



人权理事会
普遍定期审议工作组
第三十五届会议
2020年1月20日至31日

利益攸关方就肯尼亚提交材料的概述*

联合国人权事务高级专员办事处的报告

一. 背景

1. 本报告根据人权理事会第 5/1 号和第 16/21 号决议编写，同时考虑到普遍定期审议的周期。报告概述 51 个利益攸关方¹ 为普遍定期审议提交的材料。因受字数限制，报告采用提要的方式。报告单列一章，收录经认证完全符合《巴黎原则》的国家人权机构提供的材料。

二. 经认证完全符合《巴黎原则》的国家人权机构提供的材料

2. 肯尼亚国家人权委员会提到肯尼亚共和国(“政府”、“肯尼亚”和“国家”兼指)支持的先前审议时提出相关建议，² 并指出：(a) 执行《宪法》³ 规定的三分之二性别规则的立法尚未颁布；⁴ (b) 肯尼亚国家人权委员会继续收到有限的资金；⁵ (c) 尽管努力加强反腐败措施，但腐败仍在继续，保护举报人的立法尚未颁布；⁶ (d) 《刑法》和《肯尼亚国防军法》仍保留死刑；⁷ (e) 已做出努力，确保安全部队侵犯人权行为的问责和透明。⁸ 议会颁布了《防止酷刑法》⁹ 和《国家法医部门法》。¹⁰ 然而，国家法医部门尚未开始根据《国家法医部门法》运作。尽管采取了这些举措，但委员会继续收到关于安全部队非法行为的投诉，诸如任意逮捕、敲诈、非法拘留、酷刑、杀害、失踪和性暴力；¹¹ (f) 尽管做出了努力，¹² 但由于执法不力，执法机构、司法机构和其他政府机构之间协调不佳，以及缺乏政府资助的庇护所，对性暴力和基于性别的暴力的应对措施效果不佳；¹³ (g) 就政府对真相、正义与和解进程的支持而言，已经起草的条例¹⁴

* 本文件在送交联合国翻译部门前未经编辑。



和赔偿政策¹⁵ 尚待政府通过；¹⁶ 总统已宣布恢复性基金将用于通过确立希望象征提供集体赔偿，¹⁷ 而真相、正义与和解委员会建议¹⁸ 既赔偿个人，也赔偿社区；¹⁹ (h) 尽管政府在上一轮审议中承诺按照国际标准向面临被驱逐威胁的人提供保护，但任意驱逐有增无减。²⁰

3. 肯尼亚国家人权委员会指出，将同性性行为定为犯罪是对男女同性恋、双性恋和变性人的暴力、歧视和污名化的基础。²¹

4. 肯尼亚国家人权委员会注意到《国家粮食和营养安全政策执行框架》(2017-2022 年)的出台，指出尽管政府承诺确保粮食安全，但粮食贫困的发生率没有消退迹象。²²

5. 肯尼亚国家人权委员会对以下情况表示关切：(a) 公共卫生设施状况不佳，仍有因未能支付医治费而扣留遗体和患者的情况；²³ (b) 双性人儿童的权利受到侵犯；²⁴ (c) 执行区域人权机制决定的步伐缓慢，²⁵ 以及对土著人民及其祖传土地权利的保护滞后；²⁶ (d) 残疾人独立生活和融入社区的权利受到侵犯。²⁷

三. 其他利益攸关方提供的材料

A. 国际义务的范围²⁸ 以及与国际人权机制和机构的合作²⁹

6. 许多利益攸关方指出，肯尼亚尚未批准《保护所有移徙工人及其家庭成员权利国际公约》、《禁止酷刑公约任择议定书》、《残疾人权利公约任择议定书》和《经济、社会及文化权利国际公约任择议定书》；³⁰ 《儿童权利公约关于买卖儿童、儿童卖淫和儿童色情制品问题的任择议定书》和《儿童权利公约关于儿童卷入武装冲突问题的任择议定书》；³¹ 《保护所有人免遭强迫失踪国际公约》；³² 和《联合国禁止核武器条约》。³³

7. 联署材料 16 指出，政府在落实上次审议的建议方面进展相对有限。³⁴

B. 国家人权框架³⁵

8. 联署材料 5 指出，有待根据《执行残疾人权利委员会建议的国家行动计划》修订肯尼亚《宪法》(2010 年)中受到质疑的部分以及在提及智力或心理残疾者时使用贬损语言的立法。³⁶

9. 联署材料 14 指出，《继承法》有待修订，以确保与《宪法》保持一致。³⁷

10. 联署材料 18 表示关切：目前缺乏数据保护立法，而政府却越来越多地使用生物特征数据库，由此更多地收集个人信息。³⁸ 2019 年 7 月提交国民议会的拟议法案应开放征求利益攸关方意见，以确保将颁布的法律符合国际标准。³⁹ 联署材料 16 指出，该法案设想了基于国家安全对隐私的潜在限制。⁴⁰

11. 联署材料 6 指出，《打击人口贩运法》(2010 年)的一个显著遗漏是，没有将《儿童权利公约关于买卖儿童的任择议定书》中定义的“买卖儿童”定为刑事犯罪。⁴¹

12. 联署材料 3 指出,《媒体委员会法》(2013 年)、《肯尼亚信息和通信法》(1998 年)和《计算机滥用和网络犯罪法》(2018 年)尚未根据相关国际规范进行修订。⁴²
13. 联署材料 5 指出,《残疾人法案》(2018 年)尚未提交议会讨论。⁴³
14. 联署材料 3 指出,政府未能采取适当措施确保有效实施《信息获取法》(2016 年)。⁴⁴
15. 联署材料 1 指出,关于堕胎的法律仍然令人困惑和矛盾,2012 年《肯尼亚降低不安全堕胎发病率和死亡率的标准和准则》的撤销加剧了这一问题,该准则根据《宪法》为医疗专业人员确定何时能够提供堕胎服务提供了指导。⁴⁵
16. 联署材料 3 指出,《公共福利组织法》(2013 年)为非营利组织创建了一个新的法律、监管和体制框架,但该法尚未生效,尽管高等法院裁决下令政府在公报上公布该法实行的开始。⁴⁶
17. 联署材料 6 指出,《禁止对儿童性剥削国家行动计划》(2018-2022 年)为解决对儿童的性剥削问题提供了坚实的基础,但在协调方面存在挑战。⁴⁷
18. 联署材料 20 指出,随着《打击人口贩运国家行动计划》(2013-2017 年)的到期,目前没有执行《打击人口贩运法》(2010 年)的框架。⁴⁸
19. 联署材料 26 指出,尚未颁布立法以建立一个机制落实真相、正义与和解委员会⁴⁹ 的建议。⁵⁰

C. 参照适用的国际人道主义法履行国际人权义务的情况

1. 贯穿各领域的问题

平等和不歧视

20. 联署材料 21 提到上一次审议中得到支持的相关建议,指出肯尼亚尚未颁布全面的反歧视立法,基于实际或被认为的性取向和性别认同的歧视仍然普遍存在。⁵¹ 联署材料 4 指出,没有采取具体步骤颁布这种立法,也没有专门处理与性取向和性别认同有关的问题的政府机构。⁵²
21. 肯尼亚白化病学会(ASK)指出,白化病患者遭受歧视,这是由于一些法律和政策制订者、公众和群体的无知造成的。⁵³ 没有为白化病患者提供心理支持或咨询的救援中心。⁵⁴
22. MICROP 指出,老龄歧视和年龄歧视被广泛容忍。⁵⁵ 数据不足是支持老年人融入社会文化、经济和政治生活所有领域的一个困难。⁵⁶

发展、环境以及工商业与人权⁵⁷

23. 非洲联盟—非洲人权和人民权利委员会(AU-ACHPR)对与土地使用相关的挑战感到关切,由于快速城市化、用地规划不足、不可持续的生产方法以及环境管理不善,这些挑战有所增加。⁵⁸

24. AU-ACHPR 注意到由于法律和法规的漏洞以及执法制度状况很差，非法采矿仍然活跃，指出肯尼亚应执行措施，以制订监管小土矿的政策，将小金矿开采者转变为正规化的操作工。⁵⁹

25. 联署材料 19 指出，尽管有机农业在维持土壤生态系统健康方面确有得到承认的贡献，但有机农业这个分部门仍然相对较小，政府对有机农业的投资有限。⁶⁰

26. 联署材料 2 注意到 2016 年《气候变化法》的颁布和《国家气候变化行动计划》(2018-2022 年)的制订，指出缺乏明确界定的框架以帮助土著人民在所有层面参与气候变化讨论。⁶¹

27. 联署材料 10 指出，对传统种子和肥料的依赖未能成功保护小农户免受气候变化的影响。⁶²

28. 联署材料 8 指出，由于政治影响、腐败和官僚作风等因素，环境立法没有得到充分执行。⁶³

29. 联署材料 8 指出，在图尔卡纳，石油钻井产生的有毒废物污染水源。钻井还对地下水位产生不利影响，油井有毒废物的倾倒造成地下水不适合人类饮用。⁶⁴

30. 联署材料 8 指出，尽管出台了划时代的塑料禁令，但没有做出多大努力确保塑料废物的回收利用。⁶⁵

31. 联署材料 13 指出，私营部门对《联合国工商业与人权指导原则》的应用有限，这导致基于人权的商业做法方面存在重大欠缺。⁶⁶

人权与反恐⁶⁷

32. 联署材料 23 提到上一次审议中得到支持的相关建议，指出 2012 年《防止恐怖主义法》仍然容易被当局滥用于打击政治反对派、民间社会和抗议者。⁶⁸

33. 基督教团结国际协会提到上一次审议提出的 7 项得到支持的反恐建议，指出记录在案的军营中强迫失踪和涉嫌酷刑的案件表明政府未能落实这些建议。⁶⁹

34. 捍卫自由联盟指出，有青年党的激进小组据悉藏在达达布难民营，这些小组招募失业青年后对他们进行激进化灌输。⁷⁰

35. 人权观察社表示，在与青年党涉嫌有联系的个人失踪和杀害案件中仍有牵连警方和军方的情况。⁷¹

36. 基督教团结国际协会表示，在本报告所述期间，恐怖袭击持续不断，而且个人往往因族裔和/或宗教而成为特定目标。⁷²

2. 公民权利和政治权利

生命权、人身自由和安全权⁷³

37. AU-ACHPR 注意到暂停死刑，呼吁废除死刑。⁷⁴

38. 基督教团结国际协会指出，在本报告所述期间，关于安全人员法外杀人的报告突出表明，政府未能执行上一次审议中得到支持的相关建议。⁷⁵ 联署材料 25 指出，在内罗毕几乎所有 158 个非正式定居点，安全机构以减少犯罪为幌子进行法外处决。⁷⁶

39. 卡特中心指出，2017 年选举受到暴力抗议、安全部队过度使用武力和性暴力以及安全气氛恶化的影响；⁷⁷ 这些情况加剧了妇女受害的可能性。⁷⁸ GRAG 指出，性暴力现象在选举期间反复出现。⁷⁹ 幸存者没有得到政府机构的全面康复护理，⁸⁰ 也没有得到恢复性司法基金的赔偿。⁸¹

40. IMLU 指出，《防止酷刑法》和《国家法医部门法》没有得到充分执行，增加了侵犯人权的风险，限制了国家以公平和有效的方式处理此类侵权行为的准备。⁸²

41. AU-ACHPR 指出，肯尼亚应确保保护所有酷刑受害者，并根据《罗本岛准则》设想的整体视角，有效预防和应对酷刑和虐待。⁸³

42. AU-ACHPR 对持续存在的有害传统习俗表示关切，例如切割女性生殖器官 (FGM) 和童婚，尽管这种习俗已被定为犯罪；AU-ACHPR 呼吁以国家和社区一级的战略补充相关立法。⁸⁴ 联署材料 17 指出，国家反 FGM 政策仍有待最后确定。⁸⁵ 联署材料 9 呼吁批准根除切割女性生殖器官做法的国家政策，增加反 FGM 委员会的资源等。⁸⁶

43. 联署材料 4 指出，LGBTI⁸⁷ 人士的生命权、自由权和安全权遭到广泛侵犯，并成为私刑团体的具体目标。⁸⁸ 联署材料 28 指出：(a) 肯尼亚表示注意到前几次审议中提出的关于将双方同意的同性性行为非刑罪化的建议；(b) 执法机构利用《刑法》第 162(a)、(c) 和 165 条逮捕和指控实际是或被认为是 LGBTQ+ 的人士；⁸⁹ 以及(c) 对质疑这些条款合宪性的一项请愿书的裁决，肯尼亚高等法院除其他外认为，这些条款没有侵犯自己认定为 LGBTQ+ 的肯尼亚人的宪法权利。⁹⁰

44. 联署材料 26 指出，监狱过度拥挤对监狱管理和囚犯改造构成挑战。⁹¹

司法(包括有罪不罚问题)和法治⁹²

45. 卡特中心指出，虽然总统最初说他已接受最高法院推翻 2017 年总统选举结果的决定，但他和另一些朱比利联盟官员责骂法院和表决中参加多数宣布选举无效的法官，并威胁要修改法律以“降伏法院”，同时将该裁决称为司法政变。在一次竞选演讲中，总统称法官为“骗子”，并表示他将在连任后改组司法部门。⁹³

46. 联署材料 26 指出，尽管《2017-2018 年司法状况和司法年度报告》⁹⁴ 承认替代争端解决机制是促进快速和负担得起的诉诸司法的关键手段之一，但只有 229 名司法机构认证的调解员，该方案仅在 47 个郡中的 10 个郡推出。⁹⁵

47. AU-ACHPR 感到关切：法律援助没有“在警方调查时向嫌疑人提供”，警察局缺乏记录酷刑相关投诉的数据库，审前被拘留者比例高，司法系统缺乏快速程序，这种情况继续妨碍落实公平审判权。⁹⁶

48. 联署材料 8 表示关切：在人权维护者和民间社会组织代表受影响社区提起的诉讼中，被告多次攻击和恐吓证人。⁹⁷

49. 联署材料 5 指出，由于先入为主的偏见和偏向，智力或心理残疾证人在法庭作证时遇到障碍。⁹⁸

50. IMLU 指出，对法外处决的调查率极低，并在安全机构内部形成了有罪不罚的氛围。⁹⁹

51. 联署材料 9 指出，当局和执法机构在起诉被控 FGM 责任人方面面临挑战，原因包括缺乏证据和证人被恐吓以及幸存者被转移。¹⁰⁰

52. 联署材料 20 指出，根据 2010 年《打击人口贩运法》对贩运罪起诉的比率很低，原因包括难以获得证据。¹⁰¹

53. 联署材料 12 表示关注：上一次审议中得到支持的相关建议的执行工作不足以保护触法儿童。¹⁰²

基本自由以及公共和政治生活参与权¹⁰³

54. 捍卫自由联盟指出，基督徒发现自己因信仰而处于被极端主义团体攻击的危险之中。¹⁰⁴

55. 联署材料 16 指出，在互联网接入和负担能力有限的情况下，一些政府服务的快速转型为在线服务，对边缘化公民产生了不成比例的影响。许多人也缺乏在网上轻松获取政府服务所需的数字技术基本能力。¹⁰⁵

56. 联署材料 23 指出，在本报告所述期间，电影和分级委员会加大了对艺术表达的干预，特别是限制其认为与传统价值观相冲突的内容的传播。¹⁰⁶

57. 联署材料 7 提到上次审议中得到支持的相关建议，指出记者和博客作者面临严重挑战，包括破坏新闻自由和纵容对记者人身攻击的国家指令。¹⁰⁷ 联署材料 23 指出，有人试图恐吓和骚扰媒体，以阻止对反对党的报道，尽量减少对执政党的负面报道；¹⁰⁸ 肯尼亚未能采取措施确保记者的安全，尽管它支持上次审议时提出的这方面的建议。¹⁰⁹

58. AU-ACHPR 表示关注诽谤是一种刑事罪名以及以诽谤为罪名指控记者和媒体从业人员的情况。¹¹⁰

59. 联署材料 7 指出，政府未能执行上一次审议中得到支持的建议，以保障和平示威集会，并列举了这方面的具体案例。¹¹¹ 联署材料 23 指出，法律没有充分保护集会自由。¹¹²

60. 联署材料 3 指出，总统在 2016 年 12 月 12 日的讲话中指责国际民间社会组织的工作，责难的目标对准 2017 年选举前从事公民教育领域工作的人，指责他们是试图影响选举进程的外国势力的代理人。¹¹³

61. 联署材料 7 提到审议中得到支持的相关建议，指出人权维护者在有罪不罚的环境下继续面临更多的攻击，并列举了这方面的具体案例。¹¹⁴

62. 联署材料 8 指出：(a) 当局继续以人权维护者为打击目标；¹¹⁵ (b) 在缩小环境维护者和人权维护者的工作空间方面，当局的作用极大。¹¹⁶

63. AU-ACHPR 对妇女在决策层的代表性低表示关切。¹¹⁷ 联署材料 15 指出，妇女参政受到社区父权性质的抑制，大多数传统领导人偏向男子。¹¹⁸

禁止一切形式的奴役

64. 联署材料 20 指出：(a) 肯尼亚既是受强迫劳动和性贩运之害的男子、妇女和儿童的来源国，也是过境国和目的地国；¹¹⁹ (b) 缺乏关于人口贩运的综合数据，难以为政策提供信息；¹²⁰ (c) 对需要庇护、医疗援助、法律援助和心理支持的贩运受害者的保护服务不足。¹²¹

65. 联署材料 9 指出，贫困、缺乏经济机会和存在基于性别的歧视是性贩运的主要驱动因素。¹²²

66. 联署材料 6 指出：(a) 儿童面临越来越大的网上儿童性剥削风险；¹²³ (b) 关于儿童性虐待的法律没有明确禁止诱骗、直播儿童性虐待视频或网上性勒索；¹²⁴ (c) 旅行和旅游背景下的儿童性剥削据认为发生在主要旅游目的地。¹²⁵

隐私和家庭生活权

67. 联署材料 18 指出，2012 年《国家情报局法》限制隐私权，允许国家情报局调查、监测或干涉其调查对象或涉嫌犯罪者的通信。¹²⁶ 国家情报局截收通信是在没有司法(或其他独立)授权的情况下进行的。¹²⁷

68. 联署材料 18 指出，肯尼亚未能根据 2006 年《艾滋病毒和艾滋病预防和控制法》第 20 节，就艾滋病毒检测和相关医疗评估中使用的信息、记录或表格的记录、收集、存储和安全等事项规定隐私准则，包括就使用识别码规定隐私准则。¹²⁸

69. 联署材料 18 指出，强制性的用户身份模块卡注册使人们不能保持匿名，不能在匿名的安全条件下形成和交流想法。¹²⁹

70. 联署材料 4 指出，《刑法》第 162 至 163 条将双方同意的成年同性性关系定为犯罪。¹³⁰

71. 关于 2014 年《婚姻法》第 12(a)(ii)条和第 73(1)(g)条，联署材料 5 指出，不允许心理或智力残疾者在与其他人平等的基础上行使结婚和离婚的权利。¹³¹ 联署材料 9 指出，该法允许一名男子娶多名妻子，加剧不平等。¹³²

72. 联署材料 29 指出，对于《家庭保护政策》草案的通过态度迟疑，该草案旨在促进婚姻文化以及支持家庭尊严的宗教和文化习俗等要素。¹³³

3. 经济、社会及文化权利

工作权和公正良好工作条件权

73. AU-ACHPR 对失业和就业不足感到关切。¹³⁴ 联署材料 12 指出，缺乏多样化的经济对失业者寻找工作构成挑战。¹³⁵

74. KCS 指出，在有利条件下工作的权利没有得到尊重，尤其是在采掘业。¹³⁶ 肯尼亚性工作者联盟(KESWA)呼吁对自愿的性工作实行全面的非刑事化。¹³⁷

75. 联署材料 5 指出，政府尚未达到《宪法》第 54(2)条规定的公共部门雇用残疾人需占 5%的配额。¹³⁸

76. 2019 年 3 月，肯尼亚航空工人工会领导人被拘留，目的在于打压乔莫·肯雅塔国际机场工人的罢工，国际运输工人联合会(运输工联/ITF)随之敦促肯尼亚不要压制工人的罢工权。¹³⁹

社会保障权¹⁴⁰

77. 联署材料 26 指出，社会保护方案没有得到法律框架的充分保护。¹⁴¹ 联署材料 11 指出，社会保护方案的范围和覆盖面有限，并且在协调上面临困难。¹⁴²

78. 联署材料 5 指出，面向孤儿和弱势儿童、老人和严重残疾人的现金发放方案在实施中的拖欠情况和付款不一致的情况很多。¹⁴³

79. 联署材料 11 指出，社会保障方案在非正规部门人群中的入保率很低。¹⁴⁴

适足生活水准权¹⁴⁵

80. 联署材料 30 注意到，肯尼亚执行了上一次审议的相关建议，即通过了《国家营养行动计划》(2015-2017 年)、将所有农业研究机构并入肯尼亚农业牲畜研究组织，以及立法颁布 2015 年《牲畜饲养法》和 2016 年《渔业和管理发展法》。¹⁴⁶

81. 联署材料 30 指出，粮食和营养不安全的原因包括：个人和家庭层面的贫困和收入不足；粮食市场价格波动，粮食价格上涨，但收入没有相应增加，或者没有相应增加的收入作为补偿；以及缺乏农作最佳做法方面的知识。¹⁴⁷

82. 联署材料 30 指出，由于化学农药和化肥的广泛使用，人们对食品安全感到关切。¹⁴⁸

83. 联署材料 10 指出，对粮食安全的关注侧重于大规模商业农业生产，而忽略了小农户，有损于粮食主权。¹⁴⁹

84. 联署材料 25 指出，缺乏清洁水和适当环境卫生设施是主要挑战。¹⁵⁰ 联署材料 10 指出，与水的供应和获取有关的政策没有得到充分执行。¹⁵¹ 此外，肯尼亚目前的砍伐森林对水流产生了影响。¹⁵²

85. AU-ACHPR 指出，缺乏适足住房仍然是最大城市中心——内罗毕、蒙巴萨和基苏木——生活在非正规住区的大多数居民的一个主要挑战。¹⁵³

健康权¹⁵⁴

86. 联署材料 1 提到上一次审议中得到支持的相关建议，指出尽管有积极的重要标志，但获得高质量的孕产妇保健仍然是一项挑战。¹⁵⁵ 产妇死亡率仍然很高，原因之一是护理质量差；¹⁵⁶ 以及堕胎后护理服务的障碍造成的不安全堕胎。¹⁵⁷ ADF 呼吁改善孕产妇保健诊所与妊娠相关的基本用品的供应。¹⁵⁸

87. 联署材料 1 指出，尽管肯尼亚高等法院做出了一项开创性的裁决，但一些妇女在分娩后仍因付不起医疗费而被扣留在医院。¹⁵⁹

88. 联署材料 1 提到上一次审议中得到支持的一项相关建议，指出妇女和女孩在寻求计划生育服务时继续面临障碍。很大一部分妇女的计划生育需求没有得到满足。¹⁶⁰

89. 联署材料 21 指出，少女怀孕是一项重大挑战。避孕需求未得到满足、堕胎服务被定为犯罪、无法充分获得全面的性教育和信息提供不足、包括胁迫性行为和强奸在内的基于性别的暴力，都是早孕和意外怀孕的原因。¹⁶¹

90. AU-ACHPR 指出，肯尼亚应增加艾滋病毒/艾滋病治疗的保健预算。¹⁶² 联署材料 19 指出，15 至 25 岁的女孩和妇女的艾滋病毒感染率是同年龄组男性的两倍。它指出，《艾滋病毒和艾滋病预防和控制法》要求任何 18 岁以下的人在接受艾滋病毒检测之前必须获得父母或监护人的明确许可；2006 年《性犯罪法》还将向 18 岁以下的人提供避孕套定为犯罪。¹⁶³

91. 联署材料 19 指出，关键人群的艾滋病毒感染率很高，这主要归因于与艾滋病毒/艾滋病相关的污名化和歧视，以及将关键人群的行为定为刑事犯罪的惩罚性法律，¹⁶⁴ 这使他们无法自由获得医疗服务。¹⁶⁵

92. ASK 指出，白化病患者求医面临挑战，原因是基础设施差、初级保健工作者缺乏预防知识和信息。¹⁶⁶

93. 自闭症国际基金会(AFI)指出，自闭症儿童无法获得处方药物，付不起药费。¹⁶⁷

94. 联署材料 30 指出，营养不良率很高，与营养不良相关的非传染性疾病有所增加。¹⁶⁸

受教育权¹⁶⁹

95. 联署材料 27 指出：(a) 国家一级的政策协调存在差距，在推行教育改革方面缺乏适当的规划；¹⁷⁰ (b) 缺乏一个国家质量保证框架促进监测和评估并支持学校质量的提高，这种欠缺有损于教育质量；¹⁷¹ (c) “基于能力的课程”的推出和实施没有考虑到公平问题，例如并非所有学生都能获得类似质量的教育等因素；¹⁷² (d) 教育预算的增加未能解决教师短缺、教育质量提高和学校基础设施紧张的问题；¹⁷³ 以及(e)《残疾学生和培训学员部门政策》(2018 年)和“基于能力的课程”与《残疾人权利公约》第 24 条不完全一致。¹⁷⁴

96. 联署材料 5 指出，《残疾学生和培训学员部门政策》(2018 年)没有提供全纳教育的定义以及指导向全纳教育转变的模式或路线图。¹⁷⁵ 联署材料 27 指出，师范课程需要按照《残疾人权利公约》的要求进行改革，以反映从特殊教育向全纳教育话语和方针的转变。¹⁷⁶ 联署材料 10 指出，有些地方适合特殊需要学生的物质基础设施不足、缺乏学习材料和受过相关培训的教师。¹⁷⁷

97. 联署材料 12 提及上次审议中得到支持的相关建议，¹⁷⁸ 指出：(a) 受教育机会仍然是一个令人关切的问题，尤其是对生活在农村地区的最贫困儿童而言；¹⁷⁹ (b) 教室过度拥挤和教育资源有限，有损于教育质量。¹⁸⁰

98. 东非人权中心(EACHRights)指出，政府未能提供足够数量的公立小学，导致低收费私立学校大幅增长，而当局却没有进行必要的监督和监管。¹⁸¹

99. 联署材料 12 指出，在大多数学校，人权不是学校课程的一部分，教师没有接受人权培训。¹⁸² 联署材料 21 指出，全面的性教育尚未纳入学校课程。¹⁸³

100. 联署材料 13 指出，女孩和女青年面临的一个主要挑战是因怀孕而影响受教育机会。¹⁸⁴ 联署材料 27 指出，1994 年《返校政策》和 2009 年《全国学校卫生政策》之间的不一致导致学校领导对如何处理怀孕学生产生困惑，许多领导最终只能让怀孕学生回家。¹⁸⁵

101. 联署材料 27 指出，触法儿童教育机构以及矫正和康复中心的儿童面临困难，包括恶劣的学习环境。¹⁸⁶

102. 家庭学校法律辩护协会(HSLDA)指出，虽然没有法律禁止家庭教育，但官员认为家庭教育是非法的，因为它没有得到教育部的承认。¹⁸⁷

4. 特定个人或群体的权利

妇女

103. 联署材料 13 指出，对于旨在处理女孩和女青年经济排斥问题的国家法律和政策，缺乏郡一级专门监测执行情况的具体框架。¹⁸⁸

104. 联署材料 14 指出，因性别而被杀害的妇女人数有所增加，这主要归因于社交媒体和其他公共空间传播的暴力侵害妇女行为的“正常化”。¹⁸⁹

105. 联署材料 9 指出，缺乏打击性暴力和基于性别的暴力的政治意愿；没有政府资助的受害者庇护所或安全之家。¹⁹⁰ 联署材料 14 指出，家庭暴力受害者的庇护所数量有限。¹⁹¹

106. 联署材料 13 指出，在工作场所，基于性别的暴力主要表现为性骚扰。大多数私营公司没有采用处理基于性别的暴力的框架。¹⁹²

儿童

107. 联署材料 6 指出，与城市地区的儿童相比，农村社区的儿童获得保健、安全和教育资源的机会仍然少得多。¹⁹³

108. 联署材料 6 指出：(a) 童婚在一些社区很普遍；(b) 18 岁以下结婚属于非法，但《婚姻法》第 49 条规定，“本法规定不符合伊斯兰法律和惯例的，不适用于信奉伊斯兰教的人”，这可能导致允许童婚。¹⁹⁴

109. 联署材料 9 指出，许多童婚案件是避开司法系统由当地政府负责人的协助在社区内解决的。¹⁹⁵ 联署材料 17 指出，缺乏关于童婚的统计数据，因此没有现成的信息可据以设计和编制处理童婚问题的干预措施。¹⁹⁶

110. 联署材料 24 提到上次审议中得到支持的相关建议，指出街头儿童的权利继续受到侵犯。¹⁹⁷

残疾人

111. 联署材料 5 指出，造成残疾人面临歧视的因素之一是物理环境的通行设置不符合通用无障碍设计标准；¹⁹⁸ 相关宪法和立法条款规定，残疾人须能合理获得信息、使用手语、盲文和其他适当的通信手段、获得所有类型残疾的辅助设备等等，这些条款尚未得到充分执行。¹⁹⁹

土著人民²⁰⁰

112. 联署材料 2 指出，虽然已在努力落实上次审议中得到支持的相关建议，但土地权问题尚未完全解决。尽管法律规定将边缘化社区纳入政治和治理，但现实是这些社区的代表性仍然不足。²⁰¹

113. 联署材料 26 指出，2016 年《社区土地法》和保护社区土地权利的条例仍未实施，使社区面临土地损失和冲突。²⁰²

114. AU-ACHPR 指出，肯尼亚应确保所有土著社区的政治参与，并解决土著人民在土地、教育、卫生、就业和诉诸司法方面的具体需要。²⁰³

115. 联署材料 2 指出：(a) 发展项目和采掘业导致土著社区流离失所，并且这些活动的开展没有土著社区自由、事先和知情的同意。²⁰⁴

难民和寻求庇护者²⁰⁵

116. 联署材料 22 指出：(a) 达达布难民营对寻求庇护者的登记存在欠缺；²⁰⁶ (b) 政府部门和私营机构对难民身份文件缺乏认识和承认；²⁰⁷ (c) 教育系统不承认一些难民国家的学业证书，抑制了难民接受教育的机会；²⁰⁸ 以及(d) 2006 年《难民法》第 16(2)条限制难民的行动自由，使他们难以离开指定营地。²⁰⁹

117. 联署材料 26 指出，难民获得工作许可须达到的要求门槛很高，限制了他们获得就业机会的能力。²¹⁰

无国籍人士

118. 联署材料 2 指出，一些少数民族社区仍然没有证件。获得公民身份文件的审查过程具有歧视性，申请过程过于繁琐。²¹¹

注

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

| | |
|------------|--|
| ADF | ADF International, Geneva (Switzerland); |
| AFI | The Autism Foundation International, Kikuyu (Kenya); |
| ASK | Albinism Society of Kenya, Nairobi (Kenya); |
| CSW | Christian Solidarity Worldwide, New Malden (United Kingdom of Great Britain and Northern Ireland); |
| CGNK | Centre for Global Nonkilling, Geneva (Switzerland); |
| EACHRights | The East African Centre for Human Rights, Nairobi (Kenya); |
| GRAG | Grace Agenda, Nairobi (Kenya); |
| HRW | Human Rights Watch, Geneva (Switzerland); |
| HSLDA | Home School Legal Defence Association, Purcellville (United States of America); |
| ICAN | International Campaign to Abolish Nuclear Weapons, Geneva, (Switzerland); |
| IMLU | Independent Micro-Legal Unit, Nairobi (Kenya); |
| ITF | International Transport Workers' Federation, London, (United Kingdom of Great Britain and Northern Ireland); |
| JAI | Just Atonement, New York (United States of America); |
| KCS | Kituo Cha Sheria, Nairobi (Kenya); |
| KESWA | Kenya sex workers' alliance, Nairobi (Kenya); |
| KMSUN | ARTICLE 19 – East Africa, Nairobi (Kenya); |
| MICROP | MICROP-CBO, Nairobi (Kenya); |
| TCC | The Carter Center, Atlanta (United States of America). |

Joint submissions:

| | |
|-----|---|
| JS1 | Center for Reproductive Rights, New York, United States of America, Federation of Women's Lawyers – Kenya, Network for Adolescent and Youth of Africa, Kenya Female Advisory Organization and Trust for Indigenous Culture and Health (Joint Submission 1); |
| JS2 | Centre for Minority Rights Development, Pastoralist Development Network of Kenya, Nubian Rights Forum and Northern Nomadic Disability Organisation (Kenya) (Joint Submission 2); |

- JS3 CIVICUS: World Alliance for Citizen Participation, Article 19 Eastern Africa, National Coalition of Human Rights Defenders and Kenya Human Rights Commission (Joint Submission 3);
- JS4 The Advocates for Human Rights, Minneapolis, United States of America, The Eagles for Life, Kenya, and Sign Ishara, (Kenya) (Joint Submission 4);
- JS5 Action for Children with Disabilities, Users and Survivors of Psychiatry in Kenya, United Disabled Persons Of Kenya, Positive Exposure-Kenya, Kenya National Association of the Deaf, Kenya Association of the Intellectually Handicapped, Humanity & Inclusion, Child Rights & Special Needs Education Trust and Action Network for the Disabled, Nairobi (Kenya) (Joint Submission 5);
- JS6 Kenya Alliance for Advancement of Children, Nairobi (Kenya) and ECPAT International, Bangkok (Thailand) (Joint Submission 6);
- JS7 East and Horn of Africa Human Rights Defenders Project, Kampala (Uganda) and National Coalition of Human Rights Defenders-Kenya (Joint Submission 7);
- JS8 Center for Justice Governance and Environmental Action, Mombasa (Kenya), Human Rights Agenda, Mombasa (Kenya), Centre for Environment Justice Development, Nairobi (Kenya), Protection International Kenya, Nairobi (Kenya), Malindi Rights Forum, Malindi (Kenya), Save Lamu (Lamu) Kenya (Joint Submission 8);
- JS9 Equality Now, Nairobi (Kenya), Federation of Women Lawyers, Nairobi (Kenya), Life Bloom Services International, Naivasha, Kenya, Rural Education and Economic Enhancement Programme, Kisumu Medical and Education Trust, Sauti ya Wanawake Organization – Pwani, IL`laramatak Community Concerns, Hope Beyond Foundation, and Tasaru Ntomonok Initiative (Joint Submission 9);
- JS10 Edmond Rice International, Dominicans for Justice and Peace, Edmund Rice Advocacy Network, Nairobi (Kenya), Alabasta Africa Moving Hearts (Kenya), Jesuits Hakimani Centre, Nairobi (Kenya), Embublul Education & Counselling Centre (Kenya), Comboni Missionaries, Nairobi (Kenya), Office of Justice Peace and integrity of Creation, Franciscans Africa (Kenya), Ruben FM, Nairobi (Kenya), Kenya Movement of Catholic Professionals, Nairobi (Kenya), KCPF Kenya Christian Professionals Forum (Kenya), Ordo Franciscanus Secularis, Nairobi (Kenya), Fahamu- Network for Justice (Kenya), End Poverty with Justice Initiative (Kenya), Pearls and Treasures Trust (Kenya) (Joint Submission 10);
- JS11 HelpAge International, Mangu Integrated Community Project and Kenya Older Persons and Ageing Advocacy Forum, Nairobi (Kenya) (Joint Submission 11);
- JS12 Istituto Internazionale Maria Ausiliatrice, (Switzerland) and – International Volunteerism Organization for Women, Education and Development (Joint Submission 12);
- JS13 Terre des Hommes Netherlands, Nairobi (Kenya), Plan International, Nairobi (Kenya), Coalition on Violence Against Women (Nairobi) Kenya, Nyanza Initiative for Girls' Education & Empowerment, Kisumu (Nairobi) and Women's Empowerment Link Nairobi (Kenya) (Joint Submission 13);

- JS14 The Federation of Women Lawyers in Kenya, Nairobi (Kenya), Isiolo Gender Watch, (Kenya) and Shining Hope for Communities (Nairobi) Kenya (Joint Submission 14);
- JS15 Quaker Peace Initiatives Kenya, Nairobi (Kenya) and Quaker Peace Network (Joint Submission 15);
- JS16 CIPESA, Kampala (Uganda) and Small Media, London (United Kingdom of Great Britain and Northern Ireland) (Joint Submission 16);
- JS17 The East African Centre for Human Rights, Amref Health Africa in Kenya, Samburu Girls Foundation, We World Kenya Foundation, Network for Adolescent and Youth of Africa, Akili Dada, ChildFund Kenya, 28 Too Many, The Coexist Initiative, Youth Anti- FGM Network, Mama Africa Centers, Hope Beyond Foundation, Enduet Women Group, Empiris Emakat Women Group, Association of Media Women in Kenya, Nyanza Initiative for Girls' Education and Empowerment Centre, VSO Kenya, Forum for African Women Educationalists Kenya Chapter, Daughters of Kenya, Chepngoror Foundation, Msichana Empowerment Kuria, Murua Girl Child Education Program, Marakwet Girls' Foundation Kenya, Pastoralist Girls' Initiative, INUA girls group, Integrated Development African Programme, Plan International Kenya, Youth Horizons, Mtoto News International, and Pastoralist Women For Health and Education – Isiolo (Joint Submission 17);
- JS18 CIPESA, Kampala (Uganda) and Small Media, London (United Kingdom of Great Britain and Northern Ireland) (Joint Submission 18);
- JS19 African Gender and Media Initiative Trust, Trans Alliance, KELIN, JINSIANGU, SRHR ALLIANCE, Kenya, Seworkers Alliance, Bar Hostess Empowerment Programme, Gays and Lesbians Coalition of Kenya, Nyanza, Rift Valley and Western Kenya network, KP Consortium, LVCT Health, Health Options for Young men on HIV AIDs and STIs, National Gays and Lesbians Human Rights Commission, Women Fighting AIDS in Kenya, KANCO, ISHTAR MSM, Kenya Network of People Who Use Drugs, Men Against Aids Youth Group, and Medicins du Monde (France) Kenya (Joint Submission 19);
- JS20 African Network for the Prevention and Protection of Child Abuse and Neglect Regional Office, Nairobi (Kenya), Awareness Against Human Trafficking, Nairobi (Kenya), Candle of Hope Foundation, Nairobi (Kenya), Counter Human Trafficking Trust-East Africa, Nairobi (Kenya), International Rescue Committee, Nairobi, (Kenya), Kenya Union of Domestic, Hotels, Education Institutions, Hospitals and Allied Workers, Nairobi (Kenya), Love Justice International, Nairobi (Kenya), Stahili Foundation, (Kenya), Stop the Traffik- Kenya, Nairobi (Kenya), Terre des Hommes Netherlands, Nairobi (Kenya), and Trace Kenya, Mombasa (Kenya) (Joint Submission 20);
- JS21 Network for Adolescent and Youth of Africa, Right Here Right Now, Sexual and Reproductive Health and Rights Alliance Kenya, Love Matters Kenya and Sexual Rights Initiative (Joint Submission 21);
- JS22 The Lutheran World Federation (LWF), Nairobi (Kenya), Refugee Consortium of Kenya, Nairobi (Kenya), International Rescue Committee Nairobi (Kenya), and KADANA UPR Refugees Network (Joint Submission 22);

- JS23 Article 19, London (United Kingdom of Great Britain and Northern Ireland), and Kabita, Nairobi (Kenya) (Joint Submission 23);
- JS24 Consortium for Street Children, London (United Kingdom of Great Britain and Northern Ireland), Chance for Childhood, Kigali (Rwanda), Don Bosco Mission Bonn, Bonn (Germany), Glad's House, Mombasa (Kenya), Kenya Good Neighbours, Nairobi (Kenya), and StreetInvest, Tickenham (United Kingdom of Great Britain and Northern Ireland) (Joint Submission 24);
- JS25 Social Justice Centres Working Group, Nairobi (Kenya), Mathare Social Justice Centre, Nairobi (Kenya), Dandora Community Justice Centre, Nairobi (Kenya), Mukuru Community Justice Centre, Nairobi (Kenya), Kayole Community Justice Centre, Nairobi (Kenya), Makadara Social Justice and Information Centre, Nairobi (Kenya), Kiambiu Justice and Information Network, Nairobi (Kenya), Ghetto Foundation, Nairobi (Kenya), Githurai Social Justice Centre, Nairobi (Kenya), Githurai Social Justice Centre, Nairobi (Kenya), and Kamkunji Youth Empowerment Network, Nairobi (Kenya)(Joint Submission 25);
- JS26 Centre for Minority Rights Development, Youth for Peace Foundation in Kenya, Youth Anti FGM Network Kenya, Women's Empowerment Link, We World Kenya Foundation, Voluntary Service Overseas, Users and Survivors of Psychiatry in Kenya, United Disabled Persons Of Kenya, Trans*Alliance, The New Dawn Pacesetter, The Malkia Initiative, The Kenya Section of International Commission of Jurists, Terre des Hommes Netherlands, Stop the Traffik-Kenya, Social Justice Centres Working Group, Siasa Place, Shining Hope for Communities, Scaling Up Nutrition- CSO Alliance, Samburu Girls Foundation, Safe Engage Foundation, Right Here Right Now, Refugee Consortium of Kenya, Quaker Peace Initiatives Kenya, Positive Exposure-Kenya, Plan-International, PITCH Kenya, Pendezezo Letu, Pastoralist Development Network of Kenya, Nyarwek Network, Nyanza Initiative for Girls Education and Empowerment Centre, Nubian Rights Forum, Network for Adolescent and Youth of Africa, Natural Resources Alliance of Kenya, National Coalition of Human Rights Defenders Kenya, Mwatikho Torture, Survivors Organization, Mtoto News, Mangu Integrated Community Project, Mangu Health and Community Development Programme, Mama Africa Centres, Lutheran World Federation World Service- Kenya Djibouti Somali Programme, La Vie Foundation, Kudheiha Workers, Kituo Cha Sheria, Kibera Older Persons' Daycare Centre, Key Population Consortium, KEWASNET, Kenya Sex Workers Alliance, Kenya Network of People who use drugs, Kenya National Association of the Deaf, Kenya Human Rights Commission, Kenya Association of the Intellectually Handicapped, KELIN, KAPLET, KANCO, JINSIANGU, Isiolo Gender Watch, ISHTAR MSM, International Centre for Information and Awareness, International Center for Transitional Justice, IMLU, ICCO Cooperation-Civic Engagement Alliance Kenya Programme, Humanity & Inclusion, Hope Givers Programme, Hope Beyond Foundation, HelpAge International – Africa Regional Office, HelpAge

- International – Kenya Office, Health Rights Advocacy Forum, GRACEWELL CBO, Gay and Lesbian Coalition of Kenya, Focus on Disabled Persons, FIDA Kenya, Family Health Options – Kenya, ERIKS Development Partner, Elimu Yetu Coalition, Economic and Social Rights Centre – Hakijamii, East African Centre for Human rights, Daniel Mwangi-Abbot Foundation, Coalition on Violence Against Women, Civil Society Reference Group, Christian Aid, ChildFund Kenya, Child Rights & Special Needs Education Trust, Centre for the Study of Adolescence, Centre for Enhancing Democracy and Good Governance, Centre For Community Development and Human Rights, enter for Reproductive Rights, Candle Of Hope Foundation, BHESP, Association of Media Women in Kenya, ARTICLE 19 Eastern Africa, ANPPCAN REGIONAL, Amref Health Africa in Kenya for The End Child Marriage Network Kenya, Akili Dada, AFYAFRIKA, African Gender and Media Initiative Trust, Action on Sustainable Development Goals – Kenya Coalition, Kenya NGOs Council, Action Network for the Disabled, 28 TOO MANY, Forum for African Women Educationalist Kenya, Health Options for Young Men on HIV/AIDS/STIs, End Poverty with Justice (EPJI) Social Justice & Paralegal Network, Equality Now, Albinism Society of Kenya, Coast Women in Development, and Stahili Foundation (Kenya) (Joint Submission 26);
- JS27 Elimu Yetu Coalition, East African Centre for Human Rights, Population Council, Women’s Empowerment Link, Economic and Social Rights Centre- HakiJamii, Edmund Rice Advocacy Network, Child Rights and Special Needs Education Trust, Women Educational Researchers of Kenya, African Population and Health Research Centre, Clean Start, Plan International Kenya, Faraja Foundation, Forum for African Women Educationalist- Kenya, Kenya Association of the Intellectually Handicapped, Humanity and Inclusion, Transparency International Kenya, and Centre for the Study of Adolescence (Joint Submission 27);
- JS28 Gay and Lesbian Coalition of Kenya, National Gay and Lesbian Human Rights Commission, Partnership to Inspire Transform and Connect the HIV Response, Kenya Legal & Ethical Issues Network on HIV/AIDS, Ishtar MSM, JINSIANGU, Kenya Sex Workers Alliance, Key Population Consortium, Nyanza, Western, Rift Valley LGBTQ+ Network, Trans* Alliance (Joint Submission 28);
- JS29 Edmund Rice Advocacy Network, Pax Romana- (ICMICA*), Kenya Movement of Catholic Professionals, Secular Franciscan Order, JPIC office of the Comboni Missionary of the Heart of Jesus, Jesuit Hakimani Centre, Dominicans for Justice and Peace in East Africa, Embulbul Education and Counselling Centre, Fahamu Africa, Kenya Christian Professionals Forum, Paralegal Network of End Poverty with Justice Initiative, Alabasta Africa, Pearls & Treasures Trust, Edmund Rice Foundation Kenya and Ruben FM (Joint Submission 29);
- JS30 Kenya AIDS NGOs Consortium, Nairobi (Kenya), Kenya’s SUN Civil Society Alliance, Hope Givers Programme, Christian Aid Kenya, and ICCO Cooperation (Joint Submission 30);

JS31 Economic & Social Rights Centre, Nubian Rights Forum, Social Justice Centre Working Group and the Centre for Community Development and Human Rights (Joint Submission 31).

National human rights institution:

KNCHR Kenya National Commission on Human Rights, Nairobi (Kenya).

Regional intergovernmental organization:

AU-ACHPR African Union- African Commission on Human and Peoples' Rights, Banjul (The Gambia).

- ² KNCHR, para. 8 and endnote 31, referring to A/HRC/29/10, para. 142.122 (Serbia), para. 142.130 (Algeria), para. 142.134 (Colombia), para. 142.139 (Mauritania), para. 142.141 (Nicaragua), para. 142.144 (Senegal), para. 142.177 (Colombia), and para. 142.178 (Costa Rica).
- ³ KNCHR, para. 8 and endnote 32, citing Article 27 (8) and Article 81 (b) of the Constitution of Kenya, 2010, requiring Parliament to enact legislation that seeks to address gender inequality in the political sphere by ensuring that not more than two thirds of members of elective or appointive bodies shall be of the same gender (two third gender principle).
- ⁴ KNCHR, para. 8 and endnote 31, referring to A/HRC/29/10, para. 142.122 (Serbia), para. 142.130 (Algeria), para. 142.134 (Colombia), para. 142.139 (Mauritania), para. 142.141 (Nicaragua), para. 142.144 (Senegal), para. 142.177 (Colombia), and para. 142.178 (Costa Rica). KNCHR made recommendations (p. 5).
- ⁵ KNCHR, para. 9 and endnote 36, referring to A/HRC/29/10, para. 142.11 (Costa Rica), and para. 142.26 (Niger). KNCHR made a recommendation (p. 5).
- ⁶ KNCHR, para. 6, referring to A/HRC/29/10, para. 142.94 (Turkey), para. 142.111 (Lesotho), and para. 142.119 (Russian Federation). KNCHR made a recommendation (p. 4).
- ⁷ KNCHR, para. 10 and endnote 38, referring to A/HRC/29/10, para. 142.58 (Uruguay), para. 142.61 (Albania), para. 142.63 (Angola) and para. 142.87 (Rwanda). KNCHR made recommendations (p. 6).
- ⁸ KNCHR, para. 3 and endnote 8, referring to A/HRC/29/10, para. 142.57 (United States of America), para. 142.99 (Australia), and para. 142.102 (Belgium).
- ⁹ KNCHR, para. 3, and endnote 11, referring to Act No 12 of 2017 available at <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PreventionofTortureAct2017.pdf>. The Act criminalises torture and provides for a framework for investigating cases of torture.
- ¹⁰ KNCHR, para. 3 and endnote 12, referring to Act No 18 of 2017 available at <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/NationalCoronersServiceActNo18of2017.pdf>. The Act establishes the National Coroners Service responsible for investigations into suspicious deaths.
- ¹¹ KNCHR, paras. 3 and 4. KNCHR made a recommendations (p. 2).
- ¹² KNCHR, para. 16 and endnote 69, referring to the enactment of the Protection against Domestic Violence Act, the Launch of the Standard Operating Procedures for prevention and response to gender based violence by the National Police Service available at: <http://www.nationalpolice.go.ke/2015-09-08-17-56-33/news/271-nps-unveils-standard-operating-procedures-for-prevention-and-response-to-gender-based-violence.html> and the Standard Operating Procedures for the Management of Violence against Children by the Ministry of Health available at https://www.popcouncil.org/uploads/pdfs/2018RH_KenyaMOH-SOPsMgmtSVAC.pdf
- ¹³ KNCHR, para. 16 and endnote 68, referring to A/HRC/29/10, para. 142.28 (Philippines), para. 142.33 (Russian Federation), para. 142.47 (Sierra Leone), para. 142.49 (Spain), para. 42.51 (Sri Lanka), para. 142.55 (Trinidad and Tabago), para. 142.66 (Belarus), para. 142.68 (Chile), para. 42.71 (Egypt), para. 142.73 (France), para. 142.77 (Lithuania), para. 142.80 (Mexico), para. 142.83 (Myanmar), para. 142.84 (Namibia), para. 142.86 (Republic of Korea), and para. 142.89 (Brazil). KNCHR, para. 16. KNCHR made recommendations (p. 10).
- ¹⁴ KNCHR, para 2, endnote 5, referring to the Draft Public Finance Management (Reparations for Historical Injustices Fund) Regulation, 2017.
- ¹⁵ KNCHR, para 2, endnote 6, referring to the Draft Reparations Policy, 2017.
- ¹⁶ KNCHR, para. 2 and endnote 3, referring to A/HRC/29/10, para. 142. 91 (South Africa), para. 142.96 (United Kingdom of Great Britain and Northern Ireland), para. 142.100 (Austria), para. 142.101 (Argentina), para. 142.102 (Belgium), para. 142.104 (Chile), para. 142.107 (France), para. 142.108 (Japan), para. 142.116 (Namibia), para. 142.117 (Philippines), and 142.176 (Cabo Verde).

- ¹⁷ KNCHR, para 2, endnote 7, referring to the Speech by H.E President during the State of the Nation Address at Parliament Buildings 4th April 2019 available at <http://www.president.go.ke/2019/04/04/speech-by-his-excellency-hon-uhuru-kenyatta-c-g-h-president-of-the-republic-of-kenya-and-commander-in-chief-of-the-defence-forces-during-the-2019-state-of-the-nation-address-at-parliament-building/>
- ¹⁸ The Truth, Justice and Reconciliation Commission of Kenya.
- ¹⁹ KNCHR, para. 2. KNCHR made a recommendation (p. 1).
- ²⁰ KNCHR, para. 11 and endnote 42, referring to A/HRC/29/10, para. 142.149 (Switzerland).
- ²¹ KNCHR, para. 12. KNCHR made recommendations (p. 7).
- ²² KNCHR, para. 14. KNCHR made a recommendation (p. 9).
- ²³ KNCHR, para. 15. KNCHR made a recommendation (p. 9)
- ²⁴ KNCHR, p. 7. KNCHR made recommendations (p. 7)
- ²⁵ KNCHR, para. 13 and endnote 54, citing Minority Rights Groups International & 2 Others (on behalf of Ogiek community) and Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council available at http://www.achpr.org/files/sessions/46th/comunications/276.03/achpr46_276_03_eng.pdf.
- ²⁶ KNCHR, para 13 and endnote 55, citing the Gazette Notice No. 11215 of 2nd November, 2018. KNCHR made recommendations (p. 8).
- ²⁷ KNCHR, para. 17. KNCHR made recommendations (p. 11).
- ²⁸ The following abbreviations are used in UPR documents:
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| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination; |
| ICESCR | International Covenant on Economic, Social and Cultural Rights; |
| OP-ICESCR | Optional Protocol to ICESCR; |
| ICCPR | International Covenant on Civil and Political Rights; |
| ICCPR-OP 1 | Optional Protocol to ICCPR; |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty; |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women; |
| OP-CEDAW | Optional Protocol to CEDAW; |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; |
| OP-CAT | Optional Protocol to CAT; |
| CRC | Convention on the Rights of the Child; |
| OP-CRC-AC | Optional Protocol to CRC on the involvement of children in armed conflict; |
| OP-CRC-SC | Optional Protocol to CRC on the sale of children, child prostitution and child pornography; |
| OP-CRC-IC | Optional Protocol to CRC on a communications procedure; |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; |
| CRPD | Convention on the Rights of Persons with Disabilities; |
| OP-CRPD | Optional Protocol to CRPD; |
| ICPPED | International Convention for the Protection of All Persons from Enforced Disappearance. |
- ²⁹ For the relevant recommendations, see A/HRC/29/10, paras. 142.1, 142.2, 142.10, 142.34–142.39, 142.117, 142.181, 143.1–143.6–143.33.
- ³⁰ AU-ACHPR, para. 35. See also CGNK, p. 6; IMLU, paras. 25, 26 and 28.
- ³¹ JS20, p. 15.
- ³² IMLU, paras. 26 and 29.
- ³³ ICAN, p. 1.
- ³⁴ JS16, para. 5.
- ³⁵ For the relevant recommendations, see A/HRC/29/10, paras. 142.3–9, 142.11–142.16, 142.18–142.30, 142.32–142.34, 142.40–142.46, 142.48–142.56, 142.58–142.63, 142.68–142.100–142.108, 142.110–142.116, 142.118–142.122, 142.124, 142.125–142.141, 142.145, 142.148, 142.150, 142.152, 142.154, 142.155, 142.161–142.165, 142.169–142.174, 142.177–142.179, 142.185, 142.192, 143.35–143.57 and 143.61.

- ³⁶ JS5, para. 11. JS5 made a recommendation (p. 5).
- ³⁷ JS14, para. 5. JS14 made a recommendation (para. 9). See also JS16, para. 17.
- ³⁸ JS18, para. 51. See also KMSUN, paras. 24-26.
- ³⁹ JS18, para. 44.
- ⁴⁰ JS16, para. 29. JS16 made a recommendation (para. 32 (d)).
- ⁴¹ JS6, para. 27.
- ⁴² JS3, paras. 4.1 and 4.3. JS3 made recommendations (para. 6.3).
- ⁴³ JS5, para. 8. JS5 made a recommendation (p. 3).
- ⁴⁴ JS3, para. 4.4. JS3 made recommendations (para. 6.3); See also JS23, paras. 81 and 82; KMSUN, para. 16.).
- ⁴⁵ JS1, para. 16, endnote. 51; See also JS14, paras. 15-19; JS21, paras. 27-31. JS21 made recommendations (paras. 39-43).
- ⁴⁶ JS3, paras. 2.1, 2.5 and 2.6. JS3 made recommendations (para. 6.1); See also JS23, paras. 75-78; KMSUN, para. 4; JS26, para. 5. JS26 made a recommendation (para. 6).
- ⁴⁷ JS6, paras. 35-38. JS6 made recommendations (para. 38). See also JS20, p. 15.
- ⁴⁸ JS20, p. 15.
- ⁴⁹ The Truth, Justice and Reconciliation Commission of Kenya.
- ⁵⁰ JS26, para. 11. JS26 made recommendations (para. 12.).
- ⁵¹ JS21, para. 55, referring to A/HRC/29/10, para. 142.41 (Sweden) JS21 made a recommendation (para. 73). See also JS28, para. 12. JS28 made recommendations (paras. 18-21).
- ⁵² JS4, paras. 5 and 14, referring to A/HRC/29/10, para. 142.41 (Sweden).
- ⁵³ ASK, pp. 3-4.
- ⁵⁴ ASK, p. 6.
- ⁵⁵ MICROP, p. 5.
- ⁵⁶ MICROP, p. 3. MICROP made recommendations (pp. 5-6). See also JS26, para. 53. JS26 made a recommendation (para. 54).
- ⁵⁷ For the relevant recommendation, see A/HRC/29/10, para. 143.158.
- ⁵⁸ AU-ACHPR, para 37(i).
- ⁵⁹ AU-ACHPR, paras. 49 and 65.
- ⁶⁰ JS10, para. 20. JS10 made recommendations (p. 9).
- ⁶¹ JS2, paras. 23 and 24. JS2 made recommendations (para. 25).
- ⁶² JS10, para. 18. JS10 made recommendations (p. 9).
- ⁶³ JS8, para. 8.
- ⁶⁴ JS8, para. 26.
- ⁶⁵ JS8, para. 28. JS8 made a recommendation (p. 10).
- ⁶⁶ JS13, para. 4.2. JS13 made recommendations (p. 9).
- ⁶⁷ For relevant recommendations see A/HRC/29/10, paras. 142.17, 142.184, 142.186–142.188, 142.190 and 142.191.
- ⁶⁸ JS23, paras. 10 and 11 and footnote 7 referring to A/HRC/29/10, para. 142.17 (Finland), para. 142.184 (Austria), para. 142.186. (Canada), para. 42.187(Chile), and para. 142.190 (Norway).
- ⁶⁹ CSW, paras. 37 and 38, referring to A/HRC/29/10, paras. 142.17 (Finland), 142.184 (Austria), 142.186 (Canada), 142. 187 (Chile), 142.189 (Lithuania), 142.190 (Norway), and 142.192 (Germany). CSW made a recommendations (paras. 48-50).
- ⁷⁰ ADF, paras. 3-6. ADF made recommendations (p. 5, paras. d and e).
- ⁷¹ HRW, p. 1. HRW made recommendations (p.1).
- ⁷² CSW, paras. 7-32. CSW made recommendations (paras. 33-36).
- ⁷³ For relevant recommendations see A/HRC/29/10, paras. 142.57, 142.109, 142.164.
- ⁷⁴ AU-ACHPR, paras. 45 and 61. See also CGNK, pp. 3 and 6; IMLU, para. 21.
- ⁷⁵ CSW, para. 39, referring to A/HRC/29/10, para. 142.57 (United States of America), para. 142.75 (Holy See), para. 142.88 (Brazil) and para. 142.189 (Lithuania).
- ⁷⁶ JS25, para. 3. JS25 made recommendations (p. 5). See also HRW, pp. 2-3. HRW made recommendations (p. 3); and JS26, para. 7. JS26 made a recommendation (para. 8).
- ⁷⁷ TCC, para. 13. See also JS25, para. 6; and HRW, p. 2. HRW made recommendations (p. 2); JAI, p. 4.
- ⁷⁸ TCC, para. 15.
- ⁷⁹ GRAG, para. 11.
- ⁸⁰ GRAG, para. 37. GRAG made a recommendation (para. 39).
- ⁸¹ GRAG, paras. 26 and 27. GRAG made a recommendation (para. 32).

- 82 IMLU, para. 14. IMLU made a recommendation (para. 20).
- 83 AU-ACHPR, paras. 48(iii) and 64(i).
- 84 AU-ACHPR, paras. 39(ii) and 55(iii). See also JS14, paras. 20-22.
- 85 JS17, p. 2. JS17 made recommendations (p. 3).
- 86 JS9, para. 16. JS9 made recommendations pp.9-10.
- 87 lesbian, gay, bisexual, transgender and intersex persons.
- 88 JS4, paras. 15-21.
- 89 lesbian, gay, bisexual, transgender, queer or gender non-conforming persons.
- 90 JS28, paras. 1-5. JS28 made recommendations (paras. 6-11). See also JS26, para. 43. JS26 made a recommendation (para. 44); and JAI, p. 2.
- 91 JS26, para. 13. JS26 made recommendations (para. 14).
- 92 For relevant recommendations see A/HRC/29/10, paras. 142.47, 142.123 and 142.189.
- 93 TCC, para. 23.
- 94 JS26, para. 3, referring to Judiciary. (2019, January 1). State of the Judiciary and the Administration of Justice Report 2017-18, Seventh Edition. Retrieved July 15, 2019, from Judiciary: <https://www.judiciary.go.ke/download/state-of-the-judiciary-the-administration-of-justice-annual-report-2017-2018-2/> p. 63.
- 95 JS26, para. 3. JS26 made recommendations (para. 4).
- 96 AU-ACHPR, para. 42(ii)-(v).
- 97 JS8, para. 18. JS8 made a recommendation (p. 10).
- 98 JS5, para. 9. JS5 made a recommendation (p. 4).
- 99 IMLU, para. 30. IMLU made recommendation (para. 35). See also JS26, para. 1. JS26 made a recommendation (para. 2).
- 100 JS9, para. 15. JS9 made recommendations pp.9-10).
- 101 JS20, p. 15. JS20 made recommendations (p. 16).
- 102 JS12, para. 15, referring to A/HRC/29/10, para. 1442.90 (Serbia) and para. 142.105 (Czech Republic). JS12 made a recommendation (para. 16(c)).
- 103 For relevant recommendations see A/HRC/29/10, paras. 142.131, 142.142, 142.143 and 142.144.
- 104 ADF, para. 3. ADF made recommendations (p. 5, paras a-c).
- 105 JS16, para. 26. JS16 made a recommendation (para. 32 (a)).
- 106 JS23, para. 64.
- 107 JS7, para. 4.3, referring to A/HRC/29/10, para 142.129 (Uruguay), para 142. 131 (Australia), and para 142.138 (Japan). JS7 made recommendations para. 6.6. See also HRW, p. 4. HRW made recommendations (p. 5).
- 108 JS23, para. 26.
- 109 JS23, para. 27 and footnote 22, referring to A/HRC/29/10, para. 142.126 (Switzerland) and para. 142.129 (Uruguay). See also KMSUN, para. 9; and JAI, p. 3.
- 110 AU-ACHPR, paras. 40(ii) and 56(i).
- 111 JS7, para. 5.1, referring to A/HRC/29/10, para 149.129 (Uruguay). For specific cases see paras. 5.2-5.7. JS7 made recommendations (para. 6.7).
- 112 JS23, para. 67; See also KMSUN, para. 7.
- 113 JS3, para. 2.13. JS3 made recommendations (para. 6.1). See also JAI, p. 3.
- 114 JS7, paras. 3.1-3.9, referring to A/HRC/29/10, para. 142. 137 (Ireland), para. 142. 142 (Norway), para. 142. 132 (Botswana) and para. 142.123 (Slovakia). JS7 made recommendations (para. 6.5). See also JS26, para. 15. JS26 made a recommendation (para. 16).
- 115 JS8, para. 2. JS8 made a recommendation (p. 10). See also JS25, para. 15. JS25 made recommendations (p. 6); HRW, p. 3. HRW made recommendations (p. 4); and JS3, para. 3.1. JS3 made recommendations (paras. 6.2 and 6.3).
- 116 JS8, para. 4. JS8 made a recommendation (p. 10).
- 117 AU-ACHPR, para. 38(i).
- 118 JS15, p. 2. JS15 made recommendations (p. 3).
- 119 JS20, p. 7. See also JS9, para. 23.
- 120 JS20, p. 11. JS20 made recommendations (p.11). See also JS26, para. 35. JS26 made a recommendation (para. 36).
- 121 JS20, p. 13. JS20 made recommendations (pp. 13-14).
- 122 JS9, para. 23. JS9 made recommendations (pp. 10-11). See also JS20, p. 17. JS20 made recommendations (p. 17).

- ¹²³ JS6, paras. 9.
- ¹²⁴ JS6, paras. 22-25.
- ¹²⁵ JS6, para. 14. See also JS9, para. 24.
- ¹²⁶ JS18, para. 16. JS18 made a recommendation (para. 59). See also JS23, para. 18.
- ¹²⁷ JS18, para. 25.
- ¹²⁸ JS18, para. 14.
- ¹²⁹ JS18, para. 56 and 57. JS18 made a recommendation (para. 60).
- ¹³⁰ JS4, para. 8. JS4 made recommendations (para. 40).
- ¹³¹ JS5, para. 10. JS5 made a recommendation (p. 4).
- ¹³² JS9, para. 28. JS9 made a recommendation (para. 18).
- ¹³³ JS29, paras. 8 and 9. JS29 made recommendations (para. 10).
- ¹³⁴ AU-ACHPR, para. 37(iii) and para. 53(iii).
- ¹³⁵ JS12, para. 37. JS12 made recommendations (para. 38).
- ¹³⁶ KCS, p. 1.
- ¹³⁷ KESWA, p. 1. KESWA made recommendations (p. 5).
- ¹³⁸ JS5, para. 25 and endnote 39. JS5 made a recommendation (p. 14). See also KCS, p. 3. KCS made a recommendation (p. 4).
- ¹³⁹ ITF, paras. 9-11 and 14. ITF made recommendations (para. 27).
- ¹⁴⁰ For relevant recommendations see A/HRC/29/10, para. 142.159.
- ¹⁴¹ JS26, para. 27. JS26 made a recommendation, para. 28.
- ¹⁴² JS11, p. 2, JS11 made a recommendation p. 3.
- ¹⁴³ JS5, para. 22. JS5 made recommendations (p. 13).
- ¹⁴⁴ JS11, p. 4. JS11 made a recommendation (p. 4).
- ¹⁴⁵ For relevant recommendations see A/HRC/29/10, paras. 142.156, 142.149, 142.146 and 142.147.
- ¹⁴⁶ JS30, p. 2, referring to A/HRC/29/10, para. 142.154 (Albania).
- ¹⁴⁷ JS30, p. 4. JS30 made recommendations (p. 4). See also JS26, para. 26. JS26 made a recommendation (para. 30).
- ¹⁴⁸ JS30, pp. 7-8. JS30 made recommendations (p. 8).
- ¹⁴⁹ JS10, para. 19. JS10 made recommendations (p. 9).
- ¹⁵⁰ JS25, para. 19. JS25 made recommendations (p. 8).
- ¹⁵¹ JS10, para. 21. JS10 made recommendations (p. 11).
- ¹⁵² JS10, para. 22. JS10 made recommendations (p. 11). See also JS31, pp. 2-4. JS31 made recommendations (p. 4).
- ¹⁵³ AU-ACHPR, para. 37(i).
- ¹⁵⁴ For relevant recommendations see A/HRC/29/10, paras. 142.166-142.168, 143.59 and 143.60.
- ¹⁵⁵ JS1, paras. 2 and 4, referring to A/HRC/29/10, para. 142.43 (Estonia) and para. 142.166 (Sudan).
- ¹⁵⁶ JS1, paras. 1 and 6. See also JS26, para. 22. JS26 made a recommendation (para. 23).
- ¹⁵⁷ JS1, paras. 15 and 24. JS1 made recommendations (p. 11).
- ¹⁵⁸ ADF, para. 8, ADF made recommendation (p. 5, para. (f)).
- ¹⁵⁹ JS1, paras. 9 and 10. JS1 made recommendations (p. 11).
- ¹⁶⁰ JS1, para. 31. JS1 made recommendations (para. 11). See also JS21, paras. 16-18. JS21 made a recommendation (para. 22).
- ¹⁶¹ JS21, para. 46. See also JS26, para. 39. JS26 made a recommendation (para. 40).
- ¹⁶² AU-ACHPR, para. 60(i). See also JS19, paras. 22 and 23. JS19 made recommendations (paras. 24-27).
- ¹⁶³ JS19, paras. 1 and 2. JS19 made recommendations (paras. 7-13).
- ¹⁶⁴ JS19 referred to “ Sections 162(a) and (c) and Section 165 of the Penal Code which criminalise same sex relations; Section 153-156 of the Penal Code which criminalise sex work; Section 5 of the Narcotics Act and Psychotropic Substance (Control) Act which makes it illegal to use drugs.” (para. 5 and endnote ii.).
- ¹⁶⁵ JS19, para. 5. JS19 made recommendations (paras. 7-13.) See also JS26, para. 20. JS26 made a recommendation (para. 21).
- ¹⁶⁶ ASK, p.7.
- ¹⁶⁷ AFI, p. 2.
- ¹⁶⁸ JS30, pp. 5-6. JS30 made recommendations (p. 6).
- ¹⁶⁹ For relevant recommendations see A/HRC/29/10, paras. 142.151 and 142.175.
- ¹⁷⁰ JS27, para. 9. JS27 made recommendations (para. 10). See also JS26, para. 24. JS26 made a recommendation (para. 26).

- 171 JS27, para. 11. JS27 made a recommendation (para. 13). See also JS26, para. 25. JS26 made a recommendation (para. 26).
- 172 JS27, paras. 41-46. JS17 made a recommendation (para. 47).
- 173 JS27, para. 21. JS27 made recommendations (para. 24).
- 174 JS27, para. 18. JS27 made recommendations (para. 20).
- 175 JS5, para. 12. JS5 made a recommendation (p. 6).
- 176 JS27, para. 18. JS27 made recommendations (para. 20).
- 177 JS10, para. 6. JS10 made recommendation (p. 5).
- 178 JS12 referred to A/HRC/29/10, para. 142.172 (Trinidad and Tobago), para. 142.173 (Zimbabwe) and para. 142.175 (Egypt).
- 179 JS12, paras. 6 and 7. JS12 made recommendations (para. 12.).
- 180 JS12, para. 10. JS12 made recommendations (para. 12).
- 181 EACHRights, para. 15. See also JS27, para. 33. JS27 made recommendations (para. 34).
- 182 JS12, para. 11. JS12 made recommendations (para. 12).
- 183 JS21, para. 50. JS21 made recommendations (paras. 51-54).
- 184 JS13, para. 1.4.
- 185 JS27, para. 14. JS27 made recommendations (para. 16).
- 186 JS27, para. 35-37. JS27 made recommendations (para. 38).
- 187 HSLDA, para. 7.
- 188 JS13, para. 4.1. JS13 made recommendations (p. 8).
- 189 JS14, paras. 1.3. JS14 made recommendations (para. 4). See also JS26, para. 41. JS26 made a recommendation (para. 42).
- 190 JS9, paras. 32 and 33. JS9 made recommendations (p. 11).
- 191 JS14, paras. 10-13. JS14 made a recommendation (para. 9).
- 192 JS13, para. 1.3.
- 193 JS6, para. 6 and endnotes 16 and 17.
- 194 JS6 paras. 15 and 29.
- 195 JS9, para. 22. JS9 made recommendations (p. 9, para. 2).
- 196 JS17, pp. 1-2. JS17 made recommendations (p. 2). See also JS26, para. 37. JS26 made a recommendation (para. 38).
- 197 JS24, paras. 4-6, referring to A/HRC/29/10, para. 142.70 (Djibouti). JS24 made recommendations (paras. 44- 58).
- 198 JS5, para. 3. JS5 made recommendations (p. 1).
- 199 JS5, para. 5. JS5 made recommendations (p. 2).
- 200 For relevant recommendations see A/HRC/29/10, paras. 142.176 and 142.180.
- 201 JS2, para. 3 referring to A/HRC/29/10, para. 142.177 (Colombia), para. 142.178 (Costa Rica) and para. 142.179 (Holy See).
- 202 JS26, para. 45. JS26 made a recommendation (para. 46). See also JS2, paras. 27 and 29. JS2 made recommendations (para. 32).
- 203 AU-ACHPR, para. 63(iii).
- 204 JS2, para. 5. JS2 made recommendations (para. 9).
- 205 For relevant recommendations see A/HRC/29/10, paras. 142.182–142.183.
- 206 JS22, para. 7. JS22 made recommendations (pp. 2-3).
- 207 JS22, para. 9. JS22 made recommendations (p. 4).
- 208 JS22, para. 10.
- 209 JS22, para. 14. JS22 made recommendations (p. 6).
- 210 JS26, para. 49. JS26 made a recommendation (para. 50). See also JS22, paras. 12 and 13; JS22 made recommendations (pp. 4-5); and KCS, pp. 2-3.
- 211 JS2, paras. 4 and 10. JS2 made recommendations (para. 13). See also JS26, para. 47. JS26 made a recommendation (para. 48); and JS31, p. 5. JS31 made a recommendation (p. 5).