

REPUBLIC OF KENYA



MID-TERM PROGRESS REPORT

ON THE

**IMPLEMENTATION OF ACCEPTED RECOMMENDATIONS
FROM KENYA'S 2ND CYCLE REVIEW IN JANUARY 2015**

**UNDER THE UNIVERSAL PERIODIC REVIEW (UPR) MECHANISM OF THE
UNITED NATIONS HUMAN RIGHTS COUNCIL**

JUNE 2018

LIST OF ABBREVIATIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
CT-OVC	Cash Transfers to Orphans and Vulnerable Children
FGM	Female Genital Mutilation
GBV	Gender Based Violence
HSNP	Hunger Safety Net Program
ICESCR	International Covenant on Economic, Social & Cultural Rights
ICCPR	International Covenant on Civil and Political rights
KENSUP	Kenya Slum Upgrading Programme
KISIP	Kenya Informal Settlement Improvement Project
KNAP	Kenya National Action Plan
NCPWD	National Council for Persons with Disabilities
NSNP	National Safety Net Programme
NGOs	Non-Governmental Organizations
OPCT	Older Persons Cash Transfer Program
PBO	Public Benefits Organizations
PWD	Persons with Disabilities
PWSD-CT	Persons with Severe Disability Cash Transfer
TJRC	Truth, Justice and Reconciliation Commission
UFS-CT	Urban Food Subsidy Cash Transfer
UNCAC	United Nation Convention against Corruption
UNCAT	United Nations Convention against Torture and other forms of Cruel, Inhuman and Degrading Treatment or Punishment
UNCRC	United Nations Convention on the Rights of the Child
UPR	Universal Periodic Review

PART I: BACKGROUND

Kenya's human rights performance was examined during the second cycle review by the UPR Working Group on the 22nd -27th January 2015 during the Human Rights Council's 21st Session. During the review Kenya received 253 recommendations. 192 recommendations were accepted and 61 recommendations were noted. In September 2015, during a stakeholders' consultative workshop, an implementation matrix for the accepted 2nd Cycle Review Recommendations was developed and later launched in June 2016. The matrix laid down specific government actions and indicators geared towards the implementation of the accepted UPR recommendations.

It is noted that this report constitutes an account of the legislative, policy, judicial, administrative and other measures taken to implement the recommendations of the Human Rights Council up to April 30th 2018. A full implementation report will be presented during the 3rd review of Kenya in 2020.

PART II: UPDATES ON THE PROGRESS OF IMPLEMENTATION ACCEPTED UPR RECOMMENDATIONS

A. Ratification of International Instruments

Summary of Recommendations: (UPR Rec. No. 142.1, 142.2 and ESCR Recommendation No. 16, CRC Recommendation No. 77)

Ratify international human rights instruments to which the State is not yet a party

1. Kenya has not ratified a number of the optional protocols to the International Human Rights Treaties it has already ratified. The government in collaboration with its National Human Rights Institutions has been conducting various stakeholder consultative workshops aimed at sensitizing the stakeholders on the provisions of the optional protocols and the two human rights treaties that Kenya has not ratified and the obligations that are likely to arise from the ratification of these treaties. The Ministry of Labour has been conducting a number of stakeholder consultations on the Optional Protocol (No. 2) of the United Nations Convention on the Rights of the Child (UNCRC).
2. The Office of the Registrar of Treaties established under the Treaty Making and Ratification Act, 2012 (Rev. 2014) is the custodian of the original copies of all treaties to which Kenya is a party. This office is currently domiciled under the Ministry of Foreign Affairs. The Ministry of Foreign Affairs is the Government's principal adviser on Treaty-related matters. Other Ministries, State Departments and Agencies are responsible for the implementation of treaties relative to their mandates.
3. Kenya placed a reservation on Article 10(2) of the ICESCR in 1972. This article requires the state to make provision for paid maternity leave. This provision is currently provided for under the Kenyan laws. Article 27 (4) of the Constitution prohibits the state from directly or indirectly discriminating against a person on any ground including pregnancy. Further the Employment Act, 2007 provides that female employees are entitled to three months maternity leave with full pay. Discussions are currently ongoing to enable the withdrawal of this reservation.

B. Compliance with Treaty Body Reporting Obligations and Co-Operation with UN Human Rights Special Procedures

Summary of Recommendations: (Rec. No 142.35, 142.37, 142.38, 142.39, 142.34, 142.36)

Submit due reports to Human Rights Treaty Bodies

4. Kenya submitted the 8th periodic report on the Convention on the Elimination of Discrimination against Women in March 2016. The Committee on the Elimination of Discrimination against Women considered this report at its 1546th and 1547th meetings held on 2 November 2017.
5. Kenya has not yet submitted its 4th periodic report on the International Covenant on Civil and Political rights (ICCPR) and the 3rd Periodic report on the Convention Against Torture and other forms of cruel, inhuman and degrading treatment or punishment (UNCAT). However these reports will be submitted by April 2018. The late submission of these reports has been occasioned by challenges in collection of the statistical data requested by the various human rights treaty bodies.

Extend a standing invitation to various Human Rights Council mandate holders

6. The Working Group on the issue of human rights and transnational corporations and other business enterprises will undertake its first official visit to Kenya from 2-11 July 2018, to examine efforts to prevent, mitigate and remedy adverse human rights impacts of business operations. The experts will be looking at how the Kenyan Government and businesses are implementing their respective human rights obligations and responsibilities in line with the UN Guiding Principles on Business and Human Rights. Kenya has already begun the process of developing a National Action Plan on Business and Human rights. The Plan is a comprehensive strategy for protecting against human rights abuses by companies. It is one of the first governments in Sub-Saharan Africa to do so.

C. National Policy and Action Plan on Human Rights Including Human Rights Indicators

(Rec. No. 142.6, 142.9, 142.13, 142.14, 142.15, 142.22, 142.23 , 142.25)

7. The National Policy and Action Plan on Human Rights was adopted by the National Assembly in December 2015 and the same was launched and disseminated to stakeholders' in June 2016. The implementation of the policy is currently an ongoing process
8. The government in collaboration with the Kenya National Commission on Human Rights plans to sensitize county officials both in the executive and assembly on Human Rights Based Approaches to planning, law and policy making. The Kenya National Commission on Human Rights in collaboration with the Office of the Attorney General and Department of Justice and the Ministry of Devolution and Planning has developed a manual on the Human Rights Based Approaches to Policy and Law Making.

D. Review of National Laws and Policies

(Rec. No. 142.3, 142.4, 142.5, 142.18, 142.19, 142.20 and CRC REC 8, 9)

9. Several laws have been amended, repealed or enacted in conformity with the Constitution. In June 2017, the President assented to the Health Bill (2015), the Basic Education (Amendment) Bill 2016 and the National Coroners Bill (2016). The Health Act establishes a unified health system to co-ordinate the inter-relationship between national and county government health care systems. This will help regulate the provision of healthcare services, healthcare service providers, products and technologies. The Basic Education (Amendment) Act amends the Basic Education Act placing the responsibility on government of providing free, sufficient and quality sanitary towels to every girl child registered and enrolled in a public education institution and have reached puberty.
10. The Children's Act, 2001 is currently under review to align it with the Constitution. The 2017 Children's' Bill has been developed to repeal the Children's Act, 2001. The Bill is in its final stages and validation processes has been ongoing.

E. Institutional Reforms

Judicial Reforms and enhanced access to justice (Rec. No. 142.95 142.97 142.115 142.118 142.120)

11. The Judiciary has also taken various measures to address the issues of lengthy pretrial detentions and high number of detainees awaiting trial. Article 159 of the Constitution mandates the Judiciary to promote alternative mechanisms of alternative dispute resolution (ADR) in the administration of justice. This is further given effect by the Civil Procedure Act (Chapter 21 of the Laws of Kenya). In line with its transformation framework, the Judiciary has embraced alternative dispute resolution as an avenue for addressing case backlog in the court system while making justice more accessible. The coming into force of the Mediation (Pilot Project) Rules 2015 (Legal Notice Number 197 of 2015) under the Civil Procedure Act on 4th April 2016, marked the beginning of the Pilot phase being implemented in the Commercial and Family Divisions of the High Court at Milimani Law Courts, Nairobi. The pilot phase ended in July 2017.
12. Court annexed mediation is a mediation process under the umbrella of the court. To steer the project, the Mediation Accreditation Committee, the Alternative Dispute Operationalization Committee and the Secretariat (Technical Working Group) were formed. The Mediation Accreditation Committee comprises of 13 members nominated from various institutions alongside the Judiciary. The Committee has developed accreditation standards to guide the process of accreditation and re-accreditation of mediators. As at March 2017, the Accreditation Committee had accredited 65 mediators and 82 cases in the Commercial and Family Division had been concluded successfully through mediation.

Enhance accountability and undertake security sector reforms (Rec. No. 142.99, 142.103, 142.118)

13. The Constitution particularly safeguards the freedom and security of a person, protects the right to life. Law enforcement officers suspected of committing extrajudicial killings are investigated and if found culpable brought before a civil competent and impartial Court and penal sanctions applied when found guilty. National Police Service Standing Orders have been launched to guide officers serve Kenyans according to the new constitutional dispensation. The policy is about making correct judgment at all times. The policy guides how police operate and how they react during the performance of their duties. The Orders set standards for professional police conduct. The standing orders guide police officers on the proper use of force and firearms and non-deadly force. All law enforcement officers are trained on the respect of human rights that enable fair, just and humane treatment of the public, which is critical in policing, especially in regard to duties involving arrest, detention, search, seizure of property, surveillance, use of force and firearms. Serving police officers are required to undertake periodic review courses on the use of firearms. All police officers must undergo a vetting process against set criteria on professionalism, integrity, track record of performance and psychological fitness.

Strengthen anti-corruption efforts

(Rec. No. 142.94, 142.111, 142.119, ESCR rec 18)

14. Kenya is a state party to the UN Convention against Corruption (UNCAC), having ratified the same in December 2003. In July, 2013, the Hon. Attorney General appointed a National Steering Committee on the review. On 31 October, 2013, the Cabinet formally approved the UNCAC review. Kenya's first review under UNCAC was undertaken between July 2013 and September, 2015. A Country Review Visit was held from 1st to 3rd September, 2014. Kenya is due for its 2nd cycle review on Chapters II (Preventive measures) and V (Asset Recovery) of the UNCAC in April 2018
15. The Government through the Office of the Attorney General and Department of Justice has developed a national anti-corruption and ethics policy that is currently waiting to be tabled before cabinet for approval.
16. The Taskforce on the Review of the Legal, Policy and Institutional Framework for Fighting Corruption in Kenya was required to examine the legal, policy and institutional framework for fighting corruption

with a view to recommending appropriate interventions for enhancing the fight against corruption in the country. The taskforce presented its findings to the President towards the end of 2015. The Office of the Attorney General & Department of Justice is now coordinating the implementation of the recommendations of this taskforce.

17. During this reporting period, several anti-corruption bills have been developed. These include;

- a. **False claims bill, 2017:** The False Claims Bill seeks to give private individuals, civil society groups and other interested parties power and financial muscle to institute public assets recovery proceedings where the Attorney General has been reluctant. This bill is currently undergoing stakeholder consultations. It subsequently requires validation before final draft is presented to Parliament.
- b. **Whistleblower Protection bill, 2017:** This bill seeks to provide for the procedure for the disclosure of information relating to improper conduct in the public and private sectors and to provide for the protection persons who make such disclosure against victimization. The policy is waiting to be forwarded to cabinet for approval.

F. National Human Rights Institutions

Take measures to strengthen and allocate to the NHRIs necessary human and financial resources to fulfil its mandate

(Rec. No. 142.11, 142.26)

18. The National Human Rights Institutions, the Kenya National Commission on Human Rights, the National Gender and Equality Commission and the Commission on Administration of Justice play a major role in the promotion, protection and monitoring of human rights in Kenya. The institutions provide critical advisories to the state on various human rights issues and play a critical role in moving the country towards becoming a more human rights respecting state. The institutions are allocated resources by the State to conduct their work.

CIVIL, POLITICAL RIGHTS

a. Countering Terrorism

Ensure that national security including counter terrorism measures are pursued in a broad based manner and in full compliance with the constitution and international human rights obligations

(Rec. No 142.5, 142.17, 142.184, 142.185, 142.186, 142.187, 142.188, 142.189, 142.190, 142.191,142.192)

19. The Prevention of Terrorism Act 2012 provides measures for the detection and prevention of terrorism activities. Further Kenya affirms its commitment to counter terrorism through ratification of international treaties and conventions on combating terrorism. Some of the treaties include, Protocol to the OAU convention on the prevention and combating of terrorism 2004, International Convention against Taking of Hostages, International convention for the suppression of the Financing of terrorism, International convention For the suppression of Terrorist bombing and Protocol Relating To the establishment of the Peace and security council of the African union 2002

20. Section 40 (a) of the Prevention of Terrorism Act provides for the establishment of National Counter Terrorism Center Kenya which is an interagency body. This agency is created to strengthen coordination in counter terrorism.

Promote economic empowerment programs and job creation to prevent the radicalization of the young people

21. The government through the Kenya Prisons Service, in collaboration with the National Counter-Terrorism Centre and the UN Office on Drugs and Crimes has established various programmes to support high risk offenders who are held in detention for more than one year. These individuals are put through de-radicalization programs.

b. Prevention of Torture, Enforced Disappearances and Extra-Judicial Killings

Take measures to prevent torture and extrajudicial killings and ensure accountability for perpetrators (Rec. No 142.75 142.88, 142.57, 142.99, 142.103, 144.64, 142.75, 142.79, 142.82, 142.88,142.99, 142.106, 142.109)

22. The Government is committed to ensure that all police are equipped with the knowledge and skills of proper and acceptable policing. Serving police officers are obliged to continually attend relevant courses to maintain, develop or increase knowledge and skills, and to keep abreast of new and emerging issues related to their professional lives. All candidates recruited to join the Kenya Police and Administration Police must undergo an intensive training for 15 months, including, three months of internship, in line with the training curriculum. The curriculum has been designed to include lessons on the proper use of force and firearms, in compliance with the United Nations' Basic Principles on the use of force and firearms by law enforcement officials. All law enforcement officers are trained on the respect of human rights that enable fair, just and humane treatment of the public, which is critical in policing, especially in regard to duties involving arrest, detention, search, seizure of property, surveillance, use of force and firearms. Serving police officers are required to undertake periodic review courses on the use of firearms.

c. Protection of Human Rights Defenders, Expanding Civil Society Organizations' Space and Fully Implementing the PBO Act

23. The Public Benefits Organizations (PBO) Act was enacted in 2013 to provide for the establishment and operations of public benefits organizations, also known as non-governmental organizations (NGOs). It is a regulatory framework that is expected to enhance accountability and transparency in the sector. The PBO act has been the subject of intense consultations and a court ruling. In March 2016, the High Court ruled that the Ministry in charge of the commencement of the 2013 Public Benefit Organizations Act (PBO Act), should immediately ensure its full commencement. However, soon thereafter, the President, through an executive order reshuffled government ministries and the PBO Act was placed under the Ministry Of Interior And National Co-ordination. This has caused delay in the entry into force of the Act.

24. In the meantime the regulation of NGOs falls under the auspices of the Non- governmental Organization Council (NGO). The NGO Council is a national umbrella body for NGOs. Once NGOs are registered by the NGO Coordination Board, they are required to apply for membership in the Council. The Council represents the interests of its members.

Protection of Human Rights Defenders

25. The Government appreciates the role played by human rights defenders and civil society organizations in the country. Any defender whose rights have been violated ought to promptly record a complaint at a police station to facilitate investigations. In addition, the Independent Police Oversight Authority provides another avenue where defenders can report any grievances that they may have against the police. 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. Victims of these crimes or their relatives are now provided with reparations under the established by the Victims Protection Act 2014.

Abolition of the Death Penalty

Efforts to abolish the death penalty (Rec. No. 142.58 142.61 142.63 142.87)

26. The Constitution of Kenya underscores the fundamental nature of human rights by entrenching them as part of the national values and principles of governance that guide all in the interpretation and application of laws as well as the development and implementation of public policies. The Constitution further requires the State to enact and implement legislation to fulfil its international obligations with respect to human rights and fundamental freedoms. Article 26 of the Constitution provides for the right to life. However this right is not absolute and can be deprived as authorized by the constitution or other written law.
27. Whereas capital punishment is still applied to the capital offences of Murder, Robbery with Violence, Attempted Robbery with Violence, Administration of unlawful oaths to commit capital offences, Treason and Military Offences of Treachery, the death penalty is not applied to children and pregnant women. However no executions have been carried out since 1987 and hence to date Kenya holds a de-facto moratorium on the death penalty
28. The Constitution establishes an Advisory Committee on the Prerogative of Mercy which has the function of advising the President where a person has been sentenced to death (otherwise than by a court-martial) for an offence on the exercise of powers. The Advisory Committee may take into account the views of the victims of the offence in respect of which it is considering making recommendations to the President. On 24th October 2016, the President of Kenya, H.E. Uhuru Kenyatta commuted all death sentences -2,747 death row inmates, 2,655 male convicts and 92 female convicts- to life sentences.
29. Recent developments include the December 2017 Supreme Court Ruling in **Francis Karioko Muruatetu & Another v R & 5 Others (2017) eKLR** where the court declared the mandatory nature of the death penalty contained in section 204 of the Penal Code as unconstitutional. The court further ruled that the Attorney General, the Director of Public Prosecutions and other relevant agencies should prepare a detailed professional review in the context of that Judgment and Order made with a view to setting up a framework to deal with sentence re-hearing cases similar to that of the petitioners. The Hon. Attorney General has set up a working group on the Review of the Mandatory Death Sentence under Section 204 of the Penal Code, to implement this decision of the Supreme Court.

Access to Information, Freedom of Expression and Press and Right to Privacy

Enhancing access to information and right to privacy, promote freedom of expression and the press and the right to privacy including of children

30. The Access to Information Act 2016 is an Act of Parliament that gives effect to Article 35 of the Constitution and confers on the Commission on Administrative Justice the oversight and enforcement functions and powers over the Act. The Act places an obligation on public entities to disclose information to the public. Although the right to information is not an absolute right and has its limitations in law, public entities are obligated to publish all relevant facts while formulating important policies or announcing the decisions which affect the public, and before initiating any project, or formulating any policy, scheme, programme or law, publish or communicate to the public in general or to the persons likely to be affected.

Establish an institutional and legislative framework for the provision of affordable legal aid and awareness services including for claims on ESC rights and Access to Justice for Specialised Groups Including Legal Aid

(Rec. No. 142.90,142.105,142.114, 142.7, ESCR Rec. 9, CRC Rec. 34 e, CRPD 20 B)

31. The Legal Aid Act, 2016 has for the first time in the history of Kenya granted legal aid formal legal recognition away from ad hoc initiatives in the form of pro bono legal services, pauper briefs, and legal aid clinics. The Act also establishes the National Legal Aid Service, which is to take over from the ad hoc National Legal Aid Awareness Programme. This new body is charged with, among others, the duty of establishing and administering a national legal aid scheme that is affordable, accessible, sustainable, credible, and accountable. The service has the power to support legal aid providers, train persons in legal aid, educate the public on legal issues, and increase legal awareness.
32. The Act also establishes the Legal Aid Fund, which is administered by National Legal Aid Service to finance legal aid activities. The Government has allocated Approx USD 1 Million to the Legal Aid Fund in the financial year 2017/2018. The Act establishes a board which will govern the service. The board is currently in place with members having been gazetted.
33. The Kenya Prison Service has also developed a Legal Aid policy to guide the provision of Legal Aid in Prison

Historical Human Rights Violations

(Rec. No. 142.91,142.96,142.100,142.101,142.102,142.104,142.107,142.108 ,142.116,142.117,142.176)

Support the truth, justice and reconciliation process

34. The Truth, Justice and Reconciliation Commission (TJRC) was established in 2009 and tasked with inquiring into gross violations of human rights and historical injustices that occurred in Kenya between independence on 12th December 1963 and the Coalition Agreement signed on 28th February 2008. The TJRC conducted its work and adopted a number of recommendations. It should be noted that most of the recommendations of the Commission have either been implemented or are in the process of implementation. Some include;
 - i. Acknowledgement and Public apology to all victims and survivors by his Excellency, President of Kenya - Uhuru Kenyatta in March 2015, during the state of the Nation address. This apology was a major milestone in acknowledging the victims and survivors of the past violations and which underscore the need to heal the nation and address past violations.
 - ii. Establishment of reparation Fund for victims and survivors of historical injustices: The President directed the a KSh10 billion (\$96,571,800) Restorative Justice Fund spread over three years, be established for purposes of giving relief to victims, especially survivors of past violations. In the budget period of 2016/2017, Kshs 6 billion (\$60) was set aside to cater for the Fund. The draft Public Finance Management (Reparations for Historical Injustices Fund) Regulations 2017 have been developed to provide a framework for the establishment and operationalization of a reparations program which will include, administration of the Reparation Fund; registration and verification of claims; and any other matter necessary to give effect to these Regulations.
- (Rec. No. 142.92, 142.93,142.100,142.110,142.112,142.113)

35. Protect the Rights of Refugees

Protection of refugees and ensuring the principle of non-refoulement

(Rec. No. 142.181 142.182 142.183)

36. The voluntary repatriation of Somalia refugees has been taking place since 2013 tripartite agreement which was signed in November 2013. As at April 4, 2017, 62, 629 persons had been voluntarily repatriated to Somalia.
37. All registered refugees and asylum seekers in Kenya are able to enjoy their rights according to their status. Refugees are able to access free public education for all refugee children. This includes schooling in the refugee camps and in urban areas. In Dadaab refugee camp there is Kenyatta University campus, 35 primary schools and 7 secondary schools.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

a. Right to Housing

(Rec. No. 142.155, 142.157, ESCR rec 46, ESCR rec no. 6)

Continue the initiatives to promote and protect the people's right to adequate housing

38. Article 43 of the Constitution guarantees every person the right to accessible and adequate housing, and to reasonable standards of sanitation. While this right is to be realized on a progressive basis, the minimum core content of the right which should apply immediately has not been determined in policy or law. As a measure to increase the provision of affordable social housing, the government has created an enabling environment for private sector participation in housing delivery process particularly for lower middle and low-income groups creating financing opportunities and lowering the costs of finance, high government funding, improving security of tenure, providing alternative and low cost building technologies. Other Government Strategies and Incentives include exemption from value added tax for any low income housing projects.
39. The Kenya slum upgrading programme (KENSUP) is a key care poverty programme aimed at improving livelihoods of people living and working in slums and informal settlements in the urban areas of Kenya.
40. The Kenya Informal Settlement Improvement Project (KISIP) was initiated by the Government of Kenya supported by Development Partners in 2011. The World Bank, the Swedish International Development Cooperation Agency and the Agence Française de Développement worked with the government to jointly design this project. KISIP complements the national Kenya Slum Upgrading Program, established in 2003, and is led by the State Department of Housing and Urban Development. It also supports the efforts by the State Department of Lands to introduce planning and strengthen security of tenure in unplanned and poor urban neighborhoods, in accordance with the National Land Policy.
41. The Kenya Informal Settlement Improvement Project has made major strides in improving living conditions of people in informal settlements through provision of infrastructure and strengthening security of tenure (planning, survey and ownership documents).
- i. **Investing in infrastructure and service delivery Interventions in provision of infrastructure include:** Roads, footpaths, high mast lighting, water and sanitation. The towns of Nairobi (Kayole, Soweto, KCC settlements), Machakos (Swahili and Kariobangi settlements), Mombasa (Ziwa la Ng'ombe, Mkomani, Jomvu Kuu and Jomvu Mikanjuni settlements), Nakuru (Kaptembwa, Kwa Rhoda, Gilani settlements), Eldoret (Huruma, Munyaka, Kamukunji), Naivasha (Karagita, Kasarani, Kamere, Kihoto settlements) and Malindi (Kibokoni) have so far benefited from various infrastructural projects which are either completed or at advanced stages.
 - ii. Infrastructure works are about to commence in Kisumu, Kericho, Kitui, Embu and Malindi. A total of 51 high mast lights have been installed, 17.4 km of roads rehabilitated, 11.7 kms of drainage system rehabilitated, 23.2km of footpaths rehabilitated, and 50.9 km of sewer pipeline lay.
 - iii. **Enhancing tenure security Planning and survey** in 13 settlements in Nyeri, Malindi, Kakamega, and Eldoret where 13 Part Development Plans have been approved, 540 titles issued and Registry Index Maps published to pave way for preparation of 1470 titles. Planning and survey is ongoing for 24 settlements in Nairobi, Mombasa, Embu and Kiambu and the draft plans are ready.
 - iv. **Strengthening institutions and Project Management:** In an effort to strengthen the State Department for Housing and Urban development, the project has supported the training of over 400 staff in various fields like: leadership, public relations and customer care, senior management, Environmental impact

assessment and Audit, record management, project planning and management, and contract management (under FIDIC). Environmental and social safeguards are a key requirement for the project. Implementation of Relocation Action plans is always carried out before commencement of any project. Further, the project ensures community participation within the beneficiary settlements. After a sensitization of the project, every settlement elects a Settlement Executive Committee who represents the community in various forums on development issues of the settlement under the project.

- v. **Planning for urban Growth:** Through this component, several studies have been completed on: situational analysis of informal settlements in 15 towns (14 counties) in Kenya; A Housing survey in 4 major towns (Mombasa, Nairobi, Nakuru and Kisumu); Review of standards on basic service delivery in informal settlements in Kenya; Gender analysis for KISIP. The original Project Appraisal Document was approved when Kenya still had Local Authorities, which included Municipal Councils as the recipients of the Programme (in the old constitutional dispensation). The Ministry is still engaging with the County Governments on the projects that were identified by the then Municipalities.

b. Right to Water and Sanitation

(Rec No. 142.147, 142.154, ESCR rec 50, CRC REC 56 a)

Improve access to water and sanitation services particularly for rural and suburban communities

42. The passage of Kenya's 2010 Constitution has had a wide set of implications for the water sector. Primarily, the Constitution acknowledges access to clean and safe water as a basic human right and assigns the responsibility for water supply and sanitation service provision to 47 newly established counties. The purpose of the Water Act, 2016 is to align the water sector with the Constitution's primary objective of devolution. The act recognizes that water related functions are a shared responsibility between the national government and the county government. It also gives priority to use of abstracted water for domestic purposes over irrigation and other uses.

c. Right to Food

(Rec No. 142.154, ESCR rec 44, CRC rec 56 a)

Implement specific standards and regulations ensuring food security and nutrition for the most vulnerable groups and the barriers and challenges to poverty alleviation are properly addressed

43. The Food Security Bill, 2017 seeks to give effect to Article 43(1)(c) of the Constitution on the freedom from hunger and the right to adequate food of acceptable quality; Article 53(1)(c) of the Constitution on the right of every child to basic nutrition and Article 21 of the Constitution on the implementation of rights and fundamental freedoms under the Constitution. The bill is currently undergoing debate in parliament

d. Social Security for Vulnerable Groups

(Rec. No. 142.70, 142.145, 142.150, 142.159, ESCR REC 28, 30, 36, CRC rec 56 g &h, CRPD rec 14 B and 50a)

44. To guarantee social protection for the most vulnerable groups The Government of Kenya's established the umbrella National Safety Net Programme (NSNP), which consolidates all government cash transfer programmes and hence streamlining their implementation. The objective of the NSNP is to enable vulnerable sections of the population to meet basic human needs. The programme consists of five main cash transfer programs, which are the Older Persons Cash Transfer Program (OPCT), the Cash Transfers to Orphans and Vulnerable Children (CT-OVC) program, the Hunger Safety Net Program (HSNP), the

Urban Food Subsidy Cash Transfer (UFS-CT), and the Persons with Severe Disability Cash Transfer (PWSD-CT). The budget the National Safety Net Programme has increased by 537% between 2012/13 and 2016/17. The programme has so far managed to reach 5% of people living below \$1.9 0 a day, particularly older people, orphans, vulnerable children, and people with disabilities.

45. The National Employment Policy and Strategy of Kenya was approved by Parliament in July, 2015. The aim of the policy is to mainstream employment creation in social and economic activities and promote productive and freely chosen employment as a priority for national development. The implementation of the policy is on-going. This will enhance employment opportunity especially for the youth in the Country.
46. The National Council for Persons with Disabilities (NCPWD) has put in place various measures that ensure that Persons with Disabilities access formal employment:
 - i. Developing a disability mainstreaming Handbook that provides for guidelines in promoting the employment of Persons with Disabilities (PWDs). This is in an effort towards achieving the constitutional provision of at least 5% reservations of employment opportunities for PWDs
 - ii. The Council has established a Mainstreaming Department which sensitizes employers on the constitutional requirement of 5% reservations of employment opportunities for Persons with Disabilities. The Mainstreaming Department has created a data base with curriculum vitae of Persons With Disabilities which has enabled them to link them to prospective employers for employment.
 - iii. The Council provides education grants to students with disabilities in educational institutions at all levels as a way of facilitating Persons With Disabilities to acquire skills and knowledge necessary for the job market.
 - iv. The Council provides assistive devices to Persons with Disabilities to enable them have independent lives by enhancing their mobility and functioning within the work environment

e. Right to Property and Protection from Forced Eviction

(Rec No. 142.149,ESCR rec 48)

Take all necessary measures to provide individuals that are under threat of being forcibly evicted with full protection against forced eviction in line with international obligations and commitments including the Basic Principles and Guidelines on Development Based Evictions and Displacement

47. The Land Laws Amendment Act, 2016 introduced new sections to provide for procedures on how to evict unlawful occupiers from Public Land, Private Land and community Land. In regard to evictions from public land, the National Land Commission must give a three months' notice to all affected persons in writing in the Kenya Gazette and 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. The Act also provides for mandatory procedures which include: adequate notice and access to justice through court process.

f. Right to Health Including Reproductive Health

Rec No. 142.32, CESCR rec 56

Continue implementation of national programmes in the sphere of education and healthcare

g. Right to Education

142.151,142.170,142.171,142.172,142.173,142.174,172.175,CRC rec 38,ESCR rec 58

h. Child Trafficking and Child Labour

Take further efforts against trafficking of children

48. Kenya has in place the Counter Trafficking in Persons Act of 2010. This law seeks to implement Kenya's obligations under the United Nations Convention Against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and to provide for the offences relating to trafficking in persons.
49. The Counter Trafficking in Person's Advisory Committee which is established under section 19 of the Counter-Trafficking in persons Act 2010 was launched on 8th July, 2014. Members of the committee are nominated from Government Organizations and civil societies. The main function of the Advisory Committee is to advise the Minister on inter-agency activities aimed at combating trafficking in Persons. The Advisory Committee is also mandated to enhance the implementation of preventive, protective and rehabilitative programmes for trafficked persons among other functions.
50. Through the Advisory Committee, the Government of Kenya has in place the National Plan of Action for Combating Human Trafficking – Strategic Framework 2013-2017. The purpose of the Action Plan is to promote co-operation between different stakeholders from all sectors in Kenya and lay the groundwork for closer co-operation with other countries in the region and beyond. The Plan is also in tandem with Kenya's blue print for development, Kenya National Vision 2030.
51. The Guidelines on the National Referral Mechanism for assisting victims of human trafficking in Kenya were launched on 15th December 2016. The National Referral Mechanism provides standard operating procedures for assisting victims of trafficking. It provides a system for identification, referral, holistic support and assistance to the Victims of Trafficking. In addition, it provides basic guiding principles to identifying and assisting Victims of Trafficking, the national referral process structures, the coordinating agency, focal persons, principles or return and re-integration process.

i. Poverty Eradication

52. The State has over the years developed various policies to reduce poverty and improve the quality of life for the people. Strategies to reduce poverty that have been developed over the years include: the Poverty Reduction Strategy Paper (PRSP); Vision 2030, MTP 1 and 2 and the National Poverty Eradication Plan (NPEP) 1999-2015. Under Kenya Vision 2030, the country's economic blueprint, Kenya aims to be a middle-income rapidly industrializing country by 2030, offering all its citizens a high quality of life.

Business and Human Rights

53. In 2011, the United Nations Human Rights Council adopted the United Nations Guiding Principles on Business and Human Rights (UNGPS). The UNGPs serve as a framework through which states and businesses enhance the realization of human rights. Kenya has committed to develop a National Action Plan (NAP) on Business and Human Rights to give effect to the Guiding Principles. The Government, through the Office of Attorney General & Department of Justice is spearheading this development process in partnership with the Kenya National Commission on Human Rights. The Norwegian Embassy in Kenya offers both technical and financial support to the process. It is envisaged that the National Action Plan on Business and Human Rights will be drafted and validated by June 2018.

GROUP RIGHTS

a. Protection from Gender Stereotypes and Harmful Cultural Practices

Rec No. 142.50,

Prohibition of FGM

54. Kenya has made huge progress in abandoning female genital mutilation (FGM). According to the 2014 Kenya Demographic and Health Survey, the national prevalence of FGM is 21 per cent, down from 27 in 2008/9 and 32 in 2003. Despite the decline, prevalence remains high among some communities such as the Somali, Kisii, Samburu and Maasai. FGM is still endemic despite the existence of legislation, administrative directives, judicial sanctions, and awareness-raising efforts by a variety of agencies and the government. One of the greatest challenges in the prevention of FGM is the low education levels in some of the practicing communities. FGM is closely linked with the illiteracy and poverty among the women in areas where it is practiced.
55. However, despite this challenge the government has put in place various measures to address the practice of Female Genital Mutilation (FGM). Some of these efforts include;
- a) The establishment of an Anti- FGM Board, a Semi-Autonomous Government Agency that was established in December 2013 following the enactment of the Prohibition of Female Genital Mutilation Act, 2011. The Board's mission is: 'To uphold the dignity and empowerment of girls and women in Kenya through the coordination of initiatives, awareness creation and advocacy against FGM
 - b) The board has since its creation carried out awareness-raising and education campaigns. As part of the efforts to reach the grassroot groups and communities, the Board in collaboration with other implementing partners has conducted sensitization campaigns aimed at protecting the girl-child and women from FGM in several counties in the country. These include Tharaka Nithi, Narok, Kajiado, West Pokot, Baringo, Nakuru, Kisii, Nyamira, Migori (Kuria), Bungoma (Mt. Elgon), Samburu, Isiolo, Elgeyo Marakwet and Marsabit counties.
 - c) The Establishment by the office of the Director of Public Prosecutions of an Anti-FGM and Child Marriage Prosecution Unit to fast-track the prosecution of FGM and child marriage cases.
 - d) Prosecution officers have been trained on FGM prevention and response in order to handle FGM cases properly. This has strengthened the officers' response through activation of an FGM Hotline; 0770 610 505.
 - e) With support from UN Agencies such as The UNFPA-Unicef joint programme, the government is encouraging Alternative Rites of Passage (ARP). This consists of a series of activities replacing the harmful FGM with non-harmful traditional rituals highlighting girls' initiation into adulthood. It is a way for the family and community to mark this important moment in an adolescent girl's life, without any alteration of any type to the girl's body.
 - f) The media has played a crucial role in highlighting FGM as an issue of national concern, providing an enabling platform for community dialogue on FGM

Right to Marriage and Family Life

56. The Marriage Act No. 4 of 2014 consolidates all laws related to marriage and divorce and incorporates the requirements of the Constitution. It provides for registration of all forms of legitimate marriages including civil marriages, customary marriages and religious marriages

b. Protection from Sexual and Gender Based Violence

Mitigating sexual and Gender Based Violence and ensuring Family Protection

57. The Government has put in place administrative measures to address Sexual Gender Based Violence. Some of these measures include;
- a) The establishment of Gender Based Violence Recovery centres in the largest public hospitals in Nairobi (Kenyatta National Hospital), Mombasa, Nakuru, Kisumu and Eldoret. This will help to address the plight of women survivors of Sexual Gender Based Violence who more often are not able to access services.
 - b) The provision of Post Exposure Prophylaxis and Emergency contraception to victims of sexual violence who report to health facilities.
 - c) The establishment of GBV Hotline 1195 and referral mechanism. This National Domestic Toll Free Short Code was allocated to Health-care Assistance Kenya by Communication Authority of Kenya and launched on 21st February 2013. The Toll free helpline 1195 enhances support for survivors of rape, defilement, FGM and physical assault
 - d) The development of a National Policy on Prevention and Response to Gender Based Violence. The Policy provides a framework towards the Elimination of Gender Based Violence in the Country. It lays out key objectives which seek to ensure a coordinated approaching and effective programming, enhancement of laws and policies towards GBV prevention and response.
58. The Protection against Domestic Violence Act, 2015 provides for the protection and relief of victims of domestic violence, a spouse and any children or other dependent persons.

Rights of Indigenous Persons to Their Ancestral Land

Strengthen effectively the protection of the rights of indigenous peoples, including to their ancestors' lands

59. Kenya has a comprehensive legal framework for protection of the indigenous communities. The laws ensure that communities are not evicted and do not lose their land arbitrarily. Article 40 of the Constitution is on protection of right to property. It states that Parliament shall not enact any law that permits the state or any person to arbitrarily deprive a person of any property of any description. However, the state has power to compulsorily land for a public purpose or public interest but pay promptly in full, just compensation. Any aggrieved person has a right to go to a court of law. Article 40 (4) states that compensation will be made to occupants in good faith of land acquired even if they do not hold title to the land.
60. Article 27 of the constitution is on equality and freedom from discrimination. 27(4) states that the state shall not discriminate directly or indirectly against any person on any ground including race sex, pregnancy, marital status, health status, ethnic or social origin, colour, age race, disability, religion, belief, culture etc. Other Constitutional safeguards are found in Article 56, which deals with protection of minorities and marginalized groups, Article 60(1) (f) which eliminates gender discrimination in law, custom and practices relating to land.
61. The Community Land Act, 2016 provides the framework for registration and management of community land.

Women, Peace and Security

62. The Kenya National Action Plan (KNAP) for the Implementation of United Nations Security Council Resolution 1325 and Related Resolutions was developed and launched in 2016 in fulfillment 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.

63. The KNAP further recognizes that security threats include social, economic, and environmental factors, and notes that women's vulnerability is exacerbated by unequal access to resources, services, and opportunities. The KNAP also takes into consideration progress made by Kenya in advancing the protection and promotion of the rights of women and girls by observing that the promulgation of the new Constitution of Kenya in August 2010 provided impetus for the KNAP's development. As a result, the KNAP is anchored in the constitutional values of gender equality, inclusion, and participation, and builds on existing policies in the fields of security, development, and diplomacy. It recognizes that the key beneficiaries of the constitution's bill of rights are women and marginalized communities. Laws and policies have been developed (and existing ones reviewed) to comply with constitutional provisions on gender equality and public participation.