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Kenya

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	13 Sept. 2001	None	Individual complaints (art. 14): No
ICESCR	1 May 1972	Reservation: art. 10(2)3	–
ICCPR	1 May 1972	None	Inter-State complaints (art. 41): No
CEDAW	9 March 1984	None	–
CAT	21 Feb. 1997	None	Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): No
CRC	30 July 1990	None	–
OP-CRC-AC	28 Jan. 2002	Binding declaration under art. 3: 18 years	–
CRPD	19 May 2008	None	–
Core treaties to which Kenya is not a party: OP-ICESCR ⁴ , ICCPR-OP 1, ICCPR-OP 2, OP-CEDAW, OP-CAT, OP-CRC-SC (signature only, 2000), ICRMW, OP-CRPD and CED (signature only, 2007).			
<i>Other main relevant international instruments⁵</i>		<i>Ratification, accession or succession</i>	
Convention on the Prevention and Punishment of the Crime of Genocide		No	
Rome Statute of the International Criminal Court		Yes	
Palermo Protocol ⁶		Yes	
Refugees and stateless persons ⁷		Yes, except 1954 and 1961	
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁸		Yes, except Additional Protocol III	
ILO fundamental conventions ⁹		Yes, except No. 87	
UNESCO Convention against Discrimination in Education		No	

1. In 2007, the Committee on the Rights of the Child (CRC) urged Kenya to ratify the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.¹⁰The Committee on Economic, Social and Cultural Rights (CESCR) recommended that the State withdraw its reservation to article 10, paragraph 2, of

ICESCR.¹¹ In 2008, the Committee Against Torture (CAT) encouraged Kenya to consider making the declaration under article 22 of the Convention.¹²

B. Constitutional and legislative framework

2. The United Nations Country Team (UNCT) in Kenya noted that the chapter on a Bill of Rights in the Constitution is silent on economic, social and cultural rights and that provisions in the Constitution continue to perpetuate discrimination on the grounds of personal status and citizenship.¹³

3. In 2005, the Human Rights Committee (HR Committee) noted that the provisions of international human rights instruments, in particular ICCPR, are not in practice invoked in Courts.¹⁴ CAT regretted that the Penal and Criminal Procedure Codes do not contain a definition of torture.¹⁵

4. UNCT indicated that, since 2004, several laws have been enacted to promote human rights,¹⁶ that the problem of implementation undermines the impact of these laws and that key legislation on matrimonial property, marriage, family protection, equality and trafficking in persons has not been passed.¹⁷

5. CAT noted with concern that the Immigration Act does not make reference to the absolute principle of non-refoulement in relation to torture and does not provide for a process of independent review of removal orders.¹⁸

6. In 2007, the Committee on the Elimination of Discrimination against Women (CEDAW) noted with appreciation the enactment of the Public Officers Ethics Act prohibiting sexual harassment in the workplace.¹⁹ It was, however, concerned that a definition of discrimination against women in accordance with the Convention is yet to be incorporated in the Constitution or other legislation.²⁰

7. In 2008, the OHCHR Fact-finding Mission to Kenya (OHCHR Mission), deployed to look into the violence and allegations of grave human rights violations following the presidential elections in December 2007, welcomed the agreement to review and reform, inter alia, the Constitution, the Parliament, the police and the legal, judicial and electoral systems.²¹

C. Institutional and human rights infrastructure

8. The Kenya National Commission on Human Rights was accredited with “A” status by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) in 2005, which was reconfirmed in 2008.²² ICC highlighted the need for the Commission to have financial autonomy.²³

9. CAT welcomed the establishment of the civilian independent Police Oversight Board.²⁴

D. Policy measures

10. UNCT reported that the policy environment aimed at advancing human rights has been enhanced over the past three years.²⁵ CRC was concerned that the adoption of a national plan of action on children remained pending.²⁶

11. The United Nations Development Assistance Framework Kenya 2009-2013 (UNDAF) indicated that Kenya has defined the goal for 2012 as being to enact and operationalize the necessary framework for implementing the strategies on rule of law,

electoral and political processes, democracy and public service delivery, transparency and accountability, public administration and service delivery, security, peace-building and conflict management.²⁷

12. In 2005, Kenya adopted the Plan of Action (2005-2009) for the World Programme for Human Rights Education focusing on the national school system.²⁸

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body</i> ²⁹	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	–	–	–	Initial report, second and third reports overdue since 2002, 2004 and 2006, respectively
CESCR	2006	Nov. 2008	–	Second to fifth reports due June 2013
HR Committee	2004	Mar. 2005	July 2006	Third report overdue since 2008
CEDAW	2006	Aug. 2007	–	Seventh report due April 2009 submitted July 2009
CAT	2007	Nov. 2008	Overdue since Nov. 2009	Second report due Nov. 2012
CRC	2005	Feb. 2007	–	Third, fourth and fifth reports due Sept. 2012
OP-CRC-AC	–	–	–	Initial report overdue since Feb. 2004
CPRD	–	–	–	Initial report due Oct. 2010

2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	Special Rapporteur on extrajudicial, summary or arbitrary executions (16-25 February 2009) ³⁰ Representative of the Secretary-General on human rights of internally displaced persons (19-23 May 2008) ³¹ Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (4-14 December 2006) ³² Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (9-22 February 2004) ³³
<i>Visits agreed upon in principle</i>	
<i>Visits requested and not yet agreed upon</i>	Independent expert on minority issues (2009) Independent expert on the question of human rights and extreme poverty (2007) Special Rapporteur on the independence of judges and lawyers (2004 and 2008) Then Special Representative of the Secretary-General on the situation of human rights defenders (2003)

<i>Facilitation/cooperation during missions</i>	The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people thanked the Ministry of Justice and Constitutional Affairs for its invitation and cooperation. ³⁴ The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living was impressed by the preparedness and genuine interest of government officials. ³⁵
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 20 communications were transmitted, none of which were replied to by Kenya. ³⁶
<i>Responses to questionnaires on thematic issues</i>	Kenya responded to none of the 21 questionnaires sent by special procedures mandate holders. ³⁷

3. Cooperation with the Office of the High Commissioner for Human Rights

13. In 2008, OHCHR deployed a human rights adviser to the UNCT in Kenya to, inter alia, provide the United Nations with support in assisting national actors regarding accountability, impunity and transitional justice.³⁸

14. In 2008, OHCHR organized the first United Nations celebration of Human Rights Day in Kenya.³⁹

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

1. Equality and non-discrimination

15. The HR Committee noted with concern that systemic discrimination against women persists in law and practice, in, inter alia, claiming property rights, the discriminatory practice of “wife inheritance” and the law of succession or inheritance. It noted that the continued application of some customary laws, including the permissibility of polygamous marriages, undermines the scope of the non-discrimination provisions in the Constitution and other legislative texts.⁴⁰

16. In its 2006 follow-up response to the HR Committee’s concluding observations, Kenya indicated, inter alia, that there are various mechanisms to ensure equal rights and treatment between women and men and to outlaw gender discrimination⁴¹ and that the Government sees no possibility of prohibiting polygamy without a lot of negotiations and advocacy, the foundation of which was being laid down.⁴²

17. CEDAW was concerned that the Constitution does not provide equal citizenship rights for women.⁴³ CRC expressed concern at the de facto discrimination faced by children born out of wedlock, children infected with HIV and/or affected by HIV/AIDS, orphans, street children and children born of Kenyan mothers and non-Kenyan fathers.⁴⁴

18. In 2008, the independent expert on minority issues reported that members of the Nubian minority were allegedly denied their right to Kenyan nationality and prevented from voting and standing for office, claiming employment⁴⁵ and owning land.⁴⁶ In 2008, CESCR recommended recognizing the Nubians and the Ogiek as distinct ethnic communities, as well as their right to the preservation, protection and development of their cultural heritage and identity.⁴⁷

19. UNCT indicated that there is a general feeling of perceived exclusion and marginalization, especially of residents of northern and parts of coastal Kenya, who have been trapped in a perpetual cycle of armed violence/conflict and poverty.⁴⁸

20. UNCT noted that Kenya has enacted a law to protect persons with disabilities. However, implementation remains below par and employment of persons with disabilities, which is recommended at 5 per cent by the Act, is yet to be realized.⁴⁹

21. The OHCHR Mission reported that discrimination in the distribution of wealth, as well as economic and political power, and the absence of adequate protection and effective remedy has fed serious grievances within the population.⁵⁰

2 Right to life, liberty and security of the person

22. The HR Committee was concerned that there is a large but unspecified number of individuals under sentence of death and that the death penalty applies to crimes not qualifying as “most serious crimes” within the meaning of ICCPR.⁵¹ CRC was particularly concerned that although the death penalty is outlawed for children, according to some reports children are still being sentenced to death.⁵²

23. In 2009, following a mission to Kenya, the Special Rapporteur on extrajudicial, summary or arbitrary executions came to the conclusion that police frequently executed individuals and that a climate of impunity prevailed. Most troubling was the existence of police death squads operating on the orders of senior police officials and charged with eliminating suspected leaders and members of criminal organizations.⁵³ The Special Rapporteur also concluded that in Mt. Elgon, both the Sabaoth Land Defence Force militia and the security forces of the Government were engaged in widespread brutality, including torture and unlawful killings.⁵⁴ The HR Committee recommended that Kenya promptly investigate reports of unlawful killings by police or law enforcement officers and prosecute those found responsible.⁵⁵ A 2009 OCHA report indicated that in 2009, at least 323 people have been killed in pastoral areas due to resource-based conflict.⁵⁶

24. In a 4 January 2008 joint statement, 14 mandate holders expressed their deep concern at the events following the announcement of election results on 30 December 2007. They strongly condemned the extreme violence that had taken place in Eldoret on 1 January 2008, when dozens of civilians, including children and women, were killed after a mob had set fire to a church. They were alarmed by reported instances of use of excessive force by security forces against demonstrators and other civilians.⁵⁷ The OHCHR Mission reported that this violence resulted in over one thousand deaths, hundreds of thousands of individuals forced to flee and tens of thousands of homes, shops and businesses destroyed and looted.⁵⁸

25. The OHCHR Mission acknowledged that the State of Kenya faced limitations and constraints; that in a number of instances, it did exert a certain level of restraint and provided last-resort protection against further physical attacks to the fleeing population; and that nevertheless, the State failed to take all appropriate measures to protect the rights of its citizens to life and physical integrity, property, democratic rights, freedom of expression, assembly and movement.⁵⁹ It noted that according to the Government’s own figures, 10 per cent of the killings were carried out by the police.⁶⁰

26. UNCT noted that urban crime, general insecurity and criminal activities by militia groups such as Mungiki and Kisungusungu, made up mainly of unemployed and disenfranchised youth, have been on the rise.⁶¹ UNCT suggested that a multi-pronged approach including ensuring arrested criminals face the law will be required in the long run.⁶²

27. UNCT noted that torture, detention without trial, ill treatment and massive violations of rights of detainees continued unabated.⁶³ The HR Committee was especially concerned at information about the extremely high number of deaths in custody.⁶⁴ CAT was concerned about the widespread corruption among police officers.⁶⁵

28. In March 2007, during the fourth session of the Human Rights Council, the Kenyan delegation orally informed the Special Rapporteur on the question of torture in particular about initiatives taken within the framework of the Governance, Justice, Law and Order Sector Reform Programme, training programmes for police and prison officers on the prevention and prohibition of torture, and reforms of the police and prison departments.⁶⁶

29. CESCR expressed concern about the incidence of domestic violence, the low number of complaints and the absence of criminal law provisions specifically criminalizing such violence.⁶⁷ In 2009, the Special Rapporteur on violence against women stated that failure to ensure equal property rights upon separation or divorce discouraged women from leaving violent marriages.⁶⁸ In 2007, the Special Rapporteur on trafficking in persons, especially women and children referred to customs in connection with forced marriage.⁶⁹ A 2009 United Nations Development Fund for Women (UNIFEM) report indicated that multiple factors keep survivors of sexual violence from obtaining medical treatment, care and support.⁷⁰

30. CESCR,⁷¹ CEDAW,⁷² the HR Committee⁷³ and CAT⁷⁴ noted with concern that female genital mutilation continues to be practiced in Kenya. CESCR noted that the practice is prohibited only if it involves children and recommended adopting legislation criminalizing female genital mutilation of adult women.⁷⁵

31. CAT was concerned about the dire conditions of detention in prisons, particularly overcrowding, lack of appropriate health services and high levels of violence.⁷⁶

32. The HR Committee⁷⁷ and CRC⁷⁸ noted with concern allegations of trafficking of children and instances of child prostitution. The HR Committee was concerned about Kenya's failure to prosecute and punish trafficking offences and to afford adequate protection to victims.⁷⁹ CRC urged Kenya to establish a comprehensive national policy and guidelines governing adoption in compliance with the Convention.⁸⁰

33. CRC expressed deep concern at the large number of street children, the denial of their right to education and health care, and their vulnerability to various forms of violence, including sexual abuse, exploitation and arbitrary and abusive arrest.⁸¹

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

34. UNCT stressed that the judiciary is widely considered as lacking independence.⁸² The HR Committee was concerned about reports of serious dysfunction in the administration of justice, owing primarily to the lack of human and material resources and the slow pace of proceedings.⁸³ It noted with concern that due, *inter alia*, to widespread corruption, access to domestic courts and to judicial remedies is limited, and pointed to the frequent failure to enforce court orders and judgments as an additional cause of concern.⁸⁴ In its 2006 follow-up response, Kenya noted that it has undertaken a number of measures to give the judiciary more control over its resources and to shield it from interference.⁸⁵

35. CRC was concerned that in certain instances children are treated as adult offenders and that limited progress has been achieved in establishing a functioning juvenile justice system outside the capital.⁸⁶ CAT⁸⁷ and CRC⁸⁸ were concerned that the age of criminal responsibility is set at 8 years of age. CAT recommended raising it as a matter of urgency in order to bring it in line with international standards.⁸⁹

36. UNCT indicated that there is general lack of respect for the rule of law, while the culture of impunity is prevalent and widespread.⁹⁰ The OHCHR Mission reported that a lasting legacy of impunity contributed to and continues to foster the resurgence and persistence of violence and conflict.⁹¹

37. According to the Special Rapporteur on extrajudicial, summary or arbitrary executions, a national commission of inquiry had detailed the circumstances of 1,113

killings following the 2007 elections. However, the Commission's recommendations had yet to be implemented. Those responsible for the post-election violence, including police force members responsible for extrajudicial executions and officials who had organized or instigated violence, remained immune from prosecution almost 18 months later.⁹² The OHCHR Mission recommended that Kenya consider special, highly independent prosecutorial measures, possibly with international support, to strengthen its capacity to bring the perpetrators of post-electoral violence to justice.⁹³

38. The Deputy High Commissioner for Human Rights stated that implementation of the recommendations made by the Commission of Inquiry on Post-Electoral Violence – in particular the establishment of a credible Special Tribunal and reform of the security forces – will be a critical test of the Kenyan political leadership in the struggle to end impunity.⁹⁴ She added that a credible and fully independent Truth, Justice and Reconciliation Commission could play an important and complementary role in promoting accountability and reconciliation.⁹⁵

39. UNCT reported that the witness protection system is weak and ineffective, which is a major concern particularly in the light of the ongoing transitional justice processes.⁹⁶ The Special Rapporteur on extrajudicial, summary or arbitrary executions reported on threats, harassments and murder of human rights defenders who had testified during his mission.⁹⁷ The OHCHR Mission recommended ensuring the protection of the victims and witnesses of human rights violations as well as that of human rights defenders.⁹⁸

40. The HR Committee expressed concern that most suspects do not have access to a lawyer during the initial stages of detention⁹⁹ and that only individuals facing a capital murder charge benefit from a legal assistance scheme.¹⁰⁰ CAT urged Kenya to ensure that the lack of resources is not an obstacle to accessing justice and to urgently implement the national legal-aid scheme, which could be accompanied by the setting up of an Office of Public Defender.¹⁰¹

41. CAT was concerned at the problems and delays in providing compensation to victims of torture.¹⁰²

4. Right to privacy, marriage and family life

42. CEDAW expressed its concern that child marriages continue to take place, although the Children's Act sets the minimum age of marriage at 18 years. It expressed concern that in cases where parents were not married at the time of the child's birth and have subsequently not married, legal responsibility for the upbringing of the child falls solely on the mother.¹⁰³

5. Freedom of movement

43. UNHCR strongly advocated for the inclusion of freedom of movement in the Government's policy in line with the 1951 Convention. It added that refugees are required to reside in designated camps as per the Government's explicit encampment policy¹⁰⁴ which results, inter alia, in children having only limited access to education and health services and restrictions on freedoms of movement, expression and association, according to CRC.¹⁰⁵

6. Freedom of expression, association and peaceful assembly and right to participate in public and political life

44. In 2008, the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal concerning the arrest of over 60 journalists and civil society activists who had gathered to protest against the Kenya Communications (Amendment) Bill 2008, which had been passed

by Parliament. Concern was expressed that if ratified, the Bill might be used to stifle media freedom.¹⁰⁶

45. In 2005, the ILO Committee of Experts on the Application of Conventions and Recommendations requested information on measures to bring provisions relating to the registration of societies in the 1968 Societies Act in conformity with the ILO Convention on the Abolition of Forced Labour.¹⁰⁷ The HR Committee was concerned that large public political meetings are subject to a prior notification requirement of at least three days and that authorization for public demonstrations has been refused for reasons not in accordance with the justifications listed in article 21 of ICCPR. It was concerned that no remedy appears to be available for the denial of an authorization.¹⁰⁸

46. The Special Rapporteurs on the right to freedom of expression and the Special Rapporteur on the situation of human rights defenders, jointly and separately, as well as the Special Rapporteur on the question of torture transmitted a number of communications concerning the alleged intimidation, harassment, arbitrary arrest, interrogation and torture of human rights defenders, as well as concerning the violent repression of demonstrations.¹⁰⁹

47. The OHCHR Mission reported that the findings of various observation missions and independent reports suggest that Kenyan voters were deprived of their basic democratic right to free and fair elections.¹¹⁰

7. Right to work and to just and favourable conditions of work

48. CESCR recommended adopting targeted measures to ensure that women, especially those living in rural and deprived urban areas, have equal access to the regular labour market and that the principle of equal remuneration for work of equal value be implemented in practice.¹¹¹

49. CESCR recommended that Kenya: increase, annually adjust and enforce minimum wages to provide workers with an adequate standard of living¹¹² and take urgent measures to ensure freedom to form and join trade unions, prevent interference in the management and operation of trade unions and remove excessive restrictions on the right to strike in law and in practice.¹¹³

50. CRC noted with concern the absence of domestic regulations or policies concerning child labour.¹¹⁴ It noted reports of consistent and serious problems regarding the economic exploitation of children and of the number of children involved in hazardous work.¹¹⁵ In 2003, the ILO Committee of Experts recalled the importance of establishing the minimum age for admission to employment or work in all sectors, including agriculture.¹¹⁶

51. In 2009, the ILO Committee of Experts asked the Government to take the necessary measures to repeal or amend the provisions of the Chief's Authority Act regarding compulsory labour in conformity with the ILO Forced Labour Convention.¹¹⁷ It hoped that the Penal Code would be amended to ensure that the illegal exaction of forced or compulsory labour is punishable as a penal offence and that the penalties imposed are adequate.¹¹⁸

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

52. UNDAF noted that poverty, especially income poverty, remains one of the most formidable challenges for Kenyans.¹¹⁹ CESCR expressed concern that more than half of the population lives in extreme poverty.¹²⁰ The OHCHR Mission reported that violations of economic and social rights existed prior to the recent violence as evidenced in the lack of access to water, food, health and decent housing, the rate of youth unemployment and the gross inequality.¹²¹

53. CEDAW commended the establishment of the Constituency Development Fund aimed at improving the lives of rural women.¹²² CRC expressed its regret that the Poverty Reduction Strategy does not address children.¹²³

54. CESCER was concerned that the National Hospital Insurance Fund covers only a small percentage of workers in the informal sector and that the National Social Health Insurance Bill (2004), which sought to introduce a compulsory health insurance scheme for all citizens, did not obtain presidential assent.¹²⁴ CESCER was concerned that many pension schemes are under-funded and that the National Social Security Fund does not include any non-contributory schemes of social assistance.¹²⁵

55. While welcoming the introduction of free antenatal services for pregnant women, CESCER expressed concern that the maternal and infant mortality rates remain high and that women lack access to quality sexual and reproductive health services.¹²⁶ While noting the recent decline in HIV prevalence, CESCER was concerned that Kenya still faces a serious epidemic, especially among young women.¹²⁷

56. The OHCHR Mission reported that mismanagement of land distribution, especially in the Rift Valley, has generated conflict over arable land.¹²⁸ UNDAF highlighted that the problem of droughts and floods has become perennial, with major negative socio-economic effects, such as chronic food insecurity and increased vulnerability.¹²⁹ UNDAF indicated that water resources are under increasing threat from pollution, degraded catchments and over-exploitation. In most informal settlements, there are very limited facilities for excreta disposal and, due to overcrowding, there is no space for garbage disposal.¹³⁰

57. In 2004, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, following a mission to Kenya, made a number of recommendations, in relation to, inter alia: integrating human rights perspectives in sectoral policies, housing and slum-upgrading programmes and the constitutional and legal frameworks and applying human rights-sensitive indicators; reviewing existing programmes and policies and laws being developed, so as to orient them towards women, and the poorest, vulnerable and marginalized segments of the population; addressing through a comprehensive approach issues of forced evictions, security of tenure, legalization of informal settlements and slum-upgrading; and establishing a quasi-judicial tribunal on informal human settlements.¹³¹

9. Right to education

58. UNCT indicated that Kenya's free and compulsory education system has increased the gross enrolment rates to over 90 per cent nationally but that it is still not accessible to children from poor households.¹³² CRC noted that enrolment and literacy rates among children from minority and indigenous communities fall below the national average, especially in the case of girls.¹³³ It was concerned at the low enrolment in early childhood care and education institutions.¹³⁴

59. According to UNCT, the quality of education remains an issue, as current student-teacher ratios stand at approximately 100 to 1. The lack of technical vocational training is contributing to the absence of the qualified individuals required to boost some sectors of the economy.¹³⁵

10. Minorities and indigenous peoples

60. In 2007, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, following a mission to Kenya in 2006, noted that the minority hunter-gatherers and pastoralists, who lived mostly in the arid and semi-arid lands, were the indigenous communities of Kenya. Their livelihoods and cultures had been traditionally discriminated against and their lack of legal recognition and empowerment

reflected their social, political and economic marginalization. The principal human rights issues they faced related to the loss and environmental degradation of their land, traditional forests and natural resources, as well as inappropriate development and conservationist policies. The lack of social and health services in indigenous communities was especially hard on women and children. The Special Rapporteur made recommendations to contribute to improving the human rights situation of the indigenous peoples in Kenya.¹³⁶

61. UNHCR reported an estimated number of 100,000 stateless persons, mainly from the Nubian community.¹³⁷

11. Migrants, refugees and asylum-seekers

62. UNCT indicated that Kenya hosted, as of November 2009, more than 375,000 refugees and asylum-seekers.¹³⁸ CRC was concerned at the gaps in the implementation of the 2006 Refugees Act.¹³⁹

63. CESCR was concerned about reports that refugees are de facto excluded from formal sector employment and often receive wages below the minimum wage in the informal sector.¹⁴⁰ CEDAW expressed concern at information about women's inadequate protection from and redress for all forms of violence in communities of refugees and internally displaced persons (IDPs) and the apparent impunity of the perpetrators.¹⁴¹ CRC expressed concern at reports of police brutality and harassment of refugee children.¹⁴²

64. According to UNCT, in early 2007, the Government closed its border with a neighboring country citing security concerns, contrary to the right to seek asylum. UNHCR continued to advocate with the Government to reverse this decision.¹⁴³

12. Internally displaced persons

65. UNDAF noted that hundreds of thousands of IDPs in Kenya lack access to basic rights and services. Large numbers of IDPs reside in environmentally and economically vulnerable parts of Kenya, thus reducing opportunities for integration and development, and further increasing vulnerability.¹⁴⁴ The OHCHR Mission made recommendations relating to sexual and gender-based violence affecting IDPs.¹⁴⁵

66. In 2008, at the conclusion of his working visit to Kenya, the Representative of the Secretary-General on the human rights of internally displaced persons noted that special efforts by the Government, humanitarian agencies and donors were essential if the return of those displaced by the post-election violence was to be sustainable and compatible with international human rights standards.¹⁴⁶ He added that more robust reconciliation measures involving returning IDPs and the local communities had to be undertaken to address the underlying causes of displacement. He recommended adopting a comprehensive IDP strategy and the laws necessary to implement it, noting that Kenya's ratification of the Protocols on IDPs and on property restitution adopted by the International Conference on the Great Lakes Region provided a unique opportunity to fully equip the country with the instruments necessary to resolve past and future displacement situations.¹⁴⁷

13. Human rights and counter-terrorism

67. In 2007 and 2008, three Special Rapporteurs sent two urgent appeals regarding the detention of Kenyans and foreign nationals, mostly Muslims, many of whom were held incommunicado and without being charged of any offence, and subsequently transferred to third countries without an opportunity to appeal.¹⁴⁸ In 2009, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism found that Kenya was among the countries that facilitated extraordinary renditions.¹⁴⁹ CAT urged Kenya to ensure that any measure taken to combat terrorism is in accordance with Security Council resolutions 1373 and 1566.¹⁵⁰

68. In 2006, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism sent a communication regarding the draft anti-terrorism bill 2006, expressing concern relating to some of its provisions and emphasizing the need for revising the definition of terrorism by introducing clear and precisely formulated provisions and limiting its scope to acts that are genuinely terrorist in nature as well as the need for clear and precise provisions regarding the proscription of allegedly terrorist organizations and appropriate judicial oversight; and effective remedy and reparation.¹⁵¹

III. Achievements, best practices, challenges and constraints

69. CESCR recommended that Kenya ensure that ICESCR rights are not adversely affected by any commitments under trade and investment agreements.¹⁵²

70. UNCT reported on high rates of insecurity, armed conflict and violence involving the use of small arms and light weapons.¹⁵³ UNDAF pointed out the urgent need to put in place a national social protection system that provides services to vulnerable populations on a sustainable basis.¹⁵⁴

IV. Key national priorities, initiatives and commitments

A. Pledges by the State

71. In 2006, the Government pledged, inter alia, to continue cooperating closely with special procedures and submitting reports to regional and international treaty bodies. It noted that it took concrete steps including opening space of unlimited participation by the people in the democratic process, the total liberalization of Kenya's airwaves and the free operation of independent radio and television stations and local and international newspapers.¹⁵⁵

B. Specific recommendations for follow-up

72. The HR Committee requested that Kenya submit, within one year, information on the follow-up to its recommendations on systemic discrimination against women, extrajudicial killings by law enforcement personnel, abuse in police custody and dysfunction in the justice system.¹⁵⁶ A response was communicated by Kenya in 2006.¹⁵⁷

73. CAT requested Kenya to provide, within one year, information on measures taken in response to its recommendations on the incorporation of the Convention and definition of torture in legislation, the low age of criminal responsibility, arbitrary arrest and police corruption, the 2007-2008 post-election violence, allegations of human rights violations by the military in the Mount Elgon region during the March 2008 "Operation Okoa Maisha", and redress for victims of torture.¹⁵⁸ No follow-up response has been submitted.

V. Capacity-building and technical assistance

74. CRC urged Kenya to seek technical assistance from a number of international bodies regarding intercountry adoption, violence against children and child labour.¹⁵⁹

75. The OHCHR Mission indicated that, within its limited resources and mandate, it stands ready to work with the Government in support of the effective implementation of the

OHCHR Mission recommendations, including support to the Truth, Justice and Reconciliation Commission and the Commission of Inquiry on Post-Electoral Violence.¹⁶⁰

Notes

- ¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.
- ² The following abbreviations have been used for this document:
- | | |
|------------|---|
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| OP-ICESCR | Optional Protocol to ICESCR |
| ICCPR | International Covenant on Civil and Political Rights |
| ICCPR-OP 1 | Optional Protocol to ICCPR |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| OP-CEDAW | Optional Protocol to CEDAW |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| OP-CAT | Optional Protocol to CAT |
| CRC | Convention on the Rights of the Child |
| OP-CRC-AC | Optional Protocol to CRC on the involvement of children in armed conflict |
| OP-CRC-SC | Optional Protocol to CRC on the sale of children, child prostitution and child pornography |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD | Convention on the Rights of Persons with Disabilities |
| OP-CRPD | Optional Protocol to the Convention on the Rights of Persons with Disabilities |
| CED | International Convention for the Protection of All Persons from Enforced Disappearance |
- ³ The reservation reads: “While the Kenya Government recognizes and endorses the principles laid down in paragraph 2 of article 10 of the Covenant, the present circumstances obtaining in Kenya do not render necessary or expedient the imposition of those principles by legislation.”
- ⁴ Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.
- ⁵ Information relating to other relevant international human rights instruments, including regional instruments, may be found in the pledges and commitments undertaken by Kenya before the Human Rights Council, as contained in the note verbale dated 7 April 2006 sent by the Permanent Mission of Kenya to the United Nations addressed to the President of the General Assembly (A/60/78).
- ⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁷ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ⁸ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and

relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

- ⁹ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ¹⁰ Concluding observations of the Human Rights Committee (CRC/C/KEN/CO/2), para. 41(c).
- ¹¹ Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/KEN/CO/1), para. 39.
- ¹² Concluding observations of the Committee against Torture (CAT/C/KEN/CO/1), para. 31.
- ¹³ UNCT submission to the UPR on Kenya, p. 1.
- ¹⁴ Concluding observations of the Human Rights Committee (CCPR/CO/83/KEN), para. 8; see also E/C.12/KEN/CO/1, para. 9; CAT/C/KEN/CO/1, para. 8.
- ¹⁵ CAT/C/KEN/CO/1, para. 8.
- ¹⁶ UNCT submission to the UPR on Kenya, p. 1; see also E/C.12/KEN/CO/1, para. 5.
- ¹⁷ UNCT submission to the UPR on Kenya, pp. 1 and 2.
- ¹⁸ CAT/C/KEN/CO/1, para. 16.
- ¹⁹ Concluding comments of the Committee on the Elimination of Discrimination against Women (CEDAW/C/KEN/CO/6), para. 8.
- ²⁰ *Ibid.*, para. 13.
- ²¹ Report from OHCHR Fact-finding Mission to Kenya, 6-8 February 2008, p. 17, available from www.ohchr.org/Documents/Press/OHCHRKenya-report.pdf; see also OHCHR press release, 24 October 2008, available from www.unhcr.ch/hurricane/hurricane.nsf/view01/EE0343FFCEB6B0BDC12574EC004C2AC2?opendocument; UNCT submission to the UPR on Kenya, pp. 1-5.
- ²² For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex I.
- ²³ A/HRC/10/55, annex III, para. 4(6). See also E/C.12/KEN/CO/1, para. 37; CRC/C/KEN/CO/2, para. 12. See also OHCHR press release, 24 October 2008.
- ²⁴ CAT/C/KEN/CO/1, para. 4(i).
- ²⁵ UNCT submission to the UPR on Kenya, pp. 10 and 11.
- ²⁶ CRC/C/KEN/CO/2, para. 10.
- ²⁷ UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, 2008, p. 5, available from http://planipolis.iiep.unesco.org/upload/Kenya/Kenya_UNDAF_May_2008.pdf.
- ²⁸ See General Assembly resolution 59/113 B of 14 July 2005 and Human Rights Council resolution 6/24 of 28 September 2007. See also letters from the High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007, available from <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm>.
- ²⁹ The following abbreviations have been used for this document:
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| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CRPD | Committee on the Rights of Persons with Disabilities |

- ³⁰ A/HRC/11/2/Add.6.
- ³¹ UNOG press release, 27 May 2008, available from [www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/7E466522BE997E09C1257456004242FD?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/7E466522BE997E09C1257456004242FD?OpenDocument).
- ³² A/HRC/4/32/Add.3.
- ³³ E/CN.4/2005/48/Add.2.
- ³⁴ A/HRC/4/32/Add.3, para. 7.
- ³⁵ E/CN.4/2005/48/Add.2, p. 3.
- ³⁶ The communications referred to relate to a number of alleged human rights violations affecting different groups of the population as well as 61 named individuals, including 20 women, in addition to proposed legislative changes in the area of civil and political rights.
- ³⁷ The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 31 January 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, relating to the following questionnaires: (a) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation, 2005; (b) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs, 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons, 2006; (d) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants, 2006; (e) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities, 2006; (f) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (g) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people, 2007; (h) report of the Working Group on the use of mercenaries (A/62/301), questionnaire on measures adopted and envisaged, including legislation, regarding mercenaries, 2007; (i) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation, 2007; (j) report of the Special Rapporteur on violence against women (A/HRC/7/6), questionnaire on indicators on violence against women, 2007; (k) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations, 2007; (l) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/10/16 and Corr.1), questionnaire on trafficking in persons, 2008; (m) report of the independent expert on the question of human rights and extreme poverty to the eleventh session of the Council (A/HRC/11/9), questionnaire on Cash Transfer Programmes, 2008; (n) report of the Special Rapporteur on the right to education, (A/HRC/11/8), questionnaire on the right to education for persons in detention, 2009; (o) report of the Special Rapporteur on violence against women (A/HRC/11/6), questionnaire on violence against women and political economy, 2008; (p) report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/12/21), questionnaire on national legislation and initiatives addressing the issue of bonded labour, 2009; (q) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23), questionnaire on measures to prevent and combat online child pornography, 2009; (r) report of the Special Rapporteur on the right to food (A/HRC/12/31), questionnaire on world food and nutrition security, 2009; (s) report of the Working Group on Arbitrary Detention (A/HRC/13/30), questionnaire on the detention of drug users, 2009; (t) joint study on global practices in relation to secret detention in the context of countering terrorism (A/HRC/13/42), questionnaire on secret detention, 2009; (u) report of the Special Rapporteur on the situation of human rights defenders (A/HRC/13/22), questionnaire on the security and protection of human rights defenders, 2009.
- ³⁸ OHCHR Report of Activities and Results 2008, p. 96.
- ³⁹ *Ibid.*

- ⁴⁰ CCPR/CO/83/KEN, para. 10. See also E/C.12/KEN/CO/1, paras. 14 and 15; CEDAW/C/KEN/CO/6, para. 27; UNCT submission to the UPR on Kenya, pp. 12-14.
- ⁴¹ Comments by the Government of Kenya on the concluding observations of the Human Rights Committee (CCPR/C/KEN/CO/2/Add.1), paras. 1 and 2.
- ⁴² Ibid., para. 14.
- ⁴³ CEDAW/C/KEN/CO/6, para. 31.
- ⁴⁴ CRC/C/KEN/CO/2, para. 24.
- ⁴⁵ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2007, doc. No. (ILOLEX) 092007KEN111.
- ⁴⁶ A/HRC/7/23, para. 54. See also UNCT submission to the UPR on Kenya, pp. 29-33.
- ⁴⁷ E/C.12/KEN/CO/1, para. 35.
- ⁴⁸ UNCT submission to the UPR on Kenya, pp. 12-14.
- ⁴⁹ Ibid.
- ⁵⁰ OHCHR Fact-finding Mission to Kenya, p. 3. See also UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, p. 2.
- ⁵¹ CCPR/CO/83/KEN, para. 13.
- ⁵² CRC/C/KEN/CO/2, para. 67.
- ⁵³ A/HRC/11/2/Add.6, p. 2. See also CAT/C/KEN/CO/1, para. 19; CCPR/CO/83/KEN, para. 16.
- ⁵⁴ A/HRC/11/2/Add.6, p. 2.
- ⁵⁵ CCPR/CO/83/KEN, para. 16.
- ⁵⁶ OCHA Humanitarian Update, vol. 53, p. 6, available from <http://ochaonline.un.org/Default.aspx?alias=ochaonline.un.org/kenya>.
- ⁵⁷ OHCHR press release of 4 January 2008, available from www.unhchr.ch/hurricane/hurricane.nsf/view01/3BDE9BB577A475E4C12573C6004F7B2D?opendocument; see also A/HRC/7/19, para. 41; A/HRC/10/11, para. 4; and OHCHR press release, 31 December 2007, available from www.unhchr.ch/hurricane/hurricane.nsf/view01/4740E24BE5B12FBFC12573C2006B1FE9?opendocument.
- ⁵⁸ OHCHR Fact-finding Mission, pp. 3 and 8-10. See also A/HRC/8/3/Add.1, pages 237-242.
- ⁵⁹ OHCHR Fact-finding Mission, p. 4. See also OHCHR press releases of 31 December 2007 and 4 January 2008.
- ⁶⁰ OHCHR Fact-finding Mission, p. 4; see also pp. 10 and 11.
- ⁶¹ UNCT submission to the UPR on Kenya, pp. 16 and 17. See also OHCHR Fact-finding Mission, p. 7.
- ⁶² UNCT submission to the UPR on Kenya, pp. 16 and 17.
- ⁶³ Ibid.
- ⁶⁴ CCPR/CO/83/KEN, para. 18.
- ⁶⁵ CAT/C/KEN/CO/1, para. 12.
- ⁶⁶ A/HRC/7/3/Add.2, paras 296, 299 and 300.
- ⁶⁷ E/C.12/KEN/CO/1, para. 22.
- ⁶⁸ A/HRC/11/6, para. 49.
- ⁶⁹ A/HRC/4/23, para. 28.
- ⁷⁰ UNIFEM and ActionAid, *Together We Must! End Violence against Women and Girls and HIV & AIDS* (New York, 2009), pp. 21 and 22, available from www.unifem.org/attachments/products/TogetherWeMust_en.pdf.
- ⁷¹ E/C.12/KEN/CO/1, para. 23.
- ⁷² CEDAW/C/KEN/CO/6, para. 23.
- ⁷³ CCPR/CO/83/KEN, para. 12.
- ⁷⁴ CAT/C/KEN/CO/1, para. 27.
- ⁷⁵ E/C.12/KEN/CO/1, para. 23.
- ⁷⁶ CAT/C/KEN/CO/1, para. 15.
- ⁷⁷ CCPR/CO/83/KEN, para. 25.
- ⁷⁸ CRC/C/KEN/CO/2, para. 65.
- ⁷⁹ CCPR/CO/83/KEN, para. 25.
- ⁸⁰ CRC/C/KEN/CO/2, paras. 40 and 41.

- ⁸¹ Ibid., para. 63. See also ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Convention on Minimum Age, 1973 (No. 138), 2006, doc. No. (ILOLEX) 132001KEN138, thirty-seventh paragraph.
- ⁸² UNCT submission to the UPR on Kenya, pp. 18–20.
- ⁸³ CCPR/CO/83/KEN, para. 20.
- ⁸⁴ Ibid., para. 9.
- ⁸⁵ CCPR/C/KEN/CO/2/Add.1, para. 39.
- ⁸⁶ CRC/C/KEN/CO/2, para. 67.
- ⁸⁷ CAT/C/KEN/CO/1, para. 11.
- ⁸⁸ CRC/C/KEN/CO/2, para. 67.
- ⁸⁹ CAT/C/KEN/CO/1, para. 11.
- ⁹⁰ UNCT submission to the UPR on Kenya, pp. 18–20.
- ⁹¹ OHCHR Fact-finding Mission, p. 16. See also UNCT submission to the UPR on Kenya, pp. 18–20.
- ⁹² A/HRC/11/2/Add.6, p. 2. See also Statement by the President of the Security Council (S/PRST/2008/4); Security Council press statement on Kenya Agreement (SC/9265 – AFR/1664), 29 February 2009, available from www.un.org/News/Press/docs/2008/sc9265.doc.htm; and statement of the Spokesperson for the Secretary-General (SG/SM/11368 – AFR/1645), 11 January 2008, available from www.un.org/News/Press/docs/2008/sgsm11368.doc.htm.
- ⁹³ OHCHR Fact-finding Mission, p. 16; see also pp. 4, 12 and 13.
- ⁹⁴ OHCHR press release, 24 October 2008.
- ⁹⁵ Ibid.
- ⁹⁶ UNCT submission to the UPR on Kenya, pp. 18–20. See also A/HRC/11/2/Add.6.
- ⁹⁷ A/HRC/11/2/Add.6, p. 3, appendix II, p. 36, and appendix III, para. 4. See also A/HRC/11/2/Add.1, pp. 250–255.
- ⁹⁸ OHCHR Fact-finding Mission, p. 17.
- ⁹⁹ CCPR/CO/83/KEN, para. 17.
- ¹⁰⁰ Ibid., para. 21.
- ¹⁰¹ CAT/C/KEN/CO/1, para. 10.
- ¹⁰² Ibid., para. 25.
- ¹⁰³ CEDAW/C/KEN/CO/6, para. 43. See also CRC/C/KEN/CO/2, para. 22.
- ¹⁰⁴ UNCT submission to the UPR on Kenya, pp. 30–34. See also E/C.12/KEN/CO/1, para. 13.
- ¹⁰⁵ CRC/C/KEN/CO/2, para. 59(b) and (c).
- ¹⁰⁶ A/HRC/11/4/Add.1, paras. 1516–1521.
- ¹⁰⁷ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning ILO Convention on the Abolition of Forced Labour, 1957 (No. 105), 2005, doc. No. (ILOLEX) 092005KEN105, paras. 2–4.
- ¹⁰⁸ CCPR/CO/83/KEN, para. 23. See also ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning ILO Convention on the Abolition of Forced Labour, 1957 (No. 105), 2005, doc. No. (ILOLEX) 092005KEN105, para. 3.
- ¹⁰⁹ See E/CN.4/2006/95/Add.1, paras 295–298, A/HRC/7/28/Add.1, paras. 1264–1267, A/HRC/10/12/Add.1, paras 1489–1518 and A/HRC/11/4/Add.1, paras. 1504–1508. See also E/CN.4/2006/6/Add.1, para. 129 and CCPR/CO/83/KEN, para. 23.
- ¹¹⁰ OHCHR Fact-finding Mission, p. 5.
- ¹¹¹ E/C.12/KEN/CO/1, para. 18. See also CEDAW/C/KEN/CO/6, paras. 35 and 36.
- ¹¹² E/C.12/KEN/CO/1, para. 18.
- ¹¹³ Ibid., para. 19. See also ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2009, doc. No. (ILOLEX) 062009KEN098, para. 4.
- ¹¹⁴ CRC/C/KEN/CO/2, para. 61; see also para. 26; E/C.12/KEN/CO/1, para. 25; ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Minimum Age Convention, 1973 (No. 138), 2009, doc. No. (ILOLEX) 062009KEN138, third and tenth paragraphs.
- ¹¹⁵ CRC/C/KEN/CO/2, para. 61.
- ¹¹⁶ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Convention Minimum Age, 1973 (No. 138), 2006, doc. No. (ILOLEX) 132003KEN138, twenty-seventh paragraph.

- 117 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Forced Labour Convention, 1930 (No. 29), 2009, doc. No. (ILOLEX) 062009KEN029, first and second paragraphs.
- 118 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning ILO Forced Labour Convention, 1930 (No. 29), 2009, doc. No. (ILOLEX) 092009KEN029, second and third paragraphs.
- 119 UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, p. 10.
- 120 E/C.12/KEN/CO/1, para. 27.
- 121 OHCHR Fact-finding Mission to Kenya, p. 3.
- 122 CEDAW/C/KEN/CO/6, para. 9.
- 123 CRC/C/KEN/CO/2, para. 55; see also para. 36 (a); UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, p. 7.
- 124 E/C.12/KEN/CO/1, para. 20.
- 125 Ibid., para. 21.
- 126 Ibid., paras. 32 and 33.
- 127 CEDAW/C/GIN/CO/6, para. 39. See also UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, p. 9; CCPR/CO/83/KEN, para. 15; UNIFEM, Promoting Gender Equality in HIV and AIDS: Making Aid More Effective Through Tracking Results (New York, 2008), p. 9, available from www.unifem.org/attachments/products/gender_equality_in_hiv_aids_responses.pdf.
- 128 OHCHR Fact-finding Mission to Kenya, p. 3.
- 129 UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, p. 8.
- 130 Ibid., p. 6.
- 131 E/CN.4/2005/48/Add.2, para. 82.
- 132 UNCT submission to the UPR on Kenya, pp. 54 and 55. See also CRC/C/KEN/CO/2, para. 57; E/C.12/KEN/CO/1, para. 7; and CEDAW/C/KEN/CO/6, para. 5.
- 133 CRC/C/KEN/CO/2, para. 69.
- 134 Ibid., para. 57.
- 135 UNCT submission to the UPR on Kenya, pp. 54 and 55. See also CRC/C/KEN/CO/2, para. 57.
- 136 A/HRC/4/32/Add.3, p. 2.
- 137 UNCT submission to the UPR on Kenya, pp. 29–33.
- 138 UNCT submission to the UPR on Kenya, pp. 30–34. See also UNHCR, Global Appeal 2010-2011 (Geneva, 2009), p. 74, available from www.unhcr.org/4b03cec59.pdf.
- 139 CRC/C/KEN/CO/2, para. 59(b) and (c). See also OHCHR press release, 24 October 2008. See also UNCT submission to the UPR on Kenya, pp. 30–34.
- 140 E/C.12/KEN/CO/1, para. 13.
- 141 CEDAW/C/KEN/CO/6, para. 25; see also para. 26.
- 142 CRC/C/KEN/CO/2, para. 59(c).
- 143 UNCT submission to the UPR on Kenya, pp. 30–34.
- 144 UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, p. 12.
- 145 OHCHR Fact-finding Mission, p. 18.
- 146 UNOG press release of 27 May 2008. See also E/C.12/KEN/CO/1, para. 29.
- 147 UNOG press release of 27 May 2008. See also OHCHR Fact-finding Mission, p. 18.
- 148 See A/HRC/10/44/Add.4, para. 129, A/HRC/10/3/Add.1, paras 129-135, A/HRC/6/17/Add.1, paras 62 and 63. See also CAT/C/KEN/CO/1, para. 17. See also A/HRC/13/42 paras. 155 and 159 (c).
- 149 A/HRC/10/3, para. 52.
- 150 CAT/C/KEN/CO/1, para. 17.
- 151 A/HRC/4/26/Add.1, p. 22, para. 37.
- 152 E/C.12/KEN/CO/1, para. 11.
- 153 UNCT submission to the UPR on Kenya, pp. 10 and 11.
- 154 UNDAF, The United Nations Development Assistance Framework Kenya 2009-2013, p. 7.
- 155 Pledges and commitments undertaken by Kenya before the Human Rights Council, as contained in the note verbale dated 4 April 2006 sent by the permanent Mission of Kenya to the United Nations addressed to the President of the General Assembly (A/60/78), available from www.un.org/ga/60/elect/hrc/kenya.pdf.
- 156 CCPR/CO/83/KEN, para. 29.

¹⁵⁷ CCPR/C/KEN/CO/2/Add.1.

¹⁵⁸ CAT/C/KEN/CO/1, para. 36.

¹⁵⁹ CRC/C/KEN/CO/2, paras. 41(b), 44(c), 62(c), 66 (j) and 68 (i). See also para. 64(c).

¹⁶⁰ OHCHR Fact-finding Mission to Kenya, pp. 18 and 19.
