

REPUBLIC OF KENYA



**UNIVERSAL PERIODIC REVIEW OF THE UNITED NATIONS
HUMAN RIGHTS COUNCIL:**

NATIONAL MID TERM REPORT

SEPTEMBER, 2012

INTRODUCTION

THE REVIEW

Kenya presented its National UPR report in May 2010. During the interactive dialogue, 55 delegations made statements. 22 additional statements were posted on the Extranet of the universal periodic review. Out of these, one hundred and fifty recommendations (150) were made to Kenya.

KENYA'S DECISION ON THE DIFFERENT RECOMMENDATIONS

Out of the 150 (one hundred and fifty) recommendations that were made, Kenya accepted 128 (one hundred and twenty eight), postponed decision on 15 (fifteen) and only 7 (seven) did not enjoy Kenya's support.

Majority of the recommendations on which Kenya postponed her decision related to the ratification of human rights instruments to which Kenya is currently not a State Party. This was because Kenya's Advisory/Consultative Committee, on international human rights obligations, was in the process of assessing all the international instruments, including the optional protocols that Kenya is not a state party to with a view to giving appropriate recommendations to the Government. Kenya promised an update for September 2010.

AFTER THE ADOPTION OF THE WORKING GROUP REPORT

After the May presentation and in the spirit of the consultative process that had been adopted for the writing of the national report, two consultative meetings were held, spearheaded by the Ministry of Justice, National Cohesion and Constitutional Affairs and the Kenya National Commission on Human Rights supported by the Office of the High Commissioner for Human Rights, Nairobi Office.

The first one was a debriefing session for the other stakeholders on the presentation of the National report, the recommendations that had been made and the State's response to the recommendations. This was a critical analysis of that process in which the State explained its responses to the other UPR stakeholders.

The outcome of the meeting was an advisory to the Government on the way the recommendations were to be handled in September when Kenya's outcome report was to be adopted by the Council.

The second meeting was intended to address all the optional protocols that Kenya is not a state party to with a view to advising Government on the most practical approach to each of the outstanding ones.

ADOPTION OF KENYA'S UPR OUTCOME BY THE HUMAN RIGHTS COUNCIL

On 22nd September, 2010, Kenya's UPR outcome report was adopted unanimously. Kenya updated the Council on the progress that had been made on the recommendations that Kenya had accepted, those that it had postponed making a decision on in May and those that had not enjoyed Kenya's support then.

Following the above, out of the 7 (seven) recommendations that had not enjoyed the support of Kenya's delegation in May, only **the one** on decriminalizing the same sex unions has been rejected wholly without any variations due to the same reasons that the State had given in May. This means that then out of **the 150 recommendations**, Kenya accepted **149**.

TOWARDS IMPLEMENTATION

The Ministry of Justice, National Cohesion and Constitutional Affairs, which has the mandate to lead this process, prepared a Cabinet memorandum to brief the Cabinet on Kenya's Universal Periodic Review (UPR) outcome and to seek its support for the implementation of the process' recommendations.

Specifically, the Cabinet was requested to:

- a) Direct all Ministries and Government Departments to ensure the implementation of the recommendations which touch on their mandates and give periodic reports on the measures taken to implement them; and
- b) Authorize the Ministry of Justice, National Cohesion and Constitutional affairs to monitor and receive the periodic reports on the implementation of the recommendations.

The Cabinet gave its approval.

In March 2011, a consultative meeting was held between the Government, KNCHR and other stakeholders. This meeting was intended:

- to analyze the outcome of Kenya's UPR;
- prepare a roadmap for the implementation of the follow up activities; and
- build the national capacity on the UPR in order to ensure an inclusive and comprehensive follow-up process. This was to facilitate periodic monitoring and reporting on progress made in the follow-up to the UPR outcomes.

There was agreement to have a first review meeting of the Action Plan.

FIRST REVIEW MEETING 29-30 AUGUST, 2011

The overall objective of this meeting was to enable state agencies to review the 4-year plan of action, developed in March, 2011, for effective implementation of the recommendations made to Kenya under its Universal Periodic Review.

Specific objectives of the workshop were:

- To review the work plan that was developed in March, 2011 in the light of any progress made since then;
- To clarify the expectations of the different Government Ministries/Departments (MDAs) in respect of the different recommendations ,the subsequent commitments which Kenya made and the implications of the adoption by Cabinet ;
- To review the strategies that had been identified in March, 2011 for ensuring effective implementation of Kenya's UPR commitments by the different (MDAs);
- To agree on the framework for monitoring implementation of the UPR commitments; and
- To determine the schedules of reporting and reviews.

UNIVERSAL PERIODIC REVIEW (UPR) PROCESS WORKSHOP FOR MEMBERS OF PARLIAMENT 9 -10 DECEMBER, 2011

In order for Members of Parliament to appreciate their role in the implementation of the recommendations made to Kenya under its

Universal Periodic Review (UPR), the Ministry of Justice, supported by the OHCHR Nairobi Office organized a workshop. The overall objective of the workshop was to appraise the Honourable Members of Parliament on the modalities and practices of UPR. Its specific objectives were:

- a) To introduce the concept and practice of UPR to the Members of Parliament ;
- b) To explain the recommendations made to Kenya by the United Nations Human Rights Council and the subsequent commitments which Kenya made; and
- c) To identify and discuss strategies for ensuring effective implementation of Kenya's UPR commitments.

MID TERM REVIEW MEETING 19 – 20 JUNE, 2012

With the support of the OHCHR Nairobi Office, the Ministry of Justice, National Cohesion and Constitutional Affairs held a review meeting with the primary objective of conducting a midterm review of the 4 year consolidated national plan of action on the implementation of the UPR recommendations. The meeting also had the objective of linking the UPR recommendations to other concluding observations that UN Treaty Bodies and the Regional Human Rights Mechanisms have given to Kenya during state reporting. The meeting was attended by representatives of relevant Government Ministries, Departments and Agencies and other UPR stakeholders including the Kenya National Commission on Human Rights.

This National report is an assessment of progress made and challenges encountered and an outcome of this review meeting.

The report follows the cluster of themes as reflected in the implementation matrix that has been agreed upon between the Government actors and the other UPR stakeholders including the Kenya National Commission on Human Rights.

PROGRESS MADE IN THE IMPLEMENTATION OF THE RECOMENDATIONS

1. POLICE REFORMS

RECOMMENDATIONS

- i. Implementation of the National Task Force and Constitutional provisions relating to police reforms.
- ii. Investigating and punishing instances human rights violations particularly of extra judicial killings and providing remedies to victims
- iii. Undertaking of human rights training of law enforcement agencies.

PROGRESS MADE

Since the adoption of the UPR outcome document, the government has made significant progress in the implementation of the recommendations of the National Taskforce on Police Reforms, established by the President in 2009. The promulgation of the new Constitution on August 27th, 2010 provided additional momentum for reforms in the Police as it introduced fundamental changes in both the structure and command of the Police Service, and established the Kenya Police and the Administration Police Services under a unified command of the Inspector General. The two Services are each placed under the command of a Deputy Inspector-General with distinct roles and responsibilities. Further, the Constitution of Kenya demands the highest standards of

professionalism, transparency, accountability and discipline amongst police officers. It also demands compliance with constitutional standards of human rights and fundamental freedoms to foster and promote relationships with the broader society. The sum total of these provisions redefines the overall policing architecture in Kenya. It is in this context that the ongoing Police Reforms outlined in this report have been implemented.

Legislative Reforms

In order to realise the envisaged reforms, the following Acts of Parliament have been enacted:-

- The National Police Service Act 2011;
- The National Police Service Commission Act 2011; and
- The Independent Policing Oversight Authority Act 2011.

The following Bills have also been drafted and submitted to the Commission on Implementation of the Constitution as they are considered crucial for policing in Kenya.

The National Coroner's Service Bill 2010

The State has also prepared the National Coroners Bill to provide for a National Coroner's Service which shall have jurisdiction to investigate the cause of death where the deceased person is reported to have died: a violent or an unnatural death; a sudden death of which the cause is unknown; in police custody; in prison, or in such a place and in such circumstances as to require an inquest under any other law, and shall as soon as practicable hold an inquest into such death.

It also provides that whenever a person dies while in custody, the person in charge shall forthwith notify the coroner with jurisdiction in the area where the prison is situated and shall not dispose of the body except with a warrant issued by such coroner. The bill is currently undergoing stakeholders' consultations.

The Prevention of Torture Bill

The draft Prevention of Torture Bill is currently with the Commission on the Implementation of the Constitution whose main mandate is to review all legislations and ensure their consistency and coherence with the Constitution. The Bill seeks to provide the necessary legal

framework for the prevention, prohibition and punishment of acts of torture and ill treatment.

Due to the huge number of constitutional bills before the Commission the enactment of the Prevention of Torture Bill has been delayed. It is instructive to note that The National Police Service Act 2011 defines torture in accordance with the provisions of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment.

Policy Reforms

Police Code of Conduct

To establish standards of professional behaviour for all police officers and to foster an environment of mutual trust and respect between police officers and the general public, a Code of Conduct for the National Police Service was developed and operationalized.

The following drafts have been developed and are ready for adoption:

- Community Policing Policy; and
- Internal Affairs Accountability Unit Guidelines.

Institutional Reforms

i) The National Police Service Commission

The National Police service Commission established by the National Police Service Commission Act, of 2011, has been operationalized and at the time of finalizing this report, had started interviews for the top positions in the National Police service.

ii) The National Police Service

The National Police Service is established by the National Police Service Act of 2011. The Service holds a constitutional duty to train its staff to respect human rights, fundamental freedoms and dignity of the human person. The Police must comply with constitutional standards of human rights and fundamental freedoms. The Act defines and criminalizes acts of torture or any cruel, inhuman and degrading treatment of punishment committed by police officers. It also provides sanctions for the offence.

Police accountability reforms

i) The Independent Policing Oversight Authority

The Independent Police Oversight Authority, created by the Independent Police Oversight Authority Act 2011 has now been operationalised. It is a crucial institution to ensure accountability for police functions

ii) Internal Affairs Unit.

An Internal Affairs Unit (IAU) has been established under section 87 of the National Police Service Act 2011 to provide for an internal mechanism to receive and investigate complaints against police by the public and police against police. The Unit is also expected to promote uniform standards of discipline and good order in the Service and keep a record of complaints or investigations made. The Unit has recruited competitively. The appointment of Investigators, location of office outside Police Service headquarters and development of operating systems and procedures are at an advanced stage.

Community policing reforms

Since the introduction of community policing in Kenya in 2005, the Community Policing programme has faced several challenges. These include:

- Lack of a national legal framework and guidelines on Community Policing;
- Multiple complaints by the police and the communities levelled against each other;
- Low levels of trust and confidentiality;
- Lack of cooperation and low levels of awareness; and
- Emergence of illegal groups and gangs with parallel informal community security structures.

In order to revamp Community Policing, the following has been achieved:

- i) Community Policing mainstreamed in the National Police Service Act 2011.
- ii) Community Policing Policy guidelines developed.
- iii) Capacity building and in-service retraining programme for police officers in advanced courses in Community Policing

commenced. Under this programme 42 officers have already been trained

- iv) A pilot project was initiated in Kikuyu and Kajiado Police Station to demonstrate best practice in Community Policing following benchmarking and training to countries with best practices in community policing.
- v) Introduced a Unit in the new Police training curriculum to equip all police recruits with basic skills and competencies in Community Policing during their basic and cadet training in Police Training Colleges.

Police Training Curriculum

The Police service has a new training curriculum. The curriculum extends the period of training from 9 to 15 months of basic training and introduces an additional 6 months cadet training for University graduate recruits. It also expands the content by introducing new training modules in the areas of human rights, gender, public relations, ICT, Community Policing and service delivery. The curriculum has also introduced an internship program that allows trainees to go for practical exposure during the period of training

Vetting of Police Officers

There is need to ensure that all ranks in police service are subjected to a vetting process against set criteria on professionalism, integrity, track record of performance and psychological fitness. The criterion is to be developed jointly by the Public Service Commission, the Kenya Anti Corruption Authority and the National Security Intelligence Service. The vetting process has also been provided for in the National Police Service Act 2011.

The vetting exercise was started in June 2011 and a total of 1112 officers in the rank of Superintendent and above were subjected to the first stage of vetting through psychometric testing. The exercise was however put on hold to await the operationalization of the National Police Service Commission whose mandate includes vetting of police officers. The Commission has prioritised this exercise.

2. JUDICIAL REFORMS

RECOMMENDATIONS

- i) Effective implementation of constitutional provisions regarding judicial reforms.
- ii) Implementation of recommendations of the Judicial Task Force Report.
- iii) To accelerate judicial reforms process.
- iv) Take legislative and other practical measures to ensure independence and effectiveness of the judiciary.

PROGRESS MADE

The Government of Kenya has largely implemented all the recommendations of the Judicial Task Force Report which were further buttressed by the Constitution of Kenya.

The enactment of the Constitution of Kenya, 2010, resulted in the adoption of critical legislation and administrative measures that have greatly enhanced the integrity, efficiency and transparency of the judiciary- transforming it into an independent establishment capable of effectively administering justice, checking impunity, upholding and enforcing the Bill of Rights.

Reconstitution of the Judicial Service Commission

The reconstitution of the Judicial Service Commission has led to progress within the judiciary with decreasing executive influence. It was reconstituted within 60 days of the Constitution's promulgation.

The Judicial Service Commission is established under Article 171 of the Constitution and consists of the following 11 members:

- the Chief Justice, who shall be the chairperson of the Commission;
- one Supreme Court judge elected by the judges of the Supreme Court;
- one Court of Appeal judge elected by the judges of the Court of Appeal;
- one High Court judge and one magistrate, one a woman and one a man, elected by the members of the association of judges and magistrates;

- the Attorney-General;
- two advocates, one a woman and one a man, each of whom has at least fifteen years' experience, elected by the members of the statutory body responsible for the professional regulation of advocates;
- one person nominated by the Public Service Commission; and
- one woman and one man to represent the public, not being lawyers, appointed by the President with the approval of the National Assembly.

The Chief Registrar of the Judiciary is the Secretary to the Commission.

Among responsibilities of the commission is to investigate and remove from office or discipline judicial officers, as prescribed by an Act of Parliament. No longer will the commission wait to receive complaints from the public regarding the conduct of its officers. They will now have the power to initiate investigations if there are credible grounds to do so.

Vetting of judges and magistrates

The Vetting of Judges and Magistrates Act, 2011 (the Act) which came into force on 22nd March, 2011 establishes an independent board Judges and Magistrates Vetting Board ("the Board"). The functions of the Board are, 'To vet judges and magistrates in accordance with the provisions of the Constitution and this Act'. The term 'vetting' is defined as 'the process by which the suitability of a serving judge or magistrate to continue serving in the judiciary is determined in accordance with this Act'

The vetting process commenced on 23rd February, 2012 with the most senior judge of the Court. Although the Boards work have faced challenges in Courts on their mandate, the process is still on course and at the time of finalizing this report, the Board is vetting the high Court Judges having finalized with the Supreme Court and the Court of Appeal judges.

Enhanced capacity building

The Judiciary has historically faced severe capacity gaps in its infrastructure and human resource. In the past year, the Judiciary has

invested heavily in tackling this problem by growing technological, organisational, institutional and human resource capabilities.

In line with the requirements of the law, as well as access to justice demands, the number of Judicial Officers (judges and magistrates) increased from 417 to 451 in the 2011/2012 financial year. To further increase justice access, the number of Judicial Officers will increase to 925 by 2014/2015 (a 103% increase on the current quota). In 2012/13 alone, 275 Judicial Officers will be hired, representing a 70% increase over the current establishment. This includes 15 Judges for the Court of Appeal, 30 High Court Judges, 15 Industrial Court Judges, 30 Judges for the new Land and Environment Court, 24 Kadhis and 161 Magistrates.

The Judiciary is required by law to have a High Court in every County and a Magistrates' Court in every District in Kenya. Currently, 17 High Court Stations exist (against a requirement of 47), while 111 Magistrates' Courts are in place (against a requirement of 285).

The Judiciary Fund

The Constitution has secured not only the operational independence of the Judiciary, but also its financial autonomy. The establishment of the Judiciary Fund to cover administrative expenses and other purposes necessary for the discharge of institutional functions was operationalised when Parliament allocated Ksh15.9 billion in the 2011/2012 financial year.

In addition, for the current (2011/12) financial year, in recognition of the greater new responsibilities envisaged under the new constitution, the Budget Committee increased the Judiciary's budget by over 250%, from KShs 3.9 billion to KShs 9.3 billion.

National Council for the Administration of Justice

For a long time, the administration of justice in Kenya has been hindered by lack of coordination among key institutions charged with the responsibility of ensuring access to justice.

The enactment of the Judicial Service Act, 2011, paved the way for the National Council on the Administration of Justice (NCAJ), which was launched in August 2011. The NCAJ seeks to establish a unified justice sector that serves the people while upholding the values of collective responsibility, inter-dependence, service, constitutionalism and mutual

accountability. Section 35 of the Judicial Service Act, 2011, empowers the Council to formulate policies relating to the administration of justice; implement, monitor, evaluate and review strategies for the administration of justice; facilitate the establishment of Court Users Committees (CUCs) at the county level; and mobilise resources for purposes of the efficient administration of justice.

The Judiciary Transformation Framework (2012-2016)

In order to fulfil its constitutional mandate, the Judiciary has developed and is in the process of implementing a comprehensive, four-year transformation programme. The Judiciary Transformation Framework 2012 – 2016 (JTF), which was launched on May 31, 2012, is the blueprint for the institution's turnaround to make it a fit-for-purpose State organ as envisaged by the Constitution.

The transformation of the Judiciary targets to achieve at least three objectives:

- to reposition itself, based on the principle of independence and constructive interdependence thus resetting the relationship between the Judiciary and other arms of government, within the acceptable confines of the Constitution.
- to change the Judiciary's organisational culture and tailor it to prevailing social realities, while modernising its institutional design and leadership style.
- to emerge as a service institution that focuses on the people.

3. PRISON REFORMS

RECOMMENDATIONS

- i) Humanize penitentiary systems
- ii) Addressing challenges of Juvenile custody and imprisonment
- iii) Provide human rights training to prison officers
- iv) Review of relevant legislation and enactment of new laws
- v) Provide human rights training to prison officers
- vi) Review of relevant legislation and enactment of new laws

PROGRESS MADE

The rights of persons detained, held in custody or imprisoned are now guaranteed under the Constitution of Kenya, which provides that such

persons retain all the rights and freedoms contained in the Bill of Rights except where a particular fundamental right or freedom is clearly incompatible with the fact that the person is detained, held in custody or imprisoned. To implement these constitutional requirements the Government has prepared the Persons Deprived of Liberty Bill 2012. The Bill provides for the humane treatment of persons detained, held in custody or imprisoned and gives effect to the provisions of international human rights instruments and rules on such persons. A Protection of Victim's Bill has also been prepared for the protection, rights and welfare of victims of offences.

The following steps have been taken to humanize prisons:

- 11 additional prisons have been constructed since 2010 and all old prisons have been and are still being continuously refurbished
- All (55,000) prisoners have been provided with new uniforms and a balanced diet
- Toilets facilities improved in all prisons
- All female (3,000)prisoners are provided with sanitary towels
- Every prison has a health facility with a medical officer within the prison and outside to cater for the community. There is a mental unit in kamiti and some prison patients are referred to Mathari. Since 2010 medical personnel have been recruited and other personnel are referred to prisons by the ministry of health. Recruitment is still ongoing.
- All prisons including remand homes have recreational facilities
- There are about 388 children countrywide who are benefitting a special diet and primary education.

The Judiciary and the Probation Department have achieved a tremendous decrease of congestion in prisons through the use of Community Service Orders provided for under the Community Service Orders Act. In addition, under the Power of Mercy Act (2011) the President on the advice of the Advisory Committee can amongst others, pardon or postpone the carrying out of punishment: remit all or part of a punishment. It should be noted that, the constitution gives the power of mercy to the president but he works with the committee of experts which is independent, this is provided under article 133 of the constitution.

Human rights training for prison officers

The government also has a policy to train all prison officers on constitutionalism and the application of human rights. Indeed, during recruitment, professionals such as lawyers and councillors are hired to support the human right promotion in the prisons.

The Juvenile justice system

The ongoing prisons reforms resulted in the separation of juvenile offenders from adults in the detention centres. The juvenile justice system has been improved further by the establishment of juvenile courts in most areas of the country. The magistrates are specifically trained to handle children's matters and are posted to the courts whose environment is child friendly.

In partnership with the civil society the police stations have children's desks which are friendly to the children. A Child Justice Bill (2011) has been developed to enhance juvenile justice system in the country.

4. TRUTH, JUSTICE & RECONCILIATION COMMISSION

RECOMMENDATIONS

- i) Address the credibility issues surrounding the appointment of the Chairperson, who was alleged to have been involved in some of the historical injustices that the Commission was investigating, within the National framework

PROGRESS MADE

Issues involving the Chair of the TJRC have been resolved and Commission is currently finalizing its work. The Commission collected over 30,000 statements and memoranda from victims of past injustice. Between April, 2011 and February, 2012, public hearings were conducted in all the forty seven counties of Kenya. Also hearing on key thematic areas such as the disabled, women were conducted in Nairobi. The final report on the recommendations is ready for submission at the envisaged reconciliation conference scheduled for February, 2013.

5. ICC/SPECIAL TRIBUNAL

RECOMMENDATIONS

- i) Take full measures to prosecute perpetrators of PEV.
- ii) Cooperate fully with the ICC and ensure the protection of witnesses from threats and violence.
- iii) Initiate discussion towards development of a comprehensive reparations policy for PEV victims.
- iv) Establish a local mechanism independent DPP & AG to investigate and prosecute.

PROGRESS MADE

Setting up of a Multi Agency Taskforce on post election violence cases

The Director of Public Prosecutions established a Multi Agency Taskforce to undertake a countrywide audit of all the local post election violence (P.E.V) cases under investigation and pending before courts of law with a view to recommending ways and means of ensuring their fair and speedy determination. The team was also required to advise on other alternative dispute resolution mechanisms which include reconciliation, mediation, arbitration and other traditional dispute resolution strategies. The Agency reviewed slightly over 6000 files that had been opened on the PEV cases. The number of cases fully investigated, prosecuted and finalized so far is 445. 41 cases are pending before court. However, the agency's findings are that most of these cases are unlikely to be prosecuted for lack of evidence.

The number of perpetrators so far convicted is 26 and the offences include house breaking and stealing, murder, possession of stolen property, stealing stock, arson, taking part in a riot, and possession of offensive weapons. A number of victims are pursuing civil remedies.

Cooperation with the International Criminal Court

The International Crimes Act 2008 which is in force and binding domesticates the Rome Statute obligations in Kenya, especially the issue of cooperation with the Court. On the 3rd of September 2010, Kenya entered into a cooperation Agreement with the ICC vide exchange of letters. The Court was granted immunities and privileges which are given to other international organizations accredited to Kenya.

The Legal Notice No. 170 giving effect to the Agreement was officially gazetted on 29th September 2010 in the Kenya Gazette. Since this matter arose, senior Court officials have visited Kenya without any impediment, and their entry, stay and requests for meetings have been effectively facilitated. This includes a number of meetings between the Prosecutor and Government officials at the highest level. The Court has also been able to deploy investigators into regions affected and the Government has done everything possible to facilitate their work.

Pursuant to the cooperation Agreement, and in order to establish an operational base in Kenya, the Court has recently deployed officials in Kenya who conducted thorough investigations, identified and presented their evidence to the court which indicted the suspects. Kenya has kept its door open to ensure that the ICC is able effectively conduct its business and in May, 2012 the Court's lawyers and investigators made a fresh visit to the hotspot areas in Eldoret, Naivasha and Nakuru to collect more evidence.

Appointment of the Committee of the Judicial Service Commission on the establishment of an International Crimes Division

On 9 May 2012, the Judicial Service Commission appointed a committee whose mandate included examining:

- the modalities of establishing an International Crimes Division of the High Court for post election cases; and
- Expanding jurisdiction of the Division to also deal with international and transnational crime.

The Committee has recommended the establishment of the International Crimes Division of the High Court with an independent well facilitated prosecution unit focussed on international crimes headed by a special prosecutor.

The jurisdiction of the division shall include post election violence crimes, crimes against humanity, genocide, war crimes, human trafficking and organized crime.

6. IDPs (and Returnees)

RECOMMENDATIONS

- i) Sustain efforts towards re-settlement of IDPs
- ii) Follow up on UN Representative of SG on human rights of IDPs particularly those relating to measures for reconciliation and to implement a comprehensive strategy for internally displaced persons
- iii) Ensure policies of assisting IDPs taking into account the guiding principles on Internal Displacement

PROGRESS MADE

In order to address the issue of IDPs comprehensively, a Parliamentary Select Committee on Resettlement of Internally Displaced Persons was set on November 17, 2010. The Committee's term finally expired on 17th December, 2011.

The Committee's mandate was established with the following Terms of Reference:-

- Look into how the Government has addressed the current plight of IDPs in terms of basic food rations, shelter, education, health and compensation;
- Review existing institutions and organs addressing forced displacements;
- Examine policies and laws governing all forms of forced displacement with the aim of promoting protection and improving the well being of forced migrants;
- Establish the causes of forced displacements since the onset and the action taken by the State including the financial outlays;
- Identify and categorize IDPs (those in camps, integrated, pastoralists, forest evictees) and assess their current numbers, situation and location;
- Come up with a draft Bill on forced displacements;

- Review international treaties and legal regimes governing IDPs and Refugees; and
- Make recommendations on the way forward.

The Committee came up with recommendations that the Government is currently implementing. These include:

- a) The undertaking of a re-vetting exercise of IDPs to ascertain the genuine ones and resettle them forthwith. The vetting exercise should be public, inclusive and be conducted by a committee that includes but not limited to; village elders, IDPs representatives, the local chiefs, religious leaders and the area Member of Parliament.
- b) The Government to recognize all categories of IDPs including the integrated IDPs.
- c) The Kenya National Bureau of Statistics should release data on the profiled IDPs to the public.
- d) The Government should start a comprehensive programme of profiling, resettlement and compensation of all displaced persons as a result of pastoral conflicts, floods, droughts and famine.
- e) The Government must accelerate peace building, reconciliation and psychosocial efforts by increasing funding to District Peace and Security Committees in all the counties.
- f) The Mandate of the Humanitarian Fund for mitigation of effects and resettlement of victims of post 2007 election violence should be expanded to cover all IDPs including but not limited to, resettlement of 1992, 1997 and 2002 IDPs, forest evictees, historical IDPs, all squatters, pastoral conflict IDPs, victims of floods, landslides, droughts and famines among others.
- g) The Government to establish a legal and policy framework on internal displacements through the formulation of policy and development of a draft bill on prevention, protection and assistance of IDPs which have both been approved by Cabinet. This legal framework takes into account the UN Guiding Principles, the AU Convention (Kampala Protocol) and Great Lakes Protocol on Protection and Assistance of IDPs.

Much as the deadline of May 2012 has not been achieved in respect of all the recommendations on resettlement, the programme is on course and the authorities concerned have pledged to finalize these by December, 2012.

7. PROTECTION OF HUMAN RIGHTS DEFENDERS, WHISTLE BLOWERS AND WITNESSES

RECOMMENDATIONS

- i) Take effective measures to safeguard work of human rights defenders and witnesses and ensure that they are a priority
- ii) Investigate harassment and attacks against journalists and human rights defenders and bring those culpable to justice

PROGRESS MADE

- The Witness Protection Agency has been operationalised, independent of the Attorney General's office.
- The Kenya National Commission for Human Rights has been fully operationalised as a Constitutional Commission with the requisite powers.

Keeping in mind the protection that the Constitution of Kenya, 2010 gives for the protection of the individual, and recognizing that the Country now has robust institutions like those mentioned in this report including the Judiciary and the Independent Police Oversight Authority, it is hoped that no individual will allow violations of any of their rights. There are many protective mechanisms that any human rights defender or any whistle blower can take legal advantage of.

8. ABOLITION OF THE DEATH PENALTY

RECOMMENDATIONS

- i) Establishing a *de jure* moratorium on capital punishment, with a view to abolishing the death penalty.
- ii) Strictly ensure that the death penalty is not imposed on children.
- iii) Abolish the death penalty.

- iv) Ratify the 2nd Optional Protocol to the International Covenant on Civil and Political Rights.

PROGRESS MADE

- In the fulfilment of the Constitutional right of a fair trial, the courts now grant bail even in capital offences.
- The Constitution establishes an Advisory Committee on the Prerogative of Mercy which has the function of advising the President where a person has been sentenced to death (otherwise than by a court-martial) for an offence on the exercise of powers. The Advisory Committee may take into account the views of the victims of the offence in respect of which it is considering making recommendations to the president.
- There have been no capital punishments carried out during the review period.
- The KNCHR has commenced a survey on the effects of capital punishment with a view to using the results for engagement with the public on the desirability of its abolition.

9. PROHIBITION OF TORTURE AND ILL TREATMENT

RECOMMENDATIONS

- i) Consider ratifying OP-CAT.
- ii) Take all steps available to eradicate the use of torture and ill treatment by public officials, and prosecute and punish those responsible.
- iii) Introduce in its national legislation the definition of torture, reflecting that set out in article 1 of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.
- iv) Take effective measures against police violence, in particular by ensuring comprehensive investigations and prosecution of alleged offenders within the police and security forces.

PROGRESS MADE

- A Treaties Bill has been developed. This is intended to give effect to Article 2 (6) of the Constitution as read with Article 94(5) to provide the procedure for ratification of international treaties by

Kenya and related matters. Once enacted, the Country will be able to ratify treaties that it has not.

- The National Police Service Act defines torture in accordance article 1 of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. It also provides for the penalties.
- The establishment of the Independent Police Oversight Authority will enhance this protection.

10. FREEDOM OF INFORMATION AND EXPRESSION

RECOMMENDATIONS

- i) Enact as a matter of urgency the Freedom of Information Bill.
- ii) Review national legislation on freedom of expression so that it fully complies with the relevant provisions of the ICCPR.

PROGRESS MADE

Most of the progress made in the implementation of the recommendations relating to freedom of information and expression is legislative. These include:

a) Freedom of Information Bill 2012

A Bill has been developed to provide for the establishment of the Kenya Freedom of Information Commission; to provide for access to information in the possession of public authorities; to provide for a proactive publication and dissemination of information; and for connected purposes. The Bill is currently undergoing stakeholder consultations. The objects of the Bill are:

- to give effect to the citizen's right of access to information as provided under Article 35 of the Constitution;
- to give effect to the citizen's right of access to information- held by or on behalf of public authorities, or to which public authorities are entitled by law to have access, including information relating to national security matters, subject only to specific and limited exemptions necessary to prevent identifiable harm to legitimate state interests or to the private and business interests of persons whose information is collected and held by public authorities;
- to require public bodies to proactively disclose information that they hold and to provide information on request;

- to create a right of access to information held by private bodies if those bodies are public contractors or if such bodies hold information required for the exercise or protection of any right protected by the Constitution and the laws of Kenya;
- to bar public authorities from imposing sanctions on employees or members of the public for releasing information of compelling public interest in good faith.

b) The Data Protection Bill, 2012

This is a proposed law to regulate the collection, processing, storing, use and disclosure of information relating to individuals that is processed through automated or manual means and for connected purposes.

11. REVIEW OF LAWS TO OUTLAW DISCRIMINATION

RECOMMENDATION

Review its national laws so that they fully uphold the principle of non discrimination, in particular on grounds of gender, personal status and citizenship.

PROGRESS MADE

The National Gender and Equality Commission

This Commission is expected to spearhead the processes that will ensure that Kenya is able to fully implement this loaded recommendation. The Commission has the mandate, among others to:

- promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution;
- monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions;
- act as the principal organ of the State in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination and relating to special

interest groups including minorities and marginalized persons, women, persons with disabilities, and children;

- co-ordinate and facilitate mainstreaming of issues of gender, persons with disability and other marginalised groups in national development and to advise the Government on all aspects thereof; and
- monitor, facilitate and advise on the development of affirmative action implementation policies as contemplated in the Constitution.

Review of the Laws on Citizenship

The Kenya Citizenship and Immigration Act, 2011 has gone a long way in addressing certain issues of discrimination that were a matter of concern with the earlier legislation on Immigration matters. The current law operationalises the constitutional provisions relating to non discrimination on passing of citizenship by parents to their children and the possibility of dual citizenship. It provides among others:

- A person born outside Kenya shall be a citizen by birth if on the date of the birth that person's mother or father was or is a citizen by birth.
- A citizen of Kenya by birth who acquires the citizenship of another country shall be entitled to retain the citizenship of Kenya subject to the provisions of this Act and the limitations, relating to dual citizenship, prescribed in the Constitution.

The Kenya Citizens and Foreign Nationals Management Service Act, 2011

This Act is intended to ensure that there is coherence in the registration of all personal matters that require registration. The Act provides for the creation and maintenance of a national Kenya Citizens and Foreign Nationals Management Service population register and the administration of the laws relating to births and deaths, identification and registration of citizens, immigration and refugees; administration of the laws relating to marriages and for connected purposes.

The Refugees Bill, 2012

The Bill provides for a Commissioner of refugees with a mandate to, among others to:

- co-ordinate all measures necessary for promoting the welfare and protection of refugees and asylum seekers and advise the Service thereon;
- ensure the provision of adequate facilities and services for the protection, reception and care of asylum seekers and refugees within Kenya;
- Promote as far as possible durable solutions for refugees granted asylum in Kenya
- Ensure that refugee economic and productive activities do not have a negative impact on host communities , natural resources or the local environment;
- Ensure sustainable use of resources in the designated refugee hosting areas

This Bill also provides that all refugees are entitled to the rights and are subject to all laws in force in Kenya. Most critical, the Bill provides that no person shall be refused entry into Kenya, expelled, extradited from Kenya or returned to any other country or be subjected to any similar measure if, as a result of such refusal, expulsion, return or other measure, such person is compelled to return to or remain in a country where, the person may be subject to persecution on account of race, sex, religion, nationality, membership of a particular social group or political opinion; or the person's life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disturbing public order in part or whole of that country.

12. RIGHTS OF WOMEN

RECOMMENDATIONS

- a) Take measures directed at ensuring economic rights of women, the issue of their employment, and increasing their participation in political life of the country.
- b) Establish a policy for gender promotion to ensure better representation of women in the decision making bodies.

- c) Undertake more effective measures to address the problems of impunity, violence and trafficking in women and girls including through strengthening of law enforcement and judicial system and intensive media and education programmes aimed to increase public awareness on the rights of women.
- d) Take measures to guarantee effective access of women victims of gender based violence to justice, redress and protection.
- e) Draft a plan to combat violence against women and establish reliable indicators in this field.
- f) Adopt legislation and a coherent national policy criminalising female genital mutilation.

PROGRESS MADE

Collection of comprehensive gender statistics to track progress

The Ministry of Gender, Children and Social Development has in conjunction with Kenya's National Bureau of Statistics (KNBS) undertaken number of key initiatives aimed at informing planning and budgeting processes in a manner that will ensure they address the status of women and girls in the social, political and economic spheres:

- **Creation of a Gender department within the KNBS:** This department has been tasked with generating gender statistics in support of broad-based and targeted development programmes and initiatives. This department has been analyzing and disaggregating the Kenya Population and Housing Census data by sex. The department also works with the ministry of Gender, Children and Social Development in compiling data towards the Africa Gender Development Index which looks at a broad range of quantitative and qualitative data under three blocks- social, political and economic.
- **Kenya Gender Data Sheet.** The ministry of Gender, Children and Social Development has with support from KNBS, developed a data sheet which contains gender-specific statistics and data disaggregated by sex at the level of administrative districts, i.e. population of persons of child-bearing age, of the youth and elderly persons; households by the sex of the household head, life expectancy, mean age at first marriage; under-5 mortality rates,

primary school gross enrolment, primary to secondary transition rates, labour force participation rates, membership of cooperative societies; households with access to safe drinking water by sex of household head among others. In addition to tracking progress these statistics are helpful in identifying problem areas for targeted interventions.

- **Production of the Bi-annual Reports on Affirmative Action on employment and Recruitment of women in the Public Service:** The ministry of Gender, Children and Social Development has also since 2008, been compiling data on all government agencies and local authorities in line with a Presidential Decree issued on the Recruitment and promotion of women in the public sector, to ensure that women constitute at least 30 per cent of all appointments, recruitments and promotions. The report goes further to analyze the number of women in decision-making positions.

Women in Public Service

Women constituted 25.3 per cent of persons in job group P and above (senior assistant directors in ministries and above); they constitute 41.5 per cent of those in job group J-N (mid-level management) and 36.9 per cent of those in job group H and below (support staff). In total, women constitute 38.4 per cent of those in the public service. Although this meets the mandatory requirement of 30%, a lot of these are in the lower job groups that are not considered decision making levels. .

Measures for Women's Economic empowerment

Kenya's Vision 2030 identifies the disadvantages that women face in accessing productive resources and labour markets, and their under-representation in social and political leadership as some of its objectives (under the social pillar). The Vision states that it will provide specific policy measures to correct the glaring gender gaps in access to and control of resources, economic opportunities, and power and political voice.

Under the Social Pillar in the Vision 2030, specific policy measures have been identified that when implemented would help correct gender gaps in access to and control of resources, economic opportunities, power,

and political voice. These include, gender mainstreaming in government policies, plans, budgets and programmes and affirmative action for 30% representation of women in all decision.

- **Women's Enterprise Development Fund (WEDF):**

The establishment of Women Enterprise Fund continues to be positive steps towards ensuring resources reach excluded women. It is also a testimony of the Kenya government's commitment to the realization of the 3rd Millennium Development Goal (MDG) on women empowerment and gender equity.

The Fund is now availing funds to the target women entrepreneurs through the Ministry of Gender, Children and Social Development (the Ministry channel) and the Micro Finance Institutions (MFI) channel.

The Fund is expected to contribute to poverty reduction and employment creation among women. The medium term goal of the Fund is to improve the economic conditions of the excluded women and graduate them to the mainstream financial institutions. The long term goal is to provide a one-stop shop where women can access financial and other business development support services.

Reliance on government funding alone is a challenge that may affect the Fund's ability to achieve its objectives and have the desired long-term impact. The Fund needs to mobilize funds from other sources so as to carry out its planned activities in a sustainable manner.

Development of Strategies to enhance Women's participation in public affairs

The Constitution of Kenya 2010 sets out the legal rights and obligations of the State in respect for the promotion and respect for women's rights. In particular, it has mainstreamed gender equality in its provisions and in so doing provided women with an unprecedented opportunity to enter into politics therefore enhancing their chances of more engagement in decision making processes.

The Government, through the 5 year Medium- Term Plan (MTP) 2008-2012 of the Kenya Vision 2030, identified as a priority the introduction of gender mainstreaming into all Government policies, plans and

programs to ensure that the needs and interests of women and other marginalized groups are addressed.

The Government's directive that ensures not more than two thirds of all public positions are held by persons of the same gender is now protected by the Constitution and therefore justiciable as evidenced by recent court cases. This will go a long way in ensuring that women will be represented in all decision making positions by at least 30 percent.

This has led to the introduction of a national framework to monitor and document gender mainstreaming in Government planning, budgeting, legislation and policy formulation. Every government Ministry and agency must contract for targets towards gender mainstreaming. It is one of the compulsory performance contracting domains.

Several institutions have also been established to ensure the equality of opportunities for all individuals, to facilitate mainstreaming of equality and non-discrimination and to monitor the implementation of mechanisms aimed at ensuring non-discrimination. These include the Kenya National Commission on Human Rights, the National Commission on Gender and Development, the National Council of Persons with Disabilities.

Political parties Act, 2011

Other than the provisions contained within the Constitution which provide for the two-thirds principle (of either gender) within the legislature and all other elective positions at national and county levels, the Political Parties Act which was enacted in 2011, also contains gender equality safeguards to the extent that the formation and purposes of political parties shall be subordinate to the Constitution (section 3(1)). Secondly section 7(2) of the Act provides that *"political parties shall be qualified to be fully registered if (among others): its membership and the composition of its governing body both reflect gender balance."* In this regard, The Constitution at Article 90 (2) (b) specifically provides that for elective positions, that party lists shall comprise the appropriate number of qualified candidates and alternates between male and female.

Parties may be de-registered for failure to comply with these provisions (under section 21(1) of Political Parties' Act. It is hoped the numbers will significantly improve with the implementation of this Act and if there is

enactment of a law, providing for how the two-thirds principle in elective positions shall be achieved.

Measures against gender Based Violence

Operationalization of a special Unit in the Office of the Director of Public Prosecutions (DPP)

The Office of the DPP has operationalized a Sexual Offences, Gender Violence and Victim's Rights Section and appointed Special Prosecutors (advocates with expertise) to prosecute selected complicated Sexual and Gender Based Violence cases. It has embarked on the following key initiatives:

- Training and sensitization of investigators, police prosecutors and judicial officers on Sexual and Gender based violence cases throughout the country aiming at enhancing capacity of law enforcement officers on the area and expectations;
- specialized training on forensic investigations, crime scene management , collection, preservation and presentation of evidence in joint collaboration with Women Justice and Empowerment Initiative (WJEI) the training included mock/moot court demonstrations;
- development of regulations for Effective implementation of the Sexual Offences Act;
- Promotion and enhancement of Inter-agency Co-operation and Collaboration Mechanisms in the fight against Sexual and Gender Based Violence with partners including development partners, and Civil society organizations;
- Participated in several countrywide public forums in collaboration with the Task force on Implementation of the Sexual Offences Act to sensitize the general public on Sexual Offences and Gender Based Violence;
- Preparation of the Chief Justice Rules of Practice and Procedure known as the Sexual Offences Rules of Court 2011;
- Developed the Prosecution Guidelines on Sexual Offences and Gender Based Violence; and
- Embarked on the development of a Prosecution Victim Rights Charter.

Measures taken to eliminate FGM

The government has enacted, The Prohibition of female Genital mutilation Act, 2011 which criminalizes this practice. This act provides new opportunities for eradication of FGM. The act empowers chiefs and children's officers to enter into places without warrant to ascertain whether such, a crime has been or is about to be committed. It further stipulates that culture and religion cannot be used as an excuse to perform the procedure.

The act distinguishes female circumcision from medical, surgical procedures connected to child birth and surgery that is essential for the physical or mental health of a woman as well as surgical procedures performed for therapeutic purposes.

The act criminalises:

- Aiding and abetting of women and girls and procuring of a person to perform the cut.
- Taking a Kenyan to another country for and bringing another person to Kenya for circumcision.
- Allowing premises for which you are responsible to be used for circumcision.
- Being found in possession of tools or equipments for the cut.
- Knowing that someone has the intention of performing the cut and falling to report to the authorities.
- Any Kenyan citizen who undergoes FGM outside the country is also liable for prosecution.

The act establishes an anti-FGM board with the core mandate of designing, supervising and coordinating public awareness programs against the practice of FGM.

Development of a National Policy on Sexual and Gender Based Violence (SGBV)

The country's long term development goal is contained in the Vision 2030 document which has set out to reduce gender-based violence through the increased capacity of the police to handle cases of violence against women and to eliminate harmful cultural practices such as Female Genital Mutilation/Cutting (FGM/C).

The Government has also adopted Results Based Management as a strategy aimed at enhancing service delivery to Kenyans. To facilitate the process Government Ministries and State Corporations are expected to include gender concerns targets in their Performance Contract. These agencies are expected to develop workplace sexual and gender base violence policies.

In this regard the government with the assistance of UNICEF is developing a national policy on gender based violence. The Policy is expected to provide national guidance on eliminating SGBV, with particular reference to violence against women and girls and should be anchored on existing laws and policies that are in place that address Sexual and Gender based Violence guided by the constitution of Kenya 2010. It will specify systems, procedures and guidelines for institutions and services (reporting, referral, legal, medical and counselling, security) which deal with SGBV.

Women's human rights violations and gender based violence (GBV) and The Truth Justice and Reconciliation Commission (TJRC)

The establishment of the TJRC provides women with a political space through which legacies of abuse and violence against them are likely to be addressed. It is anticipated that the (TJRC), will amongst other things, identify and illuminate patterns of abuse, give voice to victims, and make strong recommendations for gender responsive legal and institutional reforms and improvements.

In particular, it is hoped that the mainstreaming of women rights and gender based violence as key themes in the TJRC work will facilitate the design of reparations that are gender responsive and with particular attention to post electoral violence survivors.

To support this, FIDA-Kenya commissioned a research to situate the aspect of truth telling in the dynamics of gender as an effort to demystify past received "truths" and make space for new ones that have been marginalized in the public sphere. Through this intervention, it was hoped that the truth emerging from particular contexts where some perspectives and experiences have been excluded from dominant understanding of historical records would be uncovered.

The findings of this research are used to call upon the TJRC to examine the structural gender biases through which some facts emerge as being critical to the historical account and others faced into the background of the private arena. This approach is intended to capture the structural and systematic character of background gender relations which are often the critical enabling conditions of the character and extent of gendered human rights abuse.

13. RIGHTS OF CHILDREN

RECOMENDATION

- i) Implement the Children Act
- ii) Raise the age of criminal responsibility in order to bring it into line
- iii) with international standards
- iv) Effect measures to address violence against women and girls (trafficking, sexual exploitation and other forms of violence
- v) Minimum age of marriage
- vi) Optional protocol sale of children, child prostitution and child pornography.
- vii) Develop a national plan of action on trafficking in persons

PROGRESS MADE

The Review of the Children's Act

The Children's Act was enacted in 2001 and seeks to enhance the welfare of children in Kenya. The Act gives effect to the provisions of the International Convention on the Right of the Child and the African Charter on the Rights and Welfare of the Child. The provisions of the Act have been implemented fully.

In 2010 the government embarked on a holistic review of the Children's Act, to bring its provisions in line with constitutional and generally accepted international standards. As a result, The Children's Act (Amendment bill) 2011, which proposes a number of modifications to the Children's Act was prepared. One of the changes sought is the raising of the age of criminal responsibility from eight to twelve years.

Parliament is now in the process of passing a high number of pending constitutional bills and the Children's Act (amendment bill) 2011 has been lined up for prompt attention.

Minimum age of marriage in Kenya.

Under Article 45 (2) of the Kenyan Constitution, only an adult has the right to marry a person of the opposite sex, based on the free consent of the parties. Section 2 of the Age of Majority Act, further provides that a person shall be of full age and cease to be under any disability by reason of age on attaining the age of 18 years. This means that it is only upon attainment of the age of eighteen does a person, whether man or women shed all legal disabilities and may enter into any legal transaction including marriage.

Measures to address violence against women and girls trafficking, sexual exploitation and other forms of violence

The Counter Trafficking in Persons Act passed in 2010 domesticates the Palermo Protocols (*The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and Protocol against the Smuggling of Migrants by Land, Sea and Air*). The Act is the first comprehensive piece of legislation that deals exclusively with the issue of trafficking and all its elements. It provides a framework within which the victims of trafficking can be protected.

The government has held campaigns to create awareness among hotels and tour operators on the evils of child prostitution and child sex tourism. Hoteliers and other actors in the tourist sector have been encouraged to sign the Code of Conduct against Child prostitution.

Many hotels in the coastal towns have now signed the code of conduct that seeks to prevent abuse of children in their hotels. In addition, key stakeholders, notably police investigators, prosecutors, and community leaders have been sensitized and trained particularly under the Sexual Offences Act on how to investigate, and prosecute trafficking cases. This reinforces the Employment Act of 2007, which outlaws child trafficking for the purposes of sexual exploitation, promoting child sex tourism, child prostitution and child pornography. The minimum penalty for child trafficking is a fine and 10 years of imprisonment. The minimum penalty for sex trafficking is a fine, 15 years of imprisonment, or both.

The implementation of the Children's Act has also had positive effects in the protection of children against their trafficking and abduction. There is now statistical data on the number of children abducted and trafficked, therefore making it possible to have specific interventions.

Ratification of the Optional protocol on the sale of children, child prostitution and child pornography

The ratification of all treaties and protocols in Kenya await the enactment of a comprehensive legislative framework for the signing, ratification and accession of treaties, protocols and other instruments by Kenya. This follows the provisions of the new Constitution which gives exclusive power to the National Assembly to make laws. The Constitution of Kenya, 2010 provides that any treaties ratified by Kenya form part of the laws of Kenya. The proposed legislation provides the necessary procedures that must be undertaken before a treaty is ratified signed or acceded to by the Government.

14. ANTI-CORRUPTION MEASURES

RECOMMENDATIONS

- i) Review legal, policy and institutional framework capacity building of anti-corruption agencies such as personnel
- ii) Undertake sensitization and awareness programme for the judiciary
- iii) Undertake a human rights based sensitization and awareness campaign programmes for the public
- iv) Operationalization of the Ethics and Anti-corruption Commission Act

PROGRESS MADE

Constitutional, legal, policy and institutional frameworks for the fight against Corruption

The Constitution

The Constitution of Kenya 2010 provides comprehensive guidelines against corruption. Chapter 6 uniquely sets the guiding lights, principles of leadership and integrity that will underpin those to serve in the public

service. The leadership and integrity standards were included in the Constitution to ensure transparency and accountability and good governance in the management of public affairs for the welfare of the sovereign people of Kenya. State Officers are required discharge their public duties in accordance with the leadership principles and the thresholds of integrity enshrined in the Constitution.

The Leadership and Integrity Act 2012

In this regard, Parliament enacted the Leadership and Integrity Act 2012 to establish procedures and mechanisms for the effective administration of Chapter Six of the Constitution and to promote ethics, integrity and servant leadership among State officers.

The Ethics and Leadership Commission

The Ethics And Leadership Commission is established under Section 3 (1) of the Ethics and Anti-Corruption Commission Act, 2011. The Commission is mandated to combat and prevent corruption through enforcement of the law, educating the public and enlisting their support against corruption and providing preventive services through promotion/ development of good practices to seal opportunities and loop holes that facilitate corruption. The Ethics and Anti-Corruption Commission is mandated to fight corruption through law enforcement, prevention and public education. The Commission engages in multiple programmes aimed at raising awareness among the public on ethics, integrity and Anti- corruption.

Leadership and integrity policy

The government of Kenya is in the process of developing a national Policy on leadership and integrity.

Sensitization and awareness programme for the judiciary

Kenya Anti-Corruption Commission, the precursor to the Ethics And Leadership Commission conducted various sensitization seminars on corruption and economic crimes to different target groups including the Media, the Judiciary, the KACC, the religious sector and the members of the public .

Human rights based sensitization and awareness campaign programmes for the public

The Kenya National Integrated Civic Education Programme (K NICE) is an initiative under the Ministry of Justice, National Cohesion and Constitutional Affairs which has rolled out a nationwide campaign to sensitive Kenyans on the provisions of the constitution, which include the Bill of Rights anti-corruption and integrity issues.

15. RIGHTS OF PERSONS WITH DISABILITIES

RECOMMENDATIONS

- i) Specific education policy for children with special needs
- ii) Ratification of optional protocol - Convention for Persons with Disabilities
- iii) Protection of most vulnerable groups

PROGRESS MADE

The National Special Education Policy Framework

A Special Needs Education (SNE) policy framework was launched by the government of Kenya, in 2010. The **policy** addresses how the government will work with stakeholders to transition to an inclusive education approach in line with Education for All by 2015.

The Policy Framework addresses critical issues related to education for learners with special needs. It provides a framework that is essential to guide the work of all actors involved in provision of special needs education to ensure consistency and a coordinated implementation. The policy is important in the elimination of disparities and enhancement of equity and equality for all learners, especially inclusion of learners with special needs and disabilities in the education system. According to the school mapping data set there are 3,464 special needs institutions (38.2% ECDE, 3.4% NFE, 54.1% primary and 4.3% Secondary) in the country with 2,713 integrated institutions and 751 Special Schools.

However the full implementation of the policy has been hampered by several factors: Lack of resources to enable registration to be done within

a specified timeframe; Stigmatization – parents especially in rural areas still hide their children in some counties and do not take them to school; and lack of specialized teachers.

The government has however initiated a number of awareness campaigns to sensitize communities on the value of education for those with special needs.

Protection of most vulnerable groups

The Government of Kenya through its Ministry of Gender, Children and Social Development developed a National Plan of Action (2007-2013) on Orphans and Vulnerable Children(OVC) which helps to strengthen the capacity of families to protect and care for OVCs, provide economic, psychosocial and other forms of social support, as well as mobilize and support community based responses to increase OVCs access to essential services such as food and nutrition, education, health care, housing, water and sanitation. A key aspect of the policy is the provision of a direct predictable and regular cash subsidy of Kshs 1,500 per month to households caring for OVC. The program is in its second year of implementation.

The National Development Fund

The National Development Fund aims to eradicate the link between poverty and disability by providing financial support to organizations and individuals. The Fund's economic empowerment programme aims to enable people with disabilities to establish and grow their own businesses.

16. WATER

RECOMMENDATIONS

- i) Ensure equitable distribution of water and food to the entire population, especially during the time of drought

PROGRESS MADE

The Constitution of Kenya now recognizes the right to clean and safe water as a basic human right. The State is required to take legislative,

policy and other measures to ensure the progressive realization of this right. To ensure full compliance with the constitution the government has taken the following steps:

The Water Act 2012

A draft water Bill has been prepared to provide will provide for the efficient management of water resources and development of water and sewerage services.

A draft Water Policy

A draft Water Policy has been developed and takes into consideration vision 2030 and the constitutional provisions on access to clean and safe water of a sufficient quantity.

Water master plan

The ministry of Environment and Mineral Resources in collaboration with the ministry of Water and Irrigation are in the process of developing a new water master plan under the 2030 development goals. The plan seek to come up with strategies to alleviate the effect of low water levels during the dry seasons

17. EDUCATION

RECOMMENDATION

- i) Strengthen educational policy to guarantee required quality of education accessible to all members especially the marginalized and most vulnerable.
- ii) Elaborate an educational policy to combat illiteracy with particular emphasis on girl child education
- iii) Develop education policies that ensure quality education, particularly for the poor, marginalized and vulnerable segments of its population and to request international assistance to this end
- iv) Elaborate an educational policy to combat illiteracy, with particular emphasis on girl child education

- v) Develop and implement a specific education policy which would cover all children with special needs
- vi) Continue to develop programmes and measures aimed at ensuring quality and free education and health services for its population
- vii) Seek the support of the international community and cooperate with it to formulate policies aimed at further broadening access to free and compulsory education, particularly for the children from poor households.

PROGRESS MADE

The Constitution, 2010 has provided for right to Education as a human right to every Kenyan child. A Task Force on the alignment of the Education Sector to the new Constitution and Vision 2030 was constituted in 2011 and mandated to review the current education system to ensure that it is in tandem with the current global trends in education, the Constitution and Vision 2030 in order to make the Kenyan education system globally competitive and market driven.

The Task Force reviewed the education system and proposed strategies to:

- address policy, content and governance issues in education;
- address challenges related to access, quality, equity, relevance, wastage and efficiency;
- the development of a national education master plan,
- the review of the Education Act,
- the development of a policy on education; and
- and establishment of a Education Reform Implementation Committee (EdRIC) to drive the reform process.

Policies on education

The Government is in the process of implementing the Task Force recommendations. A draft Policy Framework for Education that aligns Education and Training to the Constitution of Kenya (2010) and Kenya Vision 2030 and beyond has already been developed.

Other recommendations already realized include: The Kenya Sessional Paper on Education, 2012 which has been finalized and will soon be

tabled in Cabinet; the Teachers Service Commission Bill, 2012 has been approved by Cabinet. It will be published for tabling in Parliament shortly; and the Education Bill, 2012 which has been finalized and is going through stakeholder consultations.

The Government is also in the process of reviewing the education sector policies with the aim of aligning them with the new constitution to make them implementable frameworks with the devolved governments. These include:

- **Gender in Education policy** which aims at eliminating gender disparities and achieving gender equity and equality in relation to access, retention, completion and transition in primary and secondary education by 2015.
- **The Early Childhood Development Education Policy (ECDE)** whose intention is to mainstream ECDE into primary school cycle so that no child is left out of basic education.
- **The HIV and AIDS policy** which recognizes that although the ministry has domesticated the National HIV and AIDS policy AIDS continues to be a threat to education achievements. An impact assessment on HIV and AIDS has been undertaken and the results once disseminated to stakeholders, will inform the policy review.

Child Friendly Schools (CFS)

The school is a significant personal and social environment in the lives of its students. The Government has ensured that the education environments are safe, healthy and protective and are endowed with trained teachers, adequate resources and appropriate physical, emotional and social conditions for learning. It further accepts that schools shall respond to diversity by meeting differing circumstances and needs of children based on gender, social class, ethnicity and level of ability

Special needs institutions

According to the school mapping data set there are 3,464 special needs institutions (38.2% ECDE, 3.4% NFE, 54.1% primary and 4.3% Secondary) in the country with 2,713 integrated institutions and 751

Special Schools. . Among these, there are 10 public secondary schools for learners with hearing impairments, 3 for learners with physical handicaps and 4 for learners with visual impairments making a total of 17 secondary schools for learners with disabilities throughout Kenya. These figures show that access and participation of children with special needs is relatively low across the country.

The emphasis on academic performance and examinations creates an unfavourable learning environment for children with special needs and disabilities and even moderate learning difficulties. This poses a challenge to the integration and inclusion of children with such disabilities in regular schools.

To address these challenges the government A Special Needs Education (SNE) policy framework has now been launched by the government of Kenya. The **policy** addresses how the government will work with stakeholders to transition to an inclusive education approach in line with Education for all by 2015.

Construction of new schools

Further in order to increase access to education 420 new primary schools have been constructed across the country.

Mobile schooling

Mobile schooling is a key strategy in the nomadic areas of Kenya, enabling children to access education even in nomadic lifestyles. To improve the quality of learning, 20 mobile schools have been constructed and equipped with basic learning materials, such as books/

Access to education.

The government has taken steps through the formulation of the education policy to ensure access to education by both the girl and boy child. However, statistics show that although the number of girls enrolling in primary school is on the increase, the trend decreases after completion of primary school and fewer girls enrol in secondary schools. This is due to various reasons such as poverty, early marriages, lack of sanitary pads and in some instances of Female Genital Mutilation

(FGM). The enactment of the Prohibition of Female Genital Mutilation Act, 2011 which criminalizes this practice will go a long way in eradicating the practise.

Early marriages

The Constitution of Kenya forbids harmful cultural practices and prohibits early marriages by directing espouse that marriage will only be between consenting adults.

Provision of sanitary pads to all primary school girls

The Government introduced Free Day Secondary Education in 2008. Since then enrollment has increased from 800, 000 to 1.7 million students in 2012. As a result the transition rate from primary to secondary has risen from 47% in 2003 to 72.5% in 2012 .This is above the UNESCO benchmark of 70%. However despite the remarkable increases in access at primary and secondary school, statistics show that a big proportion of girls are left out. Studies have shown that one of the reasons why girls miss classes or drop out altogether is maturation or the onset of puberty.

It is due to this realization that the Government introduced the sanitary towels programme starting in the financial \year 2011/2012 and expected to be a continuing programme in the subsequent financial years. The Government allocated the Ministry of Education **Ksh. 240 Million** in the Financial Year 2011/2012 for provision of sanitary towels. This will benefit 443,858 girls in public primary drawn from 82 targeted districts.

18. HOUSING

RECOMMENDATION

- i) Facilitate access to housing
- ii) Pursue the implementation of the national programmes for poverty alleviation and living conditions improvement, which will result in improving the life of Kenyan children

PROGRESS MADE

The government has put great emphasis on the right to accessible and adequate housing as enshrined in the Constitution. The Government has

thus developed long term initiatives to improve livelihoods of Kenyans through facilitation of access to affordable and adequate housing in sustainable human settlements.

The housing development initiatives by the Ministry of Housing are currently at different implementation stages, particularly; the Appropriate Building Technology Programme, Slum Upgrading, Civil Servants Housing Scheme, Housing Infrastructure, and Government Estate Management. So far, funding allocation for housing development towards the implementation of mentioned programmes and projects increased to about Kshs.2.3 billion in the financial year 2010/2011.

National Housing Survey

The Ministry constituted the National Housing Survey Joint Steering Committee to spearhead preparations for the National Housing Survey within the 2011/2012 financial year. This is aimed at obtaining the actual statistics to guide sector policies, regulations and development. The survey process is on course with the pilot survey having been undertaken in the months of February and March 2012.

The Housing Bill

A draft Housing Bill has been developed. The objective of the Bill is to provide for the effective coordination, facilitation and monitoring of the housing and human settlements sector; to provide for capacity building within the housing sector; to establish the Kenya Housing Authority and the National Housing Development Fund for the provision of the right to accessible and adequate housing under Article 43(1)(b) of the Constitution.

Utilization of appropriate building materials and technologies (ABTS)

Building materials account for approximately 60% of the total building costs. Ministry of Housing is promoting Appropriate Building Technologies in order to lower construction cost, improve quality of housing, enhance speed of delivery and achieve environmentally friendly constructions. ABTs, more so, Interlocking Stabilized Soil Blocks (ISSBs) can reduce costs by up to 50% of the cost of materials thereby reducing the overall building cost. Utilization of ABTs thus benefits both home owners and investors in terms of huge cost savings. So far, the

Ministry has established one Regional Appropriate Building Technology Centre at Mavoko, 9 Provincial Centres and 52 Constituency Centres. According to Kenya Vision 2030, there will be gradual establishment of Appropriate Building Technology Centres in all Constituencies by the year 2030.

Approved housing sector incentives

The Government has approved a number of incentives, including tax incentives aimed at attracting investment from the private sector. These are intended to further spur growth in the housing sector and to encourage partnerships.

Ongoing Housing Projects

The housing component of Slum Upgrading Programme involves facilitating the slum dwellers to access decent shelter. To this end, Langata decanting site has been developed to allow for relocation of residents in slums to pave way for redevelopment.

The programme had relocated about 1800 households from the Kibera Soweto to Langata Decanting site to pave way for redevelopment. The redevelopment works comprising construction of blocks of flats, 5-storeys high comprising 1,500 No. one, two and three -roomed self-contained housing units and associated physical and social infrastructure was officially launched on 6th March 2012 by the President of Kenya. The works are expected to be completed by August 2014.

Kenya Informal Settlement Improvement Programme (KISIP)

The programme is now at implementation stage having been launched in June 2011. The programme will undertake tenure regularization and installation of social and physical infrastructure in informal settlements in the following towns; Nairobi, Mombasa, Kisumu, Nakuru, Eldoret, Malindi, Naivasha, Kitui, Machakos, Thika, Nyeri, Garissa, Kericho, Kakamega, Embu. A number of consultants have been engaged to undertake preparatory activities before actual implementation starts.

19. POVERTY ERADICATION

RECOMENDATIONS

- i) Pursue the implementation of the national programmes for poverty alleviation and living conditions improvement, which will result in improving the life of Kenyan children
- ii) Continue the implementation of the Vision 2030 strategy, the “kazi kwa vijana” programme and the Constituency Development Fund, and seek the technical and financial assistance it will require to this end ;
- iii) Pursue the implementation of the national programmes for poverty alleviation and living conditions improvement, which will result in improving the life of Kenyan children
- iv) Continue the implementation of the Vision 2030 strategy, the “kazi kwa vijana” programme and the Constituency Development Fund, and seek the technical and financial assistance it will require to this end;
- v) Engage members of the international community and international organisations for capacity building support and technical assistance particularly in the areas of economy, employment opportunity, human resources development and poverty alleviation ;
- vi) Continue to seek the support from the international community in the form of financial or technical assistance in accordance with its national priorities

PROGRESS MADE

Women Enterprise Fund

The Women Enterprise Fund has successfully provided funds to 98,173 women across the country, and continues to train women on entrepreneurship.

Vulnerable households

Over 170,000 poor vulnerable households are benefitting from cash transfer programme (120,000) households under the OVC Programme,

33,000 households under the Older Persons Programme and 14,700 under the Disability Fund).

The Youth Enterprise Development Fund

The Youth Enterprise Development Fund was conceived in 2006 as one of the strategies of addressing youth unemployment. The objectives of the Fund are to provide loans to existing micro-finance institutions (MFIs), registered non-governmental organizations (NGOs) involved in micro financing, and savings and credit co-operative organizations (SACCOs) for on-lending to youth enterprises. It also facilitate investment in micro, small and medium enterprises oriented commercial infrastructure such as business or industrial parks, markets or business incubators that will be beneficial to youth enterprises. The Youth Fund has recorded tremendous achievements since its conception.

By 2012 the Fund had disbursed 5.9 billion shillings to over 157,000 youth enterprises across the country. These enterprises have grown and are employing many Kenyans as well as contributing to the Government exchequer. These efforts have also resulted in the creation of over 300,000 new jobs. Furthermore, the Fund has, with its partners, trained over 200,000 youth in entrepreneurship besides facilitating them with access to markets for their products. It has also helped to integrate thousands of young Kenyans into mainstream financial services. Moreover 6,000 young people have been facilitated to obtain employment outside Kenya through the fund.

Fish farming Enterprise Productivity Programme

The Government through the Ministry of Fisheries Development launched the Ksh1.12 billion programme in the 2009/2010 to construct 200 fish farming ponds in 140 constituencies as a move to reduce poverty through the Economic Stimulus Programme. It also seeks to improve nutrition and create 120,000 employment and income opportunities. The fish farming project has improved nutrition in the country and created over 120,000 employment and income opportunities has been one of the more successful components.

During the 2010/2011 financial year, the Government allocated Sh 2.866 billion for Phase 11 of the Fish Farming Programme. These funds were used in the construction of 300 ponds in an 20 additional constituencies,

and construction of another 100 ponds in 140 constituencies that were under phase 1.

20. HEALTH

RECOMMENDATIONS

- i) Redouble its efforts to save mother and child
- ii) Improve access to reproductive health services for the pregnant women

PROGRESS MADE

The Government launched a Child Survival and development Strategy as an effort to accelerate child survival and provide a framework to improve indicators for children. The strategy is guided by the National Health Sector Strategic Plan II (NHSSP II) and the Vision 2030 Medium Term Plan that aim to reduce inequalities in the health care services and improve on the child health indicators.

In addition, the Ministry of Public and Sanitation has prioritized malaria control through the National Health Sector Strategic Plan (NHSSPII) and mandated the Division of Malaria Control (DOMC) to coordinate the implementation of the National Malaria Strategy. In collaboration with partners, the government has also developed the 8-year Kenyan National Malaria Strategy (KNMS) 2009-2017 which was launched on 4th November 2009.

The National Malaria Strategy covering the period 2009–2017 has been developed in line with the Government's first Medium-Term Plan of the Kenya Vision 2030, Millennium Development Goals, as well as Roll Back Malaria partnership goals and targets for malaria control. The National Malaria Strategy is based on and carries forward an inclusive partnership between the Ministries of Public Health and Sanitation and Medical Services, other line Ministries of the Government of Kenya, development partners and all implementing agencies in malaria control.

Immunization during childhood has been proven to be the most effective strategy for the prevention of many infectious diseases. WHO estimates that as many as 2.5 million deaths among under-5 children worldwide are averted annually by immunization against diphtheria, tetanus, pertussis, and measles. In Kenya, the proportion of children aged 12-23 months that are reported to have received all recommended vaccinations is 77.4% however the proportion varies from region to region where some areas record lower levels of vaccination as compared to others.

North Eastern Province records 48.3% Central province 85.8% and in Nairobi 73% children in this age group are reported to have received the immunizations. However the percentage is lower in the slum areas.

Parental age, marital status, level of education and poor knowledge about vaccinations are significantly associated with completion of the immunization schedule by under-5 children. To mitigate this situation the government has embarked on awareness creation campaigns to train health workers, midwives, and parents on the importance of immunization and breast feeding.

The National Reproductive Health Policy and Strategy

The National Reproductive Health policy was adopted in 2007. The main theme of the policy is to enhance the reproductive health status of all Kenyans by increasing equitable access to reproductive health services; improve quality, efficiency and effectiveness of service delivery at all levels; and improving responsiveness to the client needs.

The overall goal of the Strategy covers the period 2009-2015 is to facilitate the operationalization of the National Reproductive Health Policy through a national multi sectoral approach.

The objectives of the Strategy are to:

- Formulate strategies that will enable the achievement of the goal and objectives of the national reproductive health policy
- Identify priority areas and major implementers of the reproductive health programme
- Identify resource mobilization strategies and facilitate and enhance effective management of a sustainable national reproductive health programme.

21. FOOD

RECOMMENDATION

- i) Ensure equitable distribution of water and food to the entire population especially during the time of drought
- ii) Develop a fertilizer cost reduction initiative
- iii) Introduce high yielding drought tolerant crops
- iv) Increase strategic grain reserve from 4M to 8M bags (90kg)
- v) Increase food reserves

PROGRESS MADE

The Government of Kenya is strongly committed to reducing hunger and malnutrition. This includes efforts to build self-reliance to reduce chronic food insecurity, as well as measures to assist those in need when emergencies occur. Linking relief with longer-term development efforts helps mitigate the potential impact of future emergencies.

The new National Food and Nutrition Security Policy 2011 provides an overarching framework covering the multiple dimensions of food security and nutrition improvement. The broad objectives of the FNSP are:

- To achieve good nutrition for optimum health of all Kenyans.
- To increase the quantity and quality of food available, accessible and affordable to all Kenyans at all times.
- To protect vulnerable populations using innovative and cost-effective safety nets linked to long-term development

Water Harvesting for Crop Production:

The objective of this is construction of water pans and micro-dams for crop production to address food security. Over KES 200 million has been disbursed for the programme has disbursed over KES 200 million and constructed 145 water pans.

Boosting food production through irrigated agriculture projects

The emergency food production project is targeting to increase food production specifically maize and rice to enable the country to be food

secure in the light of the continuing drought condition in the country.

Implementation has been carried out through the 8 schemes:

Bura Irrigation, Hola Irrigation Scheme, Perkerra Irrigation Scheme, Tana Delta Irrigation Scheme, Ahero irrigation Scheme, West Kano Irrigation Scheme, Bunyala Irrigation Scheme, Mwea irrigation Scheme, and the South West Kano Irrigation Scheme.

Promotion of “Orphan Crops”

In Kenya alarm over food insecurity is raised only when there is insufficient maize harvested. The Government has developed strategies to promote cultivation/rearing and utilization of other crops and livestock to increase the food security base. Multiplication and production of orphan crops seeds that perform well even with little moisture, promotion of rearing of such small emerging livestock as ostrich, guinea fowls are examples. Crops under this programme include; cow peas, pigeon peas, Green grams, cassava, sweet potatoes, millets, sorghums, beans and early maturing open pollinated varieties of maize. The programme promotes indigenous crops that can do well across a range of agro-ecological zones including Arid and Semi-arid lands, hence suitable for food security

Land use

The National Land Commission of Kenya was established in 2011 as a constitutional commission. The Commission shall manage land on behalf national and county governments and is expected to ensure that land in Kenya is used in a manner that is sustainable and productive.

22. INDIGENOUS PEOPLE IN KENYA

RECOMMENDATIONS

- i) Implement the recommendations and decisions from its own judicial institutions as well as the African Commission on Human and Peoples’ Rights, particularly those relating to the rights of indigenous peoples

- ii) Implement all recommendations put forward by the Special Rapporteur on the rights of indigenous people following his visit to Kenya in 2007 as well as ratify ILO Convention No.169

PROGRESS MADE

Affirmative action for marginalized groups

The Constitution of Kenya 2010 provides avenues for the pursuit and strengthening of indigenous peoples' personal and collective rights.

It characterizes indigenous people as marginalized and places on the state the duty to address the needs of vulnerable groups within society which includes minorities and marginalized groups and to take affirmative action to redress any disadvantage suffered by individuals or groups in the past. It recognizes traditional communities who wish to preserve their unique culture and identity from assimilation.

The Government is in the process of designing and prioritizing affirmative measures to implement constitutional provisions that relate to marginalized people. In this regard the Government has developed the *National Community Land Bill* to provide a legal framework for the protection of community land in accordance with constitutional imperatives. Further a more in the draft national policy and action plan on human rights the State undertakes to adopt legislative and affirmative action to ensure that minorities and marginalized groups realize all the rights and fundamental freedoms as set out in the Bill of Rights, on a basis of equality, taking into account their identity, way of life, special circumstances and needs

With regard to the Endorois judgment the Attorney General of Kenya and the Ministry of Lands are currently working on the necessary modalities to implement the judgment.

24. CROSS CUTTING ISSUES

RECOMMENDATIONS

- i) Strengthen the capacity of the KNCHR
- ii) Finalize National Policy and Action Plan for Human Rights

PROGRESS MADE

Kenya National Commission on Human Rights

The Kenya National Commission on Human Rights (KNCHR) has been restructured, transformed and established into a constitutional body pursuant to Articles 59 (4) of the Constitution of Kenya (2010) and the Kenya National Commission on Human Rights Act, 2011. The Commission operates independently and its functions include promotion of respect for human rights and it acts as the principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights.

Article 249(3) of the Constitution directs Parliament to allocate adequate funds to enable the Commission perform its work effectively. The budget of the Commission is a separate vote of the consolidated fund. However the challenges are seen in the actual implementation of this section of the constitution because of the competing interests between the KNCHR and other constitutional commissions and independent offices established therein. However the government is committed to ensure that the KNCHR will be allocated adequate funds to facilitate its mandate.

National Policy and Action Plan for Human Rights

The National Policy and Action Plan provides a comprehensive and coherent framework that elaborates broad human rights principles to guide government and other actors in carrying out programmes, strategies and plans that will ensure the meaningful enjoyment of human rights. The Policy and action plan have been submitted to Cabinet for its approval.

CONCLUSION

As can be seen Kenya has made significant progress in the implementation of the UPR recommendations. Various reform measures undertaken to promote good governance, respect for the rule of law and human rights have begun to bear fruit. Government efforts in the area of economic, social and cultural rights have also contributed tremendously to improved quality of lives for our people. An important tool in the

implementation of the recommendations is the National Policy and Action Plan on Human Rights. The policy which will be implemented through a five year action plan focuses on most of the issues raised during the review of Kenya. The Plan outlines specific priority action areas and outcome indicators to measure progress in the realization of human rights. The Plan identifies various state actors and designates specific responsibilities for the realization of particular rights. The Plan will be used by the National and Country governments to consciously mainstream human rights within the government's planning processes.