

**UNITED NATIONS COUNTRY TEAM - KENYA
UNIVERSAL PERIODIC REVIEW REPORT – 3RD CYCLE
JANUARY 2020**



I. Background and framework

Scope of international obligations

1. Kenya is party to seven¹ out of nine core human rights instruments; however, Kenya is yet to ratify two human rights treaties and most of the optional protocols.² Further Kenya is party to the *1951* Convention relating to the Status of Refugees and its 1967 Protocol and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

Recommendations

- i. Ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and the International Convention for the Protection of all Persons from Enforced Disappearance.
- ii. Ratify the optional protocols for individual communication³.

Constitutional and legislative framework

2. Since the second UPR cycle in 2015, at least twenty laws and policies⁴ have been adopted that impact human rights.

Recommendations

Enact all legislations to fully implement the 2010 Constitution as provided for in the Constitution's Fifth Schedule.

Institutional and human rights infrastructure and policy measures

3. In 2015, the National Policy and Action on Human Rights was adopted, to ensure coherent human rights-based approach in the implementation of development plans. However, there is need to review the Policy to ensure it addresses emerging issues.

Recommendation

- i. Review the Policy,
 - ii. Disseminate the Policy widely and integrate it into development plans of different Ministries' Departments and Agencies.
4. The three Article 59 Commissions⁵ play a major role in the promotion, protection and monitoring of human rights in Kenya. These institutions receive funds from the State to conduct their work; however, lack of adequate funding continue to affect their operations. The Commissioners of KNCHR will have their terms end in 2020 and previously there has been delay in filling in the positions, which affects the work of the Commission.

Recommendation

- i. Ensure adequate funding for these institutions' efficiency.
- ii. Ensure immediate replacement of the KNCHR Commissioners once their terms end in 2020.

5. The Office of the Registrar of Treaties was established to give effect to the provisions of Article 2(6) of the Constitution to provide procedure for ratification of treaties. There is a Treaties database in place to inform the public of the status of ratifications by the State.

Recommendation

Appoint a substantive Registrar and ensure funding to the Office for efficiency.

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

6. Kenya has complied with all its reporting obligations to treaty monitoring bodies⁶.

The Government has commenced the process of withdrawing the reservation on Paragraph 2 of Article 10 of the Covenant on Economic Social and Cultural Rights as adopted laws adopted provide for paid maternity leave.

Cooperation with special procedures

7. In July 2018, the Working Group on Business and Human Rights and the Special Rapporteur on the Rights of Persons with Albinism conducted missions to Kenya. However, Kenya is yet to implement the standing invitation to all UN Special Rapporteurs.

Recommendation

Implement the standing invitation to the Special Rapporteurs.

Cooperation with OHCHR

8. The Government has collaborated effectively with OHCHR through the Office of the Attorney General, The Department of Justice, Office of the Director of Public Prosecution and the Ministry of Foreign Affairs.

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and Non-Discrimination

9. The Government of Kenya is yet establish a legal framework on equality and non-discrimination and there are no explicit protections against discrimination based on sexual orientation and gender identity. Meanwhile lesbian, gay, bisexual, and transgender (LGBT) persons continue to face challenges⁷. The High Court recently dismissed a suit seeking to declare sections 162 and 165 as unconstitutional.⁸ Same sex couples are prohibited from adopting children. LGBTI refugees continue to face discrimination and considerable obstacles to access mainstream services and livelihoods opportunities.

Recommendation

Adopt the equality and non-discrimination law to give effect to the Constitution.

10. Courts have delivered progressive judgments in successions matters that safeguard women's rights.⁹ However, there is need to amend the Law of Succession Act to align it to the Constitution and human rights standards. Some regions of the Country are exempt from the application of the Act¹⁰ while Section 391 (a) (b) provides that if a person dies intestate with no spouse or dependants, the property first devolve to the father then mother which is perceived discriminatory against the mother and there is need to ensure parents inherit equally.

Recommendation

Amend the Law of Succession Act to remove the discriminatory provisions.

11. The Constitution outlines an affirmative action principle¹¹ towards equitable participation of women and men in representation, requiring that not more than two thirds of any elective or appointive body shall be from either gender. Realization of this affirmative action principle is dependent on enactment of legislative mechanism to guide its application, which is yet to be enacted.

Recommendation

Pass the Representation of Special Interest Groups Law (Amendment Bill) 2019.

12. Key populations are at the intersection of HIV related stigma and prejudice against their identities, occupations, or behaviors, often exacerbating their experiences of discrimination¹² and of human rights violations¹³. Mandatory testing drives the virus underground since people become unwilling to take the test. Although the Assisted Partner Notification services (ANPs) is voluntary, its implementation is perceived to be coercive. It places the burden of testing of partner(s) on the person found to be HIV positive. Majority of women fear testing due to inherent challenges associated with convincing their sexual partners to test with them. The absence of informed consent amounts to violations of one's rights and remains a key limitation around testing, confidentiality and disclosure of HIV status.

Recommendation

Address key challenges around informed consent, confidentiality and disclosure.

B. Right to Life, Liberty and Security of Person

13. The Government has adopted laws and implemented strategies towards protecting the right to life and security of persons¹⁴. The Kenya National Commission on Human Rights (KNCHR) has a mandate to receive reports, investigate and make recommendations on reported cases. However, KNCHR does not have capacity to undertake investigations on torture cases.

Recommendation

Consider seconding investigators to KNCHR to support investigations into torture cases.

14. Whereas there is a moratorium on the death penalty and the Supreme Court proclaimed as unconstitutional the mandatory nature of the death penalty, the Courts continue to mete out the death penalty for capital offenses, while no executions have taken place since 1987. The Government has meanwhile set up a working group to review and make recommendations to implement the decision of the Supreme Court.

Recommendation.

Complete the process of reviewing its laws to repeal the death penalty.

15. Reports on incidents of abusive police conduct including extrajudicial killings and sexual violence continue.¹⁵ An improvement in government messaging and pledges to reinforce prosecution with advances in police reform has raised hopes on government's action to curb human rights violations by security agencies. The National Police Service (NPS) pledged cooperation with the Independent Policing Oversight Authority (IPOA), a significant development as IPOA has often complained that police failure to share evidence or appear in court is one of the main impunity drivers. In 2019, the Independent Policing Oversight Authority (IPOA) reported it was investigating 190 cases of suspected extrajudicial killings and confirmed six successful convictions since its establishment. Families of 22 young men fatally shot by police have moved to court to seek the establishment of a judicial commission of inquiry.

Recommendations

- i. Strengthen rule of law within security forces in all cases including while countering terrorism.
- ii. Support IPOAs efforts to investigate and prosecute police conduct.

- iii. Establish a judicial commission of inquiry to support IPOA's initiatives to address police impunity.
- iv. Finalize an improved process of police vetting.

C. Administration of justice, including impunity, and the rule of law

- 16.** There are currently 39 High Court stations in the country, 123 Magistrate's courts and 33 mobile courts. Promotion of alternative dispute resolution mechanisms to enhance access to justice has been a priority for the judiciary. Additionally a task force on traditional informal and other mechanism¹⁶ has been consolidating views on a national model for court annexed Traditional Justice Systems. Court annexed traditional justice systems has been piloted in some courts in Kenya.
- 17.** The Legal Aid Act No. 6 of 2016 regulates the provision of legal aid assistance. The National Action Plan on Legal Aid 2017-2022 is in place. A fully constituted National Legal Aid Service Board¹⁷ has been established.

Recommendations

- i. Adopt the Regulations (Eligibility and Accreditation) to implement the Act.
- ii. Ensure funding for legal aid programmes.
- iii. Strengthen coordination among all stakeholders.

- 18.** The Small Claims Court Act adopted in 2016 establishes the Small Claims Court a subordinate court with a pecuniary jurisdiction of KES 200,000 (USD 2,000) or as determined by the Chief Justice. These courts will be in every county to reduce the backlog of cases.

Recommendation

Consider immediately operationalizing the Small Claims court.

- 19.** The Government has made some strides towards providing reparations for victims of historical injustice. However, there has been no progress in implementing the TJRC report. The President offered a public apology and established a restorative justice fund to support victims and survivors.

Recommendations

- i. Implement the TJRC report.
- ii. Put in place a framework for implementing the restorative justice Fund.
- iii. Consider individual and collective reparations for victims of historical injustices.

D. Right to privacy, marriage and family life

20. Kenya has made considerable progress in the passage of gender-related legislation including the Protection against Domestic Violence Act (2015). This law established judicial and other practical mechanisms to address incidences of domestic violence. Services under the Act are devolved to the county level and each county is to determine the most suitable temporary relief protection mechanisms to ensure adequate protection of victims against stigmatization and other forms of discrimination and the need to enhance accountability in protection mechanisms.

Recommendation

Adopt regulations to give effect to the Protection against Domestic Violence Act.

21. Although the Matrimonial Property Act of 2013 is progressive, it has some discriminatory provisions. E.g., Section 7 of the Act makes ownership of matrimonial property dependent on the contributions of each spouse toward its acquisition. This section contravenes Article 45 (3) of the Kenyan Constitution, which provides for equality during marriage upon divorce.

Recommendation

Review the Matrimonial Property Act in line with the Constitution and International human rights standards

22. Comprehensive SGVB Rescue Centers is still a challenge despite the proposal to have them in all counties (rescue facility/treatment and access to justice). Only few police stations have gender desks to address SGBV cases.

Recommendations

- i. Develop and implement the policy on prevention against domestic violence.
- ii. Establish a comprehensive SGVB Rescue Centers in all counties (rescue facility/ treatment and access to justice).
- iii. Enhance capacity/ establish forensic laboratories.
- iv. Review the threshold of proof in case of rape, which acts as a deterrent to prosecution.
- v. Establish and operationalize Gender and Child Protection Units with trained Police in Stations in every counties.
- vi. Establish accountability and monitoring system on the utilization of the quality GBV services (medical, legal, security, psychosocial) provided by the duty bearers;
- vii. Strengthen data management of SGBV cases in the country by ensuring that data at various hospitals and other service provision points is included in the National Data at KDHS for proper national planning and programming for SGBV interventions.

E. Freedom of movement

23. The Constitution provides for the right to free movement and guarantees freedom to all to enter, remain and reside anywhere in the country.¹⁸ However, instances of disruption of peaceful assemblies and demonstrations continue. Further there is a proposal to amend the Public Order Act to make provisions for organizers of public meetings or public processions to be held responsible for loss of property, life or earnings, and to compensate anyone who loses property or is injured during a demonstration. This proposal shifts the responsibility of safety and security from police to organizers of civic action, and may silence public dissent and further shrink the civic space in the country.

Recommendation

Ensure protection of freedom to associate and assemble as guaranteed in the constitution.

F. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

24. The Public Benefits Organizations (PBO) Act though enacted in 2013 is not in force, despite a High Court order for commencement within 30 days of the ruling. Currently, there are attempts by the Government to amend the PBO Act and there is apprehension by PBOs that the amendments may have a negative effect on PBOs work and operations. Recently the Government adopted the Statute Law (Miscellaneous Amendment) Act 2019, which has mandated the National Counter Terrorism Centre to approve and receive reports from all non-governmental organizations. The move is seen as a threat to freedom and independence of those working on human rights issues with a focus on countering terrorism.

Recommendation

- i. Operationalize the Public Benefit Organizations Law immediately.
- ii. Protect the civic space for operation of NGOs and CSOs.

25. The Access to Information Act was adopted; however, its implementation remains a challenge especially in cases where one seeks information from the Government.

Recommendation

Fully implement the Access to Information Act.

26. The Data Protection Bill, 2018 that gives effect to Article 31 of the Constitution of Kenya was published. The bill will protect the right to privacy and includes; an empowered and well-resourced data protection commission with a high degree of independence from the government; Strong obligations are placed on data controllers and processors requiring them to abide by principles of meaningful user consent and providing users with control over their personal data and online experiences.

Recommendation

Pass the Act and ensure adequate data protection for personal data in the National Integrated Identity Management System (NIIMS).

G. Right to work and to just and favorable conditions of work

27. Labour rights

Kenya has done significantly well in the legal framework for labour, and has ratified core ILO conventions relating to prevention and elimination of child labour (C138 and C182 save for the Convention that protects migrant workers. In terms of child labour, the Constitution of Kenya (2010) and the National Policy on Child Labour prohibits child labour, including domestic labour. The policy complements the Employment Act, 2007. However, enforcement of the policy has remained a challenge, as domestic work is largely informal. Strengthening of the domestic workers union that sensitizes the public on prohibition on employment of children in domestic work has seen some progress in prohibition of child labour.

Recommendations

1. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
2. Pass the Children Bill, 2018.
3. Strengthen enforcement mechanisms for child labour.

H. Right to social security and to an adequate standard of living

28. The overall national poverty dropped and the population of poor individuals declined even though the entire population increased by approximately 10 million.¹⁹ **The overall rural poverty** rate for individuals declined faster than that of core-urban²⁰. Poverty in households with children is higher compared to households with no children. Nationally, 41.5% of all children aged 17 years or less are poor and slightly more than 9 million children live in poor households. Poverty rates increase with advancement in age. Households headed by older persons (60 years and above) recorded a high rate and contributed high share of the poor. Female-headed households account for 32.4% of all households

in Kenya and 30.2% of female-headed households are poor as compared to 26.0% of male-headed households. Extreme Poverty, declined significantly by more than half from 19.5% in 2005/06 to 8.6% in 2015/16, with huge disparities over space. Hard core poverty more than halved in core-urban areas across the 47 counties.

- 29.** The Government is transforming the National Safety Net Programme (NSNP) into a responsive programme that will meet the needs of poor and vulnerable persons living in Kenya through a coherent approach, including the harmonization of the targeting process. Currently the Social Security programs covers about 20% of the ultra-poor in the country with introduction of universal coverage to the seniors. There is a move towards universal child grant by the year 2025 to leave no one behind and to address exclusions realized during the targeting process.

Recommendation

Address the arbitrary process of social protection through reforms.

I. Right to health

- 30.** The 2010 Constitution and Vision 2030 prioritize health as a major component of the social pillar. The government has embarked on Universal Health Coverage (UHC) for the entire population by the year 2022. This will reduce the burden of Out Of Pocket expenditure.

Recommendation.

Integrate a comprehensive Sexual and Reproductive Health Rights (SRHR) services in the UHC.

- 31.** Even though the use of contraceptives has increased from 46% to 58%, and access to information through digital platforms, social media and through community health strategy/workers, has improved, socio-cultural barriers still play a key role in accessing contraceptives.

Recommendations

- i. Accelerate interventions towards the 90: 90: 90 targets; Point of care diagnosis; Test and Treat modalities;
- ii. Implement the Confidential Enquiry into Maternal Death and the Maternal and Newborn Health (MNH) quality of Care standards.
- iii. Enhance the utilization of Antenatal Care (ANC) services under free Linda Mama initiative and UHC agenda.
- iv. Enhance commodity security, ensuring method mix, demand generation and access to skilled competent health care providers critical to improve the indicator (Percentage of men and women of Reproductive Age receiving Family Planning (FP) assistance).

- v. Optimize HIV counseling and testing of women during ANC and in maternity, aiming at 100% Highly Active Anti-Retroviral Therapy (HAART) for those who test positive.
- vi. Eliminate unmet need for HIV - integration of FP in HIV care services; improving skilled continuum of care - pre-pregnancy through ANC, birth and postpartum.
- vii. Adopt the Maternal and Newborn Child Health (MNCH) Bill.

32. The High Court recently ruled that the withdrawal of the National Guidelines on Safe Abortion was unconstitutional, amounted to discrimination on the right to life, violated the rights of women and adolescent girls and violated access to information and consumer rights.

Recommendations

- i. Reinstatement of the National Guidelines on Safe Abortion.
- ii. Ensure capacity of staff to implement the Guidelines.

33. The 2010 Constitution recognises the access to water and sanitation as a basic human right. However, 23% of population have no access to any water system and rely on surface water for consumption and only 30% have access to basic sanitation at home. Open defecation is practiced by 12% of the population. Disparities in access to sanitation is evident across wealth quintiles: 44% of the richest quintile has access to basic sanitation, compared to just 8% in the poorest quintile; almost half (47%) of the poorest quintile, practices open defecation, while none in the richest endure such indignity.

Recommendations

- i. Ensure access to affordable safe drinking water in informal settlements, refugee camps and address illegal services and connection fee challenges in legal service areas.
- ii. Reform the supply chain of water and sanitation services to include managing wastes and environmental pollution.

J. Right to education

34. Kenya has committed to ensure inclusive and quality education for all and promote lifelong learning. Various legal²¹ and institutional reforms, including the introduction of Free Primary Education in 2003, has seen significant increase in the net enrolment rate for primary education.²² Free Day Secondary Education was introduced in 2018 towards achieving 100% transition to secondary school.

35. Kenya has multiple policies on Education including the Gender Policy (2016), Pre-Primary Education Policy (2018), Education Sector Policy on Disaster Management (2018) and Mentorship Policy

(2019). The Basic Education Act is being reviewed to address emerging needs and to align to international standards.

36. The Education Policy for Learners with Disabilities has shifted the approach from segregated education to expanding the capacities of mainstream schools to cater for the learning needs of children with disability. However, children with disabilities in the refugee community are unlikely to be enrolled in school due to social and cultural traditions and stigma.
37. Kenya is going through a process of curriculum reform and has introduced the Competency Based Curriculum (CBC) in the lower primary classes to nurture the potential of every learner, moving away from a focus on only the cognitive dimension of learning, to the development of values, talent and skills that support the social, economic and political development of the country.
38. An on line platform the National Education Management Information System (NEMIS) was launched to support effective planning in the Education Sector. Refugees and asylum-seekers are progressively being registered in NEMIS using the Proof of Registration document.

Recommendations

- i. Address other costs related to education such as costs of uniform, books and meals,
- ii. Address segregation of children with disability in schools,
- iii. Regularize refugee and camp-based learning institutions to adhere to national regulations and standards.
- iv. Develop specific interventions responding to the distinct learning needs of refugee and host community children, for example, language acquisition, accelerated education programmes and psychosocial support.

K. Cultural rights

39. The Constitution²³ promotes positive culture practices reinforced by legislations that prohibit FGM and other cultural practices such as early/child marriage and widow inheritance. 21% of women between 15-49 have experienced FGM. Even though there is strong political commitment to end FGM there are still gaps and challenges in eliminating it.
40. Despite the laws child marriages still happens in several parts of the country. Child marriage prevalence has reduced slightly, from 26.4% in 2008/9 to 22.9% in 2014.²⁴ There are challenges in capturing data on child marriages as the Kenya Demographic and Health Survey which provides data on age at first marriage only gives the percentage of girls and boys married at age 15 and at age 18 and does not provide the median age at first marriage for those aged 15-19 and 20-24.

Recommendations

- i. Update the National Policy on elimination of FGM;

- ii. Develop and implement the Plan of Action to implement the updated National Policy on elimination of FGM and finalize the strategic plan on eradication of FGM 2018-2021.
- iii. Strengthen law enforcement strategies to address child marriages
- iv. Improve the data collection and accessibility to the data.

L. Persons with disabilities

41. The Constitution and the Persons with Disability Act provide for protection of the rights of persons with disability and provides for affirmative action in elective and appointive positions.²⁵ There are for quotas for PWDS in the work force however, there is no enforcement for adherence.

Recommendations

- i. Strengthen registration process of persons with disabilities including refugees.
- ii. Strengthen monitoring of the disbursement of funds for PWDs to ensure deserved households benefit.
- iii. Strengthen community awareness on the availability of these affirmative action funds for better uptake.
- iv. Include refugees with disabilities as beneficiaries of protection mechanisms and national assistance services.
- v. Harmonize mandates of the funds under the Pre-Merger Integration (PMI) Project where Biashara fund will bring together all four empowerment funds.

M. Minorities and Indigenous Peoples

42. The Constitution recognizes the rights of minority and marginalized groups and has provided a framework for affirmative action to address issues affecting them. The Elections Act allows minorities to vote. Further, the Government has adopted various laws²⁶ towards protection of the rights of IPs. In July 2019, the Government introduced a bill to implement Article 100 of the 2010 Constitution to address the representation of special interest groups. The Government has set up a task force to develop a framework for implementing the decision of the African Commission on the Endorois community.

Recommendation

- i. Adopt the Representation of Special Interest Groups Law (Amendment Bill) 2019.
- ii. Implement the recommendations of the Task force upon completion of its mandate.

N. Migrants, Refugees and asylum seekers

43. The Government has addressed the statelessness of the Makonde community who are now citizens of Kenya.²⁷ Another positive move is that the statistical authority will include stateless community

members in the upcoming census. Kenyan Somali youths and those from nomadic communities continue to face a lengthy and challenging vetting process to obtain identity cards when they turn 18.

44. Refugees are mainly considered as foreigners and not persons in need of international protection for whom the work permit regime for foreigners should apply, but rather a group that requires special regulatory framework especially on labour rights and access to the labour market. Only refugees with special skills, investors or who hold a letter from an employer and have a KRA PIN are considered for issuance of work permit.
45. Refugees do not benefit from the various social programmes in place to support the senior citizens, severely disabled persons and for children and other vulnerable persons.
46. In 2017, Kenya signed the Djibouti Declaration thereby committing to including refugees and asylum-seekers in the national education system. Since then, refugees and asylum-seekers are in the National Education Sector Strategic Plan (2018-2022) and the Ministry of Education has drafted the Education Policy on the Inclusion of Refugees and Asylum-Seekers. Kenya has a free primary education policy and free day secondary education, however only refugee children who live in urban areas benefit from these policies. Those who live in refugee camps do not benefit as the vast majority of them attend schools run and managed by UNHCR and partners.
47. The challenges to national security negatively affect the perception of refugees; this has prompted the Government to plan to close Dadaab refugee camp on the belief that it harbors terrorists. Further concerns have been raised by the persistent arrest of Eritrean asylum-seekers in the context of increased arrivals.
48. Single refugee women and girls are the primary victims of SGBV in the form of domestic violence, female genital mutilation, early and forced marriage or survival sex. Despite prevention, mitigation and response mechanisms in place, the incidence of SGBV among refugees remains high. Language barrier, costly and lengthy legal procedures remain a barrier for the protection of vulnerable and needy refugees.
49. Since 2016, the Government has supported the adoption of the New York Declaration, adopted the Comprehensive Refugee Response Framework (CRRF) and endorsed the Global Compact on Refugees (GCR), reaffirming its commitment to enhance the refugees' self-reliance and the search for durable solutions. However, the Government continues to implement an encampment policy vis-à-vis refugees and asylum-seekers, limiting their freedom of movement and their ability to work and become self-sufficient.

Recommendations

- a. Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

- b. Reform the laws for protection of stateless persons.
- c. Ensure an expedited efficient and transparent registration of communities suffering from statelessness.
- d. Reform the issuance of work permits to refugees.
- e. Include refugees and asylum-seekers into the scope of the Draft Kenya National Social Protection Policy.
- f. Adhere to the commitments made on voluntariness of return of Somali refugees in the Nairobi Declaration.
- g. Ensure protection of arriving persons in need of international protection by Refugee Affairs Secretariat.
- h. Relax the refugee encampment policy and enhance the measures supporting refugees 'self-reliance.

O. Internally displaced persons

While most of the IDPs from the 2007/8 post-election violence were compensated and resettled a number who either missed the registration date or were integrated back to their communities were left out. IDPs because of development projects or from forest evictions continue to suffer as there is no provision for resettlement and/or compensation for IDPs.

Recommendations

- i. Review the IDP policy to conform to the Act.
- ii. Review the Land laws to include issues of resettlement and compensation.

P. Right to development and environmental issues

50. Kenya has adopted four big priorities area for development for the next 4 years. These include agriculture and food security, universal health coverage, increased share of manufacturing and affordable housing and continues to implement Vision 2030 and aligning it to the Agenda 2030 on SDGs. Good progress has been achieved in tracking development targets including reporting on the SDGs. The UN is also supporting Kenya to realize its development agenda through the UNDAF 2018-2022.

51. The Government continues to implement initiatives on environmental protection and development of the National Climate Change Action Plan (NCCAP). A moratorium on logging and extraction of timber in public and community forests was imposed to aid in the restoration and rehabilitation of the critical water catchment and natural forest areas. The Government has adopted the National Climate Change Action Plans to guide mainstreaming of adaptation and mitigation action into sector functions of the National and County Government.

Recommendation

Integrate the principle of Leave No One Behind in all development plans.

Q. Human rights and counter-terrorism

52. Kenya has suffered the misfortune of terror attacks perpetrated by terrorist groups, which results in loss of lives, property and economic decline in the tourism sector. The gradual radicalization of disenfranchised and unemployed youth and the continued fragility of neighboring countries harboring terrorists, further compounds the insecurity caused by terrorism. Backlash on refugees and ethnic Somalis after a terrorist attack has reduced because of the change in government’s messaging. Various reforms have been undertaken to counter terrorism.

53. The Government is deliberately making effort in involving the youth when countering terrorism and preventing violent extremism as they have been recognized as key stakeholders in preventing and countering violent extremism.

Recommendations:

- i) Engage stakeholders in pursuit in prevention of Violent Extremism.
- ii) Ensure space and protection of CSOs working on counter terrorism.

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¹ ICERD, ICESCR ICCPR, CEDAW, CAT, CRC, CRPD, OP-CRC-AC.

² ICRMW, CED (this has been signed but not ratified), OP-ICESCR4, ICCPR-OP1, ICCPR-OP2-DP, OP-CEDAW, OP-CAT, OP-CRPD and Convention on Statelessness. The 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, nor to the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (“Kampala Convention”).

³ OP-ICESCR4, ICCPR-OP1, ICCPR-OP2-DP, OP-CEDAW, OP-CAT, OP-CRPD

⁴ Protection Against Domestic Violence 2015; National Policy and action plan on Human Rights of 2015; Registration of Persons Act Revised edition 2015; Prevention of Terrorism Act 2015; Fair Administrative Action of 2015; Legal Aid policy 2015; Access to Information act 2016; Small Claims Court 2016; The Prevention of Torture Act 2016; National Policy on Abandonment of FGM 2016-2020; Community Land Act 2016; Land Laws Amendment Act 2016; Community Land Act 2016; Water Act 2016; National Youth Empowerment act 2016; National Coroners Act of 2017; Computer miss use and cybercrimes Act of 2018; Law of Succession Act; Health act 2017, Dta Protection Act..

⁵ Kenya National Commission on Human Rights, the National Gender and Equality Commission and the Commission on Administration of Justice

⁶ Report to and been reviewed by the Committee on Rights of Persons With Disability–CRPD in 2015; Report to the Committee on the Rights of the Child-CRC in 2016; Report to the Committee on Economic, Social and Cultural Rights – CESCR in 2016; Report to the Committee on Racial Discrimination- CERD in 2017; Report to the Committee on the Elimination of all forms of Discrimination against women- CEDAW in 2017; Report to the CAT committee and the Human Rights Council due in 2015 were submitted in 2018.

⁷ Sodomy is a felony per Section 162 of the Kenyan Penal Code, punishable by 14 years' imprisonment, and any sexual practices between males (termed "gross indecency") are a felony under section 165 of the same statute, punishable by 5 years' imprisonment.

⁸ EG vs AG and other HCCC 150 OF 2016 consolidated with HCCC 234 of 2016

⁹ <https://www.nation.co.ke/news/Married-women-get-nod-to-inherit-their-fathers--land/1056-4968714-mf88kt/index.html> ;

¹⁰ Samburu, Narok, Turkana, Isiolo, Wajir and Kajiado

¹¹ Article 27 (8)

¹² Kennedy CE, Baral SD, Fielding-Miller R, Adams D, Dlundu P, Sithole B, et al. They are human beings, they are Swazi: intersecting stigmas and the positive health, dignity and prevention needs of HIV-positive men who have sex with men in Swaziland. JIAS. 2013;16 (4 Suppl 3):18749.

¹³ Kenya AIDS NGOs Consortium (KANCO) 2012; KANCO and Kenya Legal and Ethical Issues Network on HIV (KELIN), Study on human rights violations against people living with HIV and AIDS in Kenya (Nairobi: KANCO, 2012), pp. 77–78

¹⁴ Some of the laws include the Prevention of Torture Act, Coroners Act among other laws.

¹⁵ In 2018, KNCHR published its final report on sexual violence in elections, stating that the majority of the 201 cases (55%) were committed by security agencies

¹⁶ Traditional justice systems are those such as such as customary, informal, community-based, grassroots, indigenous and local mechanisms for resolving disputes.

¹⁷ The Legal Aid Act, S. 61(2) and (3).

¹⁸ Article 39 Constitution of Kenya 2012

¹⁹ KIHBS report, 2018.

²⁰ From 49.7% in 2005/06 to 40.1% in 2016

²¹ The 2010, Kenya constitution that in Article 53 states, “Every child has the right to free and compulsory basic education”. the 2016 Gender Policy in Education 2013 HIV and AIDS Education Sector Policy; the 2015 revised Policy Framework for Nomadic Education in Kenya and the 2014 Peace Education Policy. The Sector Policy for Learners and Trainees with Disabilities (May 2018) with the vision of an inclusive and equitable quality education.

²² Kenya National Bureau of Statistics (KNBS), Economic Survey 2018, page 226 & 227

²³ Article Articles 11, 44 and 53(1(d), of the Constitution

²⁴ KDHS, quoted in UNICEF (2018) Situation Analysis of Children and Women in Kenya 2017, UNICEF, Nairobi, Kenya

²⁵ A judge of the High court and a Cabinet Secretary have since been appointed as a result of this provision.

²⁶ The Community Land Act of 2016, Mining Act of 2016, Forest Act of 2016, Wildlife Conservation Management Act of 2013 and the Land Laws Amendment Act to address historical land injustice.