication has been done by the CSO reference Group, KHRC, National Coalition for Human Rights Defenders focusing on rights based approach in policing assemblies.

3.2.3 Specific Action by Government: Monitor the level of HRBA compliance by national and county governments.

Indicator	Status of Implementation by Government
<ul style="list-style-type: none"> Number of HRBA trainings Number and extent of HRBA compliance of government programs and projects developed and implemented. 	<ul style="list-style-type: none"> The KNCHR in partnership with other stakeholders has developed several documents and frameworks for monitoring HRBA compliance including the Monitoring Framework for the Right to Water and Sanitation; the draft Notes and Guidelines on Health; the Guidelines for HRBA to Policy and Law Making at National and County Level, among others National Public Participation Policy is under development. Gender and Equality Policy is under development. New Education Curriculum and ensure that it complies with HRBA principles. Special Education Needs Policy However, there is need for more trainings on HRBA The policies have taken too long to be concluded.

3.3 Recommendation: Develop human rights indicators including for ESC rights. *Recommendation Nos. 142.31; ESCR Rec 65*

3.3.1 Specific Action by Government: Harmonize the different indicators in Vision 2030 and MTP 2 indicators with the National Action Plan for Human Rights indicators.

Indicator	Status of Implementation by Government
Harmonized human rights indicators.	No harmonization has taken place.

4. Review of National Laws and Policies

4.1 Recommendation: Review laws and policies to bring them in conformity with the Constitution and human rights obligations. *Recommendation Nos. 142.3; 142.4; 142.5; 142.18; 142.19; 142.20; CRC Rec 8, 9*

4.1.1 Specific Action by Government:

- Review laws and policies to conform to the Constitution and human rights principles, instruments, standards and obligations.
- Sensitize the public on the laws and policies to be reviewed.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of laws and policies enacted, or reviewed that conform to the Constitution of Kenya, 2010 and human rights principles including but are not limited to the Law of Succession Act, the Children Act, Persons with Disabilities Act, Political Parties Amendment Act, Basic Education Act, Health Bill, Mental Health Act, Penal Code, National Action Plan on Children, PWD Policy, Equality Policy.	(i) Law of Succession – under review, has stalled (ii) Children Act – under review and currently with the Attorney General (iii) National Coroners Act – The Act was enacted on 21 st June, 2017 and commenced operation on 7 th July, 2017. The government is yet to appoint a Coroner General. The Act has claw back provisions which subject the operation of the Act to the Commission of Inquiries Act, 1962 (Revised 2010). (iv) Prevention of Torture Act – Enacted and is operational (v) Small Claims Court Act – enacted but not operationalized (vi) Refugees Act – The Act is under review but has not been amended (vii) Political Parties Amendment Act – Reviewed (viii) Judiciary Fund Act 2016 – has been enacted but not implemented (ix) Penal Code (death penalty) – Not reviewed (x) Public Finance Management Act – Under review (xi) Equality Policy – A draft policy has been developed but has not been adopted (xii) Asylum Policy – Not developed (xiii) National Action Plan on Children – Policy developed (xiv) Legal Aid Act – enacted but not operationalized. Regulations are being developed and the board is fully constituted (xv) Legal Aid Policy – The Policy was developed and approved by Cabinet in 2015	<ul style="list-style-type: none"> • ICJ Kenya and LRF both sit in the NCAJ Committee on Criminal Justice to review laws that need amendment including penal code, coroners act and the Legal Aid Act. • Increase the number of service providers offering legal aid services. • The board is in the process of registering persons /organizations interested in offering legal aid services. • Increase the scope of persons receiving legal aid to include indigent persons, PWD and albinism.

5. Institutional Reforms

5.1 Recommendation: Judicial Reforms and enhanced access to justice. *Recommendation Nos. 142.95; 142.97; 142.115; 142.118; 142.120*

5.1.1 Specific Action by Government: Reform the Justice Sector and Strengthen ADR and Traditional Dispute Resolution mechanisms.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
13 High Court stations established in the counties without High Court stations.	<ul style="list-style-type: none"> • There are currently 39 High Court Stations in the country.¹ In 2017, the Judiciary opened 12 High Court Stations increasing the number of counties with High Court Stations to 38 counties² • Parliament slashed the allocation to the Judiciary budget especially funds for infrastructural development. During the Financial Year 2018/19, the Judiciary requested for KShs. 31.2 Billion but were allocated KShs. 17 Billion. • Out of the requested amount, the Judiciary received only KShs. 50 Million out of the KShs. 8.5 Billion development budget from the Government. This is even less than the KShs. 2.6 Billion that was allocated to Judiciary during the Financial Year 2014/15. • The result of this cut is that the constructions of 70 Court stations will stall out of which 41 are funded by the Government of Kenya. 		
Establishment of additional Magistrate courts countrywide	<ul style="list-style-type: none"> • There are currently 123 magistrate's courts in the country.³ Between the period of June 2015 and June 2017, 4 additional magistrates' courts have been established by the Judiciary.⁴ • As of June 2015, the Judiciary had established 33 additional mobile courts. • There is dire need to establish more Magistrates Courts in far flung areas. 		
Number of established and functional ADR and Traditional Dispute Resolution mechanisms	<ul style="list-style-type: none"> • The Judiciary has been promoting alternative dispute resolution mechanisms with the aim of enhancing access to justice.⁵ • During the period 2016/17, the Judiciary accredited 88 mediators to undertake court annexed mediation.⁶ A total of 463 matters have been referred to mediation, with 156 cases concluded as of June 2017. • Additionally, a taskforce on traditional, informal, and other mechanisms used to access justice in Kenya has been formed to consolidate views on a 	ICJ Kenya sits in MAC and has assisted MAC to come up with a criterion on scrutiny of cases to be referred to mediation. ICJ Kenya, IDLO and KHRC assisted in conducting and external evaluation of the CAMP process, which gave insights into how to roll out mediation in the rest of the country. ICJ Kenya sits in the AJS Taskforce and has supported the taskforce in getting views from existing TDR processes in Kenya with	

¹ See State of Judiciary Report and Administration of Justice Report Annual Report 2016/2017 available at <https://www.judiciary.go.ke/download/state-of-the-judiciary-and-the-administration-of-justice-report-2016-2017/> (accessed on 29th August 2018)

² Kenya National Bureau of Statistics 'Economic Survey 2018' available at <https://www.knbs.or.ke/publications/> (accessed on 29th August 2018)

³ Ibid

⁴ See State of Judiciary Report and Administration of Justice Report Annual Report 2014/2015 and the State of Judiciary and Administration of Justice Court Annual Report 2016/2017

⁵ State Of Judiciary and Administration of Justice Annual Report 2016/17

⁶ Ibid

	<p>National Model for Court Annexed Traditional Justice Systems.⁷</p> <ul style="list-style-type: none"> • Court Annexed Traditional Justice System pilots have been established in Magistrate Courts in Karatina and Isiolo. 	<p>a view of utilizing these views in the development of the policy framework.</p> <p>Roll out of mediation should happen immediately. Decriminalization and reclassification of offences should be made priority as should diversion for petty offences committed by juvenile offenders. Small claims court needs to be operationalized by the Chief Justice. Gazettement of adjudicators and appointing courts to be used as Small Claims Courts.</p>
Number of cases reported and resolved through ADR and Traditional Dispute Resolution mechanisms.	<ul style="list-style-type: none"> • As per the State of Judiciary and Administration Annual Report 2016/17, 463 cases have been referred to court annexed mediation with 156 cases concluded. 	<p>ICJ Kenya is supporting MAC in induction of mediators who have been accredited to work in court. The Institute of Chartered Mediators and Conciliators that was established in 2018. This will go a long way in promoting mediation and conciliation.</p> <p>Need for MAC to work in partnership with CUCs in the Counties.</p>
Number of laws enacted including the Judicial Funds Bill.	<ul style="list-style-type: none"> • Judicial Fund Act was enacted in 2016 to promote the financial and operational independence of the Judiciary; to ensure accountability and to ensure that the Judiciary has adequate resources to function. 	<p>ICJ Kenya is conducting research into trends on judiciary funding and its impact on judicial independence and accountability.</p>
Legislative Review and Enactment.	<ul style="list-style-type: none"> • The Judiciary has a new strategic plan and Sustainable Judicial Transformation Framework 	<p>ICJ Kenya and IDLO are reviewing the impact of JTF</p> <p>More emphasis to be made on systemization of processes for efficiency and accountability</p>

5.1.2 Specific Action by Government: Safeguard the independence of the Judiciary and other justice actors.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Report by the Special Rapporteur on the independence of the Judiciary and submitted to the Human Rights Council.	Not done. There is an outstanding invitation for the Rapporteur and the state is yet to respond to the request by the Rapporteur for a visit.	ICJ Kenya is working with the Special Rapporteur to ensure that the Special Rapporteur is able to visit and conduct a fact finding into the independence of the judiciary, and for report to be presented to HRC.
Percentage increase in budgetary allocation to the judiciary.	During the Financial Year 2016/17, Judiciary received KShs. 17.1 Billion and 2017/18 KShs. 17.5 Billion. However, Parliament slashed the allocation to the Judiciary	Several organizations have condemned the reduction in budget for the judiciary and other acts by the state and state officials fashioned at

⁷ Ibid

	budget especially funds for infrastructural development. During the Financial Year 2018/19, the Judiciary requested for KShs. 31.2 Billion but were allocated KShs. 17.3 Billion. ⁸	undermining the independence of the judiciary. ⁹
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5.2 Recommendation: Enhance accountability and undertake security sector reforms. *Recommendation Nos. 142.99; 142.103; 142.118*

5.2.1 Specific Action by Government: Increase the level of awareness of human rights among security forces.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of human rights trainings among security forces.	<ul style="list-style-type: none"> Training Curriculum for National Police Service has been reviewed to include management, research methodology, judicial procedure, information security management, psychology, cybercrime, customer care, human rights, security and safety and policing within a cultural context. The curriculum is implemented in all security training. 	<ul style="list-style-type: none"> ICJ Kenya, KHRC, IMLU, National Coalition for Human Rights Defender and KNCHR sits in the Technical Working Group (TWG) on police reforms for advocacy on reform issues around the police. The police reforms working group has on several occasions trained security forces on human rights. LRF has trained prison service on HR and supports a Kenya Prison Paralegal (KPP) programme in several prisons across the country. Need to evaluate the vetting process of the Police that has since stalled. An audit should be done. Clearances required to train Police Officers by stakeholders is quite stringent, making it difficult for TWG to train police. There is a gap between training and implementation – police brutality during elections still persists.
Revised Police Reforms Programme document	National Police Service Standing Orders and Service Charter has been reviewed, adopted and launched.	

5.2.2 Specific Action by Government: Strengthen and enhance the capacity of relevant organs that deal with accountability among security forces including publications by IPOA, ODPP, NPS, KNCHR, CAJ, among others.

⁸ Statement on the State of the Judiciary in Light of the Drastic Cuts in Budgetary Allocations 24th July 2018 available at <https://www.judiciary.go.ke/download/statement-on-the-state-of-the-judiciary-in-light-of-drastic-cuts-in-budgetary-allocations/> (accessed 29th August 2018)

⁹ See Statement by the Civil Society Reference Group issues on 12th August 2018 calling on Parliament and National Executive to Allocate Sufficient Funds to the Judiciary from the Consolidated Fund available at <https://www.nation.co.ke/counties/nairobi/Group-pushes-for-urgency-in-plugging-Judiciary-budget/1954174-4710086-lh8u1i/index.html> (accessed on 29th August 2018); See Statement by ICJ-Kenya issued on 3rd August 2018 raising concern over negative effects on budget cuts will affect delivery of justice available <https://icj-kenya.org/news/latest-news/186-judiciary-budget-cuts-will-negatively-affect-justice-delivery-icj-kenya> (accessed on 29th August 2018)

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Percentage increase in funding and human resource capacity in IPOA, ODPP, NPS, KNCHR, CAJ, among others.	<p>KNCHR - 2016/17 – KShs. 0.43 Billion 2017/18 – KShs. 0.39 Billion</p> <p>There has been a decrease in funding over the period 2017/18</p> <p>ODPP - 2016/17 – KShs. 2.1 Billion 2017/18 – KShs. 2.3 Billion</p> <p>Projected for 2018/19 – KShs. 2.54 Billion</p> <p>There has been an increase in the budget of the ODPP</p> <p>CAJ - 2016/17 – KShs. 0.5 Billion 2017/18 – KShs. 0.4 Billion</p> <p>There has been a slight decrease in budget for CAJ</p> <p>IPOA - 2016/17 – KShs. 0.49 Billion 2017/18 – KShs. 0.524 Billion</p> <p>There has been an increase in budget for IPOA</p> <p>NGEC - 2016/17 – KShs. 0.42 Billion 2017/18 – KShs. 0.45 Billion</p> <p>There has been a slight increase in the budget</p> <p>NPS - 2016/17 – KShs. 90.27 Billion 2017/18 – KShs. 90.76 Billion</p> <ul style="list-style-type: none"> • There has been an increase in the budget for the National Police Service. • Reduction in budget for KNCHR by 75% in 2017 therefore curtailing their ability to conduct their mandate. 	<p>Weak IPOA that is not able to absorb all cases reported.</p> <p>There is need to look at funding structure of independent bodies to enable them become more independent.</p> <p>Information on NPS funding not accessible to the public.</p>

5.2.3 Specific Action by Government: Fully investigate and prosecute cases of extra judicial killings and disappearances.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of cases of extra judicial killings and disappearances investigated and prosecuted.	<ul style="list-style-type: none"> • IPOA reported in January-June 2016, 117 complaints on police shooting and death.¹⁰ July to December 2016, IPOA received 35 complaints on police shootings and deaths. Between July and December, 2015, 53 cases of police shootings were received. As at 30th April, 2018, IPOA had received a total of 9,878 complaints from public and members of the police service and only 3 cases have been successfully convicted by IPOA.¹¹ • In 2017, IPOA recommended for inquiry by ODPP two cases on extra judicial killings – Baby Pendo case and Stephany Moraa case. Enforced disappearances as it is does not exist as an offence under the laws of Kenya. This therefore means that Police Officers cannot be held culpable. 	<p>There have been attempts to prosecute. The Willie Kimani case has been investigated and is currently ongoing.</p> <p>IPOA does not have jurisdiction to deal with cases of enforced disappearances.</p>

¹⁰ IPOA Performance report, January- June 2016

¹¹ R V Veronica Gitahi and Issa Mzee 2014 eKLR; Criminal Appeal No 23 of 2016 (Veronica Gitahi and another v Republic); R V Titus Ngamua Musila Katitu Criminal Case No. 78 of 2014

Number of cases reported, investigated and finalized by IPOA, ODPP, National Police Service, National Police Service Commission, KNCHR, CAJ, among others.	<ul style="list-style-type: none"> • In 2017, the KNCHR recorded 101 cases of death, 247 cases of injuries, 123 cases of election related SGBV¹² and 81 cases of enforced disappearances.¹³ • It was difficult to verify the status of the cases at the time of drafting this report. • Three cases of extrajudicial executions have been successfully investigated and prosecuted. The success has been hinged on close collaboration between IPOA, ODPP and National Police Service. 	It is important to note that the poor coordination between KNCHR, IPOA, CAJ, NPS on one hand and NPS and ODPP on the other hand to successfully arrest, investigate and prosecute cases brought before CAJ, NPS and IPOA has hampered efforts accountability.
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5.2.4 Specific Action by Government: Hold security agencies accountable to human rights violations conducted by State security agents.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of cases reported and prosecuted for security related human rights violations.	<ul style="list-style-type: none"> • So far, there are only two cases that have been successfully investigated and prosecuted touching on security related human rights violations. In R v Veronica Gitahi and Issa Mzee 2014 eKLR the officers were charged with Murder and convicted of manslaughter and sentenced to 7 years. In R Vs. Titus Ngamua Musila Katitu Criminal Case No. 78 of 2014 the Police Officer was charged and convicted of murder and sentenced to death. • Additionally, the State is conducting an inquiry into the death of two children attributed to security operation during the 2017 electioneering period i.e. Baby Pendo case and Stephany Moraa case. 	ICJ Kenya, KHRC, Katiba Institute, Africog, LSK and IJM have had campaigns around exposing police brutality and impunity including developing cases for prosecution on individual accountability for human rights violations.

5.3 Recommendation: Strengthen anti-corruption efforts. *Recommendation Nos. 142.94; 142.111; 142.119; ESCR rec 18*

5.3.1 Specific Action by Government: Implement the recommendations of the National Task Force on Review of the Legal, Policy and Institutional Framework for Fighting Corruption in Kenya.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Recommendations of the Taskforce fully implemented.	<ul style="list-style-type: none"> • Enacted the Bribery Act, 2016, Access to Information Act, 2016. • Development of Whistleblower Protection Bill, 2017 awaiting tabling in 	<ul style="list-style-type: none"> • Contributed to the development of the Bribery Act, 2016. • Transparency International is part of the Committee that is currently developing the guidelines and regulations to operationalize the Bribery Act, 2016. • Originators of the Whistleblower Protection Bill, 2017 which was adopted by Government for further review. • Contributed to development of the Anti-Corruption

¹² KNCHR 2018 State of Human Rights and Fundamental Freedoms in the Republic of Kenya statement

¹³ The Error Of Fighting Terror With Terror: A Preliminary Report Of KNCHR Investigations on Human Rights Abuses In The Ongoing Crackdown Against Terror September 2015

	Parliament. <ul style="list-style-type: none"> • Development of Draft False Claim Bill, 2017. • Development of Guidelines and Regulations to operationalize the Bribery Act as per Section 9 of the Act is ongoing. 	(Amendment) Bill, 2017. <ul style="list-style-type: none"> • Reviewed the draft False Claims Bill, 2017. • Advocated for enactment of Access to Information Law. • The recommendations from the taskforce have not been fully implemented, there are State officers who are still holding public offices despite being under investigation for corruption related allegations, while other have integrity issues according to Chapter 6 of the Constitution of Kenya.
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5.3.2 Specific Action by Government: Adopt a national policy and national program of action on the fight against corruption.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
National Ethics and Anti-Corruption Policy adopted.	Development of the National Ethics and Anti-Corruption Policy is ongoing.	<ul style="list-style-type: none"> • Stakeholders have contributed to development of the National Ethics and Anti-Corruption Policy. • Need to Fast-track development of the policy.

5.3.3 Specific Action by Government: Strengthen efforts to fully operationalise the Asset Recovery Agency.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Increase in Budget allocations and Financial and Human Resource.	<ul style="list-style-type: none"> • Assets Recovery Agency was established in 2014 and was operationalized in 2015. • The value of public assets recovered in 2015/16 amounted to KShs. 420.6 Million compared to KShs. 40.3 Million in 2014/15. In the review period, EACC also averted a loss of public assets during the period under review the budgetary allocation to Asset Recovery Agency was KShs. 161 Million. 	<ul style="list-style-type: none"> • Stakeholders have contributed to development of the National Ethics and Anti-Corruption Policy. • Need to Fast-track development of the policy.

5.3.4 Specific Action by Government: Strengthen investigations and prosecution of cases of corruption.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of cases successfully prosecuted.	<ul style="list-style-type: none"> • The total number of cases handled by Ethics and Anti-Corruption Commission (EACC) increased by 40.1% from 5,660 in 2014/15 to 7,929 in 2015/16. • Corruption reports under investigation increased by 40.4% from 2,747 in 2014/15 to 3,856 in 2015/16¹⁴. • According to the EACC Annual Report 2016/17, 	<ul style="list-style-type: none"> • Formation of the Multi-Agency Team (MAT) for collaboration, co-ordination and cooperation on crime intelligence, investigation, asset recovery and prosecution of corruption and economic crimes. • 64.2% of Kenyans have no confidence with the EACC.¹⁵

¹⁴ Economic Survey 2017, Kenya National Bureau of Statistics

¹⁵ EACC 9th Annual Report : National Ethics and Corruption Survey, 2016 P. 45

	28 cases were investigated and completed • 1,223 cases are currently being investigated while 25 cases were finalized in Court.	• Awareness creation is necessary on the operations of MAT and its successes so far.	
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6. National Human Rights Institutions

6.1 Recommendation: Take measures to strengthen and allocate to the NHRIs necessary human and financial resources to fulfill their mandate. *Recommendation Nos. 142.11; 142.26*

6.1.1 Specific Action by Government: Increase in human and financial resources to KNCHR, NGEC and CAJ.

Indicator	Status of Implementation by Government			
Percentage of annual and overall increase in funding to the NHRIs.	There has been a general reduction in budgetary allocation for National Human Rights Institutions.			
	Institution	2016/17 (KShs.)	2017/18 (KShs.)	
	KNCHR	0.43 Billion	0.39 Billion	Red
	ODPP	2.1 Billion	2.3 Billion	Green
	CAJ	0.5 Billion	0.4 Billion	Red
	IPOA	0.49 Billion	0.524 Billion	Green
	NGEC	0.42 Billion	0.45 Billion	Green
Policing Services	90.27 Billion	90.76 Billion	Green	

B. CIVIL AND POLITICAL RIGHTS

7. Counter Terrorism

7.1 Recommendations: Ensure that national security including counter terrorism measures are pursued in a broad based manner and in full compliance with the Constitution and international human rights treaties.¹⁶ *Recommendation Nos. 142.5; 142.17; 142.184; 142.185; 142.186; 142.187; 142.188; 142.189; 142.190; 142.191; 142.192*

7.1.1 Specific Action by Government: Review counter terrorism laws and policies and align them to the constitution and international standards.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Reviewed laws and practices to conform with international human rights standards including but not limited to Security Law Amendment Act, Refugees Act, Public order Act, Criminal Procedure Code, Penal code, Registration of Persons Act, Evidence Act, Prisons Act, Firearms Act, National Intelligence Service Act, Prevention of Terrorism Act, National Police Service Act, Kenya Citizenship and Immigration Act, PBO Act and Civil Aviation Act.	<p>Legislations have either been reviewed, not reviewed or are under review. As such, security laws in the country are yet to conform to international standards as found in treaties that Kenya is signatory.</p> <p><u>Legislations under review</u> Refugees Act, 2006</p> <p><u>Legislations reviewed</u> Public Order Act, Revised Edition, 2016 [2014] Prevention of Terrorism Act, Revised Edition, 2015 [2012] Criminal Procedure Code, Revised Edition, 2017 [2015] Registration of Persons Act, Revised Edition, 2015 [2014] Prisons Act, 1962 (Revised 2017) National Police Service Act, Revised Edition, 2016 [2015] Kenya Citizenship and Immigration Act, Revised Edition, 2016 [2015]</p> <p><u>Not reviewed</u> Security Law Amendment Act, 2014 Civil Aviation Act, Revised Edition, 2012 Evidence Act, Revised, 2014 Firearms Act, Revised Edition, 2012 [1999] National Intelligence Service Act, Revised Edition 2014 [2012] Penal Code, Revised Edition, 2012 [2010]</p>	<p>The National Intelligence Service Annual Report, 2015 revealed that Kenya intercepted several radicalized Youth on their way to Somalia to join Al-Shabaab. Over 100 children who were undergoing indoctrination and radical teaching were rescued, and more than 50 Al Shabaab terrorists were arrested and brought. A National strategy on Countering Violent Extremism was developed and launched but it's not within the public domain. The Kenyan Government and the U.S. Government through Partnership for Regional East Africa Counterterrorism (PREACT) - a U.S. funded and implemented multi-year, multi-faceted program designed to build counterterrorism capacity and cooperation of military, law enforcement, and civilian actors across East Africa to counter terrorism.¹⁷</p>

¹⁶ <https://www.state.gov/j/ct/rls/crt/2015/257514.htm>

¹⁷ <https://www.state.gov/j/ct/rls/crt/2015/257514.htm>

	Enacted PBO Act, 2013 (Not commenced)
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7.2 Recommendation: Promote economic empowerment programs and job creation to prevent the radicalization of the young people. *Recommendation No. 142.164*

7.2.1 Specific Action by Government: Promote measures to counter youth radicalization

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Strengthened Youth Enterprise Development Fund	Despite the substantial amounts being allocated towards Youth Enterprise Development fund, ¹⁸ it has been riddled with allegations of corruption. ¹⁹	CSO's state and non state actors have condemned the rampant corruption that has riddled the fund and have asked the Government of Kenya to tackle the rampant corruption.

8. Prevention of Torture, Enforced Disappearances and Extra-Judicial Killings

8.1 Recommendation: Take measures to prevent torture and extrajudicial killings and ensure accountability by perpetrators. *Recommendation Nos. 142.75; 142.88*

8.1.1 Specific Action by Government: Enhanced capacity of the military and police personnel on human right principles.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Increased application of human rights based approach in the Military and Police Service	<ul style="list-style-type: none"> Despite Constitutional and Legal provisions that provide for recognition of human rights principles among security forces, these Agencies have not enhanced human rights principles in discharging their duties. Between the periods from January 2015 to December 2016, the Independent Policing Oversight Authority had received 4,650 cases of human rights violations by the Police. They undertook and completed investigations in 746 cases and referred 131 cases to the Director of Public Prosecution. They have also received 39 notifications of deaths and serious injuries from different police stations in the country. From their reports it seems that only one case they have worked on has been concluded by the courts and has ended in a conviction. They have 47 cases still pending in court. From the data and information available it is not clear how many of the cases before the courts are of torture 	<ul style="list-style-type: none"> CSO's have conducted human rights trainings at different Police facilities. Cases of extrajudicial killings committed particularly in the context of law enforcement remain high in Kenya. In the period January 2015 to August 2017, IMLU has recorded a total of 406 cases of extrajudicial killings that have occurred in the country. Majority of the deaths were summary executions (277) while 67 deaths occurred in unclear circumstances and 62 deaths occurred while officers were protecting life. The National Torture Prevalence Survey Commissioned by IMLU in 2016, indicated that 30.3% of Kenyans experienced torture with the key drivers of torture being 1/ the lack of awareness of fundamental rights that

¹⁸ <https://bit.ly/2uLlpob>

¹⁹ <https://bit.ly/2q5jo2F>

	<p>and Extra Judicial Executions.</p> <ul style="list-style-type: none"> • The Kenya National Commission for Human Rights in the financial year 2015/2016 received 335 complaints and out of these 121 investigations were conducted. In 2014, KNCHR released a report on `The Error of Fighting Terror.'²⁰ The report documented 25 cases of extrajudicial executions and 81 cases of enforced disappearance. It's not however clear whether any of the documented cases has been prosecuted. • In 2017 the Prevention of Torture and the National Coroner's Service Bills was enacted into law. 	<p>prohibit torture by citizens; 2/ inadequate legislation; 3/ ignorance of human rights by perpetrators; 4/ poverty; 5/ weakness of enforcing the law prohibiting torture and 6/ sheer disregard of human rights by perpetrators.</p> <ul style="list-style-type: none"> • The rate of investigating and prosecuting cases of extrajudicial killings has been minimal hence entrenching a culture of impunity within the security agencies.
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8.2 Recommendation: Take measures to prevent torture and extrajudicial killings and ensure accountability by perpetrators. *Recommendation Nos. 142.57; 142.99; 142.103*

8.2.1 Specific Action by Government: Ensure greater accountability and transparency of police and security forces including investigating and prosecuting officers responsible for human rights violations

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of cases of torture, extrajudicial killings and enforced disappearances reported, investigated and prosecuted	<ul style="list-style-type: none"> • The Judiciary has prosecuted several officers responsible for human rights violations, a police officer by the name Titus Ngamau a.k.a Katitu was found guilty of the murder of a man in Githurai area of Nairobi.²¹ • On 15th February 2016 two officers were found culpable of murder and were sentenced to serve 7 years each for the manslaughter of Kwekwe Mwandaza 	Civil Society Organizations continue to push for investigations into extra judicial killings in Kenya. ²²

8.3 Recommendation: Take measures to prevent torture and extrajudicial killings and ensure accountability by perpetrators. *Recommendation Nos. 144.64; 142.75; 142.79; 142.82; 142.88; 142.99; 142.106; 142.109*

8.3.1 Specific Action by Government:

- Put in place legal reforms to ensure prevention of torture.
- Take measures to ensure that the penitentiary institutions are decongested by using alternative sentencing measures.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders

²⁰ <http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Final%20Disappearances%20report%20pdf.pdf>

²¹ <https://www.nation.co.ke/counties/nairobi/Katitu-guilty-of-murder-Githurai/1954174-4295806-51qhcc/index.html>

²² <http://www.matharesocialjustice.org/eje-campaign/we-support-edgar-ogutus-ghetto-radio-letter-to-the-un-special-rapporteur-on-extrajudicial-summary-or-arbitrary-executions/>

<ul style="list-style-type: none"> • The law on Prevention of Torture and the National Coroners Service Bill enacted, Persons Deprived of Liberty Act operationalized. • Number of people committed to alternative sentencing. 	<ul style="list-style-type: none"> • Despite enactment of the two Acts the government is yet to operationalize the same, the office of the National Coroner is yet to be established and adequately resourced. The Government is yet to conduct awareness raising to the public about the Acts. The numbers are not verifiable but the Government has gazetted the plea bargaining rules.²³ 	<ul style="list-style-type: none"> • Civil Society Organizations are engaging stakeholders on the implementation and operationalization of the two Acts.²⁴ • Civil Society Organizations have been lobbying for the decriminalization of petty offenders to allow decongestion in the prisons.²⁵ • The Judiciary launched the National Committee on Criminal Justice Reforms on 15th January, 2018 whose main objective is to decriminalize minor offences.²⁶ The Committee was formed after the review of the Audit Report conducted by Legal Resources Foundation (LRF) and Resources Oriented Development Initiatives (RODI) in conjunction with National Council on Administration of Justice (NCAJ) in 2015, the report revealed that criminal justice system is clogged with petty offences — at 68% at the entry point (police arrest and detention).²⁷
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9. Protection of Human Rights Defenders and Expanding Civil Society Organisation’s Space and Fully Implementing The PBO Act

9.1 Recommendation: Protection of Human Rights Defenders. *Recommendation Nos. 142.123; 142.132; 142.142; 142.192*

9.1.1 Specific Action by Government: Prevent and prosecute cases of threats and harassment of human rights defenders

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> • Human right defenders reported investigated and prosecuted, including investigating 	<p>No investigations or prosecutions have been carried out by the State. In the Hassan Guyo case, the State only conducted an inquest;</p>	<ul style="list-style-type: none"> • National Coalition of Human Rights Defenders Kenya released its case digest in May 2016.²⁸[1] The Digest has cases that affected HRDs between 2013 and 2015. In 2017, NCHRD-K documented²⁹ over 50 cases of harassment and intimidation against HRDs and documented over 50 cases of harassment and intimidation against HRDs. Between January to December 2016, a total of 175 protests were recorded in the country.³⁰ Out of these, 51 were characterized as violent. 12 fatalities were recorded resulting from gunshot wounds from police

²³ Kenya Gazette Supplement NO 11, Legal notice No.47, 19th February, 2018

²⁴ <https://www.capitalfm.co.ke/eblog/2017/04/20/why-prevention-of-torture-act-2017-is-a-milestone-for-kenya/>

²⁵ <http://www.icj-kenya.org/news/latest-news/140-crime-and-punishment-the-case-of-petty-offences-in-kenya>

²⁶ <https://www.judiciary.go.ke/about-usour-programmesnational-committee-on-criminal-justice-reforms/>

²⁷ http://kenyalaw.org/kenyalawblog/wp-content/uploads/2017/01/Criminal_Justice_Report.pdf

²⁸ National Coalition of Human Rights Defenders Kenya released its case digest in May 2016.[1] The Digest has cases that affected HRDs between 2013-2015.

In 2017, NCHRD-K documented[2] over 50 cases of harassment and intimidation against HRDs, <https://bit.ly/2Ekoc8u>

²⁹ Election Monitoring Report on The Situation of HRDs, Election Monitors and Journalists During the 2017 Elections in Kenya: <http://nchrdk.org/nchrd-ks-summarised-elections-findings/>

³⁰ Report by Article 19, “Is right to protest guaranteed in Kenya? Dissenters suffer at the hands of Anti Riot Police”, 2016

and prosecuting the case of Hassan Guyo.	however, no one was found liable for his death. No Investigation and Prosecutions have been carried out by the State that is tasked with the responsibility to undertake investigations and prosecute perpetrators.	officers as they violently engaged protesters and human rights defenders. ³¹ The numbers in 2016 revealed a sharp increase in the number of protests up from 140 that had been recorded in 2015. Out of these, only 36 had been characterized as violent.
• Number of cases of allegations of threats and harassment to human rights defenders prosecuted		<ul style="list-style-type: none"> • Article 19 documented 111 protestors, among them 32 students, were arrested and charged for what police termed as illegal protests and participating in riots.³² • From media reports and accounts from monitors, the police violated the law as the use of force was used against protestors and HRDs who were largely unarmed. Between 2016 and 2017, police officers involved in violent dispersal of unarmed protestors have not been held to account, a fact which points to the high levels of impunity in Kenya's security sector.³³

9.2 Recommendation: Expanding Civil Society Organization's space and fully implementing the PBO Act. *Recommendation Nos. 142.125; 142.127; 142.128; 142.133; 142.135; 142.136; 142.137; 142.140; CRC Rec 18*

9.2.1 Specific Action by Government: Operationalise the PBO Act.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
PBO Act operationalised.	<ul style="list-style-type: none"> • The Government of Kenya is yet to operationalize the PBO Act despite several Court Orders and Judgement. The expansion and protection of civic space and liberties in Kenya has come a long way, right from the struggles for independence and reforms, to the adoption and implementation of the new Constitution and other legal frameworks. • Moreover, in January 2013, the then president Mwai Kibaki assented into law the Public Benefits Organizations (PBO) Act of 2013, a new legal framework that is intended to ensure a more efficient, transparent and publicly accountable civil society sector with effective 	<ul style="list-style-type: none"> • CSO's have instituted a case in the High Court that seeks to operationalise the PBO Act. However, between 2013 and 2015, there were no less than 5 attempts by Parliament to amend this fairly progressive law in what was a seemingly serious and malicious intent to cripple the Civil Society Organisations (CSO) sector. In 2016, major strides were made with the Cabinet Secretary for Devolution and Planning, Hon. Mwangi Kiunjuri on 9th September, 2016 announcing the commencement of the PBO Act, without any changes on it. • On 31st October, 2016, the High Court also gave a ruling compelling the Government to gazette the Commencement by 11th November, 2016. Despite this directive and legal order, the Act is yet to be operationalised. CSOs resorted to going back to court, and on 23rd May 2017, the High Court found the Cabinet Secretary (CS) in charge of the Ministry of Interior and National Co-Ordination in contempt of court for failing to heed to the 1st judgment of October 2016, ordering again commencement within 30 days thereof. The 30 days elapsed, and the Act is yet to be commenced. The government remains non-committal.

³¹ Ibid

³² Ibid

³³ Ibid

10. Abolition of the Death Penalty

10.1 Recommendation: Efforts to abolish the death penalty. *Recommendation Nos. 142.58; 142.61; 142.63; 142.87*

10.1.1 Specific Action by Government:

- Undertake awareness on the need for the abolition of the death penalty.
- Undertake public perception survey on the need for the abolition of the death penalty.
- Amend the provisions of the Penal Code to abolish the death penalty.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> • Number of sensitization forum held. • Findings of the public perception survey. • Penal Code revised and adopted. 	<ul style="list-style-type: none"> • The Power of Mercy Committee has conducted several sensitization forums on the abolition of the death penalty in several counties in Kenya. This has not been concluded due to budgetary restrictions. The finds are yet to be made public. • In October 2016, the President commuted 2,747 death row convicts to life imprisonment. Of this number, 2,655 were men and 92 were women. The President also signed pardons, releasing 102 long term convicts who had been thoroughly vetted and recommended for release by the Power of Mercy Committee. • POMAC has conducted a series of public consultations and survey in various counties to seek the public’s view on the abolition of the death penalty. • In 2015, the then Chief Justice launched sentencing guidelines. Despite these efforts, Courts of Law in Kenya continue to pass the death penalty for crimes for offences that carry the death sentence in the event that an accused person is found guilty of that specific offence. The Power of Mercy Committee has conducted a series of public perception surveys but the findings have not yet been made public. • On the 23rd March, 2018, the AG of Kenya appointed a 13 member Task Force to review the legislative framework on the death penalty.³⁴ This was after the Supreme Court declared the mandatory death sentence to be unconstitutional.³⁵ 	<ul style="list-style-type: none"> • CSO’s has continued to engage with state and non-state actors to advocate for the abolition of the death penalty in Kenya. To this end, we have engaged with members of the National Assembly through the Parliamentary human rights caucus to ensure that the issue of the abolition of the death penalty is tabled for debate in the National Assembly. CSO’s have not conducted any public perception surveys on the abolition of the death penalty. • CSO’s have undertaken a series of advocacy initiatives at National and International level that have all been aimed at abolishing the death penalty. CSO’s have engaged relevant stakeholders on repealing of repugnant sections of the Penal Code Act. CSO’s were enjoined in the Muruatete case that saw the Supreme Court declare that the mandatory death sentence was unconstitutional.³⁶

³⁴ <https://bit.ly/2Hb1pz9>

³⁵ <https://bit.ly/2HaSlDs>

³⁶ <https://bit.ly/2HaSlDs>

11. Access to Information, Freedom of Expression and Press and Right To Privacy

11.1 Recommendation: Enhancing access to information and right to privacy, promote freedom of expression and the press and the right to privacy including of children. *Recommendation Nos. 142.121; 142.124; 142.126; 142.129; 142.131; 142.135; 142.138; CRC Rec 32*

11.1.1 Specific Action by Government: Review and adoption of laws and policies to enhance access to information and freedom of expression including Access to Information Bill, Data Protection Bill, Kenya Information and Communication Act and Media Council Act

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> • Access to Information Bill enacted • The Data Protection Bill enacted • Kenya Information and Communication Act reviewed • Media Council Act reviewed 	<ul style="list-style-type: none"> • Access to Information legislation has been enacted as it was signed into law on 30th August, 2016 and is now in force.³⁷ However the Cabinet Secretary in the Ministry of ICT is yet to formulate regulations that will address issues of processing information such as cost, fees, language, limitations of access to information.³⁸ As of March 2018, the government, through the office of the Attorney General and the Ministry of ICT, in coordination with CSOs is drafting a Data Protection Bill. There has not been any review processes by government. 	<ul style="list-style-type: none"> • CSOs actively advocated for, reviewed and supported the passage of the Access to Information (ATI) Act, 2016 as a Private Member's Bill. There are already sensitization campaigns and capacity building workshops being carried out by CSOs that spearheaded the advocacy of the Act. Additional capacity building is being done for journalists unions like the Kenya Union of Journalists, Media Council of Kenya, Kenya Correspondents Association, and the Commission on Administrative Justice for the formulation of a proactive disclosure framework. CSOs are actively participating in the drafting of the new version of the Bill. • CSOs also participated in the review of the Data Protection Bill undertaken in 2014 and made recommendations for review. CSOs actively participated in the public participation processes for then Computer and Cybercrime Bill 2017 with the aim of identifying and proposing amendments to problematic clauses that could among other things have implications for data protection.³⁹ • Through a litigation process, ARTICLE 19 Eastern Africa argued successfully for the declaration of Section 29 of the KICA Act on 'improper use of a licensed telecommunications system,' unconstitutional.⁴⁰ • CSO and Media have challenged the laws in court unsuccessfully.⁴¹ However, Section 3(2) and Section 6(2)(c) of the Media Council Act were declared unconstitutional.

³⁷ Kenya: Parliament passes Access to Information law:

³⁸ Access to information blocked: https://www.the-star.co.ke/news/2017/12/08/access-to-information-blocked_c1681256

³⁹ TESPOK Lobbies for Deletion of Two Clauses in the Kenya Computer and Cybercrimes Bill 2017 : <http://www.techweez.com/2018/02/26/tespok-cybercrime-bill/>

⁴⁰ [1] Kenya: Win for freedom of expression as repressive law declared unconstitutional: <https://www.article19.org/resources/kenya-win-for-freedom-of-expression-as-repressive-law-declared-unconstitutional/>

⁴¹ Blow to media as court declares 'draconian laws' constitutional: https://www.the-star.co.ke/news/2016/05/27/blow-to-media-as-court-declares-draconian-laws-constitutional_c1359056

11.2 Recommendation: Take all measures to bring to an end attacks on journalists. *Recommendation Nos. 142.126; 142.129*

11.2.1 Specific Action by Government: Strengthen the Media Council of Kenya

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of cases of attacks against journalists reported and investigated.	<ul style="list-style-type: none"> The government has attempted to obstruct critical journalists with legal, administrative, and informal measures, including threats, intimidation, harassment, online and phone surveillance, and in some cases, physical assaults. Between 31st January and 6th February 2018, the government switched off TV signals for 4 TV stations and failed to reinstate them despite a court order for the same. During this period, particular journalists were targeted and threatened with arrest for criticizing the shutdown.⁴² 	<ul style="list-style-type: none"> According to ARTICLE 19 Eastern Africa, in 2015 and 2016, the Media Council of Kenya recorded 65 and 48 cases respectively of attacks against journalists. Between 2017 and 4th April, 2018, 94 cases had been reported. CSOs conduct research and develop reports on violations of freedom of expression in Kenya.

11.3 Recommendation: Take measures to guarantee freedom of association and assembly including children. *Recommendation Nos. 142.129; CRC Rec 32*

11.3.1 Specific Action by the Government:

- Review and enforce laws, policies, and guidelines that guarantee freedom of association and assembly.
- Prepare adequately for assemblies to ensure the best possible conditions for exercise to peaceful assembly.
- Enhance investigations and prosecution of cases of excessive use of force.
- Sensitization of the guidelines of peaceful assembly

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> Revised and reviewed rules and regulations on management of peaceful assembly. Number of peaceful assemblies held. Number of 	<p>No revisions and or reviews. The State has continued to conduct management of protests unlawfully, in most cases leading to injuries and deaths of protesters and those nearby. There were many reported casualties especially in the period leading to and after elections. Despite receiving formal complaints from journalists, police have rarely investigated the attacks or threats. There is no evidence that any state</p>	<ul style="list-style-type: none"> Public Interest litigation promoting the right of access to information, privacy, challenging criminal defamation. CSOs continue to support HRDs with legal representation and aid in defence of these rights. For example, the National Coalition of Human Rights Defenders Kenya supported HRDS in <i>Wilson Olal & 5 others v Independent Medico-Legal Unit & another [2017] eKLR[1]</i> where the court made particular declarations ordering for lawful management of protests by law enforcement officers.⁴³ Compiled and disseminated report on the Right to

⁴² Citizen and Inooro TV stations finally back on air: <https://www.capitalfm.co.ke/news/2018/02/citizen-inooro-tv-stations-finally-back-air>

⁴³ Wilson Olal & 5 others v Independent Medico-Legal Unit & another [2017] eKLR <http://kenyalaw.org/caselaw/cases/view/137643/>

<p>cases investigated and prosecuted.</p> <ul style="list-style-type: none"> Number of police officers sensitized on the guidelines of peaceful assembly. 	<p>actor has in the past five years been held accountable for threatening, intimidating, or physically attacking a journalist or blogger in Kenya. Kenya's progressive legal frameworks guarantee freedom of assembly and association. This has however been violated by government agencies as witnessed during the post 8th August, 2018 general elections. Brutal killings and use of excessive force by the police and security forces has characterized the peaceful demonstrations conducted by supporters of the opposition leaders.</p>	<p>Freedom of Peaceful Assembly. CSO's-ARTICLE 19 Eastern Africa is conducting cross-county dialogues on peaceful assembly e.g. Kakamega, Bungoma, Uasin Gishu.</p> <ul style="list-style-type: none"> The NCHRD-K convened a national HRDs symposium on freedom of assembly and association during the elections in January 2018. There are efforts to push for investigation and prosecution of perpetrators by undertaking follow up with IPOA of reported cases.⁴⁴ In 2017, ARTICLE 19 Eastern Africa, together with IPOA, KNCHR, and OHCHR carried out a media campaign on peaceful assemblies that culminated in the publication of a policy brief on peaceful assemblies, a television and social media sensitization campaign, TV appearances on the same.⁴⁵
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12. Access to Justice for Specialised Groups including Legal Aid

12.1 Recommendation: Conform the juvenile justice system practices to be in accordance with international best practices. *Recommendation Nos. 142.90; 142.105; 142.114*

12.1.1 Specific Action by Government: Review laws and policies on children to ensure consistency with International standards.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<p>Reviewed and adopted laws and policies on children including the Children Act.</p>	<ul style="list-style-type: none"> The Children Act (Amendment Bill 2016) is now with the Office of the Attorney General. Child Justice Bill 2016 is undergoing public participation. The Sexual Offences Act, 2006 has been reviewed to include employers' responsibilities to undertake background check on whether any of their employees involved in the care of children have been previously convicted of any offence under the Act.⁴⁶ 	<p>CSOs, like Pendekezo Letu, PLAN International and The CRADLE have been supporting the Public Participation process of the Children Bill 2016 and the Child Justice Bill 2016 through the National Council on Administration of Justice Special Taskforce on Children Matters which The CRADLE is a member.</p>

12.2 Recommendation: Establish an institutional and legislative framework for the provision of affordable legal aid and awareness services including for claims on ESC rights. *Recommendation Nos. 142.7; ESCR rec 9; CRC rec 34 e; CRPD 20 B*

12.2.1 Specific Action by Government:

- Adopt the legal aid policy.

⁴⁴ Kenya: End excessive use of force against protesters: <https://www.article19.org/resources/kenya-end-excessive-use-of-force-against-protesters/>

⁴⁵ [1] The Right To Freedom of Peaceful Assembly-A checklist for the Kenyan Police and the Public http://www.knchr.org/LinkClick.aspx?fileticket=iuD5Cui6_Z8%3D&tabid=166&portalid=0&mid=621

⁴⁶ http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2016/TheSexualOffences_Amendment_Bill__2016.pdf at page 4

- Enact and operationalize the Legal Aid Act by establishing and funding the Legal Aid Service Board.
- Full implementation of Article 48 of the Constitution with regard to payment of court fees.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> • Legal Aid Policy adopted and implemented. • Legal Aid Act enacted and operationalized. • Budgetary allocations to the Board and Fund. • Increase the number of service providers offering legal aid services. • Number of indigent persons applying for and receiving legal aid including PWDs and persons with albinism. Percentage increase in budgetary allocations towards access to justice for vulnerable persons. 	<ul style="list-style-type: none"> • The National Legal Aid Action Plan was launched by the Attorney General on the 18th December 2017 with a promise of immediate implementation.⁴⁷ • The Legal Aid Act 2016 has been enacted and operationalized, the board is fully constituted though the regulations have not been developed.⁴⁸ • The National Legal Aid Board was allocated to the board 150 million towards the National Legal Aid Fund in 2017-2018.⁴⁹ The Board is in the process of registering persons/organisations interested in offering legal aid services. In 2018, Parliament made a 50% cut in Judiciary's budget. This having a negative impact in the realization of Article 48 of the Constitution of Kenya 2010. 	<ul style="list-style-type: none"> • CSOs have been key players in the process of the adoption of the National Legal Aid Policy and are also key to the implementation of the Policy. • CSOs like Kituo cha Sheria and Pendekezo Letu have been involved in the capacity building of paralegals and advocates in an attempt to increase the number of Legal Aid Service Providers

12.3 Recommendation: Continue ensuring respected principles of social equality and guaranteed access to justice for vulnerable people. *Recommendation No. 142.98*

12.3.1 Specific Action by Government:

- Enact the Small Claims Court Bill and establish the Small Claims Court.
- Operationalize ADR mechanisms under Article 159 (2)(C) of the Constitution.

Indicator	Status of Implementation
<ul style="list-style-type: none"> • Small Claims Court Act enacted. • Increase in the number of vulnerable persons accessing justice through the small courts. • Percentage increase in the number of vulnerable groups accessing justice through alternative means including ADR. • The Mediation Accreditation Committee and appointed mediators 	<ul style="list-style-type: none"> • The Chief Justice is required to gazette the Small Claims Courts but this has so far not been done • The adjudicator's have also not been gazetted. • Since Small Claims Courts have not been gazetted, the number of people accessing Justice through the same is therefore none. • There is no percentage increase of vulnerable groups accessing justice through Alternative means as the TJS is not yet set-up and the Legal Aid Fund is yet to be beneficial to the groups. • The Mediation Accreditation Committee has been established and 96 mediators accredited.

⁴⁷ <https://citizentv.co.ke/news/legal-aid-to-all-kenyans-as-ag-launches-govt-initiative-185762/>; <http://www.statelaw.go.ke/wp-content/uploads/2017/12/NAP-Legal-Aid-2017-2022.pdf>

⁴⁸<http://kenyalaw.org/lex/rest/db/kenyalex/Kenya/Legislation/English/Acts%20and%20Regulations/L/Legal%20Aid%20Act%20No.%206%20of%202016/docs/LegalAidAct6of2016.pdf>

⁴⁹ Ibid

13. Historical Human Rights Violations

13.1 Recommendation: Support the truth, justice and reconciliation process. *Recommendation Nos. 142.91; 142.96; 142.100; 142.101; 142.102; 142.104; 142.107; 142.108; 142.116; 142.117; 142.176*

13.1.1 Specific Action by Government

- Implement the TJRC report.
- Provide reparations for victims of historical injustices.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> • Percentage implementation of the recommendations of the TJRC report. • The Victim Protection Act reviewed to include reparation for victims of historical injustices. • A Victims Register is developed. • The Historical Land Injustices Bill enacted. • Number of victims of historical injustices receiving reparation. 	<ul style="list-style-type: none"> • The President issued a public apology during the 2015 State of The Nation address for all historical injustices as recommended by the TJRC Report. • In the said address, the President's requested the National Assembly to adopt the TJRC report to enable full implementation but the same has not been effected. The TJRC report is yet to be submitted to the Parliamentary Justice and Legal Affairs Committee for debate and advice to the National Assembly. • In the same 2015 State of the Nation Address, the President established a KShs. 10 Billion Restorative Justice Fund for reparations – to be set up within 3 years (2015 to 2018). The Fund is yet to administered and disbursed due to lack of a legal framework. Only KShs 3 Billion has been confirmed allocated to the Fund during the 2015 budgetary process. • Reparations have not been issued for victims of historical injustices. The government is yet to establish a legal framework for a reparations program in Kenya. The Victims Protection Act is undergoing review. However, the ongoing review is not to provide for reparations for historical injustices. The viability of using the Victims Protection Act to dole out reparations for historical injustices was questioned- thus abandoned. The State Law Office has developed regulations under the Public Finance Management Act which regulations have not been approved by Treasury or the National Assembly. Treasury has requested that the State Law Office develop the 	<ul style="list-style-type: none"> • The 2018 State of Human Rights and Fundamental Freedoms in the Republic of Kenya: Statement by The Kenya National Commission on Human Rights called on the State through the President “to consider a phased implementation approach to the Truth Justice and Reconciliation Commission (TJRC) recommendations.” • KNCHR together with the Office of the Attorney General and the Kenya Transitional Justice Network has since worked to develop the legal framework (Regulations and a policy proposal) that will operationalize the Fund for reparations and forwarded to the Office of the Attorney General of Kenya.⁵⁰ • The VPA could not be used to include reparations for victims of historical injustices as it deals with current crimes and was thus not reviewed to fit the historical injustices. Instead, The State Law Office has developed regulations under the Public Finance

	<p>reparations policy to accompany the draft regulations. The State Law Office has now requested Cabinet to sanction the commencement of the drafting of a reparations policy.</p> <ul style="list-style-type: none"> • The Victims Protection Act underwent review. However, the review did not provide for reparations for historical injustices as the viability of using the Victims Protection Act to dole out reparations for historical injustices was questioned - thus abandoned. • Instead, The Public Finance Management Act was reviewed through the Public Finance Management (Reparations for Historical Justices Fund) Regulations 2017 together with the State Law Office through the Attorney General. • The Victims Register has not been developed yet. It will be developed once the reparations framework is in place. However, the TJRC report provides a solid basis/basic register of victims that should be supplemented by further registration once the process commences. • The NLC Act was amended in 2016 via the Land Laws (Amendments) Bill to introduce an amended Section 15 to stipulate provisions on investigating and redressing historical land injustices. • NLC has proposed regulations to bridge insufficiencies in the amendments in terms of elaborating procedures on submission of claims, conditions under which a reparative measure can be undertaken, financing for implementation and the appeals mechanism for decisions. • Reparations have not been issued for victims of historical injustices. The government through the National Assembly and The Treasury are yet to adopt a legal framework for a reparations program in Kenya. 	<p>Management Act – Public Finance Management (Reparations for Historical Justices Fund) Regulations 2017 - which regulations have not been approved by Treasury or the National Assembly.</p> <ul style="list-style-type: none"> • The Victims Register is expected to be developed when the Regulations and policy are officially adopted and gazetted to guide implementation of the reparations process. • Proposals continue to be made to operationalize the implementation of the Community Land Bill 2013.⁵¹ The State Law Office has developed regulations under the Public Finance Management Act - Public Finance Management (Reparations for Historical Justices Fund) Regulations 2017 and the Draft Policy Proposal for a Reparations For Historical Injustices Policy 2017” - which regulations and policy have not been approved by Treasury or the National Assembly to enable administration of reparations from the Restorative Justice Fund.
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13.2 Recommendation: Support the truth, justice and reconciliation process.
Recommendation ESCR Rec 11 & 12

13.2.1 Specific Action by Government:

- Commence the process of developing a reparation policy for victims of historical injustices.
- Resettle IDPs and address their ESC rights.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
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⁵¹ Pg 27/28 <http://www.khrc.or.ke/publications/170-a-status-brief-and-peoples-manifesto-for-political-and-policy-engagements/file.html>

<ul style="list-style-type: none"> • Reparation Policy Developed. • A comprehensive IDP registration system developed. • The National IDP Policy adopted and implemented. 	<ul style="list-style-type: none"> • After submitting The Public Finance Management Act - Public Finance Management (Reparations for Historical Justices Fund), the State Law Office has now been requested by the Treasury at the Cabinet level to sanction the commencement of the drafting of a reparations policy. • Though there is The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities (IDPs) Act, 2012, comprehensive and genuine profiling and registration of IDPs in the national database has been criticised as unevenly distributed and largely inadequate. • No comprehensive and up-to-date national data on displacement is available for Kenya, as the country has no centralised IDP-related data collection system and the government has never carried out an exercise to profile IDP numbers and locations throughout the country.⁵² • The Draft National IDP Policy is yet to be adopted. 	<ul style="list-style-type: none"> • A policy proposal – “A Draft Policy Proposal for a Reparations For Historical Injustices Policy 2017” - has been developed by the KNCHR together with the Kenya Transitional Justice Network and submitted to the State Law Office through the Attorney General to influence the policy making process. • The Government has been criticized for the latest compensation to IDPs during the August 2018 electoral campaigns. The process of registration was not publicly provided, neither were the compensation amounts thus the process ended up being viewed as an electoral process and not genuine addressing of the IDPs. • Some IDPs, including those that after the 2007/2008 PEV missed the cut-off date for registration or fled to host communities, IDPs displaced by violence prior to 2007, or IDPs fleeing for reasons other than political violence such as those forcibly evicted from urban areas or government forests have been registered thus missing out on resettlement programmes, compensation or emergency assistance. • Proposals have continued to be made to review and update the draft IDP policy before its adoption for it to be brought in line with the IDPs Act. To also consider the adoption of a regulation to assist the operationalisation of the IDPs Act.
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13.3 Recommendation: Co-operate with the International Criminal Court and take measures to prevent impunity of the perpetrators of PEV. *Recommendation Nos. 142.92; 142.93; 142.100; 142.110; 142.112; 142.113*

13.3.1 Specific Action by Government:

- Co-operate with the ICC.
- Put in place measures to prevent impunity and ensure accountability.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> • Number of requests processed. • International Crimes Division 	<ul style="list-style-type: none"> • Kenya has been cited for non-cooperation with the ICC. On 19th September 2016, the Trial Chamber V(B) of the ICC issued a decision finding that Kenya had failed to comply with its obligations under the Rome Statute. It referred Kenya to the ASP for further action. The ASP has failed and/or neglected to take action against Kenya. Kenya was found to have failed to comply with its statutory obligations to consult 	<p>The civil societies continue to call for the urgent need to establish the ICD for purposes of</p>

⁵² Pg 37 <http://www.internal-displacement.org/assets/publications/2015/20150827-af-kenya-review-of-normative-framework-relating-to-protection-of-idps-en.pdf>

<p>established in the local Courts.</p>	<p>with the ICC and to take all reasonable steps to execute a request for co-operation from the Court, including by not providing clear, relevant and timely responses or taking any meaningful steps to compel production of requested information. According to the ICC, the non-cooperation prevented the Court from exercising its functions and powers under the Statute.</p> <ul style="list-style-type: none"> • There has been a general failure to establish an International Criminal Division (ICD) within the Judiciary given that the ODPP has been categorical that he will not be espoused to any cases to the ICD related to the post-election violence. Secondly that he had no cases to espouse to it given that he has neither requested for it nor felt the need to have such a division established. Lastly, the drive to set up the ICD was deflated once the ICC terminated the Kenyan cases. Conversations around establishment of the ICD was to support a drive to “bringing the ICC cases home so as to ‘kill them off’” here in Kenya. Given the ICC terminated the Kenyan cases, the Executive and the Judiciary have not felt the need for an ICD. • The former AG, Prof. Githu Muigai reported in early 2018 that the ICD is in place and is awaiting the appointment of a prosecutor to formally be launched. 	<p>ensuring prosecution of international and transnational crimes in the future.</p>
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14. Protect the Rights of Refugees

14.1 Recommendation: Protection of refugees and ensuring the principle of non-refoulement. *Recommendation Nos. 142.181; 142.182; 142.183*

14.1.1 Specific Action by Government:

- Fully implement the tri-partite agreement between Kenya, Somalia and UNHCR.
- Amend the Refugee Act, 2006.
- Adopt the Asylum Policy.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<ul style="list-style-type: none"> • Number for refugees repatriated as provided under the Tri-partite Agreement. • Review of the Refugee Act finalized and 	<ul style="list-style-type: none"> • The State was required to fully implement the tripartite agreement between Kenya, Somalia and the United Nations High Commissioner for Refugees signed in 2013. To this end, the Government of Kenya has repatriated 78,517 refugees from Dadaab refugee camp, Kakuma refugee camp, urban centres from 2014 to 28th February, 2018.⁵³ • The Refugees Bill was under review by the National Assembly from late 2015 to 2017. It was presented for 2nd Reading on 23rd and 30th November, 2016 in the National Assembly. 	<ul style="list-style-type: none"> • Civil Society Organisations have been monitoring the return process of refugees to Somalia to ensure they return in dignity, safety and voluntarily and that the return process is sustainable. During the monitoring it emerged that people were returning back to Kenya due to drought and conflict in Somalia and lack of livelihood opportunities and services in Somalia.⁵⁵ Civil society note that new arrivals of asylum seekers from Somali are not

⁵³ <http://www.unhcr.org/ke/wp-content/uploads/sites/2/2018/03/KENYA-Statistics-Package-February-2018-1.pdf>

⁵⁵ <http://www.reachresourcecentre.info/system/files/resource->

<p>enacted</p> <ul style="list-style-type: none"> • An Asylum Policy developed and adopted. 	<p>During the 2nd Reading, legislators raised concerns on provisions relating to education for refugees, access to land, need for increased burden sharing, access to work opportunities by refugees, environmental conservation, and increased medical and security screening of refugees. The Bill was presented for 3rd Reading and passed by the National Assembly on 13th June, 2017 and forwarded to the President for Assent.</p> <ul style="list-style-type: none"> • His Excellency the President refused to assent to the Bill citing lack of public participation and returned the Bill back to Parliament to allow for public participation in accordance with the Constitution of Kenya.⁵⁴ The State was also required to develop and adopt an asylum policy by 2019 as a measure of dealing with the issue of refugees. There is no asylum policy to date. The State has been developing an Immigration Policy which is yet to be adopted which has a few elements on refugees. 	<p>being registered in Dadaab refugee camp and they lack identification documents.</p> <ul style="list-style-type: none"> • Civil Society Organisations constituted a taskforce chaired by the Government department in charge of refugees (Refugee Affairs Secretariat, RAS) under the ministry of Interior and Coordination of National Government. The objective of the Taskforce is to assist in the review process and ensure participation of various stakeholders in the review process. The task force has 8 NGOs⁵⁶. The Taskforce has held capacity building sessions with MPs on refugee law and principles and facilitated a fact finding mission of the MPs to refugee camps for public participation with refugees and the host community. The Taskforce is developing a draft asylum policy which will be presented to Government.
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⁵⁴ <https://www.businessdailyafrica.com/economy/Uhuru-rejects-bill-giving-refugees-right-to-jobs-and-land/3946234-4178936-xf36adz/index.html> accessed on 4th March, 2018

⁵⁶ The TF is chaired by the Refugee Affairs Secretariat (RAS) with other members comprising of Refugee Consortium of Kenya (RCK), Danish Refugee Council (DRC), International Rescue Committee (IRC) (co-chair), United Nations High Commissioner for Refugees (UNHCR), Heshima Kenya, HIAS and Kituo Cha Sheria (KCS).

C. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

15. Right to Housing

15.1 Recommendations: To continue with the initiatives to promote and protect the people's right to adequate housing. *Recommendation Nos. 142.155; 142.157; ESCR rec 6; ESCR rec no. 46*

15.1.1 Specific Action by Government: To take legislative, policy and other measures to guarantee the right of access to adequate housing particularly for the vulnerable and the marginalized.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
Resettlement and Forced Eviction Bill compliant with international standards enacted.	<ul style="list-style-type: none"> The Land Laws Amendment Act of 2016 has provisions at Section 98 that stipulates how humane evictions should be conducted. However, there is failure by State agencies to respect the guidelines particularly in the informal sector settlements. The Eviction and Resettlement Bill was shot down in Parliament and instead they passed the Land Laws (Amendment) Act 2016 which is silent on the UN basic principles and guidelines on evictions and displacement of communities and groups. Civil Society Organizations have strongly recommended the formulation of a legislation that provides safeguards on Eviction and Resettlement. The State has violated the international standards with regard to forced evictions as was witnessed in July, 2018 during the evictions of residents in Kibera slums to create room for the construction of the Kibera Link Road 	Stakeholders are pushing for a separate piece of legislation that enumerates the procedures to be followed by the State during evictions and resettlement. Community mobilization and participation.	
Kenya Slum Upgrading programme (KENSUP) implemented and benefit the intended beneficiaries.	<ul style="list-style-type: none"> The National Slum Upgrading and Prevention Policy has been approved and adopted to guide the process of slum upgrading and prevention initiatives. However, the slow implementation of the Kenya Slum Upgrading Programme and the lack of advanced strategies have slowed down the process of building the second phase of the project. The lack of proper consultation and involvement of local community and Civil Society stakeholders have also contributed to the failure. The State must have an engagement strategy to ensure inclusivity in project implementation. In 2010, the demand for urban housing was estimated at 80,000 units a year, with demand projected to increase to nearly 300,000 units a year by 2050. By comparison, in 2013 only 15,000 housing construction permits were issued in Nairobi County Government where housing demand is high. With this level of deficit, achieving the Kenya Vision 2030 will not be possible. Effective monitoring mechanisms must be put in place to ensure project implementation is on course. The design of 	Civil Society Organizations have been working to ensure transparency, accountability in enumeration and proper identification of the beneficiaries; and supporting meetings and awareness creation.	

	<p>the units also does not consider infusing human rights principles, for example cultural rights. Most units are single bedroom, with children and parents sharing rooms.</p>	
<p>Number of people in rural and urban areas per County unit accessing adequate housing.</p>	<ul style="list-style-type: none"> • The inception of Urban Regeneration Projects within urban areas is crucial in improving access to affordable housing. However, the process of land acquisition, demolition and identification of beneficiaries together with proper involvement of the masses are the challenges that must be addressed. • Several cases have been filed in Court challenging the processes being applied by the County Government such as is being experienced in Nairobi and Mombasa County. • Additionally the human rights issues around forced evictions must be considered to eradicate resistance. • Also noteworthy is that construction of houses does not follow a human rights based approach. They do not cater to the needs of PWDs as most lack access mobility making them inaccessible to PWDs, in particular, physical disability. 	<ul style="list-style-type: none"> • Civil Society Organizations are currently working with County Governments on urban regeneration and renewal programs. These programs aim at improving housing standards by demolishing old structures and putting up new units. CSOs are providing support through community mobilization, ensuring the law is followed to avoid stalling, offering technical support, creating awareness among communities, supporting county planning meetings and ensuring effective public participation.
<p>Kenya Informal Settlement Improvement Project (KISIP) is implemented.</p>	<ul style="list-style-type: none"> • The project has commenced and is ongoing in 15 towns in Kenya. According to Government reports, so far 30 meter high mast security lighting have been installed; a total of 43.26 kms of access roads have been constructed to bitumen standards; a total of 35.429 kms of foot paths have been constructed; and a total of 46.98 kms of drainage system constructed. • The challenge is that the commencement of the project was extremely delayed. Further, the project was complicated with little or no access to information that would have enabled stakeholders to engage meaningfully. Due to competing interests, communities have found it difficult to choose between housing as a serious rights issue and short term needs given the limited resources. The government needs a robust strategy for meaningful engagement in setting community priorities. • However while access roads were constructed in this project, it is noteworthy that some pedestrian walk ways were also constructed. 	<ul style="list-style-type: none"> • Community organization and mobilization; trainings on conflict management & resolution; Land tenure negotiation and supporting consultative meetings.
<p>Number of low cost houses constructed annually.</p>	<ul style="list-style-type: none"> • According to the World Bank, the housing deficit in urban areas is estimated at 80,000 annually. With the advent of devolution, this figure is expected to rise to 300,000 annually by 2050. The State has so far not invested in low cost housing. The State should make a deliberate effort to develop low cost housing that targets the low income areas. • County governments must take deliberate steps and leverage on the legal and conducive policy environment to invest in social and low cost housing projects to avert 	<ul style="list-style-type: none"> • Civil society organizations working with social movements have been advocating for social housing – a model housing project that ensures low cost houses are available particularly for residents in the low income areas. This concept is being taken up by

	<p>possible expansion and growth of informal settlements. It is also critical that County governments should invest in urban planning to ensure organization and easy delivery of services including water and sanitation.</p> <ul style="list-style-type: none"> • The Government should employ a more holistic approach that not only focuses on provision of housing but also includes socio-economic empowerment so as to avoid a situation where the beneficiaries sell or lease the houses for purposes of income generation. 	<p>county governments; however, political interests have so far surpassed objectivity in the process. As a result, communities have resisted some of the projects in Mombasa, for example due to lack of proper framework for public participation.</p>
<p>Number of titles deeds issued in Informal Settlements.</p>	<ul style="list-style-type: none"> • The State in 2017 promised to issue 3 million Title Deeds through a robust land management system. In June 2017 the State through its Ministry of Lands had processed 3.2 million Title Deeds including regularization of informal urban centres particular Kibra within Nairobi County. The issuance of individual title deeds for 288 acres of land in Kibra for the Nubian community living in the area. The State should come up with a framework to regularize land in the informal settlements. Conflicts are imminent especially in areas like Mukuru, Kibera and Mathare slums. 	<ul style="list-style-type: none"> • Non state land actors have worked closely with the State and provided technical support, advice and input in key decision making processes. Land adjudication and tenure system is what these have been advocating. • Redress of historical land injustices and management of community land. • The issuance of Title Deeds in informal settlements remains a grey area particularly in urban spaces which is public land. This is further propagated by ethnicity and corruption within the sector.

16. Rights to Water and Sanitation

16.1 Recommendation: Improve access to water and sanitation services particularly for rural and suburban communities. *Recommendation Nos. 142.147; 142.154; ESCR Rec 50; CRC Rec 56a*

16.1.1 Specific Action by Government: Enact and implement the Water Bill.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<p>Water Act that conforms to Constitution of Kenya, 2010 and regional and international instruments that Kenya has</p>	<ul style="list-style-type: none"> • The Water Act was signed into law in 2016 and operationalized in 2017. The Act conforms to the Constitution of Kenya, 2010 and has been aligned with regional and international human rights standards. However, the process of implementation is very slow. • The National Water Policy is being reviewed so as to be in conformity with 	<ul style="list-style-type: none"> • Civil Society Organizations participated in the development of the Water Act through submission of Memoranda and supporting meetings to finalize the then Bill. The organizations have this far continued to create awareness on the legislation, capacity building for county government officials to understand the content of the Act and supporting county governments to develop

signed and ratified.	the Water Act and Constitution of Kenya, 2010.	their own laws in conformity with the national laws.
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16.1.2 Specific Action by Government: Enact and implement Water Regulatory Framework.

Indicator	Status of Implementation by Government	Complementary Action by other Stakeholders
Regulated water prices that are compliant with tariff guidelines set up by the Water Services Regulatory Board.	<ul style="list-style-type: none"> The process of developing and standardizing tariffs to comply with Article 43 and the Water Act, 2016 was finalized by Water Services Regulatory Board. The Board has developed Tariff Guidelines to regulate water services. However, these guidelines need to be reviewed to align with the Water Act, 2016. While the process of aligning water services delivery with the Water Act, 2016 is ongoing, the Board needs to review the Drinking Water Quality Guidelines, non-revenue water standards and consumer engagement guidelines to reflect and comply with the law. There is need to monitor the implementation of the tariffs and guidelines especially in the informal settlement sector where residents pay three times higher for water as compared to non-informal sectors. 	<ul style="list-style-type: none"> Stakeholders particularly the Civil Society, Water Action Groups and other institutions meaningfully participated in development of the guidelines and tariffs through public participation forums. CSOs helped community mobilization, organizing and awareness creation.

16.1.3 Specific Action by Government: Fully implement the Kenya National Water Master Plan, 2030 based on and to meet the projected demand for water for a growing population and economy.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Percentage increase in the number of individuals and households accessing adequate water and sanitations especially for rural, sub urban and most vulnerable groups.	<ul style="list-style-type: none"> According to the Water Services Regulatory Board Report Issue No. 10 published in 2018, there has been an improvement in performance of two percentage points from 55.9% to 56.9% in terms of coverage for access to safe drinking water. The population in the service area (urban and suburban areas) of the commercialized utilities increased by 562,026 (2.34%) compared to an increase of 630,846 (6.01%) in the number of people served. The number of connections increased by 14,674, which is a decrease of 60% compared to the previous year. Under the Vision 2030 goals, one connection should serve an average of 12 people. The implementation of the National Water Master Plan is ongoing. However, the slow level of implementation and meager resources allocated to the process is being outrun by climate change, droughts and growing demand for water both in urban and rural areas. There is a lot of emphasis on water supply and connections, but very little efforts have been directed towards resource management. There is need to invest in Water Resources Management and other sources particularly ground water and rain water harvesting to minimize surface water depletion. 	Civil Society Organizations are actively involved in promoting the WASH agenda through education, awareness creation, capacity building for counties, water service providers and convening meetings to advance Water Resources Management.

16.1.4 Specific Action by Government: Take measures to improve sanitation.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
<p>Number of urban and rural households with individual or shared toilet facilities.</p>	<ul style="list-style-type: none"> • The national on-site sanitation coverage decreased by 0.5% from 66.9% in FY 2014/15 to 66.4% in FY 2015/16. The urban on-site sanitation coverage decreased by 0.7% from 72.1% to 69.4% in FY 2015/16. • Rural on-site sanitation coverage decreased by 0.4% from 64.5% to 64.1% in FY 2015/16. The national sewerage coverage was about 10.2% in FY 2014/15 and 10.5% in FY 2015/16. The number of people connected by utilities to sewerage was at 15% in FY 2014/15 nationally. • The creation of the Ministry of Water and Sanitation is a crucial starting point towards increasing access and coverage both in urban and rural areas. • However, this must be followed with allocation of sufficient resources, proper planning and implementation of projects to achieve the sanitation bit both in the Vision 2030 and the Sustainable Development Goal 6. 	<ul style="list-style-type: none"> • Access to improved sanitation facilities remain the greatest challenge for both urban and rural households. The urban population influx is not in tandem with increase in urban sanitation facilities leading to the decrease in access. Stakeholders in the sector have been pushing for legislative, policy and institutional reforms to create an environment in which major changes in the sector can take place. • The current government has moved the sanitation component which was previously neglected from the Ministry of Public Health to the Ministry of Water and Sanitation. This is crucial in terms of institutional reforms. Actors are still advocating for allocation of resources and investments in sanitation to increase access and coverage.
<p>Number of urban and rural areas with proper sewerage systems.</p>	<ul style="list-style-type: none"> • All the major urban areas in Kenya particularly Nairobi, Mombasa and Kisumu lack sufficient sewerage infrastructure to serve the ever growing urban populations. • According to the World Bank Report titled Republic of Kenya: Kenya Urbanisation Review, 2016, only about 18% of the urban population is covered by a sewerage system, 70% rely on septic tanks and pit latrines, and the rest have access to no sanitation services at all. • Existing waste water treatment systems operate at very low efficiencies (about 16% of design capacity for 15 plants assessed in 2010), leading to discharge of untreated effluents. • For the rural areas, citizens use pit latrines and septic tanks for their sanitation needs, sewerage infrastructure in rural areas is almost zero if non-existent at all. • Poor planning and lack of sufficient investment remain the major accelerators of sewer coverage challenges. County governments need to invest in sanitation infrastructure development to meet the needs of the growing population. 	<ul style="list-style-type: none"> • Sector stakeholders have worked with the Ministry of Public Health, the defunct Ministry of Water and Irrigation to conduct advocacy around budget increase for sanitation, community mobilization to increase coverage in the informal settlements, conflict management and resolution, creating dialogue platforms for government to interact with affected communities and reach a consensus. • Civil Society Organizations have been advocating for transfer of the sanitation component from the Ministry of Public Health to the newly formed Ministry of Water and Sanitation and this has since borne fruit.

17. Right to Food

17.1 Recommendations: Implement specific standards and regulations ensuring food security and nutrition for the most vulnerable groups and the barriers and challenges to poverty alleviation are properly addressed. *Recommendation Nos. 142.154; ESCR Rec 44; CRC Rec 56a*

17.1.1 Specific Action by Government: Undertake, policy, legislative, judicial and administrative measures to implement the right to food including consolidating the Agriculture Reform Laws.

Indicator	Status of Implementation by Government	
Rules and regulations for the Agriculture, Fisheries and Food Authority Developed.		
Rules and regulations to implement Kenya Agricultural Research Organisation developed.	All agricultural research institutions were consolidated into one – KALRO (Kenya Agricultural Livestock Research Organization).	Blue
Livestock Breeding Bill enacted into law.	Livestock Breeding Bill was enacted into legislation in May, 2015.	Green
Fisheries Management and Development Bill finalised.		Grey
The Fisheries Management and Development Bill was enacted into law in 2016 - (Date of Assent, 3rd September and Commencement, 23 rd September, 2016).		Grey
Adoption of the National Action Plan on Food Security and Nutrition.	Kenya National Nutrition Action Plan of 2012 - 2017 was adopted in 2012 is derived from the 2012 Food Security and Nutrition Policy (FNSP). Some of the strategies are: <ul style="list-style-type: none"> • Movement from subsistent agriculture to commercial agriculture • Provision of subsidized seeds and fertilizers to farmers • Mechanization of agriculture • Diversification of seed cultivated plants and funds from their domesticated and wild varieties • There is need to expressly entrench into legislation the right to food. Need to revive discussions on the Food Security Bill. 	Green
Reformed agrarian systems that achieve the most sustainable	<ul style="list-style-type: none"> • Irrigation and mechanization of agriculture ongoing. Agribusiness has been encouraged and is being implemented. • Despite government efforts, there still exist several impediments to agriculture 	Red

and efficient development and utilization of natural resources, including eradication of impediments to agriculture.	<p>including the high cost of inputs; corruption in the agriculture sector.</p> <ul style="list-style-type: none"> • There is need for the State to provide information on mega projects on food security to allow for interrogation and monitoring for effectiveness and implementation. • Presently, 21 irrigation projects have stalled after the government spent KShs. 880 Million during the year 2015/16. A total of KShs. 20.8 Billion was allocated to irrigation projects all over the country during the 2016/17 FY. • In particular, the government spent a total of KShs. 7 Billion in the failed Galana Kulalu Flagship Project which was projected to produce 20 million bags of maize but only yielded 103,000 bags which translates to KShs. 708,000 to grow maize per acre.
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17.1.2 Specific Action by Government: Take steps to mitigate and alleviate hunger in times of natural or other disasters to ensure that no one suffers from hunger or severe malnutrition.

Indicator	Status of Implementation by Government
Number of bags in Strategic Grain Reserve.	<ul style="list-style-type: none"> • According to FAO Kenya factsheet of September 2015, the NCPB is expected to maintain the Strategic Grain Reserve of 4 million bags (90 kg each) to be released into the market or distributed through public relief agencies during food crises.⁵⁷ However the number of bags as at 16th May, 2017 dropped to 50,000 bags of 90 kg. This can only feed the entire country for half a day. • The State relied heavily on importing maize from Mexico which was estimated to last for only 6 days. In 2018, there have been cases of corruption affecting the Strategic Grain Reserve with instances where individuals are paid without supplying any maize to the SGR.
Proportion of food secure households.	<ul style="list-style-type: none"> • Kenya was ranked 86/113 with 42.2 points out of 100 in the Global Food Security Index of 2017.⁵⁸ • Food security is measured in terms of Affordability, Availability, Quality and Safety. According to a WFP Comprehensive Food Security and Vulnerability Survey: Summary Report Kenya, 2016, most Kenyan households have acceptable food consumption (88%), however around four million people (12% of households) have unacceptable consumption. • FAO report Situational report, 2017 indicates that 36.5% Kenya' population is food insecure and 35% of children under five are stunted (chronically malnourished) in Kenya.⁵⁹ • Food insecurity prevalence is higher in rural Kenya with Turkana County being worse hit where almost one in five households (19%) have poor consumption. Nairobi has the highest number of food insecure households of all urban centres with a good number of households being estimated to be severely food insecure.⁶⁰ • Continued food insecurity in parts of northern Kenya results in nearly 1.1 million people requiring emergency food assistance.⁶¹ 1.25 million people currently acutely food insecure but will increase sharply from February.⁶²

18. Social Security for Vulnerable Groups

18.1 Recommendation: Continue to strengthen social protection programs developed on behalf of its people, especially the population most in need. *Recommendation Nos.*

⁵⁷ <http://www.fao.org/3/a-i4911e.pdf> accessed on 04.04.2018

⁵⁸ <https://foodsecurityindex.eiu.com/Country/Details#Kenya> accessed on 04.04.2018

⁵⁹ <http://www.fao.org/countryprofiles/index/en/?iso3=KEN>

⁶⁰ https://www.wfp.org/sites/default/files/WFP-K%20Drought%20SITREP_JAN%202017_FA.pdf

⁶¹ https://www.usaid.gov/sites/default/files/documents/1866/kenya_fi_fs01_09-30-2015.pdf

⁶² WFP Kenya Drought Situation Report

142.70; 142.145; 142.150; 142.159; ESCR Rec 28, 30, 36; CRC Rec 56 g & h; CRPD Rec 14b and 50a.

18.1.1 Specific Action by Government: Allocate more resources to social protection for vulnerable groups in the country including children and PWD.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
Percentage annual increase in budgetary allocation for social protection.	<ul style="list-style-type: none"> • Even though there has been incremental State budget allocation for social protection programmes in Kenya from 2007/08 - 2015/16 budgets, there was a marked decrease in allocation in the year 2015/16 to 2016/17 by 10% on the cash transfers for older persons.⁶³ • The challenge is around coordination and evidence gathering to measure change. • Further, the cash transfer program for the elderly persons has not covered the entire country. 	Several stakeholders also do play a key role, such as the Faith Communities, CSOs, Family and neighbourhood support structures and UN agencies.	
Percentage increase in the number of vulnerable persons covered by social protection.	<ul style="list-style-type: none"> • As already noted, there was a marked decrease in allocation in the year 2015/16 to 2016/17 by 10% on the cash transfers for older persons. Consequently, there was a decline in the number of beneficiaries (Older Persons) from 310,223 in 2015/16 to 279,150 in 2016/17. • For OVCs, the number of beneficiaries reduced during the same period from 351,650 to 351,010.⁶⁴ • The State is directly supporting about 1,500,000 poor and vulnerable citizens through the monthly cash transfers of KShs. 2,000. • There are challenges around the legislation and coordination of the three sectors; Social Assistance, Income security and Health Insurance. • Challenge of a standard monitoring framework also makes it difficult to know who is doing what and where 		
Coverage of NSSF extended to employees in informal employment.	<ul style="list-style-type: none"> • It was impossible to secure information on the number of employees in the informal sector that have joined the NSSF. • There is need for government and the NSSF to develop strategies to secure the said information and/or make it public. 	The State and relevant non state actors need to do a study on NSSF penetration in the informal sector.	

18.1.2 Specific Action by Government: Undertake, policy, legislative, judicial and administrative measures for social protection for vulnerable groups in the country including children and PWD.

Indicator	Status of Implementation by Government	
Reviewed and adopted Social Protection Policy.	<ul style="list-style-type: none"> • Social Protection Policy was first adopted in 2011. However, it was not possible to establish the current position with regard to the review. 	

⁶³ Kenya Economic Survey, 2017

⁶⁴ Kenya Economic Survey, 2017

	Thus there is need to review and align to the devolved government structures.
Enactment of the Social Protection Bill.	<ul style="list-style-type: none"> • Social Protection Bill has not been enacted.
Social Protection Councils established.	<ul style="list-style-type: none"> • Not implemented. There a social protection council's bill 2014, which is to establish the National Social Protection Council.
Extended coverage of social security beyond persons with extreme disability to all PWDs.	<ul style="list-style-type: none"> • The State has increased coverage of other PWDs, other than extreme PWDs. In 2014/15, KShs. 452 Million was disbursed and in 2015/16, KShs. 300 Million was disbursed, a reduction by KShs. 152 Million.
Full implementation of the Social Assistance Act.	<ul style="list-style-type: none"> • Not implemented. 5 year since enactment it has not been operationalized.
A National Policy for the Protection and Assistance of Street Children is adopted.	<ul style="list-style-type: none"> • National Policy on Street Families Rehabilitation that was adopted in February 2018 is yet to be implemented. • The State lacks adequate data on the actual number of existing street children in Kenya.⁶⁵

18.2 Recommendation: Undertake special measures to promote the employment of youth, women and persons with disability. *Recommendation Nos. 142.70; 142.145; 142.150; 142.159; ESCR Rec 28, 30, 36; CRC Rec 56 g & h; CRPD Rec 14b and 50a.*

18.2.1 Specific Action by Government: (i) Implement the National Employment Policy and (ii) Provide the Directorate of Occupational Safety and Health Services with sufficient human and financial resources to undertake its mandate.

Indicator	Complementary actions by other Stakeholders
Intensified efforts to upgrade vocational skills for the workforce to meet the needs of the labour market and to create decent job opportunities.	<ul style="list-style-type: none"> • UNESCO and Republic of Korea are supporting the State to improve the relevance, quality and perception of technical and vocational education and training in a joint project known as 'Better Education for Africa's Rise II- Promoting & Transforming TVET in East Africa'.⁶⁶
Percentage annual increase in budgetary allocation to the directorate of occupational safety and health services.	

18.2.2 Specific Action by Government: Fully implement the quotas for PWD/women and the youth as regards employment.

Indicator	Status of Implementation by Government
Concrete steps to apply minimum wage to all employees.	<ul style="list-style-type: none"> • The State has developed an integrated wage and remuneration policy for civil servants. In May 2017, the State announced an 18% minimum wage increment. • Implementation of wage increments is hampered by dynamics of different organizations. • There is need to empower Labour Inspectors and the outreach of trade unions in the informal sector.
Percentage of	<ul style="list-style-type: none"> • Parliament in 2016 did pass the National Youth Employment Authority Act to provide

⁶⁵ Principal secretary for special programmes Josephtha Mukope speech during validation of the National Policy on street families rehabilitation in Nairobi, February 2018. see: www.mediamaxnetwork.co.ke/news/407309/state-spend-sh50m-street-children-census

⁶⁶ <http://unesdoc.unesco.org/images/0026/002607/260719E.pdf>

persons with disability, youth and women employed.	<p>various opportunities for job seekers and to give effect to Article 55(c) and 56(b) of the Constitution of Kenya, 2010.</p> <ul style="list-style-type: none"> • The allocation of 30% of all State procurement to youth, women and PWDs has to a great extent increased levels of self-employment among youth. • Within the public sector, only 3% meet the Constitutional threshold of 5% of employment for PWDs. About 13% of public sector employers do not have any PWDs in their workforce.⁶⁷ • The public sector needs to make significant improvements with respect to representation of PWDs in the work force.
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19. Right To Property and Protection from Forced Eviction

19.1 Recommendation: Take all necessary measures to provide individuals that are under threat of being forcibly evicted with full protection against forced eviction in line with international obligations and commitments including the Basic Principles and Guidelines on Development Based Evictions and Displacement. *Recommendation Nos. 142.149; ESCR Rec 48*

19.1.1 Specific Action by Government: Take legislative, policy and administrative measures to protect persons against forced eviction.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Resettlement and Forced Eviction Bill adopted and implemented.	<ul style="list-style-type: none"> • Evictions and Resettlement Bill was shot down by Parliament. Selected provisions on evictions and resettlement included in the Community Land Act. • The State through Parliament needs to pass a stand alone Resettlement and Forced Eviction Law. The Land Laws (Amendment) Act, 2016 has provisions at Section 98 that stipulates how humane evictions should be conducted. • However, there is failure by State agencies to respect the guidelines particularly in the informal sector settlements. • The Eviction and Resettlement Bill was shot down in Parliament and instead they passed the Land Laws (Amendment) Act, 2016 which is silent on the UN Basic Principles and Guidelines on Evictions and Displacement of Communities and Groups. • Civil Society organizations have strongly recommended the formulation of a legislation that provides safeguards on Eviction and Resettlement. The State has violated the international standards with regard to forced evictions as was witnessed in July, 2018 during the evictions of residents in Kibera slums to create room for the construction of the Kibera Link Road 	
Free, Prior and Informed Consent sought from the local	<ul style="list-style-type: none"> • The notice placed through newspaper advert often does not reach the intended community as a whole and within reasonable time. The public participation meetings called for also do not provide sufficient information to the affected communities to enable their full 	Civil society organizations do play the Complementary role of mobilizing

⁶⁷ <http://www.ngeckeny.org/Downloads/Status%20of%20Equality%20and%20Inclusion%20in%20Kenya.pdf>

communities before the commencement of any development projects.	<p>engagements and participation in the processes.</p> <ul style="list-style-type: none"> • The Land Laws (Amendment) Act of 2016 has provisions at Section 98 that stipulates how humane evictions should be conducted. • However, there is failure by State agencies to respect the guidelines particularly in the informal sector settlements. • The Eviction and Resettlement Bill was shot down in Parliament and instead they passed the Land Laws (Amendment) Act 2016 which is silent on the UN Basic Principles and Guidelines on Evictions and Displacement of Communities and Groups. 	communities and creating awareness on eviction procedures and further engages with the line Ministry to ensure that the affected communities understand their rights and duties beforehand.	
Forest Act, Wildlife Conservation and Management Act and Trust land fully implemented.	<ul style="list-style-type: none"> • The laws are being implemented but there have been challenges such as, while the Council of Chairpersons of County Wildlife Conservation and Compensation Committees (CWCCs) were established in 2015 and have been executing their functions, they submitted a petition to the Clerk of the Senate regarding alleged non-operationalisation of certain provisions of the Wildlife Conservation and Amendment Act No. 47 of 2013. • The Petitions demanded among other things that, a payment framework is adhered to and the chairpersons and members be paid their monthly honorarium for the period 27th February, 2015 to date and for the remainder of their term; Funds to be provided to facilitate CWCC's activities in the Counties as stipulated in the Wildlife Conservation and Management Act; Adequate public participation and consultations during the development of wildlife conservation and compensation guidelines and regulations; Funds provided to the committees to clear the backlog of compensation claims. 		
Guidelines on Forced Evictions adopted.	<ul style="list-style-type: none"> • Guidelines on Forced Evictions have not been developed. • However, this is currently inadequately provided for under Section 152(G) of the Land Laws (Amendment) Act, 2016 which provides for mandatory procedures during evictions. 		
Judicial orders that provide remedies for victims of forced evictions implemented.	<ul style="list-style-type: none"> • Courts have been issuing pronouncements on forced evictions, an example is the Judgements by the Court of Appeal in Moi Educational Centre Company Limited Vs. William Musembi & 16 others CA No. 363 of 2014, eKLR which upheld that unlawful evictions are a violation of the fundamental right of the evictees to human dignity. 		

19.2 Recommendation: Continue efforts to ensure effective respect for the right to property by facilitating registration of property deeds. *Recommendation Nos. 142.160; ESCR Rec. 48*

19.2.1 Specific Action by Government: Effective respect for the right to property

Indicator	Status of Implementation by Government	
Community Land Bill enacted and implemented.	The Community Land Bill was enacted on 31 st August, 2016 and commenced on 21 st September, 2016. The implementation is ongoing	
Number of land Title Deeds issued.	The issuance of Title Deeds for community land is ongoing. For example, the Kibera Slum was identified as community land and issued with a Title Deed by	

	the President on 2 nd June, 2017.	
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19.3 Recommendation: Family protection. *Recommendation No. 142.33*

19.3.1 Specific Action by Government: Amend the Law of Succession Act

Indicator	Status of Implementation by Government	
The Law of Succession Act is amended	The Law of Succession Act, 2015 was enacted to amend, define, consolidate the law relating to intestate and testamentary succession and the administration of estate of deceased persons. It was further revised in 2017.	

19.3.2 Specific Action by Government: Sensitization on the Matrimonial Property Act.

Indicator	Status of Implementation by Government	
Number of sensitization forums held.		

20. Right to Health, including Reproductive Health

20.1 Recommendation: Continue implementation of national programmes in the sphere of education and healthcare. *Recommendation Nos. 4142.32; CESC Rec 56*

20.1.1 Specific Action by Government: Implement appropriate healthcare programmes.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
Percentage of HIV+ clients on ARV treatment.	<ul style="list-style-type: none"> According to the UNAIDS Data 2017 on Kenya, 64% of adults and 65% of children are on ARVs. The Kenya AIDS Response Progress Report, 2016 however stated that a total of 897,644 people are on ART. Of these, 77% of person between 0-14 years; and 66% of those above 15 years are on ART.⁶⁸ According to the Kenya AIDS Strategic Framework (KASF) 2014/15 - 2019, the MoH was accused of misappropriating donor funds meant for HIV patients. Stigma and discrimination is still a great hindrance in accessing ART. Lack of targeted interventions for adolescents, young women and key populations also impedes access to ART and other HIV services.⁶⁹ 		
Percentage of fully immunized children.		There have been concerns raised by different stakeholders including the Catholic Church in Kenya about	

⁶⁸ Kenya AIDS Response Progress Report 2016

⁶⁹ Kenya AIDS strategic framework (KASF) 2014/15- 2019

		the quality of the vaccines being administered by the Government of Kenya. The Government has failed to respond to the concerns raised by the public.	
Number of mothers receiving Long Lasting Insecticide Treated Nets (LLITN).	<ul style="list-style-type: none"> • According to The Kenya Malaria Indicator Survey, 2015, 63% of household hold at least one Long Lasting Insecticide Treated Nets (LLITN). This was an increase from the 44% reported in the KMIS, 2010. • Among pregnant women, LLITN use increased from 36% in 2010 to 58% in 2015. • According to Population Services Kenya Report, they have so far distributed 200,000 LLITN and on average 2.4 million nets per year in epidemic prone and seasonal transmission counties in Kenya. • In addition, PS Kenya through the US Presidential Malaria Initiative Funding successfully distributed 3.8 million nets in 5 targeted malaria prone counties in Western and Nyanza. 		
Percentage of TB patients completing treatment.	<ul style="list-style-type: none"> • The MoH posted improvements in TB detection (75%) and treatment (86%). • 10 counties had a combined total of 48% of all TB cases. In 2015 there were 28,000 missing TB cases. 		
Percentage reduction of facility-based maternal deaths.	<ul style="list-style-type: none"> • 40-50% of women do not have access to life saving maternal health services. Introduction of free maternity services in all public hospitals and the “Beyond Zero Campaign” - led to an estimated 10% increase in deliveries within health facilities.⁷⁰ • Kenya is a signatory to the commitment to reduce global MMR to less than 70 per 100,000 live births by 2030; the Abuja Declaration and the Africa Union’s Campaign on Accelerated Reduction of Maternal Mortality in Africa (CARMMA) launched in November, 2010. • Article 43 of the Constitution of Kenya, 2010 provides for the right to health; however, challenge is still persistent because of lack of sufficient financial and human resources from both national and county governments and sub standards care (according to recent confidential report by Ministry of Health, 9 out of 10 death is as a result (Ministry of Health Kenya 2017, saving mothers’ lives 2017: First confidential Report into Maternal Death in Kenya.⁷¹ 		
Percentage of pregnant women attending ANC visits.	<ul style="list-style-type: none"> • According to the KDHS, 2014, 58% of pregnant women made 4 or more ANC visits. This was an increase from 47% stated in the KDHS undertaken during the 2008-2009. • The World Bank Collection of Development Indicators 2015 reported that 93% of pregnant women received Pre Natal Care. 	There are various initiatives from NGOs to support ANC and PNC visits among mothers. The investment in mhealth	

⁷⁰ JULY 2016 parliament policy brief on tackling high maternal deaths in Kenya

⁷¹<https://cmnh.lstmed.ac.uk/sites/default/files/content/centre-news-articles/attachments/CEMD%20Summary%20of%20findings%20Sept%203%20FINAL.pdf> accessed 11.09.2018

	<ul style="list-style-type: none"> Nairobi has the highest number of FANC uptake at 73% and West Pokot has the lowest at 18%. Nine in ten mothers attend at least 1 ANC visit. 58% of women attend 4 or more ANC visits.⁷² 	by stakeholders has supported ANC and PNC visits in various parts of the Country- Siaya county, Narok county are examples.
Percentage of men and women of Reproductive Age receiving Family Planning (FP) assistance.	<ul style="list-style-type: none"> Family planning uptake rose from 39% in 2008-2009 to 53% in 2014. An indication that Kenya is on course to meeting its 2020 target.⁷³ A large portion of Kenyan women have unmet family planning needs. Only 44.2% of Kenyan women are able to access modern contraceptives.⁷⁴ 58% of married women aged 15-49 use modern contraceptives against a target of 70%.⁷⁵ Women with disabilities, in rural areas and adolescents have the highest unmet needs. The State should take steps to ensure that women and adolescent girls, including those in rural areas, those of low income, and those with disabilities have access to comprehensive information on the full range of family planning methods available. The State should increase the financial investment in reproductive health services. Increase youth friendly service centers to ensure young people can access reproductive health services conveniently. 	
Implement the recommendation in the Court decision on the HIV & AIDS Prevention and Control Act.		
Extended coverage of anti-retroviral therapy for prevention of Mother to Child Transmission of HIV (MTCT) services.	<ul style="list-style-type: none"> According to the Ministry of Health, Republic of Kenya, PMA 2016/Kenya-R5 Family Planning Brief (2017), there is a 50% reduction in new HIV infections among children.⁷⁶ The State should ensure that human rights based approach to provision of services is employed. Consider using the term '<i>Vertical Transmission</i>' as opposed to '<i>Mother to Child Transmission</i>'. This reduces stigma among mothers. 	There is significant investment from development partners on HIV services and advocacy such as Global fund, PEPFAR, DREAMS among others.

20.2 Recommendation: Take measures towards the adherence to the WHO standards on health service delivery. *Recommendation No. 142.165*

20.2.1 Specific Action by Government: Provide quality healthcare services.

⁷² Ibid

⁷³ National council for population and development March 2018

⁷⁴ MINISTRY OF HEALTH, REPUBLIC OF KENYA, PMA2016/KENYA-R5 FAMILY PLANNING BRIEF (2017).

⁷⁵ Ibid

⁷⁶ Ibid

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Increased total health expenditure	<ul style="list-style-type: none"> • There is an increase in total health financing. In 2014/15, the national health budget had allocated 7% of GDP to health. The national budget for 2016/17 had the same percentage of allocation. The allocated amounts had been lower than 7% in the previous financial years. • There is an urgent need for the State to increase its domestic financing for health to ensure sustainability. • There is also a duplication of interventions especially between County and National governments which is causing waste of resources e.g. some Counties have UHC programmes and the national governments has the same programme targeting the same population. • There is need for the national government to establish proper controls and monitoring frameworks to reduce wastage and theft of resources allocated to the health sector. 	<p>According to the Health Financing Profile Kenya May 2016 (supported by USAID and PEPFAR Health Policy Project), 57% of the health budget in 2015/2015 financial year was funded by development partners.⁷⁷ TI Kenya has submitted a memorandum to Nairobi County Government to lobby for an increase in health sector financing and needs based budgeting.</p>
Reduced out of pocket expenditure on health.	<ul style="list-style-type: none"> • According to the Health Financing Profile-USAID/PEPFAR Health Policy Project, in 2013, the Government abolished user fees in public dispensaries and health centers. • To this end, the State allocated nearly US\$7 Million as compensation. The State implemented free maternity care policy committing US\$ 38 and US\$ 40 Million for free maternal health services in FY 2013/14-2014/15.⁷⁸ • In 2013 the government abolished user fees in public dispensaries and health centers thus reducing the burden borne by citizens in catering for their health needs. 	<p>Provision of health services especially MNCH and HIV services by development partners has reduced out of pocket spending on health. Some of the providers that have provided health support services are AMREF, PEPFAR, CDC, LVCT.</p>
Number of health personnel per capita.	<ul style="list-style-type: none"> • Presently, according to the WHO Report titled The East African Health Sector, Kenya has 1 qualified doctor to every 16,000 patients. According to Kenya Health Workforce Report: The Status of Health Care Professionals in Kenya, 2015 Kenya has a total of 5,660 doctors. This is a ratio of 1 doctor to 7,700 patients. All these numbers are way below the recommended ratio of 1 doctor to 300 patients. • The State needs to address duplication of 	

⁷⁷ Health Financing Profile Kenya May 2016 (supported by USAID and PEPFAR Health policy project)

⁷⁸ Health Financing Profile- USAID/PEPFAR health policy project

	<p>services.</p> <ul style="list-style-type: none"> • Increase the health budget to 15% of GDP as recommended in the Abuja Declaration of which Kenya is a signatory. • There are trained Kenyan doctors who are unemployed. Despite this, the Government hired doctors from Cuba. • The State needs to the action to reduce strikes by medical personnel by addressing their issues. • Increased number of strikes and industrial action by doctors over the last few years has been a major hindrance to accessing healthcare. In December 2016, doctors went on strike for over 100 days. They were thereafter followed by an equally long strike by nurses. 	
Increased access to affordable and Safe Public Health facilities.		

20.3 Recommendation: Continue its efforts to implement the adopted Strategies in particular the National Reproductive Health Strategy 2009-2015. *Recommendation Nos. 142.43; 142.166*

20.3.1 Specific Action by Government: Take measures to reduce maternal mortality and morbidity.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Proportion of women accessing reproductive health information, services and commodities	<ul style="list-style-type: none"> • A large portion of Kenyan women have unmet family planning needs. Only 44.2% of Kenyan women are able to access modern contraceptives.⁷⁹ • Review and finalization of the National Adolescent Sexual and Reproductive Health Policy 2016 by MoH • Review and finalization of Family Planning Guidelines 2016 by MoH • There is significant lack of information and access to reproductive health services among young women especially those in rural areas. • There is need to provide reproductive health information specifically for adolescents and young women. 	
Health Bill enacted and	The Health Act was enacted into legislation in July 2017.	TI Kenya has undertaken capacity building trainings on

⁷⁹ Ibid

implemented		the Act to health facility Management Committees in Nairobi County. Whilst the Health Act is now law, there have been raised on its compliance with international and regional human rights norms, specifically on the definition of 'notifiable condition' - section.
Free maternal health care services provided.	<ul style="list-style-type: none"> • The State launched free maternal health services in all public health facilities; supported the beyond zero initiative championed by the first lady and is supporting the Linda Mama Programme delivered by NHIF. • In 2016, government allocated KShs. 4.2 Billion to free maternal health care. That same year, the Reproductive Health Care Bill was debated in the Senate 	The Center for Reproductive Rights has filed three (3) law suits on free and quality maternity services and access to safe abortion respectively at the High Court. Two of these suits are ongoing. The free and quality maternity services suit focuses on a woman who was neglected and abused by the staff of a health facility which she was attending for delivery. ⁸⁰ The MOH should provide clear guidelines on the provision of maternal health services. There is still need to increase financial investment to the health sector. There is still challenge in accessing services because health facilities are far hence nor reachable by many rural women
Cases of detention of mothers in health care centres reduced.	<ul style="list-style-type: none"> • Nairobi County and Ministry of Health is yet to implement the 2015 court decision (Millicent Awuor (Maimuna) & Margaret Anyoso Oliele Vs. Attorney General and other).⁸¹ The orders included: a compensation of KShs. 1.5 Million and KShs. 500,000 respectively to the Petitioners; and the State to develop clear guidelines and procedures for implementing the fee waiver system in all public hospitals. 	In 2015, the Center for Reproductive Rights successfully litigated on behalf of two women who had been detained at Pumwani Maternity Hospital over non-payment of medical bills. ⁸² The Center then initiated consultative forums and capacity building programs with key

⁸⁰ <https://www.reproductiverights.org/press-room/kenya-high-court-rules-in-favor-of-woman-physically-abused-during-delivery> accessed on 20.07.2018

⁸¹ <https://www.reproductiverights.org/document/millicent-awuor-maimuna-margaret-anyoso-oliele-v-attorney-general-and-others-constitutional> accessed on 20.07.2018

⁸² <https://www.reproductiverights.org/document/millicent-awuor-maimuna-margaret-anyoso-oliele-v-attorney-general-and-others-constitutional> accessed on 20.07.2018

		stakeholders including the Kenya National Commission on Human Rights, county governments and reproductive rights experts. The State should issue a moratorium on detention of women post-delivery due non-payment of medical bills in both public and private health facilities.
Increase the proportion of skilled birth attendants.	62% according National Demographic Health Survey 2014. No significant increase since 2014.	

20.4 Recommendation: Intensify its efforts to improve health infrastructure as well as the quality and delivery of health services, including access to reproductive health information and contraceptives for women in marginalized areas. *Recommendation No. 142.167*

20.4.1 Specific Action by Government: Provide quality healthcare services.

Indicator	Status of Implementation by Government
The proportion of men and women accessing reproductive health information, services and commodities.	<ul style="list-style-type: none"> • A large portion of Kenyan women have unmet family planning needs. Only 44.2% of Kenyan women are able to access modern contraceptives.⁸³ Women with disabilities, in rural areas and adolescents have the highest unmet needs • The State should take steps to ensure that women and adolescent girls, including those in rural areas, those of low income, and those with disabilities have access to comprehensive information on the full range of family planning. • The Government should review and finalization the national family planning guidelines 2016 by MOH. • The Government should review and finalization of National Adolescent and Youth Reproductive Health Policy 2016.
Number of facilities per population.	
Distance to health facilities reduced.	
Number of prosecutions of cases of medical negligence.	

20.5 Recommendation: Consider continuing efforts to secure and retain adequate medical personnel in hardship and marginalized areas. *Recommendation No. 142.168*

⁸³ Ibid

20.5.1 Specific Action by Government: Provide quality healthcare services.

Indicator	Status of Implementation by Government
Number of medical personnel deployed and serving in hardship and marginalized areas.	

20.6 Recommendation: Promote health and sanitary practices for the safety of mothers and their children, and uphold continually the inherent right to life. *Recommendation No. 142.169*

20.6.1 Specific Action by Government: Provide quality healthcare services.

Indicator	Status of Implementation by Government
Number of mothers and children accessing social determinants of health.	
Percentage reduction in maternal mortality rate.	<ul style="list-style-type: none"> According to WHO 2015 Report, 510 Kenyan women and girls die per every 100,000 live births. This is an increase from the MMR of 400 deaths per 100,000 live births documented in the 2013.

21. Right to Education

21.1 Recommendation: Continue to strengthen its successful educational policies for primary, secondary and higher education in order to provide the greatest welfare and quality of life to its people. *Recommendation Nos. 142.151; 142.170; 142.171; 142.172; 142.173; 142.174; 172.175; CRC Rec 38; ESCR Rec 58*

21.1.1 Specific Action by Government: Take policy, legislative and other measures to improve access to education for all particularly the vulnerable and marginalized.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Basic Education Act, TIVET Act and University Act implemented.	The implementation is in progress. The Basic Education Regulations are in place.	TI Kenya has developed an abridged version of the BEA, and has conducted trainings from the BOMs on the Act.
Guidelines on admission for non-citizens in basic institutions of learning fully implemented.	<ul style="list-style-type: none"> The Guidelines on admission of non-citizens into public schools were adopted and published but are yet to be launched. A circular was circulated on 17th February, 2016 to all County Directors of Education by the Education Principal Secretary. However, the implementation of the guidelines has not been commenced at the County level. There are instances where the admission of non-citizens is dependent on the goodwill of the teacher. 	
Guidelines for	<ul style="list-style-type: none"> This is in progress; a circular was circulated on 17th 	

Alternative Provision of Basic Education and Training fully implemented.	<p>February, 2016 to all County Directors of Education by the Education Permanent Secretary.</p> <ul style="list-style-type: none"> Ministry of Education established Alternative Provision of Basic Education and Training (APBET) desk to handle the process of implementation of the APBET institutions. Ministry of Education is currently reviewing the Guidelines to bridge the gaps. No sensitization on County Education boards on the APBET guidelines. 		
Early Childhood Education Policy adopted.	The Policy was developed and adopted. Ministry of Education in collaboration with Council of Governors is in the process of developing ECD curriculum.		
University Funding Board established.	The Board was launched 1 st February, 2016.		
Increased net enrollment in early childhood education including supporting enrollment into primary education for all children including in ASAL areas and in informal settlements.	<ul style="list-style-type: none"> Number of low cost boarding schools increased from 392 in 2012 to 426 in 2016. Increase in enrollment from 110,490 in 2012 to 113,524 in 2016. KShs. 4 Million disbursed to LCBs as FPE capitation to 113,524 learners Mobile schools increased from 87 in 2012 to 117 in 2016. Enrollment rate 10631 in 2012 to 13,869 in 2015/2016 financial year, 31,376,800 million was disbursed to 117 schools under the FPE initiative (Education Sector Report 2016).⁸⁴ 	Management of primary and secondary schools in informal settlements. Public Interest Litigation on the failure by the State to meet the minimum standards required for a public school especially in the marginalized areas.	
Increased student retention and transition from Primary Schools to Secondary Schools.	<ul style="list-style-type: none"> The current transition rate is at 80%, though there is not enough infrastructures to absorb more students. An additional 4,000 classrooms are needed to have 100% retention.⁸⁵ 		
Increase in number of classrooms constructed.	<ul style="list-style-type: none"> Pre- Primary school enrollment increased from 24,862 in 2015 to 25,175 in 2016. Primary schools enrollment increased from 22,414 in 2015 to 22,939 in 2016. Secondary schools enrollment increased from 8,297 in 2015 to 8,592 in 2016. There is a challenge with infrastructure; the numbers of Secondary schools are still very low to accommodate all those transitioning from primary schools. Most of the schools have no mobility friendly structures for children with disabilities. 		
Increased opportunities to access higher education by operationalizing the University Funding Board and increased funding to the Higher	<ul style="list-style-type: none"> This is in progress. The University Funding Board was operationalized in 2015-2016 by appointing board members. A funding criteria for University Costs was also developed (Education Sector Report 2016). The State has availed education loans to students in Private Universities and Tertiary Colleges thereby increasing opportunities to access higher education. 		

⁸⁴ http://www.treasury.go.ke/component/jdownloads/send/123-2016/182-education-sector-report.html?option=com_jdownloads

⁸⁵ <http://uis.unesco.org/country/KE>

Education Loans Board.			
Percentage increase in government capitation.	<ul style="list-style-type: none"> The capitation increased from KShs. 12.076 million to KShs. 12.635 million in 2016.⁸⁶ 		
An increase in the number of students attending tertiary institutions.	<ul style="list-style-type: none"> Of the 93 tertiary institutions enrolment increased to 66,815 students (37,401, male and 29,414 female).⁸⁷ 	Tertiary education and vocational programs (ERAN).	

21.1.2 Specific Action by Government: Take policy, legislative and other measures to ensure that special education needs are addressed.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
Percentage increase of net enrollment of children with special needs.	According to the Education Sector Report, there was a 15% increase in net enrollment between the year 2014/2015 and 2015/2016.	There are sponsorship for vulnerable children run by different organisations including ERAN, among others	
Special needs education policy implemented.	The Special Needs Policy, 2009 is still yet to be revised.	Provision of educational support to OVC and HIV/AIDS children. (AVSI).	
Persons with Disabilities Education Bill enacted into law.	The Persons with Disabilities Education Bill has not been enacted into law.		

21.1.3 Specific Action by Government: Improve the quality of education in Kenya by improving the teacher to student ratio and the student to text book ratio.

Indicator	Status of Implementation by Government	
Education Standards and Quality Assurance Council (ESQAC) established and operational.	The Standard and Quality Assurance Council has been established and is operational.	
Curriculum review finalized.	<ul style="list-style-type: none"> Curriculum review finalized. A costed implementation plan is in place and technical working group has been established to oversee implementation the new curriculum. However, the biggest challenge is that the Ministry is yet to involve all other stakeholders and train teachers on the new curriculum since it has been effected from January 2018. 	
Reduced Student to teacher ratio.	<ul style="list-style-type: none"> In progress currently according to Government report the ratio is 42:1 teacher to student ratio. However, the reality on the ground proves otherwise. For instance in Ruben Centre in Mukuru there are 2,756 children in primary with some classes having as many as 80-100 pupils per class (ERAN), Olympic Primary school in Kibera has over 90 children in a class, in Nairobi 	

⁸⁶ <http://www.treasury.go.ke/sector-reports-2018/send/127-2017/231-education-sector-report.html>

⁸⁷ <http://www.treasury.go.ke/sector-reports-2018/send/127-2017/231-education-sector-report.html>

	County there was a shortage of 403 primary school teachers, the ECD centres remained same for past 15 years whereas the number of pupils have increased. ⁸⁸	
Ratio improved to 1 book per student.	<ul style="list-style-type: none"> • Not yet attained the target. There have been a number of reforms in the education sector targeting the curriculum, student welfare, examination, school management and ending corruption. 	

22. Child Trafficking

22.1 Recommendation: Take further efforts against trafficking of children. *Recommendation Nos. 142.6; 142.60; 142.77*

22.1.1 Specific Action by Government: Fully implement the Anti trafficking law.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Counter Trafficking of Persons Act fully implemented.	<ul style="list-style-type: none"> • The Counter Trafficking in Persons Act was fully implemented. The Act established a Secretariat and an Advisory Committee which was gazetted in July, 2014 and has so far developed a National Plan of Action which ran from 2013-2017 and is currently undergoing review. • A national referral mechanism is in place to support victims of trafficking, to strengthen the coordination and response. The State has also set up the National Assistance Fund for Victims of Trafficking which received \$600,000. • Further, the State is issuing new registration requirements and a code of conduct for private labor recruitment agencies, and including human trafficking and the anti-trafficking law in its basic police training curricula. • However, the government did not meet the minimum standards in several key areas⁸⁹. It did not allocate any new funding to the victim assistance fund, compared to KShs. 7 Million (\$68,326) it allocated during the previous reporting period. 	The Advisory Committee has civil society representatives as members. During the initial stages, they advocated for the allocation of funds and resources to the same. NGOs working on this issue have collaboratively developed a counter trafficking manual intended to create awareness and ultimately contribute to reducing cases of child trafficking.
Reduced number of cases of child trafficking reported.		
Number of persons prosecuted for trafficking children	<ul style="list-style-type: none"> • The State reported initiating 281 prosecutions in 2016, compared with 762 in 2015 and 65 in 2014. The State reported convicting 105 traffickers in 2016, compared to 456 in 2015 and 33 in 2014 	

⁸⁸ Task Force Report on improvement of performance in schools and transition rates from primary to secondary in Nairobi County

⁸⁹ Trafficking in Persons Report, 2017, Department of State, United States of America.

22.1.2 Specific Action by Government: Capacity building of government officers of the trafficking law including Children’s Officers, the Judiciary and Immigration Officers.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of Government Officers trained.	<ul style="list-style-type: none"> There have been trainings for law enforcement officers, including judges, magistrates, police officers, and immigration officials. The National Police Service, in partnership with an international organizations, included content on human trafficking and the anti-trafficking law in its basic training curricula. 	<ul style="list-style-type: none"> In conjunction with an international organization, it trained 34 front-line law enforcement officers and investigators on combating trafficking. In addition, the State-funded and conducted a train-the-trainers program for 50 stakeholders from the Judiciary, departments of immigration and social protection, and law enforcement agencies; this program focused primarily on national laws and mechanisms for victim identification and referral.

22.1.3 Specific Action by Government: Establish the International and Organized Crimes Division in the High Court to prosecute human trafficking cases.

Indicator	Status of Implementation by Government
International and Organized Crimes Division in the High Court established.	The IOC Division of the High Court has not been set up by the Judiciary.

23. Child Labour

23.1 Recommendation: Seek to effectively combat child labour. *Recommendation Nos. 142.6; 142.71; 142.78; 142.81; CRC Rec 20*

23.1.1 Specific Action by Government: Take legislative, policy and administrative measures to protect against child labour.

Indicator	Status of Implementation by Government
Provisions of the Education Act and the Children’s Act as regards compulsory education implemented	
Employment rules with relation to Child labour developed.	
Reviewed and adopted National Policy on Elimination of Child Labour.	Initial Policy expired in 2013. A further five-year plan to eliminate the worst forms of child labour was submitted to the Kenyan Cabinet for approval in 2013, but has not yet been approved.
Child Labour Division with clear guidelines on enforcement of labour laws established.	
Number of Children withdrawn from child labour.	
Increased enforcement against parents who deny children education.	

24. Poverty Reduction

24.1 Recommendation: Implement programmes and development policies aimed at reducing poverty thereby Promote the realization of economic, social and cultural rights.

Recommendation Nos. 142.14; 142.146; 142.152; 142.153; 142.156; 142.161; 142.162; 142.163

24.1.1 Specific Action by Government: Implement programmes and schemes that seek to empower persons living below the poverty line.

Indicator	Status of Implementation by Government
A reduction in the number of people in abject poverty.	

24.1.2 Specific Action by Government: Increase the budgetary allocation to programmes that impact on the lives and welfare of citizens.

Indicator	Status of Implementation by Government
Percentage Increase in the number of vulnerable people receiving cash transfer.	<ul style="list-style-type: none"> • There has been incremental support offered towards cash transfers between 2007 and 2015. • However, there was a decline in number of beneficiaries (older persons) declined from 310,223 to 279,150 in the year 2015/16 to 2016/17. • For OVCs number of beneficiaries reduced in the same period from 351,650 to 351,010.⁹⁰ The Government of Kenya is directly supporting about 1,500,000 poor and vulnerable citizens through the monthly cash transfers of KShs. 2,000

25. Business and Human Rights

25.1 Recommendation: Develop a national action plan for the implementation of the UN Guiding Principles on Business and Human Rights. *Recommendation Nos. 142.27; CRC Rec 20 (c)*

25.1.1 Specific Action by Government: Provide an environment to address adverse business-related human rights impacts.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
The National Action Plan for Business and Human Rights adopted.	Underway: Department of Justice and partners to conclude the formulation, adoption and implementation of the National Action Plan/ Policy on Business and Human Rights.	KHRC, KNCHR et al involved in supporting development of NAP
Mining Bill aligned to the UN Guiding Principles on Human Rights and Business.		

⁹⁰ Kenya Economic Survey

D. GROUP RIGHTS

26. Protection from Gender Stereotypes and Harmful Cultural Practices

26.1 Recommendation: Protection from gender stereotypes and harmful cultural practices. *Recommendation Nos. 142.12; 142.28; 142.40; 142.42; 142.44; 142.48; 142.50; 142.52; 142.53; 142.54; 142.59; 142.62; 142.65; 142.67; 142.69; 142.72; 142.74; 142.76; 142.85*

26.1.1 Specific Action by Government: Address the root causes of the stereotypes that are discriminatory against girls and that lead to harmful practices.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
Anti-FGM Act enforced.	The office of Director of Public Prosecutions, has been able to conclusively prosecute 67 cases, as at the date of this report while a number are under investigation.	<ul style="list-style-type: none"> • Various CSOs have been enjoined in the case either as interested parties or Amicus Curiae. They are also providing technical and financial support towards defence of the case. These include: Equality Now, NGEK, Katiba Institute, KELIN/ISLA, FIDA Kenya, CREAM, AMREF Health Africa, COVAW, Women Trust, among others. • CSOs like Plan international have been training law enforcement officers on implementation of the act in Meru, Marsabit and other counties. • Dr. Tatu has filed a constitutional petition at Machakos High Court⁹¹ challenging the constitutionality of the Prohibition of Female Genital Mutilation Act, 2011. She claims that among other things; it infringes on the right of women to participate in their culture and denies women autonomy over their bodies to participate in cultural activities of choice, such as 'female circumcision.' The Respondents are the Anti-FGM Board and the Attorney General. Various Civil Society Organizations have sought or expressed interest in being enjoined in the case either as interested parties or amicus curiae. These include: Equality Now, NGEK, Katiba Institute, KELIN/ISLA, FIDA Kenya among others. 	
Implementation Guidelines on the Prohibition of FGM adopted.	<ul style="list-style-type: none"> • The Anti-FGM Board has developed Community Dialogue Guidelines. The purpose of the guidelines is to guide in the conduct of community dialogues which gives an opportunity to members of the community to voice their thoughts and beliefs on the practise of female genital mutilation. Alternative Rites of Passage (ARPs) Guidelines. These 	<ul style="list-style-type: none"> • UNFPA-UNICEF Joint Programme to eliminate FGM continues to play a central role in supporting key initiatives which include mentorship programmes for both girls and boys and Alternative Rites of passage for girls. The Girl Generation Strengthened the technical capacity of the Anti-FGM Board and contributed to the development of Community Dialogue Guidelines and Alternative Rite of Passage for girls' guidelines required by stakeholders across the 	

⁹¹ Constitutional Petition No. 8 of 2017, In the High Court of Kenya at Machakos

	<p>guidelines are intended to ensure that ARPs have the blessing of the stakeholders and are binding. This will ensure the Programme is beneficial to women and girls and is resource saving.</p> <ul style="list-style-type: none"> • The State should enhance public participation in the fight against FGM. 	country.
<p>Policy on FGM reviewed to include education on harmful cultural practices in the school curriculum and programs on poverty eradication as a way of addressing eradication of FGM.</p>	<ul style="list-style-type: none"> • National Policy on the abandonment of FGM 2016-2020. The National Policy on the abandonment of FGM 2008-2013 was reviewed and updated in line with the Constitution of Kenya, 2010, the Prohibition of FGM Act, 2011 and Sustainable Development Goals. The document has been submitted for Cabinet approval. • Kajiado County Anti-FGM Policy. Kajiado County Government passed a policy prohibiting Female Genital Mutilation. The Kajiado County assembly adopted the report on Anti-FGM Policy on 10th May, 2017 but with amendment. The assembly requested the relevant departments to include there recommendations.⁹² • School Curriculum • The new school curriculum has incorporated new measure to promote equality among all children in schools and it has topics on harmful cultural practise. Inclusion of female genital mutilation content in the school curriculum. • In January, 2016 the Curriculum Development Committee mooted the idea to include FGM content in the Kenya school curriculum as the Ministry of Education was in the process of reviewing the curriculum. Subsequently, situational analysis of FGM carried out and report used to develop matrices for inclusion of FGM content in the new school curriculum. 	<ul style="list-style-type: none"> • Kajiado County Children Stakeholders Network (KACCSNET) partnered with the Kajiado County Government in developing a policy against FGM. • Cases of corruption and misappropriation of funds are still a challenge to poverty eradication which is linked in the fight against FGM. Promote girl child education. • Empower women and girls through education and economic opportunities.
<p>Fully functional Anti-FGM Board with a</p>	<ul style="list-style-type: none"> • The Anti-FGM Board, which became operational in 2014 developed a progressive Strategic Plan (2014- 	

⁹² <https://www.kajiado.go.ke/celebrations-as-young-girls-skip-the-cut-in-dalalekutuk/>

<p>clear strategic plan that addresses alternative rites of passage, community dialogues and involvement of men.</p>	<p>2018). This document clearly stipulates the strategic themes, objectives and activities.</p> <ul style="list-style-type: none"> • The Board is fully functioning but there should be other smaller committees who are strictly focused on following up on the anti FGM cases and any other connected practices. 	
<p>A national strategy on eradication of FGM with a communication strategy and civic education component on FGM developed.</p>	<ul style="list-style-type: none"> • In addition to the Strategic Plan, the Anti-FGM Board developed a Communication Strategy to realize the mission and vision of the Board. It will help all stakeholders in developing appropriate messages for targeted audiences. The strategy will generally enhance Board's role of advocacy against FGM. • Developed the Anti- Female Genital Mutilation Reference Book. The Board has developed a draft Anti-Female Genital Mutilation Reference Book to be used by all players in the campaign against FGM in Kenya. The book introduces and describes types of female genital mutilation, the drivers, mitigations and the legal framework on which the campaign against the practice is premised. The book is awaiting validation and publication. 	<ul style="list-style-type: none"> • Social change communications approach and Do No Harm principles by The Girl Generation. To promote of sensitive, locally-led communication, such as community dialogues, to empower communities to be the change agents themselves. Mapping of Organizations working on ending FGM. • The Kenya Children and Women Wellness Centre (KWCWC) has supported the Anti-FGM board with national mapping of organizations working on FGM in Kenya. This database is held by the Anti-FGM Board. Financial Support for Civic education. • The Girl Generation through the End FGM Grants Programme has distributed over US\$473,061 in grants to over 48 local organizations in Kenya who are working at the forefront of end FGM activism. • The UNFPA-UNICEF Joint Programme also continues to play a central role in supporting key initiatives which include mentorship programmes for both girls and boys and Alternative Rites of passage for girls. • Working with Media. Training for the Media by EACHRights to facilitate its role in "child friendly" reporting and eradicating harmful cultural practices such as FGM. Comprehensive training curriculum for the journalists training also developed. Lastly, the development of IEC materials on FGM and Child marriage by Civil Society Organizations. • Facilitated Community declarations • Among the Maasai community, the Masaai Morans (warriors) have declared support in the campaigns against the practice of FGM. They have also announced their readiness to marry uncircumcised girls. In the same community, some circumcisers have denounced FGM in public by surrendering the circumcision tools and pledging to campaign against its practice. • Joint celebrations by CSOs and Anti-FGM Board. To commemorate International Days such as Zero Tolerance Day to FGM, International Day of

		<p>the Girl Child and International Women’s Day (IWD).</p> <ul style="list-style-type: none"> • CSOs include The Girl Generation, UNICEF, UNFPA, EACHRIGHTS, World Vision, Amref Health Africa among others - playing a leading role in promoting inspiring communications, collaboration, and ensuring grassroots and youth representation and leadership in the movement. • There is need to involve more community based people in their awareness campaigns such as the Community Health Volunteers (CHVs) and Community social workers as the locals will tend to listen to them more. 	
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27. Protection from Sexual and Gender Based Violence

27.1 Recommendation: Mitigating sexual and Gender Based Violence and ensuring Family Protection. *Recommendation Nos. 142.12; 142.16; 142.28; 142.33; 142.47; 142.49; 142.51; 142.55; 142.66; 142.68; 142.73; 142.72; 142.77; 142.80; 142.83; 142.84; 142.86; 142.89*

27.1.1 Specific Action by Government: Ensure Protection of families from domestic violence through legal, policy and institutional reforms.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
Protection against Domestic Violence Act fully implemented	<ul style="list-style-type: none"> • There are no Practise Directions under the Act • The Act also provided for shelters which none has been put up. Gender Based Violence, including domestic and sexual violence, human trafficking and harmful practices, such as forced child marriage and Female Genital Mutilation (FGM) is still endemic in Kenya, despite the existence of legislation, administrative directives, judicial sanctions, and awareness-raising efforts by a variety of organizations and the government. • The Protection Against Domestic Violence (PADV) Act, 2015 fails to provide for the establishment of temporary emergency shelters and safe houses at the county level for protection of victims of domestic violence. This legislation process was consultative between CSOs and government. 	<ul style="list-style-type: none"> • CREAM has simplified and translated various GBV Laws into Kiswahili. Protection Against Domestic Violence Act, Prohibition of FGM Act, Matrimonial Properties Act to create awareness. • They have also carried out community dialogs on intimate partner violence in Nairobi, Meru, Isiolo, Kilifi and Narok Counties. • Refugee Consortium of Kenya has been raising awareness on the protection against domestic violence act among refugees and host communities. 	
Policy on the Prevention Against Domestic Violence	<ul style="list-style-type: none"> • There is no national policy. • The National Gender and Equality Commission has developed County Governments model Policy on Sexual and Gender Based Violence (2017). This Model 	<ul style="list-style-type: none"> • Kisumu County has developed a Gender Mainstreaming Strategic Plan. 	

developed and adopted.	County Policy on Sexual and Gender Based Violence (SGBV) was prepared to provide guidance to the County Governments on critical elements and considerations for Policy on SGBV.	
Comprehensive SGVB Rescue Centres established in all Counties (rescue facility/treatment and access to justice).	<ul style="list-style-type: none"> • There are GBV Recovery Centres in major government hospitals but we lack rescue centres • There are 10 support resources in Kenya for various victims and situations concerning gender based violence. • There are also hospitals both public and private that offer treatment and information to victims. 	<p>There are several shelters and safe houses run by non-state actors.</p> <ul style="list-style-type: none"> • According to a research by the Nairobi Women Hospital Trust, Gender Based Violence Recovery Centre, the estimated the costs of treating a single case of gender-based violence is at KShs. 6,000. This translates into KShs. 392,000 per week and more than KShs. 20.3 Million annually. • It is believed that victims are left to bear the brunt of the huge medical bills and the courts are failing to support them in their pursuit of compensation despite the fact that there is in existence the Victim Protection Act.
Forensic laboratories established in all Counties.	<ul style="list-style-type: none"> • This has not been implemented. What we have is 1 unopened Government Forensic Laboratory in Nairobi. • The Forensic Lab has been under construction (98% completion) for the last 2 years • The government should work on opening it. 	
Increased number of Gender Desks/Units in each police station.	<ul style="list-style-type: none"> • There are Gender Desks in Divisional Police headquarters but not in each police station. 	

27.1.2 Specific Action by Government: Undertake public awareness on SGBV.

Indicator	Status of Implementation by Government
Number of public awareness forums held on measures to address and reduce SGBV	<ul style="list-style-type: none"> • National and county governments conduct public awareness activities during the Annual 16 Days of Activism. National Gender and Equality Commission conducted the <i>'Keeping the Promise: End GBV Campaign'</i> and launched the Duty Bearers Handbook to the same in 2015
Increased Number of Social and economic empowerment programmes.	<ul style="list-style-type: none"> • The Government has put in place the Women Enterprise Fund, the Youth Enterprise Fund, the Presidential Scholarship, <i>Inua Jamii</i>, Access to Government Procurement Opportunities and Cash Transfer.

27.1.3 Specific Action by Government: Enhance capacity of judicial officers, Police Officers, Chiefs/ community elders, medical personnel and prosecutors on how to deal with reported cases of SGBV.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of arrests and prosecutions and convictions of offenders.	<ul style="list-style-type: none"> The investigations into sexual and gender-based violence cases are often dubious, shoddy and careless, which eventually results in very few convictions. Corruption during investigation and prosecution of SGBV cases is a major concern. There is need for enhanced witness protection in Kenya 	
Number of police officers, judicial officers, Chiefs/ community elders, medical personnel and Prosecutors trained on SGBV.	<ul style="list-style-type: none"> Government obtained KShs. 1.2 Billion to end SGBV in April 2017.⁹³ The State should consider annual trainings on SGBV to increase the eloquence of the lot and to also increase the number of the government officers, community based officers and medical personnel mandated with the task of handling the sexual and gender based violence issue. There should also be effective facilitation on the creation of awareness of the relevant provisions of the law governing gender-based violence. CEDAW recommendations in relation to violence against sex workers on police violence, retribution from clients and general population, prosecution and punishment of perpetrators.⁹⁴ 	<ul style="list-style-type: none"> FIDA, RCK, LWF, GVRC, CREAM, COVAW, SHOFKO (KIBERA) Pendekezo Letu has trained 125 Juvenile Justice Actors on SGBV in the financial year 2017-2018 from Nairobi and Kiambu counties. CREAW has trained prosecutors ODPP Judicial officers, police officers, and other duty bearers on SGBV, also they have trained KAYA elders and <i>Njuri Ncheke</i> elders in Meru and Kilifi counties. RCK in 2016 trained 775; Police officers, Immigration officers, Judiciary, administration officers, other law enforcement officers, community elders, medical personnel and 4,476 refugees on SGBV.⁹⁵ COVAW has trained law enforcement officers on SGBV in Migori and Kisumu counties.

28. Participation and Representation of Special Interest Groups

28.1 Recommendation: Increase representation and participation of special interest groups (including women, PWDs, ethnic minorities) in leadership and political positions. *Recommendation Nos. 142.122; 142.130; 142.134; 142.139; 142.141; 142.144; 142.177; 142.178; ESCR Rec 26*

28.1.1 Specific Action by Government: Amend the Political Parties Act and the Elections Act to allow persons with disabilities to elect their political representatives

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
PWD Act, Political Parties and the	<ul style="list-style-type: none"> There have been no amendments to the Acts. Existing elections legislations only provide for nomination of PWD representatives. Political parties should democratize their candidate selection processes by adhering to party regulations and electoral procedures, widening 	<ul style="list-style-type: none"> United Disabled Persons of Kenya and FIDA-K are implementing a

⁹³ Ministry of Public service, Youth and Gender Affairs

⁹⁴ CEDAW Concluding observations on the Eighth periodic report of Kenya 2017

⁹⁵ <https://www.rckkenya.org/2016-annual-report-2/>

Elections Act amended	<p>participation among the electorate and limiting central leadership interference which would positively impact on overall perception and respect for free and fair electoral processes on the national scale.</p> <ul style="list-style-type: none"> • There is a necessity to put in place heavy penalties for the parties that flout democratic principles and practices for deterrence to work for justice and fairness to prevail. Fully implement Section 104 of the Elections Act [2011] 2017⁹⁶ to facilitate persons with special needs including PWDs to realise their right to vote e.g. putting in place special infrastructure including special voting booths. 	programme on progressive implementation of the principle that at least 5% of the members in elective and appointive bodies are PWDs. ⁹⁷
An independent fully functional office of the registrar of political parties.	<ul style="list-style-type: none"> • There is a functional office of the Registrar of the Political Parties established under Article 260 of the Constitution of Kenya 2010 under Section 33 of the Political Parties Act. • The Office of the Registrar of Political Parties still faces challenges with regard to impartiality in decision making during political parties disputes. 	

28.1.2 Specific Action by Government: Implement the 5% quota for PWDs as enshrined in the Constitution.

Indicator	Status of Implementation by Government
Number of persons with disability employed in the public sector.	<ul style="list-style-type: none"> • There is no public information on the number of PWDs in the public sector employed in the current reporting period. • There is need for the Government to 1/ Adopt immediate measures to foster compliance with the positive measures of quota for persons with disabilities in employment including an effective enforcement mechanism and truly dissuasive sanctions for non-compliance in both public and private sectors; 2/ Adopt further measures to promote the right to employment of persons with disabilities and to protect them from discrimination in the recruitment processes and in all other dimensions of the right to employment; and 3/ The Public Service Commission and the National Council on Persons With Disabilities should avail employment data of PWDs and update the same periodically.

28.1.3 Specific Action by Government: Registration of all persons with disabilities with the NCPWD

Indicator	Status of Implementation by Government
Database of PWDs.	It is the mandate of the NCPWD to create a database on PWDs but the same is not accessible and verifiable to the public.

28.1.4 Specific Action by Government: Enact laws to give full effect to the 2/3 Gender Rule by August 2016 and Enact laws to give full effect to Article 100 of the Constitution of Kenya, 2010.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders

⁹⁶ Elections Act No. 24 of 2011

⁹⁷ www.udpkenya.or.ke/projects

Laws enacted to give full effect to Articles 27, 81(b), 54 and 100 of the Constitution of Kenya, 2010.	<ul style="list-style-type: none"> There is no existing law on the 2/3rd Gender Rule. However, there is a Constitutional Amendment Bill, 2018⁹⁸ to amend the Constitution of Kenya, 2010 to create special seats for women in order to actualize the 2/3rd gender rule. 	<ul style="list-style-type: none"> CSOs have advocated through awareness campaigns and public interest litigation.⁹⁹ Such include the Green Campaign.
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28.1.5 Specific Action by Government: Increase budgetary allocation to the Affirmative Action Social Fund for County Development.

Indicator	Status of Implementation by Government
Number of initiatives for vulnerable groups supported by the affirmative action fund.	<p>There is no information on the number of initiatives for vulnerable groups supported by the affirmative action fund but the number of beneficiaries of the affirmative action fund is available on the website.¹⁰⁰</p> <p>The government should extend urgently the coverage of social protection schemes, beyond persons with “severe disabilities” in order to ensure an adequate standard of living to all persons with disabilities that are currently not eligible for social protection schemes.</p>

28.1.5 Specific Action by Government: Judicial interpretation of the provisions of the Constitution of Kenya, 2010 and the law.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
Number of interpretations given by the courts and implemented.	<ul style="list-style-type: none"> The decision in the Constitutional Petition 440/2013 Eric Gitari Vs. NGO Coordination Board and 5 others on freedom of association has not been implemented.¹⁰¹ The decision in the Constitutional Petition 371/2016 CREAW and 2 Others Vs. The Speaker of the National Assembly and 6 Others on the 2/3rd Gender rule has also not implemented. 	<ul style="list-style-type: none"> CREAW, FIDA-K, Transgender Education and Advocacy, National Gay and Lesbian Human Rights Commission among other sectoral players have filed Public Interest Litigation cases on leadership and political representation.

29. Rights of Persons with Disabilities (PWDs)

29.1 Recommendation: Increased protection for PWDs. *Recommendation Nos. 142.56; 142.70; 142.145; CRPD Rec 6&20*

29.1.1 Specific Action by Government: Increased awareness and protection of the rights of PWDs.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders

⁹⁸ http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2018/ConstitutionofKenya_Amendment_Bill_2018.pdf

⁹⁹ Constitutional Petition 397/2017 CREAW v The Speaker of the National Assembly and 4 others, Constitution Petition 401/2017 FIDA-K v The Speaker of the National Assembly and 3 others

¹⁰⁰ <http://www.ngaaf.go.ke/>

¹⁰¹ <http://kenyalaw.org/caselaw/cases/view/108412/>

All relevant laws including the Persons with Disability Act reviewed to align them with international standards.	<ul style="list-style-type: none"> • The Persons with Disability Act, 2003 was revised in 2016 • We recognise the State's efforts in the mainstreaming of disability rights in operations especially for people with severe disability. (47,200 households out of 500 are recipients). There is lack of data available on the number of persons with disabilities, disaggregate by gender and form of disability. 	International Partners supported IEBC to develop tactile ballot for use in election for use by persons with visual impairment.
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29.1.2 Specific Action by Government: Increase national budgetary allocation for awareness on the rights of persons with Albinism and the purchase of sunscreen.

Indicator	Status of Implementation by Government
Percentage of persons with albinism accessing sun screen. Percentage increase in number of public awareness fora held.	<ul style="list-style-type: none"> • National Council of Persons with Disability has provided the following information: • Currently 3,026 people living with albinism are provided with Sun Screen, lip care products, after sun lotions, protective clothing and easier access to eye care. The products are available for free in State run hospitals. • More is being done to increase awareness. • KShs. 30 Million was given to raise awareness in 2015 however, monitoring and evaluation framework do not exist to access the effectiveness of this allocation. • The information is however not verifiable. • The State has committed to incorporate PWD in the 2019, National Population Census.

29.1.3 Specific Action by Government: Establish special protection measures for PWDs.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
County Action Plans for PWDs developed.	The information is not public and verifiable.	
Number of assistive devices (wheel chair, crutches, walking aids, hearing aids, Braille equipment) provided for PWDs.	The information is not public and verifiable.	
Adoption and Promotion of Sign language as a third language	The information is not public and verifiable.	The State and stakeholder are mainstreaming sign language as form of communication.

29.1.4 Specific Action by Government: Increased budgetary allocations for cash transfer programs for orphans and persons suffering from severe disabilities, elderly persons.

Indicator	Status of Implementation by Government
Percentage increase in budgetary allocations per County. Reviewed criteria for identification of persons needing the funds. Number of eligible households receiving cash transfers.	The information is public and verifiable.

29.1.5 Specific Action by Government: Increase budgetary allocation for Uwezo Fund, Youth Fund and Women Enterprise Fund.

Indicator	Status of Implementation by

	Government
Percentage increase in budgetary allocations to the Uwezo Fund, Youth Enterprise Development Fund and Women Enterprise Fund per County.	The information is not public and verifiable.

30. Rights of Indigenous Persons to their Ancestral Land

30.1 Recommendation: Strengthen effectively the protection of the rights of indigenous peoples, including to their ancestors' lands. *Recommendation Nos. 142.176; 142.179; 142.180; ESCR Rec 16, 47*

30.1.1 Specific Action by Government: Ensure a legal environment that protects ancestral land of indigenous persons. Implement the Endorois Community decision.

Indicator	Status of Implementation by Government
Adoption of the Community land Bill, Evictions and Resettlement Bill, Mining Bill, Livestock Bill, Benefit Sharing Bill.	<p><u>Enacted legislations</u></p> <p>Community Land Act No. 27 of 2016 enacted and the development of the regulations to the act is in process.</p> <p>Trust land Act Repealed by the Community Land Act.</p> <p>Mining Act No.12 of 2016</p> <p>Forest Act No. 34 of 2016</p> <p>Wildlife Conservation Management Act No. 47 of 2013, fully implemented.</p> <p>The government has not fully implemented the decision in the Endorois case.¹⁰²</p>

31. Equality and Non-Discrimination

31.1. Recommendation: Adopt a comprehensive anti-discrimination law affording protection to all individuals irrespective of their sexual orientation or gender identity. *Recommendation Nos. 142.21; 142.41; 142.46; 142.51; ESCR Rec 20; CRC Rec No. 22*

31.1.1 Specific Action by Government: Fully implement the Constitutional provisions on non-discrimination.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders
A comprehensive anti-discrimination law enacted and policy adopted in accordance with Article 27 of the Constitution of Kenya, 2010	<ul style="list-style-type: none"> The antidiscrimination law has not been enacted or any policies introduced or adopted. The Chief Justice has gazetted a Taskforce on the Decriminalization and re-classification of Petty Offences found under various sections of the Penal Code which are widely discriminatory of gender and sexual minorities amongst other groups. Attorney-General has constituted a Taskforce on Policy, Legal, Institutional and 	<ul style="list-style-type: none"> Sexual Orientation, Gender Identity and Expression Human Rights Organisations in Kenya have filed constitutional petitions to challenge sections of the Penal Code that go against various section of the bill of rights including Article 27.¹⁰⁴ The State's commitment to analyse legislations that are inconsistent with Article 27 of the Constitution of Kenya, 2010 is welcomed as there is a recognition that a new law shall be a highly politicized process. Key to the process must be the

¹⁰² <http://www.knchr.org/Articles/ArtMID/2432/ArticleID/1022/Latest-on-Endorois-Case> accessed on 25.08.2018

and conformity with international standards.	in Administrative Reforms Regarding Intersex Persons in Kenya. ¹⁰³ <ul style="list-style-type: none"> Constitutional Courts have granted various rulings and orders clarifying the freedom of association, right to dignity and equality and non-discrimination for gender and sexual minorities. 	meaningful participation and engagement of all stakeholders. The State should adhere to and implement all court decisions issued on protection of the Bill of Rights under the Constitution of Kenya 2010.	
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31.1.2 Specific Action by Government: Finalize the Draft Equality Policy.

Indicator	Status of Implementation by Government	
Equality Policy finalized and adopted	There is no equality policy adopted for Sexual Orientation, Gender Identity and Expression.	

31.1.3 Specific Action by Government: Review the NCIC Act.

Indicator	Status of Implementation by Government	
NCIC (Amendment) Bill enacted.	There exists no amendment with regards to affording protection to all individuals irrespective of their sexual orientation or gender identity.	

31.1.4 Specific Action by Government: Conduct a survey on diversity in the public service.

Indicator	Status of Implementation by Government	
Level of diversity in the public service established.	No survey conducted.	

31.1.5 Specific Action by Government: Conduct a survey on number of women in the public and private sector

Indicator	Status of Implementation by Government	
Number of women employed in the public and private.	No survey conducted therefore the information is not available.	
Number of private sector organizations that have mainstreamed disability.	No data available.	

31.1.6 Specific Action by Government: Ensure fully functional institutions to ensure promotion of equality and non-discrimination.

Indicator	Status of Implementation by Government	Complementary action by other Stakeholders	
Fully functional monitoring	<ul style="list-style-type: none"> No monitoring mechanism 	<ul style="list-style-type: none"> NCHRDK, GALCK, NGLHRC, NYARWEK and other SOGIE groups have out in place mechanisms to monitor, respond and document human rights violations on grounds of SOGIE. 	

¹⁰⁴ Constitutional Petition 440/2013 Eric Gitari v NGO Coordination Board and 5 others, Constitution Petition 150/2016 Eric Gitari v The Attorney General

¹⁰³ Gazette Notice No. 4904. Vol. CXIX-No. 67 Published on 26.05.2017 accessed on 25.08.2018

mechanism within the NGEC and KNCHR developed.	within NGEC and KNCHR developed.	<ul style="list-style-type: none"> • KNCHR has in place a violations monitoring and response mechanism to which SOGIE HROs escalate cases. • KNCHR is working with SOGIE HROs in advocating for the promotion and protection of human rights for all. • KNCHR is working with SOGIE HROs to develop a SOGIE Mainstreaming Policy for their operations and monitoring. • NGEC has a running TWG on SGBV which includes various groups which has recently including SOGIE HROs. • Whereas KCNHR has a draft SOGIE Mainstreaming policy, it yet to be finalized and adopted. • NGECs also lacks an explicit mention gender and sexual minorities but has committed to a gender and sexual diversity sensitization training for staff. These will have a great impact on the ability of their monitoring mechanisms. The State should provide resources to ensure that these processes are not only completed but are also meaningfully engaging of all stakeholders.
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32. Women, Peace and Security

32.1 Recommendation: Women Peace and Security. *Recommendation Nos. 142.29; 142.30*

32.1.1 Specific Action by Government: Fully implement the National Action plan on UNSC Resolution 1325.

Indicator	Status of Implementation by Government
Fully implement the National Action plan on UNSC Resolution 1325	<ul style="list-style-type: none"> • The National Action Plan on UNSC Resolution 1325 was adopted and the same was launched on 8th March, 2016, there is need to establish framework strategies and actions for its coordinated implementation. More needs to be done to fully realize peace and security for women during and after electoral processes especially in conflict zones such as the North Rift North Eastern Kenya.

CONCLUSION

It is the hope of the Kenya CSO Coalition on the UPR that the information contained in this report will be used constructively to enhance the level of implementation of the 2nd Cycle recommendations.

LIST OF ORGANISATIONS

1. AFEA
2. Africa Platform for Social Protection
3. African Gender and Media Initiative Trust
4. Albinism Foundation of East Africa
5. American Jewish World Services (AJWS)
6. Amref Health Africa in Kenya
7. Article 19 Eastern Africa
8. AVSI Foundation
9. Awareness Against Human Trafficking-HAART KENYA
10. Bar Hostess Empowerment Support Programme
11. Centre for Reproductive Rights
12. Centre for Rights Education and Awareness (CREAW)
13. Civil Society Reference Group (CSRG)
14. Coalition on Violence Against Women (COVAW)
15. East African Centre for Human Rights (EACHRights)
16. Edmund Rice Advocacy Network (ERAN) East Africa
17. Endorois Welfare Council
18. Family Health Options Kenya (FHOK)
19. Federation of Women Lawyers (FIDA Kenya)
20. Franciscan International
21. Freedom House
22. Gay and Lesbian Coalition of Kenya (GALCK)
23. Haki Jamii
24. Health Rights Advocacy Forum (HERAF)
25. Hoymas (Health Options)
26. ICJ Kenya
27. Independent Medico-Legal Unit (IMLU)
28. Indigenous Women Council
29. International Center for Transitional Justice (ICTJ)
30. International Planned Parenthood Federation (IPPF)
31. ISHTAR
32. Jinsiangu
33. Kamukunji Paralegal Trust (KAPLET)
34. Kenya Human Rights Commission (KHRC)
35. Kenya Key Population Consortium (KP Consortium)
36. Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN)
37. Kenya National Commission on Human Rights (KNCHR)
38. Kenya Network Of People Who Use Drugs (KeNPUD)
39. Kenya Sex Workers Alliance (KESWA)
40. Kituo Cha Sheria
41. Lutheran World Federation (LWF)

42. National Civil Society Congress
43. National Civil Society Congress (NCSC)
44. National Empowerment Network of People Living with HIV and AIDS in Kenya (NEPHAK)
45. Nyanza, Rift Valley and Western Kenya Network (NYARWEK)
46. Ordo Franciscanus Saecularis, CUEA
47. Pastoralist Development Network of Kenya (PDNK)
48. Pendekezo Letu
49. PITCH Kenya
50. Plan International
51. Refugee Consortium of Kenya (RCK)
52. Right Here, Right Now (RHRN)
53. Samburu Women Trust
54. Save the Children International
55. The CRADLE-The Children's Foundation
56. The National Coalition of Human Rights Defenders-Kenya (NCHRD-K)
57. Transparency International Kenya
58. Women Empowerment Link (WEL)

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