



Human Rights Council

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Joint Stakeholders' Submission on:

Human Rights in Kenya

Submitted by:

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and Development**

(NGOs in Consultative Status with ECOSOC)

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I. INTRODUCTION

1. This stakeholders' report is a joint submission of the above-mentioned organizations. The report highlights key concerns related to Human Rights in Kenya. Each section conveys recommendations to the Kenyan Government.

2. The data and information obtained for this submission came from various sources and includes information from teachers, educators, and other civil society actors living and working in Kenya. All information concerned the period from January 2015 to June 2019.

3. **IIMA** is an international NGO in special consultative status with the Economic and Social Council. IIMA is present in 95 countries where it provides education to children and adolescents, particularly the most disadvantaged and vulnerable.

4. **VIDES International** is an international NGO in special consultative status with the Economic and Social Council, which is presented in 42 countries worldwide. It was founded in 1987 to promote volunteer service at the local and international levels for ensuring human rights of vulnerable groups, especially children and women.

II. GENERAL REMARKS

5. This NGO coalition welcomes the constructive participation of Kenya in the Universal Periodic Review (UPR). The present submission represents the follow-up to the UPR recommendations addressed to Kenya in its second UPR held in 2015, with a special focus on children-related issues such as child-birth registration, sexual and economic exploitation, and ill treatment of children, as well as the full implementation of their right to education. The right to health and rights of women in Kenya are also addressed in the present report.

III. RIGHT TO EDUCATION

6. IIMA and VIDES welcome Kenya's acceptance of Recommendation No. 172¹ and its efforts in monitoring the quality of higher education learning in the colleges and universities.

7. **Access to Education.** We also recognize that Recommendations No. 173² and 175³ enjoyed Kenya's support and note the progress made in the area of ensuring free primary and secondary

¹ Recommendation No.172. Consider taking steps to increase opportunities to access higher education. (Trinidad and Tobago.) Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015, UN Doc. A/HRC/29/10.

² Recommendation No. 173. Diligently work towards achieving its noble target to ensure free primary and secondary education schooling (Zimbabwe). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015, UN Doc. A/HRC/29/10.

education. We also commend the efforts carried out by the State to increase the provision of primary and secondary schools in order to increase the enrollment rate.⁴ The State has put up measures to ensure that education is accessible even to vulnerable groups. However, access to education remains a matter of serious concern especially for the poorest children living in the rural areas who have to walk huge distances in order to get to school. Such condition negatively affects also their concentration and learning capacity during school hours. In secondary education, additional school fees for learning materials, food, maintenance fund, and uniform prevent students of low-income families, especially those in rural areas, to fully exercise their right to education.

8. School dropout. In addition to poverty and economic constraints, various factors contribute to school dropout, such as learning difficulties due to large class size and high student-teacher ratios, teen-age pregnancies, and early marriage. Those who drop out of school are more likely to become children in street situations, thus highly exposed to child labor or drug addiction and trade, as well as other criminal activities such as theft and prostitution.

9. Education of girls. According to the Committee on the Eliminations of All Forms of Discrimination Against Women (CEDAW) considering the 8th Periodic Report of Kenya in 2017, the State has taken measures to improve the access of girls to education, through the adoption of the Education Act of 2013, the Teachers Service Commission Act of 2012, and the school's sanitary towel program.⁵ IIMA and VIDES remain concerned, however, about a large number of girls who are out of school. Moreover, we note the persistence of gender disparity in schools, as proved by the lower completion rate for girls compared with boys owing to, among other things, early pregnancy, female genital mutilation, child and/or forced marriage.

10. The quality of education is also compromised by the overcrowding in the classrooms and the limited educational resources. There is an evident disparity between private and public school institutions in terms of resource management and enrolment. Private schools offer quality learning with better learning facilities and where the students are well followed-up. Public schools, instead have inadequate learning facilities and overcrowded classrooms with elevated student to learning staff ratio. This situation is worsened in rural areas, where education settings lack electricity and other most basic resources.

11. Human rights education. In some private schools, human rights training is provided to teachers and Child Protection Policy documents are established. Human rights education and sensitization activities are also addressed to the students. However, this is not the case for most

³ Recommendation No. 175. Continue efforts aimed at enhancing the realization of the right to education and improving quality (Egypt). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015, UN Doc. A/HRC/29/10.

⁴ <http://planning.go.ke/wp-content/uploads/2018/12/THIRD-MEDIUM-TERM-PLAN-2018-2022.pdf>. Page 103

⁵ CEDAW, Concluding Observations on the 8th Periodic Report of Kenya 2017, paragraph 34, page 9.

public and private educational institutions, where the Convention on the Rights of the Child is not part of the school curriculum nor is there an established teachers' training course on human rights and children's rights. As a result, the population, especially the poor and those living in the remote and rural areas, do not have sufficient knowledge and understanding of their own rights.

12. IIMA and VIDES recommend the Government of Kenya to:

- a) *Continue to consistently monitor the management and implementation of the goals of higher education and ensure its accessibility for all, especially children in rural areas*
- b) *Enhance the delivery of quality and free public primary and secondary education, by increasing the budget allocation for education, promoting better professional preparation, building adequate facilities and infrastructures, and lowering the teacher to student ratio in order to attend better to the needs of the students.*
- c) *Provide continued subsidies for school fees to ensure that the majority, especially among the most poor, vulnerable and those in the rural areas, have access to primary and secondary education.*
- d) *Outline an implementation plan to strengthen the efforts for the inclusion of Human Rights Education in all formal and informal educational settings.*
- e) *Collect and publish data on the dropout rate, especially for girls, and the reasons behind it and address its root causes by facilitating the return to education of victims of gender-based violence, female genital mutilation and child marriage, as well as pregnant girls and young mothers.*

IV. VULNERABLE CHILDREN

13. IIMA and VIDES commend the collaboration of the State with UNICEF through the Kenya Country Program 2014-2018⁶ aimed at advancing the rights of all children and adolescents in Kenya. Children are indeed among the most vulnerable groups in Kenya, especially children living in poverty and in rural areas, as well as those abandoned by their parents. A study conducted by UNICEF Kenya and the Kenya Bureau of Statistics in 2017 called 'Child Poverty in Kenya' revealed that 45 percent of children under 18 (that is, 9.5 million children) experienced poverty.⁷

14. IIMA and VIDES welcome Kenya's support for Recommendation No. 70⁸ concerning the protection and assistance for street children and persons with albinism. Children in street

⁶ GOK - UNICEF Kenya Country Programme 2014 – 2018 https://www.unicef.org/kenya/overview_15608.html

⁷ UNICEF Annual Report 2017 https://www.unicef.org/about/annualreport/files/Kenya_2017_COAR.pdf

⁸ Recommendation 70: Put in place a national policy for protection and assistance for street children and person with albinism. (Djibouti). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015, UN Doc. A/HRC/29/10.

situations, children involved in crime, prostitution, or child labor still persist in Kenya. Due to their living and/or working in the streets, they are more exposed to drugs, diseases, malnutrition, lack of shelter and eventually death. We take special note that girls are particularly vulnerable, often subjected to rape, early marriages and pregnancies, and house-help jobs.

15. Finally, while welcoming Kenya's acceptance of Recommendations no. 90⁹ and no. 105¹⁰, we note with concern that implementation efforts are insufficient in order to protect children in conflict with the law. Moreover, we remain deeply concerned by the fact that the current age of criminal responsibility is still 8 years old.

16. IIMA and VIDES recommend the Government of Kenya to:

- a) *Undertake a systematic assessment of children in street situations to identify its root causes and magnitude and carry out an awareness campaign to bring light and combat child abandonment and negligence.*
- b) *Undertake measures to improve the basic services to children in street situations, including adequate housing, access to health and education.*
- c) *Conform to international standards the juvenile justice system, including the age of criminal responsibility.*

V. CHILD BIRTH REGISTRATION

17. IIMA and VIDES acknowledge the State's efforts to implement existing national law and to collaborate with various UN agencies¹¹ and organizations in ensuring free birth registration for all, particularly those in remote and underserved counties.¹² These included mobile registration and decentralization of birth registration services and registration of school children without birth documentation including in Early Childhood Development (ECD) Centres.

18. However, a portion of the population, especially those with low literacy levels and from rural areas are still unaware of the importance of birth registration. Some local officials as well lack the awareness that birth registration must be provided to all children born in Kenya, regardless of

⁹ Recommendation No. 90. Conform the juvenile justice system to be in accordance with international standards so as to prevent children from being legally accountable in courts (Serbia); Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015, UN Doc. A/HRC/29/10.

¹⁰ Recommendation 105. Raise the age of criminal responsibility so that it complies with international standards as set out by the Convention on the Rights of the Child (Czech Republic); Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015, UN Doc. A/HRC/29/10.

¹¹ UNHCR. Good Practices Paper. Action 7. Ensuring birth registration for the prevention of statelessness. <https://www.refworld.org/pdfid/5a0ac8f94.pdf>

¹² UNICEF Annual Report 2017. https://www.unicef.org/about/annualreport/files/Kenya_2017_COAR.pdf

their racial or ethnic background. Moreover, the documentation for late birth registration is not free. This discourages parents who became aware at a later stage that they have to comply with the law. Other challenges include the lack of an integrated population and registration system,¹³ budget constraints which limit availability of forms, registers and templates, as well as poor coordination between relevant agencies such as the Ministry of Health and the Civil Registry Department¹⁴.

19. IIMA and VIDES recommend the government of Kenya to

- a) Implement universal and free birth registration at all stages of the registration process and eliminate documentations costs of late birth registration.*
- b) Enhance the capacity and resources of local civil registries in raising awareness of the importance of birth registration for all, develop strategies to widen registration campaign, and build an integrated national registration system.*

VI. SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN

20. Although IIMA and VIDES welcome the acceptance of Recommendation No. 47¹⁵, 78¹⁶ and 80¹⁷ concerning the necessity to combat sexual exploitation and human trafficking, as well as child labor, we remain concerned that sexual and economic exploitation of children in Kenya is as serious as four years ago. The victims are generally very poor children who may live on the streets, are school dropouts, and are coerced by adults.

21. While welcoming the efforts made by the Government to implement Sexual Offenses Act (2006) and the National Plan of Action Against Sexual Exploitation of Children in Kenya (2013-2017)¹⁸ condemning violence against children the commercial sexual exploitation of children, IIMA and VIDES remain seriously concerned that **sexual abuses** continue to occur inside and outside of the family.

¹³ <http://planning.go.ke/wp-content/uploads/2018/12/THIRD-MEDIUM-TERM-PLAN-2018-2022.pdf>, page 63

¹⁴ UNICEF Annual Report 2017. https://www.unicef.org/about/annualreport/files/Kenya_2017_COAR.pdf

¹⁵ Recommendation 142.47. Prosecute the perpetrators of trafficking and sexual exploitation of women and children (Sierra Leone). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

¹⁶ Recommendation 78. Pursue eradicating child labour in Kenya by enforcing compulsory education (Lithuania). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

¹⁷ Recommendation 80. Take measures to develop an integral plan of action to combat trafficking and the sexual exploitation of women and girls, including through medical and psychological assistance to victims of these crimes (Mexico). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

¹⁸ CRC Concluding Observations on the combined 3rd and 5th Periodic Reports of Kenya. 21 March 2016

22. With regard to **human trafficking**, we welcome the State's Counter Trafficking in Persons Act (2010) for the sensitization and capacity building for key actors on eradicating trafficking of children and the establishing of a Trust Fund for victims of human trafficking.¹⁹ Other positive changes include the two national hotlines which were operational 24 hours per day, year round; however, unlike the previous two years, the government did not report how many calls either line received during the reporting period.²⁰

23. Moreover, IIMA and VIDES express its deepest concern about 352 trafficking victims in 2017²¹ of which most were children. Children are trafficked through the country and then exported worldwide.²²

24. IIMA and VIDES recommend the Government of Kenya to:

- a) Establish a body to gather statistics on human trafficking and sexual exploitation in Kenya.*
- b) Take appropriate measures to eradicate sexual exploitation by investigating cases and prosecuting perpetrators to the fullest extent of the law.*
- c) Expand national programs aimed at protecting and rehabilitating vulnerable children, and especially children in street situations, from sexual exploitation and trafficking.*
- d) Ensure adequate training for border officials to screen migrants entering or leaving Kenya for signs of being victims of human trafficking, as well as combat corruption among public officers.*

VII. ILL TREATMENT AND CORPORAL PUNISHMENT

25. IIMA and VIDES commend the State's enactment of the National Police Act (2011), the Basic Education Act (2013) and the Protection Against Domestic Violence Act (2015) in order to free the child from all forms of violence.

26. While no recommendations were made on corporal punishment of children, CRC pointed out the high prevalence of domestic violence against boys and girls and gender-based violence against girls, including sexual and physical violence. There is still the persistent practice of corporal punishment at home and in schools despite prohibition under the Constitution.²³

¹⁹ <http://planning.go.ke/wp-content/uploads/2018/12/THIRD-MEDIUM-TERM-PLAN-2018-2022>.

²⁰ 2018 Trafficking in Persons Report: Kenya. <https://www.state.gov/reports/2018-trafficking-in-persons-report/kenya/>

²¹ 2018 Trafficking in Persons Report: Kenya. <https://www.state.gov/reports/2018-trafficking-in-persons-report/kenya/>

²² Assessment Report on the Human Trafficking Situation in the Coastal Region of Kenya. IOM. May 2018

²³ CRC Concluding Observations on the combined 3rd and 5th Periodic Reports of Kenya. 21 March 2016

27. IIMA and VIDES recommend the Government of Kenya to:

- a) Strengthen the implementation of laws against corporal punishment.**
- b) Promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment.**
- c) Further raise the awareness of parents, guardians, teachers and the general public about the negative impact of corporal punishment on children.**

VIII. RIGHT TO HEALTH

28. IIMA and VIDES highlight the State's acceptance of Recommendations No. 165²⁴, 168²⁵ and 169²⁶ regarding the improvement of delivery of health services to all. On the other hand, the State also noted Recommendation No. 159²⁷ which called for increasing the health budget allocation.

29. In Kenya, under five mortality rate is 45.6²⁸ deaths per 1000 live births. Children and infants die from intrapartum related events, preterm birth complications, sepsis/tetanus, congenital abnormalities, pneumonia, and other conditions.²⁹ Maternal rate of mortality is at 510 per 100,000 livebirths³⁰ due to lack of proper health care, hypertension, severe bleeding, infections, unsafe abortions among others. These problems are exacerbated by poor health infrastructure, low rates of skilled birth attendance, low access to family planning services and high rates of adolescent pregnancy.³¹

30. Drugs and substance abuse is a growing problem in Kenya including cocaine and heroin which are reported to be used more frequently among those aged 18–24.³² High alcohol

²⁴ Recommendation No. 165. Take measures towards the adherence to the World Health Organization standards on health service delivery (Serbia); Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

²⁵ Recommendations No. 168. Consider continuing efforts to secure and retain adequate medical personnel in hardship and marginalized areas (Trinidad and Tobago); Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

²⁶ Recommendation 169: Promote health and sanitary practices for the safety of mothers and their children, and uphold continually the inherent right to life (Holy See). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

²⁷ Recommendation No. 159. Increase the health budget allocation to the recommended minimum of 15 per cent of gross domestic product, in line with commitments under the Abuja Declaration, and expedite the process of implementing universal health-care coverage (Slovenia). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

²⁸ <https://data.unicef.org/country/ken/>

²⁹ https://data.unicef.org/wp-content/uploads/2018/09/Cause_of_death_2018-1.xlsx

³⁰ https://www.who.int/gho/maternal_health/countries/ken.pdf?ua=1, 2015.

³¹ <https://www.unfpa.org/news/promise-action-ending-preventable-maternal-deaths-kenya>

³² https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_4_YOUTH.pdf

consumption begins at an early age with 49.7% among drinkers between 15-19 years old (6.9% of the population.)³³

31. IIMA and VIDES recommend the Government of Kenya to:

- a) *Adopt all necessary measures to improve the quality of public health services, including the provision of adequate infrastructures and qualified medical staff to treat infants, children, mothers and provide prenatal and postnatal care especially in rural areas.*
- b) *Combat drugs and alcohol addiction, especially among adolescents and youth, by developing a system for prevention and assistance as well as specialized centers for rehabilitation.*

IX. RIGHTS OF WOMEN

32. IIMA and VIDES welcome the acceptance of Recommendation No. 73³⁴ and 86³⁵ and the State's adoption of Protection against Domestic Violence Act (2015). However, we note with concern that domestic violence remains widespread in families despite the existence of this legislation.

33. IIMA and VIDES welcome the acceptance of Recommendation No. 134³⁶ and the establishment of the National Gender and Equality Commission to promote the empowerment and equal participation of women in all spheres of life. In Kenya, 23.3% of parliamentary seats are held by women.³⁷

34. However, gender inequality persists in society, where women are illiterate and often unemployed. In Kenya, 29.2% of adult women have reached at least a secondary level of education compared to 36.6% of their male counterparts. Female participation in the labour

³³ WHO. Global Status Report on Alcohol and Health 2018. <https://apps.who.int/iris/rest/bitstreams/1151838/retrieve>

³⁴ Recommendation No. 73. Strengthen the measures to combat violence against women and draw up proper indicators to evaluate progress (France). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

³⁵ Recommendation No. 86. Make further efforts to properly handle the case of discrimination and violence against women, including the prosecution of alleged perpetrators (Republic of Korea). Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

³⁶ Recommendation 134: Strengthen measures to ensure gender equality in law and in practice, in particular by applying positive measures for the participation of women in public life and the private sector (Colombia). Report of the Working Group on the Universal Periodic Review, Kenya, 6 March 2015. UN Doc A/HRC/29/10.

³⁷ UNDP Human Development Indices and Indicators: 2018 Statistical Update.
http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/KEN.pdf

market is 62.4% compared to 68.5% for men.³⁸ Single mothers are especially vulnerable and struggle to provide for their children. Moreover, IIMA and VIDES are concerned about the persistence of discriminatory stereotypes with regard to the role and responsibilities of women and men in the family and in society.

35. IIMA and VIDES recommend the Government of Kenya to:

- a) Strengthen its efforts in combating domestic violence, especially against disadvantaged and vulnerable women, and ensure that perpetrators are brought to justice.*
- b) Ensure free education that focuses on literacy, especially for disadvantaged women, to make them more competitive in the labor market and to enhance their participation in public life.*
- c) Further promote participation of women in the decision-making process and use media to portray them as capable leaders.*
- d) Further strengthen awareness-raising campaigns particularly among men, community and religious leaders and the general public to combat discriminatory stereotypes and practices.*

X. EMPLOYMENT

36. IIMA and VIDES welcome the acceptance of Recommendation No. 148³⁹, advocating for the continuation of endeavors for combating poverty and to ensure equality. We commend Kenya for the ongoing reduction in female unemployment from 5.525% in 2017 to 5.427% in 2018.⁴⁰

37. However, we stress that the lack of a diversified economy poses a challenge for the unemployed to find work, and especially for young people to join the labor force. The unemployment level is high among the youth at 26.2%⁴¹. Moreover, employment opportunities are not equal, because of corruption, nepotism, and the unequal access to education and professional development for the most disadvantaged groups.

38. IIMA and VIDES recommend the Government of Kenya to:

³⁸ UNDP Human Development Indices and Indicators: 2018 Statistical Update
http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/KEN.pdf

³⁹ Recommendation 148. Continue its efforts in implementing national policy frameworks to eradicate poverty, unemployment and ensure equality (Sri Lanka); Report of the Working Group on the Universal Periodic Review, Kenya, 26 March 2015. UN Doc A/HRC/29/10.

⁴⁰ International Labour Organization, ILOSTAT database. Data retrieved in April 2019.
<https://data.worldbank.org/indicator/SL.UEM.TOTL.FE>.

⁴¹ UNDP Human Development Roots. <http://hdr.undp.org/en/countries/profiles/KEN>

- a) *Continue its efforts to decrease the rate of unemployment, specifically for women and youth.*
- b) *Implement measures to combat corruption and nepotism in hiring processes, with special attention paid to positions of power in government.*
- c) *Expand programs targeting youth employment and skills training, especially for the most disadvantaged groups of the population.*