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Kenya*

The present report is a summary of 24 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

I. Information provided by the national human rights institution of the State under review accredited in full compliance with the Paris Principles

1. Kenya National Commission on Human Rights (KNCHR) recommended ratifying the ICRMW, ICPPED as well as all optional protocols.[2]

2. KNCHR indicated that Kenya promulgated a new Constitution giving it one of the most transformative and progressive Constitutions in a modern democracy with a Bill of Rights which provides explicit protection in the arenas of economic, social and cultural rights; better protection of vulnerable and marginalized groups; and constitutional entrenchment of KNCHR.[3]

3. KNCHR and other stakeholders took part in the development of the National Policy and Action Plan for Human Rights and submitted it to the State for adoption. The Plan has not been adopted. KNCHR recommended accelerating the process of finalizing the Plan.[4]

4. KNCHR stated that despite the recommendation accepted by Kenya during its first UPR to eradicate the use of torture, torture continued to be practiced, and Kenya had not put in place measures to eliminate it. KNCHR recommended enacting the Prevention of Torture Bill; ratifying the OP-CAT; implementing all concluding observations made by the Committee against Torture.[5]

5. KNCHR referred to recommendations accepted by Kenya during its first UPR to undertake judicial and police reforms in a bid to enhance access to justice. It commended judicial reforms undertaken which had increased public confidence in the Judiciary. However, it noted that the Judiciary was still understaffed and unable to clear the backlog of cases and handle new cases. Moreover, security sector reforms had not been realized. KNCHR recommended pursuing police reforms; ensuring that the Judiciary was adequately staffed; and ensuring sufficient budgetary allocation.[6]

6. KNCHR noted that the Truth, Justice and Reconciliation Commission (TJRC), constituted to inter alia establish an accurate, complete and historical record of violations and abuses of human rights between 12 December 1963 and 28 February 2008, had finalized and submitted its report to the President on 21st May 2013. One year later, Kenya was yet to act on the recommendations of this report. KNCHR recommended that Kenya publicize and make the full TJRC report widely available; put in place legislative and administrative framework for the implementation of the TJRC recommendations; ensure implementation of all recommendations and provide reparations to victims of historical injustices.[7]

7. KNCHR indicated that human right defenders (HRDs) continued to experience intimidation, threats, harassment, attacks, arbitrary arrest and detention, malicious prosecution, death threats and sometimes killing, in a general environment of impunity and lack of options for redress. It recommended enacting legislations that promote the work of HRDs and domesticating the United Nations (UN) Declaration on Human Rights Defenders; repealing or amending existing laws which might hinder operations or development of a vibrant civil society and extending an open invitation to the Special Rapporteur on HRDs.[8]

8. KNCHR referred to UPR recommendations accepted by Kenya in 2010 on access to highest attainable standards of health but noted that this was still a challenge, and access to reproductive health services had not improved. It recommended that Kenya increase budgetary allocations to the health sector; implement the various recommendations and

concluding observations of various treaty bodies relating to the rights to health; guarantee the enjoyment of free maternal services by mothers in Public hospitals.[9]

9. On the right to education and despite some progress made, KNCHR recommended increasing budgetary allocation to both primary and secondary schools; reducing teacher-student ratio; considering increasing the primary schools under the school feeding programme; addressing gender and regional disparities in access to education; putting in place measures to ensure that the education was relevant, quality and flexible.[10]

10. KNCHR raised concerns about forced evictions in relation to indigenous peoples, evictions conducted in some cases in the face of court order/s stopping them. It stated that Kenya had not implemented the recommendations accepted on the rights of indigenous groups and minorities during its first UPR despite the greater protection of these rights in the Constitution. It recommended ratifying ILO Convention 169, and taking steps to implement the UN Declaration on the Rights of Indigenous People; enacting specific legislation to regulate key industrial sectors to ensure protection of indigenous people rights; enacting the Community Land Bill and the Eviction and Resettlement procedure Bill; fully implementing the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act.[11]

11. Concerning extractive industries and despite progress made, KNCHR recommended that Kenya make provisions for human rights due diligence within its policies and legislation in line with the UN Guiding Principles on Business and Human Rights.[12]

12. KNCHR was of the view that terror should be fought within the law. In this regard, it faulted some of Kenya's counter-terrorism measures that it considered against the Constitution such as the encampment policy, an operation which saw a number of individuals profiled, many of whom were later deported despite some having valid Kenyan identification documents and a court order issued earlier declaring this policy unlawful. KNCHR recommended ensuring that all counter-terrorism measures undertaken fully comply with the Constitution and the rule of law.[13]

13. KNCHR also recommended that Kenya commit to implementing all recommendations received from the first UPR as well as from this second UPR.[14]

II. Information provided by other stakeholders

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

1. Equality and non-discrimination

14. The Equal Rights Trust (ERT) referred to recommendation accepted by Kenya during its first UPR (UPR accepted recommendation) on reforming national legislation to fully respect the principle of non-discrimination. It indicated that while the 2010 Kenyan Constitution substantially improved protection from discrimination, there was a significant need for legal reform in some areas concerning for example women, ethnic groups, persons with disabilities, etc. ERT urged States to recommend that Kenya conduct an audit of its laws to identify and amend laws which discriminated; and enact specific and comprehensive anti-discrimination laws.[15]

2. Right to life, liberty and security of the person

15. Western Kenya Human Rights Watch (WKHRW) urged Kenya to create an Independent Authority to investigate and establish the exact number of people who were

killed, buried in mass graves and disappeared in the Mont Elgon operation, and bring to justice the perpetrators of these serious human rights violations.[16]

16. The Commonwealth Human Rights Initiative (CHRI) referred to UPR accepted recommendations on the prevention of extrajudicial killing and torture, and noted that reports of unlawful killings by the police and incidences of enforced disappearances and torture remained prevalent. It recommended that Kenya take all necessary measures to prevent extrajudicial killings, enforced disappearances and torture by the security services, specially the Kenyan anti-terrorism police unit (ATPU); and ensure the successful functioning of an effective and independent police oversight mechanism responding to allegations of abuses.[17]

17. Joint Submission 4 (JS4) recommended that Kenya make without delay payments to victims of torture who had obtained a range of compensatory awards from the High Court against the State for the harm they suffered; and support victims' efforts at memorialization by preserving identified torture sites and designating them national monuments of shame.[18]

18. ERT referred to UPR accepted recommendations regarding strengthening efforts to combat gender based violence (GBV) and stated that GBV remained prevalent and the legal and policy framework remained inadequate.[19] The Congregation of Our Lady of Charity of the Good Shepherd (CLCGS), the Center for Reproductive Rights (CRR), Equality Now (EN) and JS4 raised similar concerns.[20] ERT recommended that Kenya strengthen its efforts to combat all forms of violence against women; review and amend the Sexual Offences Act, in order to ensure that it provides the highest standard of protection from sexual violence.[21] EN recommended inter alia ensuring that Kenya's National Guidelines on Management of Sexual Violence were effectively implemented and enforced, and training law enforcement in the collection and preservation of evidence in cases of sexual violence.[22] JS4 recommended inter alia developing targeted public campaigns to address entrenched discriminatory practices that fuelled GBV.[23] CLCGS recommended inter alia providing survivors of domestic violence with free legal aid and free medical services as the lack of which was a determining factor for many in not reporting domestic violence.[24]

19. EN referred to UPR accepted recommendation concerning eradicating Female Genital Mutilation (FGM) and child marriage and noted that despite efforts by Kenya to address them, these human rights violations persisted and implementation of the relevant laws had been inadequate.[25] CLCGS, Joint Submission 1 (JS1) and Joint Submission 6 (JS6) expressed similar concerns.[26] EN recommended inter alia conducting awareness-raising and education campaigns to change cultural perception and beliefs on FGM and child marriage; ensuring that the Anti-FGM Board was adequately funded and fully constituted.[27] CLCGS and JS1 made similar recommendations.[28] CLCGS also recommended strengthening measures regarding FGM and early marriage, and ensuring that the prohibition was strictly enforced and implemented.[29] JS6 recommended inter alia ratifying the 2nd and 3rd Optional Protocols to the Convention on the Rights of the Child; developing a national plan of action on counter trafficking and fully implementing the prohibition of FGM Act.[30]

20. JS1 indicated that street children and children in need of care and protection was an increasing problem especially in the recent past. In addition, the street children fell prey to abuse by the police as well as by the community at large. JS1 recommended putting in place a comprehensive National Street Children Policy and implementing the Social Assistance Act to ensure enforcement and monitoring of rehabilitation programmes for children.[31]

21. Joint Submission 10 (JS10) noted that persons with albinism (PWA) faced high challenges in receiving services within the public and private sectors. Access to basics such as education, health services and employment remained very difficult.[32] JS10 also indicated

that twelve attacks have been documented against PWA. Some of them qualified as torture given the extreme pain inflicted on the victim and the intent of the perpetrator. These attacks were discriminatory, witchcraft based beliefs that the body parts of a PWA can bring wealth and good luck when used in potions or amulets.[33] JS10 recommended inter alia intensifying awareness-raising campaigns to educate the public on albinism as a way of curbing prejudice, stigma, discrimination and attacks; adopting positive and specific measures to protect and preserve the PWA's right to life and security of person as well as their right not to be subject to torture or ill-treatment; guaranteeing victims' right to justice and redress; and providing medical, psychosocial and legal support to victims.[34]

22. JS10 also informed that Kenya had launched a free sunscreen program which aimed to provide sunscreen to all PWA in Kenya. This was highly commendable because skin cancer was the number one killer of PWA in the Sub Saharan Africa region. Yet, information about the program was sparse and whether the program had officially taken effect was still unclear. It recommended ensuring and facilitating programs to enhance health for PWA and preventing early death due to skin cancer.[35]

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

23. JS6 reported that there was significant progress in the enhancement of public confidence in the Judiciary attributed to the reforms including the vetting of judicial officers, which was to be completed. It recommended inter alia increasing budgetary allocation to the Judiciary; promoting Alternative Dispute Resolution and taking measures to address corruption within judicial system.[36] JS4 made similar observations and recommendations.[37]

24. Amnesty International (AI), JS4 and JS6 reported that the Truth, Justice and Reconciliation Commission (TJRC) concluded its mandate and handed its report to the President on 21st May 2013. However, the report has not been implemented despite the clear framework for its implementation.[38] AI, JS4 and JS6 recommended publicising the TJRC report; implementing all its recommendations; and putting in place an implementation framework.[39]

25. AI, CHRI, Human Rights Watch (HRW) and JS4 recommended that Kenya inter alia fully cooperate with the International Criminal Court (ICC) in order to allow cases involving crimes committed during the post-election violence before the ICC to proceed smoothly; investigate and prosecute perpetrators of serious crimes committed during the 2007 – 2008 post-election violence in accordance with international standards.[40]

26. JS1 referred to UPR accepted recommendations on the needs and challenges of the juvenile justice and stressed that while the number of children in conflict with the law had grown steadily, the capacity of the institutional facilities dealing with them had not been increased to cope with the requisite demand. It recommended inter alia that Kenya reform the juvenile justice system so that it conformed to international justice standards; and raise the age of criminal responsibility from eight years to twelve years.[41]

4. Right to privacy, marriage and family life

27. Joint Submission 8 (JS8) underlined that despite Kenya's efforts to strengthen and embed protection of privacy both in its constitutional and legislative framework, there were increasing concerns over certain surveillance practices and policies. For example, the obligation the regulations placed on telecommunications service providers to provide access to their systems without a court order violated the right to privacy.[42]

28. Joint Submission 5 (JS5) recommended instituting a review process in order that all relevant national legislation, procedures and practices regarding surveillance of communications and collection of personal data comply with international standards.[43]

29. CHRI, ERT, HRW, international Service for Human Rights (ISHR) and Joint Submission 9 (JS9) referred to recommendations rejected by Kenya during its first UPR on lesbian, gay, bisexual, transgender and intersex (LGBTI) and indicated that homosexuality remained a criminal offence in Kenya.[44] They recommended that Kenya inter alia decriminalize same-sex relations between consenting adults.[45] JS4 and JS6 made similar recommendations.[46] ERT and HRW also recommended that Kenya provide protection to LGBTI persons,[47] while ISHR, JS4 and JS9 recommended taking action against violence, hate speech or hateful sentiments against LGBTI persons or associations.[48]

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

30. The European Centre for Law and Justice (ECLJ) noted that despite legal protection, the number of violent attacks against Christians had significantly escaladed since Kenya first UPR in 2010, and little action had been taken by the Government to protect Christian population.[49]

31. ARTICLE 19, CHRI, ISHR, Joint Submission 2 (JS2), JS5 and JS8 referred to UPR accepted recommendations on the revision of the national legislation on freedom of expression and the protection of journalists.[50] ARTICLE 19 reported that defamation remained a criminal offence in Kenya and journalists and bloggers continued to be victims of threats, physical assaults and killings mainly related to stories published about corruption by public officials and abuse of office. It also noted that two controversial media laws, the Kenya Information Communication (Amendment) Act (2013) and the Media Council Act (2013), were passed by the Parliament and assented to by the President. These laws had been injuncted from being operationalized pending a court case challenging provisions in both laws as being unconstitutional.[51] CHRI, ISHR, JS2 and JS8 expressed similar concerns.[52]

32. JS5 recommended inter alia reviewing all laws in line with international standards on freedom of expression and information including enacting the Access to Information Bill (2012) and the Data Protection Bill (2012); investigating and prosecuting State security agents found guilty of violating, threatening or intimidating journalists, HRDs and others exercising freedom of expression; inviting the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.[53] ARTICLE 19 recommended inter alia abolishing criminal sanctions for media offences, and decriminalizing defamation.[54] CHRI, ISHR and JS2 made similar recommendations.[55]

33. ISHR, JS2 and JS8 referred to UPR accepted recommendations on the protection of human rights defenders (HRDs).[56] With CHRI, JS4 and JS5, they indicated that HRDs continue to experience inter alia intimidation, threats, attacks, arbitrary arrest and detention, malicious prosecution and sometimes killing. They recommended that Kenya inter alia take all necessary steps to ensure the protection of HRDs from all forms of violence, retaliation and intimidation, in accordance with the UN Declaration on HRDs; investigate, and where appropriate, hold to account perpetrators of violence or harassment against HRDs; extend an invitation to the Special Rapporteur on HRDs.[57] JS4 also recommended that the Witness Protection Agency (WPA), identified as a key achievement towards the protection of HRDs, be fully independent, well-funded, popularised and decentralised.[58]

34. ISHR underlined that foreign funding was crucial for NGOs in Kenya and recommended repealing restrictions on NGO access to foreign funding in conformity with the rights to freedom of expression and association.[59] ARTICLE 19, CHRI, HRW, JS2 and JS8 made similar recommendation.[60]

35. JS6 stated that despite progress made since the first UPR, Kenya had not respected the Constitutional provision on the protection of the right of women concerning public

appointments. It recommended that Kenya respect and implement the two third gender rule in appointment and elective posts.[61] JS4 raised similar concern and made similar recommendation.[62]

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

36. Joint Submission 7 (JS7) referred to UPR accepted recommendation on the right to food. It commended Kenya for improving its policy and legislative framework in this area but noted that the problem of extreme hunger still persisted as evidenced by continued food shortages. It recommended inter alia that Kenya comply with its commitments under the Maputo Declaration by allocating at least 10% of its budget to agriculture development.[63]

37. JS7 referred to UPR accepted recommendation on the right to water and sanitation. It reported that over 60% of the urban population in Kenya relied on water vendors, water kiosks or unprotected water sources that posed health risks.[64] JS6 raised similar concern.[65] JS7 recommended inter alia expediting the construction of dams, water pans and necessary infrastructure to serve regions that were prone to drought, to mitigate drought effects.[66] JS6 recommended distinguishing the amount allocated for water and sanitation from other areas in order to enhance it as a priority; and adopting the draft National Water Policy and enacting the Water Bill (2014).[67]

38. JS6 informed that the right to housing was guaranteed under the Constitution but despite this, more than 34% of Kenya's total population lived in urban areas and of this, more than 71% were confined in informal settlements. It highlighted the weak, outdated institutional framework to facilitate housing development for low-income people and a lack of appropriate legal framework and guidelines for informal settlement. It recommended that Kenya revise the National Housing Policy and the Draft Housing Bill to make reasonable provisions within its available resources to ensure adequate access to housing especially for the most vulnerable and marginalized groups.[68]

39. AI indicated that forced evictions from slums and other informal settlements continued to be carried out in Nairobi in contravention of both the Constitution and Kenya's international human rights obligations, and in spite of recent Government commitments to end forced evictions. It recommended inter alia adopting a moratorium on forced evictions until adequate legal and procedural safeguards were in place; expediting the enactment of the Evictions and Resettlement Bill into law; developing comprehensive guidelines for officials in charge of carrying out evictions; and providing all necessary support and assistance to all those who had been subject to forced evictions, including adequate temporary housing, water and sanitation while ensuring effective remedy and reparations.[69]

7. Right to health

40. JS7 referred to UPR accepted recommendations on the right to health. Despite efforts made by Kenya, it indicated that health care was still largely unaffordable, with only 20% of the Kenyan population accessing to a Health Insurance Scheme. JS7 recommended that Kenya increase the health budgetary allocation to the recommended minimum of 15% of the GDP; create a robust infrastructure network and expedite the process of implementing the Universal Health Care coverage to increase access to health.[70] JS6 raised similar concerns and made similar recommendations.[71]

41. CRR, Family Health Options Kenya (FHOK) and JS4 reported that Kenya had acknowledged that maternal mortality remained unacceptably high.[72] They noted, in addition to JS6, [73] that unsafe abortion was still a leading cause of maternal mortality and morbidity. CRR indicated that laws governing abortion in Kenya were conflicting, and that none of these laws and policies allowed abortions when the pregnancy was as a result of

incest.[74] They recommended inter alia that Kenya increase access to contraceptives and specifically for women in marginalized areas; take measures to improve access to maternal health information and services; clarify the law on abortion and ensure that women have access to legal, safe abortion and post-abortions services.[75]

42. JS1 noted that the commencement of free healthcare for children aged less than 5 years had contributed towards reduced child mortality rates. It recommended enacting and operationalizing the Health Act (2012) and also increasing the allocation to health services to a minimum of 15% of the entire budget on the subsequent budgets-to be in line with the commitments made under the Abuja Declaration.[76]

8. Right to education

43. JS7 referred to UPR accepted recommendations on the right to education.[77] It noted that Kenya had made positive steps in the realization of this right which was anchored in the Constitution. It commended Kenya's efforts in ensuring implementation of free primary education since 2003 and free day secondary education from 2008. However, it noted that several challenges persisted. For example, the quality of education offered was still poor. Further, access to secondary education remained a big challenge for Kenyan children.[78] JS1 and JS6 made similar observations.[79]

44. JS1, JS6 and JS7 recommended inter alia that Kenya ensure a proper review of the teacher to pupil ratio and distribution of teachers across the country to address matters of quality and access; prioritize provision of necessary infrastructure and security to guarantee the right to education of students from the marginalized, vulnerable and minority groups; increase education budgetary allocation towards development of the education infrastructure; address gender and regional disparities in access to education; implement the policy on alternative provision of basic education and training for children in urban slums and other informal settlements; and increase budgetary allocation for free primary education and free day secondary education, as well as special needs education.[80]

9. Persons with disabilities

45. JS5 and JS6 noted that there had been positive steps towards realization of the rights of persons with disabilities (PWDs), with the promulgation of the Constitution that safeguards the rights for these persons, the ratification of the Convention of the Rights of PWDs and other policy measures. Despite these milestones, there were areas of concern that Kenya needed to commit to reform. PWDs continued to experience difficulties in accessing education, healthcare services and accessibility specifically physical access, transport and information.[81] They recommended that Kenya fast track and adopt the Draft National Action plan on accessibility; develop a comprehensive medical insurance policy and law to cover PWDs; fast track enactment of Persons with Disabilities Amendment Bill (2014) as well as finalization of the Draft National Disability Policy (2014); sign and ratify the Optional Protocol to CRPD; develop proactive frameworks to provide information intended for the general public to PWDs in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost.[82]

10. Minorities and indigenous peoples

46. ERT, Joint Submission 3 (JS3), JS6 and JS7 referred to UPR accepted recommendations on the protection of the rights of indigenous peoples.[83] ERT, JS6 and JS7 stated that Kenya had not yet implemented the decisions of the African Commission on Human and Peoples' Rights to provide the Ogiek and Endorois with redress following their forced evictions from their lands.[84] JS4 expressed similar concern and added that in February 2014, an Endorois peaceful protest against an attempt by the Ministry of Lands to issue title deeds and settle non-Endorois on land considered to be Endorois ancestral land,

was met with violence by State security personnel.[85] JS3 highlighted the forced eviction of Maasai from a settlement in Narasha in July 2013, land which was sold for the production of geothermal power. JS3 indicated that Maasai had resorted to the courts to stop further evictions, arguing that the Government was in violation of international law by forcibly and continually removing them from their ancestral lands without proper prior consultation or adequate compensation.[86] JS7 added that in seeking a suspension of evictions, indigenous peoples were also citing Kenyan Constitution which recognizes the rights of communities to own ancestral lands traditionally occupied by hunter-gatherers and underscores the importance of the principle of the participation of people, protection of marginalized lands and sustainable development as well as co-management of the environment.[87]

47. JS3, JS6 and JS7 recommended that Kenya ratify the ILO Convention No. 169 to promote and protect the rights of indigenous peoples in the country.[88] JS3 and JS7 also recommended that Kenya inter alia endorse the UN Declaration on the Rights of Indigenous Peoples; stop operating in contrary to the Constitution and international human and peoples' rights instruments; implement immediately the decisions concerning the evictions of indigenous peoples and suspend all other evictions without their consent and pre-consultations; put in place plans for compensation.[89] JS4 recommended that Kenya inter alia speedily enact the community land legislation to provide the legal framework for the use, transfer and management of community land; conclude the enactment of the Evictions and Resettlement Procedures Bill to provide for protection against inhumane and unlawful evictions; that the National Land Commission should investigate historical land injustices as constitutionally mandated without further delay.[90]

11. Migrants, refugees and asylum seekers

48. ERT and HRW stated that despite the fact that Kenya accepted during its first UPR a recommendation to continue its policy vis-à-vis some refugees, based on solidarity and the protection of fundamental human rights, the situation for these refugees was worsening.[91] Many reports indicated evidence of overcrowding and poor sanitation and hygiene, malnutrition, high levels of infant mortality, disruption to the distribution of food, increasing intolerance and hostile rhetoric.[92] Due to various attacks attributed to terrorism elements, the Government inter alia stopped registering urban refugees and decided a plan to relocate refugees to overcrowded camps, a decision which was quashed by a Kenya High Court ruling in July 2013.[93]

49. According to AI, the same refugees and asylum seekers had been disproportionately impacted by counter-terrorism operations. Since April 2014, thousands of them had been subjected to arbitrary arrest and detention, harassment, extortion and ill-treatment in the context of the counter-terror operation known as "Usalama Watch". Over a thousand individuals had been forcibly relocated to refugee camps in the north of Kenya and hundreds of others had been deported back to their country. Prior to April 2014, a Tripartite Agreement was signed in November 2013 between this country, Kenya and UNHCR, establishing a framework for the voluntary repatriation of refugees over a three year timeframe. Research conducted by AI indicated that most refugees were deciding to return as a result of negative 'push' factors rather than positive 'pull' ones. Such returns did not qualify as voluntary and might violate the principle of *non-refoulement*.[94] HRW,[95] Mwatikho Torture Survivors Organization (Mwatikho),[96] JS1,[97] JS4[98] and JS6[99] expressed similar concerns. JS4 added that humanitarian access to places of detention had been severely restricted, hampering detainees' access to healthcare and social assistance as well as adequate monitoring of the situation.[100]

50. JS4 recommended that Kenya ensure that security operations were conducted with due regard to human rights obligations; investigate and ensure accountability for human rights violations perpetrated by the security forces against refugees and asylum seekers;

allow humanitarian access and assistance to refugees and asylum seekers in detention; refrain from relocating refugees from urban centres to camps in accordance with High Court orders; ensure refugees and asylum seekers have fair and equitable access to healthcare, education and social services; re-open the refugee registration system, properly verify all asylum claims, and uphold its commitments under the principle of *non-refoulement*; desist from policies and practices contrary to the Tripartite Agreement in order to guarantee the repatriation of refugees in a voluntary manner and in safety and dignity.[101] AI, HRW, Mwatikho and JS6 made similar recommendations.[102]

12. Internally displaced persons

51. JS7 referred to UPR accepted recommendations on the human rights of Internally Displaced Persons (IDPs).[103] It noted with JS6 that Kenya had made commendable progress in setting up legal and institutional frameworks for the protection and assistance of IDPs.[104] However, JS6 was concerned that the Prevention, Protection and Assistance to IDPs and Affected Communities Act (2013), which came into force in January 2014, was yet to be operationalized and in the absence of measures to constitute the National Consultative Coordination Committee (NCCC) intended to oversee the implementation of the Act, the Government was flouting its national obligations by resettling IDPs without regard to due process as elaborated in the Act.[105] JS1 and JS4 raised similar concern.[106] Moreover, according to JS7, sexual abuse as a tool of conflict was becoming widespread in Kenya increasingly affecting IDPs. The lack of adequate and effective protection mechanisms to help women and children report perpetrators exacerbated the issue.[107]

52. JS6 recommended that Kenya constitute the NCCC in order to guide implementation of the Prevention, Protection and Assistance to IDPs and Affected Communities Act.[108] JS1 and JS4 made similar recommendation.[109] JS7 recommended inter alia creating 'one stop' centers, where victims of sexual abuse during situations that lead to displacement, could report the assault and seek protection, including adequate medical treatment and legal assistance; implementing the Waki report by inviting the UN Special Rapporteur on Violence against Women to pay a visit in the country.[110]

13. Human rights and counter-terrorism

53. JS6 stated that in 2012, Kenya enacted the Prevention of Terrorism Act allowing for "the limitation of the freedom of *security of a person* to the extent of allowing investigations." JS6 added that in practice, this Act had been exploited to torture suspects under the guise of investigative necessity. JS6 reported that in April 2014, the Government conducted the security operation "Usalama Watch" during which an estimated 4,000 people were arrested and held incommunicado at the Kasarani Stadium under deplorable conditions.[111] AI expressed similar concerns.[112]

54. JS6 recommended that Kenya inter alia respect the rights of persons suspected of acts of terrorism; stop ethnic and religious profiling in counter terrorism measures.[113] AI recommended inter alia investigating all reports of abuses and bringing to justice any member of the security forces suspected of committing a criminal offense; guaranteeing that all people detained were ensured due process rights, including access to a lawyer of their own choice, and were promptly brought before a judge, in line with Kenyan and international law.[114]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status.

Civil society

Individual submissions:

AI	Amnesty International, London (United Kingdom of Great Britain and Northern Ireland);
ARTICLE 19	ARTICLE 19, London (United Kingdom of Great Britain and Northern Ireland);
CHRI	Commonwealth Human Rights Initiative, New Delhi (India);
CLCGS	Congregation of our lady of charity of the good shepherd, Genève (Switzerland);
CRR	Center for Reproductive Rights, New York, (United States of America);
ECLJ	European Centre for Law and Justice, Strasbourg (France);
Equality Now	Equality Now, Nairobi (Kenya);
ERT	The Equal Rights Trust, London (United Kingdom of Great Britain and Northern Ireland);
FHOK	Family Health Options Kenya, Nairobi, (Kenya);
HRW	Human Rights Watch, Geneva (Switzerland);
Mwatikho	Mwatikho torture survivors organization, Copenhagen (Denmark);
ISHR	International Service for Human Rights, Geneva (Switzerland);
WKHRW	Western Kenya Human Rights Watch, Bungoma (Kenya).

Joint submissions:

JS1	Joint submission 1 submitted by: Coalition of child rights NGOs for UPR-Kenya, Nairobi (Kenya): Mully Children Home; the CRADLE – the Children Foundation; Girl Child Network; Save the Children International; Kenya National Human Rights Commission; The East African Centre for Human Rights (EACHRights); Refugee Council Kenya; Kenya Alliance for Advancement of Children (KAACR); Plan Internatoinal; HIAS Refugee Trust of Kenya; Women's Rights Awareness Programme (WRAP); Action children; CRECHE International; Mully Children's Family; Mama Fatuma Children home; The Association for physically disabled in Kenya; UNDUGU Society; Pastoralists Development network of Kenya; Deaf Aid and Action for Children with Disabilities; and ACDC-Kenya;
JS2	Joint submission 2 submitted by: CIVICUS: World Alliance for Citizen Participation, Johannesburg (South Africa); and the National Coalition of Human Rights Defenders; and the North Rift Human Rights Network.
JS3	Joint submission 3 submitted by: Cultural Survival, Massachusetts (United States of America); and the Maa Civil Society Forum; and Indigenous Concerns Resource Centre;
JS4	Joint submission 4 submitted by: Civil society coalition on Kenya's 2nd universal Periodic Review comprising The Kenya National Commission on Human Rights; Physicians for Human Rights; The National Coalition on Human Rights Defenders; The Coalition on Violence Against Women; The Refugee Consortium of Kenya; Ogiek Peoples' Development; Endorois Welfare Council; National Victims and Survivors Network; International Centre for Transitional Justice; The International Federation for Human Rights; International Displacement and Monitoring Centre; and Ipas Africa Alliance;
JS5	Joint submission 5 submitted by: The Kenya Media Stakeholders UPR network comprising ARTICLE 19; Kenya Correspondents Association; Kenya Union of Journalists; Pen International; National Coalition of Human Rights Defenders in Kenya; Association of Media Women in Kenya;

Journalists for Justice; African Women and Child Features; Media Focus on Africa; and Africa Media Initiative;

JS6 Joint submission 6 submitted by: Kenya Stakeholder's coalition on universal periodic review comprising the Kenya National Commission on Human Rights (KNCHR); the Kenyan Section of the International Commission of Jurists (ICJ Kenya); East African Center for Human Rights (EACHRights), National Coalition of Human Rights Defenders; ARTICLE 19; Independent Medico-Legal Unit (IMLU); Transgender Education and Advocacy; CRADLE – The Children's Foundation; Federation of Women Lawyers (FIDA-Kenya); Centre for Minority Rights Development (CEMIRIDE); Protection International; Family Health International(FHI); Transgender Education Advocacy (TEA); Youth Agenda(YAA); Pastoralist Development Network of Kenya (PDNK); Gay, Lesbian coalition of Kenya (GLACK); National Gay and Lesbian Human Rights Commission; Women Caucus; CRECO; APDK; and ESP among others;

JS7 Joint submission 7 submitted by: Pax Romana, Genève (Suisse); Franciscans International; Edmund Rice International; and 21 Kenyan organizations comprising Africa Community Development Media; Cancer Awareness Centre of Kenya; Catholic Justice and Peace-Bungoma; Centre for Minority Rights and Development; Centre for Rights Education and Awareness; Development Through Media; End Poverty with Justice Initiative; Gaplink International; Human Life International Kenya; Human Rights Concern; International Centre for Education and Talent Development; International Movement of Catholic Students – Kenya; JPIC Franciscans Africa; Kenya Conference of Catholic Bishops-Youth Council; Kenya Movement of Catholic Professionals; Kituo Cha Sheria; Pastoralist Development Network of Kenya; Protection International; Refugee Consortium of Kenya; The Caucus for Women's Leadership; and Users and Survivors of Psychiatry-Kenya;

JS8 Joint submission 8 submitted by: Privacy International, London (United Kingdom of Great Britain and Northern Ireland); and the National Coalition of Human Rights Defenders in Kenya, Nairobi (Kenya);

JS9 Joint submission 9 submitted by: Sexual Rights Initiative, Ottawa (Canada); and Gay and Lesbian Coalition of Kenya (GALCK); National Gay and Lesbian Human Rights Commission (NGLHRC); and Coalition of African Lesbians (CAL);

JS10 Joint submission 10 submitted by: Under the Same Sun, Surrey (Canada); and Albinism Foundation of East Africa; Albinism Society of Kenya; and Kenya National Commission on Human Rights.

National human rights institution:

KNCHR Kenya National Commission on Human Rights,* Nairobi (Kenya).

[2] KNCHR, para. 6.
[3] KNCHR, para. 5.
[4] KNCHR, para. 7.
[5] KNCHR, para. 13. For the full text of the recommendation, see A/HRC/15/8, para. 101.46 (Denmark).
[6] KNCHR, para. 8.
[7] KNCHR, para. 10.
[8] KNCHR, para. 12.
[9] KNCHR, para. 14.
[10] KNCHR, para. 14.
[11] KNCHR, para. 11.
[12] KNCHR, para. 15.
[13] KNCHR, para. 9.
[14] KNCHR, p. 5.
[15] ERT paras. 9 and 14. For the full text of the recommendation, see A/HRC/15/8, para. 101.40 (Czech Republic).

[16] WKHRW, paras. 15, 17.
[17] CHRI, paras. 17-20.
[18] JS4, paras. 27, 28.
[19] ERT, para.18. For the full text of the recommendations, see A/HRC/15/8, paras. 101.47 (Malaysia), 101.48 (Brazil), 101.49 (France), 101.50 (Australia).
[20] CLCGS, pp. 3 and 4; CRR, para. 2; EN, para. 10; JS4, para. 52.
[21] ERT para. 18.
[22] EN, para. 18.
[23] JS4, para. 53.
[24] CLCGS, p. 5.
[25] EN, paras. 7 and 8.
[26] CLCGS, p. 1.; JS1, p. 8; JS6, para. 40.
[27] EN, para. 17.
[28] CLCGS, pp. 2 and 3; JS1, p. 9.
[29] CLCGS, para. 7.
[30] JS6, para. 41.
[31] JS1, p. 11.
[32] JS10, para. 14.
[33] JS10, para. 33.
[34] JS10, paras. 43, 44 and 45.
[35] JS10, paras. 32 and 43.
[36] JS6, paras. 1 and 2.
[37] JS4, paras. 6 and 7.
[38] AI, pp. 3 and 4; JS4, para. 15; JS6, para. 5.
[39] AI, p. 5; JS4, para. 16; JS6, para. 6.
[40] AI, p. 4; CHRI, para. 5; HRW, pp. 3 and 5; JS4, paras. 11 and 12.
[41] JS1, p. 6. For the full text of the recommendations, see A/HRC/15/8, paras. 101.70 (Czech Republic), 101.71 (Slovakia).
[42] JS8, paras. 11, 21 and 22.
[43] JS5, para. 26.
[44] CHRI, para. 21; ERT, para. 15; HRW, p. 4; ISHR, p. 2; JS9, para. 14. For the full text of the recommendations, see A/HRC/15/8, para. 103.5 (Netherlands), (Czech Republic), (United States of America), (France). See also A/HRC/15/8, para. 108.
[45] CHRI, paras. 21-24; ERT, para. 15; HRW, p. 5; JS9, para. 14.
[46] JS4, paras. 40 and 41; JS6, para. 38.
[47] ERT, para. 15; HRW, p. 5.
[48] ISHR, p. 2; JS4, para. 41; JS9, para. 13.
[49] ECLJ, paras. 2, 4 and 6.
[50] ARTICLE 19, p.1, CHRI, para. 11, ISHR, p. 1; JS2, p. 2; JS5, paras. 2 and 3; JS8, para. 5. For the full text of the recommendations, see A/HRC/15/8, para. 101.87 (Czech Republic), as well as 101.10 (Norway), 101.36 (Norway), 101.89 (Norway).
[51] ARTICLE 19, paras. 12-15; 18 and 20
[52] CHRI, paras. 13-15; ISHR, pp. 1 and .2; JS2, p. 6; JS8, para. 31.
[53] JS5, paras. 23-25.
[54] ARTICLE 19, para. 30.
[55] CHRI, para. 15; ISHR, p. 2; JS2, p. 10.
[56] ISHR, p. 1; JS2, p. 2; JS8, para. 5. For the full text of the recommendations, see for example A/HRC/15/8, paras. 101.36 (Norway), 101.43 (France), 101.87 (Czech Republic), 101.88 (Sweden), 101.89 (Norway).
[57] CHRI, paras. 7-10; ISHR, pp. 1 and 2; JS2, pp. 3, 9, 10 and 11; JS4, paras. 21-24; JS5, paras. 14 and 15; JS8, paras. 49 and 50.
[58] JS4, para. 25.
[59] ISHR, p. 2.
[60] ARTICLE 19, para. 33; CHRI, para. 10; HRW, p. 5; JS2, pp. 10 and 11; JS8, paras. 58 and 59.
[61] JS6, paras. 27 and 28
[62] JS4, paras. 58-59.

[63] JS7, paras. 9, 10, 12 and 18. For the full text of the recommendation, see A/HRC/15/8, para. 101.93 (Spain).
[64] JS7, paras. 19 and 23. For the full text of the recommendation, see A/HRC/15/8, para. 101.93 (Spain).
[65] JS6, para. 19.
[66] JS7, para. 25.
[67] JS6, para. 20.
[68] JS6, paras. 21 and 22.
[69] AI, pp. 3-5.
[70] JS7, paras. 26, 31 and 33. For the full text of the recommendations, see A/HRC/15/8, paras. 101.92 (Turkey), 101.94 (Holy See), 101.113 (Cuba).
[71] JS6, paras. 25 and 26.
[72] CRR, pp. 2, 4, 5 and 7; FHOK, paras. 12-14; JS4, para. 54.
[73] JS6, para. 25.
[74] CRR, p. 5.
[75] CRR, p. 7; FHOK, paras. 15-21; JS4, para. 55; JS6, para. 26.
[76] JS1, p. 4.
[77] JS7, para. 34. For the full text of the recommendations, see A/HRC/15/8, paras. 101.90 (Uruguay), 101.109 (Slovakia), 101.110 (Bolivia), 101.111 (Niger), 101.112 (Ireland), 101.113 (Cuba), 101.126 (Indonesia).
[78] JS7, paras. 35-37.
[79] JS1, p. 3; JS6, para. 23.
[80] JS1, p. 4; JS6, para. 24; JS7, para. 38.
[81] JS5, para. 22; JS6, para. 36.
[82] JS5, para. 26; JS6, para. 37.
[83] ERT, para. 16; JS3, pp. 5 and 6; JS6, para. 43; JS7, paras. 49 and 52. Fort the full text of the recommendations, see A/HRC/15/8, paras. 101.114 (Bolivia), 102.5 (Denmark), 102.6 (Norway).
[84] ERT, para. 16; JS6, para. 43; JS7, paras. 49 and 52.
[85] JS4, para. 29. See also JS7, paras. 55-57.
[86] JS3, pp. 3 and 4.
[87] JS7, para. 57.
[88] JS3, p. 7; JS6, para. 44; JS 7, para. 59.
[89] JS3, p. 7; JS7, para. 59.
[90] JS4, para. 31.
[91] ERT, para. 17; HRW, pp. 2 and 3. For the full text of the recommendation, see A/HRC/15/8, para. 101.115 (Somalia).
[92] ERT, para. 17.
[93] HRW, p. 3.
[94] AI, p. 3.
[95] HRW, p. 3.
[96] Mwatkiho, para. 5.
[97] JS1, p. 12.
[98] JS4, paras. 36 and 38.
[99] JS6, para. 29.
[100] JS4, para. 36.
[101] JS4, paras. 37 and 39.
[102] AI, p. 6; HRW, p. 5; Mwatikho, para. 6; JS6, para. 31.
[103] JS7, para. 39. For the full text of the recommendations, see for example A/HRC/15/8, paras. 101.30 (Belarus), 101.116 (Algeria), 101.117 (Mexico), 101.118 (Argentina).
[104] JS6, para.32; JS7, para. 44.
[105] JS6, para. 32.
[106] JS1, p. 12; JS4, para. 34.
[107] JS7, para. 47.
[108] JS6, para. 33.
[109] JS1, p. 13; JS4, para. 35.
[110] JS7, para. 48.
[111] JS 6, para. 13.

[112] AI, p. 2.
[113] JS 6, para. 14.
[114] AI, p. 4.