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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Kenya**


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## **I. Methodology and the broad consultation process**

1. The Office of the Attorney General and the Department of Justice (OAG & DOJ) is responsible for the co-ordination, preparation and follow up of the second review of Kenya under the Universal Periodic Review (UPR). This Report was prepared under the strategic leadership of the Advisory Committee on International Human Rights Obligations (ACGHRO). The Committee, chaired by the OAG & DOJ, is composed of key Government officials, civil society organizations and the independent human rights commissions.

2. An initial consultative meeting of the ACGHRO took place on the 22<sup>nd</sup> November 2013. On the 29<sup>th</sup> November 2013 key stakeholders; state, non state actors and the Office of the High Commissions on Human Rights (OHCHR) had a preparatory meeting on the second UPR review. Government agencies submitted updated implementation status of the recommendations accepted during Kenya's first review. A subcommittee constituted to collate the information, prepared a draft report. This was validated in a forum attended by all key stakeholders on 13<sup>th</sup> October, 2014. This report is the outcome of broad consultations between various organs in and outside government.

## **II. Normative and institutional framework**

### **Constitution**

3. The most significant achievement since the first UPR was the promulgation of a new Constitution on 27<sup>th</sup> August, 2010, voted in by over 67% of Kenyans in a referendum. The rights based Constitution ushered in a stronger constitutional, legal and institutional framework for the advancement of human rights in Kenya. Chapter Four of the Constitution embraces a progressive and more expansive Bill of Rights, which applies to all law and binds all state organs and all persons. Every state organ is required to observe, respect, protect, promote and fulfil all the rights and fundamental freedoms in the Bill of Rights. The Bill of Rights provides for the progressive realization of socio-economic rights; including the rights to accessible and adequate housing, clean and safe water, social security, emergency medical treatment, freedom from hunger, and right to adequate food.

4. Article 10 establishes national values and principles of governance, such as, equality, non discrimination, protection of the marginalized, social justice, rule of law, accountability and participation of the people, which bind all state organs and all persons and must be incorporated in all matters of governance. Other Constitutional provisions that have a great impact on how human rights are enjoyed in the country include those on: land, nationality and citizenship; devolved system of government which enhances participation of people in development, protection of minorities and marginalized communities, and equitable sharing of resources.

5. In line with Constitutional provisions several strong institutions have been established to safeguard and uphold the principles of democracy and human rights, These are: the Kenya National Commission on Human Rights (KNCHR), the National Gender and Equality Commission (NGEC), the Commission on Administration of Justice (CAJ), the Independent Electoral and Boundaries Commission (IEBC), the Ethics and Anti Corruption Commission (EACC), the Independent Police Oversight Authority (IPOA) and the independent Office of the Director of Public Prosecution (ODPP).

6. The doctrine of separation of powers is enshrined in the Constitution. The National Executive comprises the President, the Deputy President and the Cabinet. Article 93(1) establishes Parliament composed of the National Assembly and Senate. The National

Assembly is made up of 290 elected members, 47 women and 12 nominated members representing special interests including the youth, and persons with disabilities, and the Speaker. Senate consists of 47 elected members, 16 nominated women, 2 members representing the youth and 2 members representing persons with disabilities and the Speaker.

7. The Constitution provides for a judiciary that is adequately empowered to uphold the supremacy of the Constitution, enforce respect for human rights and ensures that legislation and government actions are in line with its provisions. Judicial reforms undertaken in the last few years have seen major improvements in the administration of justice, further leading to enhanced access to justice for the people. Kenya also has vibrant civil society organizations who continue to make meaningful contribution to the promotion and protection and monitoring of human rights.

## **Legislation**

8. In order to safeguard human rights and fundamental freedoms, the following fundamental legislation is in place: National Police Service Act of 2011, Leadership and Integrity Act 2012, Independent Police Oversight Authority Act 2012, National Police Service Commission Act 2011, Kenyan Citizenship and Immigration Act No. 2 of 2011, The Land Acts, The Matrimonial Properties Act, 2014, Prohibition of Female Genital Mutilation Act, 2011, The Counter Trafficking in Persons Act, 2010, The County Government Acts, the Political Parties Act 2011, the Elections Act 2011, Judicial Service Act, 2011, Environment and Land Court Act, 2011, Basic Education Act 2013, Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012, the three Human Rights Commission Acts passed in 2011, and the Victims Protection Act 2014.

9. Other key legislation that must be enacted in the next one year include: the Persons Deprived of Liberty Bill 2012, Promotion of Representation of Marginalized Groups (2015) and the Community Land Bill (2015).

## **Jurisprudence**

10. The Courts in Kenya have delivered a number of important judgments that have directly invoked both the Constitutional provisions and International human rights instruments that Kenya is a state party to, to uphold different rights including economic, social and cultural rights. Decided cases on these can be obtained from [kenyalaw.org](http://kenyalaw.org).

## **Policies**

11. Since 2010, the Government has formulated policies to enhance the enjoyment of rights for the people of Kenya and make the Bill of Rights a reality for the majority. These include: the National Policy and Action Plan on Human Rights, the Kenya National Youth Policy, the National Gender and Development Policy, the Kenya Education Policy, National Special Needs Education Policy, the HIV/AIDS Policy, the National Disability Policy, Kenya National Social Development Policy, the Mental Health Policy, Population Policy for National Development, the National Wildlife Conservation and Management Policy, the National Food Security and Nutrition Policy and National Policy on the Abandonment of Female Genital Mutilation.

### III. Promotion and protection of human rights: Status

12. **Implementation of international human rights obligations:** Kenya is committed to implementing its domestic and international obligations arising from the human rights treaties that it has ratified. The Government has implemented most of the recommendations accepted during its first review under the Universal Periodic Review (UPR).

13. **Reporting:** Kenya has also continued to submit timely and comprehensive reports to the UN Human Treaty Bodies and Committees for the various treaties it has ratified. Since the review, Kenya has submitted the following periodic reports: initial to fourth report on the International Convention on Elimination of Racial Discrimination, third report on the International Covenant on Civil and Political Rights, second report on the Convention against Torture, and Other Cruel Inhuman and Degrading Treatment or Punishment, second to fifth report on the International Covenant on Economic, Social Cultural Rights, initial report on the United Nations Convention on the Rights of Persons with Disabilities and the 3<sup>th</sup>, 4<sup>th</sup> and 5<sup>th</sup> report on the Convention on the Rights of the Child. Concluding observations by various treaty bodies have been disseminated widely and implemented to a large extent.

14. **NHRI activities:** The National Human Rights Institutions, the Kenya National Commission on Human Rights, the National Gender and Equality Commission and the Commission on Administration of Justice play a major role in the promotion, protection and monitoring of human rights in Kenya. The institutions provide critical advisories to the state on various human rights issues and play a critical role in moving the country towards becoming a more human rights respecting state. They are involved in numerous activities in the human rights arena, which augment government efforts. These include civic awareness, training on various human rights issues and partnering with government to ensure a meaningful realization of rights. The Kenya National Integrated Civic Education programme was developed by Government in partnership with Religious organizations, Civil Society Organizations and the Private Sector to facilitate an integrated and comprehensive countrywide civic education delivery on the Constitutional provisions including the Bill of Rights.

15. **Voluntary Commitments and pledges:** In line with its pledges and commitments made in support of its candidature to the Human Rights Council in 2012, Kenya continues to uphold human rights as universally shared principles and norms as enshrined in the United Nations Charter, the Universal Declaration of Human Rights and other relevant international human rights instruments. In this connection major steps have been taken to develop various mechanisms to uphold the principles of equality, social harmony, tolerance and non-discrimination, access to justice, including upholding the rights of children, women, minority groups, disabled and disadvantaged groups.

16. **Cooperation with Human Rights mechanisms:** Kenya continues to cooperate fully with the United Nations human rights special procedures mandate-holders. It has since the last report honoured the request by all Special Rapporteurs to visit Kenya to monitor treaty implementation.

### IV. Progress made in the follow-up to the previous review

17. Kenya accepted one hundred and forty nine recommendations during its first review in 2010. The following part of the report provides highlights the implementation status of the accepted recommendations. The recommendations are clustered into broad thematic areas following agreement between the Government and the other UPR stakeholders.

## A. Judicial reforms

18. The Taskforce on Judicial Reforms report of July 2010 made wide-ranging recommendations aimed at revamping and restructuring the Judiciary to guarantee the efficient, effective and transparent administration of justice. The Government has largely implemented all the recommendations of the Task Force which were in line with the UPR recommendations. The new Constitution has also resulted in the adoption of critical legislation and administrative measures that have significantly 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.

19. The Judiciary, through the Judiciary Transformation Framework 2012-2016, has put in place various strategies to enhance access to and the expeditious delivery of justice. Positive outcomes have been recorded and include: an increase in the number of judges; building of additional courts; introduction of mobile courts; reduction of judicial services costs; establishment of an effective public information system on courts' jurisdiction fees, calendar and a litigant's charter.

20. Other measures already taken include: the establishment of the Office of Court Counsel in each court to assist litigants representing themselves on court procedures; simplified court procedures; and establishment of customer care desks at every court station. The Judiciary has also set up special courts for children and other vulnerable groups. Plans are at an advanced stage to set up Small Claims Courts and Courts of Petty Offenders. Most revolutionary, the Judiciary has put in place mechanisms to promote and facilitate Alternative Dispute Resolution.

21. The Judges and Magistrates Vetting Board was established by the Judges and Magistrates Vetting Board Act of 2011 to vet the suitability of all the Judges and Magistrates, who were in office on the effective date of the new constitution of Kenya, to continue to serve in accordance with the values and principles set out in the constitution. All judges and Magistrate not found suitable have the right of appeal to the High Court.

22. Massive investment in growing technological, organizational, institutional and human resource capabilities have raised efficiency in the Judiciary. Other key reform measures include: the establishment of the National Council on the Administration of Justice, which creates a unified justice sector that serves the people while upholding the values of collective responsibility, inter-dependence, service, constitutionalism and mutual accountability.

## B. Police reforms

23. The Government has made considerable progress in implementing the recommendations of the National Taskforce on Police Reforms, which was established in 2009. Several key pieces of legislation have been enacted to provide a framework for the reform and transformation of the Police Service in Kenya. These are: The National Police Service Commission Act 2011; The National Police Service Act 2011; and the Independent Policing Oversight Authority Act 2011. The creation of the Independent Policing Oversight Authority (IPOA), for example, provides critical civilian oversight over the Police Service. The laws further establish a framework for compliance with strict Constitutional and international standards of human rights and fundamental freedoms by the police. All police officers are currently undergoing a vetting process against set criteria on professionalism, integrity, track record of performance and psychological fitness. To date 196 police officers have been vetted. More than 17,000 police officers have been trained and

sensitized on the prevention of torture and other ill treatment and on various national and international frameworks that prohibit the use of torture.

24. All complaints against the police on human rights violations are investigated and prosecuted where culpability is determined. The Internal Affairs Unit is responsible for investigating police when complaints on human rights violations have been made. However, IPOA also considers complaints of police misconduct from the public. Where investigations show that a police officer has a case to answer the matter is referred to the Office of the Director of Public Prosecution. The National Coroners Service Bill 2011 has been prepared and further strengthens the investigations of deaths caused by violent criminal acts, extra-judicial killings, or deaths in prison or police custody.

### **C. Prisons reforms**

25. The Persons Deprived of Liberty Bill 2014 is one of the Constitutional bills currently pending before the National Assembly. The Bill, entrenches the various reforms introduced in the Prisons department, creates stiff penalties for those who subject persons deprived of liberty to cruel, inhuman or degrading treatment or punishment. Since the implementation of prison reforms began in 2008 much progress has been realised particularly in the rehabilitation of inmates, housing, healthcare, transport and general welfare of both staff and prisoners. 11 additional prisons have been constructed since 2010 and all old prisons have been and are continuously being refurbished. All (55,000) prisoners have been provided with new uniforms and a balanced diet, toilets facilities have been improved in all prisons, all female 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. The Judiciary and the Probation Department have played a huge role in reducing congestion in prisons through the use of non – custodial sentences.

26. 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 counsellors are hired to support the human rights programmes in the prisons.

### **D. Protection and empowerment of women**

27. In Kenya, gender inequalities are manifested in terms of disparities in basic rights, in access to and control of resources, in employment, and in political voice. The new Constitution provides important affirmative action measures to ensure gender equity and equality in Kenya. The Supreme law prohibits discrimination of any individual on any grounds. Article 60 provides that the principles of land policies shall include the elimination of gender discrimination in law, customs and practices related to land and property in land. Article 45(3) of the Constitution guarantees both parties equal rights in marriage. In addition, not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Article 232 (1) accords adequate and equal opportunities for both men and women in the appointment, training and advancement at all levels of public service. These provisions bode well for Kenyan women who, historically, have been disempowered by cultural and societal dynamics.

28. To fill the women's minimum quota, the Constitution reserved 47 women seats in the National Assembly and 16 nominated seats in the Senate. After the country's general election in March 2013, only 16 women were elected as MPs. None of those that vied for the governor or senator positions won. Nevertheless, the number of women in the eleventh Parliament has increased significantly due to the Constitutional provisions on reserved seats.

29. Other affirmative action measures adopted to safeguard women empowerment include:

(a) The Public Procurement (Preference & Reservations) (Amendment) Regulations which reserve 30 per cent of all government contracts for women, the youth, and persons with disabilities without competition from established firms. The Uwezo Fund was then set up by His Excellency, the President to enable women and youth access to grants and interest-free loans to take advantage of the 30% share.

(b) The Land Act (No. 12 of 2012) and the Land Registration Act (No. 3 of 2012) increase women's access to land ownership and use, through inheritance and through personal acquisition.

(c) Kenya enacted the Prohibition of Female Genital Mutilation Act (No. 32 of 2011) to prevent and punish FGM which is practiced by a few communities in the country.

(d) The Matrimonial Properties Act 2013 guarantees equality for married men and women in dealing with matrimonial property in terms of right to ownership, access, control and disposition of matrimonial property.

(e) The Political Parties Act 2011 contains gender equality safeguards to enhance the participation of women in politics and bridge the gender gap. The Code of Conduct under the Act directs parties to respect and promote gender equity and equality, human rights, and fundamental freedoms, as well as practice tolerance and inclusive political activities.

(f) The Electoral Code of Conduct 2011 establishes a level playing ground for candidates in competitive elections. It sets out provisions that promote an atmosphere and culture of tolerance, courtesy and respect, all of which are beneficial to women's engagement in politics.

## E. Transitional justice

30. **The Truth, Justice and Reconciliation Commission (TJRC):** The Final Report of the TJRC was published in the Government's Kenya Gazette on June 7, 2013. In December 2013, the National Assembly debated and passed an amendment to the Truth, Justice and Reconciliation Commission Act, to effectively allow the National Assembly to consider the recommendations. An inter Agency Committee has been appointed to examine the recommendations and determine the nature and extent of the implementation framework.

31. **Internally Displaced Persons:** 663,921 people (245,416 households) were displaced during the post election violence of 2008. Out of these, 350,000 individuals were persuaded to return to their farms and offered various modes of assistance, including start up capital, reconstruction of burnt houses, schools and the provision of farm implements. 8,754 households were resettled on Government procured land measuring 20,631 acres. 817 IDP households were paid Kshs. 400,000 each to restart their lives. 397 Kenya IDPs in Uganda have been persuaded to return home leaving a balance of 243 households in Uganda. During the financial year 2014/2015, the State Department of Devolution was allocated Kshs. 705 million for the following activities: construction of more houses for IDPs; surveying, balloting and allocation of land to individual IDPs. The resettlement of IDPs has however been slowed by a number of factors, including; the fact that the original profiling failed to capture all deserving IDPS, the lack of adequate budgets and personnel to deal with internal displacement have over the years. The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012, establishes a rights-based response to internal displacement. It establishes a fund that is

channelled towards food, housing, medical supplies and grants for IDPs to help them restart their livelihoods. The National Policy on the Prevention of Internal Displacement, Protection and Assistance to Internally Displaced Persons (IDPs) in Kenya offers further protection.

32. **Refugees:** Kenya continues to uphold its international obligations with respect to refugee protection, currently hosting a large number of refugee population of in the Dadaab and Kakuma refugee camps. Furthermore, Kenya has entered into a tripartite agreement with Somalia and the United Nations High Commissioner for Refugees (UNHCR) to facilitate the voluntary repatriation of refugees to Somalia. In light of the changes occasioned by the Constitution, the government is currently reviewing refugee legislation and has proposed The *Refugees Bill, 2014* which provides protection to asylum seekers, refugees and their families of refugees from discrimination upon entering Kenya.

33. **Cooperation with the ICC/Special Tribunal:** A bilateral agreement between Kenya and the Court signed in 2010 has been implemented to the letter and has undoubtedly facilitated the Court in the discharge of its mandate in the Country.

## **F. Protection of human rights defenders and witnesses**

34. The Government appreciates the role played by human rights defenders and civil society organizations in the country. Any defender whose rights have been violated should promptly record a complaint at a police station to facilitate investigations. In addition, the Independent Police Oversight Authority provides another avenue where defenders can report any grievances that they may have against the police. With regard to the protection of witnesses, we now have an independent Witness Protection Agency.

## **G. Prevention of torture**

35. The Constitution provides strong safeguards for the prevention of torture and other cruel, inhuman and degrading treatment in accordance with international human rights standards. The National Police Service Act, 2011 criminalizes torture and other cruel, inhuman and degrading treatment or punishment committed by the police. The Prevention of Torture Bill, 2014 was prepared to provide the necessary legal framework for the prevention, prohibition and punishment of acts of torture and ill-treatment in line with the UN Convention against Torture. The Persons Deprived of Liberty Bill, 2014 was tabled before the National Assembly on 25 July 2014. This is one of the Constitutional time bound laws. The Bill gives effect to Constitutional provisions on the rights of those detained, held in custody or imprisoned.

36. The training curriculum for police officers has been reviewed and now incorporates practical training on respect for human rights, including the prohibition of torture and ill treatment. All the police recruits since 2011 have gone through human rights training.

37. The Children Act (Amendment Bill) proposals include the prohibition of corporal punishment and any cultural practice, which has the effect of dehumanizing or is injurious to the physical and mental well being of the child.

38. Gender Violence Recovery centres have been opened in major public hospitals across the country to deal with matters of gender violence. The Victim Protection Act, 2014, provides for reparation and compensation to victims and special protection for vulnerable groups.



## H. Anti corruption

39. The Government has identified corruption as a major challenge to the respect, protection and fulfilment of human rights in the country. The Kenya Constitution 2010 has established a high threshold and foundation for integrity, ethics and accountability. Specifically, Chapter Six sets high standards of integrity expected from leaders and public officers. A number of laws have been enacted to operationalize and give effect to the requirements under this Chapter. Notable among these is the Ethics and Anti-Corruption Commission Act, 2011 which establishes the Anti-Corruption Commission with a mandate to combat and prevent corruption and promote ethics and integrity.

40. The Office of the Director of Public Prosecutions and the Judiciary have specialized units for the prosecution and adjudication of corruption and economic crime offences. The Leadership and Integrity Act 2012 provides a framework for enforcing and ensuring compliance with chapter six of the Constitution, while the Anti-Corruption and Economic Crimes Act provides for the investigation and punishment of corruption and economic crime offences. Under this legal and institutional framework, the country has investigated and prosecuted hundreds of cases involving corruption and economic crimes and violation of ethical requirements for state and public officers. It has also recovered and repatriated stolen and illegally acquired public assets worth millions of dollars. Between 2011 and 2014, the Ethics and Anti-Corruption Commission recovered illegally acquired public assets valued at over Kshs. 2.5 billion, (approximately USD 30 million) and further averted a loss of public assets valued at Kshs. 62 billion (approximately USD 730 million) through disruptive investigations and interventions. The Office of the Attorney General has prioritized the establishment of a whistleblower protection regime in the fight against corruption.

## I. Freedom of information and freedom of expression

41. **Freedom of Information:** The Constitution recognizes the people's right to information and the state's duty to provide information to those who seek it. The Freedom of Information Bill 2014 and the Data Protection Bill 2013 have been drafted and are currently undergoing stakeholders' analysis. The draft laws elaborate progressive freedom of information principles, incorporating a broad definition of the right to information, the duty to disclose information stemming not from public ownership but from its public functions, the right to seek information from private bodies, a clear and simple procedure for accessing information that takes into account language barriers and imposes minimal costs, a comprehensive proactive disclosure regime, public accountability for information officers and the protection of whistleblowers. Once enacted the laws will promote transparency and accountability in the management of public affairs and help Kenyans actively participate in the decision-making process. The Kenya Open Data Initiative was established in 2012 and is the first of its kind in sub-Saharan Africa. The Initiative provides government data and statistics, in digital form, published on the internet and is accessible to all.

42. **Freedom of Expression:** The Government was requested to review its national laws on freedom of expression so that it complies with international law. In this regard, The Kenya Information and Communication Amendment (KICA) Act and the Media Act 2013 have been reviewed and enacted. The laws are currently the subject of Constitutional petitions in court.

## **J. Open invitations to special procedures**

43. Kenya continues to cooperate fully with human rights special procedures and mandate-holders from the United Nations and African human rights system. It has since the last report honoured several requests by Special Rapporteurs to visit Kenya to monitor treaty implementation. Such requests are however facilitated on the basis of timely communication and coordination with the relevant Government ministry or department. Some of the rapporteurs who have visited Kenya within the period under review, include the UN Special Rapporteur on the human right to safe drinking water and sanitation and Ms. Catarina de Albuquerque and the United Nations Special Rapporteur on human rights of Internally Displaced Persons, Chaloka Beyani. At the regional level, the government has similarly hosted the African Court on Human and Peoples Rights (AfCHPR) for a sensitization meeting and hosted an Extra-Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR).

## **K. Non discrimination measures since the review**

44. The National Gender and Equality Commission spearheads processes to promote equality and freedom from discrimination in accordance with Article 27 of the Constitution. The Kenya Citizenship and Immigration Act, 2011, addresses certain issues of discrimination that were a matter of concern in earlier legislation on immigration matters. The Law now allows women to transfer citizenship to their spouses and children. The Act contains provisions for the registration of all stateless persons. A vetting board whose key task is to ascertain the situation on the ground as regards stateless individuals in Kenya and in collaboration with the government work out practical solutions to address the same. The greatest challenge facing the problem of statelessness is the lack of awareness of existing structures.

## **L. Protection of children**

45. The Constitution embraces internationally acclaimed principles on the rights of children, such as best interests of the child, paramount in every matter concerning children. The Children Act (Amendment) Bill proposes various amendments to align its provisions with the Constitutional provisions. It expands the realm of punishable offences to include the prohibition of any treatment, including cultural practices which dehumanize or injure the physical and mental well being of the child. The Constitution sets the minimum age of marriage at 18 years. 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. The Marriage Act 2014 imposes a mandatory minimum marriage age of 18 years for both parties to a marriage whether Islamic or customary. The Family Protection Bill, 2014 adopts provisions for the protection and relief of victims of domestic violence including children.

46. Sexual exploitation of women and girls in Kenya is a matter of concern and a child protection issue which requires a holistic and integrated approach. The main legislative framework to curb sexual offences is the Sexual Offences Act of 2006. The Office of the Attorney General and Department of Justice has formulated a Reference Manual that expounds the Act as well as sets standards and recommendations on best practices to various key service providers. In 2014, The Chief Justice published Sexual Offences Rules of Court, 2014 which address the plight of victims and witnesses during the prosecution of sexual offences.

47. Kenya's National Plan of Action (NPA) for Combating Human Trafficking 2008-2013 focuses on prevention, awareness raising, victim protection, legislative reform, law enforcement co-operation, training and exchange of information. A Counter – Trafficking in Persons Advisory Committee has been established and operationalized. Other policy frameworks in the pipe line include the draft Child Labour policy and the Social Protection Policy.

## M. Persons with disabilities

48. The Constitution prohibits any form of discrimination against all persons in any setting. This is the same position held by the Employment Act and the Persons with Disabilities Act, 2003. Section 13 of the Act creates a 5% reservation of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities. The Government is committed to ensuring the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities as is provided for under Article 54(2) of the Constitution. Article 100 of the Constitution provides for the enactment of legislation to promote the representation in Parliament for marginalized groups which includes persons with disabilities, by 2015.

49. The Government has in place several programmes to assist persons with disabilities secure employment. The National Council of Persons with Disabilities undertakes placements for persons with disabilities in Government institutions and private organizations. The retirement age for persons with disabilities in public service is pegged at 65 years while that for other public employees is 60 years. Furthermore, it is government policy to mainstream disability issues in the public sector and all Government Ministries are required to report annually on specific disability mainstreaming indicators in their performance contracts.

50. The National Development Fund for Persons with Disabilities under Section 32 of the Persons with Disabilities Act (Cap 133, Laws of Kenya) was made fully operational in 2010 with an allocation of KES 200 million. This fund provides financial support to people with disabilities and their families. The Fund is used to provide assistive devices and services that improve mobility and access including wheelchairs, crutches, surgical shoes, hearing aids, white canes and educational assistance such as scholarships. In April 2011, the Government commenced a cash transfer system for persons with severe disabilities targeting 10 households in every constituency. Persons with Disabilities are also exempted from the payment of income tax pursuant to Section 12 (3) of the Persons with Disabilities Act which enables them to secure additional disposable income.

## N. Others / Cross-cutting recommendations

51. **Strengthen the Kenya National Commission on Human Rights:** The Kenya National Commission on Human Rights (KNCHR) is an independent Constitutional Commission to ensure human rights standards are closely adhered to in the Kenya. The budget of the Commission is a separate vote on the consolidated fund.

52. **Establish an Independent Witness Protection Agency that is free of political influence:** The Witness Protection Act, 2008 as amended by the Witness Protection Amendment Act, 2010 establishes an independent and autonomous Witness Protection Agency.

53. **Finalize the National Policy and Action Plan on Human Rights:** A National Policy and Action Plan on Human Rights has been finalized and adopted by Cabinet in

2012. The Policy now known as Sessional paper No. 3 of 2014 is due for publication and tabling before Parliament.

54. **Civil society organizations (CSO):** Kenya has very vibrant and active civil society organizations, which play an important role in monitoring the observance of human rights in the country. They also partner with government in developing national development policies and implementation processes. The Public Benefits Organisations (PBO) Act was enacted in 2013 to provide for the establishment and operations of public benefits organisations, also known as non-governmental organisations (NGOs). It is a regulatory framework that is expected to enhance accountability and transparency in the sector.

## **O. Ratification of human rights treaties and optional protocols**

55. The Government is in the process of operationalizing the Office of the Registrar of Treaties as established by the Treaty Making and Ratification Act, 2012 and other mechanisms that will facilitate the ratification of treaties and protocols in Kenya in accordance with the Constitutional provisions.

## **P. Abolition of the death penalty**

56. Soon after the country's first review in 2010, the Government in collaboration with the Kenya National Commission on Human Rights and other stakeholders begun discussions on how to raise public awareness regarding the abolition of the death penalty, among Kenyans. However the process has faced challenges due to the lack of financial resources to effectively carry out the awareness countrywide.

## **Q. Water**

57. Kenya is a water scarce country and therefore the Government has made considerable efforts to promote water governance in the country in order to enhance access to water and clean sanitation. The constitution safeguards the rights to clean and safe water and in adequate quantities. The legal and policy regime governing the right to water are undergoing review in order to bring their provisions in conformity with the Constitution:

- The Water Bill 2013 provides for the efficient management of water resources and development of water and sewerage services.
- The draft National Water Policy- on access to clean and safe water of a sufficient quantity.
- Water master plan -The water master plan for the conservation and sustainable management of water catchment areas was developed by the Ministry of Environment and Mineral Resources to implement constitutional provisions on the rights to water and realize the Vision 2030 development goals. The plan elaborates comprehensive strategies for the alleviation of the effect of low water levels during the dry seasons.

58. Some significant initiatives to improve access particularly in arid areas and semi arid areas include, completion of the Maruba Dam in Machakos with water storage capacity of 2.4 million cubic metres and treatment capacity of 5,000 million cubic metres, serving a population of 100,000 people. In Nairobi, Sasumua Dam has been rehabilitated, restoring 16 million cubic metres of water and substantially reducing the water shortage in Nairobi. In Nakuru, Olbanita Water project has been completed, benefitting residents of Nakuru and

its surroundings. Kisumu Water Supply Project to double the supply of water to Kisumu residents is complete and will soon be commissioned.

59. In addition, 900 small dams and water pans have been constructed mainly in ASAL areas, resulting in additional water storage of 17 million cubic metres. More than 100 boreholes were drilled and equipped in 2010, enabling 300,000 more people to access clean water in various parts of the country. Four medium sized multi-purpose dams – Kiserian in Kajiado, Umma in Kitui, Chemasusu in Koibatek and Badassa in Marsabit are under construction and expect to be completed before the end of this year. Construction of a further 16 medium sized dams is planned under the MTP with a storage capacity of 405 million cubic metres. Four other large dams are also planned for under the long term to be completed by 2015. This will have an additional capacity of 2.8 million cubic metres.

60. Proposed policies include the Draft National Irrigation Policy 2012, Draft Water Storage Policy, Draft Trans-boundary Water Policy and the Draft Land Reclamation Policy 2012.

## **R. Food**

61. The Government of Kenya is committed to reducing hunger and malnutrition. The National Food and Nutrition Security Policy 2011 provides an overarching framework covering the multiple dimensions of food security and nutrition improvement. Over reliance on rain fed agriculture production is blamed for pushing food prices beyond the reach of majority of Kenyans. To address this situation, the Government has expanded and rehabilitated the areas under irrigation from 119,200 ha in 2008 to 153,800 ha in 2012. In the Tana Delta alone, 4,654 hectares were expanded for irrigation; Bura-3238 ha in 2012 from 809 ha in 2008; Hola-1416 ha in 2012 from 0 ha in 2008. The launch of the million-acre Galana/Kulalu irrigation scheme in the Coast region on the 9<sup>th</sup> in January 2014 set in motion an ambitious project to eradicate food insecurity by boosting production by breaking away from rain fed agriculture.

62. The Ministry of Agriculture, Livestock and Fisheries has various projects in place in a bid to address food security challenges. They include; The Promotion of Urban and Peri-Urban Agriculture and the synchronization of input supplies (Fertilizers and Seeds) with the production period Small Holders Market Development Projects in Livestock and Horticulture. Other initiatives include: Water Harvesting for Crop Production: Boosting food production through irrigated agriculture projects, Promotion of “Orphan Crops”, effective land use to ensure that land is used in a manner that is sustainable and productive.

## **S. Education**

63. The Government has made tremendous progress in providing universal access to education. However there has been concern on the quality of education in Kenya. To improve quality of education and ease the financial burden on many households with school going children, the allocation for free tuition in secondary schools has been increased by 33 percent to KSh.28.2 billion in the 2014/ 2015 fiscal budget. Allocation for free primary education has also been increased by the same percentage to KSh.13.5 billion. This is a major step towards ensuring that primary schooling and secondary education is truly free within the next three years.

64. During the current financial year, KSh.2.3 billion has been provided for the school feeding programme and KSh.400m for sanitary towels to ensure that no child misses out on school due to poverty. The Njaa Marufuku (No Hunger) Project is being spearheaded in schools in the Arid and Semi Arid Areas.

65. To further improve the quality and accessibility of education to all school going children a comprehensive e-learning program remains a priority to the Government. Towards this, a total of KSh.17.4 billion has been set aside for e-learning, including laptops for children, building capacity of teachers and rolling out computer laboratory for class 4 to class 8 in all schools throughout the country.

66. The Government has enacted legislation and formulated various policies in recent years to guide the provision of education at different levels in the country. These frameworks reflect the aspirations of the Constitution of Kenya:

- The **Basic Education Act (No 14 of 2013)** regulates the provision of basic education and adult basic education in the country. It also clarifies the roles of the National and County Governments in education as set out in the fourth schedule of the Constitution. It also includes Adult and Continuing Education.
- The **Universities Act (No 42 of 2012)** sets the framework for higher education reforms which includes the incorporation of private universities into the selection body that picks State-funded students to both public and private universities.

The following policies have already been developed:

- The **Policy Framework for Education and Training formulated in 2012** guides reforms in the education sector. The Policy's recommendations, which cut across the entire education sector, have largely been implemented through the development of policies and strategies to address; institutional reforms, the management and financing of education, the curriculum, teacher education, development and management, and strategies for bringing digital technology within the reach of every Kenyan child.
- The **National Special Needs Education Policy Framework** designed by the Ministry of Education in 2009 addresses some of the critical issues which determine delivery of quality and relevant education to learners with special needs. It also addresses issues of equity and improvement of learning environments in all schools. This ensures that inclusive education is a reality and consequently improves the participation and involvement of people with special needs in national development in general.

67. To improve availability of opportunities for education, the Government has supported the construction and rehabilitation of existing facilities and provision of boarding and mobile schools in arid and semi-arid areas.

## T. Housing

68. The Government of Kenya has committed itself to ensuring the right to adequate housing through a number of policies, legislative and programmatic interventions. These include: the National Housing Policy currently under review to reflect the new Constitutional imperatives on the provision of adequate, affordable and quality housing in sustainable human settlements; the Draft National Slum Upgrading and Prevention Policy which provides for better housing particularly for youth and women; the Draft National Building and Maintenance Policy to ensure that all Kenyans and more so Persons with Disabilities have access to better housing facilities. The policy ensures a consistent approach to the maintenance of the built environment to safeguard health, safety, environmental standards, convenience and comfort of users.

69. Legislative interventions on housing include: The Eviction and Resettlement Procedures Bill 2012 which proposes better protection, prevention and redress against forced eviction for all persons occupying land including squatters and unlawful occupiers

and the Housing Bill, the Built Environment laws and regulations currently under review. The Housing Bill seeks to provide for the effective coordination, facilitation, capacity building and monitoring of the housing and human settlement sector while the Built Environment Bill seeks to manage the way buildings are constructed so as to ensure safety and quality.

70. Other interventions include development of a framework of incentives to encourage the private sector to invest in affordable, quality housing; the introduction of appropriate cost effective building technology, such as the Interlocking Stabilized Soil Blocks (ISSBs), which can reduce costs by up to 50% of the cost of materials and the rolling out of the slum upgrading programme. To this end, Langata decanting site has been developed to allow for relocation of residents in informal settlements to pave way for redevelopment. About 1800 households from the Kibera Soweto have been relocated.

## U. Poverty alleviation

71. Poverty is one of the most significant challenges facing Kenya today. It is most evident in a significant percentage of the population experiencing difficulty in accessing health care, facing food shortages, high levels of unemployment and underemployment, lack of access to education, land, water and housing. The section of the population hardest hit by poverty comprises women, unemployed youth, orphans and people with living disabilities. The Kenya Vision 2030 goal for equity and poverty elimination is to reduce the number of people living in poverty to a tiny proportion of the total population. Steps taken to alleviate poverty in the country include:

- **Establishment of Credit facilities:** The Government is building on the on-going youth and women support initiatives to further encourage entrepreneurship, innovation and creativity of the young people. Skills development and access to credit are given priority to enable this group to be the dynamic drivers of growth and employment creation. There is expansion of credit access so as to afford the financial capability to pursue entrepreneurial opportunities and scale up their small businesses. The Uwezo Fund, Youth Enterprise Development Fund and Women Enterprise Fund have been rationalized into an efficient and well capitalized Funds to sustain the ever growing demands of our youth and women. In the 2014/2015 period KSh.300 million has been disbursed to the Youth Enterprise Fund, KSh.200 million for operations of the already established Ksh. 6 billion, Uwezo Fund and KSh.200 million for the Women Enterprise Fund.
- **Cash transfers:** Over 170,000 poor vulnerable households are benefitting from cash transfer programme (120,000) households under the Orphans and Vulnerable Children Programme, 33,000 households under the Older Persons Programme and 14,700 under the Disability Fund.
- **Fish farming Enterprise Productivity Programme:** The Government 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. The fish farming project has improved nutrition in the country and created over 120,000 employment and income opportunities. During the 2010/2011 financial year, the Government allocated Ksh 2.866 billion for Phase 11 of the Fish Farming Programme. These funds were used in the construction of 300 fish ponds in 20 additional constituencies, and construction of other 100 fish ponds in 140 constituencies that were under phase 1.
- **Fertilizer subsidies:** Agricultural production in Kenya has been hampered by high costs of inputs such as fertilizer. The Government has intervened through bulk

procurement of 40 per cent of conventional food crop fertilizer requirements and then selling it to farmers at subsidized prices.

- **The Constituency Development Fund** initiative has improved development projects and services at local levels, including increasing access to clean water through piped water or boreholes, improving education facilities, supporting community cattle rearing and pastoralist livelihoods. In addition, in order to support development and create jobs at the local level, KSh. 28 billion has been allocated for the Constituency Development Fund (CDF) and another KSh.2.03 billion for affirmative actions for social development. These together translate to an average of Kshs 100 million per constituency for various projects that impact directly on the lives of our people.

## V. Health

72. The National Reproductive Health Policy, 2007 is the main policy framework to enhance the reproductive health status of all Kenyans by increasing equitable access to reproductive health services; improving quality, efficiency and effectiveness of service delivery at all levels; and improving responsiveness to the client needs. The National Reproductive Health Strategy, 2009-2015, was formulated to enable the achievement of the goal and objectives of the National Reproductive Health Policy. The Reproductive Healthcare Bill 2014, which is before Parliament, recognizes reproductive rights, and sets the standards of reproductive health. The Bill provides for the right to make decisions regarding reproduction free from discrimination, coercion and violence. Other measures formulated to address women and health issues include:

- The training and follow-up of health care workers including community midwives in skilled care during pregnancy and child birth; The launch of the maternal and neonatal health roadmap on maternal health in 2010; The creation of the Anti-FGM Board to conduct awareness, coordinate FGM activities and advise the Government on matters relating to FGM; The Plan of Action for Kenya's Adolescent Reproductive Health and Development Policy 2005-2015 which recognizes that information and sex education is important for adolescents and they need accurate appropriate information to make informed choices, enjoy healthy and positive lifestyles and avoid undesired consequences like unwanted pregnancy and STIs; the introduction of the Output Based Approach which is a voucher system for the poor to access quality services in some health facilities; and Free maternal healthcare services which has resulted in an increase in deliveries in hospitals since 2013.
- Immunization during childhood has been proven to be the most effective strategy for the prevention of many infectious diseases. 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%. However the percentage is lower in the informal settlements but the country has intensified immunization campaigns in these areas.

## W. Indigenous people / Minorities

73. Kenya's new Constitution provides several avenues for the protection and strengthening of indigenous peoples' personal and collective rights. Indigenous communities' issues are addressed within the purview of vulnerable and marginalized



groups. Article 27 (6) obligates the State to develop legislation and affirmative action's programmes that will mitigate the suffering of vulnerable groups because of past discrimination. Article 56 of the Constitution obligates the State to provide for adequate representation of "marginalized groups" in all levels of government, execute affirmative action on behalf of these groups, and promote the use of Indigenous languages and the free expression of traditional cultures. In furtherance of the Constitutional requirements, Parliament has enacted the National Land Commission Act in 2012; the Land Registration Act, 2012; and the Land Act, 2012. The Community Land Bill is one of the Constitutional time bound bills expected to be enacted by August 2015. Article 100 requires the legislature to enact a law which will promote the representation of marginalized communities. The National Land Policy of 2009 recognizes the vulnerability of minority and marginalized groups and provides for collective land rights and a de-centralized land governance structure. With regard to the Endorois community, the President has appointed an inter agency taskforce to advise on the implementation of the decision of the African Commission on Human and Peoples' rights. Representation on the Task force includes relevant the Government agencies, the Kenya National Commission on Human Rights and the concerned county government.

## **V. Achievements**

### **A. Peaceful elections**

74. One of the most significant achievements in Kenyan history was the holding of peaceful elections in Kenya in 2013. This is particularly important since most elections in Kenya have been fraught with conflict and dislocations. On the 4<sup>th</sup> March 2013, Kenyans turned out in large numbers, with over 80 percent of registered voters coming out to vote for the president and deputy president, county governors, senators, members of parliament and women representatives in a single day. The electoral process was deemed by many international observers as free, fair and credible. The holding of peaceful elections is attributed to the many reforms that the country has undertaken, including the passing of a new Constitution, the creation of credible institutions like the Independent Electoral and Boundaries Commission, and the strong and independent Judiciary.

### **B. Public participation**

75. The Constitution of Kenya recognizes the concept of public participation and moves it to the center of the state's decision making processes. Public participation is recognized as an important national value and principle of governance which must be incorporated in all aspect of the government developmental agenda, including when developing public policies, legislation and in budgetary processes. Strict adherence to this principle has brought the citizens into the fold of the state decision making processes including giving their views on the suitability or otherwise of persons appointed to public offices. Public participation strengthens public trust in government, builds confidence in key public institutions, promotes the values of democratic governance, respect for human rights, achieves sustainable development and service delivery and improves the quality of monitoring and evaluation of public policies.

### **C. Civilian oversight over the police**

76. The establishment of the Independent Police Oversight Authority, under the Independent Police Oversight Authority Act 2011 is a huge achievement as it provides

much needed accountability and monitoring functions over the Police Service. Civilian oversight over the police is mandatory for democratic control and governance of the security sector. The Authority is authorized to inspect police premises, including detention facilities under the control of the National Police Service. It is also mandated to investigate any death or serious injury occurring or suspected of having occurred as a result of police action.

#### **D. Vetting of police officers**

77. Vetting of all police officers in line with Article 246 of the Constitution and the National Police Service Act 7(2) and (3) stipulates that all officers of the National Police Service (NPS) must undergo vetting to assess their suitability and competence to continue to serve. Vetting processes aim at excluding from public service, persons with serious integrity deficits in order to re-establish civic trust and re-legitimize public institutions as well as disable structures within which individuals carried out serious abuses. The ongoing vetting of police officers is therefore geared towards having only individuals with integrity serving in these public institutions.

#### **E. Right to health**

78. The Government of Kenya abolished all maternity charges in public facilities in June 2013. The Maternal Mortality Rate (MMR) in Kenya is high, with 488 deaths per every 100,000 live births per year, largely because women do not always give birth under the care of skilled health providers. The programme on free maternity care is therefore a major achievement in that all expectant mothers are now able to access maternal healthcare resulting in a reduction in maternal mortality rates in Kenya. In the 2013–2014 financial year the Government increased the allocation for free maternity care from 3.46 billion to 4 billion to consolidate gains made since the programme started. This intervention has seen the number of mothers delivering babies in hospital increase from 44 to 66 per cent leading to a sharp decline in maternal and child mortality rates. Transmission of HIV/AIDS from mother to child dropped from 14 per cent to 8.5 per cent as more mothers shun home deliveries. One of the biggest challenges faced is ensuring that new doctors freshly employed by government and posted to hardship and marginalized areas are retained. The number of nurses is also very low. Government has tried to address these challenges through incentives, such as offering post graduate training to doctors after two years of service in such remote areas as Turkana and Marsabit. More nurses have also been hired.

#### **F. Devolution**

79. One of the key gains of the Constitution of Kenya is the creation of a devolved system of Government. The country has moved from a central government to the devolved governance system. There are now 47 counties, each managed by respective governments. The devolved system of government promotes democracy and accountability, brings greater efficiency in service delivery to the people, enhances the participation of the people in issues that involve them, ensures the equitable distribution of resources and services, recognizes diversity, and protects minorities and marginalised communities. Various laws have been enacted by Parliament to create strategies for the implementation framework and the adoption on which objectives of devolution can be achieved.

## **G. Equalization fund**

80. The Constitution sets up an Equalization Fund to accelerate the developmental growth of areas in Kenya which lag behind mainly due to historical injustices. The Fund managed by the Commission on Revenue Allocation has contributed considerably to the provision of basic services to marginalised areas in the country. The Fund will be in existence for a period of 20 years and is allocated at a rate of 0.5 of the national revenue.

## **H. Equality between men and women**

81. Although women comprise over 50 percent of the country's population, women continue to be under-represented as voters, political leaders, as elected officials and in appointments and employment, both at lower and higher levels. The Constitution provides that at least a third of members of the Senate, National Assembly and County Assemblies be of either gender. To fill the women's minimum quota, the Constitution reserved 47 women seats in the National Assembly and 16 such seats in the Senate. Kenya now has over 21 per cent women representation in Parliament, the highest ever in the country's history. However these percentages are still below the recommended threshold of 30 per cent under the Constitution.

# **VI. Challenges and constraints**

## **A. National Security**

82. Kenya has faced challenges in promoting national security due to an upsurge of terrorist attacks. These attacks have had a negative impact on the growth of the economy. The tourism sector has suffered major setbacks with several countries issuing travel advisories to their citizens not to travel to Kenya. Indeed some consulates and embassies have been closed and staff relocated. Kenya is taking measures to combat terrorism including the passing of The Prevention of Terrorism Act and the Prevention of Organized Crimes Act, while respecting Constitution guarantees on human rights. Kenya is also participating in the African Mission in Somalia (AMISOM) to bring order to Somalia, where majority of the terrorist activities targeted at Kenya are planned.

## **B. Radicalization**

83. A serious threat to national security is the growing Islamist radicalization of Kenyan youth by the Al-Shabaab, who have established a presence and a clandestine support system among populations in north eastern Kenya, Nairobi and the Coast. The movement has capitalized on the high levels of youth unemployment and poverty in the country. The economic empowerment programmes already in place and devolution will have a positive effect by creating opportunities for the youth.

## **C. Unemployment**

84. Unemployment has remained one of the most daunting challenges in Kenya's socio-economic development process for most of the post-independence period. Historically, from 1999 until 2011, Kenya unemployment rate averaged 22.4300 Percent reaching an all time high of 40.0000 Percent in December of 2011. Youth unemployment statistics in Kenya show that 60% of the Kenyan population is under the age of 30. The Kenyan

unemployment rate was approximately 40% as of December 2011, with 64% of those being youth. Kenya has put measures to accelerate and sustain high rates of economic growth in order to create jobs for the labour force by reducing the cost of doing business, keeping political and macroeconomic risks low, simplifying business registration processes, improving governance, improving physical infrastructure, and curtailing crime.

#### **D. Poverty and hunger**

85. Despite the steady growth of the economy, more than a half of the country's population lives below the poverty line, on less than one US dollar a day. The most vulnerable are families and children living in the urban slums, in the arid lands of northern Kenya and in areas of the country worst affected by HIV. The Strategy for Revitalizing Agriculture (2004-2014) has improved agricultural productivity at the household level thereby increasing food security of the poor. National initiatives such as Njaa Marufuku Kenya, Kilimo Biashara under the Economic Stimulus Package are aimed at achieving higher levels of food sufficiency among participating households.

#### **E. Corruption**

86. The Government of Kenya continues to grapple with corruption, which has a negative impact on the effective realization of rights. Corrupt practices perpetuate discrimination, prevent the full realization of social and economic rights and violate fundamental civil and political rights. Among other strategies, earlier mentioned the government has prioritized the development of a national anti corruption policy as a framework within which the war against corruption can be waged.

#### **F. Environmental degradation**

87. A key challenge to the right to a clean environment is the massive encroachment into forests. Kenyan forests have seen increasing demand for products and services, competition with other land uses, and poor governance. One such forest is the Mau Forest Complex, which is the largest water catchment area in Kenya. The Government has enacted the Forest Conservation and Management Act, 2014 to provide for the establishment, development and sustainable management, including conservation and rational utilisation of all forest resources for the socio-economic development of the country.

#### **G. Newly established devolved system of government**

88. The effective implementation of the devolved system of government has faced a number of challenges, such as, power struggles and perceived ineffective discharge of responsibilities in the county governments resulting in the frequent impeachment of Governors and Speakers, slow transfer of assets and debts from the national government to county governments, revenue allocation is also proving to be a difficult issue due to the lack of fairly logical common ground for the distribution. The Government is facilitating the counties in strengthening their public financial management systems in order for them to realize value for money in the use of public resources. Government is undertaking more training and education on devolution to build a common understanding by all the players, of the concept and principles of devolution under the Constitution.

## **H. Women participation in politics**

89. In the general election held in March 2010 the gender equality rule was not achieved. Women won a mere 13.4 % which did not attain the “a third threshold as outlined in the Constitution. The Supreme Court held that the achievement of the provision would be progressive and decreed that a mechanism towards this be put in place by the 27th August 2010. A Working Group has been appointed to work out a suitable legal framework that will facilitate compliance with the Constitutional provisions on the two third gender rule in representation of women in elective and appointive positions.

### **I. Access to healthcare**

90. Despite substantial investments in expanding access and availability of healthcare, access to healthcare services remains a challenge in Kenya. A majority of Kenyans are not yet able to access quality healthcare because of poverty, inadequate and uneven health infrastructure with heavy concentration of government medical staff in Nairobi and other urban areas and the inadequate availability of drugs and medical supplies.

## **VII. Key national priorities**

### **A. Second Medium Term Plan**

91. Under Kenya Vision 2030, the country’s economic blueprint, Kenya aims to be a middle-income rapidly industrializing country by 2030, offering all its citizens a high quality of life. The Second Medium Term Plan 2013-2017 sets out the policies, programmes and projects, which the Government is implementing in order to deliver accelerated and inclusive economic growth. The development of transport infrastructure is one of the key priorities under the MTP2. Transport infrastructure is vital for economic development and poverty reduction since it enhances trade and improves access to goods, services and economic opportunities. Of particular mention is the construction of the Lamu Port and New Transport Corridor Development to Southern Sudan and Ethiopia (LAPSSET) and the new Standard Gauge Railway. Once completed these projects will stimulate economic and social development in the region and thus contribute to poverty alleviation.

### **B. Devolution**

92. The Government is committed to ensuring a rapid and efficient transition to a two tier government under which county governments will assume full responsibility of the functions assigned to them under the constitution. Devolution will be promoted, as a strategy for balanced social and economic development, improved governance and the equitable distribution of resources.

### **C. Social protection**

93. More resources will be allocated to social protection including cash transfers to the most vulnerable groups in the society. The Government will increase allocation of resources to enterprises led by women, and youth.

#### **D. Extractive industry in Kenya**

94. The discovery of commercially viable oil, gas and mineral deposits in 2012 in Kenya is expected to propel the country's economic growth and move it closer to achieving the goals of the Kenya Vision 2030. While recognizing the huge potential the extractive industries have on economic development the Government is keen to ensure that the exploration of these minerals is undertaken with due regard to the human rights of the communities, as well as the national economy for the benefits of all Kenyans. As such, the Government is putting in place sound policy, regulatory and legislative frameworks that allow for the adoption of good practices that ensure local communities are not disadvantaged in terms of revenue sharing, employment, compensation, health and relocation. It is expected that the growth and prosperity emanating from these developments will have a positive impact on the economic and social rights of the people.

#### **E. National Policy and Action Plan on Human Rights**

95. The Government has prioritized the full operationalization of the National Policy and Action Plan on Human Rights in order to ensure the meaningful achievement of specific human rights goals across Government levels and sectors, all aimed at enhancing the respect, observance, protection, promotion, and fulfilment of human rights in Kenya. This means that the Government, at the national and county levels will ensure that all policies and programmes are rights based.

#### **F. National Legal Aid and Awareness Programme**

96. The Government is committed to the establishment of an institutional and legislative framework for the provision of affordable legal aid and awareness services for all. The Legal Aid Bill and the National Legal Aid Policy have already been prepared. The National Legal Aid and Awareness Programme, has for some time now been implemented on a pilot basis. Government will focus on the rolling out of the programme countrywide in order to guarantee access to justice for all.

### **VIII. Expectations of the State concerned in terms of capacity-building and requests, if any, for technical assistance and support received**

97. The Government of Kenya requests for support in the following areas:

- Support towards human rights awareness campaigns, including, the abolition of the death penalty.
- Training of Government officers on the human rights based approach to programming and planning to build their capacity to provide service delivery in a meaningful way.
- Greater international support for the provision of services to the refugee population hosted in Kenya.