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**Common core document forming part of the  
reports of States parties**

**Republic of Kenya\***

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\* The present document is being issued without formal editing.



**List of Abbreviations and Acronyms**

ACHPR	African Charter on Human and Peoples' Rights
ACRWC	African Charter on the Rights and Welfare of the Child
CAF	County Assemblies Forum
CAJ	Commission on Administrative Justice
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CBC	Competency-Based Curriculum
CBK	Central Bank of Kenya
CEDAW	Convention on the Elimination of Discrimination against Women
CERD	Convention on the Elimination of all Forms of Racial Discrimination
CPI	Consumer Price Indices
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CUC	Court Users Committee
FGM	Female Genital Mutilation
GDP	Gross Domestic Product
GOK	Government of Kenya
ICCPR	International Covenant on Civil & Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IMF	International Monetary Fund
JTI	Judiciary Training Institute
KDHS	Kenya Demographic and Health Survey
KIHBS	Kenya Integrated Household Budget Survey
KNCHR	Kenya National Commission on Human Rights
NCCS	National Council for Children Services
NER	Net Enrolment Rate
NGEC	National Gender and Equality Commission
NHRIs	National Human Rights Institutions
SDGs	Sustainable Development Goals
SGBV	Sexual and Gender-Based Violence



1. The Government of the Republic of Kenya has the honour to submit her updated Common Core Document- 2013–2021. The document was prepared in line with the harmonized guidelines on reporting issued by the Office of the High Commissioner on Human Rights. The Common Core Document provides information on the demographic, economic, social and cultural characteristics of Kenya, including updates on the constitutional, political and legal frameworks for the protection and promotion of human rights. The document has been prepared by the Office of the Attorney General and Department of Justice through a highly consultative and participatory process.

## I. General, factual and statistical information about Kenya

### A. Demographic, Economic, Social and Cultural Characteristics of Kenya

2. Kenya is an East African country that lies astride the Equator covering a total area of 582,650 km<sup>2</sup> of which 560,250 km<sup>2</sup> constitutes dry land while water takes the rest of about 13,400 km<sup>2</sup>. Approximately 80% of the land area is arid or semi-arid, and only 20% is arable.

3. Kenya is a multi-racial, multi-ethnic, multi-cultural and multi-religious society. The national language is Kiswahili<sup>1</sup> while the official languages are Kiswahili and English<sup>2</sup> (though numerous other local languages are spoken). People of African descent constitute about 90% of the population divided into three linguistic groups: Bantu, Cushitic, and Nilotic. The main groups comprise of: Bantus who include the Kikuyu (17.13%), Luhya (14.35%) Kamba (9.81%), Kisii (5.68%), the Mijikenda (5.26%), Meru (4.15%), Embu (0.85%) Taita (0.72%), Kuria (0.66%), Tharaka (0.46%), Mbeere (0.41%), Suba (0.33%), Pokomo (0.24 %), Bajuni (0.19%), Swahili (0.12%), Taveta (0.06%); Walwana/Wamakotee (0.05) Goshu (0.001%), Makonde (0.008%); Nilotes include the Kalenjin (13.37%), Luo (10.65%), Maasai (2.5%), Turkana (2.14%), Teso, (0.88%), Samburu (0.70%), and Ilchamus/Njemps (0.07%), Nubi(0.05%); and the Cushites, include the Kenyan Somali (5.85%), Orma (0.33%), Rendile (0.19%), Borana (0.58% Gabra (0.30%), Aweer/Waata (0.04%), Burji (0.07%), Sakuya(0.06%) Dahalo (0.001%), Dasenach (0.04%), Konso(0.003%) Elmolo (0.002%). Other recognized groups include Kenyan Arabs (0.12%), Kenyan Asians (0.1%), Kenyan Europeans (0.004%) and Kenyan Americans (0.001%). It should be noted that some of these major groups are further grouped into many smaller sub-tribes. Most Kenyans are bilingual in English and Swahili.

4. According to the Kenya Population and Housing Census conducted in August 2019, the Republic of Kenya now has a population of approximately 47,564,296, comprising 23,548,056 males and 24,014,716 females. The Census documented 1,524 Intersex persons. The Average Household Size has declined to 3.9 in 2019 from 4.2 in 2009. The distribution of the population by sex and age group is as illustrated in Table 1 below:

Table 1  
Distribution of Population by Sex and Age Group<sup>3</sup>

Age Group (Years)	Male	Female	Intersex	Total
0–9	6 123 295	6 072 285	330	12 195 910
10–19	5 896 024	5 735 584	321	11 631 929
20–29	3 952 233	4 349 637	359	8 302 229
30–39	3 046 873	3 173 715	247	6 220 835
40–49	2 073 488	1 971 885	114	4 045 487
50–59	1 209 944	1 216 690	70	2 426 704

<sup>1</sup> Constitution of Kenya (2010) Article 7(1) available at <https://kenyalaw.org/kl/index.php?id=398>.

<sup>2</sup> Constitution of Kenya (2010) Article 7(2) available at <https://kenyalaw.org/kl/index.php?id=398>.

<sup>3</sup> Kenya National Bureau of Statistics (2019) Population and Housing Census Volume III, available at <https://www.knbs.or.ke/?wpdmpro=2019-kenya-population-and-housing-census-volume-iii-distribution-of-population-by-age-sex-and-administrative-units>.

<i>Age Group (Years)</i>	<i>Male</i>	<i>Female</i>	<i>Intersex</i>	<i>Total</i>
60–69	730 786	797 371	43	1 528 200
70+	515 028	694 242	35	1 209 305
Not stated	385	297	5	687
<b>Overall Total</b>	<b>23 548 056</b>	<b>24 014 716</b>	<b>1 524</b>	<b>47 564 296</b>

*Source:* KNBS 2019 Population & Housing Census.

5. The distribution of population is generally uneven and varies from 67.2 persons per km<sup>2</sup> in high potential areas to 3 persons per km<sup>2</sup> in arid areas. The most densely populated areas are found in the urban areas and around Lake Victoria, the highlands and the coastal strip, which have fertile soils and well-distributed and reliable rainfall. The sparsely populated areas are found in the arid and semi-arid regions, which have poor soils and an inhospitable climate.

6. There are approximately 918,270 people aged 5 years and above who have a disability.<sup>4</sup> This is approximately 1.93% of the total population. Out of these 523,883 are female while 394, 330 are male. The common types of disability are mobility (385,417), followed by visual (333,520) and albinism (9,729).

7. Life expectancy: The life expectancy stands at 66.95 in 2021, a 0.39 increase from 2020.<sup>5</sup>

8. Household size and Proportion of households headed by women: In 2019, the average household size in Kenya was 3.9 members. One-third of households are headed by women.

9. Infant and maternal mortality rates: The infant mortality rate is 39 deaths per 1,000 live births, and under-5 mortalities is 52 deaths per 1,000 live births. The maternal mortality ratio stands at 362 per 100,000 live births.

10. Percentage of women using contraceptives: More than half of currently married women are using a contraceptive method (58 per cent). The public sector remains the major provider of contraceptive methods; 60 per cent of modern contraceptive users obtain their contraception from a government source.

11. The current fertility rate for Kenya in 2021 is 3.363 births per woman, a 1.55% decline from 2020.<sup>6</sup> Table 2 provides the trend of fertility decline in the last 8 years.

Table 2

**Kenya – Historical Fertility Rate Data**

<i>Year</i>	<i>Fertility Rate</i>	<i>Growth Rate</i>
2021	3.363	-1.550%
2020	3.416	-1.500%
2019	3.468	-1.480%
2018	3.520	-2.980%
2017	3.628	-2.890%
2016	3.736	-2.810%
2015	3.844	-2.730%
2014	3.952	-2.660%

<sup>4</sup> Kenya National Bureau of Statistics (2019) Population and Housing Census Volume IV, available at <https://www.knbs.or.ke/?wpdmpromo=2019-kenya-population-and-housing-census-volume-iv-distribution-of-population-by-socio-economic-characteristics>.

<sup>5</sup> Data Source: [United Nations - World Population Prospects](#).

<sup>6</sup> Data Source: [United Nations - World Population Prospects](#).

12. HIV/AIDs prevalence: The Kenya Population-based HIV Impact Assessment (KENPHIA) survey released in 2020, indicated that Kenya’s HIV prevalence stood at 4.9%. The prevalence of HIV in women is at 6.6%, twice that in men at 3.1%. This translates to 1.3 million adults living with HIV in Kenya. The HIV prevalence was 4.7% in urban and 5.0% in rural areas.<sup>7</sup>

13. 56 per cent of women and 66 per cent of men have comprehensive knowledge about HIV and AIDS prevention and transmission.<sup>8</sup>

14. Main causes of deaths: Pneumonia, Malaria, Cancer, Tuberculosis, HIV/AIDS/Anemia, Heart disease, accidents, road accidents, meningitis, and others.

15. Development Agenda: The Vision 2030 was launched in 2008 as Kenya’s development blueprint covering the period between 2008 to 2030. The objective of the Vision is to turn Kenya into a newly industrializing, “middle-income country providing a high-quality life for all its citizens by the year 2030”.

16. In the last 10 years, significant progress has been made in implementing Vision 2030, which has been undertaken through the First and Second Medium Term Plans. The Government, the Private Sector and development partners continue to play a critical role in the actualization of the Vision.

17. The Medium Term Plan III (MTP) of the Vision 2030 runs from 2018–2022 under the theme ‘Transforming Lives: Advancing Socio-Economic Development through the Big Four’. The MTP III outlines the main policies, legal and institutional reforms as well as programmes and projects that the Government plans to implement during the plan period. It gives priority to the implementation of the “Big Four Agenda” initiatives as follows; Increase the manufacturing share in the economy from 9.2% to 15%; Provide affordable housing by building 500,000 affordable houses across the country within the five years; Enhance Food and Nutrition Security (FNS) through irrigation projects, construction of food storage facilities, implementation of high impact nutritional projects and Achieve 100% Universal Health Coverage.

18. Economy: Kenya’s economy is market-based, with state-owned infrastructure enterprises, and maintains a liberalized external trade system. Horticulture, tea, articles of apparel, clothing accessories, coffee, iron and steel are the leading export earners collectively accounting for 59% of the total value of domestic export in 2019. Agriculture is mainly rain-fed hence the production of major food staples such as maize is subject to weather-related fluctuations. Production downturns periodically necessitate food aid. Industrial activity, which is concentrated around the three largest urban centres, Nairobi, Mombasa, and Kisumu, is dominated by food-processing industries such as grain milling, beer production, sugarcane processing, and the fabrication of consumer goods, such as the assembly of motor vehicles.

19. The economy registered progressive economic growth with a GDP Growth rate reaching 5.4% in 2014, 6.3% in 2018 and 5.4% in 2019. The economic expansion was boosted by a stable macroeconomic environment, positive investor confidence and a resilient services sector.<sup>9</sup> Table 3 illustrates key macroeconomic indicators for the period 2014–2019.

Table 3

**Key Macroeconomic Indicators 2014–2019**

<i>Description</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
GDP Growth Rate (Annual Variation in %)	5.4	5.7	5.9	4.8	6.3	5.4
Inflation Rate (CPI, Annual Variation in %)	6.9	6.6	6.3	8.0	4.7	5.2
CBK Interest Rates	8.5	11.5	10.0	10.0	9.0	8.5
Kshs/USD Exchange Rate	87.9	98.2	101.5	103.4	101.3	102.0
Current Account as a % of GDP	-10.3	-6.9	-5.8	-7.2	-5.8	-5.8

<sup>7</sup> Kenya Population-based HIV Impact Assessment Survey 2018, Ministry of Health, pg9.

<sup>8</sup> See Note 6.

<sup>9</sup> The World Bank, World Bank in Kenya (2019), available at <https://www.worldbank.org/en/country/kenya/overview>.

Source: Kenya Bureau of Statistics, Economic Survey Report 2020.

20. Real Gross Domestic Product (GDP) is estimated to have contracted by 0.3 per cent in 2020 compared to a growth of 5.0 per cent in 2019.<sup>10</sup> The contraction was mainly attributed to a slowdown in economic activities due to the emergence of the Coronavirus Disease 2019 (COVID-19). The contraction was spread across all sectors of the economy but was more dismal in accommodation and food serving activities, education, professional and administrative service activities. Agriculture, Forestry and Fishing activities were however more vibrant in 2020 despite a contraction in global demand in 2020. The sector grew by 4.6 per cent in 2020 compared to 2.3 per cent growth in 2019. Manufacturing sector growth slowed down from 2.8 per cent in 2019 to 0.2 per cent in 2020. Despite most sectors recording contraction in growths, the economy was somewhat supported by accelerated growths in agricultural production (4.8 per cent), construction activities (11.8 per cent), financial and insurance activities (5.6 per cent) and health services activities (6.7 per cent).

21. Income distribution: At the national level, the Gini coefficient increased slightly from 0.460 in 1994 to 0.470 in 2005/06 and declined to 0.404 in 2015/2016.<sup>11</sup>

22. Poverty Estimates: The 2020 Kenya National Bureau of Statistics (KNBS), Comprehensive Poverty Analysis report<sup>12</sup> along with 47 county poverty profiles measures poverty in a comprehensive manner, including multidimensional and monetary approaches, for different population groups: children, youth, women, men and the elderly. The Report provides the situation of poverty for these groups through the lenses of 1) Monetary poverty measurement, 2) Multidimensional poverty measurement, and 3) Poverty overlap analysis, specifically the extent to which multidimensional and monetary poverty overlap. Studies have shown that monetary poverty does not capture all deprivations that individuals face with access to basic goods and services due to factors other than lack of financial resources. Therefore, monetary and non-monetary poverty approaches are vital for better-informed policy decision making.

## Monetary poverty in Kenya

23. 36 per cent of the population in Kenya or 15.9 out of 44.2 million individuals are monetary poor. Poverty incidence is highest among children (42%), and lowest among youths (29%). Differences in incidence by sex among the youths and the elderly are inconsiderate. Among children, poverty incidence is 1 percentage point higher among boys compared to girls, while among adults it is 3 percentage points higher among women compared to men.

24. Figure 3.3 shows that the poverty incidence is not the same across the country. Monetary poverty incidence in rural areas is higher compared to urban areas, especially among youths and adult women and men.<sup>13</sup> Annex 3 of the CPR highlights monetary poverty incidence by age group, area and county of residence.

<sup>10</sup> Kenya Bureau of Statistics, Economic Survey Report 2021.

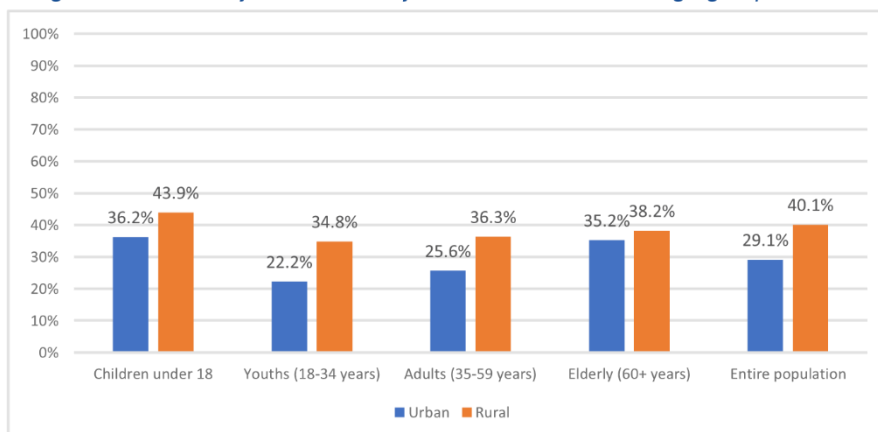
<sup>11</sup> Inequality Trends and Diagnostics in Kenya 2020, A Joint Report of the Kenya National Bureau, 2020 on Multidimensional Inequality.

<sup>12</sup> Kenya National Bureau of Statistics (2020) 'Comprehensive Poverty Report Children, Youth, Women, Men and the Elderly From National to County Level, available at Comprehensive Poverty Report - Kenya National Bureau of Statistics (knbs.or.ke).

<sup>13</sup> Annex 3 of the CPR highlights monetary poverty incidence by age group, area and county of residence.



Figure 3.3: Monetary a incidence by area of residence and age group



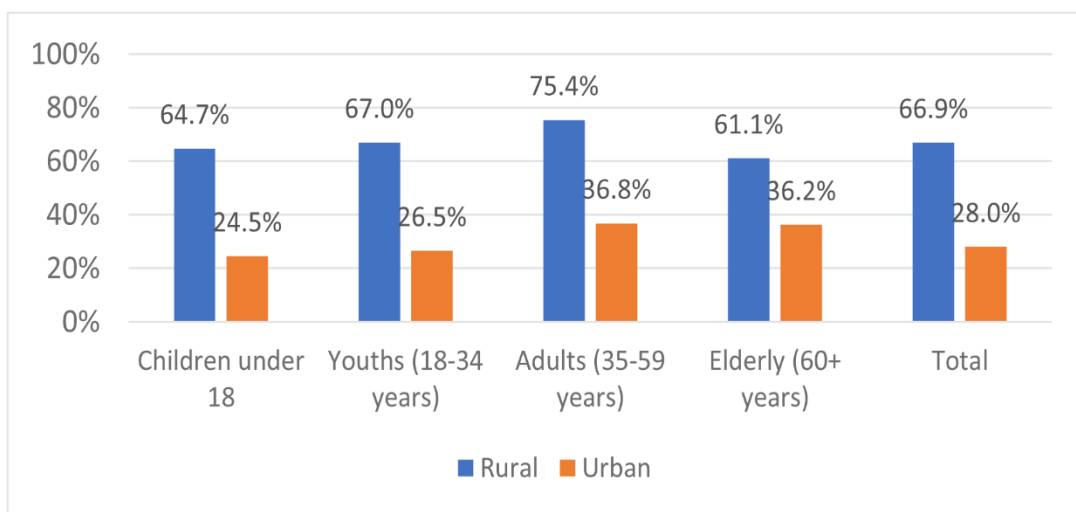
Source: KNBS, 2018

### Multidimensional Poverty in Kenya

25. 53 per cent of the population in Kenya or 23.4 out of 44.21 million individuals are multidimensionally poor. Multidimensional poverty incidence is the highest among adults (61%), and lowest among the youths (48%). Evidence from the analysis reveals considerable differences in multidimensional poverty incidence by sex at the national level and across age groups: 54 per cent of girls and women in Kenya are multidimensionally poor, compared to 52 per cent of boys and men. Poverty incidence is higher among girls/women compared to boys/men for all age groups except for children. Fifty-four per cent of boys under 18 years of age are deprived of 3 or more basic needs and services compared to 51 per cent of girls.

26. Figure 3.6 shows that the percentage of multidimensionally poor Kenyans in rural areas (67%) is more than two times higher compared to the rate of 28 per cent in urban areas. Among children, the rural-urban inequality in the realisation of rights is even wider; 65 per cent of children in rural areas compared to 25 per cent of their peers in urban areas are multidimensionally poor.

Figure 3.6: Multidimensional poverty incidence by area of residence and age group



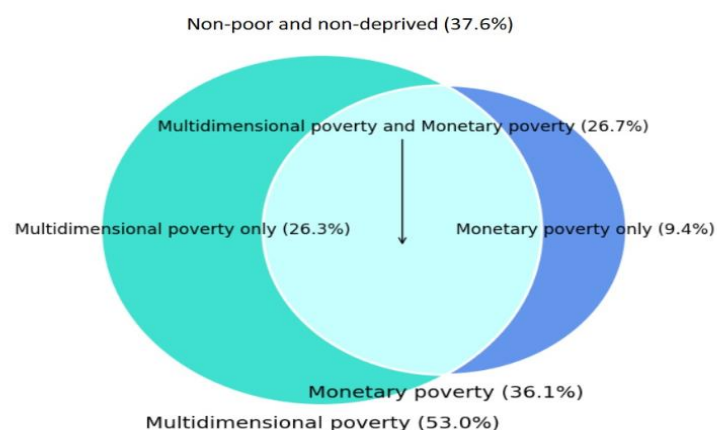
Source: KNBS, 2018

### Overlap between Monetary and Multidimensional Poverty

27. Figure 3.7 shows that 27 per cent of the population in Kenya is poor in both multidimensional and monetary poverty terms. An additional 26 per cent of the population are only multidimensionally poor, while 9 per cent are only monetary poor. The scale of



poverty overlap varies greatly across counties and areas of residence, showing that there are geographical disparities in both multidimensional and monetary poverty incidences, as well as across different groups of poor populations.



28. Education: Kenya has made tremendous progress on access to education since the introduction of Free Primary Education (FPE) in 2003. The net enrolment rate has increased exponentially. The following tables provide various indicators on the number of educational institutions and enrolment.

Table 4  
**Selected Indicators on Education**

Indicator	2016	2017	2018	2019	2020
Total No. of Primary and Secondary Schools	84 392	87 876	91 626	89 337	90 145
No. of Universities	30	61	63	63	64
No. of registered Technical Vocational and Education Training (TVET) institutions	1 300	1 962	1 769	2 140	2 301
<i>Enrolment</i>					
Pre Primary school	3.19 M	3.29 M	3.4 M	2.7 M	2.8M
Primary schools	10.3 M	10.4 M	10.5 M	10.1 M	10.17M
Secondary Schools	2.7 M	2.8 M	2.9 M	3.3. M	3.52M
University	83 110	88 323	68 550	89 488	122 831

Source: Kenya National Bureau of Statistics, Economic Survey Reports.

Table 5  
**Enrolment Rates statistical data, disaggregated by sex (2012–2020)**

1. **Pre-primary Education -Number ('000)**

Enrolment	2012	2013	2014	2015	2016	2017	2018	2019	2020
Boys	1 346.2	1 411.3	1 476.3	1 607.3	1 634.1	1 681.5	1 730	1 393.7	1 436.9
Girls	1 364.5	1 454.0	1 543.4	1 560.5	1 565.6	1 612.2	1 660	1 344.8	1 395.9
<b>Total</b>	<b>2 710.7</b>	<b>2 865.3</b>	<b>3 019.7</b>	<b>3 167.8</b>	<b>3 199.7</b>	<b>3 293.7</b>	<b>3 390</b>	<b>2 738.5</b>	<b>2 832.8</b>

Source: Ministry of Education and KNBS Economic Survey Report, 2020.

**2. Primary Education Enrolment by Sex - Number ('000)**

	2012	2013	2014	2015	2016	2017	2018	2019	2020
Boys	4 972.7	5 019.7	5 052.5	5 127.9	5 214.5	5 293.9	5 364.3	5 105.8	5 191.4
Girls	4 784.9	4 837.9	4 898.5	4 962.9	5 054.9	5 109.8	5 178.3	4 966.3	4 978.7

**3. Secondary Education Enrolment by Sex – Number ('000)**

	2012	2013	2014	2015	2016	2017	2018	2019	2020
Boys	1 019	1 127.6	1 213.0	1 348.2	1 396.5	1 450.9	1 505.3	1 626.1	1 751.5
Girls	8 95.7	976.5	1 118.2	1 210.4	1 323.4	1 380	1 437.4	1 634	1 768.9

Source: KNBS Economic Survey Report, 2019–2021.

**4. University Education Enrolment by sex 2013/14–2020/2021**

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
<i>Public Universities</i>								
Male	173 987	217 164	258 688	286 840	260 603	259 514	251 550	275 614
Female	115 746	146 170	174 068	192 472	180 528	173 731	161 290	176 475
<i>Private Universities</i>								
Male	39 980	42 454	39 125	43 547	43 253	46 764	51 494	50 257
Female	31 666	37 994	38 804	41 648	37 675	39 453	45 134	44 353
<b>Grand Total</b>	<b>361 379</b>	<b>443 783</b>	<b>510 685</b>	<b>564 507</b>	<b>522 059</b>	<b>519 462</b>	<b>509 468</b>	<b>546 699</b>

Source: Ministry of Education and KNBS Economic Survey Report, 2019–2021.

Table 6

**Enrolment in Public and Private Schools by County**

The table shows enrollments in Public and Private Schools by County at Pre-Primary, Primary and Secondary School levels

S/No.	County	Public Schools – 2019			Private Schools – 2019		
		Pre-Primary '000	Primary '000	Secondary '000	Pre-Primary '000	Primary '000	Secondary '000
1	Mombasa	8.9	75.1	23.2	18.4	80.27	13.3
2	Kwale	52.9	189.0	32.3	14.4	14.66	1.9
3	Kilifi	48.8	310.9	69.0	42.4	42.37	13.1
4	Tana River	23.4	53.1	8.2	3.5	6.59	0.7
5	Lamu	6.4	28.4	7.0	3.0	3.97	0.3
6	Taita Taveta	10.1	60.2	24.6	3.3	6.97	0.7
7	Garissa	15.7	51.9	14.0	6.1	25.57	10.1
8	Wajir	17.9	65.1	17.4	3.8	11.87	0.5
9	Mandera	27.4	91.1	15.6	2.9	11.45	7.5
10	Marsabit	18.2	50.9	8.2	3.8	13.85	0.9
11	Isiolo	15.4	23.8	5.9	7.3	6.44	0.8
12	Meru	52.7	251.1	112.9	21.3	66.19	2.7
13	Tharaka Nithi	18.4	88.6	47.2	4.6	10.39	2.0
14	Embu	17.3	101.4	54.4	5.8	23.35	2.2
15	Kitui	63.0	318.6	98.8	4.5	16.45	1.5
16	Machakos	32.1	238.6	104.4	50.0	45.83	13.8
17	Makueni	41.7	238.6	111.1	5.1	16.54	3.0

S/No.	County	Public Schools – 2019			Private Schools – 2019		
		Pre-Primary '000	Primary '000	Secondary '000	Pre-Primary '000	Primary '000	Secondary '000
18	Nyandarua	22.6	116.4	62.4	11.2	22.28	4.4
19	Nyeri	14.4	101.4	74.0	8.7	23.47	3.1
20	Kirinyaga	12.9	76.8	51.7	10.6	31.17	1.2
21	Muran'ga	38.2	176.5	115.8	10.2	29.91	6.3
22	Kiambu	33.3	227.6	129.9	42.2	119.93	10.7
23	Turkana	117.7	151.1	20.3	3.5	11.46	1.3
24	West Pokot	46.3	180.5	38.3	29.6	14.90	0.3
25	Samburu	42.5	53.2	10.8	1.2	3.31	1.1
26	Trans-Nzoia	37.8	223.6	86.5	13.5	51.03	2.7
27	Uasin-Gishu	34.7	173.9	61.3	22.3	57.28	8.4
28	Elgeyo Marakwet	30.7	109.6	41.9	6.7	14.18	0.3
29	Nandi	52.3	205.9	76.7	10.7	25.97	0.9
30	Baringo	51.3	143.6	44.7	7.9	18.30	2.1
31	Laikipia	20.7	85.6	36.7	6.6	12.12	2.6
32	Nakuru	53.3	376.7	141.3	57.3	101.32	30.4
33	Narok	38.2	263.2	40.6	11.3	34.46	1.7
34	Kajiado	39.0	138.8	28.5	17.4	52.37	10.5
35	Kericho	36.8	178.6	78.4	24.6	44.04	2.2
36	Bomet	50.9	198.9	82.0	12.6	32.34	1.4
37	Kakamega	119.1	519.9	161.7	28.5	35.16	3.6
38	Vihiga	36.0	158.7	68.2	8.7	10.67	0.4
39	Bungoma	85.8	449.1	151.4	34.6	51.01	2.3
40	Busia	62.4	231.8	64.0	26.6	19.10	0.2
41	Siaya	65.2	253.5	92.0	34.6	16.03	0.2
42	Kisumu	49.0	254.0	90.1	28.8	33.15	3.2
43	Homa Bay	79.9	279.6	101.5	37.1	34.07	2.2
44	Migori	65.9	273.7	86.5	22.6	40.48	3.2
45	Kisii	57.7	255.6	131.3	29.8	56.40	1.8
46	Nyamira	34.9	125.6	56.4	12.7	36.95	0.9
47	Nairobi	23.1	230.0	66.4	49.0	184.04	33.4

29. In 2017, the Government introduced the Competency-Based Curriculum (CBC) to replace the 8-4-4 system. CBC comprises two years of pre-primary education, six years of primary education, three years of junior secondary education, three years of senior secondary education and three years of university education. The objective of CBC is to ensure that at the end of each learning cycle, every learner will be competent in the following seven core competency areas: communication and collaboration; critical thinking and problem-solving; imagination and creativity; citizenship; learning to learn; self-efficacy; and digital literacy.

30. Employment: Total employment outside small-scale agriculture and pastoral activities stood at 17.4 million in 2020 down from 18.1 million recorded in 2019. Wage employment in the modern sector went down by 6.4 per cent to 2,741.1 thousand persons in 2020. The informal sector employment is estimated to have contracted to 14.5 million jobs and accounted for 83.4 per cent of the total employment outside of small-scale agriculture. Further, the total number of self-employed and unpaid family workers within the modern sector declined from 162.7 thousand in 2019 to 156.1 thousand in 2020. The share of private-sector employment to total employment declined to 67.7 per cent in 2020 compared to 70.5 per cent in 2019.

31. In 2020, the industries that accounted for the highest wage employment in the private sector were: manufacturing; agriculture, forestry and fishing; and wholesale and retail trade and repair of motor vehicles at 15.8, 15.1 and 13.5 per cent, respectively.

32. Public Sector: Education had the highest share of employment in the public sector accounting for 43.2 per cent, followed by public administration and defence; compulsory social security at 35.1 per cent, respectively, in the review period. Human health and social work activities recorded the highest growth of 5.8 per cent in 2020. Similarly, financial and insurance activities; arts, entertainment and recreation; education; and construction activities, recorded growths of 5.0, 4.3, 3.5 and 3.4 per cent, respectively, in 2020. In 2019, total employment excluding those engaged in small-scale farming and pastoralist activities, is estimated to have increased from 17.3 million in 2018 to 18.1 million. Total new jobs generated in the economy were 846.3 thousand in 2019. The informal sector was estimated to have created 767.9 thousand new jobs in 2019 compared to 744.1 thousand new jobs created in 2018. In 2020, total employment outside small-scale agriculture and pastoral activities stood at 17.4 million, down from 18.1 million recorded in 2019. In the same period, wage employment in the private sector declined by 10.0 per cent from 2,063.2 thousand jobs in 2019 to stand at 1,856.5 thousand jobs. Within the public sector, wage employment increased from 865.2 thousand in 2019 to 884.6 thousand in 2020.

Table 7

**Selected Indicators on Employment**

<i>Indicator</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>
Total no. of persons in Employment	16 Million	16.9 Million	17.8 Million	18.1 Million	17.4 million
Wage employment in the informal sector('000)	133.0	794.4	762.1	767.9	
Wage employment in the modern sector('000)	2 686.8	2 931.9	3 012.1	3 091.1	
Wage employment in the public sector('000)	737.1	833.1	842.9	865.2	884.6

*Source:* Kenya National Bureau of Statistics, Economic Survey Report 2019, 2020 & 2021.

33. Most disputes surrounding discrimination in employment are settled in the Employment and Labour Relations Court. This Court was granted High Court status in 2011. The Employment Act, 2007 provides the basic standards of Employment in Kenya. On matters of discrimination in employment, Section 5 (2) provides: "An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice."

34. The Access to Government Procurement Opportunities (AGPO) Program established in 2013 facilitates the enterprises owned by women, youth and persons with disabilities to be able to participate in Government opportunities. This is made possible through the implementation of the legal requirement that 30% of Government procurement opportunities be set aside specifically for enterprises owned by these groups. Since its inception in 2013, Women entrepreneurs have received 30,205 tenders worth, Ksh. 33,953,900,402 (Approx. 339 Million USD) representing 52.32% of the total volume of tenders that have been awarded to the special interest groups.

35. Crime Statistics: Security continues to be one of the main pillars that support economic activities and promote investor confidence in the country. There was a decline of 25.4 per cent in the number of crimes reported to the Police from 93,411 in 2019 to 69,645 in 2020. There was also a decline in all the offences except for homicide, corruption and offences against morality which increased by 4.7, 2.3 and 13.7 per cent respectively in 2020. The number of persons reported to the police to have committed offences declined by 21.0 per cent to 65,083 in 2020. The number of male and female offenders decreased by 19.6 per cent and 27.1 per cent, respectively. The number of offenders reported having committed homicides went up by 11.3 per cent to 2,494 in 2020 out of which persons reported to have committed murder and manslaughter accounted for the highest share of 75.3 per cent.

Table 8  
**Crimes Reported to the Police, 2016–2020**

<i>Number Crimes<sup>1</sup></i>	2016	2017	2018	2019	2020
Homicide	2 751	2 774	2 856	2 971	3 111
Offences against morality	6 228	5 492	7 233	8 051	9 153
Other offences against persons	22 295	22 515	25 049	27 196	19 288
Robbery	2 697	2 713	2 935	2 858	2 384
Breakings	5 621	6 131	5 970	5 976	4 252
Theft of stock	1 918	2 136	2 077	1 962	1 556
Stealing	10 361	11 656	12 845	13 954	8 709
Theft by servant	2 440	2 632	2 477	2 226	1 467
Theft of Vehicles and other thefts	1 355	1 404	1 370	1 298	1 031
Dangerous drugs	6 160	5 565	8 021	8 011	4 477
Traffic offences	139	69	213	341	186
Criminal damage	4 307	4 262	4 783	4 852	3 530
Economic crimes	3 503	3 695	4 100	4 786	3 488
Corruption	92	75	119	130	133
Offences involving police officers	57	86	174	77	64
Offences involving tourists	15	15	93	48	26
Other penal code offences	7 047	6 772	7 953	8 674	6 790
<b>Total</b>	<b>76 986</b>	<b>77 992</b>	<b>88 268</b>	<b>93 411</b>	<b>69 645</b>

## B. Constitutional, Political and Legal structure

36. The Constitution establishes Kenya as a constitutional democracy based on the rule of law, respect for human rights and good governance. Chapter Four of the Constitution embraces a progressive and expansive Bill of Rights which applies to all laws and binds all state organs and all persons. Every state organ is required to respect, protect and fulfil all the rights and fundamental freedoms in the Bill of Rights. The Bill of Rights provides a framework for the realization of social, economic and cultural rights. The Constitution also specifically provides for the protection of the rights of women, children, the elderly, youth, the disabled, minority communities and other disadvantaged groups.

37. The Constitution establishes two levels of government- the national and county governments. The Legislature and the Executive are devolved into 47 Political and Administrative Counties. The primary objective of devolution is to devolve power, resources and representation down to the local level. Revenue raised nationally is distributed between the national government and the county government. Various laws have been enacted by Parliament to ensure that the objectives of devolution can be achieved. These laws include the County Government Act 2012, The Intergovernmental Relations Act 2012, County Assembly Service Act 2017, County Assembly Powers and Privileges 2017, Transition to Devolved Government Act 2013, Urban Areas and Cities Act 2011, Public Finance Management Act 2012, Public Service (Value and Principles) Act 2015. The County government became operational following the elections of the governors of the counties and members of the county assemblies in the 2013 National Elections.

38. The Government: The governments at the national and county levels are distinct and interdependent and conduct their mutual relations based on consultation and cooperation. The functions of the national government include foreign affairs, foreign policy and international trade; the use of international water and water resources; immigration and citizenship; the relationship between religion and state; language policy; national defence; police services; courts; monetary policy; education policy, standards, curricula, examinations and the granting of university charters.

39. The functions and powers of the County Government, include agriculture, crop and animal husbandry, livestock sale yards, county abattoirs, plant and animal disease control, fisheries, county health services, control of air pollution, noise pollution, other public nuisances and outdoor advertising, cultural activities, public entertainment and public amenities.

40. Composition of Parliament: Chapter Eight of the Constitution establishes the Parliament of Kenya as a bicameral, it consists of the National Assembly and the Senate. Section 94 provides that the legislative power of the Republic, which is derived from the people of Kenya, shall vest in the Parliament.

41. The role of the National Assembly is to, inter alia: represent the people of the constituencies and special interests in the National Assembly; deliberate on and resolves issues of concern to the people; determine the allocation of national revenue between the levels of government; review the conduct in the Office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and approve declarations of war and extensions of states of emergency.

42. The Senate serves to protect the interests of the counties and their governments. In this regard, the Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties; determining the allocation of national revenue among counties, and exercising oversight over national revenue allocated to the county governments.

43. The National Assembly has a total of 349 Members of Parliament (MP), comprising of 290 elected from the constituencies, 47 women elected from the counties and 12 nominated representatives and the Speaker of the National Assembly who is an ex-officio member. Click here to download the List of all Members arranged by party, in alphabetical order <http://www.parliament.go.ke/the-national-assembly/mps>.

44. The Senate consists of 68 members: 47 are directly elected by their counties of which 44 are men and 3 women. Nominated members include 16 women nominated by the political parties according to their relative strength in the Senate elections; 2 members nominated to represent the youth; 2 members to represent persons with disabilities and the Speaker of the Senate. Click here to download a list of all the members. <http://www.parliament.go.ke/list-senate-delegations-and-political-parties>.

45. While the elected members represent their respective constituencies and counties, the nominated members of Parliament and Senators play a significant part in representing and addressing issues of special interest groups such as women, youth, persons with disabilities, and workers. This ensures that every voice is taken into consideration when making national policies and laws. Political parties nominate members depending on the proportion of elected MPs and Senators a party has in each house. Nominated MPs and Senators in Kenya take part in the National Assembly debates and vote. However, they cannot vote on matters regarding constitutional amendments, motions on public funds, and votes of no confidence in the government and removal of the president from office.

46. The National Executive: The National Executive comprises the President, the Deputy President and the rest of the Cabinet. The President is the Head of State and Government and exercises the executive authority of the Republic, with the assistance of the Deputy President and Cabinet Secretaries. The Cabinet consists of the President; the Deputy President; the Attorney General; and not fewer than fourteen and not more than twenty-two Cabinet Secretaries. The President nominates and, with the approval of the National Assembly, appoints Cabinet Secretaries. A Cabinet Secretary shall not be a Member of Parliament. The composition of the National Executive reflects the regional and ethnic diversity of the people of Kenya.

47. The County Government: A County Government consists of a County Assembly and County Executive. The County Executive is headed by a Governor elected during the national elections. The County Executive consists of the County Governor, the Deputy Governor and the County Executive Committee members appointed by the County Governors.

48. The role of the county executive committee, include: implementing county legislation; preparing proposed legislation for consideration by the county assembly, implementing

national legislation to the extent that the legislation so requires; managing and coordinating the functions of the county administration and its departments; and performing any other functions conferred on it by the Constitution or national legislation.

49. A County Assembly is the forum through which the people, who own the sovereign power to govern, participate in the making of laws, formulation of policies for taxation, budgeting and establishment of county public service. Through the County Assembly, the citizens of the county maintain surveillance and oversight on how they are being governed. A Speaker heads the County Assembly. The County Assemblies play the following roles:

- Representation role – Maintain close contact with the electorate and consult them on issues before or under discussion in the county assembly;
- Legislative role – Attend sessions of the county assembly and its committees by providing linkage between the county assembly and the electorate;
- Oversight role – On public service delivery; and extend professional knowledge, experience or specialized knowledge to any issue for discussion in the county assembly.

50. A County Assembly is made up of members elected by the registered voters of the respective wards during the national elections.

51. The Judiciary: consists of the judges of the superior courts, magistrates, other judicial officers and staff. In the exercise of judicial authority, the Judiciary is subject only to the Constitution and the law and not under the control or direction of any person or authority. In addition, the office of a judge of a superior court cannot be abolished while there is a substantive holder of the office. A member of the Judiciary is not liable in an action or suit in respect of anything done or omitted to be done in good faith in the lawful performance of a judicial function.

52. The superior courts are the Supreme Court, the Court of Appeal, the High Court and the courts with the status of the High Court to hear and determine disputes relating to employment and labour relations; the environment and the use and occupation of, and title to, land. The subordinate courts are the Magistrates courts; the Kadhis' courts; the Courts-Martial; and any other court or local tribunal as may be established by an Act of Parliament.

53. The Electoral System: The Constitution provides that every citizen is free to make political choices, which include the right to form, or participate in forming a political party; to participate in the activities of, or recruit members for, a political party; or to campaign for a political party or cause. In addition, every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for any elective public body or office established under the Constitution; or any office of any political party of which the citizen is a member. Therefore, every adult citizen has the right, without unreasonable restrictions, to be registered as a voter; to vote by secret ballot in any election or referendum; and to be a candidate for public office or office within a political party of which the citizen is a member and, if elected, to hold office.

54. Kenya's electoral system adheres to the following principles: that not more than two-thirds of the members of elective public bodies shall be of the same gender; fair representation of persons with disabilities; universal suffrage based on the aspiration for fair representation and equality of vote; and free and fair elections, which are by secret ballot; free from violence, intimidation, improper influence or corruption; conducted by an independent body (the Independent Electoral and Boundaries Commission); transparent; and administered in an impartial, neutral, efficient, accurate and accountable manner.

55. The certified Register of Voters for the 2017 General Election had a total of 19,611,423 voters in terms of registration of voters, which was an increase from 14,388,781 in 2013. This number included 4,393 Diaspora in 5 countries and 5,528 prisoners registered in 118 Prisons across the country. Comparatively, the register of voters increased by 36% (5,222,642 voters) since 2013. In terms of gender representation, 53% of those registered are male compared to 47% female. This is a reduction of up to 2% of women representation in the register of voters. On age representation, 51% (9,930,315) of the registered voters represents persons aged 18 – 35 years.



56. With regards to the number of Registered Political Parties in Kenya, Section 34 (e) of the Political Parties Act, 2011 obliges the Office of Registrar of Political Parties (ORPP) to; “maintain a register of political parties and the symbols of political parties”. In line with this provision, as of May 2021, there were seventy-three (73) fully registered political parties in Kenya. We also have twenty-two (22) Provisionally Registered Political Parties as of June 2021 per Section 6 of the Political Parties Act, 2011. The full list can be accessed from this link <https://orpp.or.ke/images/UPLOADSpdf/>.

57. Hierarchy of Laws: Section 3 of the Judicature Act (Chapter 8 Laws of Kenya) enumerates the primary sources of Kenya laws and these include:

- The Constitution as the Supreme law of the land;
- Acts of Parliament which also include subsidiary legislation, Specific Acts of Parliament of the United Kingdom cited in the schedule to the Judicature Act;
- English Statutes of General application in Force in England on 12th August 1897, applicable in Kenya in the form that they had at the reception date;
- The Substance of Common Law and Doctrines of Equity applicable to the Kenyan inhabitants in so far as the circumstances of Kenya permit;
- African Customary law applicable only in civil cases where one or more of the parties is subject to or affected by it, in so far as it is not repugnant to justice and morality or inconsistent with any other law;
- Islamic Law applied in Kadhi’s Courts, where all the parties profess the Islam religion, on questions of Islamic law relating to personal status, marriage, divorce and inheritance issues.

## **II. General framework for the protection and promotion of human rights**

### **A. Acceptance of International Human Rights Norms**

#### **Ratification of International Human Rights Instruments**

58. Kenya is a state party to the following core human rights instruments:

- The International Covenant on Civil and Political Rights (ICCPR);
- The International Covenant on Economic, Social and Cultural Rights (ICESCR);
- The International Convention on the Elimination of all Forms of Racial Discrimination (CERD);
- The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
- The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- The Convention on the Rights of the Child (CRC); and
- The Convention on the Rights of Persons with Disabilities (CRPD).

59. International instruments relating to International Humanitarian Law that Kenya is a state party to include:

- Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949;
- Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea 1949;
- Geneva Convention (III) relative to the Treatment of Prisoners of War 1949;
- Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva 1949;

- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977;
  - Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) 1977.
60. Other international instruments to which Kenya is a state party to and which have implications for human rights include:
- The United Nations Convention against Corruption;
  - The Convention Relating to the Status of Refugees;
  - Refugee Protocol, 1967;
  - Optional Protocol to the UN Convention on the Rights of the Child on Involvement of Children in Armed Conflict;
  - The Optional Protocol to Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
  - The Rome Statute of the International Criminal Court;
  - Convention on Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 1968;
  - Comprehensive Nuclear-Test-Ban Treaty;
  - Chemical Weapons Convention, 1993;
  - Ottawa Treaty, 1997;
  - Convention Against the Taking of Hostages, 1979;
  - Convention for the Suppression of the Financing of Terrorism, 1999;
  - Convention for the Suppression of Terrorist Bombings, 1997.
61. At the regional level, Kenya has ratified the following instruments:
- African Charter on Human and Peoples' Rights;
  - The African Charter on the Rights and Welfare of the Child;
  - The AU Convention Governing Specific Aspects of Refugee Problems in Africa;
  - The AU Convention on Combating and Preventing Corruption (AUCPCC);
  - The Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples Rights;
  - Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol);
  - African Nuclear Weapon Free Zone Treaty (The Treaty of Pelindaba);
  - AU Convention on the Prevention and Combating of Terrorism.

#### **Reservations and Declarations**

62. Kenya has entered reservations to Article 10(2) of the ICESCR and Articles 10(3) and 14 (2) (c) of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol).

## **B. General legal framework within which human rights are protected at the national level**

63. Constitution: Article 19 of the Constitution 2010 states that the Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies. It also states that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.

64. Application of the Bill of Rights: The Constitution provides that the Bill of Rights applies to all and binds all State organs and all persons. Every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom. Therefore, it is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights. The State is obliged to take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the social and economic rights guaranteed under Article 43 of the Constitution.

65. All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities, and members of particular ethnic, religious or cultural communities. In this respect, the state is obliged to enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.

66. Further, various pieces of legislation have been enacted to protect human rights. Some of these include; The Access to information Act No. 31 of 2016 which gives effect to the right of access to information as provided under Article 35 of the Constitution; The Basic Education Act No. 14 of 2013 safeguards the right to free and compulsory education and provides inter alia for equitable access for the youth to basic, quality and relevant education with equal access to education or institutions; accountability and democratic decision making with institutions of basic education; protection and advancement of every child in public schools to equal standards of education; The Births and Deaths Registration Act CAP. 149 (revised edition 2012) provides for means by which one can register the birth of a child who is a citizen of Kenya thereby protecting the right to nationality; The Children's Act No. 8 of 2001 protects the rights of the child as provided under Article 53 of the Constitution; The Community Land Act No. 27 of 2016 safeguards the right to own property alone as well as in association with others; The Computer Misuse and Cyber Crimes Act No. 5 of 2018 aims to inter alia, protect rights to privacy, freedom of expression and access to information as guaranteed under the Constitution; The Consumer protection Act No. 46 of 2012 seeks to safeguard consumer rights as provided for under Article 46 of the Constitution; The Counter Trafficking In Persons Act, 2010 came into force to implement Kenya's obligations under the United Nations Convention Against Transnational Organised Crime and in particular its Protocol to Prevent, suppress and Punish Trafficking in persons, Especially Women and Children; the Persons Deprived of Liberty Act, 2014 provides for the rights of persons deprived of liberty by being arrested, held in lawful custody, detained, or imprisoned in execution of a lawful sentence; Persons with Disability Act 2003 which provides a legislative framework for access of services and inclusion of persons with disability in all facets of life; Victim Protection Act, 2014, provides safeguards for victims of crimes and establishes a Victim Protection Fund for the compensation of victims of crimes; Legal Aid Act 2016 establishes a National Legal Aid Service which regularizes how legal aid is provided in the country thus enhancing access to justice for the indigent and vulnerable in society; the Prevention of Torture Act, 2017 which creates the offences of Torture and Cruel, Inhuman and Degrading Treatment or Punishment, the Protection against Domestic Violence Act, 2015 which provides for the protection and relief of victims of domestic violence; Prohibition of FGM Act, 2011 which prohibits FGM; Matrimonial Property Act, 2013 that provides for rights and responsibilities of spouses with regards to matrimonial property, amongst others.

67. Enforcement of the Bill of Rights: The Constitution recognises all the generations of human rights including social, cultural and economic rights. In addition, the Constitution provides that any treaty or convention ratified by Kenya and the general rules of international law shall form part of the law of Kenya under the Constitution.

68. Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened. In addition to a person acting in their interest, court proceedings may be instituted by: a person acting on behalf of another person who cannot act in their name; a person acting as a member of, or in the interest of, a group or class of persons; a person acting in the public interest; or an association acting in the interest of one or more of its members.

69. Judicial Protection: Section 23 of the Constitution provides that the High Court has jurisdiction to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights. In addition, the Constitution gives power to Parliament to enact legislation to give original jurisdiction in appropriate cases to subordinate courts to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights.

70. Remedies for violations: Where an individual claims that a right has been violated, a court may grant appropriate relief, including a declaration of rights; an injunction; a conservatory order; a declaration of invalidity of any law that denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is not justified under the limitations recognized under the Constitution; an order for compensation; and an order of judicial review. Where the State has been found liable for a human rights violation, a system of compensation exists.

71. The Judiciary has also published the Litigants' Charter, which is designed to promote understanding by the litigating public of the processes of the court and their rights and obligation in the courses of litigation. The Charter disseminates information on the court, its processes and methods of approaching it all in a simple language.

72. The Judiciary has been promoting Alternative Dispute Resolution (ADR) mechanisms to enhance access to justice in line with the provisions of Article 159 of the Constitution. The Court Annexed Mediation (CAM) project commenced in 2015 with a framework to roll out the pilot project to all counties in a few years. The pilot phase was in the Commercial and Family Division of the High Court in Nairobi. As of July 2019, Mediation has now expanded to 12 other Counties - Kakamega, Nyeri, Kisii, Kisumu, Mombasa, Nakuru, Eldoret, Garissa, Machakos, Embu, Kilifi and Nyamira.

73. Court User Committees are the optimal site for citizen service delivery and justice sector institutional transformation. Section 35 of the Judicial Service Act No.1 of 2011 institutionalizes Court Users Committees (CUCs) by providing for the establishment of the National Council on the Administration of Justice (NCAJ) to ensure a coordinated, efficient, effective and consultative approach in the administration of justice and the transformation of the justice system.

74. E- Judiciary: The Judiciary in July 2020 launched the first E-Filing system for courts in Nairobi in a digitization push for efficiency in the handling of court cases. The e-filing option will enhance speed, efficiency, and accountability in the Courts. The first phase of the project relates to all cases lodged in Nairobi at the Supreme Court, Court of Appeal, all High Court Divisions in Nairobi, Environment and Land Court (ELC), the Anti-Corruption Court, and the Employment and Labour Relations Court (ELRC). The second phase will see the system rolled out to other counties in Kenya as well as in all justice processes.

75. To build the capacity of Judges and Magistrates in Kenya, the Judiciary Training Institute (JTI) was established in 2008. The Judicial Service Commission is responsible for preparing and implementing programmes for continuing education and training for judges and other judicial officers. JTI exercises this delegated mandate and is therefore responsible for meeting the training, research and capacity development needs of Judiciary staff. JTI performs this mandate in part through various training programs and seminars, public lectures, research, and other forms of discourses targeting all cadres of Judiciary staff, and where, appropriate, members of the academy and the public at large.<sup>14</sup>

76. Rights of Accused persons and persons in detention: The preference for the incarceration of pre-trial suspects and accused persons as the proper form of punishment plays a big role in overcrowding of prisons. The Bail and Bond Policy Guidelines, developed by the Judiciary in 2015 provided an opportunity to resolve the problem of overcrowding in prisons. The Guidelines streamline and address disparities in bail and bond decision-making, to enable fair administration of bail and bond measures. They further facilitate effective inter-agency cooperation and coordination in bail and bond administration and importantly,

<sup>14</sup> Judiciary Training Institute overview available at <https://www.judiciary.go.ke/jti-overview/>.

enhance conformity with the internationally agreed minimum standards for arrested persons and persons held in detention.

77. To further decongest prisons the following measures have been put in place;

(a) Development of a Diversion Policy in 2019 to enable prosecutors to divert cases from the court process and allow matters to be settled out of court, on merit and through agreed structures;

(b) Issuance of Community Service Orders for those sentenced to three years and below and those with a balance of three years and below left to serve;

(c) Development of the Criminal Procedure (Plea Bargaining) Rules, 2018;

(d) Development of a draft alternative justice systems policy to enhance the use of traditional and alternative dispute resolution mechanisms;

(e) Engagement of the court users' committees so that cases are reviewed regularly and brought to a speedy conclusion;

(f) The award of remission of sentences as provided by the law;

(g) Development of the Sentencing Policy Guidelines (2016), which provide that where the option of a non-custodial sentence is available, a custodial sentence should be reserved for a case in which the objectives of sentencing cannot be met through a non-custodial sentence.

78. To ensure the safety of those in custody, the prison authorities take steps to categorize offenders so that dangerous criminals are not placed in the same cells as petty offenders. Also, the government has invested in surveillance equipment to ensure that those in custody do not walk into the cells with any concealed weapon that might endanger the lives of other cellmates. Moreover, the prison authorities have undergone continuous training on conducting searches before the inmates are locked in their cells.

### **C. General framework within which human rights are promoted at the national level**

79. Ministries and State Departments: All government ministries and state departments have the mandate to develop policies and programmes geared towards the protection of human rights. Further, the Human Rights-Based Approach to planning and development is applied across all government ministries, departments and agencies.

80. National Human Rights Institutions (NHRI) activities: National Human Rights Institutions (NHRIs) constitute national focal points for the promotion and protection of human rights. NHRIs perform a wide range of functions such as monitoring and reporting, advising the government on human rights issues, cooperating with national, regional and international bodies, complaints handling and promoting human rights education. Kenya has three NHRIs namely the Kenya National Commission on Human Rights, the National Gender and Equality Commission and the Commission on Administrative Justice. Since the promulgation of the 2010 Constitution, the NHRIs have significantly contributed to the promotion and protection of human rights in Kenya.

81. Promotion and Protection of Human Rights: The Kenya National Commission on Human Rights (KNCHR) is a Constitutional Commission established under Article 59(4) of the Constitution and the Kenya National Commission on Human Rights Act, 2011. The mandate of KNCHR is to enhance the promotion and protection of human rights in Kenya. The Commission monitors Government institutions, carries out investigations on alleged human rights violations, and in appropriate cases provides redress to those whose rights have been violated.

82. Protection of Rights of Special Interest Groups and Freedom from Discrimination: The National Gender and Equality Commission (NGEC) is a Constitutional Commission established under Article 59(4) of the Constitution and the National Gender and Equality Commission Act 2011. The Commission is established to amongst other roles promote

gender equality and freedom from discrimination under Article 27 of the Constitution; Monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions; and act as the principal organ of the State in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination and relating to special interest groups including minorities and marginalized persons, women, persons with disabilities, and children.

83. Protection against official maladministration: The Commission on Administrative Justice (CAJ) also referred to as the Office of the Ombudsman is a constitutional commission established under Article 59(4) of the Constitution and the Commission on Administrative Justice Act, 2011. The CAJ is empowered to, investigate complaints of delay, abuse of power, unfair treatment, manifest injustice or discourtesy. The Commission also has the mandate of overseeing and enforcing the implementation of the Access to Information Act, 2016.

84. Protection of Children's Rights: The National Council for Children Services (NCCS) is a semi-autonomous Government agency established under the Children Act 2001. It has the mandate to plan, regulate and coordinate children rights and welfare activities in Kenya.

85. Protection of Women's Rights: The State Department of Gender has the mandate to develop policies and programmes geared towards the protection of the rights of women. The Anti -Female Genital Mutilation (FGM) Board is a semi-autonomous government agency that was established in December 2013 following the enactment of the Prohibition of Female Genital Mutilation Act, 2011. It is under the Ministry of Public Service and Gender. The mission of the Board is to uphold the dignity and empowerment of girls and women in Kenya through the coordination of initiatives, awareness creation, and advocacy against FGM.

86. Protection of the rights of persons with disabilities: The National Council for Persons with Disabilities has the mandate to reserve five per cent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities. The Council also has the following mandate to enforce the following: in education, learning institutions are obliged to take into account the special needs of persons with disabilities in several aspects of education including admission requirements and curriculum. In sports and recreation, all persons with disabilities are entitled, free of charge, to the use of recreational or sports facilities owned or operated by the Government during social, sporting or recreational activities.

87. Other obligations that the Council has to enforce relate to the duty to provide reasonable accommodation in respect of access to public buildings and public service vehicles. In addition to enforcement activities, the National Council for Persons with Disabilities is also charged with promotional, educational and policy responsibilities and has the mandate to formulate and develop "measures and policies designed to achieve equal opportunities for persons with disabilities".

88. The National Cohesion and Integration Commission, established by an Act of Parliament, has the mandate to facilitate and promote equal opportunities, good relations, harmony and peaceful co-existence between different ethnic and racial communities of Kenya. Any aggrieved person can complain about violations under the Act to the Commission. The Commission has powers to investigate complaints of ethnic or racial discrimination and make recommendations to the Attorney General, the Kenya National Commission on Human Rights or any other relevant authority on the remedial measures to be taken where such complaints are found to have merit. Moreover, the Commission also has the mandate to promote and monitor public awareness on ethnic and racial harmony and make regular reports to the National Assembly.

89. Protection of the Freedom and Independence of the Media: The Media Council of Kenya is an independent national institution established by the Media Council Act, 2013 for purposes of the setting of media standards and ensuring compliance with those standards as set out in Article 34(5) of the Constitution. The Council adopted a co-regulation media regulation approach, where board members and the Secretariat while receiving government funds to support some of its activities, remain very independent in their operations and are not subject to any form of control. The main functions of the Council are to promote and protect the freedom and independence of the media; Prescribe standards of journalists, media

practitioners and media enterprises; Ensure the protection of the rights and privileges of journalists in the performance of their duties; Promote and enhance ethical and professional standards amongst journalists and media enterprises and Advise the government or the relevant regulatory authority on matters relating to professional, education and the training of journalists and other media practitioners.

90. Human Rights Education: To strengthen the capacity of the public sector to effectively deliver on its human rights obligations, the Government of Kenya in collaboration with the KNCHR continues to provide and mainstream human rights education and training in the public sector. The Commission has entered into a memorandum of understanding with the Kenya School of Government, to offer human rights training to civil servants, both at county and national levels.

91. KNCHR has contributed to promoting understanding and the gradual specialization of human rights into the public service in Kenya. The Commission has conducted many human rights education pieces of training to promote understanding and awareness of human rights among public officers. The Commission has targeted officers in the Judiciary, Police and Prisons departments, Government schools and institutions, the Ministries of Information, Planning, Health, Water, labour, Agriculture, Public Works and Roads. These were identified as institutions that have a great impact on the protection and enjoyment of human rights. Using the rights-based approach to programming, the National Commission is empowering duty bearers within government and civil society to mainstream human rights principles in the delivery of services to the public.

92. The Commission has also worked with Government to infuse human rights into curriculum and training manuals of government training institutions, including the Police and Prisons Training Colleges. With other actors, the Commission has contributed to raising public awareness and understanding of human rights by the public through agricultural shows forums, human rights clinics and public accountability forums, especially in marginal areas of the country.

93. The Legal Aid Act 2016 establishes the National Legal Aid Service whose objective is to promote access to justice by providing affordable, accessible, sustainable, credible and accountable legal aid services to indigent persons in Kenya in accordance with the Constitution; providing a legal aid scheme to assist indigent persons to access legal aid; promoting legal awareness; supporting community legal services by funding justice advisory centres, education and research; and promoting alternative dispute resolution methods that enhance access to justice per the Constitution.

#### **D. Role of the reporting process in promoting human rights at the national level**

94. National Mechanism for Reporting: Kenya has a dedicated national mechanism for implementation, reporting and follow up of treaty obligations known as the National Committee on International and Regional Human Rights Obligations. This Committee<sup>15</sup> was established vide Gazette Notice No. 2925 of 29th March 2019. The key mandate of this committee is to advise the government on measures necessary to comply with its international

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<sup>15</sup> The Committee is made up of officers from various Ministries, Departments and Agencies namely the Office of Attorney-General and Department of Justice, Ministry of Labour and Social Protection, Ministry of Public Service, Gender and Youth Affairs, Ministry of Foreign Affairs, Ministry of Health, Ministry of Lands and Physical Planning, Ministry of Transport, Infrastructure, Housing and Urban Development, Ministry of Education, Ministry of Interior and Co-ordination of National Government, Judiciary, Kenya National Bureau of Statistics, Office of the Director of Public Prosecutions, Independent Policing Oversight Authority, Kenya Prison Service, National Police Service, Kenya National Commission on Human Rights, National Gender and Equality Commission and the Council of Governors. The Office of the Attorney General & Department of Justice coordinates reporting under the ICCPR, ICESCR, CERD, CAT, UPR process and the ACHPR. The Ministry of Labour and Social Protection is in charge of reporting under the CRC, CRPD and ACRWC. The Ministry of Public Service and Gender is in charge of reporting under CEDAW and the Maputo Protocol.



and regional human rights obligations and specifically to coordinate and prepare reports to and engage with international and regional human rights mechanisms (including treaty bodies, the universal periodic review and special procedures). Kenya has been compliant with most of the treaty body reporting obligations. Table 6 illustrates the reporting status for international human rights instruments.

Table 9

**Reporting Status for International Human Rights Instruments**

<i>No.</i>	<i>Name of Treaty</i>	<i>Date of Ratification/Accession</i>	<i>Reporting Cycle</i>	<i>Report Submission Date</i>
1.	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	21st Feb 1997	III	3rd Aug 2018
			II	28th Sept 2012
			I	6th June 2007
2.	International Covenant on Civil & Political Rights (ICCPR)	1st May 1972	IV	28th Dec 2018
			III	22nd Aug 2010
			II	27th Sept 2004
3.	International Covenant on Economic, Social and Cultural Rights (ICESCR)	1st May 1972	I	15th Aug 1979
			II–V	1st July 2013
			I	7th Sep 2006
4.	Convention on the Elimination of Discrimination against Women (CEDAW)	9th March 1984	VIII	3rd Mar 2016
			VII	12th May 2009
			V–VI	2nd Nov 2006
			III–IV	14th Feb 2000
			I–II	4th Dec 1990
5.	Convention on the Elimination of all Forms of Racial Discrimination (CERD)	13th Sept 2001	V–VII	3rd Dec 2015
			I–IV	27th Oct 2010
6.	Convention on the Rights of the Child (CRC)	30th July 1990	III–V	19th Mar 2013
			II	20th Sept 2005
			I	13th Jan 2000
7.	Convention on the Rights of Persons with Disabilities	19th May 2008	I	3rd April 2012

*Source:* Office of the High Commissioner for Human Rights; UN Treaty Body Database.

95. Kenya's Human Rights Record has been reviewed thrice, 2010, 2015 and 2020 under the Universal Periodic Review (UPR) process. During the 3rd Cycle review, Kenya received 319 recommendations, out of which 56 were noted and 263 received support. Currently, the Government has developed an Implementation plan to monitor the implementation of the 263 recommendations that were accepted.

## **E. Other related human rights information**

96. Kenya has experienced a number of historical and political challenges which have significantly hampered the realization of human rights for the people of Kenya. These challenges, which include inequality, poverty, diseases and corruption, require significant political, social and economic commitment to realize a useful societal transformation based

on respect for human rights, democracy, equality and rule of law. Further, the Constitution 2010 espouses a human-rights based approach to development by encapsulating important national values and principles of governance, which must inform all aspects of government development planning.

97. Policies on Human Rights: The Government developed a National Policy and Action Plan on Human Rights, in recognition of its primary responsibility to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in accordance with the Constitution. The purpose of the policy and action plan is to give effect to Chapter four of the Constitution by providing a comprehensive and coherent framework that elaborates broad human rights principles to guide government and other actors in carrying out their work in a way that will enhance the enjoyment of rights by the people of Kenya. Parliament adopted the National Policy and Action Plan on Human Rights on 2nd December 2015.

98. The National Action Plan on Business and Human Rights, Sessional Paper No. 3 of 2021 outlines a comprehensive strategy for protecting against human rights abuses by businesses, whether private or owned by Government. The Action Plan details policy priority areas that the Government will focus on in the next five years in a bid to ensure that all businesses including State-Owned Enterprises respect human rights. The Action Plan consolidates the existing efforts in the protection and fulfilment of human rights by the State and non-state actors.

99. The Diversity Policy for the Public Service, 2016, provides strategies for ensuring that the recruitment process for the public service reflects the diverse Kenyan communities. The policy is strictly followed in any recruitment or appointment in the Public Service. County Governments, have explicitly targeted specific minority communities for recruitment.

100. The Kenya National Social Protection Policy, 2011 ensures that all Kenyans live in dignity and exploits their human capacities for their own social and economic development.

101. The Judiciary has formulated an Alternative Justice Systems (AJS) Baseline Policy (2020) to mainstream into the formal justice system traditional, informal justice systems and other informal mechanisms used to access justice in Kenya. The development of the Policy marks an important milestone in Kenya's efforts to ensure the full fulfilment, respect, observance, promotion and protection of the Right to Access to Justice.

102. Right to Housing: The Constitution under Article 43(1) (b) provides that every person has the right to accessible and adequate housing and reasonable standards of sanitation. Vision 2030 and the revamped National Housing Policy 2016 establish the need for decent and affordable housing for all Kenyans. The GOK has defined the delivery of 500,000 affordable housing units to the lower and middle-income communities as one of the prioritized areas under the 'Big Four Agenda 3'.

### **III. Implementation of substantive Human Rights provisions common to all or several treaties**

#### **A. Non-discrimination and equality**

103. Article 27(1) of the Constitution espouses the principle that "every person is equal before the law and has the right to equal protection and equal benefit of discrimination, the judiciary continues to develop transformative strategies to promote effectiveness and efficiency in the administration of justice, access to justice and judicial performance.

104. The Constitution of Kenya highlights equality as an important national value and principle of governance. The Government has put in measures to implement these constitutional provisions: The National Policy on National Values and Principles of Governance provides broad guidelines to government, non-state actors and citizens to develop action plans to mainstream National Values and Principles of Governance (which includes the principle of equality), as provided for in Article 10 of the Constitution, into their day-to-day programmes and activities, and ultimately ensure that the shared values become a way of life for the people of Kenya.

105. There are legislations in place that contain anti-discrimination clauses. The Constitution<sup>16</sup> provides for the right to equality and freedom from discrimination. Other pieces of legislation addressing anti-discrimination include but are not limited to:

- The Persons with Disabilities Act which prohibits direct discrimination in employment, admission to learning institutions, and access to premises, services and amenities for Persons with Disabilities;
- The National Cohesion and Integration Act seeks to prohibit racial and religious discrimination by state and non-state actors. In general, it protects a range of areas of life such as in employment, provision of services by public authorities licensing or planning authorities, application for membership into organizations;
- Children’s Act, 2001<sup>17</sup> states that no child “shall be subjected to discrimination on grounds of origin, sex, religion, creed, custom, language, opinion, conscience, colour, birth, social, political, economic or other status, race, disability, tribe, residence or local connection. This Act is currently undergoing a review to conform it to the Constitution;
- Kenya Citizenship and Immigration Act, 2011 provides for legal equality between the sexes in respect of the acquisition of citizenship through marriage and birth;
- Refugees Act, 2006 protects asylum seekers, refugees and their families from discrimination upon entering Kenya;
- The Law of Succession Act guarantees equal inheritance rights for male and female children. This Act is undergoing a review for certain sections to conform to the Constitution;
- Political Parties Act, 2011 contains several provisions which seek to ensure that parties reflect Kenya’s diversity. Among the conditions for registration of a political party are that the membership of the party must reflect regional and ethnic diversity, gender balance, and must include representatives of minorities and marginalized groups.

106. Concerning the equal opportunities of all persons in all spheres, the Constitution is clear that “Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres”. Most importantly, it is a constitutional imperative that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.<sup>18</sup> Additionally, Article 97(1) outlines that there should be 47 women who represent each of the 47 counties and 12 nominated members representing special interest groups including women, youth and persons with disabilities. Article 98 also outlines the composition of the Senate which ensures that 16 women are nominated by political parties. The Political Parties (Amendment) Act 2016: compels political parties to comply with the two-thirds gender principle in their governance structures. Public funding of political parties is incumbent upon compliance. However, the actualization of the 2/3rd principle remains a challenge in Kenya. Parliament is yet to enact legislation geared towards the actualization of this principle.

107. Other interventions in place to promote equality in the political sphere include;

- (a) The Election Laws (Amendment) Act 2016 facilitates women’s participation in the electoral process;
- (b) Various counties have prepared County Participation Acts to facilitate public participation in county Government policy processes and service delivery. These consultative forums have witnessed an increase in the number of rural women participating and contributing in public fora convened by county Governments to discuss the County Integrated Development Plans (CIDPs), county annual budgets and county sector plans, among other county activities. The Kenya Policy on Public Participation is currently before Parliament

<sup>16</sup> Article 27 (4) of the Constitution provides 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, color, age, disability, religion, conscience, belief, culture, dress, language or birth.

<sup>17</sup> Children’s Act, (2001) Section 5.

<sup>18</sup> Constitution of Kenya (2010) Article 81.

awaiting enactment. The policy sets out standards for the exercise of public participation in Kenya in line with constitutional human rights principles;

(c) The County Assemblies Forum (CAF), the coordinating body of the 47 County Assemblies of the Republic of Kenya is mandated to support the County Assemblies in performing their three core functions; lawmaking, oversight, and representation, by providing an avenue for coordination, capacity development and networking amongst the 47 Assemblies, the Executive arm, and the National Government. The Forum has developed a National Curriculum on Leadership for female Members of the County Assemblies (MCAs), aimed at strengthening the capacity of MCAs to influence on matters of gender equality;

(d) The Trailblazers Programme, an initiative of the State Department for Gender, is a programme aimed at recognizing women trailblazers who have excelled in different fields including shaping the women's movement. The Trailblazers are recognized annually and the platform is used to mentor other women across generations on various aspects of leadership and other development concerns;

(e) The Democracy Trust Fund, formed through collaboration between the Government of Kenya and Non-State Actors and launched in 2018, targets women over the age of 18 years who are interested in seeking political office by providing financial support, especially during campaigns. It is hoped that these efforts will encourage more women to seek political office. In *National Gender and Equality Commission v Majority Leader, County Assembly of Nakuru & 4 others; Jubilee Party & another (Interested Parties)* [2019] eKLR NGEC successfully challenged the decision of the Nakuru County Assembly to de-whip nominated members of the assembly as chairpersons and vice-chairpersons in different committees in the house;

(f) Training interventions have been made to build the capacity of women to pursue representative positions. A national training curriculum for women aspirants in political leadership has been developed by the Kenya School of Government to build the capacity of the women leaders vying for various political positions in the 2022 general elections. Similarly, the implementation of the Transformative Leadership Program for County Women Executives is underway at Kenya School of Government;

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

108. In 2018, the National Gender and Equality Commission (NGEC) developed a Legislative Handbook on Principles of Equality and Non-Discrimination which guides legislators at the National and County Levels in the review of policy and legislation and in overseeing the formulation and implementation by state and non-state agencies of appropriate programmes, plans and actions towards the full realization of gender equality and inclusion of special interest groups in the society.

109. Public and Political Life: The percentage of women in the Parliament, the Judiciary and senior civil service positions in 2019 is illustrated in Table 7 below.

Table 10

**Percentage of Women in Parliament, Judiciary and Senior Civil Service as of June 2019**

<i>Institution</i>	<i>Female</i>	<i>Male</i>	<i>Total</i>	<i>% of females</i>
<i>Parliament (Elected and Nominated Members)</i>				
National Assembly	76	273	349	21.78
Senate	21	46	67	31.34
<i>County Governments</i>				
Members of county assemblies	747	1 450	2 197	34.00
Governors	3	44	47	6.38
Deputy governors	7	40	47	14.89
County Assembly Speaker	5	42	47	10.63

<i>Institution</i>	<i>Female</i>	<i>Male</i>	<i>Total</i>	<i>% of females</i>
County Commissioners	5	42	47	10.63
Regional Commissioners	1	7	8	12.5
<i>Executive Appointments</i>				
Cabinet Secretaries – (as at June 2020)	7	14	21	33.3
Chief Administrative Secretaries	8	21	29	27.58
Principal Secretaries	10	21	31	32.26
Chair of Constitutional bodies (Period between 2011-2017)	4	6	10	40.00
<i>Superior Courts (ranked from the highest)</i>				
		<i>Female</i>	<i>Male</i>	<i>Total</i>
Supreme Court		2	5	7
Court of Appeal		7	12	19
High Court		35	46	81
Employment & Labour Relations Court		5	8	13
Environment & Land Court		13	21	34
Sub-Total				
<b>Grand Total</b>				

110. Rights of Intersex Persons: Before 2014, intersex persons suffered great stigma and discrimination since they were not recognized either in law. The Persons Deprived of Liberty Act, enacted in 2014 provided a framework for the recognition of intersex persons and their humane and dignified treatment while in custody.

111. The Kenyan courts have also recognized and protected the rights of intersex children. In the judgment delivered on 5th December 2015 in Petition No.266 of 2013, Baby A Vs Attorney General and others, eKLR, the judge declared that it is the duty of the government to protect the rights of intersex babies and persons by providing a legal framework to address issues relating to them, including registration under the Registration of Births and Deaths Act, medical examination and tests, and corrective surgeries. The Court directed the Government to work towards an appropriate legal framework governing issues related to intersex children based on internationally acceptable guidelines. Most revolutionary, in 2019 the Kenya National Population census included an “intersex” gender marker. Following the recommendations of a Taskforce set up by the Attorney General to implement the judgment in Petition No.266 of 2013, Baby A Vs Attorney General and others. The Attorney General has already established the Intersex Persons Implementation Coordination Committee to ensure that all the recommendations of the Intersex Taskforce are implemented including the review of legislation and policies to address the plight of intersex people in Kenya.

112. Rights of Elderly Persons: The Older Persons Bill 2015 was renamed the Care and Protection of Older Members of Society Bill, 2018. The bill is currently before the Senate and has undergone two readings. This bill seeks to give effect to Article 57 of the Constitution, to provide a framework for the care of older members of society and to establish a framework for the empowerment and protection of the elderly and the maintenance of their well-being, safety and security.

113. Further, Kenya has commenced the ratification process for the Protocol to the African Charter on Human and People’s Rights on the Rights of Older Persons in Africa. The National Policy on Older Persons and Ageing, 2018 provides a comprehensive framework to address the unique challenges that older persons in Kenya face, and recognition of their rights, as distinct right holders and participants as per Article 57 of the Constitution.

114. The policy is being implemented under the Government’s flagship National Safety Net Program popularly known as the ‘Inua Jamii’ Cash Programme. The ‘Inua Jamii’ program incorporates the Cash Transfers for Orphans and Vulnerable Children, Older Persons Cash Transfer, Persons with Severe Disabilities Cash Transfer and the Hunger Safety Net Programme. The objective of Inua Jamii is to uplift the lives of poor and vulnerable

citizens of Kenya through regular and reliable bi-monthly Budget allocation dictates the number of persons to be included in the cash transfer program.

## **Conclusion**

115. The Government remains committed to its duty to promote and protect the human rights of its citizens. To address challenges faced in the implementation of these fundamental rights and freedoms the Government will continue to collaborate with development partners and international and regional bodies.

## Annexure

### ILO Conventions that Kenya has ratified

<i>Convention</i>	<i>Ratification date</i>	<i>Status</i>
C2 Unemployment Convention, 1919	13:01:1964	Ratified
C5 Minimum Age (Industry) Convention, 1919	13:01:1964	Denounced on 09:04:1979
C11 Right of Association (Agriculture) Convention, 1921	13:01:1964	Ratified
C12 Workmen's Compensation (Agriculture) Convention, 1921	13:01:1964	Ratified
C14 Weekly Rest (Industry) Convention, 1921	13:01:1964	Ratified
C15 Minimum Age (Trimmers and Stokers) Convention, 1921	13:01:1964	Denounced on 09:04:1979
C16 Medical Examination of Young Persons (Sea) Convention, 1921	09:02:1971	Ratified
C17 Workmen's Compensation (Accidents) Convention, 1925	13:01:1964	Ratified
C19 Equality of Treatment (Accident Compensation) Convention, 1925	13:01:1964	Ratified
C26 Minimum Wage-Fixing Machinery Convention, 1928	13:01:1964	Ratified
C27 Marking of Weight (Packages Transported by Vessels) Convention, 1929	09:02:1971	Ratified
C29 Forced Labour Convention, 1930	13:01:1964	Ratified
C32 Protection against Accidents (Dockers) Convention (Revised), 1932	13:01:1964	Ratified
C45 Underground Work (Women) Convention, 1935	13:01:1964	Ratified
C50 Recruiting of Indigenous Workers Convention, 1936	13:01:1964	Ratified
C58 Minimum Age (Sea) Convention (Revised), 1936	13:01:1964	Denounced on 09:04:1979
C59 Minimum Age (Industry) Convention (Revised), 1937	13:01:1964	Denounced on 09:04:1979
C63 Convention concerning Statistics of Wages and Hours of Work, 1938	13:01:1964	Ratified
C64 Contracts of Employment (Indigenous Workers) Convention, 1939	13:01:1964	Ratified
C65 Penal Sanctions (Indigenous Workers) Convention, 1939	13:01:1964	Ratified
C81 Labour Inspection Convention, 1947	13:01:1964	Ratified
C86 Contracts of Employment (Indigenous Workers) Convention, 1947	13:01:1964	Ratified
C88 Employment Service Convention, 1948	13:01:1964	Ratified
C89 Night Work (Women) Convention, (Revised), 1948	30:11:1965	Ratified



<i>Convention</i>	<i>Ratification date</i>	<i>Status</i>
C94 Labour Clauses (Public Contracts) Convention, 1949	13:01:1964	Ratified
C97 Migration for Employment Convention (Revised), 1949	30:11:1965	Ratified
C98 Right to Organise and Collective Bargaining Convention, 1949	13:01:1964	Ratified
C99 Minimum Wage Fixing Machinery (Agriculture) Convention, 1951	09:02:1971	Ratified
C100 Equal Remuneration Convention, 1951	07:05:2001	Ratified
C105 Abolition of Forced Labour Convention, 1957	13:01:1964	Ratified
C111 Discrimination (Employment and Occupation) Convention, 1958	07:05:2001	Ratified
C112 Minimum Age (Fishermen) Convention, 1959	09:02:1971	Denounced on 09:04:1979
C118 Equality of Treatment (Social Security) Convention, 1962	09:02:1971	Ratified
C123 Minimum Age (Underground Work) Convention, 1965	20:06:1968	Denounced on 09:04:1979
C129 Labour Inspection (Agriculture) Convention, 1969	09:04:1979	Ratified
C131 Minimum Wage Fixing Convention, 1970	09:04:1979	Ratified
C132 Holidays with Pay Convention (Revised), 1970	09:04:1979	Ratified
C134 Prevention of Accidents (Seafarers) Convention, 1970	06:06:1990	Ratified
C135 Workers' Representatives Convention, 1971	09:04:1979	Ratified
C137 Dock Work Convention, 1973	09:04:1979	Ratified
C138 Minimum Age Convention, 1973	09:04:1979	Ratified
C140 Paid Educational Leave Convention, 1974	09:04:1979	Ratified
C141 Rural Workers' Organisations Convention, 1975	09:04:1979	Ratified
C142 Human Resources Development Convention, 1975	09:04:1979	Ratified
C143 Migrant Workers (Supplementary Provisions) Convention, 1975	09:04:1979	Ratified
C144 Tripartite Consultation (International Labour Standards) Convention, 1976	06:06:1990	Ratified
C146 Seafarers' Annual Leave with Pay Convention, 1976	14:09:1990	Ratified
C149 Nursing Personnel Convention, 1977	06:06:1990	Ratified
C182 Worst Forms of Child Labour Convention, 1999	07:05:2001	Ratified

(Source: ILOLEX 2011)