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Kenya

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List of abbreviations and acronyms

ADR	Alternative Dispute Resolution
CEDAW	Convention on the Elimination of Discrimination against Women
FGM	Female Genital Mutilation
KDHS	Kenya Demographic & Health Survey
KESSF	Kenya Environmental sanitation strategic framework
KENSUP	Kenya Slum Upgrading Programme
KNCHR	Kenya National Commission on Human Rights
KIPRA	Kenya Institute of Public Policy Analysis
GOK	Government of Kenya
NEMIS	National Education Information Management System
NHRIs	National Human Rights Institutions
NGEC	National Gender & Equality Commission
NIIMS	National Integrated Management System
OAG & DOJ	Office of the Attorney General & Department of Justice
ODF	Open Defecation Free
ODPP	Office of the Director of Public Prosecutions
OHCHR	Office of the High Commission on Human Rights
OPCT	Older Persons Cash Transfer
OVC-CT	Orphans & Vulnerable Children Cash Transfer
PWSD-CT	Persons with Severe Disability Cash Transfer
SDG	Sustainable Development Goals
SGBV	Sexual Gender Based Violence
UHC	Universal Health Coverage
UNCAT	United Nations Convention against Torture and other forms of Cruel, Inhuman, Degrading Treatment or Punishment
UPR	Universal Periodic Review
TJRC	Truth, Justice and Reconciliation Commission
NLC	National Lands Commission
IDP	Internally Displaced Persons

Introduction

1. The Government of Kenya is pleased to submit its 3rd Report on the Universal Periodic Review Process. This report outlines advances in the promotion and protection of human rights since the last review, the implementation of the 192 supported recommendations received during the second-cycle review, challenges faced and future aspirations. Kenya's national framework for the protection and promotion of human rights is based on her constitution, domestic laws and policies/programmes.

Methodology and consultative process

2. Following its second review in 2015, the GOK, in collaboration with the National Human Rights Institutions and civil society organizations (CSO) prepared a Universal Periodic Review 2nd Cycle Implementation Matrix 2015-2019 to track the progress of implementation of the supported recommendations. The Matrix outlined: the recommendations which were clustered into broad thematic areas; the specific government actions to be taken to implement the recommendations; human indicators to monitor the progress made; responsible actors, including CSOs and development partners; and timelines within which the implementation should be completed. The Implementation Matrix played an essential role in monitoring the progress made in the implementation of the recommendations and thus greatly simplified and streamlined the preparation of the current report.

3. On 29th March 2019, the National Committee on International and Regional Human Rights Obligations was gazetted, with the secretariat in the Office of the Attorney General and Department of Justice (OAG & DOJ), to serve as a standing body on reporting and follow-up. The Committee draws members from all relevant implementing ministries and the National Human Rights Institutions. The Committee provided strategic guidance to the co-ordination, preparation and compilation of this report.

4. The Report was prepared through a highly consultative process, involving civil society organizations, the Judiciary, Parliament, County Governments, human rights defenders, academia, and National Human Rights Institutions. The OHCHR provided valuable support to the GOK in the organization of various meetings for the preparation, review and validation of the final report.

Implementation of recommendations from the previous cycle

Ratification of international instruments (Recommendations 142.1, 142.2)

5. GOK continues to fulfil its obligations under the various treaties it has ratified for the benefit of her people. The Office of the Registrar of Treaties has been established under the Ministry of Foreign Affairs to act as the depository of all ratified treaties. It is worth mentioning that the Treaty Making and Ratification Act of 2012 details the process of ratification/accession of treaties in Kenya. The process requires extensive public participation, parliamentary consideration and approval. The process is therefore quite elaborate and takes considerable time. Once the treaty is ratified it becomes enforceable law in the country. It is therefore important to have the appropriate framework for implementation in place.

6. During the review period, various treaties and protocols have been ratified including the African Continental Free Trade Area Agreement and the Tripartite Free Trade Area Agreement. The implementation of both these instruments have the potential of contributing to alleviating poverty, job creation and promoting equality in the African continent. Kenya ratified the Marrakesh treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled on 2nd June 2017.

The GOK is in the process of reviewing the state reservation to Article 10(2) of the International Covenant on Economic, Social and Cultural Rights. While consideration is being made to the ratification of several other regional and international human rights treaties, the GOK has in place a legislative regime to guarantee the protection of rights under the specified instruments.

7. For example, though Kenya has not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography signed in September 2000, there is no gap with regard to the protection of children's rights. The Children Act, 2001 is under review to strengthen its protective capacity. The Counter Trafficking in Persons Act, 2010 prohibits trafficking in children and classifies child labour, child marriage and sexual exploitation as a form of exploitation. The Victim Protection Act, 2014 provides protection for victims of crime and abuse of power and provides special protection to vulnerable victims such as children. The Employment Act, 2007 provides for full payment of female employees during their three months of maternity leave. With regard to the International Convention on the Rights of Migrant Workers, it is noteworthy that migrant workers are recognized under the Employment Act, 2007. The Act promotes and guarantees equality of opportunity for migrant workers or a member of the family of the worker, lawfully within Kenya. Employers are expected to strive to eliminate discrimination in any employment policy or practice.

8. Further, with regard to regional human rights protective mechanisms, GOK has commenced the process of ratifying the Protocol to the African Charter on Human & People's Rights on the Rights of Older Persons in Africa and the Protocol to the African Charter on Human & People's Rights on the Rights of Persons with Disabilities. These treaties offer additional guarantees to vulnerable groups in society.

9. On the individual complaints mechanism, it must be noted that Kenya has a strong, impartial and independent domestic judicial system, where applicants can seek redress through several courts to the Supreme Court. Moreover, Kenya is a state party to the African Charter on Human and People's Rights which allows Kenyans to seek remedy if they are not satisfied with decisions of the Kenyan courts. Indeed, Kenya is taking measures to implement the decisions of the Commission.

Compliance with treaty body reporting obligations and co-operation with UN human rights special procedures (Recommendations 142.34, 142.35, 142.36, 142.37, 142.38, 142.39)

10. Since the last review, Kenya has submitted three periodic state reports to human rights treaty bodies. These are the 8th periodic report on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), submitted in March 2016, 3rd periodic report on the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in August 2018 and the 4th periodic report on the International Covenant on Civil and Political Rights in December 2018. Kenya has extended invitations and received the Special Rapporteur on the Rights of Persons with Albinism, the Special Rapporteur on the Rights of Indigenous Persons and the Working Group on the issue of human rights and transnational corporations and other business enterprises. At the time of preparing this report plans were underway to receive the Special Rapporteur on the implications of human rights of the environmentally sound management and disposal of hazardous substances and wastes.

National Policy and Action Plan on Human Rights and human rights education (Recommendations 142.6, 142.8, 142.9, 142.13, 142.14, 142.15, 142.22, 142.23, 142.24, 142.25)

11. Parliament adopted the National Policy and Action Plan on Human Rights on 2nd December 2015. The Policy gives effect to the Bill of Rights in the Constitution. The GOK

has made substantial progress in implementing the Action Plan, which is an integral part of the policy.

12. To strengthen the capacity of public officers to effectively deliver on their human rights obligations, the GOK in collaboration with the KNCHR continues to provide and mainstream human rights education and training in the public sector. Since the last review, the Commission has entered into a memorandum of understanding with the Kenya School of Government, to offer human rights training to civil servants, both at county and national levels. Further, the KNCHR trained judges on various aspects of human rights protection. In 2017-2018, the Commission trained 30 judges on how to handle cases of human rights defenders, and between 2018/2019, 123 judges were trained on how to deal with persons with disabilities in the criminal justice system.

13. Kenya has faced some difficulties in the collection of data to effectively monitor the implementation of its human rights obligations. To this end, the Kenya Bureau of Statistics and the KNCHR have begun the process of formulating guidelines on the collection of data under SDG 16 on Peace, Justice and Strong Institutions; Human rights indicators have been developed by the Ministry of Water and Irrigation and the KNCHR to monitor efforts towards the realization of the right to water and sanitation, and in 2017, the indicators were used to assess the implementation of the right in 18 of the 47 counties; and further, the KNCHR signed a memorandum of understanding with the Kenya National Bureau of Statistics to provide guidelines on collection of data. The NGEIC has established equality and inclusion technical working groups in 25 counties to oversee inclusion and equality at the county level.

Review of national laws and policies

(Recommendations 142.3, 142.4, 142.5, 142.18, 142.19, 142.20)

14. Kenya continues to align its laws and policies to the Constitution, thus engendering greater promotion and protection of human rights for its people. The Persons with Disability Act 2003 is being repealed by the Persons with Disability Bill, 2018, to enhance equalization of opportunities, habilitation and rehabilitation of Persons with Disabilities, the Mental Health Amendment Bill, 2018 amends the 1989 Mental Health Act to, among other factors, get rid of the stigma associated with mental illnesses, streamlines and enhances the coordination of mental health issues for the protection of mental health persons. The Bill guides national and county governments in promoting community mental health by providing appropriate resources, facilities, services, personnel and programmes. The Children's Bill reviews the 2001 Act by ensuring enhanced protection of children's rights.

15. To further safeguard the promotion and protection of human rights in Kenya, the courts have declared some sections of various pieces of legislation unconstitutional- the mandatory nature of the death penalty under section 204 of the Penal code on the basis that it violates the rights to a fair trial; Section 194 of the Penal code which criminalizes defamation violates the right to freedom of expression; and Section 25 (2) and (3) of the Penal Code; Sections 162-167 of the Criminal Procedure Code on the basis that the indefinite detention of persons at the pleasure of the President violates separation of powers since it vests in the executive powers reserved for the Judiciary.

16. Kenya has also put in place the following policies: National Plan of Action for Children (2015-2022), thus providing an operational framework to guide stakeholders and funding partners in coordinating, planning, implementing and monitoring programmes for children; National Policy on Public Participation which is before Cabinet for adoption and approval; and Kenya Mental Health Policy 2015-2030 – an important framework on interventions for securing mental health systems reforms in Kenya. This is in line with the Constitution of Kenya 2010, Vision 2030, the Kenya Health Policy (2014-2030) and global commitments.

Institutional reforms**(Recommendations 142.95, 142.97, 142.115, 142.120, 142.99, 142.103, 142.118, 142.94, 142.111, 142.119)****Judicial reforms**

17. On 26th January 2017, the Judiciary launched their “Judiciary blueprint, Sustaining Judiciary Transformation: an agenda for service delivery (2017-2021)” to promote effectiveness and efficiency in the administration of justice, access to justice and judicial performance. The Agenda elaborates strategies and initiatives to enhance access to justice for all, improve integrity and ethics, embrace and utilize technology, and provide leadership and governance. Of particular significance is the plan to establish High Courts in all the 47 counties. By December 2017, 39 High Courts had been established in 38 counties. Plans are also ongoing to establish at least one Magistrates Court in each of the 290 sub-counties. In the financial year 2017/2018, 54 courts were undergoing construction and rehabilitation. (See Table 1 in the Annexures).

18. The Judiciary Fund Regulations, already tabled before the National Assembly for debate and approval, provide guidelines for the effective discharge of the functions of the Judiciary. In order to unclog the court system and also ensure the speedy administration of justice, the use of Alternative Dispute Resolution has been prioritized. To this end, an Alternative Justice System’s Policy has been formulated. The Policy, which is currently undergoing stakeholder consultations, provides for alternatives to the formal court system and implores traditional justice mechanisms. This move is in line with constitutional stipulations which allow alternative forms of dispute resolution mechanisms, including traditional approaches, as long as they do not contravene the Bill of Rights, and are not repugnant to justice, morality or inconsistent with the Constitution or any written law.

19. To further address the backlog of cases, a court-annexed mediation has been introduced. Cases are resolved with the assistance of court accredited mediators, usually lawyers who are trained in mediation. The process involves the screening of a case and, if it qualifies, is referred to mediation. The agreement reached is considered legally binding by the courts.

Security sector reforms

20. The GOK has adopted a sector-wide approach to implementation of Police reforms that embrace partnerships as a key strategy. A Police Reforms Steering Committee has been established as a framework for coordinating the ongoing reforms in the National Police Service and to ensure sustainability of the reform agenda.

21. The policy and institutional frameworks of police institutions have been strengthened and capacities for accountability enhanced by the increased compliance of police officers with the Public Officers Ethics Act 2003 and the Leadership and Integrity Act 2012. Further, the capacity for strategic police human resource management and police professionalism has been bolstered in order to reengineering police operational preparedness, logistical capability, and tooling and kitting. The motivation of police officers has been mainstreamed through development and implementation of innovative and creative strategies for police welfare and sustainable motivation. In September 2018, radical changes were made in the police force. The changes deal with command, uniform, housing and training in the Administration Police (AP), Kenya Police and the Directorate of Criminal Investigations (DCI). The changes include integration of functions, rebranding, renaming and scrapping of some positions.

22. The training curriculum for National Police Service has been reviewed to include management, research methodology, judicial procedure, information security management, psychology, cybercrime, customer care, human rights, security and safety and policing within a cultural context. The curriculum is implemented in all security training.

23. The GOK has stepped up its efforts to fight corruption, combat illicit financial flows and tax avoidance. Legislative, policy and institutional strategies have been initiated to ensure that the fight is won. A Multi-Agency Team (MAT) was established in November 2015 to enhance collaboration and cooperation on crime intelligence, investigation, asset

recovery and prosecution of corruption and economic crimes. The members of the team are drawn from various agencies involved in the fight against corruption. The collaborative strategy has been highly successful and seen several high ranking government officers investigated and arraigned in court on corruption, abuses of office and money laundering charges.

24. Since the creation of the MAT, 549 corruption-related cases have been prosecuted from 2015 to 2018. Over Kshs. 3 Billion (Approx. USD 30 million) worth of assets recovered and over Kshs. 2.5 billion (Approx. USD 25 million) worth in taxes assessed from corruption cases.

25. Laws and policies formulated to curb corruption in the country include; the Anti-Corruption Laws Amendment Bill, the Whistle Blower's Protection Bill, the Conflict of Interest Management Bill, and the National Ethics and Anti-Corruption Policy which has been adopted as a Sessional Paper.

26. In a bid to halt illicit financial flow and curb corruption, the GOK demonetized the Ksh 1000 (USD 10) note and introduced new currency. The 1,000, which is the largest currency bill, was being used for illicit financial flows and forgery in Kenya and other neighbouring states. These are grave concerns that would jeopardize proper transactions and the conduct of commerce in the currency.

Strengthen National Human Rights Institutions (NHRIs) (Recommendations 142.11, 142.26)

27. In the financial year 2018/2019, KNCHR was allocated Kshs. 393,789,280 (Approx. USD 3.93 million) which was increased to 398,766,234 (Approx. USD 3.98 million) in 2017/2018, Commission on Administrative Justice Kshs. 492, 046, 337 (Approx. USD 4.9 million) an increase from Kshs. 412,789,402 (Approx. USD 4.1million in 2017/2018) and the National Gender & Equality Commission Kshs. 365,441,032 (Approx. USD 3.6 million) an increase from Kshs. 345,524,207 (Approx. USD 3.4 million) allocated in financial year 2017/2018.

Civil and political rights

Counter terrorism measures (Recommendations 142.5, 142.17, 142.184, 142.185, 142.186, 142.187, 142.188, 142.189, 142.190, 142.191, 142.192)

28. The Security Laws (Amendment) Act was enacted in 2014 to amend security laws and make them more responsive to the fight against terrorism. In 2016, certain sections of the Act were declared unconstitutional by the court on the basis that they violated the freedom of expression and the media, the right of an accused person, and the principle of non-refoulement as recognized under the 1951 United Nations Convention relating to the Status of Refugees. Several pieces of legislation on security have been reviewed since the last review to conform to the Constitution and to international human rights standards.

29. In September 2016, Kenya launched the National Strategy to Counter Violent Extremism. The Strategy complements security-focused counter-terrorism measures with a framework which includes the provision of employment options, business opportunities and life skills, aimed at reducing youth vulnerability to radicalisation and violent extremism.

Prevention of torture, enforced disappearance and extra judicial killings

(Recommendations 142.75, 142.88, 142.57, 142.99, 142.103, 142.64, 142.79, 142.82, 142.106, 142.109)

30. The *Prevention of Torture Act, 2017* criminalizes torture and other acts of cruel, inhuman or degrading treatment. The Act relates to all public officers or persons acting on

behalf of a public officer. The expenses incurred for the treatment or professional counselling of a victim of Torture shall be charged on the Victim Protection Trust Fund established under section 27 of the Victim Protection Act, 2014. The *Persons Deprived of Liberty Act* enacted in 2014 provides for the humane treatment of persons detained, held in custody or imprisoned and upholds their inherent human dignity.

31. The Independent Policing Oversight Authority was established in November 2011 to provide for civilian oversight over the work of the police in Kenya. The Authority publishes yearly reports on its work. Reports include the number of complaints received and investigated, number of cases referred to the Director of Public Prosecution and number of convictions.

32. Training on human rights is an integral component of the Police curriculum. The police are expected to use the knowledge gained from the training to effectively protect and respect human rights as they go about their work of maintaining law and order, especially with regard to duties involving arrest, detention, search, seizure of property, surveillance, use of force and firearms. All police officers must undergo a vetting process against set criteria on professionalism, integrity, track record of performance and psychological fitness.

33. In the period under review, 99 officers from the Kenya Prisons Service were trained on human rights and prevention of torture (see table 2 in the Annexures).

34. There are a total of 94 reported incidences on infringement of civil rights by law enforcement officers from 2015 to June 2019 (See Table 3 in the Annexures). All allegations of extrajudicial killing by law enforcement officers are promptly investigated and perpetrators brought to justice to ensure accountability.

Protection of human rights defenders and expanding CSO space (Recommendations 142.123, 142.132, 142.142, 142.192, 142.125, 142.127, 142.128, 142.133, 142.135, 142.136, 142.137, 142.140)

35. Kenya has efficient and effective structures for safeguarding the rights of all persons in Kenya, including human rights defenders. The Independent Police Oversight Authority provides an important platform where the defenders can report any grievances that they may have against the police. Furthermore, the National Coroners Service Act further strengthens the investigations of deaths caused by violent criminal acts, extra-judicial killings, or deaths in prison or police custody.

36. A Human Rights Defenders Policy and Action Plan developed by the KNCHR recognizes and reaffirms the critical role of HRDs in the promotion and protection of human rights in Kenya and the need for the state to fulfil its mandate to provide a safe and secure legislative and operating environment. The policy outlines the importance of sustained civic education, expanded human rights education in schools, universities, colleges and teacher training institutions, and the Training of Police and other enforcement agencies under both National and County Governments.

Steps towards abolition of the death penalty (Recommendations 142.58, 142.61, 142.63, 142.87)

37. In a landmark ruling dated 14th December 2017 the Supreme Court in Petition No. 15 of 2015 as consolidated with petition No. 16 of 2015, Francis Kariuki Muruatetu and Wilson Thirimu Mwangi Vs and Republic of Kenya and 5 Others declared unconstitutional the mandatory nature of Section 204 of the Penal Code, which provides that 'any person convicted of murder shall be sentenced to death'. A Task Force established to give effect to the Court's decision has proposed a legal framework to deal with resentencing of capital offenders, formulated parameters of what ought to constitute life imprisonment, and formulated amendments and proposed laws to give effect to the Judgment. The courts in Kenya have begun the process of sentence rehearing.

38. On 24th October 2016, the President of Kenya, H.E. Uhuru Kenyatta commuted all death sentences of 2,747 death row inmates, 2,655 male convicts and 92 female convicts- to life sentences. As at June 2019, there were 810 death row inmates.

**Access to information, freedom of expression and right to privacy
(Recommendations 142.121, 142.124, 142.126, 142.129, 142.131,
142.135, 142.138)**

39. The Access to Information Act, 2016 gives effect to article 35 of the Constitution on the Right to Access to Information. The Act grants the Commission on Administrative Justice (Office of Ombudsman) oversight and enforcement powers of the Act. The Commission can investigate complaints made by persons on the violations of the provisions of the Act. Amongst other functions, the Commission has the role of developing and facilitating public education awareness and developing programmes on the right to access to information and right to protection of personal data. The Data Protection Bill, 2018 which seeks to regulate the collection, retrieval, processing, storing use and disclosure of personal data is currently before the Senate for debate.

40. In 2018, the Commission on Administrative Justice developed and launched three publications on Access to Information geared towards creating public awareness on the right to access to information. These are the Handbook on Best Practices on the Implementation of Access to Information in Kenya, a guide on proactive disclosure for public entities at national and county level in Kenya and a simplified version of the Access to Information Act.

**Access to justice for specialized groups including legal aid
(Recommendations 142.90, 142.105, 142.114, 142.7, 142.98)**

41. The Children Act, 2001 is under review to align it to the 2010 Constitution. In 2016, a Guidelines manual on the Juvenile Justice Best Practices was developed as part of the 'Improving the Kenya Juvenile Justice System project. The guidelines introduce how children can be placed at the core of the justice system, detailing measures and strategies to protect them and the key responsible actors.

42. The Sexual Offences Act, 2006 is also undergoing review to take into consideration emerging situations and introducing clauses such as the 'Romeo and Juliet laws' to protect teenagers (Aged 13–17) engaging in consensual sex from being placed in the juvenile justice system.

43. The enactment of the Legal Aid Act No. 6 of 2016 was a significant milestone in the development of the justice system in Kenya. It signified the equality of all citizens through the provision of free legal services to the vulnerable and indigent of the society ensuring justice for all. The National Action Plan on Legal Aid, 2017-2022, outlines various strategies which must be taken in order to inter alia, strengthen and enhance the provision of quality access to justice to the poor, marginalized and vulnerable.

44. In 2016, the Chief Justice published practice directions on pauper briefs schemes and pro bono services for application in capital cases and cases of children in conflict with the law in the Magistrates Courts. The notice also provided for the setting up of pro bono services through the Court Users Committees and increasing the pro bono fee from Kshs. 10,000 (Approx. USD 100) to Kshs. 30,000 (Approx USD 300). The enhanced payment is geared towards motivating lawyers to take up such cases.

45. A Diversion Policy has been formulated by the ODPP to enhance access to justice for vulnerable groups and to enable out of court settlement on criminal matters. Further, the Plea Bargaining Guidelines and Rules have been gazetted to enhance plea bargaining.

**Historical human rights violations
(Recommendations 142.91, 142.96, 142.100, 142.101, 142.102, 142.104,
142.107, 142.108, 142.116, 142.117)**

46. The Land Laws (Amendment) Act, 2016 amends the National Land Commission (NLC) Act to introduce provisions that empower the Commission to receive, admit and investigate all historical land injustice complaints and recommend appropriate redress. The NLC (Investigation of Historical Land Injustices) Regulations, 2017 have been published to guide investigations into historical land injustices, opening doors to thousands of Kenyans who have raised the emotive issue for decades. A majority of the recommendations of the TJRC have been implemented, including the resettlement and compensation of all IDPs, the establishment of a National Legal Aid Service, enactment of laws on the fight against corruption, and strategies to promote and protect gender rights.

**Rights of refugees
(Recommendations 142.181, 142.182, 142.183)**

47. As at February 2018, 78,517 refugees from Dadaab Refugee Camp, Kakuma Refugee Camp and Urban centres had been voluntarily repatriated. To enhance security in the Dadaab and Kakuma refugee camps, an expanded community policing programme has been introduced, and more police units have been deployed to the camps.

Economic, social and cultural rights**Right to housing
(Recommendations 142.155, 142.157)**

48. The GOK has defined housing as one of the prioritized areas under the ‘Big Four’ Agenda to be implemented within 5 years – 2017/2022. The Agenda is a GOK plan to ensure the provision of affordable housing to low-income earners, among other projects. Since the last review, a number of policy interventions have been made to realize the national aspirations as envisaged in Vision 2030 and in the Bill of Rights. These include the National Housing Policy 2016, which outlines the right to housing and emphasizes social housing as well as providing for the role of county governments; the National Urban Development Policy of 2016, a review of the National Building Maintenance Policy 2012 and the Slum Upgrading Sessional Paper no 2 of 2016. Some key milestones of the Kenya Slum Upgrading Programme (KENSUP) include; Relocation of 1,200 households from Soweto East to a decanting site in Lang’ata. Construction of 822 housing units in Soweto and 245 market stalls. Vetting and allocation of 691 units to beneficiaries. In June 2017, the Ministry of Lands processed 3.2 million title deeds including regularization of informal urban centres particularly in Kibra, within Nairobi County. There has been issuance of individual title deeds for 288 acres of land in Kibra for the Nubian community.

**Right to water and sanitation
(Recommendations 142.147, 142.154)**

49. The scarcity of water in Kenya poses a huge challenge to the realization of a number of rights, including the right to health and to development. Kenya has in the recent past been faced with a prolonged unprecedented drought. While the recommended threshold is 1,000 cubic meters per capita, the national per capita water supply per annum remains low standing at 647 cubic meters. This situation is compounded further by the depletion of Kenya’s forests at an alarming rate of about 5,000 hectares per annum. This is estimated to lead to an annual reduction in water availability of approximately 62 million cubic metres, translating to a loss to the economy of over USD 19 million. The National Water Harvesting and Storage Authority (NWHSA) established under the Water Act 2016, is undertaking the development of national public water works for water resources storage

and flood control. The authority is in the process of developing a water harvesting policy to enforce water harvesting strategies.

50. On the realization of the right to sanitation, the GOK has articulated various sanitation policies, which include the Kenya Environmental Sanitation and Hygiene policy 2016-2030, the Kenya Environmental sanitation strategic framework (KESSF) 2016-2020 for sustained sanitation and hygiene service delivery in Kenya, including the elimination of open defecation by 2020. The Open defecation free (ODF) road map 2016-2018 is supposed to fast track the country to achieve 100% ODF status by 2020. It is noteworthy that access to safe drinking water increased from 53.3% in 2013 to 60% in 2017 translating to an additional 4.65 million people accessing clean and safe water. In addition, urban water supply coverage increased from 66.7% in 2013 to 70% in 2017.

Right to food (Recommendations 142.154)

51. In 2018 the GOK constructed 4,400 water pans under the Household Irrigation water project to enhance food production at household level. The pans will store 6 million cubic meter of water, placing an additional 6,000 acres under irrigation.

52. To address the perennial challenges in the sugar and maize sub sectors, the Government set up two task forces in 2018 to come up with durable solutions to ensuring food security – one of Sugar Industry Stakeholders and another of the Maize Industry Stakeholders. The Reports of both task forces have been validated, thus paving way for implementation of a raft of measures that the government has proposed for the revival of the ailing sectors. The maize task force has, among other things, proposed the partial privatisation of the National Cereals and Produce Board (NCPB). It also recommended an increase of the strategic grain reserve from the current 4 million to 6 million bags, in what could see the agency purchase more maize from farmers.

53. Since the last review, all agricultural research institutions were consolidated into one, the Kenya Agricultural Livestock Research Organization for enhanced performance. The Livestock Breeding Act and the Fisheries and Management Development Act were also enacted. Growth in Agriculture Value Added increased from 5.0% in 2016 to 6.6% in 2018. The value of marketed production has been increasing over the last four years and increased further by 11.4% to Kshs 497.9 Billion in 2018.

Social security for vulnerable groups (Recommendations 142.70, 142.145, 142.150, 142.159)

54. Until 2017 the GOK supported four unconditional cash transfer programmes: Hunger Safety Net Programme (in four of the poorest and Arid Counties of Turkana, Wajir, Mandera and Marsabit), Older Persons Cash transfers (OPCT), Orphans and Vulnerable Children (OVC-CT) and Persons with severe disabilities (PWSD-CT). Collectively, more than 600,000 households received cash transfers across the 47 counties. In 2017, the GOK committed to enhance and expand the existing Older Persons Cash Transfer Programme (OPCT), Inua Jamii, into a more inclusive programme that provides transfers to all older persons aged 70 years and above. This unconditional cash transfer programme is regarded as a non-contributory social pension for senior citizens. A National Policy on Older Persons and Aging is in place. The Hunger Safety Net Programme has now been established at all Huduma Centres in order to enhance quality delivery of services to beneficiaries. In Wajir Huduma Centre, the Hunger Safety Net Programme help desk has been active since mid-September 2018. The help desk is currently serving an average of 300 beneficiaries per day.

Right to property and protection from forced eviction (Recommendations 142.149, 142.160)

55. Sections 152B-152I of the Land Laws Amendment Act, 2016 introduced procedures on how to humanly evict unlawful occupiers from public, private and community lands. With regard to evictions from public land, the National Land Commission must give a three months mandatory notice to all affected persons in writing in the Kenya Gazette and in at least one of the newspapers with nationwide circulation, and by radio announcement in a local language where appropriate. Further, the law allows any person who is aggrieved by such notice to apply to court for relief.

Right to health including reproductive health (Recommendations 142.32, 142.165, 142.43, 142.166, 142.167, 142.168, 142.169)

56. The 2014 Kenya Demographic and Health Survey (KDHS) showed that 96% of women with a live birth in the five years preceding the survey received antenatal care from a skilled provider, an improvement from 92% in the 2008-09 KDHS and 88% in the 2003 KDHS. 58% of women make the recommended four or more antenatal care visits during their pregnancy, an increase of 11 percentage points from the 2008- 09 KDHS (47%). In 2018, the infant mortality rate for Kenya was 34.2 deaths per thousand live births, a gradual fall from 36.5 deaths per thousand live births in 2015.

57. In December 2018 the GOK rolled out the Universal Health Coverage (UHC) as a pilot programme in four counties, namely, Kisumu, Isiolo, Machakos and Nyeri. This marks Kenya's commitment to the actualization of SDG 3 on ensuring healthy lives and promoting well-being for all.

58. The registered members of the National Hospital Insurance Fund rose from Kshs. 6.1 million (Approx USD 61,000/-) in 2016/17 to Kshs.7.7 million (Approx USD 77,000/-) in 2017/18. The number of health facilities increased from 8,984 in 2016 to 10,820 in 2018. The total deliveries in health facilities 1,006,800 in 2016 to 1,107,200 in 2018. The number of full-immunized children rose from 1,192,500 in 2016 to 1,299,700 in 2018. The registered health personnel increased from 149,005 in 2016 to 175,681 in 2018.

59. The Health Act, 2017, establishes a national health system that facilitates, in a progressive and equitable manner, the highest attainable standard of health services. The Act protects and promotes the health rights of all persons in Kenya including rights of children to basic nutrition and health care services, and rights of vulnerable groups. The Assisted Reproductive Technology Bill, 2016 seeks to provide for the regulation of assisted reproductive technology; to prohibit certain practices in connection with assisted reproductive technology; to establish an Assisted Reproductive Technology Authority and to make provision in relation to children born of assisted reproductive technology processes. Various inroads have been made by the courts in the promotion and protection of the right to health.

60. In *Daniel Ngetich & 2 Others v. Attorney General & 3 others (2016) eKLR* the High Court declared unconstitutional the incarceration of persons having difficulties adhering to tuberculosis drugs. The petitioners, in that case, had defaulted in the treatment of the disease and had been arrested, charged and confined to prison on the orders of a Magistrate's Court. This led to the development of a rights-based Tuberculosis Isolation Policy in 2018. The policy outlines the procedures to be followed in isolation and admission of TB patients who interrupt TB treatment and refuse to take anti-TB medicine.

61. On 12th June 2019, the High Court, in *Petition No. 266 of 2015, Federation of Women Lawyers & A3 Others Vs The AG*, declared unconstitutional the withdrawal by the Director of Medical Services of the Standards and Guidelines for Reducing Morbidity and Mortality from Unsafe Abortion in Kenya and the National Training Curriculum for the Management of Unintended, Risky and Unplanned Pregnancies. The Court found that the withdrawal of the documents was not justifiable and violated the rights of women and

adolescent girls of reproductive age to the highest attainable standard of health. The Court further found that the unjustifiable limitation amounted to the violation of the right of women and girls to non-discrimination, as well as the right to information, consumer rights, and right to benefit from scientific progress.

Right to education

(Recommendations 142.151, 142.170, 142.171, 142.173, 142.174, 142.175)

62. In the financial year 2017/2018, the total number of educational institutions increased by 5.1 per cent from 86,179 in 2016 to 90,587 in 2017. The number of pre-primary, primary and secondary schools went up by 1.3 per cent, 6.7 per cent and 7.2 per cent, respectively, in 2017. Notably, the rate of increase for private schools was higher than that of public schools during the year under review (2017/2018). The total number of registered Technical Vocational and Education Training (TVET) institutions rose substantially by 50.9 per cent from 1,300 in 2016 to 1,962 in 2017. The increase is partly as a result enforcement of the TVET Act where all the institutions were required to be registered. The number of public universities increased by one following the granting of charter to Garissa University College.

63. The number of primary schools increased from 33,202 in 2016/2017 to 37,910 in 2018/2019. Primary School Enrolment overall also significantly with that of girls rising from 5,060,300 in 2016 to 5,178,300 in 2018 while that of boys rose from 5,219,300 in 2016 to 5,364,300 in the same year. Enrolment in Technical and TVET Institutions rose from 113,963 for male in 2016, to 205,142 in 2018 while of female rose from 88,593 in 2016 to 158,742 in 2018. The number of loans beneficiaries for TVET institutions rose from 20,093 for male in 2016/2017 to 23,791 in 2017/2018, while for female rose from 10,852 in 2016/2017 to 20,991 in 2017/2018 financial year.

64. The National Curriculum Policy, 2015 consolidates the various parameters that are essential for the envisaged education curriculum and also provides a framework for governance and management of the implementation of the reform process. The purpose of this policy is to guide the curriculum reform process at all levels of education in Kenya.

65. In 2017, the GOK, through the Ministry of Education, launched the Competency-Based Curriculum, a new system of education designed to emphasize the significance of developing skills and knowledge and also applying those competencies to real-life situations. Competency-Based Curriculum national pilot was rolled out in 2018 and extended in 2019 to allow alignment in implementation particularly intensive in-service teacher training.

Child trafficking

(Recommendations 142.60, 142.77, 142.71, 142.78, 142.81)

66. The Guidelines on the National Referral Mechanism for assisting victims of trafficking guidelines were in the financial year 2017/2018 disseminated to 12 counties identified as sources, avenues for transit and destinations for victims of trafficking. The dissemination focused on 300 law enforcement officers who sit in Court Users Committees. The 2nd Advisory Committee was gazetted on 28th September 2018.

67. In the financial year 2016/2017, the Office of the Director of Public Prosecution registered 148 new cases on human trafficking, 193 from the financial year 2015/2016, a total of 341 cases. Out of the 341 cases, there were 61 convictions, 7 acquittals, 17 withdrawals and 256 still pending trial. In the financial year 2017/2018, they handled 398 cases on human trafficking. Out of the 398, there were 68 convictions, 5 acquittals, 8 withdrawals and 317 pending trial. (See Table 5 in Annexures).

68. The Kenya Labour Migration Information Website was launched on 29th January 2019 by the National Employment Authority (NEA). The website is a source of credible, factual and reliable information for prospective Kenyan migrant workers seeking

employment abroad. The objective of availing this information is to promote safe, orderly and regular migration.

Child labour (Recommendations 142.71.142.78.142.81)

69. In 2017, the GOK mandated free secondary education for all Kenyans and established additional Child Protection Centres to provide housing, counselling, and reintegration services to rescued child labourers. The GOK also developed a National Employment Policy that requires the reporting of the number of children withdrawn from child labour and the progress of child labour-free zones.

Poverty reduction (Recommendations 142.14, 142.146, 142.152, 142.153, 142.156, 142.161, 142.163)

70. The GOK has since independence put in place various policies and resources to alleviate poverty. The GOK's strategic agenda over the next four years (2018–2022) is under a banner labelled the 'Big Four'. The Agenda, among others, seeks to implement projects and policies that will accelerate economic growth and transform lives by creating jobs, enabling Kenyans to meet their basic needs, improve health standards, improve living conditions, lower cost of living and reduce poverty and inequality.

Business and human rights (Recommendation 142.27)

71. A National Action Plan (NAP) on Business and Human Rights was finalized in October 2018 after numerous stakeholder consultations and is awaiting cabinet approval. The NAP was developed as a guide in the implementation of the UN Guiding Principles on Business and Human Rights. It seeks to consolidate policy actions by GOK agencies, businesses and other relevant stakeholders to further promote the respect of human rights by businesses. It focuses on five critical thematic issues identified by stakeholders: labour, revenue transparency, environment, land, and access to justice.

Group rights

Protection from gender stereotypes and harmful cultural practices (Recommendations 142.12, 142.28, 142.40, 142.42, 142.44, 142.48, 142.50, 142.53, 142.54, 142.62, 142.65, 142.67, 142.69, 142.72, 142.74, 142.76, 142.85)

72. The Anti-FGM board has guidelines to guide the conduct of community dialogue which gives an opportunity to members of the community to voice their thoughts and beliefs on the practice of Female Genital Mutilation (FGM). The National Policy on the abandonment of FGM 2008-2013 was reviewed and updated in line with the Constitution and the Prohibition of FGM Act. It has been submitted to cabinet for approval.

73. The Anti-FGM board has devised several programmes including; community dialogues, alternative rites of passage, engagement of community elders, cultural leaders and religious leaders. 10,000 girls have graduated from alternative rites of passage during this review period. Further the Anti-FGM board in collaboration with UNFPA through collaboration with other stakeholders held an end FGM cross border inter-ministerial meeting that involved Kenya, Uganda, Ethiopia and Somalia, culminating in the signing of a declaration to end cross border FGM within their borders. The Board also trained 4,530

duty bearers from 20 FGM hotspot counties in Kenya, on the prohibition of the practise and the effects of FGM as at May 2019.

74. In the financial year 2016/2017, the ODPP had 95 newly registered cases on female genital mutilation & related offences and 166 from the financial year 2015/2016 a total of 261 cases. Out of the 261 cases, there were 16 convictions, 8 acquittals, 5 withdrawals and 232 still pending trial. In the financial year 2017/2018, they handled 346 cases on female genital mutilation. Out of the 346, there were 34 convictions, 10 acquittals, 22 withdrawals and 280 pending trial. (See Table 5 in the Annexures)

**Protection from sexual and gender-based violence
(Recommendations 142.12, 142.16, 142.28, 142.33, 142.47, 142.49,
142.51, 142.55, 142.66, 142.68, 142.73, 142.77, 142.80, 142.83, 142.84,
142.86, 142.89)**

75. The NGEC in collaboration with key partners and stakeholders facilitated the development of a national multi-sectoral monitoring and evaluation framework on prevention and response to SGBV in Kenya. The framework provides a centralized mechanism for monitoring progress towards prevention and response management. It aids in facilitating the availability of credible and reliable data to inform policy development and streamline the submission of data for routine as well as periodic reporting for stakeholder's consumption and international reporting.

76. The National Gender and Equality Commission coordinates a National Multi-Sectoral Gender-Based Violence Technical Working Group that convenes on a monthly basis. Further, the Commission has established equality and inclusion technical working groups in 25 counties consisting of state and non-state actors who convene on a quarterly basis. This platform strengthens collaboration and partnership on addressing SGBV and improving the referral chain among the service providers.

77. The National Monitoring and Evaluation Framework towards the Prevention and Response to SGBV in Kenya, provides 30 indicators for reporting on SGBV. It establishes one integrated and functional SGBV multi-sectoral monitoring and evaluation system; monitoring and evaluation of national efforts in the prevention of and response to SGBV; and contributes to evidence-informed funding, advocacy, decision-making and programming. To ease the burden of reporting SGBV cases, NGEC developed a Sexual Gender-Based Information System. Currently, the system provides a harmonized means of reporting GBV data to the Commission, from five key sectors, namely: Health, Police, Judiciary, Prosecution and Education.

78. The GOK installed a SGBV information system in 2016 to provide a coordinated mechanism for monitoring and reporting on the progress of SGBV prevention and response and the Mapping of Ethnic Minorities and Marginalized Communities in all the 47 counties in Kenya.

79. Other interventions include the development of: The National Government Affirmative Action Fund Regulations, 2016; The County Government Policy on Sexual and Gender Based Violence 2017, which elaborates a comprehensive framework to progressively eliminate sexual and gender-based violence through the development of a preventive, protective, supportive and transformative environment; and National Guidelines on the Management of Sexual Violence 2014, a guiding policy framework on procedures and services for management of survivors of sexual violence and explicitly recognizes sexual violence as a serious human rights and health issue which calls for imperative attention by all concerned. The Guideline provides medical practitioners with information on steps to be taken when treating a survivor of sexual violence, preservation of evidence for court use, issues of psycho-social support and other ethical issues related to the management of health-related problems of sexual violence.

80. In the financial year 2016/2017, the Office of the Director of Public Prosecution had registered 6,899 new cases on SGBV and related offences and 14,651 from the financial year 2015/2016, a total, of 21,550 cases. Out of the 21,550 cases, there were 1,703

convictions, 587 acquittals, 578 withdrawals and 18,682 still pending trial. In the financial year 2017/2018, they handled 24,954 cases on SGBV. Out of the 24,954, there were 1,668 convictions, 761 acquittals, 936 withdrawals and 21,589 pending trial. (See Table 5 in the Annexures)

81. The GOK has established a model Gender Violence Recovery Centre in Kilifi supported by the United Nations Population Fund (UNFPA), two in Trans Nzoia and Kiambu Counties, and two in Kenyatta National Hospital and Kisumu. The centres are run by the Ministry of Health and supported by Development Partners.

82. The GOK, through the Ministry of Public Service, Youth and Gender Affairs has trained service providers in all level five hospitals in the country on the Standard Operating Procedures on the Management and Response to SGBV. The NGEC is working towards establishing safe houses at County Level and has developed guidelines that counties can use and are using in establishing safe houses.

83. The Ministry of Labour and Social Protection has developed National Standards for the construction of houses to care for elderly persons. The standards have been validated and adopted. In addition, the Ministry is in the process of establishing a model home for elderly persons in Kirinyaga County.

**Participation and representation of special interest groups
(Recommendation 142.122, 142.130, 142.134, 142.139, 142.141, 142.144,
142.177, 142.178)**

84. Kenya is state party to a number of international and regional human rights instruments that recognize the right to equal participation in political and public life. The GOK, in giving effect to constitutional provisions, has instituted various overarching reform measures with a view to promoting political democracy in Kenya. These measures have seen the mandatory inclusion of women, youth, marginalized groups, persons with disabilities in the country's political processes, institutionalization of political parties; compulsory public participation in the legislative processes, opportunity to petition presidential results before the President-elect is sworn in, allowing independent candidates to contest elections, freedom of media and access to information; a strengthened electoral justice and increased compliance with the electoral framework.

85. The Representation of Special Interests Group Law (Amendment) Bill 2019 was introduced in the National Assembly in July 2019. The Bill amends various laws to give effect to Article 100 of the Constitution, which seeks to promote the representation of women, persons with disabilities, youth and ethnic and other minorities in Parliament.

86. In collaboration with County Assemblies Forum, the National Gender & Equality Commission developed a training curriculum for women members of County Assemblies to enhance their representation role, oversight, budgeting and legislative functions. The curriculum was disseminated in all the 47 counties.

87. The National Gender & Equality Commission, in *Petition no. 1 of 2019, National Gender & Equality Commission v Majority Leader, County Assembly of Nakuru & four others eKLR*, successfully challenged the decision of the Nakuru County Assembly to de-whip nominated members of the assembly as chairpersons and vice-chairpersons in different committees in the house. The decision had the overall effect of undermining the constitutional principle and spirit of gender equality. Some of the re-constituted Committees did not comply with the constitutional two-thirds gender rule.

88. The 2019 Kenya Population and Housing Census used the Washington Model of Short Set of Questions on Disability, an internationally recommended standard in collecting statistics on persons with disabilities across six main functions.

Representation of women in the public and private sector

89. As at April 2019, there were 27,165 women employed in the Public Sector by the Public Service Commission. This was an increase from the 26,313 women in the public sector as of June 2018. A survey conducted by the NGECC 2018 of 61 private companies revealed that there were 131 women serving on boards of directors, 6 were chairpersons, 9 were chief executive officers of registered companies listed on the national stock exchange and 16 companies that complied with the constitutional requirement of not more than 2/3rd of the membership shall be of the same gender. In the 2017 general elections, a total of 745 women out of the 2196 members were elected and nominated to Parliament and county assemblies. This accounts for 33.9% representation of women. (See Table 4 in the Annexures)

90. Kenya developed the Public Service Diversity Policy to provide strategies for ensuring an inclusive public service that takes care of the interests of diverse Kenyan communities including gender, ethnicity, youth, and persons with disabilities, minorities and marginalized groups.

Rights of persons with disabilities (Recommendations 142.56, 142.70, 142.145)

91. The Sector Policy for Learners and Trainees with Disabilities, 2018 and The National Education Sector Plan (2013-2018) highlight the need for review of the Special Needs Education Policy (2009) so as to align the sector policy to the Kenya Vision 2030, the Constitution of Kenya, the Sustainable Development Goals (Goal No.4) as well the National Curriculum Reform. Inclusive education is now the overarching principle of this policy. Though the policy recognizes all disabilities and special needs, it now prioritizes the coverage of learners and trainees who have hearing impairments, visual impairments, deaf, blindness, physical impairments, intellectual disabilities, specific learning disabilities, cerebral palsy, speech and language difficulties, multiple disabilities, autism and albinism.

92. The National Council on Persons with Albinism has registered 3,156 persons with Albinism in the sunscreen program. Further, the 2019 Kenya Population and Housing Census has included a specific question that will be able to collect data on albinism separately from the other disabilities outlined in the six domains namely: visual, hearing, speech, physical, mental and self-care.

93. The Persons with Disabilities Bill 2018 seeks to repeal the present Act to ensure conformity with the Constitution of Kenya, 2010 and Convention on the Rights of Persons with Disabilities. The Bill was approved by Cabinet on 14th August 2018 and has been tabled in Parliament. It provides a broader protective framework of the rights of persons with disabilities in Kenya. The Bill also includes persons with Albinism in the broader definition of persons with disabilities, obligates the state to facilitate public participation for persons with disabilities, and addresses concerns of women, girls and children, youth and elderly with disabilities.

94. An inter-agency coordinating committee has been established to facilitate the effective implementation of the disability agenda in Kenya including the commitments made at the 2018 Global Summit. Kenya co-hosted the Global Disability Summit with Government of the United Kingdom and International Disability Alliance in July 2018. The overall aim of the summit was to galvanize global efforts to address disability, inclusion and generated sustainable commitments from Governments, donors, civil society and private sector.

Rights of indigenous persons to their ancestral land (Recommendations 142.176, 142.179, 142.180)

95. The Constitution recognizes that indigenous people form part of marginalized communities who must be protected through specific affirmative actions designed to ensure

that they enjoy their human rights and fundamental freedoms on an equal footing with others. Their rights to land are recognized and protected under the Community Land Act enacted in 2016, which also details the role of county governments in relation to unregistered community land. Any dealings with community land can only be conducted with the consent and participation of communities. The Forest Conservation and Management Act protects forests which form the habitat of indigenous people and provides for community participation in forest management.

Equality and non discrimination

(Recommendations 142.21, 142.41, 142.45, 142.46, 142.51)

96. A study conducted in 2016 on the equality and inclusion index in the different sectors found that the Labour Force Participation Index stood at 64 per cent, Gender Equality Index at 38 per cent, Health Index at 67 per cent while the Education Index stood at 61 per cent. These results provide an important baseline for monitoring equality and inclusion for National and County Governments focusing on employment, political representation, social protection and education.

97. In 2018, the NGEK developed a Legislative Handbook on Principles of Equality and Non-Discrimination to guide legislators at the both the National and County Levels in the review of policy and legislation, and in overseeing the formulation and implementation by state and non-state agencies of appropriate programmes, plans and actions towards full realization of gender equality and inclusion of special interest groups in the society.

98. To enhance women's rights in the workplace, the Breastfeeding Mothers Bill, 2017 was tabled in Parliament for debate. The Breastfeeding Bill requires employers to provide a suitable area within the workplace for a woman to breastfeed.

99. The GOK delivers services to all in Kenya without discrimination. Stigma and discrimination have been identified as barriers to HIV/AIDS prevention and uptake of care and treatment services. To address these challenges the following interventions have been made: The sensitization of health care workers to reduce stigmatizing attitudes in healthcare settings; the development and dissemination of population specific and user friendly information including Braille; and religious organizations have integrated HIV information and encourage service uptake in religious teachings. These efforts have borne fruit and the country has registered reduced HIV prevalence in some counties. Of particular interest is the Turkana County where HIV/AIDS prevalence has dropped drastically from 7.6 to 3.2 per cent.

Rights of intersex persons

100. Intersex persons in Kenya have for a long time faced stigma and discrimination due to their biological make-up. The High Court in a judgment delivered on 5th December 2015 in *Petition No. 266 of 2013, Baby A v. Attorney General and others* – declared that it is the duty of the Government to protect the rights of intersex babies and persons by providing a legal framework to address issues relating to them, including registration under the Registration of Births and Deaths Act, medical examination and tests, and corrective surgeries. To this end, the executive has identified the immediate, medium and long term reforms required to respect and protect the rights of intersex people as Kenyans. Of importance is the review of the gender marker to incorporate the “intersex” as a category. The marker was used in the 2019 Kenya Population and Housing Census to determine the number of intersex people, for policy and programmatic interventions.

101. Additionally, the Persons Deprived of Liberty Act of 2014 recognizes intersex persons and provides for their humane and dignified treatment while in custody. All intersex people in custody can now choose the sex of the person by whom they should be searched. The Act also directs that intersex persons must be held separate from other persons.

Women peace and security (Recommendations 142.29, 142.30)

102. The Kenya National Action Plan for the Implementation of United Nations Security Council Resolution 1325 and Related Resolutions was developed and launched in 2016 in fulfilment of the country's commitment to implement UN Security Council Resolution 1325 and related resolutions. The plan, aptly titled 'Kuhusisha Wanawake ni Kudumisha Amani' ('to involve women is to sustain peace') takes into account the changing nature of insecurity and incorporates a human security approach whose focus is on the protection of individual citizens.

New and emerging issues, including advances and challenges best practices and achievements

Advances

103. Collection of data on intersex person, including inclusion of the (I) marker in the 2019 Kenya Population and Housing Census.

104. Development of an Implementation Matrix on the 2nd Cycle UPR Recommendations with linkages to recommendations from the Committee on the Rights of the Child and the Committee on Economic, Social & Cultural Rights.

105. In 2019, the GOK launched the National Integrated Management System (NIIMS), a mass biometric registration of all Kenyan citizens, foreigners and refugees. The NIIMS will ensure the provision of effective and efficient access to government services, the coordinated registration of people, avoid duplication in registration and reduce operational costs, detect and prevent fraud, impersonation or any other crime.

106. Kenya established the Multi-Agency Team (MAT) to enhance coordination and collaboration in the fight against corruption.

107. Kenya is now ranked among the world's top ten countries that have made significant investments in renewable energy, much of it in the development of geothermal resources. The Kenyan Government's plan to increase geothermal energy production to over 5,000 MW by 2030 is part of Kenya Vision 2030, the country's economic blueprint. Kenya is experiencing the impact of climate change and geothermal will go a long way in mitigating depressed hydropower generation due to persistent drought. The renewable technology is essential because it can be utilized to unlock barriers that inhibit the realization of so many rights, including the SDGs, eradicating poverty, better health, achieving sustainable economic growth and addressing food and water security issues.

108. In December 2016, the President issued a directive that all eligible stateless Makonde people be issued with national identity cards and subsequently with land title deeds. They were declared the 43rd Kenyan tribe in February 2017. As at June 2017, 1,496 Certificates of Registration as Kenya Citizens, 1,176 National Identity cards and 1,731 Birth Certificates had been issued to the Makonde people.

Challenges

Youth radicalization and terrorist attacks

109. Kenya, in recent years has experienced a number of terrorist attacks which continue to pose a major challenge to the security of the state. In January 2019, there was a terrorist attack at the DusitD2 Complex where at least 20 people were killed. In July 2017, Pandagu area in Lamu County was invaded by militants who attacked a police post, dispensary and a school destroying property and in April 2015, a terror attack at the Garissa University led to the death of 148 students and faculty. Further compounding this challenge

is the fact that Kenyan youth, with the promise of economic gain amongst other reasons, are being radicalized into extremist groups like the Al-shabab. The GOK has thus intensified its counter-terrorism measures and strategies to ensure that lives are protected.

Unemployment

110. Unemployment Rate in Kenya remained unchanged at 11.50 percent in 2017 from 11.50 percent in 2016. Unemployment Rate in Kenya averaged 10.80 percent from 1991 until 2017, reaching an all-time high of 12.20 percent in 2009 and a record low of 10 percent in 1997. In the financial year 2017/2018, the GOK adopted strategies to create employment opportunities which include implementation of programmes for the youth, women and persons with disabilities. These programmes include reservation of thirty per cent of all GOK procurement opportunities for women, youth and persons with disabilities, devolution of some services and functions to counties coupled with increased resource allocation to the devolved units.

Implementation of the two-thirds gender rule

111. The two-thirds gender rule as provided for in the Constitution provides that both the National Assembly and Senate should not have a composition of more than two-thirds of their members from one gender. This rule applies to all elective bodies. However, the journey towards achieving this rule has been marred with a myriad of challenges. Several bills meant to increase the representation of women in elective bodies have been introduced in Parliament and failed due to lack of quorum. The matter is now being handled in the Representation of Special Interests Group Law (Amendment) Bill 2019.

Key national priorities

“The Big Four Agenda”

112. The “Big Four Agenda” is the development plan of the country from 2018 to 2022. Under the Agenda, the GOK will dedicate its resources and time to improving the living standards of Kenyans, grow the economy and enhance food security. The Big Four Agenda items are: food security, manufacturing (mainly focusing on job creation in this area), affordable universal health care and affordable housing.

Fighting corruption

113. The GOK remains committed to fighting corruption in Kenya. In January 2019, the GOK together with its partners launched the Open Government Partnership National Action Plan III. The Partnership presents an opportunity for the GOK to ensure transparency and accountability of the Big 4 Agenda, ensure citizen participation, and facilitate cost-efficient delivery and use of digital solutions to achieve outcome.

Technical assistance

114. The GOK requests support in the following areas:

- (a) Support in establishing a database to collect and store information and statistical data on the realization and enjoyment of human rights of Kenyan citizens;
- (b) Building capacity of government officers both in national and county governments on the use of human rights-based approaches to planning, programmes, policy development and monitoring and evaluation processes;
- (c) Capacity building on human rights for judicial officers.