



CIVIL SOCIETY COALITION ON KENYA'S 2ND UNIVERSAL PERIODIC REVIEW (CSCK-UPR)

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A. EXECUTIVE SUMMARY

This report is a joint submission by twelve non-governmental human rights organizations to inform Kenya's second universal periodic review.¹ The report considers the state's implementation of recommendations accepted during its first review in 2010, while also highlighting human rights concerns emerging during the current period under review, from 2010 to 2014. The report is cognizant of the institutional, policy and legislative reforms undertaken during the period under review but proceeds to assess their effectiveness and impact on the overall enjoyment of human rights.

The implementation of the Constitution 2010 has faced significant challenges as new governance structures and institutions begin to take hold. The doctrine of separation of powers has been sternly tested as epitomized by the disregard for judicial decisions and other attempts to undermine the independence of the judiciary. Kenya appears non-committal to the successful implementation of various processes within the transitional justice agenda as articulated in the Kenya National Dialogue and Reconciliation (KNDR) Accord of 2008. While the Truth Justice and Reconciliation Commission (TJRC) submitted its report and cases before the International Criminal Court are ongoing, State commitment to the successful completion of these processes has been waning or ambivalent at best. The prosecution of mid-level perpetrators of PEV remains undone. Avenues accorded for effective public participation in ongoing reform processes and governance generally remains limited. Furthermore, the period under review points to a worrying trend of increased threats to Human Rights Defenders and attempts to clamp down on civil society. The specific application of the Constitution's Bill of Rights with respect to various marginalized and vulnerable groups remains a concern as they continue to be subjected to a series of discriminatory practices. This report specifically highlights the plight of minorities and indigenous peoples, internally displaced persons, refugees and sexual minorities. This report also highlights examples of the gap that exists between the constitutional guarantee of economic and social rights and the policy actions or inactions of the State which fail actualize these rights for the public.

B. METHODOLOGY

1. The CSMK-UPR was constituted on February 12, 2014 at a meeting hosted by the Kenya Human Rights Commission (KHRC). At this meeting, the stakeholders identified the thematic priorities that the report would focus on, based on the recommendations issued during Kenya's first review in 2010, progress reports submitted by the Kenya Stakeholders Coalition on the Universal Periodic Review, and other human rights concerns emerging during the period under review. The stakeholders identified organizations that would be responsible for preparing various thematic reports based on their mandate and expertise, and developed a work plan to guide the writing, consolidation, editing and validation of the report before submission to the Office of the High Commissioner for Human Rights (OHCHR).

¹ See Annex 1 for a list of organizations and contact information.

2. The first draft thematic reports were prepared between February 12 and April 3, 2014. These reports relied on organizational reports and studies, government reports and policies, and reliable media reports. A stakeholders' meeting on April 4, 2014 reviewed these drafts and identified gaps and inconsistencies. A technical drafting team was then appointed to review and edit the second draft consolidated report, to ensure consistency and compliance with OHCHR guidelines.² Stakeholders submitted second draft thematic reports which were reviewed by the technical drafting team on May 15, 16 and 22. The resultant report was subjected to a stakeholders' validation on June 6, 2014. The final report was submitted to the OHCHR on June 14, 2014.

C. CURRENT NORMATIVE FRAMEWORK

3. Kenya has ratified various treaties and protocols at the international and regional level.³ However, despite commitments made during the first UPR, Kenya has failed to adopt the International Covenant on the Rights of Migrant Workers and Members of Their Families, Optional Protocols to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of Discrimination against Women (CEDAW), and the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). In addition, the government has not operationalized the Treaty Making and Ratification Act of 2012 which is meant to guide Kenya's ratification process in line with the Constitution. **We call on the government to operationalize this law and to ratify these treaties as per its commitments in the first review.**
4. Kenya's Constitution recognizes that the general rules of international law and any treaty or convention ratified forms part of the laws of Kenya. It also for the first time provides for the protection of economic, social and cultural rights. The Constitution further provides a foundation for various institutional reforms aimed at ensuring independence of public and state institutions and their adherence to the national values and principles including integrity, transparency and respect for human rights. Pursuant to these principles, the state has initiated vetting of judicial officers and members of the National Police Service.
5. The implementation of the Constitution is aided by the establishment of various independent Commissions which promote and protect human rights in addition to furthering good governance. The institutions have however cited lack of sufficient budgetary allocation and political interference as a critical barrier to the achievement of their respective mandates. Increased political will, resource allocation, infrastructure, policy and legislative reforms, and public participation are required to ensure optimal realization of the reforms and rights enshrined in the Constitution.

D. ACCESS TO JUSTICE AND CONSTITUTIONALISM

6. The Judiciary took effective steps to enhance access to justice by ensuring proximity and physical access to courts and simplifying court procedures, establishing Court Users Committees and piloting a National Legal Aid (And Awareness) Programme. However, these initiatives are largely unfunded and in some instances poorly coordinated. High illiteracy levels and inability to afford legal counsel still impedes citizens' access to justice. Furthermore, informal dispute resolution mechanisms are not sufficiently integrated in the judicial system. Case backlog, is also a pressing concern as it introduces opportunities for

² The technical team consisted of representatives from the Kenya Human Rights Commission, Physicians for Human Rights and the National Coalition of Human Rights Defenders – Kenya.

³ A comprehensive schedule is available on: <http://kenyalaw.org/treaties/> as accessed on June 5, 2014.

corruption. The Judiciary is yet to act on [its intention to conduct a comprehensive audit and caseload census](#). The enforcement of judgments is often excessively delayed due to an inadequate and opaque legal framework, lack of political will to execute judgments against the State and its institutions and lack of accountability of executing agents.

7. **The State should increase funding for the Court Users Committees, the legal aid scheme and fast-track the enactment and implementation of the Legal Aid Bill. The State should effectively integrate informal dispute resolution mechanisms in the judicial system while safeguarding against repugnant or unconstitutional practices. The Judiciary should immediately undertake a countrywide census on the case backlog. The State should review the law relating to the enforcement of judgments, including those against the State, clearly defining the roles and responsibilities of enforcement agents.**
8. During the period under review, tensions have arisen between the various arms of government as to the proper role of each governmental institution with numerous accusations of the Judiciary and other constitutional commissions overstepping their mandate and [infringing upon the Legislative arm of government](#). In an apparent measure of retaliation and political intimidation, the [legislature reduced the Judiciary's budgetary](#) allocation by Kenya Shillings 500 million ostensibly interfering with the independence of the Judiciary.
9. **We call on the State to safeguard the independence of the judiciary and constitutional commissions at all times. We recommend that the State institutes a dialogue mechanism aimed at mitigating and amicably resolving any disputes between the Executive, Legislature and Judiciary arising from the execution of their respective mandates.**

E. TRANSITIONAL JUSTICE

10. Kenya committed to establish independent investigations into the 2007-08 post-election violence (PEV) but has made minimal steps in this regard. A multi-agency task force established to review all pending investigations and trials reported that there were only 26 convictions from the over 6,000 files reviewed. It also concluded that there is insufficient evidence to prosecute the remaining cases. Furthermore, attempts to establish an International Crimes Division with the initial intention of addressing international crimes committed during PEV have been marred by lack of political will and conflated with transnational crimes. This indicates a systematic failure by the State to conduct credible and adequate investigations and prosecutions of PEV.
11. The government has failed to genuinely cooperate with the International Criminal Court (ICC) in relation to the cases against President Uhuru Muigai Kenyatta, Deputy President William Samoei Ruto and Journalist Joshua Arap Sang. The government has consistently utilized judicial processes to subvert its obligations under the Rome Statute. Illustratively, the government has not honored pending requests by the Chief Prosecutor to interview senior members of the national security agencies, owing to a court order that was obtained to block these interviews. The government continues to engage in shuttle diplomacy at regional and international fora to secure a deferral and referral of the Kenyan cases. Furthermore the government has spearheaded regional efforts to secure immunity for sitting Heads of States and Governments for international crimes which is in contravention of article 143(4) of Kenya's Constitution.
12. **The government should take concrete steps towards instituting credible investigations, prosecutions and reparations that would secure meaningful and speedy justice for the victims of PEV and establish measures to guarantee non-repetition. The government should positively cooperate with the ICC and honour all pending requests.**

13. The Commission of Inquiry into the Post-Election Violence (CIPEV) detailed over 900 cases of individual and gang rape, defilement and other forms of sexual brutality committed during PEV by state security officers, militia gangs, civilians and humanitarian workers. There is no victims' database and the government has failed to put in place effective measures to investigate and prosecute perpetrators of sexual violence, and provide reparations to survivors.
14. **The government should establish an independent mechanism to ensure credible and effective investigation and prosecution of perpetrators of sexual violence. It should also create a comprehensive database of PEV sexual and gender-based violence survivors and provide reparative measures including medical and psychosocial support.**
15. The Truth, Justice and Reconciliation Commission (TJRC) concluded its mandate and handed its report to the President on May 21, 2013. Since then, the Executive has failed to exhibit commitment to the successful implementation of the report. The full version of the report has not been disseminated to government departments and the public as required by law. Furthermore, recent amendments to the Truth, Justice and Reconciliation Act effectively allow the National Assembly to potentially alter or vary the findings and recommendations of the TJRC report. The amendment alters the TJRC's recommendation for the establishment of a Multi-Sectoral Implementation Committee and subjects the implementation mechanism to the deliberations of the National Assembly which may be adversely influenced by prevailing political considerations. This raises concerns on independence, accountability and public participation with regard to the implementation process.
16. **We urge the National Assembly in its consideration of the report to maintain the fidelity of the report's findings and recommendations. The State should establish and commit to a comprehensive framework for the implementation of the TJRC report which adheres to the constitutional principle of public participation. We recommend that the State widely disseminates the full version of the TJRC report and publicizes its findings and recommendations to all State Officers and the public.**
17. In 2010 the State committed to judicial reforms through a transparent and effective vetting process for judicial officers and other measures to eliminate corruption and incompetence. New judicial appointments have been made through a competitive and transparent process, and sometimes the public has been invited to submit their views on the candidates. However, no clear guidelines on procedures for public participation are in place. The Vetting of Judges and Magistrates Board has since 2011, declared 41 judicial officers unsuitable to hold office. The mandate of this board does not however extend to other levels of personnel such as court clerks, registry officers and other administrative officers. The systemic corruption and inefficiencies within the judiciary can only be addressed through a comprehensive vetting process which introduces a new ethos of service.
18. **The State should provide avenues for meaningful public participation before, during and after the vetting hearings through public outreach, direct public participation during hearings and publication of the decisions taken. The vetting process should be extended to include other levels of personnel in the judiciary.**
19. The vetting of the Kenya Police Service has faced a series of challenges. Civil society under the Police Reforms Working Group (PRWG) is aware of instances where officers who have either failed or opted out of the vetting process continue to be retained in the service in contravention of the National Police Service Act 2011. The National Police Service Commission (NPSC) has also encountered resistance in accessing the relevant information required to assess the suitability of the officers undergoing the vetting process. There has also

been a disproportionate focus on assessing financial probity and less on the officers' human rights record. The vetting panel alluded to challenges in acquiring information on human rights violations as potential informants cited safety concerns.

20. **The NPSC should facilitate safe platforms where both the citizens and officers can submit information relevant to the vetting process. Informant protection measures should be made available where necessary. The office of the Inspector General of Police (IGP) must provide full support to the vetting panel including the provision of requisite documentation and taking stern action against any individual or group preventing access to information. Finally all officers deemed to be unsuitable by the vetting panel or opting out of the vetting process must vacate their offices in line with the law.**

F. HUMAN RIGHTS DEFENDERS

21. Human Rights Defenders (HRDs) in Kenya remain at risk of threats, persecutions, attacks, arbitrary arrests, judicial harassment and extra-judicial killings. The 2009 killings of Oscar Kingar'a and John Paul Oulu remain unresolved while other instances of extra-judicial killings of HRDs continue unabated such as that of Hassan Guyo, who was fatally shot by State security agents in Moyale in 2013. HRDs monitoring the government's counter-terrorism activities have been exposed to considerable risks and threats as the State's rhetoric identifies them as either terrorists or terrorist sympathizers. This is of particular concern in the context of a [marked rise in extra-judicial killings](#) by the Anti-Terrorism Police Unit (ATPU), with no efforts to hold those responsible to account.
22. **The state should promptly and effectively investigate and ensure accountability for killings of and attacks against HRDs.**
23. Civil Society Organizations (CSOs) and HRDs have been the subject of politically motivated public campaigns aimed at discrediting and intimidating them. The State has also tried to institutionalise the clamp down on civil society through a series of amendments to the Public Benefits Organisations Act that sought to increase executive control over CSOs and cut down foreign funding to a maximum of 15% of their budgets. The period under review has seen a clamp-down on lawful public protests through violent dispersals and malicious prosecutions. HRDs fighting for the rights of sexual and gender minorities are faced with increased risks in the wake of anti-gay debates driven by opinion leaders some of whom have proposed the introduction of anti-gay legislation.
24. **The State should ensure a conducive legal environment for HRDs and civil society in Kenya and publicly recognise their legitimate role. The State should also uphold the constitutional right to association and peaceful assembly. In consultation with key stakeholders, the State should develop and implement a policy for the protection of HRDs, especially for the most vulnerable categories, such as HRDs fighting for the rights of sexual minorities.**
25. The Witness Protection Agency has been identified as a key achievement towards the protection of HRDs. However, its credibility is affected by the fact that it is a state run institution, with limited funds, and very little public knowledge of its existence.
26. **The state must ensure that the Witness Protection Agency is fully independent and well-funded, draft the Witness Protection Rules and Regulations in consultation with stakeholders, and popularise and decentralise the agency.**

G. COMPENSATION, REPARATIONS AND MEMORIALIZATION FOR VICTIMS OF TORTURE

27. Numerous torture victims have successfully obtained a range of compensatory awards from the High Court against the State for the harm they suffered. The National Victims and Survivors Network (NSVN) have documented 139 torture victims⁴ as having received compensatory awards from the courts. However, a large majority of these victims are yet to receive their payments from the State. Furthermore, the State has been ambivalent towards efforts by victim groups to have areas such as the former Nyayo House Torture Chambers declared national monuments and preserved for memorialization purposes.
28. **The State should make payments to torture victims as per the direction of the High Court without further delay. We urge the State to support victim efforts at memorialization by preserving identified torture sites and designating them national monuments of shame.**

H. RIGHTS OF INDIGENOUS PEOPLES AND MINORITIES

29. The decision by the African Commission on Human and Peoples' Rights in the [Endorois case](#) is yet to be implemented by the Government. In February 2014 a section of the Endorois peacefully assembled to protest an attempt by the Ministry of Lands to issue title deeds and settle non-Endorois on land considered to be Endorois ancestral land. This peaceful protest was met with violence by State security personnel and saw [several youth arrested](#).
30. The Ogiek community challenged their eviction from the catchment and biodiversity hotspots within the Mau Forest Complex and obtained [provisional measures](#) from the African Court on Human and Peoples' Rights (AfCHPR) that the government has not adhered to. They have since obtained a [judgement from the Kenyan Environment and Land Court](#) which declared the eviction to be a contravention of their rights and required the National Land Commission to duly register members of the community and allocate them land for settlement. The Sengwer community has also been forcefully evicted from the [Embobut forest](#) despite the existence of a Court order prohibiting the exercise. The Lamu Port-South Sudan- Ethiopia Transport Corridor (LAPSSET) project continues with limited consideration of the concerns voiced by marginalized communities in regard to their land rights, cultures and livelihoods. Substantial aspects of the project commenced [without the necessary Environmental Impact Assessment \(EIA\)](#) being carried out.
31. **The government should adhere to all orders issued by judicial bodies either at the local or regional level regarding the rights of indigenous peoples. We call for the speedy enactment of community land legislation to provide the legal framework for the use, transfer and management of community land. The enactment of the Evictions and Resettlement Procedures Bill should be concluded to provide for protection against inhumane and unlawful evictions. The National Land Commission should investigate historical land injustices as constitutionally mandated without further delay.**

I. RIGHTS OF FORCED MIGRANTS: REFUGEES AND INTERNALLY DISPLACED PERSONS (IDPs)

32. According to a 2013 government taskforce report on resettlement of IDPs and Forest Evictees⁵, the government had either resettled or was in the process of resettling 6,546 IDP households. In 2014, the [government made a further allocation of Kenya Shillings 1.1 billion to cater for the resettlement of at least 2,874 families](#) who were evicted from Embobut Forest

⁴ NSVN is an umbrella organisation of victim groups that undertakes several transitional justice activities. Records of these cases are available on file at KHRC.

⁵ Government of Kenya (2013) *Department of Special Programmes Taskforce Progress Report on Resettlement of Internally Displaced Persons (IDPs) and Forest Evictees*, 6th June.

in Elgeyo Marakwet County. However, a significant number of integrated IDPs from the 2007-08 PEV and prior cycles of electoral violence have not received assistance or resettlement options from the government after being left out of the initial profiling exercise in 2008.⁶ Concerns over genuine beneficiaries missing out on compensation,⁷ and a lack of adequate consultation with IDPs in the selection of alternative lands for resettlement have been raised. Independent reports indicate that about [55,000 people were newly displaced in 2013](#) as a result of political, inter-communal and resource-based violence.

33. **In consultation with stakeholders, the government should initiate a profiling and data collection process on all IDPs in Kenya and provide them with durable solutions in a manner that ensures their meaningful participation in the process.**
34. The government is yet to operationalize critical aspects of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 (IDP Act) such as constituting the National Consultative Coordination Committee (NCCC) on IDPs.
35. **The government should immediately constitute the NCCC as required by law and implement a public awareness programme targeting state officials and the public on the provisions of the IDP Act.**
36. The Government has advanced a strict, discriminatory refugee encampment directive in contravention of a 2013 High Court ruling.⁸ In April 2014, the government launched *Usalama Watch*, an anti-terror security operation which has resulted in serious human rights violations against refugees and asylum seekers such as arbitrary arrests and detentions, ill treatment of detainees, extortion, deportations and family separations through forced relocation from urban centres to camps. Humanitarian access to places of detention has been severely restricted, hampering detainees' access to healthcare and social assistance as well as adequate monitoring of the situation.
37. **The State should ensure that security operations are conducted with due regard to human rights obligations and guard against undue profiling of refugees and asylum seekers. The state must investigate and ensure accountability for human rights violations perpetrated by the security forces against refugees and asylum seekers. The state must allow humanitarian access and assistance to refugees and asylum seekers in detention. The state must refrain from relocating refugees from urban centres to camps in accordance with High Court orders, and ensure refugees and asylum seekers have fair and equitable access to healthcare, education and social services.**
38. Registration services for incoming asylum seekers have been halted. This, together with the backlog of unregistered persons since 2012, has led to asylum seekers being summarily deported without their claims being verified, in contravention of the *non-refoulement* principle. Furthermore, the government is bound by its obligations under a [tripartite agreement](#) signed by Kenya, Somalia and UNHCR setting up a framework for voluntary repatriation of refugees.
39. **The State should re-open the refugee registration system, properly verify all asylum claims, and uphold its commitments under the 1951 UN Convention especially on *non-refoulement*. Similarly the state should desist from policies and practices contrary to the**

⁶ This is currently the subject of ongoing litigation in *High Court of Kenya, Nairobi Petition No. 273 of 2011: Federation of Women Lawyers in Kenya and Others v. The Attorney General and Others*.

⁷ Also the subject of ongoing litigation in *High Court of Kenya, Eldoret Petition No. 6 of 2013: David Kiptum Yator and Others v. the Attorney General and Others*.

⁸ *Kituo Cha Sheria v Attorney General [2013] High Court Petition 19 of 2013*.

Tripartite Agreement in order to guarantee the repatriation of Somali refugees in a voluntary manner and in safety and dignity.

J. SEXUAL MINORITIES

40. The political leadership in Kenya has consistently spoken against sexual minorities and made disparaging remarks in reference to them. These remarks incite and propagate hateful sentiments against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons and expose them to [increased spates of violence and prejudice from the society](#). LGBTI persons in Kenya face numerous [barriers to accessing preventive and curative health services](#) in both the public and the private sector. Social stigmatization and a legal system which criminalizes same-sex relationships make health service providers reluctant to treat LGBTI patients. This prevents LGBTI persons from disclosing symptoms which suggest same sex practice or seeking health services altogether. Health workers lack awareness regarding the particular health needs of LGBTI patients and therefore fail to adjust their medical advice and treatment accordingly. The restricted access of LGBTI persons to vital sexual and reproductive health services and information strongly affects their ability to protect themselves from HIV infection. The National AIDS and STI Control Program categorized [Men who have Sex with Men \(MSMs\) as a Most At Risk Population](#) with HIV prevalence among them being much higher than that within the general Kenyan population. The government policy for the provision of free condoms which significantly reduced the rate of HIV infection amongst the MSMs was halted in 2013. Consensual same sex practices between adults are still criminalized in Kenya.
41. **The government should ensure that barriers to accessing health services are removed and policies put in place to promote and protect the rights of LGBTI persons to access the highest attainable standard of health care including reproductive health. The government should also publicly condemn and take action against those propagating attacks, hateful and inciteful sentiments against LGBTI persons and decriminalize consensual same sex conduct between adults.**

K. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

42. The public sector has experienced industrial unrest due to poor pay at various job group levels amidst government's call to tame a ballooning wage bill. The government has reneged on collective bargaining agreements with teachers, lecturers, doctors and nurses. Furthermore, various union officials and members have alleged intimidation by government and victimization for undertaking industrial action.
43. **The government should honour existing collective bargaining agreements reached with teachers, lecturers, doctors and nurses. The State should also protect workers' constitutional right to industrial action without fear of reprisals.**
44. The minimum wage policy in Kenya is inadequate and does not result in a living wage for Kenya's workers. In the agriculture sector, the minimum wage set by government through an Agriculture Wages Order is at Kshs 4,854. The minimum wage setting approach is hampered by the dormant status of wage councils that are unable to implement or enforce their directives.
45. **The State should review the current minimum wage policies and adopt a living wage benchmark which can support a decent standard of living for workers in all sectors. This should entail a comprehensive wage determination framework to guide salary reviews for all sectors, with clear parameters for minimum wage adjustments.**

46. Childcare facilities for workers' children are inadequate. In the cut flower sector for example, 55% of women are single mothers working an average of 16-hour shifts with their children placed in informal day care centres whose facilities are unfit.⁹
47. **The government should develop a policy framework to ensure that workers have access to sufficient childcare services and facilities.**
48. Some local communities have raised concerns regarding a lack of equitable benefit sharing accruing from the exploitation of natural resources by Multi-National Corporations (MNCs). The Turkana for example, have complained of [discriminatory employment practices](#) by a lead oil explorer company. The working conditions within the premises of various MNCs in Kenya also point to a series of human rights violations. [Research in Kenya's tea sector](#) and in particular a multi-national tea packer company highlighted instances of sexual harassment, ethnic and gender discrimination in tea estates coupled with dire housing conditions for workers.
49. **The government should undertake a baseline survey on the impact of MNCs on human rights and develop a National Action Plan for the implementation of the United Nations Guiding Principles on Business and Human Rights. We further call on the government to investigate and ensure accountability for human rights violations by MNCs. It should also actively support efforts to develop a binding international instrument on business and human rights including the establishment of effective grievance mechanisms. The State should ensure that agreements relating to the exploitation of natural resources are publicly available and provide for equitable benefits sharing with local communities.**
50. [The African Union Declaration on Agriculture and Food Security in Africa](#) (Maputo Declaration) places an obligation on the State to allocate 10% of its national budget to Agriculture. However, during the period under review, Kenya's total budget of the Agricultural and Rural Development (ARD) sector has steadily decreased from 5.1% in 2009/10 to 3.5% in 2012/13 and down to 3% in the 2013/14 budget.
51. **The State should up-scale its budgetary allocation in agriculture with a view to meeting the 10% target set by the Maputo Declaration and thereby increases its spending on agricultural extension services such as training and provision of credit subsidy schemes to small-scale farmers.**

L. WOMEN'S RIGHTS

52. Despite considerable strides on policy formulation¹⁰ aimed at addressing violence against women and girls, incidents of sexual violence remain on the rise. In 2011, the number of reported sexual offences increased to 4,703 from 3,525 in 2007.¹¹ In 2013, the Inspector General of Police reported that [rape cases had increased by 22%](#). Insufficient resources and infrastructure inhibit comprehensive and quality medical care for survivors, effective investigations, collection, preservation and testing of evidence and comprehensive and targeted public awareness programmes that enable survivors of sexual violence to access redress¹². These factors perpetuate impunity for sexual violence in Kenya.

⁹ Kenya Human Rights Commission (2012) *'Wilting in the Bloom': the Irony of Women Labour Rights in the Cut-flower Sector in Kenya*.

¹⁰ See, for example, the 2010 National Plan of Action to Aid the Implementation of the National Framework towards Response and Prevention of Gender-Based Violence in Kenya, the Updated National Guidelines on Management of Sexual Violence in Kenya, and the 2013 Task Force on Implementation of the Sexual Offences Act Multi-Sectoral Standard Operating Procedures for Prevention of and Response to Sexual Violence in Kenya.

¹¹ Peace Initiative Kenya (2013) *'A Report of the Status of GBV in Kenya'*, 3-4.

¹² Physicians for Human Rights 2012-2014 *Survey in Eldoret, Kisumu, Nairobi, Nakuru and Naivasha*.

53. **The State should establish and make operational one-stop sexual and gender-based violence centers in public hospitals at the Ward level to provide comprehensive medical and psychosocial assistance to survivors. The State should ensure effective investigations of sexual violence including through sufficient financing and establishment of forensic testing laboratories. The State should also develop targeted public campaigns to address entrenched discriminatory practices that fuel gender based violence.**
54. Maternal health remains a concern with mortality rates [at 488 deaths per 100,000 births](#). Deaths from unsafe abortion account for [13% of maternal mortality in Kenya](#). The Ministry of Health developed National Standards and Guidelines for the Reduction of Maternal Mortality from Unsafe Abortion in 2012 and a National Training Curriculum for the Management of Unintended, Risky and Unplanned Pregnancies in a bid to provide a framework on access to safe abortion care. These guidelines were un-procedurally withdrawn in 2013. This is likely to lead to an increase in the number of unsafe abortions in Kenya, and a further rise in maternal mortality and morbidity. Another cause of maternal mortality is that majority of women give birth at home with the assistance of Traditional Birth Attendants (TBAs) who are neither trained nor integrated into the national health system.
55. **The State should urgently re-instate the National Standards and Guidelines for the Reduction of Maternal Mortality from Unsafe Abortion and the National Training Curriculum for the Management of Unintended, Risky and Unplanned Pregnancies. Further, the State should prioritize the increase of access to contraceptives and specifically for women in marginalized areas. The State should also consider the inclusion of TBAs within the health system.**
56. The [Matrimonial Property Act](#) recognizes non-monetary contribution to the acquisition of matrimonial property, but limits the definition of matrimonial property to property registered in joint names. This provision disproportionately disadvantages women given the culture and practice in Kenya of registering property in the man's name.
57. **The State should amend the Matrimonial Property Act to recognize all property acquired during marriage regardless of joint or individual ownership.**
58. While Article 81 (b) of the Constitution requires that no more than two-thirds of the members of elective public bodies be of the same gender, [women only constitute 19% of the National Assembly and 26% of the Senate](#). Despite direction from the Supreme Court in 2012 for Parliament to enact legislation to give effect to the two-thirds gender rule by August 2015, no such legislation has been introduced to date.
59. **Kenya should urgently enact legislation to realize and achieve the Constitutional gender parity provisions to secure the representation and participation of women in governance.**

ANNEX 1: LIST OF MEMBER ORGANIZATIONS FOR THE CIVIL SOCIETY COALITION ON KENYA'S 2ND UNIVERSAL PERIODIC REVIEW (CCK-UPR)

ORGANIZATION NAME	CONTACT DETAILS
<p>1. The Kenya Human Rights Commission (KHRC) - Secretariat</p>	<p>Gitanga Road, Opposite Valley Arcade, P.O. Box 41079-00100 GPO, Nairobi Kenya.</p> <p>Tel: +254-020-2106709 /3874998/ 2644545 +254- 0722-264497/ 0733-629034</p> <p>Fax: +254-020-3874997</p> <p>Website: www.khrc.or.ke</p>
<p>2. Physicians for Human Rights- Kenya Office</p>	<p>256 W 38th Street, 9th Floor New York, NY 10018</p> <p>Tel: +1.646.564.3720</p> <p>Fax: +1.646.564.3750</p> <p>Website: http://physiciansforhumanrights.org</p> <p>Kenya contact: calai@phrusa.org</p>
<p>3. The National Coalition on Human Rights Defenders (NCHRD)</p>	<p>Upper Hill Gardens – Unit D9 3rd Ngong Avenue, Opp. Kenya Bankers Sacco P. O. Box 26309-00100 Nairobi, Kenya</p> <p>Tel.: +254-735553693</p> <p>Website: http://www.nchrk.org</p>
<p>4. The Coalition on Violence Against Women (COVAW)</p>	<p>Valley Field Court, House no. 2, Korosho Road – off Gitanga road Valley Arcade, Nairobi, Kenya.</p> <p>Telephone: +254 20 804 0000</p>

	<p>+254 (0) 722 594794</p> <p>Website: www.covaw.or.ke</p>
5. The Refugee Consortium of Kenya (RCK)	<p>Haki House, Ndemi Road, Off Muringa Road, Kilimani</p> <p>P. O. Box 25340-00603</p> <p>Lavington, Nairobi,</p> <p>Kenya.</p> <p>Tel: +254 20 208 8060 / +254 20 208 8067 †</p> <p>Website: http://www.rckkenya.org</p>
6. Ogiek Peoples' Development Programme (OPDP)	<p>Biashara Street, Nyamakoroto hse 2nd floor Office.No.210/211</p> <p>P.O BOX 424-20115</p> <p>EGERTON. Kenya</p> <p>TEL 254-51-2213803/254-0722433757</p> <p>Website: http://www.ogiekpeoples.org</p>
7. Endorois Welfare Council (EWC)	<p>Wilson Kipkazi, Executive Director</p> <p>Endorois Welfare Council</p> <p>Tel: +254 721 549649</p> <p>Email: Kipkaziwk@gmail.com</p>
8. National Victims and Survivors Network (NVSN)	<p>C/O</p> <p>Amnesty International-Kenya</p> <p>Parkfield Place, 3rd Floor</p> <p>Kanjata Rd. off Waiyaki Way, Westlands.</p> <p>P.O. Box 45339-00100,</p> <p>Nairobi, Kenya.</p>

	Telephone: +254 722 316 146/ +254 722 628 812
9. International Centre for Transitional Justice (ICTJ)- Kenya Office	Regent Court, Flat B1, Hurlingham, Argwings Kodhek Road Opposite Nairobi Women's Hospital P. O. Box 47153 - 00100, Nairobi, Kenya. Tel: +254 20 2672816; 0737 326 585; 0725 000 958 Website: www.ictj.org
10. The International Federation for Human Rights (FIDH)- Kenya Office	Braeside Gardens, off Muthangari Road, Lavington P.O. Box 12869-00100 Nairobi, Kenya. Telephone: +254 (0) 707 156 103/ +33 6 75 52 33 56 Website: www.fidh.org
11. International Displacement and Monitoring Centre (IDMC)	Chemin de Balexert, 7-9, 1219 Chatelaine, Geneva, Switzerland Telephone: +41 (22) 799 07 00 Website: www.internal-displacement.org
12. Ipas Africa Alliance	P.O. Box 1192-00200, City Square, Nairobi, Kenya. Telephone: +254 20 2611208/9 +254 722 200 499/ +254 734 600 986 Website: www.ipas.org

ANNEX 2: LIST OF HYPERLINKS CITED IN THE REPORT OF THE CIVIL SOCIETY COALITION ON KENYA'S 2ND UNIVERSAL PERIODIC REVIEW (CSCK-UPR)

1. Paragraph 6: <http://www.judiciary.go.ke/portal/assets/files/Reports/REPORT%20-%20STATE%20OF%20THE%20JUDICIARY%20AND%20THE%20ADMINISTRATI ON%20OF%20JUSTICE%20ANNUAL%20REPORT%202012-2013.pdf>
2. Paragraph 8: <http://www.cickenya.org/index.php/newsroom/press-releases/item/383-cic-press-statement-on-threats-to-the-rule-of-law-by-various-institutions#.U5Wl8SjLmUM> and <http://s3.marsgroupkenya.org/media/documents/2014/02/ddfd760895f94f838923f74eaa9f77de.pdf>
3. Paragraph 21: [http://www.capitalfm.co.ke/news/2013/10/eu-decries-rise-in-extra-judicial-killings-in-kenya/;](http://www.capitalfm.co.ke/news/2013/10/eu-decries-rise-in-extra-judicial-killings-in-kenya/) <http://www.opensocietyfoundations.org/sites/default/files/human-rights-abuses-by-kenya-atpu-20140220.pdf>
4. Paragraph 29: <http://caselaw.ihrda.org/doc/276.03/view/> and https://www.youtube.com/watch?v=pn93Ki2g8Iw&list=UUekTpzKodObpOcmvVCFUvTw&index=17&ytsession=FdgBzMtK_Y11SFRTqVv
5. Paragraph 30: http://www.african-court.org/en/images/documents/Court/Cases/Orders/ORDER_of_Provisional_Measures-African_Union_v_Kenya.pdf, <http://kenyalaw.org/caselaw/cases/view/95729/>, <http://www.khrc.or.ke/media-centre/press-releases/204-the-truth-about-embobut-forest-evictions-and-a-way-forward.html> and <http://www.savelamu.org/nema-finalizes-eia-on-lamu-port-despite-works-having-commenced-and-tender-awarded/>
6. Paragraph 32: http://www.devolutionplanning.go.ke/index.php?option=com_content&view=article&id=545:resettlement&catid=1:latest-news&Itemid=53 and <http://www.internal-displacement.org/africa/kenya/figures-analysis>
7. Paragraph 38: <http://www.unhcr.org/528102b49.html>
8. Paragraph 40: <http://www.lawschool.cornell.edu/research/ilj/upload/finerty-final-version.pdf>; <http://www.gaystarnews.com/article/whats-behind-series-recent-violent-hate-crimes-against-gays-kenya170713>, <http://www.giz.de/expertise/downloads/giz2013-en-fact-sheet-Kenya-GALCK.pdf> and <http://nascop.or.ke/marps/msm.php>
9. Paragraph 48: <http://www.ft.com/intl/cms/s/0/682ea95-3fe1-11e3-a890-00144feabdc0.html#axzz31rQWHzqA> and http://www.somo.nl/publications-en/Publication_3711

10. Paragraph 50: <http://www.nepad.org/system/files/Maputo%20Declaration.pdf>
11. Paragraph 52: <http://www.standardmedia.co.ke/?articleID=2000100499>
12. Paragraph 54:
http://www.vsojitolee.org/sites/vso_jitolee/files/documents/Reports/maternal-and-child-health-status-in-kenya.pdf and
http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=9&cad=rja&uact=8&ved=0CG4QFjAI&url=http%3A%2F%2Fncpd-ke.org%2Fncpdweb%2Fsites%2Fdefault%2Ffiles%2FPolicy%2520Brief%25209%2520-%2520Maternal%2520Deaths%2520on%2520the%2520Rise%2520in%2520Kenya%2520-%2520A%2520Call%2520to%2520Save%2520Women%27s%2520Lives.pdf&ei=57CQU7nzIqjN7Aa5koGADw&usg=AFQjCNFKx0TtcFhiiVdLCdf0uE25e8Pvew&sig2=VZf1AMsSfbae5qhk_JF5rw&bvm=bv.68235269,d.ZGU
13. Paragraph 56:
<http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/MatrimonialPropertyAct2013.pdf>
14. Paragraph 58: <http://www.quotaproject.org/uid/countryview.cfm?CountryCode=KE>